

IMMIGRATION ACT OF 1990

[Public Law 101-649, Nov. 29, 1990]

[As Amended Through P.L. 104-208, Enacted September, 1996]

【Currency: This publication is a compilation of the text of Public Law 101-649. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

SECTION 1. SHORT TITLE; REFERENCES IN ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Immigration Act of 1990”.

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

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

Sec. 1. Short title; references in Act; table of contents.

TITLE I—IMMIGRANTS

Subtitle A—Worldwide and Per Country Levels

- Sec. 101. Worldwide levels.
- Sec. 102. Per country levels.
- Sec. 103. Treatment of Hong Kong under per country levels.
- Sec. 104. Asylee adjustments.

Subtitle B—Preference System

PART 1—FAMILY-SPONSORED IMMIGRANTS

- Sec. 111. Family-sponsored immigrants.
- Sec. 112. Transition for spouses and minor children of legalized aliens.

PART 2—EMPLOYMENT-BASED IMMIGRANTS

- Sec. 121. Employment-based immigrants.
- Sec. 122. Changes in labor certification process.
- Sec. 123. Definitions of managerial capacity and executive capacity.
- Sec. 124. Transition for employees of certain United States businesses operating in Hong Kong.

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- Sec. 131. Diversity immigrants.
- Sec. 132. Diversity transition for aliens who are natives of certain adversely affected foreign states.

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- Sec. 133. One-year diversity transition for aliens who have been notified of availability of NP-5 visas.
 Sec. 134. Transition for displaced Tibetans.

Subtitle C—Commission and Information

- Sec. 141. Commission on Immigration Reform.
 Sec. 142. Statistical information systems.

Subtitle D—Miscellaneous

- Sec. 151. Revision of special immigrant provisions relating to religious workers (C special immigrants).
 Sec. 152. Special immigrant status for certain aliens employed at the United States mission in Hong Kong (D special immigrants).
 Sec. 153. Special immigrant status for certain aliens declared dependent on a juvenile court (J special immigrants).
 Sec. 154. Permitting extension of period of validity of immigrant visas for certain residents of Hong Kong.
 Sec. 155. Expedited issuance of Lebanese second and fifth preference visas.

Subtitle E—Effective Dates; Conforming Amendments

- Sec. 161. Effective dates.
 Sec. 162. Conforming amendments.

TITLE II—NONIMMIGRANTS

Subtitle A—General and Permanent Provisions

- Sec. 201. Revision and extension of the visa waiver pilot program for foreign tourists (B nonimmigrants).
 Sec. 202. Denial of crewmember status in the case of certain labor disputes (D nonimmigrants).
 Sec. 203. Limitations on performance of longshore work by alien crewmen (D nonimmigrants).
 Sec. 204. Treaty traders (E nonimmigrants).
 Sec. 205. Temporary workers and trainees (H nonimmigrants).
 Sec. 206. Intra-company transferees (L nonimmigrants).
 Sec. 207. New classification for aliens with extraordinary ability, accompanying aliens, and athletes and entertainers (O & P nonimmigrants).
 Sec. 208. New classification for international cultural exchange programs (Q nonimmigrants).
 Sec. 209. New classification for aliens in religious occupations (R nonimmigrants).

Subtitle B—Temporary or Limited Provisions

- Sec. 221. Off-campus work authorization for students (F nonimmigrants).
 Sec. 222. Admission of nonimmigrants for cooperative research, development, and coproduction projects.
 Sec. 223. Establishment of special education exchange visitor program.

Subtitle C—Effective Dates

- Sec. 231. Effective dates.

TITLE III—FAMILY UNITY AND TEMPORARY PROTECTED STATUS

- Sec. 301. Family unity.
 Sec. 302. Temporary protected status.
 Sec. 303. Special temporary protected status for Salvadorans.

TITLE IV—NATURALIZATION

- Sec. 401. Administrative naturalization.
 Sec. 402. Substituting 3 months residence in INS district or State for 6 months residence in a State.
 Sec. 403. Waiver of English language requirement for naturalization.
 Sec. 404. Treatment of service in armed forces of a foreign country.
 Sec. 405. Naturalization of natives of the Philippines through certain active-duty service during World War II.
 Sec. 406. Public education regarding naturalization benefits.
 Sec. 407. Conforming amendments.
 Sec. 408. Effective dates and savings provisions.

TITLE V—ENFORCEMENT

Subtitle A—Criminal Aliens

- Sec. 501. Aggravated felony definition.
- Sec. 502. Shortening period to request judicial review.
- Sec. 503. Enhancing enforcement authority of INS officers.
- Sec. 504. Custody pending determination of deportability and excludability.
- Sec. 505. Elimination of judicial recommendations against deportation.
- Sec. 506. Clarification respecting discretionary authority in deportation proceedings for incarcerated aliens.
- Sec. 507. Requiring coordination plan with INS as a condition for receipt of drug control and system improvement grants under the Omnibus Crime Control and Safe Streets Act of 1968.
- Sec. 508. Deportation for attempted violations of controlled substances laws.
- Sec. 509. Good moral character definition.
- Sec. 510. Report on criminal aliens.
- Sec. 511. Limitation on waiver of exclusion for returning permanent residents convicted of an aggravated felony.
- Sec. 512. Authorization of additional immigration judges for deportation proceedings involving criminal aliens.
- Sec. 513. Effect of filing petition for review.
- Sec. 514. Extending bar on reentry of aliens convicted of aggravated felonies.
- Sec. 515. Asylum in the case of aliens convicted of aggravated felonies.

Subtitle B—Provision Relating to Employer Sanctions

- Sec. 521. Elimination of paperwork requirement for recruiters and referrers.

Subtitle C—Provisions Relating to Anti-Discrimination

- Sec. 531. Dissemination of information concerning anti-discrimination protections under IRCA and title VII of the Civil Rights Act of 1964.
- Sec. 532. Inclusion of certain seasonal agricultural workers within scope of anti-discrimination protections.
- Sec. 533. Elimination of requirement that aliens file a declaration of intending to become a citizen in order to file anti-discrimination complaint.
- Sec. 534. Anti-retaliation protections.
- Sec. 535. Treatment of certain actions as discrimination.
- Sec. 536. Conforming civil money penalties for anti-discrimination violations to those for employer sanctions.
- Sec. 537. Period for filing of complaints.
- Sec. 538. Special Counsel access to employment eligibility verification forms.
- Sec. 539. Additional relief in orders.

Subtitle D—General Enforcement

- Sec. 541. Authorizing increase by 1,000 in border patrol personnel.
- Sec. 542. Application of increase in penalties to enhance enforcement activities.
- Sec. 543. Increase in fine levels; authority of the INS to collect fines.
- Sec. 544. Civil penalties for document fraud.
- Sec. 545. Deportation procedures; required notice of deportation hearing; limitation on discretionary relief.

TITLE VI—EXCLUSION AND DEPORTATION

- Sec. 601. Revision of grounds for exclusion.
- Sec. 602. Revision of grounds for deportation.
- Sec. 603. Conforming amendments.

TITLE VII—MISCELLANEOUS PROVISIONS

- Sec. 701. Battered spouse or child waiver of the conditional residence requirement.
- Sec. 702. Bona fide marriage exception to foreign residence requirement for marriages entered into during certain immigration proceedings.
- Sec. 703. 1-year extension of deadline for filing applications for adjustment from temporary to permanent [sic] residence for legalized aliens.
- Sec. 704. Commission on Agricultural Workers.
- Sec. 705. Immigration Emergency Fund.

TITLE VIII—EDUCATION AND TRAINING

- Sec. 801. Educational assistance and training.

TITLE I—IMMIGRANTS

Subtitle A—Worldwide and Per Country Levels

SEC. 101. WORLDWIDE LEVELS.

(a) IN GENERAL.—**[Omitted; revised entire text of section 201.]**

(b) CLERICAL AMENDMENT.—**[Omitted; conforming amendment to table of contents.]**

(c)¹ TRANSITION.—In applying the second sentence of section 201(b)(2)(A)(i) of the Immigration and Nationality Act (as amended by subsection (a)) in the case of a alien whose citizen spouse died before the date of the enactment of this Act, notwithstanding the deadline specified in such sentence the alien spouse may file the classification petition referred to in such sentence within 2 years after the date of the enactment of this Act.

SEC. 102. PER COUNTRY LEVELS.

Section 202 (8 U.S.C. 1152) is amended—

(1) **[Omitted; amended entire text of subsection (a) of section 202.]**

(2) in subsection (b)—

(A) by inserting “RULES FOR CHARGEABILITY.—” after “(b)”, and

(B) by striking “the numerical limitation set forth in the proviso to subsection (a) of this section” each place it appears and inserting “a numerical level established under subsection (a)(2)”;

(3) in subsection (c)—

(A) by inserting “CHARGEABILITY FOR DEPENDENT AREAS.—” after “(c)”,

(B) by striking “a special immigrant” and all that follows through “201(b)” and inserting “an alien described in section 201(b)”, and

(C) by striking “, and the number” and all that follows through “one fiscal year”;

(4) in subsection (d), by inserting “CHANGES IN TERRITORY.—” after “(d)”; and

(5) **[Omitted; amended entire text of subsection (e) of section 202.]**

SEC. 103. TREATMENT OF HONG KONG UNDER PER COUNTRY LEVELS.

The approval referred to in the first sentence of section 202(b) of the Immigration and Nationality Act shall be considered to have been granted, effective beginning with fiscal year 1991, with respect to Hong Kong as a separate foreign state, and not as a colony or other component or dependent area of another foreign state, except that the total number of immigrant visas made available to natives of Hong Kong under subsections (a) and (b) of section 203

¹Subsection (c) was added by §302(a)(2) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1742), effective as if included in the enactment of the Immigration Act of 1990.

of such Act in each of fiscal years 1991, 1992, and 1993 may not exceed 10,000.

SEC. 104. ASYLEE ADJUSTMENTS.

(a) INCREASE IN NUMERICAL LIMITATION ON ADJUSTMENT OF ASYLEES.—

(1) IN GENERAL.—Section 209(b) (8 U.S.C. 1159(b)) is amended by striking “five thousand” and inserting “10,000”.

(2) EFFECTIVE DATE AND TRANSITION.—The amendment made by paragraph (1) shall apply to fiscal years beginning with fiscal year 1991 and the President is authorized, without the need for appropriate consultation, to increase the refugee determination previously made under section 207 of the Immigration and Nationality Act for fiscal year 1991 in order to make such amendment effective for such fiscal year.

(b) ANNUAL ASYLEE ENUMERATION.—Section 207(a) (8 U.S.C. 1157(a)) is amended by adding at the end the following new paragraph:

“(4) In the determination made under this subsection for each fiscal year (beginning with fiscal year 1992), the President shall enumerate, with the respective number of refugees so determined, the number of aliens who were granted asylum in the previous year.”

(c) WAIVER OF NUMERICAL LIMITATION FOR CERTAIN CURRENT ASYLEES.—The numerical limitation on the number of aliens whose status may be adjusted under section 209(b) of the Immigration and Nationality Act shall not apply to an alien described in subsection (d) or to an alien who has applied for adjustment of status under such section on or before June 1, 1990.

(d) ADJUSTMENT OF CERTAIN FORMER ASYLEES.—

(1) IN GENERAL.—Subject to paragraph (2), the provisions of section 209(b) of the Immigration and Nationality Act shall also apply to an alien—

(A) who was granted asylum before the date of the enactment of this Act (regardless of whether or not such asylum has been terminated under section 208 of the Immigration and Nationality Act),

(B) who is no longer a refugee because of a change in circumstances in a foreign state, and

(C) who was (or would be) qualified for adjustment of status under section 209(b) of the Immigration and Nationality Act as of the date of the enactment of this Act but for paragraphs (2) and (3) thereof and but for any numerical limitation under such section.

(2) APPLICATION OF PER COUNTRY LIMITATIONS.—The number of aliens who are natives of any foreign state who may adjust status pursuant to paragraph (1) in any fiscal year shall not exceed the difference between the per country limitation established under section 202(a) of the Immigration and Nationality Act and the number of aliens who are chargeable to that foreign state in the fiscal year under section 202 of such Act.

Subtitle B—Preference System

PART 1—FAMILY-SPONSORED IMMIGRANTS

SEC. 111. FAMILY-SPONSORED IMMIGRANTS.

Section 203 (8 U.S.C. 1153) is amended—

- (1) by redesignating subsections (b) through (e) as subsections (d) through (g), respectively, and
- (2) **【Omitted; revised text of subsection (a) of section 203.】**

SEC. 112. TRANSITION FOR SPOUSES AND MINOR CHILDREN OF LEGALIZED ALIENS.

(a) **ADDITIONAL VISA NUMBERS.**—

(1) **IN GENERAL.**—In addition to any immigrant visas otherwise available, immigrant visa numbers shall be available in each of fiscal years 1992, 1993, and 1994 for spouses and children of eligible, legalized aliens (as defined in subsection (c)) in a number equal to 55,000 minus the number (if any) computed under paragraph (2) for the fiscal year.

(2) **OFFSET.**—The number computed under this paragraph for a fiscal year is the number (if any) by which—

(A) the sum of the number of aliens described in subparagraphs (A) and (B) of section 201(b)(2) of the Immigration and Nationality Act (or, for fiscal year 1992, section 201(b) of such Act) who were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence in the previous fiscal year, exceeds

(B) 239,000.

(b) **ORDER.**—Visa numbers under this section shall be made available in the order in which a petition, in behalf of each such immigrant for classification under section 203(a)(2) of the Immigration and Nationality Act, is filed with the Attorney General under section 204 of such Act.

(c) **LEGALIZED ALIEN DEFINED.**—In this section, the term “legalized alien” means an alien lawfully admitted for permanent residence who was provided—

(1) temporary or permanent residence status under section 210 of the Immigration and Nationality Act,

(2) temporary or permanent residence status under section 245A of the Immigration and Nationality Act, or

(3) permanent residence status under section 202 of the Immigration Reform and Control Act of 1986.

(d)² **DEFINITIONS.**—The definitions in the Immigration and Nationality Act shall apply in the administration of this section.

²Subsection (d) was added by § 302(b)(1)(B) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102–232, Dec. 12, 1991, 105 Stat. 1743), effective as if included in the enactment of the Immigration Act of 1990.

PART 2—EMPLOYMENT-BASED IMMIGRANTS**SEC. 121. EMPLOYMENT-BASED IMMIGRANTS.**

(a) IN GENERAL.—【Omitted; inserted a new subsection (b) in section 203.】

(b) DETERRING IMMIGRATION-RELATED ENTREPRENEURSHIP FRAUD.—

(1) CONDITIONAL BASIS FOR PERMANENT RESIDENT STATUS BASED ON ESTABLISHMENT OF COMMERCIAL ENTERPRISES.—【Omitted; inserted section 216A.】

(2) ADDITIONAL GROUND FOR DEPORTATION.—For additional ground of deportation for termination of permanent residence on a conditional basis under section 216A of the Immigration and Nationality Act, see section 241(a)(1)(D) of such Act, as amended by section 602(a) of this Act.

(3) CRIMINAL PENALTY FOR IMMIGRATION-RELATED ENTREPRENEURSHIP FRAUD.—【Omitted; added subsection (c) at end of section 275.】

(4) LIMITATION ON ADJUSTMENT OF STATUS.—【Omitted; added subsection (f) at the end of section 245.】

(5) CONFORMING AMENDMENT.—【Omitted; conforming amendment to table of contents.】

SEC. 122. CHANGES IN LABOR CERTIFICATION PROCESS.

【Subsection (a) was stricken by §219(ff) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103–416, 108 Stat. 4319, Oct. 25, 1994); it would appear that this amendment was effective as of November 29, 1990 (namely as if included in the enactment of the Immigration Act of 1990), under §219(dd) of P.L. 103–416.】

(b) NOTICE IN LABOR CERTIFICATIONS.—The Secretary of Labor shall provide, in the labor certification process under section 212(a)(5)(A) of the Immigration and Nationality Act, that—

(1) no certification may be made unless the applicant for certification has, at the time of filing the application, provided notice of the filing (A) to the bargaining representative (if any) of the employer's employees in the occupational classification and area for which aliens are sought, or (B) if there is no such bargaining representative, to employees employed at the facility through posting in conspicuous locations; and

(2) any person may submit documentary evidence bearing on the application for certification (such as information on available workers, information on wages and working conditions, and information on the employer's failure to meet terms and conditions with respect to the employment of alien workers and co-workers).

SEC. 123. DEFINITIONS OF MANAGERIAL CAPACITY AND EXECUTIVE CAPACITY.

【Omitted; added paragraph (44) at the end of section 101(a).】

SEC. 124. TRANSITION FOR EMPLOYEES OF CERTAIN UNITED STATES BUSINESSES OPERATING IN HONG KONG.

(a) ADDITIONAL VISA NUMBERS.—

(1) **TREATMENT OF PRINCIPALS.**—In the case of any alien described in paragraph (3) (or paragraph (2) as the spouse or child of such an alien) with respect to whom a classification petition has been filed and approved under subsection (b), there shall be made available, in addition to the immigrant visas otherwise available in each of fiscal years 1991 through 1993 and without regard to section 202(a) of the Immigration and Nationality Act, up to 12,000 additional immigrant visas. If the full number of such visas are not made available in fiscal year 1991 or 1992, the shortfall shall be added to the number of such visas to be made available under this section in the succeeding fiscal year.³

(2) **DERIVATIVE RELATIVES.**—A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E) of the Immigration and Nationality Act) shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under this section, be entitled to the same status, and the same order of consideration, provided under this section, if accompanying, or following to join, the alien's spouse or parent.

(3) **EMPLOYEES OF CERTAIN UNITED STATES BUSINESSES OPERATING IN HONG KONG.**—An alien is described in this paragraph if the alien—

(A) is a resident of Hong Kong and is employed in Hong Kong except for temporary absences at the request of the employer and has been employed in Hong Kong for at least 12 consecutive months as an officer or supervisor or in a capacity that is managerial, executive, or involves specialized knowledge, by a business entity which (i) is owned and organized in the United States (or is the subsidiary or affiliate of a business owned and organized in the United States), (ii) employs at least 100 employees in the United States and at least 50 employees outside the United States, and (iii) has a gross annual income of at least \$50,000,000, and

(B) has an offer of employment from such business entity in the United States as an officer or supervisor or in a capacity that is managerial, executive, or involves specialized knowledge, which offer (i) is effective from the time of filing the petition for classification under this section through and including the time of entry into the United States and (ii) provides for salary and benefits comparable to the salary and benefits provided to others with similar responsibilities and experience within the same company.

(b) **PETITIONS.**—Any employer desiring and intending to employ within the United States an alien described in subsection (a)(3) may file a petition with the Attorney General for such classification. No visa may be issued under subsection (a)(1) until such a petition has been approved.

³The last sentence was added by §302(b)(5) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1743), effective as if included in the enactment of the Immigration Act of 1990.

(c) ALLOCATION.—Visa numbers made available under subsection (a) shall be made available in the order which petitions under subsection (b) are filed with the Attorney General.

(d) DEFINITIONS.—In this section:

(1) EXECUTIVE CAPACITY.—The term “executive capacity” has the meaning given such term in section 101(a)(44)(B) of the Immigration and Nationality Act, as added by section 123 of this Act.

(2) MANAGERIAL CAPACITY.—The term “managerial capacity” has the meaning given such term in section 101(a)(44)(A) of the Immigration and Nationality Act, as added by section 123 of this Act.

(3) OFFICER.—The term “officer” means, with respect to a business entity, the chairman or vice-chairman of the board of directors of the entity, the chairman or vice-chairman of the executive committee of the board of directors, the president, any vice-president, any assistant vice-president, any senior trust officer, the secretary, any assistant secretary, the treasurer, any assistant treasurer, any trust officer or associate trust officer, the controller, any assistant controller, or any other officer of the entity customarily performing functions similar to those performed by any of the above officers.

