To provide support for nationals of Afghanistan who supported the United States mission in Afghanistan, adjustment of status for eligible individuals, to support at-risk Afghan allies and relatives of certain members of the Armed Forces, and to amend section 212(d)(5) of the Immigration and Nationality Act to reform the parole process, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. COTTON introduced the following bill; which was read twice and referred to the Committee on __________________

A BILL

To provide support for nationals of Afghanistan who supported the United States mission in Afghanistan, adjustment of status for eligible individuals, to support at-risk Afghan allies and relatives of certain members of the Armed Forces, and to amend section 212(d)(5) of the Immigration and Nationality Act to reform the parole process, and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Ensuring American Security and Protecting Afghan Allies Act”.

1
2
3
4
5
SEC. 2. DEFINITIONS.

In this Act:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term “appropriate committees of Congress” means—

(A) the Committee on the Judiciary of the Senate;

(B) the Committee on Foreign Relations of the Senate;

(C) the Committee on Armed Services of the Senate;

(D) the Committee on Appropriations of the Senate;

(E) the Committee on the Judiciary of the House of Representatives;

(F) the Committee on Foreign Affairs of the House of Representatives;

(G) the Committee on Armed Services of the House of Representatives; and

(H) the Committee on Appropriations of the House of Representatives.

(2) IMMIGRATION LAWS.—The term “immigration laws” has the meaning given such term in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)).
(3) SPECIAL IMMIGRANT STATUS.—The term “special immigrant status” means special immigrant status provided under—

(A) the Afghan Allies Protection Act of 2009 (8 U.S.C. 1101 note; Public Law 111–8);

(B) section 1059 of the National Defense Authorization Act for Fiscal Year 2006 (8 U.S.C. 1101 note; Public Law 109–163); or

(C) section 6 or an amendment made by such section.

(4) SPECIFIED APPLICATION.—The term “specified application” means—

(A) a pending, documentarily complete application for special immigrant status; and

(B) a case in processing in the United States Refugee Admissions Program for an individual who has received a Priority 1 or Priority 2 referral to such program.

(5) UNITED STATES REFUGEE ADMISSIONS PROGRAM.—The term “United States Refugee Admissions Program” means the program to resettle refugees in the United States pursuant to the authorities provided in sections 101(a)(42), 207, and 412 of the Immigration and Nationality Act (8 U.S.C. 1101(a)(42), 1157, and 1522).
SEC. 3. SUPPORT FOR AFGHAN ALLIES OUTSIDE OF THE UNITED STATES.

(a) RESPONSE TO CONGRESSIONAL INQUIRIES.—The Secretary of State shall respond to inquiries by Members of Congress regarding the status of a specified application submitted by, or on behalf of, a national of Afghanistan, including any information that has been provided to the applicant, in accordance with section 222(f) of the Immigration and Nationality Act (8 U.S.C. 1202(f)).

(b) OFFICE IN LIEU OF EMBASSY.—During the period in which there is no operational United States embassy in Afghanistan, the Secretary of State shall designate an appropriate office within the Department of State—

   (1) to review specified applications submitted by nationals of Afghanistan residing in Afghanistan, including by conducting any required interviews;

   (2) to issue visas or other travel documents to such nationals, in accordance with the immigration laws;

   (3) to provide services to such nationals, to the greatest extent practicable, that would normally be provided by an embassy; and

   (4) to carry out any other function that the Secretary considers necessary.
SEC. 4. CONDITIONAL PERMANENT RESIDENT STATUS FOR ELIGIBLE INDIVIDUALS.

(a) Definitions.—In this section:

(1) Conditional permanent resident status.—The term “conditional permanent resident status” means conditional permanent resident status under section 216 of the Immigration and Nationality Act (8 U.S.C. 1186a–b), subject to the provisions of this section.

(2) Eligible individual.—The term “eligible individual” means an alien who—

(A) is present in the United States;

(B) is a citizen or national of Afghanistan or, in the case of an alien having no nationality, is a person who last habitually resided in Afghanistan;

(C) has not been granted permanent resident status; and

(D)(i) was inspected and admitted to the United States on or before the date of the enactment of this Act; or

(ii) was paroled into the United States during the period beginning on July 30, 2021, and ending on the date of the enactment of this Act, provided that such parole has not been ter-
minated by the Secretary of Homeland Security upon written notice.

