improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes.

SENATE RESOLUTION 251—RELATIVE TO LAW ENFORCEMENT OFFICERS

Mr. KEMPTHORNE (for himself, Mr. AKAKA, Mr. ASHCROFT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWN, Mr. BRYAN, Mr. BURNS, Mr. CAMPBELL, Mr. CHAFEE, Mr. COCHRAN, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DOLE, Mr. DORGAN, Mr. FAIRCLOTH, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FORD, Mr. FRIST, Mr. GORTON, Mr. GRAMM, Mr. GREGG, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. LEVIN, Mr. LOTT, Mr. MCCAIN, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. NICKLES, Mr. PELL, Mr. REID, Mr. ROBB, Mr. ROTH, Mr. SARBANES, Mr. SIMON, Mr. SIMPSON, Mr. SMITH, Mr. SPECTER, Mr. STEVENS, Mr. THURMOND, Mr. WARNER, and Mr. WELLSTONE) submitted the following resolution; which was considered and agreed to:

S.RES. 251

Whereas, the well-being of all citizens of this country is preserved and enhanced as a direct result of the vigilance and dedication of law enforcement personnel;

Whereas, more than 500,000 men and women, at great risk to their personal safety, presently serve their fellow citizens in their capacity as guardians of the peace;

Whereas, peace officers are the front line in preserving our childrens' right to receive an education in a crime-free environment that is all too often threatened by the insidious fear caused by violence in schools;

Whereas, 162 peace officers lost their lives in the performance of their duty in 1995, and a total of 13,575 men and women have now made that supreme sacrifice;

Whereas, every year 1 in 9 officers is assaulted, 1 in 25 is injured, and 1 in 4,000 is killed in the line of duty;

Whereas, on May 15, 1996, more than 15,000 peace officers are expected to gather in our nation's Capital to join with the families of their recently fallen comrades to honor them and all others before them: Now, therefore, be it

Resolved by the Senate of the United States of America in Congress assembled, That May 15, 1996, is hereby designated as ''National Peace Officers Memorial Day'' for the purpose of recognizing all peace officers slain in the line of duty. The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this day with the appropriate ceremonies and respect.

SENATE RESOLUTION 252—TO CONGRATULATE THE SIOUX FALLS SKYFORCE

Mr. PRESSLER (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 252

Whereas the Sioux Falls Skyforce are the 1996 Champions of the Continental Basketball Association, a professional basketball league consisting of 12 teams from around the country;

Whereas the Sioux Falls Skyforce defeated the Fort Wayne fury, of Fort Wayne, Indiana, 4 games to 1 in the best-of-seven championship series;

Whereas the 1996 Continental Basketball Association Championship is the first championship in the 7-year history of the Sioux Falls Skyforce;

Whereas the Sioux Falls Skyforce players exemplify the virtues of hard work, determination, and a dedication to developing their talents to the highest levels; and

Whereas the people and businesses of Sioux Falls, South Dakota, and the surrounding area have demonstrated outstanding loyalty and support for the Sioux Falls Skyforce throughout the 7-year history of the team: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the Sioux Falls Skyforce and their loyal fans on winning the 1996 Championship;

(2) recognizes and commends the hard work, determination, and commitment to excellence shown by the Sioux Falls Skyforce owners, coaches, players, and staff throughout the 1996 season; and

(3) recognizes and commends the people of Sioux Falls, South Dakota, and the surrounding area for their outstanding loyalty and support of the Sioux Falls Skyforce throughout the 7-year history of the team.

AMENDMENTS SUBMITTED

THE IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

ABRAHAM (AND DEWINE) AMENDMENT NO. 3738

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by them to the bill (S. 1664) to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes; as follows:

At the appropriate place insert the following four new sections:

SEC. . ELIMINATION OF REPETITIVE REVIEW OF DEPORTATION ORDERS ENTERED AGAINST CRIMINAL ALIENS.

Section 242b (8 U.S.C. 125b) is amended by—

(a) redesignating subsection (f) as subsection (g); and

(b) adding the following new subsection (f) to read as follows—

''(f) CRIMINAL ALIENS.—No alien convicted of any criminal offense covered in Section 1251(a)(2)(A)(i) or (iii) or (B)–(D), shall be granted more than one administrative hearing and one appeal to the Board of Immigration Appeals concerning or relating to such alien's deportation. Any claims for relief from deportation for which the criminal alien may be eligible must be raised at that time. Under no circumstances may such a criminal alien request or be granted a reopening of the order of deportation or any other form of relief under the law, including but not limited to claims of ineffective assistance of counsel, after the earlier of:

''(i) a determination by the Board of Immigration Appeals affirming such order; or

''(ii) the expiration of the period in which the alien is permitted to seek review of such order by the Board of Immigration Appeals.''

SEC. . ELIMINATION OF MOTIONS OF REOPEN ORDERS OF EXCLUSION ENTERED AGAINST CRIMINAL ALIENS.

Section 236, 8 U.S.C. 1226, is amended by adding the following sentence to the end of subsection (a): ''There shall be no judicial review of any order of exclusion, or any issue related to an order of exclusion, entered against an alien found by the Attorney General or the Attorney General's designee to be an alien described in Section 212(a)(2) (8 U.S.C. 1182(a)(2)) or of any administrative ruling related to such an order.''

SEC. . EXPANSION OF THE BOARD OF IMMIGRATION APPEALS; NUMBER OF SPECIAL INQUIRY OFFICERS; ATTORNEY SUPPORT STAFF.

(a) IN GENERAL.—Nothwithstanding any other provision of law, effective October 1, 1996, there are authorized to be employed within the Department of Justice a total of—

(1) 24 Board Members of the Board of Immigration Appeals;

(2) 334 special inquiry officers; and

(3) a number of attorneys to support the Board and the special inquiry officers which is twice the number so employed as of the date of enactment of this Act.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice such sums as may be necessary to pay the salaries of the personnel employed under subsection (a) who are additional to such personnel employed as of the end of fiscal year 1996.

SEC. . PROHIBITION UPON THE NATURALIZATION OF CERTAIN CRIMINAL ALIENS.

Section 4 (a) (8 U.S.C. 1424) is amended by—

(a) inserting ''or who have been convicted of certain crimes'' after ''or who favor totalitarian forms of government''

(b) in subsection (a)—

(1) replacing ''of this subsection'' with ''of this subsection; or'' in paragraph (6)

(2) adding new paragraph (7) to read as follows—

''(7) who has been convicted of any criminal offense covered in Section 1251(a)(2)(A)(i) or (iii) or (B)–(D).''

SIMPSON (AND SHELBY) AMENDMENT NO. 3739

Mr. SIMPSON (for himself and Mr. SHELBY) proposed an amendment to amendment No. 3725 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

At the end of the amendment add the following:

SEC. . TEMPORARY WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRATION, ALLOCATION OF FAMILY-SPONSORED IMMIGRANT VISAS, AND PER-COUNTRY LIMIT

(a) TEMPORARY WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRATION.—Notwithstanding any other provision of law, the following provisions shall temporarily supersede the specified subsections of section 201 of the Immigration and Nationality Act during the

first fiscal year beginning after the enactment of this Act, and during the four subsequent fiscal years:

(1) Section 201(b) of the Immigration and Nationality Act shall be temporarily superseded by the following provision:

''ALIENS NOT SUBJECT TO DIRECT NUMERICAL LIMITATIONS.—Aliens described in this subsection, who are not subject to the worldwide levels or numerical limitations of subsection (a), are as follows:

''(1) Special immigrants described in subparagraph (A) or (B) of section 101(a)(27).

''(2) Aliens who are admitted under section 207 or whose status is adjusted under section 209.

''(3) Aliens born to an alien lawfully admitted for permanent residence during a temporary visit abroad.''

(2) Section 201(c) of the Immigration and Nationality Act shall be temporarily superseded by the following provision:

''WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.—The worldwide level of family-sponsored immigrants under this subsection for a fiscal year is equal to 480,000.''

(b) TEMPORARY ALLOCATION OF FAMILY-SPONSORED IMMIGRANT VISAS.—Notwithstanding any other provision of law, the following provision shall temporarily supersede section 203(a) of the Immigration and Nationality Act during the first fiscal year beginning after the enactment of this Act, and during the four subsequent fiscal years:

''PRIORITIES FOR FAMILY-SPONSORED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(c) for family-sponsored immigrants shall be allotted visas as follows:

''(2) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—Qualified immigrants who are the spouses or children of an alien lawfully admitted for permanent residence shall be allocated visas in a number not to exceed the worldwide level of family-sponsored immigrants specified in section 201(c) minus the visas required for the class specified in paragraph (1).

''(3) UNMARRIED SONS AND UNMARRIED DAUGHTERS OF CITIZENS.—Qualified immigrants who are the unmarried sons or daughters (but are not the children) of citizens of the United States shall be allocated visas in a number not to exceed the worldwide level of family-sponsored immigrants specified in section 201(c) minus the visas required for the classes specified in paragraphs (1) and (2).

''(4) MARRIED SONS AND MARRIED DAUGHTERS OF CITIZENS.—Qualified immigrants who are the married sons or married daughters of citizens of the United States shall be allocated visas in a number not to exceed the worldwide level of family-sponsored immigrants specified in section 201(c) minus the visas not required for the classes specified in paragraphs (1) through (3).

''(5) UNMARRIED SONS AND UNMARRIED DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Qualified immigrants who are the unmarried sons or unmarried daughters (but are not the children) of a alien lawfully admitted for permanent residence, shall be allocated visas in a number not to exceed the worldwide level of family-sponsored immigrants specified in section 201(c) minus the visas required for the classes specified in paragraph (1) through (4).

''(6) BROTHERS AND SISTERS OF CITIZENS.—Qualified immigrants who are the brothers or sisters of citizens of the United States, if such citizens are at least 21 years of age, shall be allocated visas in a number not to exceed the worldwide level of family-sponsored immigrants specified in section 201(c) minus the visas not required for the classes specified in paragraphs (1) through (5).''

(c) DEFINITION OF IMMEDIATE RELATIVES.—For purposes of subsection (b)(1), the term ''immediate relatives'' means the children, spouses, and parents of a citizen of the United States, except that, in the case of parents, such citizens shall be at least 21 years of age. In the case of an alien who was the spouse of a citizen of the United States for at least 2 years at the time of the citizen's death and was not legally separated from the citizen at the time of the citizen's death, the alien (and each child of the alien) shall be considered, for purposes of this subsection, to remain an immediate relative after the date of the citizen's death but only if the spouse files a petition under section 204(a)(1)(A)(ii) within 2 years after such date and only until the date the spouse remarries.

(d) TEMPORARY PER-COUNTRY LIMIT.—Notwithstanding any other provision of law, the following provision shall temporarily supersede paragraphs (2) through (4) of section 202(a) of the Immigration and Nationality Act during the first fiscal year beginning after the enactment of this Act, and during the four subsequent fiscal years:

''PER-COUNTRY LEVELS FOR FAMILY-SPONSORED AND EMPLOYMENT-BASED IMMIGRANTS.—(A) The total number of immigrant visas made available in any fiscal year to natives of any single foreign state or dependent area under section 203(a), except aliens described in section 203(a)(1), and under section 203(b) may not exceed the difference (if any) between—

''(i) 20,000 in the case of any foreign state (or 5,000 in the case of a dependent area) not contiguous to the United States, or 40,000 in the case of any foreign state contiguous to the United States; and

''(ii) the amount specified in subparagraph (B).

''(B) The amount specified in this subparagraph is the amount by which the total of the number of aliens described in section 203(a)(1) admitted in the prior year who are natives of such state or dependent area exceeded 20,000 in the case of any foreign state (or 5,000 in the case of a dependent area) not contiguous to the United States, or 40,000 in the case of any foreign state contiguous to the United States.''

(e) TEMPORARY RULE FOR COUNTRIES AT CEILING.—Notwithstanding any other provision of law, the following provision shall temporarily supersede, during the first fiscal year beginning after the enactment of this Act and during the four subsequent fiscal years, the language of section 202(e) of the Immigration and Nationality Act which appears after ''in a manner so that'':

''visa numbers are made available first under sections 203(a)(2), next under section 203(a)(3), next under section 203(a)(4), next under section 203(a)(5), next under section 203(a)(6), next under section 203(b)(1), next under section 203(b)(2), next under section 203(b)(3), next under section 203(b)(4), and next under section 203(b)(5).''

(f) TEMPORARY TREATMENT OF NEW APPLICATIONS.—Notwithstanding any other provision of law, the Attorney General may not, in any fiscal year beginning within five years of the enactment of this Act, accept any petition claiming that an alien is entitled to classification under paragraph (1), (2), (3), (4), (5), or (6) of Section 203(a), as in effect pursuant to subsection (b) of this Act, if the number of visas provided for the class specified in such paragraph was less than 10,000 in the prior fiscal year.

FEINSTEIN (AND BOXER) AMENDMENT NO. 3740

Mrs. FEINSTEIN (for herself and Mrs. BOXER) proposed an amendment to amendment No. 3725 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

At the appropriate place, insert the following new section:

SEC. —. ABSOLUTE NUMERICAL LIMITATION ON ADMISSION OF FAMILY-SPONSORED IMMIGRANTS; REALLOCATION OF PREFERENCE SYSTEM.

(a) ABSOLUTE NUMERICAL LIMITATION ON FAMILY-SPONSORED IMMIGRATION.—(1) Section 201(c) (8 U.S.C. 1151(c)) is amended to read as follows:

''(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.—The worldwide level of family-sponsored immigrants under this subsection for a fiscal year is 480,000.''.

(2) Section 201(a) (8 U.S.C. 1151(a)) is amended by striking ''Exclusive of aliens described in subsection (b),'' and inserting ''Exclusive of aliens described in paragraph (1), paragraph (2)(A)(ii), and paragraph (2)(B) of subsection (b),''.

(b) PREFERENCE SYSTEM.—Section 203(a) (8 U.S.C. 1153(a)) is amended to read as follows:

''SEC. 203. (a) PREFERENCE ALLOCATION FOR FAMILY-SPONSORED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(c) for family-sponsored immigrants shall be allotted visas as follows:

''(1) SPOUSES AND MINOR CHILDREN OF CITIZENS.—Qualified immigrants who are the spouses or minor children of citizens of the United States shall be allocated visas in a number not to exceed 480,000.

''(2) PARENTS OF CITIZENS.—Qualified immigrants who are the parent of citizens of the United States who are 21 years of age or older shall be allocated visas in a number—

''(A) not to exceed 35,000, if the number of visas not required for the class specified in paragraph (1) is less than 100,000;

''(B) not to exceed 35,000, if the number of visas not required for the class specified in paragraph (1) is 75,000 or more, but less than 150,000; and

''(C) not to exceed 45,000, if the number of visas not required for the class specified in paragraph (1) is 100,000 or more.

''(3) SPOUSES AND MINOR CHILDREN OF PERMANENT RESIDENT ALIENS.—Qualified immigrants who are the spouses and minor children of an alien lawfully admitted for permanent residence shall be allocated visas in a number—

''(A) not to exceed 50,000, if the number of visas not required for the classes specified in paragraphs (1) and (2) is equal to or less than 75,000;

''(C) not to exceed 75,000, if the number of visas not required for the classes specified in paragraphs (1) and (2) is more than 75,000.

''(4) ADULT UNMARRIED SONS AND ADULT UNMARRIED DAUGHTERS OF CITIZENS.—Qualified immigrants who are the adult unmarried sons or adult unmarried daughters of citizens of the United States shall be allocated visas in a number—

''(A) not to exceed 15,000, if the number of visas not required for the classes specified in paragraphs (1) and (2) is equal to or less than 25,000;

''(C) not to exceed 25,000, if the number of visas not required for the classes specified in paragraphs (1) and (2) is more than 25,000.

''(5) ADULT MARRIED SONS AND ADULT MARRIED DAUGHTERS OF CITIZENS.—Qualified immigrants who are the adult married sons or adult married daughters of citizens of the United States shall be allocated visas in a number—

''(A) not to exceed 10,000, if the number of visas not required for the classes specified in paragraphs (1) and (2) is equal to or less than 10,000;

''(C) not to exceed 25,000, if the number of visas not required for the classes specified in paragraphs (1) and (2) is more than 10,000.

''(6) BROTHERS AND SISTERS OF UNITED STATES CITIZENS.—Qualified immigrants who are the brothers and sisters of citizens of the

United States and adult children of permanent residents shall be allocated visas, except that no such visas shall be allocated in fiscal years 1997 through 2001.

''(7) BACKLOGGED SPOUSES AND MINOR CHILDREN OF LAWFUL PERMANENT RESIDENTS.—(A) Qualified immigrants who are the spouses or children of an alien lawfully admitted for permanent residence, and who had a petition approved for classification under section 203(a)(2)(A) of the Immigration and Nationality Act (as in effect immediately prior to the date of enactment of this Act), and who remain qualified for classification under that section as if such section remained in effect, shall be allotted visas in a number which is 75 percent of the number of visas not required for the classes specified in paragraphs (1) through (6).

''(B) The additional visa numbers provided under this paragraph shall not be subject to the numerical limitations of section 202(a) of the Immigration and Nationality Act.

''(8) BACKLOGGED BROTHERS AND SISTERS OF CITIZENS.—(A) Qualified immigrants who are the brothers and sisters of citizens of the United States, and who had a petition approved for classification under section 203(a)(2)(A) of the Immigration and Nationality Act (as in effect immediately prior to the date of enactment of this Act), and who remain qualified for classification under that section as if such section remained in effect, shall be allotted visas in a number which is 25 percent of the number of visas not required for the classes specified in paragraphs (1) through (6).

''(B) The additional visa numbers provided under this paragraph shall not be subject to the numerical limitations of section 202(a) of the Immigration and Nationality Act.''.

(c) PER COUNTRY LIMITATION.—Section 202(a)(2) (8 U.S.C. 1152(a)(2)) is amended to read as follows:

''(2) PER COUNTRY LEVELS FOR FAMILY-SPONSORED AND EMPLOYMENT-BASED IMMIGRANTS.—Subject to paragraphs (3) and (4), the number of immigrant visas made available to natives of any single foreign state or dependent area in any fiscal year—

''(A) under subsection (a) of section 203 may not exceed 7 percent (in the case of a single foreign state) or 2 percent (in the case of a dependent area) of the number of visas made available under that subsection in that fiscal year; and

''(B) under subsection (b) of section 203 may not exceed 7 percent (in the case of a single foreign state) or 2 percent (in the case of a dependent area) of the number of visas made available under that subsection in that fiscal year.''.

(d) TRANSITION.—

(1) IN GENERAL.—Any petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1996 for preference status under section 203(a)(1), section 203(a)(2)(A), section 203(a)(3) (insofar as the alien is an adult), or section 203(a)(4) of such Act (as in effect before such date) for qualified immigrants shall be deemed, as of such date, to be a petition filed under such section for preference status under section 203(a)(4), section 203(a)(3), section 203(a)(5), or section 203(a)(6), respectively, of such Act (as amended by this Act).

(2) ADMISSIBILITY STANDARDS.—When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1996, makes application for admission, the immigrant's admissibility under paragraph (7)(A) of section 212(a) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa.

(e) REFERENCES.—References in the Immigration and Nationality Act before the effective date of this section to sections 203(a)(1), 203(a)(2)(A), 203(a)(3) (insofar as it relates to adult aliens), and 203(a)(4) shall be deemed on or after such date to be references to sections 203(a)(4), 203(a)(3), 203(a)(5), and 203(a)(6), respectively.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1996.

WYDEN (AND OTHERS) AMENDMENT NO. 3741

(Ordered to lie on the table.)

Mr. WYDEN (for himself, Mr. LEAHY, Mr. KYL, Mr. CRAIG, Mrs. FEINSTEIN, Mr. LOTT, Mr. COCHRAN, and Mr. LUGAR) submitted an amendment intended to be proposed by them to the bill S. 1664, supra; as follows:

At the appropriate place in S. 1664, the Immigration Control and Financial Responsibility Act of 1996, insert the following:

SEC. . REVIEW AND REPORT ON H–2A NONIMMIGRANT WORKERS PROGRAM.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that passage of legislation to reform the nation's immigration laws may impact on the future availability of an adequate work force for the producers of our nation's labor intensive agricultural commodities and livestock. Therefore, the United States Comptroller General shall review the existing H–2A nonimmigrant worker program to ensure that the program provides a workable safety valve in the event of future shortages of domestic workers after passage of immigration reform legislation. The United States Comptroller General shall report the findings of this review to the Congress.

(b) REVIEW.—The United States Comptroller General shall review the effectiveness of the program for the admission of nonimmigrant aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act to ensure that the program provides a workable safety valve in the event of future shortages of domestic workers after the enactment of this Act. Among other things, the United States Comptroller General shall review the program to determine—

(1) that it ensures that an adequate supply of qualified United States workers is available at the time and place needed for employers seeking such workers after the enactment of this Act; and

(2) that there is timely approval of the applications for temporary foreign workers under section 101(a)(15)(H)(ii)(a) of such Act in the event of shortages of United States workers after the enactment of this Act; and

(3) that implementation of the program is not displacing United States agricultural workers; and

(4) if and to what extent implementation of the program is contributing to the problem of illegal immigration.

(c) REPORT.—On or before December 31, 1996, or three months after the date of enactment of this Act, whichever is sooner, the United States Comptroller General shall submit a report to Congress setting forth the findings of the review conducted under subsection (b).

KYL AMENDMENT NO. 3742

(Ordered to lie on the table.)

Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1664, supra; as follows:

At the end of the amendment, insert the following:

SEC. . 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 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.

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a)(1) shall apply to applications for adjustment of status filed after September 30, 1996.

SIMPSON AMENDMENT NO. 3743

Mr. DOLE (for Mr. SIMPSON) proposed an amendment to the bill S. 1664, supra; as follows:

Strike all after the word ''SECTION'' and insert the following:

1. SHORT TITLE; REFERENCES IN ACT.

(a) SHORT TITLE.—This Act may be cited as the ''Immigration Control and Financial Responsibility Act of 1996''.

(b) REFERENCES IN ACT.—Except as otherwise specifically provided in this Act, whenever in this Act an amendment or repeal is expressed as an amendment to or repeal of a provision, the reference shall be deemed to be made to the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title; references in Act.
Sec. 2. Table of contents.

TITLE I—IMMIGRATION CONTROL

Subtitle A—Law Enforcement

Part 1—Additional Enforcement Personnel and Facilities

Sec. 101. Border Patrol agents.
Sec. 102. Investigators.
Sec. 103. Land border inspectors.
Sec. 104. Investigators of visa overstayers.
Sec. 105. Increased personnel levels for the Labor Department.
Sec. 106. Increase in INS detention facilities.
Sec. 107. Hiring and training standards.
Sec. 108. Construction of fencing and road improvements in the border area near San Diego, California.

Part 2—Verification of Eligibility to Work and to Receive Public Assistance

SUBPART A—DEVELOPMENT OF NEW VERIFICATION SYSTEM

Sec. 111. Establishment of new system.
Sec. 112. Demonstration projects.
Sec. 113. Comptroller General monitoring and reports.
Sec. 114. General nonpreemption of existing rights and remedies.
Sec. 115. Definitions.

SUBPART B—STRENGTHENING EXISTING VERIFICATION PROCEDURES

Sec. 116. Changes in list of acceptable employment-verification documents.
Sec. 117. Treatment of certain documentary practices as unfair immigration-related employment practices.
Sec. 118. Improvements in identification-related documents.
Sec. 119. Enhanced civil penalties if labor standards violations are present.
Sec. 120. Increased number of Assistant United States Attorneys to prosecute cases of unlawful employment of aliens or document fraud.
Sec. 120A. Subpoena authority for cases of unlawful employment of aliens or document fraud.
Sec. 120B. Task force to improve public education regarding unlawful employment of aliens and unfair immigration-related employment practices.

Sec. 120C. Nationwide fingerprinting of apprehended aliens.
Sec. 120D. Application of verification procedures to State agency referrals of employment.
Sec. 120E. Retention of verification form.
Part 3—Alien Smuggling; Document Fraud
Sec. 121. Wiretap authority for investigations of alien smuggling or document fraud.
Sec. 122. Amendments to RICO relating to alien smuggling and document fraud offenses.
Sec. 123. Increased criminal penalties for alien smuggling.
Sec. 124. Admissibility of videotaped witness testimony.
Sec. 125. Expanded forfeiture for alien smuggling and document fraud.
Sec. 126. Criminal forfeiture for alien smuggling or document fraud.
Sec. 127. Increased criminal penalties for fraudulent use of government-issued documents.
Sec. 128. Criminal penalty for false statement in a document required under the immigration laws or knowingly presenting document which fails to contain reasonable basis in law or fact.
Sec. 129. New criminal penalties for failure to disclose role as preparer of false application for asylum or for preparing certain post-conviction applications.
Sec. 130. New document fraud offenses; new civil penalties for document fraud.
Sec. 131. New exclusion for document fraud or for failure to present documents.
Sec. 132. Limitation on withholding of deportation and other benefits for aliens excludable for document fraud or failing to present documents, or excludable aliens apprehended at sea.
Sec. 133. Penalties for involuntary servitude.
Sec. 134. Exclusion relating to material support to terrorists.
Part 4—Exclusion and Deportation
Sec. 141. Special exclusion procedure.
Sec. 142. Streamlining judicial review of orders of exclusion or deportation.
Sec. 143. Civil penalties for failure to depart.
Sec. 144. Conduct of proceedings by electronic means.
Sec. 145. Subpoena authority.
Sec. 146. Language of deportation notice; right to counsel.
Sec. 147. Addition of nonimmigrant visas to types of visa denied for countries refusing to accept deported aliens.
Sec. 148. Authorization of special fund for costs of deportation.
Sec. 149. Pilot program to increase efficiency in removal of detained aliens.
Sec. 150. Limitations on relief from exclusion and deportation.
Sec. 151. Alien stowaways.
Sec. 152. Pilot program on interior repatriation and other methods to multiple unlawful entries.
Sec. 153. Pilot program on use of closed military bases for the detention of excludable or deportable aliens.
Sec. 154. Requirement for immunization against vaccine-preventable diseases for aliens seeking permanent residency.
Sec. 155. Certification requirements for foreign health-care workers.
Sec. 156. Increased bar to reentry for aliens previously removed.
Sec. 157. Elimination of consulate shopping for visa overstays.
Sec. 158. Incitement as a basis for exclusion from the United States.
Sec. 159. Conforming amendment to withholding of deportation.
Part 5—Criminal Aliens
Sec. 161. Amended definition of aggravated felony.
Sec. 162. Ineligibility of aggravated felons for adjustment of status.
Sec. 163. Expeditious deportation creates no enforceable right for aggravated felons.
Sec. 164. Custody of aliens convicted of aggravated felonies.
Sec. 165. Judicial deportation.
Sec. 166. Stipulated exclusion or deportation.
Sec. 167. Deportation as a condition of probation.
Sec. 168. Annual report on criminal aliens.
Sec. 169. Undercover investigation authority.
Sec. 170. Prisoner transfer treaties.
Sec. 170A. Prisoner transfer treaties study.
Sec. 170B. Using alien for immoral purposes, filing requirement.
Sec. 170C. Technical corrections to Violent Crime Control Act and Technical Corrections Act.
Sec. 170D. Demonstration project for identification of illegal aliens in incarceration facility of Anaheim, California.
Part 6—Miscellaneous
Sec. 171. Immigration emergency provisions.
Sec. 172. Authority to determine visa processing procedures.
Sec. 173. Joint study of automated data collection.
Sec. 174. Automated entry-exit control system.
Sec. 175. Use of legalization and special agricultural worker information.
Sec. 176. Rescission of lawful permanent resident status.
Sec. 177. Communication between Federal, State, and local government agencies, and the Immigration and Naturalization Service.
Sec. 178. Authority to use volunteers.
Sec. 179. Authority to acquire Federal equipment for border.
Sec. 180. Limitation on legalization litigation.
Sec. 181. Limitation on adjustment of status.
Sec. 182. Report on detention space.
Sec. 183. Compensation of special inquiry officers.
Sec. 184. Acceptance of State services to carry out immigration enforcement.
Sec. 185. Alien witness cooperation.
Subtitle B—Other Control Measures
Part 1—Parole Authority
Sec. 191. Usable only on a case-by-case basis for humanitarian reasons or significant public benefit.
Sec. 192. Inclusion in worldwide level of family-sponsored immigrants.
Part 2—Asylum
Sec. 193. Limitations on asylum applications by aliens using documents fraudulently or by excludable aliens apprehended at sea; use of special exclusion procedures.
Sec. 194. Time limitation on asylum claims.
Sec. 195. Limitation on work authorization for asylum applicants.
Sec. 196. Increased resources for reducing asylum application backlogs.
Part 3—Cuban Adjustment Act
Sec. 197. Repeal and exception.
TITLE II—FINANCIAL RESPONSIBILITY
Subtitle A—Receipt of Certain Government Benefits
Sec. 201. Ineligibility of excludable, deportable, and nonimmigrant aliens.
Sec. 202. Definition of ''public charge'' for purposes of deportation.
Sec. 203. Requirements for sponsor's affidavit of support.
Sec. 204. Attribution of sponsor's income and resources to family-sponsored immigrants.
Sec. 205. Verification of student eligibility for postsecondary Federal student financial assistance.
Sec. 206. Authority of States and localities to limit assistance to aliens and to distinguish among classes of aliens in providing general public assistance.
Sec. 207. Earned income tax credit denied to individuals not citizens or lawful permanent residents.
Sec. 208. Increased maximum criminal penalties for forging or counterfeiting seal of a Federal department or agency to facilitate benefit fraud by an unlawful alien.
Sec. 209. State option under the medicaid program to place anti-fraud investigators in hospitals.
Sec. 210. Computation of targeted assistance.
Subtitle B—Miscellaneous Provisions
Sec. 211. Reimbursement of States and localities for emergency medical assistance for certain illegal aliens.
Sec. 212. Treatment of expenses subject to emergency medical services exception.
Sec. 213. Pilot programs.
Subtitle C—Effective Dates
Sec. 221. Effective dates.

Subtitle A—Law Enforcement

PART 1—ADDITIONAL ENFORCEMENT PERSONNEL AND FACILITIES

SEC. 101. BORDER PATROL AGENTS.

(a) BORDER PATROL AGENTS.—The Attorney General, in fiscal year 1996 shall increase by no less than 700, and in each of fiscal years 1997, 1998, 1999, and 2000, shall increase by no less than 1,000, the number of positions for full-time, active-duty Border Patrol agents within the Immigration and Naturalization Service above the number of such positions for which funds were allotted for the preceding fiscal year.

(b) BORDER PATROL SUPPORT PERSONNEL.—The Attorney General, in each of fiscal years 1996, 1997, 1998, 1999, and 2000, may increase by not more than 300 the number of positions for personnel in support of Border Patrol agents above the number of such positions for which funds were allotted for the preceding fiscal year.

SEC. 102. INVESTIGATORS.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Department of Justice such funds as may be necessary to enable the Commissioner of the Immigration and Naturalization Service to increase the number of investigators and support personnel to investigate potential violations of sections 274 and 274A of the Immigration and Nationality Act (8 U.S.C. 1324 and 1324a) by a number equivalent to 300 full-time active-duty investigators in each of fiscal years 1996, 1997, and 1998.

(b) LIMITATION ON OVERTIME.—None of the funds made available to the Immigration and Naturalization Service under this section

shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000 for any fiscal year.

SEC. 103. LAND BORDER INSPECTORS.

In order to eliminate undue delay in the thorough inspection of persons and vehicles lawfully attempting to enter the United States, the Attorney General and the Secretary of the Treasury shall increase, by approximately equal numbers in each of fiscal years 1996 and 1997, the number of full-time land border inspectors assigned to active duty by the Immigration and Naturalization Service and the United States Customs Service to a level adequate to assure full staffing during peak crossing hours of all border crossing lanes currently in use, under construction, or whose construction has been authorized by Congress, except such low-use lanes as the Attorney General may designate.

SEC. 104. INVESTIGATORS OF VISA OVERSTAYERS.

There are authorized to be appropriated to the Department of Justice such funds as may be necessary to enable the Commissioner of the Immigration and Naturalization Service to increase the number of investigators and support personnel to investigate visa overstayers by a number equivalent to 300 full-time active-duty investigators in fiscal year 1996.

SEC. 105. INCREASED PERSONNEL LEVELS FOR THE LABOR DEPARTMENT.

(a) INVESTIGATORS.—The Secretary of Labor, in consultation with the Attorney General, is authorized to hire in the Wage and Hour Division of the Department of Labor for fiscal years 1996 and 1997 not more than 350 investigators and staff to enforce existing legal sanctions against employers who violate current Federal wage and hour laws.

(b) ASSIGNMENT OF ADDITIONAL PERSONNEL.—Individuals employed to fill the additional positions described in subsection (a) shall be assigned to investigate violations of wage and hour laws in areas where the Attorney General has notified the Secretary of Labor that there are high concentrations of aliens present in the United States in violation of law.

(c) PREFERENCE FOR BILINGUAL WAGE AND HOUR INSPECTORS.—In hiring new wage and our inspectors pursuant to this section, the Secretary of Labor shall give priority to the employment of multilingual candidates who are proficient in both English and such other language or languages as may be spoken in the region in which such inspectors are likely to be deployed.

SEC. 106. 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 before the end of fiscal year 1997.

SEC. 107. HIRING AND TRAINING STANDARDS.

(a) REVIEW OF HIRING STANDARDS.—Within 60 days of the enactment of this title, the Attorney General shall review all prescreening and hiring standards to be utilized by the Immigration and Naturalization Service to increase personnel pursuant to this title and, where necessary, revise those standards to ensure that they are consistent with relevant standards of professionalism.

(b) CERTIFICATION.—At the conclusion of each of the fiscal years 1996, 1997, 1998, 1999, and 2000, the Attorney General shall certify in writing to the Congress that all personnel hired pursuant to this title for the previous fiscal year were hired pursuant to the appropriate standards.

(c) REVIEW OF TRAINING STANDARDS.—(1) Within 180 days of the date of the enactment of this Act, the Attorney General shall review the sufficiency of all training standards to be utilized by the Immigration and Naturalization Service in training all personnel hired pursuant to this title.

(2)(A) The Attorney General shall submit a report to the Congress on the results of the review conducted under paragraph (1), including—

(i) a description of the status of ongoing efforts to update and improve training throughout the Immigration and Naturalization Service, and

(ii) a statement of a timeframe for the completion of those efforts.

(B) In addition, the report shall disclose those areas of training that the Attorney General determines require additional or ongoing review in the future.

SEC. 108. CONSTRUCTION OF FENCING AND ROAD IMPROVEMENTS IN THE BORDER AREA NEAR SAN DIEGO, CALIFORNIA.

(a) IN GENERAL.—The Attorney General shall provide for the construction along the 14 miles of the international land border between the United States and Mexico, 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.

(b) 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).

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

PART 2—VERIFICATION OF ELIGIBILITY TO WORK AND TO RECEIVE PUBLIC ASSISTANCE

Subpart A—Development of New Verification System

SEC. 111. ESTABLISHMENT OF NEW SYSTEM.

(a) IN GENERAL.—(1) Not later than three years after the date of enactment of this Act or, within one year after the end of the last renewed or additional demonstration project (if any) conducted pursuant to the exception in section 112(a)(4), whichever is later, the President shall—

(A) develop and recommend to the Congress a plan for the establishment of a data system or alternative system (in this part referred to as the ''system''), subject to subsections (b) and (c), to verify eligibility for employment in the United States, and immigration status in the United States for purposes of eligibility for benefits under public assistance programs (as defined in section 201(f)(3) or government benefits described in section 201(f)(4));

(B) submit to the Congress a report setting forth—

(i) a description of such recommended plan;

(ii) data on and analyses of the alternatives considered in developing the plan described in subparagraph (A), including analyses of data from the demonstration projects conducted pursuant to section 112; and

(iii) data on and analysis of the system described in subparagraph (A), including estimates of—

(I) the proposed use of the system, on an industry-sector by industry-sector basis;

(II) the public assistance programs and government benefits for which use of the system is cost-effective and otherwise appropriate;

(III) the cost of the system;

(IV) the financial and administrative cost to employers;

(V) the reduction of undocumented workers in the United States labor force resulting from the system;

(VI) any unlawful discrimination caused by or facilitated by use of the system;

(VII) any privacy intrusions caused by misuse or abuse of system;

(VIII) the accuracy rate of the system; and

(IX) the overall costs and benefits that would result from implementation of the system.

(2) The plan described in paragraph (1) shall take effect on the date of enactment of a bill or joint resolution approving the plan.

(b) OBJECTIVES.—The plan described in subsection (a)(1) shall have the following objectives:

(1) To substantially reduce illegal immigration and unauthorized employment of aliens.

(2) To increase employer compliance, especially in industry sectors known to employ undocumented workers, with laws governing employment of aliens.

(3) To protect individuals from national origin or citizenship-based unlawful discrimination and from loss of privacy caused by use, misuse, or abuse of personal information.

(4) To minimize the burden on business of verification of eligibility for employment in the United States, including the cost of the system to employers.

(5) To ensure that those who are ineligible for public assistance or other government benefits are denied or terminated, and that those eligible for public assistance or other government benefits shall—

(A) be provided a reasonable opportunity to submit evidence indicating a satisfactory immigration status; and

(B) not have eligibility for public assistance or other government benefits denied, reduced, terminated, or unreasonably delayed on the basis of the individual's immigration status until such a reasonable opportunity has been provided.

(c) SYSTEM REQUIREMENTS.—(1) A verification system may not be implemented under this section unless the system meets the following requirements:

(A) The system must be capable of reliably determining with respect to an individual whether—

(i) the person with the identity claimed by the individual is authorized to work in the United States or has the immigration status being claimed; and

(ii) the individual is claiming the identity of another person.

(B) Any document (other than a document used under section 274A of the Immigration and Nationality Act) required by the system must be presented to or examined by either an employer or an administrator of public assistance or other government benefits, as the case may be, and—

(i) must be in a form that is resistant to counterfeiting and to tampering; and

(ii) must not be required by any Government entity or agency as a national identification card or to be carried or presented except—

(I) to verify eligibility for employment in the United States or immigration status in the United States for purposes of eligibility for benefits under public assistance programs (as defined in section 201(f)(3) or government benefits described in section 201(f)(4));

(II) to enforce the Immigration and Nationality Act or sections 911, 1001, 1028, 1542, 1546, or 1621 of title 18, United States Code; or

(III) if the document was designed for another purposes (such as a license to drive a

motor vehicle, a certificate of birth, or a social security account number card issued by the Administration), as required under law for such other purpose.

(C) The system must not be used for law enforcement purposes other than the purposes described in subparagraph (B).

(D) The system must ensure that information is complete, accurate, verifiable, and timely. Corrections or additions to the system records of an individual provided by the individual, the Administration, or the Service, or other relevant Federal agency, must be checked for accuracy, processed, and entered into the system within 10 business days after the agency's acquisition of the correction or additional information.

(E)(i) Any personal information obtained in connection with a demonstration project under section 112 must not be made available to Government agencies, employers, or other persons except to the extent necessary—

(I) to verify, by an individual who is authorized to conduct the employment verification process, that an employee is not an unauthorized alien (as defined in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3));

(II) to take other action required to carry out section 112;

(III) to enforce the Immigration and Nationality Act or section 911, 1001, 1028, 1542, 1546, or 1621 of title 18, United States Code; or

(IV) to verify the individual's immigration status for purposes of determining eligibility for Federal benefits under public assistance programs (defined in section 201(f)(3) or government benefits described in section 201(f)(4)).

(ii) In order to ensure the integrity, confidentiality, and security of system information, the system and those who use the system must maintain appropriate administrative, technical, and physical safeguards, such as—

(I) safeguards to prevent unauthorized disclosure of personal information, including passwords, cryptography, and other technologies;

(II) audit trails to monitor system use; or

(III) procedures giving an individual the right to request records containing personal information about the individual held by agencies and used in the system, for the purpose of examination, copying, correction, or amendment, and a method that ensures notice to individuals of these procedures.

(F) A verification that a person is eligible for employment in the United States may not be withheld or revoked under the system for any reasons other than a determination pursuant to section 274A of the Immigration and Nationality Act.

(G) The system must be capable of accurately verifying electronically within 5 business days, whether a person has the required immigration status in the United States and is legally authorized for employment in the United States in a substantial percentage of cases (with the objective of not less than 99 percent).

(H) There must be reasonable safeguards against the system's resulting in unlawful discriminatory practices based on national origin or citizenship status, including—

(i) the selective or unauthorized use of the system to verify eligibility;

(ii) the use of the system prior to an offer of employment;

(iii) the exclusion of certain individuals from consideration for employment as a result of a perceived likelihood that additional verification will be required, beyond what is required for most job applicants; or

(iv) denial reduction, termination, or unreasonable delay of public assistance to an individual as a result of the perceived likelihood that such additional verification will be required.

(2) As used in this subsection, the term ''business day'' means any day other than Saturday, Sunday, or any day on which the appropriate Federal agency is closed.

(d) REMEDIES AND PENALTIES FOR UNLAWFUL DISCLOSURE.—

(1) CIVIL REMEDIES.—

(A) RIGHT OF INFORMATIONAL PRIVACY.—The Congress declares that any person who provides to an employer the information required by this section or section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) has a privacy expectation that the information will only be used for compliance with this Act or other applicable Federal, State, or local law.

(B) CIVIL ACTIONS.—A employer, or other person or entity, who knowingly and willfully discloses the information that an employee is required to provide by this section or section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) for any purpose not authorized by this Act or other applicable Federal, State, or local law shall be liable to the employee for actual damages. An action may be brought in any Federal, State, or local court having jurisdiction over the matter.

(2) CRIMINAL PENALTIES.—Any employer, or other person or entity, who willfully and knowingly obtains, uses, or discloses information required pursuant to this section or section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) for any purpose not authorized by this Act or other applicable Federal, State, or local law shall be found guilty of a misdemeanor and fined not more than $5,000.

(3) PRIVACY ACT.—

(A) IN GENERAL.—Any person who is a United States citizen, United States national, lawful permanent resident, or other employment-authorized alien, and who is subject to verification of work authorization or lawful presence in the United States for purposes of benefits eligibility under this section or section 112, shall be considered an individual under section 552(a)(2) of title 5, United States Code, with respect to records covered by this section.

(B) DEFINITION.—For purposes of this paragraph, the term ''record'' means an item, collection, or grouping of information about an individual which—

(i) is created, maintained, or used by a Federal agency for the purpose of determining—

(I) the individual's authorization to work; or

(II) immigration status in the United States for purposes of eligibility to receive Federal, State or local benefits in the United States; and

(ii) contains the individuals's name or identifying number, symbol, or any other identifier assigned to the individual.

(e) EMPLOYER SAFEGUARDS.—An employer shall not be liable for any penalty under section 274A of the Immigration and Nationality Act for employing an unauthorized alien, if—

(1) the alien appeared throughout the term of employment to be prima facie eligible for the employment under the requirements of section 274A(b) of such Act;

(2) the employer followed all procedures required in the system; and

(3)(A) the alien was verified under the system as eligible for the employment; or

(B) the employer discharged the alien within a reasonable period after receiving notice that the final verification procedure had failed to verify that the alien was eligible for the employment.

(f) RESTRICTION ON USE OF DOCUMENTS.—If the Attorney General determines that any document described in section 274A(b)(1) of the Immigration and Nationality Act as establishing employment authorization or identity does not reliably establish such authorization or identity or, to an unacceptable degree, is being used fraudulently or is being requested for purposes not authorized by this Act, the Attorney General may, by regulation, prohibit or place conditions on the use of the document for purposes of the system or the verification system established in section 274A(b) of the Immigration and Nationality Act.

(g) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION PROVIDED BY THE VERIFICATION SYSTEM.—No person shall be civilly or criminally liable under section 274A of the Immigration and Nationality Act for any action adverse to an individual if such action was taken in good faith reliance on information relating to such individual provided through the system (including any demonstration project conducted under section 112).

(h) STATUTORY CONSTRUCTION.—The provisions of this section supersede the provisions of section 274A of the Immigration and Nationality Act to the extent of any inconsistency therewith.

SEC. 112. DEMONSTRATION PROJECTS.

(a) AUTHORITY.—

(1) IN GENERAL.—(A)(i) Subject to clause (ii), the President, acting through the Attorney General, shall begin conducting several local and regional projects, and a project in the legislative branch of the Federal Government, to demonstrate the feasibility of alternative systems for verifying eligibility for employment in the United States, and immigration status in the United States for purposes of eligibility for benefits under public assistance programs (as defined in section 201(f)(3) and government benefits described in section 201(f)(4)).

(ii) Each project under this section shall be consistent with the objectives of section 111(b) and this section and shall be conducted in accordance with an agreement entered into with the State, locality, employer, other entity, or the legislative branch of the Federal Government, as the case may be.

(iii) In determining which State(s), localities, employers, or other entities shall be designated for such projects, the Attorney General shall take into account the estimated number of excludable aliens and deportable aliens in each State or locality.

(B) For purposes of this paragraph, the term ''legislative branch of the Federal Government'' includes all offices described in section 101(9) of the Congressional Accountability Act of 1995 (2 U.S.C. 1301(9)) and all agencies of the legislative branch of Government.

(2) DESCRIPTION OF PROJECTS.—Demonstration projects conducted under this subsection may include, but are not limited to—

(A) a system which allows employers to verify the eligibility for employment of new employees using Administration records and, if necessary, to conduct a cross-check using Service records;

(B) a simulated linkage of the electronic records of the Service and the Administration to test the technical feasibility of establishing a linkage between the actual electronic records of the Service and the Administration;

(C) improvements and additions to the electronic records of the Service and the Administration for the purpose of using such records for verification of employment eligibility;

(D) a system which allows employers to verify the continued eligibility for employment of employees with temporary work authorization;

(E) a system that requires employers to verify the validity of employee social security account numbers through a telephone call, and to verify employee identity through a United States passport, a State driver's license or identification document, or a document issued by the Service for purposes of this clause;

(F) a system which is based on State-issued driver's licenses and identification cards that include a machine readable social security account number and are resistant to tampering and counterfeiting; and

(G) a system that requires employers to verify with the Service the immigration status of every employee except one who has attested that he or she is a United States citizen or national.

(3) COMMENCEMENT DATE.—The first demonstration project under this section shall commence not later than six months after the date of the enactment of this Act.

(4) TERMINATION DATE.—The authority of paragraph (1) shall cease to be effective four years after the date of enactment of this Act, except that, if the President determines that any one or more of the projects conducted pursuant to paragraph (2) should be renewed, or one or more additional projects should be conducted before a plan is recommended under section 111(a)(1)(A), the President may conduct such project or projects for up to an additional three-year period, without regard to section 274A(d)(4)(A) of the Immigration and Nationality Act.

(b) OBJECTIVES.—The objectives of the demonstration projects conducted under this section are—

(1) to assist the Attorney General in measuring the benefits and costs of systems for verifying eligibility for employment in the United States, and immigration status in the United States for purposes of eligibility for benefits under public assistance programs defined in section 201(f)(3) and for government benefits described in section 201(f)(4);

(2) to assist the Service and the Administration in determining the accuracy of Service and Administration data that may be used in such systems; and

(3) to provide the Attorney General with information necessary to make determinations regarding the likely effects of the tested systems on employers, employees, and other individuals, including information on—

(A) losses of employment to individuals as a result of inaccurate information in the system;

(B) unlawful discrimination;

(C) privacy violations;

(D) cost to individual employers, including the cost per employee and the total cost as a percentage of the employers payroll; and

(E) timeliness of initial and final verification determinations.

(c) CONGRESSIONAL CONSULTATION.—(1) Not later than 12 months after the date of the enactment of this Act, and annually thereafter, the Attorney General or the Attorney General's representatives shall consult with the Committees on the Judiciary of the House of Representatives and the Senate regarding the demonstration projects being conducted under this section.

(2) The Attorney General or her representative, in fulfilling the obligations described in paragraph (1), shall submit to the Congress the estimated cost to employers of each demonstration project, including the system's indirect and administrative costs to employers.

(d) IMPLEMENTATION.—In carrying out the projects described in subsection (a), the Attorney General shall—

(1) support and, to the extent possible, facilitate the efforts of Federal and State government agencies in developing—

(A) tamper- and counterfeit-resistant documents that may be used in a new verification system, including drivers' licenses or similar documents issued by a State for the purpose of identification, the social security account number card issued by the Administration, and certificates of birth in the United States or establishing United States nationality at birth; and

(B) recordkeeping systems that would reduce the fraudulent obtaining of such documents, including a nationwide system to match birth and death records;

(2) require appropriate notice to prospective employees concerning employers' participation in a demonstration project, which notice shall contain information on filing complaints regarding misuse of information or unlawful discrimination by employers participating in the demonstration; and

(3) require employers to establish procedures developed by the Attorney General—

(A) to safeguard all personal information from unauthorized disclosure and to condition release of such information to any person or entity upon the person's or entity's agreement to safeguard such information; and

(B) to provide notice to all new employees and applicants for employment of the right to request an agency to review, correct, or amend the employee's or applicant's record and the steps to follow to make such a request.

(e) REPORT OF ATTORNEY GENERAL.—Not later than 60 days before the expiration of the authority for subsection (a)(1), the Attorney General shall submit to the Congress a report containing an evaluation of each of the demonstration projects conducted under this section, including the findings made by the Comptroller General under section 113.

(f) SYSTEM REQUIREMENTS.—

(1) IN GENERAL.—Demonstration projects conducted under this section shall substantially meet the criteria in section 111(c)(1), except that with respect to the criteria in subparagraphs (D) and (G) of section 111(c)(1), such projects are required only to be likely to substantially meet the criteria, as determined by the Attorney General.

(2) SUPERSEDING EFFECT.—If the Attorney General determines that any demonstration project conducted under this section substantially meets the criteria in section 111(c)(1), other than the criteria in subparagraphs (D) and (G) of that section, and meets the criteria in such subparagraphs (D) and (G) to a sufficient degree, the requirements for participants in such project shall apply during the remaining period of its operation in lieu of the procedures required under section 274A(b) of the Immigration and Nationality Act. Section 274B of such Act shall remain fully applicable to the participants in the project.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(h) STATUTORY CONSTRUCTION.—The provisions of this section supersede the provisions of section 274A of the Immigration and Nationality Act to the extent of any inconsistency therewith.

