

104TH CONGRESS
1ST SESSION

H. R. 2202

To amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 4, 1995

Mr. SMITH of Texas (for himself, Mr. BRYANT of Texas, Mr. GALLEGLY, Mr. MOORHEAD, Mr. MCCOLLUM, Mr. BRYANT of Tennessee, Mr. BONO, Mr. HEINEMAN, Mr. SENSENBRENNER, Mr. GEKAS, Mr. COBLE, Mr. CANADY of Florida, Mr. INGLIS of South Carolina, Mr. GOODLATTE, Mr. BARR, Mr. BOUCHER, Mr. BAKER of California, Mr. BALLENGER, Mr. BEILENSON, Mr. BILBRAY, Mr. BONILLA, Mr. BREWSTER, Mr. CALVERT, Mr. CONDIT, Mr. CUNNINGHAM, Mr. DEAL of Georgia, Mr. DREIER, Mr. DUNCAN, Mr. FOLEY, Mr. HAYES, Mr. HERGER, Mr. HUNTER, Mr. SAM JOHNSON of Texas, Mrs. MEYERS of Kansas, Mr. PACKARD, Mr. ROHRABACHER, Mrs. ROUKEMA, Mr. SHAYS, Mr. STENHOLM, Mr. TAUZIN, Mrs. VUCANOVICH, Mr. MCKEON, Mr. BARTON of Texas, Mr. HUTCHINSON, Mr. THORNBERRY, Mr. LAUGHLIN, Mr. TRAFICANT, Mr. KASICH, Mrs. SEASTRAND, Mr. PETE GEREN of Texas, Mr. WILSON, Mr. STOCKMAN, Mr. HASTINGS of Washington, Mr. BEREUTER, Mr. COMBEST, Mr. BARTLETT of Maryland, Mr. BARRETT of Nebraska, Mr. SHAW, Mr. PICKETT, Mr. SKEEN, Mr. GUTKNECHT, Mr. KINGSTON, Mr. TAYLOR of North Carolina, Mr. ROGERS, Mr. SOLOMON, Mr. ROBERTS, Mr. EVERETT, Mr. DOOLITTLE, Mr. HEFLEY, Mr. SCHAEFER, Mr. GOSS, Mr. BUNNING of Kentucky, Mr. PARKER, Mr. TAYLOR of Mississippi, Mr. EMERSON, Mr. SHUSTER, Mr. FIELDS of Texas, Mr. QUILLEN, Mr. HALL of Texas, Mr. HOEKSTRA, Mr. MCCRERY, Mr. STEARNS, Mr. BURTON of Indiana, Mr. LEWIS of Kentucky, Mr. BAKER of Louisiana, Mr. BACHUS, Mr. LIGHTFOOT, Mr. COLLINS of Georgia, Mr. HANSEN, Mr. HORN, Mr. PAXON, Ms. MOLINARI, Mr. LINDER, Mr. HASTERT, Mr. ROYCE, Mr. KIM, Mr. CAMP, Mr. HANCOCK, Mr. SPENCE, Mr. JONES, Mr. LIVINGSTON, Mr. REGULA, Mr. EWING, Mr. SALMON, Ms. HARMAN, Mr. ZELIFF, Mr. SHADEGG, Mr. POMBO, Mr. DORNAN, and Mr.

RADANOVICH) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on National Security, Government Reform and Oversight, Ways and Means, and Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

SEPTEMBER 20, 1995

Rereferred to the Committee on the Judiciary, and in addition to the Committees on Agriculture, Banking and Financial Services, Economic and Educational Opportunities, Government Reform and Oversight, National Security, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; AMENDMENTS TO IMMIGRATION**
 4 **AND NATIONALITY ACT; TABLE OF CON-**
 5 **TENTS.**

6 (a) SHORT TITLE.—This Act may be cited as the
 7 “Immigration in the National Interest Act of 1995”.

1 (b) AMENDMENTS TO IMMIGRATION AND NATIONAL-
2 ITY ACT.—Except as otherwise specifically provided—

3 (1) whenever in this Act an amendment or re-
4 peal is expressed as the amendment or repeal of a
5 section or other provision, the reference shall be con-
6 sidered to be made to that section or provision in the
7 Immigration and Nationality Act, and

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

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

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

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

Subtitle A—Improved Enforcement at Border

- Sec. 101. Border patrol agents and support personnel.
- Sec. 102. Improvement of barriers at border.
- Sec. 103. Improved border equipment and technology.
- Sec. 104. Improvement in border crossing identification card.
- Sec. 105. Civil penalties for illegal entry.
- Sec. 106. Prosecution of aliens repeatedly reentering the United States unlawfully.
- Sec. 107. Inservice training for the Border Patrol.

Subtitle B—Pilot Programs

- Sec. 111. Pilot program on interior repatriation of inadmissible or deportable aliens.
- Sec. 112. Pilot program on use of closed military bases for the detention of inadmissible or deportable aliens.
- Sec. 113. Pilot program to collect records of departing passengers.

Subtitle C—Interior Enforcement

Sec. 121. Increase in personnel for interior enforcement.

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

Subtitle A—Enhanced Enforcement and Penalties Against Alien Smuggling

- Sec. 201. Wiretap authority for alien smuggling investigations.
- Sec. 202. Racketeering offenses relating to alien smuggling.
- Sec. 203. Increased criminal penalties for alien smuggling.
- Sec. 204. Increased number of assistant United States attorneys.
- Sec. 205. Undercover investigation authority.

Subtitle B—Deterrence of Document Fraud

- Sec. 211. Increased criminal penalties for fraudulent use of government-issued documents.
- Sec. 212. New civil penalties for document fraud.
- Sec. 213. New civil penalty for failure to present documents.
- Sec. 214. New criminal penalties for failure to disclose role as preparer of false application for asylum and for preparing certain post-conviction applications.
- Sec. 215. Criminal penalty for knowingly presenting document which fails to contain reasonable basis in law or fact.
- Sec. 216. Criminal penalties for false claim to citizenship.

Subtitle C—Asset Forfeiture for Passport and Visa Offenses

- Sec. 221. Criminal forfeiture for passport and visa related offenses.
- Sec. 222. Subpoenas for bank records.
- Sec. 223. Effective date.

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

Subtitle A—Revision of Procedures for Removal of Aliens

- Sec. 300. Overview of changes in removal procedures.
- Sec. 301. Treating persons present in the United States without authorization as not admitted.
- Sec. 302. Inspection of aliens; expedited removal of inadmissible arriving aliens; referral for hearing (revised section 235).
- Sec. 303. Apprehension and detention of aliens not lawfully in the United States (revised section 236).
- Sec. 304. Removal proceedings; cancellation of removal and adjustment of status; voluntary departure (revised and new sections 239 to 240C).
- Sec. 305. Detention and removal of aliens ordered removed (new section 241).
- Sec. 306. Appeals from orders of removal (new section 242).
- Sec. 307. Penalties relating to removal (revised section 243).
- Sec. 308. Redesignation and reorganization of other provisions; additional conforming amendments.
- Sec. 309. Effective dates; transition.

Subtitle B—Removal of Alien Terrorists

PART 1—REMOVAL PROCEDURES FOR ALIEN TERRORISTS

Sec. 321. Removal procedures for alien terrorists.

“TITLE V—SPECIAL REMOVAL PROCEDURES FOR ALIEN
TERRORISTS

“Sec. 501. Definitions.

“Sec. 502. Establishment of special removal court; panel of attorneys to assist with classified information.

“Sec. 503. Application for initiation of special removal proceeding.

“Sec. 504. Consideration of application.

“Sec. 505. Special removal hearings.

“Sec. 506. Consideration of classified information.

“Sec. 507. Appeals.

“Sec. 508. Detention and custody.”.

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

PART 2—INADMISSIBILITY AND DENIAL OF RELIEF FOR ALIEN TERRORISTS

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

Sec. 332. Denial of relief for alien terrorists.

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

Sec. 341. Definition of stowaway.

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

Sec. 343. Transportation line responsibility for transit without visa aliens.

Sec. 344. Civil penalties for bringing inadmissible aliens from contiguous territories.

Subtitle D—Additional Provisions

Sec. 351. Definition of conviction.

Sec. 352. Use of term “immigration judge”.

Sec. 353. Rescission of lawful permanent resident status.

Sec. 354. Civil penalties for failure to depart.

Sec. 355. Clarification of district court jurisdiction.

Sec. 356. Use of retired Federal employees for institutional hearing program.

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

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

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

Sec. 360. Prisoner transfer treaties.

Sec. 361. Criminal alien identification system.

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

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

TITLE IV—ENFORCEMENT OF RESTRICTIONS AGAINST
EMPLOYMENT

Sec. 401. Strengthened enforcement of the employer sanctions provisions.

Sec. 402. Strengthened enforcement of wage and hour laws.

Sec. 403. Changes in the employer sanctions program.

Sec. 404. Reports on earnings of aliens not authorized to work.

Sec. 405. Authorizing maintenance of certain information on aliens.

- Sec. 406. Limiting liability for certain technical violations of paperwork requirements.
- Sec. 407. Remedies in unfair immigration-related discrimination orders.

TITLE V—REFORM OF LEGAL IMMIGRATION SYSTEM

- Sec. 500. Overview of new legal immigration system.

Subtitle A—Worldwide Numerical Limits

- Sec. 501. Worldwide numerical limitation on family-sponsored immigrants.
- Sec. 502. Worldwide numerical limitation on employment-based immigrants.
- Sec. 503. Establishment of numerical limitation on humanitarian immigrants.
- Sec. 504. Requiring congressional review and reauthorization of worldwide levels every 5 years.

Subtitle B—Changes in Preference System

- Sec. 511. Limitation of immediate relatives to spouses and children.
- Sec. 512. Change in family-sponsored classification.
- Sec. 513. Change in employment-based classification.
- Sec. 514. Authorization to require periodic confirmation of classification petitions.
- Sec. 515. Changes in special immigrant status.
- Sec. 516. Requirements for removal of conditional status of entrepreneurs.
- Sec. 517. Miscellaneous conforming amendments.

Subtitle C—Refugees, Asylees, Parole, and Humanitarian Admissions

- Sec. 521. Changes in refugee annual admissions.
- Sec. 522. Fixing numerical adjustments for asylees at 10,000 each year.
- Sec. 523. Increased resources for reducing asylum application backlogs.
- Sec. 524. Parole available only on a case-by-case basis for humanitarian reasons or significant public benefit.
- Sec. 525. Admission of humanitarian immigrants.
- Sec. 526. Asylum reform.

Subtitle D—General Effective Date; Transition Provisions

- Sec. 551. General effective date.
- Sec. 552. General transition for current classification petitions.
- Sec. 553. Special transition for certain backlogged spouses and children of lawful permanent resident aliens.
- Sec. 554. Special treatment of certain disadvantaged family first preference immigrants.

TITLE VI—RESTRICTIONS ON BENEFITS FOR ALIENS

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

Subtitle A—Eligibility of Illegal Aliens for Public Benefits

PART 1—PUBLIC BENEFITS GENERALLY

- Sec. 601. Making illegal aliens ineligible for public assistance, contracts, and licenses.
- Sec. 602. Making unauthorized aliens ineligible for unemployment benefits.
- Sec. 603. General exceptions.

- Sec. 604. Treatment of expenses subject to emergency medical services exception.
- Sec. 605. Report on disqualification of illegal aliens from housing assistance programs.
- Sec. 606. Definitions.
- Sec. 607. Regulations and effective dates.

PART 2—EARNED INCOME TAX CREDIT

- Sec. 611. Earned income tax credit denied to individuals not authorized to be employed in the United States.

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

- Sec. 621. Ground for inadmissibility.
- Sec. 622. Ground for deportability.

Subtitle C—Attribution of Income and Affidavits of Support

- Sec. 631. Attribution of sponsor's income and resources to family-sponsored immigrants.
- Sec. 632. Requirements for sponsor's affidavit of support.

TITLE VII—FACILITATION OF LEGAL ENTRY

- Sec. 701. Additional land border inspectors; infrastructure improvements.
- Sec. 702. Commuter lane pilot programs.
- Sec. 703. Preinspection at foreign airports.
- Sec. 704. Training of airline personnel in detection of fraudulent documents.

TITLE VIII—MISCELLANEOUS PROVISIONS

- Sec. 801. Amended definition of aggravated felony.
- Sec. 802. Amended definitions of "child" and "parent" to facilitate adoption of children born out-of-wedlock.
- Sec. 803. Authority to determine visa processing procedures.
- Sec. 804. Waiver authority concerning notice of denial of application for visas.
- Sec. 805. Treatment of Canadian landed immigrants.
- Sec. 806. Changes relating to H-1B nonimmigrants.
- Sec. 807. Validity of period of visas.
- Sec. 808. Limitation on adjustment of status of individuals not lawfully present in the United States.
- Sec. 809. Limited access to certain confidential INS files.
- Sec. 810. Nonimmigrant status for spouses and children of members of the Armed Services.
- Sec. 811. Commission report on fraud associated with birth certificates.
- Sec. 812. Uniform vital statistics.
- Sec. 813. Communication between State and local government agencies, and the Immigration and Naturalization Service.
- Sec. 814. Criminal alien reimbursement costs.
- Sec. 815. Miscellaneous technical corrections.

1 **TITLE I—DETERRENCE OF ILLE-**
2 **GAL IMMIGRATION THROUGH**
3 **IMPROVED BORDER EN-**
4 **FORCEMENT, PILOT PRO-**
5 **GRAMS, AND INTERIOR EN-**
6 **FORCEMENT**

7 **Subtitle A—Improved Enforcement**
8 **at Border**

9 **SEC. 101. BORDER PATROL AGENTS AND SUPPORT PER-**
10 **SONNEL.**

11 (a) INCREASED NUMBER OF BORDER PATROL POSI-
12 TIONS.—The number of border patrol agents shall be in-
13 creased, for each fiscal year beginning with the fiscal year
14 1996 and ending with the fiscal year 2000, by 1,000 full-
15 time equivalent positions above the number of equivalent
16 positions as of September 30, 1994.

17 (b) INCREASE IN SUPPORT PERSONNEL.—The num-
18 ber of full-time support positions for personnel in support
19 of border enforcement, investigation, detention and depor-
20 tation, intelligence, information and records, legal pro-
21 ceedings, and management and administration in the Im-
22 migration and Naturalization Service shall be increased,
23 beginning with fiscal year 1996, by 800 positions above
24 the number of equivalent positions as of September 30,
25 1994.

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

5 (1) be deployed among the various Immigration
6 and Naturalization Service sectors in proportion to
7 the level of illegal intrusion measured in each sector
8 during the preceding fiscal year and reasonably an-
9 ticipated in the next fiscal year, and

10 (2) be actively engaged in law enforcement ac-
11 tivities related to the illegal crossing of the borders
12 of the United States.

13 **SEC. 102. IMPROVEMENT OF BARRIERS AT BORDER.**

14 (a) IN GENERAL.—The Attorney General, in con-
15 sultation with the Commissioner of the Immigration and
16 Naturalization Service, shall take such actions as may be
17 necessary to install additional physical barriers and roads
18 (including the removal of obstacles to detection of illegal
19 entrants) in the vicinity of the United States border to
20 deter unauthorized crossings in areas of high illegal entry
21 into the United States.

22 (b) CONSTRUCTION OF FENCING AND ROAD IM-
23 PROVEMENTS IN THE BORDER AREA NEAR SAN DIEGO,
24 CALIFORNIA.—

1 (1) IN GENERAL.—In carrying out subsection
2 (a), the Attorney General shall provide for the con-
3 struction along the 14 miles of the international
4 land border of the United States, starting at the Pa-
5 cific Ocean and extending eastward, of second and
6 third fences, in addition to the existing reinforced
7 fence, and for roads between the fences.

8 (2) PROMPT ACQUISITION OF NECESSARY EASE-
9 MENTS.—The Attorney General shall promptly ac-
10 quire such easements as may be necessary to carry
11 out this subsection and shall commence construction
12 of fences immediately following such acquisition (or
13 conclusion of portions thereof).

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

19 (c) WAIVER.—The provisions of the Endangered Spe-
20 cies Act of 1973 are waived to the extent the Attorney
21 General determines necessary to assure expeditious con-
22 struction of the barriers and roads under this section.

23 (d) REPORT ON FORWARD DEPLOYMENT.—(1) The
24 Attorney General shall forward deploy existing border pa-
25 trol agents in those areas of the border identified as areas

1 of high illegal entry into the United States in order to
2 provide a uniform and visible deterrent to illegal entry on
3 a continuing basis.

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

8 **SEC. 103. IMPROVED BORDER EQUIPMENT AND TECH-**
9 **NOLOGY.**

10 The Attorney General is authorized to acquire and
11 utilize, for the purpose of detection, interdiction, and re-
12 duction of illegal immigration into the United States, any
13 Federal equipment (including, but not limited to, fixed
14 wing aircraft, helicopters, four-wheel drive vehicles, se-
15 dans, night vision goggles, night vision scopes, and sensor
16 units) determined available for transfer by any other agen-
17 cy of the Federal Government upon request of the Attor-
18 ney General.

19 **SEC. 104. IMPROVEMENT IN BORDER CROSSING IDENTI-**
20 **FICATION CARD.**

21 (a) IN GENERAL.—Section 101(a)(6) (8 U.S.C.
22 1101(a)(6)) is amended by adding at the end the follow-
23 ing: “Such regulations shall provide that (A) each such
24 document include a biometric identifier (such as the fin-
25 gerprint or handprint of the alien) that is machine read-

1 able and (B) an alien presenting a border crossing identi-
2 fication card is not permitted to cross over the border into
3 the United States unless the biometric identifier contained
4 on the card matches the appropriate biometric characteris-
5 tic of the alien.”.

6 (b) EFFECTIVE DATES.—

7 (1) Clause (A) of the sentence added by the
8 amendment made by subsection (a) shall apply to
9 documents issued on or after 6 months after the
10 date of the enactment of this Act.

11 (2) Clause (B) of such sentence shall apply to
12 cards presented on or after 18 months after the date
13 of the enactment of this Act.

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

19 **SEC. 105. CIVIL PENALTIES FOR ILLEGAL ENTRY.**

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

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

24 (2) by inserting after subsection (a) the follow-
25 ing new subsection:

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

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

7 “(2) twice the amount specified in paragraph
8 (1) in the case of for an alien who has been pre-
9 viously subject to a civil penalty under this sub-
10 section.

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

14 (b) EFFECTIVE DATE.—The amendments made by
15 subsection (a) shall apply to illegal entries occurring on
16 or after the first day of the 6th month beginning after
17 the date of the enactment of this Act.

18 **SEC. 106. PROSECUTION OF ALIENS REPEATEDLY REEN-**
19 **TERING THE UNITED STATES UNLAWFULLY.**

20 (a) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated to the Attorney General
22 such sums as may be necessary to provide for detention
23 and prosecution of each alien who commits an act that
24 constitutes a violation of section 275(a) of the Immigra-
25 tion and Nationality Act if the alien has committed such

1 an act on two previous occasions. Funds appropriated pur-
2 suant to this subsection are authorized to remain available
3 until expended.

4 (b) SENSE OF CONGRESS.—It is the sense of Con-
5 gress that the Attorney General should use available re-
6 sources to assure detention and prosecution of aliens in
7 the cases described in subsection (a).

8 **SEC. 107. INSERVICE TRAINING FOR THE BORDER PATROL.**

9 (a) REQUIREMENT.—Section 103 (8 U.S.C. 1103) is
10 amended by adding at the end the following new sub-
11 section:

12 “(e)(1) The Attorney General shall continue to pro-
13 vide for such programs (including intensive language
14 training programs) of inservice training for full-time and
15 part-time personnel of the Border Patrol in contact with
16 the public as will familiarize the personnel with the rights
17 and varied cultural backgrounds of aliens and citizens in
18 order to ensure and safeguard the constitutional and civil
19 rights, personal safety, and human dignity of all individ-
20 uals, aliens as well as citizens, within the jurisdiction of
21 the United States with whom such personnel have contact
22 in their work.

23 “(2) The Attorney General shall provide that the an-
24 nual report of the Service include a description of steps
25 taken to carry out paragraph (1).”.

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

8 **Subtitle B—Pilot Programs**

9 **SEC. 111. PILOT PROGRAM ON INTERIOR REPATRIATION** 10 **OF INADMISSIBLE OR DEPORTABLE ALIENS.**

11 (a) ESTABLISHMENT.—Not later than 120 days after
12 the date of the enactment of this Act, the Attorney Gen-
13 eral, after consultation with the Secretary of State, shall
14 establish a pilot program for up to 2 years which provides
15 for methods to deter multiple unauthorized entries by
16 aliens into the United States. The pilot program may in-
17 clude the development and use of interior repatriation,
18 third country repatriation, and other disincentives for
19 multiple unlawful entries into the United States.

20 (b) REPORT.—Not later than 30 months after the
21 date of the enactment of this Act, the Attorney General,
22 together with the Secretary of State, shall submit a report
23 to the Committees on the Judiciary of the House of Rep-
24 resentatives and of the Senate on the operation of the pilot
25 program under this section and whether the pilot program

1 or any part thereof should be extended or made perma-
2 nent.

3 **SEC. 112. PILOT PROGRAM ON USE OF CLOSED MILITARY**
4 **BASES FOR THE DETENTION OF INADMIS-**
5 **SIBLE OR DEPORTABLE ALIENS.**

6 (a) ESTABLISHMENT.—The Attorney General and
7 the Secretary of Defense shall establish one or more pilot
8 programs for up to 2 years each to determine the feasibil-
9 ity of the use of military bases available because of actions
10 under a base closure law as detention centers for the Im-
11 migration and Naturalization Service.

12 (b) REPORT.—Not later than 30 months after the
13 date of the enactment of this Act, the Attorney General,
14 together with the Secretary of State, shall submit a report
15 to the Committees on the Judiciary of the House of Rep-
16 resentatives and of the Senate, and the Committees on
17 Armed Services of the House of Representatives and of
18 the Senate, on the feasibility of using military bases closed
19 under a base closure law as detention centers by the Immi-
20 gration and Naturalization Service.

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

23 (1) The Defense Base Closure and Realignment
24 Act of 1990 (part A of title XXIX of Public Law
25 101–510; 10 U.S.C. 2687 note).

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

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

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

8 **SEC. 113. PILOT PROGRAM TO COLLECT RECORDS OF DE-**
9 **PARTING PASSENGERS.**

10 (a) ESTABLISHMENT.—The Commissioner of the Im-
11 migration and Naturalization Service shall, within 180
12 days of the date of the enactment of this Act, establish
13 a pilot program in which officers of the Service collect a
14 record of departure for every alien departing the United
15 States and match the records of departure with the record
16 of the alien’s arrival in the United States. The program
17 shall be operated in as many air ports of entry as is
18 deemed appropriate, but at no less than 3 of the 5 air
19 ports of entry with the heaviest volume of incoming traffic
20 from foreign territories.

21 (b) REPORT.—

22 (1) DEADLINE.—The Commissioner shall sub-
23 mit a report to Congress not later than 2 years after
24 the date the pilot program is implemented under
25 subsection (a).

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

4 (A) The number of departure records col-
5 lected, with an accounting by country of nation-
6 ality of the departing alien.

7 (B) The number of departure records that
8 were successfully matched to records of the
9 alien’s prior arrival in the United States, with
10 an accounting by the alien’s country of nation-
11 ality and by the alien’s classification as an im-
12 migrant or nonimmigrant.

13 (C) The number of aliens who arrived at
14 the port of entry as nonimmigrants classified
15 under section 101(a)(15)(B) of the Immigration
16 and Nationality Act, or as a visitor under sec-
17 tion 217 of the Immigration and Nationality
18 Act, for whom no matching departure record
19 has been obtained through the pilot program or
20 through other means, with an accounting by the
21 alien’s country of nationality and date of arrival
22 in the United States.

23 (D) The estimated cost of establishing a
24 national system to verify the departure from

1 the United States of aliens admitted tempo-
2 rarily as nonimmigrants.

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

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

12 **Subtitle C—Interior Enforcement**

13 **SEC. 121. INCREASE IN PERSONNEL FOR INTERIOR EN-** 14 **FORCEMENT.**

15 Subject to the availability of appropriations, the At-
16 torney General shall provide for an increase in the number
17 of investigators and enforcement personnel of the Immi-
18 gration and Naturalization Service who are deployed in
19 the interior so that the number of such personnel is ap-
20 proximately equal to the number of personnel of the Serv-
21 ice involved in enforcement at the border.

1 **TITLE II—ENHANCED ENFORCE-**
2 **MENT AND PENALTIES**
3 **AGAINST ALIEN SMUGGLING;**
4 **DOCUMENT FRAUD**

5 **Subtitle A—Enhanced Enforcement**
6 **and Penalties Against Alien**
7 **Smuggling**

8 **SEC. 201. WIRETAP AUTHORITY FOR ALIEN SMUGGLING IN-**
9 **VESTIGATIONS.**

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

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

14 (2) by redesignating paragraph (o) as para-
15 graph (p), and

16 (3) by inserting after paragraph (n) the follow-
17 ing new paragraph:

18 “(o)(1) a felony violation of section 1028 (relat-
19 ing to production of false identification documenta-
20 tion), section 1541 (relating to passport issuance
21 without authority), section 1542 (relating to false
22 statements in passport applications), section 1543
23 (relating to forgery or false use of passport), section
24 1544 (relating to misuse of passport), section 1546

1 (relating to fraud or misuse of visas, permits, or
2 other documents) of this title; or

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

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

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

10 (1) by inserting “section 1028 (relating to
11 fraud and related activity in connection with identi-
12 fication documents),” before “section 1029”;

13 (2) by inserting “section 1542 (relating to false
14 statement in application and use of passport), sec-
15 tion 1543 (relating to forgery or false use of pass-
16 port), section 1544 (relating to misuse of passport),
17 section 1546 (relating to fraud and misuse of visas,
18 permits, and other documents), sections 1581–1588
19 (relating to peonage and slavery),” after “section
20 1513 (relating to retaliating against a witness, vic-
21 tim, or an informant),”;

22 (3) by striking “or” before “(E)”; and

23 (4) by inserting before the period at the end the
24 following: “, or (F) any act which is indictable under
25 the Immigration and Nationality Act, section 274

1 (relating to bringing in and harboring certain
2 aliens), section 277 (relating to aiding or assisting
3 certain aliens to enter the United States), or section
4 278 (relating to importation of alien for immoral
5 purpose)”.
6

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

8 (a) IN GENERAL.—Section 274(a)(1) (8 U.S.C.
9 1324(a)(1)) is amended—

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

15 (2) by adding at the end the following new sub-
16 paragraph:

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

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

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

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

4 (1) in subparagraph (B)—

5 (A) by striking “or” at the end of clause

6 (ii),

7 (B) by adding “or” at the end of clause

8 (iii), and

9 (C) by inserting after clause (iii) the fol-
10 lowing:

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

17 (2) by striking “be fined” and all that follows
18 through the period at the end and inserting the fol-
19 lowing: “be fined under title 18, United States Code,
20 and shall be imprisoned not less than 3 years or
21 more than 10 years.”.

22 (c) APPLYING CERTAIN PENALTIES ON A PER ALIEN
23 BASIS.—Section 274(a)(2) (8 U.S.C. 1324(a)(2)) is
24 amended by striking “for each transaction constituting a
25 violation of this paragraph, regardless of the number of

1 aliens involved” and inserting “for each alien in respect
2 to whom a violation of this paragraph occurs”.

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

5 (a) IN GENERAL.—The number of Assistant United
6 States Attorneys that may be employed by the Depart-
7 ment of Justice for the fiscal year 1996 shall be increased
8 by 25 above the number of Assistant United States Attor-
9 neys that could be employed as of September 30, 1994.

10 (b) ASSIGNMENT.—Individuals employed to fill the
11 additional positions described in subsection (a) shall be
12 specially trained to be used for the prosecution of persons
13 who bring into the United States or harbor illegal aliens,
14 fraud, and other criminal statutes involving illegal aliens.

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

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

18 “UNDERCOVER INVESTIGATION AUTHORITY

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

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

1 “(A) section 3679(a) of the Revised Stat-
2 utes (31 U.S.C. 1341),

3 “(B) section 3732(a) of the Revised Stat-
4 utes (41 U.S.C. 11(a)),

5 “(C) section 305 of the Act of June 30,
6 1949 (63 Stat. 396; 41 U.S.C. 255),

7 “(D) the third undesignated paragraph
8 under the heading ‘Miscellaneous’ of the Act of
9 March 3, 1877 (19 Stat. 370; 40 U.S.C. 34),

10 “(E) section 3648 of the Revised Statutes
11 (31 U.S.C. 3324),

12 “(F) section 3741 of the Revised Statutes
13 (41 U.S.C. 22), and

14 “(G) subsections (a) and (c) of section 304
15 of the Federal Property and Administrative
16 Services Act of 1949 (63 Stat. 395; 41 U.S.C.
17 254 (a) and (c));

18 “(2) sums appropriated for the Service may be
19 used to establish or to acquire proprietary corpora-
20 tions or business entities as part of an undercover
21 operation, and to operate such corporations or busi-
22 ness entities on a commercial basis, without regard
23 to the provisions of section 304 of the Government
24 Corporation Control Act (31 U.S.C. 9102);

1 “(3) sums appropriated for the Service, and the
2 proceeds from the undercover operation, may be de-
3 posited in banks or other financial institutions with-
4 out regard to the provisions of section 648 of title
5 18, United States Code, and of section 3639 of the
6 Revised Statutes (31 U.S.C. 3302); and

7 “(4) the proceeds from the undercover oper-
8 ation may be used to offset necessary and reasonable
9 expenses incurred in such operation without regard
10 to the provisions of section 3617 of the Revised
11 Statutes (31 U.S.C. 3302).

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

17 “(b) DISPOSITION OF PROCEEDS NO LONGER RE-
18 QUIRED.—As soon as practicable after the proceeds from
19 an undercover investigative operation, carried out under
20 paragraphs (3) and (4) of subsection (a), are no longer
21 necessary for the conduct of the operation, the proceeds
22 or the balance of the proceeds remaining at the time shall
23 be deposited into the Treasury of the United States as
24 miscellaneous receipts.

1 “(c) DISPOSITION OF CERTAIN CORPORATIONS AND
2 BUSINESS ENTITIES.—If a corporation or business entity
3 established or acquired as part of an undercover operation
4 under paragraph (2) of subsection (a) with a net value
5 of over \$50,000 is to be liquidated, sold, or otherwise dis-
6 posed of, the Service, as much in advance as the Commis-
7 sioner or Commissioner’s designee determines practicable,
8 shall report the circumstances to the Attorney General,
9 the Director of the Office of Management and Budget, and
10 the Comptroller General. The proceeds of the liquidation,
11 sale, or other disposition, after obligations are met, shall
12 be deposited in the Treasury of the United States as mis-
13 cellaneous receipts.

14 “(d) FINANCIAL AUDITS.—The Service shall conduct
15 detailed financial audits of closed undercover operations
16 on a quarterly basis and shall report the results of the
17 audits in writing to the Deputy Attorney General.”.

18 (b) CLERICAL AMENDMENT.—The table of contents
19 is amended by inserting after the item relating to section
20 293 the following:

“Sec. 294. Undercover investigation authority.”.

1 **Subtitle B—Deterrence of**
2 **Document Fraud**

3 **SEC. 211. INCREASED CRIMINAL PENALTIES FOR FRAUDU-**
4 **LENT USE OF GOVERNMENT-ISSUED DOCU-**
5 **MENTS.**

6 (a) FRAUD AND MISUSE OF GOVERNMENT-ISSUED
7 IDENTIFICATION DOCUMENTS.—Section 1028(b)(1) of
8 title 18, United States Code, is amended—

9 (1) in paragraph (1), by inserting “except as
10 provided in paragraphs (3) and (4),” after “(1)”
11 and by striking “five years” and inserting “15
12 years”;

13 (2) in paragraph (2), by inserting “except as
14 provided in paragraphs (3) and (4),” after “(2)”
15 and by striking “and” at the end;

16 (3) by redesignating paragraph (3) as para-
17 graph (5); and

18 (4) by inserting after paragraph (2) the follow-
19 ing new paragraphs:

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

24 “(4) a fine under this title or imprisonment for
25 not more than 25 years, or both, if the offense is

1 committed to facilitate an act of international terror-
2 ism (as defined in section 2331(1) of this title); or”.

3 (b) CHANGES TO THE SENTENCING LEVELS.—Pur-
4 suant to section 944 of title 28, United States Code, and
5 section 21 of the Sentencing Act of 1987, the United
6 States Sentencing Commission shall promulgate guide-
7 lines, or amend existing guidelines, relating to defendants
8 convicted of violating, or conspiring to violate, sections
9 1546(a) and 1028(a) of title 18, United States Code. The
10 basic offense level under section 2L2.1 of the United
11 States Sentencing Guidelines shall be increased to—

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

14 (2) not less than offense level 20 if the offense
15 involved 1,000 or more documents, or if the docu-
16 ments were used to facilitate any other criminal ac-
17 tivity described in section 212(a)(2)(A)(i)(II) of the
18 Immigration and Nationality Act (8 U.S.C.
19 1182(a)(A)(i)(II)) or in section 101(a)(43) of such
20 Act; and

21 (3) not less than offense level 25 if the offense
22 involved—

23 (A) the provision of documents to a person
24 known or suspected of engaging in a terrorist
25 activity (as such terms are defined in section

1 212(a)(3)(B) of the Immigration and National-
2 ity Act (8 U.S.C. 1182(a)(3)(B));

3 (B) the provision of documents to facilitate
4 a terrorist activity or to assist a person to en-
5 gage in terrorist activity (as such terms are de-
6 fined in section 212(a)(3)(B) of the Immigra-
7 tion and Nationality Act (8 U.S.C.
8 1182(a)(3)(B)); or

9 (C) the provision of documents to persons
10 involved in racketeering enterprises (as such
11 acts or activities are defined in section 1952 of
12 title 18, United States Code).

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

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

16 (1) by striking “or” at the end of paragraph
17 (3);

18 (2) by striking the period at the end of para-
19 graph (4) and inserting “, or”; and

20 (3) by adding at the end the following:

21 “(5) in reckless disregard of the fact that the
22 information is false or does not relate to the appli-
23 cant, to prepare, to file, or to assist another in pre-
24 paring or filing, documents which are falsely made

1 for the purpose of satisfying a requirement of this
2 Act.

3 For purposes of this section, the term ‘falsely made’ in-
4 cludes, with respect to a document or application, the
5 preparation or provision of the document or application
6 with knowledge or in reckless disregard of the fact that
7 such document contains a false, fictitious, or fraudulent
8 statement or material representation, or has no basis in
9 law or fact, or otherwise fails to state a material fact per-
10 taining to the document or application.’’.

11 (b) CONFORMING AMENDMENTS FOR CIVIL PEN-
12 ALTIES.—Section 274C(d)(3) (8 U.S.C. 1324c(d)(3)) is
13 amended by striking “each document used, accepted, or
14 created and each instance of use, acceptance, or creation”
15 both places it appears and inserting “each instance of a
16 violation under subsection (a)”’.

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

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

1 **SEC. 213. NEW CIVIL PENALTY FOR FAILURE TO PRESENT**
2 **DOCUMENTS.**

3 (a) IN GENERAL.—Section 274C(a) (8 U.S.C.
4 1324c(a)), as amended by section 212(a), is further
5 amended—

6 (1) by striking “or” at the end of paragraph
7 (4);

8 (2) by striking the period at the end of para-
9 graph (5) and inserting “; or”; and

10 (3) by adding at the end the following new
11 paragraph:

12 “(6) to present before boarding a common car-
13 rier for the purpose of coming to the United States
14 a document which relates to the alien’s eligibility to
15 enter the United States and to fail to present such
16 document to an immigration officer upon arrival at
17 a United States port of entry. The Attorney General
18 may, in his or her discretion, waive the penalties of
19 this section with respect to an alien who knowingly
20 violates paragraph (6) if the alien is granted asylum
21 under section 208 or withholding of deportation
22 under section 243(h).”.

23 (b) EFFECTIVE DATE.—The amendments made by
24 subsection (a) shall apply to individuals who board a com-
25 mon carrier on or after 30 days after the date of the enact-
26 ment of this Act.

1 **SEC. 214. NEW CRIMINAL PENALTIES FOR FAILURE TO DIS-**
2 **CLOSE ROLE AS PREPARER OF FALSE APPLI-**
3 **CATION FOR ASYLUM AND FOR PREPARING**
4 **CERTAIN POST-CONVICTION APPLICATIONS.**

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

7 “(e) CRIMINAL PENALTIES FOR FAILURE TO DIS-
8 CLOSE ROLE AS DOCUMENT PREPARER.—

9 “(1) If a person is required by law or regulation
10 to disclose the fact that the person, on behalf of an-
11 other person and for a fee or other remuneration,
12 has prepared or assisted in preparing an application
13 for asylum pursuant to section 208, or the regula-
14 tions promulgated thereunder and who knowingly
15 and willfully fails to disclose, conceals, or covers up
16 such fact, and the application was falsely made, the
17 person shall—

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

21 “(B) be prohibited from preparing or as-
22 sisting in preparing, regardless of whether for
23 a fee or other remuneration, any other such ap-
24 plication for a period of at least 5 years and not
25 more than 15 years.

1 “(2) Whoever, having been convicted of a viola-
2 tion of paragraph (1), knowingly and willfully pre-
3 pares or assists in preparing an application for asy-
4 lum pursuant to section 208, or the regulations pro-
5 mulgated thereunder, regardless of whether for a fee
6 or other remuneration, in violation of paragraph
7 (1)(B) shall be imprisoned for not less than 5 years
8 or more than 15 years, fined in accordance with title
9 18, United States Code, or both, and prohibited
10 from preparing or assisting in preparing any other
11 such application.”.

12 **SEC. 215. CRIMINAL PENALTY FOR KNOWINGLY PRESENT-**
13 **ING DOCUMENT WHICH FAILS TO CONTAIN**
14 **REASONABLE BASIS IN LAW OR FACT.**

15 The fourth paragraph of section 1546(a) of title 18,
16 United States Code, is amended by striking “containing
17 any such false statement” and inserting “which contains
18 any such false statement or which fails to contain any rea-
19 sonable basis in law or fact”.

20 **SEC. 216. CRIMINAL PENALTIES FOR FALSE CLAIM TO CITI-**
21 **ZENSHIP.**

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

24 (1) by striking the dash at the end of para-
25 graph (d) and inserting “; or”, and

1 (2) by inserting after paragraph (d) the follow-
2 ing:

3 “(e) Whoever knowingly makes any false statement
4 or claim that he is, or at any time has been, a citizen
5 or national of the United States, with the intent to obtain
6 on behalf of himself, or any other person, any Federal ben-
7 efit or service, or to engage unlawfully in employment in
8 the United States—”.

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

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

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

15 (1) in subsection (a), by inserting after para-
16 graph (5) the following new paragraph:

17 “(6) The court, in imposing sentence on a person con-
18 victed of a violation of, or conspiracy to violate, section
19 1541, 1542, 1543, 1544, or 1546 of this title, or a viola-
20 tion of, or conspiracy to violate, section 1028 of this title
21 if committed in connection with passport or visa issuance
22 or use, shall order that the person forfeit to the United
23 States any property, real or personal, which the person
24 used, or intended to be used, in committing, or facilitating
25 the commission of, the violation, and any property con-

1 stituting, or derived from, or traceable to, any proceeds
2 the person obtained, directly or indirectly, as a result of
3 such violation.”, and

4 (2) in subsection (b)(1)(B), by inserting “or
5 (a)(6)” after “(a)(2)”.

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

7 Section 986(a) of title 18, United States Code, is
8 amended by inserting “1028, 1541, 1542, 1543, 1544,
9 1546,” before “1956”.

10 **SEC. 223. EFFECTIVE DATE.**

11 The amendments made by this subtitle shall take ef-
12 fect on the first day of the first month that begins more
13 than 90 days after the date of the enactment of this Act.

14 **TITLE III—INSPECTION, APPRE-**
15 **HENSION, DETENTION, ADJU-**
16 **DICATION, AND REMOVAL OF**
17 **INADMISSIBLE AND DEPORT-**
18 **ABLE ALIENS**

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

21 **SEC. 300. OVERVIEW OF CHANGES IN REMOVAL PROCE-**
22 **DURES.**

23 This subtitle amends the provisions of the Immigra-
24 tion and Nationality Act relating to procedures for inspec-

1 tion, exclusion, and deportation of aliens so as to provide
2 for the following:

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

8 (2) NO REWARD FOR ILLEGAL ENTRANTS OR
9 VISA OVERSTAYERS.—No alien will gain immigration
10 benefits by entering illegally or overstaying the pe-
11 riod of authorized admission. Such aliens will not be
12 eligible for most discretionary immigration benefits,
13 such as suspension of removal and work authoriza-
14 tion.

15 (3) STRICTER STANDARDS TO ASSURE DETEN-
16 TION OF ALIENS.—There are more stringent stand-
17 ards for the release of aliens (particularly aliens con-
18 victed of aggravated felonies) during and after re-
19 moval proceedings.

20 (4) SIMPLIFIED, SINGLE REMOVAL PROCEEDING
21 (IN PLACE OF SEPARATE EXCLUSION AND DEPORTA-
22 TION PROCEEDINGS).—The procedures for exclusion
23 and deportation are consolidated into a simpler, sin-
24 gle procedure for removal of inadmissible and de-
25 portable aliens.

1 (5) STREAMLINED JUDICIAL REVIEW.—Judicial
2 review is streamlined through removing a layer of re-
3 view in exclusion cases, shortening the time period
4 to file for review, and permitting the removal of in-
5 admissible aliens pending the review.

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

12 (7) PROTECTION OF APPLICANTS FOR ASY-
13 LUM.—Throughout the process, the procedures pro-
14 tect those aliens who present credible claims for asy-
15 lum by giving them an opportunity for a full hearing
16 on their claims.

17 (8) REORGANIZATION.—The provisions of the
18 Act are reorganized to provide a more logical pro-
19 gression from arrival and inspection through pro-
20 ceedings and removal.

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

4 (a) “ADMISSION” DEFINED.—Paragraph (13) of sec-
5 tion 101(a) (8 U.S.C. 1101(a)) is amended to read as fol-
6 lows:

7 “(13)(A) The terms ‘admission’ and ‘admitted’ mean,
8 with respect to an alien, the entry of the alien into the
9 United States after inspection and authorization by an im-
10 migration officer.

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

14 “(C) An alien lawfully admitted for permanent resi-
15 dence in the United States shall not be regarded as seek-
16 ing an admission into the United States for purposes of
17 the immigration laws unless the alien—

18 “(i) has abandoned or relinquished that status,

19 “(ii) has engaged in illegal activity after having
20 departed the United States,

21 “(iii) has departed from the United States while
22 under legal process seeking removal of the alien
23 from the United States, including removal proceed-
24 ings under this Act and extradition proceedings, or

1 “(iv) has been convicted of an aggravated fel-
2 ony, unless since such conviction the alien has been
3 granted relief under section 240A(a).”.

4 (b) INADMISSIBILITY OF ALIENS PRESENT WITHOUT
5 ADMISSION OR PAROLE.—Section 212(a) (8 U.S.C.
6 1182(a)) is further amended by redesignating paragraph
7 (9) as paragraph (10) and by inserting after paragraph
8 (8) the following new paragraph:

9 “(9) PRESENT WITHOUT ADMISSION OR PA-
10 ROLE.—An alien present in the United States with-
11 out being admitted or paroled, or who arrives in the
12 United States at any time or place other than as
13 designated by the Attorney General, is inadmis-
14 sible.”.

15 (c) REVISION TO GROUND OF INADMISSIBILITY FOR
16 ILLEGAL ENTRANTS AND IMMIGRATION VIOLATORS.—
17 Subparagraphs (A) and (B) of section 212(a)(6) (8 U.S.C.
18 1182(a)(6)) are amended to read as follows:

19 “(A) ALIENS PREVIOUSLY REMOVED.—
20 “(i) ARRIVING ALIENS.—Any alien
21 who has been ordered removed under sec-
22 tion 235(b)(1) or at the end of proceedings
23 under section 240 initiated upon the
24 alien’s arrival in the United States and
25 who again seeks admission within 5 years

1 of the date of such removal is inadmissible,
2 unless prior to the alien's reembarkation at
3 a place outside the United States or at-
4 tempt to be admitted from foreign contig-
5 uous territory the Attorney General has
6 consented to the alien's reapplying for ad-
7 mission.

8 “(ii) OTHER ALIENS.—Any alien not
9 described in clause (i) who has been or-
10 dered removed under section 240 or any
11 other provision of law and who again seeks
12 admission within 10 years of the date of
13 such removal (or within 20 years in the
14 case of an alien convicted of an aggravated
15 felony) is inadmissible, unless prior to the
16 alien's reembarkation at a place outside
17 the United States or attempt to be admit-
18 ted from foreign contiguous territory the
19 Attorney General has consented to the
20 alien's reapplying for admission.

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

23 “(i) IN GENERAL.—Any alien who was
24 unlawfully present in the United States for
25 an aggregate period totaling 1 year is in-

1 admissible unless the alien has remained
2 outside the United States for a period of
3 10 years.

4 “(ii) EXCEPTIONS.—

5 “(I) MINORS.—No period of time
6 in which an alien is under 21 years of
7 age shall be taken into account in de-
8 termining the period of unlawful pres-
9 ence in the United States under
10 clause (i).

11 “(II) ASYLEES.—No period of
12 time in which an alien has a bona fide
13 application for asylum pending under
14 section 208 shall be taken into ac-
15 count in determining the period of un-
16 lawful presence in the United States
17 under clause (i).

18 “(iii) EXTENSION.—The Attorney
19 General may extend the period of 1 year
20 under clause (i) to a period of 15 months
21 in the case of an alien who applies to the
22 Attorney General (before the alien has
23 been present unlawfully in the United
24 States for a period totaling 1 year) and es-

1 tablishes to the satisfaction of the Attorney
2 General that—

3 “(I) the alien is not inadmissible
4 under clause (i) at the time of the ap-
5 plication, and

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

9 (d) ADJUSTMENT IN GROUNDS FOR DEPORTA-
10 TION.—Section 241 (8 U.S.C. 1251) is amended—

11 (1) in the matter before paragraph (1) of sub-
12 section (a), by striking “in the United States” and
13 inserting “in and admitted to the United States”;

14 (2) in subsection (a)(1), by striking “EXCLUD-
15 ABLE” each place it appears and inserting “INAD-
16 MISSIBLE”;

17 (3) in subsection (a)(1)(A), by striking “exclud-
18 able” and inserting “inadmissible”; and

19 (4) by amending subparagraph (B) of sub-
20 section (a)(1) to read as follows:

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

1 **SEC. 302. INSPECTION OF ALIENS; EXPEDITED REMOVAL**
2 **OF INADMISSIBLE ARRIVING ALIENS; REFER-**
3 **RAL FOR HEARING (REVISED SECTION 235).**

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

6 “INSPECTION BY IMMIGRATION OFFICERS; EXPEDITED
7 REMOVAL OF INADMISSIBLE ARRIVING ALIENS; RE-
8 FERRAL FOR HEARING

9 “SEC. 235. (a) INSPECTION.—

10 “(1) ALIENS TREATED AS APPLICANTS FOR AD-
11 MISSION.—An alien present in the United States
12 who has not been admitted or who arrives in the
13 United States (whether or not at a designated port
14 of arrival) shall be deemed for purposes of this Act
15 an applicant for admission.