(4) SPECIALIZED KNOWLEDGE.—The term “specialized knowledge” has the meaning given such term in section 214(c)(2)(B) of the Immigration and Nationality Act, as amended by section 206(b)(2) of this Act.

(5) SUPERVISOR.—The term “supervisor” means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively recommend such action, if in connection with the foregoing the exercise of such authority is not merely of a routine or clerical nature, but requires the use of independent judgment.

PART 3—DIVERSITY IMMIGRANTS

SEC. 131. DIVERSITY IMMIGRANTS.

【Omitted; inserted subsection (c) in section 203.】

SEC. 132. DIVERSITY TRANSITION FOR ALIENS WHO ARE NATIVES OF CERTAIN ADVERSELY AFFECTED FOREIGN STATES.

(a) IN GENERAL.—Notwithstanding the numerical limitations in sections 201 and 202 of the Immigration and Nationality Act, there shall be made available to qualified immigrants described in subsection (b) (or in subsection (d) as the spouse or child of such an alien) 40,000 immigrant visas in each of fiscal years 1992, 1993, and 1994 and⁴ in fiscal year 1995 a number of immigrant visas

⁴Matter relating to fiscal year 1995 was inserted by subsection (a)(1) of § 217 of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4315, Oct. 25, 1994). Subsection (b) of that section provides as follows:

(b) ADMINISTRATION OF 1995 DIVERSITY TRANSITION PROGRAM.—

Continued

equal to the number of such visas provided (but not made available) under this section in previous fiscal years. If the full number of such visas are not made available in fiscal year 1992 or 1993, the shortfall shall be added to the number of such visas to be made available under this section in the succeeding fiscal year.⁵

(b) **QUALIFIED ALIEN DESCRIBED.**—An alien described in this subsection is an alien who—

(1) is a native of a foreign state⁶ that was identified as an adversely affected foreign state for purposes of section 314 of the Immigration Reform and Control Act of 1986,

(2) has a firm commitment for employment in the United States for a period of at least 1 year (beginning on the date of admission under this section), and

(3) except as provided in subsection (c), is admissible as an immigrant.

(c)⁷ **DISTRIBUTION OF VISA NUMBERS.**—The Secretary of State shall provide for making immigrant visas provided under subsection (a) available strictly in a random order among those who qualify during the application period for each fiscal year established by the Secretary of State, except that at least 40 percent of the number of such visas in each fiscal year shall be made available to natives of the foreign state the natives of which received the greatest number of visas issued under section 314 of the Immigration Reform and Control Act (or to aliens described in subsection (d) who are the spouses or children of such natives) and except that if more than one application is submitted for any fiscal year (beginning with fiscal year 1993) with respect to any alien all such applications submitted with respect to the alien and fiscal year shall be voided. If the minimum number of such visas are not made available in fiscal year 1992 or 1993 to such natives, the shortfall shall be added to the number of such visas to be made available under this section to such natives in the succeeding fiscal year. In apply-

(1) **ELIGIBILITY.**—For the purpose of carrying out the extension of the diversity transition program under the amendments made by subsection (a), applications for natives of diversity transition countries submitted for fiscal year 1995 for diversity immigrants under section 203(c) of the Immigration and Nationality Act shall be considered applications for visas made available for fiscal year 1995 for the diversity transition program under section 132 of the Immigration Act of 1990. No application period for the fiscal year 1995 diversity transition program shall be established and no new applications may be accepted for visas made available under such program for fiscal year 1995. Applications for visas in excess of the minimum available to natives of the country specified in section 132(c) of the Immigration Act of 1990 shall be selected for qualified applicants within the several regions defined in section 203(c)(1)(F) of the Immigration and Nationality Act in proportion to the region's share of visas issued in the diversity transition program during fiscal years 1992 and 1993.

(2) **NOTIFICATION.**—Not later than 180 days after the date of enactment of this Act, notification of the extension of the diversity transition program for fiscal year 1995 and the provision of visa numbers shall be made to each eligible applicant under paragraph (1).

(3) **REQUIREMENTS.**—Notwithstanding any other provision of law, for the purpose of carrying out the extension of the diversity transition program under the amendments made by subsection (a), the requirement of section 132(b)(2) of the Immigration Act of 1990 shall not apply to applicants under such extension and the requirement of section 203(c)(2) of the Immigration and Nationality Act shall apply to such applicants.

⁵ The last sentence was added by § 302(b)(6)(B) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102–232, Dec. 12, 1991, 105 Stat. 1743).

⁶ The phrase “that is not contiguous to the United States and” was stricken by § 302(b)(6)(C) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102–232, Dec. 12, 1991, 105 Stat. 1743), effective after fiscal year 1992.

⁷ The phrase beginning with “strictly” through “Secretary of State” was substituted for “in the chronological order in which aliens apply for each fiscal year”, the phrase “and except that” through “voided” was inserted, and the last sentence was added by § 302(b)(6)(D) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102–232, Dec. 12, 1991, 105 Stat. 1743, 1744), effective beginning with fiscal year 1993.

ing this section, natives of Northern Ireland shall be deemed to be natives of Ireland.

(d) **DERIVATIVE STATUS FOR SPOUSES AND CHILDREN.**—A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E) of the Immigration and Nationality Act) shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under this section, be entitled to the same status, and the same order of consideration, provided under this section, if accompanying, or following to join, his spouse or parent.

(e) **WAIVERS OF GROUNDS OF EXCLUSION.**—In determining the admissibility of an alien provided a visa number under this section, the Attorney General shall waive the ground of exclusion specified in paragraph (6)(C) of section 212(a) of the Immigration and Nationality Act, unless the Attorney General finds that such a waiver is not in the national interest. In addition, the provisions of section 212(e) of such Act shall not apply so as to prevent an individual's application for a visa or admission under this section.⁸

(f) **APPLICATION FEE.**—The Secretary of State shall require payment of a reasonable fee for the filing of an application under this section in order to cover the costs of processing applications under this section.

SEC. 133. ONE-YEAR DIVERSITY TRANSITION FOR ALIENS WHO HAVE BEEN NOTIFIED OF AVAILABILITY OF NP-5 VISAS.

Notwithstanding the numerical limitations in sections 201 and 202 of the Immigration and Nationality Act, there shall be made available in fiscal year 1991 immigrant visa numbers for qualified immigrants who—

(1) were notified by the Secretary of State before May 1, 1990, of their selection for issuance of a visa under section 314 of the Immigration Reform and Control Act of 1986, and

(2) are qualified for the issuance of such a visa but for (A) numerical and fiscal year limitations on the issuance of such visas, (B) section 212(a)(19) or 212(e) of the Immigration and Nationality Act, or (C) the fact that the immigrant was a national, but not a native, of a foreign state described in section 314 of the Immigration Reform and Control Act of 1986.

Visas shall be made available under this section to spouses and children of qualified immigrants in the same manner as such visas were made available to such spouses and children under section 314 of the Immigration Reform and Control Act of 1986. The Attorney General may waive section 212(a)(19) of the Immigration and Nationality Act (or, on or after June 1, 1991, section 212(a)(6)(C) of such Act) in the case of qualified immigrants described in the first sentence of this section.

SEC. 134. TRANSITION FOR DISPLACED TIBETANS.

(a) **IN GENERAL.**—Notwithstanding the numerical limitations in sections 201 and 202 of the Immigration and Nationality Act, there shall be made available to qualified displaced Tibetans described in subsection (b) (or in subsection (d) as the spouse or child

⁸The last sentence was added by §302(b)(6)(E)(iii) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1743), effective as if included in the enactment of the Immigration Act of 1990.

of such an alien) 1,000 immigrant visas in the 3-fiscal-year period beginning with fiscal year 1991.

(b) **QUALIFIED DISPLACED TIBETAN DESCRIBED.**—An alien described in this subsection is an alien who—

(1) is a native of Tibet, and

(2) since before date of the enactment of this Act, has been continuously residing in India or Nepal.

For purposes of paragraph (1), an alien shall be considered to be a native of Tibet if the alien was born in Tibet or is the son, daughter, grandson, or granddaughter of an individual born in Tibet.

(c) **DISTRIBUTION OF VISA NUMBERS.**—The Secretary of State shall provide for making immigrant visas provided under subsection (a) available to displaced aliens described in subsection (b) (or described in subsection (d) as the spouse or child of such an alien) in an equitable manner, giving preference to those aliens who are not firmly resettled in India or Nepal or who are most likely to be resettled successfully in the United States.

(d) **DERIVATIVE STATUS FOR SPOUSES AND CHILDREN.**—A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E) of the Immigration and Nationality Act) shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under this section, be entitled to the same status, and the same order of consideration, provided under this section, if accompanying, or following to join, his spouse or parent.

Subtitle C—Commission and Information

SEC. 141. COMMISSION ON IMMIGRATION REFORM.

(a) **ESTABLISHMENT AND COMPOSITION OF COMMISSION.**—(1) Effective October 1, 1991, there is established a Commission on Immigration Reform (in this section referred to as the “Commission”) which shall be composed of 9 members to be appointed as follows:

(A) One member who shall serve as Chairman, to be appointed by the President.

(B) Two members to be appointed by the Speaker of the House of Representatives who shall select such members from a list of nominees provided by the Chairman of the Committee on the Judiciary of the House of Representatives.

(C) Two members to be appointed by the Minority Leader of the House of Representatives who shall select such members from a list of nominees provided by the ranking minority member of the Subcommittee on Immigration, Refugees, and International Law of the Committee on the Judiciary of the House of Representatives.

(D) Two members to be appointed by the Majority Leader of the Senate who shall select such members from a list of nominees provided by the Chairman of the Subcommittee on Immigration and Refugee Affairs of the Committee on the Judiciary of the Senate.

(E) Two members to be appointed by the Minority Leader of the Senate who shall select such members from a list of nominees provided by the ranking minority member of the

Subcommittee on Immigration and Refugee Affairs of the Committee on the Judiciary of the Senate.

(2) Initial appointments to the Commission shall be made during the 45-day period beginning on October 1, 1991. A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(3) Members shall be appointed to serve for the life of the Commission, except that the term of the member described in paragraph (1)(A) shall expire at noon on January 20, 1993, and the President shall appoint an individual to serve for the remaining life of the Commission.

(b) FUNCTIONS OF COMMISSION.—The Commission shall—

(1) review and evaluate the impact of this Act and the amendments made by this Act, in accordance with subsection (c); and

(2) transmit to the Congress—

(A) not later than September 30, 1994, a first report describing the progress made in carrying out paragraph (1), and

(B) not later than September 30, 1997, a final report setting forth the Commission's findings and recommendations, including such recommendations for additional changes that should be made with respect to legal immigration into the United States as the Commission deems appropriate.

(c) CONSIDERATIONS.—

(1) PARTICULAR CONSIDERATIONS.—In particular, the Commission shall consider the following:

(A) The requirements of citizens of the United States and of aliens lawfully admitted for permanent residence to be joined in the United States by immediate family members and the impact which the establishment of a national level of immigration has upon the availability and priority of family preference visas.

(B) The impact of immigration and the implementation of the employment-based and diversity programs on labor needs, employment, and other economic and domestic conditions in the United States.

(C) The social, demographic, and natural resources impact of immigration.

(D) The impact of immigration on the foreign policy and national security interests of the United States.

(E) The impact of per country immigration levels on family-sponsored immigration.

(F) The impact of the numerical limitation on the adjustment of status of aliens granted asylum.

(G) The impact of the numerical limitations on the admission of nonimmigrants under section 214(g) of the Immigration and Nationality Act.

(2) DIVERSITY PROGRAM.—The Commission shall analyze the information maintained under section 203(c)(3) of the Immigration and Nationality Act and shall report to Congress in its report under subsection (b)(2) on—

(A) the characteristics of individuals admitted under section 203(c) of the Immigration and Nationality Act, and
(B) how such characteristics compare to the characteristics of family-sponsored immigrants and employment-based immigrants.

The Commission shall include in the report an assessment of the effect of the requirement of paragraph (2) of section 203(c) of the Immigration and Nationality Act on the diversity, educational, and skill level of aliens admitted.

(d) **COMPENSATION OF MEMBERS.**—(1) Each member of the Commission who is not an officer or employee of the Federal Government is entitled to receive, subject to such amounts as are provided in advance in appropriations Acts, pay at the daily equivalent of the minimum annual rate of basic pay in effect for grade GS-18 of the General Schedule⁹. Each member of the Commission who is such an officer or employee shall serve without additional pay.

(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence.

(e) **MEETINGS, STAFF, AND AUTHORITY OF COMMISSION.**—The provisions of subsections (e) through (g) of section 304 of the Immigration Reform and Control Act of 1986 shall apply to the Commission in the same manner as they apply to the Commission established under such section, except that paragraph (2) of subsection (e) thereof shall not apply.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—(1) There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this section.

(2) Notwithstanding any other provision of this section, the authority to make payments, or to enter into contracts, under this section shall be effective only to such extent, or in such amounts, as are provided in advance in appropriations Acts.

(g) **TERMINATION DATE.**—The Commission shall terminate on the date on which a final report is required to be transmitted under subsection (b)(2)(B), except that the Commission may continue to function until January 1, 1998, for the purpose of concluding its activities, including providing testimony to standing committees of Congress concerning its final report under this section and disseminating that report.

(h) **CONGRESSIONAL RESPONSE.**—(1) No later than 90 days after the date of receipt of each report transmitted under subsection (b)(2), the Committees on the Judiciary of the House of Representatives and of the Senate shall initiate hearings to consider the findings and recommendations of the report.

(2) No later than 180 days after the date of receipt of such a report, each such Committee shall report to its respective House its oversight findings and any legislation it deems appropriate.

⁹Under §101(c)(1)(A)(i) of the Treasury, Postal Service and General Government Appropriations Act, 1991 (P.L. 101-509, 105 Stat. 1442, Nov. 5, 1990), the reference in this section to the rate of pay in effect for grade GS-18 of the General Schedule is considered a reference to the maximum rate payable under section 5376 of title 5, United States Code, as amended by section 102(a) of that Act.

(i)¹⁰ PRESIDENTIAL REPORT.—The President shall conduct a review and evaluation and provide for the transmittal of reports to the Congress in the same manner as the Commission is required to conduct a review and evaluation and to transmit reports under subsection (b).

SEC. 142. STATISTICAL INFORMATION SYSTEM.

【Omitted; added subsections (c) and (d) to section 103.】

Subtitle D—Miscellaneous

SEC. 151. REVISION OF SPECIAL IMMIGRANT PROVISIONS RELATING TO RELIGIOUS WORKERS (C SPECIAL IMMIGRANTS).

(a) IN GENERAL.—【Omitted; revised subparagraph (C) of section 101(a)(27) in its entirety.】

(b) REFERENCE TO NEW NONIMMIGRANT CLASSIFICATION.—For establishment of nonimmigrant classification for religious workers, see section 209.

SEC. 152. SPECIAL IMMIGRANT STATUS FOR CERTAIN ALIENS EMPLOYED AT THE UNITED STATES MISSION IN HONG KONG (D SPECIAL IMMIGRANTS).

(a) IN GENERAL.—Subject to subsection (c), an alien described in subsection (b) shall be treated as a special immigrant described in section 101(a)(27)(D) of the Immigration and Nationality Act.

(b) ALIENS COVERED.—An alien is described in this subsection if—

(1) the alien is—

(A) an employee at the United States consulate in Hong Kong under the authority of the Chief of Mission (including employment pursuant to section 5913 of title 5, United States Code) and has performed faithful service as such an employee for a total of three years or more, or

(B) a member of the immediate family (as defined in 6 Foreign Affairs Manual 117k as of the date of the enactment of this Act) of an employee described in subparagraph (A) who has been living with the employee in the same household;

(2) the welfare of the employee or such an immediate family member is subject to a clear threat due directly to the employee's employment with the United States Government or under a United States Government official; and

(3) the principal officer in Hong Kong, in the officer's discretion, has recommended the granting of special immigrant status to such alien in exceptional circumstances and the Secretary of State approves such recommendation and finds that it is in the national interest to grant such status.

(c) EXPIRATION.—Subsection (a) shall only apply to aliens who file an application for special immigrant status under this section by not later than January 1, 2002.

(d) LIMITED WAIVER OF NUMERICAL LIMITATIONS.—The first 500 visas made available to aliens as special immigrants under this

¹⁰Subsection (i) was added by §302(c)(1)(D) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1744).

section shall not be counted against any numerical limitation established under section 201 or 202 of the Immigration and Nationality Act.

SEC. 153. SPECIAL IMMIGRANT STATUS FOR CERTAIN ALIENS DECLARED DEPENDENT ON A JUVENILE COURT (J SPECIAL IMMIGRANTS).

(a) IN GENERAL.—[Omitted; added subparagraph (J) to section 101(a)(27).]

(b) WAIVER OF GROUNDS FOR DEPORTATION.—[Omitted; added subsection (h) to section 241.]

SEC. 154. PERMITTING EXTENSION OF PERIOD OF VALIDITY OF IMMIGRANT VISAS FOR CERTAIN RESIDENTS OF HONG KONG.

(a) EXTENDING PERIOD OF VALIDITY.—

(1) IN GENERAL.—Subject to paragraph (2), the limitation on the period of validity of an immigrant visa under section 221(c) of the Immigration and Nationality Act shall not apply in the case of an immigrant visa issued, on or after the date of the enactment of this Act and before September 1, 2001, to an alien described in subsection (b), but only if—

(A) the alien elects, within the period of validity of the immigrant visa under such section, to have this section apply, and

(B) before the date the alien seeks to be admitted to the United States for lawful permanent residence, the alien notifies the appropriate consular officer of the alien's intention to seek such admission and provides such officer with such information as the officer determines to be necessary to verify that the alien remains eligible for admission to the United States as an immigrant.

(2) LIMITATION ON EXTENSION.—In no case shall the period of validity of a visa be extended under paragraph (1) beyond January 1, 2002.

(3) TREATMENT UNDER NUMERICAL LIMITATIONS.—In applying the numerical limitations of sections 201 and 202 of the Immigration and Nationality Act in the case of aliens for whose visas the period of validity is extended under this section, such limitations shall only apply at the time of original issuance of the visas and not at the time of admission of such aliens.

(b) ALIENS COVERED.—An alien is described in this subsection if the alien—

(1)(A) is chargeable under section 202 of the Immigration and Nationality Act to Hong Kong or China,¹¹ and

(B)(i) is residing in Hong Kong as of the date of the enactment of this Act and is issued an immigrant visa under paragraph (1), (2), (4), or (5) of section 203(a) of the Immigration and Nationality Act (as in effect on the date of the enactment of this Act) or under section 203(a) or 203(b)(1) of such Act (as in effect on and after October 1, 1991), or (ii) is the spouse or child (as defined in subsection (d)) of an alien described in

¹¹The phrase "or China" was inserted by § 302(d)(4)(A) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1745), effective as if included in the enactment of the Immigration Act of 1990.

clause (i), if accompanying or following to join the alien in coming to the United States; or

(2) is issued a visa under section 124 of this Act.

(c) TREATMENT OF CERTAIN EMPLOYEES IN HONG KONG.—

(1) IN GENERAL.—In applying the proviso of section 7 of the Central Intelligence Agency Act of 1949, in the case of an alien described in paragraph (2), the Director may charge the entry of the alien against the numerical limitation for any fiscal year (beginning with fiscal year 1991 and ending with fiscal year 1996) notwithstanding that the alien's entry is not made to the United States in that fiscal year so long as such entry is made before the end of fiscal year 1997.

