

Whole on the following amendment submitted by Mr. BURR:

At the end of subtitle B of title VIII insert the following new section:

**SEC. 837. EXTENSION OF H-1A VISA PROGRAM FOR NON-IMMIGRANT NURSES.**

Effective as if included in the enactment of the Immigration Nursing Relief Act of 1989 (Public Law 101-238), section 3(d) of such Act (103 Stat. 2103) is amended—

- (1) by striking "To 5-YEAR PERIOD",
- (2) by striking "5-year", and
- (3) by inserting "and ending at the end of the 6-month period beginning on the date of the enactment of the Immigration in the National Interest Act of 1995" after "Act".

It was decided in the { Yeas ..... 154  
negative ..... } Nays ..... 262

¶32.22 [Roll No. 87]  
AYES—154

Abercrombie	Funderburk	Mink
Allard	Gekas	Moorhead
Archer	Geren	Myers
Armey	Gilchrest	Myrick
Baker (CA)	Goodlatte	Nethercutt
Baker (LA)	Goss	Norwood
Ballenger	Graham	Nussle
Barr	Gunderson	Ortiz
Barrett (NE)	Gutknecht	Oxley
Bartlett	Hall (OH)	Packard
Barton	Hall (TX)	Parker
Bevill	Hancock	Payne (VA)
Bilbray	Hansen	Pickett
Bliley	Hastert	Pombo
Boehner	Hastings (WA)	Portman
Boucher	Hayes	Quillen
Brewster	Hayworth	Riggs
Brownback	Hefley	Roberts
Bryant (TN)	Herger	Rogers
Bunn	Hilleary	Rush
Bunning	Hoekstra	Salmon
Burr	Hoke	Sanford
Burton	Horn	Schaefer
Buyer	Hostettler	Schiff
Camp	Hunter	Seastrand
Campbell	Hutchinson	Shadegg
Canady	Hyde	Shuster
Chambliss	Inglis	Skeen
Christensen	Jones	Smith (MI)
Chrysler	Kaptur	Smith (TX)
Clement	Kelly	Solomon
Clinger	Kim	Souder
Coble	Klug	Stenholm
Coburn	Knollenberg	Stockman
Collins (GA)	Kolbe	Stump
Combust	LaHood	Tanner
Crane	Largent	Tauzin
Crapo	Latham	Taylor (NC)
Creameans	Laughlin	Tejeda
Cubin	Lewis (CA)	Thornberry
de la Garza	Lewis (KY)	Torkildsen
Deal	Lincoln	Upton
Dickey	Linder	Vucanovich
Doollittle	Livingston	Walker
Dornan	Lucas	Wamp
Dreier	McCollum	Weldon (FL)
Durbin	McCrery	White
Ewing	McInnis	Wicker
Fawell	McIntosh	Young (AK)
Fields (TX)	McKeon	Zeliff
Foley	Mica	
Fowler	Miller (FL)	

NOES—262

Ackerman	Browder	Coyne
Andrews	Brown (CA)	Cramer
Bachus	Brown (FL)	Cunningham
Baesler	Brown (OH)	Danner
Baldacci	Bryant (TX)	Davis
Barcia	Callahan	DeFazio
Barrett (WI)	Calvert	DeLauro
Bass	Cardin	Dellums
Bateman	Castle	Deutsch
Becerra	Chabot	Diaz-Balart
Bentsen	Chapman	Dicks
Bereuter	Chenoweth	Dingell
Berman	Clayton	Dixon
Bilirakis	Clyburn	Doggett
Bishop	Coleman	Dooley
Blute	Collins (MI)	Doyle
Boehlert	Condit	Duncan
Bonilla	Conyers	Dunn
Bonior	Cooley	Edwards
Bono	Costello	Ehlers
Borski	Cox	Ehrlich

Emerson	Klink	Rangel
Engel	LaFalce	Reed
English	Lantos	Regula
Ensign	LaTourette	Richardson
Eshoo	Lazio	Rivers
Evans	Leach	Roemer
Everett	Levin	Rohrabacher
Farr	Lewis (GA)	Ros-Lehtinen
Fattah	Lightfoot	Roth
Fazio	Lipinski	Roukema
Fields (LA)	LoBiondo	Roybal-Allard
Filner	Lofgren	Royce
Flake	Longley	Sabo
Flanagan	Lowe	Sanders
Foglietta	Luther	Sawyer
Forbes	Maloney	Saxton
Ford	Manton	Scarborough
Fox	Manzullo	Schroeder
Frank (MA)	Markey	Schumer
Franks (CT)	Martinez	Scott
Franks (NJ)	Martini	Sensenbrenner
Frelinghuysen	Mascara	Serrano
Frisa	Matsui	Shaw
Frost	McCarthy	Shays
Furse	McDade	Sisisky
Gallegly	McDermott	Skaggs
Ganske	McHale	Skelton
Gejdenson	McHugh	Slaughter
Gephardt	McKinney	Smith (NJ)
Gibbons	McNulty	Smith (WA)
Gillmor	Meehan	Spratt
Gilman	Meek	Stearns
Gonzalez	Menendez	Stupak
Goodling	Metcalf	Talent
Gordon	Meyers	Tate
Green	Miller (CA)	Taylor (MS)
Greenwood	Minge	Thomas
Gutierrez	Molinari	Thompson
Hamilton	Mollohan	Thornton
Harman	Montgomery	Thurman
Hastings (FL)	Moran	Tiahrt
Hefner	Morella	Torres
Heineman	Murtha	Torricelli
Hilliard	Nadler	Towns
Hinche	Neal	Traficant
Hobson	Neumann	Velazquez
Holden	Ney	Vento
Houghton	Oberstar	Visclosky
Hoyer	Obey	Volkmer
Istook	Olver	Waldholtz
Jackson (IL)	Orton	Walsh
Jackson-Lee	Owens	Ward
(TX)	Pallone	Watt (NC)
Jacobs	Pastor	Watts (OK)
Jefferson	Paxon	Waxman
Johnson (CT)	Payne (NJ)	Weldon (PA)
Johnson, E. B.	Pelosi	Weller
Johnson, Sam	Peterson (FL)	Whitfield
Kanjorski	Peterson (MN)	Williams
Kasich	Petri	Wise
Kennedy (MA)	Pomeroy	Wolf
Kennedy (RI)	Porter	Woolsey
Kennelly	Poshard	Wynn
Kildee	Pryce	Yates
King	Quinn	Young (FL)
Kingston	Rahall	Zimmer
Kleczka	Ramstad	

NOT VOTING—15

Beilenson	Johnston	Stark
Clay	Moakley	Stokes
Collins (IL)	Radanovich	Studds
DeLay	Rose	Waters
Johnson (SD)	Spence	Wilson

So the amendment was not agreed to.

The SPEAKER pro tempore, Mr. RIGGS, assumed the Chair.

When Mr. BONILLA, Chairman, pursuant to House Resolution 384, reported the bill back to the House with an amendment adopted by the Committee.

The previous question having been ordered by said resolution.

The following amendment, reported from the Committee of the Whole House on the state of the Union, was agreed to:

Strike out all after the enacting clause and insert:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Immigration in the National Interest Act of 1996".

(b) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided—

(1) whenever in this Act an amendment or repeal is expressed as the amendment or repeal of a section or other provision, the reference shall be considered to be made to that section or provision in the Immigration and Nationality Act, and

(2) amendments to a section or other provision are to such section or other provision as in effect on the date of the enactment of this Act and before any amendment made to such section or other provision elsewhere in this Act.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; amendments to Immigration and Nationality Act; table of contents.

**TITLE I—DETERRENCE OF ILLEGAL IMMIGRATION THROUGH IMPROVED BORDER ENFORCEMENT, PILOT PROGRAMS, AND INTERIOR ENFORCEMENT**

**Subtitle A—Improved Enforcement at Border**

Sec. 101. Border patrol agents and support personnel.

Sec. 102. Improvement of barriers at border.

Sec. 103. Improved border equipment and technology.

Sec. 104. Improvement in border crossing identification card.

Sec. 105. Civil penalties for illegal entry.

Sec. 106. Prosecution of aliens repeatedly re-entering the United States unlawfully.

Sec. 107. Inservice training for the border patrol.

Sec. 108. Report.

**Subtitle B—Pilot Programs**

Sec. 111. Pilot program on interior repatriation.

Sec. 112. Pilot program on use of closed military bases for the detention of inadmissible or deportable aliens.

Sec. 113. Pilot program to collect records of departing passengers.

**Subtitle C—Interior Enforcement**

Sec. 121. Increase in personnel for interior enforcement.

Sec. 122. Acceptance of state services to carry out deportation functions.

**TITLE II—ENHANCED ENFORCEMENT AND PENALTIES AGAINST ALIEN SMUGGLING; DOCUMENT FRAUD**

**Subtitle A—Enhanced Enforcement and Penalties Against Alien Smuggling**

Sec. 201. Wiretap authority for alien smuggling investigations.

Sec. 202. Racketeering offenses relating to alien smuggling.

Sec. 203. Increased criminal penalties for alien smuggling.

Sec. 204. Increased number of Assistant United States Attorneys.

Sec. 205. Undercover investigation authority.

**Subtitle B—Deterrence of Document Fraud**

Sec. 211. Increased criminal penalties for fraudulent use of government-issued documents.

Sec. 212. New civil penalties for document fraud.

Sec. 213. New civil penalty for failure to present documents and for preparing immigration documents without authorization.

Sec. 214. New criminal penalties for failure to disclose role as preparer of false application for asylum and for preparing certain post-conviction applications.

Sec. 215. Criminal penalty for knowingly presenting document which fails to contain reasonable basis in law or fact.

Sec. 216. Criminal penalties for false claim to citizenship.

**Subtitle C—Asset Forfeiture for Passport and Visa Offenses**

Sec. 221. Criminal forfeiture for passport and visa related offenses.

Sec. 222. Subpoenas for bank records.

Sec. 223. Effective date.

**TITLE III—INSPECTION, APPREHENSION, DETENTION, ADJUDICATION, AND REMOVAL OF INADMISSIBLE AND DEPORTABLE ALIENS**

**Subtitle A—Revision of Procedures for Removal of Aliens**

Sec. 300. Overview of changes in removal procedures.

Sec. 301. Treating persons present in the United States without authorization as not admitted.

Sec. 302. Inspection of aliens; expedited removal of inadmissible arriving aliens; referral for hearing (revised section 235).

Sec. 303. Apprehension and detention of aliens not lawfully in the United States (revised section 236).

Sec. 304. Removal proceedings; cancellation of removal and adjustment of status; voluntary departure (revised and new sections 239 to 240C).

Sec. 305. Detention and removal of aliens ordered removed (new section 241).

Sec. 306. Appeals from orders of removal (new section 242).

Sec. 307. Penalties relating to removal (revised section 243).

Sec. 308. Resignation and reorganization of other provisions; additional conforming amendments.

Sec. 309. Effective dates; transition.

**Subtitle B—Removal of Alien Terrorists**

**PART 1—REMOVAL PROCEDURES FOR ALIEN TERRORISTS**

Sec. 321. Removal procedures for alien terrorists.

Sec. 322. Funding for detention and removal of alien terrorists.

**PART 2—INADMISSIBILITY AND DENIAL OF RELIEF FOR ALIEN TERRORISTS**

Sec. 331. Membership in terrorist organization as ground of inadmissibility.

Sec. 332. Denial of relief for alien terrorists.

**Subtitle C—Deterring Transportation of Unlawful Aliens to the United States**

Sec. 341. Definition of stowaway.

Sec. 342. List of alien and citizen passengers arriving.

Sec. 343. Provisions relating to contracts with transportation lines.

**Subtitle D—Additional Provisions**

Sec. 351. Definition of conviction.

Sec. 352. Immigration judges and compensation.

Sec. 353. Rescission of lawful permanent resident status.

Sec. 354. Civil penalties for failure to depart.

Sec. 355. Clarification of district court jurisdiction.

Sec. 356. Demonstration project for identification of illegal aliens in incarceration facility of Anaheim, California.

Sec. 357. Enhanced penalties for failure to depart, illegal reentry, and passport and visa fraud.

Sec. 358. Authorization of additional funds for removal of aliens.

Sec. 359. Application of additional civil penalties to enforcement.

Sec. 360. Prisoner transfer treaties.

Sec. 361. Criminal alien identification system.

Sec. 362. Waiver of exclusion and deportation ground for certain section 274C violators.

Sec. 363. Authorizing registration of aliens on criminal probation or criminal parole.

Sec. 364. Confidentiality provision for certain alien battered spouses and children.

Sec. 365. Authority for State and local law enforcement assistance in deportation.

**TITLE IV—ENFORCEMENT OF RESTRICTIONS AGAINST EMPLOYMENT**

Sec. 401. Pilot program for voluntary use of employment eligibility confirmation process.

Sec. 402. Limiting liability for certain technical violations of paperwork requirements.

Sec. 403. Paperwork and other changes in the employer sanctions program.

Sec. 404. Strengthened enforcement of the employer sanctions provisions.

Sec. 405. Reports on earnings of aliens not authorized to work.

Sec. 406. Authorizing maintenance of certain information on aliens.

Sec. 407. Unfair immigration-related employment practices.

**TITLE V—REFORM OF LEGAL IMMIGRATION SYSTEM**

**Subtitle A—Refugees**

Sec. 501. Persecution for resistance to coercive population control methods.

**Subtitle B—Asylum Reform**

Sec. 511. Asylum reform.

Sec. 512. Fixing numerical adjustments for asylees at 10,000 each year.

Sec. 513. Increase in asylum officers.

**TITLE VI—RESTRICTIONS ON BENEFITS FOR ALIENS**

Sec. 600. Statements of national policy concerning welfare and immigration.

**Subtitle A—Eligibility of Illegal Aliens for Public Benefits**

**PART 1—PUBLIC BENEFITS GENERALLY**

Sec. 601. Making illegal aliens ineligible for public assistance, contracts, and licenses.

Sec. 602. Making unauthorized aliens ineligible for unemployment benefits.

Sec. 603. General exceptions.

Sec. 604. Treatment of expenses subject to emergency medical services exception.

Sec. 605. Report on disqualification of illegal aliens from housing assistance programs.

Sec. 606. Verification of student eligibility for postsecondary Federal student financial assistance.

Sec. 607. Payment of public assistance benefits.

Sec. 608. Definitions.

Sec. 609. Regulations and effective dates.

**PART 2—HOUSING ASSISTANCE**

Sec. 611. Actions in cases of termination of financial assistance.

Sec. 612. Verification of immigration status and eligibility for financial assistance.

Sec. 613. Prohibition of sanctions against entities making financial assistance eligibility determinations.

Sec. 614. Regulations.

**PART 3—PUBLIC EDUCATION BENEFITS**

Sec. 616. Authorizing States to deny public education benefits to aliens not lawfully present in the United States.

**Subtitle B—Expansion of Disqualification From Immigration Benefits on the Basis of Public Charge**

Sec. 621. Ground for inadmissibility.

Sec. 622. Ground for deportability.

**Subtitle C—Attribution of Income and Affidavits of Support**

Sec. 631. Attribution of sponsor's income and resources to family-sponsored immigrants.

Sec. 632. Requirements for sponsor's affidavit of support.

Sec. 633. Cosignature of alien student loans.

Sec. 634. Statutory construction.

**TITLE VII—FACILITATION OF LEGAL ENTRY**

Sec. 701. Additional land border inspectors; infrastructure improvements.

Sec. 702. Commuter lane pilot programs.

Sec. 703. Preinspection at foreign airports.

Sec. 704. Training of airline personnel in detection of fraudulent documents.

**TITLE VIII—MISCELLANEOUS PROVISIONS**

**Subtitle A—Amendments to the Immigration and Nationality Act**

Sec. 801. Nonimmigrant status for spouses and children of members of the Armed Services.

Sec. 802. Amended definition of aggravated felony.

Sec. 803. Authority to determine visa processing procedures.

Sec. 804. Waiver authority concerning notice of denial of application for visas.

Sec. 805. Treatment of Canadian landed immigrants.

Sec. 806. Changes relating to H-1B non-immigrants.

Sec. 807. Validity of period of visas.

Sec. 808. Limitation on adjustment of status of individuals not lawfully present in the United States.

Sec. 809. Limited access to certain confidential INS files.

Sec. 810. Change of nonimmigrant classification.

Sec. 811. Certification requirements for foreign health-care workers.

Sec. 812. Computation of targeted assistance.

**Subtitle B—Other Provisions**

Sec. 831. Commission report on fraud associated with birth certificates.

Sec. 832. Uniform vital statistics.

Sec. 833. Communication between State and local government agencies, and the Immigration and Naturalization Service.

Sec. 834. Regulations regarding habitual residence.

Sec. 835. Female genital mutilation.

Sec. 836. Designation of Portugal as a visa waiver pilot program country with probationary status.

Sec. 837. Adjustment of status for certain Polish and Hungarian parolees.

Sec. 838. Support of demonstration projects.

Sec. 839. Treatment of certain aliens who served with special guerrilla units in Laos.

Sec. 840. Sense of the Congress regarding the mission of the Immigration and Naturalization Service.

Sec. 841. Authorization of reimbursement of certain Polish applicants for the 1995 diversity immigrant program.

Sec. 842. Sense of Congress; requirements regarding notice.

Sec. 843. Sense of the Congress with respect to State criminal alien assistance program.

#### Subtitle C—Technical Corrections

Sec. 851. Miscellaneous technical corrections.

### TITLE I—DETERRENCE OF ILLEGAL IMMIGRATION THROUGH IMPROVED BORDER ENFORCEMENT, PILOT PROGRAMS, AND INTERIOR ENFORCEMENT

#### Subtitle A—Improved Enforcement at Border

##### SEC. 101. BORDER PATROL AGENTS AND SUPPORT PERSONNEL.

(a) INCREASED NUMBER OF BORDER PATROL POSITIONS.—The number of border patrol agents shall be increased, for each fiscal year beginning with the fiscal year 1996 and ending with the fiscal year 2000, by 1,000 full-time equivalent positions above the number of equivalent positions as of September 30, 1994.

(b) INCREASE IN SUPPORT PERSONNEL.—The number of full-time support positions for personnel in support of border enforcement, investigation, detention and deportation, intelligence, information and records, legal proceedings, and management and administration in the Immigration and Naturalization Service shall be increased, beginning with fiscal year 1996, by 800 positions above the number of equivalent positions as of September 30, 1994.

(c) DEPLOYMENT OF NEW BORDER PATROL AGENTS.—The Attorney General shall, to the maximum extent practicable, ensure that the border patrol agents hired pursuant to subsection (a) shall—

(1) be deployed among the various Immigration and Naturalization Service sectors in proportion to the level of illegal crossing of the borders of the United States measured in each sector during the preceding fiscal year and reasonably anticipated in the next fiscal year, and

(2) be actively engaged in law enforcement activities related to such illegal crossings.

##### SEC. 102. IMPROVEMENT OF BARRIERS AT BORDER.

(a) IN GENERAL.—The Attorney General, in consultation with the Commissioner of the Immigration and Naturalization Service, shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States.

(b) CONSTRUCTION OF FENCING AND ROAD IMPROVEMENTS IN THE BORDER AREA NEAR SAN DIEGO, CALIFORNIA.—

(1) IN GENERAL.—In carrying out subsection (a), the Attorney General shall provide for the construction along the 14 miles of the international land border of the United States, starting at the Pacific Ocean and extending eastward, of second and third fences, in addition to the existing reinforced fence, and for roads between the fences.

(2) PROMPT ACQUISITION OF NECESSARY EASEMENTS.—The Attorney General shall promptly acquire such easements as may be necessary to carry out this subsection and shall commence construction of fences immediately following such acquisition (or conclusion of portions thereof).

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection not to exceed \$12,000,000. Amounts appropriated under this paragraph are authorized to remain available until expended.

(c) WAIVER.—The provisions of the Endangered Species Act of 1973 are waived to the extent the Attorney General determines necessary to assure expeditious construction of the barriers and roads under this section.

(d) FORWARD DEPLOYMENT.—

(1) IN GENERAL.—The Attorney General shall forward deploy existing border patrol agents in those areas of the border identified as areas of high illegal entry into the United States in order to provide a uniform and visible deterrent to illegal entry on a continuing basis. The previous sentence shall not apply to border patrol agents located at checkpoints.

(2) REPORT.—By not later than 6 months after the date of the enactment of this Act, the Attorney General shall submit to the appropriate committees of Congress a report on the progress and effectiveness of such forward deployments.

##### SEC. 103. IMPROVED BORDER EQUIPMENT AND TECHNOLOGY.

The Attorney General is authorized to acquire and utilize, for the purpose of detection, interdiction, and reduction of illegal immigration into the United States, any Federal equipment (including fixed wing aircraft, helicopters, four-wheel drive vehicles, sedans, night vision goggles, night vision scopes, and sensor units) determined available for transfer by any other agency of the Federal Government upon request of the Attorney General.

##### SEC. 104. IMPROVEMENT IN BORDER CROSSING IDENTIFICATION CARD.

(a) IN GENERAL.—Section 101(a)(6) (8 U.S.C. 1101(a)(6)) is amended by adding at the end the following: "Such regulations shall provide that (A) each such document include a biometric identifier (such as the fingerprint or handprint of the alien) that is machine readable and (B) an alien presenting a border crossing identification card is not permitted to cross over the border into the United States unless the biometric identifier contained on the card matches the appropriate biometric characteristic of the alien."

(b) EFFECTIVE DATES.—

(1) Clause (A) of the sentence added by the amendment made by subsection (a) shall apply to documents issued on or after 18 months after the date of the enactment of this Act.

(2) Clause (B) of such sentence shall apply to cards presented on or after 3 years after the date of the enactment of this Act.

(c) REPORT.—Not later than one year after the implementation of clause (A) of the sentence added by the amendment made by subsection (a) the Attorney General shall submit to Congress a report on the impact of such clause on border crossing activities.

##### SEC. 105. CIVIL PENALTIES FOR ILLEGAL ENTRY.

(a) IN GENERAL.—Section 275 (8 U.S.C. 1325) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and

(2) by inserting after subsection (a) the following new subsection:

"(b) Any alien who is apprehended while entering (or attempting to enter) the United States at a time or place other than as designated by immigration officers shall be subject to a civil penalty of—

"(1) at least \$50 and not more than \$250 for each such entry (or attempted entry), or

"(2) twice the amount specified in paragraph (1) in the case of an alien who has been previously subject to a civil penalty under this subsection.

Civil penalties under this subsection are in addition to, and not in lieu of, any criminal or other civil penalties that may be imposed."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to illegal entries or attempts to enter occurring on or

after the first day of the sixth month beginning after the date of the enactment of this Act.

##### SEC. 106. PROSECUTION OF ALIENS REPEATEDLY REENTERING THE UNITED STATES UNLAWFULLY.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General such sums as may be necessary to provide for detention and prosecution of each alien who commits an act that constitutes a violation of section 275(a) of the Immigration and Nationality Act if the alien has committed such an act on two previous occasions. Funds appropriated pursuant to this subsection are authorized to remain available until expended.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Attorney General should use available resources to assure detention and prosecution of aliens in the cases described in subsection (a).

##### SEC. 107. INSERVICE TRAINING FOR THE BORDER PATROL.

(a) REQUIREMENT.—Section 103 (8 U.S.C. 1103) is amended by adding at the end the following new subsection:

"(e)(1) The Attorney General shall continue to provide for such programs (including intensive language training programs) of inservice training for full-time and part-time personnel of the Border Patrol in contact with the public as will familiarize the personnel with the rights and varied cultural backgrounds of aliens and citizens in order to ensure and safeguard the constitutional and civil rights, personal safety, and human dignity of all individuals, aliens as well as citizens, within the jurisdiction of the United States with whom such personnel have contact in their work.

"(2) The Attorney General shall provide that the annual report of the Service include a description of steps taken to carry out paragraph (1)."

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General such sums as may be necessary for fiscal year 1996 to carry out the inservice training described in section 103(e)(1) of the Immigration and Nationality Act. The funds appropriated pursuant to this subsection are authorized to remain available until expended.

##### SEC. 108. REPORT.

The Attorney General, in consultation with the Secretary of State and the Secretary of Defense, shall contract with the Comptroller General to track, monitor, and evaluate the Administration's border strategy to deter illegal entry, more commonly referred to as prevention through deterrence. To determine the efficacy of the Administration's strategy and related efforts, the Comptroller General shall submit to Congress a report of its findings within one year after the date of the enactment of this Act and, for every year thereafter, up to and including fiscal year 2000. Such a report shall include a collection and systematic analysis of data, including workload indicators, related to activities to deter illegal entry. Such a report shall also include recommendations to improve and increase border security at both the border and ports-of-entry.

#### Subtitle B—Pilot Programs

##### SEC. 111. PILOT PROGRAM ON INTERIOR REPATRIATION.

(a) ESTABLISHMENT.—Not later than 120 days after the date of the enactment of this Act, the Attorney General, after consultation with the Secretary of State, shall establish a pilot program for up to 2 years which provides for methods to deter multiple illegal entries by aliens into the United States. The pilot program may include the development and use of interior repatriation, third country repatriation, and other disincentives

for multiple illegal entries into the United States.

(b) REPORT.—Not later than 30 months after the date of the enactment of this Act, the Attorney General, together with the Secretary of State, shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate on the operation of the pilot program under this section and whether the pilot program or any part thereof should be extended or made permanent.

**SEC. 112. PILOT PROGRAM ON USE OF CLOSED MILITARY BASES FOR THE DETENTION OF INADMISSIBLE OR DEPORTABLE ALIENS.**

(a) ESTABLISHMENT.—The Attorney General and the Secretary of Defense shall establish one or more pilot programs for up to 2 years each to determine the feasibility of the use of military bases available because of actions under a base closure law as detention centers by the Immigration and Naturalization Service. In selecting real property at a military base for use as a detention center under the pilot program, the Attorney General and the Secretary shall consult with the redevelopment authority established for the military base and give substantial deference to the redevelopment plan prepared for the military base.

(b) REPORT.—Not later than 30 months after the date of the enactment of this Act, the Attorney General, together with the Secretary of State, shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate, and the Committees on Armed Services of the House of Representatives and of the Senate, on the feasibility of using military bases closed under a base closure law as detention centers by the Immigration and Naturalization Service.

(c) DEFINITION.—For purposes of this section, the term “base closure law” means each of the following:

(1) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

(2) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(3) Section 2687 of title 10, United States Code.

(4) Any other similar law enacted after the date of the enactment of this Act.

**SEC. 113. PILOT PROGRAM TO COLLECT RECORDS OF DEPARTING PASSENGERS.**

(a) ESTABLISHMENT.—The Commissioner of the Immigration and Naturalization Service shall, within 180 days after the date of the enactment of this Act, establish a pilot program in which officers of the Service collect a record of departure for every alien departing the United States and match the records of departure with the record of the alien's arrival in the United States. The program shall be operated in as many air ports of entry as is deemed appropriate, but at no less than 3 of the 5 air ports of entry with the heaviest volume of incoming traffic from foreign territories.

(b) REPORT.—

(1) DEADLINE.—The Commissioner shall submit a report to Congress not later than 2 years after the date the pilot program is implemented under subsection (a).

(2) INFORMATION.—The report shall include the following information for each participating port of entry:

(A) The number of departure records collected, with an accounting by country of nationality of the departing alien.

(B) The number of departure records that were successfully matched to records of the alien's prior arrival in the United States, with an accounting by the alien's country of

nationality and by the alien's classification as an immigrant or nonimmigrant.

(C) The number of aliens who arrived at the port of entry as nonimmigrants, or as a visitor under the visa waiver program under section 217 of the Immigration and Nationality Act, for whom no matching departure record has been obtained through the pilot program or through other means, with an accounting by the alien's country of nationality and date of arrival in the United States.

(D) The estimated cost of establishing a national system to verify the departure from the United States of aliens admitted temporarily as nonimmigrants.

(3) RECOMMENDATIONS.—The report also shall include specific recommendations for implementation of the pilot program on a permanent basis.

(c) USE OF INFORMATION ON VISA OVERSTAYS.—Information on instances of visa overstay identified through the pilot program shall be integrated into appropriate data bases of the Immigration and Naturalization Service and the Department of State, including those used at ports of entry and at consular offices.

**Subtitle C—Interior Enforcement**

**SEC. 121. INCREASE IN PERSONNEL FOR INTERIOR ENFORCEMENT.**

Subject to the availability of appropriations, the Attorney General shall provide for an increase in the number of investigators and enforcement personnel of the Immigration and Naturalization Service who are deployed in the interior so that the number of such personnel is adequate properly to investigate violations of, and to enforce, immigration laws.

**SEC. 122. ACCEPTANCE OF STATE SERVICES TO CARRY OUT DEPORTATION FUNCTIONS.**

Section 287 (8 U.S.C. 1357) is amended by adding at the end the following:

“(g)(1) Notwithstanding section 1342 of title 31, United States Code, the Attorney General may enter into a written agreement with a State, or any political subdivision of a State, pursuant to which an officer or employee of the State or subdivision, who is determined by the Attorney General to be qualified to perform a function of an immigration officer, or any other officer of the Department of Justice, under this Act in relation to deportation of aliens in the United States (including investigation, apprehension, detention, presentation of evidence on behalf of the United States in administrative proceedings to determine the deportability of any alien, conduct of such proceedings, or removal of aliens with respect to whom a final order of deportation has been rendered) may carry out such function at the expense of the State or political subdivision and to the extent consistent with State and local law.

“(2) An agreement under this subsection shall require that an officer or employee of a State or political subdivision of a State performing a function under the agreement shall have knowledge of, and adhere to, Federal law relating to the function.

“(3) In performing a function under this subsection, an officer or employee of a State or political subdivision of a State shall be subject to the direction and supervision of the Attorney General.

“(4) In performing a function under this subsection, an officer or employee of a State or political subdivision of a State may use Federal property or facilities, as provided in a written agreement between the Attorney General and the State or subdivision.

“(5) With respect to each officer or employee of a State or political subdivision who is authorized to perform a function under this subsection, the specific powers and du-

ties that may be, or are required to be, exercised or performed by the individual, the duration of the authority of the individual, and the position of the agent of the Attorney General who is required to supervise and direct the individual, shall be set forth in a written agreement between the Attorney General and the State or political subdivision.

“(6) The Attorney General may not accept a service under this subsection if the service will be used to displace any Federal employee.

“(7) Except as provided in paragraph (8), an officer or employee of a State or political subdivision of a State performing functions under this subsection shall not be treated as a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, (relating to compensation for injury) and sections 2671 through 2680 of title 28, United States Code, (relating to tort claims).

“(8) An officer or employee of a State or political subdivision of a State acting under color of authority under this subsection, or any agreement entered into under this subsection, shall be considered to be acting under color of Federal authority for purposes of determining the liability, and immunity from suit, of the officer or employee in a civil action brought under Federal or State law.

“(9) Nothing in this subsection shall be construed to require any State or political subdivision of a State to enter into an agreement with the Attorney General under this subsection.

“(10) Nothing in this subsection shall be construed to require an agreement under this subsection in order for any officer or employee of a State or political subdivision of a State—

“(A) to communicate with the Attorney General regarding the immigration status of any individual, including reporting a suspicion that a particular alien is not lawfully present in the United States; or

“(B) otherwise to cooperate with the Attorney General in the identification, apprehension, detention, or removal of aliens not lawfully present in the United States.”.

**TITLE II—ENHANCED ENFORCEMENT AND PENALTIES AGAINST ALIEN SMUGGLING; DOCUMENT FRAUD**

**Subtitle A—Enhanced Enforcement and Penalties Against Alien Smuggling**

**SEC. 201. WIRETAP AUTHORITY FOR ALIEN SMUGGLING INVESTIGATIONS.**

Section 2516(1) of title 18, United States Code, is amended—

(1) by striking “and” at the end of paragraph (n),

(2) by redesignating paragraph (o) as paragraph (p), and

(3) by inserting after paragraph (n) the following new paragraph:

“(o)(1) a felony violation of section 1028 (relating to production of false identification documentation), section 1541 (relating to passport issuance without authority), section 1542 (relating to false statements in passport applications), section 1543 (relating to forgery or false use of passport), section 1544 (relating to misuse of passport), section 1546 (relating to fraud or misuse of visas, permits, or other documents) of this title; or

“(2) a violation of section 274, 277, or 278 of the Immigration and Nationality Act (relating to the smuggling of aliens); or”.

**SEC. 202. RACKETEERING OFFENSES RELATING TO ALIEN SMUGGLING.**

Section 1961(1) of title 18, United States Code, is amended—

(1) by inserting “section 1028 (relating to fraud and related activity in connection with identification documents),” before “section 1029”;

(2) by inserting "section 1542 (relating to false statement in application and use of passport), section 1543 (relating to forgery or false use of passport), section 1544 (relating to misuse of passport), section 1546 (relating to fraud and misuse of visas, permits, and other documents), sections 1581-1588 (relating to peonage and slavery)," after "section 1513 (relating to retaliating against a witness, victim, or an informant);";

(3) by striking "or" before "(E)"; and

(4) by inserting before the period at the end the following: "; or (F) any act which is indictable under the Immigration and Nationality Act, section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose)".

**SEC. 203. INCREASED CRIMINAL PENALTIES FOR ALIEN SMUGGLING.**

(a) IN GENERAL.—Section 274(a)(1) (8 U.S.C. 1324(a)(1)) is amended—

(1) in subparagraph (B)(i), by inserting "or in the case of a violation of subparagraph (A)(ii), (iii), or (iv) in which the offense was done for the purpose of commercial advantage or private financial gain" after "subparagraph (A)(i)", and

(2) by adding at the end the following new subparagraph:

"(C) Any person who engages in any conspiracy to commit, or aids or abets the commission of, any of the acts described in—

"(i) subparagraph (A)(i) shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both; or

"(ii) clause (ii), (iii), or (iv) of subparagraph (A) shall be fined under title 18, United States Code, imprisoned not more than 5 years, or both.".

(b) SMUGGLING OF ALIENS WHO WILL COMMIT CRIMES.—Section 274(a)(2) (8 U.S.C. 1324(a)(2)) is amended—

(1) in subparagraph (B)—

(A) by striking "or" at the end of clause (ii),

(B) by adding "or" at the end of clause (iii), and

(C) by inserting after clause (iii) the following:

"(iv) an offense committed with the intent or with reason to believe that the alien unlawfully brought into the United States will commit an offense against the United States or any State punishable by imprisonment for more than 1 year,"; and

(2) by striking "be fined" and all that follows through the final period at the end and inserting the following: "be fined under title 18, United States Code, and shall be imprisoned not less than 3 years or more than 10 years.".

(c) APPLYING CERTAIN PENALTIES ON A PER ALIEN BASIS.—Section 274(a)(2) (8 U.S.C. 1324(a)(2)) is amended by striking "for each transaction constituting a violation of this paragraph, regardless of the number of aliens involved" and inserting "for each alien in respect to whom a violation of this paragraph occurs".

**SEC. 204. INCREASED NUMBER OF ASSISTANT UNITED STATES ATTORNEYS.**

(a) IN GENERAL.—The number of Assistant United States Attorneys employed by the Department of Justice for the fiscal year 1997 shall be increased by 25 above the number of Assistant United States Attorneys that were authorized to be employed as of September 30, 1996.

(b) ASSIGNMENT.—Individuals employed to fill the additional positions described in subsection (a) shall prosecute persons who bring into the United States or harbor illegal aliens or violate other criminal statutes involving illegal aliens.

**SEC. 205. UNDERCOVER INVESTIGATION AUTHORITY.**

(a) IN GENERAL.—Title II is amended by adding at the end the following new section:

"UNDERCOVER INVESTIGATION AUTHORITY

"SEC. 294. (a) IN GENERAL.—With respect to any undercover investigative operation of the Service which is necessary for the detection and prosecution of crimes against the United States—

"(1) sums appropriated for the Service may be used for leasing space within the United States and the territories and possessions of the United States without regard to the following provisions of law:

"(A) section 3679(a) of the Revised Statutes (31 U.S.C. 1341),

"(B) section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)),

"(C) section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255),

"(D) the third undesignated paragraph under the heading 'Miscellaneous' of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34),

"(E) section 3648 of the Revised Statutes (31 U.S.C. 3324),

"(F) section 3741 of the Revised Statutes (41 U.S.C. 22), and

"(G) subsections (a) and (c) of section 304 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c));

"(2) sums appropriated for the Service may be used to establish or to acquire proprietary corporations or business entities as part of an undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to the provisions of section 304 of the Government Corporation Control Act (31 U.S.C. 9102);

"(3) sums appropriated for the Service, and the proceeds from the undercover operation, may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and of section 3639 of the Revised Statutes (31 U.S.C. 3302); and

"(4) the proceeds from the undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3617 of the Revised Statutes (31 U.S.C. 3302).

The authority set forth in this subsection may be exercised only upon written certification of the Commissioner, in consultation with the Deputy Attorney General, that any action authorized by paragraph (1), (2), (3), or (4) is necessary for the conduct of the undercover operation.

"(b) DISPOSITION OF PROCEEDS NO LONGER REQUIRED.—As soon as practicable after the proceeds from an undercover investigative operation, carried out under paragraphs (3) and (4) of subsection (a), are no longer necessary for the conduct of the operation, the proceeds or the balance of the proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

"(c) DISPOSITION OF CERTAIN CORPORATIONS AND BUSINESS ENTITIES.—If a corporation or business entity established or acquired as part of an undercover operation under paragraph (2) of subsection (a) with a net value of over \$50,000 is to be liquidated, sold, or otherwise disposed of, the Service, as much in advance as the Commissioner or Commissioner's designee determines practicable, shall report the circumstances to the Attorney General, the Director of the Office of Management and Budget, and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

"(d) FINANCIAL AUDITS.—The Service shall conduct detailed financial audits of closed

undercover operations on a quarterly basis and shall report the results of the audits in writing to the Deputy Attorney General."

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 293 the following:

"Sec. 294. Undercover investigation authority."

**Subtitle B—Deterrence of Document Fraud**

**SEC. 211. INCREASED CRIMINAL PENALTIES FOR FRAUDULENT USE OF GOVERNMENT-ISSUED DOCUMENTS.**

(a) FRAUD AND MISUSE OF GOVERNMENT-ISSUED IDENTIFICATION DOCUMENTS.—Section 1028(b) of title 18, United States Code, is amended—

(1) in paragraph (1), by inserting "except as provided in paragraphs (3) and (4)," after "(1)" and by striking "five years" and inserting "15 years";

(2) in paragraph (2), by inserting "except as provided in paragraphs (3) and (4)," after "(2)" and by striking "and" at the end;

(3) by redesignating paragraph (3) as paragraph (5); and

(4) by inserting after paragraph (2) the following new paragraphs:

"(3) a fine under this title or imprisonment for not more than 20 years, or both, if the offense is committed to facilitate a drug trafficking crime (as defined in section 929(a)(2) of this title);

"(4) a fine under this title or imprisonment for not more than 25 years, or both, if the offense is committed to facilitate an act of international terrorism (as defined in section 2331(1) of this title); and"

(b) CHANGES TO THE SENTENCING LEVELS.—Pursuant to section 944 of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or amend existing guidelines, relating to defendants convicted of violating, or conspiring to violate, sections 1546(a) and 1028(a) of title 18, United States Code. The basic offense level under section 2L2.1 of the United States Sentencing Guidelines shall be increased to—

(1) not less than offense level 15 if the offense involves 100 or more documents;

(2) not less than offense level 20 if the offense involves 1,000 or more documents, or if the documents were used to facilitate any other criminal activity described in section 212(a)(2)(A)(i)(II) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(A)(i)(II)) or in section 101(a)(43) of such Act; and

(3) not less than offense level 25 if the offense involves—

(A) the provision of documents to a person known or suspected of engaging in a terrorist activity (as such terms are defined in section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B));

(B) the provision of documents to facilitate a terrorist activity or to assist a person to engage in terrorist activity (as such terms are defined in section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)); or

(C) the provision of documents to persons involved in racketeering enterprises (described in section 1952(a) of title 18, United States Code).

**SEC. 212. NEW CIVIL PENALTIES FOR DOCUMENT FRAUD.**

(a) ACTIVITIES PROHIBITED.—Section 274C(a) (8 U.S.C. 1324c(a)) is amended—

(1) by striking "or" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; or"; and

(3) by adding at the end the following:

"(5) in reckless disregard of the fact that the information is false or does not relate to the applicant, to prepare, to file, or to assist

another in preparing or filing, documents which are falsely made for the purpose of satisfying a requirement of this Act.

For purposes of this section, the term 'falsely made' includes, with respect to a document or application, the preparation or provision of the document or application with knowledge or in reckless disregard of the fact that such document contains a false, fictitious, or fraudulent statement or material representation, or has no basis in law or fact, or otherwise fails to state a material fact pertaining to the document or application."

(b) CONFORMING AMENDMENTS FOR CIVIL PENALTIES.—Section 274C(d)(3) (8 U.S.C. 1324c(d)(3)) is amended by striking "each document used, accepted, or created and each instance of use, acceptance, or creation" both places it appears and inserting "each instance of a violation under subsection (a)".

(c) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall apply to the preparation or filing of documents, and assistance in such preparation or filing, occurring on or after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to violations occurring on or after the date of the enactment of this Act.

**SEC. 213. NEW CIVIL PENALTY FOR FAILURE TO PRESENT DOCUMENTS AND FOR PREPARING IMMIGRATION DOCUMENTS WITHOUT AUTHORIZATION.**

(a) IN GENERAL.—Section 274C(a) (8 U.S.C. 1324c(a)), as amended by section 212(a), is further amended—

(1) by striking "or" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting a comma;

(3) by inserting after paragraph (5) the following new paragraphs:

"(6) to present before boarding a common carrier for the purpose of coming to the United States a document which relates to the alien's eligibility to enter the United States and to fail to present such document to an immigration officer upon arrival at a United States port of entry, or

"(7) to prepare or assist in the preparation and submission of immigration forms, petitions, and applications if the person or entity is not authorized to represent aliens, or to prepare or assist in the preparation and submission of such forms, petitions, and applications pursuant to regulations promulgated by the Attorney General."; and

(4) by adding at the end the following: "The Attorney General may, in the discretion of the Attorney General, waive the penalties of this section with respect to an alien who knowingly violates paragraph (6) if the alien is granted asylum under section 208 or withholding of deportation under section 243(h)."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to individuals who board a common carrier on or after 30 days after the date of the enactment of this Act.

**SEC. 214. NEW CRIMINAL PENALTIES FOR FAILURE TO DISCLOSE ROLE AS PREPARER OF FALSE APPLICATION FOR ASYLUM AND FOR PREPARING CERTAIN POST-CONVICTION APPLICATIONS.**

Section 274C (8 U.S.C. 1324c) is amended by adding at the end the following new subsection:

"(e) CRIMINAL PENALTIES FOR FAILURE TO DISCLOSE ROLE AS DOCUMENT PREPARER.—

"(1) If a person is required by law or regulation to disclose the fact that the person, on behalf of another person and for a fee or other remuneration, has prepared or assisted in preparing an application for asylum pursuant to section 208, or the regulations promulgated thereunder, and the person know-

ingly and willfully fails to disclose, conceals, or covers up such fact, and the application was falsely made, the person shall—

"(A) be imprisoned for not less than 2 nor more than 5 years, fined in accordance with title 18, United States Code, or both, and

"(B) be prohibited from preparing or assisting in preparing, regardless of whether for a fee or other remuneration, any other such application for a period of at least 5 years and not more than 15 years.

"(2) Whoever, having been convicted of a violation of paragraph (1), knowingly and willfully prepares or assists in preparing an application for asylum pursuant to section 208, or the regulations promulgated thereunder, regardless of whether for a fee or other remuneration, in violation of paragraph (1)(B) shall be imprisoned for not less than 5 years or more than 15 years, fined in accordance with title 18, United States Code, or both, and prohibited from preparing or assisting in preparing any other such application."

**SEC. 215. CRIMINAL PENALTY FOR KNOWINGLY PRESENTING DOCUMENT WHICH FAILS TO CONTAIN REASONABLE BASIS IN LAW OR FACT.**

The fourth paragraph of section 1546(a) of title 18, United States Code, is amended by striking "containing any such false statement" and inserting "which contains any such false statement or which fails to contain any reasonable basis in law or fact".

**SEC. 216. CRIMINAL PENALTIES FOR FALSE CLAIM TO CITIZENSHIP.**

Section 1015 of title 18, United States Code, is amended—

(1) by striking the dash at the end of paragraph (d) and inserting "; or", and

(2) by inserting after paragraph (d) the following:

"(e) Whoever knowingly makes any false statement or claim that he is, or at any time has been, a citizen or national of the United States, with the intent to obtain on behalf of himself, or any other person, any Federal benefit or service, or to engage unlawfully in employment in the United States; or

"(f) Whoever knowingly makes any false statement or claim that he is a citizen of the United States in order to register to vote or to vote in any Federal, State, or local election (including an initiative, recall, or referendum)—".

