

PROVIDING FOR THE CONSIDERATION OF H.R. 2202, THE
IMMIGRATION IN THE NATIONAL INTEREST ACT OF 1995

MARCH 14, 1996.—Referred to the House Calendar and ordered to be printed

Mr. DREIER, from the Committee on Rules,
submitted the following

REPORT

[To accompany H. Res. 384]

The Committee on Rules, having had under consideration House Resolution 384, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

BRIEF SUMMARY OF PROVISIONS OF RESOLUTION

The resolution provides for the consideration of H.R. 2202, the “Immigration in the National Interest Act of 1995” under a modified closed rule. The rule provides two hours of general debate divided equally between the chairman and ranking minority member of the Committee on the Judiciary.

The rule waives all points of order against consideration of the bill, except those arising under section 425(a) of the Congressional Budget Act of 1974 (unfunded mandates).

The rule makes in order the Committee on the Judiciary amendment in the nature of a substitute now printed in the bill, as modified by the amendment printed in part 1 of this report. The amendment in the nature of a substitute, as modified, shall be considered as read.

Only amendments printed in the Rules Committee report are in order and shall be considered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against the amendments printed in the report are waived, except those arising

under section 425(a) of the Congressional Budget Act of 1974 (unfunded mandates).

The rule further allows the Chairman of the Committee of the Whole to postpone votes during consideration of the bill, and allows the Chairman of the Committee of the Whole to reduce votes to five minutes on a postponed question if the vote follows a fifteen minute vote.

The rule provides that a separate vote may be demanded in the House on any amendment adopted to the committee amendment in the nature of a substitute. The rule also provides one motion to recommit, with or without instructions.

The chairman of the Committee on the Judiciary or a designee may offer amendments en bloc consisting of amendments not previously disposed of which are printed in the Rules Committee report or germane modifications thereof. The amendments offered en bloc shall be considered as read (except that modifications shall be reported), shall be debatable for 20 minutes equally divided between the chairman and ranking minority member of the Judiciary Committee or their designees.

Finally, the rule permits the original proponent of an amendment included in an en bloc amendment to insert a statement in the Congressional Record immediately prior to the disposition of the amendments en bloc.

SUMMARY OF AMENDMENTS MADE IN ORDER FOR H.R. 2202, THE IMMIGRATION IN THE NATIONAL INTEREST ACT OF 1995 (LISTED IN THE ORDER THEY APPEAR IN THIS REPORT)

Self-Executed—Smith (TX): Modifies the employment eligibility verification system by making it voluntary for at least 5 of the 7 states with the highest levels of illegal immigration. Employers will be offered incentives to participate in the verification system.

1. Smith (TX): Manager's amendment. Makes a number of technical and conforming changes as well as a number of substantive amendments—which include clarifying provisions regarding the removal of illegal aliens from the U.S. (Title III), the eligibility criteria for aliens to receive public benefits (Title VI) and miscellaneous provisions (Title VIII). (20 min.)

2. Traficant: Requires the Attorney General, in consultation with the Secretaries of State and Defense, to contract with the Comptroller General to submit a report to the Congress on the Administration's strategy on deterring illegal aliens from U.S. borders, thus giving Congress oversight responsibility. (10 min.)

3. Beilenson: Strikes the triple fence requirement and replaces it with a new subsection that authorizes \$110 million appropriation for the INS to install additional physical barriers and roads. (10 min.)

4. McCollum: Directs the commissioner of the Social Security Administration to make such improvements in the Social Security account number card as are necessary to secure it against counterfeiting and fraudulent use. (30 min.)

5. Tate: Permanently bars admission to the U. S. for those individuals that intentionally entered the U.S. illegally. (30 min.)

6. Conyers: Strikes Section 331 relating to membership in terrorist organizations as a ground of inadmissibility. (30 min.)

7. Latham: Gives local and state law enforcement officers the authority to detain illegal aliens who are violating a deportation requirement for purpose of expeditiously delivering such person to the INS. (40 min.)

8. Bryant (TN): Requires public medical facilities to provide INS with identifying information about an illegal alien they provided services to (except patients under 18 years old). (20 min.)

9. Velázquez/Roybal-Allard: Eliminates section 607 which would keep undocumented parents from seeking benefits on behalf of their U.S.-born children. (20 min.)

10. Gallegly: Allows states the option of denying free public education benefits to illegal aliens. (30 min.)

11. Cardin: Makes worksite enforcement a priority of the INS and requires the Attorney General to report to Congress, within one year, stating the authority and resources needed for worksite enforcement. (10 min.)

12. Chabot: Strikes subsection relating to the establishment of a new and additional "employment eligibility confirmation process." (60 min.)

13. Gallegly/Bilbray Seastrand/Stenholm: Establishes mandatory 800 telephone number pilot program for employee verification in 5 or 7 states with the highest number of illegal aliens. (60 min.)

14. Brownback/Gutierrez: Changes section 505 by requiring that only congressional review of worldwide levels take place every 5 years. (20 min.)

15. Kim: Allows any unused family and employment-based visas to be used, on an annual basis, for adult children and brothers and sisters who have applications for admission filed before March 13, 1996, but disqualifies any applicant who has been or is illegally present in the U.S. or violates other conditions for stay in the U.S. as a nonimmigrant. (10 min.)

16. Canady: Establishes an English language requirement for immigrants arriving under the Diversity Immigrant program, under the Employment-Based Classification. (30 min.)

17. Smith (NJ)/Schiff: Deletes provision of section 521 which imposes a statutory limit on the number of refugees admitted to the United States each fiscal year. (30 min.)

18. Dreier: Ensures that except for 10% preserved for discretionary allocation, all qualifying counties would receive the same amount of targeted assistance per refugee. (10 min.)

19. Chrysler/Berman/Brownback: Deletes Subtitles A, B, and C of Title V. These provisions concern changes made to legal immigration, specifically in areas of preference and level of immigration. (60 min.)

20. Bryant (TX): Protects certain adult children of U.S. citizens and lawful permanent residents as a result of the elimination of the adult child family preference category. (10 min.)

21. Rohrabacher: Replaces section 808 as reported with section 808 as introduced. This would amend section 245 (I) (1) (B) of the Immigration and Nationality Act to repeal the provision allowing illegal aliens to apply for permanent status and remain in the U.S. while their applications are adjudicated. (10 min.)

22. Pombo/Chambliss: Modifies the current temporary agricultural worker program known as H-2A, by creating an alternative

program to be known as H-2B. The new program will be a pilot program authorized for three years. This is the Agriculture Committee amendment reported from the Agriculture Committee. (60 min.)

23. Condit: Phases out the current H-2A guest worker program over a 2 year period, only if the proposed H-2B program gains permanent status. (Amendment to Pombo/Chambliss) (10 min.)

24. Goodlatte: Alters the H-2A temporary agricultural worker program by: shifting responsibility for considering and approving petitions for workers by agricultural employers from the DoL to the Attorney General; employers seeking H-2A workers would first have to positively recruit domestic workers for 20 rather than 40 days; employers would no longer be required to offer American applicants jobs for the first 50% of the work contract period for the H-2A workers; employers could offer H-2A workers a housing allowance as opposed to actual housing; employers would only have to guarantee pay to H-2A workers for 3/4 of the workdays, as opposed to the current 3/4 of the work contract period; and visas will be made available for no more that 100,000 aliens each year. (30 min.)

25. Lipinski: Adjusts the status of approximately 800 Poles and Hungarians from parolee to permanent resident. (10 min.)

26. Farr: Establishes 10 national demonstration sites, selected by the INS, for systemic outreach and planning activities associated with naturalization swearing-in ceremonies. (10 min.)

27. Traficant: Sense of Congress to "buy American." (10 min.)

28. Burr: Extends the H-1A non-immigrant nurse program for 6 months after the enactment of H.R. 2202. (10 min.)

29. Vento: Waives the English language test for Hmong soldiers and their spouses or widows who served in Special Guerilla Units during the Vietnam war, thus putting U.S. citizenship within their reach. (10 min.)

30. Waldholtz: Sense of Congress that the mission statement of the INS should include the apprehension and removal of illegal aliens, particularly those involved in drug trafficking or other criminal activity. (10 min.)

31. Kleczka: Require the Dept. of State to refund fees to Poles who were erroneously notified of their eligibility for visas but did not receive a visa. (10 min.)

32. Dreier: Sense of Congress that the Justice Department has been very slow in distributing funds to states to reimburse for the cost of incarcerating illegal immigrant felons, and that SCAAP funds should be distributed to states during the fiscal year in which they are appropriated. (10 min.)

COMMITTEE VOTES

Pursuant to clause 2(l)(2)(B) of House rule XI the results of each rollcall vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee Rollcall No. 299

Date: March 14, 1996.

Measure: Rule for consideration of H.R. 2202, the Immigration in the National Interest Act.

Motion By: Mr. Beilenson.

Summary of Motion: Make in order Beilenson amendment No. 101 to increase civil penalties for employer sanctions: for first violations to \$1,000–\$3,000; for second violations to \$3,000–\$8,000; for subsequent violations to \$8,000–\$25,000; and allow penalties to be doubled if employer violates certain specified acts.

Results: Rejected, 3 to 7.

Vote by Members: Dreier—Nay; Goss—Yea; Linder—Nay; Pryce—Nay; Diaz-Balart—Nay; McInnis—Nay; Waldholtz—Nay; Beilenson—Yea; Frost—Yea; Solomon—Nay.

Rules Committee Rollcall No. 300

Date: March 14, 1996.

Measure: Rule for consideration of H.R. 2202, the Immigration in the National Interest Act.

Motion By: Rep. Frost.

Summary of Motion: Strike from the proposed list of amendments to be made in order the amendment by Rep. Gallegly No. 53 that would allow states the option of denying free public education benefits to illegal aliens.

Results: Rejected, 3 to 5.

Vote by Members: Dreier—Nay; Goss—Nay; Linder—Nay; Diaz-Balart—Yea; McInnis—Nay; Waldholtz—Nay; Beilenson—Yea; Frost—Yea.

PART 1

The amendment to be considered as adopted is as follows:

Amend title IV to read as follows (and conform the table of contents accordingly):

TITLE IV—ENFORCEMENT OF RESTRICTIONS AGAINST EMPLOYMENT

SEC. 401. PILOT PROGRAM FOR VOLUNTARY USE OF EMPLOYMENT ELIGIBILITY CONFIRMATION PROCESS.

(a) VOLUNTARY ELECTION TO PARTICIPATE IN PILOT PROGRAM CONFIRMATION MECHANISM.—

(1) IN GENERAL.—An employer (or a recruiter or referrer subject to section 274A(a)(1)(B)(ii) of the Immigration and Nationality Act) may elect to participate in the pilot program for employment eligibility confirmation provided under this section (such program in this section referred to as the “pilot program”). Except as specifically provided in this section, the Attorney General is not authorized to require any entity to participate in the program under this section. The pilot program shall operate in at least 5 of the 7 States with the highest estimated population of unauthorized aliens.

(2) EFFECT OF ELECTION.—The following provisions apply in the case of an entity electing to participate in the pilot program:

(A) OBLIGATION TO USE CONFIRMATION MECHANISM.—The entity agrees to comply with the confirmation mechanism under subsection (c) to confirm employment eligibility

under the pilot program for all individuals covered under the election in accordance with this section.

(B) BENEFIT OF REBUTTABLE PRESUMPTION.—

(i) IN GENERAL.—If the entity obtains confirmation of employment eligibility under the pilot program with respect to the hiring (or recruiting or referral that is subject to section 274A(a)(1)(B)(ii) of the Immigration and Nationality Act) of an individual for employment in the United States, the entity has established a rebuttable presumption that the entity has not violated section 274A(a)(1)(A) of the Immigration and Nationality Act with respect to such hiring (or such recruiting or referral).

(ii) CONSTRUCTION.—Clause (i) shall not be construed as preventing an entity that has an election in effect under this section from establishing an affirmative defense under section 274A(a)(3) of the Immigration and Nationality Act if the entity complies with the requirements of section 274A(a)(1)(B) of such Act but fails to comply with the obligations under subparagraph (A).

(C) BENEFIT OF NOTICE BEFORE EMPLOYMENT-RELATED INSPECTIONS.—The Immigration and Naturalization Service, the Special Counsel for Immigration-Related Unfair Employment Practices, and any other agency authorized to inspect forms required to be retained under section 274A of the Immigration and Nationality Act or to search property for purposes of enforcing such section shall provide at least 3 days notice prior to such an inspection or search, except that such notice is not required if the inspection or search is conducted with an administrative or judicial subpoena or warrant or under exigent circumstances.

(3) GENERAL TERMS OF ELECTIONS.—

(A) IN GENERAL.—An election under paragraph (1) shall be in a form and manner and under such terms and conditions as the Attorney General shall specify and shall take effect as the Attorney General shall specify. Such an election shall apply (under such terms and conditions and as specified in the election) either to all hiring (and all recruitment or referral that is subject to section 274A(a)(1)(B)(ii) of the Immigration and Nationality Act) by the entity during the period in which the election is in effect or to hiring (or recruitment or referral that is subject to section 274A(a)(1)(B)(ii) of the Immigration and Nationality Act) in one or more States or one or more places of such hiring (or such recruiting or referral, as the case may be) covered by the election. The Attorney General may not impose any fee as a condition of making an election or participation in the pilot program under this section.

(B) ACCEPTANCE OF ELECTIONS.—Except as otherwise provided in this paragraph, the Attorney General shall accept all elections made under paragraph (1). The Attorney General may establish a process under which entities seek to make elections in advance, in order to permit the Attor-

ney General the opportunity to identify and develop appropriate resources to accommodate the demand for participation in the pilot program under this section.

(C) REJECTION OF ELECTIONS.—The Attorney General may reject an election by an entity under paragraph (1) because the Attorney General has determined that there are insufficient resources to provide services under the pilot program for the entity.

(D) TERMINATION OF ELECTIONS.—The Attorney General may terminate an election by an entity under paragraph (1) because the entity has substantially failed to comply with the obligations of the entity under the pilot program.

(E) RESCISSION OF ELECTION.—An entity may rescind an election made under this subsection in such form and manner as the Attorney General shall specify.

(b) CONSULTATION, EDUCATION, AND PUBLICITY.—

(1) CONSULTATION.—The Attorney General shall closely consult with representatives of employers (and recruiters and referrers whose recruiting or referring is subject to section 274A(a)(1)(B)(ii) of the Immigration and Nationality Act) in the development and implementation of the pilot program under this section, including the education of employers (and such recruiters and referrers) about the program.

(2) PUBLICITY.—The Attorney General shall widely publicize the election process and pilot program under this section, including the voluntary nature of the program and the advantages to employers of making an election under subsection (a).

(3) ASSISTANCE THROUGH DISTRICT OFFICES.—The Attorney General shall designate one or more individuals in each District office of the Immigration and Naturalization Service—

(A) to inform entities that seek information about the program of the voluntary nature of the program, and

(B) to assist entities in electing and participating in the pilot program, in complying with the requirements of section 274A of the Immigration and Nationality Act, and in facilitating identification of individuals authorized to be employed consistent with such section.

(c) CONFIRMATION PROCESS UNDER PILOT PROGRAM.—An entity that is participating in the pilot program agrees to conform to the following procedures in the case of a hiring (or recruiting or referral in the case of recruitment or referral that is subject to section 274A(a)(1)(B)(ii) of the Immigration and Nationality Act) of each individual covered under the program for employment in the United States:

(1) PROVISION OF ADDITIONAL INFORMATION.—The entity shall obtain from the individual (and the individual shall provide) and shall record on the form used for purposes of section 274A(b)(1)(A) of the Immigration and Nationality Act—

(A) the individual's social security account number (if the individual has been issued such a number), and

(B) if the individual is an alien, such identification or authorization number established by the Service for the alien as the Attorney General shall specify.

(2) SEEKING CONFIRMATION.—

(A) IN GENERAL.—The entity shall make an inquiry, under the confirmation mechanism established under subsection (d), to seek confirmation of the identity, applicable number (or numbers) described in section 274A(b)(2)(B) of the Immigration and Nationality Act, and work eligibility of the individual, by not later than the end of 3 working days (as specified by the Attorney General) after the date of the hiring (or recruitment or referral, as the case may be).

(B) EXTENSION OF TIME PERIOD.—If the entity in good faith attempts to make an inquiry during such 3 working days and the confirmation mechanism has registered that not all inquiries were responded to during such time, the entity can make an inquiry in the first subsequent working day in which the confirmation mechanism registers no nonresponses and qualify for the presumption. If the confirmation mechanism is not responding to inquiries at all times during a day, the entity merely has to assert that the entity attempted to make the inquiry on that day for the previous sentence to apply to such an inquiry, and does not have to provide any additional proof concerning such inquiry.

(3) CONFIRMATION.—

(A) IN GENERAL.—If the entity receives an appropriate confirmation of such identity, applicable number or numbers, and work eligibility under the confirmation mechanism within the time period specified under subsection (d) after the time the confirmation inquiry was received, the entity shall record on the form used for purposes of section 274A(b)(1)(A) of the Immigration and Nationality Act an appropriate code indicating a confirmation of such identity, number or numbers, and work eligibility.

(B) FAILURE TO OBTAIN CONFIRMATION.—If the entity has made the inquiry described in paragraph (1) but has received a nonconfirmation within the time period specified—

(i) the presumption under subsection (a)(2)(B) shall not be considered to apply, and

(ii) if the entity nonetheless continues to employ (or recruits or refers, if such recruitment or referral is subject to section 274A(a)(1)(B)(ii) of the Immigration and Nationality Act) the individual for employment in the United States, the entity shall notify the Attorney General of such fact through the confirmation mechanism or in such other manner as the Attorney General may specify.