(2) ALIENS COVERED.—An alien is described in this paragraph if the alien—

(A) is an employee of the Foreign Broadcast Information Service in Hong Kong, or

(B) is the spouse or child (as defined in subsection (d)) of an alien described in subparagraph (A), if accompanying or following to join the alien in coming to the United States.

(d) TREATMENT OF CHILDREN.—In this section, the term “child” has the meaning given such term in section 101(b)(1) of the Immigration and Nationality Act and also includes (for purposes of this section and the Immigration and Nationality Act as it applies to this section) an alien who was the child (as so defined) of the alien as of the date of the issuance of an immigrant visa to the alien described in subsection (b)(1) or, in the case described in subsection (c), as of the date of charging of the entry of the alien under the proviso under section 7 of the Central Intelligence Agency Act of 1949.

SEC. 155. EXPEDITED ISSUANCE OF LEBANESE SECOND AND FIFTH PREFERENCE VISAS.

(a) IN GENERAL.—In the issuance of immigrant visas to certain Lebanese immigrants described in subsection (b) in fiscal years 1991 and 1992 and notwithstanding section 203(c) (or section 203(e), in the case of fiscal year 1992) of the Immigration and Nationality Act (to the extent inconsistent with this section), the Secretary of State shall provide that immigrant visas which would otherwise be made available in the fiscal year shall be made available as early as possible in the fiscal year.

(b) LEBANESE IMMIGRANTS COVERED.—Lebanese immigrants described in this subsection are aliens who—

(1) are natives of Lebanon,

(2) are not firmly resettled in any foreign country outside Lebanon, and

(3) as of the date of the enactment of this Act, are the beneficiaries of a petition approved to accord status under section 203(a)(2) or 203(a)(5) of the Immigration and Nationality Act (as in effect as of the date of the enactment of this Act), or who are the spouse or child of such an alien if accompanying or following to join the alien.

Subtitle E—Effective Dates; Conforming Amendments

SEC. 161. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this title, this title and the amendments made by this title shall take effect on October 1, 1991, and apply beginning with fiscal year 1992.

(b) PROVISIONS TAKING EFFECT UPON ENACTMENT.—The following sections (and amendments made by such sections) shall take effect on the date of the enactment of this Act and (unless otherwise provided) apply to fiscal year 1991:

(1) Section 103 (relating to per country limitation for Hong Kong).

(2) Section 104 (relating to asylee adjustments).

(3) Section 124 (relating to transition for employees of certain U.S. businesses in Hong Kong).

(4) Section 133 (relating to one-year diversity transition for aliens who have been notified of availability of NP-5 visas).

(5) Section 134 (relating to transition for displaced Tibetans).

(6) Section 153 (relating to special immigrants who are dependent on a juvenile court).

(7) Section 154 (permitting extension of validity of visas for certain residents of Hong Kong).

(8) Section 155 (relating to expedited issuance of Lebanese second and fifth preference visas).

(9) Section 162(b) (relating to immigrant visa petitioning process), but only insofar as such section relates to visas for fiscal years beginning with fiscal year 1992.

(c) GENERAL TRANSITIONS.—

(1)¹² In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1991, for preference status under section 203(a)(3) or section 203(a)(6) of such Act (as in effect before such date)¹³—

(A) in order to maintain the priority date with respect to such a petition¹⁴, the petitioner must file (by not later than October 1, 1993) a new petition for classification of the employment under paragraph (1), (2), or (3) of section 203(b) of such Act (as amended by this title), and

(B) any labor certification under section 212(a)(5)(A) of such Act required with respect to the new petition shall be deemed approved if the labor certification with respect to the previous petition was previously approved under section 212(a)(14) of such Act.

¹²This paragraph was amended by § 302(e)(2) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1745), effective as if included in the enactment of the Immigration Act of 1990.

¹³§ 218(1) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4316, Oct. 25, 1994), struck “or an application for labor certification before such date under section 212(a)(14)”.

¹⁴§ 218(2) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4316, Oct. 25, 1994), struck “or application” after “such a petition”, and struck “, or 60 days after the date of certification in the case of labor certifications filed in support of the petition under section 212(a)(14) of such Act before October 1, 1991, but not certified until after October 1, 1993” after “October 1, 1993”.

In the case of a petition filed under section 204(a) of such Act before October 1, 1991, but which is not described in paragraph (4), and for which a filing fee was paid, any additional filing fee shall not exceed one-half of the fee for the filing of the new petition referred to in subparagraph (A).

(2) Any petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1991, for preference status under section 203(a)(4) or section 203(a)(5) of such Act (as in effect before such date) shall be deemed, as of such date, to be a petition filed under such section for preference status under section 203(a)(3) or section 203(a)(4), respectively, of such Act (as amended by this title).

(3)¹⁵ In the case of an alien who is described in section 203(a)(8) of the Immigration and Nationality Act (as in effect before October 1, 1991) as the spouse or child of an alien admitted for permanent residence as a preference immigrant under section 203(a)(3) or 203(a)(6) of such Act (as in effect before such date) and who would be entitled to enter the United States under such section 203(a)(8) but for the amendments made by this title, such an alien shall be deemed to be described in section 203(d) of such Act as the spouse or child of an alien described in section 203(b)(2) or 203(b)(3)(A)(i), respectively, of such Act with the same priority date as that of the principal alien.

(4)(A) Subject to subparagraph (B), any petition filed before October 1, 1991, and approved on any date, to accord status under section 203(a)(3) or 203(a)(6) of the Immigration and Nationality Act (as in effect before such date) shall be deemed, on and after October 1, 1991 (or, if later, the date of such approval), to be a petition approved to accord status under section 203(b)(2) or under the appropriate classification under section 203(b)(3), respectively, of such Act (as in effect on and after such date). Nothing in this subparagraph shall be construed as exempting the beneficiaries of such petitions from the numerical limitations under section 203(b)(2) or 203(b)(3) of such Act.

(B) Subparagraph (A) shall not apply more than two years after the date the priority date for issuance of a visa on the basis of such a petition has been reached.

(d) **ADMISSIBILITY STANDARDS.**—When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1991, makes application for admission, the immigrant's admissibility under paragraph (7)(A) of section 212(a) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa.

(e) **CONSTRUCTION.**—Nothing in this title shall be construed as affecting the provisions of section 19 of Public Law 97–116, section 2(c)(1) of Public Law 97–271, or section 202(e) of Public Law 99–603.

¹⁵ Paragraphs (3) and (4) were added by § 4 of the Armed Forces Immigration Adjustment Act of 1991 (P.L. 102–110, Oct. 1, 1991, 105 Stat. 557), effective as if included in the Immigration Act of 1990, and paragraph (3) was amended by § 219(aa) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103–416, 108 Stat. 4319, Oct. 25, 1994), effective as if included in section 4 of Public Law 102–110.

SEC. 162. CONFORMING AMENDMENTS.

(a) RESTATEMENT OF DERIVATIVE STATUS, ORDER OF CONSIDERATION, ETC.—(1) **【Omitted; added subsections (d) through (g) of section 203.】**

(2) Nothing in this Act may be construed as continuing the availability of visas under section 203(a)(7) of the Immigration and Nationality Act, as in effect before the date of enactment of this Act.

(b) CHANGES IN PETITIONING PROCEDURE.—Section 204 (8 U.S.C. 1154) is amended—

(1) in subsection (a), by striking “(a)(1)” and all that follows through the end of paragraph (1) and inserting the following:

【Omitted; inserted text of paragraph (1) of section 204(a).】

(2) in subsection (b)—

(A) by striking “section 203(a) (3) or (6)” and inserting “section 203(b)(2) or 203(b)(3)”, and

(B) by striking “a preference status under section 203(a)” and inserting “preference under subsection (a) or (b) of section 203”;

(3) in subsection (e), by striking “preference immigrant under section 203(a)” and inserting “immigrant under subsection (a), (b), or (c) of section 203”;

(4) in subsection (g)(1), by striking “203(a)(4)” and inserting “203(a)(3)”;

(5) by striking subsection (f); and

(6) by redesignating subsections (g) and (h) as (f) and (g), respectively.

【There are no subsections (c) and (d).】

(e) ADDITIONAL CONFORMING AMENDMENTS.—

【Paragraph (1) was repealed, and provisions of law amended by such paragraph restored as though the paragraph had not been enacted, by § 302(e)(6) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102–232, Dec. 12, 1991, 105 Stat. 1746).】

(2) Section 244(d) (8 U.S.C. 1254(d)) is amended by striking “, and unless” and all that follows through “then current”.

(3) Section 245(b) (8 U.S.C. 1255(b)) is amended—

(A) by striking “or nonpreference”,

(B) by striking “202(e) or 203(a)” and inserting “201(a)”, and

(C) by striking “for the fiscal year then current” and inserting “for the succeeding fiscal year”.

(4) Section 3304(a)(14)(A) of the Internal Revenue Code of 1986 is amended by striking “section 203(a)(7) or”.

(5) Section 1614(a)(1)(B)(i) of the Social Security Act is amended by striking “section 203(a)(7) or”.

(6) Section 2(c)(4) of the Virgin Islands Nonimmigrant Alien Adjustment Act of 1982 (Public Law 97–271) is amended by inserting before the period at the end the following: “(as in effect before October 1, 1991) or by reason of the relationship

described in section 203(a)(2), 203(a)(3), or 203(a)(4), or 201(b)(2)(A)(i), respectively, of such Act (as in effect on or after such date)”.

(f) TECHNICAL CORRECTIONS TO IMMIGRATION NURSING RELIEF ACT OF 1989.—

(1) Section 2(b) of the Immigration Nursing Relief Act of 1989 (Public Law 101-238) is amended—

(A) by striking “December 31, 1989” and inserting “September 1, 1989”,

(B) by striking “in the lawful status” and inserting “in the status”,

(C) by inserting “unauthorized employment performed before the date of the enactment of the Immigration Act of 1990 shall not be taken into account in applying section 245(c)(2) of the Immigration and Nationality Act and” after “spouse or child of such an alien,” and

(D) by striking “lawful status as such a non-immigrant” and all that follows through “subsection (a)” and inserting “lawful status throughout his or her stay in the United States as a nonimmigrant until the end of the 120-day period beginning on the date the Attorney General promulgates regulations carrying out the amendments made by section 162(f)(1) of the Immigration Act of 1990”.

(2)(A) Section 101(a)(15)(H)(i)(a) (8 U.S.C. 1101(a)(15)(H)(i)(a)) is amended by striking “for the facility for which the alien will perform the services, or” and inserting “for each facility (which facility shall include the petitioner and each worksite, other than a private household worksite, if the worksite is not the alien’s employer or controlled by the employer) for which the alien will perform the services, or”.

(B) Section 212(m)(2)(A) (8 U.S.C. 1182(m)(2)(A)) is amended—

(i) by striking “, with respect to a facility for which an alien will perform services,”,

(ii) in clause (iii), by inserting “employed by the facility” after “The alien”, and

(iii) by adding at the end the following: “In the case of an alien for whom an employer has filed an attestation under this subparagraph and who is performing services at a worksite other than the employer’s or other than a worksite controlled by the employer, the Secretary may waive such requirements for the attestation for the worksite as may be appropriate in order to avoid duplicative attestations, in cases of temporary, emergency circumstances, with respect to information not within the knowledge of the attestor, or for other good cause.”.

(3) The amendments made by this subsection shall apply as though included in the enactment of the Immigration Nursing Relief Act of 1989.

TITLE II—NONIMMIGRANTS**Subtitle A—General and Permanent Provisions****SEC. 201. REVISION AND EXTENSION OF THE VISA WAIVER PILOT PROGRAM FOR FOREIGN TOURISTS (B NONIMMIGRANTS).**

(a) IN GENERAL.—Section 217 (8 U.S.C. 1187) is amended—

(1) in subsection (a)(2), by inserting “, and presents a passport issued by,” after “is a national of”;

(2) in subsection (a)(3)—

(A) by striking “ENTRY CONTROL AND WAIVER FORMS” and inserting “IMMIGRATION FORMS”, and

(B) by striking all that follows “such admission” and inserting “completes such immigration form as the Attorney General shall establish.”;

(3) by striking paragraph (4) of subsection (a) and inserting the following:

“(4) ENTRY BY SEA OR AIR.—If arriving by sea or air, the alien arrives at the port of entry into the United States on a carrier which has entered into an agreement with the Service to guarantee transport of the alien out of the United States if the alien is found inadmissible or deportable by an immigration officer.”;

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

“(7) ROUND-TRIP TICKET.—The alien is in possession of a round-trip transportation ticket (unless this requirement is waived by the Attorney General under regulations).”;

(5) in subsection (b)—

(A) by striking the heading and paragraphs (1) through (3), and

(B) by redesignating paragraph (4) (and subparagraphs (A) and (B) thereof) as subsection (b) (and paragraphs (1) and (2) thereof, respectively), and moving the indentation of such redesignated subsection and paragraphs 2 ems to the left;

(6) in subsection (c)—

(A) in paragraph (1)—

(i) by striking “UP TO 8 COUNTRIES” in the heading and inserting “IN GENERAL”, and

(ii) by striking all that follows “may designate” and inserting “any country as a pilot program country if it meets the requirements of paragraph (2).”; and

(B) in paragraph (2)—

(i) by striking “INITIAL QUALIFICATIONS” in the heading and inserting “QUALIFICATIONS”,

(ii) by striking “For the initial period described in paragraph (4), a country” and inserting “A country”, and

(iii) by adding at the end the following new subparagraphs:

“(C) MACHINE READABLE PASSPORT PROGRAM.—The government of the country certifies that it has or is in the process of developing a program to issue machine-readable passports to its citizens.

“(D) LAW ENFORCEMENT INTERESTS.—The Attorney General determines that the United States law enforcement interests would not be compromised by the designation of the country.”;

(7) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

“(d) AUTHORITY.—Notwithstanding any other provision of this section, the Attorney General and the Secretary of State, acting jointly, may for any reason (including national security) refrain from waiving the visa requirement in respect to nationals of any country which may otherwise qualify for designation or may, at any time, rescind any waiver or designation previously granted under this section.”;

(8) in subsection (e)(1), as so redesignated—

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

(B) by striking the period at the end of subparagraph

(B) and inserting “, and”, and

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

“(C) to be subject to the imposition of fines resulting from the transporting into the United States of a national of a designated country without a passport pursuant to regulations promulgated by the Attorney General.”; and

(9) in subsection (f), as so redesignated, by striking all that follows “the period beginning” and inserting “on October 1, 1988, and ending on September 30, 1994.”.

(b) PENALTY FOR TRANSPORT OF ALIENS WITHOUT VALID VISAS.—Section 273 (8 U.S.C. 1323) is amended—

(1) in subsection (a), by inserting “a valid passport and” before “an unexpired visa”, and

(2) in subsection (c), by inserting “valid passport or” before “visa was required”.

(c) REPORT.—By not later than January 1, 1992, the Attorney General, in consultation with the Secretary of State, shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report on the operation of the automated data arrival and departure control system for foreign visitors and on admission refusals and overstays for such visitors who have entered under the visa waiver program.

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

SEC. 202. DENIAL OF CREWMEMBER STATUS IN THE CASE OF CERTAIN LABOR DISPUTES (D NONIMMIGRANTS).

(a) IN GENERAL.—[Omitted; added subsection (f) at the end of section 214.]

(b) CONFORMING AMENDMENT.—Section 212(d)(5)(A) (8 U.S.C. 1182(d)(5)(A)) is amended by inserting “or in section 214(f)” after “except as provided in subparagraph (B)”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect 60 days after the date of the enactment of this Act.

SEC. 203. LIMITATIONS ON PERFORMANCE OF LONGSHORE WORK BY ALIEN CREWMEN (D NONIMMIGRANTS).

(a) **LIMITATION ON ALIENS.**—

(1) **IN GENERAL.**—**[Omitted; added section 258 to the INA]**

(2) **NO APPLICATION TO CITIZENS OR NATIONALS OF THE UNITED STATES.**—This section does not affect the performance of longshore work in the United States by citizens or nationals of the United States.

(3) **CLERICAL AMENDMENT.**—**[Omitted; conforming amendment to table of contents.]**

(b) **PENALTIES.**—Section 251(d) (8 U.S.C. 1281(d)) is amended—

(1) in the first sentence by striking “pay to” and all that follows through “\$10” and inserting “pay to the Commissioner the sum of \$200”; and

(2) by inserting after the first sentence the following: “In the case that any owner, agent, consignee, master, or commanding officer of a vessel shall secure services of an alien crewman described in section 101(a)(15)(D)(i) to perform longshore work not included in the normal operation and service on board the vessel under section 258, the owner, agent, charterer, master, or commanding officer shall pay to the Commissioner the sum of \$5,000, and such fine shall be a lien against the vessel.”.

(c) **CONFORMING AMENDMENTS.**—Section 101(a)(15)(D)(i) (8 U.S.C. 1101(a)(15)(D)(i)) is amended—

(1) by striking “any capacity” and inserting “a capacity”, and

(2) by inserting “, as defined in section 258(a)” after “on board a vessel”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to services performed on or after 180 days after the date of the enactment of this Act.

SEC. 204. TREATY TRADERS (E NONIMMIGRANTS).

(a) **INCLUDING TRADE IN SERVICES AND TECHNOLOGY.**—Section 101(a)(15)(E)(i) (8 U.S.C. 1101(a)(15)(E)(i)) is amended by inserting “, including trade in services or trade in technology” after “substantial trade”.

(b) **APPLICATION OF TREATY TRADER FOR CERTAIN FOREIGN STATES.**—Each of the following foreign states shall be considered, for purposes of section 101(a)(15)(E) of the Immigration and Nationality Act, to be a foreign state described in such section if the foreign state extends reciprocal nonimmigrant treatment to nationals of the United States:

(1) The largest foreign state in each region (as defined in section 203(c)(1) of the Immigration and Nationality Act) which (A) has 1 or more dependent areas (as determined for purposes of section 202 of such Act) and (B) does not have a treaty of commerce and navigation with the United States.

(2) The foreign state which (A) was identified as an adversely affected foreign state for purposes of section 314 of the Immigration Reform and Control Act of 1986 and (B) does not

have a treaty of commerce and navigation with the United States, but (C) had such a treaty with the United States before 1925.

(c) SUBSTANTIAL DEFINED.—【Omitted; added paragraph (45) to section 101(a).】

SEC. 205. TEMPORARY WORKERS AND TRAINEES (H NONIMMIGRANTS).

(a) LIMITATION ON NUMBERS.—【Omitted; added subsection (g) at the end of section 214.】

(b) CONSTRUCTION RESPECTING INTENT WITH RESPECT TO ABANDONMENT OF FOREIGN RESIDENCE.—Section 214, as amended by section 202(a) and by subsection (a), is further amended—

(1) in subsection (b), by inserting “(other than a nonimmigrant described in subparagraph (H)(i) or (L) of section 101(a)(15))” after “Every alien”, and

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

“(h) The fact that an alien is the beneficiary of an application for a preference status filed under section 204 or has otherwise sought permanent residence in the United States shall not constitute evidence of an intention to abandon a foreign residence for purposes of obtaining a visa as a nonimmigrant described in subparagraph (H)(i) or (L) of section 101(a)(15) or otherwise obtaining or maintaining the status of a nonimmigrant described in such subparagraph, if the alien had obtained a change of status under section 248 to a classification as such a nonimmigrant before the alien’s most recent departure from the United States.”.

(c) REVISION OF H-1B CATEGORY.—

(1) IN GENERAL.—Subclause (b) of section 101(a)(15)(H)(i) (8 U.S.C. 1101(a)(15)(H)(i)) is amended by striking “who is of distinguished” and all that follows through “such institution or agency” and inserting the following: “who is coming temporarily to the United States to perform services (other than services described in subclause (a) during the period in which such subclause applies and other than services described in subclause (ii)(a) or in subparagraph (O) or (P)) in a specialty occupation described in section 214(i)(1), who meets the requirements for the occupation specified in section 214(i)(2), and with respect to whom the Secretary of Labor determines and certifies to the Attorney General that the intending employer has filed with, and had approved by, the Secretary an application under section 212(n)(1)”.

