

104TH CONGRESS
1ST SESSION

H. R. 1915

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 22, 1995

Mr. SMITH of Texas (for himself, Mr. BRYANT of Texas, Mr. GALLEGLY, Mr. MOORHEAD, Mr. MCCOLLUM, Mr. BRYANT of Tennessee, Mr. BONO, Mr. HEINEMAN, Mr. GEKAS, Mr. COBLE, Mr. CANADY of Florida, Mr. INGLIS of South Carolina, Mr. GOODLATTE, Mr. BARR, Mr. BAKER of California, Mr. BALLENGER, Mr. BEILENSON, Mr. BILBRAY, Mr. BONILLA, Mr. BREWSTER, Mr. CALVERT, Mr. CONDIT, Mr. CUNNINGHAM, Mr. DEAL of Georgia, Mr. DREIER, Mr. DUNCAN, Mr. FOLEY, Mr. HAYES, Mr. HERGER, Mr. HUNTER, Mr. SAM JOHNSON of Texas, Mrs. MEYERS of Kansas, Mr. PACKARD, Mr. ROHRABACHER, Mrs. ROUKEMA, Mr. SHAYS, Mr. STENHOLM, Mr. TAUZIN, and Mrs. VUCANOVICH) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on National Security, Economic and Educational Opportunities, Government Reform and Oversight, Ways and Means, Commerce, Agriculture, and Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States

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

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

3 **SECTION 1. SHORT TITLE; AMENDMENTS TO IMMIGRATION**
4 **AND NATIONALITY ACT; TABLE OF TITLES**
5 **AND SUBTITLES.**

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

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

10 (1) whenever in this Act an amendment or re-
11 peal is expressed as the amendment or repeal of a
12 section or other provision, the reference shall be con-
13 sidered to be made to that section or provision in the
14 Immigration and Nationality Act, and

15 (2) amendments to a section or other provision
16 are to such section or other provision as in effect on
17 the date of the enactment of this Act and before any
18 amendment made to such section or other provision
19 elsewhere in this Act.

1 (c) TABLE OF TITLES, SUBTITLES, AND PARTS IN
2 ACT.—The following are the titles, subtitles, and parts
3 contained in this Act:

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

Subtitle A—Improved Enforcement at Border

Subtitle B—Pilot Programs

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

**Subtitle A—Enhanced Enforcement and Penalties Against
Alien Smuggling**

Subtitle B—Deterrence of Document Fraud

Subtitle C—Asset Forfeiture for Passport and Visa Offenses

**TITLE III—INSPECTION, APPREHENSION, DETENTION, AD-
JUDICATION, AND REMOVAL OF INADMISSIBLE AND DE-
PORTABLE ALIENS**

Subtitle A—Revision of Procedures for Removal of Aliens

Subtitle B—Removal of Alien Terrorists

PART 1—REMOVAL PROCEDURES FOR ALIEN TERRORISTS

PART 2—EXCLUSION AND DENIAL OF ASYLUM FOR ALIEN TERRORISTS

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

Subtitle D—Additional Provisions

**TITLE IV—ENFORCEMENT OF RESTRICTIONS AGAINST
EMPLOYMENT**

TITLE V—REFORM OF LEGAL IMMIGRATION SYSTEM

Subtitle A—Worldwide Numerical Limits

**Subtitle B—Changes in Family-Sponsored and Employment-
Based Preference System**

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

Subtitle D—Effective Dates; Transition Provisions

TITLE VI—RESTRICTIONS ON BENEFITS FOR ILLEGAL ALIENS

Subtitle A—Eligibility of Illegal Aliens for Public Benefits

PART 1—PUBLIC BENEFITS GENERALLY

PART 2—EARNED INCOME TAX CREDIT

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

Subtitle C—Attribution of Income and Affidavits of Support

TITLE VII—FACILITATION OF LEGAL ENTRY

TITLE VIII—MISCELLANEOUS

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

6 TABLE OF CONTENTS OF TITLE

Subtitle A—Improved Enforcement at Border

- Sec. 101. Border patrol agents and support personnel.
- Sec. 102. Improvement of barriers at border.
- Sec. 103. Improved border equipment and technology.
- Sec. 104. Improvement in border crossing identification card.
- Sec. 105. Civil penalties for illegal entry.

Subtitle B—Pilot Programs

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

1 **Subtitle A—Improved Enforcement**
2 **at Border**

3 **SEC. 101. BORDER PATROL AGENTS AND SUPPORT PER-**
4 **SONNEL.**

5 (a) INCREASED NUMBER OF BORDER PATROL POSI-
6 TIONS.—The number of border patrol agents shall be in-
7 creased, for each fiscal year beginning with the fiscal year
8 1996 and ending with the fiscal year 2000, by 1,000 full-
9 time equivalent positions above the number of equivalent
10 positions as of September 30, 1994.

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

20 (c) DEPLOYMENT OF NEW BORDER PATROL
21 AGENTS.—The Attorney General shall, to the maximum
22 extent practicable, ensure that the border patrol agents
23 hired pursuant to subsection (a) shall—

24 (1) be deployed among the various Immigration
25 and Naturalization Service sectors in proportion to

1 the level of illegal intrusion measured in each sector
2 during the preceding fiscal year and reasonably an-
3 ticipated in the next fiscal year, and

4 (2) be actively engaged in law enforcement ac-
5 tivities related to the illegal crossing of the borders
6 of the United States.

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

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

16 (b) CONSTRUCTION OF FENCING AND ROAD IM-
17 PROVEMENTS IN THE BORDER AREA NEAR SAN DIEGO,
18 CALIFORNIA.—

19 (1) IN GENERAL.—In carrying out subsection
20 (a), the Attorney General shall provide for the con-
21 struction along the 14 miles of the international
22 land border of the United States, starting at the Pa-
23 cific Ocean and extending eastward, of second and
24 third fences, in addition to the existing reinforced
25 fence, and for roads between the fences.

1 (2) PROMPT ACQUISITION OF NECESSARY EASE-
2 MENTS.—The Attorney General shall promptly ac-
3 quire such easements as may be necessary to carry
4 out this subsection and shall commence construction
5 of fences immediately following such acquisition (or
6 conclusion of portions thereof).

7 (3) AUTHORIZATION OF APPROPRIATIONS.—
8 There are authorized to be appropriated to carry out
9 this subsection not to exceed \$12,000,000. Amounts
10 appropriated under this paragraph are authorized to
11 remain available until expended.

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

16 (d) REPORT ON FORWARD DEPLOYMENT.—(1) The
17 Attorney General shall forward deploy existing border pa-
18 trol agents in those areas of the border identified as areas
19 of high illegal entry into the United States in order to
20 provide a uniform and visible deterrent to illegal entry on
21 a continuing basis.

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

1 **SEC. 103. IMPROVED BORDER EQUIPMENT AND TECH-**
2 **NOLOGY.**

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

12 **SEC. 104. IMPROVEMENT IN BORDER CROSSING IDENTI-**
13 **FICATION CARD.**

14 (a) IN GENERAL.—Section 101(a)(6) (8 U.S.C.
15 1101(a)(6)) is amended by adding at the end the follow-
16 ing: “Such regulations shall provide that (A) each such
17 document include a biometric identifier (such as the fin-
18 gerprint or handprint of the alien) that is machine read-
19 able and (B) an alien presenting a border crossing identi-
20 fication card is not permitted to cross over the border into
21 the United States unless the biometric identifier contained
22 on the card matches the appropriate biometric characteris-
23 tic of the alien.”.

24 (b) EFFECTIVE DATES.—

25 (1) Clause (A) of the sentence added by the
26 amendment made by subsection (a) shall apply to

1 documents issued on or after 6 months after the
2 date of the enactment of this Act.

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

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

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

9 (1) by redesignating subsections (b) and (c) as
10 subsections (c) and (d), respectively, and

11 (2) by inserting after subsection (a) the follow-
12 ing new subsection:

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

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

19 “(2) twice the amount specified in paragraph
20 (1) in the case of an alien who has been previously
21 subject to a civil penalty under this subsection.

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

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

5 **Subtitle B—Pilot Programs**

6 **SEC. 111. PILOT PROGRAM ON INTERIOR REPATRIATION** 7 **OF INADMISSIBLE OR DEPORTABLE ALIENS.**

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

17 (b) REPORT.—Not later than 30 months after the
18 date of the enactment of this Act, the Attorney General,
19 together with the Secretary of State, shall submit a report
20 to the Committees on the Judiciary of the House of Rep-
21 resentatives and of the Senate on the operation of the pilot
22 program under this section and whether the pilot program
23 or any part thereof should be extended or made perma-
24 nent.

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

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

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

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

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

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

1 (3) Section 2687 of title 10, United States
2 Code.

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

5 **SEC. 113. PILOT PROGRAM TO COLLECT RECORDS OF DE-**
6 **PARTING PASSENGERS.**

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

18 (b) REPORT.—

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

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

1 (A) The number of departure records col-
2 lected, with an accounting by country of nation-
3 ality of the departing alien.

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

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

20 (D) The estimated cost of establishing a
21 national system to verify the departure from
22 the United States of aliens admitted tempo-
23 rarily as nonimmigrants.

1 **Subtitle A—Enhanced Enforcement**
2 **and Penalties Against Alien**
3 **Smuggling**

4 **SEC. 201. WIRETAP AUTHORITY FOR ALIEN SMUGGLING IN-**
5 **VESTIGATIONS.**

6 Section 2516(1) of title 18, United States Code, is
7 amended—

8 (1) by striking “and” at the end of paragraph
9 (n),

10 (2) by redesignating paragraph (o) as para-
11 graph (p), and

12 (3) by inserting after paragraph (n) the follow-
13 ing new paragraph:

14 “(o)(1) a felony violation of section 1028 (relat-
15 ing to production of false identification documenta-
16 tion), section 1541 (relating to passport issuance
17 without authority), section 1542 (relating to false
18 statements in passport applications), section 1543
19 (relating to forgery or false use of passport), section
20 1544 (relating to misuse of passport), section 1546
21 (relating to fraud or misuse of visas, permits, or
22 other documents) of this title; or

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

1 **SEC. 202. RACKETEERING OFFENSES RELATING TO ALIEN**
2 **SMUGGLING.**

3 Section 1961(1) of title 18, United States Code, is
4 amended—

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

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

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

18 (4) by inserting before the period at the end the
19 following: “; or (F) any act which is indictable under
20 the Immigration and Nationality Act, section 274
21 (relating to bringing in and harboring certain
22 aliens), section 277 (relating to aiding or assisting
23 certain aliens to enter the United States), or section
24 278 (relating to importation of alien for immoral
25 purpose)”.

1 **SEC. 203. EXPANDED ASSET FORFEITURE FOR SMUGGLING**
2 **OR HARBORING ALIENS.**

3 (a) IN GENERAL.—Section 274(b) (8 U.S.C.
4 1324(b)) is amended—

5 (1) by amending subsection (b)(1) to read as
6 follows:

7 “(b) SEIZURE AND FORFEITURE.—(1)(A) Except as
8 provided in this paragraph, any property, real or personal,
9 which facilitates or is intended to facilitate, or has been
10 used in or is intended to be used in the commission of,
11 a violation of subsection (a) or of section 274A(a)(1) or
12 274A(a)(2), or which constitutes, or is derived from or
13 traceable to, the proceeds obtained directly or indirectly
14 from a commission of a violation of subsection (a) or of
15 section 274A(a)(1) or 274A(a)(2), shall be subject to sei-
16 zure and forfeiture.

17 “(B) No property used by any person as a common
18 carrier in the transaction of business as a common carrier
19 shall be forfeited under the provisions of this section un-
20 less it shall appear that the owner or other person in
21 charge of such property was a consenting party or privy
22 to the unlawful act.

23 “(C) No property shall be forfeited under the provi-
24 sions of this section by reason of any act or omission es-
25 tablished by the owner thereof to have been committed or
26 omitted by any person other than such owner while such

1 property was unlawfully in the possession of a person
2 other than the owner in violation of the criminal laws of
3 the United States or of any State.

4 “(D)(i) Subject to clause (ii), no property shall be
5 forfeited under this paragraph to the extent of an interest
6 of any owner, by reason of any act or omission established
7 by that owner to have been committed or omitted without
8 either the knowledge or consent of the owner.

9 “(ii) Clause (i) shall not apply if the action or omis-
10 sion was committed by an employee or agent of the owner
11 and the action or omission was intended to further the
12 business interests of the owner or to confer any other ben-
13 efit upon the owner.”;

14 (2) in paragraph (2)—

15 (A) by striking “conveyance” both places it
16 appears and inserting “property”; and

17 (B) by striking “is being used in” and in-
18 serting “is being used in, is facilitating, has fa-
19 cilitated, or was intended to facilitate”;

20 (3) in paragraph (3)—

21 (A) by inserting “(A)” immediately after
22 “(3)”, and

23 (B) by adding at the end the following:

24 “(B) Before the seizure of any real property
25 pursuant to this section, the Attorney General shall

1 provide notice and an opportunity to be heard to the
2 owner of the property. The Attorney General shall
3 prescribe such regulations as may be necessary to
4 carry out this subparagraph.”;

5 (4) in paragraphs (4) and (5), by striking “a
6 conveyance” and “conveyance” each place such
7 phrase or word appears and inserting “property”;
8 and

9 (5) in paragraph (4), by—

10 (A) striking “or” at the end of subpara-
11 graph (C),

12 (B) by striking the period at the end of
13 subparagraph (D) and inserting “; or”, and

14 (C) by inserting at the end the following
15 new subparagraph:

16 “(E) transfer custody and ownership of
17 forfeited property to any Federal, State, or
18 local agency pursuant to section 616(c) of the
19 Tariff Act of 1930 (19 U.S.C. 1616a(c)).”.

20 (b) EFFECTIVE DATE.—The amendments made by
21 subsection (a) shall apply to property in relation to viola-
22 tions occurring on or after the date of the enactment of
23 this Act.

1 **SEC. 204. INCREASED CRIMINAL PENALTIES FOR ALIEN**
2 **SMUGGLING.**

3 (a) IN GENERAL.—Section 274(a)(1) (8 U.S.C.
4 1324(a)(1)) is amended—

5 (1) in subparagraph (B)(i), by inserting “or in
6 the case of a violation of subparagraph (A)(ii), (iii),
7 or (iv) in which the offense was done for the purpose
8 of commercial advantage or private financial gain,”
9 after “subparagraph (A)(i)”, and

10 (2) by adding at the end the following new sub-
11 paragraph:

12 “(C) Any person who engages in any conspiracy to
13 commit, or aids or abets the commission of, any of the
14 acts described in—

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

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

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

24 (1) in subparagraph (B)—

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

26 (ii),

1 (B) by adding “or” at the end of clause
2 (iii), and

3 (C) by inserting after clause (iii) the fol-
4 lowing:

5 “(iv) an offense committed with the
6 intent or with reason to believe that the
7 alien unlawfully brought into the United
8 States will commit an offense against the
9 United States or any State punishable by
10 imprisonment for more than 1 year,”; and

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

16 **SEC. 205. INCREASED NUMBER OF ASSISTANT UNITED**
17 **STATES ATTORNEYS.**

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

23 (b) ASSIGNMENT.—Individuals employed to fill the
24 additional positions described in subsection (a) shall be
25 specially trained to be used for the prosecution of persons

1 who bring into the United States or harbor illegal aliens,
2 fraud, and other criminal statutes involving illegal aliens.

3 **SEC. 206. UNDERCOVER INVESTIGATION AUTHORITY.**

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

6 “UNDERCOVER INVESTIGATION AUTHORITY

7 “SEC. 294. (a) IN GENERAL.—With respect to any
8 undercover investigative operation of the Service which is
9 necessary for the detection and prosecution of crimes
10 against the United States—

11 “(1) sums appropriated for the Service may be
12 used for leasing space within the United States, the
13 District of Columbia, and the territories and posses-
14 sions of the United States without regard to the fol-
15 lowing provisions of law:

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

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

20 “(C) section 305 of the Act of June 30,
21 1949 (63 Stat. 396; 41 U.S.C. 255),

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

25 “(E) section 3648 of the Revised Statutes
26 (31 U.S.C. 3324),

1 “(F) section 3741 of the Revised Statutes
2 (41 U.S.C. 22), and

3 “(G) subsections (a) and (c) of section 304
4 of the Federal Property and Administrative
5 Services Act of 1949 (63 Stat. 395; 41 U.S.C.
6 254 (a) and (c));

7 “(2) sums appropriated for the Service may be
8 used to establish or to acquire proprietary corpora-
9 tions or business entities as part of an undercover
10 operation, and to operate such corporations or busi-
11 ness entities on a commercial basis, without regard
12 to the provisions of section 304 of the Government
13 Corporation Control Act (31 U.S.C. 9102);

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

20 “(4) the proceeds from the undercover oper-
21 ation may be used to offset necessary and reasonable
22 expenses incurred in such operation without regard
23 to the provisions of section 3617 of the Revised
24 Statutes (31 U.S.C. 3302).

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

6 “(b) DISPOSITION OF PROCEEDS NO LONGER RE-
7 QUIRED.—As soon as practicable after the proceeds from
8 an undercover investigative operation, carried out under
9 paragraphs (3) and (4) of subsection (a), are no longer
10 necessary for the conduct of the operation, the proceeds
11 or the balance of the proceeds remaining at the time shall
12 be deposited into the Treasury of the United States as
13 miscellaneous receipts.

14 “(c) DISPOSITION OF CERTAIN CORPORATIONS AND
15 BUSINESS ENTITIES.—If a corporation or business entity
16 established or acquired as part of an undercover operation
17 under paragraph (2) of subsection (a) with a net value
18 of over \$50,000 is to be liquidated, sold, or otherwise dis-
19 posed of, the Service, as much in advance as the Commis-
20 sioner or Commissioner’s designee determines practicable,
21 shall report the circumstances to the Attorney General,
22 the Director of the Office of Management and Budget, and
23 the Comptroller General. The proceeds of the liquidation,
24 sale, or other disposition, after obligations are met, shall

1 be deposited in the Treasury of the United States as mis-
2 cellaneous receipts.

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

7 (b) CLERICAL AMENDMENT.—The table of contents
8 is amended by inserting after the item relating to section
9 293 the following:

“Sec. 294. Undercover investigation authority.”.

10 **Subtitle B—Deterrence of**
11 **Document Fraud**

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

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

18 (1) in paragraph (1), by inserting “except as
19 provided in paragraphs (3) and (4),” after “(1)”
20 and by striking “five years” and inserting “10
21 years”;

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

1 (3) by redesignating paragraph (3) as para-
2 graph (5); and

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

5 “(3) a fine under this title or imprisonment for
6 not more than 15 years, or both, if the offense is
7 committed to facilitate a drug trafficking crime (as
8 defined in section 929(a)(2) of this title);

9 “(4) a fine under this title or imprisonment for
10 not more than 20 years, or both, if the offense is
11 committed to facilitate an act of international terror-
12 ism (as defined in section 2331(1) of this title); or”.

13 (b) CHANGES TO THE SENTENCING LEVELS.—Pur-
14 suant to section 944 of title 28, United States Code, and
15 section 21 of the Sentencing Act of 1987, the United
16 States Sentencing Commission shall promulgate guide-
17 lines, or amend existing guidelines, relating to defendants
18 convicted of violating, or conspiring to violate, sections
19 1546(a) and 1028(a) of title 18, United States Code. The
20 basic offense level under section 2L2.1 of the United
21 States Sentencing Guidelines shall be increased to—

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

24 (2) not less than offense level 20 if the offense
25 involved 1,000 or more documents, or if the docu-

1 ments were used to facilitate any other criminal ac-
2 tivity described in section 212(a)(2)(A)(i)(II) of the
3 Immigration and Nationality Act (8 U.S.C.
4 1182(a)(A)(i)(II)) or in section 101(a)(43) of such
5 Act; and

6 (3) not less than offense level 25 if the offense
7 involved—

8 (A) the provision of documents to a person
9 known or suspected of engaging in a terrorist
10 activity (as such terms are defined in section
11 212(a)(3)(B) of the Immigration and National-
12 ity Act (8 U.S.C. 1182(a)(3)(B));

13 (B) the provision of documents to facilitate
14 a terrorist activity or to assist a person to en-
15 gage in terrorist activity (as such terms are de-
16 fined in section 212(a)(3)(B) of the Immigra-
17 tion and Nationality Act (8 U.S.C.
18 1182(a)(3)(B)); or

19 (C) the provision of documents to persons
20 involved in racketeering enterprises (as such
21 acts or activities are defined in section 1952 of
22 title 18, United States Code).

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

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

1 (1) by striking “or” at the end of paragraph
2 (3);

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

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

6 “(5) in reckless disregard of the fact that the
7 information is false or does not relate to the appli-
8 cant, to prepare, to file, or to assist another in pre-
9 paring or filing, documents which are falsely made
10 for the purpose of satisfying a requirement of this
11 Act.

12 For purposes of this section, the term ‘falsely made’ in-
13 cludes, with respect to a document or application, the
14 preparation or provision of the document or application
15 with knowledge or in reckless disregard of the fact that
16 such document contains a false, fictitious, or fraudulent
17 statement or material representation, or has no basis in
18 law or fact, or otherwise fails to state a material fact per-
19 taining to the document or application.”.

20 (b) CONFORMING AMENDMENTS FOR CIVIL PEN-
21 ALTIES.—Section 274C(d)(3) (8 U.S.C. 1324c(d)(3)) is
22 amended by striking “each document used, accepted, or
23 created and each instance of use, acceptance, or creation”
24 both places it appears and inserting “each instance of a
25 violation under subsection (a)”.

1 (c) EFFECTIVE DATES.—(1) The amendments made
2 by subsection (a) shall apply to the preparation or filing
3 of documents, and assistance in such preparation or filing,
4 occurring on or after the date of the enactment of this
5 Act.

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

9 **SEC. 213. NEW CIVIL PENALTY FOR FAILURE TO PRESENT**
10 **DOCUMENTS.**

11 (a) IN GENERAL.—Section 274C(a) (8 U.S.C.
12 1324c(a)), as amended by section 212(a), is further
13 amended—

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

15 (4);

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

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

20 “(6) to present before boarding a common car-
21 rier for the purpose of coming to the United States
22 a document which relates to the alien’s eligibility to
23 enter the United States and to fail to present such
24 document to an immigration officer upon arrival at
25 a United States port of entry. The Attorney General

1 may, in his or her discretion, waive the penalties of
2 this section with respect to an alien who knowingly
3 violates paragraph (6) if the alien is granted asylum
4 under section 208 or withholding of deportation
5 under section 243(h).”.

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

10 **SEC. 214. NEW CRIMINAL PENALTIES FOR FAILURE TO DIS-**
11 **CLOSE ROLE AS PREPARER OF FALSE APPLI-**
12 **CATION FOR ASYLUM AND FOR PREPARING**
13 **CERTAIN POST-CONVICTION APPLICATIONS.**

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

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

18 “(1) If a person is required by law or regulation
19 to disclose the fact that the person, on behalf of an-
20 other person and for a fee or other remuneration,
21 has prepared or assisted in preparing an application
22 for asylum pursuant to section 208, or the regula-
23 tions promulgated thereunder and who knowingly
24 and willfully fails to disclose, conceals, or covers up

1 such fact, and the application was falsely made, the
2 person shall—

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

6 “(B) be prohibited from preparing or as-
7 sisting in preparing, regardless of whether for
8 a fee or other remuneration, any other such ap-
9 plication for a period of at least 5 years and not
10 more than 15 years.

11 “(2) Whoever, having been convicted of a viola-
12 tion of paragraph (1), knowingly and willfully pre-
13 pares or assists in preparing an application for asy-
14 lum pursuant to section 208, or the regulations pro-
15 mulgated thereunder, regardless of whether for a fee
16 or other remuneration, in violation of paragraph
17 (1)(B) shall be imprisoned for not less than 5 years
18 or more than 15 years, fined in accordance with title
19 18, United States Code, or both, and prohibited
20 from preparing or assisting in preparing any other
21 such application.”.

1 **SEC. 215. CRIMINAL PENALTY FOR KNOWINGLY PRESENT-**
2 **ING DOCUMENT WHICH FAILS TO CONTAIN**
3 **REASONABLE BASIS IN LAW OR FACT.**

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

9 **SEC. 216. CRIMINAL PENALTIES FOR FALSE CLAIM TO CITI-**
10 **ZENSHIP.**

11 Section 1015 of title 18, United States Code, is
12 amended—

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

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

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

1 **Subtitle C—Asset Forfeiture for**
2 **Passport and Visa Offenses**

3 **SEC. 221. CRIMINAL FORFEITURE FOR PASSPORT AND VISA**
4 **RELATED OFFENSES.**

5 Section 982 of title 18, United States Code, is
6 amended—

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

9 “(6) The court, in imposing sentence on a person con-
10 victed of a violation of, or conspiracy to violate, section
11 1541, 1542, 1543, 1544, or 1546 of this title, or a viola-
12 tion of, or conspiracy to violate, section 1028 of this title
13 if committed in connection with passport or visa issuance
14 or use, shall order that the person forfeit to the United
15 States any property, real or personal, which the person
16 used, or intended to be used, in committing, or facilitating
17 the commission of, the violation, and any property con-
18 stituting, or derived from, or traceable to, any proceeds
19 the person obtained, directly or indirectly, as a result of
20 such violation.”, and

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

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

2 Section 986(a) of title 18, United States Code, is
 3 amended by inserting “1028, 1541, 1542, 1543, 1544,
 4 1546,” before “1956”.

5 **SEC. 223. EFFECTIVE DATE.**

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

9 **TITLE III—INSPECTION, APPRE-**
 10 **HENSION, DETENTION, ADJU-**
 11 **DICATION, AND REMOVAL OF**
 12 **INADMISSIBLE AND DEPORT-**
 13 **ABLE ALIENS**

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

3 **SEC. 300. OVERVIEW OF CHANGES IN REMOVAL PROCE-**
4 **DURES.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 “(ii) EXCEPTIONS.—

5 “(I) MINORS.—In applying
6 clause (i) no period of time before the
7 alien’s 21st birthday shall be taken
8 into account in determining the period
9 of unlawful presence in the United
10 States.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 “SEC. 235. (a) INSPECTION.—

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

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

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

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

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

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

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

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

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

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

1 States without further hearing or review;
2 or

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

8 “(B) ASYLUM INTERVIEWS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 “(2) INSPECTION OF OTHER ALIENS.—

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

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

22 “(i) who is a crewman,

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

24 or

25 “(iii) who is a stowaway.

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

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

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

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

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

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

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

25 “(B) If the Attorney General—

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

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

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

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

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

21 “(d) AUTHORITY RELATING TO INSPECTIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

16 “(2) may release the alien on—

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

20 “(B) conditional parole; but

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

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

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

7 “(1) CUSTODY.—The Attorney General shall
8 take into custody any alien convicted of an aggra-
9 vated felony when the alien is released, whether the
10 alien is released on parole, supervised release, or
11 probation, or may be arrested or imprisoned again
12 for the same offense.

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

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

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

1 likely to appear for any scheduled proceeding;
2 or

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

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

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

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

23 “(B) to designate and train officers and em-
24 ployees of the Service to serve as a liaison to Fed-
25 eral, State, and local law enforcement and correc-

1 tional agencies and courts with respect to the arrest,
2 conviction, and release of any alien charged with an
3 aggravated felony; and

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

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

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

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

17 **SEC. 304. REMOVAL PROCEEDINGS; CANCELLATION OF RE-**
18 **MOVAL AND ADJUSTMENT OF STATUS; VOL-**
19 **UNTARY DEPARTURE (REVISED AND NEW**
20 **SECTIONS 239 TO 240C).**

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

22 (1) by redesignating section 239 as section 234
23 and by moving such section to immediately follow
24 section 233;

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

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

5 “INITIATION OF REMOVAL PROCEEDINGS

6 “SEC. 239. (a) NOTICE TO APPEAR.—

7 “(1) IN GENERAL.—In removal proceedings
8 under section 240, written notice (in this section re-
9 ferred to as a ‘notice to appear’) shall be given in
10 person to the alien (or, if personal service is not
11 practicable, through service by mail to the alien or
12 to the alien’s counsel of record, if any) specifying the
13 following:

14 “(A) The nature of the proceedings against
15 the alien.

16 “(B) The legal authority under which the
17 proceedings are conducted.

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

20 “(D) The charges against the alien and the
21 statutory provisions alleged to have been vio-
22 lated.

23 “(E) The alien may be represented by
24 counsel and the alien will be provided (A) a pe-
25 riod of time to secure counsel under subsection

1 (b)(1) and (B) a current list of counsel pre-
2 pared under subsection (b)(2).

3 “(F)(i) The requirement that the alien
4 must immediately provide (or have provided)
5 the Attorney General with a written record of
6 an address and telephone number (if any) at
7 which the alien may be contacted respecting
8 proceedings under section 240.

9 “(ii) The requirement that the alien must
10 provide the Attorney General immediately with
11 a written record of any change of the alien’s ad-
12 dress or telephone number.

13 “(iii) The consequences under section
14 240(b)(5) of failure to provide address and tele-
15 phone information pursuant to this subpara-
16 graph.

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

19 “(ii) The consequences under section
20 240(b)(5) of the failure, except under excep-
21 tional circumstances, to appear at such proceed-
22 ings.

23 “(2) NOTICE OF CHANGE IN TIME OR PLACE OF
24 PROCEEDINGS.—

1 “(A) IN GENERAL.—In removal proceed-
2 ings under section 240, in the case of any
3 change or postponement in the time and place
4 of such proceedings, subject to subparagraph
5 (B) a written notice shall be given in person to
6 the alien (or, if personal service is not prac-
7 ticable, through service by mail to the alien or
8 to the alien’s counsel of record, if any) specify-
9 ing—

10 “(i) the new time or place of the pro-
11 ceedings, and

12 “(ii) the consequences under section
13 240(b)(5) of failing, except under excep-
14 tional circumstances, to attend such pro-
15 ceedings.

16 “(B) EXCEPTION.—In the case of an alien
17 not in detention, a written notice shall not be
18 required under this paragraph if the alien has
19 failed to provide the address required under
20 paragraph (1)(F).

21 “(3) CENTRAL ADDRESS FILES.—The Attorney
22 General shall create a system to record and preserve
23 on a timely basis notices of addresses and telephone
24 numbers (and changes) provided under paragraph
25 (1)(F).

1 “(b) SECURING OF COUNSEL.—

2 “(1) IN GENERAL.—In order that an alien be
3 permitted the opportunity to secure counsel before
4 the first hearing date in proceedings under section
5 240, the hearing date shall not be scheduled earlier
6 than 10 days after the service of the notice to ap-
7 pear, unless the alien requests in writing an earlier
8 hearing date.

9 “(2) CURRENT LISTS OF COUNSEL.—The Attor-
10 ney General shall provide for lists (updated not less
11 often than quarterly) of persons who have indicated
12 their availability to represent pro bono aliens in pro-
13 ceedings under section 240. Such lists shall be pro-
14 vided under subsection (a)(1)(E) and otherwise
15 made generally available.

16 “(c) SERVICE BY MAIL.—Service by mail under this
17 section shall be sufficient if there is proof of attempted
18 delivery to the last address provided by the alien in accord-
19 ance with subsection (a)(1)(F).

20 “(d) PROMPT INITIATION OF REMOVAL.—(1) In the
21 case of an alien who is convicted of an offense which
22 makes the alien deportable, the Attorney General shall
23 begin any removal proceeding as expeditiously as possible
24 after the date of the conviction.

