

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.

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## 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. BEILEN-SON, 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. TAU- ZIN, 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. COM- BEST, 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. BUR- TON 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

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## 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”.

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

10               (1) whenever in this Act an amendment or re-  
 11       peal is expressed as the amendment or repeal of a

1 section or other provision, the reference shall be con-  
 2 sidered to be made to that section or provision in the  
 3 Immigration and Nationality Act, and

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

9 (c) TABLE OF CONTENTS.—The table of contents for  
 10 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 **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.”.

## **Subtitle B—Deterrence of Document Fraud**

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

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

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

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

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

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

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

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

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-

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

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

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

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

**SEC. 223. EFFECTIVE DATE.**

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

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

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

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

This subtitle amends the provisions of the Immigration and Nationality Act relating to procedures for inspection and removal of aliens.

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 SECU-  
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          239(a)(2).  
23

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

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

4 “DETENTION AND REMOVAL OF ALIENS ORDERED  
5 REMOVED

6       “SEC. 241. (a) DETENTION, RELEASE, AND RE-  
7       MOVAL OF ALIENS ORDERED REMOVED.—

8 “(1) REMOVAL PERIOD.—

9                   “(A) IN GENERAL.—Except as otherwise  
10                   provided in this section, when an alien is or-  
11                   dered removed, the Attorney General shall re-  
12                   move the alien from the United States within a  
13                   period of 90 days (in this section referred to as  
14                   the ‘removal period’).

15                   “(B) BEGINNING OF PERIOD.—The re-  
16                   moval period begins on the latest of the follow-  
17                   ing:

18                   “(i) The date the order of removal be-  
19                   comes administratively final.

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

24 “(iii) If the alien is detained or con-  
25 fined (except under an immigration proc-

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-

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

(b) MODIFICATION OF AUTHORITY.—

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

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

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

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

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

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

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

(1) by redesignating subsection (j) as subsection (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 redesign-  
12          nation 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 serting “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 redesign-  
19 nated 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          serting “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.

“(2) The approval of the Attorney General or the Deputy Attorney General for the filing of the application based upon a finding by that individual that the application satisfies the criteria and requirements of this title.

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    removal 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           quirements 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 **HOURLY LAWS.**

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           requirement unless (i) the Service (or another en-  
2           forcement agency) has explained to the person  
3           or entity the basis for the failure, (ii) the per-  
4           son or entity has been provided a period of not  
5           less than 10 business days (beginning after the  
6           date of the explanation) within which to correct  
7           the failure, and (iii) the person or entity has  
8           not corrected the failure voluntarily within such  
9           period, except that this subparagraph shall not  
10          apply with respect to the engaging by any per-  
11          son or entity of a pattern or practice of viola-  
12          tions of subsection (a)(1)(A) or (a)(2).”.

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

16      **SEC. 407. REMEDIES IN UNFAIR IMMIGRATION-RELATED**  
17                              **DISCRIMINATION ORDERS.**

18          (a) REQUIRING CERTAIN REMEDIES.—Section  
19          274B(g)(2) (8 U.S.C. 1324b(g)(2)) is amended—

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

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 adjustment of status of, an alien under section  
2 201(b)(1)(A), section 203(a)(1), or 203(d) as a child of  
3 a citizen of the United States or a permanent resident  
4 alien, the age of the alien shall be determined as of the  
5 date of the filing of the classification petition under sec-  
6 tion 204(a)(1) as such a child of a citizen of the United  
7 States or a permanent resident alien.”.

8 (2) EFFECTIVE DATE.—The amendment made  
9 by paragraph (1) shall apply to immigrant visas is-  
10 sued on or after October 1, 1996.

11 **SEC. 512. CHANGE IN FAMILY-SPONSORED CLASSIFICA-**  
12 **TION.**

13 (a) IN GENERAL.—Section 203(a) (8 U.S.C.  
14 1153(a)) is amended by striking paragraphs (1) through  
15 (4) and inserting the following:

16 “(1) SPOUSES AND CHILDREN OF LAWFUL PER-  
17 MANENT RESIDENT ALIENS.—Immigrants who are  
18 the spouses and children of an alien lawfully admit-  
19 ted for permanent residence shall be allocated visas  
20 in a number not to exceed 85,000, plus any immi-  
21 grant visas not required for the class described in  
22 paragraph (2).