(C) CONSEQUENCES.—

(i) FAILURE TO NOTIFY.—If the entity fails to provide notice with respect to an individual as required under subparagraph (B)(ii), the failure is deemed to constitute a violation of section 274A(a)(1)(A) of the Immigration and Nationality Act with respect to that individual.

(ii) CONTINUED EMPLOYMENT.—If the entity provides notice under subparagraph (B)(ii) with respect to an individual, the entity has the burden of proof, for purposes of applying section 274A(a)(1)(A) of the Immigration and Nationality Act with respect to such entity and individual, of establishing that the individual is not an unauthorized alien (as defined in section 274A(h)(3) of such Act).

(iii) NO APPLICATION TO CRIMINAL PENALTY.—Clauses (i) and (ii) shall not apply in any prosecution under section 274A(f)(1) of the Immigration and Nationality Act.

(d) EMPLOYMENT ELIGIBILITY PILOT CONFIRMATION MECHANISM.—

(1) IN GENERAL.—The Attorney General shall establish a pilot program confirmation mechanism (in this section referred to as the “confirmation mechanism”) through which the Attorney General (or a designee of the Attorney General which may include a nongovernmental entity)—

(A) responds to inquiries by electing entities, made at any time through a toll-free telephone line or other electronic media in the form of an appropriate confirmation code or otherwise, on whether an individual is authorized to be employed, and

(B) maintains a record that such an inquiry was made and the confirmation provided (or not provided).

To the extent practicable, the Attorney General shall seek to establish such a mechanism using one or more nongovernmental entities. For purposes of this section, the Attorney General (or a designee of the Attorney General) shall provide through the confirmation mechanism confirmation or a tentative nonconfirmation of an individual’s employment eligibility within 3 working days of the initial inquiry.

(2) EXPEDITED PROCEDURE IN CASE OF NON-CONFIRMATION.—In connection with paragraph (1), the Attorney General shall establish, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, expedited procedures that shall be used to confirm the validity of information used under the confirmation mechanism in cases in which the confirmation is sought but is not provided through the confirmation mechanism.

(3) DESIGN AND OPERATION OF MECHANISM.—The confirmation mechanism shall be designed and operated—

(A) to maximize the reliability of the confirmation process, and the ease of use by entities making elections under subsection (a) consistent with insulating and protecting the privacy and security of the underlying information, and

(B) to respond to all inquiries made by such entities on whether individuals are authorized to be employed registering all times when such response is not possible.

(4) CONFIRMATION PROCESS.—

(A) CONFIRMATION OF VALIDITY OF SOCIAL SECURITY ACCOUNT NUMBER.—As part of the confirmation mechanism,

the Commissioner of Social Security, in consultation with the entity responsible for administration of the mechanism, shall establish a reliable, secure method, which within the time period specified under paragraph (1), compares the name and social security account number provided against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided and whether the individual has presented a social security account number that is not valid for employment. The Commissioner shall not disclose or release social security information.

(B) CONFIRMATION OF ALIEN AUTHORIZATION.—As part of the confirmation mechanism, the Commissioner of the Service, in consultation with the entity responsible for administration of the mechanism, shall establish a reliable, secure method, which, within the time period specified under paragraph (1), compares the name and alien identification or authorization number (if any) described in subsection (c)(1)(B) provided against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided and whether the alien is authorized to be employed in the United States.

(C) PROCESS IN CASE OF TENTATIVE NONCONFIRMATION.—In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, an expedited time period not to exceed 10 working days after the date of the tentative nonconfirmation within which final confirmation or denial must be provided through the confirmation mechanism in accordance with the procedures under paragraph (2).

(D) UPDATING INFORMATION.—The Commissioners shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information.

(5) PROTECTIONS.—(A) In no case shall an employer terminate employment of an individual because of a failure of the individual to have work eligibility confirmed under this section, until after the end of the 10-working-day period in which a final confirmation or nonconfirmation is being sought under paragraph (4)(C). Nothing in this subparagraph shall apply to a termination of employment for any reason other than because of such a failure.

(B) The Attorney General shall assure that there is a timely and accessible process to challenge nonconfirmations made through the mechanism.

(B) If an individual would not have been dismissed from a job but for an error of the confirmation mechanism, the individual will be entitled to compensation through the mechanism of the Federal Tort Claims Act.

(6) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION PROVIDED BY THE EMPLOYMENT ELIGI-

BILITY CONFIRMATION MECHANISM.—No person shall be civilly or criminally liable under any law (including the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, the Fair Labor Standards Act of 1938, or the Age Discrimination in Employment Act of 1967) for any action taken in good faith reliance on information provided through the employment eligibility confirmation mechanism established under this subsection.

(7) MULTIPLE MECHANISMS PERMITTED.—Nothing in this subsection shall be construed as preventing the Attorney General from experimenting with different mechanisms for different entities.

(e) SELECT ENTITIES REQUIRED TO PARTICIPATE IN PILOT PROGRAM.—

(1) FEDERAL GOVERNMENT.—Each entity of the Federal Government that is subject to the requirements of section 274A of the Immigration and Nationality Act (including the Legislative and Executive Branches of the Federal Government) shall participate in the pilot program under this section and shall comply with the terms and conditions of such an election.

(2) APPLICATION TO CERTAIN VIOLATORS.—An order under section 274A(e)(4) or section 274B(g)(2)(B) of the Immigration and Nationality Act may require the subject of the order to participate in the pilot program and comply with the requirements of subsection (c).

(3) CONSEQUENCE OF FAILURE TO PARTICIPATE.—If an entity is required under this subsection to participate in the pilot program and fails to comply with the requirements of subsection (c) with respect to an individual such failure shall be treated as a violation of section 274A(a)(1)(B) of the Immigration and Nationality Act with respect to that individual.

(f) PROGRAM INITIATION; REPORTS; TERMINATION.—

(1) INITIATION OF PROGRAM.—The Attorney General shall implement the pilot program in a manner that permits entities to have elections under subsection (a) made and in effect by not later than 1 year after the date of the enactment of this Act.

(2) REPORTS.—The Attorney General shall submit to Congress annual reports on the pilot program under this section at the end of each year in which the program is in effect. The last two such reports shall each include recommendations on whether or not the pilot program should be continued or modified and on benefits to employers and enforcement of section 274A of the Immigration and Nationality Act obtained from use of the pilot program.

(3) TERMINATION.—Unless the Congress otherwise provides, the Attorney General shall terminate the pilot program under this section at the end of the third year in which it is in effect under this section.

(g) CONSTRUCTION.—This section shall not affect the authority of the Attorney General under other law (including section 274A(d)(4) of the Immigration and Nationality Act) to conduct demonstration projects in relation to section 274A of such Act.

(h) **LIMITATION ON USE OF THE CONFIRMATION PROCESS AND ANY RELATED MECHANISMS.**—Notwithstanding any other provision of law, nothing in this section shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this section for any other purpose other than as provided for under the pilot program under this section.

SEC. 402. LIMITING LIABILITY FOR CERTAIN TECHNICAL VIOLATIONS OF PAPERWORK REQUIREMENTS.

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

- (1) by striking “and” at the end of subparagraph (C),
- (2) by striking the period at the end of subparagraph (D) and inserting “, and”, and
- (3) by adding at the end the following new subparagraph:

“(E) under which a person or entity shall not be considered to have failed to comply with the requirements of subsection (b) based upon a technical or procedural failure to meet a requirement of such subsection in which there was a good faith attempt to comply with the requirement unless (i) the Service (or another enforcement agency) has explained to the person or entity the basis for the failure, (ii) the person or entity has been provided a period of not less than 10 business days (beginning after the date of the explanation) within which to correct the failure, and (iii) the person or entity has not corrected the failure voluntarily within such period, except that this subparagraph shall not apply with respect to the engaging by any person or entity of a pattern or practice of violations of subsection (a)(1)(A) or (a)(2).”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to failures occurring on or after the date of the enactment of this Act.

SEC. 403. PAPERWORK AND OTHER CHANGES IN THE EMPLOYER SANCTIONS PROGRAM.

(a) **REDUCING TO 6 THE NUMBER OF DOCUMENTS ACCEPTED FOR EMPLOYMENT VERIFICATION.**—Section 274A(b) (8 U.S.C. 1324a(b)) is amended—

- (1) in paragraph (1)(B)—
 - (A) by adding “or” at the end of clause (i),
 - (B) by striking clauses (ii) through (iv), and
 - (C) in clause (v), by striking “or other alien registration card, if the card” and inserting “, alien registration card, or other document designated by regulation by the Attorney General, if the document” and redesignating such clause as clause (ii); and
- (2) by amending subparagraph (C) of paragraph (1) to read as follows:

“(C) **SOCIAL SECURITY ACCOUNT NUMBER CARD AS EVIDENCE OF EMPLOYMENT AUTHORIZATION.**—A document described in this subparagraph is an individual’s social security account number card (other than such a card which specifies on the face that the issuance of the card does not authorize employment in the United States).”.

(b) REDUCTION OF PAPERWORK FOR CERTAIN EMPLOYEES.—Section 274A(a) (8 U.S.C. 1324a(a)) is amended by adding at the end the following new paragraph:

“(6) TREATMENT OF DOCUMENTATION FOR CERTAIN EMPLOYEES.—

“(A) IN GENERAL.—For purposes of paragraphs (1)(B) and (3), if—

“(i) an individual is a member of a collective-bargaining unit and is employed, under a collective bargaining agreement entered into between one or more employee organizations and an association of two or more employers, by an employer that is a member of such association, and

“(ii) within the period specified in subparagraph (B), another employer that is a member of the association (or an agent of such association on behalf of the employer) has complied with the requirements of subsection (b) with respect to the employment of the individual,

the subsequent employer shall be deemed to have complied with the requirements of subsection (b) with respect to the hiring of the employee and shall not be liable for civil penalties described in subsection (e)(5).

“(B) PERIOD.—The period described in this subparagraph is—

“(i) up to 5 years in the case of an individual who has presented documentation identifying the individual as a national of the United States or as an alien lawfully admitted for permanent residence; or

“(ii) up to 3 years (or, if less, the period of time that the individual is authorized to be employed in the United States) in the case of another individual.

“(C) LIABILITY.—

“(i) IN GENERAL.—If any employer that is a member of an association hires for employment in the United States an individual and relies upon the provisions of subparagraph (A) to comply with the requirements of subsection (b) and the individual is an unauthorized alien, then for the purposes of paragraph (1)(A), subject to clause (ii), the employer shall be presumed to have known at the time of hiring or afterward that the individual was an unauthorized alien.

“(ii) REBUTTAL OF PRESUMPTION.—The presumption established by clause (i) may be rebutted by the employer only through the presentation of clear and convincing evidence that the employer did not know (and could not reasonably have known) that the individual at the time of hiring or afterward was an unauthorized alien.”.

(c) ELIMINATION OF DATED PROVISIONS.—Section 274A (8 U.S.C. 1324a) is amended by striking subsections (i) through (n).

(d) CLARIFICATION OF APPLICATION TO FEDERAL GOVERNMENT.—Section 274A(a) (8 U.S.C. 1324a(a)) is amended by adding at the end the following new paragraph:

“(5) APPLICATION TO FEDERAL GOVERNMENT.—For purposes of this section, the term ‘entity’ includes an entity in any Branch of the Federal Government.”.

(e) EFFECTIVE DATES.—

(1) Except as provided in this subsection, the amendments made by this section shall apply with respect to hiring (or recruiting or referring) occurring on or after such date (not later than 180 days after the date of the enactment of this Act) as the Attorney General shall designate.

(2) The amendments made by subsections (a)(1) and (a)(2) shall apply with respect to the hiring (or recruiting or referring) occurring on or after such date (not later than 18 months after the date of the enactment of this Act) as the Attorney General shall designate.

(3) The amendment made by subsection (b) shall apply to individuals hired on or after 60 days after the date of the enactment of this Act.

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

(5) The amendment made by subsection (d) applies to hiring occurring before, on, or after the date of the enactment of this Act, but no penalty shall be imposed under section 274A(e) of the Immigration and Nationality Act for such hiring occurring before such date.

(f) IMPLEMENTATION OF ELECTRONIC STORAGE OF I-9 FORMS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall issue regulations which shall provide for the electronic storage of forms used in satisfaction of the requirements of section 274A(b)(3) of the Immigration and Nationality Act.

SEC. 404. STRENGTHENED ENFORCEMENT OF THE EMPLOYER SANCTIONS PROVISIONS.

(a) IN GENERAL.—The number of full-time equivalent positions in the Investigations Division within the Immigration and Naturalization Service of the Department of Justice beginning in fiscal year 1997 shall be increased by 500 positions above the number of full-time equivalent positions available to such Division as of September 30, 1995.

(b) ASSIGNMENT.—Individuals employed to fill the additional positions described in subsection (a) shall be assigned to investigate violations of the employer sanctions provisions contained in section 274A of the Immigration and Nationality Act.

SEC. 405. REPORTS ON EARNINGS OF ALIENS NOT AUTHORIZED TO WORK.

Subsection (c) of section 290 (8 U.S.C. 1360) is amended to read as follows:

“(c)(1) Not later than 3 months after the end of each fiscal year (beginning with fiscal year 1996), the Commissioner of Social Security shall report to the Committees on the Judiciary of the House of Representatives and the Senate on the aggregate number of social security account numbers issued to aliens not authorized to be employed to which earnings were reported to the Social Security Administration in such fiscal year.

“(2) If earnings are reported on or after January 1, 1997, to the Social Security Administration on a social security account number issued to an alien not authorized to work in the United States, the Commissioner of Social Security shall provide the Attorney General with information regarding the name and address of the alien, the name and address of the person reporting the earnings, and the amount of the earnings. The information shall be provided in an electronic form agreed upon by the Commissioner and the Attorney General.”.

SEC. 406. AUTHORIZING MAINTENANCE OF CERTAIN INFORMATION ON ALIENS.

Section 264 (8 U.S.C. 1304) is amended by adding at the end the following new subsection:

“(f) Notwithstanding any other provision of law, the Attorney General is authorized to require any alien to provide the alien’s social security account number for purposes of inclusion in any record of the alien maintained by the Attorney General or the Service.”.

SEC. 407. UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES.

(a) **REQUIRING CERTAIN REMEDIES IN UNFAIR IMMIGRATION-RELATED DISCRIMINATION ORDERS.**—Section 274B(g)(2) (8 U.S.C. 1324b(g)(2)) is amended—

(1) in subparagraph (A), by adding at the end the following: “Such order also shall require the person or entity to comply with the requirements of clauses (ii) and (vi) of subparagraph (B).”;

(2) in subparagraph (B), by striking “Such an order” and inserting “Subject to the second sentence of subparagraph (A), such an order”; and

(3) in subparagraph (B)(vi), by inserting before the semicolon at the end the following: “and to certify the fact of such education”.

(b) **TREATMENT OF CERTAIN DOCUMENTARY PRACTICE AS EMPLOYMENT PRACTICES.**—Section 274B(a)(6) (8 U.S.C. 1324b(a)(6)) is amended—

(1) by striking “For” and inserting “(A) Subject to subparagraph (B), for”, and

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

“(B) A person or other entity—

“(i) may request a document proving a renewal of employment authorization when an individual has previously submitted a time-limited document to satisfy the requirements of section 274A(b)(1); or

“(ii) if possessing reason to believe that an individual presenting a document which reasonably appears on its face to be genuine is nonetheless an unauthorized alien, may (I) inform the individual of the question about the document’s validity, and of such person or other entity’s intention to verify the validity of such document, and (II) upon receiving confirmation that the individual is unauthorized to work, may dismiss the individual.

Nothing in this provision prohibits an individual from offering alternative documents that satisfy the requirements of section 274A(b)(1).”.

(c) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to orders issued on or after the first day of the first month beginning at least 90 days after the date of the enactment of this Act.

PART 2

The amendments made in order by the rule.

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SMITH OF TEXAS, OR A DESIGNEE, DEBATABLE FOR 20 MINUTES

In section 1(a), strike “1995” and insert “1996” and conform subsequent references throughout the bill accordingly.

[TITLE I AMENDMENTS:]

In section 102(d)(1), add at the end the following: “The previous sentence shall not apply to border patrol agents located at checkpoints.”.

In section 104(b)(1), strike “6 months” and insert “18 months”.

At the end of section 112(a), relating to a pilot program for the use of closed military bases, add the following new sentence: “In selecting real property at a military base for use as a detention center under the pilot program, the Attorney General and the Secretary shall consult with the redevelopment authority established for the military base and give substantial deference to the redevelopment plan prepared for the military base.”.

After section 121, insert the following:

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

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

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

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

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

“(4) In performing a function under this subsection, an officer or employee of a State or political subdivision of a State may use Fed-

eral 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 agent of the Attorney General who is required to supervise and direct the individual, shall be set forth in a written agreement between the Attorney General and the State or political subdivision.

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

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

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

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

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

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

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

[TITLE II AMENDMENTS]

In section 204(a), strike “fiscal year 1996” and insert “fiscal year 1997” and strike “1994” and insert “1996”.

Amend subsection (b) of section 204 to read as follows:

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

[TITLE III AMENDMENTS]

In section 301(a), in proposed paragraph (13)(A), insert “lawful” before “entry”.

In section 301(c), amend subclause (V) of proposed subparagraph (B)(ii) to read as follows:

“(V) BATTERED WOMEN AND CHILDREN.—Clause (i) shall not apply to an alien who would be de-

scribed in paragraph (9)(B) if 'violation of the terms of the alien's nonimmigrant visa' were substituted for 'unlawful entry into the United States' in clause (iii) of that paragraph.