16 “(2) STOWAWAYS.—An arriving alien who is a
17 stowaway is not eligible to apply for admission or to
18 be admitted and shall be ordered removed upon in-
19 spection by an immigration officer.

20 “(3) INSPECTION.—All aliens (including alien
21 crewmen) who are applicants for admission or other-
22 wise seeking admission or readmission to or transit
23 through the United States shall be inspected by im-
24 migration officers.

25 “(4) WITHDRAWAL OF APPLICATION FOR AD-
26 MISSION.—An alien applying for admission may, in

1 the discretion of the Attorney General and at any
2 time, be permitted to withdraw the application for
3 admission and depart immediately from the United
4 States.

5 “(5) STATEMENTS.—An applicant for admis-
6 sion may be required to state under oath any infor-
7 mation sought by an immigration officer regarding
8 the purposes and intentions of the applicant in seek-
9 ing admission to the United States, including the
10 applicant’s intended length of stay and whether the
11 applicant intends to remain permanently or become
12 a United States citizen, and whether the applicant
13 is inadmissible.

14 “(b) INSPECTION OF APPLICANTS FOR ADMISSION.—

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

17 “(A) SCREENING.—If the examining immi-
18 gration officer determines that an alien arriving
19 in the United States (whether or not at a port
20 of entry) is inadmissible under section
21 212(a)(6)(C) or 212(a)(7) and—

22 “(i) does not indicate either an inten-
23 tion to apply for asylum under section 208
24 or a fear of persecution, the officer shall
25 order the alien removed from the United

1 States without further hearing or review;
2 or

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

8 “(B) ASYLUM INTERVIEWS.—

9 “(i) CONDUCT BY ASYLUM OFFI-
10 CERS.—An asylum officer shall promptly
11 conduct interviews of aliens referred under
12 subparagraph (A)(ii).

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

20 “(iii) REMOVAL WITHOUT FURTHER
21 REVIEW IF NO CREDIBLE FEAR OF PERSE-
22 CUTION.—

23 “(I) IN GENERAL.—Subject to
24 subclause (II), if the officer deter-
25 mines that an alien does not have a

1 credible fear of persecution, the officer
2 shall order the alien removed from the
3 United States without further hearing
4 or review.

5 “(II) REVIEW OF DETERMINA-
6 TION BY SUPERVISORY OFFICER.—
7 The Attorney General shall promul-
8 gate regulations to provide for the im-
9 mediate review by a supervisory asy-
10 lum officer at the port of entry of a
11 determination under subclause (I).

12 “(iv) INFORMATION ABOUT INTER-
13 VIEWS.—The Attorney General shall pro-
14 vide information concerning the asylum
15 interview described in this subparagraph to
16 aliens who may be eligible. An alien who is
17 eligible for such interview may consult with
18 a person or persons of the alien’s choosing
19 prior to the interview or any review there-
20 of, according to regulations prescribed by
21 the Attorney General. Such consultation
22 shall be at no expense to the Government
23 and shall not delay the process.

24 “(v) CREDIBLE FEAR OF PERSECU-
25 TION DEFINED.—For purposes of this sub-

1 paragraph, the term ‘credible fear of perse-
2 cution’ means (I) that it is more probable
3 than not that the statements made by the
4 alien in support of the alien’s claim are
5 true, and (II) that there is a significant
6 possibility, in light of such statements and
7 of such other facts as are known to the of-
8 ficer, that the alien could establish eligi-
9 bility for asylum under section 208.

10 “(C) LIMITATION ON ADMINISTRATIVE RE-
11 VIEW.—A removal order entered in accordance
12 with subparagraph (A)(i) or (B)(iii)(I) is not
13 subject to administrative appeal, except that the
14 Attorney General shall provide by regulation for
15 prompt review of such an order under subpara-
16 graph (A)(i) against an alien who claims under
17 oath, or as permitted under penalty of perjury
18 under section 1746 of title 28, United States
19 Code, after having been warned of the penalties
20 for falsely making such claim under such condi-
21 tions, to have been lawfully admitted for perma-
22 nent residence.

23 “(D) LIMIT ON COLLATERAL ATTACKS.—
24 In any action brought against an alien under
25 section 275(a) or section 276, the court shall

1 not have jurisdiction to hear any claim attack-
2 ing the validity of an order of removal entered
3 under subparagraph (A)(i) or (B)(iii)(I).

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

7 “(i) has had professional training in
8 country conditions, asylum law, and inter-
9 view techniques, and

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

12 “(2) INSPECTION OF OTHER ALIENS.—

13 “(A) IN GENERAL.—Subject to subpara-
14 graph (B), in the case of an alien who is an ap-
15 plicant for admission, if the examining immi-
16 gration officer determines that an alien seeking
17 admission is not clearly and beyond a doubt en-
18 titled to be admitted, the alien shall be detained
19 for a hearing under section 240.

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

22 “(i) who is a crewman,

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

24 or

25 “(iii) who is a stowaway.

1 “(3) CHALLENGE OF DECISION.—The decision
2 of the examining immigration officer, if favorable to
3 the admission of any alien, shall be subject to chal-
4 lenge by any other immigration officer and such
5 challenge shall operate to take the alien whose privi-
6 lege to be admitted is so challenged, before an immi-
7 gration judge for a hearing under section 240.

8 “(c) REMOVAL OF ALIENS INADMISSIBLE ON SECUR-
9 RITY AND RELATED GROUNDS.—

10 “(1) REMOVAL WITHOUT FURTHER HEARING.—
11 If an immigration officer or an immigration judge
12 suspects that an alien who has not been admitted to
13 the United States may be inadmissible under sub-
14 paragraph (A) (other than clause (ii)), (B), or (C)
15 of section 212(a)(3), the officer or judge shall—

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

18 “(B) report the order of removal to the At-
19 torney General; and

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

22 “(2) REVIEW OF ORDER.—(A) The Attorney
23 General shall review orders issued under paragraph
24 (1).

25 “(B) If the Attorney General—

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

5 “(ii) after consulting with appropriate se-
6 curity agencies of the United States Govern-
7 ment, concludes that disclosure of the informa-
8 tion would be prejudicial to the public interest,
9 safety, or security,

10 the Attorney General may order the alien removed
11 without further inquiry or hearing by an immigra-
12 tion judge.

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

17 “(3) SUBMISSION OF STATEMENT AND INFOR-
18 MATION.—The alien or the alien’s representative
19 may submit a written statement and additional in-
20 formation for consideration by the Attorney General.

21 “(d) AUTHORITY RELATING TO INSPECTIONS.—

22 “(1) AUTHORITY TO SEARCH CONVEYANCES.—
23 Immigration officers are authorized to board and
24 search any vessel, aircraft, railway car, or other con-

1 veyance or vehicle in which they believe aliens are
2 being brought into the United States.

3 “(2) AUTHORITY TO ORDER DETENTION AND
4 DELIVERY OF ARRIVING ALIENS.—Immigration offi-
5 cers are authorized to order an owner, agent, mas-
6 ter, commanding officer, person in charge, purser, or
7 consignee of a vessel or aircraft bringing an alien
8 (except an alien crewmember) to the United
9 States—

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

12 “(B) to deliver the alien to an immigration
13 officer for inspection or to a medical officer for
14 examination.

15 “(3) ADMINISTRATION OF OATH AND CONSID-
16 ERATION OF EVIDENCE.—The Attorney General and
17 any immigration officer shall have power to admin-
18 ister oaths and to take and consider evidence of or
19 from any person touching the privilege of any alien
20 or person he believes or suspects to be an alien to
21 enter, reenter, transit through, or reside in the Unit-
22 ed States or concerning any matter which is mate-
23 rial and relevant to the enforcement of this Act and
24 the administration of the Service.

1 “(4) SUBPOENA AUTHORITY.—(A) The Attor-
2 ney General and any immigration officer shall have
3 power to require by subpoena the attendance and
4 testimony of witnesses before immigration officers
5 and the production of books, papers, and documents
6 relating to the privilege of any person to enter, reen-
7 ter, reside in, or pass through the United States or
8 concerning any matter which is material and rel-
9 evant to the enforcement of this Act and the admin-
10 istration of the Service, and to that end may invoke
11 the aid of any court of the United States.

12 “(B) Any United States district court within
13 the jurisdiction of which investigations or inquiries
14 are being conducted by an immigration officer may,
15 in the event of neglect or refusal to respond to a
16 subpoena issued under this paragraph or refusal to
17 testify before an immigration officer, issue an order
18 requiring such persons to appear before an immigra-
19 tion officer, produce books, papers, and documents
20 if demanded, and testify, and any failure to obey
21 such order of the court may be punished by the
22 court as a contempt thereof.”.

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

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

6 “APPREHENSION AND DETENTION OF ALIENS NOT
7 LAWFULLY IN THE UNITED STATES

8 “SEC. 236. (a) ARREST, DETENTION, AND RE-
9 LEASE.—On a warrant issued by the Attorney General,
10 an alien may be arrested and detained pending a decision
11 on whether the alien is to be removed from the United
12 States. Except as provided in subsection (c) and pending
13 such decision, the Attorney General—

14 “(1) may continue to detain the arrested alien;
15 and

16 “(2) may release the alien on—

17 “(A) bond of at least \$1,500 with security
18 approved by, and containing conditions pre-
19 scribed by, the Attorney General; or

20 “(B) conditional parole; but

21 “(3) may not provide the alien with work au-
22 thorization (including an ‘employment authorized’
23 endorsement or other appropriate work permit), un-
24 less the alien is lawfully admitted for permanent res-
25 idence or otherwise would (without regard to re-
26 moval proceedings) be provided such authorization.

1 “(b) REVOCATION OF BOND OR PAROLE.—The At-
2 torney General at any time may revoke a bond or parole
3 authorized under subsection (a), rearrest the alien under
4 the original warrant, and detain the alien.

5 “(c) ALIENS CONVICTED OF AGGRAVATED FELO-
6 NIES.—

7 “(1) CUSTODY.—The Attorney General shall
8 take into custody any alien convicted of an aggra-
9 vated felony when the alien is released, without re-
10 gard to whether the alien is released on parole, su-
11 pervised release, or probation, and without regard to
12 whether the alien may be arrested or imprisoned
13 again for the same offense.

14 “(2) RELEASE.—The Attorney General may re-
15 lease the alien only if—

16 “(A) the alien was lawfully admitted to the
17 United States and satisfies the Attorney Gen-
18 eral that the alien will not pose a danger to the
19 safety of other persons or of property and is
20 likely to appear for any scheduled proceeding;

21 “(B) the alien was not lawfully admitted to
22 the United States, cannot be removed because
23 the designated country of removal will not ac-
24 cept the alien, and satisfies the Attorney Gen-
25 eral that the alien will not pose a danger to the

1 safety of other persons or of property and is
2 likely to appear for any scheduled proceeding;
3 or

4 “(C) the Attorney General decides pursu-
5 ant to section 3521 of title 18, United States
6 Code, that release of the alien from custody is
7 necessary to provide protection to a witness, a
8 potential witness, a person cooperating with an
9 investigation into major criminal activity, or an
10 immediate family member or close associate of
11 a witness, potential witness, or person cooperat-
12 ing with such an investigation.

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

16 “(d) IDENTIFICATION OF ALIENS CONVICTED OF AG-
17 GRAVATED FELONIES.—(1) The Attorney General shall
18 devise and implement a system—

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

24 “(B) to designate and train officers and em-
25 ployees of the Service to serve as a liaison to Fed-

1 eral, State, and local law enforcement and correc-
2 tional agencies and courts with respect to the arrest,
3 conviction, and release of any alien charged with an
4 aggravated felony; and

5 “(C) which uses computer resources to main-
6 tain a current record of aliens who have been con-
7 victed of an aggravated felony and who have been
8 removed.

9 “(2) The record under paragraph (1)(C) shall be
10 made available—

11 “(A) to inspectors at ports of entry and to bor-
12 der patrol agents at sector headquarters for pur-
13 poses of immediate identification of any such pre-
14 viously removed alien seeking to reenter the United
15 States, and

16 “(B) to officials of the Department of State for
17 use in its automated visa lookout system.”.

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

1 **SEC. 304. REMOVAL PROCEEDINGS; CANCELLATION OF RE-**
2 **MOVAL AND ADJUSTMENT OF STATUS; VOL-**
3 **UNTARY DEPARTURE (REVISED AND NEW**
4 **SECTIONS 239 TO 240C).**

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

6 (1) by redesignating section 239 as section 234
7 and by moving such section to immediately follow
8 section 233;

9 (2) by redesignating section 240 (8 U.S.C.
10 1230) as section 240C; and

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

13 “INITIATION OF REMOVAL PROCEEDINGS

14 “SEC. 239. (a) NOTICE TO APPEAR.—

15 “(1) IN GENERAL.—In removal proceedings
16 under section 240, written notice (in this section re-
17 ferred to as a ‘notice to appear’) shall be given in
18 person to the alien (or, if personal service is not
19 practicable, through service by mail to the alien or
20 to the alien’s counsel of record, if any) specifying the
21 following:

22 “(A) The nature of the proceedings against
23 the alien.

24 “(B) The legal authority under which the
25 proceedings are conducted.

1 “(C) The acts or conduct alleged to be in
2 violation of law.

3 “(D) The charges against the alien and the
4 statutory provisions alleged to have been vio-
5 lated.

6 “(E) The alien may be represented by
7 counsel and the alien will be provided (A) a pe-
8 riod of time to secure counsel under subsection
9 (b)(1) and (B) a current list of counsel pre-
10 pared under subsection (b)(2).

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

17 “(ii) The requirement that the alien must
18 provide the Attorney General immediately with
19 a written record of any change of the alien’s ad-
20 dress or telephone number.

21 “(iii) The consequences under section
22 240(b)(5) of failure to provide address and tele-
23 phone information pursuant to this subpara-
24 graph.

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

3 “(ii) The consequences under section
4 240(b)(5) of the failure, except under excep-
5 tional circumstances, to appear at such proceed-
6 ings.

7 “(2) NOTICE OF CHANGE IN TIME OR PLACE OF
8 PROCEEDINGS.—

9 “(A) IN GENERAL.—In removal proceed-
10 ings under section 240, in the case of any
11 change or postponement in the time and place
12 of such proceedings, subject to subparagraph
13 (B) a written notice shall be given in person to
14 the alien (or, if personal service is not prac-
15 ticable, through service by mail to the alien or
16 to the alien’s counsel of record, if any) specify-
17 ing—

18 “(i) the new time or place of the pro-
19 ceedings, and

20 “(ii) the consequences under section
21 240(b)(5) of failing, except under excep-
22 tional circumstances, to attend such pro-
23 ceedings.

24 “(B) EXCEPTION.—In the case of an alien
25 not in detention, a written notice shall not be

1 required under this paragraph if the alien has
2 failed to provide the address required under
3 paragraph (1)(F).

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

9 “(b) SECURING OF COUNSEL.—

10 “(1) IN GENERAL.—In order that an alien be
11 permitted the opportunity to secure counsel before
12 the first hearing date in proceedings under section
13 240, the hearing date shall not be scheduled earlier
14 than 10 days after the service of the notice to ap-
15 pear, unless the alien requests in writing an earlier
16 hearing date.

17 “(2) CURRENT LISTS OF COUNSEL.—The Attor-
18 ney General shall provide for lists (updated not less
19 often than quarterly) of persons who have indicated
20 their availability to represent pro bono aliens in pro-
21 ceedings under section 240. Such lists shall be pro-
22 vided under subsection (a)(1)(E) and otherwise
23 made generally available.

24 “(c) SERVICE BY MAIL.—Service by mail under this
25 section shall be sufficient if there is proof of attempted

1 delivery to the last address provided by the alien in accord-
2 ance with subsection (a)(1)(F).

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

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

12 “REMOVAL PROCEEDINGS

13 “SEC. 240. (a) PROCEEDING.—

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

17 “(2) CHARGES.—An alien placed in proceedings
18 under this section may be charged with any applica-
19 ble ground of inadmissibility under section 212(a) or
20 any applicable ground of deportability under section
21 237(a).

22 “(3) EXCLUSIVE PROCEDURES.—Unless other-
23 wise specified in this Act, a proceeding under this
24 section shall be the sole and exclusive procedure for
25 determining whether an alien may be admitted to
26 the United States or, if the alien has been so admit-

1 ted, removed from the United States. Nothing in
2 this section shall affect proceedings conducted pur-
3 suant to section 238.

4 “(b) CONDUCT OF PROCEEDING.—

5 “(1) AUTHORITY OF IMMIGRATION JUDGE.—

6 The immigration judge shall administer oaths, re-
7 ceive evidence, and interrogate, examine, and cross-
8 examine the alien and any witnesses. The immigra-
9 tion judge may issue subpoenas for the attendance
10 of witnesses and presentation of evidence. The immi-
11 gration judge shall have authority (under regulations
12 prescribed by the Attorney General) to sanction by
13 civil money penalty any action (or inaction) in con-
14 tempt of the judge’s proper exercise of authority
15 under this Act.

16 “(2) FORM OF PROCEEDING.—

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

19 “(i) in person,

20 “(ii) through video conference, or

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

23 “(B) CONSENT REQUIRED IN CERTAIN
24 CASES.—An evidentiary hearing on the merits
25 may only be conducted through a telephone con-

1 ference with the consent of the alien involved
2 after the alien has been advised of the right to
3 proceed in person or through video conference.

4 “(3) PRESENCE OF ALIEN.—If it is impractica-
5 ble by reason of an alien’s mental incompetency for
6 the alien to be present at the proceeding, the Attor-
7 ney General shall prescribe safeguards to protect the
8 rights and privileges of the alien.

9 “(4) ALIENS RIGHTS IN PROCEEDING.—In pro-
10 ceedings under this section, under regulations of the
11 Attorney General—

12 “(A) the alien shall have the privilege of
13 being represented, at no expense to the Govern-
14 ment, by counsel of the alien’s choosing who is
15 authorized to practice in such proceedings,

16 “(B) the alien shall have a reasonable op-
17 portunity to examine the evidence against the
18 alien, to present evidence on the alien’s own be-
19 half, and to cross-examine witnesses presented
20 by the Government, and

21 “(C) a complete record shall be kept of all
22 testimony and evidence produced at the pro-
23 ceeding.

24 “(5) CONSEQUENCES OF FAILURE TO AP-
25 PEAR.—

1 “(A) IN GENERAL.—Any alien who, after
2 written notice required under paragraph (1) or
3 (2) of section 239(a) has been provided to the
4 alien or the alien’s counsel of record, does not
5 attend a proceeding under this section, shall be
6 ordered removed in absentia if the Service es-
7 tablishes by clear, unequivocal, and convincing
8 evidence that the written notice was so provided
9 and that the alien is removable (as defined in
10 subsection (e)(2)). The written notice by the
11 Attorney General shall be considered sufficient
12 for purposes of this subparagraph if provided at
13 the most recent address provided under section
14 239(a)(1)(F).

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

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

22 “(i) upon a motion to reopen filed
23 within 180 days after the date of the order
24 of removal if the alien demonstrates that
25 the failure to appear was because of excep-

1 tional circumstances (as defined in sub-
2 section (e)(1)), or

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

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

13 “(D) EFFECT ON JUDICIAL REVIEW.—Any
14 petition for review under section 242 of an
15 order entered in absentia under this paragraph
16 shall (except in cases described in section
17 242(b)(5)) be confined to (i) the validity of the
18 notice provided to the alien, (ii) the reasons for
19 the alien’s not attending the proceeding, and
20 (iii) whether or not the alien is removable.

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

23 “(A) define in a proceeding before an im-
24 migration judge or before an appellate adminis-

1 trative body under this title, frivolous behavior
2 for which attorneys may be sanctioned,

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

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

10 Nothing in this paragraph shall be construed as lim-
11 iting the authority of the Attorney General to take
12 actions with respect to inappropriate behavior.

13 “(7) LIMITATION ON DISCRETIONARY RELIEF
14 FOR FAILURE TO APPEAR.—Any alien against whom
15 a final order of removal is entered in absentia under
16 this subsection and who, at the time of the notice
17 described in paragraph (1) or (2) of section 239(a),
18 was provided oral notice, either in the alien’s native
19 language or in another language the alien under-
20 stands, of the time and place of the proceedings and
21 of the consequences under this paragraph of failing,
22 other than because of exceptional circumstances (as
23 defined in subsection (e)(1)) to attend a proceeding
24 under this section, shall not be eligible for relief
25 under section 240A, 240B, 245, 248, or 249 for a

1 period of 10 years after the date of the entry of the
2 final order of removal.

3 “(c) DECISION AND BURDEN OF PROOF.—

4 “(1) DECISION.—

5 “(A) IN GENERAL.—At the conclusion of
6 the proceeding the immigration judge shall de-
7 cide whether an alien is removable from the
8 United States. The determination of the immi-
9 gration judge shall be based only on the evi-
10 dence produced at the hearing.

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

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

21 “(A) if the alien is an applicant for admis-
22 sion, that the alien is clearly and beyond doubt
23 entitled to be admitted and is not inadmissible
24 under section 212; or

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

4 In meeting the burden of proof under subparagraph
5 (B), the alien shall have access to the alien’s visa or
6 other entry document, if any, and any other records
7 and documents, not considered by the Attorney Gen-
8 eral to be confidential, pertaining to the alien’s ad-
9 mission or presence in the United States.

10 “(3) BURDEN ON SERVICE IN CASES OF DE-
11 PORTABLE ALIENS.—In the proceeding the Service
12 has the burden of establishing by clear and convinc-
13 ing evidence that, in the case of an alien who has
14 been admitted to the United States, the alien is de-
15 portable. No decision on deportability shall be valid
16 unless it is based upon reasonable, substantial, and
17 probative evidence.

18 “(4) NOTICE.—If the immigration judge de-
19 cides that the alien is removable and orders the alien
20 to be removed, the judge shall inform the alien of
21 the right to appeal that decision and of the con-
22 sequences for failure to depart under the order of re-
23 moval, including civil and criminal penalties.

24 “(5) MOTIONS TO RECONSIDER.—

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

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

7 “(C) CONTENTS.—The motion shall speci-
8 fy the errors of law or fact in the previous order
9 and shall be supported by pertinent authority.

10 “(6) MOTIONS TO REOPEN.—

11 “(A) IN GENERAL.—An alien may file one
12 motion to reopen proceedings under this sec-
13 tion.

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

19 “(C) DEADLINE.—

20 “(i) IN GENERAL.—Except as pro-
21 vided in this subparagraph, the motion to
22 reopen shall be filed within 90 days of the
23 date of entry of a final administrative
24 order of removal.

1 “(ii) ASYLUM.—There is no time limit
2 on the filing of a motion to reopen if the
3 basis of the motion is to apply for relief
4 under sections 208 or 241(b)(3) and is
5 based on changed country conditions arising
6 in the country of nationality or the
7 country to which removal has been ordered,
8 if such evidence is material and was
9 not available and would not have been discovered
10 or presented at the previous proceeding.
11

12 “(iii) FAILURE TO APPEAR.—A motion
13 to reopen may be filed within 180
14 days after the date of the final order of removal
15 if the order has been entered pursuant to subsection
16 (b)(5) due to the alien’s failure to appear for proceedings
17 under this section and the alien establishes that
18 the alien’s failure to appear was because of exceptional
19 circumstances beyond the control of the alien or because
20 the alien did not receive the notice required under section
21 239(a)(2).
22

23 “(d) STIPULATED REMOVAL.—The Attorney General
24 shall provide by regulation for the entry by an immigration
25

1 judge of an order of removal stipulated to by the alien
2 (or the alien’s representative) and the Service. A stipu-
3 lated order shall constitute a conclusive determination of
4 the alien’s removability from the United States.

5 “(e) DEFINITIONS.—In this section and section
6 240A:

7 “(1) EXCEPTIONAL CIRCUMSTANCES.—The
8 term ‘exceptional circumstances’ refers to excep-
9 tional circumstances (such as serious illness of the
10 alien or serious illness or death of the spouse, child,
11 or parent of the alien, but not including less compel-
12 ling circumstances) beyond the control of the alien.

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

15 “(A) in the case of an alien not admitted
16 to the United States, that the alien is inadmis-
17 sible under section 212, or

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

21 “CANCELLATION OF REMOVAL; ADJUSTMENT OF STATUS

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

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

3 “(2) has resided in the United States continu-
4 ously for 7 years after having been admitted in any
5 status, and

6 “(3) has not been convicted of an aggravated
7 felony or felonies for which the alien has been sen-
8 tenced, in the aggregate, to a term of imprisonment
9 of at least 5 years.

10 “(b) CANCELLATION OF REMOVAL AND ADJUSTMENT
11 OF STATUS FOR CERTAIN NONPERMANENT RESI-
12 DENTS.—

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

16 “(A) has been physically present in the
17 United States for a continuous period of not
18 less than 7 years since being admitted to the
19 United States;

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

22 “(C) has not been convicted of an aggra-
23 vated felony; and

24 “(D) establishes that removal would result
25 in extreme hardship to the alien or to the

1 alien's spouse, parent, or child, who is a citizen
2 of the United States or an alien lawfully admit-
3 ted for permanent residence.

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

8 “(A) has been battered or subjected to ex-
9 treme cruelty in the United States by a spouse
10 or parent who is a United States citizen or law-
11 ful permanent resident (or is the parent of a
12 child of a United States citizen or lawful per-
13 manent resident and the child has been bat-
14 tered or subjected to extreme cruelty in the
15 United States by such citizen or permanent
16 resident parent);

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

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

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

1 section 237, and has not been convicted of an
2 aggravated felony; and

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

7 In acting on applications under this paragraph, the
8 Attorney General shall consider any credible evi-
9 dence relevant to the application. The determination
10 of what evidence is credible and the weight to be
11 given that evidence shall be within the sole discretion
12 of the Attorney General.

13 “(3) ADJUSTMENT OF STATUS.—The Attorney
14 General may adjust to the status of an alien lawfully
15 admitted for permanent residence any alien who the
16 Attorney General determines meets the requirements
17 of paragraph (1) or (2). The Attorney General shall
18 record the alien’s lawful admission for permanent
19 residence as of the date the Attorney General’s can-
20 cellation of removal under paragraph (1) or (2) or
21 determination under this paragraph.

22 “(c) ALIENS INELIGIBLE FOR RELIEF.—The provi-
23 sions of subsections (a) and (b)(1) shall not apply to any
24 of the following aliens:

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

3 “(2) An alien who was admitted to the United
4 States as a visitor for business or pleasure under
5 section 101(a)(15)(B) or as a student under section
6 101(a)(15)(F) or 101(a)(15)(M), unless the alien
7 has adjusted status to that of an alien lawfully ad-
8 mitted for permanent residence.

9 “(3) An alien who was admitted to the United
10 States as a nonimmigrant exchange alien as defined
11 in section 101(a)(15)(J), or has acquired the status
12 of such a nonimmigrant exchange alien after admis-
13 sion, in order to receive graduate medical education
14 or training, regardless of whether or not the alien is
15 subject to or has fulfilled the two-year foreign resi-
16 dence requirement of section 212(e).

17 “(4) An alien who—

18 “(i) was admitted to the United States as
19 a nonimmigrant exchange alien as defined in
20 section 101(a)(15)(J) or has acquired the sta-
21 tus of such a nonimmigrant exchange alien
22 after admission other than to receive graduate
23 medical education or training,

24 “(ii) is subject to the two-year foreign resi-
25 dence requirement of section 212(e), and

1 “(iii) has not fulfilled that requirement or
2 received a waiver thereof.

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

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

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

13 “(2) TREATMENT OF CERTAIN BREAKS IN
14 PRESENCE.—An alien shall be considered to have
15 failed to maintain continuous physical presence in
16 the United States under subsections (b)(1) and
17 (b)(2) if the alien has departed from the United
18 States for any continuous period exceeding 90 days
19 or for any periods in the aggregate exceeding 180
20 days.

21 “(3) CONTINUITY NOT REQUIRED BECAUSE OF
22 HONORABLE SERVICE IN ARMED FORCES AND PRES-
23 ENCE UPON ENTRY INTO SERVICE.—The require-
24 ments of continuous residence or continuous physical

1 presence in the United States under subsections (a)
2 and (b) shall not apply to an alien who—

3 “(A) has served for a minimum period of
4 24 months in an active-duty status in the
5 Armed Forces of the United States and, if sep-
6 arated from such service, was separated under
7 honorable conditions, and

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

10 “VOLUNTARY DEPARTURE

11 “SEC. 240B. (a) CERTAIN CONDITIONS.—

12 “(1) IN GENERAL.—The Attorney General may
13 permit an alien voluntarily to depart the United
14 States at the alien’s own expense under this sub-
15 section, in lieu of being subject to proceedings under
16 section 240 or prior to the completion of such pro-
17 ceedings, if the alien is not deportable under section
18 237(a)(2)(A)(iii) or section 237(a)(4)(B).

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

22 “(3) BOND.—The Attorney General may re-
23 quire an alien permitted to depart voluntarily under
24 this subsection to post a voluntary departure bond,
25 to be surrendered upon proof that the alien has de-
26 parted the United States within the time specified.

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

10 “(b) AT CONCLUSION OF PROCEEDINGS.—

11 “(1) IN GENERAL.—The Attorney General may
12 permit an alien voluntarily to depart the United
13 States at the alien’s own expense if, at the conclu-
14 sion of a proceeding under section 240, the immigra-
15 tion judge enters an order granting voluntary depart-
16 ure in lieu of removal and finds that—

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

21 “(B) the alien is, and has been, a person
22 of good moral character for at least 5 years im-
23 mediately preceding the alien’s application for
24 voluntary departure;

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

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

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

10 “(3) BOND.—An alien permitted to depart vol-
11 untarily under this subsection shall be required to
12 post a voluntary departure bond, in an amount nec-
13 essary to ensure that the alien will depart, to be sur-
14 rendered upon proof that the alien has departed the
15 United States within the time specified.

16 “(c) ALIENS NOT ELIGIBLE.—The Attorney General
17 shall not permit an alien to depart voluntarily under this
18 section if the alien was previously permitted to so depart
19 after having been found inadmissible under section
20 212(a)(9).

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

1 than \$5,000, and be ineligible for a period of 10 years
2 for any further relief under this section and sections 240A,
3 245, 248, and 249.

4 “(e) ADDITIONAL CONDITIONS.—The Attorney Gen-
5 eral may by regulation limit eligibility for voluntary depar-
6 ture under this section for any class or classes of aliens.

7 “(f) APPEALS OF DENIALS.—An alien may appeal
8 from denial of a request for an order of voluntary depar-
9 ture under subsection (b) in accordance with the proce-
10 dures in section 242. Notwithstanding the pendency of
11 such appeal, the alien shall be removable from the United
12 States 60 days after entry of the order of removal. The
13 alien’s removal from the United States shall not moot the
14 appeal.”.

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

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

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

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

21 (2) by redesignating section 241 as section 237

22 and by moving such section to immediately follow

23 section 236, and

1 ess), the date the alien is released from de-
2 tention or confinement.

3 “(C) SUSPENSION OF PERIOD.—The re-
4 moval period shall be extended beyond a period
5 of 90 days and the alien may remain in deten-
6 tion during such extended period if the alien
7 willfully fails or refuses to make timely applica-
8 tion in good faith for travel or other documents
9 necessary to the alien’s departure or conspires
10 or acts to prevent the alien’s removal subject to
11 an order of removal.

12 “(2) DETENTION AND RELEASE BY THE ATTOR-
13 NEY GENERAL.—During the removal period, the At-
14 torney General shall detain the alien. If there is in-
15 sufficient detention space to detain the alien, the At-
16 torney General shall make a specific finding to this
17 effect and may release the alien on a bond contain-
18 ing such conditions as the Attorney General may
19 prescribe.

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

1 “(A) to appear before an immigration offi-
2 cer periodically for identification;

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

6 “(C) to give information under oath about
7 the alien’s nationality, circumstances, habits,
8 associations, and activities, and other informa-
9 tion the Attorney General considers appro-
10 priate; and

11 “(D) to obey reasonable written restric-
12 tions on the alien’s conduct or activities that
13 the Attorney General prescribes for the alien.

14 “(4) ALIENS IMPRISONED, ARRESTED, OR ON
15 PAROLE, SUPERVISED RELEASE, OR PROBATION.—
16 Except as provided in section 343(a) of the Public
17 Health Service Act (42 U.S.C. 259(a)), the Attorney
18 General may not remove an alien who is sentenced
19 to imprisonment until the alien is released from im-
20 prisonment. Parole, supervised release, probation, or
21 possibility of arrest or further imprisonment is not
22 a reason to defer removal.

23 “(5) REINSTATEMENT OF REMOVAL ORDERS
24 AGAINST ALIENS ILLEGALLY REENTERING.—If the
25 Attorney General finds that an alien has reentered

1 the United States illegally after having been removed
2 or having departed voluntarily, under an order of re-
3 moval, the prior order of removal is reinstated from
4 its original date and is not subject to being reopened
5 or reviewed, and the alien shall be removed under
6 the prior order at any time after the reentry.

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

12 “(7) EMPLOYMENT AUTHORIZATION.—No alien
13 ordered removed shall be eligible to receive author-
14 ization to be employed in the United States unless
15 the Attorney General makes a specific finding that—

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

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

22 “(b) COUNTRIES TO WHICH ALIENS MAY BE RE-
23 MOVED.—

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

1 “(A) IN GENERAL.—Except as provided by
2 subparagraphs (B) and (C), an alien who ar-
3 rives at the United States and with respect to
4 whom proceedings under section 240 were initi-
5 ated at the time of such alien’s arrival shall be
6 removed to the country in which the alien
7 boarded the vessel or aircraft on which the alien
8 arrived in the United States.

9 “(B) TRAVEL FROM CONTIGUOUS TERRI-
10 TORY.—If the alien boarded the vessel or air-
11 craft on which the alien arrived in the United
12 States in a foreign territory contiguous to the
13 United States, an island adjacent to the United
14 States, or an island adjacent to a foreign terri-
15 tory contiguous to the United States, and the
16 alien is not a native, citizen, subject, or national
17 of, or does not reside in, the territory or island,
18 removal shall be to the country in which the
19 alien boarded the vessel that transported the
20 alien to the territory or island.

21 “(C) ALTERNATIVE COUNTRIES.—If the
22 government of the country designated in sub-
23 paragraph (A) or (B) is unwilling to accept the
24 alien into that country’s territory, removal shall

1 be to any of the following countries, as directed
2 by the Attorney General:

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

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

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

9 “(iv) A country with a government
10 that will accept the alien into the country’s
11 territory if removal to each country de-
12 scribed in a previous clause of this sub-
13 paragraph is impracticable, inadvisable, or
14 impossible.

15 “(2) OTHER ALIENS.—Subject to paragraph
16 (3)—

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

20 “(i) any alien not described in para-
21 graph (1) who has been ordered removed
22 may designate one country to which the
23 alien wants to be removed, and

1 “(ii) the Attorney General shall re-
2 move the alien to the country the alien so
3 designates.

4 “(B) LIMITATION ON DESIGNATION.—An
5 alien may designate under subparagraph (A)(i)
6 a foreign territory contiguous to the United
7 States, an adjacent island, or an island adja-
8 cent to a foreign territory contiguous to the
9 United States as the place to which the alien is
10 to be removed only if the alien is a native, citi-
11 zen, subject, or national of, or has resided in,
12 that designated territory or island.

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

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

18 “(ii) the government of the country
19 does not inform the Attorney General fi-
20 nally, within 1 month after the date the
21 Attorney General first inquires, whether
22 the government will accept the alien into
23 the country;

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

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

7 “(D) ALTERNATIVE COUNTRY.—If an alien
8 is not removed to a country designated under
9 subparagraph (A)(i), the Attorney General shall
10 remove the alien to a country of which the alien
11 is a subject, national, or citizen unless the gov-
12 ernment of the country—

13 “(i) does not inform the Attorney
14 General or the alien finally, within 1
15 month after the date the Attorney General
16 first inquires or within another period of
17 time the Attorney General decides is rea-
18 sonable, whether the government will ac-
19 cept the alien into the country; or

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

22 “(E) ADDITIONAL REMOVAL COUNTRIES.—
23 If an alien is not removed to a country under
24 the previous subparagraphs of this paragraph,

1 the Attorney General shall remove the alien to
2 any of the following countries:

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

5 “(ii) The country in which is located
6 the foreign port from which the alien left
7 for the United States or for a foreign terri-
8 tory contiguous to the United States.

9 “(iii) A country in which the alien re-
10 sided before the alien entered the country
11 from which the alien entered the United
12 States.

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

15 “(v) The country that had sovereignty
16 over the alien’s birthplace when the alien
17 was born.

18 “(vi) The country in which the alien’s
19 birthplace is located when the alien is or-
20 dered removed.

21 “(vii) If impracticable, inadvisable, or
22 impossible to remove the alien to each
23 country described in a previous clause of
24 this subparagraph, another country whose

1 government will accept the alien into that
2 country.

3 “(F) REMOVAL COUNTRY WHEN UNITED
4 STATES IS AT WAR.—When the United States is
5 at war and the Attorney General decides that it
6 is impracticable, inadvisable, inconvenient, or
7 impossible to remove an alien under this sub-
8 section because of the war, the Attorney Gen-
9 eral may remove the alien—

10 “(i) to the country that is host to a
11 government in exile of the country of which
12 the alien is a citizen or subject if the gov-
13 ernment of the host country will permit the
14 alien’s entry; or

15 “(ii) if the recognized government of
16 the country of which the alien is a citizen
17 or subject is not in exile, to a country, or
18 a political or territorial subdivision of a
19 country, that is very near the country of
20 which the alien is a citizen or subject, or,
21 with the consent of the government of the
22 country of which the alien is a citizen or
23 subject, to another country.

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

1 “(1) VESSELS AND AIRCRAFT.—An alien arriv-
2 ing at a port of entry of the United States who is
3 ordered removed either without a hearing under sec-
4 tion 235(a)(1) or 235(c) or pursuant to proceedings
5 under section 240 initiated at the time of such
6 alien’s arrival shall be removed immediately on a
7 vessel or aircraft owned by the owner of the vessel
8 or aircraft on which the alien arrived in the United
9 States, unless—

10 “(A) it is impracticable to remove the alien
11 on one of those vessels or aircraft within a rea-
12 sonable time, or

13 “(B) the alien is a stowaway—

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

16 “(ii) who has requested asylum, and

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

21 “(2) STAY OF REMOVAL.—

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

1 “(i) immediate removal is not prac-
2 ticable or proper; or

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

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

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

15 “(ii) a witness fee of \$1 a day.

16 “(C) RELEASE DURING STAY.—The Attor-
17 ney General may release an alien whose removal
18 is stayed under subparagraph (A)(ii) on—

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

22 “(ii) condition that the alien appear
23 when required as a witness and for re-
24 moval; and

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

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

5 “(A) IN GENERAL.—Except as provided in
6 subparagraph (B) and paragraph (4), an owner
7 of a vessel or aircraft bringing an alien to the
8 United States shall pay the costs of detaining
9 and maintaining the alien—

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

12 “(ii) in the case of an alien who is a
13 stowaway, while the alien is being detained
14 pursuant to subsection (d)(2)(A) or
15 (d)(2)(B)(ii).

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

18 “(i) the alien is a crewmember;

19 “(ii) the alien has an immigrant visa;

20 “(iii) the alien has a nonimmigrant
21 visa or other documentation authorizing
22 the alien to apply for temporary admission
23 to the United States and applies for admis-
24 sion not later than 120 days after the date
25 the visa or documentation was issued;

1 “(iv) the alien has a reentry permit
2 and applies for admission not later than
3 120 days after the date of the alien’s last
4 inspection and admission;

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

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

14 “(III) the owner of the vessel or air-
15 craft satisfies the Attorney General that
16 the existence of the condition relating to
17 inadmissibility could not have been discov-
18 ered by exercising reasonable care before
19 the alien boarded the vessel or aircraft; or

20 “(vi) the individual claims to be a na-
21 tional of the United States and has a Unit-
22 ed States passport.

23 “(d) REQUIREMENTS OF PERSONS PROVIDING
24 TRANSPORTATION.—

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

6 “(A) receive an alien back on the vessel or
7 aircraft or another vessel or aircraft owned or
8 operated by the same interests if the alien is or-
9 dered removed under this part; and

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

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

16 “(A) shall detain the alien on board the
17 vessel or aircraft;

18 “(B) may not permit the stowaway to land
19 in the United States, except pursuant to regula-
20 tions of the Attorney General temporarily—

21 “(i) for medical treatment,

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

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

1 “(C) if ordered by an immigration officer,
2 shall remove the stowaway on the vessel or air-
3 craft or on another vessel or aircraft.

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

11 “(e) PAYMENT OF EXPENSES OF REMOVAL.—

12 “(1) COSTS OF REMOVAL AT TIME OF ARRIV-
13 AL.—In the case of an alien who is a stowaway or
14 who is ordered removed either without a hearing
15 under section 235(a)(1) or 235(c) or pursuant to
16 proceedings under section 240 initiated at the time
17 of such alien’s arrival, the owner of the vessel or air-
18 craft (if any) on which the alien arrived in the Unit-
19 ed States shall pay the transportation cost of remov-
20 ing the alien. If removal is on a vessel or aircraft not
21 owned by the owner of the vessel or aircraft on
22 which the alien arrived in the United States, the At-
23 torney General may—

1 “(A) pay the cost from the appropriation
2 ‘Immigration and Naturalization Service—Sala-
3 ries and Expenses’; and

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

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

15 “(3) COSTS OF REMOVAL FROM PORT OF RE-
16 MOVAL FOR ALIENS ADMITTED OR PERMITTED TO
17 LAND.—

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

25 “(B) THROUGH OWNER.—

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

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

9 “(I) is admitted to the United
10 States (other than lawfully admitted
11 for permanent residence) and is or-
12 dered removed within 5 years of the
13 date of admission based on a ground
14 that existed before or at the time of
15 admission, or

16 “(II) is an alien crewman per-
17 mitted to land temporarily under sec-
18 tion 252 and is ordered removed with-
19 in 5 years of the date of landing.

20 “(C) COSTS OF REMOVAL OF CERTAIN
21 ALIENS GRANTED VOLUNTARY DEPARTURE.—In
22 the case of an alien who has been granted vol-
23 untary departure under section 240B and who
24 is financially unable to depart at the alien’s own
25 expense and whose removal the Attorney Gen-

1 eral deems to be in the best interest of the
2 United States, the expense of such removal may
3 be paid from the appropriation for the enforce-
4 ment of this Act.

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

7 “(1) IN GENERAL.—If the Attorney General be-
8 lieves that an alien being removed requires personal
9 care because of the alien’s mental or physical condi-
10 tion, the Attorney General may employ a suitable
11 person for that purpose who shall accompany and
12 care for the alien until the alien arrives at the final
13 destination.

14 “(2) COSTS.—The costs of providing the service
15 described in paragraph (1) shall be defrayed in the
16 same manner as the expense of removing the accom-
17 panied alien is defrayed under this section.

18 “(g) PLACES OF DETENTION.—The Attorney Gen-
19 eral shall arrange for appropriate places of detention for
20 aliens detained pending removal or a decision on removal.
21 When United States Government facilities are unavailable
22 or facilities adapted or suitably located for detention are
23 unavailable for rental, the Attorney General may expend
24 from the appropriation ‘Immigration and Naturalization
25 Service—Salaries and Expenses’, without regard to sec-

1 tion 3709 of the Revised Statutes (41 U.S.C. 5), amounts
2 necessary to acquire land and to acquire, build, remodel,
3 repair, and operate facilities (including living quarters for
4 immigration officers if not otherwise available) necessary
5 for detention.”.

6 (b) MODIFICATION OF AUTHORITY.—

7 (1) Section 241(h), as redesignated by section
8 306(a)(1) of this Act, is amended—

9 (A) in paragraph (3)(A), by inserting “or
10 two or more misdemeanors” after “a felony”,
11 and

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

14 “(6) In this subsection, the term ‘incarceration’
15 includes imprisonment in a State or local prison or
16 jail the time of which is counted towards completion
17 of a sentence.”.

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

20 **SEC. 306. APPEALS FROM ORDERS OF REMOVAL (NEW SEC-**
21 **TION 242).**

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

24 (1) by redesignating subsection (j) as sub-
25 section (h) and by moving such subsection and add-

1 ing it at the end of section 241, as amended by sec-
2 tion 305(a)(3); and

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

5 “JUDICIAL REVIEW OF ORDERS OF REMOVAL

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

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

15 “(2) LIMITATIONS ON REVIEW RELATING TO
16 SECTION 235(b)(1).—Notwithstanding any other pro-
17 vision of law, no court shall have jurisdiction to re-
18 view—

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

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

1 “(C) the application of such section to in-
2 dividual aliens, including the determination
3 made under section 235(b)(1)(B), or

4 “(D) procedures and policies adopted by
5 the Attorney General to implement the provi-
6 sions of section 235(b)(1).

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

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

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

17 “(2) VENUE AND FORMS.—The petition for re-
18 view shall be filed with the court of appeals for the
19 judicial circuit in which the immigration judge com-
20 pleted the proceedings. The record and briefs do not
21 have to be printed. The court of appeals shall review
22 the proceeding on a typewritten record and on type-
23 written briefs.

24 “(3) SERVICE.—

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

7 “(B) STAY OF ORDER.—

8 “(i) IN GENERAL.—Except as pro-
9 vided in clause (ii), service of the petition
10 on the officer or employee stays the re-
11 moval of an alien pending the court’s deci-
12 sion on the petition, unless the court or-
13 ders otherwise.

14 “(ii) EXCEPTION.—If the alien has
15 been convicted of an aggravated felony, or
16 the alien has been ordered removed pursu-
17 ant to a finding that the alien is inadmis-
18 sible under section 212, service of the peti-
19 tion does not stay the removal unless the
20 court orders otherwise.

21 “(4) DECISION.—Except as provided in para-
22 graph (5)(B)—

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

1 “(B) the administrative findings of fact are
2 conclusive if supported by reasonable, substan-
3 tial, and probative evidence on the record con-
4 sidered as a whole, and

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

8 “(5) TREATMENT OF NATIONALITY CLAIMS.—

9 “(A) COURT DETERMINATION IF NO ISSUE
10 OF FACT.—If the petitioner claims to be a na-
11 tional of the United States and the court of ap-
12 peals finds from the pleadings and affidavits
13 that no genuine issue of material fact about the
14 petitioner’s nationality is presented, the court
15 shall decide the nationality claim.

