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PROPOSED LEGISLATION: "IMMIGRATION ENFORCEMENT IMPROVEMENTS ACT OF 1995"

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A DRAFT OF PROPOSED LEGISLATION ENTITLED, "IMMIGRATION ENFORCEMENT IMPROVEMENTS ACT OF 1995"

MAY 3, 1995.—Message and accompanying papers referred to the Committees on the Judiciary, Economic and Educational Opportunities, and Commerce and ordered to be printed May 3, 1995.

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To the Congress of the United States:

I am pleased to transmit today for your immediate consideration and enactment the "Immigration Enforcement Improvements Act of 1995." This legislative proposal builds on the Administration's FY 1996 Budget initiatives and complements the Presidential Memorandum I signed on February 7, 1995, which directs heads of executive departments and agencies to strengthen control of our borders, increase worksite enforcement, improve employment authorization verification, and expand the capability of the Immigration and Naturalization Service (INS) to identify criminal aliens and remove them from the United States. Also transmitted is a section-by-section analysis.

Some of the most significant provisions of this proposal will:

- Authorize the Attorney General to increase the Border Patrol by no fewer than 700 agents and add sufficient personnel to support those agents for fiscal years 1996, 1997, and 1998.
- Authorize the Attorney General to increase the number of border inspectors to a level adequate to assure full staffing.
- Authorize an Employment Verification Pilot Program to conduct tests of various methods of verifying work authorization status, including using the Social Security Administration and INS databases. The Pilot Program will determine the most cost-effective, fraud-resistant, and nondiscriminatory means of removing a significant incentive to illegal immigration—employment in the United States.
- Reduce the number of documents that may be used for employment authorization.
- Increase substantially the penalties for alien smuggling, illegal reentry, failure to depart, employer violations, and immigration document fraud.
- Streamline deportation and exclusion procedures so that the INS can expeditiously remove more criminal aliens from the United States.
- Allow aliens to be excluded from entering the United States during extraordinary migration situations or when the aliens are arriving on board smuggling vessels. Persons with a credible fear of persecution in their countries of nationality would be allowed to enter the United States to apply for asylum.
- Expand the use of the Racketeer Influenced and Corrupt Organizations (RICO) statute to authorize its use to pursue alien smuggling organizations; permit the INS, with judicial authorization, to intercept wire, electronic, and oral communications of persons involved in alien smuggling operations; and make subject to forfeiture all property, both real and personal, used or intended to be used to smuggle aliens.
- Authorize Federal courts to require criminal aliens to consent to their deportation as a condition of probation.

- Permit new sanctions to be imposed against countries that refuse to accept the deportation of their nationals from the United States. The proposal will allow the Secretary of State to refuse issuance of all visas to nationals of those countries.
- Authorize a Border Services User Fee to help add additional inspectors at high volume ports-of-entry. The new inspectors will facilitate legal crossings; prevent entry by illegal aliens; and stop cross-border drug smuggling. (Border States, working with local communities, would decide whether the fee should be imposed in order to improve infrastructure.)

This legislative proposal, together with my FY 1996 Budget and the February 7th Presidential Memorandum, will continue this Administration's unprecedented actions to combat illegal immigration while facilitating legal immigration. Our comprehensive strategy will protect the integrity of our borders and laws without dulling the luster of our Nation's proud immigrant heritage.

I urge the prompt and favorable consideration of this legislative proposal by the Congress.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 3, 1995.*

A BILL

To amend the Immigration and Nationality Act to more effectively prevent illegal immigration by improving control over the land borders of the United States, preventing illegal employment of aliens, reducing procedural delays in removing illegal aliens from the United States, providing wiretap and asset forfeiture authority to combat alien smuggling and related crimes, increasing penalties for bringing aliens unlawfully into the United States, and making certain miscellaneous and technical amendments, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Immigration Enforcement Improvements Act of 1995".

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1 TITLE I — BORDER ENFORCEMENT

2 **SEC. 101. AUTHORIZATION FOR BORDER CONTROL STRATEGIES.**

3 There are authorized to be appropriated to the Department of Justice such funds as
4 may be necessary to provide for expansion of efforts to prevent illegal immigration through
5 direct deterrence at the land borders of the United States.

1 **SEC. 102. BORDER PATROL EXPANSION.**

2 The Attorney General, in each of fiscal years 1996, 1997, and 1998, shall increase to
3 the maximum extent feasible and consistent with standards of professionalism and training
4 requirements, the number of full time, active-duty Border Patrol agents by no fewer than
5 700, above the number os such agents on duty at the end of fiscal year 1995, as well as hire
6 an appropriate number of personnel needed to support these agents.

7 **SEC. 103. LAND BORDER INSPECTION ENHANCEMENTS.**

8 To eliminate undue delay in the thorough inspection of persons and vehicles lawfully
9 attempting to enter the United States, the Attorney General, subject to appropriation or
10 availability of funds in the Border Services User Fee Account, shall increase in fiscal years
11 1996 and 1997 the number of full time land border inspectors assigned to active duty by the
12 Immigration and Naturalization Service to a level adequate to assure full staffing of all
13 border crossing lanes now in use, under construction, or whose construction has been
14 authorized by Congress.

15 **SEC. 104. INCREASED PENALTIES FOR FAILURE TO DEPART, ILLEGAL**
16 **REENTRY, AND PASSPORT AND VISA FRAUD.**

17 (a) The United States Sentencing Commission shall promptly promulgate, pursuant to
18 28 U.S.C. 994, amendments to the sentencing guidelines to make appropriate increases in the
19 base offense levels for offenses under section 242(e) and 276(b) of the Immigration and
20 Nationality Act (8 U.S.C. 1252(e) and 1326(b)) to reflect the amendments made by section
21 130001 of the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. 103-322,
22 108 Stat. 1796, 2023 (Sept. 13, 1994).

1 (b) The United States Sentencing Commission shall promptly promulgate, pursuant to
2 28 U.S.C. 994, amendments to the sentencing guidelines to make appropriate increases in the
3 base offense levels for offenses under 18 U.S.C. 1541-1546 to reflect the amendments made
4 by section 130009 of the Violent Crime Control and Law Enforcement Act of 1994, Pub. L.
5 103-322, 108 Stat. 1796, 2030 (Sept. 13, 1994).

6 **SEC. 105. PILOT PROGRAM ON INTERIOR REPATRIATION OF DEPORTABLE**
7 **OR EXCLUDABLE ALIENS.**

8 (a) ESTABLISHMENT. -- Not later than 180 days after the date of enactment of this Act,
9 the Attorney General, after consultation with the Secretary of State, may establish a pilot
10 program for up to two years which provides for interior repatriation and other disincentives
11 for multiple unlawful entries into the United States.

12 (b) REPORT.--If the Attorney General establishes such a pilot program, not later than 3
13 years after the date of enactment of this Act, the Attorney General, together with the
14 Secretary of State, shall submit a report to the Committees on the Judiciary of the House of
15 Representatives and of the Senate on the operation of the pilot program under this section
16 and whether the pilot program or any part thereof should be extended or made permanent.

17 **SEC. 106. SPECIAL EXCLUSION IN EXTRAORDINARY MIGRATION**
18 **SITUATIONS.**

19 Section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is amended—

20 (a) in subsection (b), by inserting at the end the following sentence: "If the alien has
21 arrived from a foreign territory contiguous to the United States, either at a land port of entry

1 or on the land of the United States other than at a designated port of entry, the alien may be
2 returned to that territory pending the inquiry."
3 (b) by adding at the end the following new subsections (d) and (e):
4 "(d) SPECIAL EXCLUSION FOR EXTRAORDINARY MIGRATION SITUATIONS.—
5 "(1) Notwithstanding the provisions of section (b) of this section and of
6 section 236, the Attorney General under the circumstances described in
7 subparagraphs (A) or (B) may, without referral to an immigration judge, order
8 the exclusion and deportation of an alien who appears to an examining
9 immigration officer to be excludable. The Attorney General shall by regulation
10 establish a procedure for special orders of exclusion and deportation under this
11 subsection when, in the case of an alien who is, or aliens who are excludable
12 under section 212(a) —
13 "(A) The Attorney General determines that the numbers or
14 circumstances of aliens en route to or arriving in the United States,
15 including by aircraft, present an extraordinary migration situation; or
16 "(B) The alien —
17 "(i) is brought or escorted under the authority of the
18 United States into the United States, having been on board a
19 vessel encountered outside of the territorial waters of the United
20 States by officers of the United States;
21 "(ii) is brought or escorted under the authority of the
22 United States to a port of entry, having been on board a vessel

1 encountered within the territorial sea or internal waters of the
2 United States; or
3 "(iii) has arrived on a vessel transporting aliens to the
4 United States without such alien having received prior official
5 authorization to come to, enter, or reside in the United States.
6 "The judgment whether there exists an extraordinary migration situation within
7 the meaning of (A) or whether to invoke the provisions of (B) is committed to
8 the sole and exclusive discretion of the Attorney General; provided, that the
9 provisions of this subsection may be invoked by the Attorney General under
10 subparagraph (A) for a period not to exceed ninety days, unless, within such
11 ninety-day period or extension thereof, the Attorney General determines, after
12 consultation with the Committees on the Judiciary of the Senate and the House
13 of Representatives, that an extraordinary migration situation continues to
14 warrant such procedures remaining in place for an additional ninety-day
15 period.
16 "(2) As used in this section, 'extraordinary migration situation' means
17 the arrival or imminent arrival in the United States or its territorial waters of
18 aliens who by their numbers or circumstances substantially exceed the capacity
19 for the inspection and examination of such aliens.
20 "(3) When the Attorney General determines to invoke the provisions of
21 paragraph (1), the Attorney General may, pursuant to this section and sections

1 235(e) and 106(f), suspend the normal operation of immigration regulations
2 regarding the inspection and exclusion of aliens.
3 "(4) No alien may be ordered specially excluded under paragraph (1) if:
4 (A) such alien is eligible to seek and seeks asylum under section 208; and (B)
5 the Attorney General determines such alien has a credible fear of persecution
6 on account of race, religion, nationality, membership in a particular social
7 group, or political opinion, in the country of such person's nationality, or in
8 the case of a person having no nationality, the country in which such person
9 last habitually resided. The Attorney General may by regulation provide that,
10 notwithstanding this paragraph, an alien may be returned to a country where
11 the alien does not have a credible fear of persecution or of return to
12 persecution. As used herein, the term "credible fear of persecution" means
13 that: (A) there is a substantial likelihood that the statements made by the alien
14 in support of his or her claim are true; and (B) in light of such statements and
15 country conditions, the alien has a reasonable possibility of establishing
16 eligibility as a refugee within the meaning of section of section 101(a)(42)(A).
17 An alien determined to have a credible fear of persecution shall be taken
18 before an immigration judge for a hearing in accordance with section 236.
19 "(5) Notwithstanding the provisions of paragraph (4), the Attorney
20 General may provide that an application for asylum made by an alien arriving
21 in the United States under the circumstances described in subparagraph (A) of
22 paragraph (1) be considered pursuant to section 208 and any regulations

1 promulgated thereunder for applications considered pursuant to this paragraph;
2 Provided, however, that an alien not granted asylum is subject to a special
3 order of exclusion under paragraph (1).
4 "(6) A special exclusion order entered in accordance with the
5 provisions of this subsection is not subject to administrative appeal, except that
6 the Attorney General shall provide by regulation for:
7 "(A) prompt review of such an order against an applicant who
8 appears to have been lawfully admitted for permanent residence; and
9 "(B) prompt review of such an order entered against an alien
10 physically present in the United States who has sought asylum under
11 section 208 and was determined not to have a credible fear of
12 persecution under paragraph (4). Such review shall be conducted by an
13 officer or officers of the Department of Justice specially trained in
14 asylum and refugee law.
15 "(7) A special exclusion order shall have the same effect as if the alien
16 had been ordered excluded and deported pursuant to section 236, except that
17 judicial review of such an order shall be available only under section 106(f).
18 "(8) Nothing in this subsection shall be regarded as requiring a hearing
19 before an immigration judge in the case of an alien crewman or alien
20 stowaway.
21 "(e) NO COLLATERAL ATTACK — In any action brought for the assessment of
22 penalties for improper entry or reentry of an alien under section 275 and 276 of the

1 Immigration and Nationality Act, no court shall have jurisdiction to hear claims
2 attacking the validity of orders of special exclusion entered under this section.".
3 **SEC. 107. IMMIGRATION EMERGENCY PROVISIONS.**
4 (a) REIMBURSEMENT OF FEDERAL AGENCIES FROM IMMIGRATION EMERGENCY FUND.—
5 Section 404(b) of the Immigration and Nationality Act (8 U.S.C. 1101 note) is amended—
6 (1) in paragraph (1) after "paragraph (2)" by replacing "and" with "," ,
7 striking "State", inserting "other Federal agencies and States", inserting "and for the
8 costs associated with repatriation of aliens attempting to enter the United States
9 illegally, whether apprehended within or outside the territorial sea of the United
10 States" before "except", and by adding the following language at the end of paragraph
11 (1), "Provided, that the fund may be used for the costs of such repatriations without
12 the requirement for a determination by the President that an immigration emergency
13 exists.".
14 (2) in paragraph (2)(A), by inserting "to Federal agencies providing support to
15 the Department of Justice or" after "available".
16 (b) VESSEL MOVEMENT CONTROLS.— 50 U.S.C. 191 is amended by inserting "or
17 whenever the Attorney General determines that an actual or anticipated mass migration of
18 aliens en route to or arriving off the coast of the United States presents urgent circumstances
19 requiring an immediate Federal response," after "United States," the first time it appears.
20 (c) DELEGATION OF IMMIGRATION ENFORCEMENT AUTHORITY.— Section 103 of the
21 Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end of
22 subsection (a) a new sentence to read as follows:

1 "In the event the Attorney General determines that an actual or imminent mass influx
2 of aliens arriving off the coast of the United States presents urgent circumstances
3 requiring an immediate Federal response, the Attorney General may authorize, with
4 the consent of the head of the department, agency, or establishment under whose
5 jurisdiction the individual is serving, any specially designated state or local law
6 enforcement officer to perform or exercise any of the powers, privileges, or duties
7 conferred or imposed by this Act or regulations issued thereunder upon officers or
8 employees of the Service.".

9 **SEC. 108. COMMUTER LANE PILOT PROGRAMS.**

10 (a) Section 286(q) of the Immigration and Nationality Act (8 U.S.C. 1356) is
11 amended—

12 (1) in paragraph (1), by striking "a project" and inserting "projects";

13 (2) in paragraph (1), by striking "Such project" and inserting "Such projects";
14 and

15 (3) by striking paragraph (5).

16 (b) The Departments of Commerce, Justice, and State, the Judiciary, and Related
17 Agencies Appropriation Act, 1994 (P.L. 103-121, 107 Stat. 1161) is amended by striking the
18 fourth proviso under the heading "Immigration and Naturalization Service, Salaries and
19 Expenses".