(b) Conditional Permanent Resident Status for Eligible Individuals.—

(1) Adjustment of status to conditional permanent resident status.—Immediately on the date of the enactment of this Act, the Secretary of Homeland Security shall—

(A) adjust the status of each eligible individual to that of conditional permanent resident status; and

(B) create for each eligible individual a record of admission to such status as of the date on which the eligible individual was initially inspected and admitted or paroled into the United States.

(2) Removal of conditions.—

(A) In general.—Not later than the date described in subparagraph (B), the Secretary of Homeland Security shall remove the conditions on the permanent resident status of an eligible individual if the Secretary has determined that—

(i) subject to subparagraph (C), the eligible individual is not subject to any
ground of inadmissibility under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182); and

(ii) the eligible individual is not the subject of significant derogatory information, such as a conviction of a felony or any other information indicating that the eligible individual poses a national security concern.

(B) DATE DESCRIBED.—The date described in this subparagraph is the earlier of—

(i) the date that is 4 years after the date on which an eligible individual was admitted or paroled into the United States; or

(ii) July 1, 2027.

(C) WAIVER.—

(i) IN GENERAL.—Except as provided in clause (ii), with respect to an eligible individual, the Secretary of Homeland Security may waive the application of the grounds of inadmissibility under in section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) for humanitarian purposes or to ensure family unity.
(ii) Exceptions.—The Secretary of Homeland Security may not waive under clause (i) the application of subparagraphs (C) through (H) of paragraph (2), or paragraph (3), of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)).

(3) Treatment of Conditional Resident Period for Purposes of Naturalization.—An eligible individual in conditional resident status shall be considered—

(A) to have been admitted to the United States as an alien lawfully admitted for permanent residence; and

(B) to be present in the United States as an alien lawfully admitted to the United States for permanent residence.

(c) Terms of Conditional Permanent Resident Status.—

(1) Assessment.—

(A) In General.—Before removing the conditions on the permanent resident status of an eligible individual under subsection (b)(2), the Secretary of Homeland Security shall conduct an assessment with respect to the eligible
individual, which shall be equivalent in rigor to
the assessment conducted with respect to refu-
gees admitted to the United States through the
United States Refugee Admissions Program, for
the purpose of determining whether the eligible
individual is subject to any ground of inadmis-
sibility under section 212 of the Immigration
and Nationality Act (8 U.S.C. 1182) or any
ground of deportability under section 237 of
that Act (8 U.S.C. 1227).

(B) Consultation.—In conducting an as-
se ssment under subparagraph (A), the Sec-
retary of Homeland Security may consult with
the head of any other relevant agency and re-
view the holdings of any such agency.

(2) Periodic nonadversarial meetings.—

(A) In general.—Not later than 180
days after the date on which the status of an
eligible individual is adjusted to conditional per-
manent resident status, and periodically there-
after, the eligible individual shall participate in
a nonadversarial meeting with an official of the
Office of Refugee Resettlement, during which
such official shall—
on request by the eligible individual, assist the eligible individual in applying for any applicable immigration benefit and completing any applicable immigration-related paperwork; and

(ii) answer any questions regarding eligibility for other benefits.

(B) Notification of Requirements.—Not later than 7 days before the date on which a meeting under subparagraph (A) is scheduled to occur, the Secretary of Health and Human Services shall provide notice to the eligible individual that includes the date of the scheduled meeting and a description of the process for rescheduling the meeting.

(C) Conduct of Meeting.—The Secretary of Health and Human Services shall implement practices to ensure that—

(i) meetings under subparagraph (A) are conducted in a nonadversarial manner; and

(ii) interpretation and translation services are provided to eligible individuals with limited English proficiency.
(D) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prevent an eligible individual from electing to have counsel present during a meeting under subparagraph (A).

(3) ELIGIBILITY FOR BENEFITS.—Except with respect to an application for naturalization, an eligible individual in conditional permanent resident status shall be considered to be an alien lawfully admitted for permanent residence for purposes of the adjudication of an application or petition for a benefit or the receipt of a benefit.