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

5 “REMOVAL PROCEEDINGS

6 “SEC. 240. (a) PROCEEDING.—

7 “(1) IN GENERAL.—An immigration judge shall
8 conduct proceedings for deciding the inadmissibility
9 or deportability of an alien.

10 “(2) CHARGES.—An alien placed in proceedings
11 under this section may be charged with any applica-
12 ble ground of inadmissibility under section 212(a) or
13 any applicable ground of deportability under section
14 237(a).

15 “(3) EXCLUSIVE PROCEDURES.—Unless other-
16 wise specified in this Act, a proceeding under this
17 section shall be the sole and exclusive procedure for
18 determining whether an alien may be admitted to
19 the United States or, if the alien has been so admit-
20 ted, removed from the United States. Nothing in
21 this section shall affect proceedings conducted pur-
22 suant to section 238.

23 “(b) CONDUCT OF PROCEEDING.—

24 “(1) AUTHORITY OF IMMIGRATION JUDGE.—
25 The immigration judge shall administer oaths, re-
26 ceive evidence, and interrogate, examine, and cross-

1 examine the alien and any witnesses. The immigra-
2 tion judge shall have authority (under regulations
3 prescribed by the Attorney General) to sanction by
4 civil money penalty any action (or inaction) in con-
5 tempt of the judge's proper exercise of authority
6 under this Act.

7 “(2) FORM OF PROCEEDING.—

8 “(A) IN GENERAL.—The proceeding may
9 take place—

10 “(i) in person,

11 “(ii) through video conference, or

12 “(iii) subject to subparagraph (B),
13 through telephone conference.

14 “(B) CONSENT REQUIRED IN CERTAIN
15 CASES.—An evidentiary hearing on the merits
16 may only be conducted through a telephone con-
17 ference with the consent of the alien involved
18 after the alien has been advised of the right to
19 proceed in person or through video conference.

20 “(3) PRESENCE OF ALIEN.—If, by reason of
21 the alien's mental incompetency it is impracticable
22 for the alien to be present at the proceeding, the At-
23 torney General shall prescribe safeguards to protect
24 the rights and privileges of the alien.

1 “(4) ALIENS RIGHTS IN PROCEEDING.—In pro-
2 ceedings under this section, under regulations of the
3 Attorney General—

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

8 “(B) the alien shall have a reasonable op-
9 portunity to examine the evidence against the
10 alien, to present evidence on the alien’s own be-
11 half, and to cross-examine witnesses presented
12 by the Government, and

13 “(C) a complete record shall be kept of all
14 testimony and evidence produced at the pro-
15 ceeding.

16 “(5) CONSEQUENCES OF FAILURE TO AP-
17 PEAR.—

18 “(A) IN GENERAL.—Any alien who, after
19 written notice required under paragraph (1) or
20 (2) of section 239(a) has been provided to the
21 alien or the alien’s counsel of record, does not
22 attend a proceeding under this section, shall be
23 ordered removed in absentia if the Service es-
24 tablishes by clear, unequivocal, and convincing
25 evidence that the written notice was so provided

1 and that the alien is removable (as defined in
2 subsection (e)(2)). The written notice by the
3 Attorney General shall be considered sufficient
4 for purposes of this subparagraph if provided at
5 the most recent address provided under section
6 239(a)(1)(F).

7 “(B) NO NOTICE IF FAILURE TO PROVIDE
8 ADDRESS INFORMATION.—No written notice
9 shall be required under subparagraph (A) if the
10 alien has failed to provide the address required
11 under section 239(a)(1)(F).

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

14 “(i) upon a motion to reopen filed
15 within 180 days after the date of the order
16 of removal if the alien demonstrates that
17 the failure to appear was because of excep-
18 tional circumstances (as defined in sub-
19 section (e)(1)), or

20 “(ii) upon a motion to reopen filed at
21 any time if the alien demonstrates that the
22 alien did not receive notice in accordance
23 with paragraph (1) or (2) of section 239(a)
24 or the alien demonstrates that the alien

1 was in Federal or State custody and did
2 not appear through no fault of the alien.

3 The filing of the motion to reopen described in
4 clause (i) or (ii) shall stay the removal of the
5 alien pending disposition of the motion.

6 “(D) EFFECT ON JUDICIAL REVIEW.—Any
7 petition for review under section 242 of an
8 order entered in absentia under this paragraph
9 shall (except in cases described in section
10 242(b)(5)) be confined to the issues of the va-
11 lidity of the notice provided to the alien, to the
12 reasons for the alien’s not attending the pro-
13 ceeding, and to whether or not the alien is re-
14 movable.

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

17 “(A) define in a proceeding before an im-
18 migration judge or before an appellate adminis-
19 trative body under this title, frivolous behavior
20 for which attorneys may be sanctioned,

21 “(B) specify the circumstances under
22 which an administrative appeal of a decision or
23 ruling will be considered frivolous and will be
24 summarily dismissed, and

1 “(C) impose appropriate sanctions (which
2 may include suspension and disbarment) in the
3 case of frivolous behavior.

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

7 “(7) LIMITATION ON DISCRETIONARY RELIEF
8 FOR FAILURE TO APPEAR.—Any alien against whom
9 a final order of removal is entered in absentia under
10 this subsection and who, at the time of the notice
11 described in paragraph (1) or (2) of section 239(a),
12 was provided oral notice, either in the alien’s native
13 language or in another language the alien under-
14 stands, of the time and place of the proceedings and
15 of the consequences under this paragraph of failing,
16 other than because of exceptional circumstances (as
17 defined in subsection (e)(1)) to attend a proceeding
18 under this section, shall not be eligible for relief
19 under section 240A, 240B, 245, 248, or 249 for a
20 period of 10 years after the date of the entry of the
21 final order of removal.

22 “(c) DECISION AND BURDEN OF PROOF.—

23 “(1) DECISION.—

24 “(A) IN GENERAL.—At the conclusion of
25 the proceeding the immigration judge shall de-

1 cide whether an alien is removable from the
2 United States. The determination of the immi-
3 gration judge shall be based only on the evi-
4 dence produced at the hearing.

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

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

15 “(A) if the alien is an applicant for admis-
16 sion, that the alien is clearly and beyond doubt
17 entitled to be admitted and is not inadmissible
18 under section 212; or

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

22 In meeting the burden of proof under subparagraph
23 (B), the alien shall have access to the alien’s visa or
24 other entry document, if any, and any other records
25 and documents, not considered by the Attorney Gen-

1 eral to be confidential, pertaining to the alien’s ad-
2 mission or presence in the United States.

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

11 “(4) NOTICE.—If the immigration judge de-
12 cides that the alien is removable and orders the alien
13 to be removed, the judge shall inform the alien of
14 the right to appeal that decision and of the con-
15 sequences for failure to depart under the order of re-
16 moval, including civil and criminal penalties.

17 “(5) MOTIONS TO RECONSIDER.—

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

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

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

4 “(6) MOTIONS TO REOPEN.—

5 “(A) IN GENERAL.—An alien may file one
6 motion to reopen proceedings under this sec-
7 tion.

8 “(B) CONTENTS.—The motion to reopen
9 shall state the new facts that will be proven at
10 a hearing to be held if the motion is granted,
11 and shall be supported by affidavits or other
12 evidentiary material.

13 “(C) DEADLINE.—

14 “(i) IN GENERAL.—Except as pro-
15 vided in this subparagraph, the motion to
16 reopen shall be filed within 90 days of the
17 date of entry of a final administrative
18 order of removal.

19 “(ii) ASYLUM.—There is no time limit
20 on the filing of a motion to reopen if the
21 basis of the motion is to apply for relief
22 under sections 208 or 241(b)(3) and is
23 based on changed country conditions aris-
24 ing in the country of nationality or the
25 country to which removal has been or-

1 dered, if such evidence is material and was
2 not available and would not have been dis-
3 covered or presented at the previous pro-
4 ceeding.

5 “(iii) FAILURE TO APPEAR.—A mo-
6 tion to reopen may be filed within 180
7 days after the date of the final order of re-
8 moval if the order has been entered pursu-
9 ant to subsection (b)(5) due to the alien’s
10 failure to appear for proceedings under
11 this section and the alien establishes that
12 the alien’s failure to appear was because of
13 exceptional circumstances beyond the con-
14 trol of the alien or because the alien did
15 not receive the notice required under sec-
16 tion 239(a)(2).

17 “(d) STIPULATED REMOVAL.—The Attorney General
18 shall provide by regulation for the entry by an immigration
19 judge of an order of removal stipulated to by the alien
20 (or the alien’s representative) and the Service. A stipu-
21 lated order shall constitute a conclusive determination of
22 the alien’s removability from the United States.

23 “(e) DEFINITIONS.—In this section and section
24 240A:

1 “(1) EXCEPTIONAL CIRCUMSTANCES.—The
2 term ‘exceptional circumstances’ refers to excep-
3 tional circumstances (such as serious illness of the
4 alien or death of the spouse, child, or parent of the
5 alien, but not including less compelling cir-
6 cumstances) beyond the control of the alien.

7 “(2) REMOVABLE.—The term ‘removable’
8 means—

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

12 “(B) in the case of an alien admitted to
13 the United States, that the alien is deportable
14 under section 237.

15 “CANCELLATION OF REMOVAL; ADJUSTMENT OF STATUS

16 “SEC. 240A. (a) CANCELLATION OF REMOVAL FOR
17 CERTAIN PERMANENT RESIDENTS.—The Attorney Gen-
18 eral may cancel removal in the case of an alien who is
19 inadmissible or deportable from the United States if the
20 alien—

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

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

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

5 “(b) CANCELLATION OF REMOVAL AND ADJUSTMENT
6 OF STATUS FOR CERTAIN NONPERMANENT RESI-
7 DENTS.—

8 “(1) IN GENERAL.—The Attorney General may
9 cancel removal in the case of an alien who is deport-
10 able from the United States if the alien—

11 “(A) has been physically present in the
12 United States for a continuous period of not
13 less than 7 years since being admitted to the
14 United States,

15 “(B) has been a person of good moral
16 character during such period,

17 “(C) has not been convicted of an aggra-
18 vated felony, and

19 “(D) establishes that removal would result
20 in extreme hardship to the alien or to the
21 alien’s spouse, parent, or child, who is a citizen
22 of the United States or an alien lawfully admit-
23 ted for permanent residence.

24 “(2) SPECIAL RULE FOR BATTERED SPOUSE OR
25 CHILD.—The Attorney General may cancel removal

1 in the case of an alien who is inadmissible or deport-
2 able from the United States if the alien—

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

12 “(B) has been physically present in the
13 United States for a continuous period of not
14 less than 3 years immediately preceding the
15 date of such application;

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

18 “(D) is not inadmissible under paragraph
19 (2) or (3) of section 212(a), is not deportable
20 under paragraph (1)(G) or (2) through (4) of
21 section 237, and has not been convicted of an
22 aggravated felony; and

23 “(E) establishes that removal would result
24 in extreme hardship to the alien, the alien’s

1 child, or (in the case of an alien who is a child)
2 to the alien's parent.

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

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

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

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

23 “(2) An alien who was admitted to the United
24 States as a visitor for business or pleasure under
25 section 101(a)(15)(B) or as a student under section

1 101(a)(15)(F), unless the alien has adjusted status
2 to that of an alien lawfully admitted for permanent
3 residence.

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

12 “(4) An alien who—

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

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

21 “(iii) has not fulfilled that requirement or
22 received a waiver thereof.

23 “(5) An alien who is inadmissible under section
24 212(a)(3) or deportable under subparagraph (B) or
25 (D) of section 237(a)(4).

1 “(d) SPECIAL RULES RELATING TO CONTINUOUS
2 RESIDENCE OR PHYSICAL PRESENCE.—

3 “(1) TERMINATION OF CONTINUOUS PERIOD.—

4 For purposes of this section, any period of continu-
5 ous residence or continuous physical presence in the
6 United States shall be deemed to end when the alien
7 is served a notice to appear under section 239(a).

8 “(2) TREATMENT OF CERTAIN BREAKS IN
9 PRESENCE.—An alien shall be considered to have

10 failed to maintain continuous physical presence in
11 the United States under subsections (b)(1) and
12 (b)(2) if the alien has departed from the United
13 States for any continuous period exceeding 90 days
14 or for any periods in the aggregate exceeding 180
15 days.

16 “(3) CONTINUITY NOT REQUIRED BECAUSE OF
17 HONORABLE SERVICE IN ARMED FORCES AND PRES-
18 ENCE UPON ENTRY INTO SERVICE.—The require-
19 ments of continuous residence or continuous physical
20 presence in the United States under subsections (a)
21 and (b) shall not apply to an alien who—

22 “(A) has served for a minimum period of
23 24 months in an active-duty status in the
24 Armed Forces of the United States and, if sep-

1 arated from such service, was separated under
2 honorable conditions, and

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

5 “VOLUNTARY DEPARTURE

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

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

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

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

22 “(4) TREATMENT OF ALIENS ARRIVING IN THE
23 UNITED STATES.—In the case of an alien who is ar-
24 riving in the United States and with respect to
25 whom proceedings under section 240 are (or would
26 otherwise be) initiated at the time of such alien’s ar-

1 rival, paragraph (1) shall not apply. Nothing in this
2 paragraph shall be construed as preventing such an
3 alien from withdrawing the application for admission
4 in accordance with section 235(a)(4).

5 “(b) AT CONCLUSION OF PROCEEDINGS.—

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

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

16 “(B) the alien is, and has been, a person
17 of good moral character for at least 5 years im-
18 mediately preceding the alien’s application for
19 voluntary departure,

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

22 “(D) the alien has established by clear and
23 convincing evidence that the alien has the
24 means to depart the United States and intends
25 to do so.

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

4 “(3) BOND.—An alien permitted to depart vol-
5 untarily under this subsection shall be required to
6 post a voluntary departure bond, in an amount nec-
7 essary to ensure that the alien will depart, to be sur-
8 rendered upon proof that the alien has departed the
9 United States within the time specified.

10 “(c) ALIENS NOT ELIGIBLE.—The Attorney General
11 shall not permit an alien to depart voluntarily under this
12 section if the alien was previously permitted to so depart
13 after having been found inadmissible under section
14 212(a)(9).

15 “(d) CIVIL PENALTY FOR FAILURE TO DEPART.—
16 If an alien is permitted to depart voluntarily under this
17 section and fails voluntarily to depart the United States
18 within the time period specified, the alien shall be subject
19 to a civil penalty of not less than \$1,000 and not more
20 than \$5,000, and be ineligible for a period of 10 years
21 for any further relief under this section and sections 240A,
22 245, 248, and 249.

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

1 “(A) IN GENERAL.—Except as otherwise
2 provided in this section, when an alien is or-
3 dered removed, the Attorney General shall re-
4 move the alien from the United States within a
5 period of 90 days (in this section referred to as
6 the ‘removal period’).

7 “(B) BEGINNING OF PERIOD.—The re-
8 moval period begins on the latest of the follow-
9 ing:

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

12 “(ii) If the removal order is judicially
13 reviewed and such review serves to stay the
14 removal of the alien, the date of the court’s
15 final order.

16 “(iii) If the alien is detained or con-
17 fined (except under an immigration proc-
18 ess), the date the alien is released from de-
19 tention or confinement.

20 “(C) SUSPENSION OF PERIOD.—The re-
21 moval period shall be extended beyond a period
22 of 90 days and the alien may remain in deten-
23 tion during such extended period if the alien
24 willfully fails or refuses to make timely applica-
25 tion in good faith for travel or other documents

1 necessary to the alien’s departure or conspires
2 or acts to prevent the alien’s removal subject to
3 an order of removal.

4 “(2) DETENTION AND RELEASE BY THE ATTOR-
5 NEY GENERAL.—During the removal period, the At-
6 torney General shall detain the alien. If there is in-
7 sufficient detention space to detain the alien, the At-
8 torney General shall make a specific finding to this
9 effect and may release the alien on a bond contain-
10 ing such conditions as the Attorney General may
11 prescribe.

12 “(3) SUPERVISION AFTER 90-DAY PERIOD.—If
13 the alien does not leave or is not removed within the
14 removal period, the alien, pending removal, shall be
15 subject to supervision under regulations prescribed
16 by the Attorney General. The regulations shall in-
17 clude provisions requiring the alien—

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

20 “(B) to submit, if necessary, to a medical
21 and psychiatric examination at the expense of
22 the United States Government;

23 “(C) to give information under oath about
24 the alien’s nationality, circumstances, habits,
25 associations, and activities, and other informa-

1 tion the Attorney General considers appro-
2 priate; and

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

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

15 “(5) REINSTATEMENT OF REMOVAL ORDERS
16 AGAINST ALIENS ILLEGALLY REENTERING.—If the
17 Attorney General finds that an alien has reentered
18 the United States illegally after having been removed
19 or having departed voluntarily, under an order of re-
20 moval, the prior order of removal is reinstated from
21 its original date and is not subject to being reopened
22 or reviewed, and the alien shall be removed under
23 the prior order at any time after the reentry.

24 “(6) INADMISSIBLE ALIENS.—An alien ordered
25 removed who is inadmissible under section 212 may

1 be detained beyond the removal period and, if re-
2 leased, shall be subject to the terms of supervision
3 in paragraph (3).

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

8 “(A) the alien cannot be removed due to
9 the refusal of all countries designated by the
10 alien or under this section to receive the alien,
11 or

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

14 “(b) COUNTRIES TO WHICH ALIENS MAY BE RE-
15 MOVED.—

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

18 “(A) IN GENERAL.—Except as provided by
19 subparagraphs (B) and (C), an alien who ar-
20 rives at the United States and with respect to
21 whom proceedings under section 240 were initi-
22 ated at the time of such alien’s arrival shall be
23 removed to the country in which the alien
24 boarded the vessel or aircraft on which the alien
25 arrived in the United States.

1 “(B) TRAVEL FROM CONTIGUOUS TERRI-
2 TORY.—If the alien boarded the vessel or air-
3 craft on which the alien arrived in the United
4 States in a foreign territory contiguous to the
5 United States, an island adjacent to the United
6 States, or an island adjacent to a foreign terri-
7 tory contiguous to the United States, and the
8 alien is not a native, citizen, subject, or national
9 of, or does not reside in, the territory or island,
10 removal shall be to the country in which the
11 alien boarded the vessel that transported the
12 alien to the territory or island.

13 “(C) ALTERNATIVE COUNTRIES.—If the
14 government of the country designated in sub-
15 paragraph (A) or (B) is unwilling to accept the
16 alien into that country’s territory, removal shall
17 be to any of the following countries, as directed
18 by the Attorney General:

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

21 “(ii) The country in which the alien
22 was born.

23 “(iii) The country in which the alien
24 has a residence.

1 “(iv) A country with a government
2 that will accept the alien into the country’s
3 territory if removal to a country described
4 in a previous clause of this subparagraph
5 is impracticable, inadvisable, or impossible.

6 “(2) OTHER ALIENS.—Subject to paragraph
7 (3)—

8 “(A) SELECTION OF COUNTRY BY
9 ALIEN.—Except as otherwise provided in this
10 paragraph—

11 “(i) any other alien who has been or-
12 dered removed may designate one country
13 to which the alien wants to be removed,
14 and

15 “(ii) the Attorney General shall re-
16 move the alien to the country the alien so
17 designates.

18 “(B) LIMITATION ON DESIGNATION.—An
19 alien may designate under subparagraph (A)(i)
20 a foreign territory contiguous to the United
21 States, an adjacent island, or an island adja-
22 cent to a foreign territory contiguous to the
23 United States as the place to which the alien is
24 to be removed only if the alien is a native, citi-

1 zen, subject, or national of, or has resided in,
2 that designated territory or island.

3 “(C) DISREGARDING DESIGNATION.—The
4 Attorney General may disregard a designation
5 under subparagraph (A)(i) if—

6 “(i) the alien fails to designate a
7 country promptly;

8 “(ii) the government of the country
9 does not inform the Attorney General fi-
10 nally, within 1 month after the date the
11 Attorney General first inquires, whether
12 the government will accept the alien into
13 the country;

14 “(iii) the government of the country is
15 not willing to accept the alien into the
16 country; or

17 “(iv) the Attorney General decides
18 that removing the alien to the country is
19 prejudicial to the United States.

20 “(D) ALTERNATIVE COUNTRY.—If an alien
21 is not removed to a country designated under
22 subparagraph (A)(i), the Attorney General shall
23 remove the alien to a country of which the alien
24 is a subject, national, or citizen unless the gov-
25 ernment of the country—

1 “(i) does not inform the Attorney
2 General or the alien finally, within 1
3 month after the date the Attorney General
4 first inquires or within another period of
5 time the Attorney General decides is rea-
6 sonable, whether the government will ac-
7 cept the alien into the country; or

8 “(ii) is not willing to accept the alien
9 into the country.

10 “(E) ADDITIONAL REMOVAL COUNTRIES.—
11 If an alien is not removed to a country under
12 the previous subparagraphs of this paragraph,
13 the Attorney General shall remove the alien to
14 any of the following countries:

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

17 “(ii) The country in which is located
18 the foreign port from which the alien left
19 for the United States or for a foreign terri-
20 tory contiguous to the United States.

21 “(iii) A country in which the alien re-
22 sided before the alien entered the country
23 from which the alien entered the United
24 States.

1 “(iv) The country in which the alien
2 was born.

3 “(v) The country that had sovereignty
4 over the alien’s birthplace when the alien
5 was born.

6 “(vi) The country in which the alien’s
7 birthplace is located when the alien is or-
8 dered removed.

9 “(vii) If impracticable, inadvisable, or
10 impossible to remove the alien to a country
11 described in a previous clause of this sub-
12 paragraph, another country whose govern-
13 ment will accept the alien into that coun-
14 try.

15 “(F) REMOVAL COUNTRY WHEN UNITED
16 STATES IS AT WAR.—When the United States is
17 at war and the Attorney General decides that it
18 is impracticable, inadvisable, inconvenient, or
19 impossible to remove an alien under this sub-
20 section because of the war, the Attorney Gen-
21 eral may remove the alien—

22 “(i) to the country that is host to a
23 government in exile of the country of which
24 the alien is a citizen or subject if the gov-

1 ernment of the host country will permit the
2 alien's entry; or

3 “(ii) if the recognized government of
4 the country of which the alien is a citizen
5 or subject is not in exile, to a country, or
6 a political or territorial subdivision of a
7 country, that is very near the country of
8 which the alien is a citizen or subject, or,
9 with the consent of the government of the
10 country of which the alien is a citizen or
11 subject to another country.

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

15 “(A) IN GENERAL.—Notwithstanding
16 paragraphs (1) and (2), the Attorney General
17 may not remove an alien to a country if the At-
18 torney General decides that the alien's life or
19 freedom would be threatened in that country
20 because of the alien's race, religion, nationality,
21 membership in a particular social group, or po-
22 litical opinion.

23 “(B) EXCEPTION.—Subparagraph (A)
24 does not apply to an alien deportable under sec-

1 tion 237(a)(4)(D) or if the Attorney General
2 decides that—

3 “(i) the alien ordered, incited, as-
4 sisted, or otherwise participated in the per-
5 secution of an individual because of the in-
6 dividual’s race, religion, nationality, mem-
7 bership in a particular social group, or po-
8 litical opinion;

9 “(ii) the alien, having been convicted
10 by a final judgment of a particularly seri-
11 ous crime (including any aggravated fel-
12 ony), is a danger to the community of the
13 United States;

14 “(iii) there are serious reasons to be-
15 lieve that the alien committed a serious
16 nonpolitical crime outside the United
17 States before the alien arrived in the
18 United States; or

19 “(iv) there are reasonable grounds to
20 believe that the alien is a danger to the se-
21 curity of the United States.

22 For purposes of clause (ii), an alien who has
23 been convicted of an aggravated felony shall be
24 considered to have committed a particularly se-
25 rious crime. For purposes of clause (iv), an

1 alien who is described in section 237(a)(4)(B)
2 shall be considered to be an alien with respect
3 to whom there are reasonable grounds for re-
4 garding as a danger to the security of the
5 United States.

6 “(c) REMOVAL OF ALIENS ARRIVING AT PORT OF
7 ENTRY.—

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

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

20 “(B) the alien is a stowaway who has been
21 ordered removed in accordance with section
22 235(a)(1), who has requested political asylum,
23 and whose application has not been adjudicated
24 or whose asylum application has been denied

1 but who has not exhausted any remaining ap-
2 peal rights.

3 “(2) STAY OF REMOVAL.—

4 “(A) IN GENERAL.—The Attorney General
5 may stay the removal of an alien under this
6 subsection if the Attorney General decides
7 that—

8 “(i) immediate removal is not prac-
9 ticable or proper; or

10 “(ii) the alien is needed to testify for
11 the United States Government in the pros-
12 ecution of a person for a violation of a law
13 of the United States.

14 “(B) PAYMENT OF DETENTION COSTS.—
15 During the period an alien is detained because
16 of a stay of removal under subparagraph
17 (A)(ii), the Attorney General may pay from the
18 appropriation ‘Immigration and Naturalization
19 Service—Salaries and Expenses’—

20 “(i) the cost of maintenance of the
21 alien; and

22 “(ii) a witness fee of \$1 a day.

23 “(C) RELEASE DURING STAY.—The Attor-
24 ney General may release an alien, whose re-

1 moval is stayed under subparagraph (A)(ii)
2 on—

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

6 “(ii) condition that the alien appear
7 when required as a witness and for re-
8 moval; and

9 “(iii) other conditions the Attorney
10 General may prescribe.

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

13 “(A) GENERAL.—Except as provided in
14 subparagraph (B) and paragraph (4), an owner
15 of a vessel or aircraft bringing an alien to the
16 United States shall pay the costs of detaining
17 and maintaining the alien—

18 “(i) while the alien is detained under
19 subsection (d)(1), and

20 “(ii) in the case of an alien who is a
21 stowaway, while the alien is being detained
22 pursuant to subsection (d)(2)(A) or
23 (d)(2)(B)(ii).

24 “(B) NONAPPLICATION.—Subparagraph
25 (A) shall not apply if—

1 “(i) the alien is a crewmember;

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

3 “(iii) the alien has a nonimmigrant
4 visa or other documentation authorizing
5 the alien to apply for temporary admission
6 to the United States and applies for admis-
7 sion not later than 120 days after the date
8 the visa or documentation was issued;

9 “(iv) the alien has a reentry permit
10 and applies for admission not later than
11 120 days after the date of the alien’s last
12 inspection and admission;

13 “(v)(I) the alien has an nonimmigrant
14 visa or other documentation authorizing
15 the alien to apply for temporary admission
16 to the United States or a reentry permit;

17 “(II) the alien applies for admission
18 more than 120 days after the date the visa
19 or documentation was issued or after the
20 date of the last inspection and admission
21 under the reentry permit; and

22 “(III) the owner of the vessel or air-
23 craft satisfies the Attorney General that
24 the existence of the condition relating to
25 inadmissibility could not have been discov-

1 ered by exercising reasonable care before
2 the alien boarded the vessel or aircraft; or
3 “(vi) the individual claims to be a na-
4 tional of the United States and has a
5 United States passport.

6 “(d) REQUIREMENTS OF PERSONS PROVIDING
7 TRANSPORTATION.—

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

13 “(A) receive an alien back on the vessel or
14 aircraft or another vessel or aircraft owned or
15 operated by the same interests if the alien is or-
16 dered removed under this part; and

17 “(B) take the alien to the foreign country
18 to which the alien is ordered removed.

19 “(2) ALIEN STOWAWAYS.—An owner, agent,
20 master, commanding officer, charterer, or consignee
21 of a vessel or aircraft arriving in the United States
22 with an alien stowaway—

23 “(A) shall detain the alien on board the
24 vessel or aircraft;

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

4 “(i) for medical treatment,

5 “(ii) for detention of the stowaway by
6 the Attorney General, or

7 “(iii) for departure or removal of the
8 stowaway; and

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

12 “(3) REMOVAL UPON ORDER.—An owner,
13 agent, master, commanding officer, person in
14 charge, purser, or consignee of a vessel, aircraft, or
15 other transportation line shall comply with an order
16 of the Attorney General to take on board, guard
17 safely, and transport to the destination specified any
18 alien ordered to be removed under this Act.

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

20 “(1) COSTS OF REMOVAL AT TIME OF ARRIV-
21 AL.—In the case of an alien who is a stowaway or
22 who is ordered removed either without a hearing
23 under section 235(a)(1) or 235(c) or pursuant to
24 proceedings under section 240 initiated at the time
25 of such alien’s arrival, the owner of the vessel or air-

1 craft (if any) on which the alien arrived in the
2 United States shall pay the transportation cost of
3 removing the alien. If removal is on a vessel or air-
4 craft not owned by the owner of the vessel or air-
5 craft on which the alien arrived in the United
6 States, the Attorney General may—

7 “(A) pay the cost from the appropriation
8 ‘Immigration and Naturalization Service—Sala-
9 ries and Expenses’; and

10 “(B) recover the amount of the cost in a
11 civil action from the owner, agent, or consignee
12 of the vessel or aircraft (if any) on which the
13 alien arrived in the United States.

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

21 “(3) COSTS OF REMOVAL FROM PORT OF RE-
22 MOVAL FOR ALIENS ADMITTED OR PERMITTED TO
23 LAND.—

24 “(A) IN GENERAL.—Except as provided in
25 subparagraph (B), in the case of an alien who

1 has been admitted or permitted to land and is
2 ordered removed, the cost (if any) of removal of
3 the alien from the port of removal shall be at
4 the expense of the appropriation for the en-
5 forcement of this Act.

6 “(B) COSTS OF REMOVAL FROM PORT OF
7 REMOVAL.—

8 “(i) IN GENERAL.—In the case of an
9 alien described in clause (ii), the cost of re-
10 moval of the alien from the port of removal
11 may be charged to any owner of the vessel,
12 aircraft, or other transportation line by
13 which the alien came to the United States.

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

16 “(I) is admitted to the United
17 States (other than lawfully admitted
18 for permanent residence) and is or-
19 dered removed within 5 years of the
20 date of admission based on a ground
21 that existed before or at the time of
22 admission, or

23 “(II) is an alien crewman per-
24 mitted to land temporarily under sec-

1 tion 252 and is ordered removed with-
2 in 5 years of the date of landing.

3 “(C) COSTS OF REMOVAL OF CERTAIN
4 ALIENS GRANTED VOLUNTARY DEPARTURE.—In
5 the case of an alien who has been granted vol-
6 untary departure under section 240B and who
7 is financially unable to depart at the alien’s own
8 expense and the Attorney General deems the
9 alien’s removal to be in the best interest of the
10 United States, the expense of such removal may
11 be paid from the appropriation for the enforce-
12 ment of this Act.

13 “(f) ALIENS REQUIRING PERSONAL CARE DURING
14 REMOVAL.—

15 “(1) IN GENERAL.—If the Attorney General be-
16 lieves that an alien being removed requires personal
17 care because of the alien’s mental or physical condi-
18 tion, the Attorney General may employ a suitable
19 person for that purpose who shall accompany and
20 care for the alien until the alien arrives at the final
21 destination.

22 “(2) COSTS.—The costs of providing the service
23 described in paragraph (1) shall be defrayed in the
24 same manner as the expense of the removing the ac-
25 companied alien is defrayed under this section.