20 TITLE II — CONTROL OF UNLAWFUL EMPLOYMENT AND VERIFICATION

21 **SEC. 201. REDUCING THE NUMBER OF EMPLOYMENT VERIFICATION**
22 **DOCUMENTS.**

1 (a) PROVISION OF SOCIAL SECURITY ACCOUNT NUMBERS.— Section 274A of the
2 Immigration and Nationality Act (8 U.S.C. 1324a) is amended by adding at the end of
3 subsection (b)(2) a new sentence to read as follows:
4 "The Attorney General is authorized to require an individual to provide on the form
5 described in subsection (b)(1)(A) that individual's Social Security account number for
6 purposes of complying with this section.".
7 (b) CHANGES IN ACCEPTABLE DOCUMENTATION FOR EMPLOYMENT AUTHORIZATION AND
8 IDENTITY. — Section 274A(b)(1) of the Immigration and Nationality Act (8 U.S.C.
9 1324a(b)(1)) is amended—
10 (1) in subparagraph (B)—
11 (A) by striking clauses (ii), (iii), and (iv) and redesignating clause (v)
12 as clause (ii),
13 (B) in clause (i), by adding at the end "or", and
14 (C) in redesignated clause (ii), by revising the introductory text to read
15 as follows:
16 "(ii) resident alien card, alien registration card, or other
17 document designated by regulation by the Attorney General, if the
18 document—"; and
19 (D) in redesignated clause (ii) by striking the period after subclause
20 (II) and by adding a new subclause (III) to read as follows:
21 "(III) and contains appropriate security features." and
22 (2) in subparagraph (C)—

1 (A) by inserting "or" after the ";" at the end of clause (i),

2 (B) by striking clause (ii), and

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

4 (c) EFFECTIVE DATE.— The amendments made by subsections (a) and (b) shall apply

5 with respect to hiring (or recruiting or referring) occurring on or after such date (not later

6 than 180 days after the date of the enactment of this Act) as the Attorney General shall

7 designate.

8 **SEC. 202. EMPLOYMENT VERIFICATION PILOT PROJECTS.**

9 (a) The Attorney General, together with the Commissioner of Social Security, shall

10 conduct pilot projects to test methods to accomplish reliable verification of eligibility for

11 employment in the United States. The pilot projects tested may include: (1) an expansion of

12 the telephone verification system to include, by the end of Fiscal Year 1996, participation by

13 up to 1,000 employers; (2) a process which allows employers to verify the eligibility for

14 employment of new employees using Social Security Administration (SSA) records and, if

15 necessary, to conduct a cross-check using Immigration and Naturalization Service (INS)

16 records; (3) a simulated linkage of the electronic records of the INS and the SSA to test the

17 technical feasibility of establishing a linkage between the actual electronic records of the INS

18 and the SSA; or (4) improvements and additions to the electronic records of the INS and the

19 SSA for the purpose of using such records for verification of employment eligibility.

20 (b) The pilot projects referred to in subsection (a) shall be conducted in such

21 locations and with such number of employers as is consistent with their pilot status.

1 (c) The pilot projects referred to in subsection (a) shall begin not later than 12
2 months after the enactment of this Act and may continue for a period of 3 years. During the
3 pilot project, the Attorney General shall track complaints of discrimination arising from the
4 administration or enforcement of the pilot project. Not later than 60 days prior to the
5 conclusion of this 3-year period, the Attorney General shall submit to the Congress a report
6 on the pilot projects. The report shall include evaluations of each of the pilot projects
7 according to the following criteria: cost effectiveness, technical feasibility, resistance to
8 fraud, protection of confidentiality and privacy, and protection against discrimination, and
9 which projects, if any, should be adopted.
10 (d) Upon completion of the report required by subsection (c), the Attorney General is
11 authorized to continue implementation on a pilot basis for an additional period of 1 year any
12 or all of the pilot projects authorized in subsection (a). The Attorney General shall inform
13 Congress of a decision to exercise this authority not later than the end of the 3-year period
14 specified in subsection (c).
15 (e) Nothing in this section shall exempt the pilot projects from any and all applicable
16 civil rights laws, including, but not limited to, Section 102 of the Immigration Reform and
17 Control Act of 1986, as amended; Title VII of the Civil Rights Act of 1964, as amended; the
18 Age Discrimination in Employment Act of 1967, as amended; the Equal Pay Act of 1963, as
19 amended; and the Americans with Disabilities Act of 1990, as amended.
20 (f) In conducting the pilot projects referred to in subsection (a), the Attorney General
21 may require appropriate notice to prospective employees concerning the employers'
22 participation in the pilot projects. Any notice should contain information for filing complaints

1 with the Attorney General regarding operation of the pilot projects, including discrimination
2 in the hiring and firing of employees and applicants on the basis of race, national origin, or
3 citizenship status.

4 **SEC. 203. CONFIDENTIALITY OF DATA UNDER EMPLOYMENT ELIGIBILITY**
5 **VERIFICATION PILOT PROJECTS.**

6 (a) Any personal information obtained in connection with a pilot project under section
7 202 may not be made available to government agencies, employers, or other persons except
8 to the extent necessary--

9 (1) to verify that an employee is not an unauthorized alien (as defined in
10 section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a (h)(3));

11 (2) to take other action required to carry out section 202; or

12 (3) to enforce the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) or
13 sections 911, 1001, 1028, 1546, or 1621 of title 18, United States Code.

14 (b) No employer may participate in a pilot project under section 202 unless the
15 employer has in place such procedures as the Attorney General shall require--

16 (1) to safeguard all personal information from unauthorized disclosure and
17 condition redisclosure of such information to any person or entity upon its agreement
18 also to safeguard such information; and

19 (2) to provide notice to all individuals of the right to request an agency to
20 correct or amend the individual's record and the steps to follow to make such a
21 request.

1 (c) (1) Any person who is a U.S. citizen, U.S. national, lawful permanent resident,
2 or other employment authorized alien, and who is subject to work authorization
3 verification under section 202 shall be considered an individual under 5 U.S.C.
4 552a(a)(2), but only with respect to records covered by this section.
5 (2) For purposes of this section, a record shall mean an item, collection, or
6 grouping of information about an individual that is created, maintained, or used by a
7 Federal agency in the course of a pilot project under section 202 to make a final
8 determination concerning an individual's authorization to work in the United States,
9 and that contains the individual's name or identifying number, symbol, or other
10 identifying particular assigned to the individual.
11 (d) Whenever an employer or other person willfully and knowingly--
12 (1) discloses or uses information for a purpose other than those permitted
13 under subsection (a), or
14 (2) fails to comply with a requirement of the Attorney General pursuant to
15 subsection (b),
16 after notice and opportunity for an administrative hearing conducted by the Attorney General
17 or the Commissioner of Social Security, as appropriate, or by a designee, the employer or
18 other person shall be subject to a civil money penalty of not less than $1,000 nor more than
19 $10,000 for each violation. In determining the amount of the penalty, consideration shall be
20 given to the intent of the person committing the violation, the impact of the violation, and
21 any history of previous violations by the person.

1 (e) Nothing in this section shall limit the rights and remedies otherwise available to
2 U.S. citizens and lawful permanent residents under 5 U.S.C 552a.
3 (f) Nothing in this section or in section 202 shall be construed to authorize, directly
4 or indirectly, the issuance or use of national identification cards or the establishment of a
5 national identification card.

6 **SEC. 204. COLLECTION OF SOCIAL SECURITY NUMBERS.**

7 Section 264 of the Immigration and Nationality Act (8 U.S.C. 1304) is amended by
8 adding at the end a new subsection (f) to read as follows:
9 "(f) Notwithstanding any other provision of law, the Attorney General is
10 authorized to require any alien to provide the alien's Social Security account number
11 for purposes of inclusion in any record of the alien maintained by the Attorney
12 General.".

13 **SEC. 205. EMPLOYER SANCTIONS PENALTIES.**

14 (a) INCREASED CIVIL MONEY PENALTIES FOR HIRING, RECRUITING, AND REFERRAL VIOLATIONS. —
15 Section 274A(e)(4)(A) of the Immigration and Nationality Act (8 U.S.C. 1324(e)(4)(A)) is
16 amended --
17 (1) in clause (i), by striking "$250" and "$2,000" and inserting "$1,000" and
18 "$3,000", respectively;
19 (2) in clause (ii), by striking "$2,000" and "$5,000" and inserting "$3,000"
20 and "$8,000", respectively; and
21 (3) in clause (iii), by striking "$3,000" and "$10,000" and inserting "$8,000"
22 and "$25,000", respectively.

1 (b) INCREASED CIVIL MONEY PENALTIES FOR PAPERWORK VIOLATIONS. Section 274A(e)(5) of
2 the Immigration and Nationality Act (8 U.S.C. 1324a(e)(5)) is amended by striking "$100"
3 and "$1,000" and inserting "$200" and "$5,000", respectively.
4 (c) INCREASED CRIMINAL PENALTIES FOR PATTERN OR PRACTICE VIOLATIONS. Section 274A(f)(1)
5 of the Immigration and Nationality Act (8 U.S.C. 1324a(f)(1)) is amended by inserting the
6 phrase "guilty of a felony and shall be" immediately after the phrase "subsection (a)(1)(A) or
7 (a)(2)." Section 274A(f)(1) of such Act is further amended by striking "$3,000" and "six
8 months" and inserting "$7,000" and "two years", respectively.
9 **SEC. 206. CRIMINAL PENALTIES FOR DOCUMENT FRAUD.**
10 (a) FRAUD AND MISUSE OF GOVERNMENT-ISSUED IDENTIFICATION DOCUMENTS.— Section
11 1028(b)(1) of title 18, United States Code, is amended by striking "five years" and inserting
12 "10 years" and by adding at the end the following new provision:
13 "Notwithstanding any other provision of this title, the maximum term of imprisonment
14 that may be imposed for an offense under this section --
15 "(1) if committed to facilitate a drug trafficking crime (as defined in 929(a))
16 is 15 years; and
17 "(2) if committed to facilitate an act of international terrorism (as defined in
18 section 2331) is 20 years.".
19 (b) CHANGES TO THE SENTENCING LEVELS.— Pursuant to section 994 of title 28, United
20 States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing
21 Commission shall promptly promulgate guidelines, or amend existing guidelines, to make

1 appropriate increases in the base offense levels for offenses under section 1028(a) of title 18,
2 United States Code.
3 **SEC. 207. CIVIL PENALTIES FOR DOCUMENT FRAUD.**
4 (a) ACTIVITIES PROHIBITED.— Section 274C(a) of the Immigration and Nationality Act (8
5 U.S.C. 1324c(a)) is amended—
6 (1) by striking "or" at the end of paragraph (3);
7 (2) by striking the period and inserting "; or" at the end of
8 paragraph (4); and
9 (3) by adding at the end the following:
10 "(5) to present before boarding a common carrier for the purpose of
11 coming to the United States a document that relates to the alien's eligibility to
12 enter the United States and to fail to present such document to an immigration
13 officer upon arrival at a United States port of entry, or
14 "(6) in reckless disregard of the fact that the information is false or
15 does not relate to the applicant, to prepare, to file, or to assist another in
16 preparing or filing, documents which are falsely made (including but not
17 limited to documents which contain false information, material
18 misrepresentation, or information which does not relate to the applicant) for
19 the purposes of satisfying a requirement of this Act.
20 "The Attorney General may waive the penalties of this section with respect to an alien
21 who knowingly violates paragraph (5) if the alien is subsequently granted asylum
22 under section 208 or withholding of deportation under section 243(h). For the

1 purposes of this section, the phrase 'falsely made any document' includes the
2 preparation or provision of any document required under this Act, with knowledge or
3 in reckless disregard of the fact that such document contains a false, fictitious, or
4 fraudulent statement or material representation, or has no basis in law or fact, or
5 otherwise fails to state a material fact pertaining to the document.".
6 (b) CONFORMING AMENDMENTS FOR CIVIL PENALTIES.— Section 274C(d)(3) of the
7 Immigration and Nationality Act (8 U.S.C. 1324c(d)(3)) is amended by striking "each
8 document used, accepted, or created and each instance of use, acceptance, or creation" in
9 each of the two places it appears and inserting "each document that is the subject of a
10 violation under subsection (a)".
11 **SEC. 208. SUBPOENA AUTHORITY.**
12 (a) IMMIGRATION OFFICER AUTHORITY.--
13 (1) Section 274A(e)(2) of the Immigration and Nationality Act (8 U.S.C. 1324a(e)(2))
14 is amended by—
15 (A) striking at the end of subparagraph (A) "and";
16 (B) striking at the end of subparagraph (B) "." and inserting ", and"; and
17 (C) adding a new subparagraph (C) to read as follows:
18 "(C) immigration officers designated by the Commissioner may compel
19 by subpoena the attendance of witnesses and the production of evidence at any
20 designated place prior to the filing of a complaint in a case under paragraph (3).".
21 (2) Section 274C(d)(1) of the Immigration and Nationality Act (8 U.S.C.
22 1324a(e)(2)) is amended by—

1 (A) striking at the end of subparagraph (A) "and";

2 (B) striking at the end of subparagraph (B) "." and inserting ", and"; and

3 (C) adding a new subparagraph (C) to read as follows:

4 "(C) immigration officers designated by the Commissioner may compel

5 by subpoena the attendance of witnesses and the production of evidence at any

6 designated place prior to the filing of a complaint in a case under paragraph (2)."

7 (b) SECRETARY OF LABOR SUBPOENA AUTHORITY.--

8 The Immigration and Nationality Act is amended by adding a new section 294 (8

9 U.S.C. 1364) to read as follows:

10 " Sec. 294. Secretary of Labor Subpoena Authority.

11 The Secretary of Labor may issue subpoenas requiring the attendance and

12 testimony of witnesses or the production of any records, books, papers, or documents

13 in connection with any investigation or hearing conducted in the enforcement of any

14 immigration program for which the Secretary of Labor has been delegated

15 enforcement authority under the Act. In such hearing, the Secretary of Labor may

16 administer oaths, examine witnesses, and receive evidence. For the purpose of any

17 such hearing or investigation, the authority contained in sections 9 and 10 of the

18 Federal Trade Commission Act (15 U.S.C. 49, 50), relating to the attendance of

19 witnesses and the production of books, papers, and documents, shall be available to

20 the Secretary of Labor.".