(4) NOTIFICATION OF REQUIREMENTS.—Not later than 90 days after the date on which the status of an eligible individual is adjusted to that of conditional permanent resident status, the Secretary of Homeland Security shall provide notice to the eligible individual with respect to the provisions of—

(A) this section;

(B) paragraph (1) (relating to the conduct of assessments); and

(C) paragraph (2) (relating to periodic nonadversarial meetings).

(d) APPLICATION FOR NATURALIZATION.—The Secretary of Homeland Security shall establish procedures by
which an eligible individual may be considered for naturalization concurrently with the removal of the conditions on his or her permanent resident status under subsection (b)(2).

(e) Guidance.—

(1) Interim Guidance.—

(A) In general.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Homeland Security shall issue guidance implementing this section.

(B) Publication.—Notwithstanding section 553 of title 5, United States Code, guidance issued pursuant to subparagraph (A)—

(i) may be published on the internet website of the Department of Homeland Security; and

(ii) shall be effective on an interim basis immediately upon such publication but may be subject to change and revision after notice and an opportunity for public comment.

(2) Final Guidance.—

(A) In general.—Not later than 180 days after the date of the enactment of this
Act, the Secretary of Homeland Security shall finalize the guidance implementing this section.

(B) Exemption from the Administrative Procedures Act.—Chapter 5 of title 5, United States Code (commonly known as the “Administrative Procedures Act”) shall not apply to the guidance issued under this paragraph.

(f) Asylum Claims.—With respect to the adjudication of an application for asylum submitted by an eligible individual, section 2502(c) of the Extending Government Funding and Delivering Emergency Assistance Act (8 U.S.C. 1101 note; Public Law 117–43) shall not apply.

(g) Prohibition on Fees.—The Secretary of Homeland Security may not charge a fee to any eligible individual in connection with the initial issuance under this section of—

(1) a document evidencing status as an alien lawfully admitted for permanent residence; or

(2) an employment authorization document.

(h) Eligibility for Benefits.—

(1) In General.—Notwithstanding any other provision of law—

(A) an individual described in subsection (a) of section 2502 of the Afghanistan Supple-
mental Appropriations Act, 2022 (8 U.S.C. 1101 note, Public Law 117–43) shall retain his or her eligibility for the benefits and services described in subsection (b) of such section if the individual has a pending application, or is granted adjustment of status, under this section; and

(B) such benefits and services shall remain available to the individual to the same extent and for the same periods of time as such benefits and services are otherwise available to refugees who acquire such status.

(2) EXCEPTION FROM FIVE-YEAR LIMITED ELIGIBILITY FOR MEANS-TESTED PUBLIC BENEFITS.—Section 403(b)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(b)(1)) is amended by adding at the end of the following:

“(F) An alien who status is adjusted to that of an alien lawfully admitted for permanent residence under section 4 of the Ensuring American Security and Protecting Afghan Allies Act.”.

(i) RULE OF CONSTRUCTION.—Nothing in this section may be construed to preclude an eligible individual
from applying for or receiving any immigration benefit to which the eligible individual is otherwise entitled.

(j) Authorization for Appropriations.—There is authorized to be appropriated to the Secretary of Homeland Security $20,000,000 for each of the fiscal years 2024 through 2028 to carry out this section.

SEC. 5. INTERAGENCY TASK FORCE ON AFGHAN ALLY STRATEGY.

(a) Establishment.—Not later than 180 days after the date of the enactment of this Act, the President shall establish an Interagency Task Force on Afghan Ally Strategy (referred to in this section as the “Task Force”)—

(1) to develop and oversee the implementation of the strategy and contingency plan described in subsection (d)(1)(A); and

(2) to submit the report, and provide a briefing on the report, as described in subsection (d).

(b) Membership.—

(1) in general.—The Task Force shall include—

(A) 1 or more representatives from each relevant Federal agency, as designated by the head of the applicable relevant Federal agency; and
(B) any other Federal Government official designated by the President.

(2) DEFINED TERM.—In this subsection, the term “relevant Federal agency” means—

(A) the Department of State;
(B) the Department Homeland Security;
(C) the Department of Defense;
(D) the Department of Health and Human Services;
(E) the Federal Bureau of Investigation;
and
(F) the Office of the Director of National Intelligence.

(e) CHAIR.—The Task Force shall be chaired by the Secretary of State.