1 “(g) PLACES OF DETENTION.—The Attorney Gen-
2 eral shall arrange for appropriate places of detention for
3 aliens detained pending removal or a decision on removal.
4 When United States Government facilities are unavailable
5 or facilities adapted or suitably located for detention are
6 unavailable for rental, the Attorney General may expend
7 from the appropriation ‘Immigration and Naturalization
8 Service—Salaries and Expenses’, without regard to sec-
9 tion 3709 of the Revised Statutes (41 U.S.C. 5), amounts
10 necessary to acquire land and to acquire, build, remodel,
11 repair, and operate facilities (including living quarters for
12 immigration officers if not otherwise available) necessary
13 for detention.”.

14 **SEC. 306. APPEALS FROM ORDERS OF REMOVAL (NEW SEC-**
15 **TION 242).**

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

18 (1) by redesignating subsection (j) as a sub-
19 section (h) and by moving such subsection and add-
20 ing it at the end of section 241, as amended by sec-
21 tion 305(3); and

22 (2) by amending the remainder of section 242
23 to read as follows:

24 “JUDICIAL REVIEW OF ORDERS OF REMOVAL

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

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

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

13 “(A) except as provided in subsection (f),
14 any individual determination or to entertain any
15 other cause or claim arising from or relating to
16 the implementation or operation of an order of
17 removal pursuant to section 235(b)(1),

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

20 “(C) the application of such section to in-
21 dividual aliens, including the determination
22 made under section 235(b)(1)(B), and

23 “(D) procedures and policies adopted by
24 the Attorney General to implement the provi-
25 sions of section 235(b)(1).

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

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

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

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

18 “(3) SERVICE.—

19 “(A) IN GENERAL.—The respondent is the
20 Attorney General. The petition shall be served
21 on the Attorney General and on the officer or
22 employee of the Service in charge of the Service
23 district in which the initial proceedings under
24 section 240 were conducted.

25 “(B) STAY OF ORDER.—

1 “(i) IN GENERAL.—Except as pro-
2 vided in clause (ii), service of the petition
3 on the officer or employee stays the re-
4 moval of an alien pending the court’s deci-
5 sion on the petition, unless the court or-
6 ders otherwise.

7 “(ii) EXCEPTION.—If the alien has
8 been convicted of an aggravated felony, or
9 the alien has been ordered removed pursu-
10 ant to a finding that the alien is inadmis-
11 sible under section 212, service of the peti-
12 tion does not stay the removal unless the
13 court orders otherwise.

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

16 “(A) the court of appeals shall decide the
17 petition only on the administrative record on
18 which the order of removal is based,

19 “(B) the administrative findings of fact are
20 conclusive if supported by reasonable, substan-
21 tial, and probative evidence on the record con-
22 sidered as a whole, and

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

1 “(5) TREATMENT OF NATIONALITY CLAIMS.—

2 “(A) COURT DETERMINATION IF NO ISSUE
3 OF FACT.—If the petitioner claims to be a na-
4 tional of the United States and the court of ap-
5 peals finds from the pleadings and affidavits
6 that no genuine issue of material fact about the
7 petitioner’s nationality is presented, the court
8 shall decide the nationality claim.

9 “(B) TRANSFER IF ISSUE OF FACT.—If
10 the petitioner claims to be a national of the
11 United States and the court of appeals finds
12 that a genuine issue of material fact about the
13 petitioner’s nationality is presented, the court
14 shall transfer the proceeding to the district
15 court of the United States for the judicial dis-
16 trict in which the petitioner resides for a new
17 hearing on the nationality claim and a decision
18 on that claim as if an action had been brought
19 in the district court under section 2201 of title
20 28, United States Code.

21 “(C) LIMITATION ON DETERMINATION.—
22 The petitioner may have the nationality claim
23 decided only as provided in this section.

24 “(6) CONSOLIDATION WITH REVIEW OF MO-
25 TIONS TO REOPEN OR RECONSIDER.—When a peti-

1 tioner seeks review of an order under this section,
2 any review sought of a motion to reopen or recon-
3 sider the order shall be consolidated with the review
4 of the order.

5 “(7) CHALLENGE OF VALIDITY OF ORDERS.—

6 “(A) IN CERTAIN CRIMINAL PROCEED-
7 INGS.—If the validity of an order of removal
8 has not been judicially decided, a defendant in
9 a criminal proceeding charged with violating
10 section 243 may challenge the validity of the
11 order in the criminal proceeding only by filing
12 a separate motion before trial. The district
13 court, without a jury, shall decide the motion
14 before trial.

15 “(B) CLAIMS OF UNITED STATES NATION-
16 ALITY WHERE NO ISSUE OF FACT.—If the de-
17 fendant claims in the motion to be a national
18 of the United States and the district court finds
19 that no genuine issue of material fact about the
20 defendant’s nationality is presented, the court
21 shall decide the motion only on the administra-
22 tive record on which the removal order is based.
23 The administrative findings of fact are conclu-
24 sive if supported by reasonable, substantial, and

1 probative evidence on the record considered as
2 a whole.

3 “(C) CLAIMS OF UNITED STATES NATION-
4 ALITY WHERE ISSUE OF FACT.—If the defend-
5 ant claims in the motion to be a national of the
6 United States and the district court finds that
7 a genuine issue of material fact about the de-
8 fendant’s nationality is presented, the court
9 shall hold a new hearing on the nationality
10 claim and decide that claim as if an action had
11 been brought under section 2201 of title 28,
12 United States Code.

13 “(D) CONSEQUENCE OF INVALIDATION.—
14 If the district court rules that the removal order
15 is invalid, the court shall dismiss the indict-
16 ment. The United States Government may ap-
17 peal the dismissal to the court of appeals for
18 the appropriate circuit within 30 days. The de-
19 fendant may not file a petition for review under
20 this section during the criminal proceeding. The
21 defendant may have the nationality claim de-
22 cided only as provided in this section.

23 “(8) CONSTRUCTION.—This subsection—

24 “(A) does not prevent the Attorney Gen-
25 eral, after a final order of removal has been is-

1 sued, from detaining the alien under section
2 241(a);

3 “(B) does not relieve the alien from com-
4 plying with section 241(a)(4) and section
5 243(g); and

6 “(C) except as provided in paragraph (3),
7 does not require the Attorney General to defer
8 removal of the alien.

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

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

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

18 “(2) another court has not decided the validity
19 of the order, unless the reviewing court finds that
20 the petition presents grounds that could not have
21 been presented in the prior judicial proceeding or
22 that the remedy provided by the prior proceeding
23 was inadequate or ineffective to test the validity of
24 the order.

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

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

7 “(A) the alien is the alien described in the
8 order,

9 “(B) the alien is an alien described in sec-
10 tion 238(b)(2) and has been convicted after
11 entry into the United States of an aggravated
12 felony, and

13 “(C) the alien was given the procedures de-
14 scribed in section 238(b)(4).

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

18 “(f) JUDICIAL REVIEW OF ORDERS UNDER SECTION
19 235(b)(1).—

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

23 “(2) LIMITATIONS ON RELIEF.—Regardless of
24 the nature of the action or claim or of the identity
25 of the party or parties bringing the action, no court

1 shall have jurisdiction or authority to enter declara-
2 tory, injunctive, or other equitable relief not specifi-
3 cally authorized in this subsection, or to certify a
4 class under Rule 23 of the Federal Rules of Civil
5 Procedure.

6 “(3) LIMITATION TO HABEAS CORPUS.—Judi-
7 cial review of any matter, cause, claim, or individual
8 determination made or arising under or pertaining
9 to section 235(b)(1) shall only be available in habeas
10 corpus proceedings, and shall be limited to deter-
11 minations of—

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

13 “(B) whether the petitioner was ordered
14 removed under such section, and

15 “(C) whether the petitioner can prove by a
16 preponderance of the evidence that the peti-
17 tioner is an alien lawfully admitted for perma-
18 nent residence and is entitled to such further
19 inquiry as prescribed by the Attorney General
20 pursuant to section 235(b)(1)(C).

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

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

1 “(B) has demonstrated by a preponderance
2 of the evidence that the alien is a lawful perma-
3 nent resident,
4 the court may order no remedy or relief other than
5 to require that the petitioner be provided a hearing
6 in accordance with section 240, or a determination
7 in accordance with section 273(d). Any alien who is
8 provided a hearing under section 240 pursuant to
9 this paragraph may thereafter obtain judicial review
10 of any resulting final order of removal pursuant to
11 subsection (a)(1).

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

19 “(g) LIMIT ON INJUNCTIVE RELIEF.—Regardless of
20 the nature of the action or claim or of the identity of the
21 party or parties bringing the action, no court (other than
22 the Supreme Court) shall have jurisdiction or authority
23 to enjoin or restrain the operation of the provisions of
24 chapter 4 of title II, as amended by the Immigration in
25 the National Interest Act of 1995, other than with respect

1 to the application of such provisions to an individual alien
2 against whom proceedings under such chapter have been
3 initiated.”.

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

6 **SEC. 307. PENALTIES RELATING TO REMOVAL (REVISED**
7 **SECTION 243).**

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

10 “PENALTIES RELATED TO REMOVAL

11 “SEC. 243. “(a) PENALTY FOR FAILURE TO DE-
12 PART.—

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

17 “(A) willfully fails or refuses to depart
18 from the United States within a period of 90
19 days from the date of the final order of removal
20 under administrative processes, or if judicial re-
21 view is had, then from the date of the final
22 order of the court,

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

1 “(C) connives or conspires, or takes any
2 other action, designed to prevent or hamper or
3 with the purpose of preventing or hampering
4 the alien’s departure pursuant to such, or

5 “(D) willfully fails or refuses to present
6 himself or herself for removal at the time and
7 place required by the Attorney General pursu-
8 ant to such order,

9 shall be fined under title 18, United States Code, or
10 imprisoned not more than four years (or 10 years if
11 the alien is a member of any of the classes described
12 in paragraph (1)(E), (2), (3), or (4) of section
13 237(a)) or both.

14 “(2) EXCEPTION.—It is not a violation of para-
15 graph (1) to take any proper steps for the purpose
16 of securing cancellation of or exemption from such
17 order of removal or for the purpose of securing the
18 alien’s release from incarceration or custody.

19 “(3) SUSPENSION.—The court may for good
20 cause suspend the sentence of an alien under this
21 subsection and order the alien’s release under such
22 conditions as the court may prescribe. In determin-
23 ing whether good cause has been shown to justify re-
24 leasing the alien, the court shall take into account
25 such factors as—

1 “(A) the age, health, and period of deten-
2 tion of the alien,

3 “(B) the effect of the alien’s release upon
4 the national security and public peace or safety,

5 “(C) the likelihood of the alien’s resuming
6 or following a course of conduct which made or
7 would make the alien deportable,

8 “(D) the character of the efforts made by
9 such alien himself and by representatives of the
10 country or countries to which the alien’s re-
11 moval is directed to expedite the alien’s depar-
12 ture from the United States,

13 “(E) the reason for the inability of the
14 Government of the United States to secure
15 passports, other travel documents, or removal
16 facilities from the country or countries to which
17 the alien has been ordered removed, and

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

20 “(b) WILLFUL FAILURE TO COMPLY WITH TERMS
21 OF RELEASE UNDER SUPERVISION.—An alien who shall
22 willfully fail to comply with regulations or requirements
23 issued pursuant to section 241(a)(3) or knowingly give
24 false information in response to an inquiry under such sec-

1 tion shall be fined not more than \$1,000 or imprisoned
2 for not more than one year, or both.

3 “(c) PENALTIES RELATING TO VESSELS AND AIR-
4 CRAFT.—

5 “(1) CIVIL PENALTIES.—

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

11 “(B) FAILURE TO REMOVE ALIEN STOW-
12 AWAYS.—If the Attorney General is satisfied
13 that a person has failed to remove an alien
14 stowaway as required under section 241(d)(2),
15 the person shall pay to the Commissioner the
16 sum of \$5,000 for each alien stowaway not re-
17 moved.

18 “(C) NO COMPROMISE.—The Attorney
19 General may not compromise the amount of
20 such penalty under this paragraph.

21 “(2) CLEARING VESSELS AND AIRCRAFT.—

22 “(A) CLEARANCE BEFORE DECISION ON
23 LIABILITY.—A vessel or aircraft may be grant-
24 ed clearance before a decision on liability is
25 made under paragraph (1) only if a bond ap-

1 proved by the Attorney General or an amount
2 sufficient to pay the civil penalty is deposited
3 with the Commissioner.

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

8 “(d) DISCONTINUING GRANTING VISAS TO NATION-
9 ALS OF COUNTRY DENYING OR DELAYING ACCEPTING
10 ALIEN.—On being notified by the Attorney General that
11 the government of a foreign country denies or unreason-
12 ably delays accepting an alien who is a citizen, subject,
13 national, or resident of that country after the Attorney
14 General asks whether the government will accept the alien
15 under this section, the Secretary of State shall order con-
16 sular officers in that foreign country to discontinue grant-
17 ing immigrant visas or nonimmigrant visas, or both, to
18 citizens, subjects, nationals, and residents of that country
19 until the Attorney General notifies the Secretary that the
20 country has accepted the alien.”.

1 **SEC. 308. REDESIGNATION AND REORGANIZATION OF**
2 **OTHER PROVISIONS; ADDITIONAL CONFORM-**
3 **ING AMENDMENTS.**

4 (a) CONFORMING AMENDMENT TO TABLE OF CON-
5 TENTS; OVERVIEW OF REORGANIZED CHAPTERS.—The
6 table of contents is amended—

7 (1) by striking the item relating to section 106,
8 and

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

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

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

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

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

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

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

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

“Sec. 237. General classes of deportable aliens.

“Sec. 238. Expedited removal of aliens convicted of committing aggravated felo-
nies.

“Sec. 239. Initiation of removal proceedings.

“Sec. 240. Removal proceedings.

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

“Sec. 240B. Voluntary departure.

“Sec. 240C. Records of admission.

“Sec. 241. Detention and removal of aliens ordered removed.

“Sec. 242. Judicial review of orders of removal.

“Sec. 243. Penalties relating to removal.

“Sec. 244. Temporary protected status.

“CHAPTER 5—ADJUSTMENT AND CHANGE OF STATUS”.

12 (b) REORGANIZATION OF OTHER PROVISIONS.—
13 Chapters 4 and 5 of title II are amended as follows:

1 (1) CHAPTER HEADING.—The heading for
2 chapter 4 of title II is amended to read as follows:

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

5 (2) REDESIGNATING SECTION 232 AS SECTION
6 232(a).—Section 232 (8 U.S.C. 1222) is amended—

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

9 (B) by amending the section heading to
10 read as follows:

11 “DETENTION OF ALIENS FOR PHYSICAL AND MENTAL
12 EXAMINATION”.

13 (3) REDESIGNATING SECTION 234 AS SECTION
14 232(b).—Section 234 (8 U.S.C. 1224) is amended—

15 (A) by striking the heading,

16 (B) by striking “SEC. 234.” and inserting

17 “(b) PHYSICAL AND MENTAL EXAMINATION.—
18 ”, and

19 (C) by moving such provision to the end of
20 section 232.

21 (4) REDESIGNATING SECTION 238 AS SECTION
22 233.—Section 238 (8 U.S.C. 1228) is redesignated
23 as section 233 and is moved to immediately follow
24 section 232.

25 (5) REDESIGNATE SECTION 240 AS SECTION
26 234A.—Section 240 (8 U.S.C. 1230) is redesignated

1 as section 234A and is moved to immediately follow
2 section 233 of such Act.

3 (6) REDESIGNATE SECTION 242A AS SECTION
4 238.—Redesignate section 242A as section 238,
5 strike “DEPORTATION” in its heading and insert
6 “REMOVAL”, and move the section to immediately
7 follow section 237 (as redesignated by section
8 305(2)).

9 (7) STRIKING SECTION 242B.—Strike section
10 242B (8 U.S.C. 1252b).

11 (8) REDESIGNATE SECTION 244A AS SECTION
12 244.—Strike section 244 and redesignate section
13 244A as section 244.

14 (9) CHAPTER HEADING.—The heading for
15 chapter 5 of title II is amended to read as follows:
16 “CHAPTER 5—ADJUSTMENT AND CHANGE OF STATUS”.

17 (c) ADDITIONAL CONFORMING AMENDMENTS.—

18 (1) EXPEDITED PROCEDURES FOR AGGRA-
19 VATED FELONS (FORMER SECTION 242A).—Section
20 238 (which, previous to redesignation under section
21 304(a)(1), was section 242A) is amended—

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

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

4 (C) in subsection (b)(1), by striking “sec-
5 tion 241(a)(2)(A)(iii)” and inserting “section
6 237(a)(2)(A)(iii)”.

7 (2) TREATMENT OF CERTAIN HELPLESS
8 ALIENS.—

9 (A) CERTIFICATION OF HELPLESS
10 ALIENS.—Section 232, as amended by section
11 308(b), is further amended by adding at the
12 end the following new subsection:

13 “(c) CERTIFICATION OF CERTAIN HELPLESS
14 ALIENS.—If an examining medical officer determines that
15 an alien arriving in the United States is inadmissible, is
16 helpless from sickness or mental and physical disability,
17 or infancy, and is accompanied by another alien whose
18 protection or guardianship may be required, the officer
19 may certify such fact for purposes of applying section
20 212(a)(9)(B) with respect to the other alien.”.

21 (B) GROUND OF INADMISSIBILITY FOR
22 PROTECTION AND GUARDIANSHIP OF ALIENS
23 DENIED ADMISSION FOR HEALTH OR IN-
24 FANCY.—Subparagraph (B) of section

1 212(a)(9) (8 U.S.C. 1182(a)(9)) is amended to
2 read as follows:

3 “(B) GUARDIAN REQUIRED TO ACCOMPANY
4 HELPLESS ALIEN.—Any alien—

5 “(i) who is accompanying another
6 alien who is inadmissible and who is cer-
7 tified to be helpless from sickness or men-
8 tal or physical disability or infancy pursu-
9 ant to section 232(c), and

10 “(ii) whose protection or guardianship
11 is determined to be required by the alien
12 described in clause (i),
13 is inadmissible.”.

14 (3) CONTINGENT CONSIDERATION IN RELATION
15 TO REMOVAL OF ALIENS.—Section 273(a) (8 U.S.C.
16 1323(a)) is amended—

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

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

20 “(2) It is unlawful for an owner, agent, master, com-
21 manding officer, person in charge, purser, or consignee of
22 a vessel or aircraft who is bringing an alien (except an
23 alien crewmember) to the United States to take any con-
24 sideration to be kept or returned contingent on whether

1 an alien is admitted to, or ordered removed from, the
2 United States.”.

3 (4) CLARIFICATION.—(A) Section 238(a)(1),
4 which, previous to redesignation under section
5 304(a)(1), was section 242A(a)(1), is amended by
6 adding at the end the following: “Nothing in this
7 section shall be construed to create any substantive
8 or procedural right or benefit that is legally enforce-
9 able by any party against the United States or its
10 agencies or officers or any other person.”.

11 (B) Section 225 of the Immigration and Na-
12 tionality Technical Corrections Act of 1994 (Public
13 Law 103–416), as amended by section 814(b), is
14 amended by striking “and nothing in” and all that
15 follows up to “shall”.

16 (d) ADDITIONAL CONFORMING AMENDMENTS RE-
17 LATING TO EXCLUSION AND INADMISSIBILITY.—

18 (1) SECTION 212.—Section 212 (8 U.S.C.
19 1182(a)) is amended—

20 (A) in the heading, by striking “EX-
21 CLUDED FROM” and inserting “INELIGIBLE
22 FOR”;

23 (B) in the matter in subsection (a) before
24 paragraph (1), by striking all that follows “(a)”
25 and inserting the following: “CLASSES OF

1 ALIENS INELIGIBLE FOR VISAS OR ADMIS-
2 SION.—Except as otherwise provided in this
3 Act, aliens who are inadmissible under the fol-
4 lowing paragraphs are ineligible to receive visas
5 and ineligible to be admitted to the United
6 States:”;

7 (C) in subsection (a), by striking “is ex-
8 cludable” and inserting “is inadmissible” each
9 place it appears;

10 (D) in subsections (a)(5)(C), (d)(1), (k),
11 by striking “exclusion” and inserting “inadmis-
12 sibility”;

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

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

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

20 (H) in subsection (h)(1)(B), by striking
21 “exclusion” and inserting “denial of admis-
22 sion”.

23 (2) SECTION 241.—Section 241 (8 U.S.C.
24 1251), before redesignation to section 237 by section
25 305(2), is amended—

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

3 (B) in subsection (a)(4)(C)(ii), by striking
4 “excludability” and inserting “inadmissibility”;
5 and

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

8 (3) OTHER GENERAL REFERENCES.—The fol-
9 lowing provisions are amended by striking “exclud-
10 ability” and “excludable” each place each appears
11 and inserting “inadmissibility” and “inadmissible”,
12 respectively:

13 (A) Sections 101(f)(3), 213, 234,
14 241(a)(1) (before redesignation by section
15 305(2)), 272(a), 277, 286(h)(2)(A)(v), and
16 286(h)(2)(A)(vi) and the last sentence of sec-
17 tion 208(a) (as added by section 332(a)).

18 (B) Sections 304(c)(1)(A)(i),
19 304(c)(1)(A)(ii), and 601(c) of the Immigration
20 Act of 1990.

21 (C) Section 128 of the Foreign Relations
22 Authorization Act, Fiscal Years 1992 and 1993
23 (Public Law 102–138).

1 (D) Section 1073 of the National Defense
2 Authorization Act for Fiscal Year 1995 (Public
3 Law 103–337).

4 (E) Section 221 of the Immigration and
5 Nationality Technical Corrections Act of 1994
6 (Public Law 103–416).

7 (4) RELATED TERMS.—

8 (A) Section 101(a)(17) (8 U.S.C.
9 1101(a)(17)) is amended by striking “or expul-
10 sion” and inserting “expulsion, or removal”.

11 (B) Section 102 (8 U.S.C. 1102) is
12 amended by striking “exclusion or deportation”
13 and inserting “removal”.

14 (C) Section 103(c)(2) (8 U.S.C.
15 1103(c)(2)) is amended by striking “excluded
16 or deported” and inserting “not been admitted
17 or have been removed”.

18 (D) Section 206 (8 U.S.C. 1156) is
19 amended by striking “excluded from admission
20 to the United States and deported” and insert-
21 ing “denied admission to the United States and
22 removed”.

23 (E) Section 216(f) (8 U.S.C. 1186a) is
24 amended by striking “exclusion” and inserting
25 “inadmissibility”.

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

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

8 (H) Section 232(a) (8 U.S.C. 1222(a)), as
9 redesignated by subsection (b)(2), is amended
10 by striking “excluded by” and “the excluded
11 classes” inserting “inadmissible under” and
12 “inadmissible classes”.

13 (I)(i) Section 272 (8 U.S.C. 1322) is
14 amended—

15 (I) by striking “EXCLUSION” in the
16 heading and inserting “DENIAL OF ADMIS-
17 SION”,

18 (II) in subsection (a), by striking “ex-
19 cluding condition” and inserting “condition
20 causing inadmissibility”, and

21 (III) in subsection (c), by striking
22 “excluding”.

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

1 (J) Section 276(a) (8 U.S.C. 1326) is
2 amended—

3 (i) in paragraph (1), by striking “de-
4 ported or excluded and deported” and in-
5 serting “denied admission or removed”,
6 and

7 (ii) in paragraph (2)(B), by striking
8 “excluded and deported” and inserting
9 “denied admission and removed”.

10 (K) Section 286(h)(1)(A)(vi) (8 U.S.C.
11 1356(h)(1)(A)(vi)) is amended by striking “ex-
12 clusion” each place it appears and inserting
13 “removal”.

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

16 (i) in subsection (a), by striking “or
17 expulsion” each place it appears and in-
18 serting “expulsion, or removal”, and

19 (ii) in subsection (c), by striking “ex-
20 clusion from” and inserting “denial of ad-
21 mission to”.

22 (M) Section 290(a) (8 U.S.C. 1360(a)) is
23 amended by striking “excluded therefrom” each
24 place it appears and inserting “denied admis-
25 sion thereto”.

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

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

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

9 (i) in subsection (a), by striking “ex-
10 clusion” each place it appears and insert-
11 ing “removal”; and

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

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

17 (R) Section 401(c) of the Refugee Act of
18 1980 is amended by striking “deportation or
19 exclusion” and inserting “removal”.

20 (S) Section 501(e)(2) of the Refugee Edu-
21 cation Assistance Act of 1980 (Public Law 96-
22 422) is amended by striking “exclusion or de-
23 portation” each place it appears and inserting
24 “removal”.

1 (e) REVISION OF TERMINOLOGY RELATING TO DE-
2 PORTATION.—

3 (1) Each of the following sections (unless other-
4 wise designated) is amended by striking “deporta-
5 tion” each place it appears and inserting “removal”:

6 (A) Subparagraphs (A)(iii)(II), (A)(iv)(II),
7 and (B)(iii)(II) of section 204(a)(1) (8 U.S.C.
8 1154(a)(1)).

9 (B) Section 212(d)(1) (8 U.S.C.
10 1182(d)(1)).

11 (C) Section 212(d)(11) (8 U.S.C.
12 1182(d)(11)).

13 (D) Section 214(j)(4)(C) (8 U.S.C.
14 1184(j)(4)(C)).

15 (E) Section 217(b)(2) (8 U.S.C.
16 1187(b)(2)).

17 (F) Section 241(a)(1)(H) (before redesign-
18 nation to section 237 by section 305(2)) (8
19 U.S.C. 1251(a)(1)(H)).

20 (G) Section 242A (before redesignation to
21 section 238 by subsection (b)(6)) (8 U.S.C.
22 1252a).

23 (H) Subsections (a)(3) and (b)(5)(B) of
24 section 244A (before redesignation to section
25 244 by subsection (b)(8)) (8 U.S.C. 1254a).

1 (I) Section 246(a) (8 U.S.C. 1256(a)).

2 (J) Section 254 (8 U.S.C. 1284).

3 (K) Section 263(a)(4) (8 U.S.C.
4 1303(a)(4)).

5 (L) Section 276(b) (8 U.S.C. 1326(b)).

6 (M) Section 280(b) (8 U.S.C. 1330(b)).

7 (N) Section 286(h)(2)(A)(v) (8 U.S.C.
8 1356(h)(2)(A)(v)).

9 (O) Section 291 (8 U.S.C. 1361).

10 (P) Section 318 (8 U.S.C. 1429).

11 (Q) Section 130005(a) of the Violent
12 Crime Control and Law Enforcement Act of
13 1994 (Public Law 103–322).

14 (2) Each of the following sections (unless other-
15 wise designated) is amended by striking “deported”
16 and inserting “removed”:

17 (A) Section 212(d)(7) (8 U.S.C.
18 1182(d)(7)).

19 (B) Section 214(d) (8 U.S.C. 1184(d)).

20 (C) Section 242A(d)(2)(D)(iv) (before re-
21 designation to section 238 by subsection (b)(6))
22 (8 U.S.C. 1252a(d)(2)(D)(iv)).

23 (D) Section 241(a) (before redesignation
24 to section 237 by section 305(2)) (8 U.S.C.
25 1251(a)).

1 (E) Section 252(b) (8 U.S.C. 1282(b)).

2 (F) Section 254 (8 U.S.C. 1284).

3 (G) Subsections (b) and (c) of section 266
4 (8 U.S.C. 1306).

5 (H) Section 301(a)(1) of the Immigration
6 Act of 1990.

7 (3) Section 101(g) (8 U.S.C. 1101(g)) is
8 amended by inserting “or removed” after “deported”
9 each place it appears.

10 (4) Section 103(c)(2) (8 U.S.C. 1103(c)(2)) is
11 amended by striking “suspension of deportation”
12 and inserting “cancellation of removal”.

13 (5) Section 201(b)(1)(D) (8 U.S.C.
14 1151(b)(1)(D)) is amended by striking “deportation
15 is suspended” and inserting “removal is cancelled”.

16 (6) Section 212(l)(2)(B) (8 U.S.C.
17 1182(l)(2)(B)) is amended by striking “deportation
18 against” and inserting “removal of”.

19 (7) Subsections (b)(2), (c)(2)(B), (c)(3)(D),
20 (c)(4), and (d)(2)(C) of section 216 (8 U.S.C.
21 1186a) are each amended by striking “DEPORTA-
22 TION”, “deport”, and “deported” and inserting “RE-
23 MOVAL”, “remove”, and “removed”, respectively.

24 (8) Subsections (b)(2), (c)(2)(B), (c)(3)(D),
25 and (d)(2)(C) of section 216A (8 U.S.C. 1186b) are

1 each amended by striking “DEPORTATION”, “de-
2 port”, and “deported” and inserting “REMOVAL”,
3 “remove”, and “removed”, respectively.

4 (9) Section 242A (8 U.S.C. 1252a), before re-
5 designation to section 238 by subsection (b)(6), is
6 amended, in the headings to various subdivisions, by
7 striking “DEPORTATION” and “DEPORTATION” and
8 inserting “REMOVAL” and “REMOVAL”, respectively.

9 (10) Section 244A(a)(1)(A) (8 U.S.C.
10 1254a(a)(1)(A)), before redesignation to section 244
11 by subsection (b)(8), is amended—

12 (A) in subsection (a)(1)(A), by striking
13 “deport” and inserting “remove”, and

14 (B) in subsection (e), by striking “SUS-
15 PENSION OF DEPORTATION” and inserting
16 “CANCELLATION OF REMOVAL”.

17 (11) Section 254 (8 U.S.C. 1284) is amended
18 by striking “deport” each place it appears and in-
19 serting “remove”.

20 (12) Section 273(d) (8 U.S.C. 1323(d)) is re-
21 pealed.

22 (13)(A) Section 276 (8 U.S.C. 1326) is amend-
23 ed by striking “DEPORTED” and inserting “RE-
24 MOVED”.

1 (B) The item in the table of contents relating
2 to such section is amended by striking “deported”
3 and inserting “removed”.

4 (14) Section 318 (8 U.S.C. 1429) is amended
5 by striking “suspending” and inserting “canceling”.

6 (15) Section 301(a) of the Immigration Act of
7 1990 is amended by striking “DEPORTATION” and
8 inserting “REMOVAL”.

9 (f) REVISION OF REFERENCES TO ENTRY.—

10 (1) The following provisions are amended by
11 striking “entry” and inserting “admission” each
12 place it appears:

13 (A) Section 101(a)(15)(K) (8 U.S.C.
14 1101(a)(15)(K)).

15 (B) Section 101(a)(30) (8 U.S.C.
16 1101(a)(30)).

17 (C) Section 212(a)(2)(D) (8 U.S.C.
18 1182(a)(2)(D)).

19 (D) Section 212(a)(6)(C)(i) (8 U.S.C.
20 1182(a)(6)(C)(i)).

21 (E) Section 212(h)(1)(A)(i) (8 U.S.C.
22 1182(h)(1)(A)(i)).

23 (F) Section 212(i)(2) (8 U.S.C.
24 1182(i)(2)).

1 (G) Section 212(j)(1)(D) (8 U.S.C.
2 1182(j)(1)(D)).

3 (H) Section 214(c)(2)(A) (8 U.S.C.
4 1184(c)(2)(A)).

5 (I) Section 214(d) (8 U.S.C. 1184(d)).

6 (J) Section 216(b)(1)(A)(i) (8 U.S.C.
7 1186a(b)(1)(A)(i)).

8 (K) Section 216(d)(1)(A)(i)(III) (8 U.S.C.
9 1186a(d)(1)(A)(i)(III)).

10 (L) Section 240(b) (8 U.S.C. 1230(b)).