SEC. 113. COMPTROLLER GENERAL MONITORING AND REPORTS.

(a) IN GENERAL.—The Comptroller General of the United States shall track, monitor, and evaluate the compliance of each demonstration project with the objectives of sections 111 and 112, and shall verify the results of the demonstration projects.

(b) RESPONSIBILITIES.—

(1) COLLECTION OF INFORMATION.—The Comptroller General of the United States shall collect and consider information on each requirement described in section 111(a)(1)(C).

(2) TRACKING AND RECORDING OF PRACTICES.—The Comptroller General shall track and record unlawful discriminatory employment practices, if any, resulting from the use or disclosure of information pursuant to a demonstration project or implementation of the system, using such methods as—

(A) the collection and analysis of data;

(B) the use of hiring audits; and

(C) use of computer audits, including the comparison of such audits with hiring records.

(3) MAINTENANCE OF DATA.—The Comptroller General shall also maintain data on unlawful discriminatory practices occurring among a representative sample of employers who are not participants in any project under this section to serve as a baseline for comparison with similar data obtained from employers who are participants in projects under this section.

(c) REPORTS.—

(1) DEMONSTRATION PROJECTS.—Beginning 12 months after the date of the enactment of this Act, and annually thereafter, the Comptroller General of the United States shall submit a report to the Committees on the Judiciary of the House of Representatives and the Senate setting forth evaluations of—

(A) the extent to which each demonstration project is meeting each of the requirements of section 111(c); and

(B) the Comptroller General's preliminary findings made under this section.

(2) VERIFICATION SYSTEM.—Not later than 60 days after the submission to the Congress of the plan under section 111(a)(2), the Comptroller General of the United States shall submit a report to the Congress setting forth an evaluation of—

(A) the extent to which the proposed system, if any, meets each of the requirements of section 111(c); and

(B) the Comptroller General's findings made under this section.

SEC. 114. GENERAL NONPREEMPTION OF EXISTING RIGHTS AND REMEDIES.

Nothing in this subpart may be construed to deny, impair, or otherwise adversely affect any right or remedy available under Federal, State, or local law to any person on or after the date of the enactment of this Act except to the extent the right or remedy is inconsistent with any provision of this part.

SEC. 115. DEFINITIONS.

For purposes of this subpart—

(1) ADMINISTRATION.— The term ''Administration'' means the Social Security Administration.

(2) EMPLOYMENT AUTHORIZED ALIEN.—The term ''employment authorized alien'' means an alien who has been provided with an ''employment authorized'' endorsement by the Attorney General or other appropriate work permit in accordance with the Immigration and Nationality Act.

(3) SERVICE.—The term ''Service'' means the Immigration and Naturalization Service.

Subpart B—Strengthening Existing Verification Procedures

SEC. 116. CHANGES IN LIST OF ACCEPTABLE EMPLOYMENT-VERIFICATION DOCUMENTS.

(a) AUTHORITY TO REQUIRE SOCIAL SECURITY ACCOUNT NUMBERS.—Section 274A (8 U.S.C. 1324a) is amended by adding at the end of subsection (b)(2) the following new sentence: ''The Attorney General is authorized to require an individual to provide on the form described in paragraph (1)(A) the individual's social security account number for purposes of complying with this section.''.

(b) CHANGES IN ACCEPTABLE DOCUMENTATION FOR EMPLOYMENT AUTHORIZATION AND IDENTITY.—

(1) REDUCTION IN NUMBER OF ACCEPTABLE EMPLOYMENT-VERIFICATION DOCUMENTS.—Section 274A(b)(1) (8 U.S.C. 1324a(b)(1)) is amended—

(A) in subparagraph (B)—

(i) by striking clauses (ii), (iii), and (iv);

(ii) by redesignating clause (v) as clause (ii);

(iii) in clause (i), by adding at the end ''or'';

(iv) in clause (ii) (as redesignated), by amending the text preceding subclause (I) to read as follows:

''(ii) resident alien card, alien registration card, or other document designated by regulation by the Attorney General, if the document—''; and

(v) in clause (ii) (as redesignated)—

(I) by striking ''and'' at the end of subclause (I);

(II) by striking the period at the end of subclause (II) and inserting '', and''; and

(III) by adding at the end the following new subclause:

''(III) contains appropriate security features.''; and

(B) in subparagraph (C)—

(i) by inserting ''or'' after the ''semicolon'' at the end of clause (i);

(ii) by striking clause (ii); and

(iii) by redesignating clause (iii) as clause (ii).

(2) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—If the Attorney General finds, by regulation, that any document described in section 274A(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)(1)) as establishing employment authorization or identity does not reliably establish such authorization or identity or is being used fraudulently to an unacceptable degree, the Attorney General may prohibit or place conditions on its use for purposes of the verification system established in section 274A(b) of the Immigration and Nationality Act under section 111 of this Act.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b)(1) shall apply with respect to hiring (or recruiting or referring) occurring on or after such date as the Attorney General shall designate (but not later than 180 days after the date of the enactment of this Act).

SEC. 117. TREATMENT OF CERTAIN DOCUMENTARY PRACTICES AS UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES

Section 274B(a)(6) (8 U.S.C. 1324b(a)(6)) is amended—

(1) by striking ''For purposes of paragraph (1), a'' and inserting ''A''; and

(2) by striking ''relating to the hiring of individuals'' and inserting the following: ''if made for the purpose or with the intent of discriminating against an individual in violation of paragraph (1)''.

SEC. 118. IMPROVEMENTS IN IDENTIFICATION-RELATED DOCUMENTS.

(a) BIRTH CERTIFICATES.—

(1) LIMITATION ON ACCEPTANCE.—(A) No Federal agency, including but not limited to the Social Security Administration and the Department of State, and no State agency that issues driver's licenses or identification documents, may accept for any official purpose a copy of a birth certificate, as defined in paragraph (5), unless it is issued by a State or local government registrar and it conforms to standards described in subparagraph (B).

(B) The standards described in this subparagraph are those set forth in regulations promulgated by the Secretary of Health and Human Services, after consultation with the Association for Public Health Statistics and Information Systems (APHSIS), and shall include but not be limited to—

(i) certification by the agency issuing the birth certificate, and

(ii) use of safety paper, the seal of the issuing agency, and other features designed to limit tampering, counterfeiting, and use by impostors.

(2) LIMITATION ON ISSUANCE.—(A) If one or more of the conditions described in subparagraph (B) is present, no State or local government agency may issue an official copy of a birth certificate pertaining to an individual unless the copy prominently notes that such individual is deceased.

(B) The conditions described in this subparagraph include—

(i) the presence on the original birth certificate of a notation that the individual is deceased, or

(ii) actual knowledge by the issuing agency that the individual is deceased obtained through information provided by the Social Security Administration, by an interstate system of birth-death matching, or otherwise.

(3) GRANTS TO STATES.—(A)(i) The Secretary of Health and Human Services shall establish a fund, administered through the National Center for Health Statistics, to provide grants to the States to encourage them to develop the capability to match birth and death records, within each State and among the States, and to note the fact of death on the birth certificates of deceased persons. In developing the capability described in the preceding sentence, States shall focus first on persons who were born after 1950.

(ii) Such grants shall be provided in proportion to population and in an amount needed to provide a substantial incentive for the States to develop such capability.

(B) The Secretary of Health and Human Services shall establish a fund, administered through the National Center for Health Statistics, to provide grants to the States for a project in each of 5 States to demonstrate the feasibility of a system by which each such State's office of vital statistics would be provided, within 24 hours, sufficient information to establish the fact of death of every individual dying in such State.

(C) There are authorized to be appropriated to the Department of Health and Human Services such amounts as may be necessary to provide the grants described in subparagraphs (A) and (B).

(4) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to the Congress on ways to reduce the fraudulent obtaining and the fraudulent use of birth certificates, including any such use to obtain a social security account number or a State or Federal document related to identification or immigration.

(5) CERTIFICATE OF BIRTH.—As used in this section, the term ''birth certificate'' means a certificate of birth registered in the United States.

(6) EFFECTIVE DATE.—This subsection shall take effect on October 1, 1997.

(b) STATE-ISSUED DRIVERS LICENSES.—

(1) SOCIAL SECURITY ACCOUNT NUMBER.—Each State-issued driver's license and identification document shall contain a social security account number, except that this paragraph shall not apply if the document is issued by a State that requires, pursuant to a statute enacted prior to the date of enactment of this Act, or pursuant to a regulation issued thereunder or an administrative policy, that—

(A) every applicant for such license or document submit the number, and

(B) an agency of such State verify with the Social Security Administration that the number is valid and is not a number assigned for use by persons without authority to work in the United States.

(2) APPLICATION PROCESS.—The application process for a State driver's license or identification document shall include the presentation of such evidence of identity as is required by regulations promulgated by the Secretary of Transportation, after consultation with the American Association of Motor Vehicle Administrators.

(3) FORM OF LICENSE AND IDENTIFICATION DOCUMENT.—Each State driver's license and identification document shall be in a form consistent with requirements set forth in regulations promulgated by the Secretary of Transportation, after consultation with the American Association of Motor Vehicle Administrators. Such form shall contain security features designed to limit tampering, counterfeiting, and use by impostors.

(4) LIMITATION ON ACCEPTANCE OF LICENSE AND IDENTIFICATION DOCUMENT.—Neither the Social Security Administration or the Passport Office or any other Federal agency or any State or local government agency may accept for any evidentiary purpose a State driver's license or identification document in a form other than the form described in paragraph (3).

(5) EFFECTIVE DATE.—This subsection shall take effect on October 1, 1997.

SEC. 119. ENHANCED CIVIL PENALTIES IF LABOR STANDARDS VIOLATIONS ARE PRESENT.

(a) IN GENERAL.—Section 274A(e) (8 U.S.C. 1324a(e)) is amended by adding at the end the following:

''(10)(A) The administrative law judge shall have the authority to require payment of a civil money penalty in an amount up to two times the amount of the penalty prescribed by this subsection in any case in which the employer has been found to have committed a willful violation or repeated violations of any of the following statutes:

''(i) The Fair Labor Standards Act (29 U.S.C. 201 et seq.) pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

''(ii) The Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.) pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

''(iii) The Family and Medical Leave Act (29 U.S.C. 2601 et seq.) pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

''(B) The Secretary of Labor and the Attorney General shall consult regarding the administration of this paragraph.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 120. INCREASED NUMBER OF ASSISTANT UNITED STATES ATTORNEYS TO PROSECUTE CASES OF UNLAWFUL EMPLOYMENT OF ALIENS OR DOCUMENT FRAUD.

The Attorney General is authorized to hire for fiscal years 1996 and 1997 such additional Assistant United States Attorneys as may be necessary for the prosecution of actions brought under sections 274A and 274C of the Immigration and Nationality Act and sections 911, 1001, 1015 through 1018, 1028, 1030, 1541 through 1544, 1546, and 1621 of title 18, United States Code. Each such additional attorney shall be used primarily for such prosecutions.

SEC. 120A. SUBPOENA AUTHORITY FOR CASES OF UNLAWFUL EMPLOYMENT OF ALIENS OR DOCUMENT FRAUD.

(a) IMMIGRATION OFFICER AUTHORITY.—

(1) UNLAWFUL EMPLOYMENT.—Section 274A(e)(2) (8 U.S.C. 1324a(e)(1)) is amended—

(A) by striking ''and'' at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting ''; and''; and

(C) by inserting after subparagraph (B) the following new subparagraph:

''(C) immigration officers designated by the Commissioner may compel by subpoena the attendance of witnesses and the production of evidence at any designated place prior to the filing of a complaint in a case under paragraph (2).''.

(2) DOCUMENT FRAUD.—Section 274C(d)(1) (8 U.S.C. 1324c(d)(1)) is amended—

(A) by striking ''and'' at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting ''; and''; and

(C) by inserting after subparagraph (B) the following new subparagraph:

''(C) immigration officers designated by the Commissioner may compel by subpoena the attendance of witnesses and the production of evidence at any designated place prior to the filing of a complaint in a case under paragraph (2).''.

(b) SECRETARY OF LABOR SUBPOENA AUTHORITY.—

(1) IN GENERAL.—Chapter 9 of title II of the Immigration and Nationality Act is amended by adding at the end the following new section:

''SECRETARY OF LABOR SUBPOENA AUTHORITY

''SEC. 294. The Secretary of Labor may issue subpoenas requiring the attendance and testimony of witnesses or the production of any records, books, papers, or documents in connection with any investigation or hearing conducted in the enforcement of any immigration program for which the Secretary of Labor has been delegated enforcement authority under the Act. In such hearing, the Secretary of Labor may administer oaths, examine witnesses, and receive evidence. For the purpose of any such hearing or investigation, the authority contained in sections 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49, 50), relating to the attendance of witnesses and the production of books, papers, and documents, shall be available to the Secretary of Labor.''.

(2) CONFORMING AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 293 the following new item:

''Sec. 294. Secretary of Labor subpoena authority.''.

SEC. 120B. TASK FORCE TO IMPROVE PUBLIC EDUCATION REGARDING UNLAWFUL EMPLOYMENT OF ALIENS AND UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES.

(a) ESTABLISHMENT.—The Attorney General shall establish a task force within the Department of Justice charged with the responsibility of—

(1) providing advice and guidance to employers and employees relating to unlawful employment of aliens under section 274A of the Immigration and Nationality Act and unfair immigration-related employment practices under 274B of such Act; and

(2) assisting employers in complying with those laws.

(b) COMPOSITION.—The members of the task force shall be designated by the Attorney General from among officers or employees of the Immigration and Naturalization Service or other components of the Department of Justice.

(c) ANNUAL REPORT.—The task force shall report annually to the Attorney General on its operations.

SEC. 120C. NATIONWIDE FINGERPRINTING OF APPREHENDED ALIENS.

There are authorized to be appropriated such additional sums as may be necessary to ensure that the program ''IDENT'', operated by the Immigration and Naturalization Service pursuant to section 130007 of Public Law 103–322, shall be expanded into a nationwide program.

SEC. 120D. APPLICATION OF VERIFICATION PROCEDURES TO STATE AGENCY REFERRALS OF EMPLOYMENT.

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

''(6) STATE AGENCY REFERRALS.—A State employment agency that refers any individual for employment shall comply with the procedures specified in subsection (b). For purposes of the attestation requirement in subsection (b)(1), the agency employee who is primarily involved in the referral of the individual shall make the attestation on behalf of the agency.''.

SEC. 120E. RETENTION OF VERIFICATION FORM.

Section 274A(b)(3) (8 U.S.C. 1324a(b)(3)) is amended by inserting after ''must retain the form'' the following: ''(except in any case of disaster, act of God, or other event beyond the control of the person or entity)''.

PART 3—ALIEN SMUGGLING; DOCUMENT FRAUD

SEC. 121. WIRETAP AUTHORITY FOR INVESTIGATIONS OF ALIEN SMUGGLING OR DOCUMENT FRAUD.

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

(1) in paragraph (c), by striking ''or section 1992 (relating to wrecking trains)'' and inserting ''section 1992 (relating to wrecking trains), a felony violation of section 1028 (relating to production of false identification documentation), section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), 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 passports), section 1544 (relating to misuse of passports), or section 1546 (relating to fraud and misuse of visas, permits, and other documents)'';

(2) by striking ''or'' at the end of paragraph (*l*);

(3) by redesignating paragraphs (m), (n), and (*o*) as paragraphs (n), (*o*), and (p), respectively; and

(4) by inserting after paragraph (*l*) the following new paragraph:

''(m) a violation of section 274, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324, 1327, or 1328) (relating to the smuggling of aliens);''.

SEC. 122. ADDITIONAL COVERAGE IN RICO FOR OFFENSES RELATING TO ALIEN SMUGGLING AND DOCUMENT FRAUD.

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

(1) by striking ''or'' after ''law of the United States,'';

(2) by inserting ''or'' at the end of clause (E); and

(3) by adding at the end the following: ''(F) any act, or conspiracy to commit any act, in violation of—

''(i) section 1028 (relating to production of false identification documentation), section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), 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 passports), or section 1544 (relating to misuse of passports) of this title, or, for personal financial gain, section 1546 (relating to fraud and misuse of visas, permits, and other documents) of this title; or

''(ii) section 274, 277, or 278 of the Immigration and Nationality Act.''.

SEC. 123. INCREASED CRIMINAL PENALTIES FOR ALIEN SMUGGLING.

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

(1) in paragraph (1)(A)—

(A) by striking ''or'' at the end of clause (iii);

(B) by striking the comma at the end of clause (iv) and inserting ''; or''; and

(C) by adding at the end the following new clause:

''(v)(I) engages in any conspiracy to commit any of the preceding acts, or

''(II) aids or abets the commission of any of the preceding acts,'';

(2) in paragraph (1)(B)—

(A) in clause (i), by inserting ''or (v)(I)'' after ''(A)(i)'';

(B) in clause (ii), by striking ''or (iv)'' and inserting ''(iv), or (v)(II)'';

(C) in clause (iii), by striking ''or (iv)'' and inserting ''(iv), or (v)''; and

(D) in clause (iv), by striking ''or (iv)'' and inserting ''(iv), or (v)'';

(3) in paragraph (2)—

(A) in the matter preceding subparagraph (A), 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''; and

(B) in the matter following subparagraph (B)(iii), by striking ''be fined'' and all that follows through the period and inserting the following: ''be fined under title 18, United States Code, and shall be imprisoned for a first or second offense, not more than 10 years, and for a third or subsequent offense, not more than 15 years.''; and

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

''(3) Any person who hires for employment an alien—

''(A) knowing that such alien is an unauthorized alien (as defined in section 274A(h)(3)), and

''(B) knowing that such alien has been brought into the United States in violation of this subsection,

shall be fined under title 18, United States Code, and shall be imprisoned for not more than 5 years.''.

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

(1) by striking ''or'' at the end of clause (ii);

(2) by redesignating clause (iii) as clause (iv); and

(3) by inserting after clause (ii) the following new clause:

''(iii) an offense committed with the intent, or with substantial 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; or''.

(c) SENTENCING GUIDELINES.—

(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines for offenders convicted of offenses related to smuggling, transporting, harboring, or inducing aliens in violation of section 274(a)(1)(A) or (2)(B) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)(A), (2)(B)) in accordance with this subsection.

(2) REQUIREMENTS.—In carrying out this subsection, the Commission shall, with respect to the offenses described in paragraph (1)—

(A) increase the base offense level for such offenses at least 3 offense levels above the applicable level in effect on the date of the enactment of this Act;

(B) review the sentencing enhancement for the number of aliens involved (U.S.S.G. 2L1.1(b)(2)), and increase the sentencing enhancement by at least 50 percent above the applicable enhancement in effect on the date of the enactment of this Act;

(C) impose an appropriate sentencing enhancement upon an offender with 1 prior felony conviction arising out of a separate and prior prosecution for an offense that involved the same or similar underlying conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category;

(D) impose an additional appropriate sentencing enhancement upon an offender with 2 or more prior felony convictions arising out of separate and prior prosecutions for offenses that involved the same or similar underling conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category;

(E) impose an appropriate sentencing enhancement on a defendant who, in the course of committing an offense described in this subsection—

(i) murders or otherwise causes death, bodily injury, or serious bodily injury to an individual;

(ii) uses or brandishes a firearm or other dangerous weapon; or

(iii) engages in conduct that consciously or recklessly places another in serious danger of death or serious bodily injury;

(F) consider whether a downward adjustment is appropriate if the offense conduct involves fewer than 6 aliens or the defendant committed the offense other than for profit; and

(G) consider whether any other aggravating or mitigating circumstances warrant upward or downward sentencing adjustments.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 124. ADMISSIBILITY OF VIDEOTAPED WITNESS TESTIMONY.

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

''(d) Notwithstanding any provision of the Federal Rules of Evidence, the videotaped (or otherwise audiovisually preserved) deposition of a witness to a violation of subsection (a) who has been deported or otherwise expelled from the United States, or is otherwise unable to testify, may be admitted into evidence in an action brought for that violation if the witness was available for cross examination and the deposition otherwise complies with the Federal Rules of Evidence.''.

SEC. 125. EXPANDED FORFEITURE FOR ALIEN SMUGGLING AND DOCUMENT FRAUD.

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

(1) by amending paragraph (1) to read as follows:

''(1) Any property, real or personal, which facilitates or is intended to facilitate, or has been or is being used in or is intended to be used in the commission of, a violation of, or conspiracy to violate, subsection (a) or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of title 18, United States Code, or which constitutes, or is derived from or traceable to, the proceeds obtained directly or indirectly from a commission of a violation of, or conspiracy to violate, subsection (a) or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of title 18, United States Code, shall be subject to seizure and forfeiture, except that—

''(A) no property used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this section unless it shall appear that the owner or other person in charge of such property was a consenting party or privy to the unlawful act;

''(B) no property shall be forfeited under this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such property was unlawfully in the possession of a person other than the owner in violation of, or in conspiracy to violate, the criminal laws of the United States or of any State; and

''(C) no property shall be forfeited under this paragraph to the extent of an interest of any owner, by reason of any act or omission established by such owner to have been committed or omitted without the knowledge or consent of such owner, unless such act or omission was committed by an employee or agent of such owner, and facilitated or was intended to facilitate, the commission of a violation of, or a conspiracy to violate, subsection (a) or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of title 18, United States Code, or was intended to further the business interests of the owner, or to confer any other benefit upon the owner.'';

(2) in paragraph (2)—

(A) by striking ''conveyance'' both places it appears and inserting ''property''; and

(B) by striking ''is being used in'' and inserting ''is being used in, is facilitating, has facilitated, or was intended to facilitate'';

(3) in paragraph (3)—

(A) by inserting ''(A)'' immediately after ''(3)'', and

(B) by adding at the end the following:

''(B) Before the seizure of any real property pursuant to this section, the Attorney General shall provide notice and an opportunity to be heard to the owner of the property. The Attorney General shall prescribe such regulations as may be necessary to carry out this subparagraph.'';

(4) in paragraphs (4) and (5), by striking ''a conveyance'' and ''conveyance'' each place such phrase or word appears and inserting ''property''; and

(5) in paragraph (4)—

(A) by striking ''or'' at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph (D) and inserting ''; or''; and

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

''(E) transfer custody and ownership of forfeited property to any Federal, State, or local agency pursuant to section 616(c) of the Tariff Act of 1930 (19 U.S.C. 1616a(c)).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 126. CRIMINAL FORFEITURE FOR ALIEN SMUGGLING, UNLAWFUL EMPLOYMENT OF ALIENS, OR DOCUMENT FRAUD.

Section 274 (8 U.S.C. 1324(b)) is amended by redesignating subsections (c) and (d) as subsections (d) and (e) and inserting after subsection (b) the following:

''(c) CRIMINAL FORFEITURE.—(1) Any person convicted of a violation of, or a conspiracy to violate, subsection (a) or section 274A(a)(1) or (2) of this Act, or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of title 18, United States Code, shall forfeit to the United States, regardless of any provision of State law—

''(A) any conveyance, including any vessel, vehicle, or aircraft used in the commission of a violation of, or a conspiracy to violate, subsection (a); and

''(B) any property real or personal—

''(i) that constitutes, or is derived from or is traceable to the proceeds obtained directly or indirectly from the commission of a violation of, or a conspiracy to violate, subsection (a), section 274A(a) (1) or (2) of this Act, or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of title 18, United States Code; or

''(ii) that is used to facilitate, or is intended to be used to facilitate, the commission of a violation of, or a conspiracy to violate, subsection (a), section 274A(a) (1) or (2) of this Act, or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of title 18, United States Code.

The court, in imposing sentence on such person, shall order that the person forfeit to the United States all property described in this subsection.

''(2) The criminal forfeiture of property under this subsection, including any seizure and disposition of the property and any related administrative or judicial proceeding, shall be governed by the provisions of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsections (a) and (d) of such section 413.''.

SEC. 127. INCREASED CRIMINAL PENALTIES FOR FRAUDULENT USE OF GOVERNMENT-ISSUED DOCUMENTS.

(a) PENALTIES FOR FRAUD AND MISUSE OF GOVERNMENT-ISSUED IDENTIFICATION DOCUMENTS.—(1) Section 1028(b) of title 18, United States Code, is amended to read as follows:

''(b)(1)(A) An offense under subsection (a) that is—

''(i) the production or transfer of an identification document or false identification document that is or appears to be—

''(I) an identification document issued by or under the authority of the United States; or

''(II) a birth certificate, or a driver's license or personal identification card;

''(ii) the production or transfer of more than five identification documents or false identification documents; or

''(iii) an offense under paragraph (5) of such subsection (a);

shall be punishable under subparagraph (B).

''(B) Except as provided in paragraph (4), a person who violates an offense described in subparagraph (A) shall be punishable by—

''(i) a fine under this title, imprisonment for not more than 10 years, or both, for a first or second offense; or

''(ii) a fine under this title, imprisonment for not more than 15 years, or both, for a third or subsequent offense.

''(2) A person convicted of an offense under subsection (a) that is—

''(A) any other production or transfer of an identification document or false identification document; or

''(B) an offense under paragraph (3) of such subsection;

shall be punishable by a fine under this title, imprisonment for not more than three years, or both.

''(3) A person convicted of an offense under subsection (a), other than an offense described in paragraph (1) or (2), shall be punishable by a fine under this title, imprisonment for not more than one year, or both.

''(4) Notwithstanding any other provision of this section, the maximum term of imprisonment that may be imposed for an offense described in paragraph (1)(A) shall be—

''(A) if committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title), 15 years; and

''(B) if committed to facilitate an act of international terrorism (as defined in section 2331 of this title), 20 years.''.

(2) Sections 1541 through 1544 of title 18, United States Code, are amended by striking be fined under this title, imprisoned not more than 10 years, or both.'' each place it appears and inserting the following:

'', except as otherwise provided in this section, be—

''(1) fined under this title, imprisoned for not more than 10 years, or both, for a first or second offense; or

''(2) fined under this title, imprisoned for not more than 15 years, or both, for a third or subsequent offense.

''Notwithstanding any other provision of this section, the maximum term of imprisonment that may be imposed for an offense under this section—

''(1) if committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title), is 15 years; and

''(2) if committed to facilitate an act of international terrorism (as defined in section 2331 of this title), is 20 years.''.

(3) Section 1546(a) of title 18, United States Code, is amended by striking ''be fined under this title, imprisoned not more than 10 years, or both.'' and inserting the following:

'', except as otherwise provided in this subsection, be—

''(1) fined under this title, imprisoned for not more than 10 years, or both, for a first or second offense; or

''(2) fined under this title, imprisoned for not more than 15 years, or both, for a third or subsequent offense.

''Notwithstanding any other provision of this subsection, the maximum term of imprisonment that may be imposed for an offense under this subsection—

''(1) if committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title), is 15 years; and

''(2) if committed to facilitate an act of international terrorism (as defined in section 2331 of this title), is 20 years.''.

(4) Sections 1425 through 1427 of title 18, United States Code, are amended by striking ''be fined not more than $5,000 or imprisoned not more than five years, or both'' each place it appears and inserting '', except as otherwise provided in this section, be—

''(1) fined under this title, imprisoned for not more than 10 years, or both, for a first or second offense; or

''(2) fined under this title, imprisoned for not more than 15 years, or both, for a third or subsequent offense.

''Notwithstanding any other provision of this section, the maximum term of imprisonment that may be imposed for an offense under this section—

''(1) if committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title), is 15 years; and

''(2) if committed to facilitate an act of international terrorism (as defined in section 2331 of this title), is 20 years.''.

(b) CHANGES TO THE SENTENCING LEVELS.—

(1) IN GENERAL.—Pursuant to the Commission's authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines for offenders convicted of violating, or conspiring to violate, sections 1028(b)(1), 1425 through 1427, 1541 through 1544, and 1546(a) of title 18, United States Code, in accordance with this subsection.

(2) REQUIREMENTS.—In carrying out this subsection, the Commission shall, with respect to the offenses referred to in paragraph (1)—

(A) increase the base offense level for such offenses at least 2 offense levels above the level in effect on the date of the enactment of this Act;

(B) review the sentencing enhancement for number of documents or passports involved (U.S.S.G. 2L2.1(b)(2)), and increase the upward adjustment by at least 50 percent above the applicable enhancement in effect on the date of the enactment of this Act;

(C) impose an appropriate sentencing enhancement upon an offender with 1 prior felony conviction arising out of a separate and prior prosecution for an offense that involved the same or similar underlying conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category;

(D) impose an additional appropriate sentencing enhancement upon an offender with 2 or more prior felony convictions arising out of separate and prior prosecutions for offenses that involved the same or similar underling conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category;

(E) consider whether a downward adjustment is appropriate if the offense conduct involves fewer than 6 documents, or the defendant committed the offense other than for profit and the offense was not committed to facilitate an act of international terrorism; and

(F) consider whether any other aggravating or mitigating circumstances warrant upward or downward sentencing adjustments.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 128. CRIMINAL PENALTY FOR FALSE STATEMENT IN A DOCUMENT REQUIRED UNDER THE IMMIGRATION LAWS OR KNOWINGLY PRESENTING DOCUMENT WHICH FAILS TO CONTAIN REASONABLE BASIS IN LAW OR FACT.

The fourth undesignated paragraph of section 1546(a) of title 18, United States Code, is amended to read as follows:

''Whoever knowingly makes under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document which contains any such false statement or which fails to contain any reasonable basis in law or fact—''.

SEC. 129. NEW CRIMINAL PENALTIES FOR FAILURE TO DISCLOSE ROLE AS PREPARER OF FALSE APPLICATION FOR ASYLUM OR 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) Whoever, in any matter within the jurisdiction of the Service under section 208 of this Act, knowingly and willfully fails to disclose, conceals, or covers up the fact that they have, on behalf of any person and for a fee or other remuneration, prepared or assisted in preparing an application which was falsely made (as defined in subsection (f)) for immigration benefits pursuant to section 208 of this Act, or the regulations promulgated thereunder, shall be guilty of a felony and shall be fined in accordance with title 18, United States Code, imprisoned for not more than 5 years, or both, and prohibited from preparing or assisting in preparing, whether or not for a fee or other remuneration, any other such application.

''(2) Whoever, having been convicted of a violation of paragraph (1), knowingly and willfully prepares or assists in preparing an application for immigration benefits pursuant to this Act, or the regulations promulgated thereunder, whether or not for a fee or other remuneration and regardless of whether in any matter within the jurisdiction of the Service under section 208, shall be guilty of a felony and shall be fined in accordance with title 18, United States Code, imprisoned for not more than 15 years, or both, and prohibited from preparing or assisting in preparing any other such application.''.

SEC. 130. NEW DOCUMENT FRAUD OFFENSES; NEW CIVIL PENALTIES FOR DOCUMENT FRAUD.

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

(1) in paragraph (1), by inserting before the comma at the end the following: ''or to obtain a benefit under this Act'';

(2) in paragraph (2), by inserting before the comma at the end the following: ''or to obtain a benefit under this Act'';

(3) in paragraph (3)—

(A) by inserting ''or with respect to'' after ''issued to'';

(B) by adding before the comma at the end the following: ''or obtaining a benefit under this Act''; and

(C) by striking ''or'' at the end;

(4) in paragraph (4)—

(A) by inserting ''or with respect to'' after ''issued to'';

(B) by adding before the period at the end the following: ''or obtaining a benefit under this Act''; and

(C) by striking the period at the end and inserting '', or''; and

(5) by adding at the end the following new paragraphs:

''(5) to prepare, file, or assist another in preparing or filing, any application for benefits under this Act, or any document required under this Act, or any document submitted in connection with such application or document, with knowledge or in reckless disregard of the fact that such application or document was falsely made or, in whole or in part, does not relate to the person on whose behalf it was or is being submitted; or

''(6) to (A) 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 (B) fail to present such document to an immigration officer upon arrival at a United States port of entry.''.

(b) DEFINITION OF FALSELY MAKE.—Section 274C (8 U.S.C. 1324c), as amended by section 129 of this Act, is further amended by adding at the end the following new subsection:

''(f) FALSELY MAKE.—For purposes of this section, the term 'falsely make' means to prepare or provide an application or document, with knowledge or in reckless disregard of the fact that the application or 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 fact which is material to the purpose for which it was submitted.''.

(c) CONFORMING AMENDMENT.—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'' each place it appears and inserting ''each document that is the subject of a violation under subsection (a)''.

(d) ENHANCED CIVIL PENALTIES FOR DOCUMENT FRAUD IF LABOR STANDARDS VIOLATIONS ARE PRESENT.—Section 274C(d) (8

U.S.C. 1324c(d)) is amended by adding at the end the following new paragraph:

''(7) CIVIL PENALTY.—(A) The administrative law judge shall have the authority to require payment of a civil money penalty in an amount up to two times the level of the penalty prescribed by this subsection in any case where the employer has been found to have committed willful or repeated violations of any of the following statutes:

''(i) The Fair Labor Standards Act (29 U.S.C. 201 et seq.) pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

''(ii) The Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.) pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

''(iii) The Family and Medical Leave Act (29 U.S.C. 2601 et seq.) pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

''(B) The Secretary of Labor and the Attorney General shall consult regarding the administration of this paragraph.''.

(e) WAIVER BY ATTORNEY GENERAL.—Section 274C(d) (8 U.S.C. 1324c(d)), as amended by subsection (d), is further amended by adding at the end the following new paragraph:

''(8) WAIVER BY ATTORNEY GENERAL.—The Attorney General may waive the penalties imposed by 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).''.

(f) EFFECTIVE DATE.—

(1) DEFINITION OF FALSELY MAKE.—Section 274C(f) of the Immigration and Nationality Act, as added by subsection (b), applies to the preparation of applications before, on, or after the date of the enactment of this Act.

(2) ENHANCED CIVIL PENALTIES.—The amendments made by subsection (d) apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 131. NEW EXCLUSION FOR DOCUMENT FRAUD OR FOR FAILURE TO PRESENT DOCUMENTS.

Section 212(a)(6)(C) (8 U.S.C. 1182(a)(6)(C)) is amended—

(1) by striking ''(C) Misrepresentation'' and inserting the following:

''(C) Fraud, misrepresentation, and failure to present documents''; and

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

''(iii) FRAUD, MISREPRESENTATION, AND FAILURE TO PRESENT DOCUMENTS.—

''(I) Any alien who, in seeking entry to the United States or boarding a common carrier for the purpose of coming to the United States, presents any document which, in the determination of the immigration officer, is forged, counterfeit, altered, falsely made, stolen, or inapplicable to the person presenting the document, or otherwise contains a misrepresentation of a material fact, is excludable.

''(II) Any alien who is required to present a document relating to the alien's eligibility to enter the United States prior to boarding a common carrier for the purpose of coming to the United States and who fails to present such document to an immigration officer upon arrival at a port of entry into the United States is excludable.''.

SEC. 132. LIMITATION ON WITHHOLDING OF DEPORTATION AND OTHER BENEFITS FOR ALIENS EXCLUDABLE FOR DOCUMENT FRAUD OR FAILING TO PRESENT DOCUMENTS, OR EXCLUDABLE ALIENS APPREHENDED AT SEA.

(a) INELIGIBILITY.—Section 235 (8 U.S.C. 1225) is amended by adding at the end the following new subsection:

''(d)(1) Subject to paragraph (2), any alien who has not been admitted to the United States, and who is excludable under section 212(a)(6)(C)(iii) or who is an alien described in paragraph (3), is ineligible for withholding of deportation pursuant to section 243(h), and may not apply therefor or for any other relief under this Act, except that an alien found to have a credible fear of persecution or of return to persecution in accordance with section 208(e) shall be taken before a special inquiry officer for exclusion proceedings in accordance with section 236 and may apply for asylum, withholding of deportation, or both, in the course of such proceedings.

''(2) An alien described in paragraph (1) who has been found ineligible to apply for asylum under section 208(e) may be returned under the provisions of this section only to a country in which (or from which) he or she has no credible fear of persecution (or of return to persecution). If there is no country to which the alien can be returned in accordance with the provisions of this paragraph, the alien shall be taken before a special inquiry officer for exclusion proceedings in accordance with section 236 and may apply for asylum, withholding of deportation, or both, in the course of such proceedings.

''(3) Any alien who is excludable under section 212(a), and who has been brought or escorted under the authority of the United States—

''(A) into the United States, having been on board a vessel encountered seaward of the territorial sea by officers of the United States; or

''(B) to a port of entry, having been on board a vessel encountered within the territorial sea or internal waters of the United States;

shall either be detained on board the vessel on which such person arrived or in such facilities as are designated by the Attorney General or paroled in the discretion of the Attorney General pursuant to section 212(d)(5) pending accomplishment of the purpose for which the person was brought or escorted into the United States or to the port of entry, except that no alien shall be detained on board a public vessel of the United States without the concurrence of the head of the department under whose authority the vessel is operating.''.

(b) CONFORMING AMENDMENTS.—Section 237(a) (8 U.S.C. 1227(a)) is amended—

(1) in the second sentence of paragraph (1), by striking ''Deportation'' and inserting ''Subject to section 235(d)(2), deportation''; and

(2) in the first sentence of paragraph (2), by striking ''If'' and inserting ''Subject to section 235(d)(2), if''.

SEC. 133. PENALTIES FOR INVOLUNTARY SERVITUDE.

(a) AMENDMENTS TO TITLE 18.—Sections 1581, 1583, 1584, and 1588 of title 18, United States Code, are amended by striking ''five'' each place it appears and inserting ''10''.

(b) REVIEW OF SENTENCING GUIDELINES.—The United States Sentencing Commission shall ascertain whether there exists an unwarranted disparity—

(1) between the sentences for peonage, involuntary servitude, and slave trade offenses, and the sentences for kidnapping offenses in effect on the date of the enactment of this Act; and

(2) between the sentences for peonage, involuntary servitude, and slave trade offenses, and the sentences for alien smuggling offenses in effect on the date of the enactment of this Act and after the amendment made by subsection (a).

(c) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review its guidelines on sentencing for peonage, involuntary servitude, and slave trade offenses under sections 1581 through 1588 of title 18, United States Code, and shall amend such guidelines as necessary to—

(1) reduce or eliminate any unwarranted disparity found under subsection (b) that exists between the sentences for peonage, involuntary servitude, and slave trade offenses, and the sentences for kidnapping offenses and alien smuggling offenses;

(2) ensure that the applicable guidelines for defendants convicted of peonage, involuntary servitude, and slave trade offenses are sufficiently stringent to deter such offenses and adequately reflect the heinous nature of such offenses; and

(3) ensure that the guidelines reflect the general appropriateness of enhanced sentences for defendants whose peonage, involuntary servitude, or slave trade offenses involve—

(A) a large number of victims;

(B) the use or threatened use of a dangerous weapon; or

(C) a prolonged period of peonage or involuntary servitude.

SEC. 134. EXCLUSION RELATING TO MATERIAL SUPPORT TO TERRORISTS.

Section 212(a)(3)(B)(iii)(III) (8 U.S.C. 1182(a)(3)(B)(iii)(III)) is amended by inserting ''documentation or'' before ''identification''.

PART 4—EXCLUSION AND DEPORTATION

SEC. 141. SPECIAL EXCLUSION PROCEDURE.

(a) ARRIVALS FROM CONTIGUOUS FOREIGN TERRITORY.—Section 235 (8 U.S.C. 1225) is amended—

(1) by redesignating subsection (b) as subsection (b)(1); and

(2) by adding at the end of subsection (b)(1), as redesignated, the following new paragraph:

''(2) If an alien subject to such further inquiry has arrived from a foreign territory contiguous to the United States, either at a land port of entry or on the land of the United States other than at a designated port of entry, the alien may be returned to that territory pending the inquiry.''.

(b) SPECIAL ORDERS OF EXCLUSION AND DEPORTATION.—Section 235 (8 U.S.C. 1225), as amended by section 132 of this Act, is further amended by adding at the end the following:

''(e)(1) Notwithstanding the provisions of subsection (b) of this section and section 236, the Attorney General may, without referral to a special inquiry officer or after such a referral, order the exclusion and deportation of any alien if—

''(A) the alien appears to an examining immigration officer, or to a special inquiry officer if such referral is made, to be an alien who—

''(i) has entered the United States without having been inspected and admitted by an immigration officer pursuant to this section, unless such alien affirmatively demonstrates to the satisfaction of such immigration officer or special inquiry officer that he has been physically present in the United States for an uninterrupted period of at least two years since such entry without inspection;

''(ii) is excludable under section 212(a)(6)(C)(iii);

''(iii) is brought or escorted under the authority of the United States into the United States, having been on board a vessel encountered outside of the territorial waters of the United States by officers of the United States;

''(iv) is brought or escorted under the authority of the United States to a port of entry, having been on board a vessel encountered within the territorial sea or internal waters of the United States; or

''(v) has arrived on a vessel transporting aliens to the United States without such alien having received prior official authorization to come to, enter, or reside in the United States; or

''(B) the Attorney General has determined that the numbers or circumstances of aliens en route to or arriving in the United States, by land, sea, or air, present an extraordinary migration situation.

''(2) As used in this section, the phrase 'extraordinary migration situation' means the arrival or imminent arrival in the United States or its territorial waters of aliens who by their numbers or circumstances substantially exceed the capacity for the inspection and examination of such aliens.

''(3)(A) Subject to subparagraph (B), the determination of whether there exists an extraordinary migration situation or whether to invoke the provisions of paragraph (1) (A) or (B) is committed to the sole and exclusive discretion of the Attorney General.

''(B) The provisions of this subsection may be invoked under paragraph (1)(B) for a period not to exceed 90 days, unless, within such 90-day period or an extension thereof authorized by this subparagraph, the Attorney General determines, after consultation with the Committees on the Judiciary of the Senate and the House of Representatives, that an extraordinary migration situation continues to warrant such procedures remaining in effect for an additional 90-day period.

''(4) When the Attorney General invokes the provisions of clause (iii), (iv), or (v) of paragraph (1)(A) or paragraph (1)(B), the Attorney General may, pursuant to this section and sections 235(e) and 106(f), suspend, in whole or in part, the operation of immigration regulations regarding the inspection and exclusion of aliens.

''(5) No alien may be ordered specially excluded under paragraph (1) if—

''(A) such alien is eligible to seek, and seeks, asylum under section 208; and

''(B) the Attorney General determines, in the procedure described in section 208(e), that such alien has a credible fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, in the country of such person's nationality, or in the case of a person having no nationality, the country in which such person last habitually resided.

An alien may be returned to a country in which the alien does not have a credible fear of persecution and from which the alien does not have a credible fear of return to persecution.

''(6) A special exclusion order entered in accordance with the provisions of this subsection is not subject to administrative review, except that the Attorney General shall provide by regulation for prompt review of such an order against an applicant 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 be, and appears to be, lawfully admitted for permanent residence.

''(7) A special exclusion order entered in accordance with the provisions of this subsection shall have the same effect as if the alien had been ordered excluded and deported pursuant to section 236, except that judicial review of such an order shall be available only under section 106(f).

''(8) Nothing in this subsection may be construed as requiring an inquiry before a special inquiry officer in the case of an alien crewman.''.

SEC. 142. STREAMLINING JUDICIAL REVIEW OF ORDERS OF EXCLUSION OR DEPORTATION.

(a) IN GENERAL.—Section 106 (8 U.S.C. 1105a) is amended to read as follows:

''JUDICIAL REVIEW OF ORDERS OF DEPORTATION, EXCLUSION, AND SPECIAL EXCLUSION

''SEC. 106. (a) APPLICABLE PROVISIONS.—Except as provided in subsection (b), judicial review of a final order of exclusion or deportation is governed only by chapter 158 of title 28 of the United States Code, but in no such review may a court order the taking of additional evidence pursuant to section 2347(c) of title 28, United States Code.

''(b) REQUIREMENTS.—(1)(A) A petition for judicial review must be filed not later than 30 days after the date of the final order of exclusion or deportation, except that in the case of any specially deportable criminal alien (as defined in section 242(k)), there shall be no judicial review of any final order of deportation.

''(B) The alien shall serve and file a brief in connection with a petition for judicial review not later than 40 days after the date on which the administrative record is available, and may serve and file a reply brief not later than 14 days after service of the brief of the Attorney General, and the court may not extend these deadlines except upon motion for good cause shown.

''(C) If an alien fails to file a brief in connection with a petition for judicial review within the time provided in this paragraph, the Attorney General may move to dismiss the appeal, and the court shall grant such motion unless a manifest injustice would result.

''(2) A petition for judicial review shall be filed with the court of appeals for the judicial circuit in which the special inquiry officer completed the proceedings.

''(3) The respondent of a petition for judicial review shall be the Attorney General. The petition shall be served on the Attorney General and on the officer or employee of the Immigration and Naturalization Service in charge of the Service district in which the final order of exclusion or deportation was entered. Service of the petition on the officer or employee does not stay the deportation of an alien pending the court's decision on the petition, unless the court orders otherwise.

''(4)(A) Except as provided in paragraph (5)(B), the court of appeals shall decide the petition only on the administrative record on which the order of exclusion or deportation is based and the Attorney General's findings of fact shall be conclusive unless a reasonable adjudicator would be compelled to conclude to the contrary.

''(B) The Attorney General's discretionary judgment whether to grant relief under section 212 (c) or (i), 244 (a) or (d), or 245 shall be conclusive and shall not be subject to review.

''(C) The Attorney General's discretionary judgment whether to grant relief under section 208(a) shall be conclusive unless manifestly contrary to law and an abuse of discretion.

''(5)(A) 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) 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) The petitioner may have the nationality claim decided only as provided in this section.

''(6)(A) If the validity of an order of deportation has not been judicially decided, a defendant in a criminal proceeding charged with violating subsection (d) or (e) of section 242 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) If the defendant claims in the motion to be a national of the United States and the district court finds that 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 deportation order is based. The administrative findings of fact are conclusive if supported by reasonable, substantial, and probative evidence on the record considered as a whole.

''(C) If the defendant claims in the motion to be a national of the United States and the district court finds that 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.

''(D) If the district court rules that the deportation order is invalid, the court shall dismiss the indictment. The United States Government may appeal the dismissal to the court of appeals for the appropriate circuit within 30 days. The defendant may not file a petition for review under this section during the criminal proceeding. The defendant may have the nationality claim decided only as provided in this section.

''(7) This subsection—

''(A) does not prevent the Attorney General, after a final order of deportation has been issued, from detaining the alien under section 242(c);

''(B) does not relieve the alien from complying with subsection (d) or (e) of section 242; and

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

''(8) 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.

''(c) REQUIREMENTS FOR PETITION.—A petition for review of an order of exclusion or deportation 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.—

''(1) A court may review a final order of exclusion or deportation only if—

''(A) the alien has exhausted all administrative remedies available to the alien as a matter of right; and

''(B) another court has not decided the validity of the order, unless, subject to paragraph (2), 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.

''(2) Nothing in paragraph (1)(B) may be construed as creating a right of review if such review would be inconsistent with subsection (e), (f), or (g), or any other provision of this section.

''(e) NO JUDICIAL REVIEW FOR ORDERS OF DEPORTATION OR EXCLUSION ENTERED AGAINST CERTAIN CRIMINAL ALIENS.—Notwithstanding any other provision of law, any order of exclusion or deportation against an alien who is excludable or deportable by reason of having committed any criminal offense described in subparagraph (A)(iii), (B),

(C), or (D) of section 241(a)(2), or two or more offenses described in section 241(a)(2)(A)(ii), at least two of which resulted in a sentence or confinement described in section 241(a)(2)(A)(i)(II), is not subject to review by any court.

''(f) LIMITED REVIEW FOR SPECIAL EXCLUSION AND DOCUMENT FRAUD.—(1) Notwithstanding any other provision of law, except as provided in this subsection, no court shall have jurisdiction to review any individual determination or to hear any other cause of action or claim arising from or relating to the implementation or operation of sections 208(e), 212(a)(6)(iii), 235(d), and 235(e).

''(2)(A) Except as provided in this subsection, there shall be no judicial review of—

''(i) a decision by the Attorney General to invoke the provisions of section 235(e);

''(ii) the application of section 235(e) to individual aliens, including the determination made under paragraph (5); or

''(iii) procedures and policies adopted by the Attorney General to implement the provisions of section 235(e).

''(B) Without regard to the nature of the action or claim, or 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) Judicial review of any cause, claim, or individual determination made or arising under or relating to section 208(e), 212(a)(6)(iii), 235(d), or 235(e) shall only be available in a habeas corpus proceeding, and shall be limited to determinations of—

''(A) whether the petitioner is an alien;

''(B) whether the petitioner was ordered specially excluded; and

''(C) whether the petitioner can prove by a preponderance of the evidence that he or she is an alien lawfully admitted for permanent residence and is entitled to such further inquiry as is prescribed by the Attorney General pursuant to section 235(e)(6).

''(4)(A) In any case where the court determines that the petitioner—

''(i) is an alien who was not ordered specially excluded under section 235(e), or

''(ii) has demonstrated by a preponderance of the evidence that he or she 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 236 or a determination in accordance with section 235(c) or 273(d).

''(B) Any alien who is provided a hearing under section 236 pursuant to these provisions may thereafter obtain judicial review of any resulting final order of exclusion pursuant to this section.

''(5) In determining whether an alien has been ordered specially excluded under section 235(e), 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 excludable or entitled to any relief from exclusion.

''(g) NO COLLATERAL ATTACK.—In any action brought for the assessment of penalties for improper entry or reentry of an alien under section 275 or 276, no court shall have jurisdiction to hear claims attacking the validity of orders of exclusion, special exclusion, or deportation entered under section 235, 236, or 242.''.

(b) RESCISSION OF ORDER.—Section 242B(c)(3) (8 U.S.C. 1252b(c)(3)) is amended by striking the period at the end and inserting ''by the special inquiry officer, but there shall be no stay pending further administrative or judicial review, unless ordered because of individually compelling circumstances.''.

(c) CLERICAL AMENDMENT.—The table of contents of the Act is amended by amending the item relating to section 106 to read as follows:

''Sec. 106. Judicial review of orders of deportation, exclusion, and special exclusion.''.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to all final orders of exclusion or deportation entered, and motions to reopen filed, on or after the date of the enactment of this Act.