In section 301, add at the end the following new subsection:

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

In section 304(a)(3), in the new section 240A of the Immigration and Nationality Act, add at the end the following new subsection:

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

In section 305(a)(3), amend paragraph (4) of section 241(a) of the Immigration and Nationality Act (inserted by such section) to read as follows:

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

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

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

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

"(ii) in the case of an alien in the custody of a State (or a political subdivision of a State), if the chief State official exercising authority with respect to the incarceration of the alien determines that (I) the alien is confined pursuant to a final conviction for a nonviolent

offense, (II) the removal is appropriate and in the best interest of the State, and (III) submits a written request to the Attorney General that such alien be so removed.

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

In section 305(a)(3), in new section 241(b) of the Immigration and Nationality Act, add at the end the following new paragraph:

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

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

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

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

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

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

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

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

In section 305(a), in new section 241(d)(2), strike “any travel documents necessary for departure or repatriation of the stowaway have been obtained” and insert “the requester has obtained any travel documents necessary for departure or repatriation of the stowaway”.

In section 305, redesignate subsection (c) as subsection (d) and insert after subsection (b) the following new section:

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

- (1) by striking “or” at the end of paragraph (2),
- (2) by adding “or” at the end of paragraph (3), and
- (3) by inserting after paragraph (3) the following new paragraph:

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

At the end of section 306, add the following new subsection:

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

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

In section 308(e)(1), insert after the colon the following (and redesignate subparagraphs (A) through (P) as subparagraphs (B) through (Q), respectively):

(A) Section 287(g) (8 U.S.C. 1357(g)) (as added by section 122).

In section 308(g)(10), add at the end the following:

(H) Section 212(h), as amended by section 301(h), is amended by striking “section 212(c)” and inserting “paragraphs (1) and (2) of section 240A(a)”.

In section 309(a), insert “, 301(h), or 306(c)” after “301(f)”.

In section 309(c), add at the end the following new paragraph:

(7) LIMITATION ON SUSPENSION OF DEPORTATION.—The Attorney General may not suspend the deportation and adjust the status under section 244 of the Immigration and Nationality Act of more than 4,000 aliens in any fiscal year (beginning after the date of the enactment of this Act). The previous sentence shall apply regardless of when an alien applied for such suspension and adjustment.

After section 342, insert the following new section (and conform the table of contents accordingly):

SEC. 343. PROVISIONS RELATING TO CONTRACTS WITH TRANSPORTATION LINES.

(a) COVERAGE OF NONCONTIGUOUS TERRITORY.—Section 238 (8 U.S.C. 1228), before redesignation as section 233 under section 308(b), is amended—

- (1) in the heading, by striking “CONTIGUOUS”, and
- (2) by striking “contiguous” each place it appears in subsections (a), (b), and (d).

(b) COVERAGE OF RAILROAD TRAIN.—Subsection (d) of such section is further amended by inserting “ or railroad train” after “aircraft”.

In section 308(a)(2), in the item inserted relating to section 233, strike “contiguous”.

Strike section 356 and insert the following (and conform the table of contents accordingly):

SEC. 356. DEMONSTRATION PROJECT FOR IDENTIFICATION OF ILLEGAL ALIENS IN INCARCERATION FACILITY OF ANAHEIM, CALIFORNIA.

(a) **AUTHORITY.**—The Attorney General may conduct a project demonstrating the feasibility of identifying, from among the individuals who are incarcerated in local governmental prison facilities prior to arraignment on criminal charges, those individuals who are aliens unlawfully present in the United States.

(b) **DESCRIPTION OF PROJECT.**—The project authorized by subsection (a) shall include—

(1) the detail to incarceration facilities within the city of Anaheim, California and the county of Ventura, California, of an employee of the Immigration and Naturalization Service who has expertise in the identification of aliens unlawfully in the United States, and

(2) provision of funds sufficient to provide for—

(A) access for such employee to records of the Service necessary to identify unlawful aliens, and

(B) in the case of an individual identified as an unlawful alien, pre-arraignment reporting to the court regarding the Service’s intention to remove the alien from the United States.

(c) **TERMINATION.**—The authority under this section shall cease to be effective 6 months after the date of the enactment of this Act.

In section 359(a), strike the quotation marks at the end of the matter inserted and insert the following:

“(C) The amounts required to be refunded from the Immigration Enforcement Account for fiscal year 1996 and thereafter shall be refunded in accordance with estimates made in the budget request of the Attorney General for those fiscal years. Any proposed changes in the amounts designated in such budget requests shall only be made after notification to the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of Public Law 103–317.

“(D) The Attorney General shall prepare and submit annually to the Congress statements of financial condition of the Immigration Enforcement Account, including beginning account balance, revenues, withdrawals, and ending account balance and projection for the ensuing fiscal year.”.

【TITLE V AMENDMENTS】

At the end of section 512, add the following new subsection:

(c) **PERMITTING PERFORMANCE BOND IN LIEU OF INSURANCE.**—Section 213 (8 U.S.C. 1183) is amended—

(1) by inserting “(a)” after “213.”, and

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

“(b)(1) An alien excludable under paragraph (4)(D) of section 212(a) may, if otherwise admissible, be admitted in the discretion of the Attorney General upon the giving of a suitable and proper performance bond approved by the Attorney General and furnished either by the alien or by any individual executing an affidavit of

support for the alien pursuant to section 213A if the alien demonstrates that the alien, despite reasonable attempts, has been unable to secure insurance described in section 212(a)(4)(D)(i). Such performance bond shall be in such amount and containing such conditions (including conditions similar to those specified for bonds and undertakings under subsection (a)) as the Attorney General may prescribe and shall cover all costs which would otherwise be covered under such insurance.

“(2) The Attorney General shall create a mechanism for establishing a suitable and proper performance bond as set forth in paragraph (1). The use of such bond for the purpose of satisfying the provisions of this subsection shall be at the discretion of the Attorney General.”.

In section 513(a)(2), in the paragraph (4)(E) inserted by such section, strike “or 101(a)(15)(L)” and insert “101(a)(15)(L), 101(a)(15)(O), or 101(a)(15)(P)”.

In section 523(a), in the paragraph (5) amended by such section—

(1) in clause (i), strike “or”,

(2) in clause (ii), strike the period at the end and insert “; or”, and

(3) after clause (ii) insert the following:

“(iii) the alien has filed an application to adjust status to that of an immigrant under section 203, and must travel outside the United States for emergent business or family reasons.

In section 524(a)(2), in the subsection (d)(2) inserted by such section, add at the end the following:

“(C) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—

The provisions of paragraphs (4), (5), and (7)(A) of section 212(a) shall not be applicable to any alien seeking admission to the United States or adjustment of status under this subsection, and the Attorney General may waive any other provision of such section (other than paragraph (2)(C) or subparagraph (A), (B), (C), or (E) of paragraph (3)) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Any such waiver by the Attorney General shall be in writing and shall be granted only on an individual basis following investigation. The Attorney General shall provide for the annual reporting to Congress of the number of waivers granted under this subparagraph in the previous fiscal year and a summary of the reasons for granting such waivers.

Strike subsection (d) of section 524 (relating to application of per country numerical limitation for humanitarian immigrants), and insert the following:

(d) SPECIAL RULES IN CASE OF ADJUSTMENT OF STATUS.—Section 245 (8 U.S.C. 1255) is amended by adding at the end the following new subsection:

“(k) For purposes of subsection (a), an alien who is in the United States and is identified by the Attorney General under section 204(a)(1)(I) may be treated as having been paroled into the United States.”.

Strike subsection (e) of section 524 (relating to waiver of certain grounds of inadmissibility), and redesignate the succeeding subsection accordingly.

In section 531, amend section 208(a)(2)(B) of the Immigration and Nationality Act (as amended by such section) by striking "30 days" and inserting "180 days".

In section 531, at the end of section 208(d)(3) of the Immigration and Nationality Act (as amended by such section), add the following: "Such fees shall not exceed the Attorney General's costs in adjudicating the applications."

Amend section 533 to read as follows (and conform the table of contents accordingly):

SEC. 533. INCREASE IN ASYLUM OFFICERS.

Subject to the availability of appropriations, the Attorney General shall provide for an increase in the number of asylum officers to at least 600 asylum officers by fiscal year 1997.

[TITLE VI AMENDMENTS]:

In section 600, amend paragraph (7) to read as follows:

(7) With respect to the State authority to make determinations concerning the eligibility of aliens for public benefits, a State that chooses to follow the Federal classification in determining the eligibility of such aliens for public assistance shall be considered to have chosen the least restrictive means available for achieving the compelling government interest of assuring that aliens be self-reliant in accordance with national immigration policy.

In section 601(c)(2), strike "programs:" and insert "programs (and include any successor to such a program as identified by the Attorney General in consultation with other appropriate officials):".

In section 603, amend paragraph (2) to read as follows:

(2) PUBLIC HEALTH IMMUNIZATIONS.—Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases, whether or not such symptoms are actually caused by a communicable disease.

In section 603(5), insert "(and any successor to such a program as identified by the Attorney General in consultation with other appropriate officials)" after "National School Lunch Act".

In section 603(6), insert "(and any successor to such a program as identified by the Attorney General in consultation with other appropriate officials)" after "1966".

At the end of section 603, add the following new paragraph:

(7) HEAD START PROGRAM.—Benefits under the Head Start Act.

Strike section 611 (and conform the table of contents accordingly).

At the end of subtitle A of title VI of the bill, insert the following new part (and conform the table of contents accordingly):

PART 3—HOUSING ASSISTANCE

SEC. 615. ACTIONS IN CASES OF TERMINATION OF FINANCIAL ASSISTANCE.

(a) IN GENERAL.—Section 214(c)(1) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(c)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking “may, in its discretion,” and inserting “shall”;

(2) in subparagraph (A), by inserting after the period at the end the following new sentence: “Financial assistance continued under this subparagraph for a family may be provided only on a prorated basis under which the amount of financial assistance is based on the percentage of the total number of members of the family that are eligible for such assistance under the program for financial assistance and this section.”; and

(3) in subparagraph (B), by striking “6-month period” and all that follows through “affordable housing” and inserting “single 3-month period”.

(b) SCOPE OF APPLICATION.—The amendment made by subsection (a)(3) shall apply to any deferral granted under section 214(c)(1)(B) of the Housing and Community Development Act of 1980 on or after the date of the enactment of this Act, including any renewal of any deferral initially granted before such date of enactment, except that a public housing agency or other entity referred to in such section 214(c)(1)(B) may not renew, after such date of enactment, any deferral which was granted under such section before such date and has been effective for at least 3 months on and after such date.

SEC. 616. VERIFICATION OF IMMIGRATION STATUS AND ELIGIBILITY FOR FINANCIAL ASSISTANCE.

Section 214(d) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(d)) is amended—

(1) in the matter preceding paragraph (1), by inserting “or to be” after “being”;

(2) in paragraph (1)(A), by inserting at the end the following new sentences: “If the declaration states that the individual is not a citizen or national of the United States, the declaration shall be verified by the Immigration and Naturalization Service. If the declaration states that the individual is a citizen or national of the United States, the Secretary shall request verification of the declaration by requiring presentation of documentation the Secretary considers appropriate, including a social security card, certificate of birth, driver’s license, or other documentation.”;

(3) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking “on the date of the enactment of the Housing and Community Development Act of 1987” and inserting “or applying for financial assistance”; and

(B) by inserting at the end the following new sentence: “In the case of an individual applying for financial assistance, the Secretary may not provide such assistance for the benefit of the individual before such documentation is presented and verified under paragraph (3) or (4).”;

(4) in paragraph (4)—

(A) in the matter preceding subparagraph (A), by striking “on the date of the enactment of the Housing and Community Development Act of 1987” and inserting “or applying for financial assistance”;

(B) in subparagraph (A)—

(i) in clause (i)—

(I) by inserting “, not to exceed 30 days,” after “reasonable opportunity”; and

(II) by striking “and” at the end; and

(ii) by striking clause (ii) and inserting the following new clauses:

“(ii) in the case of any individual who is already receiving assistance, may not delay, deny, reduce, or terminate the individual’s eligibility for financial assistance on the basis of the individual’s immigration status until such 30-day period has expired, and

“(iii) in the case of any individual who is applying for financial assistance, may not deny the application for such assistance on the basis of the individual’s immigration status until such 30-day period has expired; and”;

(C) in subparagraph (B), by striking clause (ii) and inserting the following new clause:

“(ii) pending such verification or appeal, the Secretary may not—

“(I) in the case of any individual who is already receiving assistance, delay, deny, reduce, or terminate the individual’s eligibility for financial assistance on the basis of the individual’s immigration status, and

“(II) in the case of any individual who is applying for financial assistance, deny the application for such assistance on the basis of the individual’s immigration status, and”;

(5) in paragraph (5), by striking all that follows “satisfactory immigration status” and inserting the following: “, the Secretary shall—

“(A) deny the individual’s application for financial assistance or terminate the individual’s eligibility for financial assistance, as the case may be; and

“(B) provide the individual with written notice of the termination under this paragraph.”; and

(6) by striking paragraph (6) and inserting the following new paragraph:

“(6) The Secretary shall terminate the eligibility for financial assistance of an individual and the members of the household of the individual, for a period of not less than 24 months, upon determining that such individual has knowingly permitted another individual who is not eligible for such assistance to use the assistance (including residence in the unit assisted).”.

SEC. 617. PROHIBITION OF SANCTIONS AGAINST ENTITIES MAKING FINANCIAL ASSISTANCE ELIGIBILITY DETERMINATIONS.

Section 214(e)(4) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(e)(4)) is amended—

- (1) in paragraph (2), by inserting “or” at the end;
- (2) in paragraph (3), by striking “, or” at the end and inserting a period; and
- (3) by striking paragraph (4).

SEC. 618. REGULATIONS.

(a) **ISSUANCE.**—Not later than the expiration of the 60-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall issue any regulations necessary to implement the amendments made by this part. Such regulations shall be issued in the form of an interim final rule, which shall take effect upon issuance and shall not be subject to the provisions of section 533 of title 5, United States Code, regarding notice or an opportunity for comment.

(b) **FAILURE TO ISSUE.**—If the Secretary fails to issue the regulations required under subsection (a) before the expiration of the period referred to in such subsection, the regulations relating to restrictions on assistance to noncitizens, contained in the final rule issued by the Secretary of Housing and Urban Development in RIN 2501-AA63 (Docket No. R-95-1409; FR-2383-F-050), published in the Federal Register of March 20, 1995 (Vol. 60., No. 53; pp. 14824-14861), shall not apply after the expiration of such period.

In section 621(a), in amended paragraph (4)(A), strike “thereof, or” and insert “thereof, and” and strike “or both.”

In section 621(a), in paragraph (4), strike subparagraph (B) and strike clause (i) of subparagraph (C) and redesignate subparagraph (C)(ii) as subparagraph (B).

Amend subsection (a) of section 631 to read as follows:

(a) FEDERAL PROGRAMS.—

(1) **IN GENERAL.**—Notwithstanding any other provision of law (except as provided in paragraph (2)), in determining the eligibility and the amount of benefits of an alien for any Federal means-tested public benefits program (as defined in subsection (d)) the income and resources of the alien shall be deemed to include—

(A) the income and resources of any individual who executed an affidavit of support pursuant to section 213A of the Immigration and Nationality Act (as inserted by section 632(a)) in behalf of such alien, and

(B) the income and resources of the spouse (if any) of the individual.

(2) **EXCEPTIONS.**—Paragraph (1) shall not apply to the following:

(A) Medical assistance provided for emergency medical services under title XIX of the Social Security Act.

(B) The provision of short-term, non-cash, in kind emergency relief.

(C) Benefits under the National School Lunch Act.

(D) Assistance under the Child Nutrition Act of 1966.

(E) Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment for communicable diseases.

(F) The provision of services directly related to assisting the victims of domestic violence or child abuse.

(G) Benefits under programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965 and titles III, VII, and VIII of the Public Health Service Act.

(H) Benefits under means-tested programs under the Elementary and Secondary Education Act of 1965.

(I) Benefits under the Head Start Act.

In section 631(b), amend paragraph (1) to read as follows:

(1) PARENTS OF UNITED STATES CITIZENS AND ADULT SONS AND DAUGHTERS OF CITIZENS AND PERMANENT RESIDENTS.— Subsection (a) shall apply with respect to an alien who is admitted to the United States as the parent of a United States citizen under section 203(a)(2) of the Immigration and Nationality Act, as amended by section 512(a), or as the son or daughter of a citizen or lawful permanent resident under section 203(a)(3) of such Act, until the alien is naturalized as a citizen of the United States.

In section 631(b)(4)(A), strike “if the alien” and all that follows and insert “if the alien is able to prove to the satisfaction of the Attorney General that the alien has been employed for 40 qualifying quarters of coverage as defined under title II of the Social Security Act and the alien did not receive any benefit under a means-tested public benefits program of (or contributed to by) the Federal Government during any such quarter.”

In section 632(a), in new section 213A(a)(2)(D)(i), strike “if the sponsored alien” and all that follows and insert the following: “if the sponsored alien is able to prove to the satisfaction of the Attorney General that the alien has been employed for 40 qualifying quarters of coverage as defined under title II of the Social Security Act and the alien did not receive any benefit under a means-tested public benefits program of (or contributed to by) the Federal Government during any such quarter.”