16 “(B) TRANSFER IF ISSUE OF FACT.—If
17 the petitioner claims to be a national of the
18 United States and the court of appeals finds
19 that a genuine issue of material fact about the
20 petitioner’s nationality is presented, the court
21 shall transfer the proceeding to the district
22 court of the United States for the judicial dis-
23 trict in which the petitioner resides for a new
24 hearing on the nationality claim and a decision
25 on that claim as if an action had been brought

1 in the district court under section 2201 of title
2 28, United States Code.

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

6 “(6) CONSOLIDATION WITH REVIEW OF MO-
7 TIONS TO REOPEN OR RECONSIDER.—When a peti-
8 tioner seeks review of an order under this section,
9 any review sought of a motion to reopen or recon-
10 sider the order shall be consolidated with the review
11 of the order.

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

14 “(A) IN GENERAL.—If the validity of an
15 order of removal has not been judicially de-
16 cided, a defendant in a criminal proceeding
17 charged with violating section 243(a) may chal-
18 lenge the validity of the order in the criminal
19 proceeding only by filing a separate motion be-
20 fore trial. The district court, without a jury,
21 shall decide the motion before trial.

22 “(B) CLAIMS OF UNITED STATES NATION-
23 ALITY.—If the defendant claims in the motion
24 to be a national of the United States and the
25 district court finds that—

1 “(i) no genuine issue of material fact
2 about the defendant’s nationality is pre-
3 sented, the court shall decide the motion
4 only on the administrative record on which
5 the removal order is based and the admin-
6 istrative findings of fact are conclusive if
7 supported by reasonable, substantial, and
8 probative evidence on the record considered
9 as a whole; or

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

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

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

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

6 “(8) CONSTRUCTION.—This subsection—

7 “(A) does not prevent the Attorney Gen-
8 eral, after a final order of removal has been is-
9 sued, from detaining the alien under section
10 241(a);

11 “(B) does not relieve the alien from com-
12 plying with section 241(a)(4) and section
13 243(g); and

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

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

22 “(d) REVIEW OF FINAL ORDERS.—A court may re-
23 view a final order of removal only if—

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

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

8 “(e) LIMITED REVIEW FOR NON-PERMANENT RESI-
9 DENTS CONVICTED OF AGGRAVATED FELONIES.—

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

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

16 “(B) the alien is an alien described in sec-
17 tion 238(b)(2) and has been convicted after
18 entry into the United States of an aggravated
19 felony, and

20 “(C) proceedings against the alien com-
21 plied with section 238(b)(4).

22 “(2) LIMITED JURISDICTION.—A court review-
23 ing the petition has jurisdiction only to review the is-
24 sues described in paragraph (1).

1 “(f) JUDICIAL REVIEW OF ORDERS UNDER SECTION
2 235(b)(1).—

3 “(1) APPLICATION.—The provisions of this sub-
4 section apply with respect to judicial review of or-
5 ders of removal effected under section 235(b)(1).

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

14 “(3) LIMITATION TO HABEAS CORPUS.—Judi-
15 cial review of any matter cause, claim, or individual
16 determination made or arising under or pertaining
17 to section 235(b)(1) shall only be available in habeas
18 corpus proceedings, and shall be limited to deter-
19 minations of—

20 “(A) whether the petitioner is an alien,

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

23 “(C) whether the petitioner can prove by a
24 preponderance of the evidence that the peti-
25 tioner is an alien lawfully admitted for perma-

1 nent residence and is entitled to such further
2 inquiry as prescribed by the Attorney General
3 pursuant to section 235(b)(1)(C).

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

6 “(A) is an alien who was not ordered re-
7 moved under section 235(b)(1), or

8 “(B) has demonstrated by a preponderance
9 of the evidence that the alien is a lawful perma-
10 nent resident,

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

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

1 “(g) LIMIT ON INJUNCTIVE RELIEF.—Regardless of
2 the nature of the action or claim or of the identity of the
3 party or parties bringing the action, no court (other than
4 the Supreme Court) shall have jurisdiction or authority
5 to enjoin or restrain the operation of the provisions of
6 chapter 4 of title II, as amended by the Immigration in
7 the National Interest Act of 1995, other than with respect
8 to the application of such provisions to an individual alien
9 against whom proceedings under such chapter have been
10 initiated.”.

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

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

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

17 “PENALTIES RELATED TO REMOVAL

18 “SEC. 243. “(a) PENALTY FOR FAILURE TO DE-
19 PART.—

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

24 “(A) willfully fails or refuses to depart
25 from the United States within a period of 90
26 days from the date of the final order of removal

1 under administrative processes, or if judicial re-
2 view is had, then from the date of the final
3 order of the court,

4 “(B) willfully fails or refuses to make time-
5 ly application in good faith for travel or other
6 documents necessary to the alien’s departure,

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

11 “(D) willfully fails or refuses to present
12 himself or herself for removal at the time and
13 place required by the Attorney General pursu-
14 ant to such order,

15 shall be fined under title 18, United States Code, or
16 imprisoned not more than four years (or 10 years if
17 the alien is a member of any of the classes described
18 in paragraph (1)(E), (2), (3), or (4) of section
19 237(a)), or both.

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

1 “(3) SUSPENSION.—The court may for good
2 cause suspend the sentence of an alien under this
3 subsection and order the alien’s release under such
4 conditions as the court may prescribe. In determin-
5 ing whether good cause has been shown to justify re-
6 leasing the alien, the court shall take into account
7 such factors as—

8 “(A) the age, health, and period of deten-
9 tion of the alien;

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

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

15 “(D) the character of the efforts made by
16 such alien himself and by representatives of the
17 country or countries to which the alien’s re-
18 moval is directed to expedite the alien’s depar-
19 ture from the United States;

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

1 “(F) the eligibility of the alien for discre-
2 tionary relief under the immigration laws.

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

10 “(c) PENALTIES RELATING TO VESSELS AND AIR-
11 CRAFT.—

12 “(1) CIVIL PENALTIES.—

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

18 “(B) FAILURE TO REMOVE ALIEN STOW-
19 AWAYS.—If the Attorney General is satisfied
20 that a person has failed to remove an alien
21 stowaway as required under section 241(d)(2),
22 the person shall pay to the Commissioner the
23 sum of \$5,000 for each alien stowaway not re-
24 moved.

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

4 “(2) CLEARING VESSELS AND AIRCRAFT.—

5 “(A) CLEARANCE BEFORE DECISION ON
6 LIABILITY.—A vessel or aircraft may be grant-
7 ed clearance before a decision on liability is
8 made under paragraph (1) only if a bond ap-
9 proved by the Attorney General or an amount
10 sufficient to pay the civil penalty is deposited
11 with the Commissioner.

12 “(B) PROHIBITION ON CLEARANCE WHILE
13 PENALTY UNPAID.—A vessel or aircraft may
14 not be granted clearance if a civil penalty im-
15 posed under paragraph (1) is not paid.

16 “(d) DISCONTINUING GRANTING VISAS TO NATION-
17 ALS OF COUNTRY DENYING OR DELAYING ACCEPTING
18 ALIEN.—On being notified by the Attorney General that
19 the government of a foreign country denies or unreason-
20 ably delays accepting an alien who is a citizen, subject,
21 national, or resident of that country after the Attorney
22 General asks whether the government will accept the alien
23 under this section, the Secretary of State shall order con-
24 sular officers in that foreign country to discontinue grant-
25 ing immigrant visas or nonimmigrant visas, or both, to

1 citizens, subjects, nationals, and residents of that country
 2 until the Attorney General notifies the Secretary that the
 3 country has accepted the alien.”.

4 **SEC. 308. REDESIGNATION AND REORGANIZATION OF**
 5 **OTHER PROVISIONS; ADDITIONAL CONFORM-**
 6 **ING AMENDMENTS.**

7 (a) CONFORMING AMENDMENT TO TABLE OF CON-
 8 TENTS; OVERVIEW OF REORGANIZED CHAPTERS.—The
 9 table of contents, as amended by section 815(d)(1), is
 10 amended—

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

13 (2) by striking the item relating to chapter 4 of
 14 title II and all that follows through the item relating
 15 to section 244A and inserting the following:

“CHAPTER 4—INSPECTION, APPREHENSION, EXAMINATION, EXCLUSION, AND
 REMOVAL

“Sec. 231. Lists of alien and citizen passengers arriving or departing; record
 of resident aliens and citizens leaving permanently for foreign
 country.

“Sec. 232. Detention of aliens for physical and mental examination.

“Sec. 233. Entry through or from foreign contiguous territory and adjacent
 islands; landing stations.

“Sec. 234. Designation of ports of entry for aliens arriving by civil aircraft.

“Sec. 235. Inspection by immigration officers; expedited removal of inadmis-
 sible arriving aliens; referral for hearing.

“Sec. 236. Apprehension and detention of aliens not lawfully in the United
 States.

“Sec. 237. General classes of deportable aliens.

“Sec. 238. Expedited removal of aliens convicted of committing aggravated
 felonies.

“Sec. 239. Initiation of removal proceedings.

“Sec. 240. Removal proceedings.

“Sec. 240A. Cancellation of removal; adjustment of status.

“Sec. 240B. Voluntary departure.

“Sec. 240C. Records of admission.

- “Sec. 241. Detention and removal of aliens ordered removed.
- “Sec. 242. Judicial review of orders of removal.
- “Sec. 243. Penalties relating to removal.
- “Sec. 244. Temporary protected status.

“CHAPTER 5—ADJUSTMENT AND CHANGE OF STATUS”.

1 (b) REORGANIZATION OF OTHER PROVISIONS.—

2 Chapters 4 and 5 of title II are amended as follows:

3 (1) AMENDING CHAPTER HEADING.—Amend
4 the heading for chapter 4 of title II to read as fol-
5 lows:

6 “CHAPTER 4—INSPECTION, APPREHENSION,
7 EXAMINATION, EXCLUSION, AND REMOVAL”.

8 (2) REDESIGNATING SECTION 232 AS SECTION
9 232(a).—Amend section 232 (8 U.S.C. 1222)—

10 (A) by inserting “(a) DETENTION OF
11 ALIENS.—” after “SEC. 232.”, and

12 (B) by amending the section heading to
13 read as follows:

14 “DETENTION OF ALIENS FOR PHYSICAL AND MENTAL
15 EXAMINATION”.

16 (3) REDESIGNATING SECTION 234 AS SECTION
17 232(b).—Amend section 234 (8 U.S.C. 1224)—

18 (A) by striking the heading,

19 (B) by striking “SEC. 234.” and inserting
20 the following: “(b) PHYSICAL AND MENTAL EX-
21 AMINATION.—”, and

1 (C) by moving such provision to the end of
2 section 232.

3 (4) REDESIGNATING SECTION 238 AS SECTION
4 233.—Redesignate section 238 (8 U.S.C. 1228) as
5 section 233 and move the section to immediately fol-
6 low section 232.

7 (5) REDESIGNATING SECTION 240 AS SECTION
8 234A.—Redesignate section 240 (8 U.S.C. 1230) as
9 section 234A and move the section to immediately
10 follow section 233.

11 (6) REDESIGNATING SECTION 242A AS SECTION
12 238.—Redesignate section 242A as section 238,
13 strike “DEPORTATION” in its heading and insert
14 “REMOVAL”, and move the section to immediately
15 follow section 237 (as redesignated by section
16 305(2)).

17 (7) STRIKING SECTION 242B.—Strike section
18 242B (8 U.S.C. 1252b).

19 (8) REDESIGNATING SECTION 244A AS SECTION
20 244.—Strike section 244 and redesignate section
21 244A as section 244.

22 (9) AMENDING CHAPTER HEADING.—Amend
23 the heading for chapter 5 of title II to read as fol-
24 lows:

1 “CHAPTER 5—ADJUSTMENT AND CHANGE OF STATUS”.

2 (c) ADDITIONAL CONFORMING AMENDMENTS.—

3 (1) EXPEDITED PROCEDURES FOR AGGRA-
4 VATED FELONS (FORMER SECTION 242A).—Section
5 238 (which, previous to redesignation under section
6 308(b)(6), was section 242A) is amended—

7 (A) in subsection (a)(1), by striking “sec-
8 tion 242” and inserting “section 240”;

9 (B) in subsection (a)(2), by striking “sec-
10 tion 242(a)(2)” and inserting “section 236(b)”;
11 and

12 (C) in subsection (b)(1), by striking “sec-
13 tion 241(a)(2)(A)(iii)” and inserting “section
14 237(a)(2)(A)(iii)”.

15 (2) TREATMENT OF CERTAIN HELPLESS
16 ALIENS.—

17 (A) CERTIFICATION OF HELPLESS
18 ALIENS.—Section 232, as amended by section
19 308(b), is further amended by adding at the
20 end the following new subsection:

21 “(c) CERTIFICATION OF CERTAIN HELPLESS
22 ALIENS.—If an examining medical officer determines that
23 an alien arriving in the United States is inadmissible, is
24 helpless from sickness or mental and physical disability,
25 or infancy, and is accompanied by another alien whose

1 protection or guardianship may be required, the officer
2 may certify such fact for purposes of applying section
3 212(a)(9)(B) with respect to the other alien.”.

4 (B) GROUND OF INADMISSIBILITY FOR
5 PROTECTION AND GUARDIANSHIP OF ALIENS
6 DENIED ADMISSION FOR HEALTH OR IN-
7 FANCY.—Subparagraph (B) of section
8 212(a)(9) (8 U.S.C. 1182(a)(9)) is amended to
9 read as follows:

10 “(B) GUARDIAN REQUIRED TO ACCOMPANY
11 HELPLESS ALIEN.—Any alien—

12 “(i) who is accompanying another
13 alien who is inadmissible and who is cer-
14 tified to be helpless from sickness or men-
15 tal or physical disability or infancy pursu-
16 ant to section 232(c), and

17 “(ii) whose protection or guardianship
18 is determined to be required by the alien
19 described in clause (i),
20 is inadmissible.”.

21 (3) CONTINGENT CONSIDERATION IN RELATION
22 TO REMOVAL OF ALIENS.—Section 273(a) (8 U.S.C.
23 1323(a)) is amended—

24 (A) by inserting “(1)” after “(a)”, and

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

3 “(2) It is unlawful for an owner, agent, master, com-
4 manding officer, person in charge, purser, or consignee of
5 a vessel or aircraft who is bringing an alien (except an
6 alien crewmember) to the United States to take any con-
7 sideration to be kept or returned contingent on whether
8 an alien is admitted to, or ordered removed from, the
9 United States.”.

10 (4) CLARIFICATION.—(A) Section 238(a)(1),
11 which, previous to redesignation under section
12 308(b)(6), was section 242A(a)(1), is amended by
13 adding at the end the following: “Nothing in this
14 section shall be construed to create any substantive
15 or procedural right or benefit that is legally enforce-
16 able by any party against the United States or its
17 agencies or officers or any other person.”.

18 (B) Section 225 of the Immigration and Na-
19 tionality Technical Corrections Act of 1994 (Public
20 Law 103–416), as amended by section 815(b), is
21 amended by striking “and nothing in” and all that
22 follows up to “shall”.

23 (d) ADDITIONAL CONFORMING AMENDMENTS RE-
24 LATING TO EXCLUSION AND INADMISSIBILITY.—

1 (1) SECTION 212.—Section 212 (8 U.S.C.
2 1182(a)) is amended—

3 (A) in the heading, by striking “EX-
4 CLUDED FROM” and inserting “INELIGIBLE
5 FOR”;

6 (B) in the matter in subsection (a) before
7 paragraph (1), by striking all that follows “(a)”
8 and inserting the following: “CLASSES OF
9 ALIENS INELIGIBLE FOR VISAS OR ADMIS-
10 SION.—Except as otherwise provided in this
11 Act, aliens who are inadmissible under the fol-
12 lowing paragraphs are ineligible to receive visas
13 and ineligible to be admitted to the United
14 States.”;

15 (C) in subsection (a), by striking “is ex-
16 cludable” and inserting “is inadmissible” each
17 place it appears;

18 (D) in subsections (a)(5)(C), (d)(1), (k),
19 by striking “exclusion” and inserting “inadmis-
20 sibility”;

21 (E) in subsections (b), (d)(3), (h)(1)(A)(i),
22 and (k), by striking “excludable” each place it
23 appears and inserting “inadmissible”;

24 (F) in subsection (b)(2), by striking “and
25 ineligible for entry”;

1 (G) in subsection (d)(7), by striking “ex-
2 cluded from” and inserting “denied”; and

3 (H) in subsection (h)(1)(B), by striking
4 “exclusion” and inserting “denial of admis-
5 sion”.

6 (2) SECTION 241.—Section 241 (8 U.S.C.
7 1251), before redesignation as section 237 by section
8 305(2), is amended—

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

11 (B) in subsection (a)(4)(C)(ii), by striking
12 “excludability” and inserting “inadmissibility”;
13 and

14 (C) in subsections (c) and (h), by striking
15 “exclusion” and inserting “inadmissibility”.

16 (3) OTHER GENERAL REFERENCES.—The fol-
17 lowing provisions are amended by striking “exclud-
18 ability” and “excludable” each place each appears
19 and inserting “inadmissibility” and “inadmissible”,
20 respectively:

21 (A) Sections 101(f)(3), 213, 234,
22 241(a)(1) (before redesignation by section
23 305(2)), 272(a), 277, 286(h)(2)(A)(v), and
24 286(h)(2)(A)(vi) and the last sentence of sec-
25 tion 208(a) (as added by section 332(a)).

1 (B) Sections 304(c)(1)(A)(i),
2 304(c)(1)(A)(ii), and 601(c) of the Immigration
3 Act of 1990.

4 (C) Section 128 of the Foreign Relations
5 Authorization Act, Fiscal Years 1992 and 1993
6 (Public Law 102–138).

7 (D) Section 1073 of the National Defense
8 Authorization Act for Fiscal Year 1995 (Public
9 Law 103–337).

10 (E) Section 221 of the Immigration and
11 Nationality Technical Corrections Act of 1994
12 (Public Law 103–416).

13 (4) RELATED TERMS.—

14 (A) Section 101(a)(17) (8 U.S.C.
15 1101(a)(17)) is amended by striking “or expul-
16 sion” and inserting “expulsion, or removal”.

17 (B) Section 102 (8 U.S.C. 1102) is
18 amended by striking “exclusion or deportation”
19 and inserting “removal”.

20 (C) Section 103(c)(2) (8 U.S.C.
21 1103(c)(2)) is amended by striking “been ex-
22 cluded or deported” and inserting “not been ad-
23 mitted or have been removed”.

24 (D) Section 206 (8 U.S.C. 1156) is
25 amended by striking “excluded from admission

1 to the United States and deported” and insert-
2 ing “denied admission to the United States and
3 removed”.

4 (E) Section 216(f) (8 U.S.C. 1186a) is
5 amended by striking “exclusion” and inserting
6 “inadmissibility”.

7 (F) Section 217 (8 U.S.C. 1187) is amend-
8 ed by striking “excluded from admission” and
9 inserting “denied admission at the time of ar-
10 rival” each place it appears.

11 (G) Section 221(f) (8 U.S.C. 1201) is
12 amended by striking “exclude” and inserting
13 “deny admission to”.

14 (H) Section 232(a) (8 U.S.C. 1222(a)), as
15 redesignated by subsection (b)(2), is amended
16 by striking “excluded by” and “the excluded
17 classes” and inserting “inadmissible under” and
18 “inadmissible classes”, respectively.

19 (I)(i) Section 272 (8 U.S.C. 1322) is
20 amended—

21 (I) by striking “EXCLUSION” in the
22 heading and inserting “DENIAL OF ADMIS-
23 SION”,

1 (II) in subsection (a), by striking “ex-
2 cluding condition” and inserting “condition
3 causing inadmissibility”, and

4 (III) in subsection (c), by striking
5 “excluding”.

6 (ii) The item in the table of contents relat-
7 ing to such section is amended by striking “ex-
8 clusion” and inserting “denial of admission”.

9 (J) Section 276(a) (8 U.S.C. 1326) is
10 amended—

11 (i) in paragraph (1), by striking “de-
12 ported or excluded and deported” and in-
13 serting “denied admission or removed”,
14 and

15 (ii) in paragraph (2)(B), by striking
16 “excluded and deported” and inserting
17 “denied admission and removed”.

18 (K) Section 286(h)(2)(A)(vi) (8 U.S.C.
19 1356(h)(2)(A)(vi)) is amended by striking “ex-
20 clusion” each place it appears and inserting
21 “removal”.

22 (L) Section 287 (8 U.S.C. 1357) is amend-
23 ed—

1 (i) in subsection (a), by striking “or
2 expulsion” each place it appears and in-
3 serting “expulsion, or removal”, and

4 (ii) in subsection (c), by striking “ex-
5 clusion from” and inserting “denial of ad-
6 mission to”.

7 (M) Section 290(a) (8 U.S.C. 1360(a)) is
8 amended by striking “admitted to the United
9 States, or excluded therefrom” each place it ap-
10 pears and inserting “admitted or denied admis-
11 sion to the United States”.

12 (N) Section 291 (8 U.S.C. 1361) is
13 amended by striking “subject to exclusion” and
14 inserting “inadmissible” each place it appears.

15 (O) Section 292 (8 U.S.C. 1362) is
16 amended by striking “exclusion or deportation”
17 each place it appears and inserting “removal”.

18 (P) Section 360 (8 U.S.C. 1503) is amend-
19 ed—

20 (i) in subsection (a), by striking “ex-
21 clusion” each place it appears and insert-
22 ing “removal”, and

23 (ii) in subsection (c), by striking “ex-
24 cluded from” and inserting “denied”.

1 (Q) Section 301(a)(1) of the Immigration
2 Act of 1990 is amended by striking “exclusion”
3 and inserting “inadmissibility”.

4 (R) Section 401(c) of the Refugee Act of
5 1980 is amended by striking “deportation or
6 exclusion” and inserting “removal”.

7 (S) Section 501(e)(2) of the Refugee Edu-
8 cation Assistance Act of 1980 (Public Law 96-
9 422) is amended by striking “exclusion or de-
10 portation” each place it appears and inserting
11 “removal”.

12 (e) REVISION OF TERMINOLOGY RELATING TO DE-
13 PORTATION.—

14 (1) Each of the following is amended by strik-
15 ing “deportation” each place it appears and insert-
16 ing “removal”:

17 (A) Subparagraphs (A)(iii)(II), (A)(iv)(II),
18 and (B)(iii)(II) of section 204(a)(1) (8 U.S.C.
19 1154(a)(1)).

20 (B) Section 212(d)(1) (8 U.S.C.
21 1182(d)(1)).

22 (C) Section 212(d)(11) (8 U.S.C.
23 1182(d)(11)).

1 (D) Section 214(k)(4)(C) (8 U.S.C.
2 1184(k)(4)(C)), as redesignated by section
3 815(a)(4)(A) of this Act.

4 (E) Section 241(a)(1)(H) (8 U.S.C.
5 1251(a)(1)(H)), before redesignation as section
6 237 by section 305(2) .

7 (F) Section 242A (8 U.S.C. 1252a), before
8 redesignation as section 238 by subsection
9 (b)(6).

10 (G) Subsections (a)(3) and (b)(5)(B) of
11 section 244A (8 U.S.C. 1254a), before redesi-
12 gnation as section 244 by subsection (b)(8).

13 (H) Section 246(a) (8 U.S.C. 1256(a)).

14 (I) Section 254 (8 U.S.C. 1284).

15 (J) Section 263(a)(4) (8 U.S.C.
16 1303(a)(4)).

17 (K) Section 276(b) (8 U.S.C. 1326(b)).

18 (L) Section 280(b)(2) (8 U.S.C.
19 1330(b)(2)).

20 (M) Section 286(h)(2)(A)(v) (8 U.S.C.
21 1356(h)(2)(A)(v)).

22 (N) Section 291 (8 U.S.C. 1361).

23 (O) Section 318 (8 U.S.C. 1429).

1 (P) Section 130005(a) of the Violent
2 Crime Control and Law Enforcement Act of
3 1994 (Public Law 103–322).

4 (2) Each of the following is amended by strik-
5 ing “deported” and inserting “removed”:

6 (A) Section 212(d)(7) (8 U.S.C.
7 1182(d)(7)).

8 (B) Section 214(d) (8 U.S.C. 1184(d)).

9 (C) Section 241(a) (8 U.S.C. 1251(a)), be-
10 fore redesignation as section 237 by section
11 305(2).

12 (D) Section 242A(c)(2)(D)(iv) (8 U.S.C.
13 1252a(c)(2)(D)(iv)), as amended by section
14 815(b)(14) but before redesignation as section
15 238 by subsection (b)(6).

16 (E) Section 252(b) (8 U.S.C. 1282(b)).

17 (F) Section 254 (8 U.S.C. 1284).

18 (G) Subsections (b) and (c) of section 266
19 (8 U.S.C. 1306).

20 (H) Section 301(a)(1) of the Immigration
21 Act of 1990.

22 (3) Section 101(g) (8 U.S.C. 1101(g)) is
23 amended by inserting “or removed” after “deported”
24 each place it appears.

1 (4) Section 103(c)(2) (8 U.S.C. 1103(c)(2)) is
2 amended by striking “suspension of deportation”
3 and inserting “cancellation of removal”.

4 (5) Section 201(b)(1)(D) (8 U.S.C.
5 1151(b)(1)(D)) is amended by striking “deportation
6 is suspended” and inserting “removal is canceled”.

7 (6) Section 212(l)(2)(B) (8 U.S.C.
8 1182(l)(2)(B)) is amended by striking “deportation
9 against” and inserting “removal of”.

10 (7) Subsections (b)(2), (c)(2)(B), (c)(3)(D),
11 (c)(4)(A), and (d)(2)(C) of section 216 (8 U.S.C.
12 1186a) are each amended by striking “DEPORTA-
13 TION”, “deportation”, “deport”, and “deported”
14 each place each appears and inserting “REMOVAL”,
15 “removal”, “remove”, and “removed”, respectively.

16 (8) Subsections (b)(2), (c)(2)(B), (c)(3)(D),
17 and (d)(2)(C) of section 216A (8 U.S.C. 1186b) are
18 each amended by striking “DEPORTATION”, “depor-
19 tation”, “deport”, and “deported” and inserting
20 “REMOVAL”, “removal”, “remove”, and “removed”,
21 respectively.

22 (9) Section 217(b)(2) (8 U.S.C. 1187(b)(2)) is
23 amended by striking “deportation against” and in-
24 serting “removal of”.

1 (10) Section 242A (8 U.S.C. 1252a), before re-
2 designation as section 238 by subsection (b)(6), is
3 amended, in the headings to various subdivisions, by
4 striking “DEPORTATION” and “DEPORTATION” and
5 inserting “REMOVAL” and “REMOVAL”, respectively.

6 (11) Section 244A(a)(1)(A) (8 U.S.C.
7 1254a(a)(1)(A)), before redesignation as section 244
8 by subsection (b)(8), is amended—

9 (A) in subsection (a)(1)(A), by striking
10 “deport” and inserting “remove”, and

11 (B) in subsection (e), by striking “SUS-
12 PENSION OF DEPORTATION” and inserting
13 “CANCELLATION OF REMOVAL”.

14 (12) Section 254 (8 U.S.C. 1284) is amended
15 by striking “deport” each place it appears and in-
16 serting “remove”.

17 (13) Section 273(d) (8 U.S.C. 1323(d)) is re-
18 pealed.

19 (14)(A) Section 276 (8 U.S.C. 1326) is amend-
20 ed by striking “DEPORTED” and inserting “RE-
21 MOVED”.

22 (B) The item in the table of contents relating
23 to such section is amended by striking “deported”
24 and inserting “removed”.

1 (15) Section 318 (8 U.S.C. 1429) is amended
2 by striking “suspending” and inserting “canceling”.

3 (16) Section 301(a) of the Immigration Act of
4 1990 is amended by striking “DEPORTATION” and
5 inserting “REMOVAL”.

6 (17) The heading of section 130005 of the Vio-
7 lent Crime Control and Law Enforcement Act of
8 1994 (Public Law 103–322) is amended by striking
9 “**DEPORTATION**” and inserting “**REMOVAL**”.

10 (f) REVISION OF REFERENCES TO ENTRY.—

11 (1) The following provisions are amended by
12 striking “entry” and inserting “admission” each
13 place it appears:

14 (A) Section 101(a)(15)(K) (8 U.S.C.
15 1101(a)(15)(K)).

16 (B) Section 101(a)(30) (8 U.S.C.
17 1101(a)(30)).

18 (C) Section 212(a)(2)(D) (8 U.S.C.
19 1182(a)(2)(D)).

20 (D) Section 212(a)(6)(C)(i) (8 U.S.C.
21 1182(a)(6)(C)(i)).

22 (E) Section 212(h)(1)(A)(i) (8 U.S.C.
23 1182(h)(1)(A)(i)).

24 (F) Section 212(i)(2) (8 U.S.C.
25 1182(i)(2)).

1 (G) Section 212(j)(1)(D) (8 U.S.C.
2 1182(j)(1)(D)).

3 (H) Section 214(c)(2)(A) (8 U.S.C.
4 1184(c)(2)(A)).

5 (I) Section 214(d) (8 U.S.C. 1184(d)).

6 (J) Section 216(b)(1)(A)(i) (8 U.S.C.
7 1186a(b)(1)(A)(i)).

8 (K) Section 216(d)(1)(A)(i)(III) (8 U.S.C.
9 1186a(d)(1)(A)(i)(III)).

10 (L) Section 240(b) (8 U.S.C. 1230(b)).

11 (M) Section 241(a)(1)(G) (8 U.S.C.
12 1251(a)(1)(G)).

13 (N) Section 241(a)(1)(H) (8 U.S.C.
14 1251(a)(1)(H)), other than the last time it ap-
15 pears.

16 (O) Paragraphs (2) and (4) of section
17 241(a) (8 U.S.C. 1251(a)).

18 (P) Section 245(e)(3) (8 U.S.C.
19 1255(e)(3)).

20 (Q) Section 247(a) (8 U.S.C. 1257(a)).

21 (R) Section 601(c)(2) of the Immigration
22 Act of 1990.

23 (2) The following provisions are amended by
24 striking “enter” and inserting “be admitted”:

25 (A) Section 204(e) (8 U.S.C. 1154(e)).

1 (B) Section 221(h) (8 U.S.C. 1201(h)).

2 (C) Section 245(e)(2) (8 U.S.C.
3 1255(e)(2)).

4 (3) The following provisions are amended by
5 striking “enters” and inserting “is admitted to”:

6 (A) Section 212(j)(1)(D)(ii) (8 U.S.C.
7 1154(e)).

8 (B) Section 214(c)(5)(B) (8 U.S.C.
9 1184(c)(5)(B)).

10 (4) Section 238(a) (8 U.S.C. 1228(a)) is
11 amended by striking “entry and inspection” and in-
12 sserting “inspection and admission”.

13 (5) Section 241(a)(1)(H)(ii) (8 U.S.C.
14 1251(a)(1)(H)(ii)) is amended by striking “at
15 entry”.

16 (6) Section 7 of the Central Intelligence Agency
17 Act of 1949 (50 U.S.C. 403h) is amended by strik-
18 ing “that the entry”, “given entry into”, and “enter-
19 ing” and inserting “that the admission”, “admitted
20 to”, and “admitted to”.

21 (7) Section 4 of the Atomic Weapons and Spe-
22 cial Nuclear Materials Rewards Act (50 U.S.C. 47c)
23 is amended by striking “entry” and inserting “ad-
24 mission”.

1 (g) CONFORMING REFERENCES TO REORGANIZED
2 SECTIONS.—

3 (1) REFERENCES TO SECTIONS 232, 234, 238,
4 239, 240, 241, 242A, AND 244A.—Any reference in law
5 in effect on the day before the date of the enactment
6 of this Act to section 232, 234, 238, 239, 240, 241,
7 242A, or 244A of the Immigration and Nationality
8 Act (or a subdivision of such section) is deemed, as
9 of the title III–A effective date, to refer to section
10 232(a), 232(b), 233, 234, 234A, 237, 238, or 244
11 of such Act (or the corresponding subdivision of
12 such section), as redesignated by this subtitle. Any
13 reference in law to section 241 (or a subdivision of
14 such section) of the Immigration and Nationality
15 Act in an amendment made by a subsequent subtitle
16 of this title is deemed a reference (as of the title
17 III–A effective date) to section 237 (or the cor-
18 responding subdivision of such section), as redesi-
19 gnated by this subtitle.

20 (2) REFERENCES TO SECTION 106.—

21 (A) Sections 242A(b)(3) and
22 242A(c)(3)(A)(ii) (8 U.S.C. 1252a(b)(3),
23 1252a(c)(3)(A)(ii)), as amended by section
24 815(b)(14) but before redesignation as section

1 238 by subsection (b)(6), are each amended by
2 striking “106” and inserting “242”.

3 (B) Sections 210(e)(3)(A) and
4 245A(f)(4)(A) (8 U.S.C. 1160(e)(3)(A),
5 1255a(f)(4)(A)) are amended by inserting “(as
6 in effect before October 1, 1996)” after “106”.

7 (C) Section 242A(c)(3)(A)(iii) (8 U.S.C.
8 1252a(c)(3)(A)(iii)), as amended by section
9 815(b)(14) but before redesignation as section
10 238 by subsection (b)(6), is amended by strik-
11 ing “106(a)(1)” and inserting “242(b)(1)”.

12 (3) REFERENCES TO SECTION 236.—

13 (A) Sections 205 and 209(a)(1) (8 U.S.C.
14 1155, 1159(a)(1)) are each amended by strik-
15 ing “236” and inserting “240”.

16 (B) Section 4113(c) of title 18, United
17 States Code, is amended by striking “1226 of
18 title 8, United States Code” and inserting “sec-
19 tion 240 of the Immigration and Nationality
20 Act”.

21 (4) REFERENCES TO SECTION 237.—

22 (A) Section 209(a)(1) (8 U.S.C.
23 1159(a)(1)) is amended by striking “237” and
24 inserting “241”.

1 (B) Section 212(a)(9)(B) (8 U.S.C.
2 1182(a)(9)(B)) is amended by striking “section
3 237(e)” and inserting “section 232(c)”.

4 (C) Section 212(d)(7) (8 U.S.C.
5 1182(d)(7)) is amended by striking “237(a)”
6 and inserting “241(c)”.

7 (D) Section 280(a) (8 U.S.C. 1330(a)) is
8 amended by striking “237, 239, 243” and in-
9 serting “234, 243(c)(2)”.

10 (5) REFERENCES TO SECTION 242.—

11 (A)(i) Sections 214(d), 252(b), 280(b)(2),
12 and 287(f)(1) (8 U.S.C. 1184(d), 1282(b),
13 1330(b)(2), 1357(f)(1)) are each amended by
14 striking “242” and inserting “240”.

15 (ii) Subsections (a)(1) and (c)(4) of section
16 242A (8 U.S.C. 1252a), as amended by section
17 815(b)(14) but before redesignation as section
18 238 by section 308(b)(6), are each amended by
19 striking “242” and inserting “240”.

20 (iii) Section 245A(a)(1)(B) (8 U.S.C.
21 1255a(a)(1)(B)) is amended by inserting “(as
22 in effect before October 1, 1996)” after “242”.

23 (iv) Section 4113(b) of title 18, United
24 States Code, is amended by striking “242” and
25 inserting “240”.

1 (v) Section 8(c) of the Foreign Agents
2 Registration Act of 1938 (as amended) (22
3 U.S.C. 618(c)) is amended by striking “242”
4 and inserting “240”.

5 (vi) Section 9 of the Peace Corps Act (22
6 U.S.C. 2508) is amended by striking “242” and
7 inserting “240”.

8 (B) Section 242A(a)(2) (8 U.S.C.
9 1252a(a)(2)), before redesignation as section
10 238 by section 308(b)(6), is amended by strik-
11 ing “section 242(a)(2)” and inserting “section
12 236(c)”.

13 (C) Section 130002(a) of Public Law 103-
14 322 is amended by striking “242(a)(3)(A)” and
15 inserting “236(d)”.

16 (D) Section 242A(b)(1) (8 U.S.C.
17 1252a(b)(1)), before redesignation as section
18 238 by section 308(b)(6), is amended by strik-
19 ing “242(b)” and inserting “240”.

20 (E) Section 242A(c)(2)(D)(ii) (8 U.S.C.
21 1252a(c)(2)(D)(ii)), as amended by section
22 815(b)(14) but before redesignation as section
23 238 by section 308(b)(6), is amended by strik-
24 ing “242(b)” and inserting “240”.

1 (F) Section 4113(a) of title 18, United
2 States Code, is amended by striking “242(b)”
3 and inserting “240B”.

4 (G) Section 1821(e) of title 28, United
5 States Code, is amended by striking “242(b)”
6 and inserting “240”.

7 (H) Section 225 of the Immigration and
8 Nationality Technical Corrections Act of 1994
9 (Public Law 103–416) is amended by striking
10 “242(i)” and inserting “239(d)”.

11 (I) Section 130007(a) of Public Law 103–
12 322 is amended by striking “242(i)” and in-
13 serting “239(d)”.

14 (J) Section 20301(c) of Public Law 103–
15 322 is amended by striking “242(j)(5)” and
16 “242(j)” and inserting “241(h)(5)” and
17 “241(h)”, respectively.

18 (6) REFERENCES TO SECTION 242B.—

19 (A) Section 303(d)(2) of the Immigration
20 Act of 1990 is amended by striking “242B”
21 and inserting “240(b)(5)”.

22 (B) Section 545(g)(1)(B) of the Immigra-
23 tion Act of 1990 is amended by striking
24 “242B(a)(4)” and inserting “239(a)(4)”.

25 (7) REFERENCES TO SECTION 243.—

1 (A)(i) Section 214(d) (8 U.S.C. 1184(d))
2 is amended by striking “243” and inserting
3 “241”.

4 (ii) Section 8(c) of the Foreign Agents
5 Registration Act of 1938 (as amended) (22
6 U.S.C. 618(c)) is amended by striking “243”
7 and inserting “241”.

8 (iii) Section 9 of the Peace Corps Act (22
9 U.S.C. 2508) is amended by striking “243” and
10 inserting “241”.

11 (B) Section 236(e)(2) (8 U.S.C.
12 1226(e)(2)) is amended by striking “section
13 243(g)” and inserting “section 243(d)”.

14 (C)(i) Section 315(c) of Public Law 99–
15 603 is amended by striking “243(g)” and in-
16 sserting “243(d)”.

17 (ii) Section 315(c) of the Immigration Re-
18 form and Control Act of 1986 is amended by
19 striking “243(g)” and inserting “243(d)”.

20 (iii) Section 702(b) of the Departments of
21 Commerce, Justice, and State, the Judiciary,
22 and Related Agencies Appropriations Act, 1988
23 is amended by striking “243(g)” and inserting
24 “243(d)”.

1 (iv) Section 903(b) of Public Law 100–204
2 is amended by striking “243(g)” and inserting
3 “243(d)”.

4 (D)(i) Section 6(f)(2)(F) of the Food
5 Stamp Act of 1977 (7 U.S.C. 2015(f)(2)(F)) is
6 amended by striking “243(h)” and inserting
7 “241(b)(3)”.

8 (ii) Section 214(a)(5) of the Housing and
9 Community Development Act of 1980 (42
10 U.S.C. 1436a(a)(5)) is amended by striking
11 “243(h)” and inserting “241(b)(3)”.

12 (E)(i) Section 244A(c)(2)(B)(ii) (8 U.S.C.
13 1254a(c)(2)(B)(ii)) is amended by striking
14 “243(h)(2)” and inserting “241(b)(3)(B)”.

15 (ii) Section 202(a)(3) of the Immigration
16 Reform and Control Act of 1986 is amended by
17 striking “243(h)(2)” and inserting
18 “241(b)(3)(B)”.

19 (iii) Section 301(e)(2) of the Immigration
20 Act of 1990 is amended by striking
21 “243(h)(2)” and inserting “241(b)(3)(B)”.

22 (F) Section 316(f) (8 U.S.C. 1427(f)) is
23 amended by striking “subparagraphs (A)
24 through (D) of paragraph 243(h)(2)” and in-

1 serting “clauses (i) through (iv) of section
2 241(b)(3)(B)”.

3 (8) REFERENCES TO SECTION 244.—

4 (A)(i) Sections 201(b)(1)(D) and 244A(e)
5 (8 U.S.C. 1151(b)(1)(D), 1254a(e)) are each
6 amended by striking “244(a)” and inserting
7 “240A(a)”.

8 (ii) Section 304(c)(1)(A) of the Miscellane-
9 ous and Technical Immigration and Naturaliza-
10 tion Amendments of 1991 (Public Law 102-
11 232) is amended by striking “244(a)” and in-
12 serting “244A(a)”.

13 (B) Section 304(c)(1)(B) of the Mis-
14 cellaneous and Technical Immigration and Nat-
15 uralization Amendments of 1991 (Public Law
16 102-232) is amended by striking “244(a)(2)”
17 and inserting “240A(a)(2)”.

18 (C) Section 4113(a) of title 18, United
19 States Code, is amended by striking “244(e)”
20 and inserting “240B(e)”.

21 (D) Section 242B(e)(2)(A) (8 U.S.C.
22 1252b(e)(2)(A)) is amended by striking “sec-
23 tion 244(e)(1)” and inserting “section
24 240B(e)(1)”.

25 (9) REFERENCES TO CHAPTER 5.—

1 (A) Sections 266(b), 266(c), and 291 (8
2 U.S.C. 1306(b), 1306(c), 1361) are each
3 amended by striking “chapter 5” and inserting
4 “chapter 4”.

5 (B) Section 6(b) of the Act of August 1,
6 1956 (50 U.S.C. 855(b)) is amended by strik-
7 ing “chapter 5, title II, of the Immigration and
8 Nationality Act (66 Stat. 163)” and inserting
9 “chapter 4 of title II of the Immigration and
10 Nationality Act”.

11 (10) MISCELLANEOUS CROSS-REFERENCE COR-
12 RECTIONS FOR NEWLY ADDED PROVISIONS.—

13 (A) The last sentence of section 208(a), as
14 added by section 332(a), is amended by striking
15 “241(a)(4)(B)” and inserting “237(a)(4)(B)”.

16 (B) Section 245(c)(6), as amended by sec-
17 tion 333(d), is amended by striking
18 “241(a)(4)(B)” and inserting “237(a)(4)(B)”.

19 (C) The last sentence of section 246(a), as
20 added by section 353(a), is amended by striking
21 “deport the alien under sections 242 and
22 242A” and inserting “remove the alien under
23 section 240”.

1 (D) Section 249(d), as amended by section
2 333(e), is amended by striking “241(a)(4)(B)”
3 and inserting “237(a)(4)(B)”.

4 (E) Section 276(b)(3), as inserted by sec-
5 tion 321(b), is amended by striking “excluded”
6 and “excludable” and inserting “removed” and
7 “inadmissible”, respectively.

8 (F) Section 505(c)(7), as added by section
9 321(a)(1), is amended by amending subpara-
10 graphs (B) through (D) to read as follows:

11 “(B) Withholding of removal under section
12 241(b)(3).

13 “(C) Cancellation of removal under section
14 240A.

15 “(D) Voluntary departure under section
16 240B.”.

17 (G) Section 506(b)(2)(B), as added by sec-
18 tion 321(a)(1), is amended by striking “depor-
19 tation” and inserting “removal”.

20 (H) Section 508(c)(2)(D), as added by sec-
21 tion 321(a)(1), is amended by striking “exclu-
22 sion because such alien is excludable” and in-
23 serting “removal because such alien is inadmis-
24 sible”.

1 (I) Section 130007(a) of the Violent Crime
2 Control and Law Enforcement Act of 1994
3 (Public Law 103–322), as amended by section
4 815(a)(8), is amended by striking “242A(a)(3)”
5 and inserting “238(a)(3)”.

6 **SEC. 309. EFFECTIVE DATES; TRANSITION.**

7 (a) IN GENERAL.—Except as provided in this section,
8 this subtitle and the amendments made by this subtitle
9 shall take effect on the first day of the first month begin-
10 ning more than 180 days after the date of the enactment
11 of this Act (in this title referred to as the “title III–A
12 effective date”).

13 (b) PROMULGATION OF REGULATIONS.—The Attor-
14 ney General shall first promulgate regulations to carry out
15 this subtitle by not later than 1 month before the title
16 III–A effective date.

17 (c) TRANSITION FOR ALIENS IN PROCEEDINGS.—

18 (1) GENERAL RULE THAT NEW RULES DO NOT
19 APPLY.—Subject to the succeeding provisions of this
20 subsection, in the case of an alien who is in exclu-
21 sion or deportation proceedings as of the title III–
22 A effective date—

23 (A) the amendments made by this subtitle
24 shall not apply, and

1 (B) the proceedings (including judicial re-
2 view thereof) shall continue to be conducted
3 without regard to such amendments.

4 (2) ATTORNEY GENERAL OPTION TO ELECT TO
5 APPLY NEW PROCEDURES.—In a case described in
6 paragraph (1) in which an evidentiary hearing under
7 section 236 or 242 and 242B of the Immigration
8 and Nationality Act has not commenced as of the
9 title III–A effective date, the Attorney General may
10 elect to proceed under chapter 4 of title II of such
11 Act (as amended by this subtitle). The Attorney
12 General shall provide notice of such election to the
13 alien involved not later than 30 days before the date
14 any evidentiary hearing is commenced. If the Attor-
15 ney General makes such election, the notice of hear-
16 ing provided to the alien under section 235 or
17 242(a) of such Act shall be valid as if provided
18 under section 239 of such Act (as amended by this
19 subtitle) to confer jurisdiction on the immigration
20 judge.

21 (3) ATTORNEY GENERAL OPTION TO TERMI-
22 NATE AND REINITIATE PROCEEDINGS.—In the case
23 described in paragraph (1), the Attorney General
24 may elect to terminate proceedings in which there
25 has not been a final administrative decision and to

1 reinitiate proceedings under chapter 4 of title II the
2 Immigration and Nationality Act (as amended by
3 this subtitle). Any determination in the terminated
4 proceeding shall not be binding in the reinitiated
5 proceeding.

6 (4) TRANSITIONAL CHANGES IN JUDICIAL RE-
7 VIEW.—In the case described in paragraph (1) in
8 which a final order of exclusion or deportation is en-
9 tered more than 30 days after the date of the enact-
10 ment of this Act, notwithstanding any provision of
11 section 106 of the Immigration and Nationality Act
12 (as in effect as of the date of the enactment of this
13 Act) to the contrary—

14 (A) in the case of judicial review of a final
15 order of exclusion, subsection (b) of such sec-
16 tion shall not apply and the action for judicial
17 review shall be governed by the provisions of
18 subsections (a) and (c) of such in the same
19 manner as they apply to judicial review of or-
20 ders of deportation;

21 (B) a court may not order the taking of
22 additional evidence under section 2347(c) of
23 title 28, United States Code;

1 (C) the petition for judicial review must be
2 filed not later than 30 days after the date of
3 the final order of exclusion or deportation; and

4 (D) the petition for review shall be filed
5 with the court of appeals for the judicial circuit
6 in which the administrative proceedings before
7 the special inquiry officer or immigration judge
8 were completed.