**Subtitle C—Asset Forfeiture for Passport and Visa Offenses**

**SEC. 221. CRIMINAL FORFEITURE FOR PASSPORT AND VISA RELATED OFFENSES.**

Section 982 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting after paragraph (5) the following new paragraph:

"(6) The court, in imposing sentence on a person convicted of a violation of, or conspiracy to violate, section 1541, 1542, 1543, 1544, or 1546 of this title, or a violation of, or conspiracy to violate, section 1028 of this title if committed in connection with passport or visa issuance or use, shall order that the person forfeit to the United States any property, real or personal, which the person used, or intended to be used, in committing, or facilitating the commission of, the violation, and any property constituting, or derived from, or traceable to, any proceeds the person obtained, directly or indirectly, as a result of such violation."; and

(2) in subsection (b)(1)(B), by inserting "(or (a)(6))" after "(a)(2)".

**SEC. 222. SUBPOENAS FOR BANK RECORDS.**

Section 986(a) of title 18, United States Code, is amended by inserting "1028, 1541, 1542, 1543, 1544, 1546," before "1956".

**SEC. 223. EFFECTIVE DATE.**

The amendments made by this subtitle shall take effect on the first day of the first month that begins more than 90 days after the date of the enactment of this Act.

**TITLE III—INSPECTION, APPREHENSION, DETENTION, ADJUDICATION, AND REMOVAL OF INADMISSIBLE AND DEPORTABLE ALIENS**

**Subtitle A—Revision of Procedures for Removal of Aliens**

**SEC. 300. OVERVIEW OF CHANGES IN REMOVAL PROCEDURES.**

This subtitle amends the provisions of the Immigration and Nationality Act relating to procedures for inspection, exclusion, and deportation of aliens so as to provide for the following:

(1) EXPEDITED REMOVAL FOR UNDOCUMENTED ALIENS.—Aliens arriving without valid documents are subject to an expedited removal process, without an evidentiary hearing and subject to strictly limited judicial review.

(2) NO REWARD FOR ILLEGAL ENTRANTS OR VISA OVERSTAYERS.—Aliens who enter illegally or who overstay the period of authorized admission will have a greater burden of proof in removal proceedings and will face tougher standards for most discretionary immigration benefits, such as suspension of removal and work authorization.

(3) STRICTER STANDARDS TO ASSURE DETENTION OF ALIENS.—There are more stringent standards for the release of aliens (particularly aliens convicted of aggravated felonies) during and after removal proceedings.

(4) SIMPLIFIED, SINGLE REMOVAL PROCEEDING (IN PLACE OF SEPARATE EXCLUSION AND DEPORTATION PROCEEDINGS).—The procedures for exclusion and deportation are consolidated into a simpler, single procedure for removal of inadmissible and deportable aliens.

(5) STREAMLINED JUDICIAL REVIEW.—Judicial review is streamlined through removing a layer of review in exclusion cases, shortening the time period to file for review, and permitting the removal of inadmissible aliens pending the review.

(6) INCREASED PENALTIES TO ASSURE REMOVAL AND PREVENT FURTHER REENTRY.—Aliens who are ordered removed are subject to civil money penalties for failure to depart on time and if they seek reentry they are subject to immediate removal under the prior order.

(7) PROTECTION OF APPLICANTS FOR ASYLUM.—Throughout the process, the procedures protect those aliens who present credible claims for asylum by giving them an opportunity for a full hearing on their claims.

(8) REORGANIZATION.—The provisions of the Act are reorganized to provide a more logical progression from arrival and inspection through proceedings and removal.

**SEC. 301. TREATING PERSONS PRESENT IN THE UNITED STATES WITHOUT AUTHORIZATION AS NOT ADMITTED.**

(a) "ADMISSION" DEFINED.—Paragraph (13) of section 101(a) (8 U.S.C. 1101(a)) is amended to read as follows:

"(13)(A) The terms 'admission' and 'admitted' mean, with respect to an alien, the lawful entry of the alien into the United States after inspection and authorization by an immigration officer.

"(B) An alien who is paroled under section 212(d)(5) or permitted to land temporarily as an alien crewman shall not be considered to have been admitted.

"(C) An alien lawfully admitted for permanent residence in the United States shall not be regarded as seeking an admission into the United States for purposes of the immigration laws unless the alien—

"(i) has abandoned or relinquished that status,

"(ii) has engaged in illegal activity after having departed the United States,

"(iii) has departed from the United States while under legal process seeking removal of the alien from the United States, including removal proceedings under this Act and extradition proceedings,

“(iv) has been convicted of an aggravated felony, unless since such conviction the alien has been granted relief under section 240A(a), or

“(v) is attempting to enter at a time or place other than as designated by immigration officers or has not been admitted to the United States after inspection and authorization by an immigration officer.”.

(b) INADMISSIBILITY OF ALIENS PRESENT WITHOUT ADMISSION OR PAROLE.—

(1) IN GENERAL.—Section 212(a) (8 U.S.C. 1182(a)) is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

“(9) PRESENT WITHOUT ADMISSION OR PAROLE.—

“(A) IN GENERAL.—An alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General, is inadmissible.

“(B) EXCEPTION FOR CERTAIN BATTERED WOMEN AND CHILDREN.—Subparagraph (A) shall not apply to an alien who can demonstrate that—

“(i) the alien qualifies for immigrant status under subparagraphs (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1),

“(ii)(I) the alien has been battered or subject to extreme cruelty by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, or (II) the alien's child has been battered or subject to extreme cruelty by a spouse or parent of the alien (without the active participation of the alien in the battery or extreme cruelty) or by a member of the spouse's or parent's family residing in the same household as the alien when the spouse or parent consented to or acquiesced in such battery or cruelty and the alien did not actively participate in such battery or cruelty, and

“(iii) there was a substantial connection between the battery or cruelty described in subclause (I) or (II) and the alien's unlawful entry into the United States.”.

(2) TRANSITION FOR BATTERED SPOUSE OR CHILD PROVISION.—The requirements of clauses (ii) and (iii) of section 212(a)(9)(B) of the Immigration and Nationality Act, as inserted by paragraph (1), shall not apply to an alien who demonstrates that the alien first arrived in the United States before the title III-A effective date (described in section 309(a)).

(c) REVISION TO GROUND OF INADMISSIBILITY FOR ILLEGAL ENTRANTS AND IMMIGRATION VIOLATORS.—Subparagraphs (A) and (B) of section 212(a)(6) (8 U.S.C. 1182(a)(6)) are amended to read as follows:

“(A) ALIENS PREVIOUSLY REMOVED.—

“(i) ARRIVING ALIENS.—Any alien who has been ordered removed under section 235(b)(1) or at the end of proceedings under section 240 initiated upon the alien's arrival in the United States and who again seeks admission within 5 years of the date of such removal is inadmissible.

“(ii) OTHER ALIENS.—Any alien not described in clause (i) who has been ordered removed under section 240 or any other provision of law and who again seeks admission within 10 years of the date of such removal (or at any time in the case of an alien convicted of an aggravated felony) is inadmissible.

“(iii) ALIENS WHO HAD THE INTENT TO ILLEGALLY ENTER.—Any alien who had the intent to illegally enter the United States and who has been ordered removed under section 235(b)(1) or at the end of proceedings under section 240 initiated upon the alien's arrival in the United States and who again seeks admission is inadmissible.

“(iv) OTHER ALIENS WHO HAD THE INTENT TO ILLEGALLY ENTER.—Any alien not described in clause (i) who had the intent to illegally enter the United States and who has been ordered removed under section 240 or any other provision of law and who again seeks admission is inadmissible.

“(v) EXCEPTION.—Clauses (i) through (iv) shall not apply to an alien seeking admission within a period if, prior to the alien's re-embarkation at a place outside the United States or attempt to be admitted from foreign contiguous territory, the Attorney General has consented to the alien's reapplying for admission.

“(B) ALIENS PRESENT UNLAWFULLY FOR MORE THAN 1 YEAR.—

“(i) IN GENERAL.—Any alien who was unlawfully present in the United States for an aggregate period totaling 1 year is inadmissible unless the alien has remained outside the United States for a period of 10 years.

“(ii) EXCEPTIONS.—

“(I) MINORS.—No period of time in which an alien is under 18 years of age shall be taken into account in determining the period of unlawful presence in the United States under clause (i).

“(II) ASYLEES.—No period of time in which an alien has a bona fide application for asylum pending under section 208 shall be taken into account in determining the period of unlawful presence in the United States under clause (i).

“(III) ALIENS WITH WORK AUTHORIZATION.—No period of time in which an alien is provided authorization to engage in employment in the United States (including such an authorization under section 244A(a)(1)(B)), or in which the alien is the spouse of such an alien, shall be taken into account in determining the period of unlawful presence in the United States under clause (i).

“(IV) FAMILY UNITY.—No period of time in which the alien is a beneficiary of family unity protection pursuant to section 301 of the Immigration Act of 1990 shall be taken into account in determining the period of unlawful presence in the United States under clause (i).

“(V) BATTERED WOMEN AND CHILDREN.—Clause (i) shall not apply to an alien who would be described in paragraph (9)(B) if ‘violation of the terms of the alien's non-immigrant visa’ were substituted for ‘unlawful entry into the United States’ in clause (iii) of that paragraph.

“(iii) EXTENSION.—The Attorney General may extend the period of 1 year under clause (i) to a period of 15 months in the case of an alien who applies to the Attorney General (before the alien has been present unlawfully in the United States for a period totaling 1 year) and establishes to the satisfaction of the Attorney General that—

“(I) the alien is not inadmissible under clause (i) at the time of the application, and

“(II) the failure to extend such period would constitute an extreme hardship for the alien.

“(iv) WAIVER.—In the case of an alien who is the spouse, parent, or child of a United States citizen or the spouse or child of a permanent resident alien, the Attorney General may waive clause (i) for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

“(v) NATIONAL INTEREST WAIVER.—The Attorney General may waive clause (i) if the Attorney General determines that such a waiver is necessary to substantially benefit—

“(I) the national security, national defense, or Federal, State, or local law enforcement;

“(II) health care, housing, or educational opportunities for an indigent or low-income population or in an underserved geographical area;

“(III) economic or employment opportunities for a specific industry or specific geographical area;

“(IV) the development of new technologies; or

“(V) environmental protection or the productive use of natural resources; and the alien will engage in a specific undertaking to advance one or more of the interests identified in subclauses (I) through (V).”.

(d) WAIVER OF MISREPRESENTATION GROUND OF INADMISSIBILITY FOR CERTAIN ALIENS.—Subsection (i) of section 212 (8 U.S.C. 1182) is amended to read as follows:

“(i) The Attorney General may, in the discretion of the Attorney General, waive the application of clause (i) of subsection (a)(6)(C)—

“(1) in the case of an immigrant who is the spouse, son, or daughter of a United States citizen; or

“(2) in the case of an immigrant who is the spouse or son or daughter of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Attorney General that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the lawfully resident spouse or parent of such an alien.”.

(e) PROHIBITION ON ISSUANCE OF VISAS FOR FORMER CITIZENS WHO RENOUNCED CITIZENSHIP TO AVOID UNITED STATES TAXATION.—Section 212(a)(10) (8 U.S.C. 1182(a)(10)), as redesignated by subsection (b)(1), is amended by adding at the end the following:

“(D) FORMER CITIZENS WHO RENOUNCED CITIZENSHIP TO AVOID TAXATION.—Any alien who is a former citizen of the United States who officially renounced United States citizenship and who is determined by the Attorney General to have renounced United States citizenship for the purpose of avoiding taxation by the United States is excludable.”.

(f) PROOF OF VACCINATION REQUIREMENT FOR IMMIGRANTS.—

(1) IN GENERAL.—Section 212(a)(1)(A) (8 U.S.C. 1182(a)(1)(A)) is amended—

(A) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and

(B) by inserting after clause (i) the following new clause:

“(ii) who seeks admission as an immigrant, or who seeks adjustment of status to the status of an alien lawfully admitted for permanent residence, and who has failed to present documentation of having received vaccination against vaccine-preventable diseases, which shall include at least the following diseases: mumps, measles, rubella, polio, tetanus and diphtheria toxoids, pertussis, influenza type B and hepatitis B, and any other vaccinations against vaccine-preventable diseases recommended by the Advisory Committee for Immunization Practices.”.

(2) WAIVER.—Section 212(g) (8 U.S.C. 1182(g)) is amended by striking “, or” at the end of paragraph (1) and all that follows and inserting a semicolon and the following:

“in accordance with such terms, conditions, and controls, if any, including the giving of bond, as the Attorney General, in the discretion of the Attorney General after consultation with the Secretary of Health and Human Services, may by regulation prescribe;

“(2) subsection (a)(1)(A)(ii) in the case of any alien—

“(A) who receives vaccination against the vaccine-preventable disease or diseases for which the alien has failed to present documentation of previous vaccination, or

“(B) for whom a civil surgeon, medical officer, or panel physician (as those terms are defined by section 34.2 of title 42 of the Code of Federal Regulations) certifies, according to such regulations as the Secretary of Health and Human Services may prescribe,

that such vaccination would not be medically appropriate; or

“(3) subsection (a)(1)(A)(iii) in the case of any alien, in accordance with such terms, conditions, and controls, if any, including the giving of bond, as the Attorney General, in the discretion of the Attorney General after consultation with the Secretary of Health and Human Services, may by regulation prescribe.”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to applications for immigrant visas or for adjustment of status filed after September 30, 1996.

(g) ADJUSTMENT IN GROUNDS FOR DEPORTATION.—Section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2), is amended—

(1) in the matter before paragraph (1) of subsection (a), by striking “in the United States” and inserting “in and admitted to the United States”;

(2) in subsection (a)(1), by striking “EXCLUDABLE” each place it appears and inserting “INADMISSIBLE”;

(3) in subsection (a)(1)(A), by striking “excludable” and inserting “inadmissible”; and

(4) by amending subparagraph (B) of subsection (a)(1) to read as follows:

“(B) PRESENT IN VIOLATION OF LAW.—Any alien who is present in the United States in violation of this Act or any other law of the United States is deportable.

(h) WAIVERS FOR IMMIGRANTS CONVICTED OF CRIMES.—Section 212(h) (8 U.S.C. 1182(h)) is amended by adding at the end the following: “No waiver shall be granted under this subsection to an immigrant who previously has been admitted to the United States unless that alien has fulfilled the time in status and continuous residence requirements of section 212(c). No court shall have jurisdiction to review a decision of the Attorney General to grant or deny a waiver under this subsection.”.

**SEC. 302. INSPECTION OF ALIENS; EXPEDITED REMOVAL OF INADMISSIBLE ARRIVING ALIENS; REFERRAL FOR HEARING (REVISED SECTION 235).**

Section 235 (8 U.S.C. 1225) is amended to read as follows:

“INSPECTION BY IMMIGRATION OFFICERS; EXPEDITED REMOVAL OF INADMISSIBLE ARRIVING ALIENS; REFERRAL FOR HEARING

“SEC. 235. (a) INSPECTION.—

“(1) ALIENS TREATED AS APPLICANTS FOR ADMISSION.—An alien present in the United States who has not been admitted, who arrives in the United States (whether or not at a designated port of arrival), or who is brought to the United States after having been interdicted in international or United States waters shall be deemed for purposes of this Act an applicant for admission.

“(2) STOWAWAYS.—An arriving alien who is a stowaway is not eligible to apply for admission or to be admitted and shall be ordered removed upon inspection by an immigration officer. Upon such inspection if the alien indicates an intention to apply for asylum under section 208 or a fear of persecution, the officer shall refer the alien for an interview under subsection (b)(1)(B). A stowaway may apply for asylum only if the stowaway is found to have a credible fear of persecution under subsection (b)(1)(B). In no case may a stowaway be considered an applicant for admission or eligible for a hearing under section 240.

“(3) INSPECTION.—All aliens (including alien crewmen) who are applicants for admission or otherwise seeking admission or readmission to or transit through the United States shall be inspected by immigration officers.

“(4) WITHDRAWAL OF APPLICATION FOR ADMISSION.—An alien applying for admission

may, in the discretion of the Attorney General and at any time, be permitted to withdraw the application for admission and depart immediately from the United States.

“(5) STATEMENTS.—An applicant for admission may be required to state under oath any information sought by an immigration officer regarding the purposes and intentions of the applicant in seeking admission to the United States, including the applicant's intended length of stay and whether the applicant intends to remain permanently or become a United States citizen, and whether the applicant is inadmissible.

“(b) INSPECTION OF APPLICANTS FOR ADMISSION.—

“(1) INSPECTION OF ALIENS ARRIVING IN THE UNITED STATES.—

“(A) SCREENING.—If the examining immigration officer determines that an alien arriving in the United States (whether or not at a port of entry) is inadmissible under section 212(a)(6)(C) or 212(a)(7) and the alien—

“(i) does not indicate either an intention to apply for asylum under section 208 or a fear of persecution, the officer shall order the alien removed from the United States without further hearing or review; or

“(ii) indicates an intention to apply for asylum under section 208 or a fear of persecution, the officer shall refer the alien for an interview by an asylum officer under subparagraph (B).

“(B) ASYLUM INTERVIEWS.—

“(i) CONDUCT BY ASYLUM OFFICERS.—An asylum officer shall promptly conduct interviews of aliens referred under subparagraph (A)(ii).

“(ii) REFERRAL OF CERTAIN ALIENS.—If the officer determines at the time of the interview that an alien has a credible fear of persecution (within the meaning of clause (v)), the alien shall be detained for further consideration of the application for asylum.

“(iii) REMOVAL WITHOUT FURTHER REVIEW IF NO CREDIBLE FEAR OF PERSECUTION.—

“(I) IN GENERAL.—Subject to subclause (II), if the officer determines that an alien does not have a credible fear of persecution, the officer shall order the alien removed from the United States without further hearing or review.

“(II) REVIEW OF DETERMINATION BY SUPERVISORY OFFICER.—The Attorney General shall promulgate regulations to provide for the immediate review by a supervisory asylum officer at the port of entry of a determination under subclause (I).

“(iv) INFORMATION ABOUT INTERVIEWS.—The Attorney General shall provide information concerning the asylum interview described in this subparagraph to aliens who may be eligible. An alien who is eligible for such interview may consult with a person or persons of the alien's choosing prior to the interview or any review thereof, according to regulations prescribed by the Attorney General. Such consultation shall be at no expense to the Government and shall not delay the process.

“(v) CREDIBLE FEAR OF PERSECUTION DEFINED.—For purposes of this subparagraph, the term ‘credible fear of persecution’ means (I) that it is more probable than not that the statements made by the alien in support of the alien's claim are true, and (II) that there is a significant possibility, in light of such statements and of such other facts as are known to the officer, that the alien could establish eligibility for asylum under section 208.

“(C) LIMITATION ON ADMINISTRATIVE REVIEW.—A removal order entered in accordance with subparagraph (A)(i) or (B)(iii)(I) is not subject to administrative appeal, except that the Attorney General shall provide by regulation for prompt review of such an order under subparagraph (A)(i) against an alien who claims under oath, or as permitted

under penalty of perjury under section 1746 of title 28, United States Code, after having been warned of the penalties for falsely making such claim under such conditions, to have been lawfully admitted for permanent residence.

“(D) LIMIT ON COLLATERAL ATTACKS.—In any action brought against an alien under section 275(a) or section 276, the court shall not have jurisdiction to hear any claim attacking the validity of an order of removal entered under subparagraph (A)(i) or (B)(iii)(I).

“(E) ASYLUM OFFICER DEFINED.—As used in this paragraph, the term ‘asylum officer’ means an immigration officer who—

“(i) has had professional training in country conditions, asylum law, and interview techniques, and

“(ii) is supervised by an officer who meets the condition described in clause (i).

“(2) INSPECTION OF OTHER ALIENS.—

“(A) IN GENERAL.—Subject to subparagraph (B), in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a hearing under section 240.

“(B) EXCEPTION.—Subparagraph (A) shall not apply to an alien—

“(i) who is a crewman,

“(ii) to whom paragraph (1) applies, or

“(iii) who is a stowaway.

“(3) CHALLENGE OF DECISION.—The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien whose privilege to be admitted is so challenged, before an immigration judge for a hearing under section 240.

“(c) REMOVAL OF ALIENS INADMISSIBLE ON SECURITY AND RELATED GROUNDS.—

“(1) REMOVAL WITHOUT FURTHER HEARING.—If an immigration officer or an immigration judge suspects that an arriving alien may be inadmissible under subparagraph (A) (other than clause (ii)), (B), or (C) of section 212(a)(3), the officer or judge shall—

“(A) order the alien removed, subject to review under paragraph (2);

“(B) report the order of removal to the Attorney General; and

“(C) not conduct any further inquiry or hearing until ordered by the Attorney General.

“(2) REVIEW OF ORDER.—(A) The Attorney General shall review orders issued under paragraph (1).

“(B) If the Attorney General—

“(i) is satisfied on the basis of confidential information that the alien is inadmissible under subparagraph (A) (other than clause (ii)), (B), or (C) of section 212(a)(3), and

“(ii) after consulting with appropriate security agencies of the United States Government, concludes that disclosure of the information would be prejudicial to the public interest, safety, or security, the Attorney General may order the alien removed without further inquiry or hearing by an immigration judge.

“(C) If the Attorney General does not order the removal of the alien under subparagraph (B), the Attorney General shall specify the further inquiry or hearing that shall be conducted in the case.

“(3) SUBMISSION OF STATEMENT AND INFORMATION.—The alien or the alien's representative may submit a written statement and additional information for consideration by the Attorney General.

“(d) AUTHORITY RELATING TO INSPECTIONS.—

“(1) AUTHORITY TO SEARCH CONVEYANCES.—Immigration officers are authorized to board and search any vessel, aircraft, railway car,

or other conveyance or vehicle in which they believe aliens are being brought into the United States.

"(2) AUTHORITY TO ORDER DETENTION AND DELIVERY OF ARRIVING ALIENS.—Immigration officers are authorized to order an owner, agent, master, commanding officer, person in charge, purser, or consignee of a vessel or aircraft bringing an alien (except an alien crewmember) to the United States—

"(A) to detain the alien on the vessel or at the airport of arrival, and

"(B) to deliver the alien to an immigration officer for inspection or to a medical officer for examination.

"(3) ADMINISTRATION OF OATH AND CONSIDERATION OF EVIDENCE.—The Attorney General and any immigration officer shall have power to administer oaths and to take and consider evidence of or from any person touching the privilege of any alien or person he believes or suspects to be an alien to enter, reenter, transit through, or reside in the United States or concerning any matter which is material and relevant to the enforcement of this Act and the administration of the Service.

"(4) SUBPOENA AUTHORITY.—(A) The Attorney General and any immigration officer shall have power to require by subpoena the attendance and testimony of witnesses before immigration officers and the production of books, papers, and documents relating to the privilege of any person to enter, reenter, reside in, or pass through the United States or concerning any matter which is material and relevant to the enforcement of this Act and the administration of the Service, and to that end may invoke the aid of any court of the United States.

"(B) Any United States district court within the jurisdiction of which investigations or inquiries are being conducted by an immigration officer may, in the event of neglect or refusal to respond to a subpoena issued under this paragraph or refusal to testify before an immigration officer, issue an order requiring such persons to appear before an immigration officer, produce books, papers, and documents if demanded, and testify, and any failure to obey such order of the court may be punished by the court as a contempt thereof."

**SEC. 303. APPREHENSION AND DETENTION OF ALIENS NOT LAWFULLY IN THE UNITED STATES (REVISED SECTION 236).**

(a) IN GENERAL.—Section 236 (8 U.S.C. 1226) is amended to read as follows:

"APPREHENSION AND DETENTION OF ALIENS NOT LAWFULLY IN THE UNITED STATES

"SEC. 236. (a) ARREST, DETENTION, AND RELEASE.—On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States. Except as provided in subsection (c) and pending such decision, the Attorney General—

"(1) may continue to detain the arrested alien; and

"(2) may release the alien on—

"(A) bond of at least \$1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or

"(B) conditional parole; but

"(3) may not provide the alien with work authorization (including an 'employment authorized' endorsement or other appropriate work permit), unless the alien is lawfully admitted for permanent residence or otherwise would (without regard to removal proceedings) be provided such authorization.

"(b) REVOCATION OF BOND OR PAROLE.—The Attorney General at any time may revoke a bond or parole authorized under subsection (a), rearrest the alien under the original warrant, and detain the alien.

"(c) ALIENS CONVICTED OF AGGRAVATED FELONIES.—

"(1) CUSTODY.—The Attorney General shall take into custody any alien convicted of an aggravated felony when the alien is released, without regard to whether the alien is released on parole, supervised release, or probation, and without regard to whether the alien may be arrested or imprisoned again for the same offense.

"(2) RELEASE.—The Attorney General may release the alien only if—

"(A) the alien was lawfully admitted to the United States and satisfies the Attorney General that the alien will not pose a danger to the safety of other persons or of property and is likely to appear for any scheduled proceeding;

"(B) the alien was not lawfully admitted to the United States, cannot be removed because the designated country of removal will not accept the alien, and satisfies the Attorney General that the alien will not pose a danger to the safety of other persons or of property and is likely to appear for any scheduled proceeding; or

"(C) the Attorney General decides pursuant to section 3521 of title 18, United States Code, that release of the alien from custody is necessary to provide protection to a witness, a potential witness, a person cooperating with an investigation into major criminal activity, or an immediate family member or close associate of a witness, potential witness, or person cooperating with such an investigation.

A decision relating to such release shall take place in accordance with a procedure that considers the severity of the offense committed by the alien.

"(d) IDENTIFICATION OF ALIENS CONVICTED OF AGGRAVATED FELONIES.—(1) The Attorney General shall devise and implement a system—

"(A) to make available, daily (on a 24-hour basis), to Federal, State, and local authorities the investigative resources of the Service to determine whether individuals arrested by such authorities for aggravated felonies are aliens;

"(B) to designate and train officers and employees of the Service to serve as a liaison to Federal, State, and local law enforcement and correctional agencies and courts with respect to the arrest, conviction, and release of any alien charged with an aggravated felony; and

"(C) which uses computer resources to maintain a current record of aliens who have been convicted of an aggravated felony and who have been removed.

"(2) The record under paragraph (1)(C) shall be made available—

"(A) to inspectors at ports of entry and to border patrol agents at sector headquarters for purposes of immediate identification of any such previously removed alien seeking to reenter the United States, and

"(B) to officials of the Department of State for use in its automated visa lookout system."

(b) INCREASE IN INS DETENTION FACILITIES.—Subject to the availability of appropriations, the Attorney General shall provide for an increase in the detention facilities of the Immigration and Naturalization Service to at least 9,000 beds by fiscal year 1997.

**SEC. 304. REMOVAL PROCEEDINGS; CANCELLATION OF REMOVAL AND ADJUSTMENT OF STATUS; VOLUNTARY DEPARTURE (REVISED AND NEW SECTIONS 239 TO 240C).**

(a) IN GENERAL.—Chapter 4 of title II is amended—

(1) by redesignating section 239 (8 U.S.C. 1229) as section 234 and by moving such section to immediately follow section 233;

(2) by redesignating section 240 (8 U.S.C. 1230) as section 240C; and

(3) by inserting after section 238 the following new sections:

"INITIATION OF REMOVAL PROCEEDINGS

"SEC. 239. (a) NOTICE TO APPEAR.—

"(1) IN GENERAL.—In removal proceedings under section 240, written notice (in this section referred to as a 'notice to appear') shall be given in person to the alien (or, if personal service is not practicable, through service by mail to the alien or to the alien's counsel of record, if any) specifying the following:

"(A) The nature of the proceedings against the alien.

"(B) The legal authority under which the proceedings are conducted.

"(C) The acts or conduct alleged to be in violation of law.

"(D) The charges against the alien and the statutory provisions alleged to have been violated.

"(E) The alien may be represented by counsel and the alien will be provided (i) a period of time to secure counsel under subsection (b)(1) and (ii) a current list of counsel prepared under subsection (b)(2).

"(F)(i) The requirement that the alien must immediately provide (or have provided) the Attorney General with a written record of an address and telephone number (if any) at which the alien may be contacted respecting proceedings under section 240.

"(ii) The requirement that the alien must provide the Attorney General immediately with a written record of any change of the alien's address or telephone number.

"(iii) The consequences under section 240(b)(5) of failure to provide address and telephone information pursuant to this subparagraph.

"(G)(i) The time and place at which the proceedings will be held.

"(ii) The consequences under section 240(b)(5) of the failure, except under exceptional circumstances, to appear at such proceedings.

"(2) NOTICE OF CHANGE IN TIME OR PLACE OF PROCEEDINGS.—

"(A) IN GENERAL.—In removal proceedings under section 240, in the case of any change or postponement in the time and place of such proceedings, subject to subparagraph (B) a written notice shall be given in person to the alien (or, if personal service is not practicable, through service by mail to the alien or to the alien's counsel of record, if any) specifying—

"(i) the new time or place of the proceedings, and

"(ii) the consequences under section 240(b)(5) of failing, except under exceptional circumstances, to attend such proceedings.

"(B) EXCEPTION.—In the case of an alien not in detention, a written notice shall not be required under this paragraph if the alien has failed to provide the address required under paragraph (1)(F).

"(3) CENTRAL ADDRESS FILES.—The Attorney General shall create a system to record and preserve on a timely basis notices of addresses and telephone numbers (and changes) provided under paragraph (1)(F).

"(b) SECURING OF COUNSEL.—

"(1) IN GENERAL.—In order that an alien be permitted the opportunity to secure counsel before the first hearing date in proceedings under section 240, the hearing date shall not be scheduled earlier than 10 days after the service of the notice to appear, unless the alien requests in writing an earlier hearing date.

"(2) CURRENT LISTS OF COUNSEL.—The Attorney General shall provide for lists (updated not less often than quarterly) of persons who have indicated their availability to represent pro bono aliens in proceedings under section 240. Such lists shall be pro-

vided under subsection (a)(1)(E) and otherwise made generally available.

“(C) SERVICE BY MAIL.—Service by mail under this section shall be sufficient if there is proof of attempted delivery to the last address provided by the alien in accordance with subsection (a)(1)(F).

“(d) PROMPT INITIATION OF REMOVAL.—(1) In the case of an alien who is convicted of an offense which makes the alien deportable, the Attorney General shall begin any removal proceeding as expeditiously as possible after the date of the conviction.

“(2) Nothing in this subsection shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

#### “REMOVAL PROCEEDINGS

##### “SEC. 240. (a) PROCEEDING.—

“(1) IN GENERAL.—An immigration judge shall conduct proceedings for deciding the inadmissibility or deportability of an alien.

“(2) CHARGES.—An alien placed in proceedings under this section may be charged with any applicable ground of inadmissibility under section 212(a) or any applicable ground of deportability under section 237(a).

“(3) EXCLUSIVE PROCEDURES.—Unless otherwise specified in this Act, a proceeding under this section shall be the sole and exclusive procedure for determining whether an alien may be admitted to the United States or, if the alien has been so admitted, removed from the United States. Nothing in this section shall affect proceedings conducted pursuant to section 238.

##### “(b) CONDUCT OF PROCEEDING.—

“(1) AUTHORITY OF IMMIGRATION JUDGE.—The immigration judge shall administer oaths, receive evidence, and interrogate, examine, and cross-examine the alien and any witnesses. The immigration judge may issue subpoenas for the attendance of witnesses and presentation of evidence. The immigration judge shall have authority (under regulations prescribed by the Attorney General) to sanction by civil money penalty any action (or inaction) in contempt of the judge's proper exercise of authority under this Act.

##### “(2) FORM OF PROCEEDING.—

“(A) IN GENERAL.—The proceeding may take place—

“(i) in person,

“(ii) through video conference, or

“(iii) subject to subparagraph (B), through telephone conference.

##### “(B) CONSENT REQUIRED IN CERTAIN CASES.—

An evidentiary hearing on the merits may only be conducted through a telephone conference with the consent of the alien involved after the alien has been advised of the right to proceed in person or through video conference.

“(3) PRESENCE OF ALIEN.—If it is impracticable by reason of an alien's mental incompetency for the alien to be present at the proceeding, the Attorney General shall prescribe safeguards to protect the rights and privileges of the alien.

“(4) ALIENS RIGHTS IN PROCEEDING.—In proceedings under this section, under regulations of the Attorney General—

“(A) the alien shall have the privilege of being represented, at no expense to the Government, by counsel of the alien's choosing who is authorized to practice in such proceedings,

“(B) the alien shall have a reasonable opportunity to examine the evidence against the alien, to present evidence on the alien's own behalf, and to cross-examine witnesses presented by the Government, and

“(C) a complete record shall be kept of all testimony and evidence produced at the proceeding.

“(5) CONSEQUENCES OF FAILURE TO APPEAR.—

“(A) IN GENERAL.—Any alien who, after written notice required under paragraph (1) or (2) of section 239(a) has been provided to the alien or the alien's counsel of record, does not attend a proceeding under this section, shall be ordered removed in absentia if the Service establishes by clear, unequivocal, and convincing evidence that the written notice was so provided and that the alien is removable (as defined in subsection (e)(2)). The written notice by the Attorney General shall be considered sufficient for purposes of this subparagraph if provided at the most recent address provided under section 239(a)(1)(F).

“(B) NO NOTICE IF FAILURE TO PROVIDE ADDRESS INFORMATION.—No written notice shall be required under subparagraph (A) if the alien has failed to provide the address required under section 239(a)(1)(F).

“(C) RESCISSION OF ORDER.—Such an order may be rescinded only—

“(i) upon a motion to reopen filed within 180 days after the date of the order of removal if the alien demonstrates that the failure to appear was because of exceptional circumstances (as defined in subsection (e)(1)), or

“(ii) upon a motion to reopen filed at any time if the alien demonstrates that the alien did not receive notice in accordance with paragraph (1) or (2) of section 239(a) or the alien demonstrates that the alien was in Federal or State custody and did not appear through no fault of the alien.

The filing of the motion to reopen described in clause (i) or (ii) shall stay the removal of the alien pending disposition of the motion.

“(D) EFFECT ON JUDICIAL REVIEW.—Any petition for review under section 242 of an order entered in absentia under this paragraph shall (except in cases described in section 242(b)(5)) be confined to (i) the validity of the notice provided to the alien, (ii) the reasons for the alien's not attending the proceeding, and (iii) whether or not the alien is removable.

“(6) TREATMENT OF FRIVOLOUS BEHAVIOR.—The Attorney General shall, by regulation—

“(A) define in a proceeding before an immigration judge or before an appellate administrative body under this title, frivolous behavior for which attorneys may be sanctioned,

“(B) specify the circumstances under which an administrative appeal of a decision or ruling will be considered frivolous and will be summarily dismissed, and

“(C) impose appropriate sanctions (which may include suspension and disbarment) in the case of frivolous behavior.

Nothing in this paragraph shall be construed as limiting the authority of the Attorney General to take actions with respect to inappropriate behavior.

“(7) LIMITATION ON DISCRETIONARY RELIEF FOR FAILURE TO APPEAR.—Any alien against whom a final order of removal is entered in absentia under this subsection and who, at the time of the notice described in paragraph (1) or (2) of section 239(a), was provided oral notice, either in the alien's native language or in another language the alien understands, of the time and place of the proceedings and of the consequences under this paragraph of failing, other than because of exceptional circumstances (as defined in subsection (e)(1)) to attend a proceeding under this section, shall not be eligible for relief under section 240A, 240B, 245, 248, or 249 for a period of 10 years after the date of the entry of the final order of removal.

“(c) DECISION AND BURDEN OF PROOF.—

“(1) DECISION.—

“(A) IN GENERAL.—At the conclusion of the proceeding the immigration judge shall decide whether an alien is removable from the

United States. The determination of the immigration judge shall be based only on the evidence produced at the hearing.

“(B) CERTAIN MEDICAL DECISIONS.—If a medical officer or civil surgeon or board of medical officers has certified under section 232(b) that an alien has a disease, illness, or addiction which would make the alien inadmissible under paragraph (1) of section 212(a), the decision of the immigration judge shall be based solely upon such certification.

“(2) BURDEN ON ALIEN.—In the proceeding the alien has the burden of establishing—

“(A) if the alien is an applicant for admission, that the alien is clearly and beyond doubt entitled to be admitted and is not inadmissible under section 212; or

“(B) by clear and convincing evidence, that the alien is lawfully present in the United States pursuant to a prior admission.

In meeting the burden of proof under subparagraph (B), the alien shall have access to the alien's visa or other entry document, if any, and any other records and documents, not considered by the Attorney General to be confidential, pertaining to the alien's admission or presence in the United States.

“(3) BURDEN ON SERVICE IN CASES OF DEPORTABLE ALIENS.—In the proceeding the Service has the burden of establishing by clear and convincing evidence that, in the case of an alien who has been admitted to the United States, the alien is deportable. No decision on deportability shall be valid unless it is based upon reasonable, substantial, and probative evidence.

“(4) NOTICE.—If the immigration judge decides that the alien is removable and orders the alien to be removed, the judge shall inform the alien of the right to appeal that decision and of the consequences for failure to depart under the order of removal, including civil and criminal penalties.

“(5) MOTIONS TO RECONSIDER.—

“(A) IN GENERAL.—The alien may file one motion to reconsider a decision that the alien is removable from the United States.

“(B) DEADLINE.—The motion must be filed within 30 days of the date of entry of a final administrative order of removal.

“(C) CONTENTS.—The motion shall specify the errors of law or fact in the previous order and shall be supported by pertinent authority.

“(6) MOTIONS TO REOPEN.—

“(A) IN GENERAL.—An alien may file one motion to reopen proceedings under this section.

“(B) CONTENTS.—The motion to reopen shall state the new facts that will be proven at a hearing to be held if the motion is granted, and shall be supported by affidavits or other evidentiary material.

“(C) DEADLINE.—

“(i) IN GENERAL.—Except as provided in this subparagraph, the motion to reopen shall be filed within 90 days of the date of entry of a final administrative order of removal.

“(ii) ASYLUM.—There is no time limit on the filing of a motion to reopen if the basis of the motion is to apply for relief under sections 208 or 241(b)(3) and is based on changed country conditions arising in the country of nationality or the country to which removal has been ordered, if such evidence is material and was not available and would not have been discovered or presented at the previous proceeding.

“(iii) FAILURE TO APPEAR.—A motion to reopen may be filed within 180 days after the date of the final order of removal if the order has been entered pursuant to subsection (b)(5) due to the alien's failure to appear for proceedings under this section and the alien establishes that the alien's failure to appear was because of exceptional circumstances beyond the control of the alien or because the

alien did not receive the notice required under section 239(a)(2).

“(d) STIPULATED REMOVAL.—The Attorney General shall provide by regulation for the entry by an immigration judge of an order of removal stipulated to by the alien (or the alien’s representative) and the Service. A stipulated order shall constitute a conclusive determination of the alien’s removability from the United States.

“(e) DEFINITIONS.—In this section and section 240A:

“(1) EXCEPTIONAL CIRCUMSTANCES.—The term ‘exceptional circumstances’ refers to exceptional circumstances (such as serious illness of the alien or serious illness or death of the spouse, child, or parent of the alien, but not including less compelling circumstances) beyond the control of the alien.

“(2) REMOVABLE.—The term ‘removable’ means—

“(A) in the case of an alien not admitted to the United States, that the alien is inadmissible under section 212, or

“(B) in the case of an alien admitted to the United States, that the alien is deportable under section 237.

“CANCELLATION OF REMOVAL; ADJUSTMENT OF STATUS

“SEC. 240A. (a) CANCELLATION OF REMOVAL FOR CERTAIN PERMANENT RESIDENTS.—The Attorney General may cancel removal in the case of an alien who is inadmissible or deportable from the United States if the alien—

“(1) has been an alien lawfully admitted for permanent residence for not less than 5 years,

“(2) has resided in the United States continuously for 7 years after having been admitted in any status, and

“(3) has not been convicted of an aggravated felony or felonies for which the alien has been sentenced, in the aggregate, to a term of imprisonment of at least 5 years.

“(b) CANCELLATION OF REMOVAL AND ADJUSTMENT OF STATUS FOR CERTAIN NON-PERMANENT RESIDENTS.—

“(1) IN GENERAL.—The Attorney General may cancel removal in the case of an alien who is deportable from the United States if the alien—

“(A) has been physically present in the United States for a continuous period of not less than 7 years immediately preceding the date of such application;

“(B) has been a person of good moral character during such period;

“(C) has not been convicted of an aggravated felony; and

“(D) establishes that removal would result in extreme hardship to the alien or to the alien’s spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence.

“(2) SPECIAL RULE FOR BATTERED SPOUSE OR CHILD.—The Attorney General may cancel removal in the case of an alien who is inadmissible or deportable from the United States if the alien—

“(A) has been battered or subjected to extreme cruelty in the United States by a spouse or parent who is a United States citizen or lawful permanent resident (or is the parent of a child of a United States citizen or lawful permanent resident and the child has been battered or subjected to extreme cruelty in the United States by such citizen or permanent resident parent);

“(B) has been physically present in the United States for a continuous period of not less than 3 years immediately preceding the date of such application;

“(C) has been a person of good moral character during such period;

“(D) is not inadmissible under paragraph (2) or (3) of section 212(a), is not deportable under paragraph (1)(C) or (2) through (4) of

section 237(a), and has not been convicted of an aggravated felony; and

“(E) establishes that removal would result in extreme hardship to the alien, the alien’s child, or (in the case of an alien who is a child) to the alien’s parent.

In acting on applications under this paragraph, the Attorney General shall consider any credible evidence relevant to the application. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General.

“(3) ADJUSTMENT OF STATUS.—The Attorney General may adjust to the status of an alien lawfully admitted for permanent residence any alien who the Attorney General determines meets the requirements of paragraph (1) or (2). The number of adjustments under this paragraph shall not exceed 4,000 for any fiscal year. The Attorney General shall record the alien’s lawful admission for permanent residence as of the date the Attorney General’s cancellation of removal under paragraph (1) or (2) or determination under this paragraph.

“(c) ALIENS INELIGIBLE FOR RELIEF.—The provisions of subsections (a) and (b)(1) shall not apply to any of the following aliens:

“(1) An alien who entered the United States as a crewman subsequent to June 30, 1964.

“(2) An alien who was admitted to the United States as a nonimmigrant exchange alien as defined in section 101(a)(15)(J), or has acquired the status of such a nonimmigrant exchange alien after admission, in order to receive graduate medical education or training, regardless of whether or not the alien is subject to or has fulfilled the two-year foreign residence requirement of section 212(e).

“(3) An alien who—

“(A) was admitted to the United States as a nonimmigrant exchange alien as defined in section 101(a)(15)(J) or has acquired the status of such a nonimmigrant exchange alien after admission other than to receive graduate medical education or training,

“(B) is subject to the two-year foreign residence requirement of section 212(e), and

“(C) has not fulfilled that requirement or received a waiver thereof.

“(4) An alien who is inadmissible under section 212(a)(3) or deportable under subparagraph (B) or (D) of section 237(a)(4).

“(d) SPECIAL RULES RELATING TO CONTINUOUS RESIDENCE OR PHYSICAL PRESENCE.—

“(1) TERMINATION OF CONTINUOUS PERIOD.—For purposes of this section, any period of continuous residence or continuous physical presence in the United States shall be deemed to end when the alien is served a notice to appear under section 239(a).

“(2) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—An alien shall be considered to have failed to maintain continuous physical presence in the United States under subsections (b)(1) and (b)(2) if the alien has departed from the United States for any periods in the aggregate exceeding 180 days, unless the Attorney General finds that return could not be accomplished within that time period due to emergent reasons.

“(3) CONTINUITY NOT REQUIRED BECAUSE OF HONORABLE SERVICE IN ARMED FORCES AND PRESENCE UPON ENTRY INTO SERVICE.—The requirements of continuous residence or continuous physical presence in the United States under subsections (a) and (b) shall not apply to an alien who—

“(A) has served for a minimum period of 24 months in an active-duty status in the Armed Forces of the United States and, if separated from such service, was separated under honorable conditions, and

“(B) at the time of the alien’s enlistment or induction was in the United States.

“(e) ANNUAL LIMITATION.—The Attorney General may not cancel the removal and adjust the status under this section, nor suspend the deportation and adjust the status under section 244(a) (as in effect before the enactment of the Immigration in the National Interest Act of 1996), of a total of more than 4,000 aliens in any fiscal year. The previous sentence shall apply regardless of when an alien applied for such cancellation and adjustment and whether such an alien had previously applied for suspension of deportation under such section 244(a).

“VOLUNTARY DEPARTURE

“SEC. 240B. (a) CERTAIN CONDITIONS.—

“(1) IN GENERAL.—The Attorney General may permit an alien voluntarily to depart the United States at the alien’s own expense under this subsection, in lieu of being subject to proceedings under section 240 or prior to the completion of such proceedings, if the alien is not deportable under section 237(a)(2)(A)(iii) or section 237(a)(4)(B).

“(2) PERIOD.—Permission to depart voluntarily under this subsection shall not be valid for a period exceeding 120 days.