(d) DUTIES.—

(1) REPORT.—

(A) IN GENERAL.—Not later than 180 days after the date on which the Task Force is established, the Task Force, acting through the chair of the Task Force, shall submit a report to the appropriate committees of Congress that includes—

(i) a strategy for facilitating the resettlement of nationals of Afghanistan outside
the United States who, during the period beginning on October 1, 2001, and ending on September 1, 2021, directly and personally supported the United States mission in Afghanistan, as determined by the Secretary of State in consultation with the Secretary of Defense; and

(ii) a contingency plan for future emergency operations in foreign countries involving foreign nationals who have worked directly with the United States Government, including the Armed Forces of the United States and United States intelligence agencies.

(B) ELEMENTS.—The report required under subparagraph (A) shall include—

(i) the total number of nationals of Afghanistan who have pending specified applications, disaggregated by—

(I) such nationals in Afghanistan and such nationals in a third country;

(II) type of specified application;

and

(III) applications that are documentarily complete and applica-
tions that are not documentarily complete;

(ii) an estimate of the number of nationals of Afghanistan who may be eligible for special immigrant status under section 107 or an amendment made by such section;

(iii) with respect to the strategy required under subparagraph (A)(i)—

(I) the estimated number of nationals of Afghanistan described in such subparagraph;

(II) a description of the process for safely resettling such nationals;

(III) a plan for processing such nationals of Afghanistan for admission to the United States, that—

(aa) discusses the feasibility of remote processing for such nationals of Afghanistan residing in Afghanistan;

(bb) includes any strategy for facilitating refugee and consular processing for such nationals of Afghanistan in third coun-
tries, and the timelines for such processing;

(cc) includes a plan for conducting rigorous and efficient vetting of all such nationals of Afghanistan for processing;

(dd) discusses the availability and capacity of sites in third countries to process applications and conduct any required vetting for such nationals of Afghanistan, including the potential to establish additional sites; and

(ee) includes a plan for providing updates and necessary information to affected individuals and relevant nongovernmental organizations;

(IV) a description of considerations, including resource constraints, security concerns, missing or inaccurate information, and diplomatic considerations, that limit the ability of the Secretary of State or the Secretary of Homeland Security to in-
crease the number of such nationals of Afghanistan who can be safely processed or resettled;

(V) an identification of any resource or additional authority necessary to increase the number of such nationals of Afghanistan who can be processed or resettled;

(VI) an estimate of the cost to fully implement the strategy; and

(VII) any other matter the Task Force considers relevant to the implementation of the strategy; and

(iv) with respect to the contingency plan required by subparagraph (A)(ii)—

(I) a description of the standard practices for screening and vetting foreign nationals considered to be eligible for resettlement in the United States, including a strategy for vetting, and maintaining the records of, such foreign nationals who are unable to provide identification documents or biographic details due to emergency circumstances;
(II) a strategy for facilitating refugee or consular processing for such foreign nationals in third countries;

(III) clear guidance with respect to which Federal agency has the authority and responsibility to coordinate Federal resettlement efforts;

(IV) a description of any resource or additional authority necessary to coordinate Federal resettlement efforts, including the need for a contingency fund; and

(V) any other matter the Task Force considers relevant to the implementation of the contingency plan.

(C) FORM.—The report required under subparagraph (A) shall be submitted in unclassified form, but may include a classified annex.

(2) BRIEFING.—Not later than 60 days after submitting the report required by paragraph (1), the Task Force shall brief the appropriate committees of Congress on the contents of the report.

(e) TERMINATION.—The Task Force shall remain in effect until the earlier of—
SEC. 6. SUPPORTING AT-RISK AFGHAN ALLIES AND RELATIVES OF CERTAIN MEMBERS OF THE ARMED FORCES.