SEC. 143. CIVIL PENALTIES AND VISA INELIGIBILITY, FOR FAILURE TO DEPART.

(a) ALIENS SUBJECT TO AN ORDER OF EXCLUSION OR DEPORTATION.—The Immigration and Nationality Act is amended by inserting after section 274C (8 U.S.C. 1324c) the following new section:

''CIVIL PENALTIES FOR FAILURE TO DEPART

''SEC. 274D. (a) Any alien subject to a final order of exclusion and deportation or deportation who—

''(1) willfully fails or refuses to—

''(A) depart on time 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 himself or herself for deportation 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) The Commissioner shall deposit amounts received under subsection (a) as offsetting collections in the appropriate appropriations account of the Service.

''(c) 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 242(e) or any other section of this Act.''.

(b) VISA OVERSTAYER.—The Immigration and Nationality Act is amended in section 212 (8 U.S.C. 1182) by inserting the following new subsection:

''(p)(1) Any lawfully admitted nonimmigrant who remains in the United States for more than 60 days beyond the period authorized by the Attorney General shall be ineligible for additional nonimmigrant or immigrant visas (other than visas available for spouses of United States citizens or aliens lawfully admitted for permanent residence) until the date that is—

''(A) 3 years after the date the nonimmigrant departs the United States in the case of a nonimmigrant not described in paragraph (2); or

''(B) 5 years after the date the nonimmigrant departs the United States in the case of a nonimmigrant who without reasonable cause fails or refuses to attend or remain in attendance at a proceeding to determine the nonimmigrant's deportability.

''(2)(A) Paragraph (1) shall not apply to any lawfully admitted nonimmigrant who is described in paragraph (1)(A) and who demonstrates good cause for remaining in the United States for the entirety of the period (other than the first 60 days) during which the nonimmigrant remained in the United States without the authorization of the Attorney General.

''(B) A final order of deportation shall not be stayed on the basis of a claim of good cause made under this subsection.

''(3) The Attorney General shall by regulation establish procedures necessary to implement this section.''.

(c) EFFECTIVE DATE.—Subsection (b) shall take effect on the date of implementation of the automated entry-exit control system described in section 201, or on the date that is 2 years after the date of enactment of this Act, whichever is earlier.

(d) AMENDMENTS TO TABLE OF CONTENTS.—The table of contents of the Act is amended by inserting after the item relating to section 274C the following:

''Sec. 274D. Civil penalties for failure to depart.''.

SEC. 144. CONDUCT OF PROCEEDINGS BY ELECTRONIC MEANS.

Section 242(b) (8 U.S.C. 1252(b)) is amended by inserting at the end the following new sentences: ''Nothing in this subsection precludes the Attorney General from authorizing proceedings by video electronic media, by telephone, or, where a requirement for the alien's appearance is waived or the alien's absence is agreed to by the parties, in the absence of the alien. Contested full evidentiary hearings on the merits may be conducted by telephone only with the consent of the alien.''.

SEC. 145. SUBPOENA AUTHORITY.

(a) EXCLUSION PROCEEDINGS.—Section 236(a) (8 U.S.C. 1226(a)) is amended in the first sentence by inserting ''issue subpoenas,'' after ''evidence,''.

(b) DEPORTATION PROCEEDINGS.—Section 242(b) (8 U.S.C. 1252(b)) is amended in the first sentence by inserting ''issue subpoenas,'' after ''evidence,''.

SEC. 146. LANGUAGE OF DEPORTATION NOTICE; RIGHT TO COUNSEL.

(a) LANGUAGE OF NOTICE.—Section 242B (8 U.S.C. 1252b) is amended in subsection (a)(3) by striking ''under this subsection'' and all that follows through ''(B)'' and inserting ''under this subsection''.

(b) PRIVILEGE OF COUNSEL.—(1) Section 242B(b)(1) (8 U.S.C. 1252b(b)(1)) is amended by inserting before the period at the end the following: '', except that a hearing may be scheduled as early as 3 days after the service of the order to show cause if the alien has been continued in custody subject to section 242''.

(2) The parenthetical phrase in section 292 (8 U.S.C. 1362) is amended to read as follows: ''(at no expense to the Government or unreasonable delay to the proceedings)''.

(3) Section 242B(b) (8 U.S.C. 1252b(b)) is further amended by inserting at the end the following new paragraph:

''(3) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to prevent the Attorney General from proceeding against an alien pursuant to section 242 if the time period described in paragraph (1) has elapsed and the alien has failed to secure counsel.''.

SEC. 147. ADDITION OF NONIMMIGRANT VISAS TO TYPES OF VISA DENIED FOR COUNTRIES REFUSING TO ACCEPT DEPORTED ALIENS.

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

''(g)(1) If the Attorney General determines that any country upon request denies or unduly delays acceptance of the return of any alien who is a national, citizen, subject, or resident thereof, the Attorney General shall notify the Secretary of such fact, and thereafter, subject to paragraph (2), neither the Secretary of State nor any consular officer shall issue an immigrant or nonimmigrant visa to any national, citizen, subject, or resident of such country.

''(2) The Secretary of State may waive the application of paragraph (1) if the Secretary determines that such a waiver is necessary to comply with the terms of a treaty or international agreement or is in the national interest of the United States.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to countries for which the Secretary of State gives

instructions to United States consular officers on or after the date of the enactment of this Act.

SEC. 148. AUTHORIZATION OF SPECIAL FUND FOR COSTS OF DEPORTATION.

In addition to any other funds otherwise available in any fiscal year for such purpose, there are authorized to be appropriated to the Immigration and Naturalization Service $10,000,000 for use without fiscal year limitation for the purpose of—

(1) executing final orders of deportation pursuant to sections 242 and 242A of the Immigration and Nationality Act (8 U.S.C. 1252 and 1252a); and

(2) detaining aliens prior to the execution of final orders of deportation issued under such sections.

SEC. 149. PILOT PROGRAM TO INCREASE EFFICIENCY IN REMOVAL OF DETAINED ALIENS.

(a) AUTHORITY.—The Attorney General shall conduct one or more pilot programs to study methods for increasing the efficiency of deportation and exclusion proceedings against detained aliens by increasing the availability of pro bono counseling and representation for such aliens. Any such pilot program may provide for administrative grants to not-for-profit organizations involved in the counseling and representation of aliens in immigration proceedings. An evaluation component shall be included in any such pilot program to test the efficiency and cost-effectiveness of the services provided and the replicability of such programs at other locations.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice such sums as may be necessary to carry out the program or programs described in subsection (a).

(c) STATUTORY CONSTRUCTION.—Nothing in this section may be construed as creating a right for any alien to be represented in any exclusion or deportation proceeding at the expense of the Government.

SEC. 150. LIMITATIONS ON RELIEF FROM EXCLUSION AND DEPORTATION.

(a) LIMITATION.—Section 212(c) (8 U.S.C. 1182(c)) is amended to read as follows:

''(c)(1) Subject to paragraphs (2) through (5), an alien who is and has been lawfully admitted for permanent residence for at least 5 years, who has resided in the United States continuously for 7 years after having been lawfully admitted, and who is returning to such residence after having temporarily proceeded abroad voluntarily and not under an order of deportation, may be admitted in the discretion of the Attorney General without regard to the provisions of subsection (a) (other than paragraphs (3) and (9)(C)).

''(2) For purposes of this subsection, any period of continuous residence shall be deemed to end when the alien is placed in proceedings to exclude or deport the alien from the United States.

''(3) Nothing contained in this subsection shall limit the authority of the Attorney General to exercise the discretion authorized under section 211(b).

''(4) Paragraph (1) shall not apply to an alien who has been convicted of one or more aggravated felonies and has been sentenced for such felony or felonies to a term or terms of imprisonment totalling, in the aggregate, at least 5 years.

''(5) This subsection shall apply only to an alien in proceedings under section 236.''.

(b) CANCELLATION OF DEPORTATION.—Section 244 (8 U.S.C. 1254) is amended to read as follows:

''CANCELLATION OF DEPORTATION; ADJUSTMENT OF STATUS; VOLUNTARY DEPARTURE

''SEC. 244. (a) CANCELLATION OF DEPORTATION.—(1) The Attorney General may, in the Attorney General's discretion, cancel deportation in the case of an alien who is deportable from the United States and—

''(A) is, and has been for at least 5 years, a lawful permanent resident; has resided in the United States continuously for not less than 7 years after being lawfully admitted; and has not been convicted of an aggravated felony or felonies for which the alien has been sentenced to a term or terms of imprisonment totaling, in the aggregate, at least 5 years;

''(B) has been physically present in the United States for a continuous period of not less than 7 years since entering the United States; has been a person of good moral character during such period; and establishes that deportation would result in extreme hardship to the alien or the alien's spouse, parent, or child, who is a citizen or national of the United States or an alien lawfully admitted for permanent residence;

''(C) has been physically present in the United States for a continuous period of not less than three years since entering the United States; 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 who is 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); has been a person of good moral character during all of such period in the United States; and establishes that deportation would result in extreme hardship to the alien or the alien's parent or child; or

''(D) is deportable under paragraph (2) (A), (B), or (D), or paragraph (3) of section 241(a); has been physically present in the United States for a continuous period of not less than 10 years immediately following the commission of an act, or the assumption of a status, constituting a ground for deportation, and proves that during all of such period he has been a person of good moral character; and is a person whose deportation would, in the opinion of the Attorney General, result in exceptional and extremely unusual hardship to the alien or to his spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence.

''(2)(A) For purposes of paragraph (1), any period of continuous residence or continuous physical presence in the United States shall be deemed to end when the alien is served an order to show cause pursuant to section 242 or 242B.

''(B) An alien shall be considered to have failed to maintain continuous physical presence in the United States under paragraph (1) (B), (C), or (D) if the alien was absent from the United States for any single period of more than 90 days or an aggregate period of more than 180 days.

''(C) A person who is deportable under section 241(a)(2)(C) or 241(a)(4) shall not be eligible for relief under this section.

''(D) A person who is deportable under section 241(a)(2) (A), (B), or (D) or section 241(a)(3) shall not be eligible for relief under paragraph (1) (A), (B), or (C).

''(E) A person who has been convicted of an aggravated felony shall not be eligible for relief under paragraph (1) (B), or (C), (D).

''(F) A person who is deportable under section 241(a)(1)(G) shall not be eligible for relief under paragraph (1)(C).

''(b) CONTINUOUS PHYSICAL PRESENCE 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 specified in subsection (a)(1) (A) and (B) shall not be applicable to an alien who—

''(1) 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

''(2) at the time of his or her enlistment or induction, was in the United States.

''(c) ADJUSTMENT OF STATUS.—The Attorney General may cancel deportation and adjust to the status of an alien lawfully admitted for permanent residence any alien who the Attorney General determines meets the requirements of subsection (a)(1) (B), (C), or (D). The Attorney General shall record the alien's lawful admission for permanent residence as of the date the Attorney General decides to cancel such alien's removal.

''(d) ALIEN CREWMEN; NONIMMIGRANT EXCHANGE ALIENS ADMITTED TO RECEIVE GRADUATE MEDICAL EDUCATION OR TRAINING; OTHER.—The provisions of subsection (a) shall not apply to an alien who—

''(1) entered the United States as a crewman after June 30, 1964;

''(2) was admitted to the United States as a nonimmigrant alien described in section 101(a)(15)(J), or has acquired the status of such a nonimmigrant alien after admission, in order to receive graduate medical education or training, without regard to whether or not the alien is subject to or has fulfilled the two-year foreign residence requirement of section 212(e); or

''(3)(A) was admitted to the United States as a nonimmigrant alien described in section 101(a)(15)(J), or has acquired the status of such a nonimmigrant 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, or, in the case of a foreign medical graduate who has received a waiver pursuant to section 220 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416), has not fulfilled the requirements of section 214(k).

''(e) VOLUNTARY DEPARTURE.—(1)(A) The Attorney General may permit an alien voluntarily to depart the United States at the alien's own expense—

''(i) in lieu of being subject to deportation proceedings under section 242 or prior to the completion of such proceedings, if the alien is not a person deportable under section 241(a)(2)(A)(iii) or section 241(a)(4); or

''(ii) after the completion of deportation proceedings under section 242, only if a special inquiry officer determines that—

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

''(II) the alien is not deportable under section 241(a)(2)(A)(iii) or section 241(a)(4); and

''(III) the alien establishes by clear and convincing evidence that the alien has the means to depart the United States and intends to do so.

''(B)(i) In the case of departure pursuant to subparagraph (A)(i), the Attorney General may require the alien to post a voluntary departure bond, to be surrendered upon proof that the alien has departed the United States within the time specified.

''(ii) If any alien who is authorized to depart voluntarily under this paragraph is financially unable to depart at the alien's own expense and the Attorney General deems the alien's removal to be in the best interest of the United States, the expense of such removal may be paid from the appropriation for enforcement of this Act.

''(C) In the case of departure pursuant to subparagraph (A)(ii), the alien 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.

''(2) If the alien fails voluntarily to depart the United States within the time period specified in accordance with paragraph (1), the alien shall be subject to a civil penalty of not more than $500 per day and shall be ineligible for any further relief under this subsection or subsection (a).

''(3)(A) The Attorney General may by regulation limit eligibility for voluntary departure for any class or classes of aliens.

''(B) No court may review any regulation issued under subparagraph (A).

''(4) No court shall have jurisdiction over an appeal from denial of a request for an order of voluntary departure under paragraph (1), nor shall any court order a stay of an alien's removal pending consideration of any claim with respect to voluntary departure.''.

(c) CONFORMING AMENDMENTS.—(1) Section 242(b) (8 U.S.C. 1252(b)) is amended by striking the last two sentences.

(2) Section 242B (8 U.S.C. 1252b) is amended—

(A) in subsection (e)(2), by striking ''section 244(e)(1)'' and inserting ''section 244(e)''; and

(B) in subsection (e)(5)—

(i) by striking ''suspension of deportation'' and inserting ''cancellation of deportation''; and

(ii) by inserting ''244,'' before ''245''.

(d) AMENDMENT TO THE TABLE OF CONTENTS.—The table of contents of the Act is amended by amending the item relating to section 244 to read as follows:

''Sec. 244. Cancellation of deportation; adjustment of status; voluntary departure.''.

(e) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply to all applications for relief under section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)), except that, for purposes of determining the period of continuous residence, the amendments made by subsection (a) shall apply to all aliens against whom proceedings are commenced on or after the date of the enactment of this Act.

(2) The amendments made by subsection (b) shall take effect on the date of the enactment of this Act, and shall apply to all applications for relief under section 244 of the Immigration and Nationality Act (8 U.S.C. 1254), except that, for purposes of determining the periods of continuous residence or continuous physical presence, the amendments made by subsection (b) shall apply to all aliens upon whom an order to show cause is served on or after the date of the enactment of this Act.

(3) The amendments made by subsection (c) shall take effect on the date of the enactment of this Act.

SEC. 151. ALIEN STOWAWAYS.

(a) DEFINITION.—Section 101(a) (8 U.S.C. 1101) 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) EXCLUDABILITY.—Section 237 (8 U.S.C. 1227) is amended—

(1) in subsection (a)(1), before the period at the end of the first sentence, by inserting the following: '', or unless the alien is an excluded stowaway who has applied for asylum or withholding of deportation and whose application has not been adjudicated or whose application has been denied but who has not exhausted every appeal right''; and

(2) by inserting after the first sentence in subsection (a)(1) the following new sentences: ''Any alien stowaway inspected upon arrival in the United States is an alien who is excluded within the meaning of this section. For purposes of this section, the term 'alien' includes an excluded stowaway. The provisions of this section concerning the deportation of an excluded alien shall apply to the deportation of a stowaway under section 273(d).''.

(c) CARRIER LIABILITY FOR COSTS OF DETENTION.—Section 273(d) (8 U.S.C. 1323(d)) is amended to read as follows:

''(d)(1) It shall be the duty of the owner, charterer, agent, consignee, commanding officer, or master of any vessel or aircraft arriving at the United States from any place outside the United States to detain on board or at such other place as may be designated by an immigration officer any alien stowaway until such stowaway has been inspected by an immigration officer.

''(2) Upon inspection of an alien stowaway by an immigration officer, the Attorney General may by regulation take immediate custody of any stowaway and shall charge the owner, charterer, agent, consignee, commanding officer, or master of the vessel or aircraft on which the stowaway has arrived the costs of detaining the stowaway.

''(3) It shall be the duty of the owner, charterer, agent, consignee, commanding officer, or master of any vessel or aircraft arriving at the United States from any place outside the United States to deport any alien stowaway on the vessel or aircraft on which such stowaway arrived or on another vessel or aircraft at the expense of the vessel or aircraft on which such stowaway arrived when required to do so by an immigration officer.

''(4) Any person who fails to comply with paragraph (1) or (3), shall be subject to a fine of $5,000 for each alien for each failure to comply, payable to the Commissioner. The Commissioner shall deposit amounts received under this paragraph as offsetting collections to the applicable appropriations account of the Service. Pending final determination of liability for such fine, no such vessel or aircraft shall be granted clearance, except that clearance may be granted upon the deposit of a sum sufficient to cover such fine, or of a bond with sufficient surety to secure the payment thereof approved by the Commissioner.

''(5) An alien stowaway inspected upon arrival shall be considered an excluded alien under this Act.

''(6) The provisions of section 235 for detention of aliens for examination before a special inquiry officer and the right of appeal provided for in section 236 shall not apply to aliens who arrive as stowaways, and no such aliens shall be permitted to land in the United States, except temporarily for medical treatment, or pursuant to such regulations as the Attorney General may prescribe for the departure, removal, or deportation of such alien from the United States.

''(7) A stowaway may apply for asylum under section 208 or withholding of deportation under section 243(h), pursuant to such regulations as the Attorney General may establish.''.

SEC. 152. PILOT PROGRAM ON INTERIOR REPATRIATION AND OTHER METHODS TO DETER MULTIPLE UNLAWFUL ENTRIES.

(a) ESTABLISHMENT.—Not later than 180 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 two years which provides for methods to deter multiple unlawful 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 unlawful entries into the United States.

(b) REPORT.—Not later than 35 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. 153. PILOT PROGRAM ON USE OF CLOSED MILITARY BASES FOR THE DETENTION OF EXCLUDABLE OR DEPORTABLE ALIENS.

(a) ESTABLISHMENT.—The Attorney General and the Secretary of Defense shall jointly establish a pilot program for up to two years to determine the feasibility of the use of military bases available through the defense base realignment and closure process as detention centers for the Immigration and Naturalization Service.

(b) REPORT.—Not later than 35 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, the Committee on National Security of the House of Representatives, and the Committee on Armed Services of the Senate, on the feasibility of using military bases closed through the defense base realignment and closure process as detention centers by the Immigration and Naturalization Service.

SEC. 154. PHYSICAL AND MENTAL EXAMINATIONS.

Section 234 (8 U.S.C. 1224) is amended to read as follows:

''PHYSICAL AND MENTAL EXAMINATIONS

''SEC. 234. (a) ALIENS COVERED.—Each alien within any of the following classes of aliens who is seeking entry into the United States shall undergo a physical and mental examination in accordance with this section:

''(1) Aliens applying for visas for admission to the United States for permanent residence.

''(2) Aliens seeking admission to the United States for permanent residence for whom examinations were not made under paragraph (1).

''(3) Aliens within the United States seeking adjustment of status under section 245 to that of aliens lawfully admitted to the United States for permanent residence.

''(4) Alien crewmen entering or in transit across the United States.

''(b) DESCRIPTION OF EXAMINATION.—(1) Each examination required by subsection (a) shall include—

''(A) an examination of the alien for any physical or mental defect or disease and a certification of medical findings made in accordance with subsection (d); and

''(B) an assessment of the vaccination record of the alien in accordance with subsection (e).

''(2) The Secretary of Health and Human Services shall prescribe such regulations as may be necessary to carry out the medical examinations required by subsection (a).

''(c) MEDICAL EXAMINERS.—

''(1) MEDICAL OFFICERS.—(A) Except as provided in paragraphs (2) and (3), examinations under this section shall be conducted by medical officers of the United States Public Health Services.

''(B) Medical officers of the United States Public Health Service who have had specialized training in the diagnosis of insanity and

mental defects shall be detailed for duty or employed at such ports of entry as the Secretary may designate, in consultation with the Attorney General.

''(2) CIVIL SURGEONS.—(A) Whenever medical officers of the United States Public Health Service are not available to perform examinations under this section, the Attorney General, in consultation with the Secretary, shall designate civil surgeons to perform the examinations.

''(B) Each civil surgeon designated under subparagraph (A) shall—

''(i) have at least 4 years of professional experience unless the Secretary determines that special or extenuating circumstances justify the designation of an individual having a lesser amount of professional experience; and

''(ii) satisfy such other eligibility requirements as the Secretary may prescribe.

''(3) PANEL PHYSICIANS.—In the case of examinations under this section abroad, the medical examiner shall be a panel physician designated by the Secretary of State, in consultation with the Secretary.

''(d) CERTIFICATION OF MEDICAL FINDINGS.—The medical examiners shall certify for the information of immigration officers and special inquiry officers, or consular officers, as the case may be, any physical or mental defect or disease observed by such examiners in any such alien.

''(e) VACCINATION ASSESSMENT.—(1) The assessment referred to in subsection (b)(1)(B) is an assessment of the alien's record of required vaccines for preventable diseases, including mumps, measles, rubella, polio, tetanus, diphtheria toxoids, pertussis, hemophilus-influenza type B, hepatitis type B, as well as any other diseases specified as vaccine-preventable by the Advisory Committee on Immunization Practices.

''(2) Medical examiners shall educate aliens on the importance of immunizations and shall create an immunization record for the alien at the time of examination.

''(3)(A) Each alien who has not been vaccinated against measles, and each alien under the age of 5 years who has not been vaccinated against polio, must receive such vaccination, unless waived by the Secretary, and must receive any other vaccination determined necessary by the Secretary prior to arrival in the United States.

''(B) Aliens who have not received the entire series of vaccinations prescribed in paragraph (1) (other than measles) shall return to a designated civil surgeon within 30 days of arrival in the United States, or within 30 days of adjustment of status, for the remainder of the vaccinations.

''(f) APPEAL OF MEDICAL EXAMINATION FINDINGS.—Any alien determined to have a health-related grounds of exclusion under paragraph (1) of section 212(a) may appeal that determination to a board of medical officers of the Public Health Service, which shall be convened by the Secretary. The alien may introduce at least one expert medical witness before the board at his or her own cost and expense.

''(g) FUNDING.—(1)(A) The Attorney General shall impose a fee upon any person applying for adjustment of status to that of an alien lawfully admitted to permanent residence under section 209, 210, 245, or 245A, and the Secretary of State shall impose a fee upon any person applying for a visa at a United States consulate abroad who is required to have a medical examination in accordance with subsection (a).

''(B) The amounts of the fees required by subparagraph (A) shall be established by the Secretary, in consultation with the Attorney General and the Secretary of State, as the case may be, and shall be set at such amounts as may be necessary to recover the full costs of establishing and administering the civil surgeon and panel physician programs, including the costs to the Service, the Department of State, and the Department of Health and Human Services for any additional expenditures associated with the administration of the fees collected.

''(2)(A) The fees imposed under paragraph (1) may be collected as separate fees or as surcharges to any other fees that may be collected in connection with an application for adjustment of status under section 209, 210, 245, or 245A, for a visa, or for a waiver of excludability under paragraph (1) or (2) of section 212(g), as the case may be.

''(B) The provisions of the Act of August 18, 1856 (Revised Statutes 1726–28, 22 U.S.C. 4212–14), concerning accounting for consular fees, shall not apply to fees collected by the Secretary of State under this section.

''(3)(A) There is established on the books of the Treasury of the United States a separate account which shall be known as the 'Medical Examinations Fee Account'.

''(B) There shall be deposited as offsetting receipts into the Medical Examinations Fee Account all fees collected under paragraph (1), to remain available until expended.

''(C) Amounts in the Medical Examinations Fee Account shall be available only to reimburse any appropriation currently available for the programs established by this section.

''(h) DEFINITIONS.—As used in this section—

''(1) the term 'medical examiner' refers to a medical officer, civil surgeon, or panel physician, as described in subsection (c); and

''(2) the term 'Secretary' means the Secretary of Health and Human Services.''.

SEC. 155. CERTIFICATION REQUIREMENTS FOR FOREIGN HEALTH-CARE WORKERS.

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

(1) by redesignating paragraph (9) as paragraph (10); and

(2) by inserting after paragraph (8) the following new paragraph:

''(9) UNCERTIFIED FOREIGN HEALTH-CARE WORKERS.—(A) 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 excludable unless the alien presents to the consular officer, or, in the case of an adjustment of status, the Attorney General, a certificate from the Commission on Graduates of Foreign Nursing Schools, or a certificate from an equivalent independent credentialing organization approved by the Attorney General in consultation with the Secretary of Health and Human Services, verifying that—

''(i) the alien's education, training, license, and experience—

''(I) meet all applicable statutory and regulatory requirements for entry into the United States under the classification specified in the application;

''(II) are comparable with that required for an American health-care worker of the same type; and

''(III) are authentic and, in the case of a license, unencumbered;

''(ii) the alien has the level of competence in oral and written English considered by the Secretary of Health and Human Services, in consultation with the Secretary of Education, to be appropriate for health care work of the kind in which the alien will be engaged, as shown by an appropriate score on one or more nationally recognized, commercially available, standardized assessments of the applicant's ability to speak and write; and

''(iii) if a majority of States licensing the profession in which the alien intends to work recognize a test predicting the success on the profession's licensing and certification examination, the alien has passed such a test.

''(B) For purposes of subparagraph (A)(ii), determination of the standardized tests required and of the minimum scores that are appropriate are within the sole discretion of the Secretary of Health and Human Services and are not subject to further administrative or judicial review.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 101(f)(3) is amended by striking ''(9)(A) of section 212(a)'' and inserting ''(10)(A) of section 212(a)''.

(2) Section 212(c) is amended by striking ''(9)(C)'' and inserting ''(10)(C)''.

SEC. 156. INCREASED BAR TO REENTRY FOR ALIENS PREVIOUSLY REMOVED.

(a) IN GENERAL.—Section 212(a)(6) (8 U.S.C. 1182(a)(6)) is amended—

(1) in subparagraph (A)—

(A) by striking ''one year'' and inserting ''five years''; and

(B) by inserting '', or within 20 years of the date of any second or subsequent deportation,'' after ''deportation'';

(2) in subparagraph (B)—

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

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

''(ii) has departed the United States while an order of deportation is outstanding,'';

(C) by striking ''or'' after ''removal,''; and

(D) by inserting ''or (c) who seeks admission within 20 years of a second or subsequent deportation or removal,'' after ''felony,''.

(b) REENTRY OF DEPORTED ALIEN.—Section 276(a)(1) (8 U.S.C. 1326(a)(1)) is amended to read as follows:

''(1) has been arrested and deported, has been excluded and deported, or has departed the United States while an order of exclusion or deportation is outstanding, and thereafter''.

SEC. 157. ELIMINATION OF CONSULATE SHOPPING FOR VISA OVERSTAYS.

(a) IN GENERAL.—Section 222 (8 U.S.C. 1202) is amended by adding at the end the following new subsection:

''(g)(1) In the case of an alien who has entered and remained in the United States beyond the authorized period of stay, the alien's nonimmigrant visa shall thereafter be invalid for reentry into the United States.

''(2) An alien described in paragraph (1) shall be ineligible to be readmitted to the United States as a nonimmigrant subsequent to the expiration of the alien's authorized period of stay, except—

''(A) on the basis of a visa issued in a consular office located in the country of the alien's nationality (or, if there is no office in such country, in such other consular office as the Secretary of State shall specify); or

''(B) where extraordinary circumstances are found by the Secretary of State to exist.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to visas issued before, on, or after the date of the enactment of this Act.

SEC. 158. INCITEMENT AS A BASIS FOR EXCLUSION FROM THE UNITED STATES.

Section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)), is amended—

(1) by striking ''or'' at the end of clause (i)(I);

(2) in clause (i)(II), by inserting ''or'' at the end; and

(3) by inserting after clause (i)(II) the following new subclause:

''(III) has, under circumstances indicating an intention to cause death or serious bodily harm, incited terrorism, engaged in targeted racial vilification, or advocated the overthrow of the United States Government or death or serious bodily harm to any United

States citizen or United States Government official,''.

SEC. 159. CONFORMING AMENDMENT TO WITHHOLDING OF DEPORTATION.

Section 243(h) (8 U.S.C. 1253(h)) is amended by adding at the end the following new paragraph:

''(3) The Attorney General may refrain from deporting any alien if the Attorney General determines that—

''(A) such alien's life or freedom would be threatened, in the country to which such alien would be deported or returned, on account of race, religion, nationality, membership in a particular social group, or political opinion, and

''(B) deporting such alien would violate the 1967 United Nations Protocol relating to the Status of Refugees.''.

PART 5—CRIMINAL ALIENS

SEC. 161. AMENDED DEFINITION OF AGGRAVATED FELONY.

(a) IN GENERAL.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended—

(1) in subparagraph (D), by striking ''$100,000'' and inserting ''$10,000'';

(2) in subparagraphs (F), (G), and (O), by striking ''is at least 5 years'' each place it appears and inserting ''at least one year'';

(3) in subparagraph (J)—

(A) by striking ''sentence of 5 years' imprisonment'' and inserting ''sentence of one year imprisonment''; and

(B) by striking ''offense described'' and inserting ''offense described in section 1084 of title 18 (if it is a second or subsequent offense), section 1955 of such title (relating to gambling offenses), or'';

(4) in subparagraph (K)—

(A) by striking ''or'' at the end of clause (i);

(B) by adding ''or'' at the end of clause (ii); and

(C) by adding at the end the following new clause:

''(iii) is described in section 2421, 2422, or 2423 of title 18, United States Code (relating to transportation for the purpose of prostitution), if committed for commercial advantage.'';

(5) in subparagraph (L)—

(A) by striking ''or'' at the end of clause (i);

(B) by inserting ''or'' at the end of clause (ii); and

(C) by adding at the end the following new clause:

''(iii) section 601 of the National Security Act of 1947 (relating to protecting the identity of undercover agents)'';

(6) in subparagraph (M), by striking ''$200,000'' each place it appears and inserting ''$10,000'';

(7) in subparagraph (N)—

(A) by striking ''of title 18, United States Code''; and

(B) by striking ''for the purpose of commercial advantage'' and inserting the following: '', except, for a first offense, if the alien has affirmatively shown that the alien committed the offense for the purpose of assisting, abetting, or aiding only the alien's spouse, child, or parent (and no other individual) to violate a provision of this Act'';

(8) in subparagraph (O), by striking ''which constitutes'' and all that follows up to the semicolon at the end and inserting the following: '', except, for a first offense, if the alien has affirmatively shown that the alien committed the offense for the purpose of assisting, abetting, or aiding only the alien's spouse, child, or parent (and no other individual) to violate a provision of this Act'';

(9) by redesignating subparagraphs (P) and (Q) as subparagraphs (R) and (S), respectively;

(10) by inserting after subparagraph (O) the following new subparagraphs:

''(P) any offense relating to commercial bribery, counterfeiting, forgery, or trafficking in vehicles whose identification numbers have been altered for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least one year;

''(Q) any offense relating to perjury or subornation of perjury for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least one year;'' and

(11) in subparagraph (R) (as redesignated), by striking ''15'' and inserting ''5''.

(b) EFFECTIVE DATE OF DEFINITION.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended by adding at the end the following new sentence: ''Notwithstanding any other provision of law, the term applies regardless of whether the conviction was entered before, on, or after the date of enactment of this paragraph, except that, for purposes of section 242(f)(2), the term has the same meaning as was in effect under this paragraph on the date the offense was committed.''.

(c) APPLICATION TO WITHHOLDING OF DEPORTATION.—Section 243(h) (8 U.S.C. 1253(h)), as amended by section 159 of this Act, is further amended in paragraph (2) by striking the last sentence and inserting the following: ''For purposes of subparagraph (B), an alien shall be considered to have committed a particularly serious crime if such alien has been convicted of one or more of the following:

''(1) An aggravated felony, or attempt or conspiracy to commit an aggravated felony, for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least one year.

''(2) An offense described in subparagraph (A), (B), (C), (E), (H), (I), (J), (L), or subparagraph (K)(ii), of section 101(a)(43), or an attempt or conspiracy to commit an offense described in one or more of such subparagraphs.''.

SEC. 162. INELIGIBILITY OF AGGRAVATED FELONS FOR ADJUSTMENT OF STATUS.

Section 244(c) (8 U.S.C. 1254(c)), as amended by section 150 of this Act, is further amended by adding at the end the following new sentence: ''No person who has been convicted of an aggravated felony shall be eligible for relief under this subsection.''.

SEC. 163. EXPEDITIOUS DEPORTATION CREATES NO ENFORCEABLE RIGHT FOR AGGRAVATED FELONS.

Section 225 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416) is amended by striking ''section 242(i) of the Immigration and Nationality Act (8 U.S.C. 1252(i))'' and inserting ''sections 242(i) or 242A of the Immigration and Nationality Act (8 U.S.C. 1252(i) or 1252a)''.

SEC. 164. CUSTODY OF ALIENS CONVICTED OF AGGRAVATED FELONIES.

(a) EXCLUSION AND DEPORTATION.—Section 236 (8 U.S.C. 1226) is amended in subsection (e)(2) by inserting after ''unless'' the following: ''(A) the Attorney General determines, pursuant to section 3521 of title 18, United States Code, that release 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, and that after such release the alien would not be a threat to the community, or (B)''.

(b) CUSTODY UPON RELEASE FROM INCARCERATION.—Section 242(a)(2) (8 U.S.C. 1252(a)(2)) is amended to read as follows:

''(2)(A) The Attorney General shall take into custody any specially deportable criminal alien upon release of the alien from incarceration and shall deport the alien as expeditiously as possible. Notwithstanding any other provision of law, the Attorney General shall not release such felon from custody.

''(B) The Attorney General shall have sole and unreviewable discretion to waive subparagraph (A) for aliens who are cooperating with law enforcement authorities or for purposes of national security.''.

(c) PERIOD IN WHICH TO EFFECT ALIEN'S DEPARTURE.—Section 242(c) is amended—

(1) in the first sentence—

(A) by striking ''(c)'' and inserting ''(c)(1)''; and

(B) by inserting ''(other than an alien described in paragraph (2))''; and

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

''(2)(A) When a final order of deportation is made against any specially deportable criminal alien, the Attorney General shall have a period of 30 days from the later of—

''(i) the date of such order, or

''(ii) the alien's release from incarceration, within which to effect the alien's departure from the United States.

''(B) The Attorney General shall have sole and unreviewable discretion to waive subparagraph (A) for aliens who are cooperating with law enforcement authorities or for purposes of national security.

''(3) Nothing in this subsection shall be construed as providing a right enforceable by or on behalf of any alien to be released from custody or to challenge the alien's deportation.''.

(d) CRIMINAL PENALTY FOR UNLAWFUL REENTRY.—Section 242(f) of the Immigration and Nationality Act (8 U.S.C. 1252(f)) is amended—

(1) by inserting ''(1)'' immediately after ''(f)''; and

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

''(2) Any alien who has unlawfully reentered or is found in the United States after having previously been deported subsequent to a conviction for any criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or two or more offenses described in clause (ii) of section 241(a)(2)(A), at least two of which resulted in a sentence or confinement described in section 241(a)(2)(A)(i)(II), shall, in addition to the punishment provided for any other crime, be punished by imprisonment of not less than 15 years.''.

(e) DEFINITION.—Section 242 (8 U.S.C. 1252) is amended by adding at the end the following new subsection:

''(k) For purposes of this section, the term 'specially deportable criminal alien' means any alien convicted of an offense described in subparagraph (A)(iii), (B), (C), or (D) of section 241(a)(2), or two or more offenses described in section 241(a)(2)(A)(ii), at least two of which resulted in a sentence or confinement described in section 241(a)(2)(A)(i)(II).''.

SEC. 165. JUDICIAL DEPORTATION.

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

(1) by redesignating subsection (d) as subsection (c); and

(2) in subsection (c), as redesignated—

(A) by striking paragraph (1) and inserting the following:

''(1) AUTHORITY.—Notwithstanding any other provision of this Act, a United States district court shall have jurisdiction to enter a judicial order of deportation at the time of sentencing against an alien—

''(A) whose criminal conviction causes such alien to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony);

''(B) who has at any time been convicted of a violation of section 276 (a) or (b) (relating to reentry of a deported alien);

''(C) who has at any time been convicted of a violation of section 275 (relating to entry

of an alien at an improper time or place and to misrepresentation and concealment of facts); or

''(D) who is otherwise deportable pursuant to any of the paragraphs (1) through (5) of section 241(a).

A United States Magistrate shall have jurisdiction to enter a judicial order of deportation at the time of sentencing where the alien has been convicted of a misdemeanor offense and the alien is deportable under this Act.''; and

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

''(5) STATE COURT FINDING OF DEPORTABILITY.—(A) On motion of the prosecution or on the court's own motion, any State court with jurisdiction to enter judgments in criminal cases is authorized to make a finding that the defendant is deportable as a specially deportable criminal alien (as defined in section 242(k)).

''(B) The finding of deportability under subparagraph (A), when incorporated in a final judgment of conviction, shall for all purposes be conclusive on the alien and may not be reexamined by any agency or court, whether by habeas corpus or otherwise. The court shall notify the Attorney General of any finding of deportability.

''(6) STIPULATED JUDICIAL ORDER OF DEPORTATION.—The United States Attorney, with the concurrence of the Commissioner, may, pursuant to Federal Rule of Criminal Procedure 11, enter into a plea agreement which calls for the alien, who is deportable under this Act, to waive the right to notice and a hearing under this section, and stipulate to the entry of a judicial order of deportation from the United States as a condition of the plea agreement or as a condition of probation or supervised release, or both. The United States District Court, in both felony and misdemeanor cases, and the United States Magistrate Court in misdemeanors cases, may accept such a stipulation and shall have jurisdiction to enter a judicial order of deportation pursuant to the terms of such stipulation.''.

(b) CONFORMING AMENDMENTS.—(1) Section 512 of the Immigration Act of 1990 is amended by striking ''242A(d)'' and inserting ''242A(c)''.

(2) Section 130007(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322) is amended by striking ''242A(d)'' and inserting ''242A(c)''.

SEC. 166. STIPULATED EXCLUSION OR DEPORTATION.

(a) EXCLUSION AND DEPORTATION.—Section 236 (8 U.S.C. 1226) is amended by adding at the end the following new subsection:

''(f) The Attorney General shall provide by regulation for the entry by a special inquiry officer of an order of exclusion and deportation stipulated to by the alien and the Service. Such an order may be entered without a personal appearance by the alien before the special inquiry officer. A stipulated order shall constitute a conclusive determination of the alien's excludability and deportability from the United States.''.

(b) APPREHENSION AND DEPORTATION.—Section 242 (8 U.S.C. 1252) is amended in subsection (b)—

(1) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(2) by inserting ''(1)'' immediately after ''(b)'';

(3) by striking the sentence beginning with ''Except as provided in section 242A(d)'' and inserting the following:

''(2) The Attorney General shall further provide by regulation for the entry by a special inquiry officer of an order of deportation stipulated to by the alien and the Service. Such an order may be entered without a personal appearance by the alien before the special inquiry officer. A stipulated order shall constitute a conclusive determination of the alien's deportability from the United States.

''(3) The procedures prescribed in this subsection and in section 242A(c) shall be the sole and exclusive procedures for determining the deportability of an alien.''; and

(4) by redesignating the tenth sentence as paragraph (4); and

(5) by redesignating the eleventh and twelfth sentences as paragraph (5).

(c) CONFORMING AMENDMENTS.—(1) Section 106(a) is amended by striking ''section 242(b)'' and inserting ''section 242(b)(1)''.

(2) Section 212(a)(6)(B)(iv) is amended by striking ''section 242(b)'' and inserting ''section 242(b)(1)''.

(3) Section 242(a)(1) is amended by striking ''subsection (b)'' and inserting ''subsection (b)(1)''.

(4) Section 242A(b)(1) is amended by striking ''section 242(b)'' and inserting ''section 242(b)(1)''.

(5) Section 242A(c)(2)(D)(ii), as redesignated by section 165 of this Act, is amended by striking ''section 242(b)'' and inserting ''section 242(b)(1)''.

(6) Section 4113(a) of title 18, United States Code, is amended by striking ''section 1252(b)'' and inserting ''section 1252(b)(1)''.

(7) Section 1821(e) of title 28, United States Code, is amended by striking ''section 242(b) of such Act (8 U.S.C. 1252(b))'' and inserting ''section 242(b)(1) of such Act (8 U.S.C. 1252(b)(1))''.

(8) Section 242B(c)(1) is amended by striking ''section 242(b)(1)'' and inserting ''section 242(b)(4)''.

(9) Section 242B(e)(2)(A) is amended by striking ''section 242(b)(1)'' and inserting ''section 242(b)(4)''.

(10) Section 242B(e)(5)(A) is amended by striking ''section 242(b)(1)'' and inserting ''section 242(b)(4)''.

SEC. 167. DEPORTATION AS A CONDITION OF PROBATION.

Section 3563(b) of title 18, United States Code, is amended—

(1) by striking ''or'' at the end of paragraph (21);

(2) by striking the period at the end of paragraph (22) and inserting ''; or''; and

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

''(23) be ordered deported by a United States District Court, or United States Magistrate Court, pursuant to a stipulation entered into by the defendant and the United States under section 242A(c) of the Immigration and Nationality Act (8 U.S.C. 1252a(c)), except that, in the absence of a stipulation, the United States District Court or the United States Magistrate Court, may order deportation as a condition of probation, if, after notice and hearing pursuant to section 242A(c) of the Immigration and Nationality Act, the Attorney General demonstrates by clear and convincing evidence that the alien is deportable.''.

SEC. 168. ANNUAL REPORT ON CRIMINAL ALIENS.

Not later than 12 months after the date of the enactment of this Act, and annually thereafter, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report detailing—

(1) the number of illegal aliens incarcerated in Federal and State prisons for having committed felonies, stating the number incarcerated for each type of offense;

(2) the number of illegal aliens convicted for felonies in any Federal or State court, but not sentenced to incarceration, in the year before the report was submitted, stating the number convicted for each type of offense;

(3) programs and plans underway in the Department of Justice to ensure the prompt removal from the United States of criminal aliens subject to exclusion or deportation; and

(4) methods for identifying and preventing the unlawful reentry of aliens who have been convicted of criminal offenses in the United States and removed from the United States.

SEC. 169. UNDERCOVER INVESTIGATION AUTHORITY.

(a) AUTHORITIES.—(1) In order to conduct any undercover investigative operation of the Immigration and Naturalization Service which is necessary for the detection and prosecution of crimes against the United States, the Service is authorized—

(A) to lease space within the United States, the District of Columbia, and the territories and possessions of the United States without regard to section 3679(a) of the Revised Statutes (31 U.S.C. 1341), section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading ''Miscellaneous'' of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3648 of the Revised Statutes (31 U.S.C. 3324), section 3741 of the Revised Statutes (41 U.S.C. 22), and 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));

(B) 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);

(C) to deposit funds, including the proceeds from such undercover operation, in banks or other financial institutions without regard to the provisions of section 648 of title 18 of the United States Code, and section 3639 of the Revised Statutes (31 U.S.C. 3302); and

(D) to use the proceeds from such undercover operations to offset necessary and reasonable expenses incurred in such operations without regard to the provisions of section 3617 of the Revised Statutes (31 U.S.C. 3302).

(2) The authorization set forth in paragraph (1) may be exercised only upon written certification of the Commissioner of the Immigration and Naturalization Service, in consultation with the Deputy Attorney General, that any action authorized by paragraph (1) (A), (B), (C), or (D) is necessary for the conduct of such undercover operation.

(b) UNUSED FUNDS.—As soon as practicable after the proceeds from an undercover investigative operation, carried out under paragraph (1) (C) or (D) of subsection (a), are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

(c) REPORT.—If a corporation or business entity established or acquired as part of an undercover operation under subsection (a)(1)(B) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Immigration and Naturalization Service, as much in advance as the Commissioner or his or her designee determine practicable, shall report the circumstances to the Attorney General, the Director of the Office of Management and Budget, and the Comptroller General of the United States. 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) AUDITS.—The Immigration and Naturalization 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.

SEC. 170. PRISONER TRANSFER TREATIES.

(a) NEGOTIATIONS WITH OTHER COUNTRIES.—(1) Congress advises the President to begin to negotiate and renegotiate, not later than 90 days after the date of enactment of this Act, bilateral prisoner transfer treaties, providing for the incarceration, in the country of the alien's nationality, of any alien who—

(A) is a national of a country that is party to such a treaty; and

(B) has been convicted of a criminal offense under Federal or State law and who—

(i) is not in lawful immigration status in the United States, or

(ii) on the basis of conviction for a criminal offense under Federal or State law, or on any other basis, is subject to deportation under the Immigration and Nationality Act,

for the duration of the prison term to which the alien was sentenced for the offense referred to in subparagraph (B). Any such agreement may provide for the release of such alien pursuant to parole procedures of that country.

(2) In entering into negotiations under paragraph (1), the President may consider providing for appropriate compensation, subject to the availability of appropriations, 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) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the focus of negotiations for such agreements should be—

(A) to expedite the transfer of aliens unlawfully in the United States who are (or are about to be) incarcerated in United States prisons,

(B) to ensure that a transferred prisoner serves the balance of the sentence imposed by the United States courts,

(C) to eliminate any requirement of prisoner consent to such a transfer, and

(D) 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 prisons sentences;

(2) the Secretary of State should give priority to concluding an agreement with any country for which the President determines that the number of aliens described in subsection (a) who are nationals of that country in the United States represents a significant percentage of all such aliens in the United States; and

(3) no new treaty providing for the transfer of aliens from Federal, State, or local incarceration facilities to a foreign incarceration facility should permit the alien to refuse the transfer.

(c) PRISONER CONSENT.—Notwithstanding any other provision of law, except as required by treaty, the transfer of an alien from a Federal, State, or local incarceration facility under an agreement of the type referred to in subsection (a) shall not require consent of the alien.

(d) ANNUAL REPORT.—Not later than 90 days after the date of the enactment of this Act, and annually thereafter, the Attorney General shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate stating whether each prisoner transfer treaty to which the United States is a party has been effective in the preceding 12 months in bringing about the return of deportable incarcerated aliens to the country of which they are nationals and in ensuring that they serve the balance of their sentences.

(e) TRAINING FOREIGN LAW ENFORCEMENT PERSONNEL.—(1) Subject to paragraph (2), the President shall direct the Border Patrol Academy and the Customs Service Academy to enroll for training an appropriate number of foreign law enforcement personnel, and shall make appointments of foreign law enforcement personnel to such academies, as necessary to further the following United States law enforcement goals:

(A) prevention of drug smuggling and other cross-border criminal activity;

(B) preventing illegal immigration; and

(C) preventing the illegal entry of goods into the United States (including goods the sale of which is illegal in the United States, the entry of which would cause a quota to be exceeded, or which have not paid the appropriate duty or tariff).

(2) The appointments described in paragraph (1) shall be made only to the extent there is capacity in such academies beyond what is required to train United States citizens needed in the Border Patrol and Customs Service, and only of personnel from a country with which the prisoner transfer treaty has been stated to be effective in the most recent report referred to in subsection (d).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 170A. PRISONER TRANSFER TREATIES STUDY.

(a) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State and the Attorney General shall submit to the Congress a report that describes the use and effectiveness of the prisoner transfer treaties with the three countries with the greatest number of their nationals incarcerated in the United States in removing from the United States such incarcerated nationals.

(b) USE OF TREATY.—The report under subsection (a) shall include—

(1) the number of aliens convicted of a criminal offense in the United States since November 30, 1977, who would have been or are eligible for transfer pursuant to the treaties;

(2) the number of aliens described in paragraph (1) who have been transferred pursuant to the treaties;

(3) the number of aliens described in paragraph (2) who have been incarcerated in full compliance with the treaties;

(4) the number of aliens who are incarcerated in a penal institution in the United States who are eligible for transfer pursuant to the treaties; and

(5) the number of aliens described in paragraph (4) who are incarcerated in Federal, State, and local penal institutions in the United States.

(c) RECOMMENDATIONS.—The report under subsection (a) shall include the recommendations of the Secretary of State and the Attorney General to increase the effectiveness and use of, and full compliance with, the treaties. In considering the recommendations under this subsection, the Secretary and the Attorney General shall consult with such State and local officials in areas disproportionately impacted by aliens convicted of criminal offenses as the Secretary and the Attorney General consider appropriate. Such recommendations shall address—

(1) changes in Federal laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed criminal offenses in the United States;

(2) changes in State and local laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States;

(3) changes in the treaties that may be necessary to increase the number of aliens convicted of criminal offenses who may be transferred pursuant to the treaties;

(4) methods for preventing the unlawful reentry into the United States of aliens who have been convicted of criminal offenses in the United States and transferred pursuant to the treaties;

(5) any recommendations by appropriate officials of the appropriate government agencies of such countries regarding programs to achieve the goals of, and ensure full compliance with, the treaties;

(6) whether the recommendations under this subsection require the renegotiation of the treaties; and

(7) the additional funds required to implement each recommendation under this subsection.

SEC. 170B. USING ALIEN FOR IMMORAL PURPOSES, FILING REQUIREMENT.

Section 2424 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph of subsection (a)—

(A) by striking ''alien'' each place it appears;

(B) by inserting after ''individual'' the first place it appears the following: '', knowing or in reckless disregard of the fact that the individual is an alien''; and

(C) by striking ''within three years after that individual has entered the United States from any country, party to the arrangement adopted July 25, 1902, for the suppression of the white-slave traffic'';

(2) in the second undesignated paragraph of subsection (a)—

(A) by striking ''thirty'' and inserting ''five business''; and

(B) by striking ''within three years after that individual has entered the United States from any country, party to the said arrangement for the suppression of the white-slave traffic,'';

(3) in the text following the third undesignated paragraph of subsection (a), by striking ''two'' and inserting ''10''; and

(4) in subsection (b), before the period at the end of the second sentence, by inserting '', or for enforcement of the provisions of section 274A of the Immigration and Nationality Act''.