“(3) BOND.—The Attorney General may require an alien permitted to depart voluntarily under this subsection to post a voluntary departure bond, to be surrendered upon proof that the alien has departed the United States within the time specified.

“(4) TREATMENT OF ALIENS ARRIVING IN THE UNITED STATES.—In the case of an alien who is arriving in the United States and with respect to whom proceedings under section 240 are (or would otherwise be) initiated at the time of such alien’s arrival, paragraph (1) shall not apply. Nothing in this paragraph shall be construed as preventing such an alien from withdrawing the application for admission in accordance with section 235(a)(4).

“(b) AT CONCLUSION OF PROCEEDINGS.—

“(1) IN GENERAL.—The Attorney General may permit an alien voluntarily to depart the United States at the alien’s own expense if, at the conclusion of a proceeding under section 240, the immigration judge enters an order granting voluntary departure in lieu of removal and finds that—

“(A) the alien has been physically present in the United States for a period of at least one year immediately preceding the date the notice to appear was served under section 239(a);

“(B) the alien is, and has been, a person of good moral character for at least 5 years immediately preceding the alien’s application for voluntary departure;

“(C) the alien is not deportable under section 237(a)(2)(A)(iii) or section 237(a)(4); and

“(D) the alien has established by clear and convincing evidence that the alien has the means to depart the United States and intends to do so.

“(2) PERIOD.—Permission to depart voluntarily under this subsection shall not be valid for a period exceeding 60 days.

“(3) BOND.—An alien permitted to depart voluntarily under this subsection shall be required to post a voluntary departure bond, in an amount necessary to ensure that the alien will depart, to be surrendered upon proof that the alien has departed the United States within the time specified.

“(c) ALIENS NOT ELIGIBLE.—The Attorney General shall not permit an alien to depart voluntarily under this section if the alien was previously permitted to so depart after having been found inadmissible under section 212(a)(9).

“(d) CIVIL PENALTY FOR FAILURE TO DEPART.—If an alien is permitted to depart voluntarily under this section and fails voluntarily to depart the United States within the time period specified, the alien shall be subject to a civil penalty of not less than \$1,000

and not more than \$5,000, and be ineligible for a period of 10 years for any further relief under this section and sections 240A, 245, 248, and 249.

“(e) ADDITIONAL CONDITIONS.—The Attorney General may by regulation limit eligibility for voluntary departure under this section for any class or classes of aliens.

“(f) APPEALS OF DENIALS.—An alien may appeal from denial of a request for an order of voluntary departure under subsection (b) in accordance with the procedures in section 242. Notwithstanding the pendency of such appeal, the alien shall be removable from the United States 60 days after entry of the order of removal. The alien's removal from the United States shall not moot the appeal.”.

(b) REPEAL OF SECTION 212(c).—Section 212(c) (8 U.S.C. 1182(c)) is repealed.

**SEC. 305. DETENTION AND REMOVAL OF ALIENS ORDERED REMOVED (NEW SECTION 241).**

(a) IN GENERAL.—Title II is further amended—

(1) by striking section 237 (8 U.S.C. 1227),

(2) by redesignating section 241 (8 U.S.C. 1251) as section 237 and by moving such section to immediately follow section 236, and

(3) by inserting after section 240C (as redesignated by section 304(a)(2)) the following new section:

**“DETENTION AND REMOVAL OF ALIENS ORDERED REMOVED**

**“SEC. 241. (a) DETENTION, RELEASE, AND REMOVAL OF ALIENS ORDERED REMOVED.—**

**“(1) REMOVAL PERIOD.—**

“(A) IN GENERAL.—Except as otherwise provided in this section, when an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days (in this section referred to as the ‘removal period’).

“(B) BEGINNING OF PERIOD.—The removal period begins on the latest of the following:

“(i) The date the order of removal becomes administratively final.

“(ii) If the removal order is judicially reviewed and such review serves to stay the removal of the alien, the date of the court's final order.

“(iii) If the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement.

“(C) SUSPENSION OF PERIOD.—The removal period shall be extended beyond a period of 90 days and the alien may remain in detention during such extended period if the alien willfully fails or refuses to make timely application in good faith for travel or other documents necessary to the alien's departure or conspires or acts to prevent the alien's removal subject to an order of removal.

“(2) DETENTION AND RELEASE BY THE ATTORNEY GENERAL.—During the removal period, the Attorney General shall detain the alien. If there is insufficient detention space to detain the alien, the Attorney General shall make a specific finding to this effect and may release the alien on a bond containing such conditions as the Attorney General may prescribe.

“(3) SUPERVISION AFTER 90-DAY PERIOD.—If the alien does not leave or is not removed within the removal period, the alien, pending removal, shall be subject to supervision under regulations prescribed by the Attorney General. The regulations shall include provisions requiring the alien—

“(A) to appear before an immigration officer periodically for identification;

“(B) to submit, if necessary, to a medical and psychiatric examination at the expense of the United States Government;

“(C) to give information under oath about the alien's nationality, circumstances, habits, associations, and activities, and other information the Attorney General considers appropriate; and

“(D) to obey reasonable written restrictions on the alien's conduct or activities that the Attorney General prescribes for the alien.

“(4) ALIENS IMPRISONED, ARRESTED, OR ON PAROLE, SUPERVISED RELEASE, OR PROBATION.—

“(A) IN GENERAL.—Except as provided in section 343(a) of the Public Health Service Act (42 U.S.C. 259(a)) and paragraph (2), the Attorney General may not remove an alien who is sentenced to imprisonment until the alien is released from imprisonment. Parole, supervised release, probation, or possibility of arrest or further imprisonment is not a reason to defer removal.

“(B) EXCEPTION FOR REMOVAL OF NON-VIOLENT OFFENDERS PRIOR TO COMPLETION OF SENTENCE OF IMPRISONMENT.—The Attorney General is authorized to remove an alien in accordance with applicable procedures under this Act before the alien has completed a sentence of imprisonment—

“(i) in the case of an alien in the custody of the Attorney General, if the Attorney General determines that (I) the alien is confined pursuant to a final conviction for a nonviolent offense (other than an offense related to smuggling or harboring of aliens) and (II) the removal of the alien is appropriate and in the best interest of the United States; or

“(ii) in the case of an alien in the custody of a State (or a political subdivision of a State), if the chief State official exercising authority with respect to the incarceration of the alien determines that (I) the alien is confined pursuant to a final conviction for a nonviolent offense, (II) the removal is appropriate and in the best interest of the State, and (III) submits a written request to the Attorney General that such alien be so removed.

“(C) NOTICE.—Any alien removed pursuant to this paragraph shall be notified of the penalties under the laws of the United States relating to the reentry of deported aliens, particularly the expanded penalties for aliens removed under subparagraph (B).

“(5) REINSTATEMENT OF REMOVAL ORDERS AGAINST ALIENS ILLEGALLY REENTERING.—If the Attorney General finds that an alien has reentered the United States illegally after having been removed or having departed voluntarily, under an order of removal, the prior order of removal is reinstated from its original date and is not subject to being reopened or reviewed, and the alien shall be removed under the prior order at any time after the reentry.

“(6) INADMISSIBLE ALIENS.—An alien ordered removed who is inadmissible under section 212 may be detained beyond the removal period and, if released, shall be subject to the terms of supervision in paragraph (3).

“(7) EMPLOYMENT AUTHORIZATION.—No alien ordered removed shall be eligible to receive authorization to be employed in the United States unless the Attorney General makes a specific finding that—

“(A) the alien cannot be removed due to the refusal of all countries designated by the alien or under this section to receive the alien, or

“(B) the removal of the alien is otherwise impracticable or contrary to the public interest.

“(b) COUNTRIES TO WHICH ALIENS MAY BE REMOVED.—

“(1) ALIENS ARRIVING AT THE UNITED STATES.—Subject to paragraph (3)—

“(A) IN GENERAL.—Except as provided by subparagraphs (B) and (C), an alien who arrives at the United States and with respect to whom proceedings under section 240 were initiated at the time of such alien's arrival shall be removed to the country in which the

alien boarded the vessel or aircraft on which the alien arrived in the United States.

“(B) TRAVEL FROM CONTIGUOUS TERRITORY.—If the alien boarded the vessel or aircraft on which the alien arrived in the United States in a foreign territory contiguous to the United States, an island adjacent to the United States, or an island adjacent to a foreign territory contiguous to the United States, and the alien is not a native, citizen, subject, or national of, or does not reside in, the territory or island, removal shall be to the country in which the alien boarded the vessel that transported the alien to the territory or island.

“(C) ALTERNATIVE COUNTRIES.—If the government of the country designated in subparagraph (A) or (B) is unwilling to accept the alien into that country's territory, removal shall be to any of the following countries, as directed by the Attorney General:

“(i) The country of which the alien is a citizen, subject, or national.

“(ii) The country in which the alien was born.

“(iii) The country in which the alien has a residence.

“(iv) A country with a government that will accept the alien into the country's territory if removal to each country described in a previous clause of this subparagraph is impracticable, inadvisable, or impossible.

“(2) OTHER ALIENS.—Subject to paragraph (3)—

“(A) SELECTION OF COUNTRY BY ALIEN.—Except as otherwise provided in this paragraph—

“(i) any alien not described in paragraph (1) who has been ordered removed may designate one country to which the alien wants to be removed, and

“(ii) the Attorney General shall remove the alien to the country the alien so designates.

“(B) LIMITATION ON DESIGNATION.—An alien may designate under subparagraph (A)(i) a foreign territory contiguous to the United States, an adjacent island, or an island adjacent to a foreign territory contiguous to the United States as the place to which the alien is to be removed only if the alien is a native, citizen, subject, or national of, or has resided in, that designated territory or island.

“(C) DISREGARDING DESIGNATION.—The Attorney General may disregard a designation under subparagraph (A)(i) if—

“(i) the alien fails to designate a country promptly;

“(ii) the government of the country does not inform the Attorney General finally, within 30 days after the date the Attorney General first inquires, whether the government will accept the alien into the country;

“(iii) the government of the country is not willing to accept the alien into the country; or

“(iv) the Attorney General decides that removing the alien to the country is prejudicial to the United States.

“(D) ALTERNATIVE COUNTRY.—If an alien is not removed to a country designated under subparagraph (A)(i), the Attorney General shall remove the alien to a country of which the alien is a subject, national, or citizen unless the government of the country—

“(i) does not inform the Attorney General or the alien finally, within 30 days after the date the Attorney General first inquires or within another period of time the Attorney General decides is reasonable, whether the government will accept the alien into the country; or

“(ii) is not willing to accept the alien into the country.

“(E) ADDITIONAL REMOVAL COUNTRIES.—If an alien is not removed to a country under the previous subparagraphs of this paragraph, the Attorney General shall remove the alien to any of the following countries:

“(i) The country from which the alien was admitted to the United States.

“(ii) The country in which is located the foreign port from which the alien left for the United States or for a foreign territory contiguous to the United States.

“(iii) A country in which the alien resided before the alien entered the country from which the alien entered the United States.

“(iv) The country in which the alien was born.

“(v) The country that had sovereignty over the alien's birthplace when the alien was born.

“(vi) The country in which the alien's birthplace is located when the alien is ordered removed.

“(vii) If impracticable, inadvisable, or impossible to remove the alien to each country described in a previous clause of this subparagraph, another country whose government will accept the alien into that country.

“(F) REMOVAL COUNTRY WHEN UNITED STATES IS AT WAR.—When the United States is at war and the Attorney General decides that it is impracticable, inadvisable, inconvenient, or impossible to remove an alien under this subsection because of the war, the Attorney General may remove the alien—

“(i) to the country that is host to a government in exile of the country of which the alien is a citizen or subject if the government of the host country will permit the alien's entry; or

“(ii) if the recognized government of the country of which the alien is a citizen or subject is not in exile, to a country, or a political or territorial subdivision of a country, that is very near the country of which the alien is a citizen or subject, or, with the consent of the government of the country of which the alien is a citizen or subject, to another country.

“(3) RESTRICTION ON REMOVAL TO A COUNTRY WHERE ALIEN'S LIFE OR FREEDOM WOULD BE THREATENED.—

“(A) IN GENERAL.—Notwithstanding paragraphs (1) and (2), the Attorney General may not remove an alien to a country if the Attorney General decides that the alien's life or freedom would be threatened in that country because of the alien's race, religion, nationality, membership in a particular social group, or political opinion.

“(B) EXCEPTION.—Subparagraph (A) does not apply to an alien deportable under section 237(a)(4)(D) or if the Attorney General decides that—

“(i) the alien ordered, incited, assisted, or otherwise participated in the persecution of an individual because of the individual's race, religion, nationality, membership in a particular social group, or political opinion;

“(ii) the alien, having been convicted by a final judgment of a particularly serious crime is a danger to the community of the United States;

“(iii) there are serious reasons to believe that the alien committed a serious non-political crime outside the United States before the alien arrived in the United States; or

“(iv) there are reasonable grounds to believe that the alien is a danger to the security of the United States.

For purposes of clause (ii), an alien who has been convicted of an aggravated felony (or felonies) for which the alien has been sentenced to an aggregate term of imprisonment of at least 5 years shall be considered to have committed a particularly serious crime. For purposes of clause (iv), an alien who is described in section 237(a)(4)(B) shall be considered to be an alien with respect to whom there are reasonable grounds for regarding as a danger to the security of the United States.

“(c) REMOVAL OF ALIENS ARRIVING AT PORT OF ENTRY.—

“(1) VESSELS AND AIRCRAFT.—An alien arriving at a port of entry of the United States who is ordered removed either without a hearing under section 235(a)(1) or 235(c) or pursuant to proceedings under section 240 initiated at the time of such alien's arrival shall be removed immediately on a vessel or aircraft owned by the owner of the vessel or aircraft on which the alien arrived in the United States, unless—

“(A) it is impracticable to remove the alien on one of those vessels or aircraft within a reasonable time, or

“(B) the alien is a stowaway—

“(i) who has been ordered removed in accordance with section 235(a)(1),

“(ii) who has requested asylum, and

“(iii) whose application has not been adjudicated or whose asylum application has been denied but who has not exhausted all appeal rights.

“(2) STAY OF REMOVAL.—

“(A) IN GENERAL.—The Attorney General may stay the removal of an alien under this subsection if the Attorney General decides that—

“(i) immediate removal is not practicable or proper; or

“(ii) the alien is needed to testify in the prosecution of a person for a violation of a law of the United States or of any State.

“(B) PAYMENT OF DETENTION COSTS.—During the period an alien is detained because of a stay of removal under subparagraph (A)(ii), the Attorney General may pay from the appropriation ‘Immigration and Naturalization Service—Salaries and Expenses’—

“(i) the cost of maintenance of the alien; and

“(ii) a witness fee of \$1 a day.

“(C) RELEASE DURING STAY.—The Attorney General may release an alien whose removal is stayed under subparagraph (A)(ii) on—

“(i) the alien's filing a bond of at least \$500 with security approved by the Attorney General;

“(ii) condition that the alien appear when required as a witness and for removal; and

“(iii) other conditions the Attorney General may prescribe.

“(3) COSTS OF DETENTION AND MAINTENANCE PENDING REMOVAL.—

“(A) IN GENERAL.—Except as provided in subparagraph (B) and subsection (d), an owner of a vessel or aircraft bringing an alien to the United States shall pay the costs of detaining and maintaining the alien—

“(i) while the alien is detained under subsection (d)(1), and

“(ii) in the case of an alien who is a stowaway, while the alien is being detained pursuant to—

“(I) subsection (d)(2)(A) or (d)(2)(B)(i),

“(II) subsection (d)(2)(B)(ii) or (iii) for the period of time reasonably necessary for the owner to arrange for repatriation or removal of the stowaway, including obtaining necessary travel documents, but not to extend beyond the date on which it is ascertained that such travel documents cannot be obtained from the country to which the stowaway is to be returned, or

“(III) section 235(b)(1)(B)(ii), for a period not to exceed 15 days (excluding Saturdays, Sundays, and holidays) commencing on the first such day which begins on the earlier of 72 hours after the time of the initial presentation of the stowaway for inspection or at the time the stowaway is determined to have a credible fear of persecution.

“(B) NONAPPLICATION.—Subparagraph (A) shall not apply if—

“(i) the alien is a crewmember;

“(ii) the alien has an immigrant visa;

“(iii) the alien has a nonimmigrant visa or other documentation authorizing the alien to apply for temporary admission to the United States and applies for admission not

later than 120 days after the date the visa or documentation was issued;

“(iv) the alien has a reentry permit and applies for admission not later than 120 days after the date of the alien's last inspection and admission;

“(v)(I) the alien has a nonimmigrant visa or other documentation authorizing the alien to apply for temporary admission to the United States or a reentry permit;

“(II) the alien applies for admission more than 120 days after the date the visa or documentation was issued or after the date of the last inspection and admission under the reentry permit; and

“(III) the owner of the vessel or aircraft satisfies the Attorney General that the existence of the condition relating to inadmissibility could not have been discovered by exercising reasonable care before the alien boarded the vessel or aircraft; or

“(vi) the individual claims to be a national of the United States and has a United States passport.

“(d) REQUIREMENTS OF PERSONS PROVIDING TRANSPORTATION.—

“(1) REMOVAL AT TIME OF ARRIVAL.—An owner, agent, master, commanding officer, person in charge, purser, or consignee of a vessel or aircraft bringing an alien (except an alien crewmember) to the United States shall—

“(A) receive an alien back on the vessel or aircraft or another vessel or aircraft owned or operated by the same interests if the alien is ordered removed under this part; and

“(B) take the alien to the foreign country to which the alien is ordered removed.

“(2) ALIEN STOWAWAYS.—An owner, agent, master, commanding officer, charterer, or consignee of a vessel or aircraft arriving in the United States with an alien stowaway—

“(A) shall detain the alien on board the vessel or aircraft, or at such place as the Attorney General shall designate, until completion of the inspection of the alien by an immigration officer;

“(B) may not permit the stowaway to land in the United States, except pursuant to regulations of the Attorney General temporarily—

“(i) for medical treatment,

“(ii) for detention of the stowaway by the Attorney General, or

“(iii) for departure or removal of the stowaway; and

“(C) if ordered by an immigration officer, shall remove the stowaway on the vessel or aircraft or on another vessel or aircraft.

The Attorney General shall grant a timely request to remove the stowaway under subparagraph (C) on a vessel or aircraft other than that on which the stowaway arrived if the requester has obtained any travel documents necessary for departure or repatriation of the stowaway and removal of the stowaway will not be unreasonably delayed.

“(3) REMOVAL UPON ORDER.—An owner, agent, master, commanding officer, person in charge, purser, or consignee of a vessel, aircraft, or other transportation line shall comply with an order of the Attorney General to take on board, guard safely, and transport to the destination specified any alien ordered to be removed under this Act.

“(e) PAYMENT OF EXPENSES OF REMOVAL.—

“(1) COSTS OF REMOVAL AT TIME OF ARRIVAL.—In the case of an alien who is a stowaway or who is ordered removed either without a hearing under section 235(a)(1) or 235(c) or pursuant to proceedings under section 240 initiated at the time of such alien's arrival, the owner of the vessel or aircraft (if any) on which the alien arrived in the United States shall pay the transportation cost of removing the alien. If removal is on a vessel or aircraft not owned by the owner of the vessel or aircraft on which the alien arrived in the United States, the Attorney General may—

“(A) pay the cost from the appropriation ‘Immigration and Naturalization Service—Salaries and Expenses’; and

“(B) recover the amount of the cost in a civil action from the owner, agent, or consignee of the vessel or aircraft (if any) on which the alien arrived in the United States.

“(2) COSTS OF REMOVAL TO PORT OF REMOVAL FOR ALIENS ADMITTED OR PERMITTED TO LAND.—In the case of an alien who has been admitted or permitted to land and is ordered removed, the cost (if any) of removal of the alien to the port of removal shall be at the expense of the appropriation for the enforcement of this Act.

“(3) COSTS OF REMOVAL FROM PORT OF REMOVAL FOR ALIENS ADMITTED OR PERMITTED TO LAND.—

“(A) THROUGH APPROPRIATION.—Except as provided in subparagraph (B), in the case of an alien who has been admitted or permitted to land and is ordered removed, the cost (if any) of removal of the alien from the port of removal shall be at the expense of the appropriation for the enforcement of this Act.

“(B) THROUGH OWNER.—

“(i) IN GENERAL.—In the case of an alien described in clause (ii), the cost of removal of the alien from the port of removal may be charged to any owner of the vessel, aircraft, or other transportation line by which the alien came to the United States.

“(ii) ALIENS DESCRIBED.—An alien described in this clause is an alien who—

“(I) is admitted to the United States (other than lawfully admitted for permanent residence) and is ordered removed within 5 years of the date of admission based on a ground that existed before or at the time of admission, or

“(II) is an alien crewman permitted to land temporarily under section 252 and is ordered removed within 5 years of the date of landing.

“(C) COSTS OF REMOVAL OF CERTAIN ALIENS GRANTED VOLUNTARY DEPARTURE.—In the case of an alien who has been granted voluntary departure under section 240B and who is financially unable to depart at the alien's own expense and whose removal the Attorney General deems to be in the best interest of the United States, the expense of such removal may be paid from the appropriation for the enforcement of this Act.

“(f) ALIENS REQUIRING PERSONAL CARE DURING REMOVAL.—

“(1) IN GENERAL.—If the Attorney General believes that an alien being removed requires personal care because of the alien's mental or physical condition, the Attorney General may employ a suitable person for that purpose who shall accompany and care for the alien until the alien arrives at the final destination.

“(2) COSTS.—The costs of providing the service described in paragraph (1) shall be defrayed in the same manner as the expense of removing the accompanied alien is defrayed under this section.

“(g) PLACES OF DETENTION.—

“(1) IN GENERAL.—The Attorney General shall arrange for appropriate places of detention for aliens detained pending removal or a decision on removal. When United States Government facilities are unavailable or facilities adapted or suitably located for detention are unavailable for rental, the Attorney General may expend from the appropriation ‘Immigration and Naturalization Service—Salaries and Expenses’, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), amounts necessary to acquire land and to acquire, build, remodel, repair, and operate facilities (including living quarters for immigration officers if not otherwise available) necessary for detention.

“(2) DETENTION FACILITIES OF THE IMMIGRATION AND NATURALIZATION SERVICE.—Prior to initiating any project for the construction of

any new detention facility for the Service, the Commissioner shall consider the availability for purchase or lease of any existing prison, jail, detention center, or other comparable facility suitable for such use.

“(h) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.”

(b) MODIFICATION OF AUTHORITY.—

(1) Section 241(i), as redesignated by section 306(a)(1), is amended—

(A) in paragraph (3)(A) by striking “felony and sentenced to a term of imprisonment” and inserting “felony or two or more misdemeanors”, and

(B) by adding at the end the following new paragraph:

“(6) In this subsection, the term ‘incarceration’ includes imprisonment in a State or local prison or jail the time of which is counted towards completion of a sentence or the detention of an alien previously convicted of a felony or misdemeanor who has been arrested and is being held pending judicial action on new charges or pending transfer to Federal custody.”

(2) The amendments made by paragraph (1) shall apply beginning with fiscal year 1996.

(c) REENTRY OF ALIEN REMOVED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Section 276(b) (8 U.S.C. 1326(b)), as amended by section 321(b), is amended—

(1) by striking “or” at the end of paragraph (2),

(2) by adding “or” at the end of paragraph (3), and

(3) by inserting after paragraph (3) the following new paragraph:

“(4) who was removed from the United States pursuant to section 241(a)(4)(B) who thereafter, without the permission of the Attorney General, enters, attempts to enter, or is at any time found in, the United States (unless the Attorney General has expressly consented to such alien's reentry) shall be fined under title 18, United States Code, imprisoned for not more than 10 years, or both.

(d) MISCELLANEOUS CONFORMING AMENDMENT.—Section 212(a)(4) (8 U.S.C. 1182(a)(4)), as amended by section 621(a), is amended by striking “241(a)(5)(B)” each place it appears and inserting “237(a)(5)(B)”.

**SEC. 306. APPEALS FROM ORDERS OF REMOVAL (NEW SECTION 242).**

(a) IN GENERAL.—Section 242 (8 U.S.C. 1252) is amended—

(1) by redesignating subsection (j) as subsection (i) and by moving such subsection and adding it at the end of section 241, as inserted by section 305(a)(3); and

(2) by amending the remainder of section 242 to read as follows:

“JUDICIAL REVIEW OF ORDERS OF REMOVAL

“SEC. 242. (a) APPLICABLE PROVISIONS.—

“(1) GENERAL ORDERS OF REMOVAL.—Judicial review of a final order of removal (other than an order of removal without a hearing pursuant to section 235(b)(1)) is governed only by chapter 158 of title 28 of the United States Code, except as provided in subsection (b) and except that the court may not order the taking of additional evidence under section 2347(c) of such title.

“(2) LIMITATIONS ON REVIEW RELATING TO SECTION 235(b)(1).—Notwithstanding any other provision of law, no court shall have jurisdiction to review—

“(A) except as provided in subsection (f), any individual determination or to entertain any other cause or claim arising from or relating to the implementation or operation of an order of removal pursuant to section 235(b)(1),

“(B) a decision by the Attorney General to invoke the provisions of such section,

“(C) the application of such section to individual aliens, including the determination made under section 235(b)(1)(B), or

“(D) procedures and policies adopted by the Attorney General to implement the provisions of section 235(b)(1).

“(3) TREATMENT OF CERTAIN DECISIONS.—No alien shall have a right to appeal from a decision of an immigration judge which is based solely on a certification described in section 240(c)(1)(B).

“(b) REQUIREMENTS FOR ORDERS OF REMOVAL.—With respect to review of an order of removal under subsection (a)(1), the following requirements apply:

“(1) DEADLINE.—The petition for review must be filed not later than 30 days after the date of the final order of removal.

“(2) VENUE AND FORMS.—The petition for review shall be filed with the court of appeals for the judicial circuit in which the immigration judge completed the proceedings. The record and briefs do not have to be printed. The court of appeals shall review the proceeding on a typewritten record and on typewritten briefs.

“(3) SERVICE.—

“(A) IN GENERAL.—The respondent is the Attorney General. The petition shall be served on the Attorney General and on the officer or employee of the Service in charge of the Service district in which the initial proceedings under section 240 were conducted.

“(B) STAY OF ORDER.—

“(i) IN GENERAL.—Except as provided in clause (ii), service of the petition on the officer or employee stays the removal of an alien pending the court's decision on the petition, unless the court orders otherwise.

“(ii) EXCEPTION.—If the alien has been convicted of an aggravated felony, or the alien has been ordered removed pursuant to a finding that the alien is inadmissible under section 212, service of the petition does not stay the removal unless the court orders otherwise.

“(4) DECISION.—Except as provided in paragraph (5)(B)—

“(A) the court of appeals shall decide the petition only on the administrative record on which the order of removal is based,

“(B) the administrative findings of fact are conclusive if supported by reasonable, substantial, and probative evidence on the record considered as a whole, and

“(C) a decision that an alien is not eligible for admission to the United States is conclusive unless manifestly contrary to law.

“(5) TREATMENT OF NATIONALITY CLAIMS.—

“(A) COURT DETERMINATION IF NO ISSUE OF FACT.—If the petitioner claims to be a national of the United States and the court of appeals finds from the pleadings and affidavits that no genuine issue of material fact about the petitioner's nationality is presented, the court shall decide the nationality claim.

“(B) TRANSFER IF ISSUE OF FACT.—If the petitioner claims to be a national of the United States and the court of appeals finds that a genuine issue of material fact about the petitioner's nationality is presented, the court shall transfer the proceeding to the district court of the United States for the judicial district in which the petitioner resides for a new hearing on the nationality claim and a decision on that claim as if an action had been brought in the district court under section 2201 of title 28, United States Code.

“(C) LIMITATION ON DETERMINATION.—The petitioner may have such nationality claim decided only as provided in this paragraph.

“(6) CONSOLIDATION WITH REVIEW OF MOTIONS TO REOPEN OR RECONSIDER.—When a petitioner seeks review of an order under this section, any review sought of a motion to reopen or reconsider the order shall be consolidated with the review of the order.

“(7) CHALLENGE TO VALIDITY OF ORDERS IN CERTAIN CRIMINAL PROCEEDINGS.—

“(A) IN GENERAL.—If the validity of an order of removal has not been judicially decided, a defendant in a criminal proceeding charged with violating section 243(a) may challenge the validity of the order in the criminal proceeding only by filing a separate motion before trial. The district court, without a jury, shall decide the motion before trial.

“(B) CLAIMS OF UNITED STATES NATIONALITY.—If the defendant claims in the motion to be a national of the United States and the district court finds that—

“(i) no genuine issue of material fact about the defendant’s nationality is presented, the court shall decide the motion only on the administrative record on which the removal order is based and the administrative findings of fact are conclusive if supported by reasonable, substantial, and probative evidence on the record considered as a whole; or

“(ii) a genuine issue of material fact about the defendant’s nationality is presented, the court shall hold a new hearing on the nationality claim and decide that claim as if an action had been brought under section 2201 of title 28, United States Code.

The defendant may have such nationality claim decided only as provided in this subparagraph.

“(C) CONSEQUENCE OF INVALIDATION.—If the district court rules that the removal order is invalid, the court shall dismiss the indictment for violation of section 243(a). The United States Government may appeal the dismissal to the court of appeals for the appropriate circuit within 30 days after the date of the dismissal.

“(D) LIMITATION ON FILING PETITIONS FOR REVIEW.—The defendant in a criminal proceeding under section 243(a) may not file a petition for review under subsection (a) during the criminal proceeding.

“(8) CONSTRUCTION.—This subsection—

“(A) does not prevent the Attorney General, after a final order of removal has been issued, from detaining the alien under section 241(a);

“(B) does not relieve the alien from complying with section 241(a)(4) and section 243(g); and

“(C) except as provided in paragraph (3), does not require the Attorney General to defer removal of the alien.

“(c) REQUIREMENTS FOR PETITION.—A petition for review or for habeas corpus of an order of removal shall state whether a court has upheld the validity of the order, and, if so, shall state the name of the court, the date of the court’s ruling, and the kind of proceeding.

“(d) REVIEW OF FINAL ORDERS.—A court may review a final order of removal only if—

“(1) the alien has exhausted all administrative remedies available to the alien as of right, and

“(2) another court has not decided the validity of the order, unless the reviewing court finds that the petition presents grounds that could not have been presented in the prior judicial proceeding or that the remedy provided by the prior proceeding was inadequate or ineffective to test the validity of the order.

“(e) LIMITED REVIEW FOR NON-PERMANENT RESIDENTS CONVICTED OF AGGRAVATED FELONIES.—

“(1) IN GENERAL.—A petition for review filed by an alien against whom a final order of removal has been issued under section 238 may challenge only whether—

“(A) the alien is the alien described in the order,

“(B) the alien is an alien described in section 238(b)(2) and has been convicted after entry into the United States of an aggravated felony, and

“(C) proceedings against the alien complied with section 238(b)(4).

“(2) LIMITED JURISDICTION.—A court reviewing the petition has jurisdiction only to review the issues described in paragraph (1).

“(f) JUDICIAL REVIEW OF ORDERS UNDER SECTION 235(b)(1).—

“(1) APPLICATION.—The provisions of this subsection apply with respect to judicial review of orders of removal effected under section 235(b)(1).

“(2) LIMITATIONS ON RELIEF.—Regardless of the nature of the action or claim and regardless of the identity of the party or parties bringing the action, no court shall have jurisdiction or authority to enter declaratory, injunctive, or other equitable relief not specifically authorized in this subsection, or to certify a class under Rule 23 of the Federal Rules of Civil Procedure.

“(3) LIMITATION TO HABEAS CORPUS.—Judicial review of any matter, cause, claim, or individual determination made or arising under or pertaining to section 235(b)(1) shall only be available in habeas corpus proceedings, and shall be limited to determinations of—

“(A) whether the petitioner is an alien,

“(B) whether the petitioner was ordered removed under such section, and

“(C) whether the petitioner can prove by a preponderance of the evidence that the petitioner is an alien lawfully admitted for permanent residence and is entitled to such further inquiry as prescribed by the Attorney General pursuant to section 235(b)(1)(C).

“(4) DECISION.—In any case where the court determines that the petitioner—

“(A) is an alien who was not ordered removed under section 235(b)(1), or

“(B) has demonstrated by a preponderance of the evidence that the alien is a lawful permanent resident,

the court may order no remedy or relief other than to require that the petitioner be provided a hearing in accordance with section 240. Any alien who is provided a hearing under section 240 pursuant to this paragraph may thereafter obtain judicial review of any resulting final order of removal pursuant to subsection (a)(1).

“(5) SCOPE OF INQUIRY.—In determining whether an alien has been ordered removed under section 235(b)(1), the court’s inquiry shall be limited to whether such an order in fact was issued and whether it relates to the petitioner. There shall be no review of whether the alien is actually inadmissible or entitled to any relief from removal.

“(g) LIMIT ON INJUNCTIVE RELIEF.—Regardless of the nature of the action or claim or of the identity of the party or parties bringing the action, no court (other than the Supreme Court) shall have jurisdiction or authority to enjoin or restrain the operation of the provisions of chapter 4 of title II, as amended by the Immigration in the National Interest Act of 1996, other than with respect to the application of such provisions to an individual alien against whom proceedings under such chapter have been initiated.”

(b) REPEAL OF SECTION 106.—Section 106 (8 U.S.C. 1105a) is repealed.

(c) TREATMENT OF POLITICAL SUBDIVISIONS.—Effective as of the date of the enactment of this Act, section 242(j), before being redesignated and moved under subsection (a)(1), is amended by adding at the end the following new paragraph:

“(6) For purposes of this subsection, the term ‘political subdivision’ includes a county, city, municipality, or other similar subdivision recognized under State law.”

**SEC. 307. PENALTIES RELATING TO REMOVAL (REVISED SECTION 243).**

(a) IN GENERAL.—Section 243 (8 U.S.C. 1253) is amended to read as follows:

“PENALTIES RELATED TO REMOVAL

“SEC. 243. (a) PENALTY FOR FAILURE TO DEPART.—

“(1) IN GENERAL.—Any alien against whom a final order of removal is outstanding by reason of being a member of any of the classes described in section 237(a), who—

“(A) willfully fails or refuses to depart from the United States within a period of 90 days from the date of the final order of removal under administrative processes, or if judicial review is had, then from the date of the final order of the court,

“(B) willfully fails or refuses to make timely application in good faith for travel or other documents necessary to the alien’s departure,

“(C) connives or conspires, or takes any other action, designed to prevent or hamper or with the purpose of preventing or hampering the alien’s departure pursuant to such, or

“(D) willfully fails or refuses to present himself or herself for removal at the time and place required by the Attorney General pursuant to such order,

shall be fined under title 18, United States Code, or imprisoned not more than four years (or 10 years if the alien is a member of any of the classes described in paragraph (1)(E), (2), (3), or (4) of section 237(a)), or both.

“(2) EXCEPTION.—It is not a violation of paragraph (1) to take any proper steps for the purpose of securing cancellation of or exemption from such order of removal or for the purpose of securing the alien’s release from incarceration or custody.

“(3) SUSPENSION.—The court may for good cause suspend the sentence of an alien under this subsection and order the alien’s release under such conditions as the court may prescribe. In determining whether good cause has been shown to justify releasing the alien, the court shall take into account such factors as—

“(A) the age, health, and period of detention of the alien;

“(B) the effect of the alien’s release upon the national security and public peace or safety;

“(C) the likelihood of the alien’s resuming or following a course of conduct which made or would make the alien deportable;

“(D) the character of the efforts made by such alien himself and by representatives of the country or countries to which the alien’s removal is directed to expedite the alien’s departure from the United States;

“(E) the reason for the inability of the Government of the United States to secure passports, other travel documents, or removal facilities from the country or countries to which the alien has been ordered removed; and

“(F) the eligibility of the alien for discretionary relief under the immigration laws.

(b) WILLFUL FAILURE TO COMPLY WITH TERMS OF RELEASE UNDER SUPERVISION.—An alien who shall willfully fail to comply with regulations or requirements issued pursuant to section 241(a)(3) or knowingly give false information in response to an inquiry under such section shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

(c) PENALTIES RELATING TO VESSELS AND AIRCRAFT.—

“(1) CIVIL PENALTIES.—

“(A) FAILURE TO CARRY OUT CERTAIN ORDERS.—If the Attorney General is satisfied that a person has violated subsection (d) or (e) of section 241, the person shall pay to the Commissioner the sum of \$2,000 for each violation.

“(B) FAILURE TO REMOVE ALIEN STOWAWAYS.—If the Attorney General is satisfied that a person has failed to remove an alien

stowaway as required under section 241(d)(2), the person shall pay to the Commissioner the sum of \$5,000 for each alien stowaway not removed.

“(C) NO COMPROMISE.—The Attorney General may not compromise the amount of such penalty under this paragraph.

“(2) CLEARING VESSELS AND AIRCRAFT.—

“(A) CLEARANCE BEFORE DECISION ON LIABILITY.—A vessel or aircraft may be granted clearance before a decision on liability is made under paragraph (1) only if a bond approved by the Attorney General or an amount sufficient to pay the civil penalty is deposited with the Commissioner.

“(B) PROHIBITION ON CLEARANCE WHILE PENALTY UNPAID.—A vessel or aircraft may not be granted clearance if a civil penalty imposed under paragraph (1) is not paid.

“(d) DISCONTINUING GRANTING VISAS TO NATIONALS OF COUNTRY DENYING OR DELAYING ACCEPTING ALIEN.—On being notified by the Attorney General that the government of a foreign country denies or unreasonably delays accepting an alien who is a citizen, subject, national, or resident of that country after the Attorney General asks whether the government will accept the alien under this section, the Secretary of State shall order consular officers in that foreign country to discontinue granting immigrant visas or nonimmigrant visas, or both, to citizens, subjects, nationals, and residents of that country until the Attorney General notifies the Secretary that the country has accepted the alien.”.

**SEC. 308. REDESIGNATION AND REORGANIZATION OF OTHER PROVISIONS; ADDITIONAL CONFORMING AMENDMENTS.**

(a) CONFORMING AMENDMENT TO TABLE OF CONTENTS; OVERVIEW OF REORGANIZED CHAPTERS.—The table of contents, as amended by section 851(d)(1), is amended—

(1) by striking the item relating to section 106, and

(2) by striking the item relating to chapter 4 of title II and all that follows through the item relating to section 244A and inserting the following:

“CHAPTER 4—INSPECTION, APPREHENSION, EXAMINATION, EXCLUSION, AND REMOVAL

“Sec. 231. Lists of alien and citizen passengers arriving or departing; record of resident aliens and citizens leaving permanently for foreign country.

“Sec. 232. Detention of aliens for physical and mental examination.

“Sec. 233. Entry through or from foreign territory and adjacent islands; landing stations.

“Sec. 234. Designation of ports of entry for aliens arriving by civil aircraft.

“Sec. 235. Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing.

“Sec. 236. Apprehension and detention of aliens not lawfully in the United States.

“Sec. 237. General classes of deportable aliens.

“Sec. 238. Expedited removal of aliens convicted of committing aggravated felonies.

“Sec. 239. Initiation of removal proceedings.

“Sec. 240. Removal proceedings.

“Sec. 240A. Cancellation of removal; adjustment of status.

“Sec. 240B. Voluntary departure.

“Sec. 240C. Records of admission.

“Sec. 241. Detention and removal of aliens ordered removed.

“Sec. 242. Judicial review of orders of removal.

“Sec. 243. Penalties relating to removal.

“Sec. 244. Temporary protected status.

“CHAPTER 5—ADJUSTMENT AND CHANGE OF STATUS”.

(b) REORGANIZATION OF OTHER PROVISIONS.—Chapters 4 and 5 of title II are amended as follows:

(1) AMENDING CHAPTER HEADING.—Amend the heading for chapter 4 of title II to read as follows:

“CHAPTER 4—INSPECTION, APPREHENSION, EXAMINATION, EXCLUSION, AND REMOVAL”.

(2) REDESIGNATING SECTION 232 AS SECTION 232(a).—Amend section 232 (8 U.S.C. 1222)—

(A) by inserting “(a) DETENTION OF ALIENS.—” after “SEC. 232.”, and

(B) by amending the section heading to read as follows:

“DETENTION OF ALIENS FOR PHYSICAL AND MENTAL EXAMINATION”.

(3) REDESIGNATING SECTION 234 AS SECTION 232(b).—Amend section 234 (8 U.S.C. 1224)—

(A) by striking the heading,

(B) by striking “SEC. 234.” and inserting the following: “(b) PHYSICAL AND MENTAL EXAMINATION.—”, and

(C) by moving such provision to the end of section 232.

(4) REDESIGNATING SECTION 238 AS SECTION 233.—Redesignate section 238 (8 U.S.C. 1228) as section 233 and move the section to immediately follow section 232.

(5) REDESIGNATING SECTION 242A AS SECTION 238.—Redesignate section 242A as section 238, strike “DEPORTATION” in its heading and insert “REMOVAL”, and move the section to immediately follow section 237 (as redesignated by section 305(a)(2)).

(6) STRIKING SECTION 242B.—Strike section 242B (8 U.S.C. 1252b).

(7) STRIKING SECTION 244 AND REDESIGNATING SECTION 244A AS SECTION 244.—Strike section 244 (8 U.S.C. 1254) and redesignate section 244A as section 244.

(8) AMENDING CHAPTER HEADING.—Amend the heading for chapter 5 of title II to read as follows:

“CHAPTER 5—ADJUSTMENT AND CHANGE OF STATUS”.

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) EXPEDITED PROCEDURES FOR AGGRAVATED FELONS (FORMER SECTION 242A).—Section 238 (which, previous to redesignation under section 308(b)(5), was section 242A) is amended—

(A) in subsection (a)(1), by striking “section 242” and inserting “section 240”;

(B) in subsection (a)(2), by striking “section 242(a)(2)” and inserting “section 236(c)”;

(C) in subsection (b)(1), by striking “section 241(a)(2)(A)(iii)” and inserting “section 237(a)(2)(A)(iii)”.

(2) TREATMENT OF CERTAIN HELPLESS ALIENS.—

(A) CERTIFICATION OF HELPLESS ALIENS.—Section 232 (8 U.S.C. 1222), as amended by section 308(b)(2), is further amended by adding at the end the following new subsection:

“(c) CERTIFICATION OF CERTAIN HELPLESS ALIENS.—If an examining medical officer determines that an alien arriving in the United States is inadmissible, is helpless from sickness, mental or physical disability, or infancy, and is accompanied by another alien whose protection or guardianship may be required, the officer may certify such fact for purposes of applying section 212(a)(10)(B) with respect to the other alien.”.

(B) GROUND OF INADMISSIBILITY FOR PROTECTION AND GUARDIANSHIP OF ALIENS DENIED ADMISSION FOR HEALTH OR INFANCY.—Subparagraph (B) of section 212(a)(10) (8 U.S.C. 1182(a)(10)), as redesignated by section 301(a)(1), is amended to read as follows:

“(B) GUARDIAN REQUIRED TO ACCOMPANY HELPLESS ALIEN.—Any alien—

“(i) who is accompanying another alien who is inadmissible and who is certified to be

helpless from sickness, mental or physical disability, or infancy pursuant to section 232(c), and

“(ii) whose protection or guardianship is determined to be required by the alien described in clause (i), is inadmissible.”.

(3) CONTINGENT CONSIDERATION IN RELATION TO REMOVAL OF ALIENS.—Section 273(a) (8 U.S.C. 1323(a)) is amended—

(A) by inserting “(1)” after “(a)”, and

(B) by adding at the end the following new paragraph:

“(2) It is unlawful for an owner, agent, master, commanding officer, person in charge, purser, or consignee of a vessel or aircraft who is bringing an alien (except an alien crewmember) to the United States to take any consideration to be kept or returned contingent on whether an alien is admitted to, or ordered removed from, the United States.”.

(4) CLARIFICATION.—(A) Section 238(a)(1), which, previous to redesignation under section 308(b)(5), was section 242A(a)(1), is amended by adding at the end the following: “Nothing in this section shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.”.

(B) Section 225 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416), as amended by section 851(b)(15), is amended by striking “and nothing in” and all that follows up to “shall”.

(d) ADDITIONAL CONFORMING AMENDMENTS RELATING TO EXCLUSION AND INADMISSIBILITY.—

(1) SECTION 212.—Section 212 (8 U.S.C. 1182(a)) is amended—

(A) in the heading, by striking “EXCLUDED FROM” and inserting “INELIGIBLE FOR”;

(B) in the matter in subsection (a) before paragraph (1), by striking all that follows “(a)” and inserting the following: “CLASSES OF ALIENS INELIGIBLE FOR VISAS OR ADMISSION.—Except as otherwise provided in this Act, aliens who are inadmissible under the following paragraphs are ineligible to receive visas and ineligible to be admitted to the United States:”;

(C) in subsection (a), by striking “is excludable” and inserting “is inadmissible” each place it appears;

(D) in subsections (a)(5)(C), (d)(1), (k), by striking “exclusion” and inserting “inadmissibility”;

(E) in subsections (b), (d)(3), (h)(1)(A)(i), and (k), by striking “excludable” each place it appears and inserting “inadmissible”;

(F) in subsection (b)(2), by striking “or ineligible for entry”;

(G) in subsection (d)(7), by striking “excluded from” and inserting “denied”; and

(H) in subsection (h)(1)(B), by striking “exclusion” and inserting “denial of admission”.