21 **SEC. 209. INCREASED PENALTIES FOR EMPLOYER SANCTIONS INVOLVING**

22 **LABOR STANDARDS VIOLATIONS.**

1 (a) Section 274A(e) of the Immigration and Nationality Act (8 U.S.C. 1324a(e)) is
2 amended by adding a new paragraph (10) to read as follows:
3 "(10)(A) The administrative law judge shall have the authority to require
4 payment of a civil money penalty in an amount up to two times the level of the
5 penalty prescribed by this subsection in any case where the employer has been found
6 to have committed willful or repeated violations of any of the following statutes:
7 "(i) the Fair Labor Standards Act, 29 U.S.C. 201 et seq., pursuant to
8 a final determination by the Secretary of Labor or a court of competent
9 jurisdiction;
10 "(ii) the Migrant and Seasonal Agricultural Worker Protection Act, 29
11 U.S.C. 1801 et seq., pursuant to a final determination by the Secretary of
12 Labor or a court of competent jurisdiction; or
13 "(iii) the Family and Medical Leave Act, 29 U.S.C. 2601 et seq.,
14 pursuant to a final determination by a court of competent jurisdiction.
15 "(B) The Secretary of Labor and the Attorney General shall consult regarding
16 the administration of the provisions of this paragraph.".
17 (b) Section 274B(g) of the Immigration and Nationality Act (8 U.S.C. 1324b(g)) is
18 amended by adding a new paragraph (4) to read as follows:
19 "(4)(A) The administrative law judge shall have the authority to require
20 payment of a civil money penalty in an amount up to two times the level of the
21 penalty prescribed by this subsection in any case where the employer has been found
22 to have committed willful or repeated violations of any of the following statutes:

1 "(i) the Fair Labor Standards Act, 29 U.S.C. 201 et seq., pursuant to
2 a final determination by the Secretary of Labor or a court of competent
3 jurisdiction;
4 "(ii) the Migrant and Seasonal Agricultural Worker Protection Act, 29
5 U.S.C. 1801 et seq., pursuant to a final determination by the Secretary of
6 Labor or a court of competent jurisdiction; or
7 "(iii) the Family and Medical Leave Act, 29 U.S.C. 2601 et seq.,
8 pursuant to a final determination by a court of competent jurisdiction.
9 "(B) The Secretary of Labor and the Attorney General shall consult regarding
10 the administration of the provisions of this paragraph.".
11 (c) Section 274C(d) of the Immigration and Nationality Act (8 U.S.C. 1324c(d)) is
12 amended by adding a new paragraph (7) to read as follows:
13 "(7)(A) The administrative law judge shall have the authority to require
14 payment of a civil money penalty in an amount up to two times the level of the
15 penalty prescribed by this subsection in any case where the employer has been found
16 to have committed willful or repeated violations of any of the following statutes:
17 "(i) the Fair Labor Standards Act, 29 U.S.C. 201 et seq., pursuant to
18 a final determination by the Secretary of Labor or a court of competent
19 jurisdiction;
20 "(ii) the Migrant and Seasonal Agricultural Worker Protection Act, 29
21 U.S.C. 1801 et seq., pursuant to a final determination by the Secretary of
22 Labor or a court of competent jurisdiction; or

1 "(iii) the Family and Medical Leave Act, 29 U.S.C. 2601, et seq.
2 pursuant to a final determination by a court of competent jurisdiction.
3 "(B) The Secretary of Labor and the Attorney General shall consult regarding
4 the administration of the provisions of this paragraph.".
5 **SEC. 210. INCREASED CIVIL PENALTIES FOR UNFAIR IMMIGRATION-**
6 **RELATED EMPLOYMENT PRACTICES.**
7 (a) Section 274B(g)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1324b
8 (g)(2)(B)) is amended --
9 (1) in clause (iv)(I), by striking "$250" and "$2,000" and inserting "$1,000"
10 and "$3,000", respectively;
11 (2) in clause (iv)(II), by striking "$2,000" and "$5,000" and inserting
12 "$3,000" and "$8,000', respectively; and
13 (3) in clause (iv)(III), by striking "$3,000" and "$10,000" and inserting
14 "$8,000" and "$25,000", respectively.
15 (4) in clause (iv)(IV), by striking "$100" and "$1,000" and inserting "$200"
16 and "$5,000", respectively.
17 **SEC. 211. RETENTION OF EMPLOYER SANCTIONS FINES FOR LAW**
18 **ENFORCEMENT PURPOSES.**
19 Section 286(c) of the Immigration and Nationality Act, 8 U.S.C. 1356(c) is amended
20 by striking the period at the end of the section and by adding the following:
21 "; provided further, that all monies received during each fiscal year in
22 payment of penalties under section 274A of this Act in excess of

1 $5,000,000 shall be credited to the Immigration and Naturalization
2 Service Salaries and Expenses appropriations account that funds
3 activities and related expenses associated with enforcement of that
4 section and shall remain available until expended.".

5 **SEC. 212. TELEPHONE VERIFICATION SYSTEM FEE.**

6 Section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)) is
7 amended by adding at the end a new paragraph (5) to read as follows:

8 "(5) TELEPHONE VERIFICATION SYSTEM FEE. —

9 "(A) The Attorney General is authorized to collect a fee from
10 employers, recruiters, or referrers who subscribe to participate in a telephone
11 verification system pilot under this section.

12 "(B) Funds collected pursuant to this authorization shall be deposited as
13 offsetting collections to the Immigration and Naturalization Service Salaries
14 and Expenses appropriations account solely to fund the costs incurred to
15 provide alien employment verification services through such a system.".

1 **SEC. 213. AUTHORIZATIONS.**

2 There are authorized to be appropriated such sums as may be necessary to carry out
3 this title. None of the costs incurred in carrying out this title shall be paid for out of any
4 trust fund established under the Social Security Act.

5 TITLE III — ILLEGAL ALIEN REMOVAL

6 **SEC. 301. CIVIL PENALTIES FOR FAILURE TO DEPART.**

7 The Immigration and Nationality Act is amended by adding a new section 274D (8
8 U.S.C. 1324d) to read as follows:

9 "CIVIL PENALTIES FOR FAILURE TO DEPART

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

12 "(1) wilfully fails or refuses to:

13 "(A) depart from the United States pursuant to the order;

14 "(B) make timely application in good faith for travel or other
15 documents necessary for departure; or

16 "(C) present for deportation at the time and place required by
17 the Attorney General; or

18 "(2) conspires to or takes any action designed to prevent or hamper the
19 alien's departure pursuant to the order,

20 shall pay a civil penalty of not more $500 to the Commissioner as offsetting
21 collections for each day the alien is in violation of this section.

1 "(b) Nothing in this section shall be construed to diminish or qualify any
2 penalties to which an alien may be subject for activities proscribed by section 242(e)
3 or any other section of this Act.".

4 **SEC. 302. JUDICIAL DEPORTATION.**

5 (a) Section 242A(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1252a(d)(1)
6 is amended to read as follows:

7 "(1) Authority. Notwithstanding any other provision of this Act, a United
8 States district court shall have jurisdiction to enter a judicial order of deportation at
9 the time of sentencing against an alien: (i) whose criminal conviction for an offense
10 for which the alien is before the court for sentencing causes such alien to be
11 deportable under section 241(a)(2)(A), or (ii) who previously has been convicted of an
12 aggravated felony at any time, if such an order has been requested by the United
13 States Attorney with the concurrence of the Commissioner and if the court chooses to
14 exercise such jurisdiction.".

15 (b) Section 242A(d)(3) of the Immigration and Nationality Act (8 U.S.C.
16 1252a(d)(3)(A)) is amended by striking clauses (ii) and (iii) and by revising clause (i) to read
17 as follows:

18 "(i) A judicial order of deportation or denial of such order may be appealed by
19 either party. Appellate review of any judicial order of deportation shall be considered
20 as part of the underlying criminal case and subject to all the procedures and filing
21 deadlines governing criminal appeals.".

1 (c) Section 242A(d)(4) of the Immigration and Nationality Act (8 U.S.C.
2 1252a(d)(4)) is amended by striking "without a decision on the merits".
3 (d) The last sentence of 18 U.S.C. 3583(d)(3) is amended to read as follows:
4 "If an alien defendant is subject to deportation, the court may provide,
5 as a condition of supervised release, that he or she be ordered deported by the
6 Attorney General, pursuant to the procedures in the Immigration and
7 Nationality Act, and remain outside the United States, and the court may order
8 that he or she be delivered to a duly authorized immigration official for such
9 deportation.".
10 **SEC. 303. CONDUCT OF PROCEEDINGS BY ELECTRONIC MEANS.**
11 Section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended
12 by inserting at the end the following: "Nothing in this subsection shall preclude the Attorney
13 General from authorizing proceedings by video electronic media, by telephone, or, where
14 waived or agreed to by the parties, in the absence of the alien. Contested full evidentiary
15 hearings on the merits may be conducted by telephone only with the consent of the alien.".
16 **SEC. 304. SUBPOENA AUTHORITY.**
17 (a) Section 236(a) of the Immigration and Nationality Act (8 U.S.C. 1226(a)) is
18 amended by inserting "issue subpoenas," in the first sentence after "evidence,".
19 (b) Section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is
20 amended by inserting "issue subpoenas," in the first sentence after "evidence,".

1 **SEC. 305. STIPULATED EXCLUSION AND DEPORTATION.**

2 (a) Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226) is amended
3 by adding at the end of subsection (a) the following new paragraph:

4 "(4) STIPULATED EXCLUSION AND DEPORTATION. — The Attorney General
5 shall provide by regulation for the entry by an immigration judge of an order
6 of exclusion and deportation stipulated to by the alien and the Service. Such
7 an order may be entered without a personal appearance by the alien before the
8 immigration judge. A stipulated order shall constitute a conclusive
9 determination of the alien's excludability and deportability from the United
10 States.".

11 (b) Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252) is amended
12 in subsection (b) by striking the sentence immediately following paragraph (4) and inserting
13 the following:

14 "The Attorney General shall further provide by regulation for the entry
15 by an immigration judge of an order of deportation stipulated to by the alien
16 and the Service. Such an order may be entered without a personal appearance
17 by the alien before the immigration judge. A stipulated order shall constitute a
18 conclusive determination of the alien's deportability from the United States.
19 The procedures so prescribed shall be the sole and exclusive procedures for
20 determining the deportability of an alien under this section.".

1 **SEC. 306. STREAMLINING APPEALS FROM ORDERS OF EXCLUSION AND**
2 **DEPORTATION.**
3 (a) Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended
4 to read as follows:
5 "JUDICIAL REVIEW OF ORDERS OF DEPORTATION, EXCLUSION, AND SPECIAL EXCLUSION
6 "SEC. 106 (a) APPLICABLE PROVISIONS. — Judicial review of a final order of
7 exclusion or deportation is governed only by chapter 158 of title 28 of the United
8 States Code, except as provided in subsection (b); provided, however, that no court
9 may order the taking of additional evidence pursuant to 28 U.S.C. 2347(c).
10 "(b) REQUIREMENTS. —
11 "(1) A petition for review must be filed not later than 30 days after the
12 date of the final order of exclusion or deportation.
13 "(2) A petition for review shall be filed with the Court of Appeals for
14 the judicial circuit in which the immigration judge completed the proceedings.
15 "(3) The respondent is the Attorney General. The petition shall be
16 served on the Attorney General and on the officer or employee of the
17 Immigration and Naturalization Service in charge of the Service district in
18 which the final order of exclusion or deportation was entered. Service of the
19 petition on the officer or employee stays the deportation of an alien pending
20 the court's decision on the petition, unless the court orders otherwise.
21 However, if the alien has been convicted of an aggravated felony, or the alien

1 is under an order of exclusion, service of the petition does not stay the
2 deportation unless the court orders otherwise.
3 "(4) Except as provided in paragraph (5)(B) of this subsection—
4 "the court of appeals shall decide the petition only on the administrative record
5 on which the order of exclusion or deportation is based and the Attorney
6 General's findings of fact shall be conclusive unless a reasonable adjudicator
7 would be compelled to conclude to the contrary.
8 "(5) (A) If the petitioner claims to be a national of the United States
9 and the court of appeals finds from the pleadings and affidavits that no genuine
10 issue of material fact about the petitioner's nationality is presented, the court
11 shall decide the nationality claim.
12 "(B) If the petitioner claims to be a national of the United
13 States and the court of appeals finds that a genuine issue of material
14 fact about the petitioner's nationality is presented, the court shall
15 transfer the proceeding to the district court of the United States for the
16 judicial district in which the petitioner resides for a new hearing on the
17 nationality claim and a decision on that claim as if an action had been
18 brought in the district court under section 2201 of title 28.
19 "(C) The petitioner may have the nationality claim decided only
20 as provided in this section.
21 "(6) (A) If the validity of an order of deportation has not been
22 judicially decided, a defendant in a criminal proceeding charged with

1 violating subsection (d) or (e) of section 242 may challenge the validity
2 of the order in the criminal proceeding only by filing a separate motion
3 before trial. The district court, without a jury, shall decide the motion
4 before trial.

5 "(B) If the defendant claims in the motion to be a national of
6 the United States and the district court finds that no genuine issue of
7 material fact about the defendant's nationality is presented, the court
8 shall decide the motion only on the administrative record on which the
9 deportation order is based. The administrative findings of fact are
10 conclusive if supported by reasonable, substantial, and probative
11 evidence on the record considered as a whole.

12 "(C) If the defendant claims in the motion to be a national of
13 the United States and the district court finds that a genuine issue of
14 material fact about the defendant's nationality is presented, the court
15 shall hold a new hearing on the nationality claim and decide that claim
16 as if an action had been brought under section 2201 of title 28.

17 "(D) If the district court rules that the deportation order is
18 invalid, the court shall dismiss the indictment. The United States
19 Government may appeal the dismissal to the court of appeals for the
20 appropriate circuit within 30 days. The defendant may not file a
21 petition for review under this section during the criminal proceeding.

1 The defendant may have the nationality claim decided only as provided
2 in this section.
3 "(7) This subsection-
4 "(A) does not prevent the Attorney General, after a final order
5 of deportation has been issued, from detaining the alien under section
6 242(c);
7 "(B) does not relieve the alien from complying with subsection
8 (d) or (e) of section 242; and
9 "(C) except as provided in paragraph (3) of this subsection,
10 does not require the Attorney General to defer deportation of the alien.
11 "(8) The record and briefs do not have to be printed. The court of
12 appeals shall review the proceeding on a typewritten record and on typewritten
13 briefs."
14 "(c) REQUIREMENTS FOR PETITION. — A petition for review of an order of
15 deportation shall state whether a court has upheld the validity of the order, and, if so,
16 shall state the name of the court, the date of the court's ruling, and the kind of
17 proceeding.
18 "(d) REVIEW OF FINAL ORDERS. — A court may review a final order of
19 deportation only if —
20 "(1) the alien has exhausted all administrative remedies available to the
21 alien as of right;

1 "(2) another court has not decided the validity of the order, unless the
2 reviewing court finds that the petition presents grounds that could not have
3 been presented in the prior judicial proceeding or that the remedy provided by
4 the prior proceeding was inadequate or ineffective to test the validity of the
5 order.
6 "(e) LIMITED REVIEW FOR NON-PERMANENT RESIDENTS CONVICTED OF AGGRAVATED
7 FELONIES. —
8 "(1) A petition for review filed by an alien against whom a final order
9 of deportation has been issued under section 242A may challenge only
10 whether —
11 "(A) the alien is the alien described in the order;
12 "(B) the alien is an alien described in section 242A(b)(2) and
13 has been convicted after entry into the United States of an aggravated
14 felony; and
15 "(C) the alien was afforded the procedures described in section
16 242A(b)(4).
17 "(2) A court reviewing the petition has jurisdiction only to review the
18 issues described in paragraph (1).
19 "(f) SPECIAL EXCLUSION — Notwithstanding any other provision of law, except
20 as provided in this subsection, no court shall have jurisdiction to review any
21 individual determination or to entertain any other cause or claim arising from or
22 relating to the implementation or operation of the special exclusion provisions

1 contained in section 235(d); except as provided herein, there shall be no judicial
2 review of: (i) a decision by the Attorney General to invoke the provisions of section
3 235(d), (ii) the application of section 235(d) to individual aliens, including the
4 determination made under paragraphs 5 and 6, or (iii) procedures and policies adopted
5 by the Attorney General to implement the provisions of Section 235(d). Regardless of
6 the nature of the action or claim or of the identity of the party or parties bringing the
7 action, no court shall have jurisdiction or authority to enter declaratory, injunctive, or
8 other equitable relief not specifically authorized in this subsection, or to certify a class
9 under Rule 23 of the Federal Rules of Civil Procedure.