SEC. 170C. TECHNICAL CORRECTIONS TO VIOLENT CRIME CONTROL ACT AND TECHNICAL CORRECTIONS ACT.

(a) IN GENERAL.—The second subsection (i) of section 245 (as added by section 130003(c)(1) of the Violent Crime Control and Law Enforcement Act of 1994; Public Law 103–322) is redesignated as subsection (j) of such section.

(b) CONFORMING AMENDMENT.—Section 241(a)(2)(A)(i)(I) (8 U.S.C. 1251(a)(2)(A)(i)(I)) is amended by striking ''section 245(i)'' and inserting ''section 245(j)''.

(c) DENIAL OF JUDICIAL ORDER.—(1) Section 242A(c)(4), as redesignated by section 165 of this Act, is amended by striking ''without a decision on the merits''.

(2) The amendment made by this subsection shall be effective as if originally included in section 223 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416).

SEC. 170D. DEMONSTRATION PROJECT FOR IDENTIFICATION OF ILLEGAL ALIENS IN INCARCERATION FACILITY OF ANAHEIM, CALIFORNIA.

(a) AUTHORITY.—The Attorney General is authorized to conduct a project demonstrating the feasibility of identifying illegal

aliens among those individuals who are incarcerated in local governmental prison facilities prior to arraignment on criminal charges.

(b) DESCRIPTION OF PROJECT.—The project authorized by subsection (a) shall include the detail to the city of Anaheim, California, of an employee of the Immigration and Naturalization Service having expertise in the identification of illegal aliens for the purpose of training local officials in the identification of such aliens.

(c) TERMINATION.—The authority of this section shall cease to be effective 6 months after the date of the enactment of this Act.

(d) DEFINITION.—As used in this section, the term ''illegal alien'' means an alien in the United States who is not within any of the following classes of aliens:

(1) Aliens lawfully admitted for permanent residence.

(2) Nonimmigrant aliens described in section 101(a)(15) of the Immigration and Nationality Act.

(3) Refugees.

(4) Asylees.

(5) Parolees.

(6) Aliens having deportation withheld under section 243(h) of the Immigration and Nationality Act.

(7) Aliens having temporary residence status.

PART 6—MISCELLANEOUS

SEC. 171. IMMIGRATION EMERGENCY PROVISIONS.

(a) REIMBURSEMENT OF FEDERAL AGENCIES FROM IMMIGRATION EMERGENCY FUND.—Section 404(b) (8 U.S.C. 1101 note) is amended—

(1) in paragraph (1)—

(A) after ''paragraph (2)'' by striking ''and'' and inserting a comma,

(B) by striking ''State'' and inserting ''other Federal agencies and States'',

(C) by inserting '', and for the costs associated with repatriation of aliens attempting to enter the United States illegally, whether apprehended within or outside the territorial sea of the United States'' before ''except'', and

(D) by adding at the end the following new sentence: ''The fund may be used for the costs of such repatriations without the requirement for a determination by the President that an immigration emergency exists.''; and

(2) in paragraph (2)(A)—

(A) by inserting ''to Federal agencies providing support to the Department of Justice or'' after ''available''; and

(B) by inserting a comma before ''whenever''.

(b) VESSEL MOVEMENT CONTROLS.—Section 1 of the Act of June 15, 1917 (50 U.S.C. 191) is amended in the first sentence by inserting ''or whenever the Attorney General determines that an actual or anticipated mass migration of aliens en route to or arriving off the coast of the United States presents urgent circumstances requiring an immediate Federal response,'' after ''United States,'' the first place it appears.

(c) DELEGATION OF IMMIGRATION ENFORCEMENT AUTHORITY.—Section 103 (8 U.S.C. 1103) is amended by adding at the end of subsection (a) the following new sentence: ''In the event the Attorney General determines that an actual or imminent mass influx of aliens arriving off the coast of the United States, or near a land border, presents urgent circumstances requiring an immediate Federal response, the Attorney General may authorize any specially designated State or local law enforcement officer, with the consent of the head of the department, agency, or establishment under whose jurisdiction the individual is serving, to perform or exercise any of the powers, privileges, or duties conferred or imposed by this Act or regulations issued thereunder upon officers or employees of the Service.''.

SEC. 172. AUTHORITY TO DETERMINE VISA PROCESSING PROCEDURES.

Section 202(a)(1) (8 U.S.C. 1152(a)(1)) is amended—

(1) by inserting ''(A)'' after ''NONDISCRIMINATION.—''; and

(2) by adding at the end the following:

''(B) Nothing in this paragraph 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.''.

SEC. 173. JOINT STUDY OF AUTOMATED DATA COLLECTION.

(a) STUDY.—The Attorney General, together with the Secretary of State, the Secretary of Agriculture, the Secretary of the Treasury, and appropriate representatives of the air transport industry, shall jointly undertake a study to develop a plan for making the transition to automated data collection at ports of entry.

(b) REPORT.—Nine months after the date of enactment of this Act, the Attorney General shall submit a report to the Committees on the Judiciary of the Senate and the House of Representatives on the outcome of this joint initiative, noting specific areas of agreement and disagreement, and recommending further steps to be taken, including any suggestions for legislation.

SEC. 174. AUTOMATED ENTRY-EXIT CONTROL SYSTEM.

Not later than 2 years after the date of the enactment of this Act, the Attorney General shall develop an automated entry and exit control system that will enable the Attorney General to identify, through on-line searching procedures, lawfully admitted nonimmigrants who remain in the United States beyond the period authorized by the Attorney General.

SEC. 175. USE OF LEGALIZATION AND SPECIAL AGRICULTURAL WORKER INFORMATION.

(a) CONFIDENTIALITY OF INFORMATION.—Section 245A(c)(5) (8 U.S.C. 1255a(c)(5)) is amended by striking ''except that the Attorney General'' and inserting the following: ''except that the Attorney General shall provide information furnished under this section to a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, when such information is requested in writing by such entity, or to an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime) and''.

(b) SPECIAL AGRICULTURAL WORKERS.—Section 210(b)(6)(C) (8 U.S.C. 1160(b)(6)(C)) is amended—

(1) by striking the period at the end of subparagraph (C) and inserting a comma; and

(2) by adding in full measure margin after subparagraph (C) the following:

''except that the Attorney General shall provide information furnished under this section to a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, when such information is requested in writing by such entity, or to an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).''.

SEC. 176. RESCISSION OF LAWFUL PERMANENT RESIDENT STATUS.

Section 246(a) (8 U.S.C. 1256(a)) is amended—

(1) by inserting ''(1)'' immediately after ''(a)''; and

(2) by adding at the end the following new sentence: ''Nothing in this subsection requires the Attorney General to rescind the alien's status prior to commencement of procedures to deport the alien under section 242 or 242A, and an order of deportation issued by a special inquiry officer shall be sufficient to rescind the alien's status.''.

SEC. 177. COMMUNICATION BETWEEN FEDERAL, STATE, AND LOCAL GOVERNMENT AGENCIES, AND THE IMMIGRATION AND NATURALIZATION SERVICE.

Notwithstanding any other provision of Federal, State, or local law, no Federal, 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 any person.

SEC. 178. AUTHORITY TO USE VOLUNTEERS.

(a) ACCEPTANCE OF DONATED SERVICES.—Notwithstanding any other provision of law, but subject to subsection (b), the Attorney General may accept, administer, and utilize gifts of services from any person for the purpose of providing administrative assistance to the Immigration and Naturalization Service in administering programs relating to naturalization, adjudications at ports of entry, and removal of criminal aliens. Nothing in this section requires the Attorney General to accept the services of any person.

(b) LIMITATION.—Such person may not administer or score tests and may not adjudicate.

SEC. 179. AUTHORITY TO ACQUIRE FEDERAL EQUIPMENT FOR BORDER.

In order to facilitate or improve the detection, interdiction, and reduction by the Immigration and Naturalization Service of illegal immigration into the United States, the Attorney General is authorized to acquire and utilize any Federal equipment (including, but not limited to, fixed-wing aircraft, helicopters, four-wheel drive vehicles, sedans, night vision goggles, night vision scopes, and sensor units) determined available for transfer to the Department of Justice by any other agency of the Federal Government upon request of the Attorney General.

SEC. 180. LIMITATION ON LEGALIZATION LITIGATION.

(a) LIMITATION ON COURT JURISDICTION.—Section 245A(f)(4) is amended by adding at the end the following new subparagraph:

''(C) JURISDICTION OF COURTS.—Notwithstanding any other provision of law, no court shall have jurisdiction of any cause of action or claim by or on behalf of any person asserting an interest under this section unless such person in fact filed an application under this section within the period specified by subsection (a)(1), or attempted to file a complete application and application fee with an authorized legalization officer of the Immigration and Naturalization Service but had the application and fee refused by that officer.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective as if originally included in section 201 of the Immigration Control and Financial Responsibility Act of 1986.

SEC. 181. LIMITATION ON ADJUSTMENT OF STATUS.

Section 245(c) (8 U.S.C. 1255(c)) is amended—

(1) by striking ''or (5)'' and inserting ''(5)''; and

(2) by inserting before the period at the end the following: ''; (6) any alien who seeks adjustment of status as an employment-based immigrant and is not in a lawful nonimmigrant status; or (7) any alien who was employed while the alien was an unauthorized alien, as defined in section 274A(h)(3), or

who has otherwise violated the terms of a nonimmigrant visa''.

SEC. 182. REPORT ON DETENTION SPACE.

(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Attorney General shall submit a report to the Congress estimating the amount of detention space that would be required on the date of enactment of this Act, in 5 years, and in 10 years, under various policies on the detention of aliens, including but not limited to—

(1) detaining all excludable or deportable aliens who may lawfully be detained;

(2) detaining all excludable or deportable aliens who previously have been excluded, been deported, departed while an order of exclusion or deportation was outstanding, voluntarily departed under section 244, or voluntarily returned after being apprehended while violating an immigration law of the United States; and

(3) the current policy.

(b) ESTIMATE OF NUMBER OF ALIENS RELEASED INTO THE COMMUNITY.—Such report shall also estimate the number of excludable or deportable aliens who have been released into the community in each of the 3 years prior to the date of enactment of this Act under circumstances that the Attorney General believes justified detention (for example, a significant probability that the released alien would not appear, as agreed, at subsequent exclusion or deportation proceedings), but a lack of detention facilities required release.

SEC. 183. COMPENSATION OF IMMIGRATION JUDGES.

(a) COMPENSATION.—

(1) IN GENERAL.—There shall be four levels of pay for special inquiry officers of the Department of Justice (in this section referred to as ''immigration judges'') under the Immigration Judge Schedule (designated as IJ–1, IJ–2, IJ–3, and IJ–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 percent of the next to highest rate of basic pay for the Senior Executive Service.
IJ–2	80 percent of the next to highest rate of basic pay for the Senior Executive Service.
IJ–3	90 percent of the next to highest rate of basic pay for the Senior Executive Service.
IJ–4	92 percent 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 of this subsection 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.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect 90 days after the date of the enactment of this Act.

SEC. 184. ACCEPTANCE OF STATE SERVICES TO CARRY OUT IMMIGRATION ENFORCEMENT.

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 in relation to the arrest or detention of aliens in the United States, 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, and shall contain a written certification that the officers or employees performing the function under the agreement have received adequate training regarding the enforcement of relevant Federal immigration laws.

''(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 duties 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 agency 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 knowledge 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.''.

SEC. 185. ALIEN WITNESS COOPERATION.

Section 214(j)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(j)(1)) (relating to numerical limitations on the number of aliens that may be provided visas as nonimmigrants under section 101(a)(15)(5)(ii) of such Act) is amended—

(1) by striking ''100'' and inserting ''200''; and

(2) by striking ''25'' and inserting ''50''.

Subtitle B—Other Control Measures

PART 1—PAROLE AUTHORITY

SEC. 191. USABLE ONLY ON A CASE-BY-CASE BASIS FOR HUMANITARIAN REASONS OR SIGNIFICANT PUBLIC BENEFIT.

Section 212(d)(5)(A) (8 U.S.C. 1182(d)(5)) is amended by striking ''for emergent reasons or for reasons deemed strictly in the public interest'' and inserting ''on a case-by-case basis for urgent humanitarian reasons or significant public benefit''.

SEC. 192. INCLUSION IN WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.

(a) IN GENERAL.—Section 201(c) (8 U.S.C. 1151(c)) is amended—

(1) by amending paragraph (1)(A)(ii) to read as follows:

''(ii) the sum of the number computed under paragraph (2) and the number computed under paragraph (4), plus''; and

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

''(4) The number computed under this paragraph for a fiscal year is the number of aliens who were paroled into the United States under section 212(d)(5) in the second preceding fiscal year and who did not depart from the United States within 365 days.

''(5) If any alien described in paragraph (4) is subsequently admitted as an alien lawfully admitted for permanent residence, such alien shall not again be considered for purposes of paragraph (1).''.

(b) INCLUSION OF PAROLED ALIENS.—Section 202 (8 U.S.C. 1152) is amended by adding at the end the following new subsection:

''(f)(1) For purposes of subsection (a)(2), an immigrant visa shall be considered to have been made available in a fiscal year to any alien who is not an alien lawfully admitted for permanent residence but who was paroled into the United States under section 212(d)(5) in the second preceding fiscal year and who did not depart from the United States within 365 days.

''(2) If any alien described in paragraph (1) is subsequently admitted as an alien lawfully admitted for permanent residence, an immigrant visa shall not again be considered to have been made available for purposes of subsection (a)(2).''.

PART 2—ASYLUM

SEC. 193. LIMITATIONS ON ASYLUM APPLICATIONS BY ALIENS USING DOCUMENTS FRAUDULENTLY OR BY EXCLUDABLE ALIENS APPREHENDED AT SEA; USE OF SPECIAL EXCLUSION PROCEDURES.

Section 208 (8 U.S.C. 1158) is amended by striking subsection (e) and inserting the following:

''(e)(1) Notwithstanding subsection (a), any alien who, in seeking entry to the United States or boarding a common carrier for the

purpose of coming to the United States, presents any document which, in the determination of the immigration officer, is fraudulent, forged, stolen, or inapplicable to the person presenting the document, or otherwise contains a misrepresentation of a material fact, may not apply for or be granted asylum, unless presentation of the document was necessary to depart from a country in which the alien has a credible fear of persecution, or from which the alien has a credible fear of return to persecution, and the alien traveled from such country directly to the United States.

''(2) Notwithstanding subsection (a), an alien who boards a common carrier for the purpose of coming to the United States through the presentation of any document which relates or purports to relate to the alien's eligibility to enter the United States, and who fails to present such document to an immigration officer upon arrival at a port of entry into the United States, may not apply for or be granted asylum, unless presentation of such document was necessary to depart from a country in which the alien has a credible fear of persecution, or from which the alien has a credible fear of return to persecution, and the alien traveled from such country directly to the United States.

''(3) Notwithstanding subsection (a), an alien described in section 235(d)(3) may not apply for or be granted asylum, unless the alien traveled directly from a country in which the alien has a credible fear of persecution, or from which the alien has a credible fear of return to persecution.

''(4) Notwithstanding paragraph (1), (2), or (3), the Attorney General may, under extraordinary circumstances, permit an alien described in any such paragraph to apply for asylum.

''(5)(A) When an immigration officer has determined that an alien has sought entry under either of the circumstances described in paragraph (1) or (2), or is an alien described in section 235(d)(3), or is otherwise an alien subject to the special exclusion procedure of section 235(e), and the alien has indicated a desire to apply for asylum or for withholding of deportation under section 243(h), the immigration officer shall refer the matter to an asylum officer.

''(B) Such asylum officer shall interview the alien, in person or by video conference, to determine whether the alien has a credible fear of persecution (or of return to persecution) in or from—

''(i) the country of such alien's nationality or, in the case of a person having no nationality, the country in which such alien last habitually resided, and

''(ii) in the case of an alien seeking asylum who has sought entry under either of the circumstances described in paragraph (1) or (2), or who is described in section 235(d)(3), the country in which the alien was last present prior to attempting entry into the United States.

''(C) If the officer determines that the alien does not have a credible fear of persecution in (or of return to persecution from) the country or countries referred to in subparagraph (B), the alien may be specially excluded and deported in accordance with section 235(e).

''(D) The Attorney General shall provide by regulation for the prompt supervisory review of a determination under subparagraph (C) that an alien physically present in the United States does not have a credible fear of persecution in (or of return to persecution from) the country or countries referred to in subparagraph (B).

''(E) The Attorney General shall provide information concerning the procedure described in this paragraph to persons who may be eligible. An alien who is eligible for such procedure pursuant to subparagraph (A) may consult with a person or persons of the alien's choosing prior to the procedure or any review thereof, in accordance with regulations prescribed by the Attorney General. Such consultation shall be at no expense to the Government and shall not delay the process.

''(6) An alien who has been determined under the procedure described in paragraph (5) to have a credible fear of persecution shall be taken before a special inquiry officer for a hearing in accordance with section 236.

''(7) As used in this subsection, the term 'asylum officer' means an immigration officer who—

''(A) has had professional training in country conditions, asylum law, and interview techniques; and

''(B) is supervised by an officer who meets the condition in subparagraph (A).

''(8) As used in this section, the term 'credible fear of persecution' means that—

''(A) there is a substantial likelihood that the statements made by the alien in support of the alien's claim are true; and

''(B) there is a significant possibility, in light of such statements and of country conditions, that the alien could establish eligibility as a refugee within the meaning of section 101(a)(42)(A).''.

SEC. 194. TIME LIMITATION ON ASYLUM CLAIMS.

Section 208(a) (8 U.S.C. 1158(a)) is amended—

(1) by striking ''The'' and inserting the following: ''(1) Except as provided in paragraph (2), the''; and

(2) by adding at the end the following:

''(2)(A) An application for asylum filed for the first time during an exclusion or deportation proceeding shall not be considered if the proceeding was commenced more than one year after the alien's entry or admission into the United States.

''(B) An application for asylum may be considered, notwithstanding subparagraph (A), if the applicant shows good cause for not having filed within the specified period of time.''.

SEC. 195. LIMITATION ON WORK AUTHORIZATION FOR ASYLUM APPLICANTS.

Section 208 (8 U.S.C. 1158), as amended by this Act, is further amended by adding at the end the following new subsection:

''(f)(1) An applicant for asylum may not engage in employment in the United States unless such applicant has submitted an application for employment authorization to the Attorney General and, subject to paragraph (2), the Attorney General has granted such authorization.

''(2) The Attorney General may deny any application for, or suspend or place conditions on any grant of, authorization for any applicant for asylum to engage in employment in the United States.''.

SEC. 196. INCREASED RESOURCES FOR REDUCING ASYLUM APPLICATION BACKLOGS.

(a) PURPOSE AND PERIOD OF AUTHORIZATION.—For the purpose of reducing the number of applications pending under sections 208 and 243(h) of the Immigration and Nationality Act (8 U.S.C. 1158 and 1253) as of the date of the enactment of this Act, the Attorney General shall have the authority described in subsections (b) and (c) for a period of two years, beginning 90 days after the date of the enactment of this Act.

(b) PROCEDURES FOR PROPERTY ACQUISITION ON LEASING.—Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Attorney General is authorized to expend out of funds made available to the Department of Justice for the administration of the Immigration and Nationality Act such amounts as may be necessary for the leasing or acquisition of property to carry out the purpose described in subsection (a).

(c) USE OF FEDERAL RETIREES.—(1) In order to carry out the purpose described in subsection (a), the Attorney General may employ temporarily not more than 300 persons who, by reason of retirement on or before January 1, 1993, are receiving—

(A) annuities under the provisions of subchapter III of chapter 83 of title 5, United States Code, or chapter 84 of such title;

(B) annuities under any other retirement system for employees of the Federal Government; or

(C) retired or retainer pay as retired officers of regular components of the uniformed services.

(2) In the case of a person retired under the provisions of subchapter III of chapter 83 of title 5, United States Code—

(A) no amounts may be deducted from the person's pay,

(B) the annuity of such person may not be terminated,

(C) payment of the annuity to such person may not be discontinued, and

(D) the annuity of such person may not be recomputed, under section 8344 of such title, by reason of the temporary employment authorized in paragraph (1).

(3) In the case of a person retired under the provisions of chapter 84 of title 5, United States Code—

(A) no amounts may be deducted from the person's pay,

(B) contributions to the Civil Service Retirement and Disability Fund may not be made, and

(C) the annuity of such person may not be recomputed, under section 8468 of such title, by reason of the temporary employment authorized in paragraph (1).

(4) The retired or retainer pay of a retired officer of a regular component of a uniformed service may not be reduced under section 5532 of title 5, United States Code, by reason of temporary employment authorized in paragraph (1).

(5) The President shall apply the provisions of paragraphs (2) and (3) to persons receiving annuities described in paragraph (1)(B) in the same manner and to the same extent as such provisions apply to persons receiving annuities described in paragraph (1)(A).

PART 3—CUBAN ADJUSTMENT ACT

SEC. 197. REPEAL AND EXCEPTION.

(a) REPEAL.—Subject to subsection (b), Public Law 89–732, as amended, is hereby repealed.

(b) SAVINGS PROVISIONS.—(1) The provisions of such Act shall continue to apply on a case-by-case basis with respect to individuals paroled into the United States pursuant to the Cuban Migration Agreement of 1995.

(2) The individuals obtaining lawful permanent resident status under such provisions in a fiscal year shall be treated as if they were family-sponsored immigrants acquiring the status of aliens lawfully admitted to the United States in such fiscal year for purposes of the world-wide and per-country levels of immigration described in sections 201 and 202 of the Immigration and Nationality Act, except that any individual who previously was included in the number computed under section 201(c)(4) of the Immigration and Nationality Act, as added by section 192 of this Act, or had been counted for purposes of section 202 of the Immigration and Nationality Act, as amended by section 192 of this Act, shall not be so treated.

Subtitle C—Effective Dates

SEC. 198. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this title and subject to subsection

(b), this title, and the amendments made by this title, shall take effect on the date of the enactment of this Act.

(b) OTHER EFFECTIVE DATES.—

(1) EFFECTIVE DATES FOR PROVISIONS DEALING WITH DOCUMENT FRAUD; REGULATIONS TO IMPLEMENT.—

(A) IN GENERAL.—The amendments made by sections 131, 132, 141, and 195 shall be effective upon the date of the enactment of this Act and shall apply to aliens who arrive in or seek admission to the United States on or after such date.

(B) REGULATIONS.—Notwithstanding any other provision of law, the Attorney General may issue interim final regulations to implement the provisions of the amendments listed in subparagraph (A) at any time on or after the date of the enactment of this Act, which regulations may become effective upon publication without prior notice or opportunity for public comment.

(2) ALIEN SMUGGLING, EXCLUSION, AND DEPORTATION.—The amendments made by sections 122, 126, 128, 129, 143, and 150(b) shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

TITLE II—FINANCIAL RESPONSIBILITY

Subtitle A—Receipt of Certain Government Benefits

SEC. 201. INELIGIBILITY OF EXCLUDABLE, DEPORTABLE, AND NONIMMIGRANT ALIENS.

(a) PUBLIC ASSISTANCE AND BENEFITS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, an ineligible alien (as defined in subsection (f)(2)) shall not be eligible to receive—

(A) any benefits under a public assistance program (as defined in subsection (f)(3)), except—

(i) emergency medical services under title XIX of the Social Security Act,

(ii) subject to paragraph (4), prenatal and postpartum services under title XIX of the Social Security Act,

(iii) short-term emergency disaster relief,

(iv) assistance or benefits under the National School Lunch Act,

(v) assistance or benefits under the Child Nutrition Act of 1966,

(vi) public health assistance for immunizations and, if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of a serious communicable disease, for testing and treatment for such diseases, and

(vii) such other service or assistance (such as soup kitchens, crisis counseling, intervention (including intervention for domestic violence), and short-term shelter) as the Attorney General specifies, in the Attorney General's sole and unreviewable discretion, after consultation with the heads of appropriate Federal agencies, if—

(I) such service or assistance is delivered at the community level, including through public or private nonprofit agencies;

(II) such service or assistance is necessary for the protection of life, safety, or public health; and

(III) such service or assistance or the amount or cost of such service or assistance is not conditioned on the recipient's income or resources; or

(B) any grant, contract, loan, professional license, or commercial license provided or funded by any agency of the United States or any State or local government entity, except, with respect to a nonimmigrant authorized to work in the United States, any professional or commercial license required to engage in such work, if the nonimmigrant is otherwise qualified for such license.

(2) BENEFITS OF RESIDENCE.—Notwithstanding any other provision of law, no State or local government entity shall consider any ineligible alien as a resident when to do so would place such alien in a more favorable position, regarding access to, or the cost of, any benefit or government service, than a United States citizen who is not regarded as such a resident.

(3) NOTIFICATION OF ALIENS.—

(A) IN GENERAL.—The agency administering a program referred to in paragraph (1)(A) or providing benefits referred to in paragraph (1)(B) shall, directly or, in the case of a Federal agency, through the States, notify individually or by public notice, all ineligible aliens who are receiving benefits under a program referred to in paragraph (1)(A), or are receiving benefits referred to in paragraph (1)(B), as the case may be, immediately prior to the date of the enactment of this Act and whose eligibility for the program is terminated by reason of this subsection.

(B) FAILURE TO GIVE NOTICE.—Nothing in subparagraph (A) shall be construed to require or authorize continuation of such eligibility if the notice required by such paragraph is not given.

(4) LIMITATION ON PREGNANCY SERVICES FOR UNDOCUMENTED ALIENS.—

(A) 3-YEAR CONTINUOUS RESIDENCE.—An ineligible alien may not receive the services described in paragraph (1)(A)(ii) unless such alien can establish proof of continuous residence in the United States for not less than 3 years, as determined in accordance with section 245a.2(d)(3) of title 8, Code of Federal Regulations as in effect on the day before the date of the enactment of this Act.

(B) LIMITATION ON EXPENDITURES.—Not more than $120,000,000 in outlays may be expended under title XIX of the Social Security Act for reimbursement of services described in paragraph (1)(A)(ii) that are provided to individuals described in subparagraph (A).

(C) CONTINUED SERVICES BY CURRENT STATES.—States that have provided services described in paragraph (1)(A)(ii) for a period of 3 years before the date of the enactment of this Act shall continue to provide such services and shall be reimbursed by the Federal Government for the costs incurred in providing such services. States that have not provided such services before the date of the enactment of this Act, but elect to provide such services after such date, shall be reimbursed for the costs incurred in providing such services. In no case shall States be required to provide services in excess of the amounts provided in subparagraph (B).

(b) UNEMPLOYMENT BENEFITS.—Notwithstanding any other provision of law, only eligible aliens who have been granted employment authorization pursuant to Federal law, and United States citizens or nationals, may receive unemployment benefits payable out of Federal funds, and such eligible aliens may receive only the portion of such benefits which is attributable to the authorized employment.

(c) SOCIAL SECURITY BENEFITS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, only eligible aliens who have been granted employment authorization pursuant to Federal law and United States citizen or nationals may receive any benefit under title II of the Social Security Act, and such eligible aliens may receive only the portion of such benefits which is attributable to the authorized employment.

(2) NO REFUND OR REIMBURSEMENT.—Notwithstanding any other provision of law, no tax or other contribution required pursuant to the Social Security Act (other than by an eligible alien who has been granted employment authorization pursuant to Federal law, or by an employer of such alien) shall be refunded or reimbursed, in whole or in part.

(d) 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 Committee on the Judiciary and the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on the Judiciary and the Committee on Banking and Financial Services of the House of Representatives, describing the manner in which the Secretary is enforcing section 214 of the Housing and Community Development Act of 1980 (Public Law 96–399; 94 Stat. 1637) and containing statistics with respect to the number of individuals denied financial assistance under such section.

(e) NONPROFIT, CHARITABLE ORGANIZATIONS.—

(1) IN GENERAL.—Nothing in this Act shall be construed as requiring a nonprofit charitable organization operating any program of assistance provided or funded, in whole or in part, by the Federal Government to—

(A) determine, verify, or otherwise require proof of the eligibility, as determined under this title, of any applicant for benefits or assistance under such program; or

(B) deem that the income or assets of any applicant for benefits or assistance under such program include the income or assets described in section 204(b).

(2) NO EFFECT ON FEDERAL AUTHORITY TO DETERMINE COMPLIANCE.—Nothing in this subsection shall be construed as prohibiting the Federal Government from determining the eligibility, under this section or section 204, of any individual for benefits under a public assistance program (as defined in subsection (f)(3)) or for government benefits (as defined in subsection (f)(4)).

(f) DEFINITIONS.—For the purposes of this section—

(1) ELIGIBLE ALIEN.—The term ''eligible alien'' means an individual who is—

(A) an alien lawfully admitted for permanent residence under the Immigration and Nationality Act,

(B) an alien granted asylum under section 208 of such Act,

(C) a refugee admitted under section 207 of such Act,

(D) an alien whose deportation has been withheld under section 243(h) of such Act, or

(E) an alien paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year.

(2) INELIGIBLE ALIEN.—The term ''ineligible alien'' means an individual who is not—

(A) a United States citizen or national; or

(B) an eligible alien.

(3) PUBLIC ASSISTANCE PROGRAM.—The term ''public assistance program'' means any program of assistance provided or funded, in whole or in part, by the Federal Government or any State or local government entity, for which eligibility for benefits is based on need.

(4) GOVERNMENT BENEFITS.—The term ''government benefits'' includes—

(A) any grant, contract, loan, professional license, or commercial license provided or funded by any agency of the United States or any State or local government entity, except, with respect to a nonimmigrant authorized to work in the United States, any professional or commercial license required to engage in such work, if the nonimmigrant is otherwise qualified for such license;

(B) unemployment benefits payable out of Federal funds;

(C) benefits under title II of the Social Security Act;

(D) financial assistance for purposes of section 214(a) of the Housing and Community Development Act of 1980 (Public Law 96–399; 94 Stat. 1637); and

(E) benefits based on residence that are prohibited by subsection (a)(2).

SEC. 202. DEFINITION OF "PUBLIC CHARGE" FOR PURPOSES OF DEPORTATION.

(a) IN GENERAL.—Section 241(a)(5) (8 U.S.C. 1251(a)(5)) is amended to read as follows:

''(5) PUBLIC CHARGE.—

''(A) IN GENERAL.—Any alien who during the public charge period becomes a public charge, regardless of when the cause for becoming a public charge arises, is deportable.

''(B) EXCEPTIONS.—Subparagraph (A) shall not apply if the alien is a refugee or has been granted asylum, or if the cause of the alien's becoming a public charge—

''(i) arose after entry (in the case of an alien who entered as an immigrant) or after adjustment to lawful permanent resident status (in the case of an alien who entered as a nonimmigrant), and

''(ii) was a physical illness, or physical injury, so serious the alien could not work at any job, or a mental disability that required continuous hospitalization.

''(C) DEFINITIONS.—

''(i) PUBLIC CHARGE PERIOD.—For purposes of subparagraph (A), the term 'public charge period' means the period beginning on the date the alien entered the United States and ending—

''(I) for an alien who entered the United States as an immigrant, 5 years after entry, or

''(II) for an alien who entered the United States as a nonimmigrant, 5 years after the alien adjusted to permanent resident status.

''(ii) PUBLIC CHARGE.—For purposes of subparagraph (A), the term 'public charge' includes any alien who receives benefits under any program described in subparagraph (D) for an aggregate period of more than 12 months.

''(D) PROGRAMS DESCRIBED.—The programs described in this subparagraph are the following:

''(i) The aid to families with dependent children program under title IV of the Social Security Act.

''(ii) The medicaid program under title XIX of the Social Security Act.

''(iii) The food stamp program under the Food Stamp Act of 1977.

''(iv) The supplemental security income program under title XVI of the Social Security Act.

''(v) Any State general assistance program.

''(vi) Any other program of assistance funded, in whole or in part, by the Federal Government or any State or local government entity, for which eligibility for benefits is based on need, except the programs listed as exceptions in clauses (i) through (vi) of section 201(a)(1)(A) of the Immigration Reform Act of 1996.''.

(b) CONSTRUCTION.—Nothing in subparagraph (B), (C), or (D) of section 241(a)(5) of the Immigration and Nationality Act, as amended by subsection (a), may be construed to affect or apply to any determination of an alien as a public charge made before the date of the enactment of this Act.

(c) REVIEW OF STATUS.—

(1) IN GENERAL.—In reviewing any application by an alien for benefits under section 216, section 245, or chapter 2 of title III of the Immigration and Nationality Act, the Attorney General shall determine whether or not the applicant is described in section 241(a)(5)(A) of such Act, as so amended.

(2) GROUNDS FOR DENIAL.—If the Attorney General determines that an alien is described in section 241(a)(5)(A) of the Immigration and Nationality Act, the Attorney General shall deny such application and shall institute deportation proceedings with respect to such alien, unless the Attorney General exercises discretion to withhold or suspend deportation pursuant to any other section of such Act.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to aliens who enter the United States on or after the date of the enactment of this Act and to aliens who entered as nonimmigrants before such date but adjust or apply to adjust their status after such date.

SEC. 203. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

(a) ENFORCEABILITY.—No affidavit of support may be relied upon by the Attorney General or by any consular officer to establish that an alien is not excludable as a public charge under section 212(a)(4) of the Immigration and Nationality Act unless such affidavit is executed as a contract—

(1) which is legally enforceable against the sponsor by the sponsored individual, or by the Federal Government or any State, district, territory, or possession of the United States (or any subdivision of such State, district, territory, or possession of the United States) that provides any benefit described in section 241(a)(5)(D), as amended by section 202(a) of this Act, but not later than 10 years after the sponsored individual last receives any such benefit;

(2) in which the sponsor agrees to financially support the sponsored individual, so that he or she will not become a public charge, until the sponsored individual has worked in the United States for 40 qualifying quarters or has become a United States citizen, whichever occurs first; and

(3) in which the sponsor agrees to submit to the jurisdiction of any Federal or State court for the purpose of actions brought under subsection (d) or (e).

(b) FORMS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State, the Attorney General, and the Secretary of Health and Human Services shall jointly formulate the affidavit of support described in this section.

(c) NOTIFICATION OF CHANGE OF ADDRESS.—

(1) GENERAL REQUIREMENT.—The sponsor shall notify the Attorney General and the State, district, territory, or possession in which the sponsored individual is currently a resident within 30 days of any change of address of the sponsor during the period specified in subsection (a)(1).

(2) PENALTY.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall, after notice and opportunity to be heard, 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 individual has received any benefit described in section 241(a)(5)(D) of the Immigration and Nationality Act, as amended by section 202(a) of this Act, not less than $2,000 or more than $5,000.

(d) REIMBURSEMENT OF GOVERNMENT EXPENSES.—

(1) IN GENERAL.—

(A) REQUEST FOR REIMBURSEMENT.—Upon notification that a sponsored individual has received any benefit described in section 241(a)(5)(D) of the Immigration and Nationality Act, as amended by section 202(a) of this Act, the appropriate Federal, State, or local official shall request reimbursement from the sponsor for the amount of such assistance.

(B) REGULATIONS.—The Commissioner of Social Security shall prescribe such regulations as may be necessary to carry out subparagraph (A). Such regulations shall provide that notification be sent to the sponsor's last known address by certified mail.

(2) ACTION AGAINST SPONSOR.—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 make payments, an action may be brought against the sponsor pursuant to the affidavit of support.

(3) FAILURE TO MEET REPAYMENT TERMS.—If the sponsor agrees to make payments, but fails to abide by the repayment terms established by the agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.

(e) JURISDICTION.—

(1) IN GENERAL.—An action to enforce an affidavit of support executed under subsection (a) may be brought against the sponsor in any Federal or State court—

(A) by a sponsored individual, with respect to financial support; or

(B) by a Federal, State, or local agency, with respect to reimbursement.

(2) COURT MAY NOT DECLINE TO HEAR CASE.—For purposes of this section, no Federal or State court shall decline for lack of subject matter or personal jurisdiction to hear any action brought against a sponsor under paragraph (1) if—

(A) the sponsored individual is a resident of the State in which the court is located, or received public assistance while residing in the State; and

(B) such sponsor has received service of process in accordance with applicable law.

(f) DEFINITIONS.—For purposes of this section—

(1) SPONSOR.—The term ''sponsor'' means an individual who—

(A) is a United States citizen or national or an alien who is lawfully admitted to the United States for permanent residence;

(B) is at least 18 years of age;

(C) is domiciled in any of the several States of the United States, the District of Columbia, or any territory or possession of the United States; and

(D) demonstrates the means to maintain an annual income equal to at least 125 percent of the Federal poverty line for the individual and the individual's family (including the sponsored alien and any other alien sponsored by the individual), through evidence that includes a copy of the individual's Federal income tax return for the 3 most recent taxable years (which returns need show such level of annual income only in the most recent taxable year) 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 true copies of such returns.

In the case of an individual who is on active duty (other than active duty for training) in the Armed Forces of the United States, subparagraph (D) shall be applied by substituting ''100 percent'' for ''125 percent''.

(2) FEDERAL POVERTY LINE.—The term ''Federal poverty line'' means the level of income equal to the official poverty line (as defined by the Director of the Office of Management and Budget, as revised annually by the Secretary of Health and Human Services, in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902)) that is applicable to a family of the size involved.

(3) QUALIFYING QUARTER.—The term ''qualifying quarter'' means a three-month period in which the sponsored individual has—

(A) earned at least the minimum necessary for the period to count as one of the 40 quarters required to qualify for social security retirement benefits;

(B) not received need-based public assistance; and

(C) had income tax liability for the tax year of which the period was part.

SEC. 204. ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO FAMILY-SPONSORED IMMIGRANTS.

(a) DEEMING REQUIREMENT FOR FEDERAL AND FEDERALLY FUNDED PROGRAMS.—Subject

to subsection (d), for purposes of determining the eligibility of an alien for benefits, and the amount of benefits, under any public assistance program (as defined in section 201(f)(3)), the income and resources described in subsection (b) shall, notwithstanding any other provision of law, be deemed to be the income and resources of such alien.

(b) DEEMED INCOME AND RESOURCES.—The income and resources described in this subsection include the income and resources of—

(1) any person who, as a sponsor of an alien's entry into the United States, or in order to enable an alien lawfully to remain in the United States, executed an affidavit of support or similar agreement with respect to such alien, and

(2) the sponsor's spouse.

(c) LENGTH OF DEEMING PERIOD.—The requirement of subsection (a) shall apply for the period for which the sponsor has agreed, in such affidavit or agreement, to provide support for such alien, or for a period of 5 years beginning on the day such alien was first lawfully in the United States after the execution of such affidavit or agreement, whichever period is longer.

(d) EXCEPTIONS.—

(1) INDIGENCE.—

(A) IN GENERAL.—If a determination described in subparagraph (B) is made, the amount of income and resources of the sponsor or the sponsor's spouse which shall be attributed to the sponsored alien shall not exceed the amount actually provided for a period—

(i) beginning on the date of such determination and ending 12 months after such date, or

(ii) if the address of the sponsor is unknown to the sponsored alien, beginning on the date of such determination and ending on the date that is 12 months after the address of the sponsor becomes known to the sponsored alien or to the agency (which shall inform such alien of the address within 7 days).

(B) DETERMINATION DESCRIBED.—A determination described in this subparagraph is a determination by an agency that a sponsored alien would, in the absence of the assistance provided by the agency, be unable to obtain food and shelter, taking into account the alien's own income, plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor.

(2) EDUCATION ASSISTANCE.—

(A) IN GENERAL.—The requirements of subsection (a) shall not apply with respect to sponsored aliens who have received, or have been approved to receive, student assistance under title IV, V, IX, or X of the Higher Education Act of 1965 in an academic year which ends or begins in the calendar year in which this Act is enacted.

(B) DURATION.—The exception described in subparagraph (A) shall apply only for the period normally required to complete the course of study for which the sponsored alien receives assistance described in that subparagraph.

(3) CERTAIN SERVICES AND ASSISTANCE.—The requirements of subsection (a) shall not apply to any service or assistance described in section 201(a)(1)(A)(vii).

(e) DEEMING AUTHORITY TO STATE AND LOCAL AGENCIES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, but subject to exceptions equivalent to the exceptions described in subsection (d), the State or local government may, for purposes of determining the eligibility of an alien for benefits, and the amount of benefits, under any State or local program of assistance for which eligibility is based on need, or any need-based program of assistance administered by a State or local government (other than a program of assistance provided or funded, in whole or in part, by the Federal Government), require that the income and resources described in subsection (b) be deemed to be the income and resources of such alien.

(2) LENGTH OF DEEMING PERIOD.—Subject to exceptions equivalent to the exceptions described in subsection (d), a State or local government may impose the requirement described in paragraph (1) for the period for which the sponsor has agreed, in such affidavit or agreement, to provide support for such alien, or for a period of 5 years beginning on the day such alien was first lawfully in the United States after the execution of such affidavit or agreement, whichever period is longer.

SEC. 205. VERIFICATION OF STUDENT ELIGIBILITY FOR POSTSECONDARY FEDERAL STUDENT FINANCIAL ASSISTANCE.

(a) REPORT REQUIREMENT.—Not later than one year after the date of the enactment of this Act, the Secretary of Education and the Commissioner of Social Security shall jointly submit to the Congress a report on the computer matching program of the Department of Education under section 484(p) of the Higher Education Act of 1965.

(b) REPORT ELEMENTS.—The report shall include the following:

(1) An assessment by the Secretary and the Commissioner of the effectiveness of the computer matching program, and a justification for such assessment.

(2) The ratio of inaccurate matches under the program to successful matches.

(3) Such other information as the Secretary and the Commissioner jointly consider appropriate.

SEC. 206. AUTHORITY OF STATES AND LOCALITIES TO LIMIT ASSISTANCE TO ALIENS AND TO DISTINGUISH AMONG CLASSES OF ALIENS IN PROVIDING GENERAL PUBLIC ASSISTANCE.

(a) IN GENERAL.—Subject to subsection (b) and notwithstanding any other provision of law, a State or local government may prohibit or otherwise limit or restrict the eligibility of aliens or classes of aliens for programs of general cash public assistance furnished under the law of the State or a political subdivision of a State.

(b) LIMITATION.—The authority provided for under subsection (a) may be exercised only to the extent that any prohibitions, limitations, or restrictions imposed by a State or local government are not more restrictive than the prohibitions, limitations, or restrictions imposed under comparable Federal programs. For purposes of this section, attribution to an alien of a sponsor's income and resources (as described in section 204(b)) for purposes of determining eligibility for, and the amount of, benefits shall be considered less restrictive than a prohibition of eligibility for such benefits.

SEC. 207. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS NOT CITIZENS OR LAWFUL PERMANENT RESIDENTS.

(a) IN GENERAL.—

(1) LIMITATION.—Notwithstanding any other provision of law, an individual may not receive an earned income tax credit for any year in which such individual was not, for the entire year, either a United States citizen or national or a lawful permanent resident.

(2) IDENTIFICATION NUMBER REQUIRED.—Section 32(c)(1) of the Internal Revenue Code of 1986 (relating to individuals eligible to claim the earned income tax credit) is amended by adding at the end the following new subparagraph:

''(F) IDENTIFICATION NUMBER REQUIREMENT.—The term 'eligible individual' does not include any individual who does not include on the return of tax for the taxable year—

''(i) such individual's taxpayer identification number, and

''(ii) if the individual is married (within the meaning of section 7703), the taxpayer identification number of such individual's spouse.''.

(b) SPECIAL IDENTIFICATION NUMBER.—Section 32 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(k) IDENTIFICATION NUMBERS.—Solely for purposes of subsections (c)(1)(F) and (c)(3)(D), a taxpayer identification number means a social security number issued to an individual by the Social Security Administration (other than a social security number issued pursuant to clause (II) (or that portion of clause (III) that relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security Act).''.

(c) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Section 6213(g)(2) of the Internal Revenue Code of 1986 (relating to the definition of mathematical or clerical errors) is amended—

(1) by striking ''and'' at the end of subparagraph (D),

(2) by striking the period at the end of subparagraph (E) and inserting '', and'', and

(3) by inserting after subparagraph (E) the following new subparagraph:

''(F) an unintended omission of a correct taxpayer identification number required under section 32 (relating to the earned income tax credit) to be included on a return.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 208. INCREASED MAXIMUM CRIMINAL PENALTIES FOR FORGING OR COUNTERFEITING SEAL OF A FEDERAL DEPARTMENT OR AGENCY TO FACILITATE BENEFIT FRAUD BY AN UNLAWFUL ALIEN.

Section 506 of title 18, United States Code, is amended to read as follows:

''§ 506. Seals of departments or agencies

''(a) Whoever—

''(1) falsely makes, forges, counterfeits, mutilates, or alters the seal of any department or agency of the United States, or any facsimile thereof;

''(2) knowingly uses, affixes, or impresses any such fraudulently made, forged, counterfeited, mutilated, or altered seal or facsimile thereof to or upon any certificate, instrument, commission, document, or paper of any description; or

''(3) with fraudulent intent, possesses, sells, offers for sale, furnishes, offers to furnish, gives away, offers to give away, transports, offers to transport, imports, or offers to import any such seal or facsimile thereof, knowing the same to have been so falsely made, forged, counterfeited, mutilated, or altered,

shall be fined under this title, or imprisoned not more than 5 years, or both.

''(b) Notwithstanding subsection (a) or any other provision of law, if a forged, counterfeited, mutilated, or altered seal of a department or agency of the United States, or any facsimile thereof, is—

''(1) so forged, counterfeited, mutilated, or altered;

''(2) used, affixed, or impressed to or upon any certificate, instrument, commission, document, or paper of any description; or

''(3) with fraudulent intent, possessed, sold, offered for sale, furnished, offered to furnish, given away, offered to give away, transported, offered to transport, imported, or offered to import,

with the intent or effect of facilitating an unlawful alien's application for, or receipt of, a Federal benefit, the penalties which may be imposed for each offense under subsection (a) shall be two times the maximum fine, and 3 times the maximum term of imprisonment, or both, that would otherwise be imposed for an offense under subsection (a).

''(c) For purposes of this section—

''(1) the term 'Federal benefit' means—

''(A) the issuance of any grant, contract, loan, professional license, or commercial license provided by any agency of the United States or by appropriated funds of the United States; and

''(B) any retirement, welfare, Social Security, health (including treatment of an emergency medical condition in accordance with section 1903(v) of the Social Security Act (19 U.S.C. 1396b(v))), disability, veterans, public housing, education, food stamps, or unemployment benefit, or any similar benefit for which payments or assistance are provided by an agency of the United States or by appropriated funds of the United States;

''(2) the term 'unlawful alien' means an individual who is not—

''(A) a United States citizen or national;

''(B) an alien lawfully admitted for permanent residence under the Immigration and Nationality Act;

''(C) an alien granted asylum under section 208 of such Act;

''(D) a refugee admitted under section 207 of such Act;

''(E) an alien whose deportation has been withheld under section 243(h) of such Act; or

''(F) an alien paroled into the United States under section 215(d)(5) of such Act for a period of at least 1 year; and

''(3) each instance of forgery, counterfeiting, mutilation, or alteration shall constitute a separate offense under this section.''.

SEC. 209. STATE OPTION UNDER THE MEDICAID PROGRAM TO PLACE ANTI-FRAUD INVESTIGATORS IN HOSPITALS.

(a) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) by striking ''and'' at the end of paragraph (61);

(2) by striking the period at the end of paragraph (62) and inserting ''; and''; and

(3) by adding after paragraph (62) the following new paragraph:

''(63) in the case of a State that is certified by the Attorney General as a high illegal immigration State (as determined by the Attorney General), at the election of the State, establish and operate a program for the placement of anti-fraud investigators in State, county, and private hospitals located in the State to verify the immigration status and income eligibility of applicants for medical assistance under the State plan prior to the furnishing of medical assistance.''.

(b) PAYMENT.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended—

(1) by striking ''plus'' at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting ''; plus''; and

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

''(8) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b)) of the total amount expended during such quarter which is attributable to operating a program under section 1902(a)(63).''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the first day of the first calendar quarter beginning after the date of the enactment of this Act.

SEC. 210. 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 Refugee Resettlement in a manner that ensures that each qualifying county receives 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 earlier than 60 months before the beginning of such fiscal year.''.

Subtitle B—Miscellaneous Provisions

SEC. 211. REIMBURSEMENT OF STATES AND LOCALITIES FOR EMERGENCY MEDICAL ASSISTANCE FOR CERTAIN ILLEGAL ALIENS.

(a) REIMBURSEMENT.—The Attorney General shall, subject to the availability of appropriations, fully reimburse the States and political subdivisions of the States for costs incurred by the States and political subdivisions for emergency ambulance service provided to any alien who—

(1) entered the United States without inspection or at any time or place other than as designated by the Attorney General;

(2) is under the custody of a State or a political subdivision of a State as a result of transfer or other action by Federal authorities; and

(3) is being treated for an injury suffered while crossing the international border between the United States and Mexico or between the United States and Canada.

(b) STATUTORY CONSTRUCTION.—Nothing in this section requires that the alien be arrested by Federal authorities before entering into the custody of the State or political subdivision.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General such sums as may be necessary to carry out the provisions of this section.

(2) STATUTORY CONSTRUCTION.—Nothing in this Act may be construed to prevent the Attorney General from seeking reimbursement from an alien described in subsection (a) for the costs of the emergency medical services provided to the alien.

SEC. 212. 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 through a public hospital, other public facility, or other facility (including a hospital that is eligible for an additional payment adjustment under section 1886(d)(5)(F) or section 1923 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 for its costs of providing such services, but only to the extent that the costs of the State or local government are not fully reimbursed through any other Federal program and cannot be recovered from the alien or other entity.

(b) CONFIRMATION OF IMMIGRATION STATUS.—No payment shall be made under this section with respect to services furnished to aliens described in subsection (a) unless the State or local government establishes that it has provided services to such aliens in accordance with procedures established by the Secretary of Health and Human Services, after consultation with the Attorney General and State and local officials.

(c) ADMINISTRATION.—This section shall be administered by the Attorney General, in consultation with the Secretary of Health and Human Services.

(d) EFFECTIVE DATE.—This section shall not apply to emergency medical services furnished before October 1, 1995.

SEC. 213. PILOT PROGRAMS.