11 (M) Section 241(a)(1)(G) (8 U.S.C.
12 1251(a)(1)(G)).

13 (N) Section 241(a)(1)(H) (8 U.S.C.
14 1251(a)(1)(H)), other than the last time it ap-
15 pears.

16 (O) Paragraphs (2) and (4) of section
17 241(a) (8 U.S.C. 1251(a)).

18 (P) Section 245(e)(3) (8 U.S.C.
19 1255(e)(3)).

20 (Q) Section 247(a) (8 U.S.C. 1257(a)).

21 (R) Section 601(c)(2) of the Immigration
22 Act of 1990.

23 (2) The following provisions are amended by
24 striking “enter” and inserting “be admitted”:

25 (A) Section 204(e) (8 U.S.C. 1154(e)).

1 (B) Section 221(h) (8 U.S.C. 1201(h)).

2 (C) Section 245(e)(2) (8 U.S.C.
3 1255(e)(2)).

4 (3) The following provisions are amended by
5 striking “enters” and inserting “is admitted to”:

6 (A) Section 212(j)(1)(D)(ii) (8 U.S.C.
7 1154(e)).

8 (B) Section 214(c)(5)(B) (8 U.S.C.
9 1184(c)(5)(B)).

10 (4) Section 238(a) (8 U.S.C. 1228(a)) is
11 amended by striking “entry and inspection” and in-
12 sserting “inspection and admission”.

13 (5) Section 241(a)(1)(H)(ii) (8 U.S.C.
14 1251(a)(1)(H)(ii)) is amended by striking “at
15 entry”.

16 (6) Section 7 of the Central Intelligence Agency
17 Act of 1949 (50 U.S.C. 403h) is amended by strik-
18 ing “that the entry”, “given entry into”, and “enter-
19 ing” and inserting “that the admission”, “admitted
20 to”, and “admitted to”.

21 (7) Section 4 of the Atomic Weapons and Spe-
22 cial Nuclear Materials Rewards Act (50 U.S.C. 47c)
23 is amended by striking “entry” and inserting “ad-
24 mission”.

1 (g) CONFORMING REFERENCES TO REORGANIZED
2 SECTIONS.—

3 (1) REFERENCES TO SECTIONS 232, 234, 238,
4 239, 240, 241, 242A, AND 244A.—Any reference in law
5 in effect on the day before the date of the enactment
6 of this Act to section 232, 234, 238, 239, 240, 241,
7 242A, or 244A of the Immigration and Nationality
8 Act (or a subdivision of such section) is deemed, as
9 of the title III–A effective date, to refer to section
10 232(a), 232(b), 233, 234, 234A, 237, 238, or 244
11 of such Act (or the corresponding subdivision of
12 such section), as redesignated by this subtitle. Any
13 reference in law to section 241 (or a subdivision of
14 such section) of the Immigration and Nationality
15 Act in an amendment made by a subsequent subtitle
16 of this title is deemed a reference (as of the title
17 III–A effective date) to section 237 (or the cor-
18 responding subdivision of such section), as redesi-
19 gnated by this subtitle.

20 (2) REFERENCES TO SECTION 106.—

21 (A) Sections 242A(b)(3) and
22 242A(d)(3)(A)(ii) (before redesignation to sec-
23 tion 238 by subsection (b)(6)) (8 U.S.C.
24 1252a(b)(3), 1252a(d)(3)(A)(ii)) are each

1 amended by striking “106” and inserting
2 “242”.

3 (B) Sections 210(e)(3)(A) and
4 245A(f)(4)(A) (8 U.S.C. 1160(e)(3)(A),
5 1255a(f)(4)(A)) are amended by inserting “(as
6 in effect before October 1, 1996)” after “106”.

7 (C) Section 242A(d)(3)(A)(iii) (8 U.S.C.
8 1252a(d)(3)(A)(iii)) (before redesignation to
9 section 238 by subsection (b)(6)) is amended by
10 striking “106(a)(1)” and inserting “242(b)(1)”.

11 (3) REFERENCES TO SECTION 236.—

12 (A) Sections 205 and 209(a)(1) (8 U.S.C.
13 1155, 1159(a)(1)) are each amended by strik-
14 ing “236” and insert “240”.

15 (B) Section 4113(c) of title 18, United
16 States Code, is amended by striking “1226 of
17 title 8, United States Code” and inserting “sec-
18 tion 240 of the Immigration and Nationality
19 Act”.

20 (4) REFERENCES TO SECTION 237.—

21 (A) Section 209(a)(1) (8 U.S.C.
22 1159(a)(1)) is amended by striking “237” and
23 inserting “241”.

1 (B) Section 212(a)(9)(B) (8 U.S.C.
2 1182(a)(9)(B)) is amended by striking “section
3 237(e)” and inserting “section 232(c)”.

4 (C) Section 212(d)(7) (8 U.S.C.
5 1182(d)(7)) is amended by striking “237(a)”
6 and inserting “241(c)”.

7 (D) Section 280(a) (8 U.S.C. 1330(a)) is
8 amended by striking “237, 239, 243” and in-
9 serting “234, 243(c)(2)”.

10 (5) REFERENCES TO SECTION 242.—

11 (A)(i) Sections 214(d), 242A(a)(1),
12 242A(d)(4), 252(b), 280(b)(2), and 287(f)(1)
13 (8 U.S.C. 1184(d), 1252a(a)(1), 1252a(d)(4),
14 1282(b), 1330(b)(2), 1357(f)(1)) are each
15 amended by striking “242” and inserting
16 “240”.

17 (ii) Section 245A(a)(1)(B) (8 U.S.C.
18 1255a(a)(1)(B)) is amended by inserting “(as
19 in effect before October 1, 1996)” after “242”.

20 (iii) Section 4113(b) of title 18, United
21 States Code, is amended by striking “242” and
22 inserting “240”.

23 (iv) Section 8(c) of the Foreign Agents
24 Registration Act of 1938 (as amended) (22

1 U.S.C. 618(c)) is amended by striking “242”
2 and inserting “240”.

3 (v) Section 9 of the Peace Corps Act (22
4 U.S.C. 2508) is amended by striking “242” and
5 inserting “240”.

6 (B) Section 242A(a)(2) (8 U.S.C.
7 1252a(a)(2)) is amended by striking “section
8 242(a)(2)” and inserting “section 236(c)”.

9 (C) Section 130002(a) of Public Law 103–
10 322 is amended by striking “242(a)(3)(A)” and
11 inserting “236(d)”.

12 (D) Section 242A(b)(1) (8 U.S.C.
13 1252a(b)(1)) is amended by striking “242(b)”
14 and inserting “240”.

15 (E) Section 242A(d)(2)(D)(ii) (8 U.S.C.
16 1252a(d)(2)(D)(ii)) is amended by striking
17 “242(b)” and inserting “240”.

18 (F) Section 4113(a) of title 18, United
19 States Code, is amended by striking “242(b)”
20 and inserting “240B”.

21 (G) Section 1821(e) of title 28, United
22 States Code, is amended by striking “242(b)”
23 and inserting “240”.

24 (H) Section 225 of the Immigration and
25 Nationality Technical Corrections Act of 1994

1 (Public Law 103-416) is amended by striking
2 “242(i)” and inserting “239(d)”.

3 (I) Section 130007(a) of Public Law 103-
4 322 is amended by striking “242(i)” and in-
5 serting “239(d)”.

6 (J) Section 20301(c) of Public Law 103-
7 322 is amended by striking “242(j)(5)” and
8 “242(j)” and inserting “241(h)(5)” and
9 “241(h)”, respectively.

10 (6) REFERENCES TO SECTION 242B.—

11 (A) Section 303(d)(2) of the Immigration
12 Act of 1990 is amended by striking “242B”
13 and inserting “240(b)(5)”.

14 (B) Section 545(g)(1)(B) of the Immigra-
15 tion Act of 1990 is amended by striking
16 “242B(a)(4)” and inserting “239(a)(4)”.

17 (7) REFERENCES TO SECTION 243.—

18 (A)(i) Section 214(d) (8 U.S.C. 1184(d))
19 is amended by striking “243” and inserting
20 “241”.

21 (ii) Section 8(c) of the Foreign Agents
22 Registration Act of 1938 (as amended) (22
23 U.S.C. 618(c)) is amended by striking “243”
24 and inserting “241”.

1 (iii) Section 9 of the Peace Corps Act (22
2 U.S.C. 2508) is amended by striking “243” and
3 inserting “241”.

4 (B) Section 236(e)(2) (8 U.S.C.
5 1226(e)(2)) is amended by striking “section
6 243(g)” and inserting “section 243(d)”.

7 (C)(i) Section 315(c) of Public Law 99–
8 603 is amended by striking “243(g)” and in-
9 serting “243(d)”.

10 (ii) Section 315(c) of the Immigration Re-
11 form and Control Act of 1986 is amended by
12 striking “243(g)” and inserting “243(d)”.

13 (iii) Section 702(b) of the Departments of
14 Commerce, Justice, and State, the Judiciary,
15 and Related Agencies Appropriations Act, 1988
16 is amended by striking “243(g)” and inserting
17 “243(d)”.

18 (iv) Section 903(b) of Public Law 100–204
19 is amended by striking “243(g)” and inserting
20 “243(d)”.

21 (D)(i) Section 6(f)(2)(F) of the Food
22 Stamp Act of 1977 (7 U.S.C. 2015(f)(2)(F)) is
23 amended by striking “243(h)” and inserting
24 “241(b)(3)”.

1 (ii) Section 214(a)(5) of the Housing and
2 Community Development Act of 1980 (42
3 U.S.C. 1436a(a)(5)) is amended by striking
4 “243(h)” and inserting “241(b)(3)”.

5 (E)(i) Section 244A(c)(2)(B)(ii) (8 U.S.C.
6 1254a(c)(2)(B)(ii)) is amended by striking
7 “243(h)(2)” and inserting “241(b)(3)(B)”.

8 (ii) Section 202(a)(3) of the Immigration
9 Reform and Control Act of 1986 is amended by
10 striking “243(h)(2)” and inserting
11 “241(b)(3)(B)”.

12 (iii) Section 301(e)(2) of the Immigration
13 Act of 1990 is amended by striking
14 “243(h)(2)” and inserting “241(b)(3)(B)”.

15 (F) Section 316(f) (8 U.S.C. 1427(f)) is
16 amended by striking “subparagraphs (A)
17 through (D) of paragraph 243(h)(2)” and in-
18 serting “clauses (i) through (iv) of section
19 241(b)(3)(B)”.

20 (8) REFERENCES TO SECTION 244.—

21 (A)(i) Sections 201(b)(1)(D) and 244A(e)
22 (8 U.S.C. 1151(b)(1)(D), 1254a(e)) are each
23 amended by striking “244(a)” and inserting
24 “240A(a)”.

1 (ii) Section 304(c)(1)(A) of the Miscellane-
2 ous and Technical Immigration and Naturaliza-
3 tion Amendments of 1991 (Public Law 102-
4 232) is amended by striking “244(a)” and in-
5 serting “244A(a)”.

6 (B) Section 304(c)(1)(B) of the Mis-
7 cellaneous and Technical Immigration and Nat-
8 uralization Amendments of 1991 (Public Law
9 102-232) is amended by striking “244(a)(2)”
10 and inserting “240A(a)(2)”.

11 (C) Section 4113(a) of title 18, United
12 States Code, is amended by striking “244(e)”
13 and inserting “240B(e)”.

14 (D) Section 242B(e)(2)(A) (8 U.S.C.
15 1252b(e)(2)(A)) is amended by striking “sec-
16 tion 244(e)(1)” and inserting “section
17 240B(e)(1)”.

18 (9) REFERENCES TO CHAPTER 5.—

19 (A) Sections 266(b), 266(c), and 291 (8
20 U.S.C. 1306(b), 1306(c), 1361) are each
21 amended by striking “chapter 5” and inserting
22 “chapter 4”.

23 (B) Section 6(b) of the Act of August 1,
24 1956 (50 U.S.C. 855(b)) is amended by strik-
25 ing “chapter 5, title II, of the Immigration and

1 Nationality Act (66 Stat. 163)” and inserting
2 “chapter 4 of title II of the Immigration and
3 Nationality Act”.

4 (10) MISCELLANEOUS CROSS-REFERENCE COR-
5 RECTIONS FOR NEWLY ADDED PROVISIONS.—

6 (A) The last sentence of section 208(a), as
7 added by section 332(a), is amended by striking
8 “241(a)(4)(B)” and inserting “237(a)(4)(B)”.

9 (B) Section 245(c)(6), as amended by sec-
10 tion 333(d), is amended by striking
11 “241(a)(4)(B)” and inserting “237(a)(4)(B)”.

12 (C) The last sentence of section 246(a), as
13 added by section 353(a), is amended by striking
14 “deport the alien under sections 242 and
15 242A” and inserting “remove the alien under
16 section 240”.

17 (D) Section 249(d), as amended by section
18 333(e), is amended by striking “241(a)(4)(B)”
19 and inserting “237(a)(4)(B)”.

20 (E) Section 276(b)(3), as inserted by sec-
21 tion 321(b), is amended by striking “excluded”
22 and “excludable” and inserting “removed” and
23 “inadmissible”, respectively.

1 (F) Section 505(c)(7), as added by section
2 321(a)(1), is amended by amending subpara-
3 graphs (B) through (D) to read as follows:

4 “(B) Withholding of removal under section
5 241(b)(3).

6 “(C) Cancellation of removal under section
7 240A.

8 “(D) Voluntary departure under section
9 240B.”.

10 (G) Section 506(b)(2)(B), as added by sec-
11 tion 321(a)(1), is amended by striking “depor-
12 tation” and inserting “removal”.

13 (H) Section 508(c)(2)(D), as added by sec-
14 tion 321(a)(1), is amended by striking “exclu-
15 sion because such alien is excludable” and in-
16 sserting “removal because such alien is inadmis-
17 sible”.

18 **SEC. 309. EFFECTIVE DATES; TRANSITION.**

19 (a) IN GENERAL.—Except as provided in this section,
20 this subtitle and the amendments made by this subtitle
21 shall take effect on the first day of the first month begin-
22 ning more than 180 days after the date of the enactment
23 of this Act (in this title referred to as the “title III–A
24 effective date”).

1 (b) PROMULGATION OF REGULATIONS.—The Attor-
2 ney General shall first promulgate regulations to carry out
3 this title by not later than 1 month before the title III-
4 A effective date.

5 (c) TRANSITION FOR ALIENS IN PROCEEDINGS.—

6 (1) GENERAL RULE THAT NEW RULES DO NOT
7 APPLY.—Subject to the succeeding provisions of this
8 subsection, in the case of an alien who is in exclu-
9 sion or deportation proceedings as of the title III-
10 A effective date—

11 (A) the amendments made by this subtitle
12 shall not apply, and

13 (B) the proceedings (including judicial re-
14 view thereof) shall continue to be conducted
15 without regard to such amendments.

16 (2) ATTORNEY GENERAL OPTION TO ELECT TO
17 APPLY NEW PROCEDURES.—In a case described in
18 paragraph (1) in which an evidentiary hearing under
19 section 236 or 242 and 242B of the Immigration
20 and Nationality Act has not commenced as of the
21 title III-A effective date, the Attorney General may
22 elect to proceed under chapter 4 of title II of such
23 Act (as amended by this subtitle). The Attorney
24 General shall provide notice of such election to the
25 alien involved not later than 30 days before the date

1 any evidentiary hearing is commenced. If the Attor-
2 ney General makes such election, the notice of hear-
3 ing provided to the alien under section 235 or
4 242(a) of such Act shall be valid as if provided
5 under section 239 of such Act (as amended by this
6 subtitle) to confer jurisdiction on the immigration
7 judge.

8 (3) ATTORNEY GENERAL OPTION TO TERMI-
9 NATE AND REINITIATE PROCEEDINGS.—In the case
10 described in paragraph (1), the Attorney General
11 may elect to terminate proceedings in which there
12 has not been a final administrative decision and to
13 reinitiate proceedings under chapter 4 of title II the
14 Immigration and Nationality Act (as amended by
15 this subtitle). Any determination in the terminated
16 proceeding shall not be binding in the reinitiated
17 proceeding.

18 (4) TRANSITIONAL CHANGES IN JUDICIAL RE-
19 VIEW.—In the case described in paragraph (1) in
20 which a final order of exclusion or deportation is en-
21 tered more than 30 days after the date of the enact-
22 ment of this Act, notwithstanding any provision of
23 section 106 of the Immigration and Nationality Act
24 (as in effect as of the date of the enactment of this
25 Act) to the contrary—

1 (A) in the case of judicial review of a final
2 order of exclusion, subsection (b) of such sec-
3 tion shall not apply and the action for judicial
4 review shall be governed by the provisions of
5 subsections (a) and (c) of such in the same
6 manner as they apply to judicial review of or-
7 ders of deportation;

8 (B) a court may not order the taking of
9 additional evidence under section 2347(c) of
10 title 28, United States Code;

11 (C) the petition for judicial review must be
12 filed not later than 30 days after the date of
13 the final order of exclusion or deportation; and

14 (D) the petition for review shall be filed
15 with the court of appeals for the judicial circuit
16 in which the administrative proceedings before
17 the special inquiry officer or immigration judge
18 were completed.

19 (5) TRANSITIONAL RULE WITH REGARD TO
20 SUSPENSION OF DEPORTATION.—In applying section
21 244(a) of the Immigration and Nationality Act (as
22 in effect before the date of the enactment of this
23 Act) with respect to an application for suspension of
24 deportation which is filed before, on, or after the
25 date of the enactment of this Act and which has not

1 been adjudicated as of 30 days after the date of the
2 enactment of this Act, the period of continuous
3 physical presence under such section shall be deemed
4 to have ended on the date the alien was served an
5 order to show cause pursuant to section 242A of
6 such Act (as in effect on such date of enactment).

7 (d) TRANSITIONAL REFERENCES.—For purposes of
8 carrying out the Immigration and Nationality Act, as
9 amended by this subtitle—

10 (1) any reference in section 212(a)(1)(A) of
11 such Act to the term “inadmissible” is deemed to in-
12 clude a reference to the term “excludable”, and

13 (2) any reference in law to an order of removal
14 shall be deemed to include a reference to an order
15 of exclusion and deportation or an order of deporta-
16 tion.

17 (e) TRANSITION.—No period of time before the date
18 of the enactment of this Act shall be included in the period
19 of 1 year described in section 212(a)(6)(B)(i) of the Immi-
20 gration and Nationality Act (as amended by section
21 301(d)).

1 **Subtitle B—Removal of Alien**
2 **Terrorists**

3 **PART 1—REMOVAL PROCEDURES FOR ALIEN**
4 **TERRORISTS**

5 **SEC. 321. REMOVAL PROCEDURES FOR ALIEN TERRORISTS.**

6 (a) IN GENERAL.—The Immigration and Nationality
7 Act is amended—

8 (1) by adding at the end of the table of con-
9 tents the following:

 “TITLE V—SPECIAL REMOVAL PROCEDURES FOR ALIEN
 TERRORISTS

- “Sec. 501. Definitions.
- “Sec. 502. Establishment of special removal court; panel of attorneys to assist with classified information.
- “Sec. 503. Application for initiation of special removal proceeding.
- “Sec. 504. Consideration of application.
- “Sec. 505. Special removal hearings.
- “Sec. 506. Consideration of classified information.
- “Sec. 507. Appeals.
- “Sec. 508. Detention and custody.

10 and

11 (2) by adding at the end the following new title:

12 “TITLE V—SPECIAL REMOVAL PROCEDURES
13 FOR ALIEN TERRORISTS

14 “DEFINITIONS

15 “SEC. 501. In this title:

16 “(1) The term ‘alien terrorist’ means an alien
17 described in section 241(a)(4)(B).

18 “(2) The term ‘classified information’ has the
19 meaning given such term in section 1(a) of the Clas-
20 sified Information Procedures Act (18 U.S.C. App.).

1 “(3) The term ‘national security’ has the mean-
2 ing given such term in section 1(b) of the Classified
3 Information Procedures Act (18 U.S.C. App.).

4 “(4) The term ‘special attorney’ means an at-
5 torney who is on the panel established under section
6 502(e).

7 “(5) The term ‘special removal court’ means
8 the court established under section 502(a).

9 “(6) The term ‘special removal hearing’ means
10 a hearing under section 505.

11 “(7) The term ‘special removal proceeding’
12 means a proceeding under this title.

13 “ESTABLISHMENT OF SPECIAL REMOVAL COURT; PANEL
14 OF ATTORNEYS TO ASSIST WITH CLASSIFIED INFOR-
15 MATION

16 “SEC. 502. (a) IN GENERAL.—The Chief Justice of
17 the United States shall publicly designate 5 district court
18 judges from 5 of the United States judicial circuits who
19 shall constitute a court which shall have jurisdiction to
20 conduct all special removal proceedings.

21 “(b) TERMS.—Each judge designated under sub-
22 section (a) shall serve for a term of 5 years and shall be
23 eligible for redesignation, except that the four associate
24 judges first so designated shall be designated for terms
25 of one, two, three, and four years so that the term of one
26 judge shall expire each year.

1 title through the filing of a written application described
2 in subsection (b) with the special removal court seeking
3 an order authorizing a special removal proceeding under
4 this title. The application shall be submitted in camera
5 and ex parte and shall be filed under seal with the court.

6 “(b) CONTENTS OF APPLICATION.—Each application
7 for a special removal proceeding shall include all of the
8 following:

9 “(1) The identity of the Department of Justice
10 attorney making the application.

11 “(2) The approval of the Attorney General or
12 the Deputy Attorney General for the filing of the ap-
13 plication based upon a finding by that individual
14 that the application satisfies the criteria and re-
15 quirements of this title.

16 “(3) The identity of the alien for whom author-
17 ization for the special removal proceedings is sought.

18 “(4) A statement of the facts and cir-
19 cumstances relied on by the Department of Justice
20 to establish that—

21 “(A) the alien is an alien terrorist and is
22 physically present in the United States, and

23 “(B) with respect to such alien, adherence
24 to the provisions of title II regarding the re-

1 removal of aliens would pose a risk to the na-
2 tional security of the United States.

3 “(5) An oath or affirmation respecting each of
4 facts and statements described in the previous para-
5 graphs.

6 “(c) RIGHT TO DISMISS.—The Department of Jus-
7 tice retains the right to dismiss a removal action under
8 this title at any stage of the proceeding.

9 “CONSIDERATION OF APPLICATION

10 “SEC. 504. (a) IN GENERAL.—In the case of an ap-
11 plication under section 503 to the special removal court,
12 a single judge of the court shall be assigned to consider
13 the application. The judge, in accordance with the rules
14 of the court, shall consider the application and may con-
15 sider other information, including classified information,
16 presented under oath or affirmation. The judge shall con-
17 sider the application (and any hearing thereof) in camera
18 and ex parte. A verbatim record shall be maintained of
19 any such hearing.

20 “(b) APPROVAL OF ORDER.—The judge shall enter
21 ex parte the order requested in the application if the judge
22 finds, on the basis of such application and such other in-
23 formation (if any), that there is probable cause to believe
24 that—

1 “(1) the alien who is the subject of the applica-
2 tion has been correctly identified and is an alien ter-
3 rorist, and

4 “(2) adherence to the provisions of title II re-
5 garding the removal of the identified alien would
6 pose a risk to the national security of the United
7 States.

8 “(c) DENIAL OF ORDER.—If the judge denies the
9 order requested in the application, the judge shall prepare
10 a written statement of the judge’s reasons for the denial.

11 “(d) EXCLUSIVE PROVISIONS.—Whenever an order is
12 issued under this section with respect to an alien—

13 “(1) the alien’s rights regarding removal and
14 expulsion shall be governed solely by the provisions
15 of this title, and

16 “(2) except as they are specifically referenced,
17 no other provisions of this Act shall be applicable.

18 “SPECIAL REMOVAL HEARINGS

19 “SEC. 505. (a) IN GENERAL.—In any case in which
20 the application for the order is approved under section
21 504, a special removal hearing shall be conducted under
22 this section for the purpose of determining whether the
23 alien to whom the order pertains should be removed from
24 the United States on the grounds that the alien is an alien
25 terrorist. Consistent with section 506, the alien shall be
26 given reasonable notice of the nature of the charges

1 against the alien and a general account of the basis for
2 the charges. The alien shall be given notice, reasonable
3 under all the circumstances, of the time and place at which
4 the hearing will be held. The hearing shall be held as expe-
5 ditiously as possible.

6 “(b) USE OF SAME JUDGE.—The special removal
7 hearing shall be held before the same judge who granted
8 the order pursuant to section 504 unless that judge is
9 deemed unavailable due to illness or disability by the chief
10 judge of the special removal court, or has died, in which
11 case the chief judge shall assign another judge to conduct
12 the special removal hearing. A decision by the chief judge
13 pursuant to the preceding sentence shall not be subject
14 to review by either the alien or the Department of Justice.

15 “(c) RIGHTS IN HEARING.—

16 “(1) PUBLIC HEARING.—The special removal
17 hearing shall be open to the public.

18 “(2) RIGHT OF COUNSEL.—The alien shall have
19 a right to be present at such hearing and to be rep-
20 resented by counsel. Any alien financially unable to
21 obtain counsel shall be entitled to have counsel as-
22 signed to represent the alien. Such counsel shall be
23 appointed by the judge pursuant to the plan for fur-
24 nishing representation for any person financially un-
25 able to obtain adequate representation for the dis-

1 trict in which the hearing is conducted, as provided
2 for in section 3006A of title 18, United States Code.
3 All provisions of that section shall apply and, for
4 purposes of determining the maximum amount of
5 compensation, the matter shall be treated as if a fel-
6 ony was charged.

7 “(3) INTRODUCTION OF EVIDENCE.—The alien
8 shall have a right to introduce evidence on the
9 alien’s own behalf.

10 “(4) EXAMINATION OF WITNESSES.—Except as
11 provided in section 506, the alien shall have a rea-
12 sonable opportunity to examine the evidence against
13 the alien and to cross-examine any witness.

14 “(5) RECORD.—A verbatim record of the pro-
15 ceedings and of all testimony and evidence offered or
16 produced at such a hearing shall be kept.

17 “(6) DECISION BASED ON EVIDENCE AT HEAR-
18 ING.—The decision of the judge in the hearing shall
19 be based only on the evidence introduced at the
20 hearing, including evidence introduced under section
21 505(e).

22 “(7) NO RIGHT TO ANCILLARY RELIEF.—In the
23 hearing, the judge is not authorized to consider or
24 provide for relief from removal based on any of the
25 following:

1 “(A) Asylum under section 208.

2 “(B) Withholding of deportation under sec-
3 tion 243(h).

4 “(C) Suspension of deportation under sec-
5 tion 244(a).

6 “(D) Voluntary departure under section
7 244(e).

8 “(E) Adjustment of status under section
9 245.

10 “(F) Registry under section 249.

11 “(d) SUBPOENAS.—

12 “(1) REQUEST.—At any time prior to the con-
13 clusion of the special removal hearing, either the
14 alien or the Department of Justice may request the
15 judge to issue a subpoena for the presence of a
16 named witness (which subpoena may also command
17 the person to whom it is directed to produce books,
18 papers, documents, or other objects designated
19 therein) upon a satisfactory showing that the pres-
20 ence of the witness is necessary for the determina-
21 tion of any material matter. Such a request may be
22 made ex parte except that the judge shall inform the
23 Department of Justice of any request for a subpoena
24 by the alien for a witness or material if compliance
25 with such a subpoena would reveal evidence or the

1 source of evidence which has been introduced, or
2 which the Department of Justice has received per-
3 mission to introduce, in camera and ex parte pursu-
4 ant to subsection (e) and section 506, and the De-
5 partment of Justice shall be given a reasonable op-
6 portunity to oppose the issuance of such a subpoena.

7 “(2) PAYMENT FOR ATTENDANCE.—If an appli-
8 cation for a subpoena by the alien also makes a
9 showing that the alien is financially unable to pay
10 for the attendance of a witness so requested, the
11 court may order the costs incurred by the process
12 and the fees of the witness so subpoenaed to be paid
13 for from funds appropriated for the enforcement of
14 title II.

15 “(3) NATIONWIDE SERVICE.—A subpoena
16 under this subsection may be served anywhere in the
17 United States.

18 “(4) WITNESS FEES.—A witness subpoenaed
19 under this subsection shall receive the same fees and
20 expenses as a witness subpoenaed in connection with
21 a civil proceeding in a court of the United States.

22 “(5) NO ACCESS TO CLASSIFIED INFORMA-
23 TION.—Nothing in this subsection is intended to
24 allow an alien to have access to classified informa-
25 tion.

1 “(e) INTRODUCTION OF CLASSIFIED INFORMA-
2 TION.—

3 “(1) IN GENERAL.—When classified informa-
4 tion has been summarized pursuant to section
5 506(b) or where a finding has been made under sec-
6 tion 506(b)(5) that no summary is possible, classi-
7 fied information shall be introduced (either in writ-
8 ing or through testimony) in camera and ex parte
9 and neither the alien nor the public shall be in-
10 formed of such evidence or its sources other than
11 through reference to the summary provided pursuant
12 to such section. Notwithstanding the previous sen-
13 tence, the Department of Justice may, in its discre-
14 tion and, in the case of classified information, after
15 coordination with the originating agency, elect to in-
16 troduce such evidence in open session.

17 “(2) TREATMENT OF ELECTRONIC SURVEIL-
18 LANCE INFORMATION.—

19 “(A) USE OF ELECTRONIC SURVEIL-
20 LANCE.—The Government is authorized to use
21 in a special removal proceedings the fruits of
22 electronic surveillance and unconsented physical
23 searches authorized under the Foreign Intel-
24 ligence Surveillance Act of 1978 (50 U.S.C.

1 1801 et seq.) without regard to subsections (c),
2 (e), (f), (g), and (h) of section 106 of that Act.

3 “(B) NO DISCOVERY OF ELECTRONIC SUR-
4 VEILLANCE INFORMATION.—An alien subject to
5 removal under this title shall have no right of
6 discovery of information derived from electronic
7 surveillance authorized under the Foreign Intel-
8 ligence Surveillance Act of 1978 or otherwise
9 for national security purposes. Nor shall such
10 alien have the right to seek suppression of evi-
11 dence.

12 “(C) CERTAIN PROCEDURES NOT APPLICA-
13 BLE.—The provisions and requirements of sec-
14 tion 3504 of title 18, United States Code, shall
15 not apply to procedures under this title.

16 “(3) RIGHTS OF UNITED STATES.—Nothing in
17 this section shall prevent the United States from
18 seeking protective orders and from asserting privi-
19 leges ordinarily available to the United States to
20 protect against the disclosure of classified informa-
21 tion, including the invocation of the military and
22 state secrets privileges.

23 “(f) INCLUSION OF CERTAIN EVIDENCE.—The Fed-
24 eral Rules of Evidence shall not apply to hearings under
25 this section. Evidence introduced at the special removal

1 hearing, either in open session or in camera and ex parte,
2 may, in the discretion of the Department of Justice, in-
3 clude all or part of the information presented under sec-
4 tion 504 used to obtain the order for the hearing under
5 this section.

6 “(g) ARGUMENTS.—Following the receipt of evi-
7 dence, the attorneys for the Department of Justice and
8 for the alien shall be given fair opportunity to present ar-
9 gument as to whether the evidence is sufficient to justify
10 the removal of the alien. The attorney for the Department
11 of Justice shall open the argument. The attorney for the
12 alien shall be permitted to reply. The attorney for the De-
13 partment of Justice shall then be permitted to reply in
14 rebuttal. The judge may allow any part of the argument
15 that refers to evidence received in camera and ex parte
16 to be heard in camera and ex parte.