10 "(1) Judicial review of any cause, claim, or individual determination
11 made or arising under or pertaining to special exclusion under section 235(d)
12 shall only be available in habeas corpus proceedings, and shall be limited to
13 determinations of: (i) whether the petitioner is an alien, (ii) whether the
14 petitioner was ordered specially excluded, and (iii) whether the petitioner can
15 prove by a preponderance of the evidence that he or she is an alien lawfully
16 admitted for permanent residence and is entitled to such further inquiry as
17 prescribed by the Attorney General pursuant to section 235(d)(3).

18 "(2) In any case where the court determines that the petitioner: (i) is
19 an alien who was not ordered specially excluded, or (ii) has demonstrated by a
20 preponderance of the evidence that he or she is a lawful permanent resident,
21 the court may order no remedy or relief other than to require that the
22 petitioner be provided a hearing in accordance with section 236 or a

1 determination in accordance with sections 235(a) or 273(d). Any alien who is
2 provided a hearing under section 236 pursuant to these provisions may
3 thereafter obtain judicial review of any resulting final order of exclusion
4 pursuant to this section.
5 "(3) In determining whether an alien has been ordered specially
6 excluded, the court's inquiry shall be limited to whether such an order in fact
7 was issued and whether it relates to the petitioner. There shall be no review
8 of whether the alien is actually excludable or entitled to any relief from
9 exclusion.".

10 **SEC. 307. SANCTIONS AGAINST COUNTRIES REFUSING TO ACCEPT**
11 **DEPORTATION OF THEIR NATIONALS.**

12 Section 243(g) of the Immigration and Nationality Act (8 U.S.C. 1253(g)) is amended
13 to read as follows:
14 "(g) DISCONTINUING GRANTING VISAS WHEN COUNTRY DENIES OR DELAYS ACCEPTING
15 ALIEN — On being notified by the Attorney General that the government of a foreign
16 country denies or unreasonably delays accepting an alien who is a citizen, subject,
17 national, or resident of that country after the Attorney General asks whether the
18 government will accept the alien under this section, the Secretary of State may order
19 consular officers in that foreign country to discontinue granting such classes of visas
20 as the Secretary shall deem appropriate to citizens, subjects, nationals, and residents
21 of that country until the Attorney General notifies the Secretary that the country has
22 accepted the alien.".

1 **SEC. 308. CUSTODY OF ALIENS CONVICTED OF AGGRAVATED FELONIES.**

2 (a) Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226) is amended
3 in paragraph (e)(2) by inserting after "unless" the following subparagraph—

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

9 (b) Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252) is amended
10 by revising paragraph (a)(2) to read as follows:

11 "(2)(A) The Attorney General shall take into custody any alien
12 convicted of an aggravated felony when the alien is released. This requirement
13 shall apply whether the alien is released on parole, supervised release, or
14 probation, or may be arrested or imprisoned again for the same offense.

15 "(B) The Attorney General may release the alien only if the alien —

16 "(i) was lawfully admitted to the United States and satisfies the
17 Attorney General that the alien is not a threat to the community and is
18 likely to appear for any scheduled proceeding; or

19 "(ii) the Attorney General decides pursuant to section 3521 of
20 title 18, United States Code, that release from custody is necessary to
21 provide protection to a witness, a potential witness, a person
22 cooperating with an investigation into major criminal activity, or an

1 immediate family member or close associate of a witness, potential
2 witness, or person cooperating with such an investigation.".
3 **SEC. 309. LIMITATIONS ON RELIEF FROM EXCLUSION AND DEPORTATION.**
4 (a) Section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is
5 revised to read as follows:
6 "(c) An alien who is and has been lawfully admitted for permanent residence
7 for at least 5 years, who has resided in the United States continuously for 7 years
8 after having been lawfully admitted, and who is returning to such residence after
9 having temporarily proceeded abroad voluntarily and not under an order of
10 deportation, may be admitted in the discretion of the Attorney General without regard
11 to the provisions of subsection (a) (other than paragraphs (3) and (9)(C)). For
12 purposes of this subsection, any period of continuous residence shall be deemed to
13 end when the alien is placed in proceedings to exclude the alien from the United
14 States. Nothing contained in this subsection shall limit the authority of the Attorney
15 General to exercise the discretion authorized under section 211(b). The first sentence
16 of this subsection shall not apply to an alien who has been convicted of one or more
17 aggravated felonies and has been sentenced for such felony or felonies to a term of
18 imprisonment of at least 5 years. This subsection shall apply only to an alien in
19 proceedings under section 236.".
20 (b) Section 244 of the Immigration and Nationality Act (8 U.S.C. 1254) is revised to
21 read as follows:

1 "SEC. 244(a). CANCELLATION OF DEPORTATION. — The Attorney General may
2 cancel deportation in the case of an alien who is deportable from the United States
3 and:
4 "(1) is and has been a lawful permanent resident for at least 5 years
5 who has resided in the United States continuously for 7 years after being
6 lawfully admitted and has not been convicted of an aggravated felony or
7 felonies for which the alien has been sentenced, in the aggregate, to a term of
8 imprisonment of at least 5 years; or
9 "(2) has been physically present in the United States for a continuous
10 period of not less than 7 years since entering the United States; has been a
11 person of good moral character during such period; and establishes that
12 deportation would result in extreme hardship to the alien or the alien's spouse,
13 parent, or child, who is a citizen of the United States or an alien lawfully
14 admitted for permanent residence.
15 "For purposes of this section, any period of continuous residence or continuous
16 physical presence in the United States shall be deemed to end when the alien is served
17 an order to show cause pursuant to section 242B(a)(1). An alien shall be considered
18 to have failed to maintain continuous physical presence in the United States under
19 paragraph (2) if the alien was absent from the United States for any single period of
20 more than 90 days or an aggregate period of more than 180 days. No person who is
21 deportable under section 241(a)(2)(C) or 241(a)(4) shall be eligible for relief under

1 this section. No person who has been convicted of an aggravated felony shall be
2 eligible for relief under paragraph (2) of this section.
3 "(b) CONTINUOUS PHYSICAL PRESENCE NOT REQUIRED BECAUSE OF HONORABLE SERVICE
4 IN ARMED FORCES AND PRESENCE UPON ENTRY INTO SERVICE. — The requirements of
5 continuous residence or continuous physical presence in the United States specified in
6 subsections (a)(1) and (a)(2) of this section shall not be applicable to an alien who:
7 (1) has served for a minimum period of twenty-four months in an active-duty status in
8 the Armed Forces of the United States and, if separated from such service, was
9 separated under honorable conditions, and (2) at the time of his or her enlistment or
10 induction was in the United States.
11 "(c) ADJUSTMENT OF STATUS. — The Attorney General may cancel deportation
12 and adjust to the status of an alien lawfully admitted for permanent residence any
13 alien who the Attorney General decides meets the requirements of subsection (a)(2).
14 The Attorney General shall record the alien's lawful admission for permanent
15 residence as of the date the Attorney General decides to cancel removal.
16 "(d) VOLUNTARY DEPARTURE. — (1) The Attorney General may in his or her
17 discretion permit an alien voluntarily to depart the United States at the alien's own
18 expense —
19 "(A) in lieu of being subject to deportation proceedings under section
20 242 or prior to the completion of such proceedings, if the alien is not a person
21 deportable under section 241(a)(2)(A)(iii) or section 241(a)(4). The Attorney
22 General may require the alien to post a voluntary departure bond, to be

1 surrendered upon proof that the alien has departed the United States within the
2 time specified. If any alien who is authorized to depart voluntarily under this
3 paragraph is financially unable to depart at his or her own expense and the
4 Attorney General deems the alien's removal to be in the best interest of the
5 United States, the expense of such removal may be paid from the appropriation
6 for enforcement of this Act; or
7 "(B) at the conclusion of a proceeding under section 242, only if the
8 immigration judge determines that:
9 "(i) the alien is, and has been, a person of good moral character for at
10 least five years immediately preceding his or her application for voluntary
11 departure;
12 "(ii) the alien is not deportable under section 241(a)(2)(A)(iii) or section
13 241(a)(4); and
14 "(iii) the alien establishes by clear and convincing evidence that he or
15 she has the means to depart the United States and intends to do so. The alien
16 shall be required to post a voluntary departure bond, in an amount necessary
17 to ensure that the alien will depart, to be surrendered upon proof that the alien
18 has departed the United States within the time specified.
19 "(2) If the alien fails voluntarily to depart the United States within the
20 time period specified in accordance with subparagraphs (1) or (2), the alien
21 shall be subject to a civil penalty of not more than $500 per day and be
22 ineligible for any further relief under this paragraph or paragraph (b).

1 "(3) The Attorney General may by regulation limit eligibility for
2 voluntary departure for any class or classes of aliens. No court may review
3 any regulation issued under this subparagraph.
4 "(4) An alien may appeal from denial of a request for an order of
5 voluntary departure under subparagraph (2) in accordance with the procedures
6 in section 106, provided that no court shall have jurisdiction over an appeal
7 regarding the length of voluntary departure where the alien has been granted
8 voluntary departure of 30 days or more. Notwithstanding the pendency of an
9 appeal by an alien of a denial of voluntary departure or a grant of voluntary
10 departure of less than 30 days, the alien shall be removable from the United
11 States 60 days after entry of the order of deportation. No court may order a
12 stay of such removal. The alien's removal from the United States shall not
13 moot the appeal.
14 "(e) ALIEN CREWMEN; NONIMMIGRANT EXCHANGE ALIENS ADMITTED TO RECEIVE
15 GRADUATE MEDICAL EDUCATION OR TRAINING; OTHER. — The provisions of subsection (a) of
16 this section shall not apply to an alien who—
17 "(1) entered the United States as a crewman subsequent to June 30,
18 1964;
19 "(2) was admitted to the United States as a nonimmigrant exchange
20 alien as defined in section 101(a)(15)(J), or has acquired the status of such a
21 nonimmigrant exchange alien after admission, in order to receive graduate
22 medical education or training, regardless of whether or not the alien is subject

1 to or has fulfilled the two-year foreign residence requirement of section
2 212(e); or
3 "(3) (A) was admitted to the United States as a nonimmigrant exchange
4 alien as defined in section 101(a)(15)(J) or has acquired the status of such a
5 nonimmigrant exchange alien after admission other than to receive graduate
6 medical education or training, (B) is subject to the two-year foreign residence
7 requirement of section 212(e), and (C) has not fulfilled that requirement or
8 received a waiver thereof, or in the case of a foreign medical graduate who
9 has received a waiver pursuant to section 220 of the Immigration and
10 Nationality Technical Corrections Act of 1994, Pub. L. 103-416, has not
11 fulfilled the requirements of section 214(k).".
12 (c) CONFORMING AMENDMENTS. —
13 (1) Section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b))
14 is amended by striking the last two sentences.
15 (2) Section 242B of the Immigration and Nationality Act (8 U.S.C. 1252b) is
16 amended—
17 (A) in paragraph (e)(2)—
18 (i) by striking "section 244(e)(1)" and inserting "section
19 244(d)", and
20 (ii) by striking "section 242(b)(1)" and inserting "section
21 244(d)"; and
22 (B) in paragraph (e)(5)—

1 (i) by striking "section 242(b)(1)" and inserting "section
2 244(d)", and
3 (ii) by striking "suspension of deportation" and inserting
4 "cancellation of deportation".
5 (d)(1) The amendments made by subsection (a) of this section shall take effec
6 on the date of enactment; except that, for purposes of determining the period
7 of continuous residence, the amendments made by subsection (a) shall apply tc
8 all aliens against whom proceedings are commenced on or after the date of
9 enactment.
10 (2) The amendments made by subsection (b) of this section shall take
11 effect on the date of enactment; except that, for purposes of determining the
12 periods of continuous residence or continuous physical presence, the
13 amendments made by subsection (b) shall apply to all aliens upon whom an
14 order to show cause is served on or after the date of enactment.
15 (3) The amendments made by subsection (c) of this section shall take
16 effect on the date of enactment.
17 **SEC. 310. RESCISSION OF LAWFUL PERMANENT RESIDENT STATUS.**
18 Section 246(a) of the Immigration and Nationality Act (8 U.S.C. 1256(a)) is amended
19 by adding at the end the following sentence:
20 "Nothing in this subsection shall require the Attorney General to rescind the alien's
21 status prior to commencement of procedures to deport the alien under section 242 and

1 242A, and an order of deportation issued by an immigration judge shall be sufficient
2 to rescind the alien's status.".

3 **SEC. 311. INCREASING EFFICIENCY IN REMOVAL OF DETAINED ALIENS.**

4 (a) There are authorized to be appropriated such funds as may be necessary for the
5 Attorney General to conduct a pilot program or programs to study methods for increasing the
6 efficiency of deportation and exclusion proceedings against detained aliens by increasing the
7 availability of pro bono counseling and representation for such aliens. Any such pilot
8 program may provide for administrative grants to not-for-profit organizations involved in the
9 counseling and representation of aliens in immigration proceedings. An evaluation
10 component shall be included in any such pilot program to test the efficiency and cost
11 effectiveness of the services provided and the replicability of such programs at other
12 locations.

13 (b) Nothing in this section shall be regarded as creating a right to be represented in
14 exclusion or deportation proceedings at the expense of the Government.

15 TITLE IV — ALIEN SMUGGLING CONTROL

16 **SEC. 401. WIRETAP AUTHORITY FOR INVESTIGATIONS OF ALIEN**
17 **SMUGGLING AND DOCUMENT FRAUD.**

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

19 (a) in paragraph (c), by inserting after "trains)" the following: "or a felony violation
20 of section 1028 (relating to production of false identification documentation), section 1541
21 (relating to passport issuance without authority), section 1542 (relating to false statements in
22 passport applications), section 1543 (relating to forgery or false use of passport), section

1544 (relating to misuse of passport), section 1546 (relating to fraud or misuse of visas, permits, or other documents)";

(b) by striking "or" after paragraph (l);

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

(d) by inserting after paragraph (l) the following new paragraph:

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

SEC. 402. APPLYING RACKETEERING OFFENSES TO ALIEN SMUGGLING.

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

(a) by striking "or" after "law of the United States,";

(b) by inserting "or" at the end of clause (E); and

(c) by adding at the end the following:

"(F) any act, or conspiracy to commit any act, in violation of section 274 (a)(1)(A)(v), 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)(A)(v), 1327, or 1328).".