(a) ADDITIONAL COMMUTER BORDER CROSSING FEES PILOT PROJECTS.—In addition to the land border fee pilot projects extended by the fourth proviso under the heading '' Immigration and Naturalization Service, Salaries and Expenses'' of Public Law 103–121, the Attorney General may establish another such pilot project on the northern land border and another such pilot project on the southern land border of the United States.

(b) AUTOMATED PERMIT PILOT PROJECTS.—The Attorney General and the Commissioner of Customs are authorized to conduct pilot projects to demonstrate—

(1) the feasibility of expanding port of entry hours at designated ports of entry on the United States-Canada border; or

(2) the use of designated ports of entry after working hours through the use of card reading machines or other appropriate technology.

SEC. 214. USE OF PUBLIC SCHOOLS BY NONIMMIGRANT FOREIGN STUDENTS.

(a) PERSONS ELIGIBLE FOR STUDENT VISAS.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—

(1) in clause (i) by striking ''academic high school, elementary school, or other academic institution or in a language training program'' and inserting in lieu thereof ''public elementary or public secondary school (if the alien shows to the satisfaction of the consular officer at the time of application for a visa, or of the Attorney General at the time of application for admission or adjustment of status, that (I) the alien will in fact reimburse such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), private elementary or private secondary school, or postsecondary academic institution, or in a language-training program''; and

(2) by inserting before the semicolon at the end of clause (ii) the following: '': *Provided*, That nothing in this paragraph shall be construed to prevent a child who is present in the United States in a nonimmigrant status other than that conferred by paragraph (B), (C), (F)(i), or (M)(i), from seeking admission to a public elementary school or public secondary school for which such child may otherwise be qualified.'';

(b) EXCLUSION OF STUDENT VISA ABUSERS.—Section 212(a) (8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

''(9) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement) is excludable''; and

(c) DEPORTATION OF STUDENT VISA ABUSERS.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

''(6) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is deportable''.

This section shall become effective 1 day after the date of enactment.

SEC. 215. PILOT PROGRAM TO COLLECT INFORMATION RELATION TO NONIMMIGRANT FOREIGN STUDENTS.

(a) IN GENERAL.—(1) The Attorney General and the Secretary of State shall jointly develop and conduct a pilot program to collect electronically from approved colleges and universities in the United States the information described in subsection (c) with respect to aliens who—

(A) have the status, or are applying for the status, of nonimmigrants under section 101(a)(15)(F), (J), or (M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F), (J), or (M); and

(B) are nationals of the countries designated under subsection (b).

(2) The pilot program shall commence not later than January 1, 1998.

(b) COVERED COUNTRIES.—The Attorney General and the Secretary of State shall jointly designate countries for purposes of subsection (a)(1)(B). The Attorney General and the Secretary shall initially designate not less than five countries and may designate additional countries at any time while the pilot program is being conducted.

(C) INFORMATION TO BE COLLECTED.—

(1) IN GENERAL.—The information for collection under subsection (a) consists of—

(A) the identity and current address in the United States of the alien;

(B) the nonimmigrant classification of the alien and the date on which a visa under the classification was issued or extended or the date on which a change to such classification was approved by the Attorney General; and

(C) the academic standing of the alien, including any disciplinary action taken by the college or university against the alien as a result of the alien's convicted of a crime.

(2) FERPA.—The Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g) shall not apply to aliens described in subsection (a) to the extent that the Attorney General and the Secretary of State determine necessary to carry out the pilot program.

(d) PARTICIPATION BY COLLEGES AND UNIVERSITIES.—(1) The information specified in subsection (c) shall be provided by approved colleges and universities as a conditon of—

(A) the continued approval of the colleges and universities under section 101(a)(15)(F) or (M) of the Immigration and Nationality Act, or

(B) the issuance of visas to aliens for purposes of studying, or otherwise participating, at such colleges and universities in a program under section 101(a)(15)(J) of such Act.

(2) If an approved college or university fails to provide the specified information, such approvals and such issuance of visas shall be revoked or denied.

(e) FUNDING.—(1) The Attorney General and the Secretary shall use funds collected under section 281(b) of the Immigration and Nationality Act, as added by this subsection, to pay for the costs of carrying out this section.

(2) Section 281 of the Immigration and Nationality Act (8 U.S.C. 1351) is amended—

(A) by inserting ''(a)'' after ''**SEC. 281.**''; and

(B) by adding at the end the following:

''(b)(1) In addition to fees that are prescribed under subsection (a), the Secretary of State shall impose and collect a fee on all visas issued under the provisions of section 101(a)(15)(F), (J), or (M) of the Immigration and Nationality Act. With respect to visas issued under the provisions of section 101(a)(15)(J), this subsection shall not apply to those ''J'' visa holders whose presence in the United States is sponsored by the United States government.''

''(2) The Attorney General shall impose and collect a fee on all changes of nonimmigrant status under section 248 to such classifications. This subsection shall not apply to those ''J'' visa holders whose presence in the United States is sponsored by the United States government.

''(3) Except as provided in section 205(g)(2) of the Immigration Reform Act of 1996, the amount of the fees imposed and collected under paragraphs (1) and (2) shall be the amount which the Attorney General and the Secretary jointly determine is necessary to recover the costs of conducting the information-collection program described in subsection (a), but may not exceed $100.

''(4) Funds collected under paragraph (1) shall be available to the Attorney General and the Secretary, without regard to appropriation Acts and without fiscal year limitation, to supplement funds otherwise available to the Department of Justice and the Department of State, respectively.''

(3) The amendments made by paragraphs (1) and (2) shall become effective April 1, 1997.

(f) JOINT REPORT.—Not later than five years after the commencement of the pilot program established under subsection (a), the Attorney General and the Secretary of State shall jointly submit to the Committees on the Judiciary of the United States Senate and House of Representatives on the operations of the pilot program and the feasibility of expanding the program to cover the nationals of all countries.

(g) WORLDWIDE APPLICABILITY OF THE PROGRAM.—(1)(A) Not later than six months after the submission of the report required by subsection (f), the Secretary of State and the Attorney General shall jointly commence expansion of the pilot program to cover the nationals of all countries.

(B) Such expansion shall be completed not later than one year after the date of the submission of the report referred to in subsection (f).

(2) After the program has been expanded, as provided in paragraph (1), the Attorney General and the Secretary of State may, on a periodic basis, jointly revise the amount of the fee imposed and collected under section 281(b) of the Immigration and Nationality Act in order to take into account changes in the cost of carrying out the program.

(h) DEFINITION.—As used in this section, the phrase ''approved colleges and universities'' means colleges and universities approved by the Attorney General, in consultation with the Secretary of Education, under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)).

SEC. 216. FALSE CLAIMS OF U.S. CITIZENSHIP.

(a) EXCLUSION OF ALIENS WHO HAVE FALSELY CLAIMED U.S. CITIZENSHIP.—Section 212(a)(9) (8 U.S.C. 1182(a)(9)) is amended by adding at the end the following new subparagraph:

''(D) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is excludable.''

(b) DEPORTATION OF ALIENS WHO HAVE FALSELY CLAIMED U.S. CITIZENSHIP.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

''(6) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is deportable''.

''SEC. 217. VOTING BY ALIENS.

(a) CRIMINAL PENALTY FOR VOTING BY ALIENS IN FEDERAL ELECTION.—Title 18, United States Code, is amended by adding the following new section:

''§ 611. Voting by aliens

''(a) It shall be unlawful for any alien to vote in any election held solely or in part for the purpose of electing a candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, unless—

''(1) the election is held partly for some other purpose;

''(2) aliens are authorized to vote for such other purpose under a State constitution or statute or a local ordinance; and

''(3) voting for such other purpose is conducted independently of voting for a candidate for such Federal offices, in such a manner that an alien has the opportunity to vote for such other purpose, but not an opportunity to vote for a candidate for any one or more of such Federal offices.''

''(b) Any person who violates this section shall be fined not more than $5,000 or imprisoned not more than one year or both'';

(b) EXCLUSION OF ALIENS WHO HAVE UNLAWFULLY VOTED.—Section 212(a)(8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

''(9) UNLAWFUL VOTERS.—Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is excludable.''

(c) DEPORTATION OF ALIENS WHO HAVE UNLAWFULLY VOTED.—Section 241(a)(8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

''(6) UNLAWFUL VOTERS.—Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is deportable''.

SEC. 218 EXCLUSION GROUNDS FOR OFFENSES OF DOMESTIC VIOLENCE, STALKING, CRIMES AGAINST CHILDREN, AND CRIMES OF SEXUAL VIOLENCE.

(a) IN GENERAL.—Section 241(a)(2) (8 U.S.C. 1251(a)(2)) is amended by adding at the end the following:

''(E) DOMESTIC VIOLENCE, VIOLATION OF PROTECTION ORDER, CRIMES AGAINST CHILDREN AND STALKING.—(i) Any alien who at any time after entry is convicted of a crime of domestic violence is deportable.

''(ii) Any alien who at any time after entry engages in conduct that violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued is deportable.

''(iii) Any alien who at any time after entry is convicted of a crime of stalking is deportable.

''(iv) Any alien who at any time after entry is convicted of a crime of child abuse, child sexual abuse, child neglect, or child abandonment is deportable.

''(F) CRIMES OF SEXUAL VIOLENCE.—Any alien who at any time after entry is convicted of a crime of rape, aggravated sodomy, aggravated sexual abuse, sexual abuse, abusive sexual contact, or other crime of sexual violence is deportable.''.

(b) DEFINITIONS.—Section 101(a) (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraphs:

''(47) The term 'crime of domestic violence' means any felony or misdemeanor crime of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction where the offense occurs, or by any other adult person against a victim who is protected from that person's acts under the domestic or family violence laws of the United States or any State, Indian tribal government, or unit of local government.

''(48) The term 'protection order' means any injunction issued for the purpose of preventing violent or threatening acts of domestic violence, including temporary or final orders issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding.''.

(c) This section will become effective one day after the date of enactment of the act.

Subtitle C—Effective Dates

SEC. 221. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b) or as otherwise provided in this title, this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) BENEFITS.—The provisions of section 201 and 204 shall apply to benefits and to applications for benefits received on or after the date of the enactment of this Act.

SIMPSON AMENDMENT NO. 3744

Mr. DOLE (for Mr. SIMPSON) proposed an amendment to amendment No. 3744 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

In pending amendment strike all after the word ''SECTION 1.'' and insert the following:

SHORT TITLE; REFERENCES IN ACT.

(a) SHORT TITLE.—This Act may be cited as the ''Immigration Control and Financial Responsibility Act of 1996''.

(b) REFERENCES IN ACT.—Except as otherwise specifically provided in this Act, whenever in this Act an amendment or repeal is expressed as an amendment to or repeal of a provision, the reference shall be deemed to be made to the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title; references in Act.
Sec. 2. Table of contents.

TITLE I—IMMIGRATION CONTROL

Subtitle A—Law Enforcement

Part 1—Additional Enforcement Personnel and Facilities

Sec. 101. Border Patrol agents.
Sec. 102. Investigators.
Sec. 103. Land border inspectors.
Sec. 104. Investigators of visa overstayers.
Sec. 105. Increased personnel levels for the Labor Department.
Sec. 106. Increase in INS detention facilities.
Sec. 107. Hiring and training standards.
Sec. 108. Construction of fencing and road improvements in the border area near San Diego, California.

Part 2—Verification of Eligibility to Work and to Receive Public Assistance

SUBPART A—DEVELOPMENT OF NEW VERIFICATION SYSTEM

Sec. 111. Establishment of new system.
Sec. 112. Demonstration projects.
Sec. 113. Comptroller General monitoring and reports.
Sec. 114. General nonpreemption of existing rights and remedies.
Sec. 115. Definitions.

SUBPART B—STRENGTHENING EXISTING VERIFICATION PROCEDURES

Sec. 116. Changes in list of acceptable employment-verification documents.
Sec. 117. Treatment of certain documentary practices as unfair immigration-related employment practices.
Sec. 118. Improvements in identification-related documents.
Sec. 119. Enhanced civil penalties if labor standards violations are present.
Sec. 120. Increased number of Assistant United States Attorneys to prosecute cases of unlawful employment of aliens or document fraud.
Sec. 120A. Subpoena authority for cases of unlawful employment of aliens or document fraud.
Sec. 120B. Task force to improve public education regarding unlawful employment of aliens and unfair immigration-related employment practices.
Sec. 120C. Nationwide fingerprinting of apprehended aliens.
Sec. 120D. Application of verification procedures to State agency referrals of employment.
Sec. 120E. Retention of verification form.

Part 3—Alien Smuggling; Document Fraud

Sec. 121. Wiretap authority for investigations of alien smuggling or document fraud.
Sec. 122. Amendments to RICO relating to alien smuggling and document fraud offenses.
Sec. 123. Increased criminal penalties for alien smuggling.
Sec. 124. Admissibility of videotaped witness testimony.
Sec. 125. Expanded forfeiture for alien smuggling and document fraud.
Sec. 126. Criminal forfeiture for alien smuggling or document fraud.
Sec. 127. Increased criminal penalties for fraudulent use of government-issued documents.
Sec. 128. Criminal penalty for false statement in a document required under the immigration laws or knowingly presenting document which fails to contain reasonable basis in law or fact.
Sec. 129. New criminal penalties for failure to disclose role as preparer of false application for asylum or for preparing certain post-conviction applications.
Sec. 130. New document fraud offenses; new civil penalties for document fraud.
Sec. 131. New exclusion for document fraud or for failure to present documents.
Sec. 132. Limitation on withholding of deportation and other benefits for aliens excludable for document fraud or failing to present documents, or excludable aliens apprehended at sea.
Sec. 133. Penalties for involuntary servitude.
Sec. 134. Exclusion relating to material support to terrorists.

Part 4—Exclusion and Deportation

Sec. 141. Special exclusion procedure.
Sec. 142. Streamlining judicial review of orders of exclusion or deportation.
Sec. 143. Civil penalties for failure to depart.
Sec. 144. Conduct of proceedings by electronic means.
Sec. 145. Subpoena authority.
Sec. 146. Language of deportation notice; right to counsel.
Sec. 147. Addition of nonimmigrant visas to types of visa denied for countries refusing to accept deported aliens.
Sec. 148. Authorization of special fund for costs of deportation.
Sec. 149. Pilot program to increase efficiency in removal of detained aliens.
Sec. 150. Limitations on relief from exclusion and deportation.
Sec. 151. Alien stowaways.
Sec. 152. Pilot program on interior repatriation and other methods to multiple unlawful entries.
Sec. 153. Pilot program on use of closed military bases for the detention of excludable or deportable aliens.
Sec. 154. Requirement for immunization against vaccine-preventable diseases for aliens seeking permanent residency.
Sec. 155. Certification requirements for foreign health-care workers.
Sec. 156. Increased bar to reentry for aliens previously removed.
Sec. 157. Elimination of consulate shopping for visa overstays.
Sec. 158. Incitement as a basis for exclusion from the United States.
Sec. 159. Conforming amendment to withholding of deportation.

Part 5—Criminal Aliens

Sec. 161. Amended definition of aggravated felony.
Sec. 162. Ineligibility of aggravated felons for adjustment of status.
Sec. 163. Expeditious deportation creates no enforceable right for aggravated felons.
Sec. 164. Custody of aliens convicted of aggravated felonies.
Sec. 165. Judicial deportation.
Sec. 166. Stipulated exclusion or deportation.
Sec. 167. Deportation as a condition of probation.
Sec. 168. Annual report on criminal aliens.
Sec. 169. Undercover investigation authority.
Sec. 170. Prisoner transfer treaties.
Sec. 170A. Prisoner transfer treaties study.
Sec. 170B. Using alien for immoral purposes, filing requirement.
Sec. 170C. Technical corrections to Violent Crime Control Act and Technical Corrections Act.
Sec. 170D. Demonstration project for identification of illegal aliens in incarceration facility of Anaheim, California.

Part 6—Miscellaneous

Sec. 171. Immigration emergency provisions.
Sec. 172. Authority to determine visa processing procedures.
Sec. 173. Joint study of automated data collection.
Sec. 174. Automated entry-exit control system.
Sec. 175. Use of legalization and special agricultural worker information.
Sec. 176. Rescission of lawful permanent resident status.
Sec. 177. Communication between Federal, State, and local government agencies, and the Immigration and Naturalization Service.
Sec. 178. Authority to use volunteers.
Sec. 179. Authority to acquire Federal equipment for border.

Sec. 180. Limitation on legalization litigation.
Sec. 181. Limitation on adjustment of status.
Sec. 182. Report on detention space.
Sec. 183. Compensation of special inquiry officers.
Sec. 184. Acceptance of State services to carry out immigration enforcement.
Sec. 185. Alien witness cooperation.

Subtitle B—Other Control Measures

Part 1—Parole Authority

Sec. 191. Usable only on a case-by-case basis for humanitarian reasons or significant public benefit.
Sec. 192. Inclusion in worldwide level of family-sponsored immigrants.

Part 2—Asylum

Sec. 193. Limitations on asylum applications by aliens using documents fraudulently or by excludable aliens apprehended at sea; use of special exclusion procedures.
Sec. 194. Time limitation on asylum claims.
Sec. 195. Limitation on work authorization for asylum applicants.
Sec. 196. Increased resources for reducing asylum application backlogs.

Part 3—Cuban Adjustment Act

Sec. 197. Repeal and exception.

TITLE II—FINANCIAL RESPONSIBILITY

Subtitle A—Receipt of Certain Government Benefits

Sec. 201. Ineligibility of excludable, deportable, and nonimmigrant aliens.
Sec. 202. Definition of ''public charge'' for purposes of deportation.
Sec. 203. Requirements for sponsor's affidavit of support.
Sec. 204. Attribution of sponsor's income and resources to family-sponsored immigrants.
Sec. 205. Verification of student eligibility for postsecondary Federal student financial assistance.
Sec. 206. Authority of States and localities to limit assistance to aliens and to distinguish among classes of aliens in providing general public assistance.
Sec. 207. Earned income tax credit denied to individuals not citizens or lawful permanent residents.
Sec. 208. Increased maximum criminal penalties for forging or counterfeiting seal of a Federal department or agency to facilitate benefit fraud by an unlawful alien.
Sec. 209. State option under the medicaid program to place anti-fraud investigators in hospitals.
Sec. 210. Computation of targeted assistance.

Subtitle B—Miscellaneous Provisions

Sec. 211. Reimbursement of States and localities for emergency medical assistance for certain illegal aliens.
Sec. 212. Treatment of expenses subject to emergency medical services exception.
Sec. 213. Pilot programs.

Subtitle C—Effective Dates

Sec. 221. Effective dates.

Subtitle A—Law Enforcement

PART 1—ADDITIONAL ENFORCEMENT PERSONNEL AND FACILITIES

SEC. 101. BORDER PATROL AGENTS.

(a) BORDER PATROL AGENTS.—The Attorney General, in fiscal year 1996 shall increase by no less than 700, and in each of fiscal years 1997, 1998, 1999, and 2000, shall increase by no less than 1,000, the number of positions for full-time, active-duty Border Patrol agents within the Immigration and Naturalization Service above the number of such positions for which funds were allotted for the preceding fiscal year.

(b) BORDER PATROL SUPPORT PERSONNEL.—The Attorney General, in each of fiscal years 1996, 1997, 1998, 1999, and 2000, may increase by not more than 300 the number of positions for personnel in support of Border Patrol agents above the number of such positions for which funds were allotted for the preceding fiscal year.

SEC. 102. INVESTIGATORS.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Department of Justice such funds as may be necessary to enable the Commissioner of the Immigration and Naturalization Service to increase the number of investigators and support personnel to investigate potential violations of sections 274 and 274A of the Immigration and Nationality Act (8 U.S.C. 1324 and 1324a) by a number equivalent to 300 full-time active-duty investigators in each of fiscal years 1996, 1997, and 1998.

(b) LIMITATION ON OVERTIME.—None of the funds made available to the Immigration and Naturalization Service under this section shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000 for any fiscal year.

SEC. 103. LAND BORDER INSPECTORS.

In order to eliminate undue delay in the thorough inspection of persons and vehicles lawfully attempting to enter the United States, the Attorney General and the Secretary of the Treasury shall increase, by approximately equal numbers in each of fiscal years 1996 and 1997, the number of full-time land border inspectors assigned to active duty by the Immigration and Naturalization Service and the United States Customs Service to a level adequate to assure full staffing during peak crossing hours of all border crossing lanes currently in use, under construction, or whose construction has been authorized by Congress, except such low-use lanes as the Attorney General may designate.

SEC. 104. INVESTIGATORS OF VISA OVERSTAYERS.

There are authorized to be appropriated to the Department of Justice such funds as may be necessary to enable the Commissioner of the Immigration and Naturalization Service to increase the number of investigators and support personnel to investigate visa overstayers by a number equivalent to 300 full-time active-duty investigators in fiscal year 1996.

SEC. 105. INCREASED PERSONNEL LEVELS FOR THE LABOR DEPARTMENT.

(a) INVESTIGATORS.—The Secretary of Labor, in consultation with the Attorney General, is authorized to hire in the Wage and Hour Division of the Department of Labor for fiscal years 1996 and 1997 not more than 350 investigators and staff to enforce existing legal sanctions against employers who violate current Federal wage and hour laws.

(b) ASSIGNMENT OF ADDITIONAL PERSONNEL.—Individuals employed to fill the additional positions described in subsection (a) shall be assigned to investigate violations of wage and hour laws in areas where the Attorney General has notified the Secretary of Labor that there are high concentrations of aliens present in the United States in violation of law.

(c) PREFERENCE FOR BILINGUAL WAGE AND HOUR INSPECTORS.—In hiring new wage and our inspectors pursuant to this section, the Secretary of Labor shall give priority to the employment of multilingual candidates who are proficient in both English and such other language or languages as may be spoken in the region in which such inspectors are likely to be deployed.

SEC. 106. 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 before the end of fiscal year 1997.

SEC. 107. HIRING AND TRAINING STANDARDS.

(a) REVIEW OF HIRING STANDARDS.—Within 60 days of the enactment of this title, the Attorney General shall review all prescreening and hiring standards to be utilized by the Immigration and Naturalization Service to increase personnel pursuant to this title and, where necessary, revise those standards to ensure that they are consistent with relevant standards of professionalism.

(b) CERTIFICATION.—At the conclusion of each of the fiscal years 1996, 1997, 1998, 1999, and 2000, the Attorney General shall certify in writing to the Congress that all personnel hired pursuant to this title for the previous fiscal year were hired pursuant to the appropriate standards.

(c) REVIEW OF TRAINING STANDARDS.—(1) Within 180 days of the date of the enactment of this Act, the Attorney General shall review the sufficiency of all training standards to be utilized by the Immigration and Naturalization Service in training all personnel hired pursuant to this title.

(2)(A) The Attorney General shall submit a report to the Congress on the results of the review conducted under paragraph (1), including—

(i) a description of the status of ongoing efforts to update and improve training throughout the Immigration and Naturalization Service, and

(ii) a statement of a timeframe for the completion of those efforts.

(B) In addition, the report shall disclose those areas of training that the Attorney General determines require additional or ongoing review in the future.

SEC. 108. CONSTRUCTION OF FENCING AND ROAD IMPROVEMENTS IN THE BORDER AREA NEAR SAN DIEGO, CALIFORNIA.

(a) IN GENERAL.—The Attorney General shall provide for the construction along the 14 miles of the international land border between the United States and Mexico, 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.

(b) 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).

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

PART 2—VERIFICATION OF ELIGIBILITY TO WORK AND TO RECEIVE PUBLIC ASSISTANCE

Subpart A—Development of New Verification System

SEC. 111. ESTABLISHMENT OF NEW SYSTEM.

(a) IN GENERAL.—(1) Not later than three years after the date of enactment of this Act or, within one year after the end of the last renewed or additional demonstration project

(if any) conducted pursuant to the exception in section 112(a)(4), whichever is later, the President shall—

(A) develop and recommend to the Congress a plan for the establishment of a data system or alternative system (in this part referred to as the ''system''), subject to subsections (b) and (c), to verify eligibility for employment in the United States, and immigration status in the United States for purposes of eligibility for benefits under public assistance programs (as defined in section 201(f)(3) or government benefits described in section 201(f)(4));

(B) submit to the Congress a report setting forth—

(i) a description of such recommended plan;

(ii) data on and analyses of the alternatives considered in developing the plan described in subparagraph (A), including analyses of data from the demonstration projects conducted pursuant to section 112; and

(iii) data on and analysis of the system described in subparagraph (A), including estimates of—

(I) the proposed use of the system, on an industry-sector by industry-sector basis;

(II) the public assistance programs and government benefits for which use of the system is cost-effective and otherwise appropriate;

(III) the cost of the system;

(IV) the financial and administrative cost to employers;

(V) the reduction of undocumented workers in the United States labor force resulting from the system;

(VI) any unlawful discrimination caused by or facilitated by use of the system;

(VII) any privacy intrusions caused by misuse or abuse of system;

(VIII) the accuracy rate of the system; and

(IX) the overall costs and benefits that would result from implementation of the system.

(2) The plan described in paragraph (1) shall take effect on the date of enactment of a bill or joint resolution approving the plan.

(b) OBJECTIVES.—The plan described in subsection (a)(1) shall have the following objectives:

(1) To substantially reduce illegal immigration and unauthorized employment of aliens.

(2) To increase employer compliance, especially in industry sectors known to employ undocumented workers, with laws governing employment of aliens.

(3) To protect individuals from national origin or citizenship-based unlawful discrimination and from loss of privacy caused by use, misuse, or abuse of personal information.

(4) To minimize the burden on business of verification of eligibility for employment in the United States, including the cost of the system to employers.

(5) To ensure that those who are ineligible for public assistance or other government benefits are denied or terminated, and that those eligible for public assistance or other government benefits shall—

(A) be provided a reasonable opportunity to submit evidence indicating a satisfactory immigration status; and

(B) not have eligibility for public assistance or other government benefits denied, reduced, terminated, or unreasonably delayed on the basis of the individual's immigration status until such a reasonable opportunity has been provided.

(c) SYSTEM REQUIREMENTS.—(1) A verification system may not be implemented under this section unless the system meets the following requirements:

(A) The system must be capable of reliably determining with respect to an individual whether—

(i) the person with the identity claimed by the individual is authorized to work in the United States or has the immigration status being claimed; and

(ii) the individual is claiming the identity of another person.

(B) Any document (other than a document used under section 274A of the Immigration and Nationality Act) required by the system must be presented to or examined by either an employer or an administrator of public assistance or other government benefits, as the case may be, and—

(i) must be in a form that is resistant to counterfeiting and to tampering; and

(ii) must not be required by any Government entity or agency as a national identification card or to be carried or presented except—

(I) to verify eligibility for employment in the United States or immigration status in the United States for purposes of eligibility for benefits under public assistance programs (as defined in section 201(f)(3) or government benefits described in section 201(f)(4));

(II) to enforce the Immigration and Nationality Act or sections 911, 1001, 1028, 1542, 1546, or 1621 of title 18, United States Code; or

(III) if the document was designed for another purposes (such as a license to drive a motor vehicle, a certificate of birth, or a social security account number card issued by the Administration), as required under law for such other purpose.

(C) The system must not be used for law enforcement purposes other than the purposes described in subparagraph (B).

(D) The system must ensure that information is complete, accurate, verifiable, and timely. Corrections or additions to the system records of an individual provided by the individual, the Administration, or the Service, or other relevant Federal agency, must be checked for accuracy, processed, and entered into the system within 10 business days after the agency's acquisition of the correction or additional information.

(E)(i) Any personal information obtained in connection with a demonstration project under section 112 must not be made available to Government agencies, employers, or other persons except to the extent necessary—

(I) to verify, by an individual who is authorized to conduct the employment verification process, that an employee is not an unauthorized alien (as defined in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3));

(II) to take other action required to carry out section 112;

(III) to enforce the Immigration and Nationality Act or section 911, 1001, 1028, 1542, 1546, or 1621 of title 18, United States Code; or

(IV) to verify the individual's immigration status for purposes of determining eligibility for Federal benefits under public assistance programs (defined in section 201(f)(3) or government benefits described in section 201(f)(4)).

(ii) In order to ensure the integrity, confidentiality, and security of system information, the system and those who use the system must maintain appropriate administrative, technical, and physical safeguards, such as—

(I) safeguards to prevent unauthorized disclosure of personal information, including passwords, cryptography, and other technologies;

(II) audit trails to monitor system use; or

(III) procedures giving an individual the right to request records containing personal information about the individual held by agencies and used in the system, for the purpose of examination, copying, correction, or amendment, and a method that ensures notice to individuals of these procedures.

(F) A verification that a person is eligible for employment in the United States may not be withheld or revoked under the system for any reasons other than a determination pursuant to section 274A of the Immigration and Nationality Act.

(G) The system must be capable of accurately verifying electronically within 5 business days, whether a person has the required immigration status in the United States and is legally authorized for employment in the United States in a substantial percentage of cases (with the objective of not less than 99 percent).

(H) There must be reasonable safeguards against the system's resulting in unlawful discriminatory practices based on national origin or citizenship status, including—

(i) the selective or unauthorized use of the system to verify eligibility;

(ii) the use of the system prior to an offer of employment;

(iii) the exclusion of certain individuals from consideration for employment as a result of a perceived likelihood that additional verification will be required, beyond what is required for most job applicants; or

(iv) denial reduction, termination, or unreasonable delay of public assistance to an individual as a result of the perceived likelihood that such additional verification will be required.

(2) As used in this subsection, the term ''business day'' means any day other than Saturday, Sunday, or any day on which the appropriate Federal agency is closed.

(d) REMEDIES AND PENALTIES FOR UNLAWFUL DISCLOSURE.—

(1) CIVIL REMEDIES.—

(A) RIGHT OF INFORMATIONAL PRIVACY.—The Congress declares that any person who provides to an employer the information required by this section or section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) has a privacy expectation that the information will only be used for compliance with this Act or other applicable Federal, State, or local law.

(B) CIVIL ACTIONS.—A employer, or other person or entity, who knowingly and willfully discloses the information that an employee is required to provide by this section or section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) for any purpose not authorized by this Act or other applicable Federal, State, or local law shall be liable to the employee for actual damages. An action may be brought in any Federal, State, or local court having jurisdiction over the matter.

(2) CRIMINAL PENALTIES.—Any employer, or other person or entity, who willfully and knowingly obtains, uses, or discloses information required pursuant to this section or section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) for any purpose not authorized by this Act or other applicable Federal, State, or local law shall be found guilty of a misdemeanor and fined not more than $5,000.

(3) PRIVACY ACT.—

(A) IN GENERAL.—Any person who is a United States citizen, United States national, lawful permanent resident, or other employment-authorized alien, and who is subject to verification of work authorization or lawful presence in the United States for purposes of benefits eligibility under this section or section 112, shall be considered an individual under section 552(a)(2) of title 5, United States Code, with respect to records covered by this section.

(B) DEFINITION.—For purposes of this paragraph, the term ''record'' means an item,

collection, or grouping of information about an individual which—

(i) is created, maintained, or used by a Federal agency for the purpose of determining—

(I) the individual's authorization to work; or

(II) immigration status in the United States for purposes of eligibility to receive Federal, State or local benefits in the United States; and

(ii) contains the individuals's name or identifying number, symbol, or any other identifier assigned to the individual.

(e) EMPLOYER SAFEGUARDS.—An employer shall not be liable for any penalty under section 274A of the Immigration and Nationality Act for employing an unauthorized alien, if—

(1) the alien appeared throughout the term of employment to be prima facie eligible for the employment under the requirements of section 274A(b) of such Act;

(2) the employer followed all procedures required in the system; and

(3)(A) the alien was verified under the system as eligible for the employment; or

(B) the employer discharged the alien within a reasonable period after receiving notice that the final verification procedure had failed to verify that the alien was eligible for the employment.

(f) RESTRICTION ON USE OF DOCUMENTS.—If the Attorney General determines that any document described in section 274A(b)(1) of the Immigration and Nationality Act as establishing employment authorization or identity does not reliably establish such authorization or identity or, to an unacceptable degree, is being used fraudulently or is being requested for purposes not authorized by this Act, the Attorney General may, by regulation, prohibit or place conditions on the use of the document for purposes of the system or the verification system established in section 274A(b) of the Immigration and Nationality Act.

(g) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION PROVIDED BY THE VERIFICATION SYSTEM.—No person shall be civilly or criminally liable under section 274A of the Immigration and Nationality Act for any action adverse to an individual if such action was taken in good faith reliance on information relating to such individual provided through the system (including any demonstration project conducted under section 112).

(h) STATUTORY CONSTRUCTION.—The provisions of this section supersede the provisions of section 274A of the Immigration and Nationality Act to the extent of any inconsistency therewith.

SEC. 112. DEMONSTRATION PROJECTS.

(a) AUTHORITY.—

(1) IN GENERAL.—(A)(i) Subject to clause (ii), the President, acting through the Attorney General, shall begin conducting several local and regional projects, and a project in the legislative branch of the Federal Government, to demonstrate the feasibility of alternative systems for verifying eligibility for employment in the United States, and immigration status in the United States for purposes of eligibility for benefits under public assistance programs (as defined in section 201(f)(3) and government benefits described in section 201(f)(4)).

(ii) Each project under this section shall be consistent with the objectives of section 111(b) and this section and shall be conducted in accordance with an agreement entered into with the State, locality, employer, other entity, or the legislative branch of the Federal Government, as the case may be.

(iii) In determining which State(s), localities, employers, or other entities shall be designated for such projects, the Attorney General shall take into account the estimated number of excludable aliens and deportable aliens in each State or locality.

(B) For purposes of this paragraph, the term ''legislative branch of the Federal Government'' includes all offices described in section 101(9) of the Congressional Accountability Act of 1995 (2 U.S.C. 1301(9)) and all agencies of the legislative branch of Government.

(2) DESCRIPTION OF PROJECTS.—Demonstration projects conducted under this subsection may include, but are not limited to—

(A) a system which allows employers to verify the eligibility for employment of new employees using Administration records and, if necessary, to conduct a cross-check using Service records;

(B) a simulated linkage of the electronic records of the Service and the Administration to test the technical feasibility of establishing a linkage between the actual electronic records of the Service and the Administration;

(C) improvements and additions to the electronic records of the Service and the Administration for the purpose of using such records for verification of employment eligibility;

(D) a system which allows employers to verify the continued eligibility for employment of employees with temporary work authorization;

(E) a system that requires employers to verify the validity of employee social security account numbers through a telephone call, and to verify employee identity through a United States passport, a State driver's license or identification document, or a document issued by the Service for purposes of this clause;

(F) a system which is based on State-issued driver's licenses and identification cards that include a machine readable social security account number and are resistant to tampering and counterfeiting; and

(G) a system that requires employers to verify with the Service the immigration status of every employee except one who has attested that he or she is a United States citizen or national.

(3) COMMENCEMENT DATE.—The first demonstration project under this section shall commence not later than six months after the date of the enactment of this Act.

(4) TERMINATION DATE.—The authority of paragraph (1) shall cease to be effective four years after the date of enactment of this Act, except that, if the President determines that any one or more of the projects conducted pursuant to paragraph (2) should be renewed, or one or more additional projects should be conducted before a plan is recommended under section 111(a)(1)(A), the President may conduct such project or projects for up to an additional three-year period, without regard to section 274A(d)(4)(A) of the Immigration and Nationality Act.

(b) OBJECTIVES.—The objectives of the demonstration projects conducted under this section are—

(1) to assist the Attorney General in measuring the benefits and costs of systems for verifying eligibility for employment in the United States, and immigration status in the United States for purposes of eligibility for benefits under public assistance programs defined in section 201(f)(3) and for government benefits described in section 201(f)(4);

(2) to assist the Service and the Administration in determining the accuracy of Service and Administration data that may be used in such systems; and

(3) to provide the Attorney General with information necessary to make determinations regarding the likely effects of the tested systems on employers, employees, and other individuals, including information on—

(A) losses of employment to individuals as a result of inaccurate information in the system;

(B) unlawful discrimination;

(C) privacy violations;

(D) cost to individual employers, including the cost per employee and the total cost as a percentage of the employers payroll; and

(E) timeliness of initial and final verification determinations.

(c) CONGRESSIONAL CONSULTATION.—(1) Not later than 12 months after the date of the enactment of this Act, and annually thereafter, the Attorney General or the Attorney General's representatives shall consult with the Committees on the Judiciary of the House of Representatives and the Senate regarding the demonstration projects being conducted under this section.

(2) The Attorney General or her representative, in fulfilling the obligations described in paragraph (1), shall submit to the Congress the estimated cost to employers of each demonstration project, including the system's indirect and administrative costs to employers.

(d) IMPLEMENTATION.—In carrying out the projects described in subsection (a), the Attorney General shall—

(1) support and, to the extent possible, facilitate the efforts of Federal and State government agencies in developing—

(A) tamper- and counterfeit-resistant documents that may be used in a new verification system, including drivers' licenses or similar documents issued by a State for the purpose of identification, the social security account number card issued by the Administration, and certificates of birth in the United States or establishing United States nationality at birth; and

(B) recordkeeping systems that would reduce the fraudulent obtaining of such documents, including a nationwide system to match birth and death records;

(2) require appropriate notice to prospective employees concerning employers' participation in a demonstration project, which notice shall contain information on filing complaints regarding misuse of information or unlawful discrimination by employers participating in the demonstration; and

(3) require employers to establish procedures developed by the Attorney General—

(A) to safeguard all personal information from unauthorized disclosure and to condition release of such information to any person or entity upon the person's or entity's agreement to safeguard such information; and

(B) to provide notice to all new employees and applicants for employment of the right to request an agency to review, correct, or amend the employee's or applicant's record and the steps to follow to make such a request.

(e) REPORT OF ATTORNEY GENERAL.—Not later than 60 days before the expiration of the authority for subsection (a)(1), the Attorney General shall submit to the Congress a report containing an evaluation of each of the demonstration projects conducted under this section, including the findings made by the Comptroller General under section 113.

(f) SYSTEM REQUIREMENTS.—

(1) IN GENERAL.—Demonstration projects conducted under this section shall substantially meet the criteria in section 111(c)(1), except that with respect to the criteria in subparagraphs (D) and (G) of section 111(c)(1), such projects are required only to be likely to substantially meet the criteria, as determined by the Attorney General.

(2) SUPERSEDING EFFECT.—If the Attorney General determines that any demonstration project conducted under this section substantially meets the criteria in section

111(c)(1), other than the criteria in subparagraphs (D) and (G) of that section, and meets the criteria in such subparagraphs (D) and (G) to a sufficient degree, the requirements for participants in such project shall apply during the remaining period of its operation in lieu of the procedures required under section 274A(b) of the Immigration and Nationality Act. Section 274B of such Act shall remain fully applicable to the participants in the project.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(h) STATUTORY CONSTRUCTION.—The provisions of this section supersede the provisions of section 274A of the Immigration and Nationality Act to the extent of any inconsistency therewith.

SEC. 113. COMPTROLLER GENERAL MONITORING AND REPORTS.

(a) IN GENERAL.—The Comptroller General of the United States shall track, monitor, and evaluate the compliance of each demonstration project with the objectives of sections 111 and 112, and shall verify the results of the demonstration projects.

(b) RESPONSIBILITIES.—

(1) COLLECTION OF INFORMATION.—The Comptroller General of the United States shall collect and consider information on each requirement described in section 111(a)(1)(C).

(2) TRACKING AND RECORDING OF PRACTICES.—The Comptroller General shall track and record unlawful discriminatory employment practices, if any, resulting from the use or disclosure of information pursuant to a demonstration project or implementation of the system, using such methods as—

(A) the collection and analysis of data;

(B) the use of hiring audits; and

(C) use of computer audits, including the comparison of such audits with hiring records.

(3) MAINTENANCE OF DATA.—The Comptroller General shall also maintain data on unlawful discriminatory practices occurring among a representative sample of employers who are not participants in any project under this section to serve as a baseline for comparison with similar data obtained from employers who are participants in projects under this section.

(c) REPORTS.—

(1) DEMONSTRATION PROJECTS.—Beginning 12 months after the date of the enactment of this Act, and annually thereafter, the Comptroller General of the United States shall submit a report to the Committees on the Judiciary of the House of Representatives and the Senate setting forth evaluations of—

(A) the extent to which each demonstration project is meeting each of the requirements of section 111(c); and

(B) the Comptroller General's preliminary findings made under this section.

(2) VERIFICATION SYSTEM.—Not later than 60 days after the submission to the Congress of the plan under section 111(a)(2), the Comptroller General of the United States shall submit a report to the Congress setting forth an evaluation of—

(A) the extent to which the proposed system, if any, meets each of the requirements of section 111(c); and

(B) the Comptroller General's findings made under this section.

SEC. 114. GENERAL NONPREEMPTION OF EXISTING RIGHTS AND REMEDIES.

Nothing in this subpart may be construed to deny, impair, or otherwise adversely affect any right or remedy available under Federal, State, or local law to any person on or after the date of the enactment of this Act except to the extent the right or remedy is inconsistent with any provision of this part.

SEC. 115. DEFINITIONS.

For purposes of this subpart—

(1) ADMINISTRATION.— The term ''Administration'' means the Social Security Administration.

(2) EMPLOYMENT AUTHORIZED ALIEN.—The term ''employment authorized alien'' means an alien who has been provided with an ''employment authorized'' endorsement by the Attorney General or other appropriate work permit in accordance with the Immigration and Nationality Act.

(3) SERVICE.—The term ''Service'' means the Immigration and Naturalization Service.

Subpart B—Strengthening Existing Verification Procedures

SEC. 116. CHANGES IN LIST OF ACCEPTABLE EMPLOYMENT-VERIFICATION DOCUMENTS.

(a) AUTHORITY TO REQUIRE SOCIAL SECURITY ACCOUNT NUMBERS.—Section 274A (8 U.S.C. 1324a) is amended by adding at the end of subsection (b)(2) the following new sentence: ''The Attorney General is authorized to require an individual to provide on the form described in paragraph (1)(A) the individual's social security account number for purposes of complying with this section.''.

(b) CHANGES IN ACCEPTABLE DOCUMENTATION FOR EMPLOYMENT AUTHORIZATION AND IDENTITY.—

(1) REDUCTION IN NUMBER OF ACCEPTABLE EMPLOYMENT-VERIFICATION DOCUMENTS.—Section 274A(b)(1) (8 U.S.C. 1324a(b)(1)) is amended—

(A) in subparagraph (B)—

(i) by striking clauses (ii), (iii), and (iv);

(ii) by redesignating clause (v) as clause (ii);

(iii) in clause (i), by adding at the end ''or'';

(iv) in clause (ii) (as redesignated), by amending the text preceding subclause (I) to read as follows:

''(ii) resident alien card, alien registration card, or other document designated by regulation by the Attorney General, if the document—''; and

(v) in clause (ii) (as redesignated)—

(I) by striking ''and'' at the end of subclause (I);

(II) by striking the period at the end of subclause (II) and inserting '', and''; and

(III) by adding at the end the following new subclause:

''(III) contains appropriate security features.''; and

(B) in subparagraph (C)—

(i) by inserting ''or'' after the ''semicolon'' at the end of clause (i);

(ii) by striking clause (ii); and

(iii) by redesignating clause (iii) as clause (ii).

(2) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—If the Attorney General finds, by regulation, that any document described in section 274A(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)(1)) as establishing employment authorization or identity does not reliably establish such authorization or identity or is being used fraudulently to an unacceptable degree, the Attorney General may prohibit or place conditions on its use for purposes of the verification system established in section 274A(b) of the Immigration and Nationality Act under section 111 of this Act.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b)(1) shall apply with respect to hiring (or recruiting or referring) occurring on or after such date as the Attorney General shall designate (but not later than 180 days after the date of the enactment of this Act).

SEC. 117. TREATMENT OF CERTAIN DOCUMENTARY PRACTICES AS UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES

Section 274B(a)(6) (8 U.S.C. 1324b(a)(6)) is amended—

(1) by striking ''For purposes of paragraph (1), a'' and inserting ''A''; and

(2) by striking ''relating to the hiring of individuals'' and inserting the following: ''if made for the purpose or with the intent of discriminating against an individual in violation of paragraph (1)''.

SEC. 118. IMPROVEMENTS IN IDENTIFICATION-RELATED DOCUMENTS.

(a) BIRTH CERTIFICATES.—

(1) LIMITATION ON ACCEPTANCE.—(A) No Federal agency, including but not limited to the Social Security Administration and the Department of State, and no State agency that issues driver's licenses or identification documents, may accept for any official purpose a copy of a birth certificate, as defined in paragraph (5), unless it is issued by a State or local government registrar and it conforms to standards described in subparagraph (B).

(B) The standards described in this subparagraph are those set forth in regulations promulgated by the Secretary of Health and Human Services, after consultation with the Association for Public Health Statistics and Information Systems (APHSIS), and shall include but not be limited to—

(i) certification by the agency issuing the birth certificate, and

(ii) use of safety paper, the seal of the issuing agency, and other features designed to limit tampering, counterfeiting, and use by impostors.

(2) LIMITATION ON ISSUANCE.—(A) If one or more of the conditions described in subparagraph (B) is present, no State or local government agency may issue an official copy of a birth certificate pertaining to an individual unless the copy prominently notes that such individual is deceased.

(B) The conditions described in this subparagraph include—

(i) the presence on the original birth certificate of a notation that the individual is deceased, or

(ii) actual knowledge by the issuing agency that the individual is deceased obtained through information provided by the Social Security Administration, by an interstate system of birth-death matching, or otherwise.

(3) GRANTS TO STATES.—(A)(i) The Secretary of Health and Human Services shall establish a fund, administered through the National Center for Health Statistics, to provide grants to the States to encourage them to develop the capability to match birth and death records, within each State and among the States, and to note the fact of death on the birth certificates of deceased persons. In developing the capability described in the preceding sentence, States shall focus first on persons who were born after 1950.

(ii) Such grants shall be provided in proportion to population and in an amount needed to provide a substantial incentive for the States to develop such capability.

(B) The Secretary of Health and Human Services shall establish a fund, administered through the National Center for Health Statistics, to provide grants to the States for a project in each of 5 States to demonstrate the feasibility of a system by which each such State's office of vital statistics would be provided, within 24 hours, sufficient information to establish the fact of death of every individual dying in such State.

(C) There are authorized to be appropriated to the Department of Health and Human Services such amounts as may be necessary

to provide the grants described in subparagraphs (A) and (B).

(4) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to the Congress on ways to reduce the fraudulent obtaining and the fraudulent use of birth certificates, including any such use to obtain a social security account number or a State or Federal document related to identification or immigration.

(5) CERTIFICATE OF BIRTH.—As used in this section, the term ''birth certificate'' means a certificate of birth registered in the United States.

(6) EFFECTIVE DATE.—This subsection shall take effect on October 1, 1997.

(b) STATE-ISSUED DRIVERS LICENSES.—

(1) SOCIAL SECURITY ACCOUNT NUMBER.—Each State-issued driver's license and identification document shall contain a social security account number, except that this paragraph shall not apply if the document is issued by a State that requires, pursuant to a statute enacted prior to the date of enactment of this Act, or pursuant to a regulation issued thereunder or an administrative policy, that—

(A) every applicant for such license or document submit the number, and

(B) an agency of such State verify with the Social Security Administration that the number is valid and is not a number assigned for use by persons without authority to work in the United States.

(2) APPLICATION PROCESS.—The application process for a State driver's license or identification document shall include the presentation of such evidence of identity as is required by regulations promulgated by the Secretary of Transportation, after consultation with the American Association of Motor Vehicle Administrators.

(3) FORM OF LICENSE AND IDENTIFICATION DOCUMENT.—Each State driver's license and identification document shall be in a form consistent with requirements set forth in regulations promulgated by the Secretary of Transportation, after consultation with the American Association of Motor Vehicle Administrators. Such form shall contain security features designed to limit tampering, counterfeiting, and use by impostors.

(4) LIMITATION ON ACCEPTANCE OF LICENSE AND IDENTIFICATION DOCUMENT.—Neither the Social Security Administration or the Passport Office or any other Federal agency or any State or local government agency may accept for any evidentiary purpose a State driver's license or identification document in a form other than the form described in paragraph (3).

(5) EFFECTIVE DATE.—This subsection shall take effect on October 1, 1997.

SEC. 119. ENHANCED CIVIL PENALTIES IF LABOR STANDARDS VIOLATIONS ARE PRESENT.

(a) IN GENERAL.—Section 274A(e) (8 U.S.C. 1324a(e)) is amended by adding at the end the following:

''(10)(A) The administrative law judge shall have the authority to require payment of a civil money penalty in an amount up to two times the amount of the penalty prescribed by this subsection in any case in which the employer has been found to have committed a willful violation or repeated violations of any of the following statutes:

''(i) The Fair Labor Standards Act (29 U.S.C. 201 et seq.) pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

''(ii) The Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.) pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

''(iii) The Family and Medical Leave Act (29 U.S.C. 2601 et seq.) pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

''(B) The Secretary of Labor and the Attorney General shall consult regarding the administration of this paragraph.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 120. INCREASED NUMBER OF ASSISTANT UNITED STATES ATTORNEYS TO PROSECUTE CASES OF UNLAWFUL EMPLOYMENT OF ALIENS OR DOCUMENT FRAUD.

The Attorney General is authorized to hire for fiscal years 1996 and 1997 such additional Assistant United States Attorneys as may be necessary for the prosecution of actions brought under sections 274A and 274C of the Immigration and Nationality Act and sections 911, 1001, 1015 through 1018, 1028, 1030, 1541 through 1544, 1546, and 1621 of title 18, United States Code. Each such additional attorney shall be used primarily for such prosecutions.

SEC. 120A. SUBPOENA AUTHORITY FOR CASES OF UNLAWFUL EMPLOYMENT OF ALIENS OR DOCUMENT FRAUD.

(a) IMMIGRATION OFFICER AUTHORITY.—

(1) UNLAWFUL EMPLOYMENT.—Section 274A(e)(2) (8 U.S.C. 1324a(e)(1)) is amended—

(A) by striking ''and'' at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting '', and''; and

(C) by inserting after subparagraph (B) the following new subparagraph:

''(C) immigration officers designated by the Commissioner may compel by subpoena the attendance of witnesses and the production of evidence at any designated place prior to the filing of a complaint in a case under paragraph (2).''.