(a) Designation of At-risk Afghan Allies as Priority 2 Refugees.—

(1) Definition of at-risk Afghan ally.—  

(A) In general.—In this subsection, the term “at-risk Afghan ally” means an alien who—

(i) is a citizen or national of Afghanistan; and

(ii) was—

(I) a member of—

(aa) the special operations forces of the Afghanistan National Defense and Security Forces;

(bb) the Afghanistan National Army Special Operations Command;
(cc) the Afghan Air Force;

or

(dd) the Special Mission Wing of Afghanistan;

(II) a female member of any other entity of the Afghanistan National Defense and Security Forces, including—

(aa) a cadet or instructor at the Afghanistan National Defense University; and

(bb) a civilian employee of the Ministry of Defense or the Ministry of Interior Affairs;

(III) an individual associated with former Afghan military and police human intelligence activities, including operators and Department of Defense sources;

(IV) an individual associated with former Afghan military counterintelligence;

(V) an individual associated with the former Afghan Ministry of De-
fense who was involved in the prosecution and detention of combatants; or

(VI) a senior military officer, senior enlisted personnel, or civilian official who served on the staff of the former Ministry of Defense or the former Ministry of Interior Affairs of Afghanistan; and

(VII) provided service to an entity or organization described in clause (ii) for not less than 1 year during the period beginning on December 22, 2001, and ending on September 1, 2021, and did so in support of the United States mission in Afghanistan.

(B) INCLUSIONS.—For purposes of this paragraph, the Afghanistan National Defense and Security Forces includes members of the security forces under the Ministry of Defense and the Ministry of Interior Affairs of the Islamic Republic of Afghanistan, including the Afghanistan National Army, the Afghan Air Force, the Afghanistan National Police, and any other entity designated by the Secretary of Defense as part of the Afghanistan National
Defense and Security Forces during the relevant period of service of the applicant concerned.

(2) DESIGNATION.—The Secretary of State, in consultation with the Secretary of Homeland Security, shall designate, as Priority 2 refugees of special humanitarian concern, at-risk Afghan allies.

(3) AT-RISK AFGHAN ALLIES REFERRAL PROGRAM.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall establish a process by which an individual may apply to the Secretary for classification as an at-risk Afghan ally and request a referral to the United States Refugee Admissions Program as Priority 2 refugees.

(B) APPLICATION SYSTEM.—The process established under subparagraph (A) shall—

(i) include the development and maintenance of a secure online portal through which applicants may provide information verifying their status as at-risk Afghan allies and upload supporting documentation; and
(ii) allow—

(I) an applicant to submit his or her own application; and

(II) a designee of an applicant to submit an application on behalf of the applicant.

(C) REVIEW PROCESS.—As soon as practicable after receiving a request for classification and referral described in subparagraph (A), the Secretary of Defense shall—

(i) review—

(I) the service record of the applicant, if available;

(II) if the applicant provides a service record or other supporting documentation, any information that helps verify the service record concerned, including information or an attestation provided by any current or former official of the Department of Defense who has personal knowledge of the eligibility of the applicant for such classification and referral; and

(III) the data holdings of the Department of Defense and other co-
operating interagency partners, including biographic and biometric records, iris scans, fingerprints, voice biometric information, hand geometry biometrics, other identifiable information, and any other information related to the applicant, including relevant derogatory information; and

(ii)(I) in a case in which the Secretary of Defense determines that the applicant is an at-risk Afghan ally, refer the at-risk Afghan ally to the United States Refugee Admissions Program as a Priority 2 refugee; and

(II) include with such referral any significant derogatory information regarding the at-risk Afghan ally.

(D) Personnel to support recommendations.—Any limitation in law with respect to the number of personnel within the Office of the Secretary of Defense, the military departments, or the defense agencies shall not apply to personnel employed for the primary purpose of carrying out this paragraph.
(E) Review process for denial of request for referral.—

(i) In general.—In the case of an applicant with respect to whom the Secretary of Defense denies a request for classification and referral based on a determination that the applicant is not an at-risk Afghan ally or based on derogatory information—

(I) the Secretary shall provide the applicant with a written notice of the denial that provides, to the maximum extent practicable, a description of the basis for the denial, including the facts and inferences, or evidentiary gaps, underlying the individual determination; and

(II) the applicant shall be provided an opportunity to submit not more than 1 written appeal to the Secretary for each such denial.

(ii) Deadline for appeal.—An appeal under subclause (II) of clause (i) shall be submitted—
(I) not more than 120 days after
the date on which the applicant con-
cerned receives notice under subclause
(I) of that clause; or

(II) on any date thereafter, at
the discretion of the Secretary of De-
fense.