In section 632(a), amend paragraph (3) of the section 213A of the Immigration and Nationality Act inserted by such section, to read as follows:

“(3) MEANS-TESTED PUBLIC BENEFITS PROGRAM.—

“(A) IN GENERAL.—Subject to subparagraph (B), the term ‘means-tested public benefits program’ means a program of public benefits (including cash, medical, housing, and food assistance and social services) of the Federal Government or of a State or political subdivision of a State in which the eligibility of an individual, household, or family eligibility unit for benefits under the program, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.

“(B) EXCEPTIONS.—Such term does not include the following benefits:

“(i) Medical assistance provided for emergency medical services under title XIX of the Social Security Act.

“(ii) The provision of short-term, non-cash, in kind emergency relief.

“(iii) Benefits under the National School Lunch Act.

“(iv) Assistance under the Child Nutrition Act of 1966.

“(v) Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment for communicable diseases.

“(vi) The provision of services directly related to assisting the victims of domestic violence or child abuse.

“(vii) Benefits under programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965 and titles III, VII, and VIII of the Public Health Service Act.

“(viii) Benefits under means-tested programs under the Elementary and Secondary Education Act of 1965.

“(ix) Benefits under the Head Start Act.”.

In section 632(a), in new section 213A(e)(1)(D), strike “a tax return or otherwise” and insert “an individual’s Federal income tax returns for the individual’s most recent two taxable years and a written statement, executed under oath or as permitted under penalty of perjury under section 1746 of title 28, United States Code, that the copies are accurate copies of such returns”.

In section 632(a), in new section 213A(e)(1)(E), insert “who is a United States citizen and” after “(or is an individual”.

After section 632, insert the following new sections (and conform the table of contents accordingly):

SEC. 633. COSIGNATURE OF ALIEN STUDENT LOANS.

Section 484(b) of the Higher Education Act of 1965 (20 U.S.C. 1091(b)) is amended by adding at the end the following new paragraph:

“(6) Notwithstanding sections 427(a)(2)(A), 428B(a), 428C(b)(4)(A), and 464(c)(1)(E), a student who is an alien lawfully admitted under the Immigration and Nationality Act, otherwise eligible for student financial assistance under this title, and for whom an affidavit of support has been provided under section 213A of such Act shall not be eligible for a loan under this title unless the loan is endorsed and cosigned by the alien’s sponsor under such section or by another credit-worthy individual who is a citizen or national of the United States.”.

SEC. 634. STATUTORY CONSTRUCTION.

Nothing in this title may be construed as an entitlement or a determination of an individual’s eligibility or fulfillment of the requisite requirements for any Federal, State, or local governmental program, assistance, or benefits. For purposes of this title, eligibility relates only to the general issue of eligibility or ineligibility on the basis of alienage.

[TITLE VII AMENDMENTS]

In section 701—

(1) in subsection (a)(1), strike “the Secretary of the Treasury” and strike “and the United States Customs Service”,

(2) in subsection (a)(2), strike “and the Secretary of the Treasury”,

(3) in subsection (b)(1), strike “, in consultation with the Secretary of the Treasury,” and strike “, the United States Customs Service,” and

(4) in subsection (b)(1), insert “by the Immigration and Naturalization Service” after “inspection”.

【TITLE VIII AMENDMENTS】

After section 810, insert the following new sections (and conform the table of contents accordingly):

SEC. 811. CERTIFICATION REQUIREMENTS FOR FOREIGN HEALTH-CARE WORKERS.

(a) IN GENERAL.—Section 212(a) (8 U.S.C. 1182(a)), as amended by section 301(b)(1), is amended—

(1) by redesignating paragraph (10) as paragraph (11), and

(2) by inserting after paragraph (9) the following new paragraph:

“(10) CERTIFICATION REQUIREMENTS FOR FOREIGN HEALTH-CARE WORKERS.—Any alien who seeks to enter the United States for the purpose of performing labor as a health care worker, other than a physician, is inadmissible unless the consular officer receives a certification from the Commission on Graduates of Foreign Nursing Schools or a certificate from an equivalent independent credentialing organization approved by the Secretary of Labor verifying that—

“(A) the alien’s education, training, or experience meet all applicable statutory and regulatory requirements for entry into the United States under the classification specified in the application and is comparable to that required for an American practitioner of the same type;

“(B) any foreign license submitted by the alien is authentic and unencumbered;

“(C) the alien must have the ability to read, write, and speak the English language at a level required for standard business communication, as demonstrated by the alien’s score on one or more standardized tests; and

“(D) if the alien is a registered nurse, the alien has passed an examination testing both nursing skills and English language proficiency.”

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to aliens entering the United States more than 180 days after the date of the enactment of this Act.

Amend section 834 to read as follows (and conform the table of contents accordingly):

SEC. 834. REGULATIONS REGARDING HABITUAL RESIDENCE.

Not later than 6 months after the date of the enactment of this Act, the Commissioner of the Immigration and Naturalization Service shall issue regulations governing rights of “habitual residence” in the United States under the terms of Compacts of Free Association (Public Law 99–239, Public Law 99–658, and Public Law 101–219).

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE TRAFICANT OF OHIO, OR A DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of subtitle A of title I insert the following new section:

SEC. 108. REPORT.

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

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BEILENSON OF CALIFORNIA, OR A DESIGNEE, DEBATABLE FOR 10 MINUTES

Amend subsection (b) of section 102 to read as follows:

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section not to exceed \$110,000,000. Amounts appropriated under this subsection are authorized to remain available until expended.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MCCOLLUM OF FLORIDA, OR A DESIGNEE, DEBATABLE FOR 30 MINUTES

After section 216, insert the following new section (and conform the table of contents accordingly):

SEC. 217. PROTECTING THE INTEGRITY OF THE SOCIAL SECURITY ACCOUNT NUMBER CARD.

(a) IMPROVEMENTS TO CARD.—

(1) IN GENERAL.—For purposes of carrying out section 274A of the Immigration and Nationality Act, the Commissioner of Social Security (in this section referred to as the "Commissioner") shall make such improvements to the physical design, technical specifications, and materials of the social security account number card as are necessary to ensure that it is a genuine official document and that it offers the best possible security against counterfeiting, forgery, alteration, and misuse.

(2) PERFORMANCE STANDARDS.—In making the improvements required in paragraph (1), the Commissioner shall—

(A) make the card as secure against counterfeiting as the 100 dollar Federal Reserve note, with a rate of counterfeit detection comparable to the 100 dollar Federal Reserve note, and

(B) make the card as secure against fraudulent use as a United States passport.

(3) REFERENCE.—In this section, the term “secured social security account number card” means a social security account number card issued in accordance with the requirements of this subsection.

(4) EFFECTIVE DATE.—All social security account number cards issued after January 1, 1999, whether new or replacement, shall be secured social security account number cards.

(b) USE FOR EMPLOYMENT VERIFICATION.—Beginning on January 1, 2006, a document described in section 274A(b)(1)(C) of the Immigration and Nationality Act is a secured social security account number card (other than such a card which specifies on the face that the issuance of the card does not authorize employment in the United States).

(c) NOT A NATIONAL IDENTIFICATION CARD.—Cards issued pursuant to this section shall not be required to be carried upon one’s person, and nothing in this section shall be construed as authorizing the establishment of a national identification card.

(d) NO NEW DATABASES.—Nothing in this section shall be construed as authorizing the establishment of any new databases.

(e) EDUCATION CAMPAIGN.—The Commissioner of Immigration and Naturalization, in consultation with the Commissioner of Social Security, shall conduct a comprehensive campaign to educate employers about the security features of the secured social security card and how to detect counterfeit or fraudulently used social security account number cards.

(f) ANNUAL REPORTS.—The Commissioner of Social Security shall submit to Congress by July 1 of each year a report on—

(1) the progress and status of developing a secured social security account number card under this section,

(2) the incidence of counterfeit production and fraudulent use of social security account number cards, and

(3) the steps being taken to detect and prevent such counterfeiting and fraud.

(g) GAO ANNUAL AUDITS.—The Comptroller General shall perform an annual audit, the results of which are to be presented to the Congress by January 1 of each year, on the performance of the Social Security Administration in meeting the requirements in subsection (a).

(h) EXPENSES.—No costs incurred in developing and issuing cards under this section that are above the costs that would have been incurred for cards issued in the absence of this section shall be paid for out of any Trust Fund established under the Social Security Act. There are authorized to be appropriated such sums as may be necessary to carry out this section.

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE TATE OF WASHINGTON, OR A DESIGNEE, DEBATABLE FOR 30 MINUTES

In section 301(c) of the bill (relating to revision to ground of inadmissibility for illegal entrants and immigration violators), in subparagraph (A) of section 212(a)(6) of the Immigration and Nationality Act as proposed to be amended by such section of the bill insert after clause (ii) the following clauses, and redesignate clause (iii) accordingly:

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

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

In redesignated clause (v) (as redesignated by this provision), strike “(i) and (ii)” and insert “(i) through (iv)”.

6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CONYERS OF MICHIGAN, OR A DESIGNEE, DEBATABLE FOR 30 MINUTES

Strike section 331 (relating to membership in terrorist organization as a ground of inadmissibility).

7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE LATHAM OF IOWA, OR A DESIGNEE, DEBATABLE FOR 40 MINUTES

At the end of subtitle D of title III insert the following new section:

SEC. 365. AUTHORITY FOR STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE IN DEPORTATION.

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding after subsection (e) the following new subsection:

“(f)(1) The Attorney General may deputize any law enforcement officer of any State or of any political subdivision of any State to seek, apprehend, detain, and commit to the custody of an officer of the Department of Justice aliens subject to a final order of deportation or exclusion under this Act, if—

“(1) actions pursuant to such deputization are subject to the direction and supervision of an officer of the Department of Justice;

“(2) any deputization, its duration, an identification of the supervising officer of the Department of Justice, and the specific powers, privileges, and duties to be performed or exercised are set forth in writing; and

“(3) the Governor of the State, or the chief elected or appointed official of a political subdivision (as may be appropriate) consents to the deputization.

“(2) No deputization under this subsection shall entitle any State, political subdivision, or individual to any compensation or reimbursement from the United States, except where the amount thereof and the entitlement thereto are set forth in the written deputization or where otherwise explicitly provided by law.”.

8. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BRYANT OF TENNESSEE, OR A DESIGNEE, DEBATABLE FOR 20 MINUTES

At the end of section 604(b), add the following: “Such procedures shall include, in the case of such an individual who is 18 years of age or older and not lawfully present in the United States, the hospital or facility promptly providing the Service with the individual’s name, address, and name of employer and other identifying information that the hospital or facility may have that may assist the Service in its efforts to locate the individual.”.

9. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE VELÁZQUEZ OF NEW YORK, OR REPRESENTATIVE ROYBAL-ALLARD OF CALIFORNIA, OR A DESIGNEE, DEBATABLE FOR 20 MINUTES

Strike section 607 and redesignate the succeeding sections accordingly.

10. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GALLEGLY OF CALIFORNIA, OR A DESIGNEE, DEBATABLE FOR 30 MINUTES

At the end of subtitle A of title VI insert the following new part:

PART 3—PUBLIC EDUCATION BENEFITS

SEC. 615. AUTHORIZING STATES TO DENY PUBLIC EDUCATION BENEFITS TO ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by adding at the end the following new title:

“TITLE VI—DISQUALIFICATION OF ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES FROM CERTAIN PROGRAM

“CONGRESSIONAL POLICY REGARDING INELIGIBILITY OF ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES FOR PUBLIC EDUCATION BENEFITS

“SEC. 601. (a) Because Congress views that the right to a free public education for aliens who are not lawfully present in the United States promotes violations of the immigration laws and because such a free public education for such aliens creates a significant burden on States’ economies and depletes States’ limited educational resources, Congress declares it to be the policy of the United States that—

“(1) aliens who are not lawfully present in the United States not be entitled to public education benefits in the same manner as United States citizens and lawful resident aliens; and

“(2) States should not be obligated to provide public education benefits to aliens who are not lawfully present in the United States.

“(b) Nothing in this section shall be construed as expressing any statement of Federal policy with regard to—

“(1) aliens who are lawfully present in the United States, or

“(2) benefits other than public education benefits provided under State law.

“AUTHORITY OF STATES

“SEC. 602. (a) In order to carry out the policies described in section 601, each State may provide that an alien who is not lawfully present in the United States is not eligible for public education benefits in the State or, at the option of the State, may be treated as a non-resident of the State for purposes of provision of such benefits.

“(b) For purposes of subsection (a), an individual shall be considered to be not lawfully present in the United States unless the individual (or, in the case of an individual who is a child, another on the child’s behalf)—

“(1) declares in writing under penalty of perjury that the individual (or child) is a citizen or national of the United States and (if required by a State) presents evidence of United States citizenship or nationality; or

“(2)(A) declares in writing under penalty of perjury that the individual (or child) is not a citizen or national of the United States but is lawfully present in the United States, and

“(B) presents either—

“(i) alien registration documentation or other proof of immigration registration from the Service, or

“(ii) such other documents as the State determines constitutes reasonable evidence indicating that the individual (or child) is lawfully present in the United States.

If the documentation described in paragraph (2)(B)(i) is presented, the State may (at its option) verify with the Service the alien’s immigration status through a system described in section 1137(d)(3) of the Social Security Act (42 U.S.C. 1320b–7(d)(3)).

“(c) If a State denies public education benefits under this section with respect to an alien, the State shall provide the alien with an opportunity for a fair hearing to establish that the alien is lawfully present in the United States, consistent with subsection (b) and Federal immigration law.”.

(b) CLERICAL AMENDMENT.—The table of contents of such Act is amended by adding at the end the following new items:

“TITLE VI—DISQUALIFICATION OF ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES FROM CERTAIN PROGRAM

“Sec. 601. Congressional policy regarding ineligibility of aliens not lawfully present in the United States for public education benefits.

“Sec. 602. Authority of States.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of the date of the enactment of this Act.

11. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CARDIN OF MARYLAND, OR A DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of section 401 the following new subsection:

(c) PRIORITY FOR WORKSITE ENFORCEMENT.—

(1) IN GENERAL.—In addition to its efforts on border control and easing the worker verification process, the Attorney Gen-

eral shall make worksite enforcement of employer sanctions a top priority of the Immigration and Naturalization Service.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall submit to Congress a report on any additional authority or resources needed—

(A) by the Immigration and Naturalization Service in order to enforce section 274A of the Immigration and Nationality Act, or

(B) by Federal agencies in order to carry out the Executive Order of February 13, 1996 (entitled “Economy and Efficiency in Government Procurement Through Compliance with Certain Immigration and Naturalization Act Provisions”) and to expand the restrictions in such Order to cover agricultural subsidies, grants, job training programs, and other Federally subsidized assistance programs.

12. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CHABOT OF OHIO, OR A DESIGNEE, DEBATABLE FOR 60 MINUTES

Strike subsection (b) of section 403.

13. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GALLEGLY OF CALIFORNIA, OR A DESIGNEE, DEBATABLE FOR 60 MINUTES

Amend subsection (b) of section 403 to read as follows:

(b) EMPLOYMENT ELIGIBILITY CONFIRMATION PROCESS.—Section 274A (8 U.S.C. 1324a) is amended—

(1) in subsection (a)(3), by inserting “(A)” after “DEFENSE.—”, and by adding at the end the following:

“(B) FAILURE TO SEEK AND OBTAIN CONFIRMATION.—Subject to subsection (b)(7), in the case of a hiring of an individual for employment in the United States by a person or entity that employs more than 3 employees, the following rules apply:

“(i) FAILURE TO SEEK CONFIRMATION.—

“(I) IN GENERAL.—If the person or entity has not made an inquiry, under the mechanism established under subsection (b)(6), seeking confirmation of the identity, social security number, and work eligibility of the individual, by not later than the end of 3 working days (as specified by the Attorney General) after the date of the hiring, the defense under subparagraph (A) shall not be considered to apply with respect to any employment after such 3 working days, except as provided in subclause (II).

“(II) SPECIAL RULE FOR FAILURE OF CONFIRMATION MECHANISM.—If such a person or entity in good faith attempts to make an inquiry during such 3 working days in order to qualify for the defense under subparagraph (A) and the confirmation mechanism has registered that not all inquiries were responded to during such time, the person or entity can make an inquiry in the first subsequent working day in which the con-

confirmation mechanism registers no nonresponses and qualify for the defense.

“(ii) FAILURE TO OBTAIN CONFIRMATION.—If the person or entity has made the inquiry described in clause (i)(I) but has not received an appropriate confirmation of such identity, number, and work eligibility under such mechanism within the time period specified under subsection (b)(6)(D)(iii) after the time the confirmation inquiry was received, the defense under subparagraph (A) shall not be considered to apply with respect to any employment after the end of such time period.”;

(2) by amending paragraph (3) of subsection (b) to read as follows:

“(3) RETENTION OF VERIFICATION FORM AND CONFIRMATION.—After completion of such form in accordance with paragraphs (1) and (2), the person or entity must—

“(A) if the person employs not more than 3 employees, retain the form and make it available for inspection by officers of the Service, the Special Counsel for Immigration-Related Unfair Employment Practices, or the Department of Labor during a period beginning on the date of the hiring, recruiting, or referral of the individual and ending—

“(i) in the case of the recruiting or referral for a fee (without hiring) of an individual, three years after the date of the recruiting or referral, and

“(ii) in the case of the hiring of an individual—

“(I) three years after the date of such hiring, or

“(II) one year after the date the individual’s employment is terminated,

whichever is later; and

“(B) subject to paragraph (7), if the person employs more than 3 employees, seek to have (within 3 working days of the date of hiring) and have (within the time period specified under paragraph (6)(D)(iii)) the identity, social security number, and work eligibility of the individual confirmed in accordance with the procedures established under paragraph (6), except that if the person or entity in good faith attempts to make an inquiry in accordance with the procedures established under paragraph (6) during such 3 working days in order to fulfill the requirements under this subparagraph, and the confirmation mechanism has registered that not all inquiries were responded to during such time, the person or entity shall make an inquiry in the first subsequent working day in which the confirmation mechanism registers no nonresponses.”; and

(3) by adding at the end of subsection (b) the following new paragraphs:

“(6) EMPLOYMENT ELIGIBILITY CONFIRMATION PROCESS.—

“(A) IN GENERAL.—Subject to paragraph (7), the Attorney General shall establish a confirmation mechanism through which the Attorney General (or a designee of the Attorney General which may include a nongovernmental entity)—

“(i) responds to inquiries by employers, made through a toll-free telephone line, other electronic media, or toll-free facsimile number in the form of an appropriate confirmation code or otherwise, on whether an individual is authorized to be employed by that employer, and

“(ii) maintains a record that such an inquiry was made and the confirmation provided (or not provided).