(2) DOCUMENT FRAUD.—Section 274C(d)(1) (8 U.S.C. 1324c(d)(1)) is amended—

(A) by striking ''and'' at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting '', and''; and

(C) by inserting after subparagraph (B) the following new subparagraph:

''(C) immigration officers designated by the Commissioner may compel by subpoena the attendance of witnesses and the production of evidence at any designated place prior to the filing of a complaint in a case under paragraph (2).''.

(b) SECRETARY OF LABOR SUBPOENA AUTHORITY.—

(1) IN GENERAL.—Chapter 9 of title II of the Immigration and Nationality Act is amended by adding at the end the following new section:

''SECRETARY OF LABOR SUBPOENA AUTHORITY

''SEC. 294. The Secretary of Labor may issue subpoenas requiring the attendance and testimony of witnesses or the production of any records, books, papers, or documents in connection with any investigation or hearing conducted in the enforcement of any immigration program for which the Secretary of Labor has been delegated enforcement authority under the Act. In such hearing, the Secretary of Labor may administer oaths, examine witnesses, and receive evidence. For the purpose of any such hearing or investigation, the authority contained in sections 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49, 50), relating to the attendance of witnesses and the production of books, papers, and documents, shall be available to the Secretary of Labor.''.

(2) CONFORMING AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 293 the following new item:

''Sec. 294. Secretary of Labor subpoena authority.''.

SEC. 120B. TASK FORCE TO IMPROVE PUBLIC EDUCATION REGARDING UNLAWFUL EMPLOYMENT OF ALIENS AND UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES.

(a) ESTABLISHMENT.—The Attorney General shall establish a task force within the Department of Justice charged with the responsibility of—

(1) providing advice and guidance to employers and employees relating to unlawful employment of aliens under section 274A of the Immigration and Nationality Act and unfair immigration-related employment practices under 274B of such Act; and

(2) assisting employers in complying with those laws.

(b) COMPOSITION.—The members of the task force shall be designated by the Attorney General from among officers or employees of the Immigration and Naturalization Service or other components of the Department of Justice.

(c) ANNUAL REPORT.—The task force shall report annually to the Attorney General on its operations.

SEC. 120C. NATIONWIDE FINGERPRINTING OF APPREHENDED ALIENS.

There are authorized to be appropriated such additional sums as may be necessary to ensure that the program ''IDENT'', operated by the Immigration and Naturalization Service pursuant to section 130007 of Public Law 103–322, shall be expanded into a nationwide program.

SEC. 120D. APPLICATION OF VERIFICATION PROCEDURES TO STATE AGENCY REFERRALS OF EMPLOYMENT.

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

''(6) STATE AGENCY REFERRALS.—A State employment agency that refers any individual for employment shall comply with the procedures specified in subsection (b). For purposes of the attestation requirement in subsection (b)(1), the agency employee who is primarily involved in the referral of the individual shall make the attestation on behalf of the agency.''.

SEC. 120E. RETENTION OF VERIFICATION FORM.

Section 274A(b)(3) (8 U.S.C. 1324a(b)(3)) is amended by inserting after ''must retain the form'' the following: ''(except in any case of disaster, act of God, or other event beyond the control of the person or entity)''.

PART 3—ALIEN SMUGGLING; DOCUMENT FRAUD

SEC. 121. WIRETAP AUTHORITY FOR INVESTIGATIONS OF ALIEN SMUGGLING OR DOCUMENT FRAUD.

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

(1) in paragraph (c), by striking ''or section 1992 (relating to wrecking trains)'' and inserting ''section 1992 (relating to wrecking trains), a felony violation of section 1028 (relating to production of false identification documentation), section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), 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 passports), section 1544 (relating to misuse of passports), or section 1546 (relating to fraud and misuse of visas, permits, and other documents)'';

(2) by striking ''or'' at the end of paragraph (*l*);

(3) by redesignating paragraphs (m), (n), and (*o*) as paragraphs (n), (*o*), and (p), respectively; and

(4) by inserting after paragraph (*l*) the following new paragraph:

''(m) a violation of section 274, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324, 1327, or 1328) (relating to the smuggling of aliens);''.

SEC. 122. ADDITIONAL COVERAGE IN RICO FOR OFFENSES RELATING TO ALIEN SMUGGLING AND DOCUMENT FRAUD.

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

(1) by striking ''or'' after ''law of the United States,'';

(2) by inserting ''or'' at the end of clause (E); and

(3) by adding at the end the following: ''(F) any act, or conspiracy to commit any act, in violation of—

''(i) section 1028 (relating to production of false identification documentation), section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), 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 passports), or section 1544 (relating to misuse of passports) of this title, or, for personal financial gain, section 1546 (relating to fraud and misuse of visas, permits, and other documents) of this title; or

''(ii) section 274, 277, or 278 of the Immigration and Nationality Act.''.

SEC. 123. INCREASED CRIMINAL PENALTIES FOR ALIEN SMUGGLING.

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

(1) in paragraph (1)(A)—

(A) by striking ''or'' at the end of clause (iii);

(B) by striking the comma at the end of clause (iv) and inserting ''; or''; and

(C) by adding at the end the following new clause:

''(v)(I) engages in any conspiracy to commit any of the preceding acts, or

''(II) aids or abets the commission of any of the preceding acts,'';

(2) in paragraph (1)(B)—

(A) in clause (i), by inserting ''or (v)(I)'' after ''(A)(i)'';

(B) in clause (ii), by striking ''or (iv)'' and inserting ''(iv), or (v)(II)'';

(C) in clause (iii), by striking ''or (iv)'' and inserting ''(iv), or (v)''; and

(D) in clause (iv), by striking ''or (iv)'' and inserting ''(iv), or (v)'';

(3) in paragraph (2)—

(A) in the matter preceding subparagraph (A), 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''; and

(B) in the matter following subparagraph (B)(iii), by striking ''be fined'' and all that follows through the period and inserting the following: ''be fined under title 18, United States Code, and shall be imprisoned for a first or second offense, not more than 10 years, and for a third or subsequent offense, not more than 15 years.''; and

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

''(3) Any person who hires for employment an alien—

''(A) knowing that such alien is an unauthorized alien (as defined in section 274A(h)(3)), and

''(B) knowing that such alien has been brought into the United States in violation of this subsection,

shall be fined under title 18, United States Code, and shall be imprisoned for not more than 5 years.''.

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

(1) by striking ''or'' at the end of clause (ii);

(2) by redesignating clause (iii) as clause (iv); and

(3) by inserting after clause (ii) the following new clause:

''(iii) an offense committed with the intent, or with substantial 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; or''.

(c) SENTENCING GUIDELINES.—

(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines for offenders convicted of offenses related to smuggling, transporting, harboring, or inducing aliens in violation of section 274(a)(1)(A) or (2)(B) of the Immigration and Nationality Act (8 U.S.C. 1324(a) (1)(A), (2)(B)) in accordance with this subsection.

(2) REQUIREMENTS.—In carrying out this subsection, the Commission shall, with respect to the offenses described in paragraph (1)—

(A) increase the base offense level for such offenses at least 3 offense levels above the applicable level in effect on the date of the enactment of this Act;

(B) review the sentencing enhancement for the number of aliens involved (U.S.S.G. 2L1.1(b)(2)), and increase the sentencing enhancement by at least 50 percent above the applicable enhancement in effect on the date of the enactment of this Act;

(C) impose an appropriate sentencing enhancement upon an offender with 1 prior felony conviction arising out of a separate and prior prosecution for an offense that involved the same or similar underlying conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category;

(D) impose an additional appropriate sentencing enhancement upon an offender with 2 or more prior felony convictions arising out of separate and prior prosecutions for offenses that involved the same or similar underling conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category;

(E) impose an appropriate sentencing enhancement on a defendant who, in the course of committing an offense described in this subsection—

(i) murders or otherwise causes death, bodily injury, or serious bodily injury to an individual;

(ii) uses or brandishes a firearm or other dangerous weapon; or

(iii) engages in conduct that consciously or recklessly places another in serious danger of death or serious bodily injury;

(F) consider whether a downward adjustment is appropriate if the offense conduct involves fewer than 6 aliens or the defendant committed the offense other than for profit; and

(G) consider whether any other aggravating or mitigating circumstances warrant upward or downward sentencing adjustments.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 124. ADMISSIBILITY OF VIDEOTAPED WITNESS TESTIMONY.

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

''(d) Notwithstanding any provision of the Federal Rules of Evidence, the videotaped (or otherwise audiovisually preserved) deposition of a witness to a violation of subsection (a) who has been deported or otherwise expelled from the United States, or is otherwise unable to testify, may be admitted into evidence in an action brought for that violation if the witness was available for cross examination and the deposition otherwise complies with the Federal Rules of Evidence.''.

SEC. 125. EXPANDED FORFEITURE FOR ALIEN SMUGGLING AND DOCUMENT FRAUD.

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

(1) by amending paragraph (1) to read as follows:

''(1) Any property, real or personal, which facilitates or is intended to facilitate, or has been or is being used in or is intended to be used in the commission of, a violation of, or conspiracy to violate, subsection (a) or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of title 18, United States Code, or which constitutes, or is derived from or traceable to, the proceeds obtained directly or indirectly from a commission of a violation of, or conspiracy to violate, subsection (a) or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of title 18, United States Code, shall be subject to seizure and forfeiture, except that—

''(A) no property used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this section unless it shall appear that the owner or other person in charge of such property was a consenting party or privy to the unlawful act;

''(B) no property shall be forfeited under this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such property was unlawfully in the possession of a person other than the owner in violation of, or in conspiracy to violate, the criminal laws of the United States or of any State; and

''(C) no property shall be forfeited under this paragraph to the extent of an interest of any owner, by reason of any act or omission established by such owner to have been committed or omitted without the knowledge or consent of such owner, unless such act or omission was committed by an employee or agent of such owner, and facilitated or was intended to facilitate, the commission of a violation of, or a conspiracy to violate, subsection (a) or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of title 18, United States Code, or was intended to further the business interests of the owner, or to confer any other benefit upon the owner.'';

(2) in paragraph (2)—

(A) by striking ''conveyance'' both places it appears and inserting ''property''; and

(B) by striking ''is being used in'' and inserting ''is being used in, is facilitating, has facilitated, or was intended to facilitate'';

(3) in paragraph (3)—

(A) by inserting ''(A)'' immediately after ''(3)'', and

(B) by adding at the end the following:

''(B) Before the seizure of any real property pursuant to this section, the Attorney General shall provide notice and an opportunity

to be heard to the owner of the property. The Attorney General shall prescribe such regulations as may be necessary to carry out this subparagraph.'';

(4) in paragraphs (4) and (5), by striking ''a conveyance'' and ''conveyance'' each place such phrase or word appears and inserting ''property''; and

(5) in paragraph (4)—

(A) by striking ''or'' at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph (D) and inserting ''; or''; and

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

''(E) transfer custody and ownership of forfeited property to any Federal, State, or local agency pursuant to section 616(c) of the Tariff Act of 1930 (19 U.S.C. 1616a(c)).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 126. CRIMINAL FORFEITURE FOR ALIEN SMUGGLING, UNLAWFUL EMPLOYMENT OF ALIENS, OR DOCUMENT FRAUD.

Section 274 (8 U.S.C. 1324(b)) is amended by redesignating subsections (c) and (d) as subsections (d) and (e) and inserting after subsection (b) the following:

''(c) CRIMINAL FORFEITURE.—(1) Any person convicted of a violation of, or a conspiracy to violate, subsection (a) or section 274A(a)(1) or (2) of this Act, or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of title 18, United States Code, shall forfeit to the United States, regardless of any provision of State law—

''(A) any conveyance, including any vessel, vehicle, or aircraft used in the commission of a violation of, or a conspiracy to violate, subsection (a); and

''(B) any property real or personal—

''(i) that constitutes, or is derived from or is traceable to the proceeds obtained directly or indirectly from the commission of a violation of, or a conspiracy to violate, subsection (a), section 274A(a)(1) or (2) of this Act, or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of title 18, United States Code; or

''(ii) that is used to facilitate, or is intended to be used to facilitate, the commission of a violation of, or a conspiracy to violate, subsection (a), section 274A(a)(1) or (2) of this Act, or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of title 18, United States Code.

The court, in imposing sentence on such person, shall order that the person forfeit to the United States all property described in this subsection.

''(2) The criminal forfeiture of property under this subsection, including any seizure and disposition of the property and any related administrative or judicial proceeding, shall be governed by the provisions of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsections (a) and (d) of such section 413.''.

SEC. 127. INCREASED CRIMINAL PENALTIES FOR FRAUDULENT USE OF GOVERNMENT-ISSUED DOCUMENTS.

(a) PENALTIES FOR FRAUD AND MISUSE OF GOVERNMENT-ISSUED IDENTIFICATION DOCUMENTS.—(1) Section 1028(b) of title 18, United States Code, is amended to read as follows:

''(b)(1)(A) An offense under subsection (a) that is—

''(i) the production or transfer of an identification document or false identification document that is or appears to be—

''(I) an identification document issued by or under the authority of the United States; or

''(II) a birth certificate, or a driver's license or personal identification card;

''(ii) the production or transfer of more than five identification documents or false identification documents; or

''(iii) an offense under paragraph (5) of such subsection (a);

shall be punishable under subparagraph (B).

''(B) Except as provided in paragraph (4), a person who violates an offense described in subparagraph (A) shall be punishable by—

''(i) a fine under this title, imprisonment for not more than 10 years, or both, for a first or second offense; or

''(ii) a fine under this title, imprisonment for not more than 15 years, or both, for a third or subsequent offense.

''(2) A person convicted of an offense under subsection (a) that is—

''(A) any other production or transfer of an identification document or false identification document; or

''(B) an offense under paragraph (3) of such subsection;

shall be punishable by a fine under this title, imprisonment for not more than three years, or both.

''(3) A person convicted of an offense under subsection (a), other than an offense described in paragraph (1) or (2), shall be punishable by a fine under this title, imprisonment for not more than one year, or both.

''(4) Notwithstanding any other provision of this section, the maximum term of imprisonment that may be imposed for an offense described in paragraph (1)(A) shall be—

''(A) if committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title), 15 years; and

''(B) if committed to facilitate an act of international terrorism (as defined in section 2331 of this title), 20 years.''.

(2) Sections 1541 through 1544 of title 18, United States Code, are amended by striking be fined under this title, imprisoned not more than 10 years, or both.'' each place it appears and inserting the following:

'', except as otherwise provided in this section, be—

''(1) fined under this title, imprisoned for not more than 10 years, or both, for a first or second offense; or

''(2) fined under this title, imprisoned for not more than 15 years, or both, for a third or subsequent offense.

''Notwithstanding any other provision of this section, the maximum term of imprisonment that may be imposed for an offense under this section—

''(1) if committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title), is 15 years; and

''(2) if committed to facilitate an act of international terrorism (as defined in section 2331 of this title), is 20 years.''.

(3) Section 1546(a) of title 18, United States Code, is amended by striking ''be fined under this title, imprisoned not more than 10 years, or both.'' and inserting the following:

'', except as otherwise provided in this subsection, be—

''(1) fined under this title, imprisoned for not more than 10 years, or both, for a first or second offense; or

''(2) fined under this title, imprisoned for not more than 15 years, or both, for a third or subsequent offense.

''Notwithstanding any other provision of this subsection, the maximum term of imprisonment that may be imposed for an offense under this subsection—

''(1) if committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title), is 15 years; and

''(2) if committed to facilitate an act of international terrorism (as defined in section 2331 of this title), is 20 years.''.

(4) Sections 1425 through 1427 of title 18, United States Code, are amended by striking ''be fined not more than $5,000 or imprisoned not more than five years, or both'' each place it appears and inserting '', except as otherwise provided in this section, be—

''(1) fined under this title, imprisoned for not more than 10 years, or both, for a first or second offense; or

''(2) fined under this title, imprisoned for not more than 15 years, or both, for a third or subsequent offense.

''Notwithstanding any other provision of this section, the maximum term of imprisonment that may be imposed for an offense under this section—

''(1) if committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title), is 15 years; and

''(2) if committed to facilitate an act of international terrorism (as defined in section 2331 of this title), is 20 years.''.

(b) CHANGES TO THE SENTENCING LEVELS.—

(1) IN GENERAL.—Pursuant to the Commission's authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines for offenders convicted of violating, or conspiring to violate, sections 1028(b)(1), 1425 through 1427, 1541 through 1544, and 1546(a) of title 18, United States Code, in accordance with this subsection.

(2) REQUIREMENTS.—In carrying out this subsection, the Commission shall, with respect to the offenses referred to in paragraph (1)—

(A) increase the base offense level for such offenses at least 2 offense levels above the level in effect on the date of the enactment of this Act;

(B) review the sentencing enhancement for number of documents or passports involved (U.S.S.G. 2L2.1(b)(2)), and increase the upward adjustment by at least 50 percent above the applicable enhancement in effect on the date of the enactment of this Act;

(C) impose an appropriate sentencing enhancement upon an offender with 1 prior felony conviction arising out of a separate and prior prosecution for an offense that involved the same or similar underlying conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category;

(D) impose an additional appropriate sentencing enhancement upon an offender with 2 or more prior felony convictions arising out of separate and prior prosecutions for offenses that involved the same or similar underling conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category;

(E) consider whether a downward adjustment is appropriate if the offense conduct involves fewer than 6 documents, or the defendant committed the offense other than for profit and the offense was not committed to facilitate an act of international terrorism; and

(F) consider whether any other aggravating or mitigating circumstances warrant upward or downward sentencing adjustments.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 128. CRIMINAL PENALTY FOR FALSE STATEMENT IN A DOCUMENT REQUIRED UNDER THE IMMIGRATION LAWS OR KNOWINGLY PRESENTING DOCUMENT WHICH FAILS TO CONTAIN REASONABLE BASIS IN LAW OR FACT.

The fourth undesignated paragraph of section 1546(a) of title 18, United States Code, is amended to read as follows:

''Whoever knowingly makes under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document which contains any such false statement or which fails to contain any reasonable basis in law or fact—''.

SEC. 129. NEW CRIMINAL PENALTIES FOR FAILURE TO DISCLOSE ROLE AS PREPARER OF FALSE APPLICATION FOR ASYLUM OR 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) Whoever, in any matter within the jurisdiction of the Service under section 208 of this Act, knowingly and willfully fails to disclose, conceals, or covers up the fact that they have, on behalf of any person and for a fee or other remuneration, prepared or assisted in preparing an application which was falsely made (as defined in subsection (f)) for immigration benefits pursuant to section 208 of this Act, or the regulations promulgated thereunder, shall be guilty of a felony and shall be fined in accordance with title 18, United States Code, imprisoned for not more than 5 years, or both, and prohibited from preparing or assisting in preparing, whether or not for a fee or other remuneration, any other such application.

''(2) Whoever, having been convicted of a violation of paragraph (1), knowingly and willfully prepares or assists in preparing an application for immigration benefits pursuant to this Act, or the regulations promulgated thereunder, whether or not for a fee or other remuneration and regardless of whether in any matter within the jurisdiction of the Service under section 208, shall be guilty of a felony and shall be fined in accordance with title 18, United States Code, imprisoned for not more than 15 years, or both, and prohibited from preparing or assisting in preparing any other such application.''.

SEC. 130. NEW DOCUMENT FRAUD OFFENSES; NEW CIVIL PENALTIES FOR DOCUMENT FRAUD.

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

(1) in paragraph (1), by inserting before the comma at the end the following: ''or to obtain a benefit under this Act'';

(2) in paragraph (2), by inserting before the comma at the end the following: ''or to obtain a benefit under this Act'';

(3) in paragraph (3)—

(A) by inserting ''or with respect to'' after ''issued to'';

(B) by adding before the comma at the end the following: ''or obtaining a benefit under this Act''; and

(C) by striking ''or'' at the end;

(4) in paragraph (4)—

(A) by inserting ''or with respect to'' after ''issued to'';

(B) by adding before the period at the end the following: ''or obtaining a benefit under this Act''; and

(C) by striking the period at the end and inserting '', or''; and

(5) by adding at the end the following new paragraphs:

''(5) to prepare, file, or assist another in preparing or filing, any application for benefits under this Act, or any document required under this Act, or any document submitted in connection with such application or document, with knowledge or in reckless disregard of the fact that such application or document was falsely made or, in whole or in part, does not relate to the person on whose behalf it was or is being submitted; or

''(6) to (A) 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 (B) fail to present such document to an immigration officer upon arrival at a United States port of entry.''.

(b) DEFINITION OF FALSELY MAKE.—Section 274C (8 U.S.C. 1324c), as amended by section 129 of this Act, is further amended by adding at the end the following new subsection:

''(f) FALSELY MAKE.—For purposes of this section, the term 'falsely make' means to prepare or provide an application or document, with knowledge or in reckless disregard of the fact that the application or 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 fact which is material to the purpose for which it was submitted.''.

(c) CONFORMING AMENDMENT.—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'' each place it appears and inserting ''each document that is the subject of a violation under subsection (a)''.

(d) ENHANCED CIVIL PENALTIES FOR DOCUMENT FRAUD IF LABOR STANDARDS VIOLATIONS ARE PRESENT.—Section 274C(d) (8 U.S.C. 1324c(d)) is amended by adding at the end the following new paragraph:

''(7) CIVIL PENALTY.—(A) The administrative law judge shall have the authority to require payment of a civil money penalty in an amount up to two times the level of the penalty prescribed by this subsection in any case where the employer has been found to have committed willful or repeated violations of any of the following statutes:

''(i) The Fair Labor Standards Act (29 U.S.C. 201 et seq.) pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

''(ii) The Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.) pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

''(iii) The Family and Medical Leave Act (29 U.S.C. 2601 et seq.) pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

''(B) The Secretary of Labor and the Attorney General shall consult regarding the administration of this paragraph.''.

(e) WAIVER BY ATTORNEY GENERAL.—Section 274C(d) (8 U.S.C. 1324c(d)), as amended by subsection (d), is further amended by adding at the end the following new paragraph:

''(8) WAIVER BY ATTORNEY GENERAL.—The Attorney General may waive the penalties imposed by 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).''.

(f) EFFECTIVE DATE.—

(1) DEFINITION OF FALSELY MAKE.—Section 274C(f) of the Immigration and Nationality Act, as added by subsection (b), applies to the preparation of applications before, on, or after the date of the enactment of this Act.

(2) ENHANCED CIVIL PENALTIES.—The amendments made by subsection (d) apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 131. NEW EXCLUSION FOR DOCUMENT FRAUD OR FOR FAILURE TO PRESENT DOCUMENTS.

Section 212(a)(6)(C) (8 U.S.C. 1182(a)(6)(C)) is amended—

(1) by striking ''(C) Misrepresentation'' and inserting the following:

''(C) Fraud, misrepresentation, and failure to present documents''; and

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

''(iii) FRAUD, MISREPRESENTATION, AND FAILURE TO PRESENT DOCUMENTS.—

''(I) Any alien who, in seeking entry to the United States or boarding a common carrier for the purpose of coming to the United States, presents any document which, in the determination of the immigration officer, is forged, counterfeit, altered, falsely made, stolen, or inapplicable to the person presenting the document, or otherwise contains a misrepresentation of a material fact, is excludable.

''(II) Any alien who is required to present a document relating to the alien's eligibility to enter the United States prior to boarding a common carrier for the purpose of coming to the United States and who fails to present such document to an immigration officer upon arrival at a port of entry into the United States is excludable.''.

SEC. 132. LIMITATION ON WITHHOLDING OF DEPORTATION AND OTHER BENEFITS FOR ALIENS EXCLUDABLE FOR DOCUMENT FRAUD OR FAILING TO PRESENT DOCUMENTS, OR EXCLUDABLE ALIENS APPREHENDED AT SEA.

(a) INELIGIBILITY.—Section 235 (8 U.S.C. 1225) is amended by adding at the end the following new subsection:

''(d)(1) Subject to paragraph (2), any alien who has not been admitted to the United States, and who is excludable under section 212(a)(6)(C)(iii) or who is an alien described in paragraph (3), is ineligible for withholding of deportation pursuant to section 243(h), and may not apply therefor or for any other relief under this Act, except that an alien found to have a credible fear of persecution or of return to persecution in accordance with section 208(e) shall be taken before a special inquiry officer for exclusion proceedings in accordance with section 236 and may apply for asylum, withholding of deportation, or both, in the course of such proceedings.

''(2) An alien described in paragraph (1) who has been found ineligible to apply for asylum under section 208(e) may be returned under the provisions of this section only to a country in which (or from which) he or she has no credible fear of persecution (or of return to persecution). If there is no country to which the alien can be returned in accordance with the provisions of this paragraph, the alien shall be taken before a special inquiry officer for exclusion proceedings in accordance with section 236 and may apply for asylum, withholding of deportation, or both, in the course of such proceedings.

''(3) Any alien who is excludable under section 212(a), and who has been brought or escorted under the authority of the United States—

''(A) into the United States, having been on board a vessel encountered seaward of the territorial sea by officers of the United States; or

''(B) to a port of entry, having been on board a vessel encountered within the territorial sea or internal waters of the United States;

shall either be detained on board the vessel on which such person arrived or in such facilities as are designated by the Attorney General or paroled in the discretion of the Attorney General pursuant to section 212(d)(5) pending accomplishment of the purpose for which the person was brought or escorted into the United States or to the port of entry, except that no alien shall be detained on board a public vessel of the United States without the concurrence of the head of the department under whose authority the vessel is operating.''.

(b) CONFORMING AMENDMENTS.—Section 237(a) (8 U.S.C. 1227(a)) is amended—

(1) in the second sentence of paragraph (1), by striking ''Deportation'' and inserting ''Subject to section 235(d)(2), deportation''; and

(2) in the first sentence of paragraph (2), by striking ''If'' and inserting ''Subject to section 235(d)(2), if''.

SEC. 133. PENALTIES FOR INVOLUNTARY SERVITUDE.

(a) AMENDMENTS TO TITLE 18.—Sections 1581, 1583, 1584, and 1588 of title 18, United States Code, are amended by striking ''five'' each place it appears and inserting ''10''.

(b) REVIEW OF SENTENCING GUIDELINES.—The United States Sentencing Commission shall ascertain whether there exists an unwarranted disparity—

(1) between the sentences for peonage, involuntary servitude, and slave trade offenses, and the sentences for kidnapping offenses in effect on the date of the enactment of this Act; and

(2) between the sentences for peonage, involuntary servitude, and slave trade offenses, and the sentences for alien smuggling offenses in effect on the date of the enactment of this Act and after the amendment made by subsection (a).

(c) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review its guidelines on sentencing for peonage, involuntary servitude, and slave trade offenses under sections 1581 through 1588 of title 18, United States Code, and shall amend such guidelines as necessary to—

(1) reduce or eliminate any unwarranted disparity found under subsection (b) that exists between the sentences for peonage, involuntary servitude, and slave trade offenses, and the sentences for kidnapping offenses and alien smuggling offenses;

(2) ensure that the applicable guidelines for defendants convicted of peonage, involuntary servitude, and slave trade offenses are sufficiently stringent to deter such offenses and adequately reflect the heinous nature of such offenses; and

(3) ensure that the guidelines reflect the general appropriateness of enhanced sentences for defendants whose peonage, involuntary servitude, or slave trade offenses involve—

(A) a large number of victims;

(B) the use or threatened use of a dangerous weapon; or

(C) a prolonged period of peonage or involuntary servitude.

SEC. 134. EXCLUSION RELATING TO MATERIAL SUPPORT TO TERRORISTS.

Section 212(a)(3)(B)(iii)(III) (8 U.S.C. 1182(a)(3)(B)(iii)(III)) is amended by inserting ''documentation or'' before ''identification''.

PART 4—EXCLUSION AND DEPORTATION

SEC. 141. SPECIAL EXCLUSION PROCEDURE.

(a) ARRIVALS FROM CONTIGUOUS FOREIGN TERRITORY.—Section 235 (8 U.S.C. 1225) is amended—

(1) by redesignating subsection (b) as subsection (b)(1); and

(2) by adding at the end of subsection (b)(1), as redesignated, the following new paragraph:

''(2) If an alien subject to such further inquiry has arrived from a foreign territory contiguous to the United States, either at a land port of entry or on the land of the United States other than at a designated port of entry, the alien may be returned to that territory pending the inquiry.''.

(b) SPECIAL ORDERS OF EXCLUSION AND DEPORTATION.—Section 235 (8 U.S.C. 1225), as amended by section 132 of this Act, is further amended by adding at the end the following:

''(e)(1) Notwithstanding the provisions of subsection (b) of this section and section 236, the Attorney General may, without referral to a special inquiry officer or after such a referral, order the exclusion and deportation of any alien if—

''(A) the alien appears to an examining immigration officer, or to a special inquiry officer if such referral is made, to be an alien who—

''(i) has entered the United States without having been inspected and admitted by an immigration officer pursuant to this section, unless such alien affirmatively demonstrates to the satisfaction of such immigration officer or special inquiry officer that he has been physically present in the United States for an uninterrupted period of at least two years since such entry without inspection;

''(ii) is excludable under section 212(a)(6)(C)(iii);

''(iii) is brought or escorted under the authority of the United States into the United States, having been on board a vessel encountered outside of the territorial waters of the United States by officers of the United States;

''(iv) is brought or escorted under the authority of the United States to a port of entry, having been on board a vessel encountered within the territorial sea or internal waters of the United States; or

''(v) has arrived on a vessel transporting aliens to the United States without such alien having received prior official authorization to come to, enter, or reside in the United States; or

''(B) the Attorney General has determined that the numbers or circumstances of aliens en route to or arriving in the United States, by land, sea, or air, present an extraordinary migration situation.

''(2) As used in this section, the phrase 'extraordinary migration situation' means the arrival or imminent arrival in the United States or its territorial waters of aliens who by their numbers or circumstances substantially exceed the capacity for the inspection and examination of such aliens.

''(3)(A) Subject to subparagraph (B), the determination of whether there exists an extraordinary migration situation or whether to invoke the provisions of paragraph (1) (A) or (B) is committed to the sole and exclusive discretion of the Attorney General.

''(B) The provisions of this subsection may be invoked under paragraph (1)(B) for a period not to exceed 90 days, unless, within such 90-day period or an extension thereof authorized by this subparagraph, the Attorney General determines, after consultation with the Committees on the Judiciary of the Senate and the House of Representatives, that an extraordinary migration situation continues to warrant such procedures remaining in effect for an additional 90-day period.

''(4) When the Attorney General invokes the provisions of clause (iii), (iv), or (v) of paragraph (1)(A) or paragraph (1)(B), the Attorney General may, pursuant to this section and sections 235(e) and 106(f), suspend, in whole or in part, the operation of immigration regulations regarding the inspection and exclusion of aliens.

''(5) No alien may be ordered specially excluded under paragraph (1) if—

''(A) such alien is eligible to seek, and seeks, asylum under section 208; and

''(B) the Attorney General determines, in the procedure described in section 208(e), that such alien has a credible fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, in the country of such person's nationality, or in the case of a person having no nationality, the country in which such person last habitually resided. An alien may be returned to a country in which the alien does not have a credible fear of persecution and from which the alien does not have a credible fear of return to persecution.

''(6) A special exclusion order entered in accordance with the provisions of this subsection is not subject to administrative review, except that the Attorney General shall provide by regulation for prompt review of such an order against an applicant 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 be, and appears to be, lawfully admitted for permanent residence.

''(7) A special exclusion order entered in accordance with the provisions of this subsection shall have the same effect as if the alien had been ordered excluded and deported pursuant to section 236, except that judicial review of such an order shall be available only under section 106(f).

''(8) Nothing in this subsection may be construed as requiring an inquiry before a special inquiry officer in the case of an alien crewman.''.

SEC. 142. STREAMLINING JUDICIAL REVIEW OF ORDERS OF EXCLUSION OR DEPORTATION.

(a) IN GENERAL.—Section 106 (8 U.S.C. 1105a) is amended to read as follows:

''JUDICIAL REVIEW OF ORDERS OF DEPORTATION, EXCLUSION, AND SPECIAL EXCLUSION

''SEC. 106. (a) APPLICABLE PROVISIONS.—Except as provided in subsection (b), judicial review of a final order of exclusion or deportation is governed only by chapter 158 of title 28 of the United States Code, but in no such review may a court order the taking of additional evidence pursuant to section 2347(c) of title 28, United States Code.

''(b) REQUIREMENTS.—(1)(A) A petition for judicial review must be filed not later than 30 days after the date of the final order of exclusion or deportation, except that in the case of any specially deportable criminal alien (as defined in section 242(k)), there shall be no judicial review of any final order of deportation.

''(B) The alien shall serve and file a brief in connection with a petition for judicial review not later than 40 days after the date on which the administrative record is available, and may serve and file a reply brief not later than 14 days after service of the brief of the Attorney General, and the court may not extend these deadlines except upon motion for good cause shown.

''(C) If an alien fails to file a brief in connection with a petition for judicial review within the time provided in this paragraph, the Attorney General may move to dismiss the appeal, and the court shall grant such motion unless a manifest injustice would result.

''(2) A petition for judicial review shall be filed with the court of appeals for the judicial circuit in which the special inquiry officer completed the proceedings.

''(3) The respondent of a petition for judicial review shall be the Attorney General. The petition shall be served on the Attorney General and on the officer or employee of the Immigration and Naturalization Service in charge of the Service district in which the final order of exclusion or deportation was entered. Service of the petition on the officer or employee does not stay the deportation of an alien pending the court's decision on the petition, unless the court orders otherwise.

''(4)(A) Except as provided in paragraph (5)(B), the court of appeals shall decide the petition only on the administrative record on which the order of exclusion or deportation is based and the Attorney General's

findings of fact shall be conclusive unless a reasonable adjudicator would be compelled to conclude to the contrary.

''(B) The Attorney General's discretionary judgment whether to grant relief under section 212 (c) or (i), 244 (a) or (d), or 245 shall be conclusive and shall not be subject to review.

''(C) The Attorney General's discretionary judgment whether to grant relief under section 208(a) shall be conclusive unless manifestly contrary to law and an abuse of discretion.

''(5)(A) 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) 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) The petitioner may have the nationality claim decided only as provided in this section.

''(6)(A) If the validity of an order of deportation has not been judicially decided, a defendant in a criminal proceeding charged with violating subsection (d) or (e) of section 242 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) If the defendant claims in the motion to be a national of the United States and the district court finds that 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 deportation order is based. The administrative findings of fact are conclusive if supported by reasonable, substantial, and probative evidence on the record considered as a whole.

''(C) If the defendant claims in the motion to be a national of the United States and the district court finds that 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.

''(D) If the district court rules that the deportation order is invalid, the court shall dismiss the indictment. The United States Government may appeal the dismissal to the court of appeals for the appropriate circuit within 30 days. The defendant may not file a petition for review under this section during the criminal proceeding. The defendant may have the nationality claim decided only as provided in this section.

''(7) This subsection—

''(A) does not prevent the Attorney General, after a final order of deportation has been issued, from detaining the alien under section 242(c);

''(B) does not relieve the alien from complying with subsection (d) or (e) of section 242; and

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

''(8) 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.

''(c) REQUIREMENTS FOR PETITION.—A petition for review of an order of exclusion or deportation 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.—

''(1) A court may review a final order of exclusion or deportation only if—

''(A) the alien has exhausted all administrative remedies available to the alien as a matter of right; and

''(B) another court has not decided the validity of the order, unless, subject to paragraph (2), 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.

''(2) Nothing in paragraph (1)(B) may be construed as creating a right of review if such review would be inconsistent with subsection (e), (f), or (g), or any other provision of this section.

''(e) NO JUDICIAL REVIEW FOR ORDERS OF DEPORTATION OR EXCLUSION ENTERED AGAINST CERTAIN CRIMINAL ALIENS.—Notwithstanding any other provision of law, any order of exclusion or deportation against an alien who is excludable or deportable by reason of having committed any criminal offense described in subparagraph (A)(iii), (B), (C), or (D) of section 241(a)(2), or two or more offenses described in section 241(a)(2)(A)(ii), at least two of which resulted in a sentence or confinement described in section 241(a)(2)(A)(i)(II), is not subject to review by any court.

''(f) LIMITED REVIEW FOR SPECIAL EXCLUSION AND DOCUMENT FRAUD.—(1) Notwithstanding any other provision of law, except as provided in this subsection, no court shall have jurisdiction to review any individual determination or to hear any other cause of action or claim arising from or relating to the implementation or operation of sections 208(e), 212(a)(6)(iii), 235(d), and 235(e).

''(2)(A) Except as provided in this subsection, there shall be no judicial review of—

''(i) a decision by the Attorney General to invoke the provisions of section 235(e);

''(ii) the application of section 235(e) to individual aliens, including the determination made under paragraph (5); or

''(iii) procedures and policies adopted by the Attorney General to implement the provisions of section 235(e).

''(B) Without regard to the nature of the action or claim, or 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) Judicial review of any cause, claim, or individual determination made or arising under or relating to section 208(e), 212(a)(6)(iii), 235(d), or 235(e) shall only be available in a habeas corpus proceeding, and shall be limited to determinations of—

''(A) whether the petitioner is an alien;

''(B) whether the petitioner was ordered specially excluded; and

''(C) whether the petitioner can prove by a preponderance of the evidence that he or she is an alien lawfully admitted for permanent residence and is entitled to such further inquiry as is prescribed by the Attorney General pursuant to section 235(e)(6).

''(4)(A) In any case where the court determines that the petitioner—

''(i) is an alien who was not ordered specially excluded under section 235(e), or

''(ii) has demonstrated by a preponderance of the evidence that he or she 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 236 or a determination in accordance with section 235(c) or 273(d).

''(B) Any alien who is provided a hearing under section 236 pursuant to these provisions may thereafter obtain judicial review of any resulting final order of exclusion pursuant to this section.

''(5) In determining whether an alien has been ordered specially excluded under section 235(e), 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 excludable or entitled to any relief from exclusion.

''(g) NO COLLATERAL ATTACK.—In any action brought for the assessment of penalties for improper entry or reentry of an alien under section 275 or 276, no court shall have jurisdiction to hear claims attacking the validity of orders of exclusion, special exclusion, or deportation entered under section 235, 236, or 242.''.

(b) RESCISSION OF ORDER.—Section 242B(c)(3) (8 U.S.C. 1252b(c)(3)) is amended by striking the period at the end and inserting ''by the special inquiry officer, but there shall be no stay pending further administrative or judicial review, unless ordered because of individually compelling circumstances.''.

(c) CLERICAL AMENDMENT.—The table of contents of the Act is amended by amending the item relating to section 106 to read as follows:

''Sec. 106. Judicial review of orders of deportation, exclusion, and special exclusion.''.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to all final orders of exclusion or deportation entered, and motions to reopen filed, on or after the date of the enactment of this Act.

SEC. 143. CIVIL PENALTIES AND VISA INELIGIBILITY, FOR FAILURE TO DEPART.

(a) ALIENS SUBJECT TO AN ORDER OF EXCLUSION OR DEPORTATION.—The Immigration and Nationality Act is amended by inserting after section 274C (8 U.S.C. 1324c) the following new section:

''CIVIL PENALTIES FOR FAILURE TO DEPART

''SEC. 274D. (a) Any alien subject to a final order of exclusion and deportation or deportation who—

''(1) willfully fails or refuses to—

''(A) depart on time 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 himself or herself for deportation 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) The Commissioner shall deposit amounts received under subsection (a) as offsetting collections in the appropriate appropriations account of the Service.

''(c) 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 242(e) or any other section of this Act.''.

(b) VISA OVERSTAYER.—The Immigration and Nationality Act is amended in section 212 (8 U.S.C. 1182) by inserting the following new subsection:

''(p)(1) Any lawfully admitted nonimmigrant who remains in the United States

for more than 60 days beyond the period authorized by the Attorney General shall be ineligible for additional nonimmigrant or immigrant visas (other than visas available for spouses of United States citizens or aliens lawfully admitted for permanent residence) until the date that is—

''(A) 3 years after the date the nonimmigrant departs the United States in the case of a nonimmigrant not described in paragraph (2); or

''(B) 5 years after the date the nonimmigrant departs the United States in the case of a nonimmigrant who without reasonable cause fails or refuses to attend or remain in attendance at a proceeding to determine the nonimmigrant's deportability.

''(2)(A) Paragraph (1) shall not apply to any lawfully admitted nonimmigrant who is described in paragraph (1)(A) and who demonstrates good cause for remaining in the United States for the entirety of the period (other than the first 60 days) during which the nonimmigrant remained in the United States without the authorization of the Attorney General.

''(B) A final order of deportation shall not be stayed on the basis of a claim of good cause made under this subsection.

''(3) The Attorney General shall by regulation establish procedures necessary to implement this section.''.

(c) EFFECTIVE DATE.—Subsection (b) shall take effect on the date of implementation of the automated entry-exit control system described in section 201, or on the date that is 2 years after the date of enactment of this Act, whichever is earlier.

(d) AMENDMENTS TO TABLE OF CONTENTS.—The table of contents of the Act is amended by inserting after the item relating to section 274C the following:

''Sec. 274D. Civil penalties for failure to depart.''.

SEC. 144. CONDUCT OF PROCEEDINGS BY ELECTRONIC MEANS.

Section 242(b) (8 U.S.C. 1252(b)) is amended by inserting at the end the following new sentences: ''Nothing in this subsection precludes the Attorney General from authorizing proceedings by video electronic media, by telephone, or, where a requirement for the alien's appearance is waived or the alien's absence is agreed to by the parties, in the absence of the alien. Contested full evidentiary hearings on the merits may be conducted by telephone only with the consent of the alien.''.

SEC. 145. SUBPOENA AUTHORITY.

(a) EXCLUSION PROCEEDINGS.—Section 236(a) (8 U.S.C. 1226(a)) is amended in the first sentence by inserting ''issue subpoenas,'' after ''evidence,''.

(b) DEPORTATION PROCEEDINGS.—Section 242(b) (8 U.S.C. 1252(b)) is amended in the first sentence by inserting ''issue subpoenas,'' after ''evidence,''.

SEC. 146. LANGUAGE OF DEPORTATION NOTICE; RIGHT TO COUNSEL.

(a) LANGUAGE OF NOTICE.—Section 242B (8 U.S.C. 1252b) is amended in subsection (a)(3) by striking ''under this subsection'' and all that follows through ''(B)'' and inserting ''under this subsection''.

(b) PRIVILEGE OF COUNSEL.—(1) Section 242B(b)(1) (8 U.S.C. 1252b(b)(1)) is amended by inserting before the period at the end the following: '', except that a hearing may be scheduled as early as 3 days after the service of the order to show cause if the alien has been continued in custody subject to section 242''.

(2) The parenthetical phrase in section 292 (8 U.S.C. 1362) is amended to read as follows: ''(at no expense to the Government or unreasonable delay to the proceedings)''.

(3) Section 242B(b) (8 U.S.C. 1252b(b)) is further amended by inserting at the end the following new paragraph:

''(3) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to prevent the Attorney General from proceeding against an alien pursuant to section 242 if the time period described in paragraph (1) has elapsed and the alien has failed to secure counsel.''.

SEC. 147. ADDITION OF NONIMMIGRANT VISAS TO TYPES OF VISA DENIED FOR COUNTRIES REFUSING TO ACCEPT DEPORTED ALIENS.

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

''(g)(1) If the Attorney General determines that any country upon request denies or unduly delays acceptance of the return of any alien who is a national, citizen, subject, or resident thereof, the Attorney General shall notify the Secretary of such fact, and thereafter, subject to paragraph (2), neither the Secretary of State nor any consular officer shall issue an immigrant or nonimmigrant visa to any national, citizen, subject, or resident of such country.

''(2) The Secretary of State may waive the application of paragraph (1) if the Secretary determines that such a waiver is necessary to comply with the terms of a treaty or international agreement or is in the national interest of the United States.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to countries for which the Secretary of State gives instructions to United States consular officers on or after the date of the enactment of this Act.

SEC. 148. AUTHORIZATION OF SPECIAL FUND FOR COSTS OF DEPORTATION.

In addition to any other funds otherwise available in any fiscal year for such purpose, there are authorized to be appropriated to the Immigration and Naturalization Service $10,000,000 for use without fiscal year limitation for the purpose of—

(1) executing final orders of deportation pursuant to sections 242 and 242A of the Immigration and Nationality Act (8 U.S.C. 1252 and 1252a); and

(2) detaining aliens prior to the execution of final orders of deportation issued under such sections.

SEC. 149. PILOT PROGRAM TO INCREASE EFFICIENCY IN REMOVAL OF DETAINED ALIENS.

(a) AUTHORITY.—The Attorney General shall conduct one or more pilot programs to study methods for increasing the efficiency of deportation and exclusion proceedings against detained aliens by increasing the availability of pro bono counseling and representation for such aliens. Any such pilot program may provide for administrative grants to not-for-profit organizations involved in the counseling and representation of aliens in immigration proceedings. An evaluation component shall be included in any such pilot program to test the efficiency and cost-effectiveness of the services provided and the replicability of such programs at other locations.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice such sums as may be necessary to carry out the program or programs described in subsection (a).

(c) STATUTORY CONSTRUCTION.—Nothing in this section may be construed as creating a right for any alien to be represented in any exclusion or deportation proceeding at the expense of the Government.

SEC. 150. LIMITATIONS ON RELIEF FROM EXCLUSION AND DEPORTATION.

(a) LIMITATION.—Section 212(c) (8 U.S.C. 1182(c)) is amended to read as follows:

''(c)(1) Subject to paragraphs (2) through (5), an alien who is and has been lawfully admitted for permanent residence for at least 5 years, who has resided in the United States continuously for 7 years after having been lawfully admitted, and who is returning to such residence after having temporarily proceeded abroad voluntarily and not under an order of deportation, may be admitted in the discretion of the Attorney General without regard to the provisions of subsection (a) (other than paragraphs (3) and (9)(C)).

''(2) For purposes of this subsection, any period of continuous residence shall be deemed to end when the alien is placed in proceedings to exclude or deport the alien from the United States.

''(3) Nothing contained in this subsection shall limit the authority of the Attorney General to exercise the discretion authorized under section 211(b).

''(4) Paragraph (1) shall not apply to an alien who has been convicted of one or more aggravated felonies and has been sentenced for such felony or felonies to a term or terms of imprisonment totalling, in the aggregate, at least 5 years.

''(5) This subsection shall apply only to an alien in proceedings under section 236.''.

(b) CANCELLATION OF DEPORTATION.—Section 244 (8 U.S.C. 1254) is amended to read as follows:

''CANCELLATION OF DEPORTATION; ADJUSTMENT OF STATUS; VOLUNTARY DEPARTURE

''SEC. 244. (a) CANCELLATION OF DEPORTATION.—(1) The Attorney General may, in the Attorney General's discretion, cancel deportation in the case of an alien who is deportable from the United States and—

''(A) is, and has been for at least 5 years, a lawful permanent resident; has resided in the United States continuously for not less than 7 years after being lawfully admitted; and has not been convicted of an aggravated felony or felonies for which the alien has been sentenced to a term or terms of imprisonment totaling, in the aggregate, at least 5 years;

''(B) has been physically present in the United States for a continuous period of not less than 7 years since entering the United States; has been a person of good moral character during such period; and establishes that deportation would result in extreme hardship to the alien or the alien's spouse, parent, or child, who is a citizen or national of the United States or an alien lawfully admitted for permanent residence;

''(C) has been physically present in the United States for a continuous period of not less than three years since entering the United States; 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 who is 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); has been a person of good moral character during all of such period in the United States; and establishes that deportation would result in extreme hardship to the alien or the alien's parent or child; or

''(D) is deportable under paragraph (2) (A), (B), or (D), or paragraph (3) of section 241(a); has been physically present in the United States for a continuous period of not less than 10 years immediately following the commission of an act, or the assumption of a status, constituting a ground for deportation, and proves that during all of such period he has been a person of good moral character; and is a person whose deportation would, in the opinion of the Attorney General, result in exceptional and extremely unusual hardship to the alien or to his spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence.

''(2)(A) For purposes of paragraph (1), any period of continuous residence or continuous physical presence in the United States shall be deemed to end when the alien is served an order to show cause pursuant to section 242 or 242B.

''(B) An alien shall be considered to have failed to maintain continuous physical presence in the United States under paragraph (1) (B), (C), or (D) if the alien was absent from the United States for any single period of more than 90 days or an aggregate period of more than 180 days.

''(C) A person who is deportable under section 241(a)(2)(C) or 241(a)(4) shall not be eligible for relief under this section.

''(D) A person who is deportable under section 241(a)(2) (A), (B), or (D) or section 241(a)(3) shall not be eligible for relief under paragraph (1) (A), (B), or (C).

''(E) A person who has been convicted of an aggravated felony shall not be eligible for relief under paragraph (1) (B), or (C), (D).

''(F) A person who is deportable under section 241(a)(1)(G) shall not be eligible for relief under paragraph (1)(C).

''(b) CONTINUOUS PHYSICAL PRESENCE 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 specified in subsection (a)(1) (A) and (B) shall not be applicable to an alien who—

''(1) 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

''(2) at the time of his or her enlistment or induction, was in the United States.

''(c) ADJUSTMENT OF STATUS.—The Attorney General may cancel deportation and adjust to the status of an alien lawfully admitted for permanent residence any alien who the Attorney General determines meets the requirements of subsection (a)(1) (B), (C), or (D). The Attorney General shall record the alien's lawful admission for permanent residence as of the date the Attorney General decides to cancel such alien's removal.

''(d) ALIEN CREWMEN; NONIMMIGRANT EXCHANGE ALIENS ADMITTED TO RECEIVE GRADUATE MEDICAL EDUCATION OR TRAINING; OTHER.—The provisions of subsection (a) shall not apply to an alien who—

''(1) entered the United States as a crewman after June 30, 1964;

''(2) was admitted to the United States as a nonimmigrant alien described in section 101(a)(15)(J), or has acquired the status of such a nonimmigrant alien after admission, in order to receive graduate medical education or training, without regard to whether or not the alien is subject to or has fulfilled the two-year foreign residence requirement of section 212(e); or

''(3)(A) was admitted to the United States as a nonimmigrant alien described in section 101(a)(15)(J), or has acquired the status of such a nonimmigrant 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, or, in the case of a foreign medical graduate who has received a waiver pursuant to section 220 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416), has not fulfilled the requirements of section 214(k).