17 “(h) BURDEN OF PROOF.—In the hearing the De-
18 partment of Justice has the burden of showing by clear
19 and convincing evidence that the alien is subject to re-
20 moval because the alien is an alien terrorist. If the judge
21 finds that the Department of Justice has met this burden,
22 the judge shall order the alien removed and detained pend-
23 ing removal from the United States. If the alien was re-
24 leased pending the special removal hearing, the judge shall
25 order the Attorney General to take the alien into custody.

1 “(i) WRITTEN ORDER.—At the time of rendering a
2 decision as to whether the alien shall be removed, the
3 judge shall prepare a written order containing a statement
4 of facts found and conclusions of law. Any portion of the
5 order that would reveal the substance or source of infor-
6 mation received in camera and ex parte pursuant to sub-
7 section (e) shall not be made available to the alien or the
8 public.

9 “CONSIDERATION OF CLASSIFIED INFORMATION

10 “SEC. 506. (a) CONSIDERATION IN CAMERA AND EX
11 PARTE.—In any case in which the application for the
12 order authorizing the special procedures of this title is ap-
13 proved, the judge who granted the order shall consider
14 each item of classified information the Department of Jus-
15 tice proposes to introduce in camera and ex parte at the
16 special removal hearing and shall order the introduction
17 of such information pursuant to section 505(e) if the judge
18 determines the information to be relevant.

19 “(b) PREPARATION AND PROVISION OF WRITTEN
20 SUMMARY.—

21 “(1) PREPARATION.—The Department of Jus-
22 tice shall prepare a written summary of such classi-
23 fied information which does not pose a risk to na-
24 tional security.

25 “(2) CONDITIONS FOR APPROVAL BY JUDGE
26 AND PROVISION TO ALIEN.—The judge shall approve

1 the summary so long as the judge finds that the
2 summary is sufficient—

3 “(A) to inform the alien of the general na-
4 ture of the evidence that the alien is an alien
5 terrorist, and

6 “(B) to permit the alien to prepare a de-
7 fense against deportation.

8 The Department of Justice shall cause to be deliv-
9 ered to the alien a copy of the summary.

10 “(3) OPPORTUNITY FOR CORRECTION AND
11 RESUBMITTAL.—If the judge does not approve the
12 summary, the judge shall provide the Department a
13 reasonable opportunity to correct the deficiencies
14 identified by the court and to submit a revised sum-
15 mary.

16 “(4) CONDITIONS FOR TERMINATION OF PRO-
17 CEEDINGS IF SUMMARY NOT APPROVED.—

18 “(A) IN GENERAL.—If, subsequent to the
19 opportunity described in paragraph (3), the
20 judge does not approve the summary, the judge
21 shall terminate the special removal hearing un-
22 less the judge makes the findings described in
23 subparagraph (B).

1 “(B) FINDINGS.—The findings described
2 in this subparagraph are, with respect to an
3 alien, that—

4 “(i) the continued presence of the
5 alien in the United States, and

6 “(ii) the provision of the required
7 summary,

8 would likely cause serious and irreparable harm
9 to the national security or death or serious bod-
10 ily injury to any person.

11 “(5) CONTINUATION OF HEARING WITHOUT
12 SUMMARY.—If a judge makes the findings described
13 in paragraph (4)(B)—

14 “(A) if the alien involved is an alien law-
15 fully admitted for permanent residence, the pro-
16 cedures described in subsection (c) shall apply;
17 and

18 “(B) in all cases the special removal hear-
19 ing shall continue, the Department of Justice
20 shall cause to be delivered to the alien a state-
21 ment that no summary is possible, and the clas-
22 sified information submitted in camera and ex
23 parte may be used pursuant to section 505(e).

1 seek a review of the denial of an order sought in an appli-
2 cation by the United States Court of Appeals for the Dis-
3 trict of Columbia Circuit by notice of appeal which must
4 be filed within 20 days. In such a case the entire record
5 of the proceeding shall be transmitted to the Court of Ap-
6 peals under seal and the Court of Appeals shall hear the
7 matter ex parte. In such a case the Court of Appeals shall
8 review questions of law de novo, but a prior finding on
9 any question of fact shall not be set aside unless such find-
10 ing was clearly erroneous.

11 “(b) APPEALS OF DETERMINATIONS ABOUT SUM-
12 MARIES OF CLASSIFIED INFORMATION.—Either party
13 may take an interlocutory appeal to the United States
14 Court of Appeals for the District of Columbia Circuit of—

15 “(1) any determination by the judge pursuant
16 to section 506(a)—

17 “(A) concerning whether an item of evi-
18 dence may be introduced in camera and ex
19 parte, or

20 “(B) concerning the contents of any sum-
21 mary of evidence to be introduced in camera
22 and ex parte prepared pursuant to section
23 506(b); or

24 “(2) the refusal of the court to make the find-
25 ings permitted by section 506(b)(4)(B).

1 In any interlocutory appeal taken pursuant to this sub-
2 section, the entire record, including any proposed order
3 of the judge or summary of evidence, shall be transmitted
4 to the Court of Appeals under seal and the matter shall
5 be heard ex parte.

6 “(c) APPEALS OF DECISION IN HEARING.—

7 “(1) IN GENERAL.—Subject to paragraph (2),
8 the decision of the judge after a special removal
9 hearing may be appealed by either the alien or the
10 Department of Justice to the United States Court of
11 Appeals for the District of Columbia Circuit by no-
12 tice of appeal.

13 “(2) AUTOMATIC APPEALS IN CASES OF PERMA-
14 NENT RESIDENT ALIENS IN WHICH NO SUMMARY
15 PROVIDED.—

16 “(A) IN GENERAL.—Unless the alien
17 waives the right to a review under this para-
18 graph, in any case involving an alien lawfully
19 admitted for permanent residence who is denied
20 a written summary of classified information
21 under section 506(b)(4) and the procedures of
22 section 506(c) apply, any order issued by the
23 judge shall be reviewed by the Court of Appeals
24 for the District of Columbia Circuit.

1 “(B) USE OF SPECIAL ATTORNEY.—If any
2 issue relating to classified information arises in
3 such review, the alien shall be represented only
4 by the special attorney designated under section
5 506(c)(1) on behalf of the alien.

6 “(d) GENERAL PROVISIONS RELATING TO AP-
7 PEALS.—

8 “(1) NOTICE.—A notice of appeal pursuant to
9 subsection (b) or (c) (other than under subsection
10 (c)(2)) must be filed within 20 days, during which
11 time the order for which the appeal is sought shall
12 not be executed.

13 “(2) TRANSMITTAL OF RECORD.—In an appeal
14 or review to the Court of Appeals pursuant to sub-
15 section (b) or (c)—

16 “(A) the entire record shall be transmitted
17 to the Court of Appeals, and

18 “(B) information received pursuant to sec-
19 tion 505(e), and any portion of the judge’s
20 order that would reveal the substance or source
21 of such information, shall be transmitted under
22 seal.

23 “(3) EXPEDITED APPELLATE PROCEEDING.—In
24 an appeal or review to the Court of Appeals pursu-
25 ant to subsection (b) or (c):

1 “(A) REVIEW.—The appeal or review shall
2 be heard as expeditiously as practicable and the
3 Court may dispense with full briefing and hear
4 the matter solely on the record of the judge of
5 the special removal court and on such briefs or
6 motions as the Court may require to be filed by
7 the parties.

8 “(B) DISPOSITION.—The Court shall up-
9 hold or reverse the judge’s order within 60 days
10 after the date of the issuance of the judge’s
11 final order.

12 “(4) DE NOVO REVIEW.—In an appeal or re-
13 view to the Court of Appeals pursuant to subsection
14 (b) or (c):

15 “(A) QUESTIONS OF LAW.—The Court of
16 Appeals shall review all questions of law de
17 novo.

18 “(B) QUESTIONS OF FACT.—(i) Subject to
19 clause (ii), a prior finding on any question of
20 fact shall not be set aside unless such finding
21 was clearly erroneous.

22 “(ii) In the case of a review under sub-
23 section (c)(2) in which an alien lawfully admit-
24 ted for permanent residence was denied a writ-
25 ten summary of classified information under

1 section 506(b)(4), the Court of Appeals shall
2 review questions of fact de novo.

3 “(e) CERTIORARI.—Following a decision by the Court
4 of Appeals pursuant to subsection (b) or (c), either the
5 alien or the Department of Justice may petition the Su-
6 preme Court for a writ of certiorari. In any such case,
7 any information transmitted to the Court of Appeals
8 under seal shall, if such information is also submitted to
9 the Supreme Court, be transmitted under seal. Any order
10 of removal shall not be stayed pending disposition of a
11 writ of certiorari except as provided by the Court of Ap-
12 peals or a Justice of the Supreme Court.

13 “(f) APPEALS OF DETENTION ORDERS.—

14 “(1) IN GENERAL.— The provisions of sections
15 3145 through 3148 of title 18, United States Code,
16 pertaining to review and appeal of a release or de-
17 tention order, penalties for failure to appear, pen-
18 alties for an offense committed while on release, and
19 sanctions for violation of a release condition shall
20 apply to an alien to whom section 508(b)(1) applies.
21 In applying the previous sentence—

22 “(A) for purposes of section 3145 of such
23 title an appeal shall be taken to the United
24 States Court of Appeals for the District of Co-
25 lumbia Circuit, and

1 “(B) for purposes of section 3146 of such
2 title the alien shall be considered released in
3 connection with a charge of an offense punish-
4 able by life imprisonment.

5 “(2) NO REVIEW OF CONTINUED DETENTION.—
6 The determinations and actions of the Attorney
7 General pursuant to section 508(c)(2)(C) shall not
8 be subject to judicial review, including application
9 for a writ of habeas corpus, except for a claim by
10 the alien that continued detention violates the alien’s
11 rights under the Constitution. Jurisdiction over any
12 such challenge shall lie exclusively in the United
13 States Court of Appeals for the District of Columbia
14 Circuit.

15 “DETENTION AND CUSTODY

16 “SEC. 508. (a) INITIAL CUSTODY.—

17 “(1) UPON FILING APPLICATION.—Subject to
18 paragraph (2), the Attorney General may take into
19 custody any alien with respect to whom an applica-
20 tion under section 503 has been filed and, notwith-
21 standing any other provision of law, may retain such
22 an alien in custody in accordance with the proce-
23 dures authorized by this title.

24 “(2) SPECIAL RULES FOR PERMANENT RESI-
25 DENT ALIENS.—An alien lawfully admitted for per-
26 manent residence shall be entitled to a release hear-

1 ing before the judge assigned to hear the special re-
2 moval hearing. Such an alien shall be detained pend-
3 ing the special removal hearing, unless the alien
4 demonstrates to the court that—

5 “(A) the alien, if released upon such terms
6 and conditions as the court may prescribe (in-
7 cluding the posting of any monetary amount),
8 is not likely to flee, and

9 “(B) the alien’s release will not endanger
10 national security or the safety of any person or
11 the community.

12 The judge may consider classified information sub-
13 mitted in camera and ex parte in making a deter-
14 mination under this paragraph.

15 “(3) RELEASE IF DENIAL OF ORDER AND NO
16 REVIEW SOUGHT.—

17 “(A) IN GENERAL.—If a judge of the spe-
18 cial removal court denies the order sought in an
19 application with respect to an alien and the De-
20 partment of Justice does not seek review of
21 such denial, subject to subparagraph (B), the
22 alien shall be released from custody.

23 “(B) APPLICATION OF REGULAR PROCE-
24 DURES.—Subparagraph (A) shall not prevent

1 the arrest and detention of the alien pursuant
2 to title II.

3 “(b) **CONDITIONAL RELEASE IF DENIAL OF ORDER**
4 **AND REVIEW SOUGHT.**—

5 “(1) **IN GENERAL.**—If a judge of the special re-
6 moval court denies the order sought in an applica-
7 tion with respect to an alien and the Department of
8 Justice seeks review of such denial, the judge shall
9 release the alien from custody subject to the least re-
10 strictive condition or combination of conditions of re-
11 lease described in section 3142(b) and clauses (i)
12 through (xiv) of section 3142(c)(1)(B) of title 18,
13 United States Code, that will reasonably assure the
14 appearance of the alien at any future proceeding
15 pursuant to this title and will not endanger the safe-
16 ty of any other person or the community.

17 “(2) **NO RELEASE FOR CERTAIN ALIENS.**—If
18 the judge finds no such condition or combination of
19 conditions, the alien shall remain in custody until
20 the completion of any appeal authorized by this title.

21 “(c) **CUSTODY AND RELEASE AFTER HEARING.**—

22 “(1) **RELEASE.**—

23 “(A) **IN GENERAL.**—Subject to subpara-
24 graph (B), if the judge decides pursuant to sec-

1 tion 505(i) that an alien should not be removed,
2 the alien shall be released from custody.

3 “(B) CUSTODY PENDING APPEAL.—If the
4 Attorney General takes an appeal from the
5 order, the alien shall remain in custody, subject
6 to the provisions of section 3142 of title 18,
7 United States Code.

8 “(2) CUSTODY AND REMOVAL.—

9 “(A) CUSTODY.—If the judge decides pur-
10 suant to section 505(i) that an alien shall be re-
11 moved, the alien shall be detained pending the
12 outcome of any appeal. After the conclusion of
13 any judicial review thereof which affirms the re-
14 moval order, the Attorney General shall retain
15 the alien in custody or, if the alien was released
16 pursuant to paragraph (1)(A), shall take the
17 alien into custody and remove the alien to a
18 country specified under subparagraph (B).

19 “(B) REMOVAL.—

20 “(i) IN GENERAL.—The removal of an
21 alien shall be to any country which the
22 alien shall designate if such designation
23 does not, in the judgment of the Attorney
24 General, in consultation with the Secretary
25 of State, impair the obligation of the

1 United States under any treaty (including
2 a treaty pertaining to extradition) or other-
3 wise adversely affect the foreign policy of
4 the United States.

5 “(ii) ALTERNATE COUNTRIES.—If the
6 alien refuses to choose a country to which
7 the alien wishes to be transported, or if the
8 Attorney General, in consultation with the
9 Secretary of State, determines that re-
10 moval of the alien to the country so se-
11 lected would impair a treaty obligation or
12 adversely affect United States foreign pol-
13 icy, the Attorney General shall cause the
14 alien to be transported to any country will-
15 ing to receive such alien.

16 “(C) CONTINUED DETENTION.—If no
17 country is willing to receive such an alien, the
18 Attorney General may, notwithstanding any
19 other provision of law, retain the alien in cus-
20 tody. The Attorney General, in coordination
21 with the Secretary of State, shall make periodic
22 efforts to reach agreement with other countries
23 to accept such an alien and at least every 6
24 months shall provide to the attorney represent-
25 ing the alien at the special removal hearing

1 alien a written report on the Attorney General's
2 efforts. Any alien in custody pursuant to this
3 subparagraph shall be released from custody
4 solely at the discretion of the Attorney General
5 and subject to such conditions as the Attorney
6 General shall deem appropriate.

7 “(D) FINGERPRINTING.—Before an alien
8 is transported out of the United States pursu-
9 ant to this subsection, or pursuant to an order
10 of exclusion because such alien is excludable
11 under section 212(a)(3)(B), the alien shall be
12 photographed and fingerprinted, and shall be
13 advised of the provisions of subsection 276(b).

14 “(d) CONTINUED DETENTION PENDING TRIAL.—

15 “(1) DELAY IN REMOVAL.—Notwithstanding
16 the provisions of subsection (c)(2), the Attorney
17 General may hold in abeyance the removal of an
18 alien who has been ordered removed pursuant to this
19 title to allow the trial of such alien on any Federal
20 or State criminal charge and the service of any sen-
21 tence of confinement resulting from such a trial.

22 “(2) MAINTENANCE OF CUSTODY.—Pending the
23 commencement of any service of a sentence of con-
24 finement by an alien described in paragraph (1),
25 such an alien shall remain in the custody of the At-

1 torney General, unless the Attorney General deter-
2 mines that temporary release of the alien to the cus-
3 tody of State authorities for confinement in a State
4 facility is appropriate and would not endanger na-
5 tional security or public safety.

6 “(3) SUBSEQUENT REMOVAL.—Following the
7 completion of a sentence of confinement by an alien
8 described in paragraph (1) or following the comple-
9 tion of State criminal proceedings which do not re-
10 sult in a sentence of confinement of an alien released
11 to the custody of State authorities pursuant to para-
12 graph (2), such an alien shall be returned to the
13 custody of the Attorney General who shall proceed
14 to carry out the provisions of subsection (c)(2) con-
15 cerning removal of the alien.

16 “(e) APPLICATION OF CERTAIN PROVISIONS.—For
17 purposes of section 751 and 752 of title 18, United States
18 Code, an alien in the custody of the Attorney General pur-
19 suant to this title shall be subject to the penalties provided
20 by those sections in relation to a person committed to the
21 custody of the Attorney General by virtue of an arrest on
22 a charge of felony.

23 “(f) RIGHTS OF ALIENS IN CUSTODY.—

24 “(1) FAMILY AND ATTORNEY VISITS.—An alien
25 in the custody of the Attorney General pursuant to

1 this title shall be given reasonable opportunity to
2 communicate with and receive visits from members
3 of the alien's family, and to contact, retain, and
4 communicate with an attorney.

5 “(2) DIPLOMATIC CONTACT.—An alien in the
6 custody of the Attorney General pursuant to this
7 title shall have the right to contact an appropriate
8 diplomatic or consular official of the alien's country
9 of citizenship or nationality or of any country pro-
10 viding representation services therefore. The Attor-
11 ney General shall notify the appropriate embassy,
12 mission, or consular office of the alien's detention.”.

13 (b) CRIMINAL PENALTY FOR REENTRY OF ALIEN
14 TERRORISTS.—Section 276(b) (8 U.S.C. 1326(b)) is
15 amended—

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

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

20 (3) by inserting after paragraph (2) the follow-
21 ing new paragraph:

22 “(3) who has been excluded from the United
23 States pursuant to subsection 235(c) because the
24 alien was excludable under subsection 212(a)(3)(B)
25 or who has been removed from the United States

1 pursuant to the provisions of title V, and who there-
2 after, without the permission of the Attorney Gen-
3 eral, enters the United States or attempts to do so
4 shall be fined under title 18, United States Code,
5 and imprisoned for a period of 10 years, which sen-
6 tence shall not run concurrently with any other sen-
7 tence.”.

8 (c) ELIMINATION OF CUSTODY REVIEW BY HABEAS
9 CORPUS.—Section 106(a) (8 U.S.C. 1105a(a)) is amend-
10 ed—

11 (1) by adding “and” at the end of paragraph
12 (8),

13 (2) by striking “; and” at the end of paragraph
14 (9) and inserting a period, and

15 (3) by striking paragraph (10).

16 (d) EFFECTIVE DATE.—The amendments made by
17 this section shall take effect on the date of the enactment
18 of this Act and shall apply to all aliens without regard
19 to the date of entry or attempted entry into the United
20 States.

21 **SEC. 322. FUNDING FOR DETENTION AND REMOVAL OF**
22 **ALIEN TERRORISTS.**

23 In addition to amounts otherwise appropriated, there
24 are authorized to be appropriated for each fiscal year (be-
25 ginning with fiscal year 1996) \$5,000,000 to the Immigra-

1 tion and Naturalization Service for the purpose of detain-
2 ing and removing alien terrorists.

3 **PART 2—EXCLUSION AND DENIAL OF ASYLUM**
4 **FOR ALIEN TERRORISTS**

5 **SEC. 331. MEMBERSHIP IN TERRORIST ORGANIZATION AS**
6 **GROUND FOR EXCLUSION.**

7 (a) IN GENERAL.—Section 212(a)(3)(B) (8 U.S.C.
8 1182(a)(3)(B)) is amended—

9 (1) in clause (i)—

10 (A) by striking “or” at the end of
11 subclause (I),

12 (B) in subclause (II), by inserting “en-
13 gaged in or” after “believe,” and

14 (C) by inserting after subclause (II) the
15 following:

16 “(III) is a representative of a ter-
17 rorist organization, or

18 “(IV) is a member of a terrorist
19 organization which the alien knows or
20 should have known is a terrorist orga-
21 nization,”; and

22 (2) by adding at the end the following:

23 “(iv) TERRORIST ORGANIZATION DE-
24 FINED.—

1 “(I) DESIGNATION.—For pur-
2 poses of this Act, the term ‘terrorist
3 organization’ means a foreign organi-
4 zation designated in the Federal Reg-
5 ister as a terrorist organization by the
6 Secretary of State, in consultation
7 with the Attorney General, based
8 upon a finding that the organization
9 engages in, or has engaged in, terror-
10 ist activity that threatens the national
11 security of the United States.

12 “(II) PROCESS.—At least 3 days
13 before designating an organization as
14 a terrorist organization through publi-
15 cation in the Federal Register, the
16 Secretary of State, in consultation
17 with the Attorney General, shall notify
18 the Committees on the Judiciary of
19 the House of Representatives and the
20 Senate of the intent to make such
21 designation and the findings and basis
22 for designation. The Secretary of
23 State, in consultation with the Attor-
24 ney General, shall create an adminis-
25 trative record and may use classified

1 information in making such a designa-
2 tion. Such information is not subject
3 to disclosure so long as it remains
4 classified, except that it may be dis-
5 closed to a court ex parte and in cam-
6 era under subclause (III) for purposes
7 of judicial review of such a designa-
8 tion. The Secretary of State, in con-
9 sultation with the Attorney General,
10 shall provide notice and an oppor-
11 tunity for public comment prior to the
12 creation of the administrative record
13 under this subclause.

14 “(III) JUDICIAL REVIEW.—Any
15 organization designated as a terrorist
16 organization under the preceding pro-
17 visions of this clause may, not later
18 than 30 days after the date of the
19 designation, seek judicial review there-
20 of in the United States Court of Ap-
21 peals for the District of Columbia Cir-
22 cuit. Such review shall be based solely
23 upon the administrative record, except
24 that the Government may submit, for
25 ex parte and in camera review, classi-

1 fied information considered in making
2 the designation. The court shall hold
3 unlawful and set aside the designation
4 if the court finds the designation to be
5 arbitrary, capricious, an abuse of dis-
6 cretion, or otherwise not in accord-
7 ance with law, lacking substantial
8 support in the administrative record
9 taken as a whole or in classified infor-
10 mation submitted to the court under
11 the previous sentence, contrary to
12 constitutional right, power, privilege,
13 or immunity, or not in accord with the
14 procedures required by law.

15 “(IV) CONGRESSIONAL REMOVAL
16 AUTHORITY.—The Congress reserves
17 the authority to remove, by law, the
18 designation of an organization as a
19 terrorist organization for purposes of
20 this Act.

21 “(V) SUNSET.—Subject to
22 subclause (IV), the designation under
23 this clause of an organization as a
24 terrorist organization shall be effective
25 for a period of 2 years from the date

1 of the initial publication of the terror-
2 ist organization designation by the
3 Secretary of State. At the end of such
4 period (but no sooner than 60 days
5 prior to the termination of the 2-year-
6 designation period), the Secretary of
7 State, in consultation with the Attor-
8 ney General, may redesignate the or-
9 ganization in conformity with the re-
10 quirements of this clause for designa-
11 tion of the organization.

12 “(VI) REMOVAL AUTHORITY.—
13 The Secretary of State, in consulta-
14 tion with the Attorney General, may
15 remove the terrorist organization des-
16 ignation from any organization pre-
17 viously designated as such an organi-
18 zation, at any time, so long as the
19 Secretary publishes notice of the re-
20 moval in the Federal Register. The
21 Secretary is not required to report to
22 Congress prior to taking such an ac-
23 tion.

24 “(v) REPRESENTATIVE DEFINED.—In
25 this subparagraph, the term ‘representa-

1 subparagraph (D), an alien who is described in section
2 241(a)(4)(B) shall be considered to be an alien with re-
3 spect to whom there are reasonable grounds for regarding
4 as a danger to the security of the United States.”.

5 (b) SUSPENSION OF DEPORTATION.—Section 244(a)
6 of such Act (8 U.S.C. 1254(a)) is amended by striking
7 “section 241(a)(4)(D)” and inserting “subparagraph (B)
8 or (D) of section 241(a)(4)”.

9 (c) VOLUNTARY DEPARTURE.—Section 244(e)(2) of
10 such Act (8 U.S.C. 1254(e)(2)) is amended by inserting
11 “under section 241(a)(4)(B) or” after “who is deport-
12 able”.

13 (d) ADJUSTMENT OF STATUS.—Section 245(c) of
14 such Act (8 U.S.C. 1255(c)) is amended—

15 (1) by striking “or” before “(5)”, and

16 (2) by inserting before the period at the end the
17 following: “, or (6) an alien who is deportable under
18 section 241(a)(4)(B)”.

19 (e) REGISTRY.—Section 249(d) of such Act (8 U.S.C.
20 1259(d)) is amended by inserting “and is not deportable
21 under section 241(a)(4)(B)” after “ineligible to citizen-
22 ship”.

23 (f) EFFECTIVE DATE.—(1) The amendments made
24 by this section shall take effect on the date of the enact-
25 ment of this Act and shall apply to applications filed be-

1 fore, on, or after such date if final action has not been
2 taken on them before such date.

3 (2) The amendments made by subsections (a)
4 through (c) are subsequently superseded by the amend-
5 ments made by subtitle A.

6 **Subtitle C—Deterring Transportation of Unlawful Aliens to the**
7 **United States**
8

9 **SEC. 341. DEFINITION OF STOWAWAY.**

10 (a) STOWAWAY DEFINED.—Section 101(a) (8 U.S.C.
11 1101(a)) is amended by adding the following new para-
12 graph:

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

19 (b) EFFECTIVE DATE.—The amendment made by
20 subsection (a) shall take effect on the date of the enact-
21 ment of this Act.

22 **SEC. 342. LIST OF ALIEN AND CITIZEN PASSENGERS ARRIV-**
23 **ING.**

24 (a) IN GENERAL.—Section 231(a) (8 U.S.C.
25 1221(a)) is amended—

1 (1) by amending the first sentence to read as
2 follows: “In connection with the arrival of any per-
3 son by water or by air at any port within the United
4 States from any place outside the United States, it
5 shall be the duty of the master or commanding offi-
6 cer, or authorized agent, owner, or consignee of the
7 vessel or aircraft, having such person on board to
8 deliver to the immigration officers at the port of ar-
9 rival, or other place designated by the Attorney Gen-
10 eral, electronic, typewritten or printed lists or mani-
11 fests of the persons on board such vessel or air-
12 craft.”;

13 (2) in the second sentence, by striking “shall be
14 prepared” and inserting “shall be prepared and sub-
15 mitted”; and

16 (3) by inserting after the second sentence the
17 following sentence: “Such lists or manifests shall
18 contain, but not be limited to, for each person trans-
19 ported, the person’s full name, date of birth, gender,
20 citizenship, travel document number (if applicable)
21 and arriving flight number.”.

22 (b) EFFECTIVE DATE.—The amendments made by
23 subsection (a) shall apply to vessels or aircraft arriving
24 at ports of entry on or after such date (not later than

1 60 days after the date of the enactment of this Act) as
2 the Attorney General shall specify.

3 **SEC. 343. TRANSPORTATION LINE RESPONSIBILITY FOR**
4 **TRANSIT WITHOUT VISA ALIENS.**

5 (a) IN GENERAL.—Section 238(c) (8 U.S.C.
6 1228(c)), before redesignation as section 233 under sec-
7 tion 308(b)(4), is amended—

8 (1) by inserting “(1)” after “(a)”, and

9 (2) by adding at the end the following new
10 paragraph:

11 “(2) Notwithstanding any other provision of this Act
12 and in consideration for bringing aliens transiting through
13 the United States without a visa, a transportation line
14 that has entered into a contract under this section is
15 deemed to have agreed to indemnify the United States
16 against any costs for the detention and removal from the
17 United States of any such alien who for any reason—

18 “(A) is refused admission to the United States,

19 “(B) fails to continue the alien’s journey to a
20 foreign country within the time prescribed by regula-
21 tion, or

22 “(C) is refused admission by the foreign coun-
23 try to which the alien is travelling while transiting
24 through the United States. ”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply to aliens arriving in the United
3 States on or after such date (not later than 60 days after
4 the date of the enactment of this Act) as the Attorney
5 General shall specify.

6 **SEC. 344. CIVIL PENALTIES FOR BRINGING INADMISSIBLE**
7 **ALIENS FROM CONTIGUOUS TERRITORIES.**

8 (a) IN GENERAL.—Section 273 (8 U.S.C. 1323) is
9 amended—

10 (1) in subsection (a), by striking “(other than
11 from foreign contiguous territory)”, and

12 (2) in subsection (b), by striking “\$3,000” and
13 inserting “\$5,000”.

14 (b) EFFECTIVE DATE.—The amendments made by
15 subsection (a) shall apply to aliens arriving in the United
16 States on or after such date (not later than 60 days after
17 the date of the enactment of this Act) as the Attorney
18 General shall specify.

19 **Subtitle D—Additional Provisions**

20 **SEC. 351. DEFINITION OF CONVICTION.**

21 (a) IN GENERAL.—Section 101(a) (8 U.S.C.
22 1101(a)), as amended by section 341, is amended by add-
23 ing at the end the following new paragraph:

24 “(48) The term ‘conviction’ means a formal
25 judgment of guilt entered by a court or, if adjudica-

1 tion of guilt has been withheld, where all of the fol-
2 lowing elements are present:

3 “(A) A judge or jury has found the alien
4 guilty or the alien has entered a plea of guilty
5 or nolo contendere or has admitted sufficient
6 facts to warrant a finding of guilt.

7 “(B) The judge has ordered some form of
8 punishment, penalty, or restraint on the alien’s
9 liberty to be imposed.

10 “(C) A judgment or adjudication of guilt
11 may be entered if the alien violates the terms
12 of the probation or fails to comply with the re-
13 quirements of the court’s order, without avail-
14 ability of further proceedings regarding the
15 alien’s guilt or innocence of the original
16 charge.”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 subsection (a) shall apply to convictions entered before,
19 on, or after the date of the enactment of this Act.

20 **SEC. 352. USE OF TERM “IMMIGRATION JUDGE”.**

21 (a) DEFINITION OF TERM.—Paragraph (4) of section
22 101(b) (8 U.S.C. 1101(b)) is amended to read as follows:

23 “(4) The term ‘immigration judge’ means an attorney
24 whom the Attorney General deems specially qualified to
25 conduct specified classes of proceedings, including a hear-

1 ing under section 240. An immigration judge shall be sub-
2 ject to such supervision and shall perform such duties as
3 the Attorney General shall prescribe, but shall not be em-
4 ployed by the Immigration and Naturalization Service.”.

5 (b) SUBSTITUTION FOR TERM “SPECIAL INQUIRY
6 OFFICER”.—The Immigration and Nationality Act is
7 amended by striking “special inquiry officer” and “special
8 inquiry officers” and inserting “immigration judge” and
9 “immigration judges”, respectively, each place it appears
10 in the following sections:

11 (1) Section 106(a)(2) (8 U.S.C. 1105a(a)(2)).

12 (2) Section 209(a)(2) (8 U.S.C. 1159(a)(2)).

13 (3) Section 234 (8 U.S.C. 1224).