23 “(2) PARENTS OF UNITED STATES CITIZENS.—

24 “(A) IN GENERAL.—Immigrants who are  
25 the qualifying parents (as defined in subpara-

graph (B)) of an individual who is at least 21 years of age and a citizen of the United States shall be allocated visas in a number not to exceed the lesser of—

“(i) 50,000, or

“(ii) the number by which the worldwide level exceeds 85,000.

“(B) QUALIFICATIONS.—For purposes of subparagraph (A), the term ‘qualifying parent’ means an immigrant with respect to whom, as of the date of approval of the classification petition under section 204(a)(1), at least 50 percent of the immigrant’s sons and daughters are (i) nationals of the United States or aliens lawfully admitted for permanent residence and (ii) lawfully residing in the United States.

“(C) REFERENCE TO INSURANCE REQUIREMENT.—For requirement relating to insurance for qualifying parents, see section 212(a)(4)(D).”.

(b) INSURANCE REQUIREMENT.—Section 212(a)(4) (8 U.S.C. 1182(a)(4)), as amended by section 621(a) of this Act, is amended by adding at the end the following 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 serting “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 “immi-  
3           grant 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 designated 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)”; and

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 MISREPRESEN-  
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.**

5           (a) IN GENERAL.—Section 32(c)(1) of the Internal  
6 Revenue Code of 1986 (relating to individuals eligible to  
7 claim the earned income tax credit) is amended by adding  
8 at the end the following new subparagraph:

9                   “(F) IDENTIFICATION NUMBER REQUIRE-  
10           MENT.—The term ‘eligible individual’ does not  
11           include any individual who does not include on  
12           the return of tax for the taxable year—

13                   “(i) such individual’s taxpayer identi-  
14           fication number, and

15                   “(ii) if the individual is married (with-  
16           in the meaning of section 7703), the tax-  
17           payer identification number of such indi-  
18           vidual’s spouse.”

19           (b) SPECIAL IDENTIFICATION NUMBER.—Section 32  
20 of the Internal Revenue Code of 1986 (relating to earned  
21 income) is amended by adding at the end the following  
22 new subsection:

23           “(k) IDENTIFICATION NUMBERS.—For purposes of  
24 subsections (c)(1)(F) and (c)(3)(D), a taxpayer identifica-  
25 tion number means a social security number issued to an  
26 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 ATTRIBUTION.—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  
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  
14 is amended by inserting after subparagraph (D) the  
15 following new subparagraph:

16 “(E) In this subsection, the term ‘H-1B-dependent employer’ means an employer that—

17  
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 employees who are employed in the United  
24 States, and (II) employs nonimmigrants described in section 101(a)(15)(H)(i)(b) in a  
25  
26

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       (b) AUTHORIZING APPLICATION OF RECIPROCITY  
2 RULE FOR NONIMMIGRANT VISA IN CASE OF REFUGEES  
3 AND PERMANENT RESIDENTS.—Such section is further  
4 amended by inserting before the period at the end of the  
5 third sentence the following: “; except that in the case of  
6 aliens who are nationals of a foreign country and who ei-  
7 ther are granted refugee status and firmly resettled in an-  
8 other foreign country or are granted permanent residence  
9 and residing in another foreign country, the Secretary of  
10 State may prescribe the period of validity of such a visa  
11 based upon the treatment granted by that other foreign  
12 country to alien refugees and permanent residents, respec-  
13 tively, in the United States”.

14 **SEC. 808. LIMITATION ON ADJUSTMENT OF STATUS OF IN-**  
15 **DIVIDUALS NOT LAWFULLY PRESENT IN THE**  
16 **UNITED STATES.**

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

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

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       PLICABILITY 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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