''(e) VOLUNTARY DEPARTURE.—(1)(A) The Attorney General may permit an alien voluntarily to depart the United States at the alien's own expense—

''(i) in lieu of being subject to deportation proceedings under section 242 or prior to the completion of such proceedings, if the alien is not a person deportable under section 241(a)(2)(A)(iii) or section 241(a)(4); or

''(ii) after the completion of deportation proceedings under section 242, only if a special inquiry officer determines that—

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

''(II) the alien is not deportable under section 241(a)(2)(A)(iii) or section 241(a)(4); and

''(III) the alien establishes by clear and convincing evidence that the alien has the means to depart the United States and intends to do so.

''(B)(i) In the case of departure pursuant to subparagraph (A)(i), the Attorney General may require the alien to post a voluntary departure bond, to be surrendered upon proof that the alien has departed the United States within the time specified.

''(ii) If any alien who is authorized to depart voluntarily under this paragraph is financially unable to depart at the alien's own expense and the Attorney General deems the alien's removal to be in the best interest of the United States, the expense of such removal may be paid from the appropriation for enforcement of this Act.

''(C) In the case of departure pursuant to subparagraph (A)(ii), the alien 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.

''(2) If the alien fails voluntarily to depart the United States within the time period specified in accordance with paragraph (1), the alien shall be subject to a civil penalty of not more than $500 per day and shall be ineligible for any further relief under this subsection or subsection (a).

''(3)(A) The Attorney General may by regulation limit eligibility for voluntary departure for any class or classes of aliens.

''(B) No court may review any regulation issued under subparagraph (A).

''(4) No court shall have jurisdiction over an appeal from denial of a request for an order of voluntary departure under paragraph (1), nor shall any court order a stay of an alien's removal pending consideration of any claim with respect to voluntary departure.''.

(c) CONFORMING AMENDMENTS.—(1) Section 242(b) (8 U.S.C. 1252(b)) is amended by striking the last two sentences.

(2) Section 242B (8 U.S.C. 1252b) is amended—

(A) in subsection (e)(2), by striking ''section 244(e)(1)'' and inserting ''section 244(e)''; and

(B) in subsection (e)(5)—

(i) by striking ''suspension of deportation'' and inserting ''cancellation of deportation''; and

(ii) by inserting ''244,'' before ''245''.

(d) AMENDMENT TO THE TABLE OF CONTENTS.—The table of contents of the Act is amended by amending the item relating to section 244 to read as follows:

''Sec. 244. Cancellation of deportation; adjustment of status; voluntary departure.''.

(e) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply to all applications for relief under section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)), except that, for purposes of determining the period of continuous residence, the amendments made by subsection (a) shall apply to all aliens against whom proceedings are commenced on or after the date of the enactment of this Act.

(2) The amendments made by subsection (b) shall take effect on the date of the enactment of this Act, and shall apply to all applications for relief under section 244 of the Immigration and Nationality Act (8 U.S.C. 1254), except that, for purposes of determining the periods of continuous residence or continuous physical presence, the amendments made by subsection (b) shall apply to all aliens upon whom an order to show cause is served on or after the date of the enactment of this Act.

(3) The amendments made by subsection (c) shall take effect on the date of the enactment of this Act.

SEC. 151. ALIEN STOWAWAYS.

(a) DEFINITION.—Section 101(a) (8 U.S.C. 1101) 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) EXCLUDABILITY.—Section 237 (8 U.S.C. 1227) is amended—

(1) in subsection (a)(1), before the period at the end of the first sentence, by inserting the following: '', or unless the alien is an excluded stowaway who has applied for asylum or withholding of deportation and whose application has not been adjudicated or whose application has been denied but who has not exhausted every appeal right''; and

(2) by inserting after the first sentence in subsection (a)(1) the following new sentences: ''Any alien stowaway inspected upon arrival in the United States is an alien who is excluded within the meaning of this section. For purposes of this section, the term 'alien' includes an excluded stowaway. The provisions of this section concerning the deportation of an excluded alien shall apply to the deportation of a stowaway under section 273(d).''.

(c) CARRIER LIABILITY FOR COSTS OF DETENTION.—Section 273(d) (8 U.S.C. 1323(d)) is amended to read as follows:

''(d)(1) It shall be the duty of the owner, charterer, agent, consignee, commanding officer, or master of any vessel or aircraft arriving at the United States from any place outside the United States to detain on board or at such other place as may be designated by an immigration officer any alien stowaway until such stowaway has been inspected by an immigration officer.

''(2) Upon inspection of an alien stowaway by an immigration officer, the Attorney General may by regulation take immediate custody of any stowaway and shall charge the owner, charterer, agent, consignee, commanding officer, or master of the vessel or aircraft on which the stowaway has arrived the costs of detaining the stowaway.

''(3) It shall be the duty of the owner, charterer, agent, consignee, commanding officer, or master of any vessel or aircraft arriving at the United States from any place outside the United States to deport any alien stowaway on the vessel or aircraft on which such stowaway arrived or on another vessel or aircraft at the expense of the vessel or aircraft on which such stowaway arrived when required to do so by an immigration officer.

''(4) Any person who fails to comply with paragraph (1) or (3), shall be subject to a fine of $5,000 for each alien for each failure to comply, payable to the Commissioner. The Commissioner shall deposit amounts received under this paragraph as offsetting collections to the applicable appropriations account of the Service. Pending final determination of liability for such fine, no such vessel or aircraft shall be granted clearance,

except that clearance may be granted upon the deposit of a sum sufficient to cover such fine, or of a bond with sufficient surety to secure the payment thereof approved by the Commissioner.

''(5) An alien stowaway inspected upon arrival shall be considered an excluded alien under this Act.

''(6) The provisions of section 235 for detention of aliens for examination before a special inquiry officer and the right of appeal provided for in section 236 shall not apply to aliens who arrive as stowaways, and no such aliens shall be permitted to land in the United States, except temporarily for medical treatment, or pursuant to such regulations as the Attorney General may prescribe for the departure, removal, or deportation of such alien from the United States.

''(7) A stowaway may apply for asylum under section 208 or withholding of deportation under section 243(h), pursuant to such regulations as the Attorney General may establish.''.

SEC. 152. PILOT PROGRAM ON INTERIOR REPATRIATION AND OTHER METHODS TO DETER MULTIPLE UNLAWFUL ENTRIES.

(a) ESTABLISHMENT.—Not later than 180 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 two years which provides for methods to deter multiple unlawful 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 unlawful entries into the United States.

(b) REPORT.—Not later than 35 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. 153. PILOT PROGRAM ON USE OF CLOSED MILITARY BASES FOR THE DETENTION OF EXCLUDABLE OR DEPORTABLE ALIENS.

(a) ESTABLISHMENT.—The Attorney General and the Secretary of Defense shall jointly establish a pilot program for up to two years to determine the feasibility of the use of military bases available through the defense base realignment and closure process as detention centers for the Immigration and Naturalization Service.

(b) REPORT.—Not later than 35 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, the Committee on National Security of the House of Representatives, and the Committee on Armed Services of the Senate, on the feasibility of using military bases closed through the defense base realignment and closure process as detention centers by the Immigration and Naturalization Service.

SEC. 154. PHYSICAL AND MENTAL EXAMINATIONS.

Section 234 (8 U.S.C. 1224) is amended to read as follows:

''PHYSICAL AND MENTAL EXAMINATIONS

''SEC. 234. (a) ALIENS COVERED.—Each alien within any of the following classes of aliens who is seeking entry into the United States shall undergo a physical and mental examination in accordance with this section:

''(1) Aliens applying for visas for admission to the United States for permanent residence.

''(2) Aliens seeking admission to the United States for permanent residence for whom examinations were not made under paragraph (1).

''(3) Aliens within the United States seeking adjustment of status under section 245 to that of aliens lawfully admitted to the United States for permanent residence.

''(4) Alien crewmen entering or in transit across the United States.

''(b) DESCRIPTION OF EXAMINATION.—(1) Each examination required by subsection (a) shall include—

''(A) an examination of the alien for any physical or mental defect or disease and a certification of medical findings made in accordance with subsection (d); and

''(B) an assessment of the vaccination record of the alien in accordance with subsection (e).

''(2) The Secretary of Health and Human Services shall prescribe such regulations as may be necessary to carry out the medical examinations required by subsection (a).

''(c) MEDICAL EXAMINERS.—

''(1) MEDICAL OFFICERS.—(A) Except as provided in paragraphs (2) and (3), examinations under this section shall be conducted by medical officers of the United States Public Health Services.

''(B) Medical officers of the United States Public Health Service who have had specialized training in the diagnosis of insanity and mental defects shall be detailed for duty or employed at such ports of entry as the Secretary may designate, in consultation with the Attorney General.

''(2) CIVIL SURGEONS.—(A) Whenever medical officers of the United States Public Health Service are not available to perform examinations under this section, the Attorney General, in consultation with the Secretary, shall designate civil surgeons to perform the examinations.

''(B) Each civil surgeon designated under subparagraph (A) shall—

''(i) have at least 4 years of professional experience unless the Secretary determines that special or extenuating circumstances justify the designation of an individual having a lesser amount of professional experience; and

''(ii) satisfy such other eligibility requirements as the Secretary may prescribe.

''(3) PANEL PHYSICIANS.—In the case of examinations under this section abroad, the medical examiner shall be a panel physician designated by the Secretary of State, in consultation with the Secretary.

''(d) CERTIFICATION OF MEDICAL FINDINGS.—The medical examiners shall certify for the information of immigration officers and special inquiry officers, or consular officers, as the case may be, any physical or mental defect or disease observed by such examiners in any such alien.

''(e) VACCINATION ASSESSMENT.—(1) The assessment referred to in subsection (b)(1)(B) is an assessment of the alien's record of required vaccines for preventable diseases, including mumps, measles, rubella, polio, tetanus, diphtheria toxoids, pertussis, hemophilus-influenza type B, hepatitis type B, as well as any other diseases specified as vaccine-preventable by the Advisory Committee on Immunization Practices.

''(2) Medical examiners shall educate aliens on the importance of immunizations and shall create an immunization record for the alien at the time of examination.

''(3)(A) Each alien who has not been vaccinated against measles, and each alien under the age of 5 years who has not been vaccinated against polio, must receive such vaccination, unless waived by the Secretary, and must receive any other vaccination determined necessary by the Secretary prior to arrival in the United States.

''(B) Aliens who have not received the entire series of vaccinations prescribed in paragraph (1) (other than measles) shall return to a designated civil surgeon within 30 days of arrival in the United States, or within 30 days of adjustment of status, for the remainder of the vaccinations.

''(f) APPEAL OF MEDICAL EXAMINATION FINDINGS.—Any alien determined to have a health-related grounds of exclusion under paragraph (1) of section 212(a) may appeal that determination to a board of medical officers of the Public Health Service, which shall be convened by the Secretary. The alien may introduce at least one expert medical witness before the board at his or her own cost and expense.

''(g) FUNDING.—(1)(A) The Attorney General shall impose a fee upon any person applying for adjustment of status to that of an alien lawfully admitted to permanent residence under section 209, 210, 245, or 245A, and the Secretary of State shall impose a fee upon any person applying for a visa at a United States consulate abroad who is required to have a medical examination in accordance with subsection (a).

''(B) The amounts of the fees required by subparagraph (A) shall be established by the Secretary, in consultation with the Attorney General and the Secretary of State, as the case may be, and shall be set at such amounts as may be necessary to recover the full costs of establishing and administering the civil surgeon and panel physician programs, including the costs to the Service, the Department of State, and the Department of Health and Human Services for any additional expenditures associated with the administration of the fees collected.

''(2)(A) The fees imposed under paragraph (1) may be collected as separate fees or as surcharges to any other fees that may be collected in connection with an application for adjustment of status under section 209, 210, 245, or 245A, for a visa, or for a waiver of excludability under paragraph (1) or (2) of section 212(g), as the case may be.

''(B) The provisions of the Act of August 18, 1856 (Revised Statutes 1726–28, 22 U.S.C. 4212–14), concerning accounting for consular fees, shall not apply to fees collected by the Secretary of State under this section.

''(3)(A) There is established on the books of the Treasury of the United States a separate account which shall be known as the 'Medical Examinations Fee Account'.

''(B) There shall be deposited as offsetting receipts into the Medical Examinations Fee Account all fees collected under paragraph (1), to remain available until expended.

''(C) Amounts in the Medical Examinations Fee Account shall be available only to reimburse any appropriation currently available for the programs established by this section.

''(h) DEFINITIONS.—As used in this section—

''(1) the term 'medical examiner' refers to a medical officer, civil surgeon, or panel physician, as described in subsection (c); and

''(2) the term 'Secretary' means the Secretary of Health and Human Services.''.

SEC. 155. CERTIFICATION REQUIREMENTS FOR FOREIGN HEALTH-CARE WORKERS.

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

(1) by redesignating paragraph (9) as paragraph (10); and

(2) by inserting after paragraph (8) the following new paragraph:

''(9) UNCERTIFIED FOREIGN HEALTH-CARE WORKERS.—(A) 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 excludable unless the alien presents to the consular officer, or, in the case of an adjustment of status, the Attorney General, a certificate from the Commission on Graduates of Foreign Nursing

Schools, or a certificate from an equivalent independent credentialing organization approved by the Attorney General in consultation with the Secretary of Health and Human Services, verifying that—

''(i) the alien's education, training, license, and experience—

''(I) meet all applicable statutory and regulatory requirements for entry into the United States under the classification specified in the application;

''(II) are comparable with that required for an American health-care worker of the same type; and

''(III) are authentic and, in the case of a license, unencumbered;

''(ii) the alien has the level of competence in oral and written English considered by the Secretary of Health and Human Services, in consultation with the Secretary of Education, to be appropriate for health care work of the kind in which the alien will be engaged, as shown by an appropriate score on one or more nationally recognized, commercially available, standardized assessments of the applicant's ability to speak and write; and

''(iii) if a majority of States licensing the profession in which the alien intends to work recognize a test predicting the success on the profession's licensing and certification examination, the alien has passed such a test.

''(B) For purposes of subparagraph (A)(ii), determination of the standardized tests required and of the minimum scores that are appropriate are within the sole discretion of the Secretary of Health and Human Services and are not subject to further administrative or judicial review.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 101(f)(3) is amended by striking ''(9)(A) of section 212(a)'' and inserting ''(10)(A) of section 212(a)''.

(2) Section 212(c) is amended by striking ''(9)(C)'' and inserting ''(10)(C)''.

SEC. 156. INCREASED BAR TO REENTRY FOR ALIENS PREVIOUSLY REMOVED.

(a) IN GENERAL.—Section 212(a)(6) (8 U.S.C. 1182(a)(6)) is amended—

(1) in subparagraph (A)—

(A) by striking ''one year'' and inserting ''five years''; and

(B) by inserting '', or within 20 years of the date of any second or subsequent deportation,'' after ''deportation'';

(2) in subparagraph (B)—

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

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

''(ii) has departed the United States while an order of deportation is outstanding,'';

(C) by striking ''or'' after ''removal,''; and

(D) by inserting ''or (c) who seeks admission within 20 years of a second or subsequent deportation or removal,'' after ''felony,''.

(b) REENTRY OF DEPORTED ALIEN.—Section 276(a)(1) (8 U.S.C. 1326(a)(1)) is amended to read as follows:

''(1) has been arrested and deported, has been excluded and deported, or has departed the United States while an order of exclusion or deportation is outstanding, and thereafter''.

SEC. 157. ELIMINATION OF CONSULATE SHOPPING FOR VISA OVERSTAYS.

(a) IN GENERAL.—Section 222 (8 U.S.C. 1202) is amended by adding at the end the following new subsection:

''(g)(1) In the case of an alien who has entered and remained in the United States beyond the authorized period of stay, the alien's nonimmigrant visa shall thereafter be invalid for reentry into the United States.

''(2) An alien described in paragraph (1) shall be ineligible to be readmitted to the United States as a nonimmigrant subsequent to the expiration of the alien's authorized period of stay, except—

''(A) on the basis of a visa issued in a consular office located in the country of the alien's nationality (or, if there is no office in such country, in such other consular office as the Secretary of State shall specify); or

''(B) where extraordinary circumstances are found by the Secretary of State to exist.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to visas issued before, on, or after the date of the enactment of this Act.

SEC. 158. INCITEMENT AS A BASIS FOR EXCLUSION FROM THE UNITED STATES.

Section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)), is amended—

(1) by striking ''or'' at the end of clause (i)(I);

(2) in clause (i)(II), by inserting ''or'' at the end; and

(3) by inserting after clause (i)(II) the following new subclause:

''(III) has, under circumstances indicating an intention to cause death or serious bodily harm, incited terrorism, engaged in targeted racial vilification, or advocated the overthrow of the United States Government or death or serious bodily harm to any United States citizen or United States Government official,''.

SEC. 159. CONFORMING AMENDMENT TO WITHHOLDING OF DEPORTATION.

Section 243(h) (8 U.S.C. 1253(h)) is amended by adding at the end the following new paragraph:

''(3) The Attorney General may refrain from deporting any alien if the Attorney General determines that—

''(A) such alien's life or freedom would be threatened, in the country to which such alien would be deported or returned, on account of race, religion, nationality, membership in a particular social group, or political opinion, and

''(B) deporting such alien would violate the 1967 United Nations Protocol relating to the Status of Refugees.''.

PART 5—CRIMINAL ALIENS

SEC. 161. AMENDED DEFINITION OF AGGRAVATED FELONY.

(a) IN GENERAL.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended—

(1) in subparagraph (D), by striking ''$100,000'' and inserting ''$10,000'';

(2) in subparagraphs (F), (G), and (O), by striking ''is at least 5 years'' each place it appears and inserting ''at least one year'';

(3) in subparagraph (J)—

(A) by striking ''sentence of 5 years' imprisonment'' and inserting ''sentence of one year imprisonment''; and

(B) by striking ''offense described'' and inserting ''offense described in section 1084 of title 18 (if it is a second or subsequent offense), section 1955 of such title (relating to gambling offenses), or'';

(4) in subparagraph (K)—

(A) by striking ''or'' at the end of clause (i);

(B) by adding ''or'' at the end of clause (ii); and

(C) by adding at the end the following new clause:

''(iii) is described in section 2421, 2422, or 2423 of title 18, United States Code (relating to transportation for the purpose of prostitution), if committed for commercial advantage.'';

(5) in subparagraph (L)—

(A) by striking ''or'' at the end of clause (i);

(B) by inserting ''or'' at the end of clause (ii); and

(C) by adding at the end the following new clause:

''(iii) section 601 of the National Security Act of 1947 (relating to protecting the identity of undercover agents)'';

(6) in subparagraph (M), by striking ''$200,000'' each place it appears and inserting ''$10,000'';

(7) in subparagraph (N)—

(A) by striking ''of title 18, United States Code''; and

(B) by striking ''for the purpose of commercial advantage'' and inserting the following: '', except, for a first offense, if the alien has affirmatively shown that the alien committed the offense for the purpose of assisting, abetting, or aiding only the alien's spouse, child, or parent (and no other individual) to violate a provision of this Act'';

(8) in subparagraph (O), by striking ''which constitutes'' and all that follows up to the semicolon at the end and inserting the following: '', except, for a first offense, if the alien has affirmatively shown that the alien committed the offense for the purpose of assisting, abetting, or aiding only the alien's spouse, child, or parent (and no other individual) to violate a provision of this Act'';

(9) by redesignating subparagraphs (P) and (Q) as subparagraphs (R) and (S), respectively;

(10) by inserting after subparagraph (O) the following new subparagraphs:

''(P) any offense relating to commercial bribery, counterfeiting, forgery, or trafficking in vehicles whose identification numbers have been altered for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least one year;

''(Q) any offense relating to perjury or subornation of perjury for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least one year;'' and

(11) in subparagraph (R) (as redesignated), by striking ''15'' and inserting ''5''.

(b) EFFECTIVE DATE OF DEFINITION.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended by adding at the end the following new sentence: ''Notwithstanding any other provision of law, the term applies regardless of whether the conviction was entered before, on, or after the date of enactment of this paragraph, except that, for purposes of section 242(f)(2), the term has the same meaning as was in effect under this paragraph on the date the offense was committed.''.

(c) APPLICATION TO WITHHOLDING OF DEPORTATION.—Section 243(h) (8 U.S.C. 1253(h)), as amended by section 159 of this Act, is further amended in paragraph (2) by striking the last sentence and inserting the following: ''For purposes of subparagraph (B), an alien shall be considered to have committed a particularly serious crime if such alien has been convicted of one or more of the following:

''(1) An aggravated felony, or attempt or conspiracy to commit an aggravated felony, for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least one year.

''(2) An offense described in subparagraph (A), (B), (C), (E), (H), (I), (J), (L), or subparagraph (K)(ii), of section 101(a)(43), or an attempt or conspiracy to commit an offense described in one or more of such subparagraphs.''.

SEC. 162. INELIGIBILITY OF AGGRAVATED FELONS FOR ADJUSTMENT OF STATUS.

Section 244(c) (8 U.S.C. 1254(c)), as amended by section 150 of this Act, is further amended by adding at the end the following new sentence: ''No person who has been convicted of an aggravated felony shall be eligible for relief under this subsection.''.

SEC. 163. EXPEDITIOUS DEPORTATION CREATES NO ENFORCEABLE RIGHT FOR AGGRAVATED FELONS.

Section 225 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416) is amended by striking ''section 242(i) of the Immigration and Nationality Act (8 U.S.C. 1252(i))'' and inserting ''sections 242(i) or 242A of the Immigration and Nationality Act (8 U.S.C. 1252(i) or 1252a)''.

SEC. 164. CUSTODY OF ALIENS CONVICTED OF AGGRAVATED FELONIES.

(a) EXCLUSION AND DEPORTATION.—Section 236 (8 U.S.C. 1226) is amended in subsection (e)(2) by inserting after ''unless'' the following: ''(A) the Attorney General determines, pursuant to section 3521 of title 18, United States Code, that release 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, and that after such release the alien would not be a threat to the community, or (B)''.

(b) CUSTODY UPON RELEASE FROM INCARCERATION.—Section 242(a)(2) (8 U.S.C. 1252(a)(2)) is amended to read as follows:

''(2)(A) The Attorney General shall take into custody any specially deportable criminal alien upon release of the alien from incarceration and shall deport the alien as expeditiously as possible. Notwithstanding any other provision of law, the Attorney General shall not release such felon from custody.

''(B) The Attorney General shall have sole and unreviewable discretion to waive subparagraph (A) for aliens who are cooperating with law enforcement authorities or for purposes of national security.''.

(c) PERIOD IN WHICH TO EFFECT ALIEN'S DEPARTURE.—Section 242(c) is amended—

(1) in the first sentence—

(A) by striking ''(c)'' and inserting ''(c)(1)''; and

(B) by inserting ''(other than an alien described in paragraph (2))''; and

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

''(2)(A) When a final order of deportation is made against any specially deportable criminal alien, the Attorney General shall have a period of 30 days from the later of—

''(i) the date of such order, or

''(ii) the alien's release from incarceration, within which to effect the alien's departure from the United States.

''(B) The Attorney General shall have sole and unreviewable discretion to waive subparagraph (A) for aliens who are cooperating with law enforcement authorities or for purposes of national security.

''(3) Nothing in this subsection shall be construed as providing a right enforceable by or on behalf of any alien to be released from custody or to challenge the alien's deportation.''.

(d) CRIMINAL PENALTY FOR UNLAWFUL REENTRY.—Section 242(f) of the Immigration and Nationality Act (8 U.S.C. 1252(f)) is amended—

(1) by inserting ''(1)'' immediately after ''(f)''; and

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

''(2) Any alien who has unlawfully reentered or is found in the United States after having previously been deported subsequent to a conviction for any criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or two or more offenses described in clause (ii) of section 241(a)(2)(A), at least two of which resulted in a sentence or confinement described in section 241(a)(2)(A)(i)(II), shall, in addition to the punishment provided for any other crime, be punished by imprisonment of not less than 15 years.''.

(e) DEFINITION.—Section 242 (8 U.S.C. 1252) is amended by adding at the end the following new subsection:

''(k) For purposes of this section, the term 'specially deportable criminal alien' means any alien convicted of an offense described in subparagraph (A)(iii), (B), (C), or (D) of section 241(a)(2), or two or more offenses described in section 241(a)(2)(A)(ii), at least two of which resulted in a sentence or confinement described in section 241(a)(2)(A)(i)(II).''.

SEC. 165. JUDICIAL DEPORTATION.

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

(1) by redesignating subsection (d) as subsection (c); and

(2) in subsection (c), as redesignated—

(A) by striking paragraph (1) and inserting the following:

''(1) AUTHORITY.—Notwithstanding any other provision of this Act, a United States district court shall have jurisdiction to enter a judicial order of deportation at the time of sentencing against an alien—

''(A) whose criminal conviction causes such alien to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony);

''(B) who has at any time been convicted of a violation of section 276 (a) or (b) (relating to reentry of a deported alien);

''(C) who has at any time been convicted of a violation of section 275 (relating to entry of an alien at an improper time or place and to misrepresentation and concealment of facts); or

''(D) who is otherwise deportable pursuant to any of the paragraphs (1) through (5) of section 241(a).

A United States Magistrate shall have jurisdiction to enter a judicial order of deportation at the time of sentencing where the alien has been convicted of a misdemeanor offense and the alien is deportable under this Act.''; and

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

''(5) STATE COURT FINDING OF DEPORTABILITY.—(A) On motion of the prosecution or on the court's own motion, any State court with jurisdiction to enter judgments in criminal cases is authorized to make a finding that the defendant is deportable as a specially deportable criminal alien (as defined in section 242(k)).

''(B) The finding of deportability under subparagraph (A), when incorporated in a final judgment of conviction, shall for all purposes be conclusive on the alien and may not be reexamined by any agency or court, whether by habeas corpus or otherwise. The court shall notify the Attorney General of any finding of deportability.

''(6) STIPULATED JUDICIAL ORDER OF DEPORTATION.—The United States Attorney, with the concurrence of the Commissioner, may, pursuant to Federal Rule of Criminal Procedure 11, enter into a plea agreement which calls for the alien, who is deportable under this Act, to waive the right to notice and a hearing under this section, and stipulate to the entry of a judicial order of deportation from the United States as a condition of the plea agreement or as a condition of probation or supervised release, or both. The United States District Court, in both felony and misdemeanor cases, and the United States Magistrate Court in misdemeanors cases, may accept such a stipulation and shall have jurisdiction to enter a judicial order of deportation pursuant to the terms of such stipulation.''.

(b) CONFORMING AMENDMENTS.—(1) Section 512 of the Immigration Act of 1990 is amended by striking ''242A(d)'' and inserting ''242A(c)''.

(2) Section 130007(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322) is amended by striking ''242A(d)'' and inserting ''242A(c)''.

SEC. 166. STIPULATED EXCLUSION OR DEPORTATION.

(a) EXCLUSION AND DEPORTATION.—Section 236 (8 U.S.C. 1226) is amended by adding at the end the following new subsection:

''(f) The Attorney General shall provide by regulation for the entry by a special inquiry officer of an order of exclusion and deportation stipulated to by the alien and the Service. Such an order may be entered without a personal appearance by the alien before the special inquiry officer. A stipulated order shall constitute a conclusive determination of the alien's excludability and deportability from the United States.''.

(b) APPREHENSION AND DEPORTATION.—Section 242 (8 U.S.C. 1252) is amended in subsection (b)—

(1) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(2) by inserting ''(1)'' immediately after ''(b)'';

(3) by striking the sentence beginning with ''Except as provided in section 242A(d)'' and inserting the following:

''(2) The Attorney General shall further provide by regulation for the entry by a special inquiry officer of an order of deportation stipulated to by the alien and the Service. Such an order may be entered without a personal appearance by the alien before the special inquiry officer. A stipulated order shall constitute a conclusive determination of the alien's deportability from the United States.

''(3) The procedures prescribed in this subsection and in section 242A(c) shall be the sole and exclusive procedures for determining the deportability of an alien.''; and

(4) by redesignating the tenth sentence as paragraph (4); and

(5) by redesignating the eleventh and twelfth sentences as paragraph (5).

(c) CONFORMING AMENDMENTS.—(1) Section 106(a) is amended by striking ''section 242(b)'' and inserting ''section 242(b)(1)''.

(2) Section 212(a)(6)(B)(iv) is amended by striking ''section 242(b)'' and inserting ''section 242(b)(1)''.

(3) Section 242(a)(1) is amended by striking ''subsection (b)'' and inserting ''subsection (b)(1)''.

(4) Section 242A(b)(1) is amended by striking ''section 242(b)'' and inserting ''section 242(b)(1)''.

(5) Section 242A(c)(2)(D)(ii), as redesignated by section 165 of this Act, is amended by striking ''section 242(b)'' and inserting ''section 242(b)(1)''.

(6) Section 4113(a) of title 18, United States Code, is amended by striking ''section 1252(b)'' and inserting ''section 1252(b)(1)''.

(7) Section 1821(e) of title 28, United States Code, is amended by striking ''section 242(b) of such Act (8 U.S.C. 1252(b))'' and inserting ''section 242(b)(1) of such Act (8 U.S.C. 1252(b)(1))''.

(8) Section 242B(c)(1) is amended by striking ''section 242(b)(1)'' and inserting ''section 242(b)(4)''.

(9) Section 242B(e)(2)(A) is amended by striking ''section 242(b)(1)'' and inserting ''section 242(b)(4)''.

(10) Section 242B(e)(5)(A) is amended by striking ''section 242(b)(1)'' and inserting ''section 242(b)(4)''.

SEC. 167. DEPORTATION AS A CONDITION OF PROBATION.

Section 3563(b) of title 18, United States Code, is amended—

(1) by striking ''or'' at the end of paragraph (21);

(2) by striking the period at the end of paragraph (22) and inserting ''; or''; and

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

''(23) be ordered deported by a United States District Court, or United States Magistrate Court, pursuant to a stipulation entered into by the defendant and the United States under section 242A(c) of the Immigration and Nationality Act (8 U.S.C. 1252a(c)), except that, in the absence of a stipulation, the United States District Court or the United States Magistrate Court, may order deportation as a condition of probation, if, after notice and hearing pursuant to section 242A(c) of the Immigration and Nationality Act, the Attorney General demonstrates by clear and convincing evidence that the alien is deportable.''.

SEC. 168. ANNUAL REPORT ON CRIMINAL ALIENS.

Not later than 12 months after the date of the enactment of this Act, and annually thereafter, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report detailing—

(1) the number of illegal aliens incarcerated in Federal and State prisons for having committed felonies, stating the number incarcerated for each type of offense;

(2) the number of illegal aliens convicted for felonies in any Federal or State court, but not sentenced to incarceration, in the year before the report was submitted, stating the number convicted for each type of offense;

(3) programs and plans underway in the Department of Justice to ensure the prompt removal from the United States of criminal aliens subject to exclusion or deportation; and

(4) methods for identifying and preventing the unlawful reentry of aliens who have been convicted of criminal offenses in the United States and removed from the United States.

SEC. 169. UNDERCOVER INVESTIGATION AUTHORITY.

(a) AUTHORITIES.—(1) In order to conduct any undercover investigative operation of the Immigration and Naturalization Service which is necessary for the detection and prosecution of crimes against the United States, the Service is authorized—

(A) to lease space within the United States, the District of Columbia, and the territories and possessions of the United States without regard to section 3679(a) of the Revised Statutes (31 U.S.C. 1341), section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading ''Miscellaneous'' of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3648 of the Revised Statutes (31 U.S.C. 3324), section 3741 of the Revised Statutes (41 U.S.C. 22), and 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));

(B) 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);

(C) to deposit funds, including the proceeds from such undercover operation, in banks or other financial institutions without regard to the provisions of section 648 of title 18 of the United States Code, and section 3639 of the Revised Statutes (31 U.S.C. 3302); and

(D) to use the proceeds from such undercover operations to offset necessary and reasonable expenses incurred in such operations without regard to the provisions of section 3617 of the Revised Statutes (31 U.S.C. 3302).

(2) The authorization set forth in paragraph (1) may be exercised only upon written certification of the Commissioner of the Immigration and Naturalization Service, in consultation with the Deputy Attorney General, that any action authorized by paragraph (1) (A), (B), (C), or (D) is necessary for the conduct of such undercover operation.

(b) UNUSED FUNDS.—As soon as practicable after the proceeds from an undercover investigative operation, carried out under paragraph (1) (C) or (D) of subsection (a), are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

(c) REPORT.—If a corporation or business entity established or acquired as part of an undercover operation under subsection (a)(1)(B) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Immigration and Naturalization Service, as much in advance as the Commissioner or his or her designee determine practicable, shall report the circumstances to the Attorney General, the Director of the Office of Management and Budget, and the Comptroller General of the United States. 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) AUDITS.—The Immigration and Naturalization 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.

SEC. 170. PRISONER TRANSFER TREATIES.

(a) NEGOTIATIONS WITH OTHER COUNTRIES.—(1) Congress advises the President to begin to negotiate and renegotiate, not later than 90 days after the date of enactment of this Act, bilateral prisoner transfer treaties, providing for the incarceration, in the country of the alien's nationality, of any alien who—

(A) is a national of a country that is party to such a treaty; and

(B) has been convicted of a criminal offense under Federal or State law and who—

(i) is not in lawful immigration status in the United States, or

(ii) on the basis of conviction for a criminal offense under Federal or State law, or on any other basis, is subject to deportation under the Immigration and Nationality Act, for the duration of the prison term to which the alien was sentenced for the offense referred to in subparagraph (B). Any such agreement may provide for the release of such alien pursuant to parole procedures of that country.

(2) In entering into negotiations under paragraph (1), the President may consider providing for appropriate compensation, subject to the availability of appropriations, 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) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the focus of negotiations for such agreements should be—

(A) to expedite the transfer of aliens unlawfully in the United States who are (or are about to be) incarcerated in United States prisons,

(B) to ensure that a transferred prisoner serves the balance of the sentence imposed by the United States courts,

(C) to eliminate any requirement of prisoner consent to such a transfer, and

(D) 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 prisons sentences;

(2) the Secretary of State should give priority to concluding an agreement with any country for which the President determines that the number of aliens described in subsection (a) who are nationals of that country in the United States represents a significant percentage of all such aliens in the United States; and

(3) no new treaty providing for the transfer of aliens from Federal, State, or local incarceration facilities to a foreign incarceration facility should permit the alien to refuse the transfer.

(c) PRISONER CONSENT.—Notwithstanding any other provision of law, except as required by treaty, the transfer of an alien from a Federal, State, or local incarceration facility under an agreement of the type referred to in subsection (a) shall not require consent of the alien.

(d) ANNUAL REPORT.—Not later than 90 days after the date of the enactment of this Act, and annually thereafter, the Attorney General shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate stating whether each prisoner transfer treaty to which the United States is a party has been effective in the preceding 12 months in bringing about the return of deportable incarcerated aliens to the country of which they are nationals and in ensuring that they serve the balance of their sentences.

(e) TRAINING FOREIGN LAW ENFORCEMENT PERSONNEL.—(1) Subject to paragraph (2), the President shall direct the Border Patrol Academy and the Customs Service Academy to enroll for training an appropriate number of foreign law enforcement personnel, and shall make appointments of foreign law enforcement personnel to such academies, as necessary to further the following United States law enforcement goals:

(A) prevention of drug smuggling and other cross-border criminal activity;

(B) preventing illegal immigration; and

(C) preventing the illegal entry of goods into the United States (including goods the sale of which is illegal in the United States, the entry of which would cause a quota to be exceeded, or which have not paid the appropriate duty or tariff).

(2) The appointments described in paragraph (1) shall be made only to the extent there is capacity in such academies beyond what is required to train United States citizens needed in the Border Patrol and Customs Service, and only of personnel from a country with which the prisoner transfer treaty has been stated to be effective in the most recent report referred to in subsection (d).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 170A. PRISONER TRANSFER TREATIES STUDY.

(a) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State and the Attorney General shall submit to the Congress a report that describes the use and effectiveness of the prisoner transfer treaties with the three countries with the greatest number of their nationals incarcerated in the United States in removing from the United States such incarcerated nationals.

(b) USE OF TREATY.—The report under subsection (a) shall include—

(1) the number of aliens convicted of a criminal offense in the United States since November 30, 1977, who would have been or are eligible for transfer pursuant to the treaties;

(2) the number of aliens described in paragraph (1) who have been transferred pursuant to the treaties;

(3) the number of aliens described in paragraph (2) who have been incarcerated in full compliance with the treaties;

(4) the number of aliens who are incarcerated in a penal institution in the United States who are eligible for transfer pursuant to the treaties; and

(5) the number of aliens described in paragraph (4) who are incarcerated in Federal, State, and local penal institutions in the United States.

(c) RECOMMENDATIONS.—The report under subsection (a) shall include the recommendations of the Secretary of State and the Attorney General to increase the effectiveness and use of, and full compliance with, the treaties. In considering the recommendations under this subsection, the Secretary and the Attorney General shall consult with such State and local officials in areas disproportionately impacted by aliens convicted of criminal offenses as the Secretary and the Attorney General consider appropriate. Such recommendations shall address—

(1) changes in Federal laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed criminal offenses in the United States;

(2) changes in State and local laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States;

(3) changes in the treaties that may be necessary to increase the number of aliens convicted of criminal offenses who may be transferred pursuant to the treaties;

(4) methods for preventing the unlawful reentry into the United States of aliens who have been convicted of criminal offenses in the United States and transferred pursuant to the treaties;

(5) any recommendations by appropriate officials of the appropriate government agencies of such countries regarding programs to achieve the goals of, and ensure full compliance with, the treaties;

(6) whether the recommendations under this subsection require the renegotiation of the treaties; and

(7) the additional funds required to implement each recommendation under this subsection.

SEC. 170B. USING ALIEN FOR IMMORAL PURPOSES, FILING REQUIREMENT.

Section 2424 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph of subsection (a)—

(A) by striking ''alien'' each place it appears;

(B) by inserting after ''individual'' the first place it appears the following: '', knowing or in reckless disregard of the fact that the individual is an alien''; and

(C) by striking ''within three years after that individual has entered the United States from any country, party to the arrangement adopted July 25, 1902, for the suppression of the white-slave traffic'';

(2) in the second undesignated paragraph of subsection (a)—

(A) by striking ''thirty'' and inserting ''five business''; and

(B) by striking ''within three years after that individual has entered the United States from any country, party to the said arrangement for the suppression of the white-slave traffic,'';

(3) in the text following the third undesignated paragraph of subsection (a), by striking ''two'' and inserting ''10''; and

(4) in subsection (b), before the period at the end of the second sentence, by inserting '', or for enforcement of the provisions of section 274A of the Immigration and Nationality Act''.

SEC. 170C. TECHNICAL CORRECTIONS TO VIOLENT CRIME CONTROL ACT AND TECHNICAL CORRECTIONS ACT.

(a) IN GENERAL.—The second subsection (i) of section 245 (as added by section 130003(c)(1) of the Violent Crime Control and Law Enforcement Act of 1994; Public Law 103–322) is redesignated as subsection (j) of such section.

(b) CONFORMING AMENDMENT.—Section 241(a)(2)(A)(i)(I) (8 U.S.C. 1251(a)(2)(A)(i)(I)) is amended by striking ''section 245(i)'' and inserting ''section 245(j)''.

(c) DENIAL OF JUDICIAL ORDER.—(1) Section 242A(c)(4), as redesignated by section 165 of this Act, is amended by striking ''without a decision on the merits''.

(2) The amendment made by this subsection shall be effective as if originally included in section 223 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416).

SEC. 170D. DEMONSTRATION PROJECT FOR IDENTIFICATION OF ILLEGAL ALIENS IN INCARCERATION FACILITY OF ANAHEIM, CALIFORNIA.

(a) AUTHORITY.—The Attorney General is authorized to conduct a project demonstrating the feasibility of identifying illegal aliens among those individuals who are incarcerated in local governmental prison facilities prior to arraignment on criminal charges.

(b) DESCRIPTION OF PROJECT.—The project authorized by subsection (a) shall include the detail to the city of Anaheim, California, of an employee of the Immigration and Naturalization Service having expertise in the identification of illegal aliens for the purpose of training local officials in the identification of such aliens.

(c) TERMINATION.—The authority of this section shall cease to be effective 6 months after the date of the enactment of this Act.

(d) DEFINITION.—As used in this section, the term ''illegal alien'' means an alien in the United States who is not within any of the following classes of aliens:

(1) Aliens lawfully admitted for permanent residence.

(2) Nonimmigrant aliens described in section 101(a)(15) of the Immigration and Nationality Act.

(3) Refugees.

(4) Asylees.

(5) Parolees.

(6) Aliens having deportation withheld under section 243(h) of the Immigration and Nationality Act.

(7) Aliens having temporary residence status.

PART 6—MISCELLANEOUS

SEC. 171. IMMIGRATION EMERGENCY PROVISIONS.

(a) REIMBURSEMENT OF FEDERAL AGENCIES FROM IMMIGRATION EMERGENCY FUND.—Section 404(b) (8 U.S.C. 1101 note) is amended—

(1) in paragraph (1)—

(A) after ''paragraph (2)'' by striking ''and'' and inserting a comma,

(B) by striking ''State'' and inserting ''other Federal agencies and States'',

(C) by inserting '', and for the costs associated with repatriation of aliens attempting to enter the United States illegally, whether apprehended within or outside the territorial sea of the United States'' before ''except'', and

(D) by adding at the end the following new sentence: ''The fund may be used for the costs of such repatriations without the requirement for a determination by the President that an immigration emergency exists.''; and

(2) in paragraph (2)(A)—

(A) by inserting ''to Federal agencies providing support to the Department of Justice or'' after ''available''; and

(B) by inserting a comma before ''whenever''.

(b) VESSEL MOVEMENT CONTROLS.—Section 1 of the Act of June 15, 1917 (50 U.S.C. 191) is amended in the first sentence by inserting ''or whenever the Attorney General determines that an actual or anticipated mass migration of aliens en route to or arriving off the coast of the United States presents urgent circumstances requiring an immediate Federal response,'' after ''United States,'' the first place it appears.

(c) DELEGATION OF IMMIGRATION ENFORCEMENT AUTHORITY.—Section 103 (8 U.S.C. 1103) is amended by adding at the end of subsection (a) the following new sentence: ''In the event the Attorney General determines that an actual or imminent mass influx of aliens arriving off the coast of the United States, or near a land border, presents urgent circumstances requiring an immediate Federal response, the Attorney General may authorize any specially designated State or local law enforcement officer, with the consent of the head of the department, agency, or establishment under whose jurisdiction the individual is serving, to perform or exercise any of the powers, privileges, or duties conferred or imposed by this Act or regulations issued thereunder upon officers or employees of the Service.''.

SEC. 172. AUTHORITY TO DETERMINE VISA PROCESSING PROCEDURES.

Section 202(a)(1) (8 U.S.C. 1152(a)(1)) is amended—

(1) by inserting ''(A)'' after ''NONDISCRIMINATION.—''; and

(2) by adding at the end the following:

''(B) Nothing in this paragraph 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.''.

SEC. 173. JOINT STUDY OF AUTOMATED DATA COLLECTION.

(a) STUDY.—The Attorney General, together with the Secretary of State, the Secretary of Agriculture, the Secretary of the Treasury, and appropriate representatives of the air transport industry, shall jointly undertake a study to develop a plan for making the transition to automated data collection at ports of entry.

(b) REPORT.—Nine months after the date of enactment of this Act, the Attorney General shall submit a report to the Committees on the Judiciary of the Senate and the House of Representatives on the outcome of this joint initiative, noting specific areas of agreement and disagreement, and recommending further steps to be taken, including any suggestions for legislation.

SEC. 174. AUTOMATED ENTRY-EXIT CONTROL SYSTEM.

Not later than 2 years after the date of the enactment of this Act, the Attorney General shall develop an automated entry and exit control system that will enable the Attorney General to identify, through on-line searching procedures, lawfully admitted nonimmigrants who remain in the United States beyond the period authorized by the Attorney General.

SEC. 175. USE OF LEGALIZATION AND SPECIAL AGRICULTURAL WORKER INFORMATION.

(a) CONFIDENTIALITY OF INFORMATION.—Section 245A(c)(5) (8 U.S.C. 1255a(c)(5)) is amended by striking ''except that the Attorney General'' and inserting the following: ''except that the Attorney General shall provide

information furnished under this section to a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, when such information is requested in writing by such entity, or to an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime) and''.

(b) SPECIAL AGRICULTURAL WORKERS.—Section 210(b)(6)(C) (8 U.S.C. 1160(b)(6)(C)) is amended—

(1) by striking the period at the end of subparagraph (C) and inserting a comma; and

(2) by adding in full measure margin after subparagraph (C) the following:

''except that the Attorney General shall provide information furnished under this section to a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, when such information is requested in writing by such entity, or to an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).''.

SEC. 176. RESCISSION OF LAWFUL PERMANENT RESIDENT STATUS.

Section 246(a) (8 U.S.C. 1256(a)) is amended—

(1) by inserting ''(1)'' immediately after ''(a)''; and

(2) by adding at the end the following new sentence: ''Nothing in this subsection requires the Attorney General to rescind the alien's status prior to commencement of procedures to deport the alien under section 242 or 242A, and an order of deportation issued by a special inquiry officer shall be sufficient to rescind the alien's status.''.

SEC. 177. COMMUNICATION BETWEEN FEDERAL, STATE, AND LOCAL GOVERNMENT AGENCIES, AND THE IMMIGRATION AND NATURALIZATION SERVICE.

Notwithstanding any other provision of Federal, State, or local law, no Federal, 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 any person.

SEC. 178. AUTHORITY TO USE VOLUNTEERS.

(a) ACCEPTANCE OF DONATED SERVICES.—Notwithstanding any other provision of law, but subject to subsection (b), the Attorney General may accept, administer, and utilize gifts of services from any person for the purpose of providing administrative assistance to the Immigration and Naturalization Service in administering programs relating to naturalization, adjudications at ports of entry, and removal of criminal aliens. Nothing in this section requires the Attorney General to accept the services of any person.

(b) LIMITATION.—Such person may not administer or score tests and may not adjudicate.

SEC. 179. AUTHORITY TO ACQUIRE FEDERAL EQUIPMENT FOR BORDER.

In order to facilitate or improve the detection, interdiction, and reduction by the Immigration and Naturalization Service of illegal immigration into the United States, the Attorney General is authorized to acquire and utilize any Federal equipment (including, but not limited to, fixed-wing aircraft, helicopters, four-wheel drive vehicles, sedans, night vision goggles, night vision scopes, and sensor units) determined available for transfer to the Department of Justice by any other agency of the Federal Government upon request of the Attorney General.

SEC. 180. LIMITATION ON LEGALIZATION LITIGATION.

(a) LIMITATION ON COURT JURISDICTION.—Section 245A(f)(4) is amended by adding at the end the following new subparagraph:

''(C) JURISDICTION OF COURTS.—Notwithstanding any other provision of law, no court shall have jurisdiction of any cause of action or claim by or on behalf of any person asserting an interest under this section unless such person in fact filed an application under this section within the period specified by subsection (a)(1), or attempted to file a complete application and application fee with an authorized legalization officer of the Immigration and Naturalization Service but had the application and fee refused by that officer.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective as if originally included in section 201 of the Immigration Control and Financial Responsibility Act of 1986.

SEC. 181. LIMITATION ON ADJUSTMENT OF STATUS.

Section 245(c) (8 U.S.C. 1255(c)) is amended—

(1) by striking ''or (5)'' and inserting ''(5)''; and

(2) by inserting before the period at the end the following: ''; (6) any alien who seeks adjustment of status as an employment-based immigrant and is not in a lawful nonimmigrant status; or (7) any alien who was employed while the alien was an unauthorized alien, as defined in section 274A(h)(3), or who has otherwise violated the terms of a nonimmigrant visa''.

SEC. 182. REPORT ON DETENTION SPACE.

(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Attorney General shall submit a report to the Congress estimating the amount of detention space that would be required on the date of enactment of this Act, in 5 years, and in 10 years, under various policies on the detention of aliens, including but not limited to—

(1) detaining all excludable or deportable aliens who may lawfully be detained;

(2) detaining all excludable or deportable aliens who previously have been excluded, been deported, departed while an order of exclusion or deportation was outstanding, voluntarily departed under section 244, or voluntarily returned after being apprehended while violating an immigration law of the United States; and

(3) the current policy.

(b) ESTIMATE OF NUMBER OF ALIENS RELEASED INTO THE COMMUNITY.—Such report shall also estimate the number of excludable or deportable aliens who have been released into the community in each of the 3 years prior to the date of enactment of this Act under circumstances that the Attorney General believes justified detention (for example, a significant probability that the released alien would not appear, as agreed, at subsequent exclusion or deportation proceedings), but a lack of detention facilities required release.

SEC. 183. COMPENSATION OF IMMIGRATION JUDGES.

(a) COMPENSATION.—

(1) IN GENERAL.—There shall be four levels of pay for special inquiry officers of the Department of Justice (in this section referred to as ''immigration judges'') under the Immigration Judge Schedule (designated as IJ–1, IJ–2, IJ–3, and IJ–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 percent of the next to highest rate of basic pay for the Senior Executive Service.
IJ–2	80 percent of the next to highest rate of basic pay for the Senior Executive Service.
IJ–3	90 percent of the next to highest rate of basic pay for the Senior Executive Service.
IJ–4	92 percent 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 of this subsection 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.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect 90 days after the date of the enactment of this Act.

SEC. 184. ACCEPTANCE OF STATE SERVICES TO CARRY OUT IMMIGRATION ENFORCEMENT.

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 in relation to the arrest or detention of aliens in the United States, 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, and shall contain a written certification that the officers or employees performing the function under the agreement have received adequate training regarding the enforcement of relevant Federal immigration laws.

''(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 duties 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 agency 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 knowledge 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.''.

SEC. 185. ALIEN WITNESS COOPERATION.

Section 214(j)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(j)(1)) (relating to numerical limitations on the number of aliens that may be provided visas as nonimmigrants under section 101(a)(15)(5)(ii) of such Act) is amended—

(1) by striking ''100'' and inserting ''200''; and

(2) by striking ''25'' and inserting ''50''.