14 (4) Section 235 (8 U.S.C. 1225).

15 (5) Section 236 (8 U.S.C. 1226).

16 (6) Section 242(b) (8 U.S.C. 1252(b)).

17 (7) Section 242(d)(1) (8 U.S.C. 1252(d)(1)).

18 (8) Section 273(d) (8 U.S.C. 1323(d)).

19 (9) Section 292 (8 U.S.C. 1362).

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

1 **SEC. 353. RESCISSION OF LAWFUL PERMANENT RESIDENT**
2 **STATUS.**

3 (a) IN GENERAL.—Section 246(a) (8 U.S.C.
4 1256(a)) is amended by adding at the end the following
5 sentence: “Nothing in this subsection shall require the At-
6 torney General to rescind the alien’s status prior to com-
7 mencement of procedures to remove the alien under sec-
8 tion 240, and an order of removal issued by an immigra-
9 tion judge shall be sufficient to rescind the alien’s sta-
10 tus.”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 subsection (a) shall take effect on the title III–A effective
13 date (as defined in section 309(a)).

14 **SEC. 354. CIVIL PENALTIES FOR FAILURE TO DEPART.**

15 (a) IN GENERAL.—The Immigration and Nationality
16 Act is amended by inserting after section 274C the follow-
17 ing new section:

18 “CIVIL PENALTIES FOR FAILURE TO DEPART

19 “SEC. 274D. (a) IN GENERAL.—Any alien subject to
20 a final order of removal who—

21 “(1) willfully fails or refuses to—

22 “(A) depart from the United States pursu-
23 ant to the order,

24 “(B) make timely application in good faith
25 for travel or other documents necessary for de-
26 parture, or

1 nal, brought by the United States that arise under
2 the provisions of this title.”, and

3 (2) by adding at the end the following new sen-
4 tence: “Nothing in this section shall be construed as
5 providing jurisdiction for suits against the United
6 States or its agencies or officers.”

7 (b) EFFECTIVE DATE.—The amendments made by
8 subsection (a) shall apply to actions filed after the date
9 of the enactment of this Act.

10 **SEC. 356. USE OF RETIRED FEDERAL EMPLOYEES FOR IN-**
11 **STITUTIONAL HEARING PROGRAM.**

12 (a) AUTHORIZATION OF TEMPORARY EMPLOYMENT
13 OF CERTAIN ANNUITANTS AND RETIREES.—For the pur-
14 pose of performing duties in connection with supporting
15 the enhanced Institutional Hearing Program, the Attorney
16 General may employ for a period not to exceed 24 months
17 (beginning 3 months after the date of the enactment of
18 this Act) not more than 300 individuals (at any one time)
19 who, by reason of separation from service on or before
20 January 1, 1995, are receiving—

21 (1) annuities under the provisions of subchapter
22 III of chapter 83 of title 5, United States Code, or
23 chapter 84 of such title;

24 (2) annuities under any other retirement system
25 for employees of the Federal Government; or

1 (3) retired or retainer pay as retired officers of
2 regular components of the uniformed services.

3 (b) NO REDUCTION IN ANNUITY OR RETIREMENT
4 PAY OR REDETERMINATION OF PAY DURING TEMPORARY
5 EMPLOYMENT.—

6 (1) RETIREES UNDER CIVIL SERVICE RETIRE-
7 MENT SYSTEM AND FEDERAL EMPLOYEES' RETIRE-
8 MENT SYSTEM.—In the case of an individual em-
9 ployed under subsection (a) who is receiving an an-
10 nuity described in subsection (a)(1)—

11 (A) such individual's annuity shall con-
12 tinue during the employment under subsection
13 (a) and shall not be increased as a result of
14 service performed during that employment;

15 (B) retirement deductions shall not be
16 withheld from such individual's pay; and

17 (C) such individual's pay shall not be sub-
18 ject to any deduction based on the portion of
19 such individual's annuity which is allocable to
20 the period of employment.

21 (2) OTHER FEDERAL RETIREES.—The Presi-
22 dent shall apply the provisions of paragraph (1) to
23 individuals who are receiving an annuity described in
24 subsection (a)(2) and who are employed under sub-
25 section (a) in the same manner and to the same ex-

1 tent as such provisions apply to individuals who are
2 receiving an annuity described in subsection (a)(1)
3 and who are employed under subsection (a).

4 (3) RETIRED OFFICERS OF THE UNIFORM
5 SERVICES.—The retired or retainer pay of a retired
6 officer of a regular component of a uniformed serv-
7 ice shall not be reduced under section 5532 of title
8 5, United States Code, by reason of temporary em-
9 ployment authorized under subsection (a).

10 **SEC. 357. ENHANCED PENALTIES FOR FAILURE TO DEPART,**
11 **ILLEGAL REENTRY, AND PASSPORT AND VISA**
12 **FRAUD.**

13 (a) FAILING TO DEPART.—The United States Sen-
14 tencing Commission shall promptly promulgate, pursuant
15 to section 994 of title 28, United States Code, amend-
16 ments to the sentencing guidelines to make appropriate
17 increases in the base offense level for offenses under sec-
18 tion 242(e) and 276(b) of the Immigration and National-
19 ity Act (8 U.S.C. 1252(e) and 1326(b)) to reflect the
20 amendments made by section 130001 of the Violent Crime
21 Control and Law Enforcement Act of 1994.

22 (b) PASSPORT AND VISA OFFENSES.—The United
23 States Sentencing Commission shall promptly promulgate,
24 pursuant to section 994 of title 28, United States Code,
25 amendments to the sentencing guidelines to make appro-

1 priate increases in the base offense level for offenses under
2 chapter 75 of title 18, United States Code to reflect the
3 amendments made by section 130009 of the Violent Crime
4 Control and Law Enforcement Act of 1994.

5 **SEC. 358. AUTHORIZATION OF ADDITIONAL FUNDS FOR RE-**
6 **MOVAL OF ALIENS.**

7 In addition to the amounts otherwise authorized to
8 be appropriated for each fiscal year beginning with fiscal
9 year 1996, there are authorized to be appropriated to the
10 Attorney General \$150,000,000 for costs associated with
11 the removal of inadmissible or deportable aliens, including
12 costs of detention of such aliens pending their removal,
13 the hiring of more investigators, and the hiring of more
14 detention and deportation officers.

15 **SEC. 359. APPLICATION OF ADDITIONAL CIVIL PENALTIES**
16 **TO ENFORCEMENT.**

17 (a) IN GENERAL.—Subsection (b) of section 280 (8
18 U.S.C. 1330(b)) is amended to read as follows:

19 “(b)(1) There is established in the general fund of
20 the Treasury a separate account which shall be known as
21 the ‘Immigration Enforcement Account’. Notwithstanding
22 any other section of this title, there shall be deposited as
23 offsetting receipts into the Immigration Enforcement Ac-
24 count amounts described in paragraph (2) to remain avail-
25 able until expended.

1 “(2) The amounts described in this paragraph are the
2 following:

3 “(A) The increase in penalties collected result-
4 ing from the amendments made by sections 203(b)
5 and 543(a) of the Immigration Act of 1990.

6 “(B) Civil penalties collected under sections
7 240B(d), 274C, 274D, and 275(b).

8 “(3)(A) The Secretary of the Treasury shall refund
9 out of the Immigration Enforcement Account to any ap-
10 propriation the amount paid out of such appropriation for
11 expenses incurred by the Attorney General for activities
12 that enhance enforcement of provisions of this title, in-
13 cluding—

14 “(i) the identification, investigation, apprehen-
15 sion, detention, and removal of criminal aliens;

16 “(ii) the maintenance and updating of a system
17 to identify and track criminal aliens, deportable
18 aliens, inadmissible aliens, and aliens illegally enter-
19 ing the United States; and

20 “(iii) for the repair, maintenance, or construc-
21 tion on the United States border, in areas experienc-
22 ing high levels of apprehensions of illegal aliens, of
23 structures to deter illegal entry into the United
24 States.

1 of Justice beginning in fiscal year 1996 shall be increased
2 by 350 positions above the number of full-time equivalent
3 positions available to such Division as of September 30,
4 1994.

5 (b) ASSIGNMENT.—Individuals employed to fill the
6 additional positions described in subsection (a) shall be as-
7 signed to investigate violations of the employer sanctions
8 provisions contained in section 274A of the Immigration
9 and Nationality Act, including investigating reports of vio-
10 lations received from officers of the Employment Stand-
11 ards Administration of the Department of Labor.

12 **SEC. 402. STRENGTHENED ENFORCEMENT OF WAGE AND**
13 **HOUR LAWS.**

14 (a) IN GENERAL.—The number of full-time equiva-
15 lent positions in the Wage and Hour Division with the
16 Employment Standards Administration of the Department
17 of Labor beginning in fiscal year 1996 shall be increased
18 by 150 positions above the number of full-time equivalent
19 positions available to the Wage and Hour Division as of
20 September 30, 1994.

21 (b) ASSIGNMENT.—Individuals employed to fill the
22 additional positions described in subsection (a) shall be as-
23 signed to investigate violations of wage and hour laws in
24 areas where the Attorney General has notified the Sec-

1 retary of Labor that there are high concentrations of un-
2 documented aliens.

3 **SEC. 403. CHANGES IN THE EMPLOYER SANCTIONS PRO-**
4 **GRAM.**

5 (a) REDUCING THE NUMBER OF DOCUMENTS AC-
6 CEPTED FOR EMPLOYMENT VERIFICATION.—Section
7 274A(b) (8 U.S.C. 1324a(b)) is amended—

8 (1) in paragraph (1)(B)—

9 (A) by adding “or” at the end of clause (i),

10 (B) by striking clauses (ii) through (iv),

11 and

12 (C) in clause (v), by striking “or other
13 alien registration card, if the card” and insert-
14 ing “, alien registration card, or other docu-
15 ment designated by regulation by the Attorney
16 General, if the document” and redesignating
17 such clause as clause (ii);

18 (2) by amending subparagraph (C) of para-
19 graph (1) to read as follows:

20 “(C) SOCIAL SECURITY ACCOUNT NUMBER
21 CARD AS EVIDENCE OF EMPLOYMENT AUTHOR-
22 IZATION.—A document described in this sub-
23 paragraph is an individual’s social security ac-
24 count number card (other than such a card
25 which specifies on the face that the issuance of

1 the card does not authorize employment in the
2 United States.”; and

3 (3) by amending paragraph (2) to read as fol-
4 lows:

5 “(2) INDIVIDUAL ATTESTATION OF EMPLOY-
6 MENT AUTHORIZATION AND PROVISION OF SOCIAL
7 SECURITY ACCOUNT NUMBER.—The individual
8 must—

9 “(A) attest, under penalty of perjury on
10 the form designated or established for purposes
11 of paragraph (1), that the individual is a citizen
12 or national of the United States, an alien law-
13 fully admitted for permanent residence, or an
14 alien who is authorized under this Act or by the
15 Attorney General to be hired, recruited, or re-
16 ferred for such employment; and

17 “(B) provide on such form the individual’s
18 social security account number.”.

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

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

24 “(B) FAILURE TO SEEK AND OBTAIN CON-
25 FIRMATION.—In the case of a hiring of an individual

1 for employment in the United States, if such a per-
2 son or entity—

3 “(i) has not made an inquiry, under the
4 mechanism established under subsection (b)(6),
5 seeking confirmation of the identity, social secu-
6 rity number, and work eligibility of the individ-
7 ual, by not later than the end of 2 working days
8 (as specified by the Attorney General) after the
9 date of the hiring, the defense under subpara-
10 graph (A) shall not be considered to apply with
11 respect to any employment after such 2 working
12 days, and

13 “(ii) has made the inquiry described in
14 clause (i) but has not received an appropriate
15 confirmation of such identity, number, and
16 work eligibility under such mechanism within
17 the time period specified in subsection
18 (b)(6)(D)(iii) after the time the confirmation
19 inquiry was received, the defense under sub-
20 paragraph (A) shall not be considered to apply
21 with respect to any employment after the end of
22 such time period.”;

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

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

5 “(A) retain the form and make it available
6 for inspection by officers of the Service, the
7 Special Counsel for Immigration-Related Unfair
8 Employment Practices, or the Department of
9 Labor during a period beginning on the date of
10 the hiring, recruiting, or referral of the individ-
11 ual and ending—

12 “(i) in the case of the recruiting or re-
13 ferral for a fee (without hiring) of an indi-
14 vidual, three years after the date of the re-
15 cruiting or referral, and

16 “(ii) in the case of the hiring of an in-
17 dividual—

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

20 “(II) one year after the date the
21 individual’s employment is terminated,
22 whichever is later; and

23 “(B) for individuals hired on or after Octo-
24 ber 1, 1998, seek (within 2 working days of the
25 date of hiring) and have (within the time period

1 specified in paragraph (6)(D)(iii)) the identity,
2 social security number, and work eligibility of
3 the individual confirmed in accordance with the
4 procedures established under paragraph (6).”;
5 and

6 (3) by adding at the end of subsection (b) the
7 following new paragraph:

8 “(6) EMPLOYMENT ELIGIBILITY CONFIRMATION
9 PROCESS.—

10 “(A) IN GENERAL.—The Attorney General
11 shall establish a confirmation mechanism
12 through which the Attorney General (or a des-
13 ignee of the Attorney General)—

14 “(i) responds to inquiries by employ-
15 ers, made through a toll-free telephone line
16 or other electronic media in the form of an
17 appropriate confirmation code or other-
18 wise, on whether an individual is author-
19 ized to be employed by that employer, and

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

23 “(B) EXPEDITED PROCEDURE IN CASE OF
24 NO CONFIRMATION.—In connection with sub-
25 paragraph (A), the Attorney General shall es-

1 tablish, in consultation with the Commissioner
2 of Social Security and the Commissioner of the
3 Service, expedited procedures that shall be used
4 to confirm the validity of information used
5 under confirmation mechanism in cases in
6 which the confirmation is sought but is not pro-
7 vided through the confirmation mechanism.

8 “(C) DESIGN AND OPERATION OF MECHA-
9 NISM.—The confirmation mechanism shall be
10 designed and operated to maximize—

11 “(i) the reliability of the confirmation
12 process, and

13 “(ii) the ease of use by employers, re-
14 cruiters, and referrers,

15 consistent with insulating and protecting the
16 privacy and security of the underlying informa-
17 tion.

18 “(D) CONFIRMATION PROCESS.—(i) As
19 part of the confirmation mechanism, the Com-
20 missioner of Social Security shall establish a re-
21 liable, secure method, which within the time pe-
22 riod specified in clause (iii), compares the name
23 and social security account number provided
24 against such information maintained by the
25 Commissioner in order to confirm (or not con-

1 firm) the validity of the information provided
2 and whether the account number indicates that
3 the individual is authorized to be employed in
4 the United States. The Commissioner shall not
5 disclose or release social security information.

6 “(ii) As part of the confirmation mecha-
7 nism, the Commissioner of the Service shall es-
8 tablish a reliable, secure method, which, within
9 the time period specified in clause (iii), com-
10 pares the name and alien identification number
11 (if any) provided against such information
12 maintained by the Commissioner in order to
13 confirm (or not confirm) the validity of the in-
14 formation provided and whether the alien is au-
15 thorized to be employed in the United States.

16 “(iii) For purposes of this section, the At-
17 torney General shall specify, in consultation
18 with the Commissioner of Social Security and
19 the Commissioner of the Service, an expedited
20 time period within which confirmation is to be
21 provided through the confirmation mechanism.

22 “(iv) The Commissioners shall update their
23 information in a manner that promotes the
24 maximum accuracy and shall provide a process

1 for the prompt correction of erroneous informa-
2 tion.”.

3 (c) REDUCTION OF PAPERWORK FOR CERTAIN EM-
4 PLOYEES.—Section 274A(a) (8 U.S.C. 1324a(a)) is
5 amended by adding at the end the following new para-
6 graph:

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

9 “(A) IN GENERAL.—For purposes of para-
10 graphs (1)(B) and (3), if—

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

18 “(ii) within the period specified in
19 subparagraph (B), another employer that
20 is a member of the association (or an
21 agent of such association on behalf of the
22 employer) has complied with the require-
23 ments of subsection (b) with respect to the
24 employment of the individual,

1 the subsequent employer shall be deemed to
2 have complied with the requirements of sub-
3 section (b) with respect to the hiring of the em-
4 ployee and shall not be liable for civil penalties
5 described in subsection (e)(5).

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

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

13 “(ii) up to 3 years (or, if less, the pe-
14 riod of time that the individual is author-
15 ized to be employed in the United States)
16 in the case of another individual.

17 “(C) LIABILITY.—

18 “(i) IN GENERAL.—If any employer
19 that is a member of an association hires
20 for employment in the United States an in-
21 dividual and relies upon the provisions of
22 subparagraph (A) to comply with the re-
23 quirements of subsection (b) and the indi-
24 vidual is an unauthorized alien, for the
25 purposes of paragraph (1)(A), subject to

1 clause (ii), the employer shall be consid-
2 ered to have known at the time of hiring
3 or afterward that the individual was an un-
4 authorized alien.

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

13 (d) ELIMINATION OF DATED PROVISIONS.—Section
14 274A (8 U.S.C. 1324a) is amended by striking subsections
15 (i) through (n).

16 (e) EFFECTIVE DATES.—

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

23 (2)(A) The Attorney General shall establish the
24 employment eligibility confirmation mechanism (de-
25 scribed in section 274A(b)(6) of the Immigration

1 and Nationality Act, as added by subsection (b)) by
2 not later than October 1, 1999.

3 (B) Before establishing the mechanism, the At-
4 torney General shall undertake such pilot projects,
5 in at least 5 of the 7 States with the highest esti-
6 mated population of unauthorized aliens, as will test
7 and assure that the mechanism implemented is reli-
8 able and easy to use. Such projects shall be initiated
9 not later than 6 months after the date of the enact-
10 ment of this Act.

11 (C) The Attorney General shall submit to the
12 Congress, beginning in 1997, annual reports on the
13 development and implementation of the mechanism.

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

17 (4) The amendment made by subsection (d)
18 shall take effect on the date of the enactment of this
19 Act.

20 **SEC. 404. REPORTS ON EARNINGS OF ALIENS NOT AUTHOR-**
21 **IZED TO WORK.**

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

24 “(c)(1) Not later than 3 months after the end of each
25 fiscal year (beginning with fiscal year 1995), the Commis-

1 sioner of Social Security shall report to the Committees
2 on the Judiciary of the House of Representatives and the
3 Senate on the aggregate number of social security account
4 numbers issued to aliens not authorized to be employed
5 to which earnings were reported to the Social Security Ad-
6 ministration in such fiscal year.

7 “(2) If earnings are reported on or after January 1,
8 1996, to the Social Security Administration on a social
9 security account number issued to an alien not authorized
10 to work in the United States, the Commissioner of Social
11 Security shall provide the Attorney General with informa-
12 tion regarding the name and address of the individual to
13 whom the number was issued and with respect to whom
14 the earnings were reported and regarding the amount and
15 name and address of the person reporting the earnings.
16 The information shall be provided in an electronic form
17 agreed upon by the Commissioner and the Attorney Gen-
18 eral.”.

19 **SEC. 405. AUTHORIZING MAINTENANCE OF CERTAIN IN-**
20 **FORMATION ON ALIENS.**

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

23 “(f) Notwithstanding any other provision of law, the
24 Attorney General is authorized to require any alien to pro-
25 vide the alien’s social security account number for pur-

1 poses of inclusion in any record of the alien maintained
 2 by the Attorney General or the Service.”.

3 **TITLE V—REFORM OF LEGAL**
 4 **IMMIGRATION SYSTEM**

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1 **SEC. 500. OVERVIEW OF NEW LEGAL IMMIGRATION SYS-**
2 **TEM.**

3 This title amends the legal immigration provisions of
4 the Immigration and Nationality Act so as to provide for
5 the following (beginning with fiscal year 1997):

6 (1) DIVISION OF IMMIGRATION AMONG 3 CAT-
7 EGORIES.—There will be a worldwide level of immi-
8 gration of approximately 535,000, divided among—

9 (A) family-sponsored immigrants, with a
10 worldwide annual numerical limitation (after a
11 transition) of approximately 330,000,

12 (B) employment-based immigrants, with a
13 worldwide annual numerical limitation of
14 135,000, and

15 (C) humanitarian immigrants, with a
16 worldwide annual numerical limitation (after a
17 transition) of approximately 70,000.

18 Congress is required to reevaluate and reauthorize
19 these numbers every 5 years.

20 (2) FAMILY-SPONSORED IMMIGRANTS.—

21 (A) CATEGORIES.—Family-sponsored im-
22 migrants are (i) spouses and children of citi-
23 zens, (ii) spouses and children of permanent
24 resident aliens, and (iii) parents of adult United
25 States citizens if a majority of the sons and
26 daughters of the parents are in the United

1 States and the parents meet certain insurance
2 requirements.

3 (B) NUMERICAL LIMITATIONS.—

4 (i) There will be no direct numerical
5 limit on admission of spouses and children
6 of United States citizens.

7 (ii) The annual numerical limit on ad-
8 mission of spouses and children of perma-
9 nent residents will be below 85,000.

10 (3) EMPLOYMENT-BASED IMMIGRANTS.—Em-
11 ployment-based immigrants will fall within the fol-
12 lowing categories and numerical limitations:

13 (A) EXTRAORDINARY IMMIGRANTS.—First,
14 aliens with extraordinary ability, up to 15,000
15 each year.

16 (B) VERY HIGHLY SKILLED IMMI-
17 GRANTS.—Second, aliens with exceptional abil-
18 ity, who are members of the professions holding
19 advanced degrees, or who are multinational ex-
20 ecutives and managers, up to 60,000 each year,
21 plus any left from the previous category.

22 (C) OTHER PROFESSIONALS AND SKILLED
23 WORKERS.—Third, aliens who are either other
24 professionals with a baccalaureate degree and
25 at least 5 years' experience or skilled workers

1 with at least 7 years of training and work expe-
2 rience, up to 45,000 each year, plus any left
3 from the previous category.

4 (D) INVESTORS.—Fourth, aliens who are
5 investing at least \$1,000,000 in enterprises in
6 the United States that will employ at least 10
7 workers, up to 10,000 each year (with a 2-year
8 pilot program for those investing at least
9 \$500,000 in enterprises employing at least 5
10 workers).

11 (E) CERTAIN SPECIAL IMMIGRANTS.—
12 Lastly, aliens who fall within certain classes of
13 special immigrants (such as religious ministers,
14 aliens who have worked for the Government
15 abroad, certain long-term alien employees of
16 international organizations, certain dependent
17 juveniles, and certain long-term alien members
18 of the Armed Forces), up to 5,000 each year.

19 (4) HUMANITARIAN IMMIGRANTS.—HUMANI-
20 tarian immigrants will fall within the following cat-
21 egories and numerical limitations:

22 (A) REFUGEES.—Refugees, subject to a
23 numerical limitation (after a transition) of
24 50,000 or such higher number at the Congress
25 may provide by law.

1 (B) ASYLEES.—Aliens seeking asylum,
2 subject to no numerical limitation in any year.
3 As under current law, asylees may adjust to
4 permanent residence status at a rate of up to
5 10,000 each year.

6 (C) OTHER HUMANITARIAN IMMI-
7 GRANTS.—Other immigrants who are of special
8 humanitarian concern to the United States, up
9 to 10,000 each year.

10 (5) TRANSITION.—

11 (A) ADDITIONAL VISA NUMBERS FOR
12 SPOUSES AND MINOR, UNMARRIED CHILDREN
13 OF PERMANENT RESIDENT ALIENS.—In order
14 to reduce the current backlog for spouses and
15 minor, unmarried children of lawful permanent
16 residents, there will be an additional 50,000 im-
17 migrant visa numbers made available for these
18 aliens for each of 5 fiscal years, with priority
19 for spouses and children of aliens who did not
20 participate in a legalization program.

21 (B) PHASE-DOWN IN REFUGEE NUMERICAL
22 LIMITATION.—The annual numerical limitation
23 on refugees (without specific approval of Con-
24 gress) will be phased down to 75,000 in fiscal

1 year 1997 and 50,000 in fiscal year 1998 and
2 thereafter.

3 **Subtitle A—Worldwide Numerical**
4 **Limits**

5 **SEC. 501. WORLDWIDE NUMERICAL LIMITATION ON FAM-**
6 **ILY-SPONSORED IMMIGRANTS.**

7 (a) OVERVIEW.—

8 (1) The amendment made by subsection (b)
9 provides for a worldwide level of family-sponsored
10 immigrants of 330,000 less the number of spouses
11 and children of citizens admitted in the previous
12 year.

13 (2) However, there will be no limit on spouses
14 and children of citizens nor would the number of
15 visas available to spouses and children of lawful per-
16 manent residents go below 85,000.

17 (3) Any excess in family immigration above
18 330,000 would come from other unused visas and, if
19 necessary, from future visa numbers.

20 (4) If there are any unused family visas, those
21 visas would be added to the spouses and children of
22 lawful permanent resident aliens.

23 (b) AMENDMENT.—Subsection (c) of section 201 (8
24 U.S.C. 1151) is amended to read as follows:

1 “(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED
2 IMMIGRANTS.—

3 “(1) IN GENERAL.—Subject to the succeeding
4 provisions of this subsection, the worldwide level of
5 family-sponsored immigrants under this subsection
6 (in this subsection referred to as the ‘worldwide fam-
7 ily level’) for a fiscal year is 330,000.

8 “(2) REDUCTION FOR SPOUSES AND CHILDREN
9 OF UNITED STATES CITIZENS AND CERTAIN OTHER
10 FAMILY-RELATED IMMIGRANTS.—The worldwide
11 family level for a fiscal year shall be reduced (but
12 not below 85,000) by the number of aliens described
13 in subsection (b)(2) who were issued immigrant
14 visas or who otherwise acquired the status of aliens
15 lawfully admitted to the United States for perma-
16 nent residence in the previous fiscal year.

17 “(3) FURTHER REDUCTION FOR ANY PREVIOUS
18 EXCESS FAMILY IMMIGRATION.—

19 “(A) IN GENERAL.—If there were excess
20 family admissions in a particular fiscal year (as
21 determined under subparagraph (B)) beginning
22 with fiscal year 1997, then for the following fis-
23 cal year the worldwide family level shall be re-
24 duced (but not below 85,000) by the net num-

1 ber of excess admissions in that particular fiscal
2 year (as defined in subparagraph (C)).

3 “(B) DETERMINATION OF EXCESS FAMILY
4 ADMISSIONS.—For purposes of subparagraph
5 (A), there are excess family admissions in a fis-
6 cal year if—

7 “(i) the number of aliens who are is-
8 sued immigrant visas or who otherwise ac-
9 quire the status of aliens lawfully admitted
10 to the United States for permanent resi-
11 dence under section 203(a) or subsection
12 (b)(2) in a fiscal year, exceeds

13 “(ii) 330,000, less the carryforward
14 number of excess admissions computed for
15 the previous fiscal year (as defined in sub-
16 paragraph (D)).

17 For purposes of this subparagraph, immigrant
18 visa numbers issued under section 553 of the
19 Immigration in the National Interest Act of
20 1995 (relating to certain transition immigrants)
21 shall not be counted under clause (i).

22 “(C) NET NUMBER OF EXCESS ADMIS-
23 SIONS.—For purposes of subparagraph (A), the
24 ‘net number of excess admissions’ for a fiscal
25 year is—

1 “(i) the excess described in subpara-
2 graph (B) for the fiscal year, reduced (but
3 not below zero) by

4 “(ii) the number (if any) by which (I)
5 the worldwide level under subsection (d)
6 for the previous fiscal year exceeds the
7 number of immigrants who are issued im-
8 migrant visas or who otherwise acquire the
9 status of aliens lawfully admitted to the
10 United States for permanent residence
11 under section 203(b) in that previous fiscal
12 year.

13 “(D) CARRYFORWARD NUMBER OF EXCESS
14 ADMISSIONS.—For purposes of subparagraph
15 (B)(ii), the carryforward number of excess ad-
16 missions for a particular fiscal year is the net
17 number of excess admissions for the previous
18 fiscal year (as defined in subparagraph (C)), re-
19 duced by the reductions effected under subpara-
20 graph (A) and paragraph (4) in visa numbers
21 for the particular fiscal year.

22 “(4) ADJUSTMENT IN CERTAIN EMPLOYMENT-
23 BASED VISA NUMBERS IN CASE OF REMAINING EX-
24 CESS FAMILY ADMISSIONS.—

1 “(A) IN GENERAL.—If there is a remain-
2 ing excess number of family admissions (as de-
3 scribed in subparagraph (B)) in a fiscal year
4 (beginning with fiscal year 1997) that is great-
5 er than zero, then for the following fiscal year
6 there shall be reductions in immigrant visa
7 numbers made available, pursuant to subsection
8 (d) and paragraphs (3) and (4) of section
9 203(b), as follows:

10 “(i) FIRST, ADJUSTMENT OF UP TO $\frac{1}{2}$
11 OF NUMBERS IN INVESTORS.—First, the
12 number of immigrant visa numbers made
13 available under section 203(b)(4) shall be
14 reduced by the lesser of—

15 “(I) the remaining excess number
16 of family admissions (described in
17 subparagraph (B)), or

18 “(II) $\frac{1}{2}$ of the maximum number
19 of visa numbers that could (but for
20 this paragraph) otherwise be made
21 available under section 203(b)(4) in
22 such following fiscal year.

23 “(ii) THEN, ADJUSTMENT OF UP TO
24 $\frac{1}{2}$ OF NUMBERS IN PROFESSIONALS AND
25 SKILLED WORKERS.—If the remaining ex-

1 cess number of family admissions is great-
2 er than the reduction in visa numbers ef-
3 fected under clause (i), then the number of
4 immigrant visa numbers made available
5 under section 203(b)(3) shall be reduced
6 by the lesser of—

7 “(I) the remaining excess number
8 of family admissions (described in
9 subparagraph (B)) less the reduction
10 in visa numbers effected under clause
11 (i), or

12 “(II) $\frac{1}{2}$ of the maximum number
13 of visa numbers that could (but for
14 this paragraph) otherwise be made
15 available under section 203(b)(3) in
16 such following fiscal year.

17 “(B) REMAINING EXCESS NUMBER OF
18 FAMILY ADMISSIONS DESCRIBED.—For pur-
19 poses of subparagraph (A), the remaining ex-
20 cess number of family admissions in a fiscal
21 year is the net number of excess admissions for
22 the fiscal year (as defined in paragraph (3)(C)),
23 reduced by the reduction (if any) effected under
24 paragraph (3) in visa numbers for the succeed-
25 ing fiscal year.”.

1 **SEC. 502. WORLDWIDE NUMERICAL LIMITATION ON EM-**
2 **PLOYMENT-BASED IMMIGRANTS.**

3 Subsection (d) of section 201 (8 U.S.C. 1151) is
4 amended to read as follows:

5 “(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED
6 IMMIGRANTS.—The worldwide level of employment-based
7 immigrants under this subsection for a fiscal year is—

8 “(1) 135,000, minus

9 “(2) beginning with fiscal year 1998, the total
10 of the reductions (if any) in visa numbers made
11 under subsection (c)(4) for that fiscal year.”.