9 (5) TRANSITIONAL RULE WITH REGARD TO
10 SUSPENSION OF DEPORTATION.—In applying section
11 244(a) of the Immigration and Nationality Act (as
12 in effect before the date of the enactment of this
13 Act) with respect to an application for suspension of
14 deportation which is filed before, on, or after the
15 date of the enactment of this Act and which has not
16 been adjudicated as of 30 days after the date of the
17 enactment of this Act, the period of continuous
18 physical presence under such section shall be deemed
19 to have ended on the date the alien was served an
20 order to show cause pursuant to section 242A of
21 such Act (as in effect before such date of enact-
22 ment).

23 (6) TRANSITION FOR CERTAIN FAMILY UNITY
24 ALIENS.—The Attorney General may waive the ap-
25 plication of section 212(a)(9) of the Immigration

1 and Nationality Act, as inserted by section 301(b) of
2 this subtitle, in the case of an alien who is provided
3 benefits under the provisions of section 301 of the
4 Immigration Act of 1990 (relating to family unity).

5 (d) TRANSITIONAL REFERENCES.—For purposes of
6 carrying out the Immigration and Nationality Act, as
7 amended by this subtitle—

8 (1) any reference in section 212(a)(1)(A) of
9 such Act to the term “inadmissible” is deemed to in-
10 clude a reference to the term “excludable”, and

11 (2) any reference in law to an order of removal
12 shall be deemed to include a reference to an order
13 of exclusion and deportation or an order of deporta-
14 tion.

15 (e) TRANSITION.—No period of time before the date
16 of the enactment of this Act shall be included in the period
17 of 1 year described in section 212(a)(6)(B)(i) of the Immi-
18 gration and Nationality Act (as amended by section
19 301(d)).

1 **Subtitle B—Removal of Alien**
2 **Terrorists**

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

5 **SEC. 321. REMOVAL PROCEDURES FOR ALIEN TERRORISTS.**

6 (a) IN GENERAL.—The Immigration and Nationality
7 Act is amended—

8 (1) by adding at the end of the table of con-
9 tents the following:

 “TITLE V—SPECIAL REMOVAL PROCEDURES FOR ALIEN
 TERRORISTS

 “Sec. 501. Definitions.

 “Sec. 502. Establishment of special removal court; panel of attorneys to assist
 with classified information.

 “Sec. 503. Application for initiation of special removal proceeding.

 “Sec. 504. Consideration of application.

 “Sec. 505. Special removal hearings.

 “Sec. 506. Consideration of classified information.

 “Sec. 507. Appeals.

 “Sec. 508. Detention and custody.”,

10 and

11 (2) by adding at the end the following new title:

12 “TITLE V—SPECIAL REMOVAL PROCEDURES
13 FOR ALIEN TERRORISTS

14 “DEFINITIONS

15 “SEC. 501. In this title:

16 “(1) The term ‘alien terrorist’ means an alien
17 described in section 241(a)(4)(B).

1 “(2) The term ‘classified information’ has the
2 meaning given such term in section 1(a) of the Clas-
3 sified Information Procedures Act (18 U.S.C. App.).

4 “(3) The term ‘national security’ has the mean-
5 ing given such term in section 1(b) of the Classified
6 Information Procedures Act (18 U.S.C. App.).

7 “(4) The term ‘special attorney’ means an at-
8 torney who is on the panel established under section
9 502(e).

10 “(5) The term ‘special removal court’ means
11 the court established under section 502(a).

12 “(6) The term ‘special removal hearing’ means
13 a hearing under section 505.

14 “(7) The term ‘special removal proceeding’
15 means a proceeding under this title.

16 “ESTABLISHMENT OF SPECIAL REMOVAL COURT; PANEL
17 OF ATTORNEYS TO ASSIST WITH CLASSIFIED INFOR-
18 MATION

19 “SEC. 502. (a) IN GENERAL.—The Chief Justice of
20 the United States shall publicly designate 5 district court
21 judges from 5 of the United States judicial circuits who
22 shall constitute a court which shall have jurisdiction to
23 conduct all special removal proceedings.

24 “(b) TERMS.—Each judge designated under sub-
25 section (a) shall serve for a term of 5 years and shall be
26 eligible for redesignation, except that the four associate

1 judges first so designated shall be designated for terms
2 of one, two, three, and four years so that the term of one
3 judge shall expire each year.

4 “(c) CHIEF JUDGE.—The Chief Justice shall publicly
5 designate one of the judges of the special removal court
6 to be the chief judge of the court. The chief judge shall
7 promulgate rules to facilitate the functioning of the court
8 and shall be responsible for assigning the consideration
9 of cases to the various judges.

10 “(d) EXPEDITIOUS AND CONFIDENTIAL NATURE OF
11 PROCEEDINGS.—The provisions of section 103(c) of the
12 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
13 1803(c)) shall apply to proceedings under this title in the
14 same manner as they apply to proceedings under such Act.

15 “(e) ESTABLISHMENT OF PANEL OF SPECIAL AT-
16 TORNEYS.—The special removal court shall provide for the
17 designation of a panel of attorneys each of whom—

18 “(1) has a security clearance which affords the
19 attorney access to classified information, and

20 “(2) has agreed to represent permanent resi-
21 dent aliens with respect to classified information
22 under section 506 in accordance with (and subject to
23 the penalties under) this title.

1 “APPLICATION FOR INITIATION OF SPECIAL REMOVAL
2 PROCEEDING

3 “SEC. 503. (a) IN GENERAL.—Whenever the Attor-
4 ney General has classified information that an alien is an
5 alien terrorist, the Attorney General, in the Attorney Gen-
6 eral’s discretion, may seek removal of the alien under this
7 title through the filing of a written application described
8 in subsection (b) with the special removal court seeking
9 an order authorizing a special removal proceeding under
10 this title. The application shall be submitted in camera
11 and ex parte and shall be filed under seal with the court.

12 “(b) CONTENTS OF APPLICATION.—Each application
13 for a special removal proceeding shall include all of the
14 following:

15 “(1) The identity of the Department of Justice
16 attorney making the application.

17 “(2) The approval of the Attorney General or
18 the Deputy Attorney General for the filing of the ap-
19 plication based upon a finding by that individual
20 that the application satisfies the criteria and re-
21 quirements of this title.

22 “(3) The identity of the alien for whom author-
23 ization for the special removal proceedings is sought.

1 “(4) A statement of the facts and cir-
2 cumstances relied on by the Department of Justice
3 to establish that—

4 “(A) the alien is an alien terrorist and is
5 physically present in the United States, and

6 “(B) with respect to such alien, adherence
7 to the provisions of title II regarding the re-
8 moval of aliens would pose a risk to the na-
9 tional security of the United States.

10 “(5) An oath or affirmation respecting each of
11 the facts and statements described in the previous
12 paragraphs.

13 “(c) RIGHT TO DISMISS.—The Department of Jus-
14 tice retains the right to dismiss a removal action under
15 this title at any stage of the proceeding.

16 “CONSIDERATION OF APPLICATION

17 “SEC. 504. (a) IN GENERAL.—In the case of an ap-
18 plication under section 503 to the special removal court,
19 a single judge of the court shall be assigned to consider
20 the application. The judge, in accordance with the rules
21 of the court, shall consider the application and may con-
22 sider other information, including classified information,
23 presented under oath or affirmation. The judge shall con-
24 sider the application (and any hearing thereof) in camera
25 and ex parte. A verbatim record shall be maintained of
26 any such hearing.

1 “(b) APPROVAL OF ORDER.—The judge shall enter
2 ex parte the order requested in the application if the judge
3 finds, on the basis of such application and such other in-
4 formation (if any), that there is probable cause to believe
5 that—

6 “(1) the alien who is the subject of the applica-
7 tion has been correctly identified and is an alien ter-
8 rorist, and

9 “(2) adherence to the provisions of title II re-
10 garding the removal of the identified alien would
11 pose a risk to the national security of the United
12 States.

13 “(c) DENIAL OF ORDER.—If the judge denies the
14 order requested in the application, the judge shall prepare
15 a written statement of the judge’s reasons for the denial.

16 “(d) EXCLUSIVE PROVISIONS.—Whenever an order is
17 issued under this section with respect to an alien—

18 “(1) the alien’s rights regarding removal and
19 expulsion shall be governed solely by the provisions
20 of this title, and

21 “(2) except as they are specifically referenced,
22 no other provisions of this Act shall be applicable.

23 “SPECIAL REMOVAL HEARINGS

24 “SEC. 505. (a) IN GENERAL.—In any case in which
25 the application for the order is approved under section
26 504, a special removal hearing shall be conducted under

1 this section for the purpose of determining whether the
2 alien to whom the order pertains should be removed from
3 the United States on the grounds that the alien is an alien
4 terrorist. Consistent with section 506, the alien shall be
5 given reasonable notice of the nature of the charges
6 against the alien and a general account of the basis for
7 the charges. The alien shall be given notice, reasonable
8 under all the circumstances, of the time and place at which
9 the hearing will be held. The hearing shall be held as expe-
10 ditiously as possible.

11 “(b) USE OF SAME JUDGE.—The special removal
12 hearing shall be held before the same judge who granted
13 the order pursuant to section 504 unless that judge is
14 deemed unavailable due to illness or disability by the chief
15 judge of the special removal court, or has died, in which
16 case the chief judge shall assign another judge to conduct
17 the special removal hearing. A decision by the chief judge
18 pursuant to the preceding sentence shall not be subject
19 to review by either the alien or the Department of Justice.

20 “(c) RIGHTS IN HEARING.—

21 “(1) PUBLIC HEARING.—The special removal
22 hearing shall be open to the public.

23 “(2) RIGHT OF COUNSEL.—The alien shall have
24 a right to be present at such hearing and to be rep-
25 resented by counsel. Any alien financially unable to

1 obtain counsel shall be entitled to have counsel as-
2 signed to represent the alien. Such counsel shall be
3 appointed by the judge pursuant to the plan for fur-
4 nishing representation for any person financially un-
5 able to obtain adequate representation for the dis-
6 trict in which the hearing is conducted, as provided
7 for in section 3006A of title 18, United States Code.
8 All provisions of that section shall apply and, for
9 purposes of determining the maximum amount of
10 compensation, the matter shall be treated as if a fel-
11 ony was charged.

12 “(3) INTRODUCTION OF EVIDENCE.—The alien
13 shall have a right to introduce evidence on the
14 alien’s own behalf.

15 “(4) EXAMINATION OF WITNESSES.—Except as
16 provided in section 506, the alien shall have a rea-
17 sonable opportunity to examine the evidence against
18 the alien and to cross-examine any witness.

19 “(5) RECORD.—A verbatim record of the pro-
20 ceedings and of all testimony and evidence offered or
21 produced at such a hearing shall be kept.

22 “(6) DECISION BASED ON EVIDENCE AT HEAR-
23 ING.—The decision of the judge in the hearing shall
24 be based only on the evidence introduced at the

1 hearing, including evidence introduced under sub-
2 section (e).

3 “(7) NO RIGHT TO ANCILLARY RELIEF.—In the
4 hearing, the judge is not authorized to consider or
5 provide for relief from removal based on any of the
6 following:

7 “(A) Asylum under section 208.

8 “(B) Withholding of deportation under sec-
9 tion 243(h).

10 “(C) Suspension of deportation under sec-
11 tion 244(a).

12 “(D) Voluntary departure under section
13 244(e).

14 “(E) Adjustment of status under section
15 245.

16 “(F) Registry under section 249.

17 “(d) SUBPOENAS.—

18 “(1) REQUEST.—At any time prior to the con-
19 clusion of the special removal hearing, either the
20 alien or the Department of Justice may request the
21 judge to issue a subpoena for the presence of a
22 named witness (which subpoena may also command
23 the person to whom it is directed to produce books,
24 papers, documents, or other objects designated
25 therein) upon a satisfactory showing that the pres-

1 ence of the witness is necessary for the determina-
2 tion of any material matter. Such a request may be
3 made ex parte except that the judge shall inform the
4 Department of Justice of any request for a subpoena
5 by the alien for a witness or material if compliance
6 with such a subpoena would reveal evidence or the
7 source of evidence which has been introduced, or
8 which the Department of Justice has received per-
9 mission to introduce, in camera and ex parte pursu-
10 ant to subsection (e) and section 506, and the De-
11 partment of Justice shall be given a reasonable op-
12 portunity to oppose the issuance of such a subpoena.

13 “(2) PAYMENT FOR ATTENDANCE.—If an appli-
14 cation for a subpoena by the alien also makes a
15 showing that the alien is financially unable to pay
16 for the attendance of a witness so requested, the
17 court may order the costs incurred by the process
18 and the fees of the witness so subpoenaed to be paid
19 from funds appropriated for the enforcement of title
20 II.

21 “(3) NATIONWIDE SERVICE.—A subpoena
22 under this subsection may be served anywhere in the
23 United States.

24 “(4) WITNESS FEES.—A witness subpoenaed
25 under this subsection shall receive the same fees and

1 expenses as a witness subpoenaed in connection with
2 a civil proceeding in a court of the United States.

3 “(5) NO ACCESS TO CLASSIFIED INFORMA-
4 TION.—Nothing in this subsection is intended to
5 allow an alien to have access to classified informa-
6 tion.

7 “(e) INTRODUCTION OF CLASSIFIED INFORMA-
8 TION.—

9 “(1) IN GENERAL.—When classified informa-
10 tion has been summarized pursuant to section
11 506(b) or where a finding has been made under sec-
12 tion 506(b)(5) that no summary is possible, classi-
13 fied information shall be introduced (either in writ-
14 ing or through testimony) in camera and ex parte
15 and neither the alien nor the public shall be in-
16 formed of such evidence or its sources other than
17 through reference to the summary provided pursuant
18 to such section. Notwithstanding the previous sen-
19 tence, the Department of Justice may, in its discre-
20 tion and, in the case of classified information, after
21 coordination with the originating agency, elect to in-
22 troduce such evidence in open session.

23 “(2) TREATMENT OF ELECTRONIC SURVEIL-
24 LANCE INFORMATION.—

1 “(A) USE OF ELECTRONIC SURVEIL-
2 LANCE.—The Government is authorized to use
3 in a special removal proceedings the fruits of
4 electronic surveillance and unconsented physical
5 searches authorized under the Foreign Intel-
6 ligence Surveillance Act of 1978 (50 U.S.C.
7 1801 et seq.) without regard to subsections (c),
8 (e), (f), (g), and (h) of section 106 of that Act.

9 “(B) NO DISCOVERY OF ELECTRONIC SUR-
10 VEILLANCE INFORMATION.—An alien subject to
11 removal under this title shall have no right of
12 discovery of information derived from electronic
13 surveillance authorized under the Foreign Intel-
14 ligence Surveillance Act of 1978 or otherwise
15 for national security purposes. Nor shall such
16 alien have the right to seek suppression of evi-
17 dence.

18 “(C) CERTAIN PROCEDURES NOT APPLICA-
19 BLE.—The provisions and requirements of sec-
20 tion 3504 of title 18, United States Code, shall
21 not apply to procedures under this title.

22 “(3) RIGHTS OF UNITED STATES.—Nothing in
23 this section shall prevent the United States from
24 seeking protective orders and from asserting privi-
25 leges ordinarily available to the United States to

1 protect against the disclosure of classified informa-
2 tion, including the invocation of the military and
3 state secrets privileges.

4 “(f) INCLUSION OF CERTAIN EVIDENCE.—The Fed-
5 eral Rules of Evidence shall not apply to hearings under
6 this section. Evidence introduced at the special removal
7 hearing, either in open session or in camera and ex parte,
8 may, in the discretion of the Department of Justice, in-
9 clude all or part of the information presented under sec-
10 tion 504 used to obtain the order for the hearing under
11 this section.

12 “(g) ARGUMENTS.—Following the receipt of evi-
13 dence, the attorneys for the Department of Justice and
14 for the alien shall be given fair opportunity to present ar-
15 gument as to whether the evidence is sufficient to justify
16 the removal of the alien. The attorney for the Department
17 of Justice shall open the argument. The attorney for the
18 alien shall be permitted to reply. The attorney for the De-
19 partment of Justice shall then be permitted to reply in
20 rebuttal. The judge may allow any part of the argument
21 that refers to evidence received in camera and ex parte
22 to be heard in camera and ex parte.

23 “(h) BURDEN OF PROOF.—In the hearing the De-
24 partment of Justice has the burden of showing by clear
25 and convincing evidence that the alien is subject to re-

1 moval because the alien is an alien terrorist. If the judge
2 finds that the Department of Justice has met this burden,
3 the judge shall order the alien removed and detained pend-
4 ing removal from the United States. If the alien was re-
5 leased pending the special removal hearing, the judge shall
6 order the Attorney General to take the alien into custody.

7 “(i) WRITTEN ORDER.—At the time of rendering a
8 decision as to whether the alien shall be removed, the
9 judge shall prepare a written order containing a statement
10 of facts found and conclusions of law. Any portion of the
11 order that would reveal the substance or source of infor-
12 mation received in camera and ex parte pursuant to sub-
13 section (e) shall not be made available to the alien or the
14 public.

15 “CONSIDERATION OF CLASSIFIED INFORMATION

16 “SEC. 506. (a) CONSIDERATION IN CAMERA AND EX
17 PARTE.—In any case in which the application for the
18 order authorizing the special procedures of this title is ap-
19 proved, the judge who granted the order shall consider
20 each item of classified information the Department of Jus-
21 tice proposes to introduce in camera and ex parte at the
22 special removal hearing and shall order the introduction
23 of such information pursuant to section 505(e) if the judge
24 determines the information to be relevant.

25 “(b) PREPARATION AND PROVISION OF WRITTEN
26 SUMMARY.—

1 “(1) PREPARATION.—The Department of Jus-
2 tice shall prepare a written summary of such classi-
3 fied information which does not pose a risk to na-
4 tional security.

5 “(2) CONDITIONS FOR APPROVAL BY JUDGE
6 AND PROVISION TO ALIEN.—The judge shall approve
7 the summary so long as the judge finds that the
8 summary is sufficient—

9 “(A) to inform the alien of the general na-
10 ture of the evidence that the alien is an alien
11 terrorist, and

12 “(B) to permit the alien to prepare a de-
13 fense against deportation.

14 The Department of Justice shall cause to be deliv-
15 ered to the alien a copy of the summary.

16 “(3) OPPORTUNITY FOR CORRECTION AND
17 RESUBMITTAL.—If the judge does not approve the
18 summary, the judge shall provide the Department a
19 reasonable opportunity to correct the deficiencies
20 identified by the court and to submit a revised sum-
21 mary.

22 “(4) CONDITIONS FOR TERMINATION OF PRO-
23 CEEDINGS IF SUMMARY NOT APPROVED.—

24 “(A) IN GENERAL.—If, subsequent to the
25 opportunity described in paragraph (3), the

1 judge does not approve the summary, the judge
2 shall terminate the special removal hearing un-
3 less the judge makes the findings described in
4 subparagraph (B).

5 “(B) FINDINGS.—The findings described
6 in this subparagraph are, with respect to an
7 alien, that—

8 “(i) the continued presence of the
9 alien in the United States would likely
10 cause serious and irreparable harm to the
11 national security or death or serious bodily
12 injury to any person, and

13 “(ii) the provision of the required
14 summary would likely cause serious and ir-
15 reparable harm to the national security or
16 death or serious bodily injury to any per-
17 son.

18 “(5) CONTINUATION OF HEARING WITHOUT
19 SUMMARY.—If a judge makes the findings described
20 in paragraph (4)(B)—

21 “(A) if the alien involved is an alien law-
22 fully admitted for permanent residence, the pro-
23 cedures described in subsection (c) shall apply;
24 and

1 “(B) in all cases the special removal hear-
2 ing shall continue, the Department of Justice
3 shall cause to be delivered to the alien a state-
4 ment that no summary is possible, and the clas-
5 sified information submitted in camera and ex
6 parte may be used pursuant to section 505(e).

7 “(c) SPECIAL PROCEDURES FOR ACCESS AND CHAL-
8 LENGES TO CLASSIFIED INFORMATION BY SPECIAL AT-
9 TORNEYS IN CASE OF LAWFUL PERMANENT ALIENS.—

10 “(1) IN GENERAL.—The procedures described
11 in this subsection are that the judge (under rules of
12 the special removal court) shall designate a special
13 attorney to assist the alien—

14 “(A) by reviewing in camera the classified
15 information on behalf of the alien, and

16 “(B) by challenging through an in camera
17 proceeding the veracity of the evidence con-
18 tained in the classified information.

19 “(2) RESTRICTIONS ON DISCLOSURE.—A spe-
20 cial attorney receiving classified information under
21 paragraph (1)—

22 “(A) shall not disclose the information to
23 the alien or to any other attorney representing
24 the alien, and

1 “(B) who discloses such information in vio-
2 lation of subparagraph (A) shall be subject to
3 a fine under title 18, United States Code, im-
4 prisoned for not less than 10 years nor more
5 than 25 years, or both.

6 “APPEALS

7 “SEC. 507. (a) APPEALS OF DENIALS OF APPLICA-
8 TIONS FOR ORDERS.—The Department of Justice may
9 seek a review of the denial of an order sought in an appli-
10 cation by the United States Court of Appeals for the Dis-
11 trict of Columbia Circuit by notice of appeal which must
12 be filed within 20 days after the date of such denial. In
13 such a case the entire record of the proceeding shall be
14 transmitted to the Court of Appeals under seal and the
15 Court of Appeals shall hear the matter *ex parte*. In such
16 a case the Court of Appeals shall review questions of law
17 *de novo*, but a prior finding on any question of fact shall
18 not be set aside unless such finding was clearly erroneous.

19 “(b) APPEALS OF DETERMINATIONS ABOUT SUM-
20 MARIES OF CLASSIFIED INFORMATION.—Either party
21 may take an interlocutory appeal to the United States
22 Court of Appeals for the District of Columbia Circuit of—

23 “(1) any determination by the judge pursuant
24 to section 506(a)—

1 “(A) concerning whether an item of evi-
2 dence may be introduced in camera and ex
3 parte, or

4 “(B) concerning the contents of any sum-
5 mary of evidence to be introduced in camera
6 and ex parte prepared pursuant to section
7 506(b); or

8 “(2) the refusal of the court to make the find-
9 ings permitted by section 506(b)(4)(B).

10 In any interlocutory appeal taken pursuant to this sub-
11 section, the entire record, including any proposed order
12 of the judge or summary of evidence, shall be transmitted
13 to the Court of Appeals under seal and the matter shall
14 be heard ex parte.

15 “(c) APPEALS OF DECISION IN HEARING.—

16 “(1) IN GENERAL.—Subject to paragraph (2),
17 the decision of the judge after a special removal
18 hearing may be appealed by either the alien or the
19 Department of Justice to the United States Court of
20 Appeals for the District of Columbia Circuit by no-
21 tice of appeal.

22 “(2) AUTOMATIC APPEALS IN CASES OF PERMA-
23 NENT RESIDENT ALIENS IN WHICH NO SUMMARY
24 PROVIDED.—

1 “(A) IN GENERAL.—Unless the alien
2 waives the right to a review under this para-
3 graph, in any case involving an alien lawfully
4 admitted for permanent residence who is denied
5 a written summary of classified information
6 under section 506(b)(4) and with respect to
7 which the procedures described in section
8 506(c) apply, any order issued by the judge
9 shall be reviewed by the Court of Appeals for
10 the District of Columbia Circuit.

11 “(B) USE OF SPECIAL ATTORNEY.—With
12 respect to any issue relating to classified infor-
13 mation that arises in such review, the alien
14 shall be represented only by the special attorney
15 designated under section 506(c)(1) on behalf of
16 the alien.

17 “(d) GENERAL PROVISIONS RELATING TO AP-
18 PEALS.—

19 “(1) NOTICE.—A notice of appeal pursuant to
20 subsection (b) or (c) (other than under subsection
21 (c)(2)) must be filed within 20 days after the date
22 of the order with respect to which the appeal is
23 sought, during which time the order shall not be exe-
24 cuted.

1 “(2) TRANSMITTAL OF RECORD.—In an appeal
2 or review to the Court of Appeals pursuant to sub-
3 section (b) or (c)—

4 “(A) the entire record shall be transmitted
5 to the Court of Appeals, and

6 “(B) information received pursuant to sec-
7 tion 505(e), and any portion of the judge’s
8 order that would reveal the substance or source
9 of such information, shall be transmitted under
10 seal.

11 “(3) EXPEDITED APPELLATE PROCEEDING.—In
12 an appeal or review to the Court of Appeals pursu-
13 ant to subsection (b) or (c):

14 “(A) REVIEW.—The appeal or review shall
15 be heard as expeditiously as practicable and the
16 Court may dispense with full briefing and hear
17 the matter solely on the record of the judge of
18 the special removal court and on such briefs or
19 motions as the Court may require to be filed by
20 the parties.

21 “(B) DISPOSITION.—The Court shall up-
22 hold or reverse the judge’s order within 60 days
23 after the date of the issuance of the judge’s
24 final order.

1 “(4) STANDARD FOR REVIEW.—In an appeal or
2 review to the Court of Appeals pursuant to sub-
3 section (b) or (c):

4 “(A) QUESTIONS OF LAW.—The Court of
5 Appeals shall review all questions of law de
6 novo.

7 “(B) QUESTIONS OF FACT.—(i) Subject to
8 clause (ii), a prior finding on any question of
9 fact shall not be set aside unless such finding
10 was clearly erroneous.

11 “(ii) In the case of a review under sub-
12 section (c)(2) in which an alien lawfully admit-
13 ted for permanent residence was denied a writ-
14 ten summary of classified information under
15 section 506(b)(4), the Court of Appeals shall
16 review questions of fact de novo.

17 “(e) CERTIORARI.—Following a decision by the Court
18 of Appeals pursuant to subsection (b) or (c), either the
19 alien or the Department of Justice may petition the Su-
20 preme Court for a writ of certiorari. In any such case,
21 any information transmitted to the Court of Appeals
22 under seal shall, if such information is also submitted to
23 the Supreme Court, be transmitted under seal. Any order
24 of removal shall not be stayed pending disposition of a

1 writ of certiorari except as provided by the Court of Ap-
2 peals or a Justice of the Supreme Court.

3 “(f) APPEALS OF DETENTION ORDERS.—

4 “(1) IN GENERAL.— The provisions of sections
5 3145 through 3148 of title 18, United States Code,
6 pertaining to review and appeal of a release or de-
7 tention order, penalties for failure to appear, pen-
8 alties for an offense committed while on release, and
9 sanctions for violation of a release condition shall
10 apply to an alien to whom section 508(b)(1) applies.

11 In applying the previous sentence—

12 “(A) for purposes of section 3145 of such
13 title an appeal shall be taken to the United
14 States Court of Appeals for the District of Co-
15 lumbia Circuit, and

16 “(B) for purposes of section 3146 of such
17 title the alien shall be considered released in
18 connection with a charge of an offense punish-
19 able by life imprisonment.

20 “(2) NO REVIEW OF CONTINUED DETENTION.—

21 The determinations and actions of the Attorney
22 General pursuant to section 508(c)(2)(C) shall not
23 be subject to judicial review, including application
24 for a writ of habeas corpus, except for a claim by
25 the alien that continued detention violates the alien’s

1 rights under the Constitution. Jurisdiction over any
2 such challenge shall lie exclusively in the United
3 States Court of Appeals for the District of Columbia
4 Circuit.

5 “DETENTION AND CUSTODY

6 “SEC. 508. (a) INITIAL CUSTODY.—

7 “(1) UPON FILING APPLICATION.—Subject to
8 paragraph (2), the Attorney General may take into
9 custody any alien with respect to whom an applica-
10 tion under section 503 has been filed and, notwith-
11 standing any other provision of law, may retain such
12 an alien in custody in accordance with the proce-
13 dures authorized by this title.

14 “(2) SPECIAL RULES FOR PERMANENT RESI-
15 DENT ALIENS.—An alien lawfully admitted for per-
16 manent residence shall be entitled to a release hear-
17 ing before the judge assigned to hear the special re-
18 moval hearing. Such an alien shall be detained pend-
19 ing the special removal hearing, unless the alien
20 demonstrates to the court that—

21 “(A) the alien, if released upon such terms
22 and conditions as the court may prescribe (in-
23 cluding the posting of any monetary amount),
24 is not likely to flee, and

1 “(B) the alien’s release will not endanger
2 national security or the safety of any person or
3 the community.

4 The judge may consider classified information sub-
5 mitted in camera and ex parte in making a deter-
6 mination under this paragraph.

7 “(3) RELEASE IF ORDER DENIED AND NO RE-
8 VIEW SOUGHT.—

9 “(A) IN GENERAL.—Subject to subpara-
10 graph (B), if a judge of the special removal
11 court denies the order sought in an application
12 with respect to an alien and the Department of
13 Justice does not seek review of such denial, the
14 alien shall be released from custody.

15 “(B) APPLICATION OF REGULAR PROCE-
16 DURES.—Subparagraph (A) shall not prevent
17 the arrest and detention of the alien pursuant
18 to title II.

19 “(b) CONDITIONAL RELEASE IF ORDER DENIED AND
20 REVIEW SOUGHT.—

21 “(1) IN GENERAL.—If a judge of the special re-
22 moval court denies the order sought in an applica-
23 tion with respect to an alien and the Department of
24 Justice seeks review of such denial, the judge shall
25 release the alien from custody subject to the least re-

1 strictive condition or combination of conditions of re-
2 lease described in section 3142(b) and clauses (i)
3 through (xiv) of section 3142(c)(1)(B) of title 18,
4 United States Code, that will reasonably assure the
5 appearance of the alien at any future proceeding
6 pursuant to this title and will not endanger the safe-
7 ty of any other person or the community.

8 “(2) NO RELEASE FOR CERTAIN ALIENS.—If
9 the judge finds no such condition or combination of
10 conditions, the alien shall remain in custody until
11 the completion of any appeal authorized by this title.

12 “(c) CUSTODY AND RELEASE AFTER HEARING.—

13 “(1) RELEASE.—

14 “(A) IN GENERAL.—Subject to subpara-
15 graph (B), if the judge decides pursuant to sec-
16 tion 505(i) that an alien should not be removed,
17 the alien shall be released from custody.

18 “(B) CUSTODY PENDING APPEAL.—If the
19 Attorney General takes an appeal from such de-
20 cision, the alien shall remain in custody, subject
21 to the provisions of section 3142 of title 18,
22 United States Code.

23 “(2) CUSTODY AND REMOVAL.—

24 “(A) CUSTODY.—If the judge decides pur-
25 suant to section 505(i) that an alien shall be re-

1 moved, the alien shall be detained pending the
2 outcome of any appeal. After the conclusion of
3 any judicial review thereof which affirms the re-
4 moval order, the Attorney General shall retain
5 the alien in custody and remove the alien to a
6 country specified under subparagraph (B).

7 “(B) REMOVAL.—

8 “(i) IN GENERAL.—The removal of an
9 alien shall be to any country which the
10 alien shall designate if such designation
11 does not, in the judgment of the Attorney
12 General, in consultation with the Secretary
13 of State, impair the obligation of the
14 United States under any treaty (including
15 a treaty pertaining to extradition) or other-
16 wise adversely affect the foreign policy of
17 the United States.

18 “(ii) ALTERNATE COUNTRIES.—If the
19 alien refuses to designate a country to
20 which the alien wishes to be removed or if
21 the Attorney General, in consultation with
22 the Secretary of State, determines that re-
23 moval of the alien to the country so des-
24 ignated would impair a treaty obligation or
25 adversely affect United States foreign pol-

1 icy, the Attorney General shall cause the
2 alien to be removed to any country willing
3 to receive such alien.

4 “(C) CONTINUED DETENTION.—If no
5 country is willing to receive such an alien, the
6 Attorney General may, notwithstanding any
7 other provision of law, retain the alien in cus-
8 tody. The Attorney General, in coordination
9 with the Secretary of State, shall make periodic
10 efforts to reach agreement with other countries
11 to accept such an alien and at least every 6
12 months shall provide to the attorney represent-
13 ing the alien at the special removal hearing a
14 written report on the Attorney General’s ef-
15 forts. Any alien in custody pursuant to this
16 subparagraph shall be released from custody
17 solely at the discretion of the Attorney General
18 and subject to such conditions as the Attorney
19 General shall deem appropriate.

20 “(D) FINGERPRINTING.—Before an alien
21 is transported out of the United States pursu-
22 ant to this subsection, or pursuant to an order
23 of exclusion because such alien is excludable
24 under section 212(a)(3)(B), the alien shall be

1 photographed and fingerprinted, and shall be
2 advised of the provisions of subsection 276(b).

3 “(d) CONTINUED DETENTION PENDING TRIAL.—

4 “(1) DELAY IN REMOVAL.—Notwithstanding
5 the provisions of subsection (c)(2), the Attorney
6 General may hold in abeyance the removal of an
7 alien who has been ordered removed pursuant to this
8 title to allow the trial of such alien on any Federal
9 or State criminal charge and the service of any sen-
10 tence of confinement resulting from such a trial.

11 “(2) MAINTENANCE OF CUSTODY.—Pending the
12 commencement of any service of a sentence of con-
13 finement by an alien described in paragraph (1),
14 such an alien shall remain in the custody of the At-
15 torney General, unless the Attorney General deter-
16 mines that temporary release of the alien to the cus-
17 tody of State authorities for confinement in a State
18 facility is appropriate and would not endanger na-
19 tional security or public safety.

20 “(3) SUBSEQUENT REMOVAL.—Following the
21 completion of a sentence of confinement by an alien
22 described in paragraph (1) or following the comple-
23 tion of State criminal proceedings which do not re-
24 sult in a sentence of confinement of an alien released
25 to the custody of State authorities pursuant to para-

1 graph (2), such an alien shall be returned to the
2 custody of the Attorney General who shall proceed
3 to carry out the provisions of subsection (c)(2) con-
4 cerning removal of the alien.

5 “(e) APPLICATION OF CERTAIN PROVISIONS RELAT-
6 ING TO ESCAPE OF PRISONERS.—For purposes of sections
7 751 and 752 of title 18, United States Code, an alien in
8 the custody of the Attorney General pursuant to this title
9 shall be subject to the penalties provided by those sections
10 in relation to a person committed to the custody of the
11 Attorney General by virtue of an arrest on a charge of
12 a felony.

13 “(f) RIGHTS OF ALIENS IN CUSTODY.—

14 “(1) FAMILY AND ATTORNEY VISITS.—An alien
15 in the custody of the Attorney General pursuant to
16 this title shall be given reasonable opportunity to
17 communicate with and receive visits from members
18 of the alien’s family, and to contact, retain, and
19 communicate with an attorney.

20 “(2) DIPLOMATIC CONTACT.—An alien in the
21 custody of the Attorney General pursuant to this
22 title shall have the right to contact an appropriate
23 diplomatic or consular official of the alien’s country
24 of citizenship or nationality or of any country pro-
25 viding representation services therefore. The Attor-

1 ney General shall notify the appropriate embassy,
2 mission, or consular office of the alien’s detention.”.

3 (b) CRIMINAL PENALTY FOR REENTRY OF ALIEN
4 TERRORISTS.—Section 276(b) (8 U.S.C. 1326(b)) is
5 amended—

6 (1) by striking “or” at the end of paragraph
7 (1),

8 (2) by striking the period at the end of para-
9 graph (2) and inserting “; or”, and

10 (3) by inserting after paragraph (2) the follow-
11 ing new paragraph:

12 “(3) who has been excluded from the United
13 States pursuant to subsection 235(c) because the
14 alien was excludable under subsection 212(a)(3)(B)
15 or who has been removed from the United States
16 pursuant to the provisions of title V, and who there-
17 after, without the permission of the Attorney Gen-
18 eral, enters the United States or attempts to do so
19 shall be fined under title 18, United States Code,
20 and imprisoned for a period of 10 years, which sen-
21 tence shall not run concurrently with any other sen-
22 tence.”.

23 (c) ELIMINATION OF CUSTODY REVIEW BY HABEAS
24 CORPUS.—Section 106(a) (8 U.S.C. 1105a(a)) is amend-
25 ed—

1 (1) by adding “and” at the end of paragraph
2 (8),

3 (2) by striking “; and” at the end of paragraph
4 (9) and inserting a period, and

5 (3) by striking paragraph (10).

6 (d) EFFECTIVE DATE.—The amendments made by
7 this section shall take effect on the date of the enactment
8 of this Act and shall apply to all aliens without regard
9 to the date of entry or attempted entry into the United
10 States.

11 **SEC. 322. FUNDING FOR DETENTION AND REMOVAL OF**
12 **ALIEN TERRORISTS.**

13 In addition to amounts otherwise appropriated, there
14 are authorized to be appropriated for each fiscal year (be-
15 ginning with fiscal year 1996) \$5,000,000 to the Immigra-
16 tion and Naturalization Service for the purpose of detain-
17 ing and removing alien terrorists.

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

20 **SEC. 331. MEMBERSHIP IN TERRORIST ORGANIZATION AS**
21 **GROUND OF INADMISSIBILITY.**

22 (a) IN GENERAL.—Section 212(a)(3)(B) (8 U.S.C.
23 1182(a)(3)(B)) is amended—

24 (1) in clause (i)—

1 (A) by striking “or” at the end of
2 subclause (I),

3 (B) in subclause (II), by inserting “en-
4 gaged in or” after “believe,”, and

5 (C) by inserting after subclause (II) the
6 following:

7 “(III) is a representative of a ter-
8 rorist organization, or

9 “(IV) is a member of a terrorist
10 organization which the alien knows or
11 should have known is a terrorist orga-
12 nization,”; and

13 (2) by adding at the end the following:

14 “(iv) TERRORIST ORGANIZATION DE-
15 FINED.—

16 “(I) DESIGNATION.—For pur-
17 poses of this Act, the term ‘terrorist
18 organization’ means a foreign organi-
19 zation designated in the Federal Reg-
20 ister as a terrorist organization by the
21 Secretary of State, in consultation
22 with the Attorney General, based
23 upon a finding that the organization
24 engages in, or has engaged in, terror-

1 ist activity that threatens the national
2 security of the United States.

3 “(II) PROCESS.—At least 3 days
4 before designating an organization as
5 a terrorist organization through publi-
6 cation in the Federal Register, the
7 Secretary of State, in consultation
8 with the Attorney General, shall notify
9 the Committees on the Judiciary of
10 the House of Representatives and the
11 Senate of the intent to make such
12 designation and the findings and basis
13 for designation. The Secretary of
14 State, in consultation with the Attor-
15 ney General, shall create an adminis-
16 trative record and may use classified
17 information in making such a designa-
18 tion. Such information is not subject
19 to disclosure so long as it remains
20 classified, except that it may be dis-
21 closed to a court *ex parte* and *in cam-*
22 *era* under subclause (III) for purposes
23 of judicial review of such a designa-
24 tion. The Secretary of State, in con-
25 sultation with the Attorney General,

1 shall provide notice and an oppor-
2 tunity for public comment prior to the
3 creation of the administrative record
4 under this subclause.

5 “(III) JUDICIAL REVIEW.—Any
6 organization designated as a terrorist
7 organization under the preceding pro-
8 visions of this clause may, not later
9 than 30 days after the date of the
10 designation, seek judicial review there-
11 of in the United States Court of Ap-
12 peals for the District of Columbia Cir-
13 cuit. Such review shall be based solely
14 upon the administrative record, except
15 that the Government may submit, for
16 ex parte and in camera review, classi-
17 fied information considered in making
18 the designation. The court shall hold
19 unlawful and set aside the designation
20 if the court finds the designation to be
21 arbitrary, capricious, an abuse of dis-
22 cretion, or otherwise not in accord-
23 ance with law, lacking substantial
24 support in the administrative record
25 taken as a whole or in classified infor-

1 mation submitted to the court under
2 the previous sentence, contrary to
3 constitutional right, power, privilege,
4 or immunity, or not in accord with the
5 procedures required by law.

6 “(IV) CONGRESSIONAL REMOVAL
7 AUTHORITY.—The Congress reserves
8 the authority to remove, by law, the
9 designation of an organization as a
10 terrorist organization for purposes of
11 this Act.

12 “(V) SUNSET.—Subject to
13 subclause (IV), the designation under
14 this clause of an organization as a
15 terrorist organization shall be effective
16 for a period of 2 years from the date
17 of the initial publication of the terror-
18 ist organization designation by the
19 Secretary of State. At the end of such
20 period (but no sooner than 60 days
21 prior to the termination of the 2-year-
22 designation period), the Secretary of
23 State, in consultation with the Attor-
24 ney General, may redesignate the or-
25 ganization in conformity with the re-

1 requirements of this clause for designa-
2 tion of the organization.

3 “(VI) REMOVAL AUTHORITY.—
4 The Secretary of State, in consulta-
5 tion with the Attorney General, may
6 remove the terrorist organization des-
7 ignation from any organization pre-
8 viously designated as such an organi-
9 zation, at any time, so long as the
10 Secretary publishes notice of the re-
11 moval in the Federal Register. The
12 Secretary is not required to report to
13 Congress prior to so removing such
14 designation.

15 “(v) REPRESENTATIVE DEFINED.—In
16 this subparagraph, the term ‘representa-
17 tive’ includes an officer, official, or spokes-
18 man of the organization and any person
19 who directs, counsels, commands or in-
20 duces the organization or its members to
21 engage in terrorist activity.”.

22 (b) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect on the date of the enactment
24 of this Act.

1 **SEC. 332. DENIAL OF RELIEF FOR ALIEN TERRORISTS.**

2 (a) WITHHOLDING OF DEPORTATION.—Section
3 243(h)(2) (8 U.S.C. 1253(h)(2)) is amended by adding
4 at the end the following new sentence: “For purposes of
5 subparagraph (D), an alien who is described in section
6 241(a)(4)(B) shall be considered to be an alien for whom
7 there are reasonable grounds for regarding as a danger
8 to the security of the United States.”.

9 (b) SUSPENSION OF DEPORTATION.—Section 244(a)
10 (8 U.S.C. 1254(a)) is amended by striking “section
11 241(a)(4)(D)” and inserting “subparagraph (B) or (D) of
12 section 241(a)(4)”.

13 (c) VOLUNTARY DEPARTURE.—Section 244(e)(2) (8
14 U.S.C. 1254(e)(2)) is amended by inserting “under sec-
15 tion 241(a)(4)(B) or” after “who is deportable”.

16 (d) ADJUSTMENT OF STATUS.—Section 245(c) (8
17 U.S.C. 1255(c)) is amended—

18 (1) by striking “or” before “(5)”, and

19 (2) by inserting before the period at the end the
20 following: “, or (6) an alien who is deportable under
21 section 241(a)(4)(B)”.

22 (e) REGISTRY.—Section 249(d) (8 U.S.C. 1259(d))
23 is amended by inserting “and is not deportable under sec-
24 tion 241(a)(4)(B)” after “ineligible to citizenship”.

25 (f) EFFECTIVE DATE.—(1) The amendments made
26 by this section shall take effect on the date of the enact-

1 ment of this Act and shall apply to applications filed be-
2 fore, on, or after such date if final action has not been
3 taken on them before such date.

4 (2) The amendments made by subsections (a)
5 through (c) are subsequently superseded by the amend-
6 ments made by subtitle A.

7 **Subtitle C—Deterring Transpor-**
8 **tation of Unlawful Aliens to the**
9 **United States**

10 **SEC. 341. DEFINITION OF STOWAWAY.**

11 (a) STOWAWAY DEFINED.—Section 101(a) (8 U.S.C.
12 1101(a)) is amended by adding the following new para-
13 graph:

14 “(47) The term ‘stowaway’ means any alien
15 who obtains transportation without the consent of
16 the owner, charterer, master or person in command
17 of any vessel or aircraft through either concealment
18 on board such vessel or aircraft or evasion of that
19 carrier’s standard boarding procedures.”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 subsection (a) shall take effect on the date of the enact-
22 ment of this Act.

1 **SEC. 342. LIST OF ALIEN AND CITIZEN PASSENGERS ARRIV-**
2 **ING.**

3 (a) IN GENERAL.—Section 231(a) (8 U.S.C.
4 1221(a)) is amended—

5 (1) by amending the first sentence to read as
6 follows: “In connection with the arrival of any per-
7 son by water or by air at any port within the United
8 States from any place outside the United States, it
9 shall be the duty of the master or commanding offi-
10 cer, or authorized agent, owner, or consignee of the
11 vessel or aircraft, having such person on board to
12 deliver to the immigration officers at the port of ar-
13 rival, or other place designated by the Attorney Gen-
14 eral, electronic, typewritten, or printed lists or mani-
15 fests of the persons on board such vessel or air-
16 craft.”;

17 (2) in the second sentence, by striking “shall be
18 prepared” and inserting “shall be prepared and sub-
19 mitted”; and

20 (3) by inserting after the second sentence the
21 following sentence: “Such lists or manifests shall
22 contain, but not be limited to, for each person trans-
23 ported, the person’s full name, date of birth, gender,
24 citizenship, travel document number (if applicable)
25 and arriving flight number.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall apply to vessels or aircraft arriving
3 at ports of entry on or after such date (not later than
4 60 days after the date of the enactment of this Act) as
5 the Attorney General shall specify.

6 **SEC. 343. TRANSPORTATION LINE RESPONSIBILITY FOR**
7 **TRANSIT WITHOUT VISA ALIENS.**

8 (a) IN GENERAL.—Section 238(c) (8 U.S.C.
9 1228(c)), before redesignation as section 233 under sec-
10 tion 308(b)(4), is amended—

11 (1) by inserting “(1)” after “(a)”, and

12 (2) by adding at the end the following new
13 paragraph:

14 “(2) Notwithstanding any other provision of this Act
15 and in consideration for bringing aliens transiting through
16 the United States without a visa, a transportation line
17 that has entered into a contract under this section is
18 deemed to have agreed to indemnify the United States
19 against any costs for the detention and removal from the
20 United States of any such alien who for any reason—

21 “(A) is refused admission to the United States,

22 “(B) fails to continue the alien’s journey to a
23 foreign country within the time prescribed by regula-
24 tion, or

1 “(C) is refused admission by the foreign coun-
2 try to which the alien is travelling while transiting
3 through the United States. ”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 subsection (a) shall apply to aliens arriving in the United
6 States on or after such date (not later than 60 days after
7 the date of the enactment of this Act) as the Attorney
8 General shall specify.

9 **SEC. 344. CIVIL PENALTIES FOR BRINGING INADMISSIBLE**
10 **ALIENS FROM CONTIGUOUS TERRITORIES.**

11 (a) IN GENERAL.—Section 273 (8 U.S.C. 1323) is
12 amended—

13 (1) in subsection (a), by striking “(other than
14 from foreign contiguous territory)”, and

15 (2) in subsection (b), by striking “\$3,000” and
16 inserting “\$5,000”.