“(B) EXPEDITED PROCEDURE IN CASE OF NO CONFIRMATION.—In connection with subparagraph (A), the Attorney General shall establish, in consultation with the Commissioner of Social Security and the Commissioner of the Service, expedited procedures that shall be used to confirm the validity of information used under the confirmation mechanism in cases in which the confirmation is sought but is not provided through the confirmation mechanism.

“(C) DESIGN AND OPERATION OF MECHANISM.—The confirmation mechanism shall be designed and operated—

“(i) to maximize the reliability of the confirmation process, and the ease of use by employers, recruiters, and referrers, consistent with insulating and protecting the privacy and security of the underlying information, and

“(ii) to respond to all inquiries made by employers on whether individuals are authorized to be employed by those employers, recruiters, or referrers registering all times when such response is not possible.

“(D) CONFIRMATION PROCESS.—(i) As part of the confirmation mechanism, the Commissioner of Social Security shall establish a reliable, secure method, which within the time period specified under clause (iii), compares the name and social security account number provided against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided and whether the individual has presented a social security account number that is not valid for employment. The Commissioner shall not disclose or release social security information.

“(ii) As part of the confirmation mechanism, the Commissioner of the Service shall establish a reliable, secure method, which, within the time period specified under clause (iii), compares the name and alien identification number (if any) provided against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided and whether the alien is authorized to be employed in the United States.

“(iii) For purposes of this section, the Attorney General (or a designee of the Attorney General) shall provide through the confirmation mechanism confirmation or a tentative nonconfirmation of an individual’s employment eligibility within 3 working days of the initial inquiry. In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of So-

cial Security and the Commissioner of the Service, an expedited time period not to exceed 10 working days within which final confirmation or denial must be provided through the confirmation mechanism in accordance with the procedures under subparagraph (B).

“(iv) The Commissioners shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information.

“(E) PROTECTIONS.—(i) In no case shall an individual be denied employment because of inaccurate or inaccessible data under the confirmation mechanism.

“(ii) The Attorney General shall assure that there is a timely and accessible process to challenge nonconfirmations made through the mechanism.

“(iii) If an individual would not have been dismissed from a job but for an error of the confirmation mechanism, the individual will be entitled to compensation through the mechanism of the Federal Tort Claims Act.

“(F) TESTER PROGRAM.—As part of the confirmation mechanism, the Attorney General shall implement a program of testers and investigative activities (similar to testing and other investigative activities assisted under the fair housing initiatives program under section 561 of the Housing and Community Development Act of 1987 to enforce rights under the Fair Housing Act) in order to monitor and prevent unlawful discrimination under the mechanism.

“(G) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION PROVIDED BY THE EMPLOYMENT ELIGIBILITY CONFIRMATION MECHANISM.—No person shall be civilly or criminally liable for any action taken in good faith reliance on information provided through the employment eligibility confirmation mechanism established under this paragraph (including any pilot program established under paragraph (7)).

“(7) APPLICATION OF CONFIRMATION MECHANISM THROUGH PILOT PROJECTS.—

“(A) IN GENERAL.—Subsection (a)(3)(B) and paragraph (3) shall only apply to individuals hired if they are covered under a pilot project established under this paragraph.

“(B) UNDERTAKING PILOT PROJECTS.—For purposes of this paragraph, the Attorney General shall undertake pilot projects for all employers in at least 5 of the 7 States with the highest estimated population of unauthorized aliens, in order to test and assure that the confirmation mechanism described in paragraph (6) is reliable and easy to use. Such projects shall be initiated not later than 6 months after the date of the enactment of this paragraph. The Attorney General, however, shall not establish such mechanism in other States unless Congress so provides by law. The pilot projects shall terminate on such dates, not later than October 1, 1999, as the Attorney General determines. At least

one such pilot project shall be carried out through a non-governmental entity as the confirmation mechanism.

“(C) REPORT.—The Attorney General shall submit to the Congress annual reports in 1997, 1998, and 1999 on the development and implementation of the confirmation mechanism under this paragraph. Such reports may include an analysis of whether the mechanism implemented—

“(i) is reliable and easy to use;

“(ii) limits job losses due to inaccurate or unavailable data to less than 1 percent;

“(iii) increases or decreases discrimination;

“(iv) protects individual privacy with appropriate policy and technological mechanisms; and

“(v) burdens individual employers with costs or additional administrative requirements.”.

14. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BROWNBACK OF KANSAS, OR REPRESENTATIVE GUTIERREZ OF ILLINOIS A DESIGNEE, DEBATABLE FOR 20 MINUTES

Amend section 505 to read as follows (and conform the table of contents accordingly):

SEC. 505. REQUIRING CONGRESSIONAL REVIEW OF WORLDWIDE LEVELS EVERY 5 YEARS.

Section 201 (8 U.S.C. 1151) is further amended by adding at the end the following new subsection:

“(g) REQUIREMENT FOR PERIODIC REVIEW OF WORLDWIDE LEVELS.—The Committees on the Judiciary of the House of Representatives and of the Senate shall undertake during fiscal year 2004 (and each fifth fiscal year thereafter) a thorough review of the appropriate worldwide levels of immigration to be provided under this section during the 5-fiscal-year period beginning with the second subsequent fiscal year.”.

15. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE KIM OF CALIFORNIA, OR A DESIGNEE, DEBATABLE FOR 10 MINUTES

In section 512(a), in the matter proposed to be inserted—

(1) in paragraph (1), strike “and (3)” and insert “through (4)”,

(2) in paragraph (3), strike the closing quotation marks and period that follows at the end of subparagraph (D)(iv), and

(3) add at the end the following:

“(4) OTHER SONS AND DAUGHTERS OF CITIZENS.—Immigrants who are the sons or daughters (other than qualifying adult sons or daughters described in paragraph (3)(C)) of citizens of the United States, who had classification petitions filed on their behalf under section 203(a) as a son or daughter of a citizen before March 13, 1996, and who at any time was not unlawfully present in the United States shall be allocated visas in a number not to exceed the number of visas not required for the classes specified in paragraphs (1) through (3), plus a number equal to the number by which the maximum number of visas that may be made available for the fiscal year under sub-

section (b) exceeds the number of visas that will be allotted under such subsection for such year.

“(5) BROTHERS AND SISTERS OF CITIZENS.—Immigrants who are the brothers or sisters of citizens of the United States, if such citizens are at least 21 years of age, who had classification petitions filed on their behalf under section 203(a) as a brother or sister of such a citizen before March 13, 1996, and who at any time was not unlawfully present in the United States shall be allocated visas in a number not to exceed the number of visas not required for the classes specified in paragraphs (1) through (4), plus a number equal to—

“(A) the number by which the maximum number of visas that may be made available for the fiscal year under subsection (b) exceeds the number of visas that will be allotted under such subsection for such year, reduced by

“(B) any portion of such excess that was used for visas under paragraph (4) for the fiscal year.

Amend section 519(b)(1)(A) to read as follows:

(A) in subsection (a)(1)(A)(i), by striking “paragraph (1), (3), or (4)” and inserting “paragraph (2), (3), (4), or (5)”;

Strike section 555 (and conform the table of contents accordingly).

16. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CANADY OF FLORIDA, OR A DESIGNEE, DEBATABLE FOR 30 MINUTES

Amend subsection (c) of section 514 to read as follows:

(c) ESTABLISHING JOB OFFER AND ENGLISH LANGUAGE PROFICIENCY REQUIREMENTS.—Paragraph (2) of section 203(c) (8 U.S.C. 1153(c)) is amended to read as follows:

“(2) REQUIREMENTS OF JOB OFFER AND EDUCATION OR SKILLED WORKER AND ENGLISH LANGUAGE PROFICIENCY.—An alien is not eligible for a visa under this subsection unless the alien—

“(A) has a job offer in the United States which has been verified;

“(B) has at least a high school education or its equivalent;

“(C) has at least 2 years of work experience in an occupation which requires at least 2 years of training; and

“(D) demonstrates the ability to speak and to read the English language at an appropriate level specified under subsection (i).”.

Redesignate section 519 as section 520 and insert after section 518 the following new section (and conform the table of contents, and cross-references to section 519, accordingly):

SEC. 519. STANDARDS FOR ENGLISH LANGUAGE PROFICIENCY FOR MOST IMMIGRANTS.

Section 203 (8 U.S.C. 1153), as amended by section 524(a), is amended by adding at the end the following new subsection:

“(i) ENGLISH LANGUAGE PROFICIENCY STANDARDS.—(1) For purposes of this section, the levels of English language speaking and reading ability specified in this subsection are as follows:

“(A) The ability to speak English at a level required, without a dictionary, to meet routine social demands and to engage in a generally effective manner in casual conversation about topics of general interest, such as current events, work, family, and personal history, and to have a basic understanding of most conversations on nontechnical subjects, as shown by an appropriate score on the standardized test of English-speaking ability most commonly used by private firms doing business in the United States.

“(B) The ability to read English at a level required to understand simple prose in a form equivalent to typescript or printing on subjects familiar to most general readers, and, with a dictionary, the general sense of routine business letters, and articles in newspapers and magazines directed to the general reader.

“(2) The levels of ability described in paragraph (1) shall be shown by an appropriate score on the standardized test of English-speaking ability most commonly used by private firms doing business in the United States. Determinations of the tests required and the computing of the appropriate score on each such test are within the sole discretion of the Secretary of Education, and are not subject to further administrative or judicial review.

“(3) The level of English language speaking and reading ability specified under this subsection shall not apply to family members accompanying, or following to join, an immigrant under subsection (e).”.

Amend paragraph (3) of section 513(a) to read as follows:

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

“(8) NOT COUNTING WORK EXPERIENCE AS AN UNAUTHORIZED ALIEN.—For purposes of this subsection, work experience obtained in employment in the United States with respect to which the alien was an unauthorized alien (as defined in section 274A(h)(3)) shall not be taken into account.

“(9) ENGLISH LANGUAGE PROFICIENCY REQUIREMENT.—An alien is not eligible for an immigrant visa number under this subsection unless the alien demonstrates the ability to speak and to read the English language at an appropriate level specified under subsection (i).”.

In section 553(b)—

(1) in paragraph (1), strike “paragraph (2)” and insert “paragraphs (2) and (3)”, and

(2) redesignate paragraph (3) and paragraph (4), and

(3) insert after paragraph (2) the following new paragraph:

“(3) In determining the order of issuance of visa numbers under this section, if an immigrant demonstrates the ability to speak and to read the English language at appropriate levels specified under section 203(i) of the Immigration and Nationality Act (as added by section 519), the immigrant’s priority date shall be advanced to 180 days before the priority date otherwise established.”

17. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SMITH OF NEW JERSEY, OR REPRESENTATIVE SCHIFF OF NEW MEXICO, OR A DESIGNEE, DEBATABLE FOR 30 MINUTES

In section 521 (relating to changes in refugee annual admissions), strike subsection (a), and in subsection (c) strike “subsections (a) and (b)” and insert “this section”.

18. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE DREIER OF CALIFORNIA, OR A DESIGNEE, DEBATABLE FOR 10 MINUTES

After section 810, insert the following:

SEC. 811. COMPUTATION OF TARGETED ASSISTANCE.

Section 412(c)(2) (8 U.S.C. 1522(c)(2)) is amended by adding at the end the following new subparagraph:

“(C) Except for the Targeted Assistance Ten Percent Discretionary Program, all grants made available under this paragraph for a fiscal year shall be allocated by the Office of Resettlement in a manner that ensures that each qualifying county shall receive the same amount of assistance for each refugee and entrant residing in the county as of the beginning of the fiscal year who arrived in the United States not more than 60 months prior to such fiscal year.”.

19. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CHRYSLER OF MICHIGAN, OR REPRESENTATIVE BERMAN OF CALIFORNIA, OR A DESIGNEE, DEBATABLE FOR 60 MINUTES

In title V (relating to reform of legal immigration system) strike subtitle A (relating to worldwide numerical limits), subtitle B (relating to changes in preference system), and subtitle C (relating to refugees, parole, and humanitarian admissions).

20. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BRYANT OF TEXAS, OR A DESIGNEE, DEBATABLE FOR 10 MINUTES

After section 555, insert the following new section (and conform the table of contents accordingly):

SEC. 556. SPECIAL TREATMENT FOR CERTAIN CHILDREN.

(a) IN GENERAL.—Subject to the limitation under subsection (d) and notwithstanding any other provision of law, for purposes of section 203 of the Immigration and Nationality Act any alien described in subsection (b) shall be considered a child as defined under section 101(b)(1) of such Act.

(b) CERTAIN DISADVANTAGED ADULT CHILDREN.—An alien is described in this subsection if the alien is—

(1) an alien who has been continuously present in the United States since May 5, 1988; and

(2)(A) an alien who was brought into the United States as a minor child and raised in the United States under the protection of the family unity program under section 301 of the Immigration Act of 1990; or

(B)(i) an alien who was brought into the United States as a minor child and raised in the United States,

(ii) at least 21, but no more than 25, years of age, and

(iii) at least one of whose parents is a citizen of the United States or an alien lawfully admitted for permanent residence.

(c) NOTICE.—The Immigration and Naturalization Service shall publish a notice in the Federal Register of the special treatment available under this section.

(d) LIMITATION.—The provisions of this section shall apply to petitions filed not later than 3 years after the date of the enactment of this Act.

21. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE ROHRBACHER OF CALIFORNIA, OR A DESIGNEE, DEBATABLE FOR 10 MINUTES

Amend section 808 of the bill to read as follows:

SEC. 808. LIMITATION ON ADJUSTMENT OF STATUS OF INDIVIDUALS NOT LAWFULLY PRESENT IN THE UNITED STATES.

(a) IN GENERAL.—Section 245(i) (8 U.S.C. 1255), as added by section 506(b) of the Department of State and Related Agencies Appropriations Act, 1995 (Public Law 103–317, 108 Stat. 1765), is amended—

(1) in paragraph (1), by inserting “pursuant to section 301 of the Immigration Act of 1990 is not required to depart from the United States and who” after “who” the first place it appears; and

(2) by adding at the end of paragraph (2) the following: “For purposes of subparagraph (A), the ground of inadmissibility described in section 212(a)(9) shall not apply.”.

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

(2) The amendment made by subsection (a)(2) shall take effect on the title III–A effective date (as defined in section 309(a)).

22. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE POMBO OF CALIFORNIA, OR REPRESENTATIVE CHAMBLISS OF GEORGIA, OR A DESIGNEE, DEBATABLE FOR 60 MINUTES

Redesignate subtitles B and C of title VIII as subtitles C and D, respectively, and insert after subtitle A the following:

**Subtitle B—Guest Worker Visitation
Program**

SEC. 821. SHORT TITLE.

This subtitle may be cited as the “Temporary Agricultural Worker Amendments of 1996”.

SEC. 822. NEW NONIMMIGRANT H-2B CATEGORY FOR TEMPORARY AGRICULTURAL WORKERS.

(a) **ESTABLISHMENT OF NEW CLASSIFICATION.**—Section 101(a)(15)(H)(ii) (8 U.S.C. 1101(a)(15)(H)(ii)) is amended by striking “or (b)” and inserting “(b) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States pursuant to section 218A to perform such agricultural labor or services of a temporary or seasonal nature, or (c)”.

(b) **NO FAMILY MEMBERS PERMITTED.**—Section 101(a)(15)(H) (8 U.S.C. 1101(a)(15)(H)) is amended by striking “specified in this paragraph” and inserting “specified in this subparagraph (other than in clause (ii)(b))”.

(c) **DISQUALIFICATION IF CONVICTED OF OWNERSHIP OR OPERATION OF A MOTOR VEHICLE IN UNITED STATES WITHOUT INSURANCE.**—Section 214 (8 U.S.C. 1184) is amended by adding at the end the following:

“(1) An alien may not be admitted (or provided status) as a temporary worker under section 101(a)(15)(H)(ii)(b) if the alien (after the date of the enactment of this subsection) has been convicted of owning (or knowingly operating) a motor vehicle in the United States without having liability insurance that meets applicable insurance requirements of the State in which the alien is employed or in which the vehicle is registered.

“(2) An alien who is admitted or provided status as such a worker who is so convicted shall be considered, on and after the date of the conviction and for purposes of section 241(a)(1)(C), to have failed to comply with a condition for the maintenance of status under section 101(a)(15)(H)(ii)(b).”

(d) **CONFORMING REDESIGNATION.**—Subsections (c)(5)(A) and (g)(1)(B) of section 214 (8 U.S.C. 1184) are each amended by striking “101(a)(15)(H)(ii)(b)” and inserting “101(a)(15)(H)(ii)(c)”.