(iii) Request to reopen.—

(I) In general.—An applicant
who receives a denial under clause (i)
may submit a request to reopen a re-
quest for classification and referral
under the process established under
subparagraph (A) so that the appli-
cant may provide additional informa-
tion, clarify existing information, or
explain any unfavorable information.

(II) Limitation.—After consid-
ering 1 such request to reopen from
an applicant, the Secretary of Defense
may deny subsequent requests to re-
open submitted by the same applicant.

(b) Special Immigrant Visas for Certain Rel-
atives of Certain Members of the Armed
FORCES.—Section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) is amended—

(1) in subparagraph (L)(iii), by adding a semicolon at the end;

(2) in subparagraph (M), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(N) a citizen or national of Afghanistan who is the parent or brother or sister of—

“(i) a member of the armed forces (as defined in section 101(a) of title 10, United States Code); or

“(ii) a veteran (as defined in section 101 of title 38, United States Code).”.

(c) GENERAL PROVISIONS.—

(1) PROHIBITION ON FEES.—The Secretary of Homeland Security, the Secretary of Defense, or the Secretary of State may not charge any fee in connection with a request for a classification and referral as a refugee or an application for, or issuance of, a special immigrant visa or special immigrant status under—

(A) this section or an amendment made by this section;
(B) section 602 of the Afghan Allies Protection Act of 2009 (8 U.S.C. 1101 note; Public Law 111–8); or


(2) REPRESENTATION.—An alien applying for admission to the United States under this section, or an amendment made by this section, may be represented during the application process, including at relevant interviews and examinations, by an attorney or other accredited representative. Such representation shall not be at the expense of the United States Government.

(3) NUMERICAL LIMITATIONS.—

(A) IN GENERAL.—Subject to subparagraph (C), the total number of principal aliens who may be provided special immigrant visas under this section may not exceed 2,500 each fiscal year.

(B) CARRYOVER.—If the numerical limitation specified in subparagraph (A) is not reached during a given fiscal year, the numerical limitation specified in such subparagraph
for the following fiscal year shall be increased by a number equal to the difference between—

(i) the numerical limitation specified in subparagraph (A) for the given fiscal year; and

(ii) the number of principal aliens provided special immigrant visas under this section during the given fiscal year.

(C) MAXIMUM NUMBER OF VISAS.—The total number of aliens who may be provided special immigrant visas under this section shall not exceed 10,000.

(D) DURATION OF AUTHORITY.—The authority to issue visas under this section shall—

(i) commence on the date of the enactment of this Act; and

(ii) terminate on the date on which all such visas are exhausted.

(4) PROTECTION OF ALIENS.—The Secretary of State, in consultation with the head of any other appropriate Federal agency, shall make a reasonable effort to provide an alien who is seeking status as a special immigrant or requesting classification and referral as a refugee under this section, or an amendment made by this section, protection or to
immediately remove such alien from Afghanistan, if possible.

(5) *Other eligibility for immigrant status.*—No alien shall be denied the opportunity to apply for admission under this section, or an amendment made by this section, solely because the alien qualifies as an immediate relative or is eligible for any other immigrant classification.

(6) *Resettlement support.*—A citizen or national of Afghanistan who is admitted to the United States as a special immigrant under this section or an amendment made by this section shall be eligible for resettlement assistance, entitlement programs, and other benefits available to refugees admitted under section 207 of such Act (8 U.S.C. 1157) to the same extent, and for the same periods of time, as such refugees.

(7) *Adjustment of status for special immigrants in certain circumstances.*—Notwithstanding paragraph (2), (7), or (8) of subsection (c) of section 245 of the Immigration and Nationality Act (8 U.S.C. 1255), the Secretary of Homeland Security may adjust the status of an alien described in subparagraph (N) of section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C.
1 1101(a)(27)) or subsection (a)(2) of this section to
2 that of an alien lawfully admitted for permanent res-
3 idence under subsection (a) of such section 245 if
4 the alien—
5  
6 (A) was—
7  
8 (i) paroled into the United States dur-
9 ing the period beginning on July 30, 2021,
10 and ending on the date of enactment of
11 this Act, provided that such parole has not
12 been terminated by the Secretary of Home-
13 land Security upon written notice; or
14  
15 (ii) admitted as a nonimmigrant into
16 the United States; and
17  
18 (B) is otherwise eligible for status as a
19 special immigrant under—
20  
21 (i) this section; or
22  
23 (ii) the Immigration and Nationality
24 Act (8 U.S.C. 1101 et seq.).
25  
26 (8) AUTHORIZATION OF APPROPRIATIONS.—
27 There are authorized to be appropriated to the Sec-
28 retary of Homeland Security, the Secretary of State,
29 the Secretary of Defense, and the Secretary of
30 Health and Human Services such sums as are nec-
31 essary for each of the fiscal years 2024 through
SEC. 7. SUPPORT FOR ALLIES SEEKING RESETTLEMENT IN THE UNITED STATES.