17 (b) EFFECTIVE DATE.—The amendments made by
18 subsection (a) shall apply to aliens arriving in the United
19 States on or after such date (not later than 60 days after
20 the date of the enactment of this Act) as the Attorney
21 General shall specify.

1 **Subtitle D—Additional Provisions**

2 **SEC. 351. DEFINITION OF CONVICTION.**

3 (a) IN GENERAL.—Section 101(a) (8 U.S.C.
4 1101(a)), as amended by section 341, is amended by add-
5 ing at the end the following new paragraph:

6 “(48) The term ‘conviction’ means a formal
7 judgment of guilt entered by a court or, if adjudica-
8 tion of guilt has been withheld, where all of the fol-
9 lowing elements are present:

10 “(A) A judge or jury has found the alien
11 guilty or the alien has entered a plea of guilty
12 or nolo contendere or has admitted sufficient
13 facts to warrant a finding of guilt.

14 “(B) The judge has ordered some form of
15 punishment, penalty, or restraint on the alien’s
16 liberty to be imposed.

17 “(C) A judgment or adjudication of guilt
18 may be entered if the alien violates the terms
19 of the probation or fails to comply with the re-
20 quirements of the court’s order, without avail-
21 ability of further proceedings regarding the
22 alien’s guilt or innocence of the original
23 charge.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply to convictions entered before,
3 on, or after the date of the enactment of this Act.

4 **SEC. 352. USE OF TERM “IMMIGRATION JUDGE”.**

5 (a) DEFINITION OF TERM.—Paragraph (4) of section
6 101(b) (8 U.S.C. 1101(b)) is amended to read as follows:

7 “(4) The term ‘immigration judge’ means an attorney
8 whom the Attorney General deems specially qualified to
9 conduct specified classes of proceedings, including a hear-
10 ing under section 240. An immigration judge shall be sub-
11 ject to such supervision and shall perform such duties as
12 the Attorney General shall prescribe, but shall not be em-
13 ployed by the Immigration and Naturalization Service.”.

14 (b) SUBSTITUTION FOR TERM “SPECIAL INQUIRY
15 OFFICER”.—The Immigration and Nationality Act is
16 amended by striking “special inquiry officer” and “special
17 inquiry officers” and inserting “immigration judge” and
18 “immigration judges”, respectively, each place it appears
19 in the following sections:

20 (1) Section 106(a)(2) (8 U.S.C. 1105a(a)(2)).

21 (2) Section 209(a)(2) (8 U.S.C. 1159(a)(2)).

22 (3) Section 234 (8 U.S.C. 1224).

23 (4) Section 235 (8 U.S.C. 1225).

24 (5) Section 236 (8 U.S.C. 1226).

25 (6) Section 242(b) (8 U.S.C. 1252(b)).

1 (7) Section 242(d)(1) (8 U.S.C. 1252(d)(1)).

2 (8) Section 292 (8 U.S.C. 1362).

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

6 **SEC. 353. RESCISSION OF LAWFUL PERMANENT RESIDENT**
7 **STATUS.**

8 (a) IN GENERAL.—Section 246(a) (8 U.S.C.
9 1256(a)) is amended by adding at the end the following
10 sentence: “Nothing in this subsection shall require the At-
11 torney General to rescind the alien’s status prior to com-
12 mencement of procedures to remove the alien under sec-
13 tion 240, and an order of removal issued by an immigra-
14 tion judge shall be sufficient to rescind the alien’s sta-
15 tus.”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 subsection (a) shall take effect on the title III–A effective
18 date (as defined in section 309(a)).

19 **SEC. 354. CIVIL PENALTIES FOR FAILURE TO DEPART.**

20 (a) IN GENERAL.—The Immigration and Nationality
21 Act is amended by inserting after section 274C the follow-
22 ing new section:

23 “CIVIL PENALTIES FOR FAILURE TO DEPART

24 “SEC. 274D. (a) IN GENERAL.—Any alien subject to
25 a final order of removal who—

26 “(1) willfully fails or refuses to—

1 “(A) depart from the United States pursu-
2 ant to the order,

3 “(B) make timely application in good faith
4 for travel or other documents necessary for de-
5 parture, or

6 “(C) present for removal at the time and
7 place required by the Attorney General; or

8 “(2) conspires to or takes any action designed
9 to prevent or hamper the alien’s departure pursuant
10 to the order,

11 shall pay a civil penalty of not more \$500 to the Commis-
12 sioner for each day the alien is in violation of this section.

13 “(b) CONSTRUCTION.—Nothing in this section shall
14 be construed to diminish or qualify any penalties to which
15 an alien may be subject for activities proscribed by section
16 243(a) or any other section of this Act.”.

17 (b) CLERICAL AMENDMENT.—The table of contents
18 is amended by inserting after the item relating to section
19 274C the following new item:

“Sec. 274D. Civil penalties for failure to depart.”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 subsection (a) shall apply to actions occurring on or after
22 the title III–A effective date (as defined in section 309(a)).

1 **SEC. 355. CLARIFICATION OF DISTRICT COURT JURISDIC-**
2 **TION.**

3 (a) IN GENERAL.—Section 279 (8 U.S.C. 1329) is
4 amended—

5 (1) by amending the first sentence to read as
6 follows: “The district courts of the United States
7 shall have jurisdiction of all causes, civil and crimi-
8 nal, brought by the United States that arise under
9 the provisions of this title.”, and

10 (2) by adding at the end the following new sen-
11 tence: “Nothing in this section shall be construed as
12 providing jurisdiction for suits against the United
13 States or its agencies or officers.”.

14 (b) EFFECTIVE DATE.—The amendments made by
15 subsection (a) shall apply to actions filed after the date
16 of the enactment of this Act.

17 **SEC. 356. USE OF RETIRED FEDERAL EMPLOYEES FOR IN-**
18 **STITUTIONAL HEARING PROGRAM.**

19 (a) AUTHORIZATION OF TEMPORARY EMPLOYMENT
20 OF CERTAIN ANNUITANTS AND RETIREES.—For the pur-
21 pose of performing duties in connection with supporting
22 the enhanced Institutional Hearing Program, the Attorney
23 General may employ for a period not to exceed 24 months
24 (beginning 3 months after the date of the enactment of
25 this Act) not more than 300 individuals (at any one time)

1 who, by reason of separation from service on or before
2 January 1, 1995, are receiving—

3 (1) annuities under the provisions of subchapter
4 III of chapter 83 of title 5, United States Code, or
5 chapter 84 of such title;

6 (2) annuities under any other retirement system
7 for employees of the Federal Government; or

8 (3) retired or retainer pay as retired officers of
9 regular components of the uniformed services.

10 (b) NO REDUCTION IN ANNUITY OR RETIREMENT
11 PAY OR REDETERMINATION OF PAY DURING TEMPORARY
12 EMPLOYMENT.—

13 (1) RETIREES UNDER CIVIL SERVICE RETIRE-
14 MENT SYSTEM AND FEDERAL EMPLOYEES' RETIRE-
15 MENT SYSTEM.—In the case of an individual em-
16 ployed under subsection (a) who is receiving an an-
17 nuity described in subsection (a)(1)—

18 (A) such individual's annuity shall con-
19 tinue during the employment under subsection
20 (a) and shall not be increased as a result of
21 service performed during that employment;

22 (B) retirement deductions shall not be
23 withheld from such individual's pay; and

24 (C) such individual's pay shall not be sub-
25 ject to any deduction based on the portion of

1 such individual's annuity which is allocable to
2 the period of employment.

3 (2) OTHER FEDERAL RETIREES.—The Presi-
4 dent shall apply the provisions of paragraph (1) to
5 individuals who are receiving an annuity described in
6 subsection (a)(2) and who are employed under sub-
7 section (a) in the same manner and to the same ex-
8 tent as such provisions apply to individuals who are
9 receiving an annuity described in subsection (a)(1)
10 and who are employed under subsection (a).

11 (3) RETIRED OFFICERS OF THE UNIFORM
12 SERVICES.—The retired or retainer pay of a retired
13 officer of a regular component of a uniformed serv-
14 ice shall not be reduced under section 5532 of title
15 5, United States Code, by reason of temporary em-
16 ployment authorized under subsection (a).

17 **SEC. 357. ENHANCED PENALTIES FOR FAILURE TO DEPART,**
18 **ILLEGAL REENTRY, AND PASSPORT AND VISA**
19 **FRAUD.**

20 (a) FAILING TO DEPART.—The United States Sen-
21 tencing Commission shall promptly promulgate, pursuant
22 to section 994 of title 28, United States Code, amend-
23 ments to the sentencing guidelines to make appropriate
24 increases in the base offense level for offenses under sec-
25 tion 242(e) and 276(b) of the Immigration and National-

1 ity Act (8 U.S.C. 1252(e) and 1326(b)) to reflect the
2 amendments made by section 130001 of the Violent Crime
3 Control and Law Enforcement Act of 1994.

4 (b) PASSPORT AND VISA OFFENSES.—The United
5 States Sentencing Commission shall promptly promulgate,
6 pursuant to section 994 of title 28, United States Code,
7 amendments to the sentencing guidelines to make appro-
8 priate increases in the base offense level for offenses under
9 chapter 75 of title 18, United States Code to reflect the
10 amendments made by section 130009 of the Violent Crime
11 Control and Law Enforcement Act of 1994.

12 **SEC. 358. AUTHORIZATION OF ADDITIONAL FUNDS FOR RE-**
13 **MOVAL OF ALIENS.**

14 In addition to the amounts otherwise authorized to
15 be appropriated for each fiscal year beginning with fiscal
16 year 1996, there are authorized to be appropriated to the
17 Attorney General \$150,000,000 for costs associated with
18 the removal of inadmissible or deportable aliens, including
19 costs of detention of such aliens pending their removal,
20 the hiring of more investigators, and the hiring of more
21 detention and deportation officers.

22 **SEC. 359. APPLICATION OF ADDITIONAL CIVIL PENALTIES**
23 **TO ENFORCEMENT.**

24 (a) IN GENERAL.—Subsection (b) of section 280 (8
25 U.S.C. 1330(b)) is amended to read as follows:

1 “(b)(1) There is established in the general fund of
2 the Treasury a separate account which shall be known as
3 the ‘Immigration Enforcement Account’. Notwithstanding
4 any other section of this title, there shall be deposited as
5 offsetting receipts into the Immigration Enforcement Ac-
6 count amounts described in paragraph (2) to remain avail-
7 able until expended.

8 “(2) The amounts described in this paragraph are the
9 following:

10 “(A) The increase in penalties collected result-
11 ing from the amendments made by sections 203(b)
12 and 543(a) of the Immigration Act of 1990.

13 “(B) Civil penalties collected under sections
14 240B(d), 274C, 274D, and 275(b).

15 “(3)(A) The Secretary of the Treasury shall refund
16 out of the Immigration Enforcement Account to any ap-
17 propriation the amount paid out of such appropriation for
18 expenses incurred by the Attorney General for activities
19 that enhance enforcement of provisions of this title, in-
20 cluding—

21 “(i) the identification, investigation, apprehen-
22 sion, detention, and removal of criminal aliens;

23 “(ii) the maintenance and updating of a system
24 to identify and track criminal aliens, deportable

1 aliens, inadmissible aliens, and alien illegally enter-
2 ing the United States; and

3 “(iii) for the repair, maintenance, or construc-
4 tion on the United States border, in areas experienc-
5 ing high levels of apprehensions of illegal aliens, of
6 structures to deter illegal entry into the United
7 States.

8 “(B) The amounts which are required to be refunded
9 under subparagraph (A) shall be refunded at least quar-
10 terly on the basis of estimates made by the Attorney Gen-
11 eral of the expenses referred to in subparagraph (A).
12 Proper adjustments shall be made in the amounts subse-
13 quently refunded under subparagraph (A) to the extent
14 prior estimates were in excess of, or less than, the amount
15 required to be refunded under subparagraph (A).”.

16 (b) IMMIGRATION USER FEE ACCOUNT.—Section
17 286(h)(1)(B) (8 U.S.C. 1356(h)(1)(B)) is amended by
18 striking “271” and inserting “243(c), 271,”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to fines and penalties collected on
21 or after the date of the enactment of this Act.

22 **SEC. 360. PRISONER TRANSFER TREATIES.**

23 (a) NEGOTIATION.—Congress advises the President
24 to begin to negotiate and renegotiate, not later than 90
25 days after the date of the enactment of this Act, bilateral

1 prisoner transfer treaties. The focus of such negotiations
2 shall be—

3 (1) to expedite the transfer of aliens unlawfully
4 in the United States who are (or are about to be)
5 incarcerated in United States prisons,

6 (2) to ensure that a transferred prisoner serves
7 the balance of the sentence imposed by the United
8 States courts, and

9 (3) to eliminate any requirement of prisoner
10 consent to such a transfer.

11 In entering into such negotiations, the President may con-
12 sider providing for appropriate compensation in cases
13 where the United States is able to independently verify
14 the adequacy of the sites where aliens will be imprisoned
15 under such a treaty.

16 (b) CERTIFICATION.—The President shall submit to
17 the Congress, annually, a certification as to whether each
18 prisoner transfer treaty in force is effective in returning
19 aliens unlawfully in the United States who have committed
20 offenses for which they are incarcerated in the United
21 States to their country of nationality for further incarcer-
22 ation.

1 **SEC. 361. CRIMINAL ALIEN IDENTIFICATION SYSTEM.**

2 Subsection (a) of section 130002 of the Violent Crime
3 Control and Law Enforcement Act of 1994 (Public Law
4 103–312) is amended to read as follows:

5 “(a) OPERATION AND PURPOSE.—The Commissioner
6 of Immigration and Naturalization shall, under the au-
7 thority of section 242(a)(3)(A) of the Immigration and
8 Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a crimi-
9 nal alien identification system. The criminal alien identi-
10 fication system shall be used to assist Federal, State, and
11 local law enforcement agencies in identifying and locating
12 aliens who may be subject to removal by reason of their
13 conviction of aggravated felonies, subject to prosecution
14 under section 275 of such Act, not lawfully present in the
15 United States, or otherwise removable. Such system shall
16 include providing for recording of fingerprint records of
17 aliens who have been previously arrested and removed into
18 appropriate automated fingerprint identification sys-
19 tems.”.

20 **SEC. 362. WAIVER OF EXCLUSION AND DEPORTATION**
21 **GROUND FOR CERTAIN SECTION 274C VIOLA-**
22 **TORS.**

23 (a) EXCLUSION GROUNDS.—Section 212 (8 U.S.C.
24 1182) is amended—

25 (1) by amending subparagraph (F) of sub-
26 section (a)(6) to read as follows:

1 “(F) SUBJECT OF CIVIL PENALTY.—

2 “(i) IN GENERAL.—An alien who is the
3 subject of a final order for violation of section
4 274C is inadmissible.

5 “(ii) WAIVER AUTHORIZED.—For provision
6 authorizing waiver of clause (i), see subsection
7 (d)(12).”; and
8 (2) by adding at the end of subsection (d) the
9 following new paragraph:

10 “(12) The Attorney General may, in the discretion
11 of the Attorney General for humanitarian purposes, to as-
12 sure family unity, or when it is otherwise in the public
13 interest, waive application of clause (i) of subsection
14 (a)(6)(F)—

15 “(A) in the case of an alien lawfully admitted
16 for permanent residence who temporarily proceeded
17 abroad voluntarily and not under an order of depor-
18 tation and who is otherwise admissible to the United
19 States as a returning resident under section 211(b),
20 and

21 “(B) in the case of an alien seeking admission
22 or adjustment of status under section 201(b)(2)(A)
23 or under section 203(a),

1 if the violation under section 274C was committed solely
2 to assist, aid, or support the alien’s spouse, parent, son,
3 or daughter (and not another individual).”.

4 (b) GROUND OF DEPORTATION.—Subparagraph (C)
5 of section 241(a)(3) (8 U.S.C. 1251(a)(3)), before redesign-
6 nation by section 305(a)(2), is amended to read as follows:

7 “(C) DOCUMENT FRAUD.—

8 “(i) IN GENERAL.—An alien who is
9 the subject of a final order for violation of
10 section 274C is deportable.

11 “(ii) WAIVER AUTHORIZED.—The At-
12 torney General may waive clause (i) in the
13 case of an alien lawfully admitted for per-
14 manent residence if the alien’s civil money
15 penalty under section 274C was incurred
16 solely to assist, aid, or support the alien’s
17 spouse, parent, son, or daughter (and no
18 other individual).”.

19 **SEC. 363. AUTHORIZING REGISTRATION OF ALIENS ON**
20 **CRIMINAL PROBATION OR CRIMINAL PA-**
21 **ROLE.**

22 Section 263(a) (8 U.S.C. 1303(a)) is amended by
23 striking “and (5)” and inserting “(5) aliens who are or
24 have been on criminal probation or criminal parole within
25 the United States, and (6)”.

1 **TITLE IV—ENFORCEMENT OF**
2 **RESTRICTIONS AGAINST EM-**
3 **PLOYMENT**

4 **SEC. 401. STRENGTHENED ENFORCEMENT OF THE EM-**
5 **PLOYER SANCTIONS PROVISIONS.**

6 (a) IN GENERAL.—The number of full-time equiva-
7 lent positions in the Investigations Division within the Im-
8 migration and Naturalization Service of the Department
9 of Justice beginning in fiscal year 1996 shall be increased
10 by 350 positions above the number of full-time equivalent
11 positions available to such Division as of September 30,
12 1994.

13 (b) ASSIGNMENT.—Individuals employed to fill the
14 additional positions described in subsection (a) shall be as-
15 signed to investigate violations of the employer sanctions
16 provisions contained in section 274A of the Immigration
17 and Nationality Act, including investigating reports of vio-
18 lations received from officers of the Employment Stand-
19 ards Administration of the Department of Labor.

20 **SEC. 402. STRENGTHENED ENFORCEMENT OF WAGE AND**
21 **HOURLAWS.**

22 (a) IN GENERAL.—The number of full-time equiva-
23 lent positions in the Wage and Hour Division with the
24 Employment Standards Administration of the Department
25 of Labor beginning in fiscal year 1996 shall be increased

1 by 150 positions above the number of full-time equivalent
2 positions available to the Wage and Hour Division as of
3 September 30, 1994.

4 (b) ASSIGNMENT.—Individuals employed to fill the
5 additional positions described in subsection (a) shall be as-
6 signed to investigate violations of wage and hour laws in
7 areas where the Attorney General has notified the Sec-
8 retary of Labor that there are high concentrations of un-
9 documented aliens.

10 **SEC. 403. CHANGES IN THE EMPLOYER SANCTIONS PRO-**
11 **GRAM.**

12 (a) REDUCING THE NUMBER OF DOCUMENTS AC-
13 CEPTED FOR EMPLOYMENT VERIFICATION.—Section
14 274A(b) (8 U.S.C. 1324a(b)) is amended—

15 (1) in paragraph (1)(B)—

16 (A) by adding “or” at the end of clause (i),

17 (B) by striking clauses (ii) through (iv),

18 and

19 (C) in clause (v), by striking “or other
20 alien registration card, if the card” and insert-
21 ing “, alien registration card, or other docu-
22 ment designated by regulation by the Attorney
23 General, if the document” and redesignating
24 such clause as clause (ii);

1 (2) by amending subparagraph (C) of para-
2 graph (1) to read as follows:

3 “(C) SOCIAL SECURITY ACCOUNT NUMBER
4 CARD AS EVIDENCE OF EMPLOYMENT AUTHOR-
5 IZATION.—A document described in this sub-
6 paragraph is an individual’s social security ac-
7 count number card (other than such a card
8 which specifies on the face that the issuance of
9 the card does not authorize employment in the
10 United States).”; and

11 (3) by amending paragraph (2) to read as fol-
12 lows:

13 “(2) INDIVIDUAL ATTESTATION OF EMPLOY-
14 MENT AUTHORIZATION AND PROVISION OF SOCIAL
15 SECURITY ACCOUNT NUMBER.—The individual
16 must—

17 “(A) attest, under penalty of perjury on
18 the form designated or established for purposes
19 of paragraph (1), that the individual is a citizen
20 or national of the United States, an alien law-
21 fully admitted for permanent residence, or an
22 alien who is authorized under this Act or by the
23 Attorney General to be hired, recruited, or re-
24 ferred for such employment; and

1 “(B) provide on such form the individual’s
2 social security account number.”.

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

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

8 “(B) FAILURE TO SEEK AND OBTAIN CON-
9 FIRMATION.—In the case of a hiring of an individual
10 for employment in the United States, if such a per-
11 son or entity—

12 “(i) has not made an inquiry, under the
13 mechanism established under subsection (b)(6),
14 seeking confirmation of the identity, social secu-
15 rity number, and work eligibility of the individ-
16 ual, by not later than the end of 2 working days
17 (as specified by the Attorney General) after the
18 date of the hiring, the defense under subpara-
19 graph (A) shall not be considered to apply with
20 respect to any employment after such 2 working
21 days, and

22 “(ii) has made the inquiry described in
23 clause (i) but has not received an appropriate
24 confirmation of such identity, number, and
25 work eligibility under such mechanism within

1 the time period specified under subsection
2 (b)(6)(D)(iii) after the time the confirmation
3 inquiry was received, the defense under sub-
4 paragraph (A) shall not be considered to apply
5 with respect to any employment after the end of
6 such time period.”;

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

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

13 “(A) retain the form and make it available
14 for inspection by officers of the Service, the
15 Special Counsel for Immigration-Related Unfair
16 Employment Practices, or the Department of
17 Labor during a period beginning on the date of
18 the hiring, recruiting, or referral of the individ-
19 ual and ending—

20 “(i) in the case of the recruiting or re-
21 ferral for a fee (without hiring) of an indi-
22 vidual, three years after the date of the re-
23 cruiting or referral, and

24 “(ii) in the case of the hiring of an in-
25 dividual—

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

3 “(II) one year after the date the
4 individual’s employment is terminated,
5 whichever is later; and

6 “(B) for individuals hired on or after Octo-
7 ber 1, 1999 (or, in a State with respect to
8 which a pilot program described in section
9 403(e)(2)(B) of the Immigration in the Na-
10 tional Interest Act of 1995 is in effect, on or
11 after such earlier date as the Attorney General
12 specifies), seek (within 2 working days of the
13 date of hiring) and have (within the time period
14 specified under paragraph (6)(D)(iii)) the iden-
15 tity, social security number, and work eligibility
16 of the individual confirmed in accordance with
17 the procedures established under paragraph
18 (6).”; and

19 (3) by adding at the end of subsection (b) the
20 following new paragraph:

21 “(6) EMPLOYMENT ELIGIBILITY CONFIRMATION
22 PROCESS.—

23 “(A) IN GENERAL.—The Attorney General
24 shall establish a confirmation mechanism

1 through which the Attorney General (or a des-
2 ignee of the Attorney General)—

3 “(i) responds to inquiries by employ-
4 ers, made through a toll-free telephone line
5 or other electronic media in the form of an
6 appropriate confirmation code or other-
7 wise, on whether an individual is author-
8 ized to be employed by that employer, and

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

12 “(B) EXPEDITED PROCEDURE IN CASE OF
13 NO CONFIRMATION.—In connection with sub-
14 paragraph (A), the Attorney General shall es-
15 tablish, in consultation with the Commissioner
16 of Social Security and the Commissioner of the
17 Service, expedited procedures that shall be used
18 to confirm the validity of information used
19 under the confirmation mechanism in cases in
20 which the confirmation is sought but is not pro-
21 vided through the confirmation mechanism.

22 “(C) DESIGN AND OPERATION OF MECHA-
23 NISM.—The confirmation mechanism shall be
24 designed and operated to maximize—

1 “(i) the reliability of the confirmation
2 process, and

3 “(ii) the ease of use by employers, re-
4 cruiters, and referrers,

5 consistent with insulating and protecting the
6 privacy and security of the underlying informa-
7 tion.

8 “(D) CONFIRMATION PROCESS.—(i) As
9 part of the confirmation mechanism, the Com-
10 missioner of Social Security shall establish a re-
11 liable, secure method, which within the time pe-
12 riod specified under clause (iii), compares the
13 name and social security account number pro-
14 vided against such information maintained by
15 the Commissioner in order to confirm (or not
16 confirm) the validity of the information pro-
17 vided and whether the account number indi-
18 cates that the individual is authorized to be em-
19 ployed in the United States. The Commissioner
20 shall not disclose or release social security infor-
21 mation.

22 “(ii) As part of the confirmation mecha-
23 nism, the Commissioner of the Service shall es-
24 tablish a reliable, secure method, which, within
25 the time period specified under clause (iii),

1 compares the name and alien identification
2 number (if any) provided against such informa-
3 tion maintained by the Commissioner in order
4 to confirm (or not confirm) the validity of the
5 information provided and whether the alien is
6 authorized to be employed in the United States.

7 “(iii) For purposes of this section, the At-
8 torney General shall specify, in consultation
9 with the Commissioner of Social Security and
10 the Commissioner of the Service, an expedited
11 time period within which confirmation is to be
12 provided through the confirmation mechanism.

13 “(iv) The Commissioners shall update their
14 information in a manner that promotes the
15 maximum accuracy and shall provide a process
16 for the prompt correction of erroneous informa-
17 tion.

18 “(E) PROTECTIONS.—(i) In no case shall
19 an individual be denied employment because of
20 inaccurate or inaccessible data under the con-
21 firmation mechanism.

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

1 “(F) TESTER PROGRAM.—As part of the
2 confirmation mechanism, the Attorney General
3 shall implement a program of testers and inves-
4 tigative activities (similar to testing and other
5 investigative activities assisted under the fair
6 housing initiatives program under section 561
7 of the Housing and Community Development
8 Act of 1987 to enforce rights under the Fair
9 Housing Act) in order to monitor and prevent
10 unlawful discrimination under the mechanism.”.

11 (c) REDUCTION OF PAPERWORK FOR CERTAIN EM-
12 PLOYEES.—Section 274A(a) (8 U.S.C. 1324a(a)) is
13 amended by adding at the end the following new para-
14 graph:

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

17 “(A) IN GENERAL.—For purposes of para-
18 graphs (1)(B) and (3), if—

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

1 “(ii) within the period specified in
2 subparagraph (B), another employer that
3 is a member of the association (or an
4 agent of such association on behalf of the
5 employer) has complied with the require-
6 ments of subsection (b) with respect to the
7 employment of the individual,
8 the subsequent employer shall be deemed to
9 have complied with the requirements of sub-
10 section (b) with respect to the hiring of the em-
11 ployee and shall not be liable for civil penalties
12 described in subsection (e)(5).

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

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

20 “(ii) up to 3 years (or, if less, the pe-
21 riod of time that the individual is author-
22 ized to be employed in the United States)
23 in the case of another individual.

24 “(C) LIABILITY.—

1 “(i) IN GENERAL.—If any employer
2 that is a member of an association hires
3 for employment in the United States an in-
4 dividual and relies upon the provisions of
5 subparagraph (A) to comply with the re-
6 quirements of subsection (b) and the indi-
7 vidual is an unauthorized alien, then for
8 the purposes of paragraph (1)(A), subject
9 to clause (ii), the employer shall be pre-
10 sumed to have known at the time of hiring
11 or afterward that the individual was an un-
12 authorized alien.

13 “(ii) REBUTTAL OF PRESUMPTION.—
14 The presumption established by clause (i)
15 may be rebutted by the employer only
16 through the presentation of clear and con-
17 vincing evidence that the employer did not
18 know (and could not reasonably have
19 known) that the individual at the time of
20 hiring or afterward was an unauthorized
21 alien.”.

22 (d) ELIMINATION OF DATED PROVISIONS.—Section
23 274A (8 U.S.C. 1324a) is amended by striking subsections
24 (i) through (n).

25 (e) EFFECTIVE DATES.—

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

7 (2)(A) The Attorney General shall establish the
8 employment eligibility confirmation mechanism (de-
9 scribed in section 274A(b)(6) of the Immigration
10 and Nationality Act, as added by subsection (b)) by
11 not later than October 1, 1999.

12 (B) Before establishing the mechanism, the At-
13 torney General shall undertake such pilot projects
14 for all employers, in at least 5 of the 7 States with
15 the highest estimated population of unauthorized
16 aliens, as will test and assure that the mechanism
17 implemented is reliable and easy to use. Such
18 projects shall be initiated not later than 6 months
19 after the date of the enactment of this Act.

20 (C) The Attorney General shall submit to the
21 Congress, beginning in 1997, annual reports on the
22 development and implementation of the mechanism.

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

1 (4) The amendment made by subsection (d)
2 shall take effect on the date of the enactment of this
3 Act.

4 **SEC. 404. REPORTS ON EARNINGS OF ALIENS NOT AUTHOR-**
5 **IZED TO WORK.**

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

8 “(c)(1) Not later than 3 months after the end of each
9 fiscal year (beginning with fiscal year 1995), the Commis-
10 sioner of Social Security shall report to the Committees
11 on the Judiciary of the House of Representatives and the
12 Senate on the aggregate number of social security account
13 numbers issued to aliens not authorized to be employed
14 to which earnings were reported to the Social Security Ad-
15 ministration in such fiscal year.

16 “(2) If earnings are reported on or after January 1,
17 1996, to the Social Security Administration on a social
18 security account number issued to an alien not authorized
19 to work in the United States, the Commissioner of Social
20 Security shall provide the Attorney General with informa-
21 tion regarding the name and address of the alien, the
22 name and address of the person reporting the earnings,
23 and the amount of the earnings. The information shall be
24 provided in an electronic form agreed upon by the Com-
25 missioner and the Attorney General.”.

1 **SEC. 405. AUTHORIZING MAINTENANCE OF CERTAIN IN-**
2 **FORMATION ON ALIENS.**

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

5 “(f) Notwithstanding any other provision of law, the
6 Attorney General is authorized to require any alien to pro-
7 vide the alien’s social security account number for pur-
8 poses of inclusion in any record of the alien maintained
9 by the Attorney General or the Service.”.

10 **SEC. 406. LIMITING LIABILITY FOR CERTAIN TECHNICAL**
11 **VIOLATIONS OF PAPERWORK REQUIRE-**
12 **MENTS.**

13 (a) IN GENERAL.—Section 274A(e)(1) (8 U.S.C.
14 1324a(e)(1)) is amended—

15 (1) by striking “and” at the end of subpara-
16 graph (C),

17 (2) by striking the period at the end of sub-
18 paragraph (D) and inserting “, and”, and

19 (3) by adding at the end the following new sub-
20 paragraph:

21 “(E) under which a person or entity shall
22 not be considered to have failed to comply with
23 the requirements of subsection (b) based upon
24 a technical or procedural failure to meet a re-
25 quirement of such subsection in which there
26 was a good faith attempt to comply with the re-

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

4 (3) in subparagraph (B)(vi), by inserting before
5 the semicolon at the end the following: “and to cer-
6 tify the fact of such education”.

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

11 **TITLE V—REFORM OF LEGAL** 12 **IMMIGRATION SYSTEM**

13 **SEC. 500. OVERVIEW OF NEW LEGAL IMMIGRATION SYS-** 14 **TEM.**

15 This title amends the legal immigration provisions of
16 the Immigration and Nationality Act so as to provide for
17 the following (beginning with fiscal year 1997):

18 (1) DIVISION OF IMMIGRATION AMONG 3 CAT-
19 EGORIES.—There will be a worldwide level of immi-
20 gration of approximately 535,000, divided among—

21 (A) family-sponsored immigrants, with a
22 worldwide annual numerical limitation (after a
23 transition) of approximately 330,000,

1 (B) employment-based immigrants, with a
2 worldwide annual numerical limitation of
3 135,000, and

4 (C) humanitarian immigrants, with a
5 worldwide annual numerical limitation (after a
6 transition) of approximately 70,000.

7 Congress is required to reevaluate and reauthorize
8 these numbers every 5 years.

9 (2) FAMILY-SPONSORED IMMIGRANTS.—

10 (A) CATEGORIES.—Family-sponsored im-
11 migrants are (i) spouses and children of citi-
12 zens, (ii) spouses and children of permanent
13 resident aliens, and (iii) parents of adult United
14 States citizens if a majority of the sons and
15 daughters of the parents are in the United
16 States and the parents meet certain insurance
17 requirements.

18 (B) NUMERICAL LIMITATIONS.—

19 (i) There will be no direct numerical
20 limit on admission of spouses and children
21 of United States citizens.

22 (ii) The annual numerical limit on ad-
23 mission of spouses and children of perma-
24 nent residents will be below 85,000.

1 (3) EMPLOYMENT-BASED IMMIGRANTS.—Em-
2 ployment-based immigrants will fall within the fol-
3 lowing categories and numerical limitations:

4 (A) EXTRAORDINARY IMMIGRANTS.—First,
5 aliens with extraordinary ability, up to 15,000
6 each year.

7 (B) VERY HIGHLY SKILLED IMMI-
8 GRANTS.—Second, aliens with exceptional abil-
9 ity, who are members of the professions holding
10 advanced degrees, or who are multinational ex-
11 ecutives and managers, up to 60,000 each year,
12 plus any left from the previous category.

13 (C) OTHER PROFESSIONALS AND SKILLED
14 WORKERS.—Third, aliens who are either other
15 professionals with a baccalaureate degree and
16 at least 5 years' experience or skilled workers
17 with at least 7 years of training and work expe-
18 rience, up to 45,000 each year, plus any left
19 from the previous category.

20 (D) INVESTORS.—Fourth, aliens who are
21 investing at least \$1,000,000 in enterprises in
22 the United States that will employ at least 10
23 workers, up to 10,000 each year (with a 2-year
24 pilot program for those investing at least

1 \$500,000 in enterprises employing at least 5
2 workers).

3 (E) CERTAIN SPECIAL IMMIGRANTS.—

4 Lastly, aliens who fall within certain classes of
5 special immigrants (such as religious ministers,
6 aliens who have worked for the Government
7 abroad, certain long-term alien employees of
8 international organizations, certain dependent
9 juveniles, and certain long-term alien members
10 of the Armed Forces), up to 5,000 each year.

11 (4) HUMANITARIAN IMMIGRANTS.—Humanitarian
12 immigrants will fall within the following categories
13 and numerical limitations:

14 (A) REFUGEES.—Refugees, subject to a
15 numerical limitation (after a transition and excluding
16 emergency refugees) of 50,000 or such
17 higher number as the Congress may provide by
18 law.

19 (B) ASYLEES.—Aliens seeking asylum,
20 subject to no numerical limitation in any year.
21 As under current law, asylees may adjust to
22 permanent residence status at a rate of up to
23 10,000 each year.

24 (C) OTHER HUMANITARIAN IMMIGRANTS.—Other immigrants who are of special
25

1 humanitarian concern to the United States, up
2 to 10,000 each year.

3 (5) TRANSITION.—

4 (A) ADDITIONAL VISA NUMBERS FOR
5 SPOUSES AND MINOR, UNMARRIED CHILDREN
6 OF PERMANENT RESIDENT ALIENS.—In order
7 to reduce the current backlog for spouses and
8 minor, unmarried children of lawful permanent
9 residents, there will be at least an additional
10 50,000 immigrant visa numbers made available
11 for these aliens for each of 5 fiscal years, with
12 priority for spouses and children of aliens who
13 did not participate in a legalization program.

14 (B) PHASE-DOWN IN NORMAL FLOW REFU-
15 GEE NUMERICAL LIMITATION.—The annual nu-
16 merical limitation on non-emergency refugees
17 (without specific approval of Congress) will be
18 phased down to 75,000 in fiscal year 1997 and
19 50,000 in fiscal year 1998 and thereafter.

20 **Subtitle A—Worldwide Numerical**
21 **Limits**

22 **SEC. 501. WORLDWIDE NUMERICAL LIMITATION ON FAM-**
23 **ILY-SPONSORED IMMIGRANTS.**

24 (a) OVERVIEW.—

1 (1) The amendment made by subsection (b)
2 provides for a worldwide level of family-sponsored
3 immigrants of 330,000 less the number of spouses
4 and children of citizens admitted in the previous
5 year.

6 (2) However, there will be no limit on spouses
7 and children of citizens nor would the number of
8 visas available to spouses and children of lawful per-
9 manent residents go below 85,000.

10 (3) Any excess in family immigration above
11 330,000 would come from other unused visas and, if
12 necessary, from future visa numbers.

13 (4) If there are any unused family visas, those
14 visas would be added to the spouses and children of
15 lawful permanent resident aliens.

16 (b) AMENDMENT.—Subsection (c) of section 201 (8
17 U.S.C. 1151) is amended to read as follows:

18 “(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED
19 IMMIGRANTS.—

20 “(1) IN GENERAL.—Subject to the succeeding
21 provisions of this subsection, the worldwide level of
22 family-sponsored immigrants under this subsection
23 (in this subsection referred to as the ‘worldwide fam-
24 ily level’) for a fiscal year is 330,000.

1 “(2) REDUCTION FOR SPOUSES AND CHILDREN
2 OF UNITED STATES CITIZENS AND CERTAIN OTHER
3 FAMILY-RELATED IMMIGRANTS.—The worldwide
4 family level for a fiscal year shall be reduced (but
5 not below 85,000) by the number of aliens described
6 in subsection (b)(2) who were issued immigrant
7 visas or who otherwise acquired the status of aliens
8 lawfully admitted to the United States for perma-
9 nent residence in the previous fiscal year.

10 “(3) FURTHER REDUCTION FOR ANY PREVIOUS
11 EXCESS FAMILY IMMIGRATION.—

12 “(A) IN GENERAL.—If there are excess
13 family admissions in a particular fiscal year (as
14 determined under subparagraph (B)) beginning
15 with fiscal year 1997, then for the following fis-
16 cal year the worldwide family level shall be re-
17 duced (but not below 85,000) by the net num-
18 ber of excess admissions in that particular fiscal
19 year (as defined in subparagraph (C)).

20 “(B) DETERMINATION OF EXCESS FAMILY
21 ADMISSIONS.—For purposes of subparagraph
22 (A), there are excess family admissions in a fis-
23 cal year if—

24 “(i) the number of aliens who are is-
25 sued immigrant visas or who otherwise ac-

1 quire the status of aliens lawfully admitted
2 to the United States for permanent resi-
3 dence under section 203(a) or subsection
4 (b)(2) in a fiscal year, exceeds

5 “(ii) 330,000, less the carryforward
6 number of excess admissions computed for
7 the previous fiscal year (as defined in sub-
8 paragraph (D)).

9 For purposes of this subparagraph, immigrant
10 visa numbers issued under section 553 of the
11 Immigration in the National Interest Act of
12 1995 (relating to certain transition immigrants)
13 shall not be counted under clause (i).

14 “(C) NET NUMBER OF EXCESS ADMIS-
15 SIONS.—For purposes of subparagraph (A), the
16 ‘net number of excess admissions’ for a fiscal
17 year is—

18 “(i) the excess described in subpara-
19 graph (B) for the fiscal year, reduced (but
20 not below zero) by

21 “(ii) the number (if any) by which the
22 worldwide level under subsection (d) for
23 the previous fiscal year exceeds the number
24 of immigrants who are issued immigrant
25 visas or who otherwise acquire the status

1 of aliens lawfully admitted to the United
2 States for permanent residence under sec-
3 tion 203(b) in that previous fiscal year.

4 “(D) CARRYFORWARD NUMBER OF EXCESS
5 ADMISSIONS.—For purposes of subparagraph
6 (B)(ii), the carryforward number of excess ad-
7 missions for a particular fiscal year is the net
8 number of excess admissions for the previous
9 fiscal year (as defined in subparagraph (C)), re-
10 duced by the reductions effected under subpara-
11 graph (A) and paragraph (4) in visa numbers
12 for the particular fiscal year.

13 “(4) ADJUSTMENT IN CERTAIN EMPLOYMENT-
14 BASED VISA NUMBERS IN CASE OF REMAINING EX-
15 CESS FAMILY ADMISSIONS.—

16 “(A) IN GENERAL.—If there is a remain-
17 ing excess number of family admissions (as de-
18 scribed in subparagraph (B)) in a fiscal year
19 (beginning with fiscal year 1997) that is great-
20 er than zero, then for the following fiscal year
21 there shall be reductions in immigrant visa
22 numbers made available, pursuant to subsection
23 (d) and paragraphs (3) and (4) of section
24 203(b), as follows:

1 “(i) FIRST, ADJUSTMENT OF UP TO $\frac{1}{2}$
2 OF NUMBERS OF VISAS FOR INVESTORS.—
3 First, the number of immigrant visa num-
4 bers made available under section
5 203(b)(4) shall be reduced by the lesser
6 of—

7 “(I) the remaining excess number
8 of family admissions (described in
9 subparagraph (B)), or

10 “(II) $\frac{1}{2}$ of the maximum number
11 of visa numbers that could (but for
12 this paragraph) otherwise be made
13 available under section 203(b)(4) in
14 such following fiscal year.

15 “(ii) THEN, ADJUSTMENT OF UP TO
16 $\frac{1}{2}$ OF NUMBERS OF VISAS FOR PROFES-
17 SIONALS AND SKILLED WORKERS.—If the
18 remaining excess number of family admis-
19 sions is greater than the reduction in visa
20 numbers effected under clause (i), then the
21 number of immigrant visa numbers made
22 available under section 203(b)(3) shall be
23 reduced by the lesser of—

24 “(I) the remaining excess number
25 of family admissions (described in

1 subparagraph (B)) less the reduction
2 in visa numbers effected under clause
3 (i), or

4 “(II) $\frac{1}{2}$ of the maximum number
5 of visa numbers that could (but for
6 this paragraph) otherwise be made
7 available under section 203(b)(3) in
8 such following fiscal year.

9 “(B) REMAINING EXCESS NUMBER OF
10 FAMILY ADMISSIONS DESCRIBED.—For pur-
11 poses of subparagraph (A), the remaining ex-
12 cess number of family admissions in a fiscal
13 year is the net number of excess admissions for
14 the fiscal year (as defined in paragraph (3)(C)),
15 reduced by the reduction (if any) effected under
16 paragraph (3) in visa numbers for the succeed-
17 ing fiscal year.”.

18 **SEC. 502. WORLDWIDE NUMERICAL LIMITATION ON EM-**
19 **PLOYMENT-BASED IMMIGRANTS.**

20 Subsection (d) of section 201 (8 U.S.C. 1151) is
21 amended to read as follows:

22 “(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED
23 IMMIGRANTS.—The worldwide level of employment-based
24 immigrants under this subsection for a fiscal year is—

25 “(1) 135,000, minus

1 “(2) beginning with fiscal year 1998, the total
2 of the reductions (if any) in visa numbers made
3 under subsection (c)(4) for that fiscal year.”.

4 **SEC. 503. ESTABLISHMENT OF NUMERICAL LIMITATION ON**
5 **HUMANITARIAN IMMIGRANTS.**

6 (a) IN GENERAL.—Section 201 (8 U.S.C. 1151) is
7 amended—

8 (1) in subsection (a)(3), by striking “1995, di-
9 versity” and inserting “1997, humanitarian”, and

10 (2) by amending subsection (e) to read as fol-
11 lows:

12 “(e) WORLDWIDE LEVEL OF HUMANITARIAN IMMI-
13 GRANTS.—

14 “(1) IN GENERAL.—Subject to the succeeding
15 provisions of this subsection, the worldwide level of
16 humanitarian immigrants is equal to 70,000 for
17 each fiscal year.

18 “(2) REDUCTION FOR HUMANITARIAN IMMI-
19 GRANTS WHO ARE REFUGEES OR ASYLEES.—Such
20 worldwide level for a fiscal year under paragraph (1)
21 shall be reduced by the sum of—

22 “(A) 50,000, or, if less, the number of
23 aliens who were admitted as refugees under sec-
24 tion 207 in the previous fiscal year, and

1 “(B) the number of aliens who had been
2 granted asylum whose status was adjusted in
3 the previous fiscal year under section 209(b).

4 “(3) REDUCTION FOR PRIOR YEAR CANCELLA-
5 TION OF REMOVAL AND REGISTRY.—Such worldwide
6 level for a fiscal year under paragraph (1) shall be
7 further reduced by the sum of—

8 “(A) the number of aliens whose removal
9 was canceled and who were provided lawful per-
10 manent resident status in the previous fiscal
11 year under section 240A, and

12 “(B) the number of aliens who were pro-
13 vided permanent resident status in the previous
14 fiscal year under section 249.

15 “(4) LIMITATION.—In no case shall the world-
16 wide level for a fiscal year under this subsection
17 (taking into account any reductions under para-
18 graphs (2) and (3)) exceed 10,000.”.

19 **SEC. 504. REQUIRING CONGRESSIONAL REVIEW AND REAU-**
20 **THORIZATION OF WORLDWIDE LEVELS**
21 **EVERY 5 YEARS.**

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

24 “(f) REQUIREMENT FOR PERIODIC REVIEW AND RE-
25 AUTHORIZATION OF WORLDWIDE LEVELS.—

1 “(1) CONGRESSIONAL REVIEW.—The Commit-
2 tees on the Judiciary of the House of Representa-
3 tives and of the Senate shall undertake during fiscal
4 year 2004 (and each fifth fiscal year thereafter) a
5 thorough review of the appropriate worldwide levels
6 of immigration to be provided under this section
7 during the 5-fiscal-year period beginning with the
8 second subsequent fiscal year.

9 “(2) CONGRESSIONAL REAUTHORIZATION.—The
10 Congress, after consideration of the reviews under
11 paragraph (1) and by law, shall specify the appro-
12 priate worldwide levels of immigration to be provided
13 under this section during the 5-fiscal-year period be-
14 ginning with the second subsequent fiscal year.

15 “(3) SUNSET IN ABSENCE OF REAUTHORIZA-
16 TION.—The worldwide levels specified under the pre-
17 vious provisions of this section are applicable only to
18 fiscal years 1997 through 2005 and admissions after
19 fiscal year 2005 that are subject to such levels are
20 only authorized to the extent provided by amend-
21 ment under paragraph (2) made to this section.”.

1 **Subtitle B—Changes in Preference**
2 **System**

3 **SEC. 511. LIMITATION OF IMMEDIATE RELATIVES TO**
4 **SPOUSES AND CHILDREN.**

5 (a) RECLASSIFICATION.—Section 201(b)(2)(A) (8
6 U.S.C. 1151(b)(2)(A)) is amended—

7 (1) in clause (i)—

8 (A) by striking “IMMEDIATE RELA-
9 TIVES.—” and all that follows through the end
10 of the first sentence and inserting “An alien
11 who is a spouse or child of a citizen of the
12 United States.”, and

13 (B) in the second sentence, by striking “an
14 immediate relative” and inserting “a spouse of
15 a citizen of the United States”; and

16 (2) in clause (ii), by striking “an immediate rel-
17 ative” and inserting “a spouse of a citizen of the
18 United States”.