(2) SECTION 241.—Section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2), is amended—

(A) in subsection (a)(1)(H), by striking “excludable” and inserting “inadmissible”;

(B) in subsection (a)(4)(C)(ii), by striking “excludability” and inserting “inadmissibility”;

(C) in subsection (c), by striking “exclusion” and inserting “inadmissibility”.

(3) OTHER GENERAL REFERENCES.—The following provisions are amended by striking “excludability” and “excludable” each place each appears and inserting “inadmissibility” and “inadmissible”, respectively:

(A) Sections 101(f)(3), 213, 234 (before redesignation by section 308(b)), 241(a)(1) (before redesignation by section 305(a)(2)), 272(a), 277, 286(h)(2)(A)(v), and 286(h)(2)(A)(vi).

(B) Section 601(c) of the Immigration Act of 1990.

(C) Section 128 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138).

(D) Section 1073 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337).

(E) Section 221 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416).

(4) RELATED TERMS.—

(A) Section 101(a)(17) (8 U.S.C. 1101(a)(17)) is amended by striking "or expulsion" and inserting "expulsion, or removal".

(B) Section 102 (8 U.S.C. 1102) is amended by striking "exclusion or deportation" and inserting "removal".

(C) Section 103(c)(2) (8 U.S.C. 1103(c)(2)) is amended by striking "been excluded or deported" and inserting "not been admitted or have been removed".

(D) Section 206 (8 U.S.C. 1156) is amended by striking "excluded from admission to the United States and deported" and inserting "denied admission to the United States and removed".

(E) Section 216(f) (8 U.S.C. 1186a) is amended by striking "exclusion" and inserting "inadmissibility".

(F) Section 217 (8 U.S.C. 1187) is amended by striking "excluded from admission" and inserting "denied admission at the time of arrival" each place it appears.

(G) Section 221(f) (8 U.S.C. 1201) is amended by striking "exclude" and inserting "deny admission to".

(H) Section 232(a) (8 U.S.C. 1222(a)), as redesignated by subsection (b)(2), is amended by striking "excluded by" and "the excluded classes" and inserting "inadmissible under" and "inadmissible classes", respectively.

(I)(i) Section 272 (8 U.S.C. 1322) is amended—

(I) by striking "EXCLUSION" in the heading and inserting "DENIAL OF ADMISSION",

(II) in subsection (a), by striking "excluding condition" and inserting "condition causing inadmissibility", and

(III) in subsection (c), by striking "excluding".

(ii) The item in the table of contents relating to such section is amended by striking "exclusion" and inserting "denial of admission".

(J) Section 276(a) (8 U.S.C. 1326) is amended—

(i) in paragraph (1), by striking "deported or excluded and deported" and inserting "denied admission or removed", and

(ii) in paragraph (2)(B), by striking "excluded and deported" and inserting "denied admission and removed".

(K) Section 286(h)(2)(A)(vi) (8 U.S.C. 1356(h)(2)(A)(vi)) is amended by striking "exclusion" each place it appears and inserting "removal".

(L) Section 287 (8 U.S.C. 1357) is amended—

(i) in subsection (a), by striking "or expulsion" each place it appears and inserting "expulsion, or removal", and

(ii) in subsection (c), by striking "exclusion from" and inserting "denial of admission to".

(M) Section 290(a) (8 U.S.C. 1360(a)) is amended by striking "admitted to the United States, or excluded therefrom" each place it appears and inserting "admitted or denied admission to the United States".

(N) Section 291 (8 U.S.C. 1361) is amended by striking "subject to exclusion" and inserting "inadmissible" each place it appears.

(O) Section 292 (8 U.S.C. 1362) is amended by striking "exclusion or deportation" each place it appears and inserting "removal".

(P) Section 360 (8 U.S.C. 1503) is amended—

(i) in subsection (a), by striking "exclusion" each place it appears and inserting "removal", and

(ii) in subsection (c), by striking "excluded from" and inserting "denied".

(Q) Section 301(a)(1) of the Immigration Act of 1990 is amended by striking "exclusion" and inserting "inadmissibility".

(R) Section 401(c) of the Refugee Act of 1980 is amended by striking "deportation or exclusion" and inserting "removal".

(S) Section 501(e)(2) of the Refugee Education Assistance Act of 1980 (Public Law 96-422) is amended—

(i) by striking "exclusion or deportation" each place it appears and inserting "removal", and

(ii) by striking "deportation or exclusion" each place it appears and inserting "removal".

(T) Section 4113(c) of title 18, United States Code, is amended by striking "exclusion and deportation" and inserting "removal".

(e) REVISION OF TERMINOLOGY RELATING TO DEPORTATION.—

(1) Each of the following is amended by striking "deportation" each place it appears and inserting "removal":

(A) Subparagraphs (A)(iii)(II), (A)(iv)(II), and (B)(iii)(II) of section 204(a)(1) (8 U.S.C. 1154(a)(1)).

(B) Section 212(d)(1) (8 U.S.C. 1182(d)(1)).

(C) Section 212(d)(11) (8 U.S.C. 1182(d)(11)).

(D) Section 214(k)(4)(C) (8 U.S.C. 1184(k)(4)(C)), as redesignated by section 851(a)(3)(A).

(E) Section 241(a)(1)(H) (8 U.S.C. 1251(a)(1)(H)), before redesignation as section 237 by section 305(a)(2).

(F) Section 242A (8 U.S.C. 1252a), before redesignation as section 238 by subsection (b)(5).

(G) Subsections (a)(3) and (b)(5)(B) of section 244A (8 U.S.C. 1254a), before redesignation as section 244 by subsection (b)(7).

(H) Section 246(a) (8 U.S.C. 1256(a)).

(I) Section 254 (8 U.S.C. 1284).

(J) Section 263(a)(4) (8 U.S.C. 1303(a)(4)).

(K) Section 276(b) (8 U.S.C. 1326(b)).

(L) Section 286(h)(2)(A)(v) (8 U.S.C. 1356(h)(2)(A)(v)).

(M) Section 287(g) (8 U.S.C. 1357(g)) (as added by section 122).

(N) Section 291 (8 U.S.C. 1361).

(O) Section 318 (8 U.S.C. 1429).

(P) Section 130005(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322).

(Q) Section 4113(b) of title 18, United States Code.

(2) Each of the following is amended by striking "deported" each place it appears and inserting "removed":

(A) Section 212(d)(7) (8 U.S.C. 1182(d)(7)).

(B) Section 214(d) (8 U.S.C. 1184(d)).

(C) Section 241(a) (8 U.S.C. 1251(a)), before redesignation as section 237 by section 305(a)(2).

(D) Section 242A(c)(2)(D)(iv) (8 U.S.C. 1252a(c)(2)(D)(iv)), as amended by section 851(b)(14) but before redesignation as section 238 by subsection (b)(5).

(E) Section 252(b) (8 U.S.C. 1282(b)).

(F) Section 254 (8 U.S.C. 1284).

(G) Subsections (b) and (c) of section 266 (8 U.S.C. 1306).

(H) Section 301(a)(1) of the Immigration Act of 1990.

(I) Section 4113 of title 18, United States Code.

(3) Section 101(g) (8 U.S.C. 1101(g)) is amended by inserting "or removed" after "deported" each place it appears.

(4) Section 103(c)(2) (8 U.S.C. 1103(c)(2)) is amended by striking "suspension of deportation" and inserting "cancellation of removal".

(5) Section 201(b)(1)(D) (8 U.S.C. 1151(b)(1)(D)) is amended by striking "deportation is suspended" and inserting "removal is canceled".

(6) Section 212(l)(2)(B) (8 U.S.C. 1182(l)(2)(B)) is amended by striking "deportation against" and inserting "removal of".

(7) Subsections (b)(2), (c)(2)(B), (c)(3)(D), (c)(4)(A), and (d)(2)(C) of section 216 (8 U.S.C. 1186a) are each amended by striking "DEPORTATION", "deportation", "deport", and "deported" each place each appears and inserting "REMOVAL", "removal", "remove", and "removed", respectively.

(8) Subsections (b)(2), (c)(2)(B), (c)(3)(D), and (d)(2)(C) of section 216A (8 U.S.C. 1186b) are each amended by striking "DEPORTATION", "deportation", "deport", and "deported" and inserting "REMOVAL", "removal", "remove", and "removed", respectively.

(9) Section 217(b)(2) (8 U.S.C. 1187(b)(2)) is amended by striking "deportation against" and inserting "removal of".

(10) Section 242A (8 U.S.C. 1252a), before redesignation as section 238 by subsection (b)(6), is amended, in the headings to various subdivisions, by striking "DEPORTATION" and "DEPORTATION" and inserting "REMOVAL" and "REMOVAL", respectively.

(11) Section 244A(a)(1)(A) (8 U.S.C. 1254a(a)(1)(A)), before redesignation as section 244 by subsection (b)(8), is amended—

(A) in subsection (a)(1)(A), by striking "deport" and inserting "remove", and

(B) in subsection (e), by striking "SUSPENSION OF DEPORTATION" and inserting "CANCELLATION OF REMOVAL".

(12) Section 254 (8 U.S.C. 1284) is amended by striking "deport" each place it appears and inserting "remove".

(13) Section 273(d) (8 U.S.C. 1323(d)) is repealed.

(14)(A) Section 276 (8 U.S.C. 1326) is amended by striking "DEPORTED" and inserting "REMOVED".

(B) The item in the table of contents relating to such section is amended by striking "deported" and inserting "removed".

(15) Section 318 (8 U.S.C. 1429) is amended by striking "suspending" and inserting "canceling".

(16) Section 301(a) of the Immigration Act of 1990 is amended by striking "DEPORTATION" and inserting "REMOVAL".

(17) The heading of section 130005 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322) is amended by striking "deportation" and inserting "removal".

(18) Section 9 of the Peace Corps Act (22 U.S.C. 2508) is amended by striking "deported" and all that follows through "Deportation" and inserting "removed pursuant to chapter 4 of title II of the Immigration and Nationality Act".

(19) Section 8(c) of the Foreign Agents Registration Act (22 U.S.C. 618(c)) is amended by striking "deportation" and all that follows and inserting "removal pursuant to chapter 4 of title II of the Immigration and Nationality Act".

(f) REVISION OF REFERENCES TO ENTRY.—

(1) The following provisions are amended by striking "entry" and inserting "admission" each place it appears:

(A) Section 101(a)(15)(K) (8 U.S.C. 1101(a)(15)(K)).

(B) Section 101(a)(30) (8 U.S.C. 1101(a)(30)).

(C) Section 212(a)(2)(D) (8 U.S.C. 1182(a)(2)(D)).

(D) Section 212(a)(6)(C)(i) (8 U.S.C. 1182(a)(6)(C)(i)).

(E) Section 212(h)(1)(A)(i) (8 U.S.C. 1182(h)(1)(A)(i)).

(F) Section 212(j)(1)(D) (8 U.S.C. 1182(j)(1)(D)).

(G) Section 214(c)(2)(A) (8 U.S.C. 1184(c)(2)(A)).

(H) Section 214(d) (8 U.S.C. 1184(d)).

(I) Section 216(b)(1)(A)(i) (8 U.S.C. 1186a(b)(1)(A)(i)).

(J) Section 216(d)(1)(A)(i)(III) (8 U.S.C. 1186a(d)(1)(A)(i)(III)).

(K) Subsection (b) of section 240 (8 U.S.C. 1230), before redesignation as section 240C by section 304(a)(2).

(L) Subsection (a)(1)(G) of section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2).

(M) Subsection (a)(1)(H) of section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2), other than the last time it appears.

(N) Paragraphs (2) and (4) of subsection (a) of section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2).

(O) Section 245(e)(2) (8 U.S.C. 1255(e)(3)).

(P) Section 247(a) (8 U.S.C. 1257(a)).

(Q) Section 601(c)(2) of the Immigration Act of 1990.

(2) The following provisions are amended by striking "enter" and inserting "be admitted":

(A) Section 204(e) (8 U.S.C. 1154(e)).

(B) Section 221(h) (8 U.S.C. 1201(h)).

(C) Section 245(e)(2) (8 U.S.C. 1255(e)(2)).

(3) The following provisions are amended by striking "enters" and inserting "is admitted to":

(A) Section 212(j)(1)(D)(ii) (8 U.S.C. 1154(e)).

(B) Section 214(c)(5)(B) (8 U.S.C. 1184(c)(5)(B)).

(4) Subsection (a) of section 238 (8 U.S.C. 1228), before redesignation as section 233 by section 308(b)(4), is amended by striking "entry and inspection" and inserting "inspection and admission".

(5) Subsection (a)(1)(H)(ii) of section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2), is amended by striking "at entry".

(6) Section 7 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403h) is amended by striking "that the entry", "given entry into", and "entering" and inserting "that the admission", "admitted to", and "admitted to".

(7) Section 4 of the Atomic Weapons and Special Nuclear Materials Rewards Act (50 U.S.C. 47c) is amended by striking "entry" and inserting "admission".

(g) CONFORMING REFERENCES TO REORGANIZED SECTIONS.—

(1) REFERENCES TO SECTIONS 232, 234, 238, 239, 240, 241, 242A, AND 244A.—Any reference in law in effect on the day before the date of the enactment of this Act to section 232, 234, 238, 239, 240, 241, 242A, or 244A of the Immigration and Nationality Act (or a subdivision of such section) is deemed, as of the title III-A effective date, to refer to section 232(a), 232(b), 233, 234, 234A, 237, 238, or 244 of such Act (or the corresponding subdivision of such section), as redesignated by this subtitle. Any reference in law to section 241 (or a subdivision of such section) of the Immigration and Nationality Act in an amendment made by a subsequent subtitle of this title is deemed a reference (as of the title III-A effective date) to section 237 (or the corresponding subdivision of such section), as redesignated by this subtitle.

(2) REFERENCES TO SECTION 106.—

(A) Sections 242A(b)(3) and 242A(c)(3)(A)(ii) (8 U.S.C. 1252a(b)(3), 1252a(c)(3)(A)(ii)), as amended by section 851(b)(14) but before redesignation as section 238 by subsection (b)(5), are each amended by striking "106" and inserting "242".

(B) Sections 210(e)(3)(A) and 245A(f)(4)(A) (8 U.S.C. 1160(e)(3)(A), 1255A(f)(4)(A)) are amended by inserting "(as in effect before October 1, 1996)" after "106".

(C) Section 242A(c)(3)(A)(iii) (8 U.S.C. 1252a(c)(3)(A)(iii)), as amended by section 851(b)(14) but before redesignation as section 238 by subsection (b)(5), is amended by striking "106(a)(1)" and inserting "242(b)(1)".

(3) REFERENCES TO SECTION 236.—

(A) Sections 205 and 209(a)(1) (8 U.S.C. 1155, 1159(a)(1)) are each amended by striking "236" and inserting "240".

(B) Section 4113(c) of title 18, United States Code, is amended by striking "1226 of title 8, United States Code" and inserting "240 of the Immigration and Nationality Act".

(4) REFERENCES TO SECTION 237.—

(A) Section 209(a)(1) (8 U.S.C. 1159(a)(1)) is amended by striking "237" and inserting "241".

(B) Section 212(d)(7) (8 U.S.C. 1182(d)(7)) is amended by striking "237(a)" and inserting "241(c)".

(C) Section 280(a) (8 U.S.C. 1330(a)) is amended by striking "237, 239, 243" and inserting "234, 243(c)(2)".

(5) REFERENCES TO SECTION 242.—

(A)(i) Sections 214(d), 252(b), and 287(f)(1) (8 U.S.C. 1184(d), 1282(b), 1357(f)(1)) are each amended by striking "242" and inserting "240".

(ii) Subsection (c)(4) of section 242A (8 U.S.C. 1252a), as amended by section 851(b)(14) but before redesignation as section 237 by subsection (b)(5), are each amended by striking "242" and inserting "240".

(iii) Section 245A(a)(1)(B) (8 U.S.C. 1255A(a)(1)(B)) is amended by inserting "(as in effect before October 1, 1996)" after "242".

(iv) Section 4113 of title 18, United States Code, is amended—

(I) in subsection (a), by striking "section 1252(b) or section 1254(e) of title 8, United States Code," and inserting "section 240B of the Immigration and Nationality Act"; and

(II) in subsection (b), by striking "section 1252 of title 8, United States Code," and inserting "section 240 of the Immigration and Nationality Act".

(B) Section 130002(a) of Public Law 103-322, as amended by section 361(a), is amended by striking "242(a)(3)(A)" and inserting "236(d)".

(C) Section 242A(b)(1) (8 U.S.C. 1252a(b)(1)), before redesignation as section 238 by section 308(b)(5), is amended by striking "242(b)" and inserting "240".

(D) Section 242A(c)(2)(D)(ii) (8 U.S.C. 1252a(c)(2)(D)(ii)), as amended by section 851(b)(14) but before redesignation as section 238 by subsection (b)(5), is amended by striking "242(b)" and inserting "240".

(E) Section 1821(e) of title 28, United States Code, is amended by striking "242(b)" and inserting "240".

(F) Section 130007(a) of Public Law 103-322 is amended by striking "242(i)" and inserting "239(d)".

(G) Section 20301(c) of Public Law 103-322 is amended by striking "242(j)(5)" and "242(j)" and inserting "241(h)(5)" and "241(h)", respectively.

(6) REFERENCES TO SECTION 242B.—

(A) Section 303(d)(2) of the Immigration Act of 1990 is amended by striking "242B" and inserting "240(b)(5)".

(B) Section 545(g)(1)(B) of the Immigration Act of 1990 is amended by striking "242B(a)(4)" and inserting "239(a)(4)".

(7) REFERENCES TO SECTION 243.—

(A) Section 214(d) (8 U.S.C. 1184(d)) is amended by striking "243" and inserting "241".

(B)(i) Section 315(c) of the Immigration Reform and Control Act of 1986 is amended by striking "243(g)" and "1253(g)" and inserting "243(d)" and "1253(d)" respectively.

(ii) Section 702(b) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 is amended by striking "243(g)" and inserting "243(d)".

(iii) Section 903(b) of Public Law 100-204 is amended by striking "243(g)" and inserting "243(d)".

(C)(i) Section 6(f)(2)(F) of the Food Stamp Act of 1977 (7 U.S.C. 2015(f)(2)(F)) is amended by striking "243(h)" and inserting "241(b)(3)".

(ii) Section 214(a)(5) of the Housing and Community Development Act of 1980 (42

U.S.C. 1436a(a)(5)) is amended by striking "243(h)" and inserting "241(b)(3)".

(D)(i) Subsection (c)(2)(B)(ii) of section 244A (8 U.S.C. 1254a), before redesignation as section 244 by section 308(b)(7), is amended by striking "243(h)(2)" and inserting "208(b)(2)(A)".

(ii) Section 301(e)(2) of the Immigration Act of 1990 is amended by striking "243(h)(2)" and inserting "208(b)(2)(A)".

(E) Section 316(f) (8 U.S.C. 1427(f)) is amended by striking "subparagraphs (A) through (D) of paragraph 243(h)(2)" and inserting "clauses (i) through (v) of section 208(b)(2)(A)".

(8) REFERENCES TO SECTION 244.—

(A)(i) Section 201(b)(1)(D) (8 U.S.C. 1151(b)(1)(D)) and subsection (e) of section 244A (8 U.S.C. 1254a), before redesignation as section 244 by section 308(b)(7), are each amended by striking "244(a)" and inserting "240A(a)".

(ii) Section 304(c)(1)(B) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (Public Law 102-232) is amended by striking "244(a)" and inserting "240A(a)".

(B) Section 304(c)(1)(B) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (Public Law 102-232) is amended by striking "244(b)(2)" and inserting "240A(b)(2)".

(C) Section 364(a)(2) of this Act is amended by striking "244(a)(3)" and inserting "240A(a)(3)".

(9) REFERENCES TO CHAPTER 5.—

(A) Sections 266(b), 266(c), and 291 (8 U.S.C. 1306(b), 1306(c), 1361) are each amended by striking "chapter 5" and inserting "chapter 4".

(B) Section 6(b) of the Act of August 1, 1956 (50 U.S.C. 855(b)) is amended by striking "chapter 5, title II, of the Immigration and Nationality Act (66 Stat. 163)" and inserting "chapter 4 of title II of the Immigration and Nationality Act".

(10) MISCELLANEOUS CROSS-REFERENCE CORRECTIONS FOR NEWLY ADDED PROVISIONS.—

(A) Section 245(c)(6), as amended by section 332(d), is amended by striking "241(a)(4)(B)" and inserting "237(a)(4)(B)".

(B) Section 249(d), as amended by section 332(e), is amended by striking "241(a)(4)(B)" and inserting "237(a)(4)(B)".

(C) Section 276(b)(3), as inserted by section 321(b), is amended by striking "excluded" and "excludable" and inserting "removed" and "inadmissible", respectively.

(D) Section 505(c)(7), as added by section 321(a)(1), is amended by amending subparagraphs (B) through (D) to read as follows:

"(B) Withholding of removal under section 241(b)(3).

"(C) Cancellation of removal under section 240A.

"(D) Voluntary departure under section 240B."

(E) Section 506(b)(2)(B), as added by section 321(a)(1), is amended by striking "deportation" and inserting "removal".

(F) Section 508(c)(2)(D), as added by section 321(a)(1), is amended by striking "exclusion because such alien is excludable" and inserting "removal because such alien is inadmissible".

(G) Section 130007(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322), as amended by section 851(a)(6), is amended by striking "242A(a)(3)" and inserting "238(a)(3)".

(H) Section 212(h), as amended by section 301(h), is amended by striking "section 212(c)" and inserting "paragraphs (1) and (2) of section 240A(a)".

**SEC. 309. EFFECTIVE DATES; TRANSITION.**

(a) IN GENERAL.—Except as provided in this section and sections 301(f), 301(h), or 306(c), this subtitle and the amendments made by

this subtitle shall take effect on the first day of the first month beginning more than 180 days after the date of the enactment of this Act (in this title referred to as the "title III-A effective date").

(b) **PROMULGATION OF REGULATIONS.**—The Attorney General shall first promulgate regulations to carry out this subtitle by not later than 30 days before the title III-A effective date.

(c) **TRANSITION FOR ALIENS IN PROCEEDINGS.**—

(1) **GENERAL RULE THAT NEW RULES DO NOT APPLY.**—Subject to the succeeding provisions of this subsection, in the case of an alien who is in exclusion or deportation proceedings as of the title III-A effective date—

(A) the amendments made by this subtitle shall not apply, and

(B) the proceedings (including judicial review thereof) shall continue to be conducted without regard to such amendments.

(2) **ATTORNEY GENERAL OPTION TO ELECT TO APPLY NEW PROCEDURES.**—In a case described in paragraph (1) in which an evidentiary hearing under section 236 or 242 and 242B of the Immigration and Nationality Act has not commenced as of the title III-A effective date, the Attorney General may elect to proceed under chapter 4 of title II of such Act (as amended by this subtitle). The Attorney General shall provide notice of such election to the alien involved not later than 30 days before the date any evidentiary hearing is commenced. If the Attorney General makes such election, the notice of hearing provided to the alien under section 235 or 242(a) of such Act shall be valid as if provided under section 239 of such Act (as amended by this subtitle) to confer jurisdiction on the immigration judge.

(3) **ATTORNEY GENERAL OPTION TO TERMINATE AND REINITIATE PROCEEDINGS.**—In the case described in paragraph (1), the Attorney General may elect to terminate proceedings in which there has not been a final administrative decision and to reinstate proceedings under chapter 4 of title II the Immigration and Nationality Act (as amended by this subtitle). Any determination in the terminated proceeding shall not be binding in the reinitiated proceeding.

(4) **TRANSITIONAL CHANGES IN JUDICIAL REVIEW.**—In the case described in paragraph (1) in which a final order of exclusion or deportation is entered more than 30 days after the date of the enactment of this Act, notwithstanding any provision of section 106 of the Immigration and Nationality Act (as in effect as of the date of the enactment of this Act) to the contrary—

(A) in the case of judicial review of a final order of exclusion, subsection (b) of such section shall not apply and the action for judicial review shall be governed by the provisions of subsections (a) and (c) of such in the same manner as they apply to judicial review of orders of deportation;

(B) a court may not order the taking of additional evidence under section 2347(c) of title 28, United States Code;

(C) the petition for judicial review must be filed not later than 30 days after the date of the final order of exclusion or deportation; and

(D) the petition for review shall be filed with the court of appeals for the judicial circuit in which the administrative proceedings before the special inquiry officer or immigration judge were completed.

(5) **TRANSITIONAL RULE WITH REGARD TO SUSPENSION OF DEPORTATION.**—Paragraphs (1) and (2) of section 240A(d) of the Immigration and Nationality Act (relating to continuous residence or physical presence) shall apply to notices to appear issued after the date of the enactment of this Act.

(6) **TRANSITION FOR CERTAIN FAMILY UNITY ALIENS.**—The Attorney General may waive

the application of section 212(a)(9) of the Immigration and Nationality Act, as inserted by section 301(b)(1), in the case of an alien who is provided benefits under the provisions of section 301 of the Immigration Act of 1990 (relating to family unity).

(7) **LIMITATION ON SUSPENSION OF DEPORTATION.**—The Attorney General may not suspend the deportation and adjust the status under section 244 of the Immigration and Nationality Act of more than 4,000 aliens in any fiscal year (beginning after the date of the enactment of this Act). The previous sentence shall apply regardless of when an alien applied for such suspension and adjustment.

(d) **TRANSITIONAL REFERENCES.**—For purposes of carrying out the Immigration and Nationality Act, as amended by this subtitle—

(1) any reference in section 212(a)(1)(A) of such Act to the term "inadmissible" is deemed to include a reference to the term "excludable", and

(2) any reference in law to an order of removal shall be deemed to include a reference to an order of exclusion and deportation or an order of deportation.

(e) **TRANSITION.**—No period of time before the date of the enactment of this Act shall be included in the period of 1 year described in section 212(a)(6)(B)(i) of the Immigration and Nationality Act (as amended by section 301(c)).

### **Subtitle B—Removal of Alien Terrorists**

#### **PART 1—REMOVAL PROCEDURES FOR ALIEN TERRORISTS**

##### **SEC. 321. REMOVAL PROCEDURES FOR ALIEN TERRORISTS.**

(a) **IN GENERAL.**—The Immigration and Nationality Act is amended—

(1) by adding at the end of the table of contents the following:

"TITLE V—SPECIAL REMOVAL PROCEDURES FOR ALIEN TERRORISTS

"Sec. 501. Definitions.

"Sec. 502. Establishment of special removal court; panel of attorneys to assist with classified information.

"Sec. 503. Application for initiation of special removal proceeding.

"Sec. 504. Consideration of application.

"Sec. 505. Requiring Congressional review of world-wide levels every 5 years.

"Sec. 506. Consideration of classified information.

"Sec. 507. Appeals.

"Sec. 508. Detention and custody.", and

(2) by adding at the end the following new title:

"TITLE V—SPECIAL REMOVAL PROCEDURES FOR ALIEN TERRORISTS

#### **"DEFINITIONS**

"SEC. 501. In this title:

"(1) The term 'alien terrorist' means an alien described in section 241(a)(4)(B).

"(2) The term 'classified information' has the meaning given such term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.).

"(3) The term 'national security' has the meaning given such term in section 1(b) of the Classified Information Procedures Act (18 U.S.C. App.).

"(4) The term 'special attorney' means an attorney who is on the panel established under section 502(e).

"(5) The term 'special removal court' means the court established under section 502(a).

"(6) The term 'special removal hearing' means a hearing under section 505.

"(7) The term 'special removal proceeding' means a proceeding under this title.

"ESTABLISHMENT OF SPECIAL REMOVAL COURT; PANEL OF ATTORNEYS TO ASSIST WITH CLASSIFIED INFORMATION

"SEC. 502. (a) **IN GENERAL.**—The Chief Justice of the United States shall publicly designate 5 district court judges from 5 of the United States judicial circuits who shall constitute a court which shall have jurisdiction to conduct all special removal proceedings.

"(b) **TERMS.**—Each judge designated under subsection (a) shall serve for a term of 5 years and shall be eligible for redesignation, except that the four associate judges first so designated shall be designated for terms of one, two, three, and four years so that the term of one judge shall expire each year.

"(c) **CHIEF JUDGE.**—The Chief Justice shall publicly designate one of the judges of the special removal court to be the chief judge of the court. The chief judge shall promulgate rules to facilitate the functioning of the court and shall be responsible for assigning the consideration of cases to the various judges.

"(d) **EXPEDITIOUS AND CONFIDENTIAL NATURE OF PROCEEDINGS.**—The provisions of section 103(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(c)) shall apply to proceedings under this title in the same manner as they apply to proceedings under such Act.

"(e) **ESTABLISHMENT OF PANEL OF SPECIAL ATTORNEYS.**—The special removal court shall provide for the designation of a panel of attorneys each of whom—

"(1) has a security clearance which affords the attorney access to classified information, and

"(2) has agreed to represent permanent resident aliens with respect to classified information under section 506 in accordance with (and subject to the penalties under) this title.

"APPLICATION FOR INITIATION OF SPECIAL REMOVAL PROCEEDING

"SEC. 503. (a) **IN GENERAL.**—Whenever the Attorney General has classified information that an alien is an alien terrorist, the Attorney General, in the Attorney General's discretion, may seek removal of the alien under this title through the filing of a written application described in subsection (b) with the special removal court seeking an order authorizing a special removal proceeding under this title. The application shall be submitted in camera and ex parte and shall be filed under seal with the court.

"(b) **CONTENTS OF APPLICATION.**—Each application for a special removal proceeding shall include all of the following:

"(1) The identity of the Department of Justice attorney making the application.

"(2) The approval of the Attorney General or the Deputy Attorney General for the filing of the application based upon a finding by that individual that the application satisfies the criteria and requirements of this title.

"(3) The identity of the alien for whom authorization for the special removal proceedings is sought.

"(4) A statement of the facts and circumstances relied on by the Department of Justice to establish that—

"(A) the alien is an alien terrorist and is physically present in the United States, and

"(B) with respect to such alien, adherence to the provisions of title II regarding the removal of aliens would pose a risk to the national security of the United States.

"(5) An oath or affirmation respecting each of the facts and statements described in the previous paragraphs.

"(c) **RIGHT TO DISMISS.**—The Department of Justice retains the right to dismiss a removal action under this title at any stage of the proceeding.

## "CONSIDERATION OF APPLICATION

"SEC. 504. (a) IN GENERAL.—In the case of an application under section 503 to the special removal court, a single judge of the court shall be assigned to consider the application. The judge, in accordance with the rules of the court, shall consider the application and may consider other information, including classified information, presented under oath or affirmation. The judge shall consider the application (and any hearing thereof) in camera and ex parte. A verbatim record shall be maintained of any such hearing.

"(b) APPROVAL OF ORDER.—The judge shall enter ex parte the order requested in the application if the judge finds, on the basis of such application and such other information (if any), that there is probable cause to believe that—

"(1) the alien who is the subject of the application has been correctly identified and is an alien terrorist, and

"(2) adherence to the provisions of title II regarding the removal of the identified alien would pose a risk to the national security of the United States.

"(c) DENIAL OF ORDER.—If the judge denies the order requested in the application, the judge shall prepare a written statement of the judge's reasons for the denial.

"(d) EXCLUSIVE PROVISIONS.—Whenever an order is issued under this section with respect to an alien—

"(1) the alien's rights regarding removal and expulsion shall be governed solely by the provisions of this title, and

"(2) except as they are specifically referenced, no other provisions of this Act shall be applicable.

## "SPECIAL REMOVAL HEARINGS

"SEC. 505. (a) IN GENERAL.—In any case in which the application for the order is approved under section 504, a special removal hearing shall be conducted under this section for the purpose of determining whether the alien to whom the order pertains should be removed from the United States on the grounds that the alien is an alien terrorist. Consistent with section 506, the alien shall be given reasonable notice of the nature of the charges against the alien and a general account of the basis for the charges. The alien shall be given notice, reasonable under all the circumstances, of the time and place at which the hearing will be held. The hearing shall be held as expeditiously as possible.

"(b) USE OF SAME JUDGE.—The special removal hearing shall be held before the same judge who granted the order pursuant to section 504 unless that judge is deemed unavailable due to illness or disability by the chief judge of the special removal court, or has died, in which case the chief judge shall assign another judge to conduct the special removal hearing. A decision by the chief judge pursuant to the preceding sentence shall not be subject to review by either the alien or the Department of Justice.

"(c) RIGHTS IN HEARING.—

"(1) PUBLIC HEARING.—The special removal hearing shall be open to the public.

"(2) RIGHT OF COUNSEL.—The alien shall have a right to be present at such hearing and to be represented by counsel. Any alien financially unable to obtain counsel shall be entitled to have counsel assigned to represent the alien. Such counsel shall be appointed by the judge pursuant to the plan for furnishing representation for any person financially unable to obtain adequate representation for the district in which the hearing is conducted, as provided for in section 3006A of title 18, United States Code. All provisions of that section shall apply and, for purposes of determining the maximum amount of compensation, the matter shall be treated as if a felony was charged.

"(3) INTRODUCTION OF EVIDENCE.—The alien shall have a right to introduce evidence on the alien's own behalf.

"(4) EXAMINATION OF WITNESSES.—Except as provided in section 506, the alien shall have a reasonable opportunity to examine the evidence against the alien and to cross-examine any witness.

"(5) RECORD.—A verbatim record of the proceedings and of all testimony and evidence offered or produced at such a hearing shall be kept.

"(6) DECISION BASED ON EVIDENCE AT HEARING.—The decision of the judge in the hearing shall be based only on the evidence introduced at the hearing, including evidence introduced under subsection (e).

"(7) NO RIGHT TO ANCILLARY RELIEF.—In the hearing, the judge is not authorized to consider or provide for relief from removal based on any of the following:

"(A) Asylum under section 208.

"(B) Withholding of deportation under section 243(h).

"(C) Suspension of deportation under section 244(a).

"(D) Voluntary departure under section 244(e).

"(E) Adjustment of status under section 245.

"(F) Registry under section 249.

"(d) SUBPOENAS.—

"(1) REQUEST.—At any time prior to the conclusion of the special removal hearing, either the alien or the Department of Justice may request the judge to issue a subpoena for the presence of a named witness (which subpoena may also command the person to whom it is directed to produce books, papers, documents, or other objects designated therein) upon a satisfactory showing that the presence of the witness is necessary for the determination of any material matter. Such a request may be made ex parte except that the judge shall inform the Department of Justice of any request for a subpoena by the alien for a witness or material if compliance with such a subpoena would reveal evidence or the source of evidence which has been introduced, or which the Department of Justice has received permission to introduce, in camera and ex parte pursuant to subsection (e) and section 506, and the Department of Justice shall be given a reasonable opportunity to oppose the issuance of such a subpoena.

"(2) PAYMENT FOR ATTENDANCE.—If an application for a subpoena by the alien also makes a showing that the alien is financially unable to pay for the attendance of a witness so requested, the court may order the costs incurred by the process and the fees of the witness so subpoenaed to be paid from funds appropriated for the enforcement of title II.

"(3) NATIONWIDE SERVICE.—A subpoena under this subsection may be served anywhere in the United States.

"(4) WITNESS FEES.—A witness subpoenaed under this subsection shall receive the same fees and expenses as a witness subpoenaed in connection with a civil proceeding in a court of the United States.

"(5) NO ACCESS TO CLASSIFIED INFORMATION.—Nothing in this subsection is intended to allow an alien to have access to classified information.

"(e) INTRODUCTION OF CLASSIFIED INFORMATION.—

"(1) IN GENERAL.—When classified information has been summarized pursuant to section 506(b) or where a finding has been made under section 506(b)(5) that no summary is possible, classified information shall be introduced (either in writing or through testimony) in camera and ex parte and neither the alien nor the public shall be informed of such evidence or its sources other than through reference to the summary provided pursuant to such section. Notwithstanding

the previous sentence, the Department of Justice may, in its discretion and, in the case of classified information, after coordination with the originating agency, elect to introduce such evidence in open session.

"(2) TREATMENT OF ELECTRONIC SURVEILLANCE INFORMATION.—

"(A) USE OF ELECTRONIC SURVEILLANCE.—The Government is authorized to use in a special removal proceedings the fruits of electronic surveillance and unconsented physical searches authorized under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) without regard to subsections (c), (e), (f), (g), and (h) of section 106 of that Act.

"(B) NO DISCOVERY OF ELECTRONIC SURVEILLANCE INFORMATION.—An alien subject to removal under this title shall have no right of discovery of information derived from electronic surveillance authorized under the Foreign Intelligence Surveillance Act of 1978 or otherwise for national security purposes. Nor shall such alien have the right to seek suppression of evidence.

"(C) CERTAIN PROCEDURES NOT APPLICABLE.—The provisions and requirements of section 3504 of title 18, United States Code, shall not apply to procedures under this title.

"(3) RIGHTS OF UNITED STATES.—Nothing in this section shall prevent the United States from seeking protective orders and from asserting privileges ordinarily available to the United States to protect against the disclosure of classified information, including the invocation of the military and state secrets privileges.

"(f) INCLUSION OF CERTAIN EVIDENCE.—The Federal Rules of Evidence shall not apply to hearings under this section. Evidence introduced at the special removal hearing, either in open session or in camera and ex parte, may, in the discretion of the Department of Justice, include all or part of the information presented under section 504 used to obtain the order for the hearing under this section.

"(g) ARGUMENTS.—Following the receipt of evidence, the attorneys for the Department of Justice and for the alien shall be given fair opportunity to present argument as to whether the evidence is sufficient to justify the removal of the alien. The attorney for the Department of Justice shall open the argument. The attorney for the alien shall be permitted to reply. The attorney for the Department of Justice shall then be permitted to reply in rebuttal. The judge may allow any part of the argument that refers to evidence received in camera and ex parte to be heard in camera and ex parte.

"(h) BURDEN OF PROOF.—In the hearing the Department of Justice has the burden of showing by clear and convincing evidence that the alien is subject to removal because the alien is an alien terrorist. If the judge finds that the Department of Justice has met this burden, the judge shall order the alien removed and detained pending removal from the United States. If the alien was released pending the special removal hearing, the judge shall order the Attorney General to take the alien into custody.

"(i) WRITTEN ORDER.—At the time of rendering a decision as to whether the alien shall be removed, the judge shall prepare a written order containing a statement of facts found and conclusions of law. Any portion of the order that would reveal the substance or source of information received in camera and ex parte pursuant to subsection (e) shall not be made available to the alien or the public.

## "CONSIDERATION OF CLASSIFIED INFORMATION

"SEC. 506. (a) CONSIDERATION IN CAMERA AND EX PARTE.—In any case in which the application for the order authorizing the spe-

cial procedures of this title is approved, the judge who granted the order shall consider each item of classified information the Department of Justice proposes to introduce in camera and ex parte at the special removal hearing and shall order the introduction of such information pursuant to section 505(e) if the judge determines the information to be relevant.

“(b) PREPARATION AND PROVISION OF WRITTEN SUMMARY.—

“(1) PREPARATION.—The Department of Justice shall prepare a written summary of such classified information which does not pose a risk to national security.

“(2) CONDITIONS FOR APPROVAL BY JUDGE AND PROVISION TO ALIEN.—The judge shall approve the summary so long as the judge finds that the summary is sufficient—

“(A) to inform the alien of the general nature of the evidence that the alien is an alien terrorist, and

“(B) to permit the alien to prepare a defense against deportation.

The Department of Justice shall cause to be delivered to the alien a copy of the summary.

“(3) OPPORTUNITY FOR CORRECTION AND RESUBMITTAL.—If the judge does not approve the summary, the judge shall provide the Department a reasonable opportunity to correct the deficiencies identified by the court and to submit a revised summary.

“(4) CONDITIONS FOR TERMINATION OF PROCEEDINGS IF SUMMARY NOT APPROVED.—

“(A) IN GENERAL.—If, subsequent to the opportunity described in paragraph (3), the judge does not approve the summary, the judge shall terminate the special removal hearing unless the judge makes the findings described in subparagraph (B).

“(B) FINDINGS.—The findings described in this subparagraph are, with respect to an alien, that—

“(i) the continued presence of the alien in the United States would likely cause serious and irreparable harm to the national security or death or serious bodily injury to any person, and

“(ii) the provision of the required summary would likely cause serious and irreparable harm to the national security or death or serious bodily injury to any person.

“(5) CONTINUATION OF HEARING WITHOUT SUMMARY.—If a judge makes the findings described in paragraph (4)(B)—

“(A) if the alien involved is an alien lawfully admitted for permanent residence, the procedures described in subsection (c) shall apply; and

“(B) in all cases the special removal hearing shall continue, the Department of Justice shall cause to be delivered to the alien a statement that no summary is possible, and the classified information submitted in camera and ex parte may be used pursuant to section 505(e).

“(c) SPECIAL PROCEDURES FOR ACCESS AND CHALLENGES TO CLASSIFIED INFORMATION BY SPECIAL ATTORNEYS IN CASE OF LAWFUL PERMANENT ALIENS.—

“(1) IN GENERAL.—The procedures described in this subsection are that the judge (under rules of the special removal court) shall designate a special attorney to assist the alien—

“(A) by reviewing in camera the classified information on behalf of the alien, and

“(B) by challenging through an in camera proceeding the veracity of the evidence contained in the classified information.

“(2) RESTRICTIONS ON DISCLOSURE.—A special attorney receiving classified information under paragraph (1)—

“(A) shall not disclose the information to the alien or to any other attorney representing the alien, and

“(B) who discloses such information in violation of subparagraph (A) shall be subject to

a fine under title 18, United States Code, imprisoned for not less than 10 years nor more than 25 years, or both.

#### “APPEALS

“SEC. 507. (a) APPEALS OF DENIALS OF APPLICATIONS FOR ORDERS.—The Department of Justice may seek a review of the denial of an order sought in an application by the United States Court of Appeals for the District of Columbia Circuit by notice of appeal which must be filed within 20 days after the date of such denial. In such a case the entire record of the proceeding shall be transmitted to the Court of Appeals under seal and the Court of Appeals shall hear the matter ex parte. In such a case the Court of Appeals shall review questions of law de novo, but a prior finding on any question of fact shall not be set aside unless such finding was clearly erroneous.

“(b) APPEALS OF DETERMINATIONS ABOUT SUMMARIES OF CLASSIFIED INFORMATION.—Either party may take an interlocutory appeal to the United States Court of Appeals for the District of Columbia Circuit of—

“(1) any determination by the judge pursuant to section 506(a)—

“(A) concerning whether an item of evidence may be introduced in camera and ex parte, or

“(B) concerning the contents of any summary of evidence to be introduced in camera and ex parte prepared pursuant to section 506(b); or

“(2) the refusal of the court to make the findings permitted by section 506(b)(4)(B).

In any interlocutory appeal taken pursuant to this subsection, the entire record, including any proposed order of the judge or summary of evidence, shall be transmitted to the Court of Appeals under seal and the matter shall be heard ex parte.

“(c) APPEALS OF DECISION IN HEARING.—

“(1) IN GENERAL.—Subject to paragraph (2), the decision of the judge after a special removal hearing may be appealed by either the alien or the Department of Justice to the United States Court of Appeals for the District of Columbia Circuit by notice of appeal.

“(2) AUTOMATIC APPEALS IN CASES OF PERMANENT RESIDENT ALIENS IN WHICH NO SUMMARY PROVIDED.—

“(A) IN GENERAL.—Unless the alien waives the right to a review under this paragraph, in any case involving an alien lawfully admitted for permanent residence who is denied a written summary of classified information under section 506(b)(4) and with respect to which the procedures described in section 506(c) apply, any order issued by the judge shall be reviewed by the Court of Appeals for the District of Columbia Circuit.

“(B) USE OF SPECIAL ATTORNEY.—With respect to any issue relating to classified information that arises in such review, the alien shall be represented only by the special attorney designated under section 506(c)(1) on behalf of the alien.

“(d) GENERAL PROVISIONS RELATING TO APPEALS.—

“(1) NOTICE.—A notice of appeal pursuant to subsection (b) or (c) (other than under subsection (c)(2)) must be filed within 20 days after the date of the order with respect to which the appeal is sought, during which time the order shall not be executed.

“(2) TRANSMITTAL OF RECORD.—In an appeal or review to the Court of Appeals pursuant to subsection (b) or (c)—

“(A) the entire record shall be transmitted to the Court of Appeals, and

“(B) information received pursuant to section 505(e), and any portion of the judge's order that would reveal the substance or source of such information, shall be transmitted under seal.