(2) SPECIALTY OCCUPATION DEFINED.—【Omitted; added subsection (i) at the end of section 214.】

(3) LABOR CONDITION APPLICATION FOR H-1B.—【Omitted; added a subsection (n) at the end of section 212.】

(d) LIMITATION ON TRAINEES.—Section 101(a)(15)(H)(iii) (8 U.S.C. 1101(a)(15)(H)(iii)) is amended by inserting before the semicolon at the end the following: “, in a training program that is not designed primarily to provide productive employment”.

(e) REMOVAL OF FOREIGN RESIDENCE REQUIREMENT FOR H-1 NONIMMIGRANTS.—Section 101(a)(15)(H) (8 U.S.C. 1101(a)(15)(H)) is amended—

(1) by striking “having a residence in a foreign country which he has no intention of abandoning”;

(2) in clause (ii), by striking “who is coming temporarily to the United States (a)” and inserting “(a) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States”;

(3) in clause (ii)(b), by inserting “having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States” immediately after “(b)”; and

(4) in clause (iii), by inserting “having a residence in a foreign country which he has no intention of abandoning” after “(iii)”.

SEC. 206. INTRA-COMPANY TRANSFEREES (L NONIMMIGRANTS).

(a) **CLARIFICATION OF TREATMENT OF CERTAIN INTERNATIONAL ACCOUNTING AND MANAGEMENT CONSULTING FIRMS.**—In applying sections 101(a)(15)(L) and 203(b)(1)(C) of the Immigration and Nationality Act, and for no other purpose, in the case of a partnership that is organized in the United States to provide accounting or management consulting services and that markets its accounting or management consulting services under an internationally recognized name under an agreement with a worldwide coordinating organization that is collectively owned and controlled by the member accounting and management consulting firms or by the elected members (partners, shareholders, members, employees) thereof, an entity that is organized outside the United States to provide accounting or management consulting services shall be considered to be an affiliate of the United States accounting or management consulting partnership if it markets its accounting or management consulting services under the same internationally recognized name directly or indirectly under an agreement with the same worldwide coordinating organization of which the United States partnership is also a member. Those partnerships organized within the United States and entities organized outside the United States which are considered affiliates under this subsection shall continue to be considered affiliates to the extent such firms enter into a plan of association with a successor worldwide coordinating organization, which need not be collectively owned and controlled.

(b) **USE OF BLANKET PETITIONS; DEADLINES FOR PROCESSING; PERIODS OF AUTHORIZED STAY; CONSTRUCTION.**—Section 214(c) (8 U.S.C. 1184(c)) is amended—

(1) by inserting “(1)” after “(c)”, and

(2) **【Omitted; added paragraph (2) at the end of section 214(c).】**

(c) **PERIOD OF PRIOR EMPLOYMENT WITH COMPANY.**—Section 101(a)(15)(L) (8 U.S.C. 1101(a)(15)(L)) is amended by striking “immediately preceding” and inserting “within 3 years preceding”.

SEC. 207. NEW CLASSIFICATION FOR ALIENS WITH EXTRAORDINARY ABILITY, ACCOMPANYING ALIENS, AND ATHLETES AND ENTERTAINERS (O & P NONIMMIGRANTS).

(a) **IN GENERAL.**—Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amended—

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

(2) by striking the period at the end of subparagraph (N) and inserting a semicolon, and

(3) **[Omitted; added subparagraph (O) and (P) at the end of section 101(a)(15).]**

(b) PERIODS OF ADMISSION, ETC.—Section 214 (8 U.S.C. 1184) is amended—

(1) in subsection (a), by inserting “(1)” after “(a)” and **[Omitted; added paragraph (2) at the end of section 214(a).]**

(2) in subsection (c), as amended by section 206(b)—

(A) in paragraph (1), by striking “or (L)” and inserting “, (L), (O), or (P)(i)”, and

(B) **[Omitted; added paragraphs (3)—(6) at the end of section 214(c).]**

(c) WORK AUTHORIZATION DURING PENDING LABOR DISPUTES.—

(1) In the case of an alien admitted as a nonimmigrant (other than under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act and who is authorized to be employed in an occupation, if nonimmigrants constitute a majority of the members of the bargaining unit in the occupation, during the period of any strike or lockout in the occupation with the employer which strike or lockout is pending on the date of the enactment of this Act the alien—

(A) continues to be authorized to be employed in the occupation for that employer, and

(B) is authorized to be employed in any occupation for any other employer so long as such strike or lockout continues with respect to that occupation and employer.

(2) In the case of an alien admitted as a nonimmigrant (other than under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act) and who is authorized to be employed in an occupation, if nonimmigrants do not constitute a majority of the members of the bargaining unit in the occupation, during the period of any strike or lockout in the occupation with the employer which strike or lockout is pending on the date of the enactment of this Act the alien—

(A) is not authorized to be employed in the occupation for that employer, and

(B) is authorized to be employed in any occupation for any other employer so long as there is no strike or lockout with respect to that occupation and employer.

(3) With respect to a nonimmigrant described in paragraph (1) or (2) who does not perform unauthorized employment, any limit on the period of authorized stay shall be extended by the period of the strike or lockout, except that any such extension may not continue beyond the maximum authorized period of stay.

(4) The provisions of this subsection shall take effect on the date of the enactment of this Act.

SEC. 208. NEW CLASSIFICATION FOR INTERNATIONAL CULTURAL EXCHANGE PROGRAMS (Q NONIMMIGRANTS).

Section 101(a)(15) (8 U.S.C. 1101(a)(15)), as amended by section 207(a), is further amended—

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

(2) by striking the period at the end of subparagraph (P) and inserting “; or”, and

(3) **[Omitted; added subparagraph (Q) at the end of section 101(a)(15).]**

SEC. 209. NEW CLASSIFICATION FOR ALIENS IN RELIGIOUS OCCUPATIONS (R NONIMMIGRANTS).

(a) **IN GENERAL.**—Section 101(a)(15) (8 U.S.C. 1101(a)(15)), as amended by sections 207(a) and 208, is further amended—

- (1) by striking “or” at the end of subparagraph (P),
- (2) by striking the period at the end of subparagraph (Q) and inserting “; or”, and
- (3) **[Omitted; added subparagraph (R) at the end of section 101(a)(15).]**

(b) **REFERENCE TO REVISION OF SPECIAL IMMIGRANT PROVISIONS.**—For provision providing special immigrant status for certain aliens in religious occupations, see section 151.

Subtitle B—Temporary or Limited Provisions

SEC. 221. OFF-CAMPUS WORK AUTHORIZATION FOR STUDENTS (F NONIMMIGRANTS).

(a) **5-YEAR Provision.**—¹⁶ With respect to work authorization for aliens admitted as nonimmigrant students described in subparagraph (F) of section 101(a)(15) of the Immigration and Nationality Act during the 5-year period beginning October 1, 1991, the Attorney General shall grant such an alien work authorization to be employed off-campus¹⁷ if—

- (1) the alien has completed 1 academic year as such a nonimmigrant and is maintaining good academic standing at the educational institution,
- (2) the employer provides the educational institution and the Secretary of Labor with an attestation that the employer (A) has recruited for at least 60 days for the position and (B) will provide for payment to the alien and to other similarly situated workers at a rate equal to not less than the actual wage level for the occupation at the place of employment or, if greater, the prevailing wage level for the occupation in the area of employment, and
- (3) the alien will not be employed more than 20 hours each week during the academic term (but may be employed on a full-time basis during vacation periods and between academic terms).

If the Secretary of Labor determines that an employer has provided an attestation under paragraph (2) that is materially false or has failed to pay wages in accordance with the attestation, after notice and opportunity for a hearing, the employer shall be disqualified from employing an alien student under this subsection.

(b) **REPORT TO CONGRESS.**—Not later than April 1, 1996, the Commissioner of Immigration and Naturalization and the Sec-

¹⁶ § 215(a) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103–416, 108 Stat. 4315, Oct. 25, 1994), extended the period under this subsection from 3 to 5 years and the deadline under subsection (b) from 1994 to 1996.

¹⁷ § 303(b)(1) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102–232, Dec. 12, 1991, 105 Stat. 1748) struck the phrase “in a position unrelated to the alien’s field of study and” and inserted “academic” in paragraph (1), effective as if included in the enactment of the Immigration Act of 1990.

retary of Labor shall prepare and submit to the Congress a report on—

- (1) whether the program of work authorization under subsection (a) should be extended, and
- (2) the impact of such program on prevailing wages of workers.

SEC. 222. ADMISSION OF NONIMMIGRANTS FOR COOPERATIVE RESEARCH, DEVELOPMENT, AND COPRODUCTION PROJECTS.

(a) **IN GENERAL.**—Subject to subsection (b), the Attorney General shall provide for nonimmigrant status in the case of an alien who—

- (1) has a residence in a foreign country which the alien has no intention of abandoning, and
- (2) is coming to the United States, upon a basis of reciprocity, to perform services of an exceptional nature requiring such merit and ability relating to a cooperative research and development project or a coproduction project provided under a government-to-government agreement administered by the Secretary of Defense, but not to exceed a period of more than 10 years,

or who is the spouse or minor child of such an alien if accompanying or following to join the alien.

(b) **NUMERICAL LIMITATION.**—The number of aliens who may be admitted as (or otherwise be provided the status of) a nonimmigrant under this section at any time may not exceed 100.

SEC. 223. ESTABLISHMENT OF SPECIAL EDUCATION EXCHANGE VISITOR PROGRAM.

(a) **IN GENERAL.**—Subject to subsection (b), the Attorney General shall provide for nonimmigrant status in the case of an alien who—

- (1) has a residence in a foreign country which the alien has no intention of abandoning, and
- (2) is coming temporarily to the United States (for a period not to exceed 18 months) as a participant in a special education training program which provides for practical training and experience in the education of children with physical, mental, or emotional disabilities,

or who is the spouse or minor child of such an alien if accompanying or following to join the alien.

(b) **NUMERICAL LIMITATION.**—The number of aliens who may be admitted as (or otherwise be provided the status of) a nonimmigrant under this section in any fiscal year may not exceed 50.

Subtitle C—Effective Dates

SEC. 231. EFFECTIVE DATES.

Except as otherwise provided in this title, this title, and the amendments made by this title, shall take effect on October 1, 1991, except that sections 222 and 223 shall take effect on the date of the enactment of this Act.

TITLE III—FAMILY UNITY AND TEMPORARY PROTECTED STATUS

SEC. 301. FAMILY UNITY.

(a) TEMPORARY STAY OF REMOVAL¹⁸ AND WORK AUTHORIZATION FOR CERTAIN ELIGIBLE IMMIGRANTS.—

(1) may not be removed¹⁸ or otherwise required to depart from the United States on a ground specified in paragraph (1)(A), (1)(B), (1)(C), (3)(A), of section 241(a) of the Immigration and Nationality Act (other than so much of section 241(a)(1)(A) of such Act as relates to a ground of inadmissibility¹⁸ described in paragraph (2) or (3) of section 212(a) of such Act),²⁰ and

(2) shall be granted authorization to engage in employment in the United States and be provided an “employment authorized” endorsement or other appropriate work permit.

(b) ELIGIBLE IMMIGRANT AND LEGALIZED ALIEN DEFINED.—In this section:

(1) The term “eligible immigrant” means a qualified immigrant who is the spouse or unmarried child of a legalized alien.

(2) The term “legalized alien” means an alien lawfully admitted for temporary or permanent residence who was provided—

(A) temporary or permanent residence status under section 210 of the Immigration and Nationality Act,

(B) temporary or permanent residence status under section 245A of the Immigration and Nationality Act, or

(C) permanent residence status under section 202 of the Immigration Reform and Control Act of 1986.

(c) APPLICATION OF DEFINITIONS.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section.

(d) TEMPORARY DISQUALIFICATION FROM CERTAIN PUBLIC WELFARE ASSISTANCE.—Aliens provided the benefits of this section by virtue of their relation to a legalized alien described in subsection (b)(2)(A) or (b)(2)(B) shall be ineligible for public welfare assistance in the same manner and for the same period as the legalized alien is ineligible for such assistance under section 245A(h) or 210(f), respectively, of the Immigration and Nationality Act.

¹⁸This section was amended by section 308(d)(4)(R), (d)(2)(H), and (d)(16) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Pub. L. 104-208; 110 Stat. 3009-639-641) by striking the term “exclusion” and inserting “inadmissibility”; by striking the term “deported” and inserting “removed”; and by striking “DEPORTATION” and inserting “REMOVAL”. Effective, under section 309(a) of such Act “the amendments made by this subtitle [subtitle A of title III] shall take effect on the first day of the first month beginning more than 180 days after the date of enactment of this Act [April 1, 1997]”. The Attorney General shall provide that in the case of an alien who is an eligible immigrant (as defined in subsection (b)(1)) as of May 5, 1988 (¹⁹in the case of a relationship to a legalized alien described in subsection (b)(2)(B) or (b)(2)(C)) or as of December 1, 1988 (in the case of a relationship to a legalized alien described in subsection (b)(2)(A)), who has entered the United States before such date, who resided in the United States on such date, and who is not lawfully admitted for permanent residence, the alien—

¹⁹The phrase beginning “(in the case” and ending with “(b)(2)(A))” was inserted by § 206(a) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103-416, 108 Stat. 4311, Oct. 25, 1994), effective as of October 1, 1991, under § 206(b) of that Act.

(e) EXCEPTION FOR CERTAIN ALIENS.—An alien is not eligible for the benefits of this section if the Attorney General finds that—

(1) the alien has been convicted of a felony or 3 or more misdemeanors in the United States,

(2) the alien is described in section 208(b)(2)(A)²¹ of the Immigration and Nationality Act, or

(3) has committed an act of juvenile delinquency which if committed by an adult would be classified as—

(A) a felony crime of violence that has an element the use or attempted use of physical force against another individual, or

(B) a felony offense that by its nature involves a substantial risk that physical force against another individual may be used in the course of committing the offense.

(f) CONSTRUCTION.—Nothing in this section shall be construed as authorizing an alien to apply for admission to, or to be admitted to, the United States in order to obtain benefits under this section.²²

(g) EFFECTIVE DATE.—This section shall take effect on October 1, 1991; except that the delay in effectiveness of this section shall not be construed as reflecting a Congressional belief that the existing family fairness program should be modified in any way before such date.

SEC. 302. TEMPORARY PROTECTED STATUS.

(a) IN GENERAL.—[Omitted; inserted section 244A.]

(b) CLERICAL AMENDMENT.—[Omitted; conforming amendment to table of contents.]

(c) NO EFFECT ON EXECUTIVE ORDER 12711.—Notwithstanding subsection (g) of section 244A of the Immigration and Nationality Act (inserted by the amendment made by subsection (a)), such section shall not supersede or affect Executive Order 12711 (April 11, 1990, relating to policy implementation with respect to nationals of the People's Republic of China).

SEC. 303. SPECIAL TEMPORARY PROTECTED STATUS FOR SALVADORANS.

(a) DESIGNATION.—

(1) IN GENERAL.—El Salvador is hereby designated under section 244A(b) of the Immigration and Nationality Act, subject to the provisions of this section.

(2) PERIOD OF DESIGNATION.—Such designation shall take effect on the date of the enactment of this section and shall remain in effect until the end of the 18-month period beginning January 1, 1991.

(b) ALIENS ELIGIBLE.—

²¹This section was amended by section 308(g)(7)(D)(ii) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Pub. L. 104-208; 110 Stat. 3009-644) by striking the “243(h)(2)” and inserting “208(b)(2)(A)”. Effective, under section 309(a) of such Act “the amendments made by this subtitle [subtitle A of title III] shall take effect on the first day of the first month beginning more than 180 days after the date of enactment of this Act [April 1, 1997]”.

²²§ 304(c) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1749), shown in footnote 171 to section 244A(f)(3) of the INA, provides special rules for the inspection and readmission of aliens who are provided benefits under this section and who are authorized to travel abroad temporarily.

(1) IN GENERAL.—In applying section 244A of the Immigration and Nationality Act pursuant to the designation under this section, subject to section 244A(c)(3) of such Act, an alien who is a national of El Salvador meets the requirements of section 244A(c)(1) of such Act only if—

(A) the alien has been continuously physically present in the United States since September 19, 1990;

(B) the alien is admissible as an immigrant, except as otherwise provided under section 244A(c)(2)(A) of such Act, and is not ineligible for temporary protected status under section 244A(c)(2)(B) of such Act; and

(C) in a manner which the Attorney General shall establish, the alien registers for temporary protected status under this section during the registration period beginning January 1, 1991, and ending October 31, 1991.

(2) REGISTRATION FEE.—The Attorney General shall require payment of a reasonable fee as a condition of registering an alien under paragraph (1)(C) (including providing an alien with an “employment authorized” endorsement or other appropriate work permit under this section). The amount of the fee shall be sufficient to cover the costs of administration of this section. Notwithstanding section 3302 of title 31, United States Code, all such registration fees collected shall be credited to the appropriation to be used in carrying out this section.

(c) APPLICATION OF CERTAIN PROVISIONS.—

(1) IN GENERAL.—Except as provided in this subsection, the provisions of section 244A of the Immigration and Nationality Act (including subsection (h) thereof) shall apply to El Salvador (and aliens provided temporary protected status) under this section in the same manner as they apply to a foreign state designated (and aliens provided temporary protected status) under such section.

(2) PROVISIONS NOT APPLICABLE.—Subsections (b)(1), (b)(2), (b)(3), (c)(1), (c)(4), (d)(3), and (i) of such section 244A shall not apply under this section.

(3) 6-MONTH PERIOD OF REGISTRATION AND WORK AUTHORIZATION.—Notwithstanding section 244A(a)(2) of the Immigration and Nationality Act, the work authorization provided under this section shall be effective for periods of 6 months. In applying section 244A(c)(3)(C) of such Act under this section, “semiannually, at the end of each 6-month period” shall be substituted for “annually, at the end of each 12-month period” and, notwithstanding section 244A(d)(2) of such Act, the period of validity of documentation under this section shall be 6 months.

(4) REENTRY PERMITTED AFTER DEPARTURE FOR EMERGENCY CIRCUMSTANCES.—In applying section 244A(f)(3) of the Immigration and Nationality Act under this section, the Attorney General shall provide for advance parole in the case of an alien provided special temporary protected status under this section if the alien establishes to the satisfaction of the Attorney General that emergency and extenuating circumstances beyond the control of the alien requires the alien to depart for a brief, temporary trip abroad.

(d) ENFORCEMENT OF REQUIREMENT TO DEPART AT TIME OF TERMINATION OF DESIGNATION.—

(1) SHOW CAUSE ORDER AT TIME OF FINAL REGISTRATION.—

At the registration occurring under this section closest to the date of termination of the designation of El Salvador under subsection (a), the Immigration and Naturalization Service shall serve on the alien granted temporary protected status an order to show cause that establishes a date for deportation proceedings which is after the date of such termination of designation. If El Salvador is subsequently designated under section 244A(b) of the Immigration and Nationality Act, the Service shall cancel such orders.

(2) SANCTION FOR FAILURE TO APPEAR.—If an alien is provided an order to show cause under paragraph (1) and fails to appear at such proceedings, except for exceptional circumstances, the alien may be deported in absentia under section 240(b)(5)²³ of the Immigration and Nationality Act (inserted by section 545(a) of this Act) and certain discretionary forms of relief are no longer available to the alien pursuant to such section.

TITLE IV—NATURALIZATION

SEC. 401. ADMINISTRATIVE NATURALIZATION.