19 (b) PROTECTION OF CERTAIN CHILDREN FROM
20 AGING OUT OF PREFERENCE STATUS.—

21 (1) IN GENERAL.—Section 204 (8 U.S.C. 1154)
22 is amended by adding at the end the following new
23 subsection:

24 “(i) For purposes of applying section 101(b)(1) in the
25 case of issuance of an immigrant visa to, or admission or

1 graph (B)) of an individual who is at least 21
2 years of age and a citizen of the United States
3 shall be allocated visas in a number not to ex-
4 ceed the lesser of—

5 “(i) 50,000, or

6 “(ii) the number by which the world-
7 wide level exceeds 85,000.

8 “(B) QUALIFICATIONS.—For purposes of
9 subparagraph (A), the term ‘qualifying parent’
10 means an immigrant with respect to whom, as
11 of the date of approval of the classification peti-
12 tion under section 204(a)(1), at least 50 per-
13 cent of the immigrant’s sons and daughters are
14 (i) nationals of the United States or aliens law-
15 fully admitted for permanent residence and (ii)
16 lawfully residing in the United States.

17 “(C) REFERENCE TO INSURANCE RE-
18 QUIREMENT.—For requirement relating to in-
19 surance for qualifying parents, see section
20 212(a)(4)(D).”.

21 (b) INSURANCE REQUIREMENT.—Section 212(a)(4)
22 (8 U.S.C. 1182(a)(4)), as amended by section 621(a) of
23 this Act, is amended by adding at the end the following
24 new subparagraph:

1 “(D) INSURANCE REQUIREMENTS FOR
2 QUALIFYING PARENTS.—

3 “(i) IN GENERAL.—Any alien who
4 seeks admission as a qualifying parent
5 under section 203(a)(2) is inadmissible un-
6 less the alien demonstrates at the time of
7 issuance of the visa (and at the time of ad-
8 mission) to the satisfaction of the consular
9 officer and the Attorney General that the
10 alien—

11 “(I) will have coverage under an
12 adequate health insurance policy (at
13 least comparable to coverage provided
14 under the medicare program under
15 title XVIII of the Social Security
16 Act), and

17 “(II) will have coverage with re-
18 spect to long-term health needs (at
19 least comparable to such coverage
20 provided under the medicaid program
21 under title XIX of such Act for the
22 State in which either the alien intends
23 to reside or in which the petitioner
24 (on behalf of the alien under section
25 204(a)(1)) resides,

1 throughout the period the individual is re-
2 siding in the United States.

3 “(ii) FACTORS TO BE TAKEN INTO AC-
4 COUNT.—In making a determination under
5 clause (i), the Attorney General shall take
6 into account the age of the qualifying par-
7 ent and the likelihood of the parent secur-
8 ing health insurance coverage through em-
9 ployment.”.

10 **SEC. 513. CHANGE IN EMPLOYMENT-BASED CLASSIFICA-**
11 **TION.**

12 (a) IN GENERAL.—Section 203(b) (8 U.S.C.
13 1153(b)) is amended by striking paragraphs (1) through
14 (5) and inserting the following:

15 “(1) ALIENS WITH EXTRAORDINARY ABILITY.—
16 Visas shall first be made available in a number not
17 to exceed 15,000 of such worldwide level to immi-
18 grants—

19 “(A) who have extraordinary ability in the
20 sciences, arts, education, business, or athletics
21 which has been demonstrated by sustained na-
22 tional or international acclaim and whose
23 achievements have been recognized in the field
24 through sufficient documentation,

1 “(B) who seek to be admitted into the
2 United States to continue work in the area of
3 extraordinary ability, and

4 “(C) whose admission into the United
5 States will substantially benefit prospectively
6 the United States.

7 “(2) ALIENS WHO ARE MEMBERS OF THE PRO-
8 FESSIONS HOLDING ADVANCED DEGREES OR ALIENS
9 OF EXCEPTIONAL ABILITY.—

10 “(A) IN GENERAL.—Visas shall be made
11 available, in a number not to exceed 60,000 of
12 such worldwide level, plus any visas not re-
13 quired for the class specified in paragraph (1),
14 to immigrants who are aliens described in sub-
15 paragraph (B) or (C).

16 “(B) ALIENS WHO ARE MEMBERS OF THE
17 PROFESSIONS HOLDING ADVANCED DEGREES
18 OR ALIENS OF EXCEPTIONAL ABILITY.—

19 “(i) IN GENERAL.—An alien is de-
20 scribed in this subparagraph if the alien is
21 a member of a profession holding an ad-
22 vanced degree or its equivalent or who be-
23 cause of exceptional ability in the sciences,
24 arts, or business will substantially benefit
25 prospectively the national economy, cul-

1 tural or educational interests, or welfare of
2 the United States, and whose services in
3 the sciences, arts, professions, or business
4 are sought by an employer in the United
5 States.

6 “(ii) DETERMINATION OF EXCEP-
7 TIONAL ABILITY.—In determining under
8 clause (i) whether an immigrant has excep-
9 tional ability, the possession of a degree,
10 diploma, certificate, or similar award from
11 a college, university, school, or other insti-
12 tution of learning or a license to practice
13 or certification for a particular profession
14 or occupation shall not by itself be consid-
15 ered sufficient evidence of such exceptional
16 ability.

17 “(iii) LABOR CERTIFICATION RE-
18 QUIRED.—An immigrant visa may not be
19 issued to an immigrant under this sub-
20 paragraph until the consular officer is in
21 receipt of a determination made by the
22 Secretary of Labor pursuant to the provi-
23 sions of section 212(a)(5)(A).

24 “(C) CERTAIN MULTINATIONAL EXECU-
25 TIVES AND MANAGERS.—An alien is described

1 in this subparagraph if the alien, in the 3 years
2 preceding the time of the alien's application for
3 classification and admission into the United
4 States under this subparagraph, has been em-
5 ployed for at least 1 year by a firm or corpora-
6 tion or other legal entity or an affiliate or sub-
7 sidiary thereof and the alien seeks to enter the
8 United States in order to continue to render
9 services to the same employer or to a subsidiary
10 or affiliate thereof in a capacity that is manage-
11 rial or executive.

12 “(3) SKILLED WORKERS AND PROFES-
13 SIONALS.—

14 “(A) IN GENERAL.—Visas shall be made
15 available, in a number not to exceed 45,000 of
16 such worldwide level, plus any visas not re-
17 quired for the classes specified in paragraphs
18 (1) and (2) less the reduction in visa numbers
19 under this paragraph required to be effected
20 under section 201(c)(4)(A)(ii) for the fiscal
21 year involved, to aliens described in subpara-
22 graph (B) or (C).

23 “(B) SKILLED WORKERS.—An alien de-
24 scribed in this subparagraph is an immigrant
25 who is capable, at the time a petition is filed,

1 of performing skilled labor (requiring at least 2
2 years training or experience), not of a tem-
3 porary or seasonal nature, for which qualified
4 workers are not available in the United States,
5 who has a total of 7 years of training or experi-
6 ence (or both) with respect to such labor.

7 “(C) PROFESSIONALS.—(i) An alien de-
8 scribed in this subparagraph is an immigrant
9 who holds a baccalaureate degree and is a
10 member of the professions and, subject to
11 clause (ii), has at least 5 years of experience in
12 the profession after the receipt of the degree.

13 “(ii) An alien who is a teacher and has
14 (within the previous 5 years) at least 2 years of
15 experience teaching a language (other than
16 English) full-time at an accredited elementary
17 or middle school may be classified and admitted
18 as a professional under this subparagraph not-
19 withstanding that the alien does not have 5
20 years of experience in the profession if the alien
21 is seeking admission to teach such language
22 full-time in an accredited elementary or middle
23 school.

24 “(D) LABOR CERTIFICATION REQUIRED.—
25 An immigrant visa may not be issued to an im-

1 migrant under this paragraph until the consular
2 officer is in receipt of a determination made by
3 the Secretary of Labor pursuant to the provi-
4 sions of section 212(a)(5)(A).

5 “(4) INVESTORS IN JOB CREATION.—

6 “(A) IN GENERAL.—Visas shall be made
7 available, in a number not to exceed 10,000 of
8 such worldwide level less the reduction in visa
9 numbers under this paragraph required to be
10 effected under section 201(c)(4)(A)(i) for the
11 fiscal year involved, to immigrants seeking to
12 enter the United States for the purpose of en-
13 gaging in a new commercial enterprise—

14 “(i) which the alien has established,

15 “(ii) in which such alien has invested
16 (after the date of the enactment of the Im-
17 migration Act of 1990), or is actively in
18 the process of investing, capital in an
19 amount not less \$1,000,000, and

20 “(iii) which will benefit the United
21 States economy and create full-time em-
22 ployment for not fewer than 10 United
23 States citizens or aliens lawfully admitted
24 for permanent residence or other immi-
25 grants lawfully authorized to be employed

1 in the United States (other than the immi-
2 grant and the immigrant's spouse, sons, or
3 daughters).

4 “(B) PILOT PROGRAM.—For each of fiscal
5 years 1997 and 1998, up to 2,000 visas other-
6 wise made available under this paragraph shall
7 be made available to immigrants who would be
8 described in subparagraph (A) if ‘\$500,000’
9 were substituted for ‘\$1,000,000’ in subpara-
10 graph (A)(ii) and if ‘for not fewer than 5’ were
11 substituted for ‘for not fewer than 10’ in sub-
12 paragraph (A)(iii). By not later than April 1,
13 1998, the Attorney General shall submit to
14 Congress a report on the operation of this sub-
15 paragraph and shall include in the report infor-
16 mation describing the immigrants admitted
17 under this paragraph and the enterprises they
18 invest in and a recommendation on whether the
19 pilot program under this subparagraph should
20 be continued or modified.

21 “(5) CERTAIN SPECIAL IMMIGRANTS.—Visas
22 shall be made available, in a number not to exceed
23 5,000 of such worldwide level, to qualified special
24 immigrants described in section 101(a)(27) (other
25 than those described in subparagraph (A) thereof),

1 of which not more than 4,000 may be made available
2 in any fiscal year to special immigrants described in
3 subclause (II) or (III) of section 101(a)(27)(C)(ii).”.

4 (b) CONDITIONAL STATUS FOR CERTAIN FOREIGN
5 LANGUAGE TEACHERS.—(1) Title II is amended by in-
6 serting after section 216A the following new section:

7 “CONDITIONAL PERMANENT RESIDENT STATUS FOR
8 CERTAIN FOREIGN LANGUAGE TEACHERS

9 “SEC. 216B. (a) IN GENERAL.—Subject to the suc-
10 ceeding provisions of this section, section 216A shall apply
11 to an alien foreign language teacher (as defined in sub-
12 section (d)(1)) and to an alien spouse or alien child (as
13 defined in subsection (d)(2)) in the same manner as such
14 section applies to an alien entrepreneur and an alien
15 spouse or alien child.

16 “(b) TIMING FOR PETITION.—

17 “(1) IN GENERAL.—In applying section 216A
18 under subsection (a), any reference to a ‘second an-
19 niversary of an alien’s lawful admission for perma-
20 nent residence’ is deemed a reference to the end of
21 the time period described in paragraph (2).

22 “(2) TIME PERIOD FOR DETERMINATION.—The
23 time period described in this paragraph is 5 years
24 less the period of experience, during the 5-year pe-
25 riod ending on the date the alien foreign language

1 teacher obtains permanent resident status, of teach-
2 ing a language (other than English) full-time at an
3 accredited elementary or middle school.

4 “(c) REQUIREMENT FOR TOTAL OF 5 YEARS’ TEACH-
5 ING EXPERIENCE.—In applying section 216A under sub-
6 section (a), the determination of the Attorney General
7 under subsection (b)(1) of such section shall be whether
8 (and the facts and information under subsection (d)(1) of
9 such section shall demonstrate that) the alien has been
10 employed on a substantially full-time basis as a foreign
11 language teacher at an accredited elementary or middle
12 school in the United States during the period since obtain-
13 ing permanent residence status (instead of the determina-
14 tions described in section 216A(b)(1) and of the facts and
15 information described in section 216A(d)(1)).

16 “(d) DEFINITIONS.—In this section:

17 “(1) The term ‘alien foreign language teacher’
18 means an alien who obtains the status of an alien
19 lawfully admitted for permanent residence (whether
20 on a conditional basis or otherwise) under section
21 203(b)(3)(C)(ii) on the basis of less than 5 years’
22 teaching experience.

23 “(2) The term ‘alien spouse’ and the term ‘alien
24 child’ mean an alien who obtains the status of an
25 alien lawfully admitted for permanent residence

1 (whether on a conditional basis or otherwise) by vir-
2 tue of being the spouse or child, respectively, of an
3 alien foreign language teacher.”.

4 (2) The table of contents of the Immigration and Na-
5 tionality Act is amended by inserting after the item relat-
6 ing to section 216A the following:

“Sec. 216B. Conditional permanent resident status for certain foreign language
teachers.”.

7 **SEC. 514. AUTHORIZATION TO REQUIRE PERIODIC CON-**
8 **FIRMATION OF CLASSIFICATION PETITIONS.**

9 (a) IN GENERAL.—Section 204(b) (8 U.S.C.
10 1154(b)) is amended by inserting “(1)” after “(b)” and
11 by adding at the end the following new paragraph:

12 “(2)(A) The Attorney General may provide that a pe-
13 tition approved with respect to an alien (and the priority
14 date established with respect to the petition) shall expire
15 after a period (specified by the Attorney General and of
16 not less than 2 years) following the date of approval of
17 the petition, unless the petitioner files with the Attorney
18 General a form described in subparagraph (B).

19 “(B) The Attorney General shall specify the form to
20 be used under this paragraph. Such form shall be de-
21 signed—

22 “(i) to reconfirm the continued intention of the
23 petitioner to seek admission of the alien based on
24 the classification involved, and

1 “(ii) as may be provided by the Attorney Gen-
2 eral, to update the contents of the original classifica-
3 tion petition.

4 “(C) The Attorney General may apply subparagraph
5 (A) to one or more classes of classification petitions and
6 for different periods of time for different classes of such
7 petitions, as specified by the Attorney General.”.

8 (b) EFFECTIVE DATE.—(1) Except as provided in
9 paragraph (2), the amendments made by subsection (a)
10 shall not apply to classification petitions filed before Octo-
11 ber 1, 1996.

12 (2) The Attorney General may apply such amend-
13 ments to such classification petitions, but only in a man-
14 ner so that no such petition expires under such amend-
15 ments before October 1, 2000.

16 **SEC. 515. CHANGES IN SPECIAL IMMIGRANT STATUS.**

17 (a) REPEALING CERTAIN OBSOLETE PROVISIONS.—
18 Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended by
19 striking subparagraphs (B), (E), (F), (G), and (H).

20 (b) SPECIAL IMMIGRANT STATUS FOR CERTAIN
21 NATO CIVILIAN EMPLOYEES.—Section 101(a)(27) (8
22 U.S.C. 1101(a)(27)) is further amended—

23 (1) by striking “or” at the end of subparagraph
24 (J),

1 (2) by striking the period at the end of sub-
2 paragraph (K) and inserting “; or”, and

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

5 “(L) an immigrant who would be described in
6 clause (i), (ii), (iii), or (iv) of subparagraph (I) if
7 any reference in such a clause—

8 “(i) to an international organization de-
9 scribed in paragraph (15)(G)(i) were treated as
10 a reference to the North American Treaty Or-
11 ganization (NATO);

12 “(ii) to a nonimmigrant under paragraph
13 (15)(G)(iv) were treated as a reference to a
14 nonimmigrant classifiable under NATO-6 (as a
15 member of a civilian component accompanying
16 a force entering in accordance with the provi-
17 sions of the NATO Status-of-Forces Agree-
18 ment, a member of a civilian component at-
19 tached to or employed by an Allied Head-
20 quarters under the ‘Protocol on the Status of
21 International Military Headquarters’ set up
22 pursuant to the North Atlantic Treaty, or as a
23 dependent); and

24 “(iii) to the Immigration Technical Correc-
25 tions Act of 1988 or to the Immigration and

1 Nationality Technical Corrections Act of 1994
2 were a reference to the Immigration in the Na-
3 tional Interest Act of 1995.”.

4 (c) CONFORMING NONIMMIGRANT STATUS FOR CER-
5 TAIN PARENTS OF SPECIAL IMMIGRANT CHILDREN.—
6 Section 101(a)(15)(N) (8 U.S.C. 1101(a)(15)(N)) is
7 amended—

8 (1) by inserting “(or under analogous authority
9 under paragraph (27)(L))” after “(27)(I)(i)”, and

10 (2) by inserting “(or under analogous authority
11 under paragraph (27)(L))” after “(27)(I)”.

12 (d) EXTENSION OF SUNSET FOR RELIGIOUS WORK-
13 ERS.—Section 101(a)(27)(C)(ii) (8 U.S.C.
14 1101(a)(27)(C)(ii)) is amended by striking “1997” and
15 inserting “2005” each place it appears.

16 (e) ADDITIONAL CONFORMING AMENDMENTS.—

17 (1) Section 201(b)(1)(A) (8 U.S.C.
18 1151(b)(1)(A)) is amended by striking “or (B)”.

19 (2) Section 203(b)(4) (8 U.S.C. 1153(b)(4)) is
20 amended by striking “or (B)”.

21 (3) Section 214(l)(3) (8 U.S.C. 1184(l)(3)), as
22 redesignated by section 815(a)(4)(A) of this Act, is
23 amended by striking “, who has not otherwise been
24 accorded status under section 101(a)(27)(H),”.

1 (4) Section 245(c)(2) (8 U.S.C. 1255(c)(2)) is
2 amended by striking “101(a)(27)(H), (I),” and in-
3 serting “101(a)(27)(I),”.

4 (f) EFFECTIVE DATES.—(1) Except as provided in
5 this section, the amendments made by this section shall
6 take effect on the date of the enactment of this Act.

7 (2) The amendments made by subsection (a) shall not
8 apply to any alien with respect to whom an application
9 for special immigrant status under a subparagraph re-
10 pealed by such amendments has been filed by not later
11 than September 30, 1996.

12 **SEC. 516. REQUIREMENTS FOR REMOVAL OF CONDITIONAL**
13 **STATUS OF ENTREPRENEURS.**

14 (a) IN GENERAL.—Section 216A(b) (8 U.S.C.
15 1186b(b)) is amended—

16 (1) by amending clause (ii) of paragraph (1)(B)
17 to read as follows:

18 “(ii) subject to paragraph (3), the alien did
19 not invest (and maintain investment of) the
20 requisite capital, or did not employ the requisite
21 number of employees, throughout substantially
22 the entire period since the alien’s admission;
23 or”, and

24 (2) by adding at the end the following new
25 paragraph:

1 “(3) EXCEPTIONS.—

2 “(A) GOOD FAITH EXCEPTION.—Para-
3 graph (1)(B)(ii) shall not apply to an alien to
4 the extent that the alien continues to attempt
5 in good faith throughout the period since ad-
6 mission to invest (and maintain investment of)
7 the requisite capital, and to employ the req-
8 uisite number of employees, but was unable to
9 do so due to circumstances for which the alien
10 should not justly be held responsible.

11 “(B) EXTENSION.—In the case of an alien
12 to whom the exception under subparagraph (A)
13 applies, the application period under subsection
14 (d)(2) (and period for termination under para-
15 graph (1)) shall be extended (for up to 3 addi-
16 tional years) by such additional period as may
17 be necessary to enable the alien to have had the
18 requisite capital and number of employees
19 throughout a 2-year period. Such extension
20 shall terminate at any time at which the Attor-
21 ney General finds that the alien has not contin-
22 ued to attempt in good faith to invest such cap-
23 ital and employ such employees.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall apply to aliens admitted on or after
3 the date of the enactment of this Act.

4 **SEC. 517. MISCELLANEOUS CONFORMING AMENDMENTS.**

5 (a) CONFORMING AMENDMENTS RELATING TO IMME-
6 DIATE RELATIVES.—

7 (1) Section 101(b)(1)(F) (8 U.S.C.
8 1101(b)(1)(F)) is amended by striking “as an imme-
9 diate relative under section 201(b)” and inserting
10 “as a child of a citizen of the United States”.

11 (2) Section 204 (8 U.S.C. 1154) is amended—

12 (A) in subsection (a)(1)(A)(i), by striking
13 “paragraph (1), (3), or (4) of section 203(a) or
14 to an immediate relative status” and inserting
15 “section 203(a)(2) or to status as the spouse or
16 child of a citizen of the United States”;

17 (B) in subsection (a)(1)(A)(iii), by striking
18 “as an immediate relative” and inserting “as
19 the spouse of a citizen of the United States”;

20 (C) in subsection (a)(1)(iv), by striking “as
21 an immediate relative” and inserting “as a
22 child of a citizen of the United States”;

23 (D) in subsection (b), by striking “an im-
24 mediate relative specified in section 201(b)”

1 and inserting “a spouse or child of a citizen of
2 the United States under section 201(b)”;

3 (E) in subsection (c), by striking “an im-
4 mediate relative or preference” and inserting “a
5 preferential”;

6 (F) in subsection (e)—

7 (i) by striking “an immediate rel-
8 ative” and inserting “a spouse or child of
9 a citizen of the United States”, and

10 (ii) by striking “his” and “he” and in-
11 sserting “the alien’s” and “the alien”, re-
12 spectively; and

13 (G) in subsection (g), by striking “imme-
14 diate relative status” and inserting “status as a
15 spouse or child of a citizen of the United States
16 or other”.

17 (3) Section 212(a)(6)(E)(ii) (8 U.S.C.
18 1182(a)(6)(E)(ii)) is amended by striking “an imme-
19 diate relative” and inserting “a spouse, child, or par-
20 ent of a citizen of the United States”.

21 (4) Section 212(d)(11) (8 U.S.C. 1182(d)(11))
22 is amended by striking “an immediate relative” and
23 inserting “a spouse or child of a citizen of the Unit-
24 ed States”.

1 (5) Section 216(g)(1)(A) (8 U.S.C.
2 1186a(g)(1)(A)) is amended by striking “an imme-
3 diate relative (described in section 201(b)) as the
4 spouse of a citizen of the United States” and insert-
5 ing “as the spouse of a citizen of the United States
6 (described in section 201(b))”.

7 (6) Section 221(a) (8 U.S.C. 1201(a)) is
8 amended by striking “, immediate relative,”.

9 (7)(A) Section 224 (8 U.S.C. 1204) is amend-
10 ed—

11 (i) by amending the heading to read as fol-
12 lows:

13 “VISAS FOR SPOUSES AND CHILDREN OF CITIZENS AND
14 SPECIAL IMMIGRANTS”,

15 (ii) by striking “immediate relative” the
16 first place it appears and inserting “a spouse or
17 child of a citizen of the United States”, and

18 (iii) by striking “immediate relative sta-
19 tus” and inserting “status or status as a spouse
20 or child of a citizen of the United States”.

21 (B) The item in the table of contents relating
22 to section 224 is amended to read as follows:

“Sec. 224. Visas for spouses and children of citizens and special immigrants.”.

23 (8) Subsection (a)(1)(E)(ii) of section 241 (8
24 U.S.C. 1251), before redesignation as section 237 by
25 section 305(2), is amended by striking “an imme-

1 diate relative” and inserting “a spouse, child, or par-
2 ent of a citizen of the United States under section
3 201(b) or 203(a)(2)”.

4 (9) Section 245(c) (8 U.S.C. 1255(c)) is
5 amended by striking “an immediate relative as de-
6 fined in section 201(b)” and inserting “a spouse or
7 child of a citizen of the United States under section
8 201(b) or a parent of a citizen under section
9 203(a)(2)” each place it appears.

10 (10) Section 291 (8 U.S.C. 1361) is amended
11 by striking “immigrant, special immigrant, imme-
12 diate relative” and inserting “immigrant status, spe-
13 cial immigrant status, status as a spouse or child of
14 a citizen of the United States”.

15 (11) Section 401 of the Immigration Reform
16 and Control Act of 1986 is amended by striking
17 “immediate relatives” and inserting “spouses and
18 children of citizens”.

19 (b) CONFORMING AMENDMENTS FOR OTHER FAM-
20 ILY-SPONSORED IMMIGRANTS.—

21 (1) PETITIONING REQUIREMENTS.—Section
22 204 (8 U.S.C. 1154) is amended—

23 (A) in subsection (a)(1)(B)(i), by striking
24 “203(a)(2)” and inserting “203(a)(1)”;

1 (B) in clauses (ii) and (iii) of subsection
2 (a)(1), by striking “203(a)(2)(A)” and inserting
3 “203(a)(1)”; and

4 (C) in subsection (f)(1), by striking “,
5 203(a)(1), or 203(a)(3)” and inserting “or
6 203(a)(2)”.

7 (2) APPLICATION OF PER COUNTRY LEVELS.—

8 Section 202 (8 U.S.C. 1152) is amended—

9 (A) by amending paragraph (4) of sub-
10 section (a) to read as follows:

11 “(4) SPECIAL RULES FOR SPOUSES AND CHIL-
12 DREN OF LAWFUL PERMANENT RESIDENT ALIENS.—

13 “(A) 75 PERCENT OF 1ST PREFERENCE
14 NOT SUBJECT TO PER COUNTRY LIMITATION.—

15 Of the visa numbers made available under sec-
16 tion 203(a) to immigrants described in para-
17 graph (1) of that section in any fiscal year,
18 63,750 shall be issued without regard to the
19 numerical limitation under paragraph (2).

20 “(B) LIMITING PASS DOWN FOR CERTAIN
21 COUNTRIES SUBJECT TO SUBSECTION (e).—In
22 the case of a foreign state or dependent area to
23 which subsection (e) applies, if the total number
24 of visas issued under section 203(a)(1) exceeds
25 the maximum number of visas that may be

1 made available to immigrants of the state or
2 area under such section consistent with sub-
3 section (e) (determined without regard to this
4 paragraph), in applying paragraph (2) of sec-
5 tion 203(a) under subsection (e)(2) all visas
6 shall be deemed to have been required for the
7 classes specified in paragraph (1) of such sec-
8 tion.”; and

9 (B) in subsection (e)—

10 (i) in paragraph (1), by inserting be-
11 fore the semicolon the following: “(deter-
12 mined without regard to subsections (c)(4)
13 and (d)(2) of section 201)”,

14 (ii) in paragraph (2), by striking
15 “paragraphs (1) through (4)” and insert-
16 ing “paragraphs (1) and (2)”, and

17 (iii) in the last sentence, by striking
18 “203(a)(2)(A)” and inserting “203(a)(1)”.

19 (3) ADDITIONAL CONFORMING AMENDMENTS.—

20 (A) Section 203(d) (8 U.S.C. 1153(d)) is
21 amended by striking “(a)” and inserting
22 “(a)(2)”.

23 (B) Section 212(a)(6)(E)(ii) (8 U.S.C.
24 1182(a)(6)(E)(ii)) is amended by striking
25 “203(a)(2)” and inserting “203(a)(1)”.

1 (C) Section 212(d)(11) (8 U.S.C.
2 1182(d)(11)) is amended by striking “immig-
3 rant under section 203(a) (other than para-
4 graph (4) thereof)” and inserting “an immigra-
5 tion under section 203(a)”.

6 (D) Section 216(g)(1)(C) (8 U.S.C.
7 1186a(g)(1)(C)) is amended by striking
8 “203(a)(2)” and inserting “203(a)(1)”.

9 (E) Section 241(a)(1)(E)(ii) (8 U.S.C.
10 1251(a)(1)(E)(ii)), before redesignation as sec-
11 tion 237 under section 305(a)(2), is amended
12 by striking “203(a)(2)” and inserting
13 “203(a)(1)”.

14 (F) Section 2(c) of the Virgin Islands Non-
15 immigrant Alien Adjustment Act of 1982 (Pub-
16 lic Law 97–271) is amended—

17 (i) in paragraph (2), by inserting “or
18 first family preference petitions” after
19 “second preference petitions”;

20 (ii) in paragraph (3)(A), by striking
21 “or” at the end;

22 (iii) in paragraph (3)(B), by striking
23 the period at the end and inserting “, or”;

24 (iv) by adding at the end of para-
25 graph (3) the following new subparagraph:

1 “(C) by virtue of a first family preference peti-
2 tion filed by an individual who was admitted to the
3 United States as an immigrant by virtue of a second
4 family preference petition filed by the son or daugh-
5 ter of the individual, if that son or daughter had his
6 or her status adjusted under this section.”; and

7 (v) in paragraph (4), by striking “on
8 or after such date.” and inserting the fol-
9 lowing: “on or after such date and before
10 October 1, 1996). For purposes of this
11 subsection, the terms ‘first family pref-
12 erence petition’ and ‘second family pref-
13 erence petition’ mean, in the case of an
14 alien, a petition filed under section 204(a)
15 of the Act to grant preference status to the
16 alien by reason of the relationship de-
17 scribed in section 203(a)(1) or 203(a)(2),
18 respectively (as in effect on and after Octo-
19 ber 1, 1996).”.

20 (c) CONFORMING AMENDMENTS RELATING TO EM-
21 PLOYMENT-BASED IMMIGRANTS.—

22 (1) TREATMENT OF SPECIAL K IMMIGRANTS.—

23 Section 203(b)(6)(B) (8 U.S.C. 1153(b)(6)(B)) is
24 amended—

1 (A) in clause (i), by striking “reduced by
2 $\frac{1}{3}$ ” and inserting “reduced by the same propor-
3 tion, as the proportion (of the visa numbers
4 made available under all such paragraphs) that
5 were made available under each respective para-
6 graph,” and

7 (B) in clause (iii), by striking “reduced by
8 $\frac{1}{3}$ ” and inserting “reduced by the same propor-
9 tion, as the proportion (of the visa numbers
10 made available under all such paragraphs to na-
11 tives of the foreign state) that were made avail-
12 able under each respective paragraph to such
13 natives,”.

14 (2) CONFORMING AMENDMENTS RELATING TO
15 PETITIONING RIGHTS.—Section 204(a)(1) (8 U.S.C.
16 1154(a)(1)) is amended—

17 (A) in subparagraph (C), by striking
18 “203(b)(1)(A)” and inserting “203(b)(1)”;

19 (B) in subparagraph (D), by striking “sec-
20 tion 203(b)(1)(B), 203(b)(1)(C), 203(b)(2), or
21 203(b)(3)” and inserting “section 203(b)(2) or
22 203(b)(3)”;

23 (C) in subparagraph (E)(i), by striking
24 “203(b)(4)” and inserting “203(b)(5)”;

1 (D) in subparagraph (F), by striking
2 “203(b)(5)” and inserting “203(b)(4)”; and

3 (E) by redesignating subparagraphs (E)
4 and (F) as subparagraphs (F) and (E), respec-
5 tively, and by moving subparagraph (E) (as so
6 redesignated) to precede subparagraph (F) (as
7 so redesignated).

8 (3) GROUND FOR INADMISSIBILITY.—Section
9 212(a)(5)(C) (8 U.S.C. 1182(a)(5)(C)) is amended
10 by striking “(2)” and inserting “(2)(B)”.

11 (4) OTHER CONFORMING AMENDMENTS.—

12 (A) Subsections (b)(1)(C) and (f)(1) of
13 section 216A (8 U.S.C. 1186b) are each
14 amended by striking “203(b)(5)” and inserting
15 “203(b)(4)”.

16 (B) Section 245(j)(3) (8 U.S.C.
17 1255(j)(3)), as added by section 130003(c)(1)
18 Violent Crime Control and Law Enforcement
19 Act of 1994 (Public Law 103–322) and as re-
20 designating by section 815(a)(4)(A) of this Act,
21 is amended by striking “203(b)(4)” and insert-
22 ing “203(b)(5)”.

23 (C) Section 154(b)(1)(B)(i) of the Immi-
24 gration Act of 1990 is amended by striking
25 “1991)” and inserting “1991, and before Octo-

1 ber 1, 1996) or under section 203(a),
2 203(b)(1), or 203(b)(2)(C) (as in effect on and
3 after October 1, 1996)”.
4

5 (D) Section 206(a) of the Immigration Act
6 of 1990 is amended by striking “203(b)(1)(C)”
7 and inserting “203(b)(2)(C)”.

8 (E) Section 610 of Public Law 102–395 is
9 amended—

10 (i) in subsection (a), by striking “sec-
11 tion 203(b)(5) of the Immigration and Na-
12 tionality Act (8 U.S.C. 1153(b)(5))” and
13 inserting “section 203(b)(4) of the Immi-
14 gration and Nationality Act (8 U.S.C.
15 1153(b)(4))”,

16 (ii) in subsection (b), by striking “sec-
17 tion 203(b)(5)” and inserting “section
18 203(b)(4)”, and

19 (iii) in subsection (c), by striking
20 “203(b)(5)(A)(iii)” and inserting
21 “203(b)(4)(A)(iii)”.

22 (F) Section 2(d)(2) of the Chinese Student
23 Protection Act of 1992 (Public Law 102–404)
is amended—

1 (i) in subparagraph (A), by striking
2 “203(b)(3)(A)(i)” and inserting
3 “203(b)(3)(B)”, and

4 (ii) in subparagraph (B), by striking
5 “203(b)(5)” and inserting “203(b)(4)”.

6 (G) The Soviet Scientists Immigration Act
7 of 1992 (Public Law 102–509) is amended—

8 (i) in sections 3 and 4(a), by striking
9 “203(b)(2)(A) of the Immigration and Na-
10 tionality Act (8 U.S.C. 1153(b)(2)(A))”
11 and inserting “203(b)(2)(B)(i) of the Im-
12 migration and Nationality Act (8 U.S.C.
13 1153(b)(2)(B)(i))”, and

14 (ii) in section 4(c), by striking
15 “203(b)(2)(A) of the Immigration and Na-
16 tionality Act (8 U.S.C. 1153(b)(2)(A))”
17 and inserting “203(b)(2)(B) of the Immi-
18 gration and Nationality Act (8 U.S.C.
19 1153(b)(2)(B))”.

20 (d) REPEAL OF CERTAIN OUTDATED PROVISIONS.—

21 The following provisions of law are repealed:

22 (1) Section 9 of Public Law 94–571 (90 Stat.
23 2707).

24 (2) Section 19 of Public Law 97–116 (95 Stat.
25 1621).

1 **Subtitle C—Refugees, Asylees, Pa-**
2 **role, and Humanitarian Admis-**
3 **sions**

4 **SEC. 521. CHANGES IN REFUGEE ANNUAL ADMISSIONS.**

5 (a) IN GENERAL.—Paragraphs (1) and (2) of section
6 207(a) (8 U.S.C. 1157(a)) are amended to read as follows:

7 “(1) Except as provided in paragraph (2) and sub-
8 section (b), the number of refugees who may be admitted
9 under this section in any fiscal year shall be such number
10 as the President determines, before the beginning of the
11 fiscal year and after appropriate consultation, is justified
12 by humanitarian concerns or is otherwise in the national
13 interest.

14 “(2)(A) Except as provided in subparagraph (B), the
15 number determined under paragraph (1) for a fiscal year
16 may not exceed—

17 “(i) 75,000 in the case of fiscal year 1997, or

18 “(ii) 50,000 in the case of any succeeding fiscal
19 year.

20 “(B) The number determined under paragraph (1)
21 for a fiscal year may exceed the limit specified under sub-
22 paragraph (A) if Congress enacts a law providing for a
23 higher number.”.

24 (b) EFFECTIVE DATE.—The amendment made by
25 subsection (a) shall apply beginning with fiscal year 1997.

1 **SEC. 522. FIXING NUMERICAL ADJUSTMENTS FOR ASYLEES**
2 **AT 10,000 EACH YEAR.**

3 (a) IN GENERAL.—Section 209(b) (8 U.S.C.
4 1159(b)) of such Act is amended by striking “Not more
5 than” and all that follows through “who—” and inserting
6 the following: “The Attorney General, in the Attorney
7 General’s discretion and under such regulations as the At-
8 torney General may prescribe, and in a number not to ex-
9 ceed 10,000 aliens in any fiscal year, may adjust to the
10 status of an alien lawfully admitted for permanent resi-
11 dence the status of any alien granted asylum who—”.

12 (b) CONFORMING AMENDMENT.—Section 207(a) (8
13 U.S.C. 1157(a)) is amended by striking paragraph (4).

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

16 **SEC. 523. INCREASED RESOURCES FOR REDUCING ASYLUM**
17 **APPLICATION BACKLOGS.**

18 (a) AUTHORIZATION OF TEMPORARY EMPLOYMENT
19 OF CERTAIN ANNUITANTS AND RETIREES.—

20 (1) IN GENERAL.—For the purpose of perform-
21 ing duties in connection with adjudicating applica-
22 tions for asylum pending as of the date of the enact-
23 ment of this Act, the Attorney General may employ
24 for a period not to exceed 24 months (beginning 3
25 months after the date of the enactment of this Act)
26 not more than 300 individuals (at any one time)

1 who, by reason of separation from service on or be-
2 fore January 1, 1995, are receiving—

3 (A) annuities under the provisions of sub-
4 chapter III of chapter 83 of title 5, United
5 States Code, or chapter 84 of such title;

6 (B) annuities under any other retirement
7 system for employees of the Federal Govern-
8 ment; or

9 (C) retired or retainer pay as retired offi-
10 cers of regular components of the uniformed
11 services.

12 (2) NO REDUCTION IN ANNUITY OR RETIRE-
13 MENT PAY OR REDETERMINATION OF PAY DURING
14 TEMPORARY EMPLOYMENT.—

15 (A) RETIREES UNDER CIVIL SERVICE RE-
16 TIREMENT SYSTEM AND FEDERAL EMPLOYEES'
17 RETIREMENT SYSTEM.—In the case of an indi-
18 vidual employed under paragraph (1) who is re-
19 ceiving an annuity described in paragraph
20 (1)(A)—

21 (i) such individual's annuity shall con-
22 tinue during the employment under para-
23 graph (1) and shall not be increased as a
24 result of service performed during that em-
25 ployment;

1 (ii) retirement deductions shall not be
2 withheld from such individual's pay; and

3 (iii) such individual's pay shall not be
4 subject to any deduction based on the por-
5 tion of such individual's annuity which is
6 allocable to the period of employment.

7 (B) OTHER FEDERAL RETIREES.—The
8 President shall apply the provisions of subpara-
9 graph (A) to individuals who are receiving an
10 annuity described in paragraph (1)(B) and who
11 are employed under paragraph (1) in the same
12 manner and to the same extent as such provi-
13 sions apply to individuals who are receiving an
14 annuity described in paragraph (1)(A) and who
15 are employed under paragraph (1).

16 (C) RETIRED OFFICERS OF THE UNIFORM
17 SERVICES.—The retired or retainer pay of a re-
18 tired officer of a regular component of a uni-
19 formed service shall not be reduced under sec-
20 tion 5532 of title 5, United States Code, by
21 reason of temporary employment authorized
22 under paragraph (1).

23 (b) PROCEDURES FOR PROPERTY ACQUISITION ON
24 LEASING.—Notwithstanding the Federal Property and
25 Administrative Services Act of 1949 (40 U.S.C. 471 et

1 seq.), the Attorney General is authorized to expend out
2 of funds made available to the Department of Justice for
3 the administration of the Immigration and Nationality Act
4 such amounts as may be necessary for the leasing or ac-
5 quisition of property to carry out the purpose described
6 in subsection (a)(1).

7 (c) INCREASE IN ASYLUM OFFICERS.—Subject to the
8 availability of appropriations, the Attorney General shall
9 provide for an increase in the number of asylum officers
10 to at least 600 asylum officers by fiscal year 1997.

11 **SEC. 524. PAROLE AVAILABLE ONLY ON A CASE-BY-CASE**
12 **BASIS FOR HUMANITARIAN REASONS OR SIG-**
13 **NIFICANT PUBLIC BENEFIT.**

14 (a) IN GENERAL.—Paragraph (5) of section 212(d)
15 (8 U.S.C. 1182(d)) is amended to read as follows:

16 “(5) HUMANITARIAN AND PUBLIC INTEREST PA-
17 ROLE.—

18 “(A) IN GENERAL.—Subject to the provisions of
19 this paragraph and section 214(f)(2), the Attorney
20 General, in the sole discretion of the Attorney Gen-
21 eral, may on a case-by-case basis parole an alien into
22 the United States temporarily, under such conditions
23 as the Attorney General may prescribe, only—

24 “(i) for an urgent humanitarian reason (as
25 described under subparagraph (B)); or

1 “(ii) for a reason deemed strictly in the
2 public interest (as described under subpara-
3 graph (C)).

4 “(B) HUMANITARIAN PAROLE.—The Attorney
5 General may parole an alien based on an urgent hu-
6 manitarian reason described in this subparagraph
7 only if—

8 “(i) the alien has a medical emergency and
9 the alien cannot obtain necessary treatment in
10 the foreign state in which the alien is residing
11 or the medical emergency is life-threatening and
12 there is insufficient time for the alien to be ad-
13 mitted through the normal visa process;

14 “(ii) the alien is needed in the United
15 States in order to donate an organ or other tis-
16 sue for transplant into a close family member;
17 or

18 “(iii) the alien has a close family member
19 in the United States whose death is imminent
20 and the alien could not arrive in the United
21 States in time to see such family member alive
22 if the alien were to be admitted through the
23 normal visa process.

24 “(C) PUBLIC INTEREST PAROLE.—The Attor-
25 ney General may parole an alien based on a reason

1 deemed strictly in the public interest described in
2 this subparagraph only if the alien has assisted the
3 United States Government in a matter, such as a
4 criminal investigation, espionage, or other similar
5 law enforcement activity, and either the alien's pres-
6 ence in the United States is required by the Govern-
7 ment or the alien's life would be threatened if the
8 alien were not permitted to come to the United
9 States.

10 “(D) LIMITATION ON THE USE OF PAROLE AU-
11 THORITY.—The Attorney General may not use the
12 parole authority under this paragraph to permit to
13 come to the United States aliens who have applied
14 for and have been found to be ineligible for refugee
15 status or any alien to whom the provisions of this
16 paragraph do not apply.

17 “(E) PAROLE NOT AN ADMISSION.—Parole of
18 an alien under this paragraph shall not be consid-
19 ered an admission of the alien into the United
20 states. When the purposes of the parole of an alien
21 have been served, as determined by the Attorney
22 General, the alien shall immediately return or be re-
23 turned to the custody from which the alien was pa-
24 roled and the alien shall be considered for admission

1 to the United States on the same basis as other
2 similarly situated applicants for admission.

3 “(F) REPORT TO CONGRESS.—Not later than
4 90 days after the end of each fiscal year, the Attor-
5 ney General shall submit a report to the Committees
6 on the Judiciary of the House of Representatives
7 and the Senate describing the number and cat-
8 egories of aliens paroled into the United States
9 under this paragraph. Each such report shall con-
10 tain information and data concerning the number
11 and categories of aliens paroled, the duration of pa-
12 role, and the current status of aliens paroled during
13 the preceding fiscal year.”.

14 (b) EFFECTIVE DATE.—The amendments made by
15 subsection (a) shall take effect on the first day of the first
16 month beginning more than 60 days after the date of the
17 enactment of this Act.

18 **SEC. 525. ADMISSION OF HUMANITARIAN IMMIGRANTS.**

19 (a) IN GENERAL.—Subsection (c) of section 203 (8
20 U.S.C. 1153) is amended to read as follows:

21 “(c) HUMANITARIAN IMMIGRANTS.—

22 “(1) IN GENERAL.—Aliens subject to the world-
23 wide level specified in section 201(e) for humani-
24 tarian immigrants shall be allotted visas only if the
25 aliens have been selected by the Attorney General,

1 under paragraph (2), as of special humanitarian
2 concern to the United States.

3 “(2) SELECTION OF IMMIGRANTS.—

4 “(A) IN GENERAL.—The Attorney General
5 shall, on a case-by-case basis and based on hu-
6 manitarian concerns and the public interest, se-
7 lect aliens for purposes of this subsection.

8 “(B) RESTRICTION.—The Attorney Gen-
9 eral may not select an alien under this para-
10 graph if the alien is a refugee (within the mean-
11 ing of section 101(a)(42)) unless the Attorney
12 General determines that compelling reasons in
13 the public interest with respect to that particu-
14 lar alien require that the alien be admitted into
15 the United States as a humanitarian immigrant
16 under this subsection rather than as a refugee
17 under section 207.

18 “(3) ANNUAL REPORT.—Not later than 90 days
19 after the end of each fiscal year, the Attorney Gen-
20 eral shall submit to the Committees on the Judiciary
21 of the House of Representatives and of the Senate
22 a report describing the number of immigrant visas
23 issued under this subsection and the individuals to
24 whom the visas were issued.”.

1 (b) PETITIONING.—Subparagraph (G) of section
2 204(a)(1) (8 U.S.C. 1154(a)(1)) is amended to read as
3 follows:

4 “(G) Any alien desiring to be provided an immigrant
5 visa under section 203(c) may file a petition with the At-
6 torney General for such classification, but only if the At-
7 torney General has identified the alien as possibly qualify-
8 ing for such a visa.”.

9 (c) ORDER OF CONSIDERATION.—Section 203 (8
10 U.S.C. 1153) is amended—

11 (1) by amending paragraph (2) of subsection
12 (e) to read as follows:

13 “(2) Immigrant visa numbers made available under
14 subsection (c) (relating to humanitarian immigrants) shall
15 be issued to eligible immigrants in an order specified by
16 the Attorney General.”, and

17 (2) in subsection (g), by striking “(a), (b), and
18 (c)” and inserting “(a) and (b)”.

19 (d) APPLICATION OF PER COUNTRY NUMERICAL
20 LIMITATIONS.—Section 202(a) (8 U.S.C. 1152(a)) is
21 amended by adding at the end the following new para-
22 graph:

23 “(5) PER COUNTRY LEVELS FOR HUMANI-
24 TARIAN IMMIGRANTS.—The total number of immi-
25 grant visas made available to natives of any single

1 foreign state or dependent area under section 203(c)
2 in any fiscal year may not exceed 50 percent (in the
3 case of a single foreign state) or 15 percent (in the
4 case of a dependent area) of the total number of
5 such visas made available under such subsection in
6 that fiscal year.”.

7 (e) WAIVER OF CERTAIN GROUNDS OF INADMIS-
8 SIBILITY.—Section 212(a) (8 U.S.C. 1182(a)) is amend-
9 ed—

10 (1) in paragraph (4), as amended by section
11 621, by adding at the end the following new sub-
12 paragraph:

13 “(C) WAIVER AUTHORIZED FOR HUMANI-
14 TARIAN IMMIGRANTS.—The Attorney General,
15 in the discretion of the Attorney General, may
16 waive the ground of inadmissibility under sub-
17 paragraph (A) in the case of an alien seeking
18 admission as a humanitarian immigrant under
19 section 203(c).”;

20 (2) in paragraph (5)(C), by inserting before the
21 period at the end the following: “, and shall not
22 apply to immigrants seeking admissions as humani-
23 tarian immigrants under section 203(c)”;

1 (3) in paragraph (7)(A), by redesignating
2 clause (ii) as clause (iii) and by inserting after
3 clause (i) the following new clause:

4 “(ii) WAIVER AUTHORIZED FOR HU-
5 MANITARIAN IMMIGRANTS.—The Attorney
6 General, in the discretion of the Attorney
7 General, may waive the ground of inadmis-
8 sibility under clause (i) in the case of an
9 alien seeking admission as a humanitarian
10 immigrant under section 203(c).”.