SEC. 403. EXPANDED ASSET FORFEITURE FOR SMUGGLING OR HARBORING ALIENS.

Section 274 of the Immigration and Nationality Act of 1952, as amended (8 U.S.C. 1324) is amended

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

1 "(b) SEIZURE AND FORFEITURE. (1) The following property shall be subject to
2 seizure and forfeiture:
3 "(A) any conveyance, including any vessel, vehicle, or aircraft, which
4 has been or is being used in the commission of a violation of subsection (a);
5 except that --
6 "(1) no conveyance used by any person as a common carrier in the
7 transaction of business as a common carrier shall be forfeited under the
8 provisions of this section unless it shall appear that the owner or other
9 person in charge of such conveyance was a consenting party or privy to
10 the illegal act; and
11 "(2) no conveyance shall be forfeited under the provisions of this
12 section by reason of any act or omission established by the owner
13 thereof to have been committed or omitted by any person other than
14 such owner while such conveyance was unlawfully in the possession of
15 a person other than such owner in violation of the criminal laws of the
16 United States, or of any State; and
17 "(B) any property, real or personal, (i) that constitutes, or is derived
18 from or is traceable to the proceeds obtained directly or indirectly from the
19 commission of a violation of subsection (a), or (ii) that is used to facilitate, or
20 is intended to be used to facilitate, the commission of a violation of
21 subparagraph (a) (1) (A), except that no property shall be forfeited under this
22 paragraph, to the extent of an interest of an owner, by reason of any act or

1 omission established by that owner to have been committed or omitted by any
2 other person other than such owner without knowledge or consent of that
3 owner."; and
4 (b) in paragraph (b)(2) —
5 (1) by striking "conveyances" both places it appears and inserting "property";
6 and
7 (2) by striking "is being used in" and inserting "is being used in, is
8 facilitating, has facilitated, is facilitating or was intended to facilitate";
9 (3) in paragraph (3) --
10 (A) by inserting "(A)" immediately after "(3)", and
11 (B) by adding at the end the following:
12 "(B) Before the seizure of any real property pursuant to this section the
13 Attorney General shall provide notice and opportunity to be heard to the owner
14 of the property. The Attorney General shall prescribe such regulations as may
15 be necessary to carry out this paragraph.";
16 (4) in paragraphs (b)(4) and (b)(5) by striking each place they appear the
17 phrase "a conveyance" and the word "conveyance" and inserting "property"; and
18 (5) by redesignating subsection (c) to be subsection (d) and inserting the
19 following new subsection (c) —
20 "(c) CRIMINAL FORFEITURE. —
21 "(1) Any person convicted of a violation of subsection (a) shall forfeit
22 to the United States, irrespective of any provision of State law—

1 "(A) any conveyance, including any vessel, vehicle, or aircraft
2 used in the commission of a violation of subsection (a); and
3 "(B) any property real or personal —
4 "(i) that constitutes, or is derived from or is traceable to
5 the proceeds obtained directly or indirectly from the commission
6 of a violation of subsection (a) , or
7 "(ii) that is used to facilitate, or is intended to be used to
8 facilitate, the commission of a violation of subparagraph
9 (a)(1)(A).
10 "The court, in imposing sentence on such person, shall order that the person
11 forfeit to the United States all property described in this subsection.
12 "(2) The criminal forfeiture of property under this subsection,
13 including any seizure and disposition of the property and any related
14 administrative or judicial proceeding shall be governed by the provisions of
15 section 413 of the Comprehensive Drug Abuse Prevention and Control Act of
16 1970 (21 U.S.C. 853), except for subsections 413(a) and 413(d) which shall
17 not apply to forfeitures under this subsection.".
18 **SEC. 404. INCREASED CRIMINAL PENALTIES FOR ALIEN SMUGGLING**
19 Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended -
20 (a) in subsection (a)(1)(A) -
21 (A) by striking "or" at the end of clause (iii);
22 (B) by striking the comma at the end of clause (iv) and inserting "; or"; and

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

2 "(v)(I) engages in any conspiracy to commit any of the preceding acts,

3 or (II) aids or abets the commission of any of the preceding

4 acts.";

5 (b) in subsection (a)(1)(B) --

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

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

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

9 (c) in subsection (a)(1)(B) by adding at the end the following new paragraph --

10 "(3) Any person who hires for employment an alien --

11 "(A) knowing that such alien is an unauthorized alien (as defined in

12 section 274A(h)(3)), and

13 "(B) knowing that such alien has been brought into the United States in

14 violation of this subsection,

15 shall be fined under title 18, United States Code, and shall be imprisoned for not

16 more than 5 years."; and

17 (d) in subsection (a)(2)(A) --

18 (1) by striking the period after clause (iv) and adding a new clause (v) to read

19 as follows:

20 "(v) an offense committed with the intent or with reason to believe that the

21 alien unlawfully brought into the United States will commit an offense against

1 the United States or any State punishable by imprisonment for more than 1
2 year."; and
3 (2) in subparagraph (B) by adding "(v)" after "(A)(i)" in clause (i).
4 **SEC. 405. UNDERCOVER INVESTIGATION AUTHORITY.**
5 (a) With respect to any undercover investigative operation of the Immigration and
6 Naturalization Service which is necessary for the detection and prosecution of crimes against
7 the United States —
8 (1) sums authorized to be appropriated for the Immigration and Naturalization
9 Service by this Act may be used for leasing space within the United States, the
10 District of Columbia, and the territories and possessions of the United States without
11 regard to section 3679(a) of the Revised Statutes (31 U.S.C. 1341), section 3732 (a)
12 of the Revised Statutes (41 U.S.C. 11 (a)), section 305 of the Act of June 30, 1949
13 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading
14 "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section
15 3648 of the Revised Statutes (31 U.S.C. 3324), section 3741 of the Revised Statutes
16 (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property
17 and Administrative Services Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c));
18 (2) sums authorized to be appropriated for the Immigration and Naturalization
19 Service by this Act may be used to establish or to acquire proprietary corporations or
20 business entities as part of an undercover operation, and to operate such corporations
21 or business entities on a commercial basis, without regard to the provisions of section
22 304 of the Government Corporation Control Act (31 U.S.C. 9102);

1 (3) sums authorized to be appropriated for the Immigration and Naturalization
2 Service by this Act, and the proceeds from such undercover operation, may be
3 deposited in banks or other financial institutions without regard to the provisions of
4 section 648 of Title 18 of the United States Code, and section 3639 of the Revised
5 Statutes (31 U.S.C. 3302); and
6 (4) the proceeds from such undercover operation may be used to offset
7 necessary and reasonable expenses incurred in such operation without regard to the
8 provisions of section 3617 of the Revised Statutes (31 U.S.C. 3302).
9 The authorization set forth in this section may be exercised only upon written certification of
10 the Commissioner of the Immigration and Naturalization Service, in consultation with the
11 Deputy Attorney General, that any action authorized by paragraph (1), (2), (3), or (4) is
12 necessary for the conduct of such undercover operation.
13 (b) As soon as practicable after the proceeds from an undercover investigative
14 operation, carried out under paragraphs (3) and (4) of subsection (a), are no longer necessary
15 for the conduct of such operation, such proceeds or the balance of such proceeds remaining
16 at the time shall be deposited into the Treasury of the United States as miscellaneous
17 receipts.
18 (c) If a corporation or business entity established or acquired as part of an
19 undercover operation under paragraph (2) of subsection (a) with a net value of over $50,000
20 is to be liquidated, sold, or otherwise disposed of, the Immigration and Naturalization
21 Service, as much in advance as the Commissioner or his or her designee determine
22 practicable, shall report the circumstances to the Attorney General, the Director of the Office

1 of Management and Budget, and the Comptroller General. The proceeds of the liquidation,
2 sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the
3 United States as miscellaneous receipts.

4 (d) The Immigration and Naturalization Service shall conduct detailed financial audits
5 of closed undercover operations on a quarterly basis and shall report the results of the audits
6 in writing to the Deputy Attorney General.

7 **SEC. 406. AMENDED DEFINITION OF AGGRAVATED FELONY.**

8 (a) IN GENERAL.— Section 101(a)(43) of the Immigration and Nationality Act (8
9 U.S.C. 1101(a)(43)), as amended by section 222 of the Immigration and Nationality
10 Technical Corrections Act of 1994 (Public Law 103-416), is amended —

11 (1) in subparagraph (N), by striking "of title 18, United States Code"; and

12 (2) in subparagraph (O), by striking "which constitutes" and all that follows
13 up to the semicolon at the end and inserting ", for the purpose of commercial
14 advantage".

15 (b) EFFECTIVE DATE OF CONVICTION.— Section 101(a)(43) of the Immigration and
16 Nationality Act (8 U.S.C. 1101(a)(43)), as amended by section 222(b) of the Immigration
17 and Nationality Technical Corrections Act of 1994 (Public Law 103-416) is amended by
18 adding at the end the following sentence:

19 "Notwithstanding any other provision of law, the term applies for all purposes
20 to convictions entered before, on, or after the date of enactment of this Act.".

1 (c) APPLICATION TO WITHHOLDING OF DEPORTATION.— Section 243(h) of the Immigration
2 and Nationality Act (8 U.S.C. 1253(h)) is amended in paragraph (2) by inserting "for which
3 the sentence imposed is 5 years or more" after "aggravated felony".

4 TITLE V — INSPECTIONS AND ADMISSIONS

5 **SEC. 501. CIVIL PENALTIES FOR BRINGING INADMISSIBLE ALIENS FROM**
6 **CONTIGUOUS TERRITORIES.**

7 Section 273 of the Immigration and Nationality Act (8 U.S.C. 1323) is amended by—
8 (a) striking "(other than from foreign contiguous territory)" from subsection (a), and
9 (b) striking "$3,000" and inserting "$5,000" in subsection (b).

10 **SEC. 502. DEFINITION OF STOWAWAY; EXCLUDABILITY OF STOWAWAY;**
11 **CARRIER LIABILITY FOR COSTS OF DETENTION.**

12 (a) Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101) is
13 amended by adding the following new subsection:

14 "(47) The term "stowaway" means any alien who obtains transportation
15 without the consent of the owner, charterer, master or person in command of any
16 vessel or aircraft through either concealment on board such vessel or aircraft or
17 evasion of that carrier's standard boarding procedures.".

18 (b) Section 237 of the Immigration and Nationality Act (8 U.S.C. 1227) is amended
19 as follows:

20 (1) by inserting in paragraph (a)(1) before the period at the end of the first
21 sentence the following: ", or unless the alien is an excluded stowaway who has
22 requested asylum or withholding of deportation and whose application has not been

1 adjudicated, or whose application has been denied but who has not exhausted any
2 remaining appeal rights";
3 (2) by inserting after the first sentence in paragraph (a)(1) the following
4 sentences:
5 "Any alien stowaway inspected upon arrival in the United States is an
6 alien who is excluded within the meaning of this section. The term
7 "alien" wherever appearing in this section shall include an excluded
8 stowaway. The provisions of section 237 concerning the deportation of
9 an excluded alien shall apply to the deportation of a stowaway under
10 section 273(d).".
11 (c) Section 273(d) of the Immigration and Nationality Act (8 U.S.C. 1323(d)) is
12 amended to read as follows:
13 "It shall be the duty of the owner, charterer, agent consignee, commanding
14 officer, or master of any vessel or aircraft arriving at the United States from
15 any place outside the United States to detain on board or at such other place as
16 may be designated by an immigration officer any alien stowaway until such
17 stowaway has been inspected by an immigration officer. Upon inspection, the
18 Attorney General, pursuant to regulation, may take immediate custody of any
19 stowaway and shall charge the owner, charterer, agent, consignee,
20 commanding officer, or master of the vessel or aircraft on which the stowaway
21 has arrived the costs of detaining the stowaway. It shall be the duty of the
22 owner, charterer, agent, consignee, commanding officer, or master of any

1 vessel or aircraft arriving at the United States from any place outside the
2 United States to deport any alien stowaway on the vessel or aircraft on which
3 such stowaway arrived or on another vessel or aircraft at the expense of the
4 vessel or aircraft on which such stowaway arrived when required to do so by
5 an immigration officer. Failure to comply with the provisions of this section
6 shall result in the imposition of a $5,000 fine, payable to the Commissioner as
7 offsetting collections for each alien stowaway. Pending final determination of
8 liability for such fine, no such vessel or aircraft shall be granted clearance,
9 except that clearance may be granted upon the deposit of a sum sufficient to
10 cover such fine, or of a bond with sufficient surety to secure the payment
11 thereof approved by the Commissioner. An alien stowaway inspected upon
12 arrival shall be considered an excluded alien under this Act. The provisions of
13 section 235 for detention of aliens for examination before a special inquiry
14 officer and the right of appeal provided for in section 236 shall not apply to
15 aliens who arrive as stowaways and no such aliens shall be permitted to land
16 in the United States, except temporarily for medical treatment, or pursuant to
17 such regulations as the Attorney General may prescribe for the ultimate
18 departure, removal or deportation of such alien from the United States. A
19 stowaway may apply for asylum or withholding of deportation, as provided in
20 sections 208 and 243(h) of this Act, pursuant to such regulations as the
21 Attorney General may establish.".

1 **SEC. 503. LIST OF ALIEN AND CITIZEN PASSENGERS ARRIVING OR**
2 **DEPARTING.**
3 Section 231(a) of the Immigration and Nationality Act (8 U.S.C. 1221(a)) is amended
4 by—
5 (a) striking the first sentence and inserting the following —
6 "In connection with the arrival of any person by water or by air at any
7 port within the United States from any place outside the United States,
8 it shall be the duty of the master or commanding officer, or authorized
9 agent, owner, or consignee of the vessel or aircraft, having such person
10 on board to deliver to the immigration officers at the port of arrival, or
11 other place designated by the Attorney General, electronic, typewritten
12 or printed lists or manifests of the persons on board such vessel or
13 aircraft.";
14 (b) striking in the second sentence "shall be prepared" and inserting "shall be
15 prepared and submitted"; and
16 (c) inserting after the second sentence the following sentence:
17 "Such lists or manifests shall contain, but not be limited to, for each
18 person transported, the person's full name, date of birth, gender,
19 citizenship, travel document number (if applicable), and arriving flight
20 number.".

1 **SEC. 504. ELIMINATION OF LIMITATIONS ON IMMIGRATION USER FEES FOR**
2 **CERTAIN CRUISE SHIP PASSENGERS.**
3 Section 286(e)(1) of the Immigration and Nationality Act (8 U.S.C. 1356) is amended
4 to read as follows:
5 "No fee shall be charged under subsection (d) for immigration inspection or
6 preinspection provided in connection with the arrival of any passenger aboard an
7 international ferry.".
8 **SEC. 505. TRANSPORTATION LINE RESPONSIBILITY FOR TRANSIT WITHOUT**
9 **VISA ALIENS.**
10 Section 238(c) of the Immigration and Nationality Act (8 U.S.C. 1228(c)) is amended
11 by inserting after the first sentence the following:
12 "Notwithstanding any other provision of this Act and in consideration for
13 bringing aliens transiting through the United States without a visa, transportation lines
14 shall agree, as part of any contract entered into under this section, to indemnify the
15 United States against any costs for the detention and removal from the United States
16 of any such alien who for any reason:
17 (a) is refused admission to the United States;
18 (b) fails to continue his or her journey to a foreign country within the time
19 prescribed by regulation; or
20 (c) is refused admission by the foreign country to which the alien is travelling
21 while transiting through the United States.".