Notwithstanding any other provision of law, during Operation Allies Welcome, Enduring Welcome, and any successor operation, the Secretary of Homeland Security and the Secretary of State may waive any fee or surcharge or exempt individuals from the payment of any fee or surcharge collected by the Department of Homeland Security and the Department of State, respectively, in connection with a petition or application for, or issuance of, an immigrant visa to a national of Afghanistan under section 201(b)(2)(A)(i) or 203(a) of the Immigration and Nationality Act, 8 U.S.C. 1101(b)(2)(A)(i) and 1153(a), respectively.

SEC. 8. PAROLE REFORM.

(a) In General.—Section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)) is amended to read as follows:

“(5)(A) Except as provided in subparagraphs (B) and (C) and section 214(f), the Secretary of Homeland Security, in the discretion of the Secretary, may temporarily parole into the United States any alien applying for admission to the United States who is not present in the
United States, under such conditions as the Secretary may prescribe, on a case-by-case basis, and not according to eligibility criteria describing an entire class of potential parole recipients, for urgent humanitarian reasons or significant public benefit. Parole granted under this subparagraph may not be regarded as an admission of the alien. When the purposes of such parole have been served in the opinion of the Secretary, the alien shall immediately return or be returned to the custody from which the alien was paroled. After such return, the case of the alien shall be dealt with in the same manner as the case of any other applicant for admission to the United States.

(B) The Secretary of Homeland Security may grant parole to any alien who—

(i) is present in the United States without lawful immigration status;

(ii) is the beneficiary of an approved petition under section 203(a);

(iii) is not otherwise inadmissible or removable; and

(iv) is the spouse or child of a member of the Armed Forces serving on active duty.

(C) The Secretary of Homeland Security may grant parole to any alien—
“(i) who is a national of the Republic of Cuba and is living in the Republic of Cuba;

“(ii) who is the beneficiary of an approved petition under section 203(a);

“(iii) for whom an immigrant visa is not immediately available;

“(iv) who meets all eligibility requirements for an immigrant visa;

“(v) who is not otherwise inadmissible; and

“(vi) who is receiving a grant of parole in furtherance of the commitment of the United States to the minimum level of annual legal migration of Cuban nationals to the United States specified in the U.S.–Cuba Joint Communiqué on Migration, done at New York September 9, 1994, and reaffirmed in the Cuba-United States: Joint Statement on Normalization of Migration, Building on the Agreement of September 9, 1994, done at New York May 2, 1995.

“(D) For purposes of determining an alien’s eligibility for parole under subparagraph (A), an urgent humanitarian reason shall be limited to circumstances in which the alien establishes that—

“(i)(I) the alien has a medical emergency; and
“(II)(aa) the alien cannot obtain necessary treatment in the foreign state in which the alien is residing; or

“(bb) the medical emergency is life-threatening and there is insufficient time for the alien to be admitted through the normal visa process;

“(ii) the alien is the parent or legal guardian of an alien described in clause (i) and the alien described in clause (i) is a minor;

“(iii) the alien is needed in the United States in order to donate an organ or other tissue for transplant and there is insufficient time for the alien to be admitted through the normal visa process;

“(iv) the alien has a close family member in the United States whose death is imminent and the alien could not arrive in the United States in time to see such family member alive if the alien were to be admitted through the normal visa process;

“(v) the alien is seeking to attend the funeral of a close family member and the alien could not arrive in the United States in time to attend such funeral if the alien were to be admitted through the normal visa process;