11 (f) CONFORMING AMENDMENTS RELATING TO
12 ELIMINATION OF DIVERSITY PROGRAM.—

13 (1) Section 141(c) of the Immigration Act of
14 1990 is amended by striking paragraph (2).

15 (2) Section 204(b)(1) of Immigration Act of
16 1990 is amended by inserting “, as in effect before
17 fiscal year 1996” after “Immigration and National-
18 ity Act”.

19 **SEC. 526. ASYLUM REFORM.**

20 (a) ASYLUM REFORM.—Section 208 (8 U.S.C. 1158)
21 is amended to read as follows:

22 “ASYLUM

23 “SEC. 208. (a) AUTHORITY TO APPLY FOR ASY-
24 LUM.—Any alien who is physically present in the United
25 States or who arrives in the United States (whether or
26 not at a designated port of arrival), at a land border or

1 port of entry, irrespective of such alien's status, may apply
2 for asylum in accordance with this section.

3 “(b) CONDITIONS FOR GRANTING ASYLUM.—

4 “(1) MANDATORY AUTHORITY.—The Attorney
5 General shall grant asylum to an alien if the alien
6 applies for asylum in accordance with the require-
7 ments of this section and establishes that it is more
8 likely than not that in the alien's country of nation-
9 ality (or, in the case of a person having no national-
10 ity, the country in which such alien last habitually
11 resided) such alien's life or freedom would be threat-
12 ened on account of race, religion, nationality, mem-
13 bership in a particular social group, or political opin-
14 ion.

15 “(2) DISCRETIONARY AUTHORITY.—The Attor-
16 ney General may grant asylum to an alien if the
17 alien applies for asylum in accordance with the re-
18 quirements of this section and establishes that the
19 alien is a refugee within the meaning of section
20 101(a)(42).

21 “(3) LIMITATIONS.—(A) Paragraphs (1) and
22 (2) shall not apply to an alien if the Attorney Gen-
23 eral determines that—

24 “(i) the alien ordered, incited, assisted, or
25 otherwise participated in the persecution of any

1 person on account of race, religion, nationality,
2 membership in a particular social group, or po-
3 litical opinion;

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

8 “(iii) there are serious reasons for believ-
9 ing that the alien has committed a serious non-
10 political crime outside the United States prior
11 to the arrival of the alien in the United States;

12 “(iv) there are reasonable grounds for re-
13 garding the alien as a danger to the security of
14 the United States;

15 “(v) the alien is inadmissible under
16 subclause (I), (II), or (III) of section
17 212(a)(3)(B)(i) or removable under section
18 237(a)(4)(B) (relating to terrorist activity); or

19 “(vi) a country willing to accept the alien
20 has been identified (other than the country de-
21 scribed in paragraph (1)) to which the alien can
22 be removed or returned and the alien does not
23 establish that it is more likely than not that the
24 alien’s life or freedom would be threatened in
25 such country on account of race, religion, na-

1 tionality, membership in a particular social
2 group, or political opinion.

3 “(B)(i) For purposes of subparagraph (A)(ii),
4 an alien who has been convicted of an aggravated
5 felony shall be considered to have committed a par-
6 ticularly serious crime.

7 “(ii) The Attorney General shall promulgate
8 regulations that specify additional crimes that will
9 be considered to be a crime described in subpara-
10 graph (A)(ii) or (A)(iii).

11 “(iii) The Attorney General shall promulgate
12 regulations establishing such additional limitations
13 and conditions as the Attorney General considers ap-
14 propriate under which an alien shall be ineligible to
15 apply for asylum under paragraph (2).

16 “(c) ASYLUM STATUS.—

17 “(1) IN GENERAL.—In the case of any alien
18 granted asylum under subsection (b), the Attorney
19 General, in accordance with this section—

20 “(A) shall not remove or return the alien
21 to the country described in subsection (b)(1);

22 “(B) shall authorize the alien to engage in
23 employment in the United States and provide
24 the alien with an ‘employment authorized’ en-

1 dorsement or other appropriate work permit;
2 and

3 “(C) may allow the alien to travel abroad
4 with the prior consent of the Attorney General.

5 “(2) LIMITATIONS.—Asylum status does not in-
6 clude or convey a right to remain permanently in the
7 United States.

8 “(d) TERMINATION OF ASYLUM.—Asylum granted
9 under subsection (b) may be terminated if the Attorney
10 General, pursuant to such regulations as the Attorney
11 General may prescribe, determines that—

12 “(1) the alien no longer meets the conditions
13 described in subsection (b) owing to a change in cir-
14 cumstances in the alien’s country of nationality or,
15 in the case of an alien having no nationality, in the
16 country in which the alien last habitually resided;

17 “(2) the alien meets a condition described in
18 subsection (b)(3); or

19 “(3) a country willing to accept the alien has
20 been identified (other than the country described in
21 subsection (b)(1)) to which the alien can be removed
22 or returned and the alien cannot establish that it is
23 more likely than not that the alien’s life or freedom
24 would be threatened in such country on account of

1 race, religion, nationality, membership in a particu-
2 lar social group, or political opinion.

3 “(e) ACCEPTANCE BY ANOTHER COUNTRY.—In the
4 case of an alien described in subsection (b)(3)(A)(vi) or
5 subsection (d)(3), the alien’s removal or return shall be
6 directed by the Attorney General in the sole discretion of
7 the Attorney General, to any country which is willing to
8 accept the alien into its territory (other than the country
9 described in subsection (b)(1)).

10 “(f) ASYLUM PROCEDURE.—

11 “(1) APPLICATIONS.—

12 “(A) DEADLINE.—(i) Subject to clause
13 (ii), an alien’s application for asylum shall not
14 be considered under this section unless—

15 “(I) the alien has filed, not later than
16 30 days after being admitted or coming to
17 the United States, notice of intention to
18 file such an application, and

19 “(II) such application is actually filed
20 not later than 60 days after being admit-
21 ted or coming to the United States.

22 “(ii) An application for asylum may be
23 considered, notwithstanding that the require-
24 ments of clause (i) have not been met, only if
25 the alien demonstrates by clear and convincing

1 evidence changed circumstances in the alien's
2 country of nationality (or in the case of an alien
3 with no nationality, in the country where the
4 alien has habitually resided) affecting eligibility
5 for asylum.

6 “(B) REQUIREMENTS.—An application for
7 asylum shall not be considered unless the alien
8 submits to the taking of fingerprints and a pho-
9 tograph in a manner determined by the Attor-
10 ney General.

11 “(C) FEES.—In the discretion of the At-
12 torney General, the Attorney General may im-
13 pose reasonable fees for the consideration of an
14 application for asylum, for employment author-
15 ization under this section, and for adjustment
16 of status under section 209(b). The Attorney
17 General is authorized to provide for the assess-
18 ment and payment of any such fee over a pe-
19 riod of time or by installments.

20 “(D) NOTICE OF PRIVILEGE OF COUNSEL
21 AND CONSEQUENCES OF FRIVOLOUS APPLICA-
22 TION.—

23 “(i) NOTICE.—At the time of filing a
24 notice of intention to apply for asylum, the
25 alien shall be advised of the privilege of

1 being presented by counsel and of the con-
2 sequences, under subsection (h), of filing a
3 frivolous application for asylum.

4 “(ii) PROVISION OF LIST OF COUN-
5 SEL.—The Attorney General shall provide
6 lists (updated not less often than quar-
7 terly) of persons who have indicated their
8 availability to represent pro bono aliens in
9 asylum proceedings. Such lists shall be
10 provided to the alien at the time of filing
11 of notice of intention to apply for asylum,
12 and otherwise be made generally available.

13 “(E) EMPLOYMENT AUTHORIZATION.—An
14 applicant for asylum is not entitled to engage in
15 employment in the United States. The Attorney
16 General may authorize an alien who has filed
17 an application for asylum to engage in employ-
18 ment in the United States, in the discretion of
19 the Attorney General.

20 “(2) CONSIDERATION OF ASYLUM APPLICA-
21 TIONS.—

22 “(A) IN GENERAL.—The Attorney General
23 shall establish a procedure for considering ap-
24 plications for asylum submitted pursuant to
25 paragraph (1). Such procedure shall include—

1 “(i) a requirement that, unless an ap-
2 plicant (or an attorney for an applicant)
3 consents in writing to the contrary, hear-
4 ings on asylum applications shall com-
5 mence not later than 45 days after the
6 date an application is filed;

7 “(ii) a requirement that applications
8 for asylum shall be considered by asylum
9 officers who are specially designated by the
10 Service as having special training and
11 knowledge of international conditions and
12 human rights records of foreign countries;
13 and

14 “(iii) summary dismissal of applica-
15 tions for asylum of an alien who does not
16 appear for a hearing on such application,
17 unless the alien can show exceptional cir-
18 cumstances (as defined in section 239(e)),
19 as determined by the asylum officer, or un-
20 less written and oral notice were not pro-
21 vided as required by section 239.

22 “(B) FINALITY OF DETERMINATIONS.—
23 The decision of an asylum officer shall be the
24 final administrative determination of a claim
25 for asylum.

1 “(g) TREATMENT OF SPOUSE AND CHILDREN.—A
2 spouse or child (as defined in section 101(b)(1)(A), (B),
3 (C), (D), or (E)) of an alien who is granted asylum under
4 subsection (f)(2) may, if not otherwise eligible for asylum
5 under this section, be granted the same status as the alien
6 if accompanying, or following to join, such alien.

7 “(h) DENIAL OF IMMIGRATION BENEFITS FOR FRIV-
8 OLOUS APPLICATIONS.—

9 “(1) IN GENERAL.—If the asylum officer deter-
10 mines that an alien has made a frivolous application
11 for asylum under this section and the alien has re-
12 ceived the notice under subsection (f)(1)(D)(i), the
13 alien shall be permanently ineligible for any benefits
14 under this Act, effective as of the date of a final de-
15 termination on such application.

16 “(2) TREATMENT OF MATERIAL MISREPRESENTEN-
17 TATIONS.—For purposes of this subsection, an appli-
18 cation considered to be ‘frivolous’ includes, but is
19 not limited to, an application which contains a will-
20 ful misrepresentation or concealment of a material
21 fact.

22 “(i) JUDICIAL REVIEW.—The procedure prescribed
23 by, and all the provisions of chapter 158 of title 28, United
24 States Code, shall apply to, and shall be the sole and ex-

1 clusive procedure for, the judicial review of all final orders
2 granting or denying asylum, except that—

3 “(1) a petition for review may be filed not later
4 than 90 days after the date of the issuance of the
5 final order granting or denying asylum;

6 “(2) the venue of any petition for review under
7 this subsection shall be in the judicial circuit in
8 which the administrative proceedings before an asy-
9 lum officer were conducted in whole or in part, or
10 in the judicial circuit therein is the residence, as de-
11 fined in this Act, of the petitioner, but not in more
12 than one circuit; and

13 “(3) notwithstanding any other provision of
14 law, a determination granting or denying asylum
15 based on changed circumstances pursuant to sub-
16 section (f)(1)(A)(ii) shall be in the sole discretion of
17 the asylum officer.”.

18 (b) CONFORMING AND CLERICAL AMENDMENTS.—

19 (1) The item in the table of contents relating to section
20 208 is amended to read as follows:

“Sec. 208. Asylum.”.

21 (2) Section 104(d)(1)(A) of the Immigration Act of
22 1990 (Public Law 101–649) is amended by striking
23 “208(b)” and inserting “208”.

24 (c) EFFECTIVE DATE.—The amendment made by
25 subsection (a) shall apply to applications for asylum filed

1 on or after such date (not later than 180 days after the
2 date of the enactment of this Act) as the Attorney General
3 shall specify.

4 **Subtitle D—General Effective Date;** 5 **Transition Provisions**

6 **SEC. 551. GENERAL EFFECTIVE DATE.**

7 (a) IN GENERAL.—Except as otherwise provided in
8 subsection (b) or in this title, this title and the amend-
9 ments made by this title shall take effect on October 1,
10 1996, and shall apply beginning with fiscal year 1997.

11 (b) PROVISIONS TAKING EFFECT UPON ENACT-
12 MENT.—Sections 523 and 554 shall take effect on the date
13 of the enactment of this Act.

14 **SEC. 552. GENERAL TRANSITION FOR CURRENT CLASSI-** 15 **FICATION PETITIONS.**

16 (a) FAMILY-SPONSORED IMMIGRANTS.—

17 (1) IMMEDIATE RELATIVES.—Any petition filed
18 under section 204(a) of the Immigration and Na-
19 tionality Act before October 1, 1996, for immediate
20 relative status under section 201(b)(2)(A) of such
21 Act (as in effect before such date) as a spouse or
22 child of a United States citizen or as a parent of a
23 United States citizen shall be deemed, as of such
24 date, to be a petition filed under such section for
25 status under section 201(b)(2)(A) (as such a spouse

1 or child) or under section 203(a)(2), respectively, of
2 such Act (as amended by this title).

3 (2) SPOUSES AND CHILDREN OF PERMANENT
4 RESIDENTS.—Any petition filed under section 204(a)
5 of the Immigration and Nationality Act before Octo-
6 ber 1, 1996, for preference status under section
7 203(a)(2) of such Act as a spouse or child of an
8 alien lawfully admitted for permanent residence shall
9 be deemed, as of such date, to be a petition filed
10 under such section for preference status under sec-
11 tion 203(a)(1) of such Act (as amended by this
12 title).

13 (b) EMPLOYMENT-BASED IMMIGRANTS.—

14 (1) IN GENERAL.—Subject to paragraph (2),
15 any petition filed before October 1, 1996, and ap-
16 proved on any date, to accord status under section
17 203(b)(1)(A), 203(b)(1)(B), 203(b)(1)(C),
18 203(b)(2), 203(b)(3)(A)(i), 203(b)(3)(A)(ii),
19 203(b)(4), or 203(b)(5) of the Immigration and Na-
20 tionality Act (as in effect before such date) shall be
21 deemed, on and after October 1, 1996 (or, if later,
22 the date of such approval), to be a petition approved
23 to accord status under section 203(b)(1),
24 203(b)(2)(B), 203(b)(2)(C), 203(b)(2)(B),
25 203(b)(3)(B), 203(b)(3)(C), 203(b)(5), or 203(b)(4),

1 respectively, of such Act (as in effect on and after
2 such date). Nothing in this paragraph shall be con-
3 strued as exempting the beneficiaries of such peti-
4 tions from the numerical limitations under section
5 203(b) of such Act (as amended by section 513).

6 (2) TIME LIMITATION.—Paragraph (1) shall
7 not apply more than two years after the date the
8 priority date for issuance of a visa on the basis of
9 such a petition has been reached.

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

17 (d) CONSTRUCTION.—Nothing in this title shall be
18 construed as affecting the provisions of section 19 of Pub-
19 lic Law 97–116, section 2(c)(1) of Public Law 97–271,
20 or section 202(e) of Public Law 99–603.

21 **SEC. 553. SPECIAL TRANSITION FOR CERTAIN BACK-**
22 **LOGGED SPOUSES AND CHILDREN OF LAW-**
23 **FUL PERMANENT RESIDENT ALIENS.**

24 (a) IN GENERAL.—(1) In addition to any immigrant
25 visa numbers otherwise available, 50,000 (or, if greater,

1 1/5 of the number of aliens described in paragraph (2))
2 immigrant visa numbers shall be made available in each
3 of fiscal years 1997 through 2001 for aliens who have peti-
4 tions approved for classification under section 203(a)(1)
5 of the Immigration and Nationality Act (as amended by
6 this title) for the fiscal year.

7 (2) Aliens described in this paragraph are aliens, for
8 whom petitions are pending as of the beginning of the fis-
9 cal year involved, with respect to whom the petitioning
10 alien became an alien admitted for lawful permanent resi-
11 dence through the operation of section 210 or 245A of
12 the Immigration and Nationality Act.

13 (b) ORDER.—(1) Subject to paragraph (2), visa num-
14 bers under this section shall be made available in the order
15 in which a petition, in behalf of each such immigrant for
16 classification under section 203(a)(1) of the Immigration
17 and Nationality Act, is filed with the Attorney General
18 under section 204 of such Act.

19 (2) Visa numbers shall first be made available to
20 aliens for whom the petitioning alien did not become an
21 alien lawfully admitted for permanent residence thorough
22 the operation of section 210 or 245A of the Immigration
23 and Nationality Act.

24 (3) The per country numerical limitations of section
25 202 of such Act shall not apply with respect to visa num-

1 bers made available under this section, and visa numbers
2 made available under this section shall not be counted in
3 determining whether there are excess family admissions
4 in a fiscal year under section 201(c)(3)(B) of the Immi-
5 gration and Nationality Act (as amended by section
6 501(b) of this Act).

7 (c) REPORT.—The Attorney General shall submit to
8 Congress, by April 1, 2001, a report on the operation of
9 this section and the extent to which this section will, by
10 October 1, 2001, have resulted in visa numbers being
11 available to immigrants described in paragraphs (1) and
12 (2) of subsection (b) being available on a current basis.

13 **SEC. 554. SPECIAL TREATMENT OF CERTAIN DISADVAN-**
14 **TAGED FAMILY FIRST PREFERENCE IMMI-**
15 **GRANTS.**

16 (a) DISREGARD OF PER COUNTRY LIMITS FOR LAST
17 HALF OF FISCAL YEAR 1996.—The per country numeri-
18 cal limitations specified in section 202(a) of the Immigra-
19 tion and Nationality Act shall not apply to immigrant
20 numbers made available under section 203(a)(1) of such
21 Act (as in effect before the date of the enactment of this
22 Act) on or after April 1, 1996, but only to the extent nec-
23 essary to assure that the priority date for aliens classified
24 under such section who are nationals of a country is not
25 earlier than the priority date for aliens classified under

1 section 203(a)(2)(B) of such Act for aliens who are na-
2 tionals of that country.

3 (b) ADDITIONAL VISA NUMBERS POTENTIALLY
4 AVAILABLE TO ASSURE EQUITABLE TREATMENT FOR
5 UNMARRIED SONS AND DAUGHTERS OF UNITED STATES
6 CITIZENS.—

7 (1) IN GENERAL.—In addition to any immi-
8 grant visa otherwise available, immigrant visa num-
9 bers shall be made available during fiscal year 1997
10 for disadvantaged family first preference aliens (as
11 defined in paragraph (2)) and for spouses and chil-
12 dren of such aliens who would otherwise be eligible
13 to immigrant status under section 203(d) of the Im-
14 migration and Nationality Act in relation to such
15 aliens if the aliens remained entitled to immigrant
16 status under section 203(a) of such Act.

17 (2) DISADVANTAGED FAMILY FIRST PREF-
18 ERENCE ALIEN DEFINED.—In this subsection, the
19 term “disadvantaged family first preference alien”
20 means an alien—

21 (A) with respect to whom a petition for
22 classification under section 203(a)(1) of the Im-
23 migration and Nationality Act (as in effect on
24 the date of the enactment of this Act) was ap-
25 proved as of September 30, 1996, and

1 (B) whose priority date, as of September
2 30, 1996, under such classification was earlier
3 than the priority date as of such date for aliens
4 of the same nationality with respect to whom a
5 petition for classification under section
6 203(a)(2)(B) of such Act (as in effect on such
7 date) had been approved.

8 (3) DISREGARD OF PER COUNTRY NUMERICAL
9 LIMITATIONS.—Additional visa numbers made avail-
10 able under this subsection shall not be taken into ac-
11 count for purposes of applying any numerical limita-
12 tion applicable to the country under section 202 of
13 such Act, and visa numbers made available under
14 this subsection shall not be counted in determining
15 whether there are excess family admissions in a fis-
16 cal year under section 201(c)(3)(B) of the Immigra-
17 tion and Nationality Act (as amended by section
18 501(b) of this Act).

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

21 **SEC. 600. STATEMENTS OF NATIONAL POLICY CONCERNING**
22 **WELFARE AND IMMIGRATION.**

23 The Congress makes the following statements con-
24 cerning national policy with respect to welfare and immi-
25 gration:

1 (1) Self-sufficiency has been a basic principle of
2 United States immigration law since this country's
3 earliest immigration statutes.

4 (2) It continues to be the immigration policy of
5 the United States that—

6 (A) aliens within the nation's borders not
7 depend on public resources to meet their needs,
8 but rather rely on their own capabilities and the
9 resources of their families, their sponsors, and
10 private organizations, and

11 (B) the availability of public benefits not
12 constitute an incentive for immigration to the
13 United States.

14 (3) Despite the principle of self-sufficiency,
15 aliens have been applying for and receiving public
16 benefits from Federal, State, and local governments
17 at increasing rates.

18 (4) Current eligibility rules for public assistance
19 and unenforceable financial support agreements have
20 proved wholly incapable of assuring that individual
21 aliens not burden the public benefits system.

22 (5) It is a compelling government interest to
23 enact new rules for eligibility and sponsorship agree-
24 ments in order to assure that aliens be self-reliant
25 in accordance with national immigration policy.

1 (6) It is a compelling government interest to re-
2 move the incentive for illegal immigration provided
3 by the availability of public benefits.

4 (7) Where States are authorized to follow Fed-
5 eral eligibility rules for public assistance programs,
6 the Congress strongly encourages the States to
7 adopt the Federal eligibility rules.

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

10 **PART 1—PUBLIC BENEFITS GENERALLY**

11 **SEC. 601. MAKING ILLEGAL ALIENS INELIGIBLE FOR PUB-**
12 **LIC ASSISTANCE, CONTRACTS, AND LI-**
13 **CENSES.**

14 (a) FEDERAL PROGRAMS.—Notwithstanding any
15 other provision of law, except as provided in section 603,
16 any alien who is not lawfully present in the United States
17 shall not be eligible for any of the following:

18 (1) FEDERAL ASSISTANCE PROGRAMS.—To re-
19 ceive any benefits under any program of assistance
20 provided or funded, in whole or in part, by the Fed-
21 eral Government for which eligibility (or the amount
22 of assistance) is based on financial need.

23 (2) FEDERAL CONTRACTS OR LICENSES.—To
24 receive any grant, to enter into any contract or loan
25 agreement, or to be issued (or have renewed) any

1 professional or commercial license, if the grant, con-
2 tract, loan, or license is provided or funded by any
3 Federal agency.

4 (b) STATE PROGRAMS.—Notwithstanding any other
5 provision of law, except as provided in section 603, any
6 alien who is not lawfully present in the United States shall
7 not be eligible for any of the following:

8 (1) STATE ASSISTANCE PROGRAMS.—To receive
9 any benefits under any program of assistance (not
10 described in subsection (a)(1)) provided or funded,
11 in whole or in part, by a State or political subdivi-
12 sion of a State for which eligibility (or the amount
13 of assistance) is based on financial need.

14 (2) STATE CONTRACTS OR LICENSES.—To re-
15 ceive any grant, to enter into any contract or loan
16 agreement, or to be issued (or have renewed) any
17 professional or commercial license, if the grant, con-
18 tract, loan, or license is provided or funded by any
19 State agency.

20 (c) REQUIRING PROOF OF IDENTITY FOR FEDERAL
21 CONTRACTS, GRANTS, LOANS, LICENSES, AND PUBLIC
22 ASSISTANCE.—

23 (1) IN GENERAL.—In considering an applica-
24 tion for a Federal contract, grant, loan, or license,
25 or for public assistance under a program described

1 in paragraph (2), a Federal agency shall require the
2 applicant to provide proof of identity under para-
3 graph (3) to be considered for such Federal con-
4 tract, grant, loan, license, or public assistance.

5 (2) PUBLIC ASSISTANCE PROGRAMS COV-
6 ERED.—The requirement of proof of identity under
7 paragraph (1) shall apply to the following Federal
8 public assistance programs:

9 (A) SSI.—The supplemental security in-
10 come program under title XVI of the Social Se-
11 curity Act, including State supplementary bene-
12 fits programs referred to in such title.

13 (B) AFDC.—The program of aid to fami-
14 lies with dependent children under part A or E
15 of title IV of the Social Security Act.

16 (C) SOCIAL SERVICES BLOCK GRANT.—The
17 program of block grants to States for social
18 services under title XX of the Social Security
19 Act.

20 (D) MEDICAID.—The program of medical
21 assistance under title XIX of the Social Secu-
22 rity Act.

23 (E) FOOD STAMPS.—The program under
24 the Food Stamp Act of 1977.

1 (F) HOUSING ASSISTANCE.—Financial as-
2 sistance as defined in section 214(b) of the
3 Housing and Community Development Act of
4 1980.

5 (3) DOCUMENTS THAT SHOW PROOF OF IDEN-
6 TITY.—Any one of the documents listed under this
7 paragraph may be used as proof of identity under
8 this subsection. Any such document shall be current
9 and valid. No other document or documents shall be
10 sufficient to prove identity.

11 (A) United States passport (either current
12 or expired if issued both within the previous 20
13 years and after the individual attained 18 years
14 of age).

15 (B) Resident alien card.

16 (C) State driver's license, if presented with
17 the individual's social security account number
18 card.

19 (D) State identity card, if presented with
20 the individual's social security account number
21 card.

22 (d) AUTHORIZATION FOR STATES TO REQUIRE
23 PROOF OF ELIGIBILITY FOR STATE PROGRAMS.—In con-
24 sidering an application for contracts, grants, loans, li-
25 censes, or public assistance under any State program, a

1 State is authorized to require the applicant to provide
2 proof of eligibility to be considered for such State con-
3 tracts, grants, loans, licenses, or public assistance.

4 **SEC. 602. MAKING UNAUTHORIZED ALIENS INELIGIBLE**
5 **FOR UNEMPLOYMENT BENEFITS.**

6 (a) IN GENERAL.—Notwithstanding any other provi-
7 sion of law, no unemployment benefits shall be payable
8 (in whole or in part) out of Federal funds to the extent
9 the benefits are attributable to any employment of the
10 alien in the United States for which the alien was not
11 granted employment authorization pursuant to Federal
12 law.

13 (b) PROCEDURES.—Entities responsible for providing
14 unemployment benefits subject to the restrictions of this
15 section shall make such inquiries as may be necessary to
16 assure that applicants for such benefits are eligible con-
17 sistent with this section.

18 **SEC. 603. GENERAL EXCEPTIONS.**

19 Sections 601 and 602 shall not apply to the following:

20 (1) EMERGENCY MEDICAL SERVICES.—The pro-
21 vision of emergency medical services (as defined by
22 the Attorney General in consultation with the Sec-
23 retary of Health and Human Services).

24 (2) PUBLIC HEALTH IMMUNIZATIONS.—Public
25 health assistance for immunizations with respect to

1 immunizable diseases and for testing and treatment
2 for communicable diseases.

3 (3) SHORT-TERM EMERGENCY DISASTER RE-
4 LIEF.—The provision of non-cash, in-kind, short-
5 term emergency disaster relief.

6 **SEC. 604. TREATMENT OF EXPENSES SUBJECT TO EMER-**
7 **GENCY MEDICAL SERVICES EXCEPTION.**

8 (a) IN GENERAL.—Subject to such amounts as are
9 provided in advance in appropriation Acts, each State or
10 local government that provides emergency medical services
11 (as defined for purposes of section 603(1)) through a pub-
12 lic hospital or other public facility to an individual who
13 is an alien not lawfully present in the United States is
14 entitled to receive payment from the Federal Government
15 of its costs of providing such services, but only to the ex-
16 tent that such costs are not otherwise reimbursed through
17 any other Federal program and cannot be recovered from
18 the alien or another person.

19 (b) CONFIRMATION OF IMMIGRATION STATUS RE-
20 QUIRED.—No payment shall be made under this section
21 with respect to services furnished to an individual unless
22 the identity and immigration status of the individual has
23 been verified with the Immigration and Naturalization
24 Service in accordance with procedures established by the
25 Attorney General.

1 (c) ADMINISTRATION.—This section shall be adminis-
2 tered by the Attorney General, in consultation with the
3 Secretary of Health and Human Services.

4 (d) EFFECTIVE DATE.—Subsection (a) shall not
5 apply to emergency medical services furnished before Oc-
6 tober 1, 1995.

7 **SEC. 605. REPORT ON DISQUALIFICATION OF ILLEGAL**
8 **ALIENS FROM HOUSING ASSISTANCE PRO-**
9 **GRAMS.**

10 Not later than 90 days after the date of the enact-
11 ment of this Act, the Secretary of Housing and Urban
12 Development shall submit a report to the Committees on
13 the Judiciary of the House of Representatives and of the
14 Senate, the Committee on Banking of the House of Rep-
15 resentatives, and the Committee on Banking, Housing,
16 and Urban Affairs of the Senate, describing the manner
17 in which the Secretary is enforcing section 214 of the
18 Housing and Community Development Act of 1980. The
19 report shall contain statistics with respect to the number
20 of aliens denied financial assistance under such section.

21 **SEC. 606. DEFINITIONS.**

22 For purposes of this part:

23 (1) **LAWFUL PRESENCE.**—The determination of
24 whether an alien is lawfully present in the United
25 States shall be made in accordance with regulations

1 of the Attorney General. An alien shall not be con-
2 sidered to be lawfully present in the United States
3 for purposes of this title merely because the alien
4 may be considered to be permanently residing in the
5 United States under color of law for purposes of any
6 particular program.

7 (2) STATE.—The term “State” includes the
8 District of Columbia, Puerto Rico, the Virgin Is-
9 lands, Guam, the Northern Mariana Islands, and
10 American Samoa.

11 **SEC. 607. REGULATIONS AND EFFECTIVE DATES.**

12 (a) REGULATIONS.—The Attorney General shall first
13 issue regulations to carry out this part (other than section
14 605) by not later than 60 days after the date of the enact-
15 ment of this Act. Such regulations shall take effect on an
16 interim basis, pending changes based on public comment.

17 (b) EFFECTIVE DATE FOR RESTRICTIONS ON ELIGI-
18 BILITY FOR PUBLIC BENEFITS.—(1) Except as provided
19 in this subsection, section 601 shall apply to benefits pro-
20 vided, contracts or loan agreements entered into, and pro-
21 fessional and commercial licenses issued (or renewed) on
22 or after such date as the Attorney General specifies in reg-
23 ulations under subsection (a). Such date shall be at least
24 30 days, and not more than 60 days, after the date the
25 Attorney General first issues such regulations.

1 (2) The Attorney General, in carrying out section
2 601(a)(2), may permit such section to be waived in the
3 case of individuals for whom an application for the grant,
4 contract, loan, or license is pending (or approved) as of
5 a date that is on or before the effective date specified
6 under paragraph (1).

7 (c) EFFECTIVE DATE FOR RESTRICTIONS ON ELIGI-
8 BILITY FOR UNEMPLOYMENT BENEFITS.—(1) Except as
9 provided in this subsection, section 602 shall apply to un-
10 employment benefits provided on or after such date as the
11 Attorney General specifies in regulations under subsection
12 (a). Such date shall be at least 30 days, and not more
13 than 60 days, after the date the Attorney General first
14 issues such regulations.

15 (2) The Attorney General, in carrying out section
16 602, may permit such section to be waived in the case
17 of an individual during a continuous period of unemploy-
18 ment for whom an application for unemployment benefits
19 is pending as of a date that is on or before the effective
20 date specified under paragraph (1).

21 (d) BROAD DISSEMINATION OF INFORMATION.—Be-
22 fore the effective dates specified in subsections (b) and (c),
23 the Attorney General shall broadly disseminate informa-
24 tion regarding the restrictions on eligibility established
25 under this part.

1 **PART 2—EARNED INCOME TAX CREDIT**

2 **SEC. 611. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS NOT AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES.**

3 **VIDUALS NOT AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES.**

4

5 (a) IN GENERAL.—Section 32(c)(1) of the Internal Revenue Code of 1986 (relating to individuals eligible to claim the earned income tax credit) is amended by adding at the end the following new subparagraph:

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9 “(F) IDENTIFICATION NUMBER REQUIREMENT.—The term ‘eligible individual’ does not include any individual who does not include on the return of tax for the taxable year—

10 “(i) such individual’s taxpayer identification number, and

11 “(ii) if the individual is married (within the meaning of section 7703), the taxpayer identification number of such individual’s spouse.”

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19 (b) SPECIAL IDENTIFICATION NUMBER.—Section 32 of the Internal Revenue Code of 1986 (relating to earned income) is amended by adding at the end the following new subsection:

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21

22

23 “(k) IDENTIFICATION NUMBERS.—For purposes of subsections (c)(1)(F) and (c)(3)(D), a taxpayer identification number means a social security number issued to an individual by the Social Security Administration (other

1 than a social security number issued pursuant to clause
2 (II) (or that portion of clause (III) that relates to clause
3 (II)) of section 205(c)(2)(B)(i) of the Social Security
4 Act).”

5 (c) EXTENSION OF PROCEDURES APPLICABLE TO
6 MATHEMATICAL OR CLERICAL ERRORS.—Section
7 6213(g)(2) of the Internal Revenue Code of 1986 (relating
8 to the definition of mathematical or clerical errors) is
9 amended by striking “and” at the end of subparagraph
10 (D), by striking the period at the end of subparagraph
11 (E) and inserting “, and”, and by inserting after subpara-
12 graph (E) the following new subparagraph:

13 “(F) an omission of a correct taxpayer
14 identification number required under section 23
15 (relating to credit for families with younger
16 children) or section 32 (relating to the earned
17 income tax credit) to be included on a return.”.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to taxable years beginning after
20 December 31, 1995.

1 **Subtitle B—Expansion of Disquali-**
2 **fication From Immigration Ben-**
3 **efits on the Basis of Public**
4 **Charge**

5 **SEC. 621. GROUND FOR INADMISSIBILITY.**

6 (a) IN GENERAL.—Paragraph (4) of section 212(a)
7 (8 U.S.C. 1182(a)) is amended to read as follows:

8 “(4) PUBLIC CHARGE.—

9 “(A) FAMILY-SPONSORED IMMIGRANTS.—

10 Any alien who seeks admission or adjustment of
11 status under a visa number issued under sec-
12 tion 203(a), who cannot demonstrate to the
13 consular officer at the time of application for a
14 visa, or to the Attorney General at the time of
15 application for admission or adjustment of sta-
16 tus, that the alien’s age, health, family status,
17 assets, resources, financial status, education,
18 skills, or a combination thereof, or an affidavit
19 of support described in section 213A, or both,
20 make it unlikely that the alien will become a
21 public charge (as determined under section
22 241(a)(5)(B)) is inadmissible.

23 “(B) NONIMMIGRANTS.—Any alien who
24 seeks admission under a visa number issued
25 under section 214, who cannot demonstrate to

1 the consular officer at the time of application
2 for the visa that the alien's age, health, family
3 status, assets, resources, financial status, edu-
4 cation, skills or a combination thereof, or an af-
5 fidavit of support described in section 213A, or
6 both, make it unlikely that the alien will become
7 a public charge (as determined under section
8 241(a)(B)(5)) is inadmissible.

9 “(C) EMPLOYMENT-BASED IMMIGRANTS.—

10 “(i) IN GENERAL.—Any alien who
11 seeks admission or adjustment of status
12 under a visa number issued under para-
13 graph (2) or (3) of section 203(b) who
14 cannot demonstrate to the consular officer
15 at the time of application for a visa, or to
16 the Attorney General at the time of appli-
17 cation for admission or adjustment of sta-
18 tus, that the immigrant has a valid offer of
19 employment is inadmissible.

20 “(ii) CERTAIN EMPLOYMENT-BASED
21 IMMIGRANTS.—Any alien who seeks admis-
22 sion or adjustment of status under a visa
23 number issued under section 203(b) by vir-
24 tue of a classification petition filed by a
25 relative of the alien (or by an entity in

1 which such relative has a significant own-
2 ership interest) is inadmissible unless such
3 relative has executed an affidavit of sup-
4 port described in section 213A with respect
5 to such alien.”.

6 (b) EFFECTIVE DATE.—(1) Subject to paragraph
7 (2), the amendment made by subsection (a) shall apply
8 to applications submitted on or after such date, not earlier
9 than 30 days and not later than 60 days after the date
10 the Attorney General promulgates under section 632(f) a
11 standard form for an affidavit of support, as the Attorney
12 General shall specify.

13 (2) Section 212(a)(4)(C)(i) of the Immigration and
14 Nationality Act, as amended by subsection (a), shall apply
15 only to aliens seeking admission or adjustment of status
16 under a visa number issued on or after October 1, 1996.

17 **SEC. 622. GROUND FOR DEPORTABILITY.**

18 (a) IN GENERAL.—Paragraph (5) of section 241(a)
19 (8 U.S.C. 1251(a)) is amended to read as follows:

20 “(5) PUBLIC CHARGE.—

21 “(A) IN GENERAL.—Any alien who, within
22 7 years after the date of entry or admission, be-
23 comes a public charge is deportable.

24 “(B) EXCEPTIONS.—(i) Subparagraph (A)
25 shall not apply if the alien establishes that the

1 alien has become a public charge from causes
2 that arose after entry or admission. A condition
3 that the alien knew (or had reason to know)
4 existed at the time of entry or admission shall
5 be deemed to be a cause that arose before entry
6 or admission.

7 “(ii) The Attorney General, in the discre-
8 tion of the Attorney General, may waive the ap-
9 plication of subparagraph (A) in the case of an
10 alien who is admitted as a refugee under sec-
11 tion 207 or granted asylum under section 208.

12 “(C) INDIVIDUALS TREATED AS PUBLIC
13 CHARGE.—For purposes of this title, an alien is
14 deemed to be a ‘public charge’ if the alien re-
15 ceives benefits (other than benefits described in
16 subparagraph (E)) under one or more of the
17 public assistance programs described in sub-
18 paragraph (D) for an aggregate period of at
19 least 12 months within 7 years after the date
20 of entry. The previous sentence shall not be
21 construed as excluding any other bases for con-
22 sidering an alien to be a public charge, includ-
23 ing bases in effect on the day before the date
24 of the enactment of the Immigration in the Na-
25 tional Interest Act of 1995. The Attorney Gen-

1 eral, in consultation with the Secretary of
2 Health and Human Services, shall establish
3 rules regarding the counting of health benefits
4 described in subparagraph (D)(iv) for purposes
5 of this subparagraph.

6 “(D) PUBLIC ASSISTANCE PROGRAMS.—
7 For purposes of subparagraph (B), the public
8 assistance programs described in this subpara-
9 graph are the following (and include any suc-
10 cessor to such a program as identified by the
11 Attorney General in consultation with other ap-
12 propriate officials):

13 “(i) SSI.—The supplemental security
14 income program under title XVI of the So-
15 cial Security Act, including State supple-
16 mentary benefits programs referred to in
17 such title.

18 “(ii) AFDC.—The program of aid to
19 families with dependent children under
20 part A or E of title IV of the Social Secu-
21 rity Act.

22 “(iii) SOCIAL SERVICES BLOCK
23 GRANT.—The program of block grants to
24 States for social services under title XX of
25 the Social Security Act.

1 “(iv) MEDICAID.—The program of
2 medical assistance under title XIX of the
3 Social Security Act.

4 “(v) FOOD STAMPS.—The program
5 under the Food Stamp Act of 1977.

6 “(vi) STATE GENERAL CASH ASSIST-
7 ANCE.—A program of general cash assist-
8 ance of any State or political subdivision of
9 a State.

10 “(vii) HOUSING ASSISTANCE.—Finan-
11 cial assistance as defined in section 214(b)
12 of the Housing and Community Develop-
13 ment Act of 1980.

14 “(E) CERTAIN ASSISTANCE EXCEPTED.—
15 For purposes of subparagraph (B), an alien
16 shall not be considered to be a public charge on
17 the basis of receipt of any of the following bene-
18 fits:

19 “(i) EMERGENCY MEDICAL SERV-
20 ICES.—The provision of emergency medical
21 services (as defined by the Attorney Gen-
22 eral in consultation with the Secretary of
23 Health and Human Services).

24 “(ii) PUBLIC HEALTH IMMUNIZA-
25 TIONS.—Public health assistance for im-

1 munizations with respect to immunizable
2 diseases and for testing and treatment for
3 communicable diseases.

4 “(iii) SHORT-TERM EMERGENCY DIS-
5 ASTER RELIEF.—The provision of non-
6 cash, in-kind, short-term emergency disas-
7 ter relief.”.

8 (b) EFFECTIVE DATE.—(1) The amendment made by
9 subsection (a) shall take effect as of the first day of the
10 first month beginning at least 30 days after the date of
11 the enactment of this Act.

12 (2) In applying section 241(a)(5)(C) of the Immigra-
13 tion and Nationality Act, as amended by subsection (a),
14 no receipt of benefits under a public assistance program
15 before the effective date described in paragraph (1) shall
16 be taken into account.

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

19 **SEC. 631. ATTRIBUTION OF SPONSOR'S INCOME AND RE-**
20 **SOURCES TO FAMILY-SPONSORED IMMI-**
21 **GRANTS.**

22 (a) FEDERAL PROGRAMS.—Notwithstanding any
23 other provision of law, in determining the eligibility and
24 the amount of benefits of an alien for any Federal means-
25 tested public benefits program (as defined in subsection

1 (d) the income and resources of the alien shall be deemed
2 to include—

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

8 (2) the income and resources of the spouse (if
9 any) of the individual.

10 (b) PERIOD OF ATTRIBUTION.—

11 (1) PARENTS OF UNITED STATES CITIZENS.—
12 Subsection (a) shall apply with respect to an alien
13 who is admitted to the United States as the parent
14 of a United States citizen under section 512 until
15 the alien is naturalized as a citizen of the United
16 States.

17 (2) SPOUSES OF UNITED STATES CITIZENS AND
18 LAWFUL PERMANENT RESIDENTS.—Subsection (a)
19 shall apply with respect to an alien who is admitted
20 to the United States as the spouse of a United
21 States citizen or lawful permanent resident under
22 section 511 or section 512 until—

23 (A) 7 years after the date the alien is law-
24 fully admitted to the United States for perma-
25 nent residence, or

1 (B) the alien is naturalized as a citizen of
2 the United States,
3 whichever occurs first.

4 (3) MINOR CHILDREN OF UNITED STATES CITI-
5 ZENS AND LAWFUL PERMANENT RESIDENTS.—Sub-
6 section (a) shall apply with respect to an alien who
7 is admitted to the United States as the minor child
8 of a United States citizen or lawful permanent resi-
9 dent under section 511 or section 512 until the child
10 attains the age of 21 years or, if earlier, the date
11 the child is naturalized as a citizen of the United
12 States.

13 (4) ATTRIBUTION OF SPONSOR'S INCOME AND
14 RESOURCES ENDED IF SPONSORED ALIEN BECOMES
15 ELIGIBLE FOR OLD-AGE BENEFITS UNDER TITLE II
16 OF THE SOCIAL SECURITY ACT.—

17 (A) Notwithstanding any other provision of
18 this section, subsection (a) shall not apply and
19 the period of attribution of a sponsor's income
20 and resources under this subsection shall termi-
21 nate if the alien is employed for a period suffi-
22 cient to qualify for old age benefits under title
23 II of the Social Security Act and the alien is
24 able to prove to the satisfaction of the Attorney
25 General that the alien qualifies.

1 (B) The Attorney General shall ensure
2 that appropriate information pursuant to sub-
3 paragraph (A) is provided to the System for
4 Alien Verification of Eligibility (SAVE).

5 (c) OPTIONAL APPLICATION TO STATE PROGRAMS.—

6 (1) AUTHORITY.—Notwithstanding any other
7 provision of law, in determining the eligibility and
8 the amount of benefits of an alien for any State
9 means-tested public benefits program, the State or
10 political subdivision that offers the program is au-
11 thorized to provide that the income and resources of
12 the alien shall be deemed to include—

13 (A) the income and resources of any indi-
14 vidual who executed an affidavit of support pur-
15 suant to section 213A of the Immigration and
16 Nationality Act (as inserted by section 632(a))
17 in behalf of such alien, and

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

20 (2) PERIOD OF CONTRIBUTION.—The period of
21 attribution of a sponsor's income and resources in
22 determining the eligibility and amount of benefits
23 for an alien under any State means-tested public
24 benefits program pursuant to paragraph (1) may not

1 exceed the Federal period of attribution with respect
2 to the alien.

3 (d) MEANS-TESTED PROGRAM DEFINED.—In this
4 section:

5 (1) The term “means-tested public benefits pro-
6 gram” means a program of public benefits (includ-
7 ing cash, medical, housing, and food assistance and
8 social services) of the Federal Government or of a
9 State or political subdivision of a State in which the
10 eligibility of an individual, household, or family eligi-
11 bility unit for benefits under the program, or the
12 amount of such benefits, or both are determined on
13 the basis of income, resources, or financial need of
14 the individual, household, or unit.

15 (2) The term “Federal means-tested public ben-
16 efits program” means a means-tested public benefits
17 program of (or contributed to by) the Federal Gov-
18 ernment.

19 (3) The term “State means-tested public bene-
20 fits program” means a means-tested public benefits
21 program that is not a Federal means-tested pro-
22 gram.

1 **SEC. 632. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF**
2 **SUPPORT.**

3 (a) IN GENERAL.—Title II is amended by inserting
4 after section 213 the following new section:

5 “REQUIREMENTS FOR SPONSOR’S AFFIDAVIT OF SUPPORT

6 “SEC. 213A. (a) ENFORCEABILITY.—(1) No affidavit
7 of support may be accepted by the Attorney General or
8 by any consular officer to establish that an alien is not
9 inadmissible as a public charge under section 212(a)(4)
10 unless such affidavit is executed by a sponsor of the alien
11 as a contract—

12 “(A) that is legally enforceable against the
13 sponsor by the Federal Government and by any
14 State (or any political subdivision of such State)
15 that provides any means-tested public benefits pro-
16 gram, until the expiration of the 10-year period de-
17 scribed in subsection (b)(4); and

18 “(B) in which the sponsor agrees to submit to
19 the jurisdiction of any Federal or State court for the
20 purpose of actions brought under subsection (b)(2).

21 “(2)(A) An affidavit of support shall be enforceable
22 with respect to benefits provided under any means-tested
23 public benefits program for an alien who is admitted to
24 the United States as the parent of a United States citizen
25 under section 512 until the alien is naturalized as a citizen
26 of the United States.

1 “(B) An affidavit of support shall be enforceable with
2 respect to benefits provided under any means-tested public
3 benefits program for an alien who is admitted to the Unit-
4 ed States as the spouse of a United States citizen or lawful
5 permanent resident under section 511 or section 512
6 until—

7 “(i) 7 years after the date the alien is lawfully
8 admitted to the United States for permanent resi-
9 dence, or

10 “(ii) such time as the alien is naturalized as a
11 citizen of the United States,
12 whichever occurs first.

13 “(C) An affidavit of support shall be enforceable with
14 respect to benefits provided under any means-tested public
15 benefits program for an alien who is admitted to the Unit-
16 ed States as the minor child of a United States citizen
17 or lawful permanent resident under section 511 or section
18 512 until the child attains the age of 21 years.