SEC. 823. ALTERNATIVE AGRICULTURAL TEMPORARY WORKER PROCESS USING ATTESTATIONS.

(a) **IN GENERAL.**—The Immigration and Nationality Act is amended by inserting after section 218 the following:

“ALTERNATIVE AGRICULTURAL TEMPORARY WORKER PROGRAM

“SEC. 218A. (a) **CONDITION FOR THE EMPLOYMENT OF H-2B ALIENS.**—

“(1) **IN GENERAL.**—No alien may be admitted or provided status as an H-2B alien (as defined in subsection (n)(4)) unless—

“(A) the employment of the alien is covered by a currently valid labor condition attestation which—

“(i) is filed by the employer, or by an association on behalf of the employer, for the occupation in which the alien will be employed;

“(ii) has been accepted by the qualified State employment security agency having jurisdiction over the area of intended employment; and

“(iii) states each of the items described in paragraph (2) and includes information identifying the employer or association and agricultural job opportunities involved; and

“(B) the employer is not disqualified from employing H-2B aliens pursuant to subsection (g).

“(2) CONTENTS OF LABOR CONDITION ATTESTATION.—Each labor condition attestation filed by or on behalf of, an employer shall include the following:

“(A) WAGE RATE.—The employer will pay H-2B aliens and all other workers in the occupation not less than the prevailing wage for similarly employed workers in the area of employment, and not less than the applicable Federal, State or local statutory minimum wage.

“(B) WORKING CONDITIONS.—The employment of H-2B aliens will not adversely affect the working conditions with respect to housing and transportation of similarly employed workers in the area of employment.

“(C) LIMITATION ON EMPLOYMENT.—An H-2B alien will not be employed in any job opportunity which is not temporary or seasonal, and will not be employed by the employer in any job opportunity for more than 10 months in any 12-consecutive-month period.

“(D) NO LABOR DISPUTE.—No H-2B alien will be employed in any job opportunity which is vacant because its former occupant is involved in a strike, lockout or work stoppage in the course of a labor dispute in the occupation at the place of employment.

“(E) NOTICE.—The employer, at the time of filing the attestation, has provided notice of the attestation to workers employed in the occupation in which H-2B aliens will be employed.

“(F) JOB ORDERS.—The employer will file one or more job orders for the occupation (or occupations) covered by the attestation with the qualified State employment security agency no later than the day on which the employer first employs any H-2B aliens in the occupation.

“(G) PREFERENCE TO DOMESTIC WORKERS.—The employer will give preference to able, willing and qualified United States workers who apply to the employer and are available at the time and place needed, for the first 25 days after the filing of the job order in an occupation or until 5 days before the date employment of workers in the occupation begins, whichever occurs later.

“(3) ESTABLISHMENT AS PILOT PROGRAM; RESTRICTION OF ADMISSIONS TO PILOT PROGRAM PERIOD.—

“(A) IN GENERAL.—The program under this section is deemed to be a pilot program and no alien may be admitted or provided status as an H-2B alien under this section except during the pilot program period specified in subparagraph (B).

“(B) PILOT PROGRAM PERIOD.—

“(i) IN GENERAL.—Subject to clause (ii), the pilot program period under this subparagraph is the period (ending on October 1, 1999) during which the employment eligibility verification system is in effect under section 274A(b)(7) (as amended by the Immigration in the National Interest Act of 1995).

“(ii) CONSIDERATION OF EXTENSION.—If Congress extends such verification system, Congress shall also extend the pilot program period under this subparagraph for the same period of time.

“(C) ANNUAL REPORTS.—The Comptroller General shall submit to Congress annual reports on the operation of the pilot program under this section during the pilot program period. Such reports shall include an assessment of the program and of the need for foreign workers to perform temporary agricultural employment in the United States.

“(4) LIMITATIONS ON NUMBER OF VISAS.—

“(A) IN GENERAL.—In no case may the number of aliens who are admitted or provided status as an H-2B alien in a fiscal year exceed the numerical limitation specified under subparagraph (B) for that fiscal year.

“(B) NUMERICAL LIMITATION.—The numerical limitation specified in this subparagraph for—

“(i) the first fiscal year in which this section is applied is 250,000; and

“(ii) any subsequent fiscal year is the numerical limitation specified in this subparagraph for the previous fiscal year decreased by 25,000.

“(b) FILING A LABOR CONDITION ATTESTATION.—

“(1) FILING BY EMPLOYERS.—Any employer in the United States is eligible to file a labor condition attestation.

“(2) FILING BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—An agricultural association may file a labor condition attestation as an agent on behalf of its members. Such an attestation filed by an agricultural association acting as an agent for its members, when accepted, shall apply to those employer members of the association that the association certifies to the qualified State employment security agency are members of the association and have agreed in writing to comply with the requirements of this section.

“(3) PERIOD OF VALIDITY.—A labor condition attestation is valid from the date on which it is accepted by the qualified State employment security agency for the period of time requested by the employer, but not to exceed 12 months.

“(4) WHERE TO FILE.—A labor condition attestation shall be filed with such agency having jurisdiction over the area of intended employment of the workers covered by the attestation. If an employer, or the members of an association of employers, will be employing workers in an area or areas covered by more than one such agency, the attestation shall be filed with each such agency having jurisdiction over an area where the workers will be employed.

“(5) DEADLINE FOR FILING.—An employer may file a labor condition attestation at any time up to 12 months prior to the date of the employer’s anticipated need for workers in the occupation (or occupations) covered by the attestation.

“(6) FILING FOR MULTIPLE OCCUPATIONS.—A labor condition attestation may be filed for one or more occupations and cover one or more periods of employment.

“(7) MAINTAINING REQUIRED DOCUMENTATION.—

“(A) BY EMPLOYERS.—Each employer covered by an accepted labor condition attestation must maintain a file of the documentation required in subsection (c) for each occupation included in an accepted attestation covering the employer. The documentation shall be retained for a period of one year following the expiration of an accepted attestation. The employer shall make the documentation available to representatives of the Secretary during normal business hours.

“(B) BY ASSOCIATIONS.—In complying with subparagraph (A), documentation maintained by an association filing a labor condition attestation on behalf of an employer shall be deemed to be maintained by the employer.

“(8) WITHDRAWAL.—

“(A) COMPLIANCE WITH ATTESTATION OBLIGATIONS.—An employer covered by an accepted labor condition attestation for an occupation shall comply with the terms and conditions of the attestation from the date the attestation is accepted and continuing throughout the period any persons are employed in an occupation covered by such an accepted attestation, whether or not H-2B aliens are employed in the occupation, unless the attestation is withdrawn.

“(B) TERMINATION OF OBLIGATIONS.—An employer may withdraw a labor condition attestation in total, or with respect to a particular occupation covered by the attestation. An association may withdraw such an attestation with respect to one or more of its members. To withdraw an attestation the employer or association must notify in writing the qualified State employment security agency office with which the attestation was filed of the withdrawal of the attestation. An employer who withdraws an attestation, or on whose behalf an attestation is withdrawn by an association, is relieved of the obligations undertaken in the attestation with respect to the occupation (or occupations) with respect to which the attestation was withdrawn, upon acknowledgement by the appropriate qualified State employment security agency of receipt of the withdrawal notice. An attestation may not be withdrawn with respect to any occupation while any H-2B aliens covered by that attestation are employed in the occupation.

“(C) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by the employer under any other law or regulation as a result of recruitment of United States workers under an offer of terms and conditions of employment required by the H-2B program is unaffected by withdrawal of a labor condition attestation.

“(c) EMPLOYER RESPONSIBILITIES AND REQUIREMENTS FOR EMPLOYING H-2B NONIMMIGRANTS.—

“(1) REQUIREMENT TO PAY THE PREVAILING WAGE.—

“(A) EFFECT OF THE ATTESTATION.—Employers shall pay each worker in an occupation covered by an accepted labor condition attestation at least the prevailing wage in the occupation in the area of intended employment. The preced-

ing sentence does not require employers to pay all workers in the occupation the same wage. The employer may, in the sole discretion of the employer, maintain pay differentials based on experience, tenure with the employer, skill, or any other work-related factor, if the differential is not based on a criterion for which discrimination is prohibited by the law and all workers in the covered occupation receive at least the prevailing wage.

“(B) PAYMENT OF QUALIFIED STATE EMPLOYMENT SECURITY AGENCY DETERMINED WAGE SUFFICIENT.—The employer may request and obtain a prevailing wage determination from the qualified State employment security agency. If the employer requests such a determination, and pays the wage determined, such payment shall be considered sufficient to meet the requirement of this paragraph if the H-2B workers—

“(i) are employed in the occupation for which the employer possesses an accepted labor condition attestation, and for which the employer or association possesses a prevailing wage determination by the qualified State employment security agency, and

“(ii) are being paid at least the prevailing wage so determined.

“(C) RELIANCE ON WAGE SURVEY.—In lieu of the procedures of subparagraph (B), an employer may rely on other information, such as an employer generated prevailing wage survey and determination, which meets criteria specified by the Secretary by regulation. In the event of a complaint that the employer has failed to pay the required wage, the Secretary shall investigate to determine if the information upon which the employer relied complied with the criteria for prevailing wage determinations.

“(D) ALTERNATE METHODS OF PAYMENT PERMITTED.—

“(i) IN GENERAL.—A prevailing wage may be expressed as an hourly wage, a piece rate, a task rate (described in clause (ii)), or other incentive pay system, including a group rate (described in clause (iii)). The requirement to pay at least the prevailing wage in the occupation and area of intended employment does not require an employer to pay by the method of pay in which the prevailing rate is expressed. However, if the employer adopts a method of pay other than the prevailing rate, the burden of proof is on the employer to demonstrate that the employer’s method of pay is designed to produce earnings equivalent to the earnings that would result from payment of the prevailing rate.

“(ii) TASK RATE.—For purposes of this subparagraph, a task rate is an incentive payment based on a unit of work performed such that the incentive rate varies with the level of effort required to perform individual units of work.

“(iii) GROUP RATE.—For purposes of this subparagraph, a group rate is an incentive payment system in

which the payment is shared among a group of workers working together to perform the task.

“(E) REQUIRED DOCUMENTATION.—The employer or association shall document compliance with this paragraph by retaining on file the employer or association’s request for a determination by a qualified State employment security agency and the prevailing wage determination received from such agency or other information upon which the employer or association relied to assure compliance with the prevailing wage requirement.

“(2) REQUIREMENT TO PROVIDE HOUSING AND TRANSPORTATION.—

“(A) EFFECT OF THE ATTESTATION.—The employment of H-2B aliens shall not adversely affect the working conditions of United States workers similarly employed in the area of intended employment. The employer’s obligation not to adversely affect working conditions shall continue for the duration of the period of employment by the employer of any H-2B aliens in the occupation and area of intended employment. An employer will be deemed to be in compliance with this attestation if the employer offers at least the benefits required by subparagraphs (B) through (D). The previous sentence does not require an employer to offer more than such benefits.

“(B) HOUSING REQUIRED.—

“(i) HOUSING OFFER.—The employer must offer to H-2B aliens and United States workers recruited from beyond normal recruiting distance housing, or a housing allowance, if it is prevailing practice in the occupation and area of intended employment to offer housing or a housing allowance to workers who are recruited from beyond normal commuting distance.

“(ii) HOUSING STANDARDS.—If the employer offers housing to such workers, the housing shall meet (at the option of the employer) applicable Federal farm labor housing standards or applicable local or State standards for rental, public accommodation, or other substantially similar class of habitation.

“(iii) CHARGES FOR HOUSING.—An employer who offers housing to such workers may charge an amount equal to the fair market value (but not greater than the employer’s actual cost) for utilities and maintenance, or such lesser amount as permitted by law.

“(iv) HOUSING ALLOWANCE AS ALTERNATIVE.—In lieu of offering housing to such workers, at the employer’s sole discretion on an individual basis, the employer may provide a reasonable housing allowance. An employer who offers a housing allowance to such a worker under this subparagraph shall not be deemed to be a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) merely by virtue of providing such housing allowance.

“(v) SECURITY DEPOSIT.—The requirement, if any, to offer housing to such a worker under this subparagraph shall not preclude an employer from requiring a reasonable deposit to protect against gross negligence or willful destruction of property, as a condition for providing such housing.

“(vi) DAMAGES.—An employer who offers housing to such a worker shall not be precluded from requiring a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

“(C) TRANSPORTATION.—If the employer provides transportation arrangements or assistance to H-2B aliens, the employer must offer to provide the same transportation arrangements or assistance (generally comparable in expense and scope) for other individuals employed by the employer in the occupation at the place of employment who were recruited from beyond normal commuting distance.

“(D) WORKERS’ COMPENSATION.—If the employment covered by a labor condition attestation is not covered by the State workers’ compensation law, the employer must provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the workers’ employment which will provide benefits at least equal to those provided under the State workers’ compensation law for comparable employment.

“(E) REQUIRED DOCUMENTATION.—

“(i) HOUSING AND TRANSPORTATION.—No specific documentation is required to be maintained to evidence compliance with the requirements of subparagraphs (B) and (C). In the event of a complaint alleging a failure to comply with such a requirement, the burden of proof shall be on the employer to show that the employer offered the required benefit to the complainant, or that the employer was not required by the terms of this paragraph to offer such benefit to the complainant.

“(ii) WORKERS’ COMPENSATION.—The employer shall maintain copies of certificates of insurance evidencing compliance with subparagraph (D) throughout the period of validity of the labor condition attestation.

“(3) REQUIREMENT TO EMPLOY ALIENS IN TEMPORARY OR SEASONAL AGRICULTURAL JOB OPPORTUNITIES.—

“(A) LIMITATIONS.—

“(i) IN GENERAL.—The employer may employ H-2B aliens only in agricultural employment which is temporary or seasonal.

“(ii) SEASONAL BASIS.—For purposes of this section, labor is performed on a seasonal basis where, ordinarily, the employment pertains to or is of the kind exclusively performed at certain seasons or periods of

the year and which, from its nature, may not be continuous or carried on throughout the year.

“(iii) TEMPORARY BASIS.—For purposes of this section, a worker is employed on a temporary basis where the employment is intended not to exceed 10 months.

“(B) REQUIRED DOCUMENTATION.—No specific documentation is required to demonstrate compliance with the requirement of subparagraph (A). In the event of a complaint, the burden of proof shall fall on the employer to show that the employment meets such requirement.

“(4) REQUIREMENT NOT TO EMPLOY ALIENS IN JOB OPPORTUNITIES VACANT BECAUSE OF A LABOR DISPUTE.—

“(A) IN GENERAL.—No H-2B alien may be employed in any job opportunity which is vacant because its former occupant is involved in a strike, lockout, or work stoppage in the course of a labor dispute in the occupation at the place of employment.

“(B) REQUIRED DOCUMENTATION.—No specific documentation is required to demonstrate compliance with the requirement of subparagraph (A). In the event of a complaint, the burden of proof shall fall on the employer to show that the job opportunity in which the H-2B alien was employed was not vacant because the former occupant was on strike, locked out, or participating in a work stoppage in the course of a labor dispute in the occupation at the place of employment.

“(5) NOTICE OF FILING OF ATTESTATION AND SUPPORTING DOCUMENTATION.—

“(A) IN GENERAL.—The employer shall—

“(i) provide notice of the filing of a labor condition attestation to the appropriate certified bargaining agent (if any) which represents workers of the employer in the occupation (or occupations) at the place of employment covered by the attestation; or

“(ii) in the case where no appropriate bargaining agent exists, post notice of the filing of such an attestation in at least two conspicuous locations where applications for employment are accepted.

“(B) PERIOD FOR POSTING.—The requirement for a posting under subparagraph (A)(ii) begins on the day the attestation is filed, and continues through the period during which the employer’s job order is required to remain active pursuant to paragraph (6)(A).

“(C) REQUIRED DOCUMENTATION.—The employer shall maintain a copy of the notice provided to the bargaining agent (if any), together with evidence that the notice was provided (such as a signed receipt of evidence of attempt to send the notice by certified or registered mail). In the case where no appropriate certified bargaining agent exists, the employer shall retain a copy of the posted notice, together with information as to the dates and locations where the notice was displayed.

“(6) REQUIREMENT TO FILE A JOB ORDER.—

“(A) EFFECT OF THE ATTESTATION.—The employer, or an association acting as agent for its members, shall file the information necessary to complete a local job order for each occupation covered by an accepted labor condition attestation with the appropriate local office of the qualified State employment security agency having jurisdiction over the area of intended employment, or with the State office of such an agency if workers will be employed in an area within the jurisdiction of more than one local office of such an agency. The job orders shall remain on file for 25 calendar days or until 5 calendar days before the anticipated date of need for workers in the occupation covered by the job order, whichever occurs later. The job order shall provide at least the minimum terms and conditions of employment required for participation in the H-2B program.

“(B) DEADLINE FOR FILING.—A job order shall be filed under subparagraph (A) no later than the date on which the employer files a petition with the Attorney General for admission or extension of stay for aliens to be employed in the occupation for which the order is filed.

“(C) REQUIRED DOCUMENTATION.—The office of the qualified State employment security agency which the employer or association provides with information necessary to file a local job order shall provide the employer with evidence that the information was provided in a timely manner as required by this paragraph, and the employer or association shall retain such evidence for each occupation in which H-2B aliens are employed.