“(3) EXPEDITED APPELLATE PROCEEDING.—In an appeal or review to the Court of Appeals pursuant to subsection (b) or (c):

“(A) REVIEW.—The appeal or review shall be heard as expeditiously as practicable and the Court may dispense with full briefing and hear the matter solely on the record of the judge of the special removal court and on such briefs or motions as the Court may require to be filed by the parties.

“(B) DISPOSITION.—The Court shall uphold or reverse the judge's order within 60 days after the date of the issuance of the judge's final order.

“(4) STANDARD FOR REVIEW.—In an appeal or review to the Court of Appeals pursuant to subsection (b) or (c):

“(A) QUESTIONS OF LAW.—The Court of Appeals shall review all questions of law de novo.

“(B) QUESTIONS OF FACT.—(i) Subject to clause (ii), a prior finding on any question of fact shall not be set aside unless such finding was clearly erroneous.

“(ii) In the case of a review under subsection (c)(2) in which an alien lawfully admitted for permanent residence was denied a written summary of classified information under section 506(b)(4), the Court of Appeals shall review questions of fact de novo.

“(e) CERTIORARI.—Following a decision by the Court of Appeals pursuant to subsection (b) or (c), either the alien or the Department of Justice may petition the Supreme Court for a writ of certiorari. In any such case, any information transmitted to the Court of Appeals under seal shall, if such information is also submitted to the Supreme Court, be transmitted under seal. Any order of removal shall not be stayed pending disposition of a writ of certiorari except as provided by the Court of Appeals or a Justice of the Supreme Court.

“(f) APPEALS OF DETENTION ORDERS.—

“(1) IN GENERAL.—The provisions of sections 3145 through 3148 of title 18, United States Code, pertaining to review and appeal of a release or detention order, penalties for failure to appear, penalties for an offense committed while on release, and sanctions for violation of a release condition shall apply to an alien to whom section 508(b)(1) applies. In applying the previous sentence—

“(A) for purposes of section 3145 of such title an appeal shall be taken to the United States Court of Appeals for the District of Columbia Circuit, and

“(B) for purposes of section 3146 of such title the alien shall be considered released in connection with a charge of an offense punishable by life imprisonment.

“(2) NO REVIEW OF CONTINUED DETENTION.—The determinations and actions of the Attorney General pursuant to section 508(c)(2)(C) shall not be subject to judicial review, including application for a writ of habeas corpus, except for a claim by the alien that continued detention violates the alien's rights under the Constitution. Jurisdiction over any such challenge shall lie exclusively in the United States Court of Appeals for the District of Columbia Circuit.

#### “DETENTION AND CUSTODY

“SEC. 508. (a) INITIAL CUSTODY.—

“(1) UPON FILING APPLICATION.—Subject to paragraph (2), the Attorney General may take into custody any alien with respect to whom an application under section 503 has been filed and, notwithstanding any other provision of law, may retain such an alien in custody in accordance with the procedures authorized by this title.

“(2) SPECIAL RULES FOR PERMANENT RESIDENT ALIENS.—An alien lawfully admitted for permanent residence shall be entitled to a release hearing before the judge assigned to hear the special removal hearing. Such an alien shall be detained pending the special removal hearing, unless the alien demonstrates to the court that—

“(A) the alien, if released upon such terms and conditions as the court may prescribe

(including the posting of any monetary amount), is not likely to flee, and

“(B) the alien’s release will not endanger national security or the safety of any person or the community.

The judge may consider classified information submitted in camera and ex parte in making a determination under this paragraph.

“(3) RELEASE IF ORDER DENIED AND NO REVIEW SOUGHT.—

“(A) IN GENERAL.—Subject to subparagraph (B), if a judge of the special removal court denies the order sought in an application with respect to an alien and the Department of Justice does not seek review of such denial, the alien shall be released from custody.

“(B) APPLICATION OF REGULAR PROCEDURES.—Subparagraph (A) shall not prevent the arrest and detention of the alien pursuant to title II.

“(b) CONDITIONAL RELEASE IF ORDER DENIED AND REVIEW SOUGHT.—

“(1) IN GENERAL.—If a judge of the special removal court denies the order sought in an application with respect to an alien and the Department of Justice seeks review of such denial, the judge shall release the alien from custody subject to the least restrictive condition or combination of conditions of release described in section 3142(b) and clauses (i) through (xiv) of section 3142(c)(1)(B) of title 18, United States Code, that will reasonably assure the appearance of the alien at any future proceeding pursuant to this title and will not endanger the safety of any other person or the community.

“(2) NO RELEASE FOR CERTAIN ALIENS.—If the judge finds no such condition or combination of conditions, the alien shall remain in custody until the completion of any appeal authorized by this title.

“(c) CUSTODY AND RELEASE AFTER HEARING.—

“(1) RELEASE.—

“(A) IN GENERAL.—Subject to subparagraph (B), if the judge decides pursuant to section 505(i) that an alien should not be removed, the alien shall be released from custody.

“(B) CUSTODY PENDING APPEAL.—If the Attorney General takes an appeal from such decision, the alien shall remain in custody, subject to the provisions of section 3142 of title 18, United States Code.

“(2) CUSTODY AND REMOVAL.—

“(A) CUSTODY.—If the judge decides pursuant to section 505(i) that an alien shall be removed, the alien shall be detained pending the outcome of any appeal. After the conclusion of any judicial review thereof which affirms the removal order, the Attorney General shall retain the alien in custody and remove the alien to a country specified under subparagraph (B).

“(B) REMOVAL.—

“(i) IN GENERAL.—The removal of an alien shall be to any country which the alien shall designate if such designation does not, in the judgment of the Attorney General, in consultation with the Secretary of State, impair the obligation of the United States under any treaty (including a treaty pertaining to extradition) or otherwise adversely affect the foreign policy of the United States.

“(ii) ALTERNATE COUNTRIES.—If the alien refuses to designate a country to which the alien wishes to be removed or if the Attorney General, in consultation with the Secretary of State, determines that removal of the alien to the country so designated would impair a treaty obligation or adversely affect United States foreign policy, the Attorney General shall cause the alien to be removed to any country willing to receive such alien.

“(C) CONTINUED DETENTION.—If no country is willing to receive such an alien, the Attorney General may, notwithstanding any other provision of law, retain the alien in custody.

The Attorney General, in coordination with the Secretary of State, shall make periodic efforts to reach agreement with other countries to accept such an alien and at least every 6 months shall provide to the attorney representing the alien at the special removal hearing a written report on the Attorney General’s efforts. Any alien in custody pursuant to this subparagraph shall be released from custody solely at the discretion of the Attorney General and subject to such conditions as the Attorney General shall deem appropriate.

“(D) FINGERPRINTING.—Before an alien is transported out of the United States pursuant to this subsection, or pursuant to an order of exclusion because such alien is excludable under section 212(a)(3)(B), the alien shall be photographed and fingerprinted, and shall be advised of the provisions of subsection 276(b).

“(d) CONTINUED DETENTION PENDING TRIAL.—

“(1) DELAY IN REMOVAL.—Notwithstanding the provisions of subsection (c)(2), the Attorney General may hold in abeyance the removal of an alien who has been ordered removed pursuant to this title to allow the trial of such alien on any Federal or State criminal charge and the service of any sentence of confinement resulting from such a trial.

“(2) MAINTENANCE OF CUSTODY.—Pending the commencement of any service of a sentence of confinement by an alien described in paragraph (1), such an alien shall remain in the custody of the Attorney General, unless the Attorney General determines that temporary release of the alien to the custody of State authorities for confinement in a State facility is appropriate and would not endanger national security or public safety.

“(3) SUBSEQUENT REMOVAL.—Following the completion of a sentence of confinement by an alien described in paragraph (1) or following the completion of State criminal proceedings which do not result in a sentence of confinement of an alien released to the custody of State authorities pursuant to paragraph (2), such an alien shall be returned to the custody of the Attorney General who shall proceed to carry out the provisions of subsection (c)(2) concerning removal of the alien.

“(e) APPLICATION OF CERTAIN PROVISIONS RELATING TO ESCAPE OF PRISONERS.—For purposes of sections 751 and 752 of title 18, United States Code, an alien in the custody of the Attorney General pursuant to this title shall be subject to the penalties provided by those sections in relation to a person committed to the custody of the Attorney General by virtue of an arrest on a charge of a felony.

“(f) RIGHTS OF ALIENS IN CUSTODY.—

“(1) FAMILY AND ATTORNEY VISITS.—An alien in the custody of the Attorney General pursuant to this title shall be given reasonable opportunity to communicate with and receive visits from members of the alien’s family, and to contact, retain, and communicate with an attorney.

“(2) DIPLOMATIC CONTACT.—An alien in the custody of the Attorney General pursuant to this title shall have the right to contact an appropriate diplomatic or consular official of the alien’s country of citizenship or nationality or of any country providing representation services therefore. The Attorney General shall notify the appropriate embassy, mission, or consular office of the alien’s detention.”

(b) CRIMINAL PENALTY FOR REENTRY OF ALIEN TERRORISTS.—Section 276(b) (8 U.S.C. 1326(b)) is amended—

(1) by striking “or” at the end of paragraph (1),

(2) by striking the period at the end of paragraph (2) and inserting “; or”, and

(3) by inserting after paragraph (2) the following new paragraph:

“(3) who has been excluded from the United States pursuant to subsection 235(c) because the alien was excludable under subsection 212(a)(3)(B) or who has been removed from the United States pursuant to the provisions of title V, and who thereafter, without the permission of the Attorney General, enters the United States or attempts to do so shall be fined under title 18, United States Code, and imprisoned for a period of 10 years, which sentence shall not run concurrently with any other sentence.”

(c) ELIMINATION OF CUSTODY REVIEW BY HABEAS CORPUS.—Section 106(a) (8 U.S.C. 1105a(a)) is amended—

(1) by adding “and” at the end of paragraph (8),

(2) by striking “; and” at the end of paragraph (9) and inserting a period, and

(3) by striking paragraph (10).

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to all aliens without regard to the date of entry or attempted entry into the United States.

#### SEC. 322. FUNDING FOR DETENTION AND REMOVAL OF ALIEN TERRORISTS.

In addition to amounts otherwise appropriated, there are authorized to be appropriated for each fiscal year (beginning with fiscal year 1996) \$5,000,000 to the Immigration and Naturalization Service for the purpose of detaining and removing alien terrorists.

#### PART 2—INADMISSIBILITY AND DENIAL OF RELIEF FOR ALIEN TERRORISTS

#### SEC. 331. MEMBERSHIP IN TERRORIST ORGANIZATION AS GROUND OF INADMISSIBILITY.

(a) IN GENERAL.—Section 212(a)(3)(B) (8 U.S.C. 1182(a)(3)(B)) is amended—

(1) in clause (i)—

(A) by striking “or” at the end of subclause (I),

(B) in subclause (II), by inserting “engaged in or” after “believe,” and

(C) by inserting after subclause (II) the following:

“(III) is a representative of a terrorist organization, or

“(IV) is a member of a terrorist organization which the alien knows or should have known is a terrorist organization,”; and

(2) by adding at the end the following:

“(iv) TERRORIST ORGANIZATION DEFINED.—

“(I) DESIGNATION.—For purposes of this Act, the term ‘terrorist organization’ means a foreign organization designated in the Federal Register as a terrorist organization by the Secretary of State, in consultation with the Attorney General, based upon a finding that the organization engages in, or has engaged in, terrorist activity that threatens the national security of the United States.

“(II) PROCESS.—At least 3 days before designating an organization as a terrorist organization through publication in the Federal Register, the Secretary of State, in consultation with the Attorney General, shall notify the Committees on the Judiciary of the House of Representatives and the Senate of the intent to make such designation and the findings and basis for designation. The Secretary of State, in consultation with the Attorney General, shall create an administrative record and may use classified information in making such a designation. Such information is not subject to disclosure so long as it remains classified, except that it may be disclosed to a court ex parte and in camera under subclause (III) for purposes of judicial review of such a designation. The Secretary of State, in consultation with the Attorney General, shall provide notice and an opportunity for public comment prior to the creation of the administrative record under this subclause.

“(III) JUDICIAL REVIEW.—Any organization designated as a terrorist organization under the preceding provisions of this clause may, not later than 30 days after the date of the designation, seek judicial review thereof in the United States Court of Appeals for the District of Columbia Circuit. Such review shall be based solely upon the administrative record, except that the Government may submit, for ex parte and in camera review, classified information considered in making the designation. The court shall hold unlawful and set aside the designation if the court finds the designation to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, lacking substantial support in the administrative record taken as a whole or in classified information submitted to the court under the previous sentence, contrary to constitutional right, power, privilege, or immunity, or not in accord with the procedures required by law.

“(IV) CONGRESSIONAL REMOVAL AUTHORITY.—The Congress reserves the authority to remove, by law, the designation of an organization as a terrorist organization for purposes of this Act.

“(V) SUNSET.—Subject to subclause (IV), the designation under this clause of an organization as a terrorist organization shall be effective for a period of 2 years from the date of the initial publication of the terrorist organization designation by the Secretary of State. At the end of such period (but no sooner than 60 days prior to the termination of the 2-year-designation period), the Secretary of State, in consultation with the Attorney General, may redesignate the organization in conformity with the requirements of this clause for designation of the organization.

“(VI) REMOVAL AUTHORITY.—The Secretary of State, in consultation with the Attorney General, may remove the terrorist organization designation from any organization previously designated as such an organization, at any time, so long as the Secretary publishes notice of the removal in the Federal Register. The Secretary is not required to report to Congress prior to so removing such designation.

“(v) REPRESENTATIVE DEFINED.—

“(I) IN GENERAL.—In this subparagraph, the term ‘representative’ includes an officer, official, or spokesman of the organization and any person who directs, counsels, commands or induces the organization or its members to engage in terrorist activity.

“(II) JUDICIAL REVIEW.—The determination under this subparagraph that an alien is a representative of a terrorist organization shall be subject to judicial review under section 706 of title 5, United States Code.”

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SEC. 332. DENIAL OF RELIEF FOR ALIEN TERRORISTS.**

(a) WITHHOLDING OF DEPORTATION.—Subsection (h)(2) of section 243 (8 U.S.C. 1253), before amendment by section 307(a), is amended by adding at the end the following new sentence: “For purposes of subparagraph (D), an alien who is described in section 241(a)(4)(B) shall be considered to be an alien for whom there are reasonable grounds for regarding as a danger to the security of the United States.”

(b) SUSPENSION OF DEPORTATION.—Section 244(a) (8 U.S.C. 1254(a)), before amendment by section 308(b), is amended by striking “section 241(a)(4)(D)” and inserting “subparagraph (B) or (D) of section 241(a)(4)”.

(c) VOLUNTARY DEPARTURE.—Section 244(e)(2) (8 U.S.C. 1254(e)(2)), before amendment by section 308(b), is amended by inserting “under section 241(a)(4)(B) or” after “who is deportable”.

(d) ADJUSTMENT OF STATUS.—Section 245(c) (8 U.S.C. 1255(c)) is amended—

(1) by striking “or” before “(5)”, and  
 (2) by inserting before the period at the end the following: “, or (6) an alien who is deportable under section 241(a)(4)(B)”.

(e) REGISTRY.—Section 249(d) (8 U.S.C. 1259(d)) is amended by inserting “and is not deportable under section 241(a)(4)(B)” after “ineligible to citizenship”.

(f) EFFECTIVE DATE.—(1) The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to applications filed before, on, or after such date if final action has not been taken on them before such date.  
 (2) The amendments made by subsections (a) through (c) are subsequently superseded by the amendments made by subtitle A.

**Subtitle C—Deterring Transportation of Unlawful Aliens to the United States**

**SEC. 341. DEFINITION OF STOWAWAY.**

(a) STOWAWAY DEFINED.—Section 101(a) (8 U.S.C. 1101(a)) is amended by adding the following new paragraph:

“(47) The term ‘stowaway’ means any alien who obtains transportation without the consent of the owner, charterer, master or person in command of any vessel or aircraft through concealment aboard such vessel or aircraft. A passenger who boards with a valid ticket is not to be considered a stowaway.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

**SEC. 342. LIST OF ALIEN AND CITIZEN PASSENGERS ARRIVING.**

(a) IN GENERAL.—Section 231(a) (8 U.S.C. 1221(a)) is amended—

(1) by amending the first sentence to read as follows: “In connection with the arrival of any person by water or by air at any port within the United States from any place outside the United States, it shall be the duty of the master or commanding officer, or authorized agent, owner, or consignee of the vessel or aircraft, having such person on board to deliver to the immigration officers at the port of arrival, or other place designated by the Attorney General, electronic, typewritten, or printed lists or manifests of the persons on board such vessel or aircraft.”;  
 (2) in the second sentence, by striking “shall be prepared” and inserting “shall be prepared and submitted”; and  
 (3) by inserting after the second sentence the following sentence: “Such lists or manifests shall contain, but not be limited to, for each person transported, the person’s full name, date of birth, gender, citizenship, travel document number (if applicable) and arriving flight number.”

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to vessels or aircraft arriving at ports of entry on or after such date (not later than 60 days after the date of the enactment of this Act) as the Attorney General shall specify.

**SEC. 343. PROVISIONS RELATING TO CONTRACTS WITH TRANSPORTATION LINES.**

(a) COVERAGE OF NONCONTIGUOUS TERRITORY.—Section 238 (8 U.S.C. 1228), before redesignation as section 233 under section 308(b), is amended—  
 (1) in the heading, by striking “CONTIGUOUS”, and  
 (2) by striking “contiguous” each place it appears in subsections (a), (b), and (d).  
 (b) COVERAGE OF RAILROAD TRAIN.—Subsection (d) of such section is further amended by inserting “ or railroad train” after “aircraft”.

**Subtitle D—Additional Provisions**

**SEC. 351. DEFINITION OF CONVICTION.**

(a) IN GENERAL.—Section 101(a) (8 U.S.C. 1101(a)), as amended by section 341(a), is

amended by adding at the end the following new paragraph:

“(48) The term ‘conviction’ means a formal judgment of guilt entered by a court or, if adjudication of guilt has been withheld, where all of the following elements are present:

“(A) A judge or jury has found the alien guilty or the alien has entered a plea of guilty or nolo contendere or has admitted sufficient facts to warrant a finding of guilt.

“(B) The judge has ordered some form of punishment, penalty, or restraint on the alien’s liberty to be imposed.

“(C) A judgment or adjudication of guilt may be entered if the alien violates the terms of the probation or fails to comply with the requirements of the court’s order, without availability of further proceedings regarding the alien’s guilt or innocence of the original charge.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to convictions entered before, on, or after the date of the enactment of this Act.

**SEC. 352. IMMIGRATION JUDGES AND COMPENSATION.**

(a) DEFINITION OF TERM.—Paragraph (4) of section 101(b) (8 U.S.C. 1101(b)) is amended to read as follows:

“(4) The term ‘immigration judge’ means an attorney whom the Attorney General appoints as an administrative judge within the Executive Office for Immigration Review, qualified to conduct specified classes of proceedings, including a hearing under section 240. An immigration judge shall be subject to such supervision and shall perform such duties as the Attorney General shall prescribe, but shall not be employed by the Immigration and Naturalization Service.”

(b) SUBSTITUTION FOR TERM “SPECIAL INQUIRY OFFICER”.—The Immigration and Nationality Act is amended by striking “a special inquiry officer”, “special inquiry officer”, and “special inquiry officers” and inserting “an immigration judge”, “immigration judge”, and “immigration judges”, respectively, each place it appears in the following sections:

- (1) Section 106(a)(2) (8 U.S.C. 1105a(a)(2)).
- (2) Section 209(a)(2) (8 U.S.C. 1159(a)(2)).
- (3) Section 234 (8 U.S.C. 1224), before redesignation by section 308(b).
- (4) Section 235 (8 U.S.C. 1225), before redesignation by section 308(b).
- (5) Section 236 (8 U.S.C. 1226), before amendment by section 303.
- (6) Section 242(b) (8 U.S.C. 1252(b)), before amendment by section 306(a)(2).
- (7) Section 242(d)(1) (8 U.S.C. 1252(d)(1)), before amendment by section 306(a)(2).
- (8) Section 292 (8 U.S.C. 1362).

(c) COMPENSATION FOR IMMIGRATION JUDGES.—

(1) IN GENERAL.—There shall be four levels of pay for immigration judges, under the Immigration Judge Schedule (designated as IJ-1, 2, 3, and 4, respectively), and each such judge shall be paid at one of those levels, in accordance with the provisions of this subsection.

(2) RATES OF PAY.—

(A) The rates of basic pay for the levels established under paragraph (1) shall be as follows:

IJ-1 .....	70% of the next to highest rate of basic pay for the Senior Executive Service
IJ-2 .....	80% of the next to highest rate of basic pay for the Senior Executive Service
IJ-3 .....	90% of the next to highest rate of basic pay for the Senior Executive Service

IJ-4 ..... 92% of the next to highest rate of basic pay for the Senior Executive Service.

(B) Locality pay, where applicable, shall be calculated into the basic pay for immigration judges.

(3) APPOINTMENT.—

(A) Upon appointment, an immigration judge shall be paid at IJ-1, and shall be advanced to IJ-2 upon completion of 104 weeks of service, to IJ-3 upon completion of 104 weeks of service in the next lower rate, and to IJ-4 upon completion of 52 weeks of service in the next lower rate.

(B) The Attorney General may provide for appointment of an immigration judge at an advanced rate under such circumstances as the Attorney General may determine appropriate.

(4) TRANSITION.—Judges serving on the Immigration Court as of the effective date shall be paid at the rate that corresponds to the amount of time, as provided under paragraph (3)(A), that they have served as an immigration judge.

(d) EFFECTIVE DATES.—

(1) Subsections (a) and (b) shall take effect on the date of the enactment of this Act.

(2) Subsection (c) shall take effect 90 days after the date of the enactment of this Act.

**SEC. 353. RESCISSION OF LAWFUL PERMANENT RESIDENT STATUS.**

(a) IN GENERAL.—Section 246(a) (8 U.S.C. 1256(a)) is amended by adding at the end the following sentence: "Nothing in this subsection shall require the Attorney General to rescind the alien's status prior to commencement of procedures to remove the alien under section 240, and an order of removal issued by an immigration judge shall be sufficient to rescind the alien's status."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the title III-A effective date (as defined in section 309(a)).

**SEC. 354. CIVIL PENALTIES FOR FAILURE TO DEPART.**

(a) IN GENERAL.—The Immigration and Nationality Act is amended by inserting after section 274C the following new section:

"CIVIL PENALTIES FOR FAILURE TO DEPART

"SEC. 274D. (a) IN GENERAL.—Any alien subject to a final order of removal who—

"(1) willfully fails or refuses to—

"(A) depart from the United States pursuant to the order,

"(B) make timely application in good faith for travel or other documents necessary for departure, or

"(C) present for removal at the time and place required by the Attorney General; or

"(2) conspires to or takes any action designed to prevent or hamper the alien's departure pursuant to the order, shall pay a civil penalty of not more than \$500 to the Commissioner for each day the alien is in violation of this section.

"(b) CONSTRUCTION.—Nothing in this section shall be construed to diminish or qualify any penalties to which an alien may be subject for activities proscribed by section 243(a) or any other section of this Act."

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 274C the following new item:

"Sec. 274D. Civil penalties for failure to depart."

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to actions occurring on or after the title III-A effective date (as defined in section 309(a)).

**SEC. 355. CLARIFICATION OF DISTRICT COURT JURISDICTION.**

(a) IN GENERAL.—Section 279 (8 U.S.C. 1329) is amended—

(1) by amending the first sentence to read as follows: "The district courts of the United States shall have jurisdiction of all causes, civil and criminal, brought by the United States that arise under the provisions of this title.", and

(2) by adding at the end the following new sentence: "Nothing in this section shall be construed as providing jurisdiction for suits against the United States or its agencies or officers."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to actions filed after the date of the enactment of this Act.

**SEC. 356. DEMONSTRATION PROJECT FOR IDENTIFICATION OF ILLEGAL ALIENS IN INCARCERATION FACILITY OF ANAHEIM, CALIFORNIA.**

(a) AUTHORITY.—The Attorney General may conduct a project demonstrating the feasibility of identifying, from among the individuals who are incarcerated in local governmental prison facilities prior to arraignment on criminal charges, those individuals who are aliens unlawfully present in the United States.

(b) DESCRIPTION OF PROJECT.—The project authorized by subsection (a) shall include—

(1) the detail to incarceration facilities within the city of Anaheim, California and the county of Ventura, California, of an employee of the Immigration and Naturalization Service who has expertise in the identification of aliens unlawfully in the United States, and

(2) provision of funds sufficient to provide for—

(A) access for such employee to records of the Service necessary to identify unlawful aliens, and

(B) in the case of an individual identified as an unlawful alien, pre-arraignment reporting to the court regarding the Service's intention to remove the alien from the United States.

(c) TERMINATION.—The authority under this section shall cease to be effective 6 months after the date of the enactment of this Act.

**SEC. 357. ENHANCED PENALTIES FOR FAILURE TO DEPART, ILLEGAL REENTRY, AND PASSPORT AND VISA FRAUD.**

(a) FAILING TO DEPART.—The United States Sentencing Commission shall promptly promulgate, pursuant to section 994 of title 28, United States Code, amendments to the sentencing guidelines to make appropriate increases in the base offense level for offenses under section 242(e) and 276(b) of the Immigration and Nationality Act (8 U.S.C. 1252(e) and 1326(b)) to reflect the amendments made by section 130001 of the Violent Crime Control and Law Enforcement Act of 1994.

(b) PASSPORT AND VISA OFFENSES.—The United States Sentencing Commission shall promptly promulgate, pursuant to section 994 of title 28, United States Code, amendments to the sentencing guidelines to make appropriate increases in the base offense level for offenses under chapter 75 of title 18, United States Code to reflect the amendments made by section 130009 of the Violent Crime Control and Law Enforcement Act of 1994.

**SEC. 358. AUTHORIZATION OF ADDITIONAL FUNDS FOR REMOVAL OF ALIENS.**

In addition to the amounts otherwise authorized to be appropriated for each fiscal year beginning with fiscal year 1996, there are authorized to be appropriated to the Attorney General \$150,000,000 for costs associated with the removal of inadmissible or deportable aliens, including costs of detention of such aliens pending their removal, the hiring of more investigators, and the hiring of more detention and deportation officers.

**SEC. 359. APPLICATION OF ADDITIONAL CIVIL PENALTIES TO ENFORCEMENT.**

(a) IN GENERAL.—Subsection (b) of section 280 (8 U.S.C. 1330(b)) is amended to read as follows:

"(b)(1) There is established in the general fund of the Treasury a separate account which shall be known as the 'Immigration Enforcement Account'. Notwithstanding any other section of this title, there shall be deposited as offsetting receipts into the Immigration Enforcement Account amounts described in paragraph (2) to remain available until expended.

"(2) The amounts described in this paragraph are the following:

"(A) The increase in penalties collected resulting from the amendments made by sections 203(b) and 543(a) of the Immigration Act of 1990.

"(B) Civil penalties collected under sections 240B(d), 274C, 274D, and 275(b).

"(3)(A) The Secretary of the Treasury shall refund out of the Immigration Enforcement Account to any appropriation the amount paid out of such appropriation for expenses incurred by the Attorney General for activities that enhance enforcement of provisions of this title, including—

"(i) the identification, investigation, apprehension, detention, and removal of criminal aliens;

"(ii) the maintenance and updating of a system to identify and track criminal aliens, deportable aliens, inadmissible aliens, and aliens illegally entering the United States; and

"(iii) for the repair, maintenance, or construction on the United States border, in areas experiencing high levels of apprehensions of illegal aliens, of structures to deter illegal entry into the United States.

"(B) The amounts which are required to be refunded under subparagraph (A) shall be refunded at least quarterly on the basis of estimates made by the Attorney General of the expenses referred to in subparagraph (A). Proper adjustments shall be made in the amounts subsequently refunded under subparagraph (A) to the extent prior estimates were in excess of, or less than, the amount required to be refunded under subparagraph (A).

"(C) The amounts required to be refunded from the Immigration Enforcement Account for fiscal year 1996 and thereafter shall be refunded in accordance with estimates made in the budget request of the Attorney General for those fiscal years. Any proposed changes in the amounts designated in such budget requests shall only be made after notification to the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of Public Law 103-317.

"(D) The Attorney General shall prepare and submit annually to the Congress statements of financial condition of the Immigration Enforcement Account, including beginning account balance, revenues, withdrawals, and ending account balance and projection for the ensuing fiscal year."

(b) IMMIGRATION USER FEE ACCOUNT.—Section 286(h)(1)(B) (8 U.S.C. 1356(h)(1)(B)) is amended by striking "271" and inserting "243(c), 271."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fines and penalties collected on or after the date of the enactment of this Act.

**SEC. 360. PRISONER TRANSFER TREATIES.**

(a) NEGOTIATION.—Congress advises the President to begin to negotiate and renegotiate, not later than 90 days after the date of the enactment of this Act, bilateral prisoner transfer treaties. The focus of such negotiations shall be—

(1) to expedite the transfer of aliens unlawfully in the United States who are (or are

about to be) incarcerated in United States prisons.

(2) to ensure that a transferred prisoner serves the balance of the sentence imposed by the United States courts,

(3) to eliminate any requirement of prisoner consent to such a transfer, and

(4) to allow the Federal Government or the States to keep their original prison sentences in force so that transferred prisoners who return to the United States prior to the completion of their original United States sentences can be returned to custody for the balance of their prison sentences.

In entering into such negotiations, the President may consider providing for appropriate compensation in cases where the United States is able to independently verify the adequacy of the sites where aliens will be imprisoned and the length of time the alien is actually incarcerated in the foreign country under such a treaty.

(b) CERTIFICATION.—The President shall submit to the Congress, annually, a certification as to whether each prisoner transfer treaty in force is effective in returning aliens unlawfully in the United States who have committed offenses for which they are incarcerated in the United States to their country of nationality for further incarceration.

**SEC. 361. CRIMINAL ALIEN IDENTIFICATION SYSTEM.**

(a) OPERATION AND PURPOSE.—Subsection (a) of section 130002 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322) is amended to read as follows:

“(a) OPERATION AND PURPOSE.—The Commissioner of Immigration and Naturalization shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien identification system. The criminal alien identification system shall be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be subject to removal by reason of their conviction of aggravated felonies, subject to prosecution under section 275 of such Act, not lawfully present in the United States, or otherwise removable. Such system shall include providing for recording of fingerprint records of aliens who have been previously arrested and removed into appropriate automated fingerprint identification systems.”.

(b) IDENTIFICATION OF CRIMINAL ALIENS UNLAWFULLY PRESENT IN THE UNITED STATES.—Upon the request of the governor or chief executive officer of any State, the Immigration and Naturalization Service shall provide assistance to State courts in the identification of aliens unlawfully present in the United States pending criminal prosecution.

**SEC. 362. WAIVER OF EXCLUSION AND DEPORTATION GROUND FOR CERTAIN SECTION 274C VIOLATORS.**

(a) EXCLUSION GROUNDS.—Section 212 (8 U.S.C. 1182) is amended—

(1) by amending subparagraph (F) of subsection (a)(6) to read as follows:

“(F) SUBJECT OF CIVIL PENALTY.—

“(i) IN GENERAL.—An alien who is the subject of a final order for violation of section 274C is inadmissible.

“(ii) WAIVER AUTHORIZED.—For provision authorizing waiver of clause (i), see subsection (d)(12).”; and

(2) by adding at the end of subsection (d) the following new paragraph:

“(12) The Attorney General may, in the discretion of the Attorney General for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest, waive application of clause (i) of subsection (a)(6)(F)—

“(A) in the case of an alien lawfully admitted for permanent residence who temporarily

proceeded abroad voluntarily and not under an order of deportation and who is otherwise admissible to the United States as a returning resident under section 211(b), and

“(B) in the case of an alien seeking admission or adjustment of status under section 201(b)(2)(A) or under section 203(a), if the violation under section 274C was committed solely to assist, aid, or support the alien's spouse, parent, son, or daughter (and not another individual).”.

(b) GROUND OF DEPORTATION.—Subparagraph (C) of section 241(a)(3) (8 U.S.C. 1251(a)(3)), before redesignation by section 305(a)(2), is amended to read as follows:

“(C) DOCUMENT FRAUD.—

“(i) IN GENERAL.—An alien who is the subject of a final order for violation of section 274C is deportable.

“(ii) WAIVER AUTHORIZED.—The Attorney General may waive clause (i) in the case of an alien lawfully admitted for permanent residence if the alien's civil money penalty under section 274C was incurred solely to assist, aid, or support the alien's spouse, parent, son, or daughter (and no other individual).”.

**SEC. 363. AUTHORIZING REGISTRATION OF ALIENS ON CRIMINAL PROBATION OR CRIMINAL PAROLE.**

Section 263(a) (8 U.S.C. 1303(a)) is amended by striking “and (5)” and inserting “(5) aliens who are or have been on criminal probation or criminal parole within the United States, and (6)”.

**SEC. 364. CONFIDENTIALITY PROVISION FOR CERTAIN ALIEN BATTERED SPOUSES AND CHILDREN.**

(a) IN GENERAL.—Except as provided in subsection (b), in no case may the Attorney General, or any other official or employee of the Department of Justice (including any bureau or agency of such Department)—

(1) make an adverse determination of admissibility or deportability of an alien under the Immigration and Nationality Act using information furnished solely by—

(A) a spouse or parent who has battered the alien or subjected the alien to extreme cruelty,

(B) a member of the spouse's or parent's family residing in the same household as the alien who has battered the alien or subjected the alien to extreme cruelty when the spouse or parent consented to or acquiesced in such battery or cruelty,

(C) a spouse or parent who has battered the alien's child or subjected the alien's child to extreme cruelty (without the active participation of the alien in the battery or extreme cruelty), or

(D) a member of the spouse's or parent's family residing in the same household as the alien who has battered the alien's child or subjected the alien's child to extreme cruelty when the spouse or parent consented to or acquiesced in such battery or cruelty and the alien did not actively participate in such battery or cruelty,

unless the alien has been convicted of a crime or crimes listed in section 241(a)(2) of the Immigration and Nationality Act; or

(2) permit use by or disclosure to anyone (other than a sworn officer or employee of the Department, or bureau or agency thereof, for legitimate Department, bureau, or agency purposes) of any information which relates to an alien who is the beneficiary of an application for relief under clause (iii) or (iv) of section 204(a)(1)(A), clause (ii) or (iii) of section 204(a)(1)(B), section 216(c)(4)(C), or section 244(a)(3) of such Act as an alien (or the parent of a child) who has been battered or subjected to extreme cruelty.

The limitation under paragraph (2) ends when the application for relief is denied and all opportunities for appeal of the denial have been exhausted.

(b) EXCEPTIONS.—

(1) The Attorney General may provide, in the Attorney General's discretion, for the disclosure of information in the same manner and circumstances as census information may be disclosed by the Secretary of Commerce under section 8 of title 13, United States Code.

(2) The Attorney General may provide in the discretion of the Attorney General for the disclosure of information to law enforcement officials to be used solely for a legitimate law enforcement purpose.

(3) Subsection (a) shall not be construed as preventing disclosure of information in connection with judicial review of a determination in a manner that protects the confidentiality of such information.

(4) Subsection (a)(2) shall not apply if all the battered individuals in the case are adults and they have all waived the restrictions of such subsection.

(c) PENALTIES FOR VIOLATIONS.—Anyone who uses, publishes, or permits information to be disclosed in violation of this section shall be fined in accordance with title 18, United States Code, or imprisoned not more than 5 years, or both.

**SEC. 365. AUTHORITY FOR STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE IN DEPORTATION.**

Section 103 (8 U.S.C. 1103) is amended by adding at the end the following new subsection:

“(f)(1) The Attorney General may deputize any law enforcement officer of any State or of any political subdivision of any State to seek, apprehend, detain, and commit to the custody of an officer of the Department of Justice aliens subject to a final order of deportation or exclusion under this Act, if—

“(1) actions pursuant to such deputization are subject to the direction and supervision of an officer of the Department of Justice;

“(2) any deputization, its duration, an identification of the supervising officer of the Department of Justice, and the specific powers, privileges, and duties to be performed or exercised are set forth in writing; and

“(3) the Governor of the State, or the chief elected or appointed official of a political subdivision (as may be appropriate) consents to the deputization.

“(2) No deputization under this subsection shall entitle any State, political subdivision, or individual to any compensation or reimbursement from the United States, except where the amount thereof and the entitlement thereto are set forth in the written deputization or where otherwise explicitly provided by law.”.

**TITLE IV—ENFORCEMENT OF RESTRICTIONS AGAINST EMPLOYMENT**

**SEC. 401. PILOT PROGRAM FOR VOLUNTARY USE OF EMPLOYMENT ELIGIBILITY CONFIRMATION PROCESS.**

(a) VOLUNTARY ELECTION TO PARTICIPATE IN PILOT PROGRAM CONFIRMATION MECHANISM.—

(1) IN GENERAL.—An employer (or a recruiter or referrer subject to section 274A(a)(1)(B)(ii) of the Immigration and Nationality Act) may elect to participate in the pilot program for employment eligibility confirmation provided under this section (such program in this section referred to as the “pilot program”). Except as specifically provided in this section, the Attorney General is not authorized to require any entity to participate in the program under this section. The pilot program shall operate in at least 5 of the 7 States with the highest estimated population of unauthorized aliens.

(2) EFFECT OF ELECTION.—The following provisions apply in the case of an entity electing to participate in the pilot program:

(A) OBLIGATION TO USE CONFIRMATION MECHANISM.—The entity agrees to comply with the confirmation mechanism under sub-

section (c) to confirm employment eligibility under the pilot program for all individuals covered under the election in accordance with this section.

(B) BENEFIT OF REBUTTABLE PRESUMPTION.—

(i) IN GENERAL.—If the entity obtains confirmation of employment eligibility under the pilot program with respect to the hiring (or recruiting or referral that is subject to section 274A(a)(1)(B)(ii) of the Immigration and Nationality Act) of an individual for employment in the United States, the entity has established a rebuttable presumption that the entity has not violated section 274A(a)(1)(A) of the Immigration and Nationality Act with respect to such hiring (or such recruiting or referral).

(ii) CONSTRUCTION.—Clause (i) shall not be construed as preventing an entity that has an election in effect under this section from establishing an affirmative defense under section 274A(a)(3) of the Immigration and Nationality Act if the entity complies with the requirements of section 274A(a)(1)(B) of such Act but fails to comply with the obligations under subparagraph (A).

(C) BENEFIT OF NOTICE BEFORE EMPLOYMENT-RELATED INSPECTIONS.—The Immigration and Naturalization Service, the Special Counsel for Immigration-Related Unfair Employment Practices, and any other agency authorized to inspect forms required to be retained under section 274A of the Immigration and Nationality Act or to search property for purposes of enforcing such section shall provide at least 3 days notice prior to such an inspection or search, except that such notice is not required if the inspection or search is conducted with an administrative or judicial subpoena or warrant or under exigent circumstances.

(3) GENERAL TERMS OF ELECTIONS.—

(A) IN GENERAL.—An election under paragraph (1) shall be in a form and manner and under such terms and conditions as the Attorney General shall specify and shall take effect as the Attorney General shall specify. Such an election shall apply (under such terms and conditions and as specified in the election) either to all hiring (and all recruitment or referral that is subject to section 274A(a)(1)(B)(ii) of the Immigration and Nationality Act) by the entity during the period in which the election is in effect or to hiring (or recruitment or referral that is subject to section 274A(a)(1)(B)(ii) of the Immigration and Nationality Act) in one or more States or one or more places of such hiring (or such recruiting or referral, as the case may be) covered by the election. The Attorney General may not impose any fee as a condition of making an election or participation in the pilot program under this section.

(B) ACCEPTANCE OF ELECTIONS.—Except as otherwise provided in this paragraph, the Attorney General shall accept all elections made under paragraph (1). The Attorney General may establish a process under which entities seek to make elections in advance, in order to permit the Attorney General the opportunity to identify and develop appropriate resources to accommodate the demand for participation in the pilot program under this section.

(C) REJECTION OF ELECTIONS.—The Attorney General may reject an election by an entity under paragraph (1) because the Attorney General has determined that there are insufficient resources to provide services under the pilot program for the entity.

(D) TERMINATION OF ELECTIONS.—The Attorney General may terminate an election by an entity under paragraph (1) because the entity has substantially failed to comply with the obligations of the entity under the pilot program.

(E) RESCISSION OF ELECTION.—An entity may rescind an election made under this sub-

section in such form and manner as the Attorney General shall specify.

(b) CONSULTATION, EDUCATION, AND PUBLICITY.—

(1) CONSULTATION.—The Attorney General shall closely consult with representatives of employers (and recruiters and referrers whose recruiting or referring is subject to section 274A(a)(1)(B)(ii) of the Immigration and Nationality Act) in the development and implementation of the pilot program under this section, including the education of employers (and such recruiters and referrers) about the program.

(2) PUBLICITY.—The Attorney General shall widely publicize the election process and pilot program under this section, including the voluntary nature of the program and the advantages to employers of making an election under subsection (a).

(3) ASSISTANCE THROUGH DISTRICT OFFICES.—The Attorney General shall designate one or more individuals in each District office of the Immigration and Naturalization Service—

(A) to inform entities that seek information about the program of the voluntary nature of the program, and

(B) to assist entities in electing and participating in the pilot program, in complying with the requirements of section 274A of the Immigration and Nationality Act, and in facilitating identification of individuals authorized to be employed consistent with such section.

(c) CONFIRMATION PROCESS UNDER PILOT PROGRAM.—An entity that is participating in the pilot program agrees to conform to the following procedures in the case of a hiring (or recruiting or referral in the case of recruitment or referral that is subject to section 274A(a)(1)(B)(ii) of the Immigration and Nationality Act) of each individual covered under the program for employment in the United States:

(1) PROVISION OF ADDITIONAL INFORMATION.—The entity shall obtain from the individual (and the individual shall provide) and shall record on the form used for purposes of section 274A(b)(1)(A) of the Immigration and Nationality Act—

(A) the individual's social security account number (if the individual has been issued such a number), and

(B) if the individual is an alien, such identification or authorization number established by the Service for the alien as the Attorney General shall specify.

(2) SEEKING CONFIRMATION.—

(A) IN GENERAL.—The entity shall make an inquiry, under the confirmation mechanism established under subsection (d), to seek confirmation of the identity, applicable number (or numbers) described in section 274A(b)(2)(B) of the Immigration and Nationality Act, and work eligibility of the individual, by not later than the end of 3 working days (as specified by the Attorney General) after the date of the hiring (or recruitment or referral, as the case may be).

(B) EXTENSION OF TIME PERIOD.—If the entity in good faith attempts to make an inquiry during such 3 working days and the confirmation mechanism has registered that not all inquiries were responded to during such time, the entity can make an inquiry in the first subsequent working day in which the confirmation mechanism registers no non-responses and qualify for the presumption. If the confirmation mechanism is not responding to inquiries at all times during a day, the entity merely has to assert that the entity attempted to make the inquiry on that day for the previous sentence to apply to such an inquiry, and does not have to provide any additional proof concerning such inquiry.

(3) CONFIRMATION.—

(A) IN GENERAL.—If the entity receives an appropriate confirmation of such identity,

applicable number or numbers, and work eligibility under the confirmation mechanism within the time period specified under subsection (d) after the time the confirmation inquiry was received, the entity shall record on the form used for purposes of section 274A(b)(1)(A) of the Immigration and Nationality Act an appropriate code indicating a confirmation of such identity, number or numbers, and work eligibility.

(B) FAILURE TO OBTAIN CONFIRMATION.—If the entity has made the inquiry described in paragraph (1) but has received a nonconfirmation within the time period specified—

(i) the presumption under subsection (a)(2)(B) shall not be considered to apply, and

(ii) if the entity nonetheless continues to employ (or recruits or refers, if such recruitment or referral is subject to section 274A(a)(1)(B)(ii) of the Immigration and Nationality Act) the individual for employment in the United States, the entity shall notify the Attorney General of such fact through the confirmation mechanism or in such other manner as the Attorney General may specify.

(C) CONSEQUENCES.—

(i) FAILURE TO NOTIFY.—If the entity fails to provide notice with respect to an individual as required under subparagraph (B)(ii), the failure is deemed to constitute a violation of section 274A(a)(1)(A) of the Immigration and Nationality Act with respect to that individual.

(ii) CONTINUED EMPLOYMENT.—If the entity provides notice under subparagraph (B)(ii) with respect to an individual, the entity has the burden of proof, for purposes of applying section 274A(a)(1)(A) of the Immigration and Nationality Act with respect to such entity and individual, of establishing that the individual is not an unauthorized alien (as defined in section 274A(h)(3) of such Act).

(iii) NO APPLICATION TO CRIMINAL PENALTY.—Clauses (i) and (ii) shall not apply in any prosecution under section 274A(f)(1) of the Immigration and Nationality Act.