19 “(D)(i) Notwithstanding any other provision of this
20 subparagraph, a sponsor shall be relieved of any liability
21 under an affidavit of support if the sponsored alien is em-
22 ployed for a period sufficient to qualify for old age benefits
23 under title II of the Social Security Act and the sponsor
24 or alien is able to prove to the satisfaction of the Attorney
25 General that the alien qualifies.

1 “(ii) The Attorney General shall ensure that appro-
2 priate information pursuant to clause (i) is provided to
3 the System for Alien Verification of Eligibility (SAVE).

4 “(b) REIMBURSEMENT OF GOVERNMENT EX-
5 PENSES.—(1)(A) Upon notification that a sponsored alien
6 has received any benefit under any means-tested public
7 benefits program, the appropriate Federal, State, or local
8 official shall request reimbursement by the sponsor in the
9 amount of such assistance.

10 “(B) The Attorney General, in consultation with the
11 Secretary of Health and Human Services, shall prescribe
12 such regulations as may be necessary to carry out sub-
13 paragraph (A).

14 “(2) If within 45 days after requesting reimburse-
15 ment, the appropriate Federal, State, or local agency has
16 not received a response from the sponsor indicating a will-
17 ingness to commence payments, an action may be brought
18 against the sponsor pursuant to the affidavit of support.

19 “(3) If the sponsor fails to abide by the repayment
20 terms established by such agency, the agency may, within
21 60 days of such failure, bring an action against the spon-
22 sor pursuant to the affidavit of support.

23 “(4) No cause of action may be brought under this
24 subsection later than 10 years after the alien last received

1 any benefit under any means-tested public benefits pro-
2 gram.

3 “(5) If, pursuant to the terms of this subsection, a
4 Federal, State, or local agency requests reimbursement
5 from the sponsor in the amount of assistance provided,
6 or brings an action against the sponsor pursuant to the
7 affidavit of support, the appropriate agency may appoint
8 or hire an individual or other person to act on behalf of
9 such agency acting under the authority of law for purposes
10 of collecting any moneys owed. Nothing in this subsection
11 shall preclude any appropriate Federal, State, or local
12 agency from directly requesting reimbursement from a
13 sponsor for the amount of assistance provided, or from
14 bringing an action against a sponsor pursuant to an affi-
15 davit of support.

16 “(c) REMEDIES.—Remedies available to enforce an
17 affidavit of support under this section include any or all
18 of the remedies described in section 3201, 3203, 3204,
19 or 3205 of title 28, United States Code, as well as an
20 order for specific performance and payment of legal fees
21 and other costs of collection, and include corresponding
22 remedies available under State law. A Federal agency may
23 seek to collect amounts owed under this section in accord-
24 ance with the provisions of subchapter II of chapter 37
25 of title 31, United States Code.

1 “(d) NOTIFICATION OF CHANGE OF ADDRESS.—(1)
2 The sponsor of an alien shall notify the Federal Govern-
3 ment and the State in which the sponsored alien is cur-
4 rently residing within 30 days of any change of address
5 of the sponsor during the period specified in subsection
6 (a)(1).

7 “(2) Any person subject to the requirement of para-
8 graph (1) who fails to satisfy such requirement shall be
9 subject to a civil penalty of—

10 “(A) not less than \$250 or more than \$2,000,
11 or

12 “(B) if such failure occurs with knowledge that
13 the sponsored alien has received any benefit under
14 any means-tested public benefits program, not less
15 than \$2,000 or more than \$5,000.

16 “(e) DEFINITIONS.—For the purposes of this sec-
17 tion—

18 “(1) SPONSOR.—The term ‘sponsor’ means,
19 with respect to an alien, an individual who—

20 “(A) is a citizen or national of the United
21 States or an alien who is lawfully admitted to
22 the United States for permanent residence;

23 “(B) is 18 years of age or over;

24 “(C) is domiciled in any State;

1 “(D) demonstrates, through presentation
2 of a certified copy of a tax return or otherwise,
3 the means to maintain an annual income equal
4 to at least 200 percent of the poverty level for
5 the individual and the individual’s family (in-
6 cluding the alien and any other aliens with re-
7 spect to whom the individual is a sponsor); and

8 “(E) is petitioning for the admission of the
9 alien under section 204.

10 “(2) FEDERAL POVERTY LINE.—The term
11 ‘Federal poverty line’ means the income official pov-
12 erty line (as defined by the Office of Management
13 and Budget and revised annually in accordance with
14 section 673(2) of the Omnibus Budget Reconcili-
15 ation Act of 1981) that is applicable to a family of
16 the size involved.

17 “(3) MEANS-TESTED PUBLIC BENEFITS PRO-
18 GRAM.—The term ‘means-tested public benefits pro-
19 gram’ means a program of public benefits (including
20 cash, medical, housing, and food assistance and so-
21 cial services) of the Federal Government or of a
22 State or political subdivision of a State in which the
23 eligibility of an individual, household, or family eligi-
24 bility unit for benefits under the program, or the
25 amount of such benefits, or both are determined on

1 the basis of income, resources, or financial need of
2 the individual, household, or unit.”.

3 (b) REQUIREMENT OF AFFIDAVIT OF SUPPORT
4 FROM EMPLOYMENT SPONSORS.—For requirement for af-
5 fidavit of support from individuals who file classification
6 petitions for a relative as an employment-based immi-
7 grant, see the amendment made by section 621(a).

8 (c) SETTLEMENT OF CLAIMS PRIOR TO NATURALIZA-
9 TION.—Section 316(a) (8 U.S.C. 1427(a)) is amended—

10 (1) by striking “and” before “(3)”, and
11 (2) by inserting before the period at the end the
12 following: “, and (4) in the case of an applicant that
13 has received assistance under a means-tested public
14 benefits program (as defined in subsection (f)(3) of
15 section 213A) administered by a Federal, State, or
16 local agency and with respect to which amounts may
17 be owing under an affidavit of support executed
18 under such section, provides satisfactory evidence
19 that there are no outstanding amounts that may be
20 owed to any such Federal, State, or local agency
21 pursuant to such affidavit by the sponsor who exe-
22 cuted such affidavit”.

23 (d) CLERICAL AMENDMENT.—The table of contents
24 of such Act is amended by inserting after the item relating
25 to section 213 the following:

“Sec. 213A. Requirements for sponsor’s affidavit of support.”.

1 (e) EFFECTIVE DATE.—Subsection (a) of section
2 213A of the Immigration and Nationality Act, as inserted
3 by subsection (a) of this section, shall apply to affidavits
4 of support executed on or after a date specified by the
5 Attorney General, which date shall be not earlier than 60
6 days (and not later than 90 days) after the date the Attor-
7 ney General formulates the form for such affidavits under
8 subsection (f) of this section.

9 (f) PROMULGATION OF FORM.—Not later than 90
10 days after the date of the enactment of this Act, the Attor-
11 ney General, in consultation with the Secretary of State
12 and the Secretary of Health and Human Services, shall
13 promulgate a standard form for an affidavit of support
14 consistent with the provisions of section 213A of the Im-
15 migration and Nationality Act.

16 **TITLE VII—FACILITATION OF** 17 **LEGAL ENTRY**

18 **SEC. 701. ADDITIONAL LAND BORDER INSPECTORS; INFRA-** 19 **STRUCTURE IMPROVEMENTS.**

20 (a) INCREASED PERSONNEL.—

21 (1) IN GENERAL.—In order to eliminate undue
22 delay in the thorough inspection of persons and vehi-
23 cles lawfully attempting to enter the United States,
24 the Attorney General and Secretary of the Treasury
25 shall increase, by approximately equal numbers in

1 each of the fiscal years 1996 and 1997, the number
2 of full-time land border inspectors assigned to active
3 duty by the Immigration and Naturalization Service
4 and the United States Customs Service to a level
5 adequate to assure full staffing during peak crossing
6 hours of all border crossing lanes now in use, under
7 construction, or whose construction has been author-
8 ized by Congress.

9 (2) DEPLOYMENT OF PERSONNEL.—The Attor-
10 ney General and the Secretary of the Treasury shall,
11 to the maximum extent practicable, ensure that the
12 personnel hired pursuant to this subsection shall be
13 deployed among the various Immigration and Natu-
14 ralization Service sectors in proportion to the num-
15 ber of land border crossings measured in each such
16 sector during the preceding fiscal year.

17 (b) IMPROVED INFRASTRUCTURE.—

18 (1) IN GENERAL.—The Attorney General may,
19 from time to time, in consultation with the Secretary
20 of the Treasury, identify those physical improve-
21 ments to the infrastructure of the international land
22 borders of the United States necessary to expedite
23 the inspection of persons and vehicles attempting to
24 lawfully enter the United States in accordance with
25 existing policies and procedures of the Immigration

1 and Naturalization Service, the United States Cus-
2 toms Service, and the Drug Enforcement Agency.

3 (2) PRIORITIES.—Such improvements to the in-
4 frastructure of the land border of the United States
5 shall be substantially completed and fully funded in
6 those portions of the United States where the Attor-
7 ney General, in consultation with the Committees on
8 the Judiciary of the House of Representatives and
9 the Senate, objectively determines the need to be
10 greatest or most immediate before the Attorney Gen-
11 eral may obligate funds for construction of any im-
12 provement otherwise located.

13 **SEC. 702. COMMUTER LANE PILOT PROGRAMS.**

14 (a) MAKING LAND BORDER INSPECTION FEE PER-
15 MANENT.—Section 286(q) (8 U.S.C. 1356(q)) is amend-
16 ed—

17 (1) in paragraph (1), by striking “a project”
18 and inserting “projects”;

19 (2) in paragraph (1), by striking “Such
20 project” and inserting “Such projects”; and

21 (3) by striking paragraph (5).

22 (b) CONFORMING AMENDMENT.—The Departments
23 of Commerce, Justice, and State, the Judiciary, and Re-
24 lated Agencies Appropriation Act, 1994 (Public Law 103-
25 121, 107 Stat. 1161) is amended by striking the fourth

1 proviso under the heading “Immigration and Naturaliza-
2 tion Service, Salaries and Expenses”.

3 **SEC. 703. PREINSPECTION AT FOREIGN AIRPORTS.**

4 (a) IN GENERAL.—The Immigration and Nationality
5 Act is amended by inserting after section 235 the following
6 new section:

7 “PREINSPECTION AT FOREIGN AIRPORTS

8 “SEC. 235A. (a) ESTABLISHMENT OF PRE-
9 INSPECTION STATIONS.—(1) Subject to paragraph (4),
10 not later than 2 years after the date of the enactment of
11 this section, the Attorney General, in consultation with the
12 Secretary of State, shall establish and maintain
13 preinspection stations in at least 5 of the foreign airports
14 that are among the 10 foreign airports which the Attorney
15 General identifies as serving as last points of departure
16 for the greatest numbers of passengers who arrive from
17 abroad by air at ports of entry within the United States.
18 Such preinspection stations shall be in addition to any
19 preinspection stations established prior to the date of the
20 enactment of this section.

21 “(2) Not later than November 1, 1995, and each sub-
22 sequent November 1, the Attorney General shall compile
23 data identifying—

24 “(A) the foreign airports which served as last
25 points of departure for aliens who arrived by air at

1 United States ports of entry without valid docu-
2 mentation during the preceding fiscal years,

3 “(B) the number and nationality of such aliens
4 arriving from each such foreign airport, and

5 “(C) the primary routes such aliens followed
6 from their country of origin to the United States.

7 “(3) Subject to paragraph (4), not later than 4 years
8 after the date of enactment of this section, the Attorney
9 General, in consultation with the Secretary of State, shall
10 establish preinspection stations in at least 5 additional for-
11 eign airports which the Attorney General, in consultation
12 with the Secretary of State, determines based on the data
13 compiled under paragraph (2) and such other information
14 as may be available would most effectively reduce the
15 number of aliens who arrive from abroad by air at points
16 of entry within the United States without valid docu-
17 mentation. Such preinspection stations shall be in addition
18 to those established prior to or pursuant to paragraph (1).

19 “(4) Prior to the establishment of a preinspection
20 station the Attorney General, in consultation with the Sec-
21 retary of State, shall ensure that—

22 “(A) employees of the United States stationed
23 at the preinspection station and their accompanying
24 family members will receive appropriate protection,

1 “(B) such employees and their families will not
2 be subject to unreasonable risks to their welfare and
3 safety, and

4 “(C) the country in which the preinspection sta-
5 tion is to be established maintains practices and pro-
6 cedures with respect to asylum seekers and refugees
7 in accordance with the Convention Relating to the
8 Status of Refugees (done at Geneva, July 28, 1951),
9 or the Protocol Relating to the Status of Refugees
10 (done at New York, January 31, 1967).

11 “(b) ESTABLISHMENT OF CARRIER CONSULTANT
12 PROGRAM.—The Attorney General shall assign additional
13 immigration officers to assist air carriers in the detection
14 of fraudulent documents at foreign airports which, based
15 on the records maintained pursuant to subsection (a)(2),
16 served as a point of departure for a significant number
17 of arrivals at United States ports of entry without valid
18 documentation, but where no preinspection station ex-
19 ists.”.

20 (c) CLERICAL AMENDMENT.—The table of contents
21 is amended by inserting after the item relating to section
22 235 the following new item:

“Sec. 235A. Preinspection at foreign airports.”.

1 **SEC. 704. TRAINING OF AIRLINE PERSONNEL IN DETEC-**
2 **TION OF FRAUDULENT DOCUMENTS.**

3 (a) USE OF FUNDS.—Section 286(h)(2)(A) (8 U.S.C.
4 1356(h)(2)(A)) is amended—

5 (1) in clause (iv), by inserting “, including
6 training of, and technical assistance to, commercial
7 airline personnel regarding such detection” after
8 “United States”, and

9 (2) by adding at the end the following:

10 “The Attorney General shall provide for expenditures for
11 training and assistance described in clause (iv) in an
12 amount, for any fiscal year, not less than 5 percent of
13 the total of the expenses incurred that are described in
14 the previous sentence.”.

15 (b) COMPLIANCE WITH DETECTION REGULA-
16 TIONS.—Section 212(f) (8 U.S.C. 1182(f)) is amended by
17 adding at the end the following: “Whenever the Attorney
18 General finds that a commercial airline has failed to com-
19 ply with regulations of the Attorney General relating to
20 requirements of airlines for the detection of fraudulent
21 documents used by passengers traveling to the United
22 States (including the training of personnel in such detec-
23 tion), the Attorney General may suspend the entry of some
24 or all aliens transported to the United States by such air-
25 line.”.

26 (c) EFFECTIVE DATES.—

1 (1) The amendments made by subsection (a)
2 shall apply to expenses incurred during or after fis-
3 cal year 1996.

4 (2) The Attorney General shall first issue, in
5 proposed form, regulations referred to in the second
6 sentence of section 212(f) of the Immigration and
7 Nationality Act, as added by the amendment made
8 by subsection (b), by not later than 90 days after
9 the date of the enactment of this Act.

10 **TITLE VIII—MISCELLANEOUS** 11 **PROVISIONS**

12 **SEC. 801. AMENDED DEFINITION OF AGGRAVATED FELONY.**

13 (a) IN GENERAL.—Section 101(a)(43) (8 U.S.C.
14 1101(a)(43)), as amended by section 222 of the Immigra-
15 tion and Nationality Technical Corrections Act of 1994
16 (Public Law 103–416), is amended—

17 (1) in subparagraph (N), by striking “of title
18 18, United States Code” and inserting “of this Act”,
19 and

20 (2) in subparagraph (O), by striking “which
21 constitutes” and all that follows up to the semicolon
22 at the end and inserting “, for the purpose of com-
23 mercial advantage”.

24 (b) EFFECTIVE DATE OF CONVICTION.—Section
25 101(a)(43) (8 U.S.C. 1101(a)(43)), as amended by section

1 222(b) of the Immigration and Nationality Technical Cor-
2 rections Act of 1994 (Public Law 103–416), is amended
3 by adding at the end the following sentence: “Notwith-
4 standing any other provision of law, the term applies for
5 all purposes to convictions entered before, on, or after the
6 date of enactment of the Immigration and Nationality
7 Technical Corrections Act of 1994.”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall be effective as if included in the enact-
10 ment of the Immigration and Nationality Technical Cor-
11 rections Act of 1994 (Public Law 103–416).

12 **SEC. 802. AMENDED DEFINITIONS OF “CHILD” AND “PAR-**
13 **ENT” TO FACILITATE ADOPTION OF CHIL-**
14 **DREN BORN OUT-OF-WEDLOCK.**

15 (a) IN GENERAL.—Section 101(b) (8 U.S.C.
16 1101(b)(1) is amended—

17 (1) in paragraph (1)(A), by striking “a legiti-
18 mate child” and inserting “a child born in wedlock”,
19 and

20 (2) by paragraphs (1)(D) and (2), by striking
21 “an illegitimate child” and inserting “a child born
22 out of wedlock”.

23 (b) EFFECTIVE DATE.—The amendments made by
24 subsection (a) shall take effect on the date of the enact-
25 ment of this Act.

1 **SEC. 803. AUTHORITY TO DETERMINE VISA PROCESSING**
2 **PROCEDURES.**

3 (a) IN GENERAL.—Section 202(a) (8 U.S.C.
4 1152(a)) is amended—

5 (1) in paragraph (1), by striking “paragraph
6 (2)” and inserting “paragraphs (2) and (5)”, and

7 (2) by adding at the end the following new
8 paragraph:

9 “(5) CONSTRUCTION.—Nothing in paragraph
10 (1) shall be construed to limit the authority of the
11 Secretary of State to determine the procedures for
12 the processing of immigrant visa applications or the
13 locations where such applications will be processed.”.

14 (b) ELIMINATION OF CONSULATE SHOPPING FOR
15 VISA OVERSTAYS.—Section 222 (8 U.S.C. 1202) is
16 amended by adding at the end the following new sub-
17 section:

18 “(g) In the case of an alien who has entered and re-
19 mained in the United States beyond the authorized period
20 of stay, the alien is not eligible to be admitted to the Unit-
21 ed States as a nonimmigrant on the basis of a visa issued
22 other than in a consular office located in the country of
23 the alien’s nationality (or, if there is no office in such
24 country, at such other consular office as the Secretary of
25 State shall specify).”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to visas issued before, on, or after
3 the date of the enactment of this Act.

4 **SEC. 804. WAIVER AUTHORITY CONCERNING NOTICE OF**
5 **DENIAL OF APPLICATION FOR VISAS.**

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

7 (1) by redesignating paragraphs (1) and (2) as
8 subparagraphs (A) and (B);

9 (2) by striking “If” and inserting “(1) Subject
10 to paragraph (2), if”; and

11 (3) by inserting at the end the following para-
12 graph:

13 “(2) With respect to applications for visas, the Sec-
14 retary of State may waive the application of paragraph
15 (1) in the case of a particular alien or any class or classes
16 of aliens inadmissible under subsection (a)(2) or (a)(3).”.

17 **SEC. 805. TREATMENT OF CANADIAN LANDED IMMIGRANTS.**

18 Section 212(d)(4)(B) (8 U.S.C. 1182(d)(4)(B)) is
19 amended—

20 (1) by striking “and residents” and inserting “,
21 residents”, and

22 (2) by striking “nationals,” and inserting “na-
23 tionals, and aliens who are granted permanent resi-
24 dence by the government of the foreign contiguous
25 territory and who are residing in that territory”.

1 **SEC. 806. CHANGES RELATING TO H-1B NONIMMIGRANTS.**

2 (a) REMOVAL OF ANY REQUIREMENT FOR OBJECTIVE WAGE SYSTEM FOR ALL EMPLOYERS.—Section
3 TIVE WAGE SYSTEM FOR ALL EMPLOYERS.—Section
4 212(n) (8 U.S.C. 1182(n)) is amended by adding at the
5 end the following new paragraph:

6 “(3) For purposes of determining the actual wages
7 paid under paragraph (1)(A)(i)(I), an employer shall not
8 be required to have and document an objective system to
9 determine the wages of workers.”.

10 (b) INAPPLICABILITY OF CERTAIN REGULATIONS TO
11 NON-H-1B-DEPENDENT EMPLOYERS.—

12 (1) DEFINITION OF H-1B-DEPENDENT EMPLOYER.—Section 212(n)(2) (8 U.S.C. 1182(n)(2))
13 PLOYER.—Section 212(n)(2) (8 U.S.C. 1182(n)(2))
14 is amended by inserting after subparagraph (D) the
15 following new subparagraph:

16 “(E) In this subsection, the term ‘H-1B-de-
17 pendent employer’ means an employer that—

18 “(i)(I) has fewer than 41 full-time equivalent employees who are employed in the United
19 States, and (II) employs 4 or more
20 nonimmigrants under section
21 101(a)(15)(H)(i)(b); or
22

23 “(ii)(I) has at least 41 full-time equivalent
24 employees who are employed in the United
25 States, and (II) employs nonimmigrants de-
26 scribed in section 101(a)(15)(H)(i)(b) in a

1 number that is equal to at least 10 percent of
2 the number of such full-time equivalent employ-
3 ees.

4 In applying this subparagraph, any group treated as
5 a single employer under subsection (b), (c), (m), or
6 (o) of section 414 of the Internal Revenue Code of
7 1986 shall be treated as a single employer under
8 this subparagraph. Aliens with respect to whom the
9 employer has filed such an application shall be treat-
10 ed as employees, and counted as nonimmigrants
11 under section 101(a)(15)(H)(i)(b), under this sub-
12 paragraph.”.

13 (2) LIMITING APPLICATION OF CERTAIN RE-
14 QUIREMENTS FOR NON-H-1B-DEPENDENT EMPLOY-
15 ERS.—Section 212(n) (8 U.S.C. 1182(n)), as
16 amended in subsection (a), is further amended by
17 adding at the end the following new paragraph:

18 “(4) In carrying out this subsection in the case of
19 an employer that is not an H-1B-dependent employer—

20 “(A) the employer is not required to post no-
21 tices at worksites that were not listed on the applica-
22 tion under paragraph (1) if the worksites are within
23 the area of intended employment listed on such ap-
24 plication; and

1 “(B) if the employer has filed and had certified
2 an application under paragraph (1) with respect to
3 one or more nonimmigrants described in section
4 101(a)(15)(H)(i)(b) for one or more areas of em-
5 ployment—

6 “(i) the employer is not required to file
7 and have certified an additional application
8 under paragraph (1) with respect to such a
9 nonimmigrant for an area of employment not
10 listed in the previous application because the
11 employer has placed one or more such
12 nonimmigrants in such a nonlisted area so long
13 as each such nonimmigrant is not placed in
14 such nonlisted areas for a period exceeding 45
15 workdays in any 12-month period and not to
16 exceed 90 workdays in any 36-month period,
17 and

18 “(ii) the employer is not required to pay
19 per diem and transportation costs at any speci-
20 fied rates for work performed in such a
21 nonlisted area.”.

22 (3) LIMITATION ON AUTHORITY TO INITIATE
23 COMPLAINTS AND CONDUCT INVESTIGATIONS FOR
24 NON-H-1B-DEPENDENT EMPLOYERS.—Section

1 212(n)(2)(A) (8 U.S.C. 1182(n)(2)(A)) is amend-
2 ed—

3 (A) in the second sentence, by inserting be-
4 fore the period at the end the following: “, ex-
5 cept that the Secretary may only file such a
6 complaint in the case of an H-1B-dependent
7 employer (as defined in subparagraph (E))”,
8 and

9 (B) by inserting after the second sentence
10 the following new sentence: “No investigation or
11 hearing shall be conducted with respect to an
12 employer that is not an H-1B-dependent em-
13 ployer except in response to a complaint filed
14 under the previous sentence.”.

15 (4) DELAY PERMITTED FOR CERTIFICATION IN
16 THE CASE OF H-1B-DEPENDENT EMPLOYERS.—Sec-
17 tion 212(n)(1) (8 U.S.C. 1182(n)(1)) is amended by
18 inserting before the period at the end the following:
19 “(or 30 days in the case of an employer which is an
20 H-1B-dependent employer)”.

21 (c) NO DISPLACEMENT OF AMERICAN WORKERS
22 PERMITTED.—(1) Section 212(n)(1) (8 U.S.C.
23 1182(n)(1)) is amended by inserting after subparagraph
24 (D) the following new subparagraph:

25 “(E)(i) If the employer—

1 “(I) within the 6 months preceding the
2 date the alien begins employment pursuant to
3 such admission or the provision of such status,
4 laid off any protected individual (within the
5 meaning of section 274B(a)(3)) with substan-
6 tially equivalent qualifications and experience in
7 the specific employment for which the non-
8 immigrant is being sought, the employer will
9 pay an actual wage to the nonimmigrant that is
10 at least 110 percent of the arithmetic mean of
11 the last wage earned by such laid off employees
12 (or, if greater, 110 percent of arithmetic mean
13 of the highest wage earned by such laid off em-
14 ployees within the most recent year if the em-
15 ployer reduced such wage during such year
16 other than as part of a general company-wide
17 reduction of wages for substantially all employ-
18 ees); and

19 “(II) within the 90 days following the date
20 the alien so begins employment and for so long
21 as the application remains active or a visa re-
22 mains in effect with respect to a nonimmigrant
23 pursuant to such an application, lays off any
24 protected individual (within the meaning of sec-
25 tion 274B(a)(3)) with substantially equivalent

1 qualifications and experience in the specific em-
2 ployment for which the nonimmigrant is em-
3 ployed, the employer will pay an actual wage to
4 the nonimmigrant that is at least 110 percent
5 of the arithmetic mean of the last wage earned
6 by such laid off employees (or, if greater, 110
7 percent of arithmetic mean of the highest wage
8 earned by such laid off employees within the
9 most recent year if the employer reduced such
10 wage during such year other than as part of a
11 general company-wide reduction of wages for
12 substantially all employees).

13 “(ii) In the case of an employer that is a job
14 contractor (within the meaning of regulations pro-
15 mulgated to carry out this subsection), the contrac-
16 tor will not place the employee with any other em-
17 ployer unless such other employer has executed an
18 attestation that the employer is complying and will
19 continue to comply with the requirements of clause
20 (i) in the same manner as they apply to the job con-
21 tractor.

22 “(iii) For purposes of this subparagraph, the
23 term ‘laid off’, with respect to an employee—

1 “(I) means the employee’s loss of employ-
2 ment, other than a discharge for cause, vol-
3 untary departure, or retirement, and

4 “(II) does not include any situation in
5 which the employee involved is offered a similar
6 job opportunity with the same employer carry-
7 ing similar compensation and benefits as the
8 position from which the employee was laid off,
9 regardless of whether or not the employee ac-
10 cepts the offer.”.

11 (2) Section 212(n)(2) (8 U.S.C. 1182(n)(2)) is
12 amended by adding at the end the following new subpara-
13 graph:

14 “(F) Under regulations of the Secretary, the previous
15 provisions of this paragraph shall apply to complaints re-
16 specting a failure of an other employer to comply with an
17 attestation described in paragraph (1)(E)(ii) in the same
18 manner that they apply to complaints of a petitioner with
19 respect to a failure to comply with a condition described
20 in paragraph (1)(E)(i).”.

21 (3) Section 212(n)(2)(C) (8 U.S.C. 1182(n)(2)(C)) is
22 amended by inserting “or (1)(E)” after “(1)(B)”.

23 (d) COMPUTATION OF PREVAILING WAGE LEVEL.—
24 Section 212(n) (8 U.S.C. 1182(n)) is amended by adding
25 at the end the following new paragraph:

1 “(3) In computing the prevailing wage level for an
2 occupational classification in an area of employment for
3 purposes of paragraph (1)(A)(i)(II) and subsection
4 (a)(5)(A) in the case of an employee of an institution of
5 higher education (as defined in section 1201(a) of the
6 Higher Education Act of 1965), or a related or affiliated
7 nonprofit entity, the prevailing wage level shall only take
8 into account employees at such institutions and entities
9 in the area of employment.”.

10 (e) EFFECTIVE DATES.—

11 (1) Except as otherwise provided in this sub-
12 section, the amendments made by this section shall
13 take effect on the date of the enactment of this Act
14 and shall apply to applications filed with the Sec-
15 retary of Labor on or after 30 days after the date
16 of the enactment of this Act.

17 (2) The amendments made by subsection (b)(3)
18 shall apply to complaints filed, and to investigations
19 or hearings initiated, on or after January 15, 1995.

20 **SEC. 807. VALIDITY OF PERIOD OF VISAS.**

21 (a) EXTENSION OF VALIDITY OF IMMIGRANT VISAS
22 TO 6 MONTHS.—Section 221(c) (8 U.S.C. 1201(c)) is
23 amended by striking “four months” and inserting “six
24 months”.

1 (2) by adding at the end of paragraph (2) the
2 following: “For purposes of subparagraph (A), the
3 ground of inadmissibility described in section
4 212(a)(9) shall not apply.”.

5 (b) EFFECTIVE DATE.—(1) The amendment made by
6 subsection (a)(1) shall apply to applications for adjust-
7 ment of status filed after September 30, 1996.

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

11 **SEC. 809. LIMITED ACCESS TO CERTAIN CONFIDENTIAL INS**
12 **FILES.**

13 (a) LEGALIZATION PROGRAM.—Section 245A(c)(5)
14 (8 U.S.C. 1255a(c)(5)) is amended—

15 (1) by redesignating subparagraphs (A) through
16 (C) as clauses (i) through (iii), respectively;

17 (2) by striking “Neither” and inserting “(A)
18 Except as provided in this paragraph, neither”;

19 (3) by redesignating the last sentence as sub-
20 paragraph (D);

21 (4) by striking the semicolon and inserting a
22 period;

23 (5) by striking “except that the” and inserting
24 the following:

25 “(B) The”;

1 (6) by inserting after subparagraph (B), as cre-
2 ated by the amendment made by paragraph (5), the
3 following:

4 “(C) The Attorney General may authorize dis-
5 closure of information contained in the application of
6 the alien under this section to be used—

7 “(i) for identification of the alien when
8 there is reason to believe that the alien has
9 been killed or severely incapacitated;

10 “(ii) for criminal law enforcement purposes
11 against the alien whose application is to be dis-
12 closed if the alleged criminal activity occurred
13 after the legalization application was filed and
14 such activity involves terrorist activity or poses
15 either an immediate risk to life or to national
16 security, or would be prosecutable as an aggra-
17 vated felony, but without regard to the length
18 of sentence that could be imposed on the appli-
19 cant; or

20 “(iii) for immigration enforcement pur-
21 poses but only if the information is the date or
22 disposition of the application.”; and

23 (7) by adding at the end the following new sub-
24 paragraph:

1 “(E) Nothing in this paragraph shall preclude
2 the release for immigration enforcement purposes of
3 the following information contained in files or
4 records of the Service pertaining to the application:

5 “(i) The immigration status of the appli-
6 cant on any given date after the date of filing
7 the application (including whether the applicant
8 was authorized to work).

9 “(ii) The date of the applicant’s adjust-
10 ment (if any) to the status of an alien lawfully
11 admitted for permanent residence.

12 “(iii) Information concerning whether the
13 applicant has been convicted of a crime occur-
14 ring after the date of filing the application.”.

15 (b) SPECIAL AGRICULTURAL WORKER PROGRAM.—
16 Section 210(b) of such Act (8 U.S.C. 1160(b)) is amend-
17 ed—

18 (1) in paragraph (5), by inserting “, except as
19 permitting under paragraph (6)(B)” after “consent
20 of the alien”;

21 (2) in paragraph (6)—

22 (A) by striking “Neither” and inserting
23 “(A) Except as provided in subparagraph (B),
24 neither”;

1 (B) by striking “Anyone” and inserting
2 the following:

3 “(C) Anyone”;

4 (C) by inserting after the first sentence the
5 following:

6 “(B) The Attorney General may authorize dis-
7 closure of information contained in the application of
8 the alien to be used—

9 “(i) for identification of the alien when
10 there is reason to believe that the alien has
11 been killed or severely incapacitated,

12 “(ii) for criminal law enforcement purposes
13 against the alien whose application is to be dis-
14 closed if the alleged criminal activity occurred
15 after the special agricultural worker application
16 was filed and such activity involves terrorist ac-
17 tivity or poses either an immediate risk to life
18 or to national security, or would be prosecutable
19 as an aggravated felony, but without regard to
20 the length of sentence that could be imposed on
21 the applicant, or

22 “(iii) for immigration enforcement pur-
23 poses but only if the information is the date or
24 disposition of the application.”; and

1 (3) by adding at the end the following new sub-
2 paragraph:

3 “(D) Nothing in this paragraph shall preclude
4 the release for immigration enforcement purposes of
5 the following information contained in files or
6 records of the Service pertaining to the application:

7 “(i) The immigration status of the appli-
8 cant on any given date after the date of filing
9 the application (including whether the applicant
10 was authorized to work).

11 “(ii) The date of the applicant’s adjust-
12 ment (if any) to the status of an alien lawfully
13 admitted for permanent residence.

14 “(iii) Information concerning whether the
15 applicant has been convicted of a crime occur-
16 ring after the date of filing the application.”.

17 **SEC. 810. NONIMMIGRANT STATUS FOR SPOUSES AND CHIL-**
18 **DREN OF MEMBERS OF THE ARMED SERV-**
19 **ICES.**

20 Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amend-
21 ed—

22 (1) by striking “or” at the end of subparagraph
23 (R),

24 (2) by striking the period at the end of sub-
25 paragraph (S) and inserting “; or”, and

1 (3) by inserting after subparagraph (S) the fol-
2 lowing new subparagraph:

3 “(T) an alien who is the spouse or child of a
4 another alien who is serving on active duty in the
5 Armed Forces of the United States during the pe-
6 riod in which the other alien is stationed in the
7 United States.”.

8 **SEC. 811. COMMISSION REPORT ON FRAUD ASSOCIATED**
9 **WITH BIRTH CERTIFICATES.**

10 Section 141 of the Immigration Act of 1990 is
11 amended—

12 (1) in subsection (b)—

13 (A) by striking “and” at the end of para-
14 graph (1),

15 (B) by striking the period at the end of
16 paragraph (2) and inserting “; and”, and

17 (C) by adding at the end the following new
18 paragraph:

19 “(3) transmit to Congress, not later than Janu-
20 ary 1, 1997, a report containing recommendations
21 (consistent with subsection (c)(3)) of methods of re-
22 ducing or eliminating the fraudulent use of birth
23 certificates for the purpose of obtaining other iden-
24 tity documents that may be used in securing immi-
25 gration, employment, or other benefits.”; and

1 (2) by adding at the end of subsection (c) the
2 following new paragraph:

3 “(3) FOR REPORT ON REDUCING BIRTH CER-
4 TIFICATE FRAUD.—In the report described in sub-
5 section (b)(3), the Commission shall consider and
6 analyze the feasibility of—

7 “(A) establishing national standards for
8 counterfeit-resistant birth certificates, and

9 “(B) limiting the issuance of official copies
10 of a birth certificate of an individual to anyone
11 other than the individual or others acting on
12 behalf of the individual.”.

13 **SEC. 812. UNIFORM VITAL STATISTICS.**

14 (a) PILOT PROGRAM.—The Secretary of Health and
15 Human Services shall consult with the State agency re-
16 sponsible for registration and certification of births and
17 deaths and, within 3 years of the date of enactment of
18 this Act, shall establish a pilot program for 3 of the 5
19 States with the largest number of undocumented aliens
20 of an electronic network linking the vital statistics records
21 of such States. The network shall provide, where practical,
22 for the matching of deaths with births and shall enable
23 the confirmation of births and deaths of citizens of such
24 States, or of aliens within such States, by any Federal
25 or State agency or official in the performance of official

1 duties. The Secretary and participating State agencies
2 shall institute measures to achieve uniform and accurate
3 reporting of vital statistics into the pilot program network,
4 to protect the integrity of the registration and certification
5 process, and to prevent fraud against the Government and
6 other persons through the use of false birth or death cer-
7 tificates.

8 (b) REPORT.—Not later than 180 days after the es-
9 tablishment of the pilot program under subsection (a), the
10 Secretary shall issue a written report to Congress with rec-
11 ommendations on how the pilot program could effectively
12 be instituted as a national network for the United States.

13 (c) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated for fiscal year 1996 and
15 for subsequent fiscal years such sums as may be necessary
16 to carry out this section.

17 **SEC. 813. COMMUNICATION BETWEEN STATE AND LOCAL**
18 **GOVERNMENT AGENCIES, AND THE IMMIGRA-**
19 **TION AND NATURALIZATION SERVICE.**

20 Notwithstanding any other provision of Federal,
21 State, or local law, no State or local government entity
22 shall prohibit, or in any way restrict, any government en-
23 tity or any official within its jurisdiction from sending to
24 or receiving from the Immigration and Naturalization

1 Service information regarding the immigration status,
2 lawful or unlawful, or an alien in the United States.

3 **SEC. 814. CRIMINAL ALIEN REIMBURSEMENT COSTS.**

4 Amounts appropriated to carry out section 501 of the
5 Immigration and Reform Act of 1986 for fiscal year 1995
6 shall be available to carry out section 242(j) of the Immi-
7 gration and Nationality Act in that fiscal year with respect
8 to undocumented criminal aliens incarcerated under the
9 authority of political subdivisions of a State.

10 **SEC. 815. MISCELLANEOUS TECHNICAL CORRECTIONS.**

11 (a) AMENDMENTS RELATING TO PUBLIC LAW 103-
12 322 (VIOLENT CRIME CONTROL AND LAW ENFORCEMENT
13 ACT OF 1994).—

14 (1) Section 60024(1)(F) of the Violent Crime
15 Control and Law Enforcement Act of 1994 (Public
16 Law 103-322) (in this subsection referred to as
17 “VCCLEA”) is amended by inserting “United
18 States Code,” after “title 18,”.

19 (2) Section 274(a)(2) (8 U.S.C. 1324(a)(2)), as
20 amended by section 60024(2) of VCCLEA, is
21 amended by striking the first period after “both”.

22 (3) Section 130003(b)(3) of VCCLEA is
23 amended by striking “Naturalization” and inserting
24 “Nationality”.

1 (4)(A) Section 214 (8 U.S.C. 1184) is amended
2 by redesignating the subsection (j), added by section
3 130003(b)(2) of VCCLEA (108 Stat. 2025), and the
4 subsection (k), added by section 220(b) of the Immi-
5 gration and Nationality Technical Amendments Act
6 of 1994 (Public Law 103–416, 108 Stat. 4319), as
7 subsections (k) and (l), respectively.

8 (B) Section 101(a)(15)(S) (8 U.S.C.
9 1101(a)(15)(S)) is amended by striking “214(j)”
10 and inserting “214(k)”.

11 (5)(A) Section 245 (8 U.S.C. 1255) is amended
12 by redesignating the subsection (i) added by section
13 130003(c)(1) of VCCLEA as subsection (j).

14 (B) Section 241(a)(2)(A)(i)(I) (8 U.S.C.
15 1251(a)(2)(A)(i)(I)), as amended by section
16 130003(d) of VCCLEA and before redesignation by
17 section 305(2), is amended by striking “245(i)” and
18 inserting “245(j)”.

19 (6) Section 245(i)(3), as added by section
20 130003(c)(1) of VCCLEA, is amended by striking
21 “paragraphs (1) or (2)” and inserting “paragraph
22 (1) or (2)”.

23 (7) Section 130007(a) of VCCLEA is amended
24 by striking “242A(d)” and inserting “242A(a)(3)”.

1 (8) The amendments made by this subsection
2 shall be effective as if included in the enactment of
3 the VCCLEA.

4 (b) AMENDMENTS RELATING TO IMMIGRATION AND
5 NATIONALITY TECHNICAL CORRECTIONS ACT OF 1994.—

6 (1) Section 101(d) of the Immigration and Na-
7 tionality Technical Corrections Act of 1994 (Public
8 Law 103–416) (in this subsection referred to as
9 “INTCA”) is amended—

10 (A) by striking “APPLICATION” and all
11 that follows through “This” and inserting “AP-
12 PPLICABILITY OF TRANSMISSION REQUIRE-
13 MENTS.—This”;

14 (B) by striking “any residency or other re-
15 tention requirements for” and inserting “the
16 application of any provision of law relating to
17 residence or physical presence in the United
18 States for purposes of transmitting United
19 States”; and

20 (C) by striking “as in effect” and all that
21 follows through the end and inserting “to any
22 person whose claim is based on the amendment
23 made by subsection (a) or through whom such
24 a claim is derived.”.

1 (2) Section 102 of INTCA is amended by add-
2 ing at the end the following new subsection:

3 “(e) TRANSITION.—In applying the amendment made
4 by subsection (a) to children born before November 14,
5 1986, any reference in the matter inserted by such amend-
6 ment to ‘five years, at least two of which’ is deemed a
7 reference to ‘10 years, at least 5 of which’.”

8 (3) Section 351(a) (8 U.S.C. 1483(a)), as
9 amended by section 105(a)(2)(A) of INTCA, is
10 amended by striking the comma after “nationality”.

11 (4) Section 207(2) of INTCA is amended by in-
12 serting a comma after “specified”.

13 (5) Section 101(a)(43) (8 U.S.C. 1101(a)(43))
14 is amended—

15 (A) in subparagraph (K)(ii), by striking
16 the comma after “1588”, and

17 (B) in subparagraph (O), by striking “sus-
18 picion” and inserting “suspension”.

19 (6) Section 273(b) (8 U.S.C. 1323(b)), as
20 amended by section 209(a) of INTCA, is amended
21 by striking “remain” and inserting “remains”.

22 (7) Section 209(a)(1) of INTCA is amended by
23 striking “\$3000” and inserting “\$3,000”.

24 (8) Section 209(b) of INTCA is amended by
25 striking “subsection” and inserting “section”.

1 (9) Section 217(f) (8 U.S.C. 1187(f)), as
2 amended by section 210 of INTCA, is amended by
3 adding a period at the end.

4 (10) Section 219(cc) of INTCA is amended by
5 striking “ ‘year 1993 the first place it appears’ ”
6 and inserting “ ‘year 1993’ the first place it ap-
7 pears”.

8 (11) Section 219(ee) of INTCA is amended by
9 adding at the end the following new paragraph:
10 “(3) The amendments made by this subsection shall
11 take effect on the date of the enactment of this Act.”.

12 (12) Paragraphs (4) and (6) of section 286(r)
13 (8 U.S.C. 1356(r)) are amended by inserting “the”
14 before “Fund” each place it appears.

15 (13) Section 221 of INTCA is amended—

16 (A) by striking each semicolon and insert-
17 ing a comma,

18 (B) by striking “disasters.” and inserting
19 “disasters,” and

20 (C) by striking “The official” and inserting
21 “the official”.

22 (14) Section 242A (8 U.S.C. 1252a), as added
23 by section 224(a) of INTCA and before redesigna-
24 tion as section 238 by section 308(b)(6), is amended
25 by redesignating subsection (d) as subsection (c).

1 (15) Section 225 of INTCA is amended—

2 (A) by striking “section 242(i)” and in-
3 serting “sections 242(i) and 242A”, and

4 (B) by inserting “, 1252a” after
5 “1252(i)”.

6 (16) Except as otherwise provided in this sub-
7 section, the amendments made by this subsection
8 shall take effect as if included in the enactment of
9 INTCA.

10 (c) STRIKING REFERENCES TO SECTION 210A.—

11 (1)(A) Section 201(b)(1)(C) (8 U.S.C.
12 1151(b)(1)(C)) and section 274B(a)(3)(B) (8 U.S.C.
13 1324b(a)(3)(B)) are each amended by striking “,
14 210A,”.

15 (B) Section 241(a)(1) (8 U.S.C. 1251(a)(1)),
16 before redesignation by section 305(2), is amended
17 by striking subparagraph (F).

18 (2) Sections 204(c)(1)(D)(i) and 204(j)(4) of
19 Immigration Reform and Control Act of 1986 are
20 each amended by striking “, 210A,”.

21 (d) MISCELLANEOUS CHANGES IN THE IMMIGRATION
22 AND NATIONALITY ACT.—

1 (1) Before being amended by section 308(a),
2 the item in the table of contents relating to section
3 242A is amended to read as follows:

“Sec. 242A. Expedited deportation of aliens convicted of committing aggravated felonies.”.

4 (2) Section 101(a)(43)(N) (8 U.S.C.
5 1101(a)(43)(N)) is amended by striking “of title 18,
6 United States Code”.

7 (3) Section 101(c)(1) (8 U.S.C. 1101(c)(1)) is
8 amended by striking “, 321, and 322” and inserting
9 “and 321”.

10 (4) Pursuant to section 6(b) of Public Law
11 103–272 (108 Stat. 1378)—

12 (A) section 214(f)(1) (8 U.S.C.
13 1184(f)(1)) is amended by striking “section
14 101(3) of the Federal Aviation Act of 1958”
15 and inserting “section 40102(a)(2) of title 49,
16 United States Code”; and

17 (B) section 258(b)(2) (8 U.S.C.
18 1288(b)(2)) is amended by striking “section
19 105 or 106 of the Hazardous Materials Trans-
20 portation Act (49 U.S.C. App. 1804, 1805” and
21 inserting “section 5103(b), 5104, 5106, 5107,
22 or 5110 of title 49, United States Code”.

1 (5) Section 286(h)(1)(A) (8 U.S.C.
2 1356(h)(1)(A)) is amended by inserting a period
3 after “expended”.

4 (6) Section 286(h)(2)(A) (8 U.S.C.
5 1356(h)(2)(A)) is amended—

6 (A) by striking “and” at the end of clause
7 (iv),

8 (B) by moving clauses (v) and (vi) 2 ems
9 to the left,

10 (C) by striking “; and” in clauses (v) and
11 (vi) and inserting “and for”,

12 (D) by striking the colons in clauses (v)
13 and (vi), and

14 (E) by striking the period at the end of
15 clause (v) and inserting “; and”.

16 (7) Section 412(b) (8 U.S.C. 1522(b)) is
17 amended by striking the comma after “is author-
18 ized” in paragraph (3) and after “The Secretary” in
19 paragraph (4).

20 (e) MISCELLANEOUS CHANGE IN THE IMMIGRATION
21 ACT OF 1990.—Section 161(c)(3) of the Immigration Act
22 of 1990 is amended by striking “an an” and inserting “of
23 an”.

24 (f) MISCELLANEOUS CHANGES IN OTHER ACTS.—

1 (1) Section 506(a) of the Intelligence Author-
 2 ization Act, Fiscal Year 1990 (Public Law 101-193)
 3 is amended by striking “this section” and inserting
 4 “such section”.

5 (2) Section 140 of the Foreign Relations Au-
 6 thorization Act, Fiscal Years 1994 and 1995, as
 7 amended by section 505(2) of Public Law 103-317,
 8 is amended—

9 (A) by moving the indentation of sub-
 10 sections (f) and (g) 2 ems to the left, and

11 (B) in subsection (g), by striking “(g)”
 12 and all that follows through “shall” and insert-
 13 ing “(g) Subsections (d) and (e) shall”.

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