(a) NATURALIZATION AUTHORITY.—[Omitted; amended section 310 in its entirety.]

(b) FILING OF APPLICATIONS.—Section 334(a) (8 U.S.C. 1445(a)) is amended by adding at the end the following new sentence: “In the case of an applicant subject to a requirement of continuous residence under section 316(a) or 319(a), the application for naturalization may be filed up to 3 months before the date the applicant would first otherwise meet such continuous residence requirement.”.

(c) NOTIFICATION.—Section 335(b) (8 U.S.C. 1446(b)) is amended by adding at the end the following new sentence: “Any such employee shall, at the examination, inform the petitioner of the remedies available to the petitioner under section 336.”.

SEC. 402. SUBSTITUTING 3 MONTHS RESIDENCE IN INS DISTRICT OR STATE FOR 6 MONTHS RESIDENCE IN A STATE.

Section 316(a)(1) (8 U.S.C. 1427(a)(1)) is amended by striking “and who has resided within the State in which the petitioner filed the petition for at least six months” and inserting “and who has resided within the State or within the district of the Service in the United States in which the applicant filed the application for at least three months”.

²³This section was amended by section 308(g)(6)(A) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Pub. L. 104-208; 110 Stat. 3009-644) by striking the “242B” and inserting “240(b)(5)”. Effective, under section 309(a) of such Act “the amendments made by this subtitle [subtitle A of title III] shall take effect on the first day of the first month beginning more than 180 days after the date of enactment of this Act [April 1, 1997]”.

SEC. 403. WAIVER OF ENGLISH LANGUAGE REQUIREMENT FOR NATURALIZATION.

Section 312(1) (8 U.S.C. 1423(1)) is amended by striking “is over fifty years of age and has been living in the United States for periods totaling at least twenty years subsequent to a lawful admission for permanent residence” and inserting “either (A) is over 50 years of age and has been living in the United States for periods totaling at least 20 years subsequent to a lawful admission for permanent residence, or (B) is over 55 years of age and has been living in the United States for periods totaling at least 15 years subsequent to a lawful admission for permanent residence”.

SEC. 404. TREATMENT OF SERVICE IN ARMED FORCES OF A FOREIGN COUNTRY.

Section 315 (8 U.S.C. 1425) is amended—

(1) in subsection (a), by inserting “but subject to subsection (c)” after “section 405(b)”, and

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

“(c) An alien shall not be ineligible for citizenship under this section or otherwise because of an exemption from training or service in the Armed Forces of the United States pursuant to the exercise of rights under a treaty, if before the time of the exercise of such rights the alien served in the Armed Forces of a foreign country of which the alien was a national.”

SEC. 405. NATURALIZATION OF NATIVES OF THE PHILIPPINES THROUGH CERTAIN ACTIVE-DUTY SERVICE DURING WORLD WAR II.²⁴

(a) WAIVER OF CERTAIN REQUIREMENTS.—(1) Clauses (1) and (2) of section 329(a) of the Immigration and Nationality Act (8 U.S.C. 1440(a)) shall not apply to the naturalization of any person—

(A) who was born in the Philippines and who was residing in the Philippines before the service described in subparagraph (B);

²⁴Section 113 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (P.L. 102-395, Oct. 6, 1992, 106 Stat. 1844) provides as follows:

SEC. 113. (a) WAIVER.—(1) For purposes of the naturalization of natives of the Philippines under section 405 of the Immigration Act of 1990, notwithstanding any other provision of law—

(A) the processing of applications for naturalization, including necessary interviews, shall be conducted in the Philippines by employees of the Immigration and Naturalization Service designated pursuant to section 335(b) of the Immigration and Nationality Act of 1952, as amended; and

(B) oaths of allegiance shall be taken in the Philippines by employees of the Immigration and Naturalization Service designated pursuant to section 335(b) of the Immigration and Nationality Act of 1952, as amended.

(2) Notwithstanding subsection (a)(1), applications for naturalization including necessary interviews may continue to be processed, and oaths of allegiance may continue to be taken in the United States.

(3) The Attorney General shall prescribe such regulations as may be necessary to carry out this subsection.

(b) TREATMENT OF OATHS OF ALLEGIANCE.—Records of oaths of allegiance taken in accordance with subsection (a)(1)(B) shall be entered in the permanent records of the Attorney General.

(c) EFFECTIVE DATE.—The provisions of this section shall become effective 120 days from the date of enactment of this Act.

(d) EXTENSION OF APPLICATION PERIOD.—The provisions of this section shall apply to natives of the Philippines who applied for naturalization under section 405 of the Immigration Act of 1990 and who apply for naturalization within 2 years after the effective date of this section.

(e) TERMINATION DATE.—This section shall cease to be effective 3 years after its effective date.

(B)²⁵ who—

(i) is listed on the final roster prepared by the Recovered Personnel Division of the United States Army of those who served honorably in an active duty status within the Philippine Army during the World War II occupation and liberation of the Philippines,

(ii) is listed on the final roster prepared by the Guerilla Affairs Division of the United States Army of those who received recognition as having served honorably in an active duty status within a recognized guerilla unit during the World War II occupation and liberation of the Philippines, or

(iii) served honorably in an active duty status within the Philippine Scouts or within any other component of the United States Armed Forces in the Far East (other than a component described in clause (i) or (ii)) at any time during the period beginning September 1, 1939, and ending December 31, 1946;²⁶

(C) who is otherwise eligible for naturalization under section 329 of such Act; and

(D) who applies for naturalization during the 2-year period beginning on²⁷ the date of the enactment of this Act.

(2) Subject to subsection (c), in applying section 329 of the Immigration and Nationality Act, service described in paragraph (1)(B) is considered to be honorable service in an active-duty status in the military, air, or naval forces of the United States.

(3)(A) For purposes of the second sentence of section 329(a) and section 329(b)(3) of the Immigration and Nationality Act, the executive department under which a person served shall be—

(i) in the case of an applicant claiming to have served in the Philippine Army, the United States Department of the Army;

(ii) in the case of an applicant claiming to have served in a recognized guerilla unit, the United States Department of the Army; or

(iii) in the case of an applicant claiming to have served in the Philippine Scouts or any other component of the United States Armed Forces in the Far East (other than a component described in clause (i) or (ii)) at any time during the period beginning September 1, 1939, and ending December 31, 1946, the United States executive department (or successor thereto) that exercised supervision over such component.

(B) An executive department specified in subparagraph (A) may not make a determination under the second sentence of section 329(a) with respect to the service or separation from service of a person described in paragraph (1) except pursuant to a request from the Service.

²⁵ Margin so in law.

²⁶ Probably should be a semicolon. See amendment made by section 112(b)(1) of Public Law 105-119.

²⁷ Should probably have been a reference to the 2-year period beginning on May 1, 1991; see effective date in § 408(f).

【Subsection (b) was stricken by § 104(d) of the Immigration and Nationality Technical Corrections Act of 1994 (P.L. 103–416, 108 Stat. 4308, Oct. 25, 1994).】

(c) STATUTORY CONSTRUCTION.—The enactment of this section shall not be construed as affecting the rights, privileges, or benefits of a person described in subsection (a)(1) under any provision of law (other than the Immigration and Nationality Act) by reason of the service of such person or the service of any other person under the command of the United States Armed Forces.

(d) IMPLEMENTATION.—(1) Notwithstanding any other provision of law, for purposes of the naturalization of natives of the Philippines under this section—

(A) the processing of applications for naturalization, filed in accordance with the provisions of this section, including necessary interviews, shall be conducted in the Philippines by employees of the Service designated pursuant to section 335(b) of the Immigration and Nationality Act; and

(B) oaths of allegiance for applications for naturalization under this section shall be administered in the Philippines by employees of the Service designated pursuant to section 335(b) of that Act.

(2) Notwithstanding paragraph (1), applications for naturalization, including necessary interviews, may continue to be processed, and oaths of allegiance may continue to be taken in the United States.

SEC. 406. PUBLIC EDUCATION REGARDING NATURALIZATION BENEFITS.

【Omitted; added subsection (h) at the end of section 332.】

SEC. 407. CONFORMING AMENDMENTS.

(a) CONFORMING AMENDMENTS TO SECTION 310 REVISION.—(1)

【Table of contents amendment omitted.】

(2) Section 101(a)(36) (8 U.S.C. 1101(a)(36)) is amended by striking “(except as used in section 310(a) of title III)”.

(b) CONFORMING AMENDMENTS TO CHANGE IN RESIDENCE REQUIREMENT.—(1) Section 319 (8 U.S.C. 1430) is amended—

(A) in subsection (a), by striking “has resided within the State in which he filed his petition for at least six months” and inserting “has resided within the State or the district of the Service in the United States in which the applicant filed his application for at least three months”,

(B) in subsections (b) and (d), by striking “within the jurisdiction of the naturalization court” and inserting “within a State or a district of the Service in the United States”, and

(C) in subsection (c), is amended by striking “within the jurisdiction of the court” and inserting “district of the Service in the United States”.

(2) Section 322(c) (8 U.S.C. 1433(c)) is amended by striking “within the jurisdiction of the naturalization court” and inserting “within a State or a district of the Service in the United States”.

(3) Section 324(a)(1) (8 U.S.C. 1435(a)(1)) is amended by inserting “or district of the Service in the United States” after “State”.

(4) Section 328 (8 U.S.C. 1439) is amended—

- (A) in subsection (a)—
- (i) by inserting “or district of the Service in the United States” after “State”, and
 - (ii) by striking “for at least six months” and inserting “for at least three months”;
- (B) in subsection (b)(1), by striking “within the jurisdiction of the court” and inserting “within a State or district of the Service in the United States”; and
- (C) in subsection (c), by inserting “or district of the Service in the United States” after “State”.
- (5) Section 329(b) (8 U.S.C. 1440(b)) is amended—
- (A) in paragraph (2)—
 - (i) by inserting “or district of the Service in the United States” after “State”, and
 - (ii) by inserting “and” at the end of paragraph (2);
 - (B) by striking paragraph (3); and
 - (C) by redesignating paragraph (4) as paragraph (3).
- (c) SUBSTITUTION OF APPLICATION FOR NATURALIZATION FOR PETITION FOR NATURALIZATION.—The text of the following provisions is amended by striking “a petition”, “petition”, “petitions”, “a petitioner”, “petitioner”, “petitioner’s”, “petitioning”, and “petitioned” each place it appears and inserting “an application”, “application”, “applications” or “applies” (as the case may be), “an applicant”, “applicant”, “applicant’s”, “applying”, and “applied”, respectively:
- (1) Section 313(c) (8 U.S.C. 1424(c)).
 - (2) Section 316 (8 U.S.C. 1427).
 - (3) Section 317 (8 U.S.C. 1428).
 - (4) Section 318 (8 U.S.C. 1429).
 - (5) Sections 319 (a) and (c) (8 U.S.C. 1430 (a), (c)).
 - (6) Section 322 (8 U.S.C. 1433).
 - (7) Section 324 (8 U.S.C. 324).
 - (8) Section 325 (8 U.S.C. 1436).
 - (9) Section 326 (8 U.S.C. 1437).
 - (10) Section 328 (8 U.S.C. 1439).
 - (11) Section 329 (8 U.S.C. 1440).
 - (12) Section 330 (8 U.S.C. 1441).
 - (13) Section 331 (8 U.S.C. 1442), other than subsection (d).
 - (14) Section 333(a) (8 U.S.C. 1444(a)).
 - (15) Section 334 (8 U.S.C. 1445).
 - (16) Section 335 (8 U.S.C. 1446).
 - (17) Section 336 (8 U.S.C. 1447).
 - (18) Section 337 (8 U.S.C. 1448).
 - (19) Section 338 (8 U.S.C. 1449).
 - (20) Section 344 (8 U.S.C. 1455).
 - (21) Section 1429 of title 18, United States Code.
- (d) SUBSTITUTING APPROPRIATE ADMINISTRATIVE AUTHORITY FOR NATURALIZATION COURT.—(1)²⁸ Section 316 (8 U.S.C. 1427) is amended—
- (A) in subsection (b), by striking “the court” each place it appears and inserting “the Attorney General”,

²⁸Note that additional technical amendments were made by § 305(m) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1750), effective as if included in section 407(d) of the Immigration Act of 1990.

(B) in subsection (b), by striking “date of final hearing” and inserting “date of any hearing under section 336(a)”,

(C) in subsection (e), by striking “the court” and inserting “the Attorney General”,

(D) in subsection (g)(1), by striking “within the jurisdiction of the court” and inserting “within a particular State or district of the Service in the United States”, and

(E) in subsection (g)(2), by amending the first sentence to read as follows: “An applicant for naturalization under this subsection may be administered the oath of allegiance under section 337(a) by any district court of the United States, without regard to the residence of the applicant.”

(2) The second sentence of section 317 (8 U.S.C. 1428) is amended by striking “and the naturalization court”.

(3) The third sentence of section 318 (8 U.S.C. 1429) is amended—

(A) by striking “finally heard by a naturalization court” and inserting “considered by the Attorney General”, and

(B) by striking “upon the naturalization court” and inserting “upon the Attorney General”.

(4) Section 319 (8 U.S.C. 1430) is amended—

(A) in subsection (b)(3), by striking “before the naturalization court” and inserting “before the Attorney General”, and

(B) in subsection (c)(5), by striking “naturalization court” and inserting “Attorney General”.

(5) Section 322(c)(2)(C) (8 U.S.C. 1433(c)(2)(C)) is amended by striking “naturalization court” the first place it appears and inserting “Attorney General”.

(6) Section 324 (8 U.S.C. 1435) is amended—

(A) in subsection (a)—

(i) by inserting “and” at the end of paragraph (1),

(ii) by striking the semicolon at the end of paragraph

(2) and inserting a period, and

(iii) by striking paragraphs (3) and (4);

(B) in subsection (b), by striking “naturalization court” and inserting “Attorney General”; and

(C) in subsection (c)—

(i) in paragraph (2), by striking “the judge or clerk of a naturalization court” and inserting “the Attorney General or the judge or clerk of a court described in section 310(b)”, and

(ii) in paragraph (3), by striking “or naturalization court” each place it appears and inserting “court, or the Attorney General”.

(7) Section 327(a) (8 U.S.C. 1438(a)) is amended—

(A) by striking “any naturalization court specified in section 310(a) of this title” and inserting “the Attorney General or before a court described in section 310(b)”; and

(B) by inserting “and by the Attorney General to the Secretary of State” after “Department of Justice”.

(8) Subsections (b)(3) and (c) of section 328 (8 U.S.C. 1439) are amended by striking “the final hearing” and inserting “any hearing”.

(9) Section 331(b) (8 U.S.C. 1442(b)) is amended by striking “called for a hearing” and all that follows through “to be continued” and inserting “considered or heard except after 90 days’ notice to the Attorney General to be considered at the examination or hearing, and the Attorney General’s objection to such consideration shall cause the application to be continued”.

(10) Section 332(a) (8 U.S.C. 1443(a)) is amended—

(A) by striking “for the purpose” and all that follows through “naturalization courts” in the first sentence, and

(B) by striking the second sentence.

(11) Section 333(a) (8 U.S.C. 1444(a)) is amended by striking “clerk of the court” and inserting “Attorney General”.

(12) Section 334 (8 U.S.C. 1445) is amended—

(A) by amending the heading to read as follows:

“ APPLICATION FOR NATURALIZATION; DECLARATION OF INTENTION”;

(B) in subsection (a)—

(i) by striking “in the office of the clerk of a naturalization court” and inserting “with the Attorney General”, and

(ii) by striking “upon the hearing of such petition” and inserting “under this title”;

(C) in subsection (b)—

(i) by striking “(1)”,

(ii) by striking “and (2)” and all that follows through “Attorney General”, and

(iii) by striking “petition for”;

(D) by striking the first sentence of subsection (f) and inserting the following: “An alien over 18 years of age who is residing in the United States pursuant to a lawful admission for permanent residence may file with the Attorney General a declaration of intention to become a citizen of the United States. Such a declaration shall be filed in duplicate and in a form prescribed by the Attorney General and shall be accompanied by an application prescribed and approved by the Attorney General.”;

(E) by redesignating subsection (f) as subsection (g); and

(F) by striking subsections (c) through (e) and inserting the following:

“(c) Hearings under section 336(a) on applications for naturalization shall be held at regular intervals specified by the Attorney General.

“(d) Except as provided in subsection (e), an application for naturalization shall be filed in the office of the Attorney General.

“(e) A person may file an application for naturalization other than in the office of the Attorney General, and an oath of allegiance administered other than in a public ceremony before the Attorney General or a court, if the Attorney General determines that the person has an illness or other disability which—

“(1) is of a permanent nature and is sufficiently serious to prevent the person’s personal appearance, or

“(2) is of a nature which so incapacitates the person as to prevent him from personally appearing.”.

- (13) Section 335 (8 U.S.C. 1146) is amended—
 (A) by amending the heading to read as follows:

“ INVESTIGATION OF APPLICANTS; EXAMINATION OF APPLICATIONS”;

(B) in subsection (a), by striking “At any time” and all that follows through “336(a)” and inserting “Before a person may be naturalized”;

(C) in subsection (b)—

(i) by striking “preliminary” each place it appears,

(ii) in the first sentence, by striking “to any naturalization court” and all that follows through “to such court”;

(iii) by striking “any court exercising naturalization jurisdiction as specified in section 310 of this title” in the second sentence and inserting “any District Court of the United States”, and

(iv) by striking “final hearing conducted by a naturalization court designated in section 310 of this title” in the third sentence and inserting “hearing conducted by an immigration officer under section 336(a)”;

(D) in subsection (c)—

(i) by striking “preliminary” each place it appears, and

(ii) by striking “recommendation” and inserting “determination”; and

(E) by amending subsections (d) through (f) to read as follows:

“(d) The employee designated to conduct any such examination shall make a determination as to whether the application should be granted or denied, with reasons therefor.

“(e) After an application for naturalization has been filed with the Attorney General, the applicant shall not be permitted to withdraw his application, except with the consent of the Attorney General. In cases where the Attorney General does not consent to the withdrawal of the application, the application shall be determined on its merits and a final order determination made accordingly. In cases where the applicant fails to prosecute his application, the application shall be decided on the merits unless the Attorney General dismisses it for lack of prosecution.

“(f) An applicant for naturalization who moves from the district of the Service in the United States in which the application is pending may, at any time thereafter, request the Service to transfer the application to any district of the Service in the United States which may act on the application. The transfer shall not be made without the consent of the Attorney General. In the case of such a transfer, the proceedings on the application shall continue as though the application had originally been filed in the district of the Service to which the application is transferred.”

- (14) Section 336 (8 U.S.C. 1447) is amended—

(A) by amending the heading to read as follows:

“ HEARINGS ON DENIALS OF APPLICATIONS FOR NATURALIZATION”;

(B) by amending subsections (a) and (b) to read as follows:

“(a) If, after an examination under section 335, an application for naturalization is denied, the applicant may request a hearing before an immigration officer.

“(b) If there is a failure to make a determination under section 335 before the end of the 120-day period after the date on which the examination is conducted under such section, the applicant may apply to the United States district court for the district in which the applicant resides for a hearing on the matter. Such court has jurisdiction over the matter and may either determine the matter or remand the matter, with appropriate instructions, to the Service to determine the matter.”;

(C) in subsection (c), by striking “court” and inserting “immigration officer”;

(D) in subsection (d)—

(i) by striking “clerk of court” and all that follows through “naturalization” and inserting “immigration officer shall, if the applicant requests it at the time of filing the request for the hearing”;

(ii) by striking “final” each place it appears, and

(iii) by adding at the end the following: “Such subpenas may be enforced in the same manner as subpenas under section 335(b) may be enforced.”; and

(E) in subsection (e)—

(i) by striking “naturalization of any person,” and inserting “administration by a court of the oath of allegiance under section 337(a)”, and

(ii) by striking “included in the petition for naturalization of such person” and inserting “included in an appropriate petition to the court”.