(d) EMPLOYMENT ELIGIBILITY PILOT CONFIRMATION MECHANISM.—

(1) IN GENERAL.—The Attorney General shall establish a pilot program confirmation mechanism (in this section referred to as the "confirmation mechanism") through which the Attorney General (or a designee of the Attorney General which may include a non-governmental entity)—

(A) responds to inquiries by electing entities, made at any time through a toll-free telephone line or other electronic media in the form of an appropriate confirmation code or otherwise, on whether an individual is authorized to be employed, and

(B) maintains a record that such an inquiry was made and the confirmation provided (or not provided).

To the extent practicable, the Attorney General shall seek to establish such a mechanism using one or more nongovernmental entities. For purposes of this section, the Attorney General (or a designee of the Attorney General) shall provide through the confirmation mechanism confirmation or a tentative nonconfirmation of an individual's employment eligibility within 3 working days of the initial inquiry.

(2) EXPEDITED PROCEDURE IN CASE OF NONCONFIRMATION.—In connection with paragraph (1), the Attorney General shall establish, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, expedited procedures that shall be used to confirm the validity of information used under the confirmation mechanism in cases in which the confirmation is sought but is not provided through the confirmation mechanism.

(3) DESIGN AND OPERATION OF MECHANISM.—The confirmation mechanism shall be designed and operated—

(A) to maximize the reliability of the confirmation process, and the ease of use by entities making elections under subsection (a) consistent with insulating and protecting the privacy and security of the underlying information, and

(B) to respond to all inquiries made by such entities on whether individuals are authorized to be employed registering all times when such response is not possible.

(4) CONFIRMATION PROCESS.—

(A) CONFIRMATION OF VALIDITY OF SOCIAL SECURITY ACCOUNT NUMBER.—As part of the confirmation mechanism, the Commissioner of Social Security, in consultation with the entity responsible for administration of the mechanism, shall establish a reliable, secure method, which within the time period specified under paragraph (1), compares the name and social security account number provided against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided and whether the individual has presented a social security account number that is not valid for employment. The Commissioner shall not disclose or release social security information.

(B) CONFIRMATION OF ALIEN AUTHORIZATION.—As part of the confirmation mechanism, the Commissioner of the Service, in consultation with the entity responsible for administration of the mechanism, shall establish a reliable, secure method, which, within the time period specified under paragraph (1), compares the name and alien identification or authorization number (if any) described in subsection (c)(1)(B) provided against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided and whether the alien is authorized to be employed in the United States.

(C) PROCESS IN CASE OF TENTATIVE NONCONFIRMATION.—In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, an expedited time period not to exceed 10 working days after the date of the tentative nonconfirmation within which final confirmation or denial must be provided through the confirmation mechanism in accordance with the procedures under paragraph (2).

(D) UPDATING INFORMATION.—The Commissioners shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information.

(5) PROTECTIONS.—(A) In no case shall an employer terminate employment of an individual because of a failure of the individual to have work eligibility confirmed under this section, until after the end of the 10-working-day period in which a final confirmation or nonconfirmation is being sought under paragraph (4)(C). Nothing in this subparagraph shall apply to a termination of employment for any reason other than because of such a failure.

(B) The Attorney General shall assure that there is a timely and accessible process to challenge nonconfirmations made through the mechanism.

(C) If an individual would not have been dismissed from a job but for an error of the confirmation mechanism, the individual will be entitled to compensation through the mechanism of the Federal Tort Claims Act.

(6) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION PROVIDED BY THE EMPLOYMENT ELIGIBILITY CONFIRMATION MECHANISM.—No person shall be civilly or criminally liable under any law (including the Civil Rights Act of 1964, the

Americans with Disabilities Act of 1990, the Fair Labor Standards Act of 1938, or the Age Discrimination in Employment Act of 1967) for any action taken in good faith reliance on information provided through the employment eligibility confirmation mechanism established under this subsection.

(7) MULTIPLE MECHANISMS PERMITTED.—Nothing in this subsection shall be construed as preventing the Attorney General from experimenting with different mechanisms for different entities.

(e) SELECT ENTITIES REQUIRED TO PARTICIPATE IN PILOT PROGRAM.—

(1) FEDERAL GOVERNMENT.—Each entity of the Federal Government that is subject to the requirements of section 274A of the Immigration and Nationality Act (including the Legislative and Executive Branches of the Federal Government) shall participate in the pilot program under this section and shall comply with the terms and conditions of such an election.

(2) APPLICATION TO CERTAIN VIOLATORS.—An order under section 274A(e)(4) or section 274B(g)(2)(B) of the Immigration and Nationality Act may require the subject of the order to participate in the pilot program and comply with the requirements of subsection (c).

(3) CONSEQUENCE OF FAILURE TO PARTICIPATE.—If an entity is required under this subsection to participate in the pilot program and fails to comply with the requirements of subsection (c) with respect to an individual such failure shall be treated as a violation of section 274A(a)(1)(B) of the Immigration and Nationality Act with respect to that individual.

(f) PROGRAM INITIATION; REPORTS; TERMINATION.—

(1) INITIATION OF PROGRAM.—The Attorney General shall implement the pilot program in a manner that permits entities to have elections under subsection (a) made and in effect by not later than 1 year after the date of the enactment of this Act.

(2) REPORTS.—The Attorney General shall submit to Congress annual reports on the pilot program under this section at the end of each year in which the program is in effect. The last two such reports shall each include recommendations on whether or not the pilot program should be continued or modified and on benefits to employers and enforcement of section 274A of the Immigration and Nationality Act obtained from use of the pilot program.

(3) TERMINATION.—Unless the Congress otherwise provides, the Attorney General shall terminate the pilot program under this section at the end of the third year in which it is in effect under this section.

(g) CONSTRUCTION.—This section shall not affect the authority of the Attorney General under other law (including section 274A(d)(4) of the Immigration and Nationality Act) to conduct demonstration projects in relation to section 274A of such Act.

(h) LIMITATION ON USE OF THE CONFIRMATION PROCESS AND ANY RELATED MECHANISMS.—Notwithstanding any other provision of law, nothing in this section shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this section for any other purpose other than as provided for under the pilot program under this section.

**SEC. 402. LIMITING LIABILITY FOR CERTAIN TECHNICAL VIOLATIONS OF PAPERWORK REQUIREMENTS.**

(a) IN GENERAL.—Section 274A(e)(1) (8 U.S.C. 1324a(e)(1)) is amended—

(1) by striking “and” at the end of subparagraph (C),

(2) by striking the period at the end of subparagraph (D) and inserting “, and”, and

(3) by adding at the end the following new subparagraph:

“(E) under which a person or entity shall not be considered to have failed to comply with the requirements of subsection (b) based upon a technical or procedural failure to meet a requirement of such subsection in which there was a good faith attempt to comply with the requirement unless (i) the Service (or another enforcement agency) has explained to the person or entity the basis for the failure, (ii) the person or entity has been provided a period of not less than 10 business days (beginning after the date of the explanation) within which to correct the failure, and (iii) the person or entity has not corrected the failure voluntarily within such period, except that this subparagraph shall not apply with respect to the engaging by any person or entity of a pattern or practice of violations of subsection (a)(1)(A) or (a)(2).”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to failures occurring on or after the date of the enactment of this Act.

**SEC. 403. PAPERWORK AND OTHER CHANGES IN THE EMPLOYER SANCTIONS PROGRAM.**

(a) REDUCING TO 6 THE NUMBER OF DOCUMENTS ACCEPTED FOR EMPLOYMENT VERIFICATION.—Section 274A(b) (8 U.S.C. 1324a(b)) is amended—

(1) in paragraph (1)(B)—

(A) by adding “or” at the end of clause (i),

(B) by striking clauses (ii) through (iv), and

(C) in clause (v), by striking “or other alien registration card, if the card” and inserting “, alien registration card, or other document designated by regulation by the Attorney General, if the document” and redesignating such clause as clause (ii); and

(2) by amending subparagraph (C) of paragraph (1) to read as follows:

“(C) SOCIAL SECURITY ACCOUNT NUMBER CARD AS EVIDENCE OF EMPLOYMENT AUTHORIZATION.—A document described in this subparagraph is an individual’s social security account number card (other than such a card which specifies on the face that the issuance of the card does not authorize employment in the United States).”.

(b) REDUCTION OF PAPERWORK FOR CERTAIN EMPLOYEES.—Section 274A(a) (8 U.S.C. 1324a(a)) is amended by adding at the end the following new paragraph:

“(6) TREATMENT OF DOCUMENTATION FOR CERTAIN EMPLOYEES.—

“(A) IN GENERAL.—For purposes of paragraphs (1)(B) and (3), if—

“(i) an individual is a member of a collective-bargaining unit and is employed, under a collective bargaining agreement entered into between one or more employee organizations and an association of two or more employers, by an employer that is a member of such association, and

“(ii) within the period specified in subparagraph (B), another employer that is a member of the association (or an agent of such association on behalf of the employer) has complied with the requirements of subsection (b) with respect to the employment of the individual,

the subsequent employer shall be deemed to have complied with the requirements of subsection (b) with respect to the hiring of the employee and shall not be liable for civil penalties described in subsection (e)(5).

“(B) PERIOD.—The period described in this subparagraph is—

“(i) up to 5 years in the case of an individual who has presented documentation identifying the individual as a national of the United States or as an alien lawfully admitted for permanent residence; or

“(ii) up to 3 years (or, if less, the period of time that the individual is authorized to be

employed in the United States) in the case of another individual.

**“(C) LIABILITY.—**

**“(i) IN GENERAL.—**If any employer that is a member of an association hires for employment in the United States an individual and relies upon the provisions of subparagraph (A) to comply with the requirements of subsection (b) and the individual is an unauthorized alien, then for the purposes of paragraph (1)(A), subject to clause (ii), the employer shall be presumed to have known at the time of hiring or afterward that the individual was an unauthorized alien.

**“(ii) REBUTTAL OF PRESUMPTION.—**The presumption established by clause (i) may be rebutted by the employer only through the presentation of clear and convincing evidence that the employer did not know (and could not reasonably have known) that the individual at the time of hiring or afterward was an unauthorized alien.”.

**(c) ELIMINATION OF DATED PROVISIONS.—**Section 274A (8 U.S.C. 1324a) is amended by striking subsections (i) through (n).

**(d) CLARIFICATION OF APPLICATION TO FEDERAL GOVERNMENT.—**Section 274A(a) (8 U.S.C. 1324a(a)) is amended by adding at the end the following new paragraph:

**“(5) APPLICATION TO FEDERAL GOVERNMENT.—**For purposes of this section, the term ‘entity’ includes an entity in any Branch of the Federal Government.”.

**(e) EFFECTIVE DATES.—**

(1) Except as provided in this subsection, the amendments made by this section shall apply with respect to hiring (or recruiting or referring) occurring on or after such date (not later than 180 days after the date of the enactment of this Act) as the Attorney General shall designate.

(2) The amendments made by subsections (a)(1) and (a)(2) shall apply with respect to the hiring (or recruiting or referring) occurring on or after such date (not later than 18 months after the date of the enactment of this Act) as the Attorney General shall designate.

(3) The amendment made by subsection (b) shall apply to individuals hired on or after 60 days after the date of the enactment of this Act.

(4) The amendment made by subsection (c) shall take effect on the date of the enactment of this Act.

(5) The amendment made by subsection (d) applies to hiring occurring before, on, or after the date of the enactment of this Act, but no penalty shall be imposed under section 274A(e) of the Immigration and Nationality Act for such hiring occurring before such date.

**(f) IMPLEMENTATION OF ELECTRONIC STORAGE OF I-9 FORMS.—**Not later than 180 days after the date of the enactment of this Act, the Attorney General shall issue regulations which shall provide for the electronic storage of forms used in satisfaction of the requirements of section 274A(b)(3) of the Immigration and Nationality Act.

**SEC. 404. STRENGTHENED ENFORCEMENT OF THE EMPLOYER SANCTIONS PROVISIONS.**

**(a) IN GENERAL.—**The number of full-time equivalent positions in the Investigations Division within the Immigration and Naturalization Service of the Department of Justice beginning in fiscal year 1997 shall be increased by 500 positions above the number of full-time equivalent positions available to such Division as of September 30, 1995.

**(b) ASSIGNMENT.—**Individuals employed to fill the additional positions described in subsection (a) shall be assigned to investigate violations of the employer sanctions provisions contained in section 274A of the Immigration and Nationality Act.

**(c) PRIORITY FOR WORKSITE ENFORCEMENT.—**

**(1) IN GENERAL.—**In addition to its efforts on border control and easing the worker verification process, the Attorney General shall make worksite enforcement of employer sanctions a top priority of the Immigration and Naturalization Service.

**(2) REPORT.—**Not later than 1 year after the date of the enactment of this Act, the Attorney General shall submit to Congress a report on any additional authority or resources needed—

(A) by the Immigration and Naturalization Service in order to enforce section 274A of the Immigration and Nationality Act, or

(B) by Federal agencies in order to carry out the Executive Order of February 13, 1996 (entitled “Economy and Efficiency in Government Procurement Through Compliance with Certain Immigration and Naturalization Act Provisions”) and to expand the restrictions in such Order to cover agricultural subsidies, grants, job training programs, and other Federally subsidized assistance programs.

**SEC. 405. REPORTS ON EARNINGS OF ALIENS NOT AUTHORIZED TO WORK.**

Subsection (c) of section 290 (8 U.S.C. 1360) is amended to read as follows:

**“(c)(1) Not later than 3 months after the end of each fiscal year (beginning with fiscal year 1996), the Commissioner of Social Security shall report to the Committees on the Judiciary of the House of Representatives and the Senate on the aggregate number of social security account numbers issued to aliens not authorized to be employed to which earnings were reported to the Social Security Administration in such fiscal year.**

**“(2) If earnings are reported on or after January 1, 1997, to the Social Security Administration on a social security account number issued to an alien not authorized to work in the United States, the Commissioner of Social Security shall provide the Attorney General with information regarding the name and address of the alien, the name and address of the person reporting the earnings, and the amount of the earnings. The information shall be provided in an electronic form agreed upon by the Commissioner and the Attorney General.”.**

**SEC. 406. AUTHORIZING MAINTENANCE OF CERTAIN INFORMATION ON ALIENS.**

Section 264 (8 U.S.C. 1304) is amended by adding at the end the following new subsection:

**“(f) Notwithstanding any other provision of law, the Attorney General is authorized to require any alien to provide the alien’s social security account number for purposes of inclusion in any record of the alien maintained by the Attorney General or the Service.”.**

**SEC. 407. UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES.**

**(a) REQUIRING CERTAIN REMEDIES IN UNFAIR IMMIGRATION-RELATED DISCRIMINATION ORDERS.—**Section 274B(g)(2) (8 U.S.C. 1324b(g)(2)) is amended—

(1) in subparagraph (A), by adding at the end the following: “Such order also shall require the person or entity to comply with the requirements of clauses (ii) and (vi) of subparagraph (B).”;

(2) in subparagraph (B), by striking “Such an order” and inserting “Subject to the second sentence of subparagraph (A), such an order”; and

(3) in subparagraph (B)(vi), by inserting before the semicolon at the end the following: “and to certify the fact of such education”.

**(b) TREATMENT OF CERTAIN DOCUMENTARY PRACTICE AS EMPLOYMENT PRACTICES.—**Section 274B(a)(6) (8 U.S.C. 1324b(a)(6)) is amended—

(1) by striking “For” and inserting “(A) Subject to subparagraph (B), for”, and

(2) by adding at the end the following new subparagraph:

**“(B) A person or other entity—**

**“(i) may request a document proving a renewal of employment authorization when an individual has previously submitted a time-limited document to satisfy the requirements of section 274A(b)(1); or**

**“(ii) if possessing reason to believe that an individual presenting a document which reasonably appears on its face to be genuine is nonetheless an unauthorized alien, may (I) inform the individual of the question about the document’s validity, and of such person or other entity’s intention to verify the validity of such document, and (II) upon receiving confirmation that the individual is unauthorized to work, may dismiss the individual.**

Nothing in this provision prohibits an individual from offering alternative documents that satisfy the requirements of section 274A(b)(1).”.

**(c) EFFECTIVE DATE.—**The amendments made by subsection (a) shall apply to orders issued on or after the first day of the first month beginning at least 90 days after the date of the enactment of this Act.

**TITLE V—REFORM OF LEGAL IMMIGRATION SYSTEM**

**Subtitle A—Refugees**

**SEC. 501. PERSECUTION FOR RESISTANCE TO COERCIVE POPULATION CONTROL METHODS.**

**(a) DEFINITION OF REFUGEE.—**Section 101(a)(42) (8 U.S.C. 1101(a)(42)) is amended by adding at the end the following: “For purposes of determinations under this Act, a person who has been forced to abort a pregnancy or to undergo involuntary sterilization, or who has been persecuted for failure or refusal to undergo such a procedure or for other resistance to a coercive population control program, shall be deemed to have been persecuted on account of political opinion, and a person who has a well founded fear that he or she will be forced to undergo such a procedure or subject to persecution for such failure, refusal, or resistance shall be deemed to have a well founded fear of persecution on account of political opinion.”.

**(b) NUMERICAL LIMITATION.—**Section 207(a) (8 U.S.C. 1157(a)), as amended by section 512(b), is amended by adding at the end the following new paragraph:

**“(4) For any fiscal year, not more than a total of 1,000 refugees may be admitted under this subsection or granted asylum under section 208 pursuant to a determination under the last sentence of section 101(a)(42) (relating to persecution for resistance to coercive population control methods).”.**

**Subtitle B—Asylum Reform**

**SEC. 511. ASYLUM REFORM.**

**(a) ASYLUM REFORM.—**Section 208 (8 U.S.C. 1158) is amended to read as follows:

**“ASYLUM**

**“SEC. 208. (a) AUTHORITY TO APPLY FOR ASYLUM.—**

**“(1) IN GENERAL.—**Any alien who is physically present in the United States or who arrives in the United States (whether or not at a designated port of arrival), irrespective of such alien’s status, may apply for asylum in accordance with this section.

**“(2) EXCEPTIONS.—**

**“(A) SAFE THIRD COUNTRY.—**Paragraph (1) shall not apply to an alien if the Attorney General determines that the alien may be removed, including pursuant to a bilateral or multilateral agreement, to a country (other than the country of the alien’s nationality or, in the case of an alien having no nationality, the country of the alien’s last habitual residence) in which the alien’s life or freedom would not be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion, and where the alien would have access to a

full and fair procedure for determining a claim to asylum or equivalent temporary protection, unless the Attorney General finds that it is in the public interest for the alien to receive asylum in the United States.

“(B) TIME LIMIT.—Paragraph (1) shall not apply to an alien unless the alien demonstrates by clear and convincing evidence that the application has been filed within 180 days after the alien’s arrival in the United States.

“(C) PREVIOUS ASYLUM APPLICATIONS.—Paragraph (1) shall not apply to an alien if the alien has previously applied for asylum and had such application denied.

“(D) CHANGED CONDITIONS.—An application for asylum of an alien may be considered, notwithstanding subparagraphs (B) and (C), if the alien demonstrates to the satisfaction of the Attorney General the existence of fundamentally changed circumstances which affect the applicant’s eligibility for asylum.

“(3) LIMITATION ON JUDICIAL REVIEW.—No court shall have jurisdiction to review a determination of the Attorney General under paragraph (2).

“(b) CONDITIONS FOR GRANTING ASYLUM.—

“(1) IN GENERAL.—The Attorney General may grant asylum to an alien who has applied for asylum in accordance with the requirements and procedures established by the Attorney General under this section if the Attorney General determines that such alien is a refugee within the meaning of section 101(a)(42)(A).

“(2) EXCEPTIONS.—

“(A) IN GENERAL.—Paragraph (1) shall not apply to an alien if the Attorney General determines that—

“(i) the alien ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

“(ii) the alien, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the United States;

“(iii) there are serious reasons for believing that the alien has committed a serious nonpolitical crime outside the United States prior to the arrival of the alien in the United States;

“(iv) there are reasonable grounds for regarding the alien as a danger to the security of the United States;

“(v) the alien is inadmissible under subclause (I), (II), (III), or (IV) of section 212(a)(3)(B)(i) or removable under section 237(a)(4)(B) (relating to terrorist activity), unless, in the case only of an alien inadmissible under subclause (IV) of section 212(a)(3)(B)(i), the Attorney General determines, in the Attorney General’s discretion, that there are not reasonable grounds for regarding the alien as a danger to the security of the United States; or

“(vi) the alien was firmly resettled in another country prior to arriving in the United States.

“(B) SPECIAL RULES.—

“(i) CONVICTION OF AGGRAVATED FELONY.—For purposes of clause (ii) of subparagraph (A), an alien who has been convicted of an aggravated felony shall be considered to have been convicted of a particularly serious crime.

“(ii) OFFENSES.—The Attorney General may designate by regulation offenses that will be considered to be a crime described in clause (ii) or (iii) of subparagraph (A).

“(C) ADDITIONAL LIMITATIONS.—The Attorney General may by regulation establish additional limitations and conditions under which an alien shall be ineligible for asylum under paragraph (1).

“(D) NO JUDICIAL REVIEW.—There shall be no judicial review of a determination of the Attorney General under subparagraph (A)(v).

“(3) TREATMENT OF SPOUSE AND CHILDREN.—A spouse or child (as defined in section 101(b)(1)(A), (B), (C), (D), or (E)) of an alien who is granted asylum under this subsection may, if not otherwise eligible for asylum under this section, be granted the same status as the alien if accompanying, or following to join, such alien.

“(c) ASYLUM STATUS.—

“(1) IN GENERAL.—In the case of an alien granted asylum under subsection (b), the Attorney General—

“(A) shall not remove or return the alien to the alien’s country of nationality or, in the case of a person having no nationality, the country of the alien’s last habitual residence;

“(B) shall authorize the alien to engage in employment in the United States and provide the alien with appropriate endorsement of that authorization; and

“(C) may allow the alien to travel abroad with the prior consent of the Attorney General.

“(2) TERMINATION OF ASYLUM.—Asylum granted under subsection (b) does not convey a right to remain permanently in the United States, and may be terminated if the Attorney General determines that—

“(A) the alien no longer meets the conditions described in subsection (b)(1) owing to a fundamental change in circumstances;

“(B) the alien meets a condition described in subsection (b)(2);

“(C) the alien may be removed, including pursuant to a bilateral or multilateral agreement, to a country (other than the country of the alien’s nationality or, in the case of an alien having no nationality, the country of the alien’s last habitual residence) in which the alien cannot establish that it is more likely than not that the alien’s life or freedom would be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion, and where the alien is eligible to receive asylum or equivalent temporary protection;

“(D) the alien has voluntarily availed himself or herself of the protection of the alien’s country of nationality or, in the case of an alien having no nationality, the alien’s country of last habitual residence, by returning to such country with permanent resident status or the reasonable possibility of obtaining such status with the same rights and obligations pertaining to other permanent residents of that country; or

“(E) the alien has acquired a new nationality and enjoys the protection of the country of his new nationality.

“(3) REMOVAL WHEN ASYLUM IS TERMINATED.—An alien described in paragraph (2) is subject to any applicable grounds of inadmissibility or deportability under section 212(a) and 237(a), and the alien’s removal or return shall be directed by the Attorney General in accordance with sections 240 and 241.

“(4) LIMITATION ON JUDICIAL REVIEW.—No court shall have jurisdiction to review a determination of the Attorney General under paragraph (2).

“(d) ASYLUM PROCEDURE.—

“(1) APPLICATIONS.—The Attorney General shall establish a procedure for the consideration of asylum applications filed under subsection (a). An application for asylum shall not be considered unless the alien submits fingerprints and a photograph in a manner to be determined by regulation by the Attorney General.

“(2) EMPLOYMENT.—An applicant for asylum is not entitled to employment authorization, but such authorization may be provided under regulation by the Attorney General. An applicant who is not otherwise eligible for employment authorization shall not be granted such authorization prior to 180

days after the date of filing of the application for asylum.

“(3) FEES.—The Attorney General may impose fees for the consideration of an application for asylum, for employment authorization under this section, and for adjustment of status under section 209(b). Such fees shall not exceed the Attorney General’s costs in adjudicating the applications. The Attorney General may provide for the assessment and payment of such fees over a period of time or by installments. Nothing in this paragraph shall be construed to require the Attorney General to charge fees for adjudication services provided to asylum applicants, or to limit the authority of the Attorney General to set adjudication and naturalization fees in accordance with section 286(m).

“(4) NOTICE OF PRIVILEGE OF COUNSEL AND CONSEQUENCES OF FRIVOLOUS APPLICATION.—At the time of filing an application for asylum, the Attorney General shall—

“(A) advise the alien of the privilege of being represented by counsel and of the consequences, under paragraph (6), of knowingly filing a frivolous application for asylum; and

“(B) provide the alien a list of persons (updated not less often than quarterly) who have indicated their availability to represent aliens in asylum proceedings on a pro bono basis.

“(5) CONSIDERATION OF ASYLUM APPLICATIONS.—

“(A) PROCEDURES.—The procedure established under paragraph (1) shall provide that—

“(i) asylum cannot be granted until the identity of the applicant has been checked against all appropriate records or databases maintained by the Attorney General and by the Secretary of State, including the Automated Visa Lookout System, to determine any grounds on which the alien may be inadmissible to or deportable from the United States, or ineligible to apply for or be granted asylum;

“(ii) in the absence of exceptional circumstances, the initial interview or hearing on the asylum application shall commence not later than 45 days after the date an application is filed;

“(iii) in the absence of exceptional circumstances, final administrative adjudication of the asylum application, not including administrative appeal, shall be completed within 180 days after the date an application is filed;

“(iv) any administrative appeal shall be filed within 30 days of a decision granting or denying asylum, or within 30 days of the completion of removal proceedings before an immigration judge under section 240, whichever is later; and

“(v) in the case of an applicant for asylum who fails without prior authorization or in the absence of exceptional circumstances to appear for an interview or hearing, including a hearing under section 240, the application may be dismissed or the applicant may be otherwise sanctioned for such failure.

“(B) ADDITIONAL REGULATORY CONDITIONS.—The Attorney General may provide by regulation for any other conditions or limitations on the consideration of an application for asylum not inconsistent with this Act.

“(6) FRIVOLOUS APPLICATIONS.—

“(A) IN GENERAL.—If the Attorney General determines that an alien has knowingly made a frivolous application for asylum and the alien has received the notice under paragraph (4)(A), the alien shall be permanently ineligible for any benefits under this Act, effective as of the date of a final determination on such application.

“(B) MATERIAL MISREPRESENTATIONS.—An application shall be considered to be frivolous if the Attorney General determines that the application contains a willful misrepresentation or concealment of a material fact.

“(7) NO PRIVATE RIGHT OF ACTION.—Nothing in this subsection shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.”.

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) The item in the table of contents relating to section 208 is amended to read as follows:

“Sec. 208. Asylum.”.

(2) Section 104(d)(1)(A) of the Immigration Act of 1990 (Public Law 101-649) is amended by striking “208(b)” and inserting “208”.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to applications for asylum filed on or after the first day of the first month beginning more than 180 days after the date of the enactment of this Act.

**SEC. 512. FIXING NUMERICAL ADJUSTMENTS FOR ASYLEES AT 10,000 EACH YEAR.**

(a) IN GENERAL.—Section 209(b) (8 U.S.C. 1159(b)) is amended by striking “Not more than” and all that follows through “adjust” and inserting the following: “The Attorney General, in the Attorney General’s discretion and under such regulations as the Attorney General may prescribe, and in a number not to exceed 10,000 aliens in any fiscal year, may adjust”.

(b) CONFORMING AMENDMENT.—Section 207(a) (8 U.S.C. 1157(a)) is amended by striking paragraph (4).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1996.

**SEC. 513. INCREASE IN ASYLUM OFFICERS.**

Subject to the availability of appropriations, the Attorney General shall provide for an increase in the number of asylum officers to at least 600 asylum officers by fiscal year 1997.

**TITLE VI—RESTRICTIONS ON BENEFITS FOR ALIENS**

**SEC. 600. STATEMENTS OF NATIONAL POLICY CONCERNING WELFARE AND IMMIGRATION.**

The Congress makes the following statements concerning national policy with respect to welfare and immigration:

(1) Self-sufficiency has been a basic principle of United States immigration law since this country’s earliest immigration statutes.

(2) It continues to be the immigration policy of the United States that—

(A) aliens within the nation’s borders not depend on public resources to meet their needs, but rather rely on their own capabilities and the resources of their families, their sponsors, and private organizations, and

(B) the availability of public benefits not constitute an incentive for immigration to the United States.

(3) Despite the principle of self-sufficiency, aliens have been applying for and receiving public benefits from Federal, State, and local governments at increasing rates.

(4) Current eligibility rules for public assistance and unenforceable financial support agreements have proved wholly incapable of assuring that individual aliens not burden the public benefits system.

(5) It is a compelling government interest to enact new rules for eligibility and sponsorship agreements in order to assure that aliens be self-reliant in accordance with national immigration policy.

(6) It is a compelling government interest to remove the incentive for illegal immigration provided by the availability of public benefits.

(7) With respect to the State authority to make determinations concerning the eligibility of aliens for public benefits, a State that chooses to follow the Federal classifica-

tion in determining the eligibility of such aliens for public assistance shall be considered to have chosen the least restrictive means available for achieving the compelling government interest of assuring that aliens be self-reliant in accordance with national immigration policy.

**Subtitle A—Eligibility of Illegal Aliens for Public Benefits**

**PART 1—PUBLIC BENEFITS GENERALLY**

**SEC. 601. MAKING ILLEGAL ALIENS INELIGIBLE FOR PUBLIC ASSISTANCE, CONTRACTS, AND LICENSES.**

(a) FEDERAL PROGRAMS.—Notwithstanding any other provision of law, except as provided in section 603, any alien who is not lawfully present in the United States shall not be eligible for any of the following:

(1) FEDERAL ASSISTANCE PROGRAMS.—To receive any benefits under any program of assistance provided or funded, in whole or in part, by the Federal Government for which eligibility (or the amount of assistance) is based on financial need.

(2) FEDERAL CONTRACTS OR LICENSES.—To receive any grant, to enter into any contract or loan agreement, or to be issued (or have renewed) any professional or commercial license, if the grant, contract, loan, or license is provided or funded by any Federal agency.

(b) STATE PROGRAMS.—Notwithstanding any other provision of law, except as provided in section 603, any alien who is not lawfully present in the United States shall not be eligible for any of the following:

(1) STATE ASSISTANCE PROGRAMS.—To receive any benefits under any program of assistance (not described in subsection (a)(1)) provided or funded, in whole or in part, by a State or political subdivision of a State for which eligibility (or the amount of assistance) is based on financial need.

(2) STATE CONTRACTS OR LICENSES.—To receive any grant, to enter into any contract or loan agreement, or to be issued (or have renewed) any professional or commercial license, if the grant, contract, loan, or license is provided or funded by any State agency.

(c) REQUIRING PROOF OF IDENTITY FOR FEDERAL CONTRACTS, GRANTS, LOANS, LICENSES, AND PUBLIC ASSISTANCE.—

(1) IN GENERAL.—In considering an application for a Federal contract, grant, loan, or license, or for public assistance under a program described in paragraph (2), a Federal agency shall require the applicant to provide proof of identity under paragraph (3) to be considered for such Federal contract, grant, loan, license, or public assistance.

(2) PUBLIC ASSISTANCE PROGRAMS COVERED.—The requirement of proof of identity under paragraph (1) shall apply to the following Federal public assistance programs (and include any successor to such a program as identified by the Attorney General in consultation with other appropriate officials):

(A) SSI.—The supplemental security income program under title XVI of the Social Security Act, including State supplementary benefits programs referred to in such title.

(B) AFDC.—The program of aid to families with dependent children under part A or E of title IV of the Social Security Act.

(C) SOCIAL SERVICES BLOCK GRANT.—The program of block grants to States for social services under title XX of the Social Security Act.

(D) MEDICAID.—The program of medical assistance under title XIX of the Social Security Act.

(E) FOOD STAMPS.—The program under the Food Stamp Act of 1977.

(F) HOUSING ASSISTANCE.—Financial assistance as defined in section 214(b) of the Housing and Community Development Act of 1980.

(3) DOCUMENTS THAT SHOW PROOF OF IDENTITY.—

(A) IN GENERAL.—Any one of the documents described in subparagraph (B) may be

used as proof of identity under this subsection if the document is current and valid. No other document or documents shall be sufficient to prove identity.

(B) DOCUMENTS DESCRIBED.—The documents described in this subparagraph are the following:

(i) A United States passport (either current or expired if issued both within the previous 20 years and after the individual attained 18 years of age).

(ii) A resident alien card.

(iii) A State driver’s license, if presented with the individual’s social security account number card.

(iv) A State identity card, if presented with the individual’s social security account number card.

(d) AUTHORIZATION FOR STATES TO REQUIRE PROOF OF ELIGIBILITY FOR STATE PROGRAMS.—In considering an application for contracts, grants, loans, licenses, or public assistance under any State program, a State is authorized to require the applicant to provide proof of eligibility to be considered for such State contracts, grants, loans, licenses, or public assistance.

(e) EXCEPTION FOR BATTERED ALIENS.—

(1) EXCEPTION.—The limitations on eligibility for benefits under subsection (a) or (b) shall not apply to an alien if—

(A)(i) the alien has been battered or subject to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse or parent’s family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, or

(ii) the alien’s child has been battered or subject to extreme cruelty in the United States by a spouse or parent of the alien in the battery or extreme cruelty) or by a member of the spouse or parent’s family residing in the same household as the alien when the spouse or parent consented or acquiesced to, and the alien did not actively participate in, such battery or cruelty; and

(B)(i) the alien has petitioned (or petitions within 45 days after the first application for assistance subject to the limitations under subsection (a) or (b)) for—

(I) status as a spouse or child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act,

(II) classification pursuant to clauses (ii) or (iii) of section 204(a)(1)(B) of such Act, or

(III) cancellation of removal and adjustment of status pursuant to section 240A(b)(2) of such Act; or

(ii) the alien is the beneficiary of a petition filed for status as a spouse or child of a United States citizen pursuant to clause (i) of section 204(a)(1)(A) of the Immigration and Nationality Act, or of a petition filed for classification pursuant to clause (i) of section 204(a)(1)(B) of such Act.

(2) TERMINATION OF EXCEPTION.—The exception under paragraph (1) shall terminate if no complete petition which sets forth a prima facie case is filed pursuant to the requirement of paragraph (1)(B) or (1)(C) or when an petition is denied.

**SEC. 602. MAKING UNAUTHORIZED ALIENS INELIGIBLE FOR UNEMPLOYMENT BENEFITS.**

(a) IN GENERAL.—Notwithstanding any other provision of law, no unemployment benefits shall be payable (in whole or in part) out of Federal funds to the extent the benefits are attributable to any employment of the alien in the United States for which the alien was not granted employment authorization pursuant to Federal law.

(b) PROCEDURES.—Entities responsible for providing unemployment benefits subject to the restrictions of this section shall make such inquiries as may be necessary to assure

that recipients of such benefits are eligible consistent with this section.

**SEC. 603. GENERAL EXCEPTIONS.**

Sections 601 and 602 shall not apply to the following:

(1) EMERGENCY MEDICAL SERVICES.—The provision of emergency medical services (as defined by the Attorney General in consultation with the Secretary of Health and Human Services).

(2) PUBLIC HEALTH IMMUNIZATIONS.—Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases, whether or not such symptoms are actually caused by a communicable disease.

(3) SHORT-TERM EMERGENCY RELIEF.—The provision of non-cash, in-kind, short-term emergency relief.

(4) FAMILY VIOLENCE SERVICES.—The provision of any services directly related to assisting the victims of domestic violence or child abuse.

(5) SCHOOL LUNCH ACT.—Programs carried out under the National School Lunch Act (and any successor to such a program as identified by the Attorney General in consultation with other appropriate officials).

(6) CHILD NUTRITION ACT.—Programs of assistance under the Child Nutrition Act of 1966 (and any successor to such a program as identified by the Attorney General in consultation with other appropriate officials).

(7) HEAD START PROGRAM.—Benefits under the Head Start Act.

**SEC. 604. TREATMENT OF EXPENSES SUBJECT TO EMERGENCY MEDICAL SERVICES EXCEPTION.**

(a) IN GENERAL.—Subject to such amounts as are provided in advance in appropriation Acts, each State or local government that provides emergency medical services (as defined for purposes of section 603(1)) through a public hospital or other public facility (including a nonprofit hospital that is eligible for an additional payment adjustment under section 1886 of the Social Security Act) or through contract with another hospital or facility to an individual who is an alien not lawfully present in the United States is entitled to receive payment from the Federal Government of its costs of providing such services, but only to the extent that such costs are not otherwise reimbursed through any other Federal program and cannot be recovered from the alien or another person.

(b) CONFIRMATION OF IMMIGRATION STATUS REQUIRED.—No payment shall be made under this section with respect to services furnished to an individual unless the identity and immigration status of the individual has been verified with the Immigration and Naturalization Service in accordance with procedures established by the Attorney General.

(c) ADMINISTRATION.—This section shall be administered by the Attorney General, in consultation with the Secretary of Health and Human Services.

(d) EFFECTIVE DATE.—Subsection (a) shall not apply to emergency medical services furnished before October 1, 1995.

**SEC. 605. REPORT ON DISQUALIFICATION OF ILLEGAL ALIENS FROM HOUSING ASSISTANCE PROGRAMS.**

Not later than 90 days after the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate, the Committee on Banking of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate, describing the manner in which the Secretary is enforcing section 214 of the Housing and Community Development Act of 1980. The report shall contain statistics with respect to the number of aliens denied financial assistance under such section.

**SEC. 606. VERIFICATION OF STUDENT ELIGIBILITY FOR POSTSECONDARY FEDERAL STUDENT FINANCIAL ASSISTANCE.**

No student shall be eligible for postsecondary Federal student financial assistance unless the student has certified that the student is a citizen or national of the United States or an alien lawfully admitted for permanent residence and the Secretary of Education has verified such certification through an appropriate procedure determined by the Attorney General.

**SEC. 607. PAYMENT OF PUBLIC ASSISTANCE BENEFITS.**

In carrying out this part, the payment or provision of benefits (other than those described in section 603 under a program of assistance described in section 601(a)(1)) shall be made only through an individual or person who is not ineligible to receive such benefits under such program on the basis of immigration status pursuant to the requirements and limitations of this part.

**SEC. 608. DEFINITIONS.**

For purposes of this part:

(1) LAWFUL PRESENCE.—The determination of whether an alien is lawfully present in the United States shall be made in accordance with regulations of the Attorney General. An alien shall not be considered to be lawfully present in the United States for purposes of this title merely because the alien may be considered to be permanently residing in the United States under color of law for purposes of any particular program.

(2) STATE.—The term "State" includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.

**SEC. 609. REGULATIONS AND EFFECTIVE DATES.**

(a) REGULATIONS.—The Attorney General shall first issue regulations to carry out this part (other than section 605) by not later than 60 days after the date of the enactment of this Act. Such regulations shall take effect on an interim basis, pending change after opportunity for public comment.

(b) EFFECTIVE DATE FOR RESTRICTIONS ON ELIGIBILITY FOR PUBLIC BENEFITS.—(1) Except as provided in this subsection, section 601 shall apply to benefits provided, contracts or loan agreements entered into, and professional and commercial licenses issued (or renewed) on or after such date as the Attorney General specifies in regulations under subsection (a). Such date shall be at least 30 days, and not more than 60 days, after the date the Attorney General first issues such regulations.

(2) The Attorney General, in carrying out section 601(a)(2), may permit such section to be waived in the case of individuals for whom an application for the grant, contract, loan, or license is pending (or approved) as of a date that is on or before the effective date specified under paragraph (1).

(c) EFFECTIVE DATE FOR RESTRICTIONS ON ELIGIBILITY FOR UNEMPLOYMENT BENEFITS.—

(1) Except as provided in this subsection, section 602 shall apply to unemployment benefits provided on or after such date as the Attorney General specifies in regulations under subsection (a). Such date shall be at least 30 days, and not more than 60 days, after the date the Attorney General first issues such regulations.

(2) The Attorney General, in carrying out section 602, may permit such section to be waived in the case of an individual during a continuous period of unemployment for whom an application for unemployment benefits is pending as of a date that is on or before the effective date specified under paragraph (1).

(d) BROAD DISSEMINATION OF INFORMATION.—Before the effective dates specified in subsections (b) and (c), the Attorney General

shall broadly disseminate information regarding the restrictions on eligibility established under this part.

**PART 2—HOUSING ASSISTANCE**

**SEC. 611. ACTIONS IN CASES OF TERMINATION OF FINANCIAL ASSISTANCE.**

(a) IN GENERAL.—Section 214(c)(1) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(c)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking "may, in its discretion," and inserting "shall";

(2) in subparagraph (A), by inserting after the period at the end the following new sentence: "Financial assistance continued under this subparagraph for a family may be provided only on a prorated basis under which the amount of financial assistance is based on the percentage of the total number of members of the family that are eligible for such assistance under the program for financial assistance and this section."; and

(3) in subparagraph (B), by striking "6-month period" and all that follows through "affordable housing" and inserting "single 3-month period".

(b) SCOPE OF APPLICATION.—The amendment made by subsection (a)(3) shall apply to any deferral granted under section 214(c)(1)(B) of the Housing and Community Development Act of 1980 on or after the date of the enactment of this Act, including any renewal of any deferral initially granted before such date of enactment, except that a public housing agency or other entity referred to in such section 214(c)(1)(B) may not renew, after such date of enactment, any deferral which was granted under such section before such date and has been effective for at least 3 months on and after such date.

**SEC. 612. VERIFICATION OF IMMIGRATION STATUS AND ELIGIBILITY FOR FINANCIAL ASSISTANCE.**

Section 214(d) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(d)) is amended—

(1) in the matter preceding paragraph (1), by inserting "or to be" after "being";

(2) in paragraph (1)(A), by inserting at the end the following new sentences: "If the declaration states that the individual is not a citizen or national of the United States, the declaration shall be verified by the Immigration and Naturalization Service. If the declaration states that the individual is a citizen or national of the United States, the Secretary shall request verification of the declaration by requiring presentation of documentation the Secretary considers appropriate, including a social security card, certificate of birth, driver's license, or other documentation.";

(3) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking "on the date of the enactment of the Housing and Community Development Act of 1987" and inserting "or applying for financial assistance"; and

(B) by inserting at the end the following new sentence:

"In the case of an individual applying for financial assistance, the Secretary may not provide such assistance for the benefit of the individual before such documentation is presented and verified under paragraph (3) or (4).";

(4) in paragraph (4)—

(A) in the matter preceding subparagraph (A), by striking "on the date of the enactment of the Housing and Community Development Act of 1987" and inserting "or applying for financial assistance";

(B) in subparagraph (A)—

(i) in clause (i)—

(I) by inserting ", not to exceed 30 days," after "reasonable opportunity"; and

(II) by striking "and" at the end; and

(ii) by striking clause (ii) and inserting the following new clauses:

“(ii) in the case of any individual who is already receiving assistance, may not delay, deny, reduce, or terminate the individual’s eligibility for financial assistance on the basis of the individual’s immigration status until such 30-day period has expired, and

“(iii) in the case of any individual who is applying for financial assistance, may not deny the application for such assistance on the basis of the individual’s immigration status until such 30-day period has expired; and”;

(C) in subparagraph (B), by striking clause (ii) and inserting the following new clause:

“(ii) pending such verification or appeal, the Secretary may not—

“(I) in the case of any individual who is already receiving assistance, delay, deny, reduce, or terminate the individual’s eligibility for financial assistance on the basis of the individual’s immigration status, and

“(II) in the case of any individual who is applying for financial assistance, deny the application for such assistance on the basis of the individual’s immigration status, and”;

(5) in paragraph (5), by striking all that follows “satisfactory immigration status” and inserting the following: “, the Secretary shall—

“(A) deny the individual’s application for financial assistance or terminate the individual’s eligibility for financial assistance, as the case may be; and

“(B) provide the individual with written notice of the determination under this paragraph.”; and

(6) by striking paragraph (6) and inserting the following new paragraph:

“(6) The Secretary shall terminate the eligibility for financial assistance of an individual and the members of the household of the individual, for a period of not less than 24 months, upon determining that such individual has knowingly permitted another individual who is not eligible for such assistance to use the assistance (including residence in the unit assisted).”.

**SEC. 613. PROHIBITION OF SANCTIONS AGAINST ENTITIES MAKING FINANCIAL ASSISTANCE ELIGIBILITY DETERMINATIONS.**

Section 214(e)(4) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(e)(4)) is amended—

(1) in paragraph (2), by inserting “or” at the end;

(2) in paragraph (3), by striking “, or” at the end and inserting a period; and

(3) by striking paragraph (4).

**SEC. 614. REGULATIONS.**

(a) **ISSUANCE.**—Not later than the expiration of the 60-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall issue any regulations necessary to implement the amendments made by this part. Such regulations shall be issued in the form of an interim final rule, which shall take effect upon issuance and shall not be subject to the provisions of section 533 of title 5, United States Code, regarding notice or an opportunity for comment.