12 **SEC. 503. ESTABLISHMENT OF NUMERICAL LIMITATION ON**
13 **HUMANITARIAN IMMIGRANTS.**

14 (a) IN GENERAL.—Section 201 (8 U.S.C. 1151) is
15 amended—

16 (1) in subsection (a)(3), by striking “1995, di-
17 versity” and inserting “1997, humanitarian”, and

18 (2) by amending subsection (e) to read as fol-
19 lows:

20 “(e) WORLDWIDE LEVEL OF HUMANITARIAN IMMI-
21 GRANTS.—

22 “(1) IN GENERAL.—Subject to the succeeding
23 provisions of this subsection, the worldwide level of
24 humanitarian immigrants is equal to 70,000 for
25 each fiscal year.

1 “(2) REDUCTION FOR HUMANITARIAN IMMI-
2 GRANTS WHO ARE REFUGEES OR ASYLEES.—Such
3 worldwide level for a fiscal year under paragraph (1)
4 shall be reduced by the sum of—

5 “(A) the number of aliens (not to exceed
6 50,000) who were admitted as refugees under
7 section 207 in the previous fiscal year, and

8 “(B) the number of aliens who had been
9 granted asylum whose status was adjusted in
10 the previous fiscal year under section 209(b).

11 “(3) REDUCTION FOR PRIOR YEAR CANCELLA-
12 TION OF REMOVAL AND REGISTRY.—Such worldwide
13 level for a fiscal year under paragraph (1) shall be
14 further reduced by the sum of—

15 “(A) the number of aliens whose removal
16 was cancelled and who were provided lawful
17 permanent resident status in the previous fiscal
18 year under section 240A, and

19 “(B) the number of aliens who were pro-
20 vided permanent resident status in the previous
21 fiscal year under section 249.

22 “(4) LIMITATION.—In no case shall the world-
23 wide level for a fiscal year under this subsection
24 (taking into account any reductions under para-
25 graphs (2) and (3)) exceed 10,000.”.

1 **SEC. 504. REQUIRING CONGRESSIONAL REVIEW AND REAU-**
2 **THORIZATION OF WORLDWIDE LEVELS**
3 **EVERY 5 YEARS.**

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

6 “(f) REQUIREMENT FOR PERIODIC REVIEW AND RE-
7 AUTHORIZATION OF WORLDWIDE LEVELS.—

8 “(1) CONGRESSIONAL REVIEW.—The Commit-
9 tees on the Judiciary of the House of Representa-
10 tives and of the Senate shall undertake during fiscal
11 year 2001 (and each fifth fiscal year thereafter) a
12 thorough review of the appropriate worldwide levels
13 of immigration to be provided under this section
14 during the 5-fiscal-year period beginning with the
15 second subsequent fiscal year.

16 “(2) CONGRESSIONAL REAUTHORIZATION.—The
17 Congress, after consideration of the reviews under
18 paragraph (1) and by law, shall specify the appro-
19 priate worldwide levels of immigration to be provided
20 under this section during the 5-fiscal-year period be-
21 ginning with the second subsequent fiscal year.

22 “(3) SUNSET IN ABSENCE OF REAUTHORIZA-
23 TION.—The worldwide levels specified under the pre-
24 vious provisions of this section are applicable only to
25 fiscal years 1997 through 2002 and admissions after
26 fiscal year 2002 that are subject to such levels are

1 only authorized to the extent provided by amend-
2 ment under paragraph (2) made to this section.”.

3 **Subtitle B—Changes in Preference**
4 **System**

5 **SEC. 511. LIMITATION OF IMMEDIATE RELATIVES TO**
6 **SPOUSES AND CHILDREN.**

7 (a) RECLASSIFICATION.—Section 201(b)(2)(A) (8
8 U.S.C. 1151(b)(2)(A)) is amended—

9 (1) in clause (i)—

10 (A) by striking “IMMEDIATE RELATIVES.—
11 ” and all that follows through the end of the
12 first sentence and inserting “Spouses and chil-
13 dren of a citizen of the United States.”, and

14 (B) in the second sentence, by striking “an
15 immediate relative” and inserting “a spouse of
16 a citizen of the United States”; and

17 (2) in clause (ii), by striking “an immediate rel-
18 ative” and inserting “a spouse of a citizen of the
19 United States”.

20 (b) PROTECTION OF CERTAIN CHILDREN FROM
21 AGING OUT OF PREFERENCE STATUS.—

22 (1) IN GENERAL.—Section 204 (8 U.S.C. 1154)
23 is amended by adding at the end the following new
24 subsection:

1 “(i) For purposes of applying section 101(b)(1) in the
2 case of issuance of an immigrant visa to, or admission or
3 adjustment of status of, an alien under section
4 202(b)(1)(A), section 203(a)(1), or 203(d) as a child of
5 a citizen of the United States or a permanent resident
6 alien, the age of the alien shall be determined as of the
7 date of the filing of the classification petition under sec-
8 tion 204(a)(1) as such a child of a citizen of the United
9 States or a permanent resident alien.”.

10 (2) EFFECTIVE DATE.—The amendment made
11 by paragraph (1) shall apply to immigrant visas is-
12 sued on or after October 1, 1996, with respect to
13 aliens who are under 21 years of age as of such
14 date.

15 **SEC. 512. CHANGE IN FAMILY-SPONSORED CLASSIFICA-**
16 **TION.**

17 (a) IN GENERAL.—Section 203(a) (8 U.S.C.
18 1153(a)) is amended by striking paragraphs (1) through
19 (4) and inserting the following:

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

1 grant visas not required for the class described in
2 paragraph (2).

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

4 “(A) IN GENERAL.—Immigrants who are
5 the qualifying parents (as defined in subpara-
6 graph (B)) of an individual who is at least 21
7 years of age and a citizen of the United States
8 shall be allocated visas in a number not to ex-
9 ceed the lesser of—

10 “(i) 50,000, or

11 “(ii) the number by which the world-
12 wide level exceeds 85,000.

13 “(B) QUALIFICATIONS.—For purposes of
14 subparagraph (A), the term ‘qualifying parent’
15 means an immigrant with respect to whom, as
16 of the date of approval of the classification peti-
17 tion under section 204(a)(1), at least 50 per-
18 cent of the immigrant’s sons and daughters are
19 both nationals of the United States or aliens
20 lawfully admitted for permanent residence and
21 lawfully residing in the United States.

22 “(C) REFERENCE TO INSURANCE RE-
23 QUIREMENT.—For requirement relating to in-
24 surance for qualifying parents, see section
25 212(a)(5)(C).”.

1 (b) INSURANCE REQUIREMENT.—Section 212(a) (8
2 U.S.C. 1182(a)), as amended by section 621(a) of this
3 Act, is amended by adding at the end the following new
4 subparagraph:

5 “(C) INSURANCE REQUIREMENTS FOR
6 QUALIFYING PARENTS.—

7 “(i) IN GENERAL.—Any alien who
8 seeks admission as a qualifying parent
9 under section 203(a)(2) is inadmissible un-
10 less the alien demonstrates at the time of
11 issuance of the visa (and at the time of ad-
12 mission) to the satisfaction of the consular
13 officer and the Attorney General that the
14 alien—

15 “(I) will have coverage under an
16 adequate health insurance policy (at
17 least comparable to coverage provided
18 under the medicare program under
19 title XVIII of the Social Security
20 Act), and

21 “(II) will have coverage with re-
22 spect to long-term health needs (at
23 least comparable to such coverage
24 provided under the medicaid program
25 under title XIX of such Act for the

1 State in which either the alien intends
2 to reside or in which the petitioner
3 (on behalf of the alien under section
4 204(a)(1)) resides,
5 throughout the period the alien is residing
6 in the United States.

7 “(ii) FACTORS TO BE TAKEN INTO AC-
8 COUNT.—In making a determination under
9 clause (i), the Attorney General shall take
10 into account the age of the qualifying par-
11 ent and the likelihood of the parent secur-
12 ing health insurance coverage through em-
13 ployment.

14 **SEC. 513. CHANGE IN EMPLOYMENT-BASED CLASSIFICA-**
15 **TION.**

16 Section 203(b) (8 U.S.C. 1153(b)) is amended by
17 striking paragraphs (1) through (5) and inserting the fol-
18 lowing:

19 “(1) ALIENS WITH EXTRAORDINARY ABILITY.—
20 Visas shall first be made available in a number not
21 to exceed 15,000 of such worldwide level to immi-
22 grants—

23 “(A) who have extraordinary ability in the
24 sciences, arts, education, business, or athletics
25 which has been demonstrated by sustained na-

1 tional or international acclaim and whose
2 achievements have been recognized in the field
3 through sufficient documentation,

4 “(B) who seek to be admitted the United
5 States to continue work in the area of extraor-
6 dinary ability, and

7 “(C) the admission of whom into the Unit-
8 ed States will substantially benefit prospectively
9 the United States.

10 “(2) ALIENS WHO ARE MEMBERS OF THE PRO-
11 FESSIONS HOLDING ADVANCED DEGREES OR ALIENS
12 OF EXCEPTIONAL ABILITY.—

13 “(A) IN GENERAL.—Visas shall be made
14 available, in a number not to exceed 60,000 of
15 such worldwide level, plus any visas not re-
16 quired for the class specified in paragraph (1),
17 to immigrants who are aliens described in any
18 of the subparagraphs (B) or (C).

19 “(B) ALIENS WHO ARE MEMBERS OF THE
20 PROFESSIONS HOLDING ADVANCED DEGREES
21 OR ALIENS OF EXCEPTIONAL ABILITY.—

22 “(i) IN GENERAL.—An alien is de-
23 scribed in this subparagraph if the alien is
24 a member of the professions holding ad-
25 vanced degrees or their equivalent or who

1 because of exceptional ability in the
2 sciences, arts, or business, will substan-
3 tially benefit prospectively the national
4 economy, cultural or educational interests,
5 or welfare of the United States, and whose
6 services in the sciences, arts, professions,
7 or business are sought by an employer in
8 the United States.

9 “(ii) DETERMINATION OF EXCEP-
10 TIONAL ABILITY.—In determining under
11 clause (i) whether an immigrant has excep-
12 tional ability, the possession of a degree,
13 diploma, certificate, or similar award from
14 a college, university, school, or other insti-
15 tution of learning or a license to practice
16 or certification for a particular profession
17 or occupation shall not by itself be consid-
18 ered sufficient evidence of such exceptional
19 ability.

20 “(iii) LABOR CERTIFICATION RE-
21 QUIRED IN CERTAIN CASES.—An immi-
22 grant visa may not be issued to an immi-
23 grant under this subparagraph until the
24 consular officer is in receipt of a deter-
25 mination made by the Secretary of Labor

1 pursuant to the provisions of section
2 212(a)(5)(A).

3 “(C) CERTAIN MULTINATIONAL EXECU-
4 TIVES AND MANAGERS.—An alien is described
5 in this subparagraph if the alien, in the 3 years
6 preceding the time of the alien’s application for
7 classification and admission into the United
8 States under this subparagraph, has been em-
9 ployed for at least 1 year by a firm or corpora-
10 tion or other legal entity or an affiliate or sub-
11 sidiary thereof and the alien seeks to enter the
12 United States in order to continue to render
13 services to the same employer or to a subsidiary
14 or affiliate thereof in a capacity that is manage-
15 rial or executive.

16 “(3) SKILLED WORKERS AND PROFES-
17 SIONALS.—

18 “(A) IN GENERAL.—Visas shall be made
19 available, in a number not to 45,000 of such
20 worldwide level, plus any visas not required for
21 the classes specified in paragraphs (1) and (2)
22 less the reduction in visa numbers under this
23 paragraph required to be effected under section
24 201(c)(4)(A)(ii) for the fiscal year involved, to

1 aliens described in subparagraph (B) or (C)
2 who are not described in paragraph (2).

3 “(B) SKILLED WORKERS.—An alien de-
4 scribed in this subparagraph is an immigrant
5 who is capable, at the time of petitioning for
6 classification under this paragraph, of perform-
7 ing skilled labor (requiring at least 2 years
8 training or experience), not of a temporary or
9 seasonal nature, for which qualified workers are
10 not available in the United States, who has a
11 total of 7 years of training or experience (or
12 both) with respect to such labor.

13 “(C) PROFESSIONALS.—An alien described
14 in this subparagraph is an immigrant who holds
15 a baccalaureate degree and is a member of the
16 professions and has at least 5 years of experi-
17 ence in the profession after the receipt of the
18 degree.

19 “(D) LABOR CERTIFICATION REQUIRED.—
20 An immigrant visa may not be issued to an im-
21 migrant under this paragraph until the consular
22 officer is in receipt of a determination made by
23 the Secretary of Labor pursuant to the provi-
24 sions of section 212(a)(5)(A).

25 “(4) INVESTORS IN JOB CREATION.—

1 “(A) IN GENERAL.—Visas shall be made
2 available, in a number not to exceed 10,000 of
3 such worldwide level less the reduction in visa
4 numbers under this paragraph required to be
5 effected under section 201(c)(4)(A)(i) for the
6 fiscal year involved, to immigrants seeking to
7 enter the United States for the purpose of en-
8 gaging in a new commercial enterprise—

9 “(i) which the alien has established,

10 “(ii) in which such alien has invested
11 (after the date of the enactment of the Im-
12 migration Act of 1990) or, is actively in
13 the process of investing, capital in an
14 amount not less \$1,000,000, and

15 “(iii) which will benefit the United
16 States economy and create full-time em-
17 ployment for not fewer than 10 United
18 States citizens or aliens lawfully admitted
19 for permanent residence or other immi-
20 grants lawfully authorized to be employed
21 in the United States (other than the immi-
22 grant and the immigrant’s spouse, sons, or
23 daughters).

24 “(B) PILOT PROGRAM.—For each of fiscal
25 years 1997 and 1998, up to 2,000 visas other-

1 wise made available under this paragraph shall
2 be made available to immigrants who would be
3 described in subparagraph if ‘\$500,000’ were
4 substituted for ‘\$1,000,000’ in subparagraph
5 (A)(ii) and if ‘for not fewer than 5’ were sub-
6 stituted for ‘for not fewer than 10’ in subpara-
7 graph (A)(iii). By not later than April 1, 1998,
8 the Attorney General shall submit to Congress
9 a report on the operation of this subparagraph
10 and shall include in the report information de-
11 scribing the immigrants admitted under this
12 paragraph and the enterprises they invest in
13 and a recommendation on whether the pilot
14 program under this subparagraph should be
15 continued or modified.

16 “(5) CERTAIN SPECIAL IMMIGRANTS.—Visas
17 shall be made available, in a number not to 5,000
18 of such worldwide level, to qualified special immi-
19 grants described in section 101(a)(27) (other than
20 those described in subparagraph (A) or (B) thereof),
21 of which not more than 4,000 may be made available
22 in any fiscal year to special immigrants described in
23 subclause (II) or (III) of section 101(a)(27)(C)(ii).”.

1 **SEC. 514. AUTHORIZATION TO REQUIRE PERIODIC CON-**
2 **FIRMATION OF CLASSIFICATION PETITIONS.**

3 (a) IN GENERAL.—Section 204(b) (8 U.S.C.
4 1154(b)) is amended by inserting “(1)” after “(b)” and
5 by adding at the end the following new paragraph:

6 “(2)(A) The Attorney General may provide that a
7 classification petition approved with respect to an alien
8 (and the priority date established with respect to the peti-
9 tion) shall expire after a period (specified by the Attorney
10 General and of not less than 2 years) following the date
11 of approval of the petition, unless the petitioner files with
12 the Attorney General a form described in subparagraph
13 (B).

14 “(B) The Attorney General shall specify the form to
15 be used under this paragraph. Such form shall be de-
16 signed—

17 “(i) to reconfirm the continued intention of the
18 petitioner to seek admission of the alien based on
19 the classification involved, and

20 “(ii) as may be provided by the Attorney Gen-
21 eral, to update the contents of the original classifica-
22 tion petition.

23 “(C) The Attorney General may apply subparagraph
24 (A) to one or more classes of classification petitions and
25 for different periods of time for different classes of such
26 petitions, as specified by the Attorney General.”.

1 (b) EFFECTIVE DATE.—(1) Except as provided in
2 paragraph (2), the amendments made by subsection (a)
3 shall not apply to classification petitions filed before Octo-
4 ber 1, 1996.

5 (2) The Attorney General may apply such amend-
6 ments to such classification petitions, but only in a man-
7 ner so that no such petition expires under such amend-
8 ments before October 1, 2000.

9 **SEC. 515. CHANGES IN SPECIAL IMMIGRANT STATUS.**

10 (a) REPEALING CERTAIN OBSOLETE PROVISIONS.—
11 Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended by
12 striking subparagraphs (B), (E), (F), (G), and (H).

13 (b) SPECIAL IMMIGRANT STATUS FOR CERTAIN
14 NATO CIVILIAN EMPLOYEES.—Section 101(a)(27) (8
15 U.S.C. 1101(a)(27)) is further amended—

16 (1) by striking “or” at the end of subparagraph
17 (J),

18 (2) by striking the period at the end of sub-
19 paragraph (K) and inserting “; or”, and

20 (3) by adding at the end the following new sub-
21 paragraph:

22 “(L) an immigrant who would be described in
23 clause (i), (ii), (iii), or (iv) of subparagraph (I) if
24 any reference in such a clause—

1 “(i) to an international organization de-
2 scribed in paragraph (15)(G)(i) were treated as
3 a reference to the North American Treaty Or-
4 ganization (NATO);

5 “(ii) to a nonimmigrant under paragraph
6 (15)(G)(iv) were treated as a reference to a
7 nonimmigrant classifiable under NATO-6 (as a
8 member of a civilian component accompanying
9 a force entering in accordance with the provi-
10 sions of the NATO Status-of-Forces Agree-
11 ment, a member of a civilian component at-
12 tached to or employed by an Allied Head-
13 quarters under the ‘Protocol on the Status of
14 International Military Headquarters’ set up
15 pursuant to the North Atlantic Treaty, or as a
16 dependent); and

17 “(iii) to the Immigration Technical Correc-
18 tions Act of 1988 or to the Immigration and
19 Nationality Technical Corrections Act of 1994
20 were a reference to the Immigration in the Na-
21 tional Interest Act of 1995.”.

22 (c) CONFORMING NONIMMIGRANT STATUS FOR CER-
23 TAIN PARENTS OF SPECIAL IMMIGRANT CHILDREN.—
24 Section 101(a)(15)(N) (8 U.S.C. 1101(a)(15)(N)) is
25 amended—

1 (1) by inserting “(or under analogous authority
2 under paragraph (27)(L))” after “(27)(I)(i)”, and

3 (2) by inserting “(or under analogous authority
4 under paragraph (27)(L))” after “(27)(I)”.

5 (d) ADDITIONAL CONFORMING AMENDMENTS.—

6 (1) Section 201(b)(1)(A) (8 U.S.C.
7 1151(b)(1)(A)) is amended by striking “or (B)”.

8 (2) Section 203(b)(4) (8 U.S.C. 1153(b)(4)) is
9 amended by striking “or (B)”.

10 (3) Section 214(k)(3) (8 U.S.C. 1184(k)(3)) is
11 amended by striking “, who has not otherwise been
12 accorded status under section 101(a)(27)(H),”.

13 (4) Section 245(c)(2) (8 U.S.C. 1255(c)(2)) is
14 amended by striking “101(a)(27)(H), (I),” and in-
15 serting “101(a)(27)(I),”.

16 (e) EFFECTIVE DATES.—(1) Except as provided in
17 this section, the amendments made by these sections shall
18 take effect on the date of the enactment of this Act.

19 (2) The amendments made by subsection (a) shall not
20 apply to any alien with respect to whom an application
21 for special immigrant status under a subparagraph re-
22 pealed by such amendments has been filed by not later
23 than September 30, 1996.

1 **SEC. 516. MISCELLANEOUS CONFORMING AMENDMENTS.**

2 (a) CONFORMING AMENDMENTS RELATING TO IMME-
3 DIATE RELATIVES.—

4 (1) Section 101(b)(1)(F) (8 U.S.C.
5 1101(b)(1)(F)) is amended by striking “as an imme-
6 diate relative under section 201(b)” and inserting
7 “as a child of a citizen of the United States”.

8 (2) Section 204(a)(1)(A)(i) (8 U.S.C.
9 1154(a)(1)(A)(i)) is amended by striking “or to an
10 immediate relative status” and inserting “or status
11 as the spouse or child of a citizen of the United
12 States”.

13 (3) Clause (iii) of section 204(a)(1)(A) is
14 amended by striking “an immediate relative status”
15 and inserting “a spouse of a citizen of the United
16 States”.

17 (4) Clause (iv) of section 204(a)(1)(A) is
18 amended by striking “an immediate relative status”
19 and inserting “a child of a citizen of the United
20 States”.

21 (5) Section 204(b) (8 U.S.C. 1154(b)) is
22 amended by striking “an immediate relative speci-
23 fied in section 201(b)” and inserting “a spouse or
24 child of a citizen of the United States under section
25 201(b)”.

1 (6) Section 204(c) (8 U.S.C. 1154(c)) is
2 amended by striking “an immediate relative or pref-
3 erence” and inserting “a preferential”.

4 (7) Section 204(e) (8 U.S.C. 1154(e)) is
5 amended—

6 (A) by striking “an immediate relative”
7 and inserting “a spouse or child of a citizen of
8 the United States”, and

9 (B) by striking “his” and “he” and insert-
10 ing “the alien’s” and “the alien”, respectively.

11 (8) Section 204(g) (8 U.S.C. 1154(g)) is
12 amended by striking “immediate relative status”
13 and inserting “status as a spouse or child of a citi-
14 zen of the United States or other”.

15 (9) Section 212(a)(6)(E)(ii) (8 U.S.C.
16 1182(a)(6)(E)(ii)) is amended by striking “an imme-
17 diate relative” and inserting “a spouse, child, or par-
18 ent of a citizen of the United States”.

19 (10) Section 212(d)(11) (8 U.S.C. 1182(d)(11))
20 is amended by striking “an immediate relative” and
21 inserting “a spouse or child of a citizen of the Unit-
22 ed States”.

23 (11) Section 216(g)(1)(A) (8 U.S.C.
24 1186a(g)(1)(A)) is amended by striking “an imme-
25 diate relative (described in section 201(b)) as the

1 spouse of a citizen of the United States” and insert-
2 ing “as the spouse of a citizen of the United States
3 (described in section 201(b))”.

4 (12) Section 221(a) (8 U.S.C. 1201(a)) is
5 amended by striking “, immediate relative,”.

6 (13)(A) Section 224 (8 U.S.C. 1204) is amend-
7 ed—

8 (i) by amending the heading to read as fol-
9 lows:

10 “VISAS FOR SPOUSES AND CHILDREN OF CITIZENS AND
11 SPECIAL IMMIGRANTS”,

12 (ii) by striking “immediate relative” the
13 first place it appears and inserting “a spouse or
14 child of a citizen of the United States”, and

15 (iii) by striking “immediate relative sta-
16 tus” and inserting “status of a spouse or child
17 of a citizen of the United States”.

18 (B) The item in the table of contents relating
19 to section 224 is amended to read as follows:

“Sec. 224. Visas for spouses and children of citizens and special immigrants.”.

20 (14) Subsection (a)(1)(E)(ii) of section 241 (8
21 U.S.C. 1251), before redesignation as section 237 by
22 section 305(2), is amended by striking “an imme-
23 diate relative” and inserting “a spouse, child, or par-
24 ent of a citizen of the United States under section
25 201(b) or 203(a)(2)”.

1 (15) Section 245(c) (8 U.S.C. 1255(c)) is
2 amended by striking “an immediate relative as de-
3 fined in section 201(b)” and inserting “a spouse or
4 child of a citizen of the United States under section
5 201(b) or a parent of a citizen under section
6 203(a)(2)” each place it appears.

7 (16) Section 291 (8 U.S.C. 1361) is amended
8 by striking “immigrant, special immigrant, imme-
9 diate relative” and inserting “immigrant status, spe-
10 cial immigrant status, status as a spouse or child of
11 a citizen of the United States”.

12 (17) Section 401 of the Immigration Reform
13 and Control Act of 1986 is amended by striking
14 “immediate relatives” and inserting “spouses and
15 children of citizens”.

16 (b) CONFORMING AMENDMENTS FOR FAMILY-SPON-
17 SORED IMMIGRANTS.—

18 (1) PETITIONING REQUIREMENTS.—

19 (A) Section 204(a)(1) (8 U.S.C.
20 1154(a)(1)) is amended—

21 (i) in subparagraph (A)(i), by striking
22 “paragraph (1), (3), or (4) of section
23 203(a) or to an immediate relative status”
24 and inserting “section 203(a)(2) or to sta-
25 tus as the spouse or child of a citizen”,

1 (ii) in subparagraph (A)(iii), by strik-
2 ing “as an immediate relative” and insert-
3 ing “as the spouse of a citizen of the Unit-
4 ed States”, and

5 (iii) in subparagraph (A)(iv), by strik-
6 ing “as an immediate relative” and insert-
7 ing “as a child of a citizen of the United
8 States”, and

9 (iv) in clauses (ii) and (iii) of sub-
10 subparagraph (B), by striking “203(a)(2)(A)”
11 and inserting “203(a)(1)”.

12 (B) Section 204(e) (8 U.S.C. 1154(e)) is
13 amended by striking “(a), (b), or (c)” and in-
14 serting “(a) or (b)”.

15 (C) Section 204(f) (8 U.S.C. 1154(f)) is
16 amended by striking “, 203(a)(1), or
17 203(a)(3)” and inserting “or 203(a)(2)”.

18 (2) APPLICATION OF PER COUNTRY LEVELS.—
19 Section 202 (8 U.S.C. 1152) is amended—

20 (A) by amending paragraph (4) of sub-
21 section (a) to read as follows:

22 “(4) SPECIAL RULES FOR SPOUSES AND CHIL-
23 DREN OF LAWFUL PERMANENT RESIDENT ALIENS.—

24 “(A) 75 PERCENT OF 1ST PREFERENCE
25 NOT SUBJECT TO PER COUNTRY LIMITATION.—

1 Of the visa numbers made available under sec-
2 tion 203(a) to immigrants described in para-
3 graph (1) of that section in any fiscal year,
4 63,750 shall be issued without regard to the
5 numerical limitation under paragraph (2).

6 “(B) LIMITING PASS DOWN FOR CERTAIN
7 COUNTRIES SUBJECT TO SUBSECTION (e).—In
8 the case of a foreign state or dependent area to
9 which subsection (e) applies, if the total number
10 of visas issued under section 203(a)(1) exceeds
11 the maximum number of visas that may be
12 made available to immigrants of the state or
13 area under such section consistent with sub-
14 section (e) (determined without regard to this
15 paragraph), in applying paragraph (2) of sec-
16 tion 203(a) under subsection (e)(2) all visas
17 shall be deemed to have been required for the
18 classes specified in paragraph (1) of such sec-
19 tion.”; and

20 (B) in subsection (e)—

21 (i) in paragraph (1), by inserting be-
22 fore the semicolon the following: “(deter-
23 mined without regard to subsections (c)(4)
24 and (d)(2) of section 201)”,

1 (ii) in paragraph (2), by striking
2 “paragraphs (1) through (4)” and insert-
3 ing “paragraphs (1) and (2)”, and

4 (iii) in the last sentence, by striking
5 “203(a)(2)(A)” and inserting “203(a)(1)”.

6 (3) ADDITIONAL CONFORMING AMENDMENTS.—

7 (A) Section 203(d) (8 U.S.C. 1153(d)) is
8 amended by striking “(a)” and inserting
9 “(a)(2)”.

10 (B) Section 212(a)(6)(E)(ii) (8 U.S.C.
11 1182(a)(6)(E)(ii)) is amended by striking
12 “203(a)(2)” and inserting “203(a)(1)”.

13 (C) Section 212(d)(11) (8 U.S.C.
14 1182(d)(11)) is amended by striking “(other
15 than paragraph (4) thereof)”.

16 (D) Section 216(g)(1)(C) (8 U.S.C.
17 1186a(g)(1)(C)) is amended by striking
18 “203(a)(2)” and inserting “203(a)(1)”.

19 (E) Section 241(a)(1)(E)(ii) (8 U.S.C.
20 1251(a)(1)(E)(ii)) is amended by striking
21 “203(a)(2)” and inserting “203(a)(1)”.

22 (F) Section §2(c) of the Virgin Islands
23 Nonimmigrant Alien Adjustment Act of 1982
24 (Public Law 97-271) is amended—

1 (i) in paragraph (2), by inserting “or
2 first family preference petitions” after
3 “second preference petitions”;

4 (ii) in paragraph (3)(A), by striking
5 “or” at the end;

6 (iii) in paragraph (3)(B), by striking
7 the period at the end and inserting “,
8 and”;

9 (iv) by adding at the end of para-
10 graph (3) the following new subparagraph:

11 “(C) by virtue of a first family preference peti-
12 tion filed by an individual who was admitted to the
13 United States as an immigrant by virtue of a second
14 family preference petition filed by the son or daugh-
15 ter of the individual, if that son or daughter had his
16 or her status adjusted under this section.”; and

17 (v) in paragraph (4), by striking “on
18 or after such date.” and inserting “on or
19 after such date and before October 1,
20 1996). For purposes of this subsection, the
21 terms ‘first family preference petition’ and
22 ‘second family preference petition’ mean,
23 in the case of an alien, a petition filed
24 under section 204(a) of the Act to grant
25 preference status to the alien by reason of

1 the relationship described in section
2 203(a)(1) or 203(a)(2), respectively (as in
3 effect on and after October 1, 1996).”.

4 (c) CONFORMING AMENDMENTS RELATING TO EM-
5 PLOYMENT-BASED IMMIGRANTS.—

6 (1) TREATMENT OF SPECIAL K IMMIGRANTS.—
7 Section 203(b)(6)(B) (8 U.S.C. 1153(b)(6)(B)) is
8 amended—

9 (A) in clause (i), by striking “reduced by
10 $\frac{1}{3}$ ” and inserting “reduced by the same propor-
11 tion as the proportion (of the visa numbers
12 made available under all such paragraphs) that
13 were made available under each respective para-
14 graph”, and

15 (B) in clause (iii), by striking “reduced by
16 $\frac{1}{3}$ ” and inserting “reduced by the same propor-
17 tion as the proportion (of the visa numbers
18 made available under all such paragraphs to na-
19 tives of the foreign state) that were made avail-
20 able under each respective paragraph to such
21 natives”.

22 (2) CONFORMING AMENDMENTS RELATING TO
23 PETITIONING RIGHTS.—Section 204(a)(1) (8 U.S.C.
24 1154(a)(1)) is amended—

1 (A) in subparagraph (C), by striking
2 “203(b)(1)(A)” and inserting “203(b)(1)”;

3 (B) in subparagraph (D), by striking “sec-
4 tion 203(b)(1)(B), 203(b)(1)(C), 203(b)(2), or
5 203(b)(3)” and inserting “section 203(b)(2) or
6 203(b)(3)”;

7 (C) in subparagraph (E)(i), by striking
8 “203(b)(4)” and inserting “203(b)(5)”;

9 (D) in subparagraph (F), by striking
10 “203(b)(5)” and inserting “203(b)(4)”;

11 (E) by redesignating subparagraphs (E)
12 and (F) as subparagraphs (F) and (E), respec-
13 tively, and by moving subparagraph (E) (as so
14 redesignated) to precede subparagraph (F) (as
15 so redesignated).

16 (3) GROUND FOR INADMISSIBILITY.—Section
17 212(a)(5)(C) (8 U.S.C. 1182(a)(5)(C)) is amended
18 by striking “(2)” and inserting “(2)(B)”.