1 **SEC. 506. AUTHORITY TO DETERMINE VISA PROCESSING PROCEDURES.**

2 Section 202(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1152(a)(1)) is
3 amended by inserting before the period at the end the following:

4 "; provided, however, that nothing in this subsection shall be construed to
5 limit the authority of the Secretary of State to determine the procedures for the
6 processing of immigrant visa applications or the locations where such applications will
7 be processed.".

8 **SEC. 507. BORDER SERVICES USER FEE.**

9 Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) is amended by
10 inserting the following new subsection:

11 "(s)(1) In addition to any other fee authorized by law, the Attorney General
12 shall charge and collect a fee, in United States currency, for border-related services
13 and enforcement, at ports selected by the states in which they are located to
14 participate in the border services user fee program. The fee shall be $1.50 for each
15 non-commercial conveyance and $.75 for each pedestrian, for every land border
16 entry, including persons arriving via ferries on any body of water which forms a part
17 of the borders and boundaries contiguous to the United States. Commercial
18 conveyances transporting passengers through passenger processing facilities shall be
19 charged the pedestrian fee for the operator and each passenger, except that crewmen
20 on ferries shall not be charged and conveyances on ferries will be charged the
21 conveyance fee. These funds shall be available to the Attorney General in accordance
22 with this section.

1 "(2) To the greatest extent practicable, fee revenues will be reinvested in
2 participating ports in amounts that are approximately proportionate to the amounts
3 collected at those ports and will not be used to substitute for the resources that would
4 be allocated to the ports if they were not in the program, but will be added to the
5 funds that would otherwise be dedicated to port spending.
6 "(3) (A) Each state that selects one or more ports to participate in the border
7 services user fee program may establish a Border Services Council for each
8 participating port.
9 "(B) The Councils shall develop spending priorities for the ports and
10 submit those priorities to the Attorney General or his or her designated
11 representative.
12 "(1) Port Services. The Attorney General or his or her
13 designee shall account for these priorities in reinvesting fee revenues to
14 fund additional permanent and temporary immigration inspectors and
15 related support; the addition, improvement, and modification of
16 facilities at ports of entry and border areas contiguous to those ports;
17 the expansion, operation, and maintenance of information systems and
18 advanced technologies related to port-related services and enforcement;
19 and the enhancement of facilitation of legal traffic and the reduction of
20 border violence and smuggling.
21 "(2) Port-related Enhancements. The Attorney General shall
22 grant all revenues available for expenses above and beyond the costs set

1 forth in subparagraph (1) to the Councils. These grant funds shall be
2 spent on enhancements outside the port that facilitate operation of the
3 port or otherwise enhance the flow of people or goods across the
4 border.
5 "(3) For ports without Border Councils, the Attorney General
6 or his or her designee shall make grants of all funds beyond those used
7 for the purposes of subparagraph (1) to other ports.
8 "(C) The membership of the Councils shall include:
9 "(1) three state representatives appointed by the Governor, at
10 least one of which shall represent business interests;
11 "(2) three local representatives appointed by the Mayor, the
12 County Board of Supervisors, the Town Council, or other local
13 governing body, as determined by the state; and
14 "(3) three federal representatives, including a Service
15 representative appointed by the Commissioner; a Customs
16 representative appointed by the Commissioner of the Customs Service;
17 and a GSA representative appointed by the Administrator of General
18 Services.
19 "(D) The Councils shall be exempt from the requirements of the
20 Federal Advisory Committees Act, 5 U.S.C. App. All Council meetings shall
21 be open to the public.

1 "(E) States that select ports for participation in the border services user
2 fee program may withdraw those ports from the program: (1) after amortizing
3 any improvements that have been made with revenues from the program and
4 (2) after providing one year's notice, to allow the federal agencies to comply
5 with the proper procedures for relocating or terminating inspectors and other
6 personnel.
7 "(4) The Attorney General may—
8 "(A) develop and implement special discounted fee programs for
9 frequent border crossers;
10 "(B) adjust the border crossing user fee periodically to compensate for
11 inflation, based on a national average of the consumer price index, and other
12 escalation in the cost of carrying out the purposes of this Act; and
13 "(C) contract with private and public sector entities to collect the fee
14 and require the collection of the fee to be performed by local bridge, tunnel
15 and other transportation authorities operating in the United States, including
16 ferry operators, adjacent to ports of entry, where such authorities exist. Such
17 authorities shall be reimbursed for administrative costs related to collection of
18 the fee.
19 "(5) Nothing in this section shall be construed to limit the methods used for
20 fee collection, including outbound collection of the fee.
21 "(6) All of the fees collected under this subsection shall be deposited as
22 offsetting governmental receipts in a separate account within the Treasury of the

1 United States, to be expended in accordance with subsection (2) of this section. Such
2 account shall be known as the Border Services User Fee Account.
3 "(7) START UP COSTS. — The Attorney General is authorized to advance from
4 the Working Capital Fund of the Department of Justice to the Border Services User
5 Fee Account the funds required to implement the Border Services User Fee. Receipts
6 from this Fee shall be transferred from the Border Services User Fee Account and
7 deposited as offsetting receipts to the Working Capital Fund of the Department of
8 Justice, up to the amount advanced by the Fund to liquidate the advance provided by
9 the Department of Justice Working Capital Fund.
10 "(8) EFFECTIVE DATE. — The Attorney General shall begin collection of the fee
11 in a participating State not later than twelve months from the date the State notifies
12 the Attorney General that it has selected ports to participate in the border services
13 user fee program.
14 "(9) PENALTIES FOR NONPAYMENT. — The Attorney General may establish
15 penalties for non-payment of fees as determined to be necessary to ensure compliance
16 with the provisions of this section.
17 "(10) REGULATIONS. — The Attorney General may prescribe such rules and
18 regulations as may be necessary to carry out the provisions of this section.".
19 TITLE VI — MISCELLANEOUS AND TECHNICAL AMENDMENTS
20 **SEC. 601. ALIEN PROSTITUTION.**
21 Section 2424 of title 18 of the United States Code is amended by —
22 (a) in the first paragraph of subsection (a)—

1 (1) striking "alien";

2 (2) inserting after "individual" the first time it appears ", knowing or in

3 reckless disregard of the fact that said individual is an alien,"; and

4 (3) striking "within three years after that individual has entered the United

5 States from any country, party to the arrangement adopted July 25, 1902, for the

6 suppression of the white-slave traffic".

7 (b) in the second paragraph of subsection (a) —

8 (1) striking "thirty" and inserting "five business"; and

9 (2) striking "within three years after that individual has entered the United

10 States from any country, party to the said arrangement for the suppression of the

11 white slave traffic".

12 (c) in the third paragraph of subsection (a), striking "two" and inserting "ten"

13 (d) in subsection (b), striking "." after "failing to comply with this section" and

14 inserting ", or for enforcement of the provisions of section 274A of the Immigration and

15 Nationality Act, as amended.".

16 **SEC. 602. GRANTS TO STATES FOR MEDICAL ASSISTANCE TO**

17 **UNDOCUMENTED IMMIGRANTS.**

18 (a) IN GENERAL.— In order to assist States to meet the costs of providing treatment to

19 certain aliens for emergency medical conditions, there are authorized to be appropriated

20 $150,000,000 for each of fiscal years 1996 through 2000.

1 (b) ALLOTMENTS.—

2 (1) From the sums appropriated pursuant to subsection (a) for a fiscal year, the
3 Secretary of Health and Human Services shall determine, with respect to each State
4 with a plan approved under title XIX of the Social Security Act, an allotment for each
5 such State which shall be the amount which bears the same ratio to the amount
6 appropriated for such fiscal year as the sum of such State's allotments for fiscal years
7 1988 through 1994 under section 204 of the Immigration Reform and Control Act of
8 1986 bears to the total of such allotments for all the States for such fiscal years.

9 (2) In the case of any State for which the allotment determined under
10 paragraph (1) for a fiscal year is less than 1 percent of the amount appropriated
11 pursuant to subsection (a) for such year, no allotment shall be made, and in the case
12 of any other State which notifies the Secretary that all or part of its allotment will not
13 be needed for the purpose for which it is available, the State's allotment shall be
14 made as determined under paragraph (1), and then reduced by the unneeded portion.
15 There shall be allotted to each of the remaining States the amount determined with
16 respect to each such State under paragraph (1), together with the additional allotments
17 provided below in this paragraph. The total of (A) the amount of allotments
18 determined under paragraph (1) but not made, and (B) the amount of the reductions
19 under the preceding sentence, shall also be allotted among each of the remaining
20 States as follows: the allotment of each such remaining State shall be increased by an
21 amount which bears the same ratio to such total as the allotment amount determined

1 with respect to such State for the fiscal year involved under paragraph (1) bears to the
2 sum of such allotment amounts for all such remaining States for such fiscal year.
3 (c) USE OF FUNDS.— Payments under this section may only be used to provide the non-
4 Federal share of expenditures under the State plan approved under title XIX of the Social
5 Security Act (as required by the last sentence of section 1902(a) of such Act) for care and
6 services necessary for the treatment of an emergency condition that are furnished to an alien
7 who is not a qualified alien under section 250A(c) of the Immigration and Nationality Act.
8 (d) PAYMENT OF FUNDS.— In order to receive funds under this section, the State shall
9 certify to the Secretary that funds will only be used for the purpose described in subsection
10 (c). Thereafter, the Secretary shall from time to time make payments to each State from its
11 allotment under subsection (b)(2). Payments under this section shall be made to the agency
12 responsible for administering or supervising the administration of the State's plan approved
13 under title XIX of the Social Security Act, and such payments shall be available to the State
14 for expenditure in accordance with this section in the year allotted or in any subsequent fiscal
15 year.
16 (e) DEFINITION.— As used in this section, the term "State" has the meaning given such
17 term, for purposes of title XIX of the Social Security Act, under section 1101(a)(1) of such
18 Act.
19 **SEC. 603. TECHNICAL CORRECTIONS TO VIOLENT CRIME CONTROL ACT**
20 **AND TECHNICAL CORRECTIONS ACT.**
21 (a)(1) Section 130003(c)(1) of the Violent Crime Control Act of 1994, Pub. L. 103-
22 322, is amended by striking "a new subsection (i)" and inserting "a new subsection (j)".

1 (2) The amendment made by this subsection shall be effective as if originally
2 included in section 130003(c)(1) of the Violent Crime Control Act of 1994.
3 (b)(1) Section 106(d)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1105a),
4 as amended by Section 130004(b) of the Violent Crime Control Act of 1994, Pub. L. 103-
5 322, is amended by striking "242A(b)(5)" and inserting "242A(b)(4)".
6 (2) The amendment made by this subsection shall be effective as if originally
7 included in section 130004(b) of the Violent Crime Control Act of 1994.
8 (c)(1)Section 242A(d)(4) of the Immigration and Nationality Act (8 U.S.C.
9 1252a(d)(4)), as added by section 223 of the Immigration and Nationality Technical
10 Corrections Act of 1994, Pub. L. 103-416, is amended by striking "without a decision on the
11 merits".
12 (2) The amendment made by this subsection shall be effective as if originally
13 included in section 223 of Pub. L. 103-416.
14 **SEC. 604. EXPEDITIOUS DEPORTATION.**
15 Section 225 of the Immigration and Nationality Technical Corrections Act of 1994,
16 Pub. L. 103-416, is amended by striking the words "section 242(i) of the Immigration and
17 Nationality Act (8 U.S.C. 1252(i))" and substituting in lieu thereof, "sections 242(i) or 242A
18 of the Immigration and Nationality Act (8 U.S.C. 1252(i) or 1252a)".
19 **SEC. 605. AUTHORIZATION FOR USE OF VOLUNTEERS.**
20 Notwithstanding any other provision of law, the Attorney General may accept,
21 administer, and utilize gifts of services from any person for the purpose of providing
22 administrative assistance to the Immigration and Naturalization Service in administering

1 programs relating to naturalization, adjudications at ports of entry, and removal of criminal
2 aliens. Nothing in this Section shall require the Attorney General to accept the services of
3 any person.

"IMMIGRATION ENFORCEMENT IMPROVEMENTS ACT OF 1995"
SECTION-BY-SECTION ANALYSIS

TITLE I -- BORDER ENFORCEMENT

Sec. 101. AUTHORIZATION FOR BORDER CONTROL STRATEGIES.

This section authorizes the appropriation to the Department of Justice of the funds necessary for expanded control at the land borders.

Sec. 102. BORDER PATROL EXPANSION.

This section mandates the Attorney General in fiscal years 1996, 1997, and 1998, to increase the number of border patrol agents to the maximum extent possible and consistent with standards of professionalism and training, by no fewer than 700 each year.

Sec. 103. LAND BORDER INSPECTION ENHANCEMENTS.

This section mandates the Attorney General, subject to appropriations or the availability of funds in the Border Services User Fee Account, to increase the number of land border inspectors in fiscal years 1996 and 1997 to a level that will provide full staffing to end undue delay and facilitate inspections at the land border ports of entry.

Sec. 104. INCREASED PENALTIES FOR FAILURE TO DEPART, ILLEGAL REENTRY, AND PASSPORT AND VISA FRAUD.

Section 104(a) directs the U.S. Sentencing Commission to increase the base offense level under section 242(e) for failure to depart under an order of deportation, and section 276(b) for illegal reentry after deportation to reflect the enhanced penalties provided in section 130001 of the Violent Crime Control Act of 1994 (VCCA).

The VCCA made failure to depart after a final order of deportation punishable by imprisonment of not more than four years, or not more than 10 years if the alien is deportable for alien smuggling, has committed certain other criminal offenses, has failed to register, has falsified documents, or is engaged in security-related espionage or terrorism.

The VCCA also provided for punishment of 10 years imprisonment of any alien who reenters subsequent to deportation for conviction or commission of three or more misdemeanors involving drugs, crimes against the person, or

both. Imprisonment for aliens who reenter after deportation for an aggravated felony was raised from 15 to 20 years.

Section 104(b) directs the Sentencing Commission to make appropriate increases in the base offense level for sections 1541-46 of Title 18, U.S.C. (passport and visa fraud) to reflect the enhanced penalties provided in section 130009 of the VCCA.

The VCCA increases the penalties for passport and visa fraud to up to 10 years imprisonment in most cases; and changes prior law by eliminating the option for fines instead of imprisonment and increasing the maximum number of years in prison.

Sec. 105. PILOT PROGRAM ON INTERIOR REPATRIATION OF DEPORTABLE OR EXCLUDABLE ALIENS.

This section permits the Attorney General to establish a pilot program for deportation of persons to the interior, rather than the border area, of a contiguous country. It mandates a report to Congress not later than 3 years after initiation of any pilot program.