(b) **FAILURE TO ISSUE.**—If the Secretary fails to issue the regulations required under subsection (a) before the expiration of the period referred to in such subsection, the regulations relating to restrictions on assistance to noncitizens, contained in the final rule issued by the Secretary of Housing and Urban Development in RIN 2501-AA63 (Docket No. R-95-1409; FR-2383-F-050), published in the Federal Register of March 20, 1995 (Vol. 60., No. 53; pp. 14824-14861), shall not apply after the expiration of such period.

**PART 3—PUBLIC EDUCATION BENEFITS**

**SEC. 616. AUTHORIZING STATES TO DENY PUBLIC EDUCATION BENEFITS TO ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES.**

(a) **IN GENERAL.**—The Immigration and Nationality Act, as amended by section 321(a)(2), is amended by adding at the end the following new title:

“TITLE VI—DISQUALIFICATION OF ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES FROM CERTAIN PROGRAM

“CONGRESSIONAL POLICY REGARDING INELIGIBILITY OF ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES FOR PUBLIC EDUCATION BENEFITS

“SEC. 601. (a) Because Congress views that the right to a free public education for aliens who are not lawfully present in the United States promotes violations of the immigration laws and because such a free public education for such aliens creates a significant burden on States’ economies and depletes States’ limited educational resources, Congress declares it to be the policy of the United States that—

“(1) aliens who are not lawfully present in the United States not be entitled to public education benefits in the same manner as United States citizens and lawful resident aliens; and

“(2) States should not be obligated to provide public education benefits to aliens who are not lawfully present in the United States.

“(b) Nothing in this section shall be construed as expressing any statement of Federal policy with regard to—

“(1) aliens who are lawfully present in the United States, or

“(2) benefits other than public education benefits provided under State law.

“AUTHORITY OF STATES

“SEC. 602. (a) In order to carry out the policies described in section 601, each State may provide that an alien who is not lawfully present in the United States is not eligible for public education benefits in the State or, at the option of the State, may be treated as a non-resident of the State for purposes of provision of such benefits.

“(b) For purposes of subsection (a), an individual shall be considered to be not lawfully present in the United States unless the individual (or, in the case of an individual who is a child, another on the child’s behalf)—

“(1) declares in writing under penalty of perjury that the individual (or child) is a citizen or national of the United States and (if required by a State) presents evidence of United States citizenship or nationality; or

“(2)(A) declares in writing under penalty of perjury that the individual (or child) is not a citizen or national of the United States but is lawfully present in the United States, and

“(B) presents either—

“(i) alien registration documentation or other proof of immigration registration from the Service, or

“(ii) such other documents as the State determines constitutes reasonable evidence indicating that the individual (or child) is lawfully present in the United States.

If the documentation described in paragraph (2)(B)(i) is presented, the State may (at its option) verify with the Service the alien’s immigration status through a system described in section 1137(d)(3) of the Social Security Act (42 U.S.C. 1320b-7(d)(3)).

“(c) If a State denies public education benefits under this section with respect to an alien, the State shall provide the alien with an opportunity for a fair hearing to establish that the alien is lawfully present in the United States, consistent with subsection (b) and Federal immigration law.”.

(b) **CLERICAL AMENDMENT.**—The table of contents, as amended by section 321(a)(1), is amended by adding at the end the following new items:

“TITLE VI—DISQUALIFICATION OF ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES FROM CERTAIN PROGRAM

“Sec. 601. Congressional policy regarding ineligibility of aliens not lawfully present in the United States for public education benefits.

“Sec. 602. Authority of States.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as of the date of the enactment of this Act.

**Subtitle B—Expansion of Disqualification From Immigration Benefits on the Basis of Public Charge**

**SEC. 621. GROUND FOR INADMISSIBILITY.**

(a) **IN GENERAL.**—Paragraph (4) of section 212(a) (8 U.S.C. 1182(a)) is amended to read as follows:

“(4) **PUBLIC CHARGE.**—

“(A) **FAMILY-SPONSORED IMMIGRANTS.**—Any alien who seeks admission or adjustment of status under a visa number issued under section 203(a), who cannot demonstrate to the consular officer at the time of application for a visa, or to the Attorney General at the time of application for admission or adjustment of status, that the alien’s age, health, family status, assets, resources, financial status, education, skills, or a combination thereof, and an affidavit of support described in section 213A, make it unlikely that the alien will become a public charge (as determined under section 241(a)(5)(B)) is inadmissible.

“(B) **CERTAIN EMPLOYMENT-BASED IMMIGRANTS.**—Any alien who seeks admission or adjustment of status under a visa number issued under section 203(b) by virtue of a classification petition filed by a relative of the alien (or by an entity in which such relative has a significant ownership interest) is inadmissible unless such relative has executed an affidavit of support described in section 213A with respect to such alien.”.

(b) **EFFECTIVE DATE.**—(1) Subject to paragraph (2), the amendment made by subsection (a) shall apply to applications submitted on or after such date, not earlier than 30 days and not later than 60 days after the date the Attorney General promulgates under section 632(f) a standard form for an affidavit of support, as the Attorney General shall specify.

(2) Section 212(a)(4)(C)(i) of the Immigration and Nationality Act, as amended by subsection (a), shall apply only to aliens seeking admission or adjustment of status under a visa number issued on or after October 1, 1996.

**SEC. 622. GROUND FOR DEPORTABILITY.**

(a) **IN GENERAL.**—Paragraph (5) of subsection (a) of section 241 (8 U.S.C. 1251(a)), before redesignation as section 237 by section 305(a)(2), is amended to read as follows:

“(5) **PUBLIC CHARGE.**—

“(A) **IN GENERAL.**—Any alien who, within 7 years after the date of entry or admission, becomes a public charge is deportable.

“(B) **EXCEPTIONS.**—(i) Subparagraph (A) shall not apply if the alien establishes that the alien has become a public charge from causes that arose after entry or admission. A condition that the alien knew (or had reason to know) existed at the time of entry or admission shall be deemed to be a cause that arose before entry or admission.

“(ii) The Attorney General, in the discretion of the Attorney General, may waive the application of subparagraph (A) in the case of an alien who is admitted as a refugee under section 207 or granted asylum under section 208.

“(C) INDIVIDUALS TREATED AS PUBLIC CHARGE.—

“(i) IN GENERAL.—For purposes of this title, an alien is deemed to be a ‘public charge’ if the alien receives benefits (other than benefits described in subparagraph (E)) under one or more of the public assistance programs described in subparagraph (D) for an aggregate period, except as provided in clauses (ii) and (iii), of at least 12 months within 7 years after the date of entry. The previous sentence shall not be construed as excluding any other bases for considering an alien to be a public charge, including bases in effect on the day before the date of the enactment of the Immigration in the National Interest Act of 1996. The Attorney General, in consultation with the Secretary of Health and Human Services, shall establish rules regarding the counting of health benefits described in subparagraph (D)(iv) for purposes of this subparagraph.

“(ii) DETERMINATION WITH RESPECT TO BATTERED WOMEN AND CHILDREN.—For purposes of a determination under clause (i) and except as provided in clause (iii), the aggregate period shall be 48 months within 7 years after the date of entry if the alien can demonstrate that (I) the alien has been battered or subject to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse or parent’s family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, or (II) the alien’s child has been battered or subject to extreme cruelty in the United States by a spouse or parent of the alien (without the active participation of the alien in the battery or extreme cruelty), or by a member of the spouse or parent’s family residing in the same household as the alien when the spouse or parent consented or acquiesced to and the alien did not actively participate in such battery or cruelty, and the need for the public benefits received has a substantial connection to the battery or cruelty described in subclause (I) or (II).

“(iii) SPECIAL RULE FOR ONGOING BATTERY OR CRUELTY.—For purposes of a determination under clause (i), the aggregate period may exceed 48 months within 7 years after the date of entry if the alien can demonstrate that any battery or cruelty under clause (ii) is ongoing, has led to the issuance of an order of a judge or an administrative law judge or a prior determination of the Service, and that the need for the benefits received has a substantial connection to such battery or cruelty.

“(D) PUBLIC ASSISTANCE PROGRAMS.—For purposes of subparagraph (B), the public assistance programs described in this subparagraph are the following (and include any successor to such a program as identified by the Attorney General in consultation with other appropriate officials):

“(i) SSI.—The supplemental security income program under title XVI of the Social Security Act, including State supplementary benefits programs referred to in such title.

“(ii) AFDC.—The program of aid to families with dependent children under part A or E of title IV of the Social Security Act.

“(iii) MEDICAID.—The program of medical assistance under title XIX of the Social Security Act.

“(iv) FOOD STAMPS.—The program under the Food Stamp Act of 1977.

“(v) STATE GENERAL CASH ASSISTANCE.—A program of general cash assistance of any State or political subdivision of a State.

“(vi) HOUSING ASSISTANCE.—Financial assistance as defined in section 214(b) of the Housing and Community Development Act of 1980.

“(E) CERTAIN ASSISTANCE EXCEPTED.—For purposes of subparagraph (B), an alien shall not be considered to be a public charge on

the basis of receipt of any of the following benefits:

“(i) EMERGENCY MEDICAL SERVICES.—The provision of emergency medical services (as defined by the Attorney General in consultation with the Secretary of Health and Human Services).

“(ii) PUBLIC HEALTH IMMUNIZATIONS.—Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment for communicable diseases.

“(iii) SHORT-TERM EMERGENCY RELIEF.—The provision of non-cash, in-kind, short-term emergency relief.”

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a) shall take effect as of the first day of the first month beginning at least 30 days after the date of the enactment of this Act.

(2) In applying section 241(a)(5)(C) of the Immigration and Nationality Act (which is subsequently redesignated as section 237(a)(5)(C) of such Act), as amended by subsection (a), no receipt of benefits under a public assistance program before the effective date described in paragraph (1) shall be taken into account.

#### Subtitle C—Attribution of Income and Affidavits of Support

#### SEC. 631. ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO FAMILY-SPONSORED IMMIGRANTS.

(a) FEDERAL PROGRAMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law (except as provided in paragraph (2)), in determining the eligibility and the amount of benefits of an alien for any Federal means-tested public benefits program (as defined in subsection (d)) the income and resources of the alien shall be deemed to include—

(A) the income and resources of any individual who executed an affidavit of support pursuant to section 213A of the Immigration and Nationality Act (as inserted by section 632(a)) in behalf of such alien, and

(B) the income and resources of the spouse (if any) of the individual.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to the following:

(A) Medical assistance provided for emergency medical services under title XIX of the Social Security Act.

(B) The provision of short-term, non-cash, in kind emergency relief.

(C) Benefits under the National School Lunch Act.

(D) Assistance under the Child Nutrition Act of 1966.

(E) Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment for communicable diseases.

(F) The provision of services directly related to assisting the victims of domestic violence or child abuse.

(G) Benefits under programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965 and titles III, VII, and VIII of the Public Health Service Act.

(H) Benefits under means-tested programs under the Elementary and Secondary Education Act of 1965.

(I) Benefits under the Head Start Act.

(b) PERIOD OF ATTRIBUTION.—

(1) PARENTS OF UNITED STATES CITIZENS AND ADULT SONS AND DAUGHTERS OF CITIZENS AND PERMANENT RESIDENTS.—Subsection (a) shall apply with respect to an alien who is admitted to the United States as the parent of a United States citizen under section 201(b)(2) of the Immigration and Nationality Act, or as the son or daughter of a citizen or lawful permanent resident under paragraph (1) or (3) of section 203(a) of such Act, until the alien is naturalized as a citizen of the United States.

(2) SPOUSES OF UNITED STATES CITIZENS AND LAWFUL PERMANENT RESIDENTS.—Subsection (a) shall apply with respect to an alien who is admitted to the United States as the spouse of a United States citizen or lawful permanent resident under section 201(b)(2) of 203(a)(1) of the Immigration and Nationality Act until—

(A) 7 years after the date the alien is lawfully admitted to the United States for permanent residence, or

(B) the alien is naturalized as a citizen of the United States, whichever occurs first.

(3) MINOR CHILDREN OF UNITED STATES CITIZENS AND LAWFUL PERMANENT RESIDENTS.—Subsection (a) shall apply with respect to an alien who is admitted to the United States as the minor child of a United States citizen or lawful permanent resident under section 201(b)(2) of 203(a)(1) of the Immigration and Nationality Act until the child attains the age of 21 years or, if earlier, the date the child is naturalized as a citizen of the United States.

(4) ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES ENDED IF SPONSORED ALIEN BECOMES ELIGIBLE FOR OLD-AGE BENEFITS UNDER TITLE II OF THE SOCIAL SECURITY ACT.—

(A) Notwithstanding any other provision of this section, subsection (a) shall not apply and the period of attribution of a sponsor's income and resources under this subsection shall terminate if the alien is able to prove to the satisfaction of the Attorney General that the alien has been employed for 40 qualifying quarters of coverage as defined under title II of the Social Security Act and the alien did not receive any benefit under a means-tested public benefits program of (or contributed to by) the Federal Government during any such quarter.

(B) The Attorney General shall ensure that appropriate information pursuant to subparagraph (A) is provided to the System for Alien Verification of Eligibility (SAVE).

(5) BATTERED WOMEN AND CHILDREN.—Notwithstanding any other provision of this section, subsections (a) and (c) shall not apply and the period of attribution of the income and resources of any individual under paragraphs (1) or (2) of subsection (a) or paragraph (1) shall not apply—

(A) for up to 48 months if the alien can demonstrate that (i) the alien has been battered or subject to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, or (ii) the alien's child has been battered or subject to extreme cruelty in the United States by a spouse or parent of the alien (without the active participation of the alien in the battery or extreme cruelty), or by a member of the spouse or parent's family residing in the same household as the alien when the spouse or parent consented or acquiesced to and the alien did not actively participate in such battery or cruelty, and need for the public benefits applied for has a substantial connection to the battery or cruelty described in clause (i) or (ii); and

(B) for more than 48 months if the alien can demonstrate that any battery or cruelty under subparagraph (A) is ongoing, has led to the issuance of an order of a judge or an administrative law judge or a prior determination of the Service, and that need for such benefits has a substantial connection to such battery or cruelty.

(c) OPTIONAL APPLICATION TO STATE PROGRAMS.—

(1) AUTHORITY.—Notwithstanding any other provision of law, in determining the eligibility and the amount of benefits of an alien for any State means-tested public benefits program, the State or political subdivi-

sion that offers the program is authorized to provide that the income and resources of the alien shall be deemed to include—

(A) the income and resources of any individual who executed an affidavit of support pursuant to section 213A of the Immigration and Nationality Act (as inserted by section 632(a)) in behalf of such alien, and

(B) the income and resources of the spouse (if any) of the individual.

(2) PERIOD OF ATTRIBUTION.—The period of attribution of a sponsor's income and resources in determining the eligibility and amount of benefits for an alien under any State means-tested public benefits program pursuant to paragraph (1) may not exceed the Federal period of attribution with respect to the alien.

(d) MEANS-TESTED PROGRAM DEFINED.—In this section:

(1) The term "means-tested public benefits program" means a program of public benefits (including cash, medical, housing, and food assistance and social services) of the Federal Government or of a State or political subdivision of a State in which the eligibility of an individual, household, or family eligibility unit for benefits under the program, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.

(2) The term "Federal means-tested public benefits program" means a means-tested public benefits program of (or contributed to by) the Federal Government.

(3) The term "State means-tested public benefits program" means a means-tested public benefits program that is not a Federal means-tested program.

#### SEC. 632. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

(a) IN GENERAL.—Title II is amended by inserting after section 213 the following new section:

##### "REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT

"SEC. 213A. (a) ENFORCEABILITY.—(1) No affidavit of support may be accepted by the Attorney General or by any consular officer to establish that an alien is not inadmissible as a public charge under section 212(a)(4) unless such affidavit is executed by a sponsor of the alien as a contract—

"(A) that is legally enforceable against the sponsor by the Federal Government and by any State (or any political subdivision of such State) that provides any means-tested public benefits program, subject to subsection (b)(4); and

"(B) in which the sponsor agrees to submit to the jurisdiction of any Federal or State court for the purpose of actions brought under subsection (b)(2).

"(2)(A) An affidavit of support shall be enforceable with respect to benefits provided under any means-tested public benefits program for an alien who is admitted to the United States as the parent of a United States citizen under section 201(b)(2) until the alien is naturalized as a citizen of the United States.

"(B) An affidavit of support shall be enforceable with respect to benefits provided under any means-tested public benefits program for an alien who is admitted to the United States as the spouse of a United States citizen or lawful permanent resident under section 201(b)(2) or 203(a)(2) until—

"(i) 7 years after the date the alien is lawfully admitted to the United States for permanent residence, or

"(ii) such time as the alien is naturalized as a citizen of the United States, whichever occurs first.

"(C) An affidavit of support shall be enforceable with respect to benefits provided under any means-tested public benefits pro-

gram for an alien who is admitted to the United States as the minor child of a United States citizen or lawful permanent resident under section 201(b)(2) or section 203(a)(2) until the child attains the age of 21 years.

"(D)(i) Notwithstanding any other provision of this subparagraph, a sponsor shall be relieved of any liability under an affidavit of support if the sponsored alien is able to prove to the satisfaction of the Attorney General that the alien has been employed for 40 qualifying quarters of coverage as defined under title II of the Social Security Act and the alien did not receive any benefit under a means-tested public benefits program of (or contributed to by) the Federal Government during any such quarter.

"(ii) The Attorney General shall ensure that appropriate information pursuant to clause (i) is provided to the System for Alien Verification of Eligibility (SAVE).

"(b) REIMBURSEMENT OF GOVERNMENT EXPENSES.—(1)(A) Upon notification that a sponsored alien has received any benefit under any means-tested public benefits program, the appropriate Federal, State, or local official shall request reimbursement by the sponsor in the amount of such assistance.

"(B) The Attorney General, in consultation with the Secretary of Health and Human Services, shall prescribe such regulations as may be necessary to carry out subparagraph (A).

"(2) If within 45 days after requesting reimbursement, the appropriate Federal, State, or local agency has not received a response from the sponsor indicating a willingness to commence payments, an action may be brought against the sponsor pursuant to the affidavit of support.

"(3) If the sponsor fails to abide by the repayment terms established by such agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.

"(4) No cause of action may be brought under this subsection later than 10 years after the alien last received any benefit under any means-tested public benefits program.

"(5) If, pursuant to the terms of this subsection, a Federal, State, or local agency requests reimbursement from the sponsor in the amount of assistance provided, or brings an action against the sponsor pursuant to the affidavit of support, the appropriate agency may appoint or hire an individual or other person to act on behalf of such agency acting under the authority of law for purposes of collecting any moneys owed. Nothing in this subsection shall preclude any appropriate Federal, State, or local agency from directly requesting reimbursement from a sponsor for the amount of assistance provided, or from bringing an action against a sponsor pursuant to an affidavit of support.

"(c) REMEDIES.—Remedies available to enforce an affidavit of support under this section include any or all of the remedies described in section 3201, 3203, 3204, or 3205 of title 28, United States Code, as well as an order for specific performance and payment of legal fees and other costs of collection, and include corresponding remedies available under State law. A Federal agency may seek to collect amounts owed under this section in accordance with the provisions of subchapter II of chapter 37 of title 31, United States Code.

"(d) NOTIFICATION OF CHANGE OF ADDRESS.—(1) The sponsor of an alien shall notify the Federal Government and the State in which the sponsored alien is currently residing within 30 days of any change of address of the sponsor during the period specified in subsection (a)(1).

"(2) Any person subject to the requirement of paragraph (1) who fails to satisfy such re-

quirement shall be subject to a civil penalty of—

"(A) not less than \$250 or more than \$2,000, or

"(B) if such failure occurs with knowledge that the sponsored alien has received any benefit under any means-tested public benefits program, not less than \$2,000 or more than \$5,000.

"(e) DEFINITIONS.—For the purposes of this section—

"(1) SPONSOR.—The term 'sponsor' means, with respect to an alien, an individual who—

"(A) is a citizen or national of the United States or an alien who is lawfully admitted to the United States for permanent residence;

"(B) is 18 years of age or over;

"(C) is domiciled in any State;

"(D) demonstrates, through presentation of a certified copy of an individual's Federal income tax returns for the individual's most recent two taxable years and a written statement, executed under oath or as permitted under penalty of perjury under section 1746 of title 28, United States Code, that the copies are accurate copies of such returns, (i) the means to maintain an annual income equal to at least 200 percent of the poverty level for the individual and the individual's family (including the alien and any other aliens with respect to whom the individual is a sponsor), or (ii) for an individual who is on active duty (other than active duty for training) in the Armed Forces of the United States, the means to maintain an annual income equal to at least 100 percent of the poverty level for the individual and the individual's family including the alien and any other aliens with respect to whom the individual is a sponsor; and

"(E) is petitioning for the admission of the alien under section 204 (or is an individual who is a United States citizen and who accepts joint and several liability with the petitioner).

"(2) FEDERAL POVERTY LINE.—The term 'Federal poverty line' means the income official poverty line (as defined in section 673(2) of the Community Services Block Grant Act) that is applicable to a family of the size involved.

"(3) MEANS-TESTED PUBLIC BENEFITS PROGRAM.—

"(A) IN GENERAL.—Subject to subparagraph (B), the term 'means-tested public benefits program' means a program of public benefits (including cash, medical, housing, and food assistance and social services) of the Federal Government or of a State or political subdivision of a State in which the eligibility of an individual, household, or family eligibility unit for benefits under the program, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.

"(B) EXCEPTIONS.—Such term does not include the following benefits:

"(i) Medical assistance provided for emergency medical services under title XIX of the Social Security Act.

"(ii) The provision of short-term, non-cash, in kind emergency relief.

"(iii) Benefits under the National School Lunch Act.

"(iv) Assistance under the Child Nutrition Act of 1966.

"(v) Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment for communicable diseases.

"(vi) The provision of services directly related to assisting the victims of domestic violence or child abuse.

"(vii) Benefits under programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965 and titles

III, VII, and VIII of the Public Health Service Act.

“(viii) Benefits under means-tested programs under the Elementary and Secondary Education Act of 1965.

“(ix) Benefits under the Head Start Act.”.

(b) REQUIREMENT OF AFFIDAVIT OF SUPPORT FROM EMPLOYMENT SPONSORS.—For requirement for affidavit of support from individuals who file classification petitions for a relative as an employment-based immigrant, see the amendment made by section 621(a).

(c) SETTLEMENT OF CLAIMS PRIOR TO NATURALIZATION.—Section 316 (8 U.S.C. 1427) is amended—

(1) in subsection (a), by striking “and” before “(3)”, and by inserting before the period at the end the following: “, and (4) in the case of an applicant that has received assistance under a means-tested public benefits program (as defined in subsection (f)(3) of section 213A) administered by a Federal, State, or local agency and with respect to which amounts may be owing under an affidavit of support executed under such section, provides satisfactory evidence that there are no outstanding amounts that may be owed to any such Federal, State, or local agency pursuant to such affidavit by the sponsor who executed such affidavit, except as provided in subsection (g)”;

(2) by adding at the end the following new subsection:

“(g) Clause (4) of subsection (a) shall not apply to an applicant where the applicant can demonstrate that—

“(A) either—

“(i) the applicant has been battered or subject to extreme cruelty in the United States by a spouse or parent or by a member of the spouse or parent’s family residing in the same household as the applicant and the spouse or parent consented or acquiesced to such battery or cruelty, or

“(ii) the applicant’s child has been battered or subject to extreme cruelty in the United States by the applicant’s spouse or parent (without the active participation of the applicant in the battery or extreme cruelty), or by a member of the spouse or parent’s family residing in the same household as the applicant when the spouse or parent consented or acquiesced to and the applicant did not actively participate in such battery or cruelty;

“(B) such battery or cruelty has led to the issuance of an order of a judge or an administrative law judge or a prior determination of the Service; and

“(C) the need for the public benefits received as to which amounts are owing had a substantial connection to the battery or cruelty described in subparagraph (A).”.

(d) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 213 the following:

“Sec. 213A. Requirements for sponsor’s affidavit of support.”.

(e) EFFECTIVE DATE.—Subsection (a) of section 213A of the Immigration and Nationality Act, as inserted by subsection (a) of this section, shall apply to affidavits of support executed on or after a date specified by the Attorney General, which date shall be not earlier than 60 days (and not later than 90 days) after the date the Attorney General formulates the form for such affidavits under subsection (f) of this section.

(f) PROMULGATION OF FORM.—Not later than 90 days after the date of the enactment of this Act, the Attorney General, in consultation with the Secretary of State and the Secretary of Health and Human Services, shall promulgate a standard form for an affidavit of support consistent with the provisions of section 213A of the Immigration and Nationality Act.

#### SEC. 633. CO-SIGNATURE OF ALIEN STUDENT LOANS.

Section 484(b) of the Higher Education Act of 1965 (20 U.S.C. 1091(b)) is amended by adding at the end the following new paragraph:

“(6) Notwithstanding sections 427(a)(2)(A), 428B(a), 428C(b)(4)(A), and 464(c)(1)(E), a student who is an alien lawfully admitted under the Immigration and Nationality Act, otherwise eligible for student financial assistance under this title, and for whom an affidavit of support has been provided under section 213A of such Act shall not be eligible for a loan under this title unless the loan is endorsed and cosigned by the alien’s sponsor under such section or by another credit-worthy individual who is a citizen or national of the United States.”.

#### SEC. 634. STATUTORY CONSTRUCTION.

Nothing in this title may be construed as an entitlement or a determination of an individual’s eligibility or fulfillment of the requisite requirements for any Federal, State, or local governmental program, assistance, or benefits. For purposes of this title, eligibility relates only to the general issue of eligibility or ineligibility on the basis of alienage.

#### TITLE VII—FACILITATION OF LEGAL ENTRY

#### SEC. 701. ADDITIONAL LAND BORDER INSPECTORS; INFRASTRUCTURE IMPROVEMENTS.

(a) INCREASED PERSONNEL.—

(1) IN GENERAL.—In order to eliminate undue delay in the thorough inspection of persons and vehicles lawfully attempting to enter the United States, the Attorney General shall increase, by approximately equal numbers in each of the fiscal years 1996 and 1997, the number of full-time land border inspectors assigned to active duty by the Immigration and Naturalization Service to a level adequate to assure full staffing during peak crossing hours of all border crossing lanes now in use, under construction, or construction of which has been authorized by Congress.

(2) DEPLOYMENT OF PERSONNEL.—The Attorney General shall, to the maximum extent practicable, ensure that the personnel hired pursuant to this subsection shall be deployed among the various Immigration and Naturalization Service sectors in proportion to the number of land border crossings measured in each such sector during the preceding fiscal year.

(b) IMPROVED INFRASTRUCTURE.—

(1) IN GENERAL.—The Attorney General from time to time may identify those physical improvements to the infrastructure of the international land borders of the United States necessary to expedite the inspection by the Immigration and Naturalization Service of persons and vehicles attempting to lawfully enter the United States in accordance with existing policies and procedures of the Immigration and Naturalization Service and the Drug Enforcement Agency.

(2) PRIORITIES.—Such improvements to the infrastructure of the land border of the United States shall be substantially completed and fully funded in those portions of the United States where the Attorney General, in consultation with the Committees on the Judiciary of the House of Representatives and the Senate, objectively determines the need to be greatest or most immediate before the Attorney General may obligate funds for construction of any improvement otherwise located.

#### SEC. 702. COMMUTER LANE PILOT PROGRAMS.

(a) MAKING LAND BORDER INSPECTION FEE PERMANENT.—Section 286(q) (8 U.S.C. 1356(q)) is amended—

(1) in paragraph (1), by striking “a project” and inserting “projects”;

(2) in paragraph (1), by striking “Such project” and inserting “Such projects”; and

(3) by striking paragraph (5).

(b) CONFORMING AMENDMENT.—The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1994 (Public Law 103-121, 107 Stat. 1161) is amended by striking the fourth proviso under the heading “Immigration and Naturalization Service, Salaries and Expenses”.

#### SEC. 703. PREINSPECTION AT FOREIGN AIRPORTS.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by inserting after section 235 the following new section:

##### “PREINSPECTION AT FOREIGN AIRPORTS

“SEC. 235A. (a) ESTABLISHMENT OF PREINSPECTION STATIONS.—(1) Subject to paragraph (4), not later than 2 years after the date of the enactment of this section, the Attorney General, in consultation with the Secretary of State, shall establish and maintain preinspection stations in at least 5 of the foreign airports that are among the 10 foreign airports which the Attorney General identifies as serving as last points of departure for the greatest numbers of passengers who arrive from abroad by air at ports of entry within the United States. Such preinspection stations shall be in addition to any preinspection stations established prior to the date of the enactment of this section.

“(2) Not later than November 1, 1995, and each subsequent November 1, the Attorney General shall compile data identifying—

“(A) the foreign airports which served as last points of departure for aliens who arrived by air at United States ports of entry without valid documentation during the preceding fiscal years,

“(B) the number and nationality of such aliens arriving from each such foreign airport, and

“(C) the primary routes such aliens followed from their country of origin to the United States.

“(3) Subject to paragraph (4), not later than 4 years after the date of enactment of this section, the Attorney General, in consultation with the Secretary of State, shall establish preinspection stations in at least 5 additional foreign airports which the Attorney General, in consultation with the Secretary of State, determines based on the data compiled under paragraph (2) and such other information as may be available would most effectively reduce the number of aliens who arrive from abroad by air at points of entry within the United States without valid documentation. Such preinspection stations shall be in addition to those established prior to or pursuant to paragraph (1).

“(4) Prior to the establishment of a preinspection station the Attorney General, in consultation with the Secretary of State, shall ensure that—

“(A) employees of the United States stationed at the preinspection station and their accompanying family members will receive appropriate protection,

“(B) such employees and their families will not be subject to unreasonable risks to their welfare and safety, and

“(C) the country in which the preinspection station is to be established maintains practices and procedures with respect to asylum seekers and refugees in accordance with the Convention Relating to the Status of Refugees (done at Geneva, July 28, 1951), or the Protocol Relating to the Status of Refugees (done at New York, January 31, 1967).

“(b) ESTABLISHMENT OF CARRIER CONSULTANT PROGRAM.—The Attorney General shall assign additional immigration officers to assist air carriers in the detection of fraudulent documents at foreign airports which, based on the records maintained pursuant to subsection (a)(2), served as a point of depart-

ture for a significant number of arrivals at United States ports of entry without valid documentation, but where no preinspection station exists.”.

(b) CLERICAL AMENDMENT.—The table of contents, as amended by section 308(a)(2), is further amended by inserting after the item relating to section 235 the following new item:

“Sec. 235A. Preinspection at foreign airports.”.

**SEC. 704. TRAINING OF AIRLINE PERSONNEL IN DETECTION OF FRAUDULENT DOCUMENTS.**

(a) USE OF FUNDS.—Section 286(h)(2)(A) (8 U.S.C. 1356(h)(2)(A)) is amended—

(1) in clause (iv), by inserting “, including training of, and technical assistance to, commercial airline personnel regarding such detection” after “United States”, and

(2) by adding at the end the following: “The Attorney General shall provide for expenditures for training and assistance described in clause (iv) in an amount, for any fiscal year, not less than 5 percent of the total of the expenses incurred that are described in the previous sentence.”.

(b) COMPLIANCE WITH DETECTION REGULATIONS.—Section 212(f) (8 U.S.C. 1182(f)) is amended by adding at the end the following: “Whenever the Attorney General finds that a commercial airline has failed to comply with regulations of the Attorney General relating to requirements of airlines for the detection of fraudulent documents used by passengers traveling to the United States (including the training of personnel in such detection), the Attorney General may suspend the entry of some or all aliens transported to the United States by such airline.”.

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply to expenses incurred during or after fiscal year 1996.

(2) The Attorney General shall first issue, in proposed form, regulations referred to in the second sentence of section 212(f) of the Immigration and Nationality Act, as added by the amendment made by subsection (b), by not later than 90 days after the date of the enactment of this Act.

**TITLE VIII—MISCELLANEOUS PROVISIONS**  
**Subtitle A—Amendments to the Immigration and Nationality Act**

**SEC. 801. NONIMMIGRANT STATUS FOR SPOUSES AND CHILDREN OF MEMBERS OF THE ARMED SERVICES.**

Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amended—

(1) by striking “or” at the end of subparagraph (R),

(2) by striking the period at the end of subparagraph (S) and inserting “; or”, and

(3) by inserting after subparagraph (S) the following new subparagraph:

“(T) an alien who is the spouse or child of another alien who is serving on active duty in the Armed Forces of the United States during the period in which the other alien is stationed in the United States.”.

**SEC. 802. AMENDED DEFINITION OF AGGRAVATED FELONY.**

(a) IN GENERAL.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)), as amended by section 222 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416), is amended—

(1) in subparagraph (N), by striking “of title 18, United States Code” and inserting “of this Act”, and

(2) in subparagraph (O), by striking “which constitutes” and all that follows up to the semicolon at the end and inserting “, for the purpose of commercial advantage”.

(b) EFFECTIVE DATE OF CONVICTION.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)), as amended by section 222(a) of the Immigration and

Nationality Technical Corrections Act of 1994 (Public Law 103-416), is amended by adding at the end the following sentence: “Notwithstanding any other provision of law, the term applies for all purposes to convictions entered before, on, or after the date of enactment of the Immigration and Nationality Technical Corrections Act of 1994.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective as if included in the enactment of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416).

**SEC. 803. AUTHORITY TO DETERMINE VISA PROCESSING PROCEDURES.**

(a) IN GENERAL.—Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) in paragraph (1), by striking “paragraph (2)” and inserting “paragraphs (2) and (5)”, and

(2) by adding at the end the following new paragraph:

“(5) CONSTRUCTION.—Nothing in paragraph (1) shall be construed to limit the authority of the Secretary of State to determine the procedures for the processing of immigrant visa applications or the locations where such applications will be processed.”.

(b) ELIMINATION OF CONSULATE SHOPPING FOR VISA OVERSTAYS.—Section 222 (8 U.S.C. 1202) is amended by adding at the end the following new subsection:

“(g) In the case of an alien who has entered and remained in the United States beyond the authorized period of stay, the alien is not eligible to be admitted to the United States as a nonimmigrant on the basis of a visa issued other than in a consular office located in the country of the alien’s nationality (or, if there is no office in such country, at such other consular office as the Secretary of State shall specify).”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to visas issued before, on, or after the date of the enactment of this Act.

**SEC. 804. WAIVER AUTHORITY CONCERNING NOTICE OF DENIAL OF APPLICATION FOR VISAS.**

Section 212(b) (8 U.S.C. 1182(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(2) by striking “If” and inserting “(1) Subject to paragraph (2), if”; and

(3) by inserting at the end the following paragraph:

“(2) With respect to applications for visas, the Secretary of State may waive the application of paragraph (1) in the case of a particular alien or any class or classes of aliens inadmissible under subsection (a)(2) or (a)(3).”.

**SEC. 805. TREATMENT OF CANADIAN LANDED IMMIGRANTS.**

Section 212(d)(4)(B) (8 U.S.C. 1182(d)(4)(B)) is amended—

(1) by striking “and residents” and inserting “, residents”, and

(2) by striking “nationals,” and inserting “nationals, and aliens who are granted permanent residence by the government of the foreign contiguous territory and who are residing in that territory”.

**SEC. 806. CHANGES RELATING TO H-1B NON-IMMIGRANTS.**

(a) PROVISIONS RELATING TO WAGE DETERMINATIONS.—Section 212(n) (8 U.S.C. 1182(n)) is amended by adding at the end the following new paragraphs:

“(3) For purposes of determining the actual wage level paid under paragraph (1)(A)(i)(I), an employer shall not be required to have and document an objective system to determine the wages of workers.

“(4) For purposes of determining the actual wage level paid under paragraph (1)(A)(i)(I), a non-H-1B-dependent employer of more

than 1,000 full-time equivalent employees in the United States may demonstrate that in determining the wages of H-1B non-immigrants, it utilizes a compensation and benefits system that has been previously certified by the Secretary of Labor (and recertified at such intervals the Secretary of Labor may designate) to satisfy all of the following conditions:

“(A) The employer has a company-wide compensation policy for its full-time equivalent employees which ensures salary equity among employees similarly employed.

“(B) The employer has a company-wide benefits policy under which all full-time equivalent employees similarly employed are eligible for substantially the same benefits or under which some employees may accept higher pay, at least equal in value to the benefits, in lieu of benefits.

“(C) The compensation and benefits policy is communicated to all employees.

“(D) The employer has a human resources or compensation function that administers its compensation system.

“(E) The employer has established documentation for the job categories in question. An employer’s payment of wages consistent with a system which meets the conditions of subparagraphs (A) through (E) of this paragraph which has been certified by the Secretary of Labor pursuant to this paragraph shall be deemed to satisfy the requirements of paragraph (1)(A)(i)(I).

“(5) For purposes of determining the prevailing wage level paid under paragraph (1)(A)(i)(II), employers may provide a published survey, a State Employment Security Agency determination, a determination by an accepted private source, or any other legitimate source. The Secretary of Labor shall, not later than 180 days from the date of enactment of this paragraph, provide for acceptance of prevailing wage determinations not made by a State Employment Security Agency. The Secretary of Labor or the Secretary’s designate must either accept such a non-State Employment Security Agency wage determination or issue a written decision rejecting the determination and detailing the legitimate reasons that the determination is not acceptable. If a detailed rejection is not issued within 45 days of the date of the Secretary’s receipt of such determination, the determination will be deemed accepted. An employer’s payment of wages consistent with a prevailing wage determination not rejected by the Secretary of Labor under this paragraph shall be deemed to satisfy the requirements of paragraph (1)(A)(i)(II).”.

(b) INAPPLICABILITY OF CERTAIN REGULATIONS TO NON-H-1B-DEPENDENT EMPLOYERS.—

(1) DEFINITION OF H-1B-DEPENDENT EMPLOYER.—Section 212(n)(2) (8 U.S.C. 1182(n)(2)) is amended by inserting after subparagraph (D) the following new subparagraphs:

“(E) In this subsection, the term ‘H-1B-dependent employer’ means an employer that—

“(i)(I) has fewer than 21 full-time equivalent employees who are employed in the United States, and (II) employs 4 or more H-1B nonimmigrants; or

“(ii)(I) has at least 21 but not more than 150 full-time equivalent employees who are employed in the United States, and (II) employs H-1B nonimmigrants in a number that is equal to at least 20 percent of the number of such full-time equivalent employees; or

“(iii)(I) has at least 151 full-time equivalent employees who are employed in the United States, and (II) employs H-1B non-immigrants in a number that is equal to at least 15 percent of the number of such full-time equivalent employees.

In applying this subparagraph, any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of

the Internal Revenue Code of 1986 shall be treated as a single employer. Aliens employed under a petition for H-1B nonimmigrants shall be treated as employees, and counted as nonimmigrants under section 101(a)(15)(H)(i)(b) under this subparagraph. In this subsection, the term 'non-H-1B-dependent employer' means an employer that is not an H-1B-dependent employer.

"(F)(i) An employer who is an H-1B-dependent employer as defined in subparagraph (E) can nevertheless be treated as a non-H-1B-dependent employer for five years on a probationary status if—

"(I) the employer has demonstrated to the satisfaction of the Secretary of Labor that it has developed a reasonable plan for reducing its use of H-1B nonimmigrants over a five-year period to the level of a non-H-1B-dependent employer, and

"(II) annual reviews of that plan by the Secretary of Labor indicate successful implementation of that plan.

If the employer has not met the requirements established in this clause, the probationary status ends and the employer shall be treated as an H-1B-dependent employer until such time as the employer can prove to the Secretary of Labor that it no longer is an H-1B-dependent employer as defined in subparagraph (E).

"(ii) The probationary program set out in clause (i) shall be effective for no longer than five years after the date of the enactment of this subparagraph."

(2) LIMITING APPLICATION OF CERTAIN REQUIREMENTS FOR NON-H-1B-DEPENDENT EMPLOYERS.—Section 212(n) (8 U.S.C. 1182(n)), as amended by subsection (a), is further amended by adding at the end the following new paragraph:

"(6) In carrying out this subsection in the case of an employer that is a non-H-1B-dependent employer—

"(A) the employer is not required to post a notice at a worksite that was not listed on the application under paragraph (1) if the worksite is within the area of intended employment listed on such application for such nonimmigrant; and

"(B) if the employer has filed and had certified an application under paragraph (1) with respect to one or more H-1B nonimmigrants for one or more areas of employment—

"(i) the employer is not required to file and have certified an additional application under paragraph (1) with respect to such a nonimmigrant for an area of employment not listed in the previous application because the employer has placed one or more such nonimmigrants in such a nonlisted area so long as either (I) each such nonimmigrant is not placed in such nonlisted areas for a period exceeding 45 workdays in any 12-month period and not to exceed 90 workdays in any 36-month period, or (II) each such nonimmigrant's principal place of employment has not changed to a nonlisted area, and

"(ii) the employer is not required to pay per diem and transportation costs at any specified rates for work performed in such a nonlisted area."

(3) LIMITATION ON AUTHORITY TO INITIATE COMPLAINTS AND CONDUCT INVESTIGATIONS FOR NON-H-1B-DEPENDENT EMPLOYERS.—Section 212(n)(2)(A) (8 U.S.C. 1182(n)(2)(A)) is amended—

(A) in the second sentence, by inserting before the period at the end the following: ", except that the Secretary may only file such a complaint in the case of an H-1B-dependent employer (as defined in subparagraph (E)) or when conducting an annual review of a plan pursuant to subparagraph (F)(i) if there appears to be a violation of an attestation or a misrepresentation of a material fact in an application", and

(B) by inserting after the second sentence the following new sentence: "No investigation or hearing shall be conducted with respect to a non-H-1B-dependent employer except in response to a complaint filed under the previous sentence."

(c) NO DISPLACEMENT OF AMERICAN WORKERS PERMITTED.—(1) Section 212(n)(1) (8 U.S.C. 1182(n)(1)) is amended by inserting after subparagraph (D) the following new subparagraph:

"(E)(i) If the employer, within the period beginning 6 months before and ending 90 days following the date of filing of the application or during the 90 days immediately preceding and following the date of filing of any visa petition supported by the application, has laid off or lays off any protected individual with substantially equivalent qualifications and experience in the specific employment as to which the nonimmigrant is sought or is employed, the employer will pay a wage to the nonimmigrant that is at least 110 percent of the arithmetic mean of the last wage earned by all such laid off individuals (or, if greater, at least 110 percent of the arithmetic mean of the highest wage earned by all such laid off individuals within the most recent year if the employer reduced the wage of any such laid off individual during such year other than in accordance with a general company-wide reduction of wages for substantially all employees).

"(ii) Except as provided in clause (iii), in the case of an H-1B-dependent employer which employs an H-1B nonimmigrant, the employer shall not place the nonimmigrant with another employer where—

"(I) the nonimmigrant performs his or her duties in whole or in part at one or more worksites owned, operated, or controlled by such other employer, and

"(II) there are indicia of an employment relationship between the nonimmigrant and such other employer.

"(iii) Clause (ii) shall not apply to an employer's placement of an H-1B nonimmigrant with another employer if—

"(I) the other employer has executed an attestation that it, within the period beginning 6 months before and ending 90 days following the date of filing of the application or during the 90 days immediately preceding and following the date of filing of any visa petition supported by the application, has not laid off and will not lay off any protected individual with substantially equivalent qualifications and experience in the specific employment as to which the H-1B nonimmigrant is being sought or is employed, or

"(II) the employer pays a wage to the nonimmigrant that is at least 110 percent of the arithmetic mean of the last wage earned by all such laid off individuals (or, if greater, at least 110 percent of the arithmetic mean of the highest wage earned by all such laid off individuals within the most recent year if the other employer reduced the wage of any such laid off individual during such year other than in accordance with a general company-wide reduction of wages for substantially all employees).

"(iv) For purposes of this subparagraph, the term 'laid off', with respect to an individual—

"(I) refers to the individual's loss of employment, other than a discharge for inadequate performance, cause, voluntary departure, or retirement, and

"(II) does not include any situation in which the individual involved is offered, as an alternative to such loss of employment, a similar job opportunity with the same employer (or with the H-1B-dependent employer described in clause (ii)) carrying equivalent or higher compensation and benefits as the position from which the employee was laid off, regardless of whether or not the employee accepts the offer.

"(v) For purposes of this subparagraph, the term 'protected individual' means an individual who—

"(I) is a citizen or national of the United States, or

"(II) is an alien who is lawfully admitted for permanent residence, is granted the status of an alien lawfully admitted for temporary residence under section 210(a), 210A(a), or 245(a)(1), is admitted as a refugee under section 207, or is granted asylum under section 208."

(2) Section 212(n)(2) (8 U.S.C. 1182(n)(2)), as amended by subsection (b)(1), is amended by adding at the end the following new subparagraph:

"(G) Under regulations of the Secretary, the previous provisions of this paragraph shall apply to complaints respecting a failure of an other employer to comply with an attestation described in paragraph (1)(E)(iii)(I) in the same manner that they apply to complaints with respect to a failure to comply with a condition described in paragraph (1)(E)(i)."