“(vi) the alien is an adopted child with an urgent medical condition who is in the legal custody of
the petitioner for a final adoption-related visa and
whose medical treatment is required before the ex-
pected award of a final adoption-related visa; or
“(vii) the alien is a lawful applicant for adjust-
ment of status under section 245 and is returning
to the United States after temporary travel abroad.
“(E) For purposes of determining an alien’s eligi-
bility for parole under subparagraph (A), a significant
public benefit may be determined to result from the parole
of an alien only if—
“(i) the alien has assisted (or will assist, wheth-
er knowingly or not) the United States Government
in a law enforcement matter;
“(ii) the alien’s presence is required by the Gov-
ernment in furtherance of such law enforcement
matter; and
“(iii) the alien is inadmissible, does not satisfy
the eligibility requirements for admission as a non-
immigrant, or there is insufficient time for the alien
to be admitted through the normal visa process.
“(F) For purposes of determining an alien’s eligi-
bility for parole under subparagraph (A), the term ‘case-
by-case basis’ means that the facts in each individual case
are considered and parole is not granted based on mem-
bership in a defined class of aliens to be granted parole.
The fact that aliens are considered for or granted parole one-by-one and not as a group is not sufficient to establish that the parole decision is made on a ‘case-by-case basis’.

“(G) The Secretary of Homeland Security may not use the parole authority under this paragraph to parole an alien into the United States for any reason or purpose other than those described in subparagraphs (B), (C), (D), and (E).

“(H) An alien granted parole may not accept employment, except that an alien granted parole pursuant to subparagraph (B) or (C) is authorized to accept employment for the duration of the parole, as evidenced by an employment authorization document issued by the Secretary of Homeland Security.

“(I) Parole granted after a departure from the United States shall not be regarded as an admission of the alien. An alien granted parole, whether as an initial grant of parole or parole upon reentry into the United States, is not eligible to adjust status to lawful permanent residence or for any other immigration benefit if the immigration status the alien had at the time of departure did not authorize the alien to adjust status or to be eligible for such benefit.
“(J)(i) Except as provided in clauses (ii) and (iii), parole shall be granted to an alien under this paragraph for the shorter of—

“(I) a period of sufficient length to accomplish the activity described in subparagraph (D) or (E) for which the alien was granted parole; or

“(II) 1 year.

“(ii) Grants of parole pursuant to subparagraph (A) may be extended once, in the discretion of the Secretary, for an additional period that is the shorter of—

“(I) the period that is necessary to accomplish the activity described in subparagraph (D) or (E) for which the alien was granted parole; or

“(II) 1 year.

“(iii) Aliens who have a pending application to adjust status to permanent residence under section 245 may request extensions of parole under this paragraph, in 1-year increments, until the application for adjustment has been adjudicated. Such parole shall terminate immediately upon the denial of such adjustment application.

“(K) Not later than 90 days after the last day of each fiscal year, the Secretary of Homeland Security shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatitves and make available to the public, a report—
“(i) identifying the total number of aliens paroled into the United States under this paragraph during the previous fiscal year; and

“(ii) containing information and data regarding all aliens paroled during such fiscal year, including—

“(I) the duration of parole;

“(II) the type of parole; and

“(III) the current status of the aliens so paroled.”.

(b) IMPLEMENTATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section and the amendments made by this section shall take effect on the date that is 30 days after the date of the enactment of this Act.

(2) EXCEPTIONS.—Notwithstanding paragraph (1)—

(A) any application for parole or advance parole filed by an alien before the date of the enactment of this Act shall be adjudicated under the law that was in effect on the date on which the application was properly filed and any approved advance parole shall remain valid under the law that was in effect on the date on which the advance parole was approved;
(B) section 212(d)(5)(I) of the Immigration and Nationality Act, as added by subsection (a), shall take effect on the date of the enactment of this Act; and

(C) aliens who were paroled into the United States pursuant to section 212(d)(5)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)(A)) before January 1, 2023, shall continue to be subject to the terms of parole that were in effect on the date on which their respective parole was approved.

(c) CAUSE OF ACTION.—Any person, State, or local government that experiences financial harm in excess of $1,000 due to a failure of the Federal Government to lawfully apply the provisions of this section or the amendments made by this section shall have standing to bring a civil action against the Federal Government in an appropriate district court of the United States.

SEC. 9. SEVERABILITY.

If any provision of this title, or the application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this title, and the application of the remaining provisions of this title to any person or circumstance, shall not be affected.