(15) Section 337 (8 U.S.C. 1448) is amended—

(A) in subsection (a)—

(i) in the first sentence, by striking “in open court” and inserting “in a public ceremony before the Attorney General or a court with jurisdiction under section 310(b)”,

(ii) in the second and fourth sentences, by striking “naturalization court” each place it appears and inserting “Attorney General”, and

(iii) in the fourth sentence, by striking “the court” and inserting “the Attorney General”;

(B) in subsection (b)—

(i) by striking “in open court in the court in which the petition for naturalization is made” and inserting “in the same public ceremony in which the oath of allegiance is administered”, and

(ii) by striking “in the court”;

(C) in subsection (c)—

(i) by striking “being in open court” and inserting “attending a public ceremony”, and

(ii) by striking “a judge of the court at such place as may be designated by the court” and inserting “at such place as the Attorney General may designate under section 334(e)”; and

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

“(d) The Attorney General shall prescribe rules and procedures to ensure that the ceremonies conducted by the Attorney General for the administration of oaths of allegiance under this section are public, conducted frequently and at regular intervals, and are in keeping with the dignity of the occasion.”

(16) Section 338 (8 U.S.C. 1449) is amended—

(A) by striking “by a naturalization court”,

(B) by striking “the clerk of such court” and inserting “the Attorney General”,

(C) by striking “title, venue, and location of the naturalization court” and inserting “location of the District office of the Service in which the application was filed and the title, authority, and location of the official or court administering the oath of allegiance”,

(D) by striking “the court” and inserting “the Attorney General”, and

(E) by striking “of the clerk of the naturalization court; and seal of the court” and inserting “of an immigration officer; and the seal of the Department of Justice”.

(17) Section 339 (8 U.S.C. 1450) is amended to read as follows:

“FUNCTIONS AND DUTIES OF CLERKS AND RECORDS OF DECLARATIONS
OF INTENTION AND APPLICATIONS FOR NATURALIZATION

“SEC. 339. (a) The clerk of each court that administers oaths of allegiance under section 337 shall—

“(1) issue to each person to whom such an oath is administered a document evidencing that such an oath was administered,

“(2) forward to the Attorney General information concerning each person to whom such an oath is administered by the court, within 30 days after the close of the month in which the oath was administered,

“(3) make and keep on file evidence for each such document issued, and

“(4) forward to the Attorney General certified copies of such other proceedings and orders instituted in or issued out of the court affecting or relating to the naturalization of persons as may be required from time to time by the Attorney General.

“(b) Each district office of the Service in the United States shall maintain, in chronological order, indexed, and consecutively numbered, as part of its permanent records, all declarations of intention and applications for naturalization filed with the office.”

(18) Section 340 (8 U.S.C. 1451) is amended—

(A) in the first sentence of subsection (a), by striking “in any court specified in subsection (a) of section 310 of this title” and inserting “in any District Court of the United States”,

(B) by amending the second sentence of subsection (g) to read as follows: “The clerk of the court shall transmit a copy of such order and judgment to the Attorney General.”,

(C) by striking the third sentence of subsection (g), and

(D) in subsection (i), by striking “any naturalization court” and all that follows through “to take such action” and inserting

the following: “the Attorney General to correct, reopen, alter, modify, or vacate an order naturalizing the person”.

(19) Section 344 (8 U.S.C. 1455) is amended—

(A) in subsection (a)—

(i) by striking “The clerk of court” and inserting “The Attorney General”,

(ii) in paragraph (1), by striking “final”, and

(iii) in paragraph (1), by striking “the naturalization court” and inserting “the Attorney General”;

(B) by striking subsections (c), (d), (e), and (f);

(C) in subsection (g)—

(i) by striking “, and all fees paid over to the Attorney General by clerks of courts under the provisions of this title,” and

(ii) by striking “or by the clerks of the courts”;

(D) in subsection (h)—

(i) by striking “no clerk of a United States court shall” and inserting “the Attorney General may not”,

(ii) by striking “, and no clerk of any State court” and all that follows through “charged or collected”, and

(iii) by striking the second sentence;

(E) in subsection (i), by striking “clerk of court”, “from the clerk,” “such clerk”, and “by the clerk” and inserting “Attorney General”, “from the Attorney General,” “the Attorney General”, and “by the Attorney General”, respectively; and

(F) by redesignating subsections (g), (h), and (i) as subsections (c), (d), and (e), respectively.

(20) Section 348 (8 U.S.C. 1459) is repealed.

(e) STRIKING MISCELLANEOUS MATERIAL.—(1) Section 316 (8 U.S.C. 1427) is amended by striking subsection (f) and by redesignating subsection (g) as subsection (f).

(2) Section 331 (8 U.S.C. 1442) is amended by striking the second sentence of subsection (d).

(f) CORRECTIONS OF TABLE OF CONTENTS.—(1) The items in the table of contents relating to sections 334 through 336 are amended to read as follows:

“Sec. 334. Application for naturalization; declaration of intention.

“Sec. 335. Investigation of applicants; examination of applications.

“Sec. 336. Hearings on denials of applications for naturalization.”

(2) The item in the table of contents relating to section 339 is amended to read as follows:

“Sec. 339. Functions and duties of clerks and records of declarations of intention and applications for naturalization.”

(3) The item in the table of contents relating to section 348 is repealed.

SEC. 408. EFFECTIVE DATES AND SAVINGS PROVISIONS.

(a) EFFECTIVE DATE.—

(1) NO NEW COURT PETITIONS AFTER EFFECTIVE DATE.—No court shall have jurisdiction, under section 310(a) of the Immigration and Nationality Act, to naturalize a person unless a petition for naturalization with respect to that person has been filed with the court before October 1, 1991.

(2) TREATMENT OF CURRENT COURT PETITIONS.—

(A) CONTINUATION OF CURRENT RULES.—Except as provided in subparagraph (B), any petition for naturalization which may be pending in a court on October 1, 1991, shall be heard and determined in accordance with the requirements of law in effect when the petition was filed.

(B) PERMITTING WITHDRAWAL AND CONSIDERATION OF APPLICATION UNDER NEW RULES.—In the case of any petition for naturalization which may be pending in any court on January 1, 1992,²⁹ the petitioner may withdraw such petition and have the petitioner's application for naturalization considered under the amendments made by this title, but only if the petition is withdrawn not later than 3 months after the effective date.

(3) GENERAL EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this title are effective as of the date of the enactment of this Act.

(b) INTERIM, FINAL REGULATIONS.—The Attorney General shall prescribe regulations (on an interim, final basis or otherwise) to implement the amendments made by this title on a timely basis.

(c) CONTINUING DUTIES.—The amendments to section 339 of the Immigration and Nationality Act (relating to functions and duties of clerks) shall not apply to functions and duties respecting petitions filed before October 1, 1991.

(d) GENERAL SAVINGS PROVISIONS.—(1) Nothing contained in this title, unless otherwise specifically provided, shall be construed to affect the validity of any declaration of intention, petition for naturalization, certificate of naturalization, certification of citizenship, or other document or proceeding which is valid as of the effective date; or to affect any prosecution, suit, action, or proceedings, civil or criminal, brought, or any status, condition, right in process of acquisition, act, thing, liability, obligation, or matter, civil or criminal, done or existing, as of the effective date.

(2) As to all such prosecutions, suits, actions, proceedings, statutes, conditions, rights, acts, things, liabilities, obligations, or matters, the provisions of law repealed by this title are, unless otherwise specifically provided, hereby continued in force and effect.

(e) TREATMENT OF SERVICE IN ARMED FORCES OF FOREIGN COUNTRY.—The amendments made by section 404 (relating to treatment of service in armed forces of a foreign country) shall take effect on the date of the enactment of this Act and shall apply to exemptions from training or service obtained before, on, or after such date.

(f) FILIPINO WAR VETERANS.—Section 405 (relating to naturalization of natives of the Philippines through active-duty service under United States command during World War II) shall become effective on May 1, 1991, without regard to whether regulations to implement such section have been issued by such date.

²⁹ § 305(n) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1750) substituted "January 1, 1992" for "the date of the enactment of this Act", effective as if included in the enactment of the Immigration Act of 1990.

TITLE V—ENFORCEMENT

Subtitle A—Criminal Aliens

SEC. 501. AGGRAVATED FELONY DEFINITION.

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

(1) by aligning its left margin with the left margin of paragraph (42),

(2) by inserting “any illicit trafficking in any controlled substance (as defined in section 102 of the Controlled Substances Act), including” after “murder,”

(3) by inserting after “such title,” the following: “any offense described in section 1956 of title 18, United States Code (relating to laundering of monetary instruments), or any crime of violence (as defined in section 16 of title 18, United States Code, not including a purely political offense) for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 5 years,”

(4) by striking “committed within the United States”,

(5) by adding at the end the following: “Such term applies to offenses described in the previous sentence whether in violation of Federal or State law.”, and

(6) by inserting before the period of the sentence added by paragraph (5) the following: “and also applies to offenses described in the previous sentence in violation of foreign law for which the term of imprisonment was completed within the previous 15 years”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to offenses committed on or after the date of the enactment of this Act, except that the amendments made by paragraphs (2) and (5) of subsection (a) shall be effective as if included in the enactment of section 7342 of the Anti-Drug Abuse Act of 1988.

SEC. 502. SHORTENING PERIOD TO REQUEST JUDICIAL REVIEW.

(a) IN GENERAL.—Section 106(a)(1) (8 U.S.C. 1105a(a)(1)) is amended by striking “60 days” and inserting “30 days”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to final deportation orders issued on or after January 1, 1991.

SEC. 503. ENHANCING ENFORCEMENT AUTHORITY OF INS OFFICERS.

(a) BROADENING AUTHORITY.—Section 287(a) (8 U.S.C. 1357(a)) is amended—

(1) by striking “and” at the end of paragraph (3), and

(2) in paragraph (4), by striking “United States” the second place it appears and all that follows and inserting the following: “United States, and

“(5) to make arrests—

“(A) for any offense against the United States, if the offense is committed in the officer’s or employee’s presence, or

“(B) for any felony cognizable under the laws of the United States, if the officer or employee has reasonable

grounds to believe that the person to be arrested has committed or is committing such a felony, if the officer or employee is performing duties relating to the enforcement of the immigration laws at the time of the arrest and if there is a likelihood of the person escaping before a warrant can be obtained for his arrest.

Under regulations prescribed by the Attorney General, an officer or employee of the Service may carry a firearm and may execute and serve any order, warrant, subpoena, summons, or other process issued under the authority of the United States. The authority to make arrests under paragraph (5)(B) shall only be effective on and after the date on which the Attorney General publishes final regulations which (i) prescribe the categories of officers and employees of the Service who may use force (including deadly force) and the circumstances under which such force may be used, (ii) establish standards with respect to enforcement activities of the Service, (iii) require that any officer or employee of the Service is not authorized to make arrests under paragraph (5)(B) unless the officer or employee has received certification as having completed a training program which covers such arrests and standards described in clause (ii), and (iv) establish an expedited, internal review process for violations of such standards, which process is consistent with standard agency procedure regarding confidentiality of matters related to internal investigations.”

(b) **REQUIRING FINGERPRINTING AND PHOTOGRAPHING OF CERTAIN ALIENS.**—(1) Section 287 is further amended by adding at the end the following new subsection:

“(f)(1) Under regulations of the Attorney General, the Commissioner shall provide for the fingerprinting and photographing of each alien 14 years of age or older against whom a proceeding is commenced under section 242.

“(2) Such fingerprints and photographs shall be made available to Federal, State, and local law enforcement agencies, upon request.”

(2) Section 264(b) (8 U.S.C. 1304(b)) is amended by inserting “(1) pursuant to section 287(f)(2), and (2)” after “only”.

SEC. 504. CUSTODY PENDING DETERMINATION OF DEPORTABILITY AND EXCLUDABILITY.

(a) **DEPORTABILITY.**—Section 242(a)(2) (8 U.S.C. 1252(a)(2)) is amended—

(1) in the first sentence, by striking “upon completion of the alien’s sentence for such conviction” and inserting “upon release of the alien (regardless of whether or not such release is on parole, supervised release, or probation, and regardless of the possibility of rearrest or further confinement in respect of the same offense)”;

(2) in the second sentence, by inserting “but subject to subparagraph (B)” after “Notwithstanding subsection (a)”;

(3) in the second sentence, by striking “subsection (a)” and inserting “paragraph (1) or subsections (c) and (d)”;

(4) by inserting “(A)” after “(2)”, and

(5) by adding at the end the following new subparagraph:
“(B) The Attorney General shall release from custody an alien who is lawfully admitted for permanent residence on bond or such

other conditions as the Attorney General may prescribe if the Attorney General determines that the alien is not a threat to the community and that the alien is likely to appear before any scheduled hearings.”.

(b) **EXCLUDABILITY.**—Section 236 (8 U.S.C. 1226) is amended by adding at the end the following new subsection:

“(e)(1) Pending a determination of excludability, the Attorney General shall take into custody any alien convicted of an aggravated felony upon completion of the alien’s sentence for such conviction.

“(2) Notwithstanding any other provision of this section, the Attorney General shall not release such felon from custody unless the Attorney General determines that the alien may not be deported because the condition described in section 243(g) exists.

“(3) If the determination described in paragraph (2) has been made, the Attorney General may release such alien only after—

“(A) a procedure for review of each request for relief under this subsection has been established,

“(B) such procedure includes consideration of the severity of the felony committed by the alien, and

“(C) the review concludes that the alien will not pose a danger to the safety of other persons or to property.”.

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

SEC. 505. ELIMINATION OF JUDICIAL RECOMMENDATIONS AGAINST DEPORTATION.

(a) **IN GENERAL.**—Section 241(b) (8 U.S.C. 1251(b)) is amended—

(1) in the first sentence—

(A) by striking “(1)”, and

(B) by striking “, or (2)” and all that follows up to the period at the end; and

(2) in the second sentence, by inserting “or who has been convicted of an aggravated felony” after “subsection (a)(11) of this section”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to convictions entered before, on, or after such date.

SEC. 506. CLARIFICATION RESPECTING DISCRETIONARY AUTHORITY IN DEPORTATION PROCEEDINGS FOR INCARCERATED ALIENS.

(a) **IN GENERAL.**—Section 242A(d)(2) (8 U.S.C. 1252a(d)(2)) is amended by striking “, unless” and all that follows up to the period at the end.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 507. REQUIRING COORDINATION PLAN WITH INS AS A CONDITION FOR RECEIPT OF DRUG CONTROL AND SYSTEM IMPROVEMENT GRANTS UNDER THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.

(a) **IN GENERAL.**—Section 503(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by adding at the end the following new paragraph:

“(11)³⁰ An assurance that the State has established a plan under which the State will provide without fee to the Immigration and Naturalization Service, within 30 days of the date of their conviction, notice of conviction of aliens who have been convicted of violating the criminal laws of the State and under which the State will provide the Service with the certified record of such a conviction within 30 days of the date of a request by the Service for such record.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to grants for fiscal years beginning with fiscal year 1991.

SEC. 508. DEPORTATION FOR ATTEMPTED VIOLATIONS OF CONTROLLED SUBSTANCES LAWS.

(a) IN GENERAL.—Section 241(a)(11) (8 U.S.C. 1251(a)(11)) is amended by inserting “or attempt” after “conspiracy”.

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

SEC. 509. GOOD MORAL CHARACTER DEFINITION.

(a) IN GENERAL.—Section 101(f)(8) (8 U.S.C. 1101(f)(8)) is amended by striking “the crime of murder” and inserting “an aggravated felony (as defined in subsection (a)(43))”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to convictions occurring on or after such date,³¹ except with respect to conviction for murder which shall be considered a bar to good moral character regardless of the date of the conviction.

SEC. 510. REPORT ON CRIMINAL ALIENS.

(a) IN GENERAL.—The Attorney General shall submit to the appropriate Committees of the Congress, by not later than December 1, 1991, a report that describes the efforts of the Immigration and Naturalization Service to identify, apprehend, detain, and remove from the United States aliens who have been convicted of crimes in the United States.

(b) CRIMINAL ALIEN CENSUS.—Such report shall include a statement of—

(1) the number of aliens in the United States who have been convicted of a criminal offense in the United States, and, of such number, the number of such aliens who are not lawfully admitted to the United States;

(2) the number of aliens lawfully admitted to the United States who have been convicted of such an offense and, based on such conviction, are subject to deportation from the United States;

(3) the number of aliens in the United States who are incarcerated in a penal institution in the United States, and, of

³⁰This paragraph is shown as amended by § 306(a)(6) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1751), which amendments substituted “notice” for “the certified records” and inserted all that follows “laws of the State”, effective as if included in the enactment of the Immigration Act of 1990.

³¹The phrase beginning “, except” was inserted by § 306(a)(7) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1751), effective as if included in the enactment of the Immigration Act of 1990.

such number, the number of such aliens who are not lawfully admitted to the United States;

(4)(A) the number of aliens whose deportation hearings have been conducted pursuant to section 242A(a) of the Immigration and Nationality Act, and (B) the percentage that such number represents of the total number of deportable aliens with respect to whom a hearing under such section could have been conducted since November 18, 1988; and

(5) the number of aliens in the United States who have reentered the United States after having been convicted of a criminal offense in the United States.

Within each of the numbers of aliens specified under this subsection who have been convicted of criminal offenses, the Attorney General shall distinguish between criminal offenses that are aggravated felonies (as defined in section 101(a)(43) of the Immigration and Nationality Act, as amended by this Act) and other criminal offenses.

(c) **CRIMINAL ALIEN REMOVAL PLAN.**—The Attorney General shall include in the report a plan for the prompt removal from the United States of criminal aliens who are subject to exclusion or deportation. Such plan shall also include a statement of additional funds that would be required to provide for the prompt removal from the United States of—

(1)(A) aliens who are not lawfully admitted to the United States and who, as of the date of the enactment of this Act, have committed any criminal offense in the United States, and (B) aliens who are lawfully admitted to the United States and who, as of such date, have committed a criminal offense in the United States the commission of which makes the alien subject to deportation; and

(2)(A) aliens who are not lawfully admitted to the United States and who, in the future, commit a criminal offense in the United States, and (B) aliens who are lawfully admitted to the United States and who, in the future, commit a criminal offense in the United States the commission of which makes the alien subject to deportation.

Such plan shall also include a method for identifying and preventing the unlawful reentry of aliens who have been convicted of criminal offenses in the United States and removed from the United States.

SEC. 511. LIMITATION ON WAIVER OF EXCLUSION FOR RETURNING PERMANENT RESIDENTS CONVICTED OF AN AGGRAVATED FELONY.

(a) **IN GENERAL.**—Section 212(c) (8 U.S.C. 1182(c)) is amended by adding at the end the following: “The first sentence of this subsection shall not apply to an alien who has been convicted of an aggravated felony and has served a term of imprisonment of at least 5 years.”.

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

SEC. 512. AUTHORIZATION OF ADDITIONAL IMMIGRATION JUDGES FOR DEPORTATION PROCEEDINGS INVOLVING CRIMINAL ALIENS.

There are authorized to be appropriated in each of fiscal years 1991 through 1995 such sums as are necessary to provide for 20 additional immigration judges in the Department of Justice, to be used to conduct proceedings under section 242A(d) of the Immigration and Nationality Act (8 U.S.C. 1252a(d)).

SEC. 513. EFFECT OF FILING PETITION FOR REVIEW.

(a) **NO STAY UNLESS COURT ORDER.**—Section 106(a)(3) (8 U.S.C. 1105a(a)(3)) is amended by inserting before the semicolon at the end the following: “or unless the alien is convicted of an aggravated felony, in which case the Service shall not stay the deportation of the alien pending determination of the petition of the court unless the court otherwise directs”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to petitions for review filed more than 60 days after the date of the enactment of this Act and³² shall apply to convictions entered before, on, or after such date.