(3) Section 212(n)(2)(C) (8 U.S.C. 1182(n)(2)(C)) is amended by inserting "or (1)(E)" after "(1)(B)".

(d) INCREASED PENALTIES.—Section 212(n)(2) is amended—

(1) in subparagraph (C)(i), by striking "\$1,000" and inserting "\$5,000";

(2) by amending subparagraph (C)(ii) to read as follows:

"(ii) the Attorney General shall not approve petitions filed with respect to that employer (or any employer who is a successor in interest) under section 204 or 214(c) for aliens to be employed by the employer—

"(I) during a period of at least 1 year in the case of the first determination of a violation or any subsequent determination of a violation occurring within 1 year of that first violation or any subsequent determination of a nonwillful violation occurring more than 1 year after the first violation;

"(II) during a period of at least 5 years in the case of a determination of a willful violation occurring more than 1 year after the first violation; and

"(III) at any time in the case of a determination of a willful violation occurring more than 5 years after a violation described in subclause (II)."; and

(3) in subparagraph (D), by adding at the end the following: "If a penalty under subparagraph (C) has been imposed in the case of a willful violation, the Secretary shall impose on the employer a civil monetary penalty in an amount equalling twice the amount of backpay."

(e) COMPUTATION OF PREVAILING WAGE LEVEL.—Section 212(n) (8 U.S.C. 1182(n)), as amended by subsections (a) and (b)(2), is further amended by adding at the end the following new paragraph:

"(7) In computing the prevailing wage level for an occupational classification in an area of employment for purposes of paragraph (1)(A)(i)(II) and subsection (a)(5)(A) in the case of an employee of (A) an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965), or a related or affiliated nonprofit entity, or (B) a nonprofit scientific research organization, the prevailing wage level shall only take into account employees at such institutions and entities in the area of employment."

(f) CONFORMING AMENDMENTS.—Section 212(n) (8 U.S.C. 1182(n)) is further amended—

(1) in the matter in paragraph (1) before subparagraph (A), by inserting "(in this subsection referred to as an 'H-1B nonimmigrant')" after "101(a)(15)(H)(i)(b)"; and

(2) in paragraph (1)(A), by striking "nonimmigrant described in section 101(a)(15)(H)(i)(b)" and inserting "H-1B nonimmigrant".

## (g) EFFECTIVE DATES.—

(1) Except as otherwise provided in this subsection, the amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to applications filed with the Secretary of Labor on or after 30 days after the date of the enactment of this Act.

(2) The amendments made by subsection (b)(3) shall apply to complaints filed, and to investigations or hearings initiated, on or after January 19, 1995.

**SEC. 807. VALIDITY OF PERIOD OF VISAS.**

(a) EXTENSION OF VALIDITY OF IMMIGRANT VISAS TO 6 MONTHS.—Section 221(c) (8 U.S.C. 1201(c)) is amended by striking “four months” and inserting “six months”.

(b) AUTHORIZING APPLICATION OF RECIPROcity RULE FOR NONIMMIGRANT VISA IN CASE OF REFUGEES AND PERMANENT RESIDENTS.—Such section is further amended by inserting before the period at the end of the third sentence the following: “; except that in the case of aliens who are nationals of a foreign country and who either are granted refugee status and firmly resettled in another foreign country or are granted permanent residence and residing in another foreign country, the Secretary of State may prescribe the period of validity of such a visa based upon the treatment granted by that other foreign country to alien refugees and permanent residents, respectively, in the United States”.

**SEC. 808. LIMITATION ON ADJUSTMENT OF STATUS OF INDIVIDUALS NOT LAWFULLY PRESENT IN THE UNITED STATES.**

(a) IN GENERAL.—Section 245(i) (8 U.S.C. 1255), as added by section 506(b) of the Department of State and Related Agencies Appropriations Act, 1995 (Public Law 103-317, 108 Stat. 1765), is amended—

(1) in paragraph (1), by inserting “pursuant to section 301 of the Immigration Act of 1990 is not required to depart from the United States and who” after “who” the first place it appears; and

(2) by adding at the end of paragraph (2) the following: “For purposes of subparagraph (A), the ground of inadmissibility described in section 212(a)(9) shall not apply.”

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a)(1) shall apply to applications for adjustment of status filed after September 30, 1996.

(2) The amendment made by subsection (a)(2) shall take effect on the title III-A effective date (as defined in section 309(a)).

**SEC. 809. LIMITED ACCESS TO CERTAIN CONFIDENTIAL INS FILES.**

(a) LEGALIZATION PROGRAM.—Section 245A(c)(5) (8 U.S.C. 1255a(c)(5)) is amended—

(1) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively;

(2) by striking “Neither” and inserting “(A) Except as provided in this paragraph, neither”;

(3) by redesignating the last sentence as subparagraph (D);

(4) by striking the semicolon and inserting a period;

(5) by striking “except that the” and inserting the following:

“(B) The”;

(6) by inserting after subparagraph (B), as created by the amendment made by paragraph (5), the following:

“(C) The Attorney General may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien under this section to be used—

“(i) for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated; or

“(ii) for criminal law enforcement purposes against the alien whose application is to be disclosed if the alleged criminal activity occurred after the legalization application was filed and such activity involves terrorist activity or poses either an immediate risk to life or to national security, or would be prosecutable as an aggravated felony, but without regard to the length of sentence that could be imposed on the applicant.”; and

(7) by adding at the end the following new subparagraph:

“(E) Nothing in this paragraph shall preclude the release for immigration enforcement purposes of the following information contained in files or records of the Service pertaining to the application:

“(i) The immigration status of the applicant on any given date after the date of filing the application (including whether the applicant was authorized to work) but only for purposes of a determination of whether the applicant is eligible for relief from deportation or removal and not otherwise.

“(ii) The date of the applicant’s adjustment (if any) to the status of an alien lawfully admitted for permanent residence.

“(iii) Information concerning whether the applicant has been convicted of a crime occurring after the date of filing the application.

“(iv) The date or disposition of the application.”

(b) SPECIAL AGRICULTURAL WORKER PROGRAM.—Section 210(b) of such Act (8 U.S.C. 1160(b)) is amended—

(1) in paragraph (5), by inserting “, except as permitted under paragraph (6)(B)” after “consent of the alien”; and

(2) in paragraph (6)—

(A) in subparagraph (A), by striking the period at the end and inserting a comma,

(B) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively,

(C) by striking “Neither” and inserting “(A) Except as provided in subparagraph (B), neither”;

(D) by striking “Anyone” and inserting the following:

“(C) Anyone”;

(E) by inserting after the first sentence the following:

“(B) The Attorney General may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien to be used—

“(i) for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated, or

“(ii) for criminal law enforcement purposes against the alien whose application is to be disclosed if the alleged criminal activity occurred after the special agricultural worker application was filed and such activity involves terrorist activity or poses either an immediate risk to life or to national security, or would be prosecutable as an aggravated felony, but without regard to the length of sentence that could be imposed on the applicant.”; and

(F) by adding at the end the following new subparagraph:

“(D) Nothing in this paragraph shall preclude the release for immigration enforcement purposes of the following information contained in files or records of the Service pertaining to the application:

“(i) The immigration status of the applicant on any given date after the date of filing the application (including whether the applicant was authorized to work).

“(ii) The date of the applicant’s adjustment (if any) to the status of an alien lawfully admitted for permanent residence.

“(iii) Information concerning whether the applicant has been convicted of a crime oc-

curing after the date of filing the application.

“(iv) The date or disposition of the application.”

**SEC. 810. CHANGE OF NONIMMIGRANT CLASSIFICATION.**

Section 248 (8 U.S.C. 1258) is amended by inserting at the end the following:

“Any alien whose status is changed under this section may apply to the Secretary of State for a visa without having to leave the United States and apply at the visa office.”

**SEC. 811. CERTIFICATION REQUIREMENTS FOR FOREIGN HEALTH-CARE WORKERS.**

(a) IN GENERAL.—Section 212(a) (8 U.S.C. 1182(a)), as amended by section 301(b)(1), is amended—

(1) by redesignating paragraph (10) as paragraph (11), and

(2) by inserting after paragraph (9) the following new paragraph:

“(10) CERTIFICATION REQUIREMENTS FOR FOREIGN HEALTH-CARE WORKERS.—Any alien who seeks to enter the United States for the purpose of performing labor as a health care worker, other than a physician, is inadmissible unless the consular officer receives a certification from the Commission on Graduates of Foreign Nursing Schools or a certificate from an equivalent independent credentialing organization approved by the Secretary of Labor verifying that—

“(A) the alien’s education, training, or experience meet all applicable statutory and regulatory requirements for entry into the United States under the classification specified in the application and is comparable to that required for an American practitioner of the same type;

“(B) any foreign license submitted by the alien is authentic and unencumbered;

“(C) the alien must have the ability to read, write, and speak the English language at a level required for standard business communication, as demonstrated by the alien’s score on one or more standardized tests; and

“(D) if the alien is a registered nurse, the alien has passed an examination testing both nursing skills and English language proficiency.”

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to aliens entering the United States more than 180 days after the date of the enactment of this Act.

**SEC. 812. COMPUTATION OF TARGETED ASSISTANCE.**

Section 412(c)(2) (8 U.S.C. 1522(c)(2)) is amended by adding at the end the following new subparagraph:

“(C) Except for the Targeted Assistance Ten Percent Discretionary Program, all grants made available under this paragraph for a fiscal year shall be allocated by the Office of Resettlement in a manner that ensures that each qualifying county shall receive the same amount of assistance for each refugee and entrant residing in the county as of the beginning of the fiscal year who arrived in the United States not more than 60 months prior to such fiscal year.”

**Subtitle B—Other Provisions****SEC. 831. COMMISSION REPORT ON FRAUD ASSOCIATED WITH BIRTH CERTIFICATES.**

Section 141 of the Immigration Act of 1990 is amended—

(1) in subsection (b)—

(A) by striking “and” at the end of paragraph (1),

(B) by striking the period at the end of paragraph (2) and inserting “; and”, and

(C) by adding at the end the following new paragraph:

“(3) transmit to Congress, not later than January 1, 1997, a report containing recommendations (consistent with subsection (c)(3)) of methods of reducing or eliminating

the fraudulent use of birth certificates for the purpose of obtaining other identity documents that may be used in securing immigration, employment, or other benefits.”; and

(2) by adding at the end of subsection (c), the following new paragraph:

“(3) FOR REPORT ON REDUCING BIRTH CERTIFICATE FRAUD.—In the report described in subsection (b)(3), the Commission shall consider and analyze the feasibility of—

“(A) establishing national standards for counterfeit-resistant birth certificates, and

“(B) limiting the issuance of official copies of a birth certificate of an individual to anyone other than the individual or others acting on behalf of the individual.”.

**SEC. 832. UNIFORM VITAL STATISTICS.**

(a) **PILOT PROGRAM.**—The Secretary of Health and Human Services shall consult with the State agency responsible for registration and certification of births and deaths and, within 2 years of the date of enactment of this Act, shall establish a pilot program for 3 of the 5 States with the largest number of undocumented aliens of an electronic network linking the vital statistics records of such States. The network shall provide, where practical, for the matching of deaths with births and shall enable the confirmation of births and deaths of citizens of such States, or of aliens within such States, by any Federal or State agency or official in the performance of official duties. The Secretary and participating State agencies shall institute measures to achieve uniform and accurate reporting of vital statistics into the pilot program network, to protect the integrity of the registration and certification process, and to prevent fraud against the Government and other persons through the use of false birth or death certificates.

(b) **REPORT.**—Not later than 180 days after the establishment of the pilot program under subsection (a), the Secretary shall issue a written report to Congress with recommendations on how the pilot program could effectively be instituted as a national network for the United States.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for fiscal year 1996 and for subsequent fiscal years such sums as may be necessary to carry out this section.

**SEC. 833. COMMUNICATION BETWEEN STATE AND LOCAL GOVERNMENT AGENCIES, AND THE IMMIGRATION AND NATURALIZATION SERVICE.**

Notwithstanding any other provision of Federal, State, or local law, no State or local government entity shall prohibit, or in any way restrict, any government entity or any official within its jurisdiction from sending to or receiving from the Immigration and Naturalization Service information regarding the immigration status, lawful or unlawful, of an alien in the United States. Notwithstanding any other provision of Federal, State, or local law (and excepting the attorney-client privilege), no State or local government entity may be prohibited, or in any way restricted, from sending to or receiving from the Immigration and Naturalization Service information regarding the immigration status, lawful or unlawful, of an alien in the United States.

**SEC. 834. REGULATIONS REGARDING HABITUAL RESIDENCE.**

Not later than 6 months after the date of the enactment of this Act, the Commissioner of the Immigration and Naturalization Service shall issue regulations governing rights of “habitual residence” in the United States under the terms of Compacts of Free Association (Public Law 99-239, Public Law 99-658, and Public Law 101-219).

**SEC. 835. FEMALE GENITAL MUTILATION.**

(a) **INFORMATION REGARDING FEMALE GENITAL MUTILATION.**—The Immigration and

Naturalization Service (in cooperation with the Department of State) shall make available for all aliens who are issued immigrant or nonimmigrant visas, prior to or at the time of entry into the United States, the following information:

(1) Information on the severe harm to physical and psychological health caused by female genital mutilation which is compiled and presented in a manner which is limited to the practice itself and respectful to the cultural values of the societies in which such practice takes place.

(2) Information concerning potential legal consequences in the United States for (A) performing female genital mutilation, or (B) allowing a child under his or her care to be subjected to female genital mutilation, under criminal or child protection statutes or as a form of child abuse.

(b) **LIMITATION.**—In consultation with the Secretary of State, the Commissioner of Immigration and Naturalization shall identify those countries in which female genital mutilation is commonly practiced and, to the extent practicable, limit the provision of information under subsection (a) to aliens from such countries.

(c) **DEFINITION.**—For purposes of this section, the term “female genital mutilation” means the removal or infibulation (or both) of the whole or part of the clitoris, the labia minora, or labia majora.

**SEC. 836. DESIGNATION OF PORTUGAL AS A VISA WAIVER PILOT PROGRAM COUNTRY WITH PROBATIONARY STATUS.**

Notwithstanding any other provision of law, Portugal is designated as a visa waiver pilot program country with probationary status under section 217(g) of the Immigration and Nationality Act for each of the fiscal years 1996, 1997, and 1998.

**SEC. 837. ADJUSTMENT OF STATUS FOR CERTAIN POLISH AND HUNGARIAN PAROLEES.**

(a) **IN GENERAL.**—The Attorney General shall adjust the status of an alien described in subsection (b) to that of an alien lawfully admitted for permanent residence if the alien—

(1) applies for such adjustment,

(2) has been physically present in the United States for at least 1 year and is physically present in the United States on the date the application for such adjustment is filed,

(3) is admissible to the United States as an immigrant, except as provided in subsection (c), and

(4) pays a fee (determined by the Attorney General) for the processing of such application.

(b) **ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.**—The benefits provided in subsection (a) shall only apply to an alien who—

(1) was a national of Poland or Hungary, and

(2) was inspected and granted parole into the United States during the period beginning on November 1, 1989, and ending on December 31, 1991, after being denied refugee status.

(c) **WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.**—The provisions of paragraphs (4), (5), and (7)(A) of section 212(a) of the Immigration and Nationality Act shall not apply to adjustment of status under this section and the Attorney General may waive any other provision of such section (other than paragraph (2)(C) and subparagraphs (A), (B), (C), or (E) of paragraph (3)) with respect to such an adjustment for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

(d) **DATE OF APPROVAL.**—Upon the approval of such an application for adjustment of status, the Attorney General shall create a record of the alien's admission as a lawful permanent resident as of the date of the

alien's inspection and parole described in subsection (b)(2).

(e) **NO OFFSET IN NUMBER OF VISAS AVAILABLE.**—When an alien is granted the status of having been lawfully admitted for permanent residence under this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act.

**SEC. 838. SUPPORT OF DEMONSTRATION PROJECTS.**

(a) **IN GENERAL.**—The Attorney General shall make available funds under this section, in each of 5 consecutive years (beginning with 1996), to the Immigration and Naturalization Service or to other public or private nonprofit entities to support demonstration projects under this section at 10 sites throughout the United States. Each such project shall be designed to provide for the administration of the oath of allegiance (under section 337(a) of the Immigration and Nationality Act) on a business day around the 4th of July for approximately 500 people whose application for naturalization has been approved. Each project shall provide for appropriate outreach and ceremonial and celebratory activities.

(b) **SELECTION OF SITES.**—The Attorney General shall, in the Attorney General's discretion, select diverse locations for sites on the basis of the number of naturalization applicants living in proximity to each site and on the degree of local community participation and support in the project to be held at the site. Not more than 2 sites may be located in the same State. The Attorney General should consider changing the sites selected from year to year.

(c) **AMOUNTS AVAILABLE; USE OF FUNDS.**—

(1) **AMOUNT.**—The amount that may be made available under this section with respect to any single site for a site for a year shall not exceed \$5,000.

(2) **USE.**—Funds provided under this section may only be used to cover expenses incurred carrying out symbolic swearing-in ceremonies at the demonstration sites, including expenses for—

(A) cost of personnel of the Immigration and Naturalization Service (including travel and overtime expenses),

(B) local outreach,

(C) rental of space, and

(D) costs of printing appropriate brochures and other information about the ceremonies.

(3) **AVAILABILITY OF FUNDS.**—Funds that are otherwise available to the Immigration and Naturalization Service to carry out naturalization activities (including funds in the Immigration Examinations Fee Account, under section 286(n) of the Immigration and Nationality Act) shall be available under this section.

(d) **APPLICATION.**—In the case of an entity other than the Immigration and Naturalization Service seeking to conduct a demonstration project under this section, no amounts may be made available to the entity under this section unless an appropriate application has been made to, and approved by, the Attorney General, in a form and manner specified by the Attorney General.

(e) **STATE DEFINED.**—In this section, the term “State” has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)).

**SEC. 839. TREATMENT OF CERTAIN ALIENS WHO SERVED WITH SPECIAL GUERRILLA UNITS IN LAOS.**

(a) **WAIVER OF ENGLISH LANGUAGE REQUIREMENT FOR CERTAIN ALIENS WHO SERVED WITH SPECIAL GUERRILLA UNITS IN LAOS.**—The requirement of paragraph (1) of section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)) shall not apply to the naturalization of any person who—

(1) served with a special guerrilla unit operating from a base in Laos in support of the United States at any time during the period beginning February 28, 1961, and ending September 18, 1978, or

(2) is the spouse or widow of a person described in paragraph (1).

(b) NATURALIZATION THROUGH SERVICE IN A SPECIAL GUERRILLA UNIT IN LAOS.—

(1) IN GENERAL.—The first sentence of subsection (a) and subsection (b) (other than paragraph (3)) of section 329 of the Immigration and Nationality Act (8 U.S.C. 1440) shall apply to an alien who served with a special guerrilla unit operating from a base in Laos in support of the United States at any time during the period beginning February 28, 1961, and ending September 18, 1978, in the same manner as they apply to an alien who has served honorably in an active-duty status in the military forces of the United States during the period of the Vietnam hostilities.

(2) PROOF.—The Immigration and Naturalization Service shall verify an alien's service with a guerrilla unit described in paragraph (1) through—

(A) review of refugee processing documentation for the alien,

(B) the affidavit of the alien's superior officer,

(C) original documents,

(D) two affidavits from persons who were also serving with such a special guerrilla unit and who personally knew of the alien's service, or

(E) other appropriate proof.

The Service shall liberally construe the provisions of this subsection to take into account the difficulties inherent in proving service in such a guerrilla unit.

**SEC. 840. SENSE OF THE CONGRESS REGARDING THE MISSION OF THE IMMIGRATION AND NATURALIZATION SERVICE.**

It is the sense of the Congress that the mission statement of the Immigration and Naturalization Service of the Department of Justice should include that it is the responsibility of the Service to detect, apprehend, and remove those noncitizens whose entry was illegal, whether undocumented or fraudulent, and those found to have violated the conditions of their stay, particularly those involved in drug trafficking or other criminal activity.

**SEC. 841. AUTHORIZATION OF REIMBURSEMENT OF CERTAIN POLISH APPLICANTS FOR THE 1995 DIVERSITY IMMIGRANT PROGRAM.**

(a) IN GENERAL.—After the date of enactment of this Act, the Secretary of State, in consultation with the Commissioner of the Immigration and Naturalization Service, shall establish a process to provide for the reimbursement of all fees to each national of Poland (other than a national illegally residing in the United States) who was an applicant for the diversity immigrant program for 1995 under section 203(c) of the Immigration and Nationality Act who did not receive such a visa.

(b) FUNDING.—The Secretary of State shall use such funds as may be available at the discretion of the Secretary to carry out the purpose of this section.

(c) REVIEW.—The Secretary of State shall review the procedures of the Department of State regarding the administration of the diversity immigrant program to ensure that the erroneous notification which occurred with respect to the 1995 diversity immigrant program for Polish residents does not recur.

**SEC. 842. SENSE OF CONGRESS; REQUIREMENTS REGARDING NOTICE.**

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act should be American-made.

(b) NOTICE TO RECIPIENTS OF GRANTS.—In providing grants under this Act, the Attorney General, to the greatest extent practicable, shall provide to each recipient of a grant a notice describing the statement made in subsection (a) by the Congress.

**SEC. 843. SENSE OF THE CONGRESS WITH RESPECT TO STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.**

(a) FINDINGS.—The Congress finds as follows:

(1) Of the \$130,000,000 appropriated in fiscal year 1995 for the State Criminal Alien Assistance Program (SCAAP), the Department of Justice disbursed the first \$43,000,000 to States on October 6, 1994, 32 days before the 1994 general election, and then failed to disburse the remaining \$87,000,000 until January 31, 1996, 123 days after the end of fiscal year 1995.

(2) While H.R. 2880, the continuing appropriation measure funding certain operations of the Federal Government from January 26, 1996 to March 15, 1996, included \$66,000,000 to reimburse States for the cost of incarcerating documented illegal immigrant felons, the Department of Justice failed to disburse any of the funds to the States during the period of the continuing appropriation.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the Department of Justice was disturbingly slow in disbursing fiscal year 1995 funds under the State Criminal Alien Assistance Program to States after the initial grants were released just prior to the 1994 election; and

(2) the Attorney General should make it a high priority to expedite the disbursement of Federal funds intended to reimburse States for the cost of incarcerating illegal immigrants, aiming for all State Criminal Alien Assistance Program funds to be disbursed during the fiscal year for which they are appropriated.

**Subtitle C—Technical Corrections**

**SEC. 851. MISCELLANEOUS TECHNICAL CORRECTIONS.**

(a) AMENDMENTS RELATING TO PUBLIC LAW 103-322 (VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994).—

(1) Section 60024(i)(F) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322) (in this subsection referred to as "VCCLEA") is amended by inserting "United States Code," after "title 18,".

(2) Section 130003(b)(3) of VCCLEA is amended by striking "Naturalization" and inserting "Nationality".

(3)(A) Section 214 (8 U.S.C. 1184) is amended by redesignating the subsection (j), added by section 130003(b)(2) of VCCLEA (108 Stat. 2025), and the subsection (k), added by section 220(b) of the Immigration and Nationality Technical Amendments Act of 1994 (Public Law 103-416, 108 Stat. 4319), as subsections (k) and (l), respectively.

(B) Section 101(a)(15)(S) (8 U.S.C. 1101(a)(15)(S)) is amended by striking "214(j)" and inserting "214(k)".

(4)(A) Section 245 (8 U.S.C. 1255) is amended by redesignating the subsection (i) added by section 130003(c)(1) of VCCLEA as subsection (j).

(B) Section 241(a)(2)(A)(i)(I) (8 U.S.C. 1251(a)(2)(A)(i)(I)), as amended by section 130003(d) of VCCLEA and before redesignation by section 305(a)(2), is amended by striking "245(i)" and inserting "245(j)".

(5) Section 245(j)(3), as added by section 130003(c)(1) of VCCLEA and as redesignated by paragraph (4)(A), is amended by striking "paragraphs (1) or (2)" and inserting "paragraph (1) or (2)".

(6) Section 130007(a) of VCCLEA is amended by striking "242A(d)" and inserting "242A(a)(3)".

(7) The amendments made by this subsection shall be effective as if included in the enactment of the VCCLEA.

(b) AMENDMENTS RELATING TO IMMIGRATION AND NATIONALITY TECHNICAL CORRECTIONS ACT OF 1994.—

(1) Section 101(d) of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416) (in this subsection referred to as "INTCA") is amended—

(A) by striking "APPLICATION" and all that follows through "This" and inserting "APPLICABILITY OF TRANSMISSION REQUIREMENTS.—This";

(B) by striking "any residency or other retention requirements for" and inserting "the application of any provision of law relating to residence or physical presence in the United States for purposes of transmitting United States"; and

(C) by striking "as in effect" and all that follows through the end and inserting "to any person whose claim is based on the amendment made by subsection (a) or through whom such a claim is derived.".

(2) Section 102 of INTCA is amended by adding at the end the following new subsection:

"(e) TRANSITION.—In applying the amendment made by subsection (a) to children born before November 14, 1986, any reference in the matter inserted by such amendment to 'five years, at least two of which' is deemed a reference to '10 years, at least 5 of which'."

(3) Section 351(a) (8 U.S.C. 1483(a)), as amended by section 105(a)(2)(A) of INTCA, is amended by striking the comma after "nationality".

(4) Section 207(2) of INTCA is amended by inserting a comma after "specified".

(5) Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended—

(A) in subparagraph (K)(ii), by striking the comma after "1588", and

(B) in subparagraph (O), by striking "suspicion" and inserting "suspension".

(6) Section 273(b) (8 U.S.C. 1323(b)), as amended by section 209(a) of INTCA, is amended by striking "remain" and inserting "remains".

(7) Section 209(a)(1) of INTCA is amended by striking "\$3000" and inserting "\$3,000".

(8) Section 209(b) of INTCA is amended by striking "subsection" and inserting "section".

(9) Section 217(f) (8 U.S.C. 1187(f)), as amended by section 210 of INTCA, is amended by adding a period at the end.

(10) Section 219(cc) of INTCA is amended by striking "year 1993 the first place it appears" and inserting "year 1993' the first place it appears".

(11) Section 219(ee) of INTCA is amended by adding at the end the following new paragraph:

"(3) The amendments made by this subsection shall take effect on the date of the enactment of this Act."

(12) Paragraphs (4) and (6) of section 286(r) (8 U.S.C. 1356(r)) are amended by inserting "the" before "Fund" each place it appears.

(13) Section 221 of INTCA is amended—

(A) by striking each semicolon and inserting a comma,

(B) by striking "disasters." and inserting "disasters," and

(C) by striking "The official" and inserting "the official".

(14) Section 242A (8 U.S.C. 1252a), as added by section 224(a) of INTCA and before redesignation as section 238 by section 308(b)(5), is amended by redesignating subsection (d) as subsection (c).

(15) Section 225 of INTCA is amended—

(A) by striking "section 242(i)" and inserting "sections 242(i) and 242A", and

(B) by inserting ", 1252a" after "1252(i)".

(16) Except as otherwise provided in this subsection, the amendments made by this subsection shall take effect as if included in the enactment of INTCA.

(c) STRIKING REFERENCES TO SECTION 210A.—

(1)(A) Section 201(b)(1)(C) (8 U.S.C. 1151(b)(1)(C)) and section 274B(a)(3)(B) (8 U.S.C. 1324b(a)(3)(B)) are each amended by striking “, 210A.”.

(B) Section 241(a)(1) (8 U.S.C. 1251(a)(1)), before redesignation by section 305(a)(2), is amended by striking subparagraph (F).

(2) Sections 204(c)(1)(D)(i) and 204(j)(4) of Immigration Reform and Control Act of 1986 are each amended by striking “, 210A.”.

(d) MISCELLANEOUS CHANGES IN THE IMMIGRATION AND NATIONALITY ACT.—

(1) Before being amended by section 308(a), the item in the table of contents relating to section 242A is amended to read as follows:

“Sec. 242A. Expedited deportation of aliens convicted of committing aggravated felonies.”.

(2) Section 101(c)(1) (8 U.S.C. 1101(c)(1)) is amended by striking “, 321, and 322” and inserting “and 321”.

(3) Pursuant to section 6(b) of Public Law 103-272 (108 Stat. 1378)—

(A) section 214(f)(1) (8 U.S.C. 1184(f)(1)) is amended by striking “section 101(3) of the Federal Aviation Act of 1958” and inserting “section 40102(a)(2) of title 49, United States Code”; and

(B) section 258(b)(2) (8 U.S.C. 1288(b)(2)) is amended by striking “section 105 or 106 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1804, 1805)” and inserting “section 5103(b), 5104, 5106, 5107, or 5110 of title 49, United States Code”.

(4) Section 286(h)(1)(A) (8 U.S.C. 1356(h)(1)(A)) is amended by inserting a period after “expended”.

(5) Section 286(h)(2)(A) (8 U.S.C. 1356(h)(2)(A)) is amended—

(A) by striking “and” at the end of clause (iv),

(B) by moving clauses (v) and (vi) 2 ems to the left,

(C) by striking “; and” in clauses (v) and (vi) and inserting “and for”.

(D) by striking the colons in clauses (v) and (vi), and

(E) by striking the period at the end of clause (v) and inserting “; and”.

(6) Section 412(b) (8 U.S.C. 1522(b)) is amended by striking the comma after “is authorized” in paragraph (3) and after “The Secretary” in paragraph (4).

(e) MISCELLANEOUS CHANGE IN THE IMMIGRATION ACT OF 1990.—Section 161(c)(3) of the Immigration Act of 1990 is amended by striking “an an” and inserting “of an”.

(f) MISCELLANEOUS CHANGES IN OTHER ACTS.—

(1) Section 506(a) of the Intelligence Authorization Act, Fiscal Year 1990 (Public Law 101-193) is amended by striking “this section” and inserting “such section”.

(2) Section 140 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, as amended by section 505(2) of Public Law 103-317, is amended—

(A) by moving the indentation of subsections (f) and (g) 2 ems to the left, and

(B) in subsection (g), by striking “(g)” and all that follows through “shall” and inserting “(g) Subsections (d) and (e) shall”.

The bill, as amended, was ordered to be engrossed and read a third time, was read a third time by title.

Mr. BRYANT of Texas moved to recommit the bill to the Committee on the Judiciary with instructions to report the bill back forthwith with the following amendment:

Amend section 806 to read as follows:

**SEC. 806. CHANGES RELATING TO H-1B NON-IMMIGRANTS.**

(a) ATTESTATIONS.—

(1) COMPENSATION LEVEL.—Section 212(n)(1)(A)(i) (8 U.S.C. 1182(n)(1)(A)(i)) is amended—

(A) in subclause (I), by inserting “100 percent of” before “the actual wage level”.

(B) in subclause (II), by inserting “100 percent of” before “the prevailing wage level”, and

(C) by adding at the end the following: “is offering and will offer during such period the same benefits and additional compensation provided to similarly-employed workers by the employer, and”.

(2) DISPLACEMENT OF UNITED STATES WORKERS.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)) is amended by inserting after subparagraph (D) the following new subparagraph:

“(E)(i) The employer—

“(I) has not, within the six-month period prior to the filing of the application, laid off or otherwise displaced any United States worker (as defined in clause (ii)), including any worker obtained by contract, employee leasing, temporary help agreement, or other similar basis, in the occupational classification which is the subject of the application and in which the nonimmigrant is intended to be (or is) employed; and

“(II) within 90 days following the application, and within 90 days before and after the filing of a petition for any H-1B worker pursuant to that application, will not lay off or otherwise displace any United States worker in the occupational classification which is the subject of the application and in which the nonimmigrant is intended to be (or is) employed.

“(ii) For purposes of this subparagraph, the term ‘United States worker’ means—

“(I) a citizen or national of the United States;

“(II) an alien lawfully admitted to the United States for permanent residence; and

“(III) an alien authorized to be so employed by this Act or by the Attorney General.

“(iii) For purposes of this subparagraph, the term ‘laid off’, with respect to an employee, means the employee’s loss of employment, other than a discharge for cause or a voluntary departure or voluntary retirement.”.

(3) RECRUITMENT OF UNITED STATES WORKERS.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)), as amended by paragraph (2), is further amended by inserting after subparagraph (E) the following new subparagraph:

“(F) The employer, prior to filing the application, attempted unsuccessfully and in good faith to recruit a United States worker for the employment that will be done by the alien whose services are being sought, using recruitment procedures that meet industry-wide standards and offering wages that are at least—

“(i) 100 percent of the actual wage level paid by the employer to other individuals with similar experience and qualifications for the specific employment in question, or

“(ii) 100 percent of the prevailing wage level for individuals in such employment in the area of employment,

whichever is greater, based on the best information available as of the date of filing the application, and offering the same benefits and additional compensation provided to similarly-employed workers by the employer.”.

(4) DEPENDENCE ON H-1B WORKERS.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)), as amended by paragraphs (2) and (3), is further amended by inserting after subparagraph (F) the following new subparagraph:

“(G)(i) Whether the employer is dependent on H-1B workers, as defined in clause (ii) and

in such regulations as the Secretary of Labor may develop and promulgate in accordance with this paragraph.

“(ii) For purposes of clause (i), an employer is ‘dependent on H-1B workers’ if the employer—

“(I) has fewer than 41 full-time equivalent employees who are employed in the United States and employs four or more nonimmigrants under section 101(a)(15)(H)(i)(b); or

“(II) has at least 41 full-time equivalent employees who are employed in the United States, and employs nonimmigrants described in section 101(a)(15)(H)(i)(b) in a number that is equal to at least ten percent of the number of such full-time equivalent employees.

“(iii) In applying this subparagraph, any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as a single employer under this subparagraph. Aliens with respect to whom the employer has filed such an application shall be treated as employees, and counted as nonimmigrants under section 101(a)(15)(H)(i)(b), under this paragraph.”.

(5) JOB CONTRACTORS.—(A) Section 212(n)(1) (8 U.S.C. 1182(n)(1)), as amended by paragraphs (2) through (4), is further amended by inserting after subparagraph (G) the following new subparagraph:

“(H) In the case of an employer that is a job contractor (within the meaning of regulations promulgated by the Secretary of Labor to carry out this subsection), the contractor will not place any H-1B employee with another employer unless such other employer has executed an attestation that the employer is complying and will continue to comply with the requirements of this paragraph in the same manner as they apply to the job contractor.”.

(B) Section 212(n)(2) (8 U.S.C. 1182(n)(2)) is amended by adding at the end the following new subparagraph:

“(E) The provisions of this paragraph shall apply to complaints respecting a failure of another employer to comply with an attestation described in paragraph (1), that has been made as the result of the requirement imposed on job contractors under paragraph (1)(H), in the same manner that they apply to complaints of a petitioner with respect to a failure to comply with a condition described in paragraph (1) by employers generally.”.

(b) SPECIAL RULES FOR EMPLOYERS DEPENDENT ON H-1B WORKERS.—Section 212(n) (8 U.S.C. 1182(n)) is amended by adding at the end the following new paragraph:

“(3)(A) No alien may be admitted or provided status as a nonimmigrant described in section 101(a)(15)(H)(i)(b) if the employer who is seeking the services of such alien has attested under paragraph (1)(G) that the employer is dependent on H-1B workers unless the following conditions are met:

“(i) The Secretary of Labor has determined and certified to the Secretary of State and the Attorney General that the employer who is seeking the services of such alien is taking steps described in subparagraph (C) (including having taken the step described in subparagraph (D)).

“(ii) The alien has demonstrated to the satisfaction of the Secretary of State and the Attorney General that the alien has a residence abroad which he has no intention of abandoning.

“(B)(i) It is unlawful for a petitioning employer to require, as a condition of employment by such employer, or otherwise, that the fee described in subparagraph (A)(i), or any part of it, be paid directly or indirectly by the alien whose services are being sought.

“(ii) Any person or entity which is determined, after notice and opportunity for an

administrative hearing, to have violated clause (i) shall be subject to a civil penalty of \$5,000 for each violation, to an administrative order requiring the payment of the fee described in subparagraph (A)(i), and to disqualification for 1 year from petitioning under section 204 or 214(c).

“(iii) Any amount determined to have been paid, directly or indirectly, to the fund by the alien whose services were sought, shall be repaid from the fund or by the employer, as appropriate, to such alien.

“(C)(i) An employer who attests under paragraph (1)(G) to dependence on H-1B workers shall take timely, significant, and effective steps (including the step described in subparagraph (D)) to recruit and retain sufficient United States workers in order to remove as quickly as reasonably possible the dependence of the employer on H-1B workers.

“(ii) For purposes of clause (i), steps under clause (i) (in addition to the step described in subparagraph (D)) may include the following:

“(I) Operating a program of training existing employees who are United States workers in the skills needed by the employer, or financing (or otherwise providing for) such employees’ participation in such a training program elsewhere.

“(II) Providing career development programs and other methods of facilitating United States workers in related fields to acquire the skills needed by the employer.

“(III) Paying to employees who are United States workers compensation that is equal in value to more than 105 percent of what is paid to persons similarly employed in the geographic area.

The steps described in this clause shall not be considered to be an exhaustive list of the significant steps that may be taken to meet the requirements of clause (i).

“(iii) The steps described in clause (i) shall not be considered effective if the employer has failed to decrease by at least 10 percent in each of two consecutive years the percentage of the employer’s total number of employees in the specific employment in which the H-1B workers are employed which is represented by the number of H-1B workers.

“(iv) The Attorney General shall not approve petitions filed under section 204 or 214(c) with respect to an employer that has not, in the prior two years, complied with the requirements of this subparagraph (including subparagraph (D)).

“(D)(i) The step described in this subparagraph is payment of an amount consistent with clause (ii) by the petitioning employer into a private fund which is certified by the Secretary of Labor as dedicated to reducing the dependence of employers in the industry of which the petitioning employer is a part on new foreign workers and which expends amounts received under this subclause consistent with clause (iii).

“(ii) An amount is consistent with this clause if it is a percent of the value of the annual compensation (including wages, benefits, and all other compensation) to be paid to the alien whose services are being sought, equal to 5 percent in the first year, 7.5 percent in the second year, and 10 percent in the third year.

“(iii) Amounts are expended consistent with this clause if they are expended as follows:

“(I) One-half of the aggregate amounts are expended for awarding scholarships and fellowships to students at colleges and universities in the United States who are citizens or lawful permanent residents of the United States majoring in, or engaging in graduate study of, subjects of direct relevance to the employers in the same industry as the petitioning employer.

“(II) One-half of the aggregate amounts are expended for enabling United States workers in the United States to obtain training in occupations required by employers in the same industry as the petitioning employer.

(c) INCREASED PENALTIES FOR MISREPRESENTATION.—Section 212(n)(2)(C) (8 U.S.C. 1182(n)(2)(C)) is amended—

(1) in subparagraph (C) in the matter before clause (i), by striking “(1)(C) or (1)(D)” and inserting “(1)(C), (1)(D), (1)(E), or (1)(F) or to fulfill obligations imposed under subsection (b) for employers defined in subsection (a)(4)”;

(2) in subparagraph (C)(i), by striking “\$1,000” and inserting “\$5,000”;

(3) by amending subparagraph (C)(ii) to read as follows:

“(ii) the Attorney General shall not approve petitions filed with respect to that employer (or any employer who is a successor in interest) under section 204 or 214(c) for aliens to be employed by the employer—

“(I) during a period of at least 1 year in the case of the first determination of a violation or any subsequent determination of a violation occurring within 1 year of that first violation or any subsequent determination of a nonwillful violation occurring more than 1 year after the first violation;

“(II) during a period of at least 5 years in the case of a determination of a willful violation occurring more than 1 year after the first violation; and

“(III) at any time in the case of a determination of a willful violation occurring more than 5 years after a violation described in subclause (II).”;

(3) in subparagraph (D), by adding at the end the following: “If a penalty under subparagraph (C) has been imposed in the case of a willful violation, the Secretary shall impose an additional civil monetary penalty on the employer in an amount equalling twice the amount of backpay.”.

(d) LIMITATION ON PERIOD OF AUTHORIZED ADMISSION.—Section 214(g)(4) (8 U.S.C. 1184(g)(4)) is amended—

(1) by inserting “or section 101(a)(15)(H)(ii)(b)” after “section 101(a)(15)(H)(i)(b)”;

(2) by striking “6 years” and inserting in lieu thereof “3 years”.

(e) REQUIREMENT FOR RESIDENCE ABROAD.—Section 101(a)(15)(H)(i)(b) (8 U.S.C. 1101(a)(15)(H)(i)(b)) is amended by inserting “who has a residence in a foreign country which he has no intention of abandoning,” after “212(j)(2).”.

(f) EFFECTIVE DATES.—

(1) Except as provided in paragraph (2), the amendments made by this section shall take effect 60 days after the date of the enactment of this Act.

(2) The amendments made by subsection (d) shall apply with respect to offenses occurring on or after the date of enactment of this Act.

After debate,

By unanimous consent, the previous question was ordered on the motion to recommit.

The question being put, *viva voce*,

Will the House recommit said bill with instructions?

The SPEAKER pro tempore, Mr. RIGGS, announced that the nays had it.

Mr. BRYANT demanded a recorded vote on the motion, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the { Yeas ..... 188  
negative ..... Nays ..... 231

¶32.23 [Roll No. 88]  
AYES—188

Abercrombie	Gordon	Olver
Ackerman	Green	Ortiz
Andrews	Gutierrez	Owens
Baessler	Hall (OH)	Pallone
Baldacci	Hamilton	Pastor
Barcia	Harman	Payne (NJ)
Barrett (WI)	Hastings (FL)	Payne (VA)
Becerra	Hefner	Pelosi
Beilenson	Hilliard	Peterson (FL)
Bentsen	Hinchey	Peterson (MN)
Berman	Holden	Pickett
Bishop	Hoyer	Pomeroy
Boehkert	Jackson (IL)	Poshard
Bonior	Jackson-Lee	Rahall
Borski	(TX)	Rangel
Boucher	Jacobs	Reed
Browder	Jefferson	Regula
Brown (CA)	Johnson (SD)	Richardson
Brown (FL)	Johnson, E. B.	Rivers
Brown (OH)	Kanjorski	Roemer
Bryant (TX)	Kaptur	Roukema
Cardin	Kennedy (MA)	Roybal-Allard
Chapman	Kennedy (RI)	Royce
Clayton	Kennelly	Rush
Clyburn	Kildee	Sabo
Coleman	Klecicka	Sanders
Collins (MI)	Klink	Sawyer
Condit	LaFalce	Schroeder
Conyers	Lantos	Schumer
Costello	Levin	Scott
Coyne	Lewis (GA)	Serrano
Danner	Lincoln	Sisisky
de la Garza	Lipinski	Skaggs
DeFazio	LoBiondo	Skelton
DeLauro	Lowe	Slaughter
Dellums	Luther	Smith (NJ)
Deutsch	Maloney	Spratt
Dicks	Manton	Stockman
Dingell	Markey	Stupak
Dixon	Martinez	Tanner
Doggett	Mascara	Taylor (MS)
Doyle	Matsui	Tejeda
Durbin	McCarthy	Thompson
Edwards	McDermott	Thornton
Engel	McHale	Thurman
Ensign	McKinney	Torkildsen
Evans	McNulty	Torres
Farr	Meehan	Torricelli
Fattah	Meek	Towns
Fazio	Menendez	Traficant
Fields (LA)	Metcalfe	Velazquez
Filner	Meyers	Vento
Flake	Miller (CA)	Visclosky
Foglietta	Minge	Volkmer
Ford	Mink	Ward
Frank (MA)	Mollohan	Watt (NC)
Frelinghuysen	Moran	Waxman
Frost	Murtha	Williams
Furse	Nadler	Wise
Gejdenson	Neal	Woolsey
Gephardt	Ney	Wynn
Gibbons	Oberstar	Yates
Gonzalez	Obey	Zimmer

NOES—231

Allard	Buyer	Dickey
Archer	Callahan	Dooley
Armey	Calvert	Doolittle
Bachus	Camp	Dornan
Baker (CA)	Campbell	Dreier
Baker (LA)	Canady	Duncan
Ballenger	Castle	Dunn
Barr	Chabot	Ehlers
Barrett (NE)	Chambliss	Ehrlich
Bartlett	Chenoweth	Emerson
Barton	Christensen	English
Bass	Chrysler	Eshoo
Bateman	Clement	Everett
Bereuter	Clinger	Ewing
Bevill	Coble	Fawell
Bilbray	Coburn	Fields (TX)
Bilirakis	Collins (GA)	Flanagan
Bliley	Combest	Foley
Blute	Cooley	Forbes
Boehner	Cox	Fowler
Bonilla	Cramer	Fox
Bono	Crane	Franks (CT)
Brewster	Crapo	Franks (NJ)
Brownback	Creameans	Frisa
Bryant (TN)	Cubin	Funderburk
Bunn	Cunningham	Galleghy
Bunning	Davis	Ganske
Burr	Deal	Gekas
Burton	Diaz-Balart	Geran