“(7) REQUIREMENT TO GIVE PREFERENCE TO QUALIFIED UNITED STATES WORKERS.—

“(A) FILING 30 DAYS OR MORE BEFORE DATE OF NEED.—If a job order is filed 30 days or more before the anticipated date of need for workers in an occupation covered by a labor condition attestation and for which the job order has been filed, the employer shall offer to employ able, willing, and qualified United States workers who apply to the employer and who will be available at the time and place needed for the job opportunities covered by the attestation until 5 calendar days before the anticipated date of need for workers in the occupation, or until the employer’s job opportunities in the occupation are filled with qualified United States workers, if that occurs more than 5 days before the anticipated date of need for workers in the occupation.

“(B) FILING FEWER THAN 30 DAYS BEFORE DATE OF NEED.—If a job order is filed fewer than 30 days before the anticipated date of need for workers in an occupation covered by such an attestation and for which a job order has been filed, the employer shall offer to employ able, willing, and qualified United States workers who are or will be available at the time and place needed during the first 25 days after the job order is filed or until the employer’s job opportunities in the occupation are filled with United

States workers, regardless of whether any of the job opportunities may already be occupied by H-2B aliens.

“(C) FILING VACANCIES.—An employer may fill a job opportunity in an occupation covered by an accepted attestation which remains or becomes vacant after expiration of the required preference period specified in subparagraph (A) or (B) of paragraph (6) without regard to such preference.

“(D) JOB-RELATED REQUIREMENTS.—No employer shall be required to initially employ a worker who fails to meet lawful job-related employment criteria, nor to continue the employment of a worker who fails to meet lawful job-related standards of conduct and performance, including failure to meet minimum productivity standards after a 3-day break-in period.

“(E) REQUIRED DOCUMENTATION.—No specific documentation is required to demonstrate compliance with the requirements of this paragraph. In the event of a complaint, the burden of proof shall be on the complainant to show that the complainant applied for the job and was available at the time and place needed. If the complainant makes such a showing, the burden of proof shall be on the employer to show that the complainant was not qualified or that the preference period had expired.

“(8) REQUIREMENTS OF NOTICE OF CERTAIN BREAKS IN EMPLOYMENT.—

“(A) IN GENERAL.—The employer (or an association in relation to an H-2B alien) shall notify the Service within 7 days if an H-2B alien prematurely abandons the alien’s employment.

“(B) OUT-OF-STATUS.—An H-2B alien who abandons the alien’s employment shall be considered to have failed to maintain nonimmigrant status as an alien described in section 101(a)(15)(H)(ii)(b) and shall leave the United States or be subject to deportation under section 241(a)(1)(C)(i).

“(d) ACCEPTANCE BY QUALIFIED STATE EMPLOYMENT SECURITY AGENCY.—The qualified State employment security agency shall review labor condition attestations submitted by employers or associations only for completeness and obvious inaccuracies. Unless such an agency finds that the application is incomplete or obviously inaccurate, the agency shall accept the attestation within 7 days of the date of filing of the attestation, and return a copy to the applicant marked ‘accepted’.

“(e) PUBLIC REGISTRY.—The Secretary shall maintain a registry of all accepted labor condition attestations and make such registry available for public inspection.

“(f) RESPONSIBILITIES OF THE QUALIFIED STATE EMPLOYMENT SECURITY AGENCIES.—

“(1) DISSEMINATION OF LABOR MARKET INFORMATION.—The Secretary shall direct qualified State employment security agencies to disseminate nonemployer-specific information about potential labor needs based on accepted attestations filed by employers. Such dissemination shall be separate from the

clearance of job orders through the Interstate and Intrastate Clearance Systems, and shall create no obligations for employers except as provided in this section.

“(2) REFERRAL OF WORKERS ON QUALIFIED STATE EMPLOYMENT SECURITY AGENCY JOB ORDERS.—Such agencies holding job orders filed by employers covered by approved labor condition attestations shall be authorized to refer any able, willing, and qualified eligible job applicant who will be available at the time and place needed and who is authorized to work in the United States, including H-2B aliens who are seeking additional work in the United States and whose eligibility to remain in the United States pursuant to subsection (h) has not expired, on job orders filed by holders of accepted attestations.

“(g) ENFORCEMENT AND PENALTIES.—

“(1) ENFORCEMENT AUTHORITY.—

“(A) INVESTIGATION OF COMPLAINTS.—The Secretary shall establish a process for the receipt, investigation, and disposition of complaints respecting an employer’s failure to meet a condition specified in subsection (a) or an employer’s misrepresentation of material facts in such an application. Complaints may be filed by any aggrieved person or organizations (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure or misrepresentation, respectively. The Secretary shall conduct an investigation under this subparagraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

“(B) WRITTEN NOTICE OF FINDINGS AND OPPORTUNITY FOR APPEAL.—After an investigation has been conducted, the Secretary shall issue a written determination as to whether or not any violation described in paragraph (2) has been committed. The Secretary’s determination shall be served on the complainant and the employer, and shall provide an opportunity for an appeal of the Secretary’s decision to an administrative law judge, who may conduct a de novo hearing.

“(2) REMEDIES.—

“(A) BACK WAGES.—Upon a final determination that the employer has failed to pay wages as required under this section, the Secretary may assess payment of back wages due to any United States worker or H-2B alien employed by the employer in the specific employment in question. The back wages shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

“(B) FAILURE TO PAY WAGES.—Upon a final determination that the employer has failed to pay the wages required under this section, the Secretary may assess a civil money penalty up to \$1,000 for each failure, and may recommend to the Attorney General the disqualification of the employer from the employment of H-2B aliens for a period of time determined by the Secretary not to exceed 1 year.

“(C) OTHER VIOLATIONS.—If the Secretary, as a result of an investigation pursuant to a complaint, determines that an employer covered by an accepted labor condition attestation has—

“(i) filed an attestation which misrepresents a material fact; or

“(ii) failed to meet a condition specified in subsection (a),

the Secretary may assess a civil money penalty not to exceed \$1,000 for each violation. In determining the amount of civil money penalty to be assessed, the Secretary shall consider the seriousness of the violation, the good faith of the employer, the size of the business of the employer being charged, the history of previous violations by the employer, whether the employer obtained a financial gain from the violation, whether the violation was willful, and other relevant factors.

“(D) PROGRAM DISQUALIFICATION.—

“(i) 3-YEARS FOR SECOND VIOLATION.—Upon a second final determination that an employer has failed to pay the wages required under this section, the Secretary shall report such determination to the Attorney General and the Attorney General shall disqualify the employer from the employment of H-2B aliens for a period of 3 years.

“(ii) PERMANENT FOR THIRD VIOLATION.—Upon a third final determination that an employer has failed to pay the wages required under this section, the Secretary shall report such determination to the Attorney General and the Attorney General shall disqualify the employer from any subsequent employment of H-2B aliens.

“(3) ROLE OF ASSOCIATIONS.—

“(A) VIOLATION BY A MEMBER OF AN ASSOCIATION.—An employer on whose behalf a labor condition attestation is filed by an association acting as its agent is fully responsible for such attestation, and for complying with the terms and conditions of this section, as though the employer had filed the attestation itself. If such an employer is determined to have violated a requirement of this section, the penalty for such violation shall be assessed against the employer who committed the violation and not against the association or other members of the association.

“(B) VIOLATION BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing a labor condition attestation on its own behalf as an employer is determined to have committed a violation under this subsection which results in disqualification from the program under paragraph (2)(D), no individual member of such association may be the beneficiary of the services of an H-2B alien in an occupation in which such alien was employed by the association during the period such disqualification is in effect, unless such member files a labor condition attestation

as an individual employer or such an attestation is filed on the employer's behalf by an association with which the employer has an agreement that the employer will comply with the requirements of this section.

“(h) PROCEDURE FOR ADMISSION OR EXTENSION OF H-2B ALIENS.—

“(1) ALIENS WHO ARE OUTSIDE THE UNITED STATES.—

“(A) PETITIONING FOR ADMISSION.—An employer or an association acting as agent for its members who seeks the admission into the United States of H-2B aliens may file a petition with the District Director of the Service having jurisdiction over the location where the aliens will be employed. The petition shall be accompanied by an accepted and currently valid labor condition attestation covering the petitioner. The petition may be for named or unnamed individual or multiple beneficiaries.

“(B) EXPEDITED ADJUDICATION BY DISTRICT DIRECTOR.—If an employer's petition for admission of H-2B aliens is correctly filled out, and the employer is not ineligible to employ H-2B aliens, the District Director (or the Director's designee) shall approve the petition within 3 working days of receipt of the petition and accepted labor condition attestation and immediately (by fax, cable, or other means assuring expedited delivery) transmit a copy of the approved petition to the petitioner and to the appropriate immigration officer at the port of entry or United States consulate (as the case may be) where the petitioner has indicated that the alien beneficiary (or beneficiaries) will apply for a visa or admission to the United States.

“(C) UNNAMED BENEFICIARIES SELECTED BY PETITIONER.—The petitioning employer or association or its representative shall approve the issuance of visas to beneficiaries who are unnamed on a petition for admission granted to the employer or association.

“(D) CRITERIA FOR ADMISSIBILITY.—

“(i) IN GENERAL.—An alien shall be admissible under this section if the alien is otherwise admissible under this Act and the alien is not debarred pursuant to the provisions of clause (ii).

“(ii) DISQUALIFICATION.—An alien shall be debarred from admission or being provided status as an H-2B alien under this section if the alien has, at any time—

“(I) violated a material provision of this section, including the requirement to promptly depart the United States when the alien's authorized period of admission under this section has expired; or

“(II) has otherwise violated a term or condition of admission to the United States as a non-immigrant, including overstaying the period of authorized admission as such a nonimmigrant.

“(E) PERIOD OF ADMISSION.—The alien shall be admitted for the period requested by the petitioner not to exceed 10 months, or the remaining validity period of the petitioner's approved labor condition attestation, whichever is shorter,

plus an additional period of 14 days, during which the alien shall seek authorized employment in the United States. During the 14-day period following the expiration of the alien's work authorization, the alien is not authorized to be employed unless the original petitioner or a subsequent petitioner has filed an extension of stay on behalf of the alien.

“(F) ISSUANCE OF IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—

“(i) IN GENERAL.—The Attorney General shall cause to be issued to each H-2B alien a card in a form which is resistant to counterfeiting and tampering for the purpose of providing proof of identity and employment eligibility under section 274A.

“(ii) DESIGN OF CARD.—Each card issued pursuant to clause (i) shall be designed in such a manner and contain a photograph and other identifying information (such as date of birth, sex, and distinguishing marks) that would allow an employer to determine with reasonable certainty that the bearer is not claiming the identity of another individual, and shall—

“(I) contain a fingerprint or other biometric identifying data (or both);

“(II) specify the date of the alien's authorization as an H-2B alien;

“(III) specify the expiration date of the alien's work authorization; and

“(IV) specify the alien's admission number or alien file number.

“(2) EXTENSION OF STAY.—

“(A) APPLICATION FOR EXTENSION OF STAY.—If a petitioner seeks to employ a H-2B alien already in the United States, the petitioner shall file an application for an extension of stay. The application for extension of stay shall be accompanied by a currently valid labor condition attestation.

“(B) LIMITATION ON FILING AN APPLICATION FOR EXTENSION OF STAY.—An application may not be filed for an extension of an alien's stay for a period of more than 10 months, or later than a date which is 2 years from the date of the alien's last admission to the United States as a H-2B alien, whichever occurs first. An application for extension of stay may not be filed during the pendency of an alien's previous authorized period of admission, nor after the alien's authorized stay in the United States has expired.

“(C) WORK AUTHORIZATION UPON FILING AN APPLICATION FOR EXTENSION OF STAY.—An employer may begin employing an alien already in the United States in H-2B status on the day the employer files its application for extension of stay with the Service. For the purpose of this requirement, the term ‘filing’ means sending the application by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial

delivery which will provide the employer with a documented acknowledgment of receipt of the application. The employer shall provide a copy of the employer's application for extension of stay to the alien, who shall keep the application with the alien's identification and employment eligibility card as evidence that the extension has been filed and that the alien is authorized to work in the United States. Upon approval of an application for extension of stay, the Service shall provide a new employment document to the alien indicating a new validity date, after which the alien is not required to retain a copy of the application for extension of stay.

“(D) LIMITATION ON EMPLOYMENT AUTHORIZATION OF H-2B ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY CARD.—An expired identification and employment eligibility card, together with a copy of an application for extension of stay, shall constitute a valid work authorization document for a period of not more than 60 days from the date of application for the extension of stay, after which time only a currently valid identification and employment eligibility card shall be acceptable.

“(3) LIMITATION ON AN INDIVIDUAL'S STAY IN H-2B STATUS.—An alien having status as an H-2B alien may not have the status extended for a continuous period longer than 2 years unless the alien remains outside the United States for an uninterrupted period of 6 months. An absence from the United States may break the continuity of the period for which an H-2B visa is valid. If the alien has resided in the United States 10 months or less, an absence breaks the continuity of the period if it lasts for at least 2 months. If the alien has resided in the United States 10 months or more, an absence breaks the continuity of the period if it lasts for at least one-fifth the duration of the stay.

“(i) TRUST FUND TO ASSURE WORKER RETURN.—

“(1) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund (in this section referred to as the ‘Trust Fund’) for the purpose of providing a monetary incentive for H-2B aliens to return to their country of origin upon expiration of their visas under this section.

“(2) WITHHOLDING OF WAGES; PAYMENT INTO THE TRUST FUND.—

“(A) IN GENERAL.—Employers of H-2B aliens shall—

“(i) withhold from the wages of their H-2B alien workers an amount equivalent to 25 percent of the wages of each H-2B alien worker and pay such withheld amount into the Trust Fund in accordance paragraph (3); and

“(ii) pay to the Trust Fund an amount equivalent to the Federal tax on the wages paid to H-2B aliens that the employer would be obligated to pay under the Federal Unemployment Tax Act and the Federal Insurance Contributions Act.

Amounts withheld under clause (i) shall be maintained in such interest bearing account with such a financial institution as the Attorney General shall specify.

“(3) DISTRIBUTION OF FUNDS.—The amounts paid into the Trust Fund and held pursuant to paragraph (2)(A)(i), and interest earned thereon, shall be paid by the Attorney General as follows:

“(A) REIMBURSEMENT OF EMERGENCY MEDICAL EXPENSES.—To reimburse valid claims for reimbursement of emergency medical services furnished to H-2B aliens, to the extent that sufficient funds are not available on an annual basis from the Trust Fund pursuant to paragraphs (2)(A)(ii) and (4)(B).

“(B) PAYMENTS TO WORKERS.—Amounts paid into the Trust Fund on behalf of a worker, and interest earned thereon, less a pro rata reduction for any payments made pursuant to subparagraph (A), shall be paid by the Attorney General to the worker if—

“(i) the worker applies to the Attorney General (or the designee of the Attorney General) for payment within 30 days of the expiration of the alien’s last authorized stay in the United States as a H-2B alien;

“(ii) in such application the worker establishes that the worker has complied with the terms and conditions of this section; and

“(iii) in connection with the application, the worker tenders the identification and employment authorization card issued to the worker pursuant to subsection (h)(1)(F) and establishes that the worker is identified as the person to whom the card was issued based on the biometric identification information contained on the card.

“(4) ADMINISTRATIVE EXPENSES AND EMERGENCY MEDICAL EXPENSES.—The amounts paid into the Trust Fund and held pursuant to paragraph (2)(A)(ii), and interest earned thereon, shall be paid by the Attorney General as follows:

“(A) ADMINISTRATIVE EXPENSES.—First, to the Attorney General, the Secretary of Labor, and the Secretary of State in amounts equivalent to the expenses incurred by such officials in the administration of section 101(a)(15)(H)(ii)(b) and this section.

“(B) REIMBURSEMENT OF EMERGENCY MEDICAL SERVICES.—Any remaining amounts shall be available on an annual basis to reimburse hospitals for emergency medical services furnished to H-2B aliens as provided in subsection (k)(2).

“(5) REGULATIONS.—The Attorney General shall prescribe regulations to carry out this subsection.

“(j) INVESTMENT OF TRUST FUND.—

“(1) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Trust Fund as is not, in the Secretary’s judgement, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as

to both principal and interest by the United States. For such purpose, such obligations may be acquired—

“(A) on original issue at the price; or

“(B) by purchase of outstanding obligations at the market price.

The purposes for which obligations of the United States may be issued under chapter 31 of title 31, United States Code, are hereby extended to authorize the issuance at par of special obligations exclusively to the Trust Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt, except that where such average rate is not a multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

“(2) SALE OF OBLIGATION.—Any obligation acquired by the Trust Fund (except special obligations issued exclusively to the Trust Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

“(3) CREDITS TO TRUST FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

“(4) REPORT TO CONGRESS.—It shall be the duty of the Secretary of the Treasury to hold the Trust Fund, and (after consultation with the Attorney General) to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year. Such report shall be printed as both a House and a Senate document of the session of the Congress to which the report is made.

“(k) REIMBURSEMENT OF COST OF EMERGENCY MEDICAL SERVICES.—

“(1) IN GENERAL.—The Attorney General shall establish procedures for reimbursement of hospitals operated by a State or by a unit of local government (or corporation owned or controlled by the State or unit) for the reasonable cost of providing emergency medical services (as defined by the Attorney General in consultation with the Secretary of Health and Human Services) in the United States to H-2B aliens for which payment has not been otherwise reimbursed.

“(2) SOURCE OF FUNDS FOR REIMBURSEMENT.—Funds for reimbursement of hospitals pursuant to paragraph (1) shall be drawn—

“(A) first under subsection (i)(4)(B), from amounts deposited in the Trust Fund under subsection (i)(2)(A)(ii) after reimbursement of certain administrative expenses; and

“(B) then under subsection (i)(3)(A), to the extent that funds described in subparagraph (A) are insufficient to meet valid claims, from amounts deposited in the Trust Fund under subsection (i)(2)(A)(i).