SEC. 514. EXTENDING BAR ON REENTRY OF ALIENS CONVICTED OF AGGRAVATED FELONIES.

(a) **IN GENERAL.**—Section 212(a)(17) (8 U.S.C. 1182(a)(17)) is amended by striking “ten years” and inserting “20 years”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to admissions occurring on or after January 1, 1991.

SEC. 515. ASYLUM IN THE CASE OF ALIENS CONVICTED OF AGGRAVATED FELONIES.

(a) **IN GENERAL.**—(1) Section 208 (8 U.S.C. 1158) is amended by adding at the end the following new subsection:

“(d) An alien who has been convicted of an aggravated felony, notwithstanding subsection (a), may not apply for or be granted asylum.”.

(2) Section 243(h)(2) (8 U.S.C. 1253(h)(2)) is amended by adding at the end the following:

“For purposes of subparagraph (B), an alien who has been convicted of an aggravated felony shall be considered to have committed a particularly serious crime.”.

(b) **EFFECTIVE DATES.**—

(1)³³ The amendment made by subsection (a)(1) shall apply to convictions entered before, on, or after the date of the enactment of this Act and to applications for asylum made on or after such date.

(2)³³ The amendment made by subsection (a)(2) shall apply to convictions entered before, on, or after the date of the enactment of this Act and to applications for withholding of deportation made on or after such date.

³²The phrase beginning “and shall apply” was inserted by § 306(a)(11)(B) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102–232, Dec. 12, 1991, 105 Stat. 1751), effective as if included in the enactment of the Immigration Act of 1990.

³³Paragraphs (1) and (2) of section 515(b) were amended to read as shown by § 306(a)(13) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102–232, Dec. 12, 1991, 105 Stat. 1752), effective as if included in the enactment of the Immigration Act of 1990.

Subtitle B—Provision Relating to Employer Sanctions

SEC. 521. ELIMINATION OF PAPERWORK REQUIREMENT FOR RECRUITERS AND REFERRERS.

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

(1) by striking “to hire, or to recruit or refer for a fee, for employment in the United States”,

(2) in subparagraph (A), by inserting after “(A)” the following: “to hire, or to recruit or refer for a fee, for employment in the United States”, and

(3) in subparagraph (B), by inserting after “(B)” the following: “(i) to hire for employment in the United States an individual without complying with the requirements of subsection (b) or (ii) if the person or entity is an agricultural association, agricultural employer, or farm labor contractor (as defined in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act), to hire, or to recruit or refer for a fee, for employment in the United States”.

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

Subtitle C—Provisions Relating to Anti-Discrimination

SEC. 531. DISSEMINATION OF INFORMATION CONCERNING ANTI-DISCRIMINATION PROTECTIONS UNDER IRCA AND TITLE VII OF THE CIVIL RIGHTS ACT OF 1964.

[Omitted; added subsection (1) at the end of section 274B.]

SEC. 532. INCLUSION OF CERTAIN SEASONAL AGRICULTURAL WORKERS WITHIN SCOPE OF ANTI-DISCRIMINATION PROTECTIONS.

(a)³⁴ IN GENERAL.—Section 274B(a)(3)(B)(i) (8 U.S.C. 1324b(a)(3)(B)(i)) is amended by inserting “210(a), 210A(a), or” before “245A(a)(1)”.

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

SEC. 533. ELIMINATION OF REQUIREMENT THAT ALIENS FILE A DECLARATION OF INTENDING TO BECOME A CITIZEN IN ORDER TO FILE ANTI-DISCRIMINATION COMPLAINT.

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

(1) in paragraph (1)(B), by striking “citizen or intending citizen” and inserting “protected individual”;

(2) in paragraph (3), by striking “CITIZEN OR INTENDING CITIZEN” and inserting “PROTECTED INDIVIDUAL”;

³⁴ Amendment effectively superseded by amendment made by § 533(a)(4)(A), shown below.

(3) in paragraph (3), by striking “citizen or intending citizen” and inserting “protected individual”; and

(4) in paragraph (3)(B)—

(A) by striking “is an alien” and all that follows through “but does not” and inserting “is an alien who is lawfully admitted for permanent residence, is granted the status of an alien lawfully admitted for temporary residence under section 210(a), 210A(a), or 245A(a)(1), is admitted as a refugee under section 207, or is granted asylum under section 208; but does not”, and

(B) by striking “(I)” and “(II)” and inserting “(i)” and “(ii)”, respectively.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to unfair immigration-related employment practices occurring before, on, or after the date of the enactment of this Act.

SEC. 534. ANTI-RETALIATION PROTECTIONS.

(a) **CODIFICATION OF REGULATION.**—[Omitted; added paragraph (5) at the end of section 274B(a).]

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

SEC. 535. TREATMENT OF CERTAIN ACTIONS AS DISCRIMINATION.

(a) **DOCUMENTATION ABUSES.**—[Omitted; added paragraph (6) at the end of section 274B(a).]

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, but shall apply to actions occurring on or after such date.

SEC. 536. CONFORMING CIVIL MONEY PENALTIES FOR ANTI-DISCRIMINATION VIOLATIONS TO THOSE FOR EMPLOYER SANCTIONS.

(a) **CIVIL MONEY PENALTIES.**—[Omitted; amended clause (iv) of section 274B(g)(2)(B) in its entirety.]

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to unfair immigration-related employment practices occurring after the date of the enactment of this Act.

SEC. 537. PERIOD FOR FILING OF COMPLAINTS.

(a) **120-DAY PERIOD.**—Section 274B(d)(2) (8 U.S.C. 1324b(d)(2)) is amended—

(1) by inserting “the Special Counsel shall notify the person making the charge of the determination not to file such a complaint during such period and” after “120-day period,”,

(2) by inserting “within 90 days after the date of receipt of the notice” before the period at the end, and

(3) by adding at the end the following: “The Special Counsel’s failure to file such a complaint within such 120-day period shall not affect the right of the Special Counsel to investigate the charge or to bring a complaint before an administrative law judge during such 90-day period.”

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

SEC. 538. SPECIAL COUNSEL ACCESS TO EMPLOYMENT ELIGIBILITY VERIFICATION FORMS.

(a) **IN GENERAL.**—Section 274A(b)(3) (8 U.S.C. 1324a(b)(3)) is amended by inserting “, the Special Counsel for Immigration-Related Unfair Employment Practices,” after “officers of the Service,”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 539. ADDITIONAL RELIEF IN ORDERS.

(a) **IN GENERAL.**—[Omitted; added clauses (v) through (viii) to section 274B(g)(2)(B).]

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to orders with respect to unfair immigration-related employment practices occurring on or after the date of the enactment of this Act.

Subtitle D—General Enforcement

SEC. 541. AUTHORIZING INCREASE BY 1,000 IN BORDER PATROL PERSONNEL.

There are authorized to be appropriated for fiscal year 1991 such additional sums as may be necessary to provide for an increase of 1,000 in the authorized personnel level of the border patrol of the Immigration and Naturalization Service, above the authorized level of the patrol as of September 30, 1990.

SEC. 542. APPLICATION OF INCREASE IN PENALTIES TO ENHANCE ENFORCEMENT ACTIVITIES.

(a) **IN GENERAL.**—Section 280 (8 U.S.C. 1330) is amended—

(1) by inserting “(a)” after “280.”, and

(2) [Omitted; added subsection (b) at the end of section 280.]

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to fines and penalties collected on or after January 1, 1991.

SEC. 543. INCREASE IN FINE LEVELS; AUTHORITY OF THE INS TO COLLECT FINES.

(a) **CIVIL PENALTIES.**—

(1) **FAILURE TO DELIVER MANIFEST.**—Section 231(d) (8 U.S.C. 1221(d)) is amended by striking “collector of customs at the port of arrival or departure the sum of \$10” and inserting “Commissioner the sum of \$300”.

(2) **FAILURE TO PROVIDE FOR DEPORTATION.**—Section 237(b) (8 U.S.C. 1227(b)) is amended by striking “district director of customs of the district in which port of arrival is situated or in which any vessel or aircraft of the line may be found, the sum of \$300” and inserting “Commissioner the sum of \$2,000”.

(3) **IMPROPER AIRCRAFT ENTRY.**—Section 239 (8 U.S.C. 1229) is amended by striking “\$500” each place it appears and inserting “\$2,000”.

(4) **FAILURE TO CONTROL CREW.**—Section 254(a) (8 U.S.C. 1284(a)) is amended—

(A) in the first sentence, by striking “collector of customs of the customs district in which the port of arrival is located or in which the failure to comply with the orders

of the officer occurs the sum of \$1,000” and inserting “Commissioner the sum of \$3,000”, and

(B) in the third sentence by striking “\$200” and inserting “\$500”.

(5) EMPLOYMENT OF CERTAIN CREW.—Section 255 (8 U.S.C. 1285) is amended—

(A) in the second sentence, by striking “collector of customs of the customs district in which the port of arrival is located the sum of \$50” and inserting “Commissioner the sum of \$1,000”, and

(B) in the third sentence, by striking “collector of customs” and inserting “Commissioner”.

(6) IMPROPER DISCHARGE OF CREW.—Section 256 (8 U.S.C. 1286) is amended—

(A) in the second sentence, by striking “collector of customs of the customs district in which the violation occurred the sum of \$1,000” and inserting “Commissioner the sum of \$3,000”,

(B) in the third sentence, by striking “collector of customs” and inserting “Commissioner”, and

(C) in the fourth sentence, by striking “\$500” and inserting “\$1,500”.

(7) ASSISTING UNLAWFUL ENTRY OF CREW.—Section 257 (8 U.S.C. 1287) is amended by striking “\$5,000” and inserting “\$10,000”.

(8) DUTY TO PREVENT UNAUTHORIZED ENTRIES.—Section 271(a) (8 U.S.C. 1321) is amended by striking “\$1,000” and inserting “\$3,000”.

(9) BRINGING IN CERTAIN ALIENS.—Section 272 (8 U.S.C. 1322) is amended—

(A) in subsection (a)—

(i) by striking “collector of customs of the customs district in which the place of arrival is located” and inserting “Commissioner”, and

(ii) by striking “\$1,000” and inserting “\$3,000”;

(B) in subsection (b)³⁵—

(i) by striking “collector of customs of the customs district in which the place of arrival is located” and inserting “Commissioner”, and

(ii) by striking “\$250” and inserting “\$3,000”; and

(C) in subsection (c), by striking “collector of customs” and inserting “Commissioner”.

(10) UNLAWFUL BRINGING OF ALIENS.—Section 273 (8 U.S.C. 1323) is amended—

(A) in subsection (b), by striking “collector of customs of the customs district in which the port of arrival is located the sum of \$1,000” and inserting “Commissioner the sum of \$3,000”, and

(B) in subsection (d)—

(i) in the first sentence, by striking “collector of customs of the customs district in which the port of ar-

³⁵Note that subsection (b) was stricken by § 603(a)(15)(B) of the Immigration Act of 1990.

rival is located the sum of \$1,000” and inserting “Commissioner the sum of \$3,000”, and

(ii) in the second sentence, by striking “collector of customs” and inserting “Commissioner”.

(b) CRIMINAL FINE LEVELS.—

(1) CREW MEMBER OVERSTAYING.—Section 252(c) (8 U.S.C. 1282(c)) is amended by striking “shall be guilty” and all that follows through “six months” and inserting “shall be fined not more than \$2,000 (or, if greater, the amount provided under title 18, United States Code) or imprisoned not more than 6 months”.

(2) CONCEALMENT OF ALIENS.—Section 275 (8 U.S.C. 1325) is amended—

(A) by inserting “or attempts to enter” after “(1) enters”,

(B) by inserting “attempts to enter or” after “or (3)”, and

(C) by striking “shall, for the first commission”, and all that follows through “\$1,000” and inserting “shall, for the first commission of any such offense, be fined not more than \$2,000 (or, if greater, the amount provided under title 18, United States Code) or imprisoned not more than 6 months, or both, and, for a subsequent commission of any such offense, be fined under title 18, United States Code, or imprisoned not more than 2 years”.

(3) UNLAWFUL REENTRY.—Section 276 (8 U.S.C. 1326) is amended by striking “shall be guilty” and all that follows through “\$1,000” and inserting “shall be fined under title 18, United States Code, or imprisoned not more than 2 years”.

(4) AIDING IN ENTRY OF SUBVERSIVES.—Section 277 (8 U.S.C. 1327) is amended by striking “shall be guilty” and all that follows through “five years” and inserting “shall be fined under title 18, United States Code, or imprisoned not more than 10 years”.

(5) IMPORTING PROSTITUTES.—Section 278 (8 U.S.C. 1328) is amended by striking “shall, in every” and all that follows through “ten years” and inserting “shall be fined under title 18, United States Code, or imprisoned not more than 10 years, or both”.

(c) EFFECTIVE DATES.—The amendments made by subsections (a) and (b) shall apply to actions taken after the date of the enactment of this Act.

SEC. 544. CIVIL PENALTIES FOR DOCUMENT FRAUD.

(a) DOCUMENT FRAUD.—~~Section 274C.~~

(b) NEW GROUND OF DEPORTATION.—Section 241(a) (8 U.S.C. 1251(a)) is amended—

(1) by striking “or” at the end of paragraph (19),

(2) by striking the period at the end of paragraph (20) and inserting “; or”, and

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

“(21) is the subject of a final order for violation of section 274C.”.

(c) CLERICAL AMENDMENT.—[Omitted; conforming amendment to table of contents.]

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to persons or entities that have committed violations on or after the date of the enactment of this Act.

SEC. 545. DEPORTATION PROCEDURES; REQUIRED NOTICE OF DEPORTATION HEARING; LIMITATION ON DISCRETIONARY RELIEF.

(a) IN GENERAL.—[Omitted; inserted section 242B.]

(b) JUDICIAL REVIEW.—Section 106(a) (8 U.S.C. 1105a) is amended—

(1) in paragraph (1), by striking “6 months” and inserting “90 days”,

(2) by redesignating paragraphs (6) through (9) as paragraphs (7) through (10), respectively, and

(3) by inserting after paragraph (5) the following new paragraph:

“(6) whenever a petitioner seeks review of an order under this section, any review sought with respect to a motion to reopen or reconsider such an order shall be consolidated with the review of the order;”.

(c) REPORT ON CONSOLIDATION OF REQUESTS FOR RELIEF.—The Attorney General shall submit to the Congress by not later than 6 months after the date of the enactment of this Act, a report on abuses associated with the failure of aliens to consolidate requests for discretionary relief before immigration judges at the first hearing on the merits. The Attorney General shall take into account possible exceptions appropriate in the interest of justice and shall include in the report such recommendations for changes in regulations or law as may be needed to prevent such abuses.

(d) REGULATIONS ON MOTIONS TO REOPEN AND TO RECONSIDER AND ON ADMINISTRATIVE APPEALS.—Within 6 months after the date of the enactment of this Act, the Attorney General shall issue regulations with respect to—

(1) the period of time in which motions to reopen and to reconsider may be offered in deportation proceedings, which regulations include a limitation on the number of such motions that may be filed and a maximum time period for the filing of such motions; and

(2) the time period for the filing of administrative appeals in deportation proceedings and for the filing of appellate and reply briefs, which regulations include a limitation on the number of administrative appeals that may be made, a maximum time period for the filing of such motions and briefs, the items to be included in the notice of appeal, and the consolidation of motions to reopen or to reconsider with the appeal of the order of deportation.

(e) CONFORMING AMENDMENT.—The 8th sentence of section 242(b) (8 U.S.C. 1252(b)) is amended to read as follows: “Such regulations shall include requirements consistent with section 242B.”.

(f) CLERICAL AMENDMENT.—[Omitted; conforming amendment to table of contents.]

(g) EFFECTIVE DATES.—

(1) NOTICE-RELATED PROVISIONS.—

(A) Subsections (a), (b), (c), and (e)(1) of section 242B of the Immigration and Nationality Act (as inserted by the amendment made by subsection (a)), and the amendment made by subsection (e), shall be effective on a date specified by the Attorney General in the certification described in subparagraph (B), which date may not be earlier than 6 months after the date of such certification.

(B) The Attorney General shall certify to the Congress when the central address file system (described in section 239(a)(4) of the Immigration and Nationality Act) has been established.

(C) The Comptroller General shall submit to Congress, within 3 months after the date of the Attorney General's certification under subparagraph (B), a report on the adequacy of such system.

(2) CERTAIN LIMITS ON DISCRETIONARY RELIEF; SANCTIONS FOR FRIVOLOUS BEHAVIOR.—Subsections (d), (e)(2), and (e)(3) of section 242B of the Immigration and Nationality Act (as inserted by the amendment made by subsection (a)) shall be effective on the date of the enactment of this Act.

(3) LIMITS ON DISCRETIONARY RELIEF FOR FAILURE TO APPEAR IN ASYLUM HEARING.—Subsection (e)(4) of section 242B of the Immigration and Nationality Act (as inserted by the amendment made by subsection (a)) shall be effective on February 1, 1991.

(4) CONSOLIDATION OF RELIEF IN JUDICIAL REVIEW.—The amendments made by subsection (b) shall apply to final orders of deportation entered on or after January 1, 1991.

TITLE VI—EXCLUSION AND DEPORTATION

SEC. 601. REVISION OF GROUNDS FOR EXCLUSION.

(a) REVISED GROUNDS FOR EXCLUSION.—[Omitted; amended subsection (a) of section 212 in its entirety.]

(b) NOTICE OF GROUNDS FOR EXCLUSION.—[Omitted; amended subsection (b) of section 212 in its entirety.]

(c) REVIEW OF EXCLUSION LISTS.—The Attorney General and the Secretary of State shall develop protocols and guidelines for updating lookout books and the automated visa lookout system and similar mechanisms for the screening of aliens applying for visas for admission, or for admission, to the United States. Such protocols and guidelines shall be developed in a manner that ensures that in the case of an alien—

(1) whose name is in such system, and

(2) who either (A) applies for admission³⁶ after the effective date of the amendments made by this section, or (B) re-

³⁶This section was amended by section 308(d)(3)(b) and (f)(1)(Q) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Pub. L. 104-208; 110 Stat. 3009-637 and 642) by striking the terms “excludability” and “excludable” each place such term appears and inserting “inadmissibility” and “inadmissible” and by striking the term “entry” and inserting “admission”. Effective, under section 309(a) of such Act “the amendments made by this

Continued

quests (in writing to a local consular office after such date) a review, without seeking admission, of the alien's continued inadmissibility³⁶ under the Immigration and Nationality Act, if the alien is no longer inadmissible³⁶ because of an amendment made by this section the alien's name shall be removed from such books and system and the alien shall be informed of such removal and if the alien continues to be inadmissible³⁶ the alien shall be informed of such determination.

(d) CONFORMING AMENDMENTS TO SECTION 212.—

(1) Subsection (c) of section 212 (8 U.S.C. 1182) is amended by striking “paragraph (1) through (25) and paragraphs (30) and (31) of subsection (a)” and inserting “subsection (a) (other than subparagraphs (A), (B), (C), or (E) of paragraph (3))”.