Sec. 106. SPECIAL EXCLUSION IN EXTRAORDINARY MIGRATION SITUATIONS.

This section will aid with border control by allowing aliens to be excluded from entering the United States during extraordinary migration situations or when the aliens are arriving on board smuggling vessels. Persons with a credible fear of persecution in their countries of nationality will be allowed to enter the United States to apply for asylum.

Section 106(a) amends section 235 of the Immigration and Nationality Act (INA) to clarify that an alien in exclusion proceedings who has arrived from a foreign contiguous country may be returned to that country while the proceedings are pending.

Section 106(b) amends section 235 of the INA, relating to inspection requirements, by adding two new subsections, 235(d) and 235(e). New subsection (d) allows the Attorney General to order an alien excluded and deported without a hearing before an immigration judge. This authority may be exercised when the Attorney General declares an extraordinary migration situation to exist (because of the number of aliens en route to or arriving in the United States, including by aircraft) or when aliens are brought to the United States or arrive in the United States on board a smuggling vessel. (This language is virtually identical to that passed by the full Senate Judiciary Committee in August 1994 as a substitute for the general expedited exclusion authority proposed in S. 1333.)

A person will not be subject to expedited exclusion if he or she claims asylum and establishes a credible fear of persecution in his or her country of nationality. However, a person may be returned to a third country in which he or she has no credible fear of persecution or of return to persecution.

There is no administrative review of an order of special exclusion except for persons previously admitted to the United States as lawful permanent residents. Asylum denials would be reviewable by an asylum officer, but there is no judicial review of the asylum denial. (See section 308, below, for amendments to the judicial review provisions of the INA, which limit judicial review of a special exclusion order to certain issues through habeas proceedings.)

New subsection 235(e) provides that a person may not attack prior orders of deportation as a defense against penalties for illegal reentries.

Sec. 107. IMMIGRATION EMERGENCY PROVISIONS.

Section 107(a) amends section 404(b) of the INA to permit reimbursement of other Federal agencies, as well as the States, out of the immigration emergency fund. Reimbursements could be made to other countries for repatriation expenses without the requirement that the President declare an immigration emergency.

Section 107(b) amends 50 U.S.C. 191 (Magnuson Act) to permit the control and seizure of vessels when the Attorney General determines that urgent circumstances exist due to a mass migration of aliens.

Section 107(c) amends section 101(a) of the INA by authorizing the Attorney General to designate local enforcement officers to enforce the immigration laws when the Attorney General determines that an actual or imminent mass migration of aliens presents urgent circumstances.

Sec. 108. COMMUTER LANE PILOT PROGRAMS.

To facilitate border management, this section amends section 286(q) of the INA and the 1994 Department of Justice Appropriations Act to permit expansion of commuter lane pilot programs at land borders.

It also amends the 1994 Justice Appropriations Act to allow the Immigration and Naturalization Service (INS) to establish these projects on the Northern, as well as the Southern, border.

TITLE II -- CONTROL OF UNLAWFUL EMPLOYMENT AND VERIFICATION

Sec. 201. REDUCING THE NUMBER OF EMPLOYMENT VERIFICATION DOCUMENTS.

The provisions of this section will strengthen enforcement of employer sanctions. These provisions will assist interior enforcement and decrease nonimmigrant overstays by making it more difficult for illegal aliens to gain unlawful employment.

Section 201(a) amends section 274A(b)(2) of the INA to permit the Attorney General to require any individual to provide his or her Social Security account number on any forms required as part of employment verification process.

Section 201(b) amends section 274A(b)(1)(B) of the INA to eliminate three types of documents that may be presented to establish both an individual's employment authorization and identity.

Under current law, by statute and regulation, an individual may present 1 or more of up to 29 documents to establish employment authorization, identity, or both.

Documents that now establish both employment authorization and identity are a U.S. passport, certificate of U.S. citizenship, certificate of naturalization, unexpired foreign passport with work authorization, or a resident alien card or other alien registration card containing a photograph and work authorization. Under this amendment, only a U.S. passport, resident alien card, or alien registration card or other employment authorization document issued by the Attorney General would establish both employment authorization and identity.

Subsection (b) also amends 274A(b)(1)(C) of the INA to eliminate the use of a U.S. birth certificate as a document that can establish work authorization.

Subsections (a) and (b) would apply with respect to hirings occurring not later than 180 days after enactment, as designated by the Attorney General.

Sec. 202. EMPLOYMENT VERIFICATION PILOT PROJECTS.

This section provides for the Attorney General, working with the Commissioner of Social Security, to conduct pilot projects to test methods for reliable and nondiscriminatory verification of employment eligibility. Pilot programs may include the expansion of the telephone verification system up to 1000 employers; a simulated linkage of INS and Social Security Administration (SSA) databases; a process to allow employers to verify employment eligibility through SSA records using INS records as a cross-check; and improvements and additions to the INS and SSA databases to make

them more accessible for employment verification purposes. Pilots are to run for 3 years with an option for a 1-year extension and are to be limited to certain geographical locations. The Attorney General may require employers participating in the pilots to post notices informing employees of their participation and of procedures for filing complaints with the Attorney General regarding the operation of the pilots.

At the end of the 3-year period, the Attorney General must report to Congress regarding the cost effectiveness, technical feasibility, resistance to fraud, and impact upon privacy and anti-discrimination policies of the various pilot projects.

Sec. 203. CONFIDENTIALITY OF DATA UNDER EMPLOYMENT ELIGIBILITY VERIFICATION PILOT PROJECTS.

Section 203(a) provides for the confidentiality of individual information collected in the operation of pilot projects under section 202. No individual information may be made available to any Government agencies, employers, or other persons other than as necessary to verify that the employee is not an authorized alien. In addition, the information may be used for enforcement of the INA and for criminal enforcement of the immigration-related fraud provisions of Title 18 (sections 911, 1001, 1028, 1546, and 1621).

Pursuant to section 203(b), participating employers must have in place procedures to safeguard the personal information and notify employees of their right to request correction or amendment of their records. These procedures will be detailed in a standard memorandum of understanding signed by INS and each employer.

Section 203(c) makes the provisions, rights and remedies of 5 U.S.C. 552a(a)(2), applicable to all work-authorized persons who are subject to work authorization verification under section 202 with respect to records used in the course of a pilot project to make a final determination concerning an individual's work authorization.

Pursuant to section 203(d), employers and other persons are subject to civil penalties from $1,000 to $10,000 for the willful and knowing unlawful disclosure or use of information or failure to comply with subsection 203(b).

Section 203(e) states that nothing in this section shall limit the rights and remedies otherwise available to U.S. citizens and lawful permanent residents under 5 U.S.C. 552a.

Section 203(f) states that nothing in this section or section 202 shall be construed to authorize, directly or indirectly, the issuance or use of national

identification cards or the establishment of a national identification card.

Sec. 204. COLLECTION OF SOCIAL SECURITY NUMBERS.

To facilitate the use of Social Security numbers in immigration-related activities, this section adds a new subsection 264(f) to the INA to clarify that the Attorney General may require any alien to provide his or her Social Security number for inclusion in any record maintained by the Attorney General. (This is a companion to section 201(a), described above.)

Sec. 205. EMPLOYER SANCTIONS PENALTIES.

Section 205(a) amends section 274A(e)(4)(A) of the INA to increase the civil penalties for employer sanctions for first violations from the current range of $250 to $2,000 to a range of $1,000 to $3,000. The subsection also increases penalties for second violations from the current range of $2,000 to $5,000 to a range of $3,000 to $8,000. The penalties for subsequent violations are increased from a range of $3,000 to $10,000 to a range of $8,000 to $25,000.

Section 205(b) amends section 274A(e)(5) of the INA to increase the penalties for employer sanctions paperwork violations from the current range of $100 to $1,000 to a range of $200 to $5,000.

Section 205(c) amends section 274A(f)(1) of the INA to increase the criminal penalty for pattern and practice violations of employer sanctions to a felony offense, increasing the applicable fines from $3,000 to $7,000 and the criminal sentence which may be imposed from not more than six months to not more than two years.

Sec. 206. CRIMINAL PENALTIES FOR DOCUMENT FRAUD.

Section 206(a) amends 18 U.S.C. 1028(b)(1), on identification document fraud, to increase the maximum term of imprisonment from 5 to 10 years. The maximum term of imprisonment is up to 15 years if committed to facilitate a drug trafficking offense, and up to 20 years if committed to facilitate an act of international terrorism.

Section 206(b) directs the Sentencing Commission promptly to make appropriate increases in all of the base offense levels for immigration document fraud offenses under 18 U.S.C. 1028.

Sec. 207. CIVIL PENALTIES FOR DOCUMENT FRAUD.

Section 207(a) amends section 274C(a) of the INA to apply civil penalties in cases where an alien has presented a travel document upon boarding a vessel for United States, but fails to present the document upon arrival ("document-destroyers"). A discretionary waiver of these penalties is provided if the alien is subsequently granted asylum.

Subsection (a) also applies civil penalties against a person who prepares, files, or assists another person in preparing or filing, certain false documents in reckless disregard of the fact that the information is false or does not relate to the applicant.

Section 207(b) conforms section 274(c)(d)(3) to refer to "each document that is the subject of a violation under subsection (a)". This will clarify that an alien who does not present a document (because it was destroyed) is subject to penalties.

Sec. 208. SUBPOENA AUTHORITY.

Section 208(a) amends section 274A(e)(2) of the INA to clarify that immigration officers may issue subpoenas for investigations of employer sanctions offenses under section 274A.

Section 208(b) adds a new section 294 to the INA to authorize the Secretary of Labor to issue subpoenas for investigations relating to the enforcement of any immigration program. It makes the authority contained in sections 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49, 50) available to the Secretary of Labor. The Federal Trade Commission Act provisions allow access to documents and files of corporations, including the authority to call witnesses and require production of documents.

Sec. 209. INCREASED PENALTIES FOR EMPLOYER SANCTIONS INVOLVING LABOR STANDARDS VIOLATIONS.

Section 209(a) adds a new paragraph 274A(e)(10) to the INA to authorize an administrative law judge to increase the civil penalties provided under employer sanctions to an amount up to two times the normal penalties, for willful or repeated violations of: (i) the Fair Labor Standards Act (29 U.S.C. 201 et seq.); (ii) the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.); and (iii) the Family and Medical Leave Act (29 U.S.C. 2601 et seq.).

Section 209(b) adds a new paragraph, section 274B(g)(4), to the INA

to make the same provisions in (a) above applicable in section 274B, unfair immigration-related employment practices.

Sec. 210. INCREASED CIVIL PENALTIES FOR UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES.

This section amends section 274B(g)(2)(B) of the INA to increase the civil penalties applicable for unfair immigration-related employment practices to make the penalties comparable to the increased proposed for employer sanctions violations.

The penalty for a first violation would be increased from the current range of $250 to $2,000 to a range of $1,000 to $3,000. The penalty for a second violation would be increased from the current range of $2,000 to $5,000 to a range of $3,000 to $8,000. The penalty for more than two violations would be increased from the current range of $3,000 to $10,000 to a range of $8,000 to $25,000.

The penalty for a documents violation, that is, requesting more or different documents than are required or refusing to honor documents tendered that on their face reasonably appear to be genuine, would be increased from a range of $100 to $1,000 to a range of $200 to $5,000.

Sec. 211. RETENTION OF EMPLOYER SANCTIONS FINES FOR LAW ENFORCEMENT PURPOSES.

This section amends section 286(c) of the INA to credit to INS appropriations any employer sanction penalties received in excess of $5,000,000. These funds will be used to fund employer sanctions enforcement and related expenses. The funds credited to the account remain available until used.

Sec. 212. TELEPHONE VERIFICATION SYSTEM FEE.

This section amends section 274A(d) of the INA to authorize INS to collect and retain the fees paid to use the telephone verification system pilot project. These fees are to be credited to the INS Salaries and Expenses appropriation as offsetting collections solely for employer verification services costs.

Sec. 213. AUTHORIZATIONS.

This section provides for blanket authorization for appropriation of funds needed to carry out this title.

TITLE III -- ILLEGAL ALIEN REMOVAL

Sec. 301. CIVIL PENALTIES FOR FAILURE TO DEPART.

This section adds a new section 274D to the INA, to subject aliens who willfully fail to depart after an order of exclusion or deportation to a $500-per day penalty (payable to the INS Commissioner as offsetting collections). This section would not diminish the criminal penalties at section 242(e) for failure to depart or any other section of the INA.

Sec. 302. JUDICIAL DEPORTATION.

Section 302(a) amends section 242A(d)(1) of the INA to authorize a U.S. district court to enter a judicial order of deportation when the court imposes a sentence that causes the alien to be deportable or when the alien previously has been convicted of an aggravated felony. Current law limits judicial deportation to the time of sentencing for an aggravated felony conviction.

Section 302(b) amends section 242A(d)(3) to provide that a judicial order of deportation or denial of the Government's motion for such an order may be appealed by either party, as part of the underlying criminal case.

Section 302(c) amends section 242A(d)(4) of the INA to strike the reference to "a decision on the merits." This change clarifies that the INS may place an alien in administrative deportation proceedings if a Federal district court judge has declined the Government's petition to issue a judicial deportation order.

Section 302(d) amends 18 U.S.C. 3583(d)(3) to provide that a court may set as a condition of supervised release that an alien defendant be ordered deported by the Attorney General and that the alien remain outside the United States. This amendment addresses an issue in litigation where district court judges have read this section to authorize them to order deportation.

Sec. 303. CONDUCT OF PROCEEDINGS BY ELECTRONIC MEANS.

This section amends section 242(b) of the INA to permit deportation proceedings to be conducted by video conference or telephone, saving travel and hearing time and resources. The alien must consent to such a hearing by telephone if it is to be a full contested evidentiary hearing on the merits.

Sec. 304. SUBPOENA AUTHORITY.

This section clarifies the authority of immigration judges to issue subpoenas in proceedings under sections 236 (exclusion) and 242 (deportation) of the INA.

Sec. 305. STIPULATED EXCLUSION AND DEPORTATION.

This section amends sections 236 and 242 of the INA to permit the entry of orders of exclusion and deportation stipulated to by the alien and the INS, and to provide that stipulated orders are conclusive. Department of Justice regulations will provide that an alien who stipulates to an exclusion or deportation order waives all appeal rights.

Sec. 306. STREAMLINING APPEALS FROM ORDERS OF EXCLUSION AND DEPORTATION.

This section revises and amends section 106 of the INA. It provides for judicial review of final administrative orders of both deportation and exclusion through a petition for review, filed within 30 days after the final order in the judicial circuit in which the immigration judge completed the proceedings. Under current law, an order of exclusion is appealable to a district court and then appealable to the court of appeals.

The Attorney General's findings of fact shall be conclusive unless a reasonable adjudicator would be compelled to conclude to the contrary.

As in current law, a court may review a final order only if the alien has exhausted all administrative remedies. This section adds a requirement that no other court may decide an issue, unless the petition presents grounds that could not have been presented previously or the remedy provided was inadequate or ineffective to test the validity of the order.