“(l) MISCELLANEOUS PROVISIONS.—

“(1) APPLICABILITY OF LABOR LAWS.—Except as provided in paragraphs (2), (3), and (4), all Federal, State, and local labor laws (including laws affecting migrant farm workers) applicable to United States workers shall also apply to H-2B aliens.

“(2) LIMITATION OF WRITTEN DISCLOSURE IMPOSED UPON RECRUITERS.—Any disclosure required of recruiters under section 201(a) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1821(a)) need not be given to H-2B aliens prior to the time their visa is issued permitted entry into the United States.

“(3) EXEMPTION FROM FICA AND FUTA TAXES.—The wages paid to H-2B aliens shall be excluded from wages subject to taxation under the Federal Unemployment Tax Act and under the Federal Insurance Contributions Act.

“(4) INELIGIBILITY FOR CERTAIN PUBLIC BENEFITS PROGRAMS.—

“(A) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subparagraph (B), any alien provided status as an H-2B alien shall not be eligible for any Federal or State or local means-tested public benefit program.

“(B) EXCEPTIONS.—Subparagraph (A) shall not apply to the following:

“(i) EMERGENCY MEDICAL SERVICES.—The provision of emergency medical services (as defined by the Attorney General in consultation with the Secretary of Health and Human Services).

“(ii) PUBLIC HEALTH IMMUNIZATIONS.—Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment for communicable diseases.

“(iii) SHORT-TERM EMERGENCY DISASTER RELIEF.—The provision of non-cash, in-kind, short-term emergency disaster relief.

“(m) CONSULTATION ON REGULATIONS.—

“(1) REGULATIONS OF THE SECRETARY.—The Secretary shall consult with the Secretary of Agriculture, and the Attorney General shall approve, all regulations dealing with the approval of labor condition attestations for H-2B aliens or enforcement of the requirements for employing H-2B aliens under an approved attestation.

“(2) REGULATIONS OF THE ATTORNEY GENERAL.—The Attorney General shall consult with the Secretary of Agriculture on all regulations dealing with the approval of petitions for admission or extension of stay of H-2B aliens or the requirements for employing H-2B aliens or the enforcement of such requirements.

“(n) DEFINITIONS.—For the purpose of this section:

“(1) AGRICULTURAL ASSOCIATION.—The term ‘agricultural association’ means any nonprofit or cooperative association of farmers, growers, or ranchers incorporated or qualified under applicable State law, which recruits, solicits, hires, employs, furnishes, or transports any agricultural workers.

“(2) AGRICULTURAL EMPLOYMENT.—The term ‘agricultural employment’ means any service or activity included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or section 3121(g) of the Internal Revenue Code of 1986 and the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state.

“(3) EMPLOYER.—The term ‘employer’ means any person or entity, including any independent contractor and any agricultural association, that employs workers.

“(4) H-2B ALIEN.—The term ‘H-2B alien’ means an alien admitted to the United States or provided status as a non-immigrant under section 101(a)(15)(H)(ii)(b).

“(5) QUALIFIED STATE EMPLOYMENT SECURITY AGENCY.—The term ‘qualified State employment security agency’ means a State employment security agency in a State in which the Secretary has determined that the State operates a job service that actively seeks to match agricultural workers with jobs and participates in a multi-State job service program in States where significant supplies of farm labor exist.

“(6) SECRETARY.—The term ‘Secretary’ means the Secretary of Labor.

“(7) UNITED STATES WORKER.—The term ‘United States worker’ means any worker, whether a United States citizen, a United States national, or an alien, who is legally permitted to work in the job opportunity within the United States other than aliens admitted pursuant to this section.”

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 218 the following new item:

“Sec. 218A. Alternative agricultural worker program.”.

At the end of section 308(g)(10), add the following:

(J)(i) Section 214(l)(2), as added by section 822(c), is amended by striking “241(a)(1)(C)” and inserting “237(a)(1)(C)”.

(ii) Section 218A(c)(8)(B), as inserted by section 823(a), is amended by striking “deportation under section 241(a)(1)(C)(i)” and inserting “removal under section 237(a)(1)(C)(i)”.

23. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CONDIT OF CALIFORNIA, OR A DESIGNEE, TO THE AMENDMENT OFFERED BY REPRESENTATIVE POMBO OF CALIFORNIA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In section 823(a), in the section 218A(a)(3)(B) of the Immigration and Nationality Act inserted by such section, add at the end the following:

“(iii) CONSEQUENCES OF PERMANENT EXTENSION.—If the Congress makes the program under this section permanent, Congress shall provide for a two-year phase out of admissions (and adjustments of status) of nonimmigrants under section 101(a)(15)(H)(ii)(a). In the case of such a phase out, the Attorney General and the Secretary of Labor shall provide for the application under this section of special procedures (in the case of occupations characterized by other than a reasonably regular workday or workweek) in the same manner as special procedures are provided for under regulations in such a case for the nonimmigrant workers under section 101(a)(15)(H)(ii)(a).

24. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GOODLATTE OF VIRGINIA, OR A DESIGNEE, DEBATABLE FOR 30 MINUTES

After section 810, insert the following new section (and conform the table of contents accordingly):

SEC. 811. CHANGES IN THE H-2A PROGRAM.

(a) PLACING RESPONSIBILITY FOR CERTIFICATION WITHIN THE INS.—Section 218 (8 U.S.C. 1188) is amended—

(1) by striking “Secretary of Labor” and “Secretary” each place either appears (other than in subsections (b)(2)(A), (c)(4), and (g)(2)) and inserting “Attorney General”; and

(2) by amending paragraph (3) of subsection (g) to read as follows:

“(3) There are authorized to be appropriated for each fiscal year such sums as may be necessary for the purpose of enabling the Attorney General and the Secretary of Labor to make determinations and certifications under this section and of enabling the Secretary of Labor to make determinations and certifications under section 212(a)(5)(A)(i).”

(b) REDUCTION IN TIME REQUIRED FOR POSITIVE RECRUITMENT.—Section 218 (8 U.S.C. 1188) is amended—

(1) in subsection (b)(4), by adding at the end the following: “The employer shall not be required to engage in positive recruitment for more than 20 days.”, and

(2) in subsection (c)(1), by striking “60 days” and inserting “40 days”.

(c) ELIMINATION OF 50 PERCENT RULE.—Section 218(c)(3) (8 U.S.C. 1188(c)(3)) is amended by amending subparagraph (B) to read as follows:

“(B) An employer is not required, in order for its labor certification to remain effective, to provide employment to United

States workers who apply for employment after the end of the required period of positive recruitment.”.

(d) PERMITTING HOUSING ALLOWANCE.—Section 218(c)(4) (8 U.S.C. 1188(c)(4)) is amended by inserting “(A)” after “.—” and by adding at the end the following:

“(B) In lieu of offering housing under subparagraph (A), an employer may provide a reasonable housing allowance, but only if housing is reasonably available in the area of employment.”.

(e) MODIFIED $\frac{3}{4}$ RULE.—Section 218(c)(3) (8 U.S.C. 1188(c)(3)) is amended by adding at the end the following new subparagraph:

“(C) An employer, in order for its labor certification to remain effective, shall guarantee to offer an H-2A worker at least 8 hours of employment in each of at least $\frac{3}{4}$ of the workdays in which the task (or tasks) for which the H-2A worker was hired to perform are being performed. The employer is not required to guarantee to offer an H-2A worker employment in any portion of the total periods during which the work contract and all extensions thereof are in effect.

(f) CAP.—Section 214(g)(1) (8 U.S.C. 1184(g)(1)) is amended—

(1) by striking “or” at the end of subparagraph (A),

(2) by redesignating subparagraph (B) as subparagraph (C), and

(3) by inserting after subparagraph (A) the following new subparagraph:

“(B) under section 101(a)(15)(H)(ii)(a) may not exceed 150,000, or”.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to applications for certification filed on or after October 1, 1996, and to fiscal years beginning on or after such date.

25. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE LIPINSKI OF ILLINOIS, OR A DESIGNEE, DEBATABLE FOR 10 MINUTES

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

SEC. 837. ADJUSTMENT OF STATUS FOR CERTAIN POLISH AND HUNGARIAN PAROLEES.

(a) IN GENERAL.—The Attorney General shall adjust the status of an alien described in subsection (b) to that of an alien lawfully admitted for permanent residence if the alien—

(1) applies for such adjustment,

(2) has been physically present in the United States for at least 1 year and is physically present in the United States on the date the application for such adjustment is filed,

(3) is admissible to the United States as an immigrant, except as provided in subsection (c), and

(4) pays a fee (determined by the Attorney General) for the processing of such application.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided in subsection (a) shall only apply to an alien who—

(1) was a national of Poland or Hungary, and

(2) was inspected and granted parole into the United States during the period beginning on November 1, 1989, and ending on December 31, 1991, after being denied refugee status.

(c) **WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.**—The provisions of paragraphs (4), (5), and (7)(A) of section 212(a) of the Immigration and Nationality Act shall not apply to adjustment of status under this section and the Attorney General may waive any other provision of such section (other than paragraph (2)(C) and subparagraphs (A), (B), (C), or (E) of paragraph (3)) with respect to such an adjustment for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

(d) **DATE OF APPROVAL.**—Upon the approval of such an application for adjustment of status, the Attorney General shall create a record of the alien's admission as a lawful permanent resident as of the date of the alien's inspection and parole described in subsection (b)(2).

(e) **NO OFFSET IN NUMBER OF VISAS AVAILABLE.**—When an alien is granted the status of having been lawfully admitted for permanent residence under this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act.

26. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FARR OF CALIFORNIA, OR A DESIGNEE, DEBATABLE FOR 10 MINUTES

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

SEC. 837. SUPPORT OF DEMONSTRATION PROJECTS.

(a) **IN GENERAL.**—The Attorney General shall make available funds under this section, in each of 5 consecutive years (beginning with 1996), to the Immigration and Naturalization Service or to other public or private nonprofit entities to support demonstration projects under this section at 10 sites throughout the United States. Each such project shall be designed to provide for the administration of the oath of allegiance (under section 337(a) of the Immigration and Nationality Act) on a business day around the 4th of July for approximately 500 people whose application for naturalization has been approved. Each project shall provide for appropriate outreach and ceremonial and celebratory activities.

(b) **SELECTION OF SITES.**—The Attorney General shall, in the Attorney General's discretion, select diverse locations for sites on the basis of the number of naturalization applicants living in proximity to each site and on the degree of local community participation and support in the project to be held at the site. Not more than 2 sites may be located in the same State. The Attorney General should consider changing the sites selected from year to year.

(c) **AMOUNTS AVAILABLE; USE OF FUNDS.**—

(1) **AMOUNT.**—The amount that may be made available under this section with respect to any single site for a site for a year shall not exceed \$5,000.

(2) **USE.**—Funds provided under this section may only be used to cover expenses incurred carrying out symbolic swear-

ing-in ceremonies at the demonstration sites, including expenses for—

- (A) cost of personnel of the Immigration and Naturalization Service (including travel and overtime expenses),
- (B) local outreach,
- (C) rental of space, and
- (D) costs of printing appropriate brochures and other information about the ceremonies.

(3) AVAILABILITY OF FUNDS.—Funds that are otherwise available to the Immigration and Naturalization Service to carry out naturalization activities (including funds in the Immigration Examinations Fee Account, under section 286(n) of the Immigration and Nationality Act) shall be available under this section.

(d) APPLICATION.—In the case of an entity other than the Immigration and Naturalization Service seeking to conduct a demonstration project under this section, no amounts may be made available to the entity under this section unless an appropriate application has been made to, and approved by, the Attorney General, in a form and manner specified by the Attorney General.

(e) STATE DEFINED.—In this section, the term “State” has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)).

27. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE TRAFICANT OF OHIO, OR A DESIGNEE, DEBATABLE FOR 10 MINUTES

After section 836, insert the following new section (and conform the table of contents accordingly):

SEC. 837. SENSE OF CONGRESS; REQUIREMENTS REGARDING NOTICE.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act should be American-made.

(b) NOTICE TO RECIPIENTS OF GRANTS.—In providing grants under this Act, the Attorney General, to the greatest extent practicable, shall provide to each recipient of a grant a notice describing the statement made in subsection (a) by the Congress.

28. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BURR OF NORTH CAROLINA, OR A DESIGNEE, DEBATABLE FOR 10 MINUTES

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

SEC. 837. EXTENSION OF H-1A VISA PROGRAM FOR NONIMMIGRANT NURSES.

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

- (1) by striking “To 5-YEAR PERIOD”,
- (2) by striking “5-year”, and

(3) by inserting “and ending at the end of the 6-month period beginning on the date of the enactment of the Immigration in the National Interest Act of 1995” after “Act”.

29. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE VENTO OF MINNESOTA, OR A DESIGNEE, DEBATABLE FOR 10 MINUTES

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

SEC. 837. TREATMENT OF CERTAIN ALIENS WHO SERVED WITH SPECIAL GUERRILLA UNITS IN LAOS.

(a) WAIVER OF ENGLISH LANGUAGE REQUIREMENT FOR CERTAIN ALIENS WHO SERVED WITH SPECIAL GUERRILLA UNITS IN LAOS.—The requirement of paragraph (1) of section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)) shall not apply to the naturalization of any person who—

(1) served with a special guerrilla unit operating from a base in Laos in support of the United States at any time during the period beginning February 28, 1961, and ending September 18, 1978, or

(2) is the spouse or widow of a person described in paragraph (1).

(b) NATURALIZATION THROUGH SERVICE IN A SPECIAL GUERRILLA UNIT IN LAOS.—

(1) IN GENERAL.—The first sentence of subsection (a) and subsection (b) (other than paragraph (3)) of section 329 of the Immigration and Nationality Act (8 U.S.C. 1440) shall apply to an alien who served with a special guerrilla unit operating from a base in Laos in support of the United States at any time during the period beginning February 28, 1961, and ending September 18, 1978, in the same manner as they apply to an alien who has served honorably in an active-duty status in the military forces of the United States during the period of the Vietnam hostilities.

(2) PROOF.—The Immigration and Naturalization Service shall verify an alien’s service with a guerrilla unit described in paragraph (1) through—

(A) review of refugee processing documentation for the alien,

(B) the affidavit of the alien’s superior officer,

(C) original documents,

(D) two affidavits from persons who were also serving with such a special guerrilla unit and who personally knew of the alien’s service, or

(E) other appropriate proof.

The Service shall liberally construe the provisions of this subsection to take into account the difficulties inherent in proving service in such a guerrilla unit.

30. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WALDHOLTZ OF UTAH, OR A DESIGNEE, DEBATABLE FOR 10 MINUTES

After section 836, insert the following:

SEC. 837. SENSE OF THE CONGRESS REGARDING THE MISSION OF THE IMMIGRATION AND NATURALIZATION SERVICE.

It is the sense of the Congress that the mission statement of the Immigration and Naturalization Service of the Department of Justice should include that it is the responsibility of the Service to detect, apprehend, and remove those noncitizens whose entry was illegal, whether undocumented or fraudulent, and those found to have violated the conditions of their stay, particularly those involved in drug trafficking or other criminal activity.

31. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE KLECZKA OF WISCONSIN, OR A DESIGNEE, DEBATABLE FOR 10 MINUTES

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

SEC. 837. AUTHORIZATION OF REIMBURSEMENT OF CERTAIN POLISH APPLICANTS FOR THE 1995 DIVERSITY IMMIGRANT PROGRAM.

(a) IN GENERAL.—After the date of enactment of this Act, the Secretary of State, in consultation with the Commissioner of the Immigration and Naturalization Service, shall establish a process to provide for the reimbursement of all fees to each national of Poland (other than a national illegally residing in the United States) who was an applicant for the diversity immigrant program for 1995 under section 203(c) of the Immigration and Nationality Act who did not receive such a visa.

(b) FUNDING.—The Secretary of State shall use such funds as may be available at the discretion of the Secretary to carry out the purpose of this section.

(c) REVIEW.—The Secretary of State shall review the procedures of the Department of State regarding the administration of the diversity immigrant program to ensure that the erroneous notification which occurred with respect to the 1995 diversity immigrant program for Polish residents does not recur.

32. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE DREIER OF CALIFORNIA, OR A DESIGNEE, DEBATABLE FOR 10 MINUTES

After section 836, insert the following:

SEC. 837. SENSE OF THE CONGRESS WITH RESPECT TO STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.

(a) FINDINGS.—The Congress finds as follows:

(1) Of the \$130,000,000 appropriated in fiscal year 1995 for the State Criminal Alien Assistance Program (SCAAP), the Department of Justice disbursed the first \$43,000,000 to States on October 6, 1994, 32 days before the 1994 general election, and then failed to disburse the remaining \$87,000,000 until January 31, 1996, 123 days after the end of fiscal year 1995.

(2) While H.R. 2880, the continuing appropriation measure funding certain operations of the Federal Government from January 26, 1996 to March 15, 1996, included \$66,000,000 to reimburse States for the cost of incarcerating documented illegal immigrant felons, the Department of Justice failed to dis-

burse any of the funds to the States during the period of the continuing appropriation.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the Department of Justice was disturbingly slow in disbursing fiscal year 1995 funds under the State Criminal Alien Assistance Program to States after the initial grants were released just prior to the 1994 election; and

(2) the Attorney General should make it a high priority to expedite the disbursement of Federal funds intended to reimburse States for the cost of incarcerating illegal immigrants, aiming for all State Criminal Alien Assistance Program funds to be disbursed during the fiscal year for which they are appropriated.