(2) Subsection (d) of such section is amended—

(A) by striking paragraphs (1), (2), (6), (9), and (10);

(B) in paragraph (3)—

(i) by striking “under one or more of the paragraphs enumerated in subsection (a) (other than paragraphs (27), (29), and (33))” and inserting “under subsection (a) (other than paragraphs (3)(A), (3)(C), and (3)(D) of such subsection)” each place it appears, and

(ii) by adding at the end the following new sentence: “The Attorney General shall prescribe conditions, including exaction of such bonds as may be necessary, to control and regulate the admission and return of excludable aliens applying for temporary admission under this paragraph.”;

(C) in paragraph (4), by striking “(26)” and inserting “(7)(B)(i)”;

(D) in paragraph (7), by striking “of this section, except paragraphs (20), (21), and (26),” and inserting “(other than paragraph (7))”;

(E) in paragraph (8), by striking “(26), (27), and (29)” and inserting “(3)(A), (3)(B), (3)(C), and (7)(B)”;

(F) **[Omitted; added paragraph (11) at the end of section 212(d).]**

(3) **[Omitted; amended subsection (g) of section 212 in its entirety.]**

(4) **[Omitted; amended subsection (h) of section 212 in its entirety.]**

(5) **[Omitted; amended subsection (i) of section 212 in its entirety.]**

(6) Subsection (k) of such section is amended by striking “paragraph (14), (20), or (21)” and inserting “paragraph (5)(A) or (7)(A)(i)”.

(7) Subsection (l) of such section is amended by striking “paragraph (26)(B)” and inserting “paragraph (7)(B)(i)”.

(e) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section and by section 603(a) of this Act shall apply to individuals entering the United States on or after June 1, 1991.

subtle [subtle A of title III] shall take effect on the first day of the first month beginning more than 180 days after the date of enactment of this Act [April 1, 1997].

(2) The amendments made by paragraphs (5) and (13) of section 603(a) shall apply to applications for adjustment of status made on or after June 1, 1991.

SEC. 602. REVISION OF GROUNDS FOR DEPORTATION.

(a) REVISED GROUNDS FOR DEPORTATION.—[Omitted; amended subsection (a) of section 241 in its entirety.]

(b) CONFORMING AMENDMENTS TO SECTION 241.—³⁷

(1) Subsections (b), (c), (f), and (g) of section 241 are repealed.

(2) Subsection (e) of such section is amended—

(A) by striking “subsection (a) (6) or (7) of this section” and inserting “paragraph (4) of subsection (a)”, and

(B) by redesignating such subsection as subsection (b).

(c) SAVINGS PROVISION.—Notwithstanding the amendments made by this section, any alien who was deportable because of a conviction (before the date of the enactment of this Act) of an offense referred to in paragraph (15), (16), (17), or (18) of section 241(a) of the Immigration and Nationality Act, as in effect before the date of the enactment of this Act, shall be considered to remain so deportable. Except as otherwise specifically provided in such section and subsection (d), the provisions of such section, as amended by this section, shall apply to all aliens described in subsection (a) thereof notwithstanding that (1) any such alien entered the United States before the date of the enactment of this Act, or (2) the facts, by reason of which an alien is described in such subsection, occurred before the date of the enactment of this Act.

(d) EFFECTIVE DATE.—The amendments made by this section, and by section 603(b) of this Act, shall not apply to deportation proceedings for which notice has been provided to the alien before March 1, 1991.

SEC. 603. CONFORMING AMENDMENTS.

(a) RELATING TO GROUNDS FOR EXCLUSION.—³⁸

(1) Section 101 (8 U.S.C. 1101) is amended—

(A) in subsection (f)(3), by striking “paragraphs (11), (12), and (31)” and inserting “paragraphs (2)(D), (6)(E), and (9)(A)”,

(B) in subsection (f)(3), by striking “paragraphs (9) and (10) of section 212(a) and paragraph (23)” and inserting “subparagraphs (A) and (B) of section 212(a)(2) and subparagraph (C) thereof”, and

(C) in subsection (h), by striking “212(a)(34)” and inserting “212(a)(2)(E)”.

(2) Section 102 (8 U.S.C. 1102) is amended—

(A) by striking “(27)” in paragraphs (1) and (2) and inserting “(3) (other than subparagraph (E))”, and

(B) by striking “paragraphs (27) and (29)” in paragraph (3) and inserting “paragraph (3) (other than subparagraph (E))”.

³⁷ Additional technical corrections to section 241 were made by § 307(k) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102–232, Dec. 12, 1991, 105 Stat. 1756), effective as if included in this subsection.

³⁸ Additional technical corrections to various provisions were made by § 307(l) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102–232, Dec. 12, 1991, 105 Stat. 1756–7), effective as if included in this subsection.

(3) Section 203(a)(7) (8 U.S.C. 1153(a)(7)) is amended by striking “section 212(a)(14)” and inserting “section 212(a)(5)”.

(4) Sections 207(c)(3) and 209(c) (8 U.S.C. 1157(c)(3), 1159(c)) are each amended—

(A) by striking “(14), (15), (20), (21), (25), and (32)” and inserting “(4), (5), and (7)(A)”, and

(B) by striking “(other than paragraph)” and all that follows through “narcotics” and inserting “(other than paragraph (2)(C) or subparagraphs (A), (B), (C), or (E) of paragraph (3))”.

(5)³⁹ Section 210 (8 U.S.C. 1160) is amended—

(A) in subsection (a)(3)(B)(i), by striking “212(a)(19)” and inserting “212(a)(6)(C)(i)”,

(B) in subsection (c)(2)(A), by striking “(14), (20), (21), (25), and (32)” and inserting “(5) and (7)(A)”,

(C) in subsection (c)(2)(B)(ii)(I), by striking “Paragraph (9) and (10)” and inserting “Paragraphs (2)(A) and (2)(B)”,

(D) in subsection (c)(2)(B)(ii)(II), by striking “(15)” and inserting “(4)”,

(E) in subsection (c)(2)(B)(ii)(III), by striking “(23)” and inserting “(2)(C)”,

(F) in subsection (c)(2)(B)(ii)(IV), by striking “Paragraphs (27), (28), and (29) (relating to national security and members of certain organizations)” and inserting “Paragraph (3) (relating to security and related grounds), other than subparagraph (E) thereof”,

(G) in subsection (c)(2)(B)(ii), by striking subclause (V), and

(H) in subsection (c)(2)(C), by striking “212(a)(15)” and inserting “212(a)(4)”.

(6) Section 210A(e) (8 U.S.C. 1161(e)) is amended—

(A) in paragraph (1), by striking “(14), (20), (21), (25), and (32)” and inserting “(5) and (7)(A)”,

(B) in paragraph (2)(B)(i), by striking “Paragraphs (9) and (10)” and inserting “Paragraphs (2)(A) and (2)(B)”,

(C) in paragraph (2)(B)(ii), by striking “(23)” and inserting “(2)(C)”,

(D) in paragraph (2)(B)(iii), by striking “(27), (28), and (29) (relating to national security and members of certain organizations)” and inserting “and (3) (relating to security grounds), other than subparagraph (E) thereof”,

(E) in paragraph (2)(B)(iv), by striking “(33)” and inserting “(3)(D)”, and

(F) in paragraph (2)(C), by striking “212(a)(15)” and inserting “212(a)(4)”.

(7) Section 211(b) (8 U.S.C. 1181(b)) is amended by striking “212(a)(20)” and inserting “212(a)(7)(A)”.

(8) Section 213 (8 U.S.C. 1183) is amended—

(A) by striking “(7) or (15)” and inserting “(4)”, and

³⁹ Note that section 210(b)(7)(B) of the INA was amended, by § 307(j) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1756), by striking “212(a)(19)” and inserting “212(a)(6)(C)(i)”, effective as if included in this paragraph.

- (B) by inserting before the period at the end the following: “, irrespective of whether a demand for payment of public expenses has been made”.
- (9) Section 221(g) (8 U.S.C. 1201(g)) is amended by striking “212(a)(7), or section 212(a)(15)” and inserting “212(a)(4)”.
- (10) Section 234 (8 U.S.C. 1224) is amended by striking “paragraphs (1), (2), (3), (4), or (5)” and inserting “paragraph (1)” each place it appears.
- (11) Section 235 (8 U.S.C. 1225) is amended by striking “paragraph (27), (28), or (29) of section 212(a)” and inserting “subparagraph (A) (other than clause (ii)), (B), or (C) of section 212(a)(3)”.
- (12) Section 236(d) (8 U.S.C. 1226(d)) is amended—
- (A) by striking “is afflicted with a disease” and all that follows through “of section 212(a)” and inserting “has a disease, illness, or addiction which would make the alien excludable under paragraph (1) of section 212(a)”, and
- (B) by striking the last sentence.
- (13) Section 245A(d)(2) (8 U.S.C. 1255a(d)(2)) is amended—
- (A) in subparagraph (A), by striking “(14), (20), (21), (25), and (32)” and inserting “(5) and (7)(A)”,
- (B) in subparagraph (B)(ii)(I), by striking “Paragraphs (9) and (10)” and inserting “Paragraphs (2)(A) and (2)(B)”,
- (C) in subparagraph (B)(ii)(II), by striking “(15)” and inserting “(4)”,
- (D) in subparagraph (B)(ii)(III), by striking “(23)” and inserting “(2)(C)”,
- (E) in subparagraph (B)(ii)(IV), by striking “(27), (28), and (29) (relating to national security and members of certain organizations)” and inserting “(3) (relating to security and related grounds), other than subparagraph (E) thereof”,
- (F) in subparagraph (B)(ii), by striking subclause (V),
- (G) in subparagraph (B)(ii), by striking “212(a)(15)” and inserting “212(a)(4)”, and
- (H) in subparagraph (B)(iii), by striking “212(a)(15)” and inserting “212(a)(4)”.
- (14) Section 249 (8 U.S.C. 1259) is amended by striking “212(a)(33)” and inserting “212(a)(3)(E)”.
- (15) Section 272 (8 U.S.C. 1322)—
- (A) in subsection (a)—
- (i) by striking “(1) mentally retarded” and all that follows through “(6) a narcotic drug addict” and inserting “excludable under section 212(a)(1)”, and
- (ii) by striking “such disease or disability” and inserting “the excluding condition”;
- (B) by striking subsection (b);
- (C) by redesignating subsections (c) through (e) as subsections (b) through (d), respectively; and
- (D) by striking “DISABILITY OR AFFLICTED WITH DISEASE” in the heading and inserting “EXCLUSION ON A HEALTH- RELATED GROUND”.
- (16) Section 277 (8 U.S.C. 1327) is amended by striking “212(a)(9)” and all that follows through “(29)” and inserting

“212(a)(2) (insofar as an alien excludable under such section has been convicted of an aggravated felony) or 212(a)(3) (other than subparagraph (E) thereof”).

(17) The item in the table of contents relating to section 272 is amended to read as follows:

“Sec. 272. Bringing in aliens subject to exclusion on a health-related ground.”

(18) Section 21 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2691) is repealed.

(19) Section 14 of Public Law 99–396 is repealed.

(20) Section 584(a)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100–202) is amended—

(A) by striking “(14), (15), (20), (21), (25), and (32)” and inserting “(4), (5), and (7)(A)”, and

(B) by striking “(other than paragraph” and all that follows through “narcotics)” and inserting “(other than paragraph (2)(C) or subparagraph (A), (B), (C), or (D) of paragraph (3))”.

(21) Section 901 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204) is repealed.

(22) Section 599E of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167) is amended by striking “(14), (15), (20), (21), (25), (28) (other than subparagraph (F)), and (32)” and inserting “(4), (5), and (7)(A)”.

(23) Section 301(a)(1) of this Act is amended by striking “on a ground specified” and all that follows through “of such Act” and inserting “on a ground specified in paragraph (1)(A), (1)(B), (1)(C), (3)(A), of section 241(a) of the Immigration and Nationality Act (other than so much of section 241(a)(1)(A) of such Act as relates to a ground of exclusion described in paragraph (2) or (3) of section 212(a) of such Act)”.

(24) Section 244A(c)(2)(A), as inserted by section 302 of this Act, is amended—

(A) in clause (i), by striking “(14), (20), (21), (25), and (32)” and inserting “(5) and (7)(A)”;

(B) in clause (iii)(I), by striking “Paragraphs (9) and (10)” and inserting “Paragraphs (2)(A) and (2)(B)”;

(C) in clause (iii)(II), by striking “(23)” and inserting “(2)(C)” and by adding “or” at the end;

(D) in clause (iii)(III), by striking “(27) and (29) (relating to national security)” and inserting “(3) (relating to security and related grounds)” and by striking “; or” at the end and inserting a period; and

(E) by striking subclause (IV) of clause (iii).

(b) RELATING TO GROUNDS FOR DEPORTATION.—

(1) Section 210A(d)(5)(A) (8 U.S.C. 1161(d)(5)(A)) is amended by striking “241(a)(20)” and inserting “241(a)(1)(F)”.

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

(A) in subsection (b), by striking “(4), (5), (6), (7), (11), (12), (14), (15), (16), (17), (18), or (19)” and inserting “(2), (3), or (4)”, and

- (B) in subsection (e), by striking “paragraph⁴⁰ (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), (18), or (19)” and inserting “paragraph (2), (3) or (4)”.
- (3) Sections 243(h)(1) and 244(a) (8 U.S.C. 1253(h)(1), 1254(a)) are each amended by striking “241(a)(19)” and inserting “241(a)(4)(D)”.
- (4) Section 244 (8 U.S.C. 1254) is amended—
- (A) in subsection (a)(2), by striking “paragraph (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), or (18)” and inserting “paragraph (2), (3), or (4)”, and
- (B) in subsection (e)(1), by striking “(4), (5), (6), (7), (11), (12), (14), (15), (16), (17), (18), or (19)” and inserting “(2), (3), or (4)”.
- (5) Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) is amended—
- (A) by striking “paragraph (1), (2), (4), (5), (6), (7), (10), (11), (12), (14), (15), (16), (17), or (18) of section 241(a)” in paragraph (1) and inserting “under section 241(a) (other than under paragraph (1)(C) or (1)(E) thereof)”, and
- (B) by striking “enumerated in paragraph (1) in this subsection” in paragraph (2) and inserting “(other than under paragraph (1)(C) or (1)(E) thereof)”.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. BATTERED SPOUSE OR CHILD WAIVER OF THE CONDITIONAL RESIDENCE REQUIREMENT.

- (a) IN GENERAL.—Section 216(c)(4) (8 U.S.C. 1186a(c)(4)) is amended—
- (1) by striking “or” at the end of subparagraph (A);
- (2) in subparagraph (B), by striking “by the alien spouse for good cause”;
- (3) in subparagraph (B), by striking the period at the end and inserting “, or”;
- (4) by inserting after subparagraph (B) the following new subparagraph:
- “(C) the qualifying marriage was entered into in good faith by the alien spouse and during the marriage the alien spouse or child was battered by or was the subject of extreme cruelty perpetrated by his or her spouse or citizen or permanent resident parent and the alien was not at fault in failing to meet the requirements of paragraph (1).”; and
- (5) by adding at the end the following: “The Attorney General shall, by regulation, establish measures to protect the confidentiality of information concerning any abused alien spouse or child, including information regarding the whereabouts of such spouse or child.”.

⁴⁰Should have stricken “paragraphs”. This was corrected by §307(m)(2) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232, Dec. 12, 1991, 105 Stat. 1757), effective as if included in this subsection.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply with respect to marriages entered into before, on, or after the date of the enactment of this Act.

SEC. 702. BONA FIDE MARRIAGE EXCEPTION TO FOREIGN RESIDENCE REQUIREMENT FOR MARRIAGES ENTERED INTO DURING CERTAIN IMMIGRATION PROCEEDINGS.

(a) **IN GENERAL.**—Section 245(e) (8 U.S.C. 1255(e)) is amended—

(1) in paragraph (1), by striking “An alien” and inserting “Except as provided in paragraph (3), an alien”, and

(2) **[Omitted; added paragraph (3) at the end of section 245(e).]**

(b) **CONFORMING AMENDMENT.**—Section 204(g) (8 U.S.C. 1154(g)), as redesignated by section 162(b)(6) of this Act, is amended by inserting “except as provided in section 245(e)(3),” after “Notwithstanding subsection (a),”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to marriages entered into before, on, or after the date of the enactment of this Act.

SEC. 703. 1-YEAR EXTENSION OF DEADLINE FOR FILING APPLICATIONS FOR ADJUSTMENT FROM TEMPORARY TO PERMANENT [SIC] RESIDENCE FOR LEGALIZED ALIENS.

(a) **IN GENERAL.**—Section 245A(b) (8 U.S.C. 1255a(b)) is amended—

(1) in paragraph (1)(A), by striking “one-year period” and inserting “2-year period”, and

(2) in paragraph (2)(C), by striking “thirty-first” and inserting “43rd”.

(b) **LATE FEE.**—Section 245A(c)(7)(A) (8 U.S.C. 1255a(c)(7)(A)) is amended by adding at the end the following: “The Attorney General shall provide for an additional fee for filing an application for adjustment under subsection (b)(1) after the end of the first year of the 2-year period described in subsection (b)(1)(A).”.

SEC. 704. COMMISSION ON AGRICULTURAL WORKERS.

(a) **1-YEAR EXTENSION.**—Section 304 of the Immigration Reform and Control Act of 1986 (Public Law 99–603) is amended—

(1) in subsection (c), by striking “five” and inserting “six”, and

(2) in subsection (i), by striking “63” and inserting “75”.

(b) **STAFF.**—Subsection (f) of such section is amended by striking “competitive service” and inserting “and compensation and other conditions of service in the civil service”.

SEC. 705. IMMIGRATION EMERGENCY FUND.

(a) **IN GENERAL.**—Section 404(b) (8 U.S.C. 1101 note) is amended—

(1) by inserting “(1)” after “(b)”,

(2) by inserting “(for fiscal year 1991 and any subsequent fiscal year)” after “appropriated”,

(3) by striking “\$35,000,000” and inserting “an amount sufficient to provide for a balance of \$35,000,000 in such fund”,

(4) by inserting “to carry out paragraph (2) and” after “to be used”, and

(5) **[Omitted; added paragraph (2) at the end of section 404(b).]**

(b) **EFFECTIVE DATE.**—Section 404(b)(2)(A)(i) of the Immigration and Nationality Act, as added by the amendment made by subsection (a)(5), shall apply with respect to increases in the number of asylum applications filed in a calendar quarter beginning on or after January 1, 1989. The Attorney General may not spend any amounts from the immigration emergency fund pursuant to the amendments made by subsection (a) before October 1, 1991.

TITLE VIII—EDUCATION AND TRAINING

SEC. 801. EDUCATIONAL ASSISTANCE AND TRAINING.

(a) **USE OF FUND.**—The Secretary of Labor shall provide for grants to States to provide educational assistance and training for United States workers. The Secretary shall consult with the Secretary of Education in making grants under this section.

(b) **ALLOCATION OF FUNDS.**—Within the purposes described in subsection (a), funds in the account used under this section shall be allocated among the States based on a formula, established jointly by the Secretaries of Labor and Education, that takes into consideration—

(1) the location of foreign workers admitted into the United States,

(2) the location of individuals in the United States requiring and desiring the educational assistance and training for which the funds can be applied, and

(3) the location of unemployed and underemployed United States workers.

(c) **DISBURSEMENT TO STATES.**—

(1) Within the purposes and allocations established under this section, disbursements shall be made to the States, in accordance with grant applications submitted to and approved jointly by the Secretaries of Labor and Education, to be applied in a manner consistent with the guidelines established by such Secretaries in consultation with the States. In applying such grants, the States shall consider providing funding to joint labor-management trust funds and other such non-profit organizations which have demonstrated capability and experience in directly training and educating workers.

(2) Not more than 5 percent of the funds disbursed to any State under this section may be used for administrative expenses.

(d) **LIMITATION ON FEDERAL OVERHEAD.**—The Secretaries shall provide that not more than 2 percent of the amount of funds disbursed to States under this section may be used by the Federal Government in the administration of this section.

(e) **ANNUAL REPORT.**—The Secretary of Labor shall report annually to the Congress on the grants to States provided under this section.

(f) **STATE DEFINED.**—In this section, the term “State” has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act.