A new section 106(e) provides that a petition for review filed by an alien against whom a final order of deportation has been issued under section 242A (aggravated felonies) will be limited to whether the alien: is the alien described in the order; has been convicted after entry of an aggravated felony; and was afforded the appropriate deportation proceedings.

Under section 106(f) there is no judicial review of an individual order of special exclusion or of any other challenge relating to the special exclusion provisions. The only authorized review is through a habeas corpus proceeding, limited to determinations of alienage, whether the petitioner was ordered specially excluded, and whether the petitioner can prove by a preponderance of the evidence that he or she is an alien admitted for permanent residence and is entitled to further inquiry. In such cases the court may order no relief other than a hearing under section 236 or a determination in accordance with sections 235(a) or 273(d). There shall be no review of whether the alien was actually

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excludable or entitled to relief.

Sec. 307. SANCTIONS AGAINST COUNTRIES REFUSING TO ACCEPT DEPORTATION OF THEIR NATIONALS.

This section amends section 243(g) of the INA to permit the Secretary of State to refuse issuance of all visas to nationals of countries that refuse to accept deportation of their nationals from the United States. Under current law, the Secretary of State has the authority only to refuse to issue immigrant visas.

Sec. 308. CUSTODY OF ALIENS CONVICTED OF AGGRAVATED FELONIES.

Section 308(a) amends section 236(e) of the INA to permit the Attorney General to release an aggravated felon alien who is in exclusion proceedings from detention if the release is necessary to provide protection to a witness, a potential witness, or a person cooperating with a major criminal investigation, or to protect an immediate family member of such a person.

Section 308(b) amends section 242(a)(2) of the INA to permit the Attorney General to release an aggravated felon alien who is in deportation proceedings from detention if the release is necessary to provide protection to a witness, a potential witness, or a person cooperating with a major criminal investigation, or to protect an immediate family member of such a person.

Sec. 309. LIMITATIONS ON RELIEF FROM EXCLUSION AND DEPORTATION.

Section 309(a) amends section 212(c) of the INA to limit relief under section 212(c) of the INA to a person who has been lawfully admitted to the U.S. for at least 7 years, has been a lawful permanent resident for at least 5 years, and is returning to such residence after having temporarily proceeded abroad not under an order of deportation. The 5-year and 7-year periods would end upon initiation of exclusion proceedings. Also, relief under INA section 212(c) will be available only to persons in exclusion proceedings. Persons in deportation proceedings must now apply for cancellation of deportation (described below). Finally, an aggravated felon will be eligible for section 212(c) relief only if he or she has been sentenced to less than 5 years, in the aggregate, for the aggravated felony conviction or convictions. Time actually served will not be a factor in determining eligibility.

Section 309(b) amends section 244 of the INA to consolidate two existing forms of relief from deportation (suspension of deportation under section 244 and a waiver of deportability under section 212(c)) into one form of relief, "Cancellation of Deportation." A lawful permanent resident (LPR) would be eligible for cancellation if he or she has been an LPR for 5 years, has resided in the U.S. after lawful admission for 7 years, and has not been convicted of

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an aggravated felony or felonies for which he or she has been sentenced, in the aggregate, to a term or terms of 5 years or more. A non-LPR would be eligible for relief if he or she had been continuously physically present for 7 years, was of good moral character, and could establish extreme hardship to the alien or the alien's U.S. citizen spouse or child if deported. The 7-year and 5-year periods end with the issuance of an Order to Show Cause initiating deportation proceedings. This provision would clarify an area of the law regarding the cutoff periods for these benefits that have given rise to significant litigation and different rules being applied in different judicial circuits.

This section also amends the existing provisions for voluntary departure. Prehearing voluntary departure may be granted to any alien other than an aggravated felon. The Attorney General may require a voluntary departure bond. At the conclusion of a deportation proceeding, voluntary departure may be granted only if the person has been of good moral character for 5 years prior to the order, is not deportable under certain criminal or national security grounds, and demonstrates by clear and convincing evidence that he or she has the means to depart the United States and intends to do so. The alien would be required to post a voluntary departure bond. An alien would be subject to civil penalties of $500 per day for failure to depart within the time set for voluntary departure. Judicial review of voluntary departure orders would be limited.

An alien would be subject to civil penalties of $500 per day for failure to depart within the time set for voluntary departure. Judicial review of a voluntary departure order would be prohibited if relief was granted for 30 days or more. Judicial review of a denial of voluntary departure could not stay deportation of an alien after 60 days had passed from issuance of an order of deportation.

Section 309(c) makes conforming amendments to sections 242(b) and 242B(e) of the INA.

Section 309(d) provides that the effective date of this section is the date of enactment, except that subsections (a) and (b), relating to the determination of when the period of residency or of continuous physical presence ends, are applicable only to orders to show cause filed on or after the date of enactment. The conforming amendments made by subsection (c) are effective on enactment.

Sec. 310. RESCISSION OF LAWFUL PERMANENT RESIDENT STATUS.

This section amends section 246(a) of the INA to clarify that the Attorney

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General is not required to rescind the lawful permanent resident status of a deportable alien separate and apart from the deportation proceeding under section 242 or 242A. This provision will allow INS to place a lawful permanent resident who has become deportable into deportation proceedings immediately.

Sec. 311. INCREASING EFFICIENCY IN REMOVAL OF DETAINED ALIENS.

This section authorizes appropriations for the Attorney General to conduct a pilot program or programs to study methods for increasing the efficiency of deportation and exclusion proceedings against detained aliens by increasing availability of pro bono counseling and representation. The Attorney General may use funds to award grants to not-for-profit organizations assisting aliens.

TITLE IV -- ALIEN SMUGGLING CONTROL

Sec. 401. WIRETAP AUTHORITY FOR INVESTIGATIONS OF ALIEN SMUGGLING AND DOCUMENT FRAUD.

This section amends 18 U.S.C. 2516(l) to give INS the authority to use wiretaps in investigations of alien smuggling and document fraud.

Sec. 402. APPLYING RACKETEERING OFFENSES TO ALIEN SMUGGLING.

This section amends 18 U.S.C. 1961(l) to include the offenses relating to alien smuggling as predicate offenses for racketeering charges. The application of RICO to smuggling will be limited to those offenses committed for commercial advantage or private financial gain.

Sec. 403. EXPANDED ASSET FORFEITURE FOR SMUGGLING OR HARBORING ALIENS.

This section amends section 274 of the INA to authorize seizure and forfeiture of real and personal property in cases of alien smuggling and harboring. Current forfeiture authority is limited to conveyances. INS must give notice to owners of an intent to forfeit.

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Sec. 404. INCREASED CRIMINAL PENALTIES FOR ALIEN SMUGGLING.

This section amends section 274(a)(1)(A) of the INA to add conspiracy and aiding and abetting to the smuggling offenses, with offenders being subject to a fine, and/or 10 years imprisonment for conspiracy and/or 5 years imprisonment for aiding and abetting. It makes it a criminal offense to hire an alien with the knowledge that the alien is not authorized to work and that the alien was smuggled into the U.S. The penalty for violating this section is a fine and/or up to 5 years imprisonment.

This section also amends section 274(a)(2) of the INA to increase the penalties for multiple smuggling offenses (and for a new offense for smuggling aliens who will be committing crimes) to not less than 3 years or more than 10 years of imprisonment.

Sec. 405. UNDERCOVER INVESTIGATION AUTHORITY.

This section authorizes INS to use appropriated funds to lease space, establish, acquire, or operate business entities for undercover operations, so-called "proprietaries" to facilitate undercover immigration-related criminal investigations. INS may deposit funds generated by these operations or use them to offset operational expenses.

Sec. 406. AMENDED DEFINITION OF AGGRAVATED FELONY.

Section 406(a) amends section 101(a)(43)(N) of the INA, to strike the reference to title 18, U.S.C., in defining alien smuggling as an aggravated felony. This amendment will result in the inclusion of the smuggling offenses in section 274 of the INA into the definition of aggravated felony. It also amends the definition of "aggravated felony" by adding a requirement that the offense of trafficking in document fraud be "for the purpose of commercial advantage."

Section 406(b) amends section 101(a)(43) to provide that the term "aggravated felony" applies for all purposes to convictions entered before, on, or after the date of enactment of this Act. This amendment will end controversy on which convictions fall within the definition.

Section 406(c) amends section 243(h) of the INA to provide that for purposes of determining whether an alien is ineligible for withholding of deportation based on conviction for an aggravated felony, the alien must have been sentenced to five years or more. Currently any aggravated felon is ineligible for withholding of deportation.

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TITLE V – INSPECTIONS AND ADMISSIONS

Sec. 501. CIVIL PENALTIES FOR BRINGING INADMISSIBLE ALIENS FROM CONTIGUOUS TERRITORIES.

This section amends section 273(a) to establish the illegality of bringing inadmissible aliens from foreign contiguous territories. It amends section 273(b) of the INA to increase from $3,000 to $5,000 the fine for bringing in an alien unlawfully.

Sec. 502. DEFINITION OF STOWAWAY; EXCLUDABILITY OF STOWAWAY; CARRIER LIABILITY FOR COSTS OF DETENTION.

Section 502(a) adds a definition of stowaway to the INA (section 101(a)) to mean any alien who obtains transportation without consent or through concealment or evasion.

Section 502(b) amends section 237 of the INA to clarify that a stowaway is subject to immediate exclusion and deportation. However, it allows a stowaway to apply for asylum or withholding of deportation.

Section 502(c) amends section 273(d) of the INA to require the carrier to detain a stowaway until he or she has been inspected by an immigration officer and to pay for any detention costs incurred by the Attorney General should the alien be taken into custody. It amends section 273(d) by raising the fine for failure to remove a stowaway from $3,000 to $5,000 per stowaway, payable to the Commissioner as offsetting collections.

Sec. 503. LIST OF ALIEN AND CITIZEN PASSENGERS ARRIVING OR DEPARTING.

This section amends section 231(a) of the INA to clarify the content of and format for passenger lists and manifests to be prepared and submitted by carriers to INS, including name, date of birth, gender, citizenship, travel document number, and arriving flight number.

Sec. 504. ELIMINATION OF LIMITATIONS ON IMMIGRATION USER FEES FOR CERTAIN CRUISE SHIP PASSENGERS.

This section amends section 286(e)(1) of the INA to remove the current exemption from payment of the $6 immigration user fee for cruise ship passengers.

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Sec. 505. TRANSPORTATION LINE RESPONSIBILITY FOR TRANSIT WITHOUT VISA ALIENS.

This section amends section 238(c) of the INA to provide that a carrier which has entered into an agreement with the United States to transport aliens without visas through the U.S. must agree to indemnify the United States for any costs of detaining or removing such an alien.

Sec. 506. AUTHORITY TO DETERMINE VISA PROCESSING PROCEDURES.

This section amends section 202(a)(l) of the INA, which provides that visas must be issued without discrimination because of race, sex, nationality, place of birth, or place of residence, to state that nothing in this subsection limits the authority of the Secretary of State to determine procedures for processing visas. This section would reverse a recent judicial decision which interpreted the existing language to require the Secretary of State to process visas in a specific location.

Sec. 507. BORDER SERVICES USER FEE.

This section adds a new subsection 286(s) to the INA, authorizing the Attorney General to charge and collect a border services user fee for every land border entry, including persons arriving at U.S. borders by ferry, at participating ports-of-entry. The fee is to be collected in U.S. currency and is set at $1.50 for each non-commercial conveyance, and $.75 for each pedestrian. Commercial passenger conveyances will be charged the pedestrian fee for the operator and each passenger, except that ferry crewmen are not subject to the fee.

The section provides for each State to determine at which, if any, ports the fee is to be collected. A State that exercises this local option may establish a Border Service Council for each port to develop priorities for use of the fees collected, for submission to the Attorney General. The Attorney General must consider these priorities in funding port services. Funds remaining after payment of the costs of port services are to be given to the Councils to spend on port-related enhancements. The Attorney General will allocate enhancement funds for ports that do not set up a Border Service Council.

The Council membership must include three state representatives appointed by the Governor including at least one business representative, three local representatives, and three federal representatives.

A State may withdraw a port from participation after amortizing improvements and after one year's notice.

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The Attorney General is authorized to provide special discounts for frequent border crossers, to adjust the fee to compensate for inflation and cover increased costs, and to contract with private and public sectors to collect the fee. The Attorney General may establish such penalties for non-payment of the fees as are necessary to ensure compliance. The Attorney General is authorized to advance to the Border Services User Fee Account the amount of the start up costs from the Department of Justice's Working Capital Fund. Receipts from the fee will be transferred back from the Border Services User Fee Account and deposited as offsetting receipts to the Working Capital Fund to cover this advance.

The Attorney General will begin collecting the fee not later than 12 months from the date the State notifies the Attorney General that it has selected ports to participate in the fee program.

TITLE VI - MISCELLANEOUS AND TECHNICAL AMENDMENTS

Sec. 601. ALIEN PROSTITUTION.

This section amends section 2424 of Title 18, U.S.C. (relating to filing statements with INS when bringing in aliens for immoral purposes) to add as a requirement for the offense that a person bringing in an alien for prostitution do so "knowing[ly] or in reckless disregard." It also deletes the statutory reference to signatories to the 1902 international convention and increases the maximum sentence for the offense from two to ten years.

Sec. 602. GRANTS TO STATES FOR MEDICAL ASSISTANCE TO UNDOCUMENTED IMMIGRANTS.

This section authorizes appropriations to assist States in providing treatment to certain aliens for emergency medical conditions.

Sec. 603. TECHNICAL CORRECTIONS TO VIOLENT CRIME CONTROL ACT AND TECHNICAL CORRECTIONS ACT.

Section 603(a) amends section 130003(c)(1) of the Violent Crime Control Act of 1994, Pub. L. 103-322. Section 130003(c)(1) created a new subsection 245(i) of the Act to provide for the adjustment of status for certain aliens in S nonimmigrant status. A technical correction is necessary because section 506(b) of the Commerce, Justice, and State appropriations statute, P.L. 103-317 (Aug. 26, 1994) had previously created a new subsection 245(i) to provide for the adjustment of status of certain aliens previously ineligible for such privilege. This proposed statutory amendment would redesignate the S-related adjustment provision as section 245(j) of the Act.

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Section 603(b) amends section 130004(b)(3) of P.L. 103-322 by removing an incorrect reference to section 242A(b)(5) and replacing it with proper reference to paragraph (b)(4).

Sec. 604. EXPEDITIOUS DEPORTATION.

This section amends Section 225 of the Immigration and Nationality Technical Corrections Act of 1994, P.L. 104-416, by adding a reference to section 242A of the INA (which requires the Attorney General to commence deportation proceedings promptly) to the existing reference to section 242(i) (also requiring expeditious deportation), so that section 225 now provides that neither of those provisions create any enforceable substantive or procedural right or benefit against the United States.

Sec. 605. AUTHORIZATION FOR USE OF VOLUNTEERS.

This section authorizes the Attorney General to accept and use unpaid personnel to assist INS administratively in naturalization, adjudications at ports of entry, and to remove criminal aliens.