Subtitle B—Other Control Measures

PART 1—PAROLE AUTHORITY

SEC. 191. USABLE ONLY ON A CASE-BY-CASE BASIS FOR HUMANITARIAN REASONS OR SIGNIFICANT PUBLIC BENEFIT.

Section 212(d)(5)(A) (8 U.S.C. 1182(d)(5)) is amended by striking ''for emergent reasons or for reasons deemed strictly in the public interest'' and inserting ''on a case-by-case basis for urgent humanitarian reasons or significant public benefit''.

SEC. 192. INCLUSION IN WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.

(a) IN GENERAL.—Section 201(c) (8 U.S.C. 1151(c)) is amended—

(1) by amending paragraph (1)(A)(ii) to read as follows:

''(ii) the sum of the number computed under paragraph (2) and the number computed under paragraph (4), plus''; and

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

''(4) The number computed under this paragraph for a fiscal year is the number of aliens who were paroled into the United States under section 212(d)(5) in the second preceding fiscal year and who did not depart from the United States within 365 days.

''(5) If any alien described in paragraph (4) is subsequently admitted as an alien lawfully admitted for permanent residence, such alien shall not again be considered for purposes of paragraph (1).''.

(b) INCLUSION OF PAROLED ALIENS.—Section 202 (8 U.S.C. 1152) is amended by adding at the end the following new subsection:

''(f)(1) For purposes of subsection (a)(2), an immigrant visa shall be considered to have been made available in a fiscal year to any alien who is not an alien lawfully admitted for permanent residence but who was paroled into the United States under section 212(d)(5) in the second preceding fiscal year and who did not depart from the United States within 365 days.

''(2) If any alien described in paragraph (1) is subsequently admitted as an alien lawfully admitted for permanent residence, an immigrant visa shall not again be considered to have been made available for purposes of subsection (a)(2).''.

PART 2—ASYLUM

SEC. 193. LIMITATIONS ON ASYLUM APPLICATIONS BY ALIENS USING DOCUMENTS FRAUDULENTLY OR BY EXCLUDABLE ALIENS APPREHENDED AT SEA; USE OF SPECIAL EXCLUSION PROCEDURES.

Section 208 (8 U.S.C. 1158) is amended by striking subsection (e) and inserting the following:

''(e)(1) Notwithstanding subsection (a), any alien who, in seeking entry to the United States or boarding a common carrier for the purpose of coming to the United States, presents any document which, in the determination of the immigration officer, is fraudulent, forged, stolen, or inapplicable to the person presenting the document, or otherwise contains a misrepresentation of a material fact, may not apply for or be granted asylum, unless presentation of the document was necessary to depart from a country in which the alien has a credible fear of persecution, or from which the alien has a credible fear of return to persecution, and the alien traveled from such country directly to the United States.

''(2) Notwithstanding subsection (a), an alien who boards a common carrier for the purpose of coming to the United States through the presentation of any document which relates or purports to relate to the alien's eligibility to enter the United States, and who fails to present such document to an immigration officer upon arrival at a port of entry into the United States, may not apply for or be granted asylum, unless presentation of such document was necessary to depart from a country in which the alien has a credible fear of persecution, or from which the alien has a credible fear of return to persecution, and the alien traveled from such country directly to the United States.

''(3) Notwithstanding subsection (a), an alien described in section 235(d)(3) may not apply for or be granted asylum, unless the alien traveled directly from a country in which the alien has a credible fear of persecution, or from which the alien has a credible fear of return to persecution.

''(4) Notwithstanding paragraph (1), (2), or (3), the Attorney General may, under extraordinary circumstances, permit an alien described in any such paragraph to apply for asylum.

''(5)(A) When an immigration officer has determined that an alien has sought entry under either of the circumstances described in paragraph (1) or (2), or is an alien described in section 235(d)(3), or is otherwise an alien subject to the special exclusion procedure of section 235(e), and the alien has indicated a desire to apply for asylum or for withholding of deportation under section 243(h), the immigration officer shall refer the matter to an asylum officer.

''(B) Such asylum officer shall interview the alien, in person or by video conference, to determine whether the alien has a credible fear of persecution (or of return to persecution) in or from—

''(i) the country of such alien's nationality or, in the case of a person having no nationality, the country in which such alien last habitually resided, and

''(ii) in the case of an alien seeking asylum who has sought entry under either of the circumstances described in paragraph (1) or (2), or who is described in section 235(d)(3), the country in which the alien was last present prior to attempting entry into the United States.

''(C) If the officer determines that the alien does not have a credible fear of persecution in (or of return to persecution from) the country or countries referred to in subparagraph (B), the alien may be specially excluded and deported in accordance with section 235(e).

''(D) The Attorney General shall provide by regulation for the prompt supervisory review of a determination under subparagraph (C) that an alien physically present in the United States does not have a credible fear of persecution in (or of return to persecution from) the country or countries referred to in subparagraph (B).

''(E) The Attorney General shall provide information concerning the procedure described in this paragraph to persons who may be eligible. An alien who is eligible for such procedure pursuant to subparagraph (A) may consult with a person or persons of the alien's choosing prior to the procedure or any review thereof, in accordance with regulations prescribed by the Attorney General. Such consultation shall be at no expense to the Government and shall not delay the process.

''(6) An alien who has been determined under the procedure described in paragraph (5) to have a credible fear of persecution shall be taken before a special inquiry officer for a hearing in accordance with section 236.

''(7) As used in this subsection, the term 'asylum officer' means an immigration officer who—

''(A) has had professional training in country conditions, asylum law, and interview techniques; and

''(B) is supervised by an officer who meets the condition in subparagraph (A).

''(8) As used in this section, the term 'credible fear of persecution' means that—

''(A) there is a substantial likelihood that the statements made by the alien in support of the alien's claim are true; and

''(B) there is a significant possibility, in light of such statements and of country conditions, that the alien could establish eligibility as a refugee within the meaning of section 101(a)(42)(A).''.

SEC. 194. TIME LIMITATION ON ASYLUM CLAIMS.

Section 208(a) (8 U.S.C. 1158(a)) is amended—

(1) by striking ''The'' and inserting the following: ''(1) Except as provided in paragraph (2), the''; and

(2) by adding at the end the following:

''(2)(A) An application for asylum filed for the first time during an exclusion or deportation proceeding shall not be considered if the proceeding was commenced more than one year after the alien's entry or admission into the United States.

''(B) An application for asylum may be considered, notwithstanding subparagraph (A), if the applicant shows good cause for not having filed within the specified period of time.''.

SEC. 195. LIMITATION ON WORK AUTHORIZATION FOR ASYLUM APPLICANTS.

Section 208 (8 U.S.C. 1158), as amended by this Act, is further amended by adding at the end the following new subsection:

''(f)(1) An applicant for asylum may not engage in employment in the United States unless such applicant has submitted an application for employment authorization to the Attorney General and, subject to paragraph (2), the Attorney General has granted such authorization.

''(2) The Attorney General may deny any application for, or suspend or place conditions on any grant of, authorization for any applicant for asylum to engage in employment in the United States.''.

SEC. 196. INCREASED RESOURCES FOR REDUCING ASYLUM APPLICATION BACKLOGS.

(a) PURPOSE AND PERIOD OF AUTHORIZATION.—For the purpose of reducing the number of applications pending under sections 208 and 243(h) of the Immigration and Nationality Act (8 U.S.C. 1158 and 1253) as of the date of the enactment of this Act, the Attorney General shall have the authority described in subsections (b) and (c) for a period of two years, beginning 90 days after the date of the enactment of this Act.

(b) PROCEDURES FOR PROPERTY ACQUISITION ON LEASING.—Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Attorney General is authorized to expend out of funds made available to the Department of Justice for the administration of the Immigration and Nationality Act such amounts as may be necessary for the leasing or acquisition of property to carry out the purpose described in subsection (a).

(c) USE OF FEDERAL RETIREES.—(1) In order to carry out the purpose described in subsection (a), the Attorney General may employ temporarily not more than 300 persons who, by reason of retirement on or before January 1, 1993, are receiving—

(A) annuities under the provisions of subchapter III of chapter 83 of title 5, United States Code, or chapter 84 of such title;

(B) annuities under any other retirement system for employees of the Federal Government; or

(C) retired or retainer pay as retired officers of regular components of the uniformed services.

(2) In the case of a person retired under the provisions of subchapter III of chapter 83 of title 5, United States Code—

(A) no amounts may be deducted from the person's pay,

(B) the annuity of such person may not be terminated,

(C) payment of the annuity to such person may not be discontinued, and

(D) the annuity of such person may not be recomputed, under section 8344 of such title, by reason of the temporary employment authorized in paragraph (1).

(3) In the case of a person retired under the provisions of chapter 84 of title 5, United States Code—

(A) no amounts may be deducted from the person's pay,

(B) contributions to the Civil Service Retirement and Disability Fund may not be made, and

(C) the annuity of such person may not be recomputed, under section 8468 of such title, by reason of the temporary employment authorized in paragraph (1).

(4) The retired or retainer pay of a retired officer of a regular component of a uniformed service may not be reduced under section 5532 of title 5, United States Code, by reason of temporary employment authorized in paragraph (1).

(5) The President shall apply the provisions of paragraphs (2) and (3) to persons receiving annuities described in paragraph (1)(B) in the same manner and to the same extent as such provisions apply to persons receiving annuities described in paragraph (1)(A).

PART 3—CUBAN ADJUSTMENT ACT

SEC. 197. REPEAL AND EXCEPTION.

(a) REPEAL.—Subject to subsection (b), Public Law 89–732, as amended, is hereby repealed.

(b) SAVINGS PROVISIONS.—(1) The provisions of such Act shall continue to apply on a case-by-case basis with respect to individuals paroled into the United States pursuant to the Cuban Migration Agreement of 1995.

(2) The individuals obtaining lawful permanent resident status under such provisions in a fiscal year shall be treated as if they were family-sponsored immigrants acquiring the status of aliens lawfully admitted to the United States in such fiscal year for purposes of the world-wide and per-country levels of immigration described in sections 201 and 202 of the Immigration and Nationality Act, except that any individual who previously was included in the number computed under section 201(c)(4) of the Immigration and Nationality Act, as added by section 192 of this Act, or had been counted for purposes of section 202 of the Immigration and Nationality Act, as amended by section 192 of this Act, shall not be so treated.

Subtitle C—Effective Dates

SEC. 198. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this title and subject to subsection (b), this title, and the amendments made by this title, shall take effect on the date of the enactment of this Act.

(b) OTHER EFFECTIVE DATES.—

(1) EFFECTIVE DATES FOR PROVISIONS DEALING WITH DOCUMENT FRAUD; REGULATIONS TO IMPLEMENT.—

(A) IN GENERAL.—The amendments made by sections 131, 132, 141, and 195 shall be effective upon the date of the enactment of this Act and shall apply to aliens who arrive in or seek admission to the United States on or after such date.

(B) REGULATIONS.—Notwithstanding any other provision of law, the Attorney General may issue interim final regulations to implement the provisions of the amendments listed in subparagraph (A) at any time on or after the date of the enactment of this Act, which regulations may become effective upon publication without prior notice or opportunity for public comment.

(2) ALIEN SMUGGLING, EXCLUSION, AND DEPORTATION.—The amendments made by sections 122, 126, 128, 129, 143, and 150(b) shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

TITLE II—FINANCIAL RESPONSIBILITY

Subtitle A—Receipt of Certain Government Benefits

SEC. 201. INELIGIBILITY OF EXCLUDABLE, DEPORTABLE, AND NONIMMIGRANT ALIENS.

(a) PUBLIC ASSISTANCE AND BENEFITS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, an ineligible alien (as defined in subsection (f)(2)) shall not be eligible to receive—

(A) any benefits under a public assistance program (as defined in subsection (f)(3)), except—

(i) emergency medical services under title XIX of the Social Security Act,

(ii) subject to paragraph (4), prenatal and postpartum services under title XIX of the Social Security Act,

(iii) short-term emergency disaster relief,

(iv) assistance or benefits under the National School Lunch Act,

(v) assistance or benefits under the Child Nutrition Act of 1966,

(vi) public health assistance for immunizations and, if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of a serious communicable disease, for testing and treatment for such diseases, and

(vii) such other service or assistance (such as soup kitchens, crisis counseling, intervention (including intervention for domestic violence), and short-term shelter) as the Attorney General specifies, in the Attorney General's sole and unreviewable discretion, after consultation with the heads of appropriate Federal agencies, if—

(I) such service or assistance is delivered at the community level, including through public or private nonprofit agencies;

(II) such service or assistance is necessary for the protection of life, safety, or public health; and

(III) such service or assistance or the amount or cost of such service or assistance is not conditioned on the recipient's income or resources; or

(B) any grant, contract, loan, professional license, or commercial license provided or funded by any agency of the United States or any State or local government entity, except, with respect to a nonimmigrant authorized to work in the United States, any professional or commercial license required to engage in such work, if the nonimmigrant is otherwise qualified for such license.

(2) BENEFITS OF RESIDENCE.—Notwithstanding any other provision of law, no State or local government entity shall consider any ineligible alien as a resident when to do so would place such alien in a more favorable position, regarding access to, or the cost of, any benefit or government service, than a United States citizen who is not regarded as such a resident.

(3) NOTIFICATION OF ALIENS.—

(A) IN GENERAL.—The agency administering a program referred to in paragraph (1)(A) or providing benefits referred to in paragraph (1)(B) shall, directly or, in the case of a Federal agency, through the States, notify individually or by public notice, all ineligible aliens who are receiving benefits under a program referred to in paragraph (1)(A), or are receiving benefits referred to in paragraph (1)(B), as the case may be, immediately prior to the date of the enactment of this Act and whose eligibility for the program is terminated by reason of this subsection.

(B) FAILURE TO GIVE NOTICE.—Nothing in subparagraph (A) shall be construed to require or authorize continuation of such eligibility if the notice required by such paragraph is not given.

(4) LIMITATION ON PREGNANCY SERVICES FOR UNDOCUMENTED ALIENS.—

(A) 3-YEAR CONTINUOUS RESIDENCE.—An ineligible alien may not receive the services described in paragraph (1)(A)(ii) unless such alien can establish proof of continuous residence in the United States for not less than 3 years, as determined in accordance with section 245a.2(d)(3) of title 8, Code of Federal Regulations as in effect on the day before the date of the enactment of this Act.

(B) LIMITATION ON EXPENDITURES.—Not more than $120,000,000 in outlays may be expended under title XIX of the Social Security Act for reimbursement of services described in paragraph (1)(A)(ii) that are provided to individuals described in subparagraph (A).

(C) CONTINUED SERVICES BY CURRENT STATES.—States that have provided services described in paragraph (1)(A)(ii) for a period of 3 years before the date of the enactment of this Act shall continue to provide such services and shall be reimbursed by the Federal Government for the costs incurred in providing such services. States that have not provided such services before the date of the enactment of this Act, but elect to provide

such services after such date, shall be reimbursed for the costs incurred in providing such services. In no case shall States be required to provide services in excess of the amounts provided in subparagraph (B).

(b) UNEMPLOYMENT BENEFITS.—Notwithstanding any other provision of law, only eligible aliens who have been granted employment authorization pursuant to Federal law, and United States citizens or nationals, may receive unemployment benefits payable out of Federal funds, and such eligible aliens may receive only the portion of such benefits which is attributable to the authorized employment.

(c) SOCIAL SECURITY BENEFITS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, only eligible aliens who have been granted employment authorization pursuant to Federal law and United States citizen or nationals may receive any benefit under title II of the Social Security Act, and such eligible aliens may receive only the portion of such benefits which is attributable to the authorized employment.

(2) NO REFUND OR REIMBURSEMENT.—Notwithstanding any other provision of law, no tax or other contribution required pursuant to the Social Security Act (other than by an eligible alien who has been granted employment authorization pursuant to Federal law, or by an employer of such alien) shall be refunded or reimbursed, in whole or in part.

(d) 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 Committee on the Judiciary and the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on the Judiciary and the Committee on Banking and Financial Services of the House of Representatives, describing the manner in which the Secretary is enforcing section 214 of the Housing and Community Development Act of 1980 (Public Law 96–399; 94 Stat. 1637) and containing statistics with respect to the number of individuals denied financial assistance under such section.

(e) NONPROFIT, CHARITABLE ORGANIZATIONS.—

(1) IN GENERAL.—Nothing in this Act shall be construed as requiring a nonprofit charitable organization operating any program of assistance provided or funded, in whole or in part, by the Federal Government to—

(A) determine, verify, or otherwise require proof of the eligibility, as determined under this title, of any applicant for benefits or assistance under such program; or

(B) deem that the income or assets of any applicant for benefits or assistance under such program include the income or assets described in section 204(b).

(2) NO EFFECT ON FEDERAL AUTHORITY TO DETERMINE COMPLIANCE.—Nothing in this subsection shall be construed as prohibiting the Federal Government from determining the eligibility, under this section or section 204, of any individual for benefits under a public assistance program (as defined in subsection (f)(3)) or for government benefits (as defined in subsection (f)(4)).

(f) DEFINITIONS.—For the purposes of this section—

(1) ELIGIBLE ALIEN.—The term ''eligible alien'' means an individual who is—

(A) an alien lawfully admitted for permanent residence under the Immigration and Nationality Act,

(B) an alien granted asylum under section 208 of such Act,

(C) a refugee admitted under section 207 of such Act,

(D) an alien whose deportation has been withheld under section 243(h) of such Act, or

(E) an alien paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year.

(2) INELIGIBLE ALIEN.—The term ''ineligible alien'' means an individual who is not—

(A) a United States citizen or national; or

(B) an eligible alien.

(3) PUBLIC ASSISTANCE PROGRAM.—The term ''public assistance program'' means any program of assistance provided or funded, in whole or in part, by the Federal Government or any State or local government entity, for which eligibility for benefits is based on need.

(4) GOVERNMENT BENEFITS.—The term ''government benefits'' includes—

(A) any grant, contract, loan, professional license, or commercial license provided or funded by any agency of the United States or any State or local government entity, except, with respect to a nonimmigrant authorized to work in the United States, any professional or commercial license required to engage in such work, if the nonimmigrant is otherwise qualified for such license;

(B) unemployment benefits payable out of Federal funds;

(C) benefits under title II of the Social Security Act;

(D) financial assistance for purposes of section 214(a) of the Housing and Community Development Act of 1980 (Public Law 96–399; 94 Stat. 1637); and

(E) benefits based on residence that are prohibited by subsection (a)(2).

SEC. 202. DEFINITION OF "PUBLIC CHARGE" FOR PURPOSES OF DEPORTATION.

(a) IN GENERAL.—Section 241(a)(5) (8 U.S.C. 1251(a)(5)) is amended to read as follows:

''(5) PUBLIC CHARGE.—

''(A) IN GENERAL.—Any alien who during the public charge period becomes a public charge, regardless of when the cause for becoming a public charge arises, is deportable.

''(B) EXCEPTIONS.—Subparagraph (A) shall not apply if the alien is a refugee or has been granted asylum, or if the cause of the alien's becoming a public charge—

''(i) arose after entry (in the case of an alien who entered as an immigrant) or after adjustment to lawful permanent resident status (in the case of an alien who entered as a nonimmigrant), and

''(ii) was a physical illness, or physical injury, so serious the alien could not work at any job, or a mental disability that required continuous hospitalization.

''(C) DEFINITIONS.—

''(i) PUBLIC CHARGE PERIOD.—For purposes of subparagraph (A), the term 'public charge period' means the period beginning on the date the alien entered the United States and ending—

''(I) for an alien who entered the United States as an immigrant, 5 years after entry, or

''(II) for an alien who entered the United States as a nonimmigrant, 5 years after the alien adjusted to permanent resident status.

''(ii) PUBLIC CHARGE.—For purposes of subparagraph (A), the term 'public charge' includes any alien who receives benefits under any program described in subparagraph (D) for an aggregate period of more than 12 months.

''(D) PROGRAMS DESCRIBED.—The programs described in this subparagraph are the following:

''(i) The aid to families with dependent children program under title IV of the Social Security Act.

''(ii) The medicaid program under title XIX of the Social Security Act.

''(iii) The food stamp program under the Food Stamp Act of 1977.

''(iv) The supplemental security income program under title XVI of the Social Security Act.

''(v) Any State general assistance program.

''(vi) Any other program of assistance funded, in whole or in part, by the Federal Government or any State or local government entity, for which eligibility for benefits is based on need, except the programs listed as exceptions in clauses (i) through (vi) of section 201(a)(1)(A) of the Immigration Reform Act of 1996.''.

(b) CONSTRUCTION.—Nothing in subparagraph (B), (C), or (D) of section 241(a)(5) of the Immigration and Nationality Act, as amended by subsection (a), may be construed to affect or apply to any determination of an alien as a public charge made before the date of the enactment of this Act.

(c) REVIEW OF STATUS.—

(1) IN GENERAL.—In reviewing any application by an alien for benefits under section 216, section 245, or chapter 2 of title III of the Immigration and Nationality Act, the Attorney General shall determine whether or not the applicant is described in section 241(a)(5)(A) of such Act, as so amended.

(2) GROUNDS FOR DENIAL.—If the Attorney General determines that an alien is described in section 241(a)(5)(A) of the Immigration and Nationality Act, the Attorney General shall deny such application and shall institute deportation proceedings with respect to such alien, unless the Attorney General exercises discretion to withhold or suspend deportation pursuant to any other section of such Act.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to aliens who enter the United States on or after the date of the enactment of this Act and to aliens who entered as nonimmigrants before such date but adjust or apply to adjust their status after such date.

SEC. 203. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

(a) ENFORCEABILITY.—No affidavit of support may be relied upon by the Attorney General or by any consular officer to establish that an alien is not excludable as a public charge under section 212(a)(4) of the Immigration and Nationality Act unless such affidavit is executed as a contract—

(1) which is legally enforceable against the sponsor by the sponsored individual, or by the Federal Government or any State, district, territory, or possession of the United States (or any subdivision of such State, district, territory, or possession of the United States) that provides any benefit described in section 241(a)(5)(D), as amended by section 202(a) of this Act, but not later than 10 years after the sponsored individual last receives any such benefit;

(2) in which the sponsor agrees to financially support the sponsored individual, so that he or she will not become a public charge, until the sponsored individual has worked in the United States for 40 qualifying quarters or has become a United States citizen, whichever occurs first; and

(3) in which the sponsor agrees to submit to the jurisdiction of any Federal or State court for the purpose of actions brought under subsection (d) or (e).

(b) FORMS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State, the Attorney General, and the Secretary of Health and Human Services shall jointly formulate the affidavit of support described in this section.

(c) NOTIFICATION OF CHANGE OF ADDRESS.—

(1) GENERAL REQUIREMENT.—The sponsor shall notify the Attorney General and the State, district, territory, or possession in which the sponsored individual is currently a resident within 30 days of any change of address of the sponsor during the period specified in subsection (a)(1).

(2) PENALTY.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall, after notice and opportunity to be heard, 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 individual has received any benefit described in section 241(a)(5)(D) of the Immigration and Nationality Act, as amended by section 202(a) of this Act, not less than $2,000 or more than $5,000.

(d) REIMBURSEMENT OF GOVERNMENT EXPENSES.—

(1) IN GENERAL.—

(A) REQUEST FOR REIMBURSEMENT.—Upon notification that a sponsored individual has received any benefit described in section 241(a)(5)(D) of the Immigration and Nationality Act, as amended by section 202(a) of this Act, the appropriate Federal, State, or local official shall request reimbursement from the sponsor for the amount of such assistance.

(B) REGULATIONS.—The Commissioner of Social Security shall prescribe such regulations as may be necessary to carry out subparagraph (A). Such regulations shall provide that notification be sent to the sponsor's last known address by certified mail.

(2) ACTION AGAINST SPONSOR.—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 make payments, an action may be brought against the sponsor pursuant to the affidavit of support.

(3) FAILURE TO MEET REPAYMENT TERMS.—If the sponsor agrees to make payments, but fails to abide by the repayment terms established by the agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.

(e) JURISDICTION.—

(1) IN GENERAL.—An action to enforce an affidavit of support executed under subsection (a) may be brought against the sponsor in any Federal or State court—

(A) by a sponsored individual, with respect to financial support; or

(B) by a Federal, State, or local agency, with respect to reimbursement.

(2) COURT MAY NOT DECLINE TO HEAR CASE.—For purposes of this section, no Federal or State court shall decline for lack of subject matter or personal jurisdiction to hear any action brought against a sponsor under paragraph (1) if—

(A) the sponsored individual is a resident of the State in which the court is located, or received public assistance while residing in the State; and

(B) such sponsor has received service of process in accordance with applicable law.

(f) DEFINITIONS.—For purposes of this section—

(1) SPONSOR.—The term ''sponsor'' means an individual who—

(A) is a United States citizen or national or an alien who is lawfully admitted to the United States for permanent residence;

(B) is at least 18 years of age;

(C) is domiciled in any of the several States of the United States, the District of Columbia, or any territory or possession of the United States; and

(D) demonstrates the means to maintain an annual income equal to at least 125 percent of the Federal poverty line for the individual and the individual's family (including the sponsored alien and any other alien sponsored by the individual), through evidence that includes a copy of the individual's Federal income tax return for the 3 most recent taxable years (which returns need show such level of annual income only in the most recent taxable year) 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 true copies of such returns.

In the case of an individual who is on active duty (other than active duty for training) in the Armed Forces of the United States, subparagraph (D) shall be applied by substituting ''100 percent'' for ''125 percent''.

(2) FEDERAL POVERTY LINE.—The term ''Federal poverty line'' means the level of income equal to the official poverty line (as defined by the Director of the Office of Management and Budget, as revised annually by the Secretary of Health and Human Services, in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902)) that is applicable to a family of the size involved.

(3) QUALIFYING QUARTER.—The term ''qualifying quarter'' means a three-month period in which the sponsored individual has—

(A) earned at least the minimum necessary for the period to count as one of the 40 quarters required to qualify for social security retirement benefits;

(B) not received need-based public assistance; and

(C) had income tax liability for the tax year of which the period was part.

SEC. 204. ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO FAMILY-SPONSORED IMMIGRANTS.

(a) DEEMING REQUIREMENT FOR FEDERAL AND FEDERALLY FUNDED PROGRAMS.—Subject to subsection (d), for purposes of determining the eligibility of an alien for benefits, and the amount of benefits, under any public assistance program (as defined in section 201(f)(3)), the income and resources described in subsection (b) shall, notwithstanding any other provision of law, be deemed to be the income and resources of such alien.

(b) DEEMED INCOME AND RESOURCES.—The income and resources described in this subsection include the income and resources of—

(1) any person who, as a sponsor of an alien's entry into the United States, or in order to enable an alien lawfully to remain in the United States, executed an affidavit of support or similar agreement with respect to such alien, and

(2) the sponsor's spouse.

(c) LENGTH OF DEEMING PERIOD.—The requirement of subsection (a) shall apply for the period for which the sponsor has agreed, in such affidavit or agreement, to provide support for such alien, or for a period of 5 years beginning on the day such alien was first lawfully in the United States after the execution of such affidavit or agreement, whichever period is longer.

(d) EXCEPTIONS.—

(1) INDIGENCE.—

(A) IN GENERAL.—If a determination described in subparagraph (B) is made, the amount of income and resources of the sponsor or the sponsor's spouse which shall be attributed to the sponsored alien shall not exceed the amount actually provided for a period—

(i) beginning on the date of such determination and ending 12 months after such date, or

(ii) if the address of the sponsor is unknown to the sponsored alien, beginning on the date of such determination and ending on the date that is 12 months after the address of the sponsor becomes known to the sponsored alien or to the agency (which shall inform such alien of the address within 7 days).

(B) DETERMINATION DESCRIBED.—A determination described in this subparagraph is a determination by an agency that a sponsored alien would, in the absence of the assistance provided by the agency, be unable to obtain food and shelter, taking into account the alien's own income, plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor.

(2) EDUCATION ASSISTANCE.—

(A) IN GENERAL.—The requirements of subsection (a) shall not apply with respect to sponsored aliens who have received, or have been approved to receive, student assistance under title IV, V, IX, or X of the Higher Education Act of 1965 in an academic year which ends or begins in the calendar year in which this Act is enacted.

(B) DURATION.—The exception described in subparagraph (A) shall apply only for the period normally required to complete the course of study for which the sponsored alien receives assistance described in that subparagraph.

(3) CERTAIN SERVICES AND ASSISTANCE.—The requirements of subsection (a) shall not apply to any service or assistance described in section 201(a)(1)(A)(vii).

(e) DEEMING AUTHORITY TO STATE AND LOCAL AGENCIES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, but subject to exceptions equivalent to the exceptions described in subsection (d), the State or local government may, for purposes of determining the eligibility of an alien for benefits, and the amount of benefits, under any State or local program of assistance for which eligibility is based on need, or any need-based program of assistance administered by a State or local government (other than a program of assistance provided or funded, in whole or in part, by the Federal Government), require that the income and resources described in subsection (b) be deemed to be the income and resources of such alien.

(2) LENGTH OF DEEMING PERIOD.—Subject to exceptions equivalent to the exceptions described in subsection (d), a State or local government may impose the requirement described in paragraph (1) for the period for which the sponsor has agreed, in such affidavit or agreement, to provide support for such alien, or for a period of 5 years beginning on the day such alien was first lawfully in the United States after the execution of such affidavit or agreement, whichever period is longer.

SEC. 205. VERIFICATION OF STUDENT ELIGIBILITY FOR POSTSECONDARY FEDERAL STUDENT FINANCIAL ASSISTANCE.

(a) REPORT REQUIREMENT.—Not later than one year after the date of the enactment of this Act, the Secretary of Education and the Commissioner of Social Security shall jointly submit to the Congress a report on the computer matching program of the Department of Education under section 484(p) of the Higher Education Act of 1965.

(b) REPORT ELEMENTS.—The report shall include the following:

(1) An assessment by the Secretary and the Commissioner of the effectiveness of the computer matching program, and a justification for such assessment.

(2) The ratio of inaccurate matches under the program to successful matches.

(3) Such other information as the Secretary and the Commissioner jointly consider appropriate.

SEC. 206. AUTHORITY OF STATES AND LOCALITIES TO LIMIT ASSISTANCE TO ALIENS AND TO DISTINGUISH AMONG CLASSES OF ALIENS IN PROVIDING GENERAL PUBLIC ASSISTANCE.

(a) IN GENERAL.—Subject to subsection (b) and notwithstanding any other provision of law, a State or local government may prohibit or otherwise limit or restrict the eligibility of aliens or classes of aliens for programs of general cash public assistance furnished under the law of the State or a political subdivision of a State.

(b) LIMITATION.—The authority provided for under subsection (a) may be exercised

only to the extent that any prohibitions, limitations, or restrictions imposed by a State or local government are not more restrictive than the prohibitions, limitations, or restrictions imposed under comparable Federal programs. For purposes of this section, attribution to an alien of a sponsor's income and resources (as described in section 204(b)) for purposes of determining eligibility for, and the amount of, benefits shall be considered less restrictive than a prohibition of eligibility for such benefits.

SEC. 207. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS NOT CITIZENS OR LAWFUL PERMANENT RESIDENTS.

(a) IN GENERAL.—

(1) LIMITATION.—Notwithstanding any other provision of law, an individual may not receive an earned income tax credit for any year in which such individual was not, for the entire year, either a United States citizen or national or a lawful permanent resident.

(2) IDENTIFICATION NUMBER REQUIRED.—Section 32(c)(1) of the Internal Revenue Code of 1986 (relating to individuals eligible to claim the earned income tax credit) is amended by adding at the end the following new subparagraph:

''(F) IDENTIFICATION NUMBER REQUIREMENT.—The term 'eligible individual' does not include any individual who does not include on the return of tax for the taxable year—

''(i) such individual's taxpayer identification number, and

''(ii) if the individual is married (within the meaning of section 7703), the taxpayer identification number of such individual's spouse.''.

(b) SPECIAL IDENTIFICATION NUMBER.—Section 32 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(k) IDENTIFICATION NUMBERS.—Solely for purposes of subsections (c)(1)(F) and (c)(3)(D), a taxpayer identification number means a social security number issued to an individual by the Social Security Administration (other than a social security number issued pursuant to clause (II) (or that portion of clause (III) that relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security Act).''.

(c) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Section 6213(g)(2) of the Internal Revenue Code of 1986 (relating to the definition of mathematical or clerical errors) is amended—

(1) by striking ''and'' at the end of subparagraph (D),

(2) by striking the period at the end of subparagraph (E) and inserting '', and'', and

(3) by inserting after subparagraph (E) the following new subparagraph:

''(F) an unintended omission of a correct taxpayer identification number required under section 32 (relating to the earned income tax credit) to be included on a return.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 208. INCREASED MAXIMUM CRIMINAL PENALTIES FOR FORGING OR COUNTERFEITING SEAL OF A FEDERAL DEPARTMENT OR AGENCY TO FACILITATE BENEFIT FRAUD BY AN UNLAWFUL ALIEN.

Section 506 of title 18, United States Code, is amended to read as follows:

''§ 506. Seals of departments or agencies

''(a) Whoever—

''(1) falsely makes, forges, counterfeits, mutilates, or alters the seal of any department or agency of the United States, or any facsimile thereof;

''(2) knowingly uses, affixes, or impresses any such fraudulently made, forged, counterfeited, mutilated, or altered seal or facsimile thereof to or upon any certificate, instrument, commission, document, or paper of any description; or

''(3) with fraudulent intent, possesses, sells, offers for sale, furnishes, offers to furnish, gives away, offers to give away, transports, offers to transport, imports, or offers to import any such seal or facsimile thereof, knowing the same to have been so falsely made, forged, counterfeited, mutilated, or altered,

shall be fined under this title, or imprisoned not more than 5 years, or both.

''(b) Notwithstanding subsection (a) or any other provision of law, if a forged, counterfeited, mutilated, or altered seal of a department or agency of the United States, or any facsimile thereof, is—

''(1) so forged, counterfeited, mutilated, or altered;

''(2) used, affixed, or impressed to or upon any certificate, instrument, commission, document, or paper of any description; or

''(3) with fraudulent intent, possessed, sold, offered for sale, furnished, offered to furnish, given away, offered to give away, transported, offered to transport, imported, or offered to import,

with the intent or effect of facilitating an unlawful alien's application for, or receipt of, a Federal benefit, the penalties which may be imposed for each offense under subsection (a) shall be two times the maximum fine, and 3 times the maximum term of imprisonment, or both, that would otherwise be imposed for an offense under subsection (a).

''(c) For purposes of this section—

''(1) the term 'Federal benefit' means—

''(A) the issuance of any grant, contract, loan, professional license, or commercial license provided by any agency of the United States or by appropriated funds of the United States; and

''(B) any retirement, welfare, Social Security, health (including treatment of an emergency medical condition in accordance with section 1903(v) of the Social Security Act (19 U.S.C. 1396b(v))), disability, veterans, public housing, education, food stamps, or unemployment benefit, or any similar benefit for which payments or assistance are provided by an agency of the United States or by appropriated funds of the United States;

''(2) the term 'unlawful alien' means an individual who is not—

''(A) a United States citizen or national;

''(B) an alien lawfully admitted for permanent residence under the Immigration and Nationality Act;

''(C) an alien granted asylum under section 208 of such Act;

''(D) a refugee admitted under section 207 of such Act;

''(E) an alien whose deportation has been withheld under section 243(h) of such Act; or

''(F) an alien paroled into the United States under section 215(d)(5) of such Act for a period of at least 1 year; and

''(3) each instance of forgery, counterfeiting, mutilation, or alteration shall constitute a separate offense under this section.''.

SEC. 209. STATE OPTION UNDER THE MEDICAID PROGRAM TO PLACE ANTI-FRAUD INVESTIGATORS IN HOSPITALS.

(a) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) by striking ''and'' at the end of paragraph (61);

(2) by striking the period at the end of paragraph (62) and inserting ''; and''; and

(3) by adding after paragraph (62) the following new paragraph:

''(63) in the case of a State that is certified by the Attorney General as a high illegal immigration State (as determined by the Attorney General), at the election of the State, establish and operate a program for the placement of anti-fraud investigators in State, county, and private hospitals located in the State to verify the immigration status and income eligibility of applicants for medical assistance under the State plan prior to the furnishing of medical assistance.''.

(b) PAYMENT.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended—

(1) by striking ''plus'' at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting ''; plus''; and

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

''(8) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b)) of the total amount expended during such quarter which is attributable to operating a program under section 1902(a)(63).''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the first day of the first calendar quarter beginning after the date of the enactment of this Act.

SEC. 210. 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 Refugee Resettlement in a manner that ensures that each qualifying county receives 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 earlier than 60 months before the beginning of such fiscal year.''.

Subtitle B—Miscellaneous Provisions

SEC. 211. REIMBURSEMENT OF STATES AND LOCALITIES FOR EMERGENCY MEDICAL ASSISTANCE FOR CERTAIN ILLEGAL ALIENS.

(a) REIMBURSEMENT.—The Attorney General shall, subject to the availability of appropriations, fully reimburse the States and political subdivisions of the States for costs incurred by the States and political subdivisions for emergency ambulance service provided to any alien who—

(1) entered the United States without inspection or at any time or place other than as designated by the Attorney General;

(2) is under the custody of a State or a political subdivision of a State as a result of transfer or other action by Federal authorities; and

(3) is being treated for an injury suffered while crossing the international border between the United States and Mexico or between the United States and Canada.

(b) STATUTORY CONSTRUCTION.—Nothing in this section requires that the alien be arrested by Federal authorities before entering into the custody of the State or political subdivision.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General such sums as may be necessary to carry out the provisions of this section.

(2) STATUTORY CONSTRUCTION.—Nothing in this Act may be construed to prevent the Attorney General from seeking reimbursement from an alien described in subsection (a) for the costs of the emergency medical services provided to the alien.

SEC. 212. 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 through a public hospital, other public facility, or other facility (including a hospital that is eligible for an additional payment adjustment under section 1886(d)(5)(F) or section 1923 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 for its costs of providing such services, but only to the extent that the costs of the State or local government are not fully reimbursed through any other Federal program and cannot be recovered from the alien or other entity.

(b) CONFIRMATION OF IMMIGRATION STATUS.—No payment shall be made under this section with respect to services furnished to aliens described in subsection (a) unless the State or local government establishes that it has provided services to such aliens in accordance with procedures established by the Secretary of Health and Human Services, after consultation with the Attorney General and State and local officials.

(c) ADMINISTRATION.—This section shall be administered by the Attorney General, in consultation with the Secretary of Health and Human Services.

(d) EFFECTIVE DATE.—This section shall not apply to emergency medical services furnished before October 1, 1995.

SEC. 213. PILOT PROGRAMS.

(a) ADDITIONAL COMMUTER BORDER CROSSING FEES PILOT PROJECTS.—In addition to the land border fee pilot projects extended by the fourth proviso under the heading '' Immigration and Naturalization Service, Salaries and Expenses'' of Public Law 103–121, the Attorney General may establish another such pilot project on the northern land border and another such pilot project on the southern land border of the United States.

(b) AUTOMATED PERMIT PILOT PROJECTS.—The Attorney General and the Commissioner of Customs are authorized to conduct pilot projects to demonstrate—

(1) the feasibility of expanding port of entry hours at designated ports of entry on the United States-Canada border; or

(2) the use of designated ports of entry after working hours through the use of card reading machines or other appropriate technology.

SEC. 214. USE OF PUBLIC SCHOOLS BY NONIMMIGRANT FOREIGN STUDENTS.

(a) PERSONS ELIGIBLE FOR STUDENT VISAS.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—

(1) in clause (i) by striking ''academic high school, elementary school, or other academic institution or in a language training program'' and inserting in lieu thereof ''public elementary or public secondary school (if the alien shows to the satisfaction of the consular officer at the time of application for a visa, or of the Attorney General at the time of application for admission or adjustment of status, that (I) the alien will in fact reimburse such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), private elementary or private secondary school, or postsecondary academic institution, or in a language-training program''; and

(2) by inserting before the semicolon at the end of clause (ii) the following: '': *Provided,* That nothing in this paragraph shall be construed to prevent a child who is present in the United States in a nonimmigrant status other than that conferred by paragraph (B), (C), (F)(i), or (M)(i), from seeking admission to a public elementary school or public secondary school for which such child may otherwise be qualified.'';

(b) EXCLUSION OF STUDENT VISA ABUSERS.—Section 212(a) (8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

''(9) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement) is excludable''; and

(c) DEPORTATION OF STUDENT VISA ABUSERS.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

''(6) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is deportable''.

This section shall become effective 1 day after the date of enactment.

SEC. 215. PILOT PROGRAM TO COLLECT INFORMATION RELATION TO NONIMMIGRANT FOREIGN STUDENTS.

(a) IN GENERAL.—(1) The Attorney General and the Secretary of State shall jointly develop and conduct a pilot program to collect electronically from approved colleges and universities in the United States the information described in subsection (c) with respect to aliens who—

(A) have the status, or are applying for the status, of nonimmigrants under section 101(a)(15)(F), (J), or (M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F), (J), or (M)); and

(B) are nationals of the countries designated under subsection (b).

(2) The pilot program shall commence not later than January 1, 1998.

(b) COVERED COUNTRIES.—The Attorney General and the Secretary of State shall jointly designate countries for purposes of subsection (a)(1)(B). The Attorney General and the Secretary shall initially designate not less than five countries and may designate additional countries at any time while the pilot program is being conducted.

(C) INFORMATION TO BE COLLECTED.—

(1) IN GENERAL.—The information for collection under subsection (a) consists of—

(A) the identity and current address in the United States of the alien;

(B) the nonimmigrant classification of the alien and the date on which a visa under the classification was issued or extended or the date on which a change to such classification was approved by the Attorney General; and

(C) the academic standing of the alien, including any disciplinary action taken by the college or university against the alien as a result of the alien's being convicted of a crime.

(2) FERPA.—The Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g) shall not apply to aliens described in subsection (a) to the extent that the Attorney General and the Secretary of State determine necessary to carry out the pilot program.

(d) PARTICIPATION BY COLLEGES AND UNIVERSITIES.—(1) The information specified in subsection (c) shall be provided by approved colleges and universities as a condition of—

(A) the continued approval of the colleges and universities under section 101(a)(15)(F) or (M) of the Immigration and Nationality Act, or

(B) the issuance of visas to aliens for purposes of studying, or otherwise participating, at such colleges and universities in a program under section 101(a)(15)(J) of such Act.

(2) If an approved college or university fails to provide the specified information, such approvals and such issuance of visas shall be revoked or denied.

(e) FUNDING.—(1) The Attorney General and the Secretary shall use funds collected under section 281(b) of the Immigration and Nationality Act, as added by this subsection, to pay for the costs of carrying out this section.

(2) Section 281 of the Immigration and Nationality Act (8 U.S.C. 1351) is amended—

(A) by inserting ''(a)'' after ''**SEC. 281.**''; and

(B) by adding at the end the following:

''(b)(1) In addition to fees that are prescribed under subsection (a), the Secretary of State shall impose and collect a fee on all visas issued under the provisions of section 101(a)(15)(F), (J), or (M) of the Immigration and Nationality Act. With respect to visas issued under the provisions of section 101(a)(15)(J), this subsection shall not apply to those ''J'' visa holders whose presence in the United States is sponsored by the United States government.''

''(2) The Attorney General shall impose and collect a fee on all changes of nonimmigrant status under section 248 to such classifications. This subsection shall not apply to those ''J'' visa holders whose presence in the United States is sponsored by the United States government.''

''(3) Except as provided in section 205(g)(2) of the Immigration Reform Act of 1996, the amount of the fees imposed and collected under paragraphs (1) and (2) shall be the amount which the Attorney General and the Secretary jointly determine is necessary to recover the costs of conducting the information-collection program described in subsection (a), but may not exceed $100.

''(4) Funds collected under paragraph (1) shall be available to the Attorney General and the Secretary, without regard to appropriation Acts and without fiscal year limitation, to supplement funds otherwise available to the Department of Justice and the Department of State, respectively.''

(3) The amendments made by paragraphs (1) and (2) shall become effective April 1, 1997.

(f) JOINT REPORT.—Not later than five years after the commencement of the pilot program established under subsection (a), the Attorney General and the Secretary of State shall jointly submit to the Committees on the Judiciary of the United States Senate and House of Representatives on the operations of the pilot program and the feasibility of expanding the program to cover the nationals of all countries.

(g) WORLDWIDE APPLICABILITY OF THE PROGRAM.—(1)(A) Not later than six months after the submission of the report required by subsection (f), the Secretary of State and the Attorney General shall jointly commence expansion of the pilot program to cover the nationals of all countries.

(B) Such expansion shall be completed not later than one year after the date of the submission of the report referred to in subsection (f).

(2) After the program has been expanded, as provided in paragraph (1), the Attorney General and the Secretary of State may, on a periodic basis, jointly revise the amount of the fee imposed and collected under section 281(b) of the Immigration and Nationality Act in order to take into account changes in the cost of carrying out the program.

(h) DEFINITION.—As used in this section, the phrase ''approved colleges and universities'' means colleges and universities approved by the Attorney General, in consultation with the Secretary of Education, under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)).

SEC. 216. FALSE CLAIMS OF U.S. CITIZENSHIP.

(a) EXCLUSION OF ALIENS WHO HAVE FALSELY CLAIMED U.S. CITIZENSHIP.—Section 212(a)(9) (8 U.S.C. 1182(a)(9)) is amended by adding at the end the following new subparagraph:

''(D) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is excludable.''

(b) DEPORTATION OF ALIENS WHO HAVE FALSELY CLAIMED U.S. CITIZENSHIP.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

''(6) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is deportable''.

''SEC. 217. VOTING BY ALIENS.

(a) CRIMINAL PENALTY FOR VOTING BY ALIENS IN FEDERAL ELECTION.—Title 18, United States Code, is amended by adding the following new section:

''§ 611. Voting by aliens

''(a) It shall be unlawful for any alien to vote in any election held solely or in part for the purpose of electing a candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, unless—

''(1) the election is held partly for some other purpose;

''(2) aliens are authorized to vote for such other purpose under a State constitution or statute or a local ordinance; and

''(3) voting for such other purpose is conducted independently of voting for a candidate for such Federal offices, in such a manner that an alien has the opportunity to vote for such other purpose, but not an opportunity to vote for a candidate for any one or more of such Federal offices.''

''(b) Any person who violates this section shall be fined not more than $5,000 or imprisoned not more than one year or both'';

(b) EXCLUSION OF ALIENS WHO HAVE UNLAWFULLY VOTED.—Section 212(a)(8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

''(9) UNLAWFUL VOTERS.—Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is excludable.''

(c) DEPORTATION OF ALIENS WHO HAVE UNLAWFULLY VOTED.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

''(6) UNLAWFUL VOTERS.—Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is deportable''.

SEC. 218 EXCLUSION GROUNDS FOR OFFENSES OF DOMESTIC VIOLENCE, STALKING, CRIMES AGAINST CHILDREN, AND CRIMES OF SEXUAL VIOLENCE.

(a) IN GENERAL.—Section 241(a)(2) (8 U.S.C. 1251(a)(2)) is amended by adding at the end the following:

''(E) DOMESTIC VIOLENCE, VIOLATION OF PROTECTION ORDER, CRIMES AGAINST CHILDREN AND STALKING.—(i) Any alien who at any time after entry is convicted of a crime of domestic violence is deportable.

''(ii) Any alien who at any time after entry engages in conduct that violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued is deportable.

''(iii) Any alien who at any time after entry is convicted of a crime of stalking is deportable.

''(iv) Any alien who at any time after entry is convicted of a crime of child abuse, child sexual abuse, child neglect, or child abandonment is deportable.

''(F) CRIMES OF SEXUAL VIOLENCE.—Any alien who at any time after entry is convicted of a crime of rape, aggravated sodomy, aggravated sexual abuse, sexual abuse, abusive sexual contact, or other crime of sexual violence is deportable.''.

(b) DEFINITIONS.—Section 101(a) (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraphs:

''(47) The term 'crime of domestic violence' means any felony or misdemeanor crime of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction where the offense occurs, or by any other adult person against a victim who is protected from that person's acts under the domestic or family violence laws of the United States or any State, Indian tribal government, or unit of local government.

''(48) The term 'protection order' means any injunction issued for the purpose of preventing violent or threatening acts of domestic violence, including temporary or final orders issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding.''.

(c) This section will become effective one day after the date of enactment of the act.

Subtitle C—Effective Dates

SEC. 221. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b) or as otherwise provided in this title, this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) BENEFITS.—The provisions of section 201 and 204 shall apply to benefits and to applications for benefits received on or after 1 day after the date of the enactment of this Act.

LOTT AMENDMENT NO. 3745

Mr. LOTT proposed an amendment to the motion to recommit proposed by Mr. DOLE to the bill S. 1664, supra; as follows:

Add at the end of the instructions the following: ''that the following amendment be reported back forthwith''.

Add the following new subsection to section 182 of the bill:

(c) STATEMENT OF AMOUNT OF DETENTION SPACE IN PRIOR YEARS.—Such report shall also state the amount of detention space available in each of the 10 years prior to the enactment of this Act.

DOLE AMENDMENT NO. 3746

Mr. DOLE proposed an amendment to amendment No. 3745 proposed by Mr. LOTT to the bill S. 1664, supra; as follows:

At the end of the amendment add the following:

Section 178 of the bill is amended by adding the following new subsection:

(c) EFFECTIVE DATE.—This section shall take effect 30 days after the effective date of this Act.

NOTICE OF HEARING

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will hold a full committee hearing to discuss how the Commodity Futures Trading Commission oversees markets in times of volatile prices and tight supplies. The hearing will be held on Wednesday, May 15, at 9:30 a.m. in SR–332.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet at 9:30 a.m., during the Thursday, April 25, 1996, session of the Senate for the purpose of conducting a hearing on Air Service to Small Cities and Rural Communities.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 25, 1996, at 2:00 p.m. to hold a business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, April 25, 1996, at 10:00 a.m. to hold an executive business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to conduct a joint hearing on Thursday, April 25, 1996 with the Subcommittee on Native American and Insular Affairs of the House Committee on Natural Resources on S. 1264, a bill to provide certain benefits of the Missouri River