19 (4) OTHER CONFORMING AMENDMENTS.—

20 (A) Subsections (b)(1)(C) and (f)(1) of
21 section 216A (8 U.S.C. 1186b) are each
22 amended by striking “203(b)(5)” and inserting
23 “203(b)(4)”.

24 (B) Section 245(j)(3) (8 U.S.C.
25 1255(j)(3)), as added by section 130003(c)(1)

1 Violent Crime Control and Law Enforcement
2 Act of 1994 (Public Law 103–322) and as re-
3 designated by section 814(a)(5)(A) of this Act,
4 is amended by striking “203(b)(4)” and insert-
5 ing “203(b)(5)”.

6 (C) Section 154(b)(1)(B)(i) of the Immi-
7 gration Act of 1990 is amended by striking
8 “1991)” and inserting “1991, and before Octo-
9 ber 1, 1996) or under section 203(a),
10 203(b)(1), or 203(b)(2)(C) (as in effect on and
11 after October 1, 1996)”.

12 (D) Section 206(a) of the Immigration Act
13 of 1990 is amended by striking “203(b)(1)(C)”
14 and inserting “203(b)(2)(C)”.

15 (E) Section 610 of Public Law 102–395 is
16 amended—

17 (i) in subsection (a), by striking “sec-
18 tion 203(b)(5) of the Immigration and Na-
19 tionality Act (8 U.S.C. 1153(b)(5))” and
20 inserting “section 203(b)(4) of the Immi-
21 gration and Nationality Act (8 U.S.C.
22 1153(b)(4))”,

23 (ii) in subsection (b), by striking “sec-
24 tion 203(b)(5)” and inserting “section
25 203(b)(4)”, and

1 (iii) in subsection (c), by striking
2 “203(b)(5)(A)(iii)” and inserting
3 “203(b)(4)(A)(iii)”.

4 (F) Section 2(d)(2) of the Chinese Student
5 Protection Act of 1992 (Public Law 102–404)
6 is amended—

7 (i) in subparagraph (A), by striking
8 “203(b)(3)(A)(i)” and inserting
9 “203(b)(3)(B)”, and

10 (ii) in subparagraph (B), by striking
11 “203(b)(5)” and inserting “203(b)(4)”.

12 (G) The Soviet Scientists Immigration Act
13 of 1992 (Public Law 102–509) is amended—

14 (i) in sections 3 and 4(a), by striking
15 “203(b)(2)(A) of the Immigration and Na-
16 tionality Act (8 U.S.C. 1153(b)(2)(A))”
17 and inserting “203(b)(2)(B)(i) of the Im-
18 migration and Nationality Act (8 U.S.C.
19 1153(b)(2)(B)(i))”, and

20 (ii) in section 4(c), by striking
21 “203(b)(2)(A) of the Immigration and Na-
22 tionality Act (8 U.S.C. 1153(b)(2)(A))”
23 and inserting “203(b)(2)(B) of the Immi-
24 gration and Nationality Act (8 U.S.C.
25 1153(b)(2)(B))”.

1 (e) REPEAL OF CERTAIN OUTDATED PROVISIONS.—

2 The following provisions of law are repealed:

3 (1) Section 9 of Public Law 94–571 (90 Stat.
4 2707).

5 (2) Section 19 of Public Law 97–117 (95 Stat.
6 1621).

7 **Subtitle C—Refugees, Asylees, Pa-**
8 **role, and Humanitarian Admis-**
9 **sions**

10 **SEC. 521. CHANGES IN REFUGEE ANNUAL ADMISSIONS.**

11 (a) IN GENERAL.—Paragraphs (1) and (2) of section
12 207(a) (8 U.S.C. 1157(a)) are amended to read as follows:

13 “(1) Except as provided in paragraph (2) and sub-
14 section (b), the number of refugees who may be admitted
15 under this section in any fiscal year shall be such number
16 as the President determines, before the beginning of the
17 fiscal year and after appropriate consultation, is justified
18 by humanitarian concerns or is otherwise in the national
19 interest.

20 “(2)(A) Except as provided in subparagraph (B), the
21 number determined under paragraph (1) for a fiscal year
22 may not exceed—

23 “(i) 75,000 in the case of fiscal year 1997, or

24 “(ii) 50,000 in the case of any succeeding fiscal
25 year.

1 “(B) The number determined under paragraph (1)
2 for a fiscal year may exceed the limit specified under sub-
3 paragraph (A) if Congress enacts a law providing for a
4 higher number.”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 subsection (a) shall apply beginning with fiscal year 1997.

7 **SEC. 522. FIXING NUMERICAL ADJUSTMENTS FOR ASYLEES**
8 **AT 10,000 EACH YEAR.**

9 (a) IN GENERAL.—Section 209(b) (8 U.S.C.
10 1159(b)) of such Act is amended by striking “Not more
11 than” and all that follows through “who—” and inserting
12 the following: “The Attorney General, in the Attorney
13 General’s discretion and under such regulations as the At-
14 torney General may prescribe, and in a number not to ex-
15 ceed 10,000 aliens in any fiscal year, may adjust to the
16 status of an alien lawfully admitted for permanent resi-
17 dence of any alien granted asylum who—”.

18 (b) CONFORMING AMENDMENT.—Section 207(a) (8
19 U.S.C. 1157(a)) is amended by striking paragraph (4).

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall take effect on October 1, 1996.

22 **SEC. 523. INCREASED RESOURCES FOR REDUCING ASYLUM**
23 **APPLICATION BACKLOGS.**

24 (a) AUTHORIZATION OF TEMPORARY EMPLOYMENT
25 OF CERTAIN ANNUITANTS AND RETIREES.—

1 (1) IN GENERAL.—For the purpose of perform-
2 ing duties in connection adjudicating applications for
3 asylum pending as of the date of the enactment of
4 this Act, the Attorney General may employ for a pe-
5 riod not to exceed 24 months (beginning 3 months
6 after the date of the enactment of this Act) not
7 more than 300 individuals (at any one time) who, by
8 reason of separation from service on or before Janu-
9 ary 1, 1995, are receiving—

10 (A) annuities under the provisions of sub-
11 chapter III of chapter 83 of title 5, United
12 States Code, or chapter 84 of such title;

13 (B) annuities under any other retirement
14 system for employees of the Federal Govern-
15 ment; or

16 (C) retired or retainer pay as retired offi-
17 cers of regular components of the uniformed
18 services.

19 (2) NO REDUCTION IN ANNUITY OR RETIRE-
20 MENT PAY OR REDETERMINATION OF PAY DURING
21 TEMPORARY EMPLOYMENT.—

22 (A) RETIREES UNDER CIVIL SERVICE RE-
23 TIREMENT SYSTEM AND FEDERAL EMPLOYEES'
24 RETIREMENT SYSTEM.—In the case of an indi-
25 vidual employed under paragraph (1) who is re-

1 ceiving an annuity described in paragraph
2 (1)(A)—

3 (i) such individual's annuity shall con-
4 tinue during the employment under para-
5 graph (1) and shall not be increased as a
6 result of service performed during that em-
7 ployment;

8 (ii) retirement deductions shall not be
9 withheld from such individual's pay; and

10 (iii) such individual's pay shall not be
11 subject to any deduction based on the por-
12 tion of such individual's annuity which is
13 allocable to the period of employment.

14 (B) OTHER FEDERAL RETIREES.—The
15 President shall apply the provisions of subpara-
16 graph (A) to individuals who are receiving an
17 annuity described in paragraph (1)(B) and who
18 are employed under paragraph (1) in the same
19 manner and to the same extent as such provi-
20 sions apply to individuals who are receiving an
21 annuity described in paragraph (1)(A) and who
22 are employed under paragraph (1).

23 (C) RETIRED OFFICERS OF THE UNIFORM
24 SERVICES.—The retired or retainer pay of a re-
25 tired officer of a regular component of a uni-

1 formed service shall not be reduced under sec-
2 tion 5532 of title 5, United States Code, by
3 reason of temporary employment authorized
4 under paragraph (1).

5 (b) PROCEDURES FOR PROPERTY ACQUISITION ON
6 LEASING.—Notwithstanding the Federal Property and
7 Administrative Services Act of 1949 (40 U.S.C. 471 et
8 seq.), the Attorney General is authorized to expend out
9 of funds made available to the Department of Justice for
10 the administration of the Immigration and Nationality Act
11 such amounts as may be necessary for the leasing or ac-
12 quisition of property to carry out the purpose described
13 in subsection (a)(1).

14 **SEC. 524. PAROLE AVAILABLE ONLY ON A CASE-BY-CASE**
15 **BASIS FOR HUMANITARIAN REASONS OR SIG-**
16 **NIFICANT PUBLIC BENEFIT.**

17 (a) IN GENERAL.—Paragraph (5) of section 212(d)
18 (8 U.S.C. 1182(d)) is amended to read as follows:

19 “(5) HUMANITARIAN AND PUBLIC INTEREST PA-
20 ROLE.—

21 “(A) IN GENERAL.—Subject to the provisions of
22 this paragraph and section 214(f)(2), the Attorney
23 General, in the sole discretion of the Attorney Gen-
24 eral, may on a case-by-case basis parole an alien into

1 the United States temporarily, under such conditions
2 as the Attorney General may prescribe, only—

3 “(i) for an urgent humanitarian reason (as
4 described under subparagraph (B)); or

5 “(ii) for a reason deemed strictly in the
6 public interest (as described under subpara-
7 graph (C)).

8 “(B) HUMANITARIAN PAROLE.—The Attorney
9 General may parole an alien based on an urgent hu-
10 manitarian reason described in this subparagraph
11 only if—

12 “(i) the alien has a medical emergency and
13 the alien cannot obtain necessary treatment in
14 the foreign state in which the alien is residing
15 or the medical emergency is life-threatening and
16 there is insufficient time for the alien to be ad-
17 mitted through the normal visa process;

18 “(ii) the alien is needed in the United
19 States in order to donate an organ or other tis-
20 sue for transplant into a close family member;
21 or

22 “(iii) the alien has a close family member
23 in the United States whose death is imminent
24 and the alien could not arrive in the United
25 States in time to see such family member alive

1 if the alien were to be admitted through the
2 normal visa process.

3 “(C) PUBLIC INTEREST PAROLE.—The Attor-
4 ney General may parole an alien based on a reason
5 deemed strictly in the public interest described in
6 this subparagraph only if the alien has assisted the
7 United States Government in a matter, such as a
8 criminal investigation, espionage, or other similar
9 law enforcement activity, and either the alien’s pres-
10 ence in the United States is required by the Govern-
11 ment or the alien’s life would be threatened if the
12 alien were not permitted to come to the United
13 States.

14 “(D) LIMITATION ON THE USE OF PAROLE AU-
15 THORITY.—The Attorney General may not use the
16 parole authority under this paragraph to permit to
17 come to the United States aliens who have applied
18 for and have been found to be ineligible for refugee
19 status or any alien to whom the provisions of this
20 paragraph do not apply.

21 “(E) PAROLE NOT AN ADMISSION.—Parole of
22 an alien under this paragraph shall not be consid-
23 ered an admission of the alien into the United
24 States. When the purposes of the parole of an alien
25 have been served, as determined by the Attorney

1 General, the alien shall immediately return or be re-
2 turned to the custody from which the alien was pa-
3 roled and the alien shall be considered for admission
4 to the United States on the same basis as other
5 similarly situated applicants for admission.

6 “(F) REPORT TO CONGRESS.—Not later than
7 90 days after the end of each fiscal year, the Attor-
8 ney General shall submit a report to the Committees
9 on the Judiciary of the House of Representatives
10 and the Senate describing the number and cat-
11 egories of aliens paroled into the United States
12 under this paragraph. Each such report shall con-
13 tain information and data concerning the number
14 and categories of aliens paroled, the duration of pa-
15 role, and the current status of aliens paroled during
16 the preceding fiscal year.”.

17 (b) EFFECTIVE DATE.—The amendments made by
18 subsection (a) shall take effect on the first day of the first
19 month beginning more than 60 days after the date of the
20 enactment of this Act.

21 **SEC. 525. ADMISSION OF HUMANITARIAN IMMIGRANTS.**

22 (a) IN GENERAL.—Subsection (c) of section 203 (8
23 U.S.C. 1153) is amended to read as follows:

24 “(c) HUMANITARIAN IMMIGRANTS.—

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (2), aliens subject to the worldwide level speci-
3 fied in section 201(e) for humanitarian immigrants
4 shall be allotted to immigrants who have been se-
5 lected by the Attorney General, under paragraph
6 (2), as of special humanitarian concern to the
7 United States.

8 “(2) SELECTION OF IMMIGRANTS.—

9 “(A) IN GENERAL.—The Attorney General
10 shall, on a case-by-case basis and based on hu-
11 manitarian concerns and the public interest, se-
12 lect aliens for purposes of this subsection.

13 “(B) RESTRICTION.—The Attorney Gen-
14 eral may not select an alien under this para-
15 graph if the alien is a refugee (within the mean-
16 ing of section 101(a)(42)) unless the Attorney
17 General determines that compelling reasons in
18 the public interest with respect to that particu-
19 lar alien require that the alien be admitted into
20 the United States as a humanitarian immigrant
21 under this subsection rather than as a refugee
22 under section 207.

23 “(3) ANNUAL REPORT.—Not later than 90 days
24 after the end of each fiscal year, the Attorney Gen-
25 eral shall submit to the Committees on the Judiciary

1 of the House of Representatives and of the Senate
2 a report describing the number of immigrant visas
3 issued under this subsection and the individuals to
4 whom the visas were issued.”.

5 (b) PETITIONING.—Subparagraph (G) of section
6 204(a)(1) (8 U.S.C. 1154(a)(1)) is amended to read as
7 follows:

8 “(G) Any alien desiring to be provided an immigrant
9 visa under section 203(c) may file a petition with the At-
10 torney General for such classification, but only if the At-
11 torney General has identified the alien as possibly qualify-
12 ing for such a visa.”.

13 (c) ORDER OF CONSIDERATION.—Section 203 (8
14 U.S.C. 1153) is amended—

15 (1) by amending paragraph (2) of subsection
16 (e) to read as follows:

17 “(2) Immigrant visa numbers made available under
18 subsection (c) (relating to humanitarian immigrants) shall
19 be issued to eligible immigrants in an order specified by
20 the Attorney General.”, and

21 (2) in subsection (g), by striking “(a), (b), and
22 (c)” and inserting “(a) and (b)”.

23 (d) APPLICATION OF PER COUNTRY NUMERICAL LIM-
24 TATIONS.—Section 202(a) (8 U.S.C. 1152(a)) is amended
25 by adding at the end the following new paragraph:

1 “(5) PER COUNTRY LEVELS FOR HUMANI-
2 TARIAN IMMIGRANTS.—The total number of immi-
3 grant visas made available to natives of any single
4 foreign state or dependent area under section 203(c)
5 in any fiscal year may not exceed 50 percent (in the
6 case of a single foreign state) or 15 percent (in the
7 case of a dependent area) of the total number of
8 such visas made available under such subsection in
9 that fiscal year.”.

10 (e) WAIVER OF CERTAIN GROUNDS OF INADMISSI-
11 SIBILITY.—Section 212(a) (8 U.S.C. 1182(a)) is amend-
12 ed—

13 (1) in paragraph (4), as amended by section
14 621, by adding at the end the following new sub-
15 paragraph:

16 “(C) WAIVER AUTHORIZED FOR HUMANI-
17 TARIAN IMMIGRANTS.—The Attorney General,
18 in the discretion of the Attorney General, may
19 waive the ground of inadmissibility under sub-
20 paragraph (A) in the case of an alien seeking
21 admission as a humanitarian immigrant under
22 section 203(c).”;

23 (2) in paragraph (5)(C), by inserting before the
24 period at the end the following: “, and shall not

1 apply to immigrants seeking admissions as humani-
2 tarian immigrants under section 203(c)”; and

3 (3) in paragraph (7)(A), by redesignating
4 clause (ii) as clause (iii) and by inserting after
5 clause (i) the following new clause:

6 “(ii) WAIVER AUTHORIZED FOR HU-
7 MANITARIAN IMMIGRANTS.—The Attorney
8 General, in the discretion of the Attorney
9 General, may waive the ground of inadmis-
10 sibility under clause (i) in the case of an
11 alien seeking admission as a humanitarian
12 immigrant under section 203(c).”.

13 (f) CONFORMING AMENDMENTS RELATING TO
14 ELIMINATION OF DIVERSITY PROGRAM.—

15 (1) Section 141(c) of the Immigration Act of
16 1990 is amended by striking paragraph (2).

17 (2) Section 204(b)(1) of Immigration Act of
18 1990 is amended by inserting “, as in effect before
19 fiscal year 1996” after “Immigration and National-
20 ity Act”.

21 **Subtitle D—General Effective Date;** 22 **Transition Provisions**

23 **SEC. 551. GENERAL EFFECTIVE DATE.**

24 (a) IN GENERAL.—Except as otherwise provided in
25 subsection (b) or in this title, this title and the amend-

1 ments made by this title shall take effect on October 1,
2 1996, and shall apply beginning with fiscal year 1997.

3 (b) PROVISIONS TAKING EFFECT UPON ENACT-
4 MENT.—Sections 523 and 554 shall take effect on the date
5 of the enactment of this Act.

6 **SEC. 552. GENERAL TRANSITION FOR CURRENT CLASSI-**
7 **FICATION PETITIONS.**

8 (a) FAMILY-SPONSORED IMMIGRANTS.—

9 (1) IMMEDIATE RELATIVES.—Any petition filed
10 under section 204(a) of the Immigration and Na-
11 tionality Act before October 1, 1996, for immediate
12 relative status under section 201(b)(2)(A) of such
13 Act (as in effect before such date) as a spouse or
14 child of a United States citizen or as a parent of a
15 United States citizen shall be deemed, as of such
16 date, to be a petition filed under such section for
17 status under section 201(b)(2)(A) (as such a spouse
18 or child) or under section 203(a)(2), respectively, of
19 such Act (as amended by this title).

20 (2) SPOUSES AND CHILDREN OF PERMANENT
21 RESIDENTS.—Any petition filed under section 204(a)
22 of the Immigration and Nationality Act before Octo-
23 ber 1, 1996, for preference status under section
24 203(a)(2) of such Act as a spouse or child of an
25 alien lawfully admitted for permanent residence shall

1 be deemed, as of such date, to be a petition filed
2 under such section for preference status under sec-
3 tion 203(a)(1) of such Act (as amended by this
4 title).

5 (b) EMPLOYMENT-BASED IMMIGRANTS.—

6 (1) IN GENERAL.—Subject to paragraph (2),
7 any petition filed before October 1, 1996, and ap-
8 proved on any date, to accord status under section
9 203(b)(1)(A), 203(b)(1)(B), 203(b)(1)(C),
10 203(b)(2), 203(b)(3)(A)(i), 203(b)(3)(A)(ii),
11 203(b)(4), or 203(b)(5) of the Immigration and Na-
12 tionality Act (as in effect before such date) shall be
13 deemed, on and after October 1, 1996 (or, if later,
14 the date of such approval), to be a petition approved
15 to accord status under section 203(b)(1),
16 203(b)(2)(B), 203(b)(2)(C), 203(b)(2)(B),
17 203(b)(3)(B), 203(b)(3)(C), 203(b)(5), or 203(b)(4),
18 respectively, of such Act (as in effect on and after
19 such date). Nothing in this paragraph shall be con-
20 strued as exempting the beneficiaries of such peti-
21 tions from the numerical limitations under section
22 203(b) of such Act.

23 (2) TIME LIMITATION.—Paragraph (1) shall
24 not apply more than two years after the date the

1 priority date for issuance of a visa on the basis of
2 such a petition has been reached.

3 (c) **ADMISSIBILITY STANDARDS.**—When an immi-
4 grant, in possession of an unexpired immigrant visa issued
5 before October 1, 1996, makes application for admission,
6 the immigrant's admissibility under paragraph (7)(A) of
7 section 212(a) of the Immigration and Nationality Act
8 shall be determined under the provisions of law in effect
9 on the date of the issuance of such visa.

10 (d) **CONSTRUCTION.**—Nothing in this title shall be
11 construed as affecting the provisions of section 19 of Pub-
12 lic Law 97-116, section 2(c)(1) of Public Law 97-271,
13 or section 202(e) of Public Law 99-603.

14 **SEC. 553. SPECIAL TRANSITION FOR CERTAIN BACK-**
15 **LOGGED SPOUSES AND CHILDREN OF LAW-**
16 **FUL PERMANENT RESIDENT ALIENS.**

17 (a) **IN GENERAL.**—In addition to any immigrant visa
18 numbers otherwise available, 50,000 immigrant visa num-
19 bers shall be made available in each of fiscal years 1997
20 through 2001 for aliens who have petitions approved for
21 classification under section 203(a)(1) of the Immigration
22 and Nationality Act (as amended by this title) for the fis-
23 cal year.

24 (b) **ORDER.**—(1) Subject to paragraph (2), visa num-
25 bers under this section shall be made available in the order

1 in which a petition, in behalf of each such immigrant for
2 classification under section 203(a)(1) of the Immigration
3 and Nationality Act, is filed with the Attorney General
4 under section 204 of such Act.

5 (2) Visa numbers shall first be made available to
6 aliens for whom the petitioning alien did not become an
7 alien lawfully admitted for permanent residence through
8 the operation of section 210 or 245A of the Immigration
9 and Nationality Act.

10 (3) The per country numerical limitations of section
11 202 of such Act shall not apply with respect to visa num-
12 bers made available under this section.

13 (c) REPORT.—The Attorney General shall submit to
14 Congress, by April 1, 2001, a report on the operation of
15 this section and the extent to which this section will, by
16 October 1, 2001, have resulted in visa numbers being
17 available to immigrants described in paragraphs (1) and
18 (2) of subsection (b) being available on a current basis.

19 **SEC. 554. SPECIAL TREATMENT OF CERTAIN DISADVAN-**
20 **TAGED FAMILY FIRST PREFERENCE IMMI-**
21 **GRANTS.**

22 (a) DISREGARD OF PER COUNTRY LIMITS FOR LAST
23 HALF OF FISCAL YEAR 1996.—The per country numeri-
24 cal limitations specified in section 202(a) of the Immigra-
25 tion and Nationality Act shall not apply to immigrant

1 numbers made available under section 203(a)(1) of such
2 Act (as in effect on the date of the enactment of this Act)
3 on or after April 1, 1996, but only to the extent necessary
4 to assure that the priority date for aliens classified under
5 such section who are nationals of a country is not earlier
6 than the priority date for aliens classified under section
7 203(a)(2)(B) of such Act for aliens who are nationals of
8 that country.

9 (b) ADDITIONAL VISA NUMBERS POTENTIALLY
10 AVAILABLE TO ASSURE EQUITABLE TREATMENT FOR
11 UNMARRIED SONS AND DAUGHTERS OF UNITED STATES
12 CITIZENS.—

13 (1) IN GENERAL.—In addition to any immi-
14 grant visa otherwise available, immigrant visa num-
15 bers shall be made available during fiscal year 1997
16 for disadvantaged family first preference aliens (as
17 defined in paragraph (2)) and for spouses and chil-
18 dren of such aliens who would otherwise be eligible
19 to immigrant status under section 203(d) of the Im-
20 migration and Nationality Act in relation to such
21 aliens if the aliens remained entitled to immigrant
22 status under section 203(a) of such Act.

23 (2) DISADVANTAGED FAMILY FIRST PREF-
24 ERENCE ALIEN DEFINED.—In this subsection, the

1 term “disadvantaged family first preference alien”
 2 means an alien—

3 (A) with respect to whom a petition for
 4 classification under section 203(a)(1) of the Im-
 5 migration and Nationality Act (as in effect on
 6 the date of the enactment of this Act) was ap-
 7 proved as of September 30, 1996, and

8 (B) whose priority date, as of September 30,
 9 1996, under such classification was earlier than the
 10 priority date as of such date for aliens of the same
 11 nationality with respect to whom a petition for clas-
 12 sification under section 203(a)(2)(B) of such Act (as
 13 in effect on such date) had been approved.

14 (3) DISREGARD OF PER COUNTRY NUMERICAL
 15 LIMITATIONS.—Additional visa numbers made avail-
 16 able under this subsection shall not be taken into ac-
 17 count for purposes of applying any numerical limita-
 18 tion applicable to the country under section 202 of
 19 such Act.

20 **TITLE VI—RESTRICTIONS ON**
 21 **BENEFITS FOR ILLEGAL ALIENS**

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1 **SEC. 600. STATEMENTS OF NATIONAL POLICY CONCERNING**
 2 **WELFARE AND IMMIGRATION.**

3 The Congress makes the following statements con-
 4 cerning national policy with respect to welfare and immi-
 5 gration:

6 (1) Self-sufficiency has been a basic principle of
 7 United States immigration law since this country's
 8 earliest immigration statutes.

9 (2) It continues to be the immigration policy of
 10 the United States that—

11 (A) aliens within the nation's borders not
 12 depend on public resources to meet their needs,
 13 but rather rely on their own capabilities and the

1 resources of their families, their sponsors, and
2 private organizations, and

3 (B) the availability of public benefits not
4 constitute an incentive for immigration to the
5 United States.

6 (3) Despite the principle of self-sufficiency,
7 aliens have been applying for and receiving public
8 benefits from Federal, State, and local governments
9 at increasing rates.

10 (4) Current eligibility rules for public assistance
11 and unenforceable financial support agreements have
12 proved wholly incapable of assuring that individual
13 aliens not burden the public benefits system.

14 (5) It is a compelling government interest to
15 enact new rules for eligibility and sponsorship agree-
16 ments in order to assure that aliens be self-reliant
17 in accordance with national immigration policy.

18 (6) It is a compelling government interest to re-
19 move the incentive for illegal immigration provided
20 by the availability of public benefits.

21 (7) Where States are authorized to follow Fed-
22 eral eligibility rules for public assistance programs,
23 the Congress strongly encourages the States to
24 adopt the Federal eligibility rules.

1 **Subtitle A—Eligibility of Illegal**
2 **Aliens for Public Benefits**

3 **PART 1—PUBLIC BENEFITS GENERALLY**

4 **SEC. 601. MAKING ILLEGAL ALIENS INELIGIBLE FOR PUB-**
5 **LIC ASSISTANCE, CONTRACTS, AND LI-**
6 **CENSES.**

7 (a) FEDERAL PROGRAMS.—Notwithstanding any
8 other provision of law, except as provided in section 604,
9 any alien who is not lawfully present in the United States
10 shall not be eligible for any of the following:

11 (1) FEDERAL ASSISTANCE PROGRAMS.—To re-
12 ceive any benefits under any program of assistance
13 provided or funded, in whole or in part, by the Fed-
14 eral Government for which eligibility (or the amount
15 of assistance) is based on financial need.

16 (2) FEDERAL CONTRACTS OR LICENSES.—To
17 receive any grant, to enter into any contract or loan
18 agreement, or to be issued (or have renewed) any
19 professional or commercial license, if the grant, con-
20 tract, loan, or license is provided or funded by any
21 Federal agency.

22 (b) STATE PROGRAMS.—Notwithstanding any other
23 provision of law, except as provided in section 604, any
24 alien who is not lawfully present in the United States shall
25 not be eligible for any of the following:

1 (1) STATE ASSISTANCE PROGRAMS.—To receive
2 any benefits under any program of assistance (not
3 described in subsection (a)(1)) provided or funded,
4 in whole or in part, by a State or political subdivi-
5 sion of a State for which eligibility (or the amount
6 of assistance) is based on financial need.

7 (2) STATE CONTRACTS OR LICENSES.—To re-
8 ceive any grant, to enter into any contract or loan
9 agreement, or to be issued (or have renewed) any
10 professional or commercial license, if the grant, con-
11 tract, loan, or license is provided or funded by any
12 State agency.

13 (c) REQUIRING PROOF OF ELIGIBILITY FOR FED-
14 ERAL CONTRACTS, GRANTS, LOANS, LICENSES, AND PUB-
15 LIC ASSISTANCE.—

16 (1) IN GENERAL.—In considering an applica-
17 tion for a Federal contract, grant, loan, or license,
18 or for public assistance under a program described
19 in paragraph (2), a Federal agency shall require the
20 applicant to provide proof of eligibility under para-
21 graph (3) to be considered for such Federal con-
22 tract, grant, loan, license, or public assistance.

23 (2) PUBLIC ASSISTANCE PROGRAMS COV-
24 ERED.—The requirement of proof of eligibility under

1 paragraph (1) shall apply to the following Federal
2 public assistance programs:

3 (A) SSI.—The supplemental security in-
4 come program under title XVI of the Social Se-
5 curity Act, including State supplementary bene-
6 fits programs referred to in such title.

7 (B) AFDC.—The program of aid to fami-
8 lies with dependent children under part A or E
9 of title IV of the Social Security Act.

10 (C) SOCIAL SERVICES BLOCK GRANT.—The
11 program of block grants to States for social
12 services under title XX of the Social Security
13 Act.

14 (D) MEDICAID.—The program of medical
15 assistance under title XIX of the Social Secu-
16 rity Act.

17 (E) FOOD STAMPS.—The program under
18 the Food Stamp Act of 1977.

19 (F) HOUSING ASSISTANCE.—Financial as-
20 sistance as defined in section 214(b) of the
21 Housing and Community Development Act of
22 1980.

23 (3) DOCUMENTS THAT SHOW PROOF OF ELIGI-
24 BILITY.—Any one of the documents listed under this
25 paragraph may be used as proof of eligibility under

1 this subsection. Any such document shall be current
2 and valid. No other document or documents shall be
3 sufficient to prove eligibility.

4 (A) United States passport.

5 (B) Resident alien card.

6 (C) State driver's license.

7 (D) State identity card.

8 (d) AUTHORIZATION FOR STATES TO REQUIRE
9 PROOF OF ELIGIBILITY FOR STATE PROGRAMS.—In con-
10 sidering an application for contracts, grants, loans, li-
11 censes, or public assistance under any State program, a
12 State is authorized to require the applicant to provide
13 proof of eligibility to be considered for such State con-
14 tracts, grants, loans, licenses, or public assistance.

15 **SEC. 602. MAKING UNAUTHORIZED ALIENS INELIGIBLE**
16 **FOR UNEMPLOYMENT BENEFITS.**

17 (a) IN GENERAL.—Notwithstanding any other provi-
18 sion of law, no unemployment benefits shall be payable
19 (in whole or in part) out of Federal funds to the extent
20 the benefits are attributable to any employment of the
21 alien in the United States for which the alien had not been
22 granted employment authorization pursuant to Federal
23 law.

24 (b) PROCEDURES.—Entities responsible for providing
25 unemployment benefits subject to the restrictions of this

1 section shall make such inquiries as may be necessary to
2 assure that applicants for such benefits are eligible con-
3 sistent with this section.

4 **SEC. 603. GENERAL EXCEPTIONS.**

5 Sections 601 and 602 shall not apply to the following:

6 (1) EMERGENCY MEDICAL SERVICES.—The pro-
7 vision of emergency medical services (as defined by
8 the Attorney General in consultation with the Sec-
9 retary of Health and Human Services).

10 (2) PUBLIC HEALTH IMMUNIZATIONS.—Public
11 health assistance for immunizations with respect to
12 immunizable diseases and for testing and treatment
13 for communicable diseases.

14 (3) SHORT-TERM EMERGENCY DISASTER RE-
15 LIEF.—The provision of non-cash, in-kind, short-
16 term emergency disaster relief.

17 **SEC. 604. REPORT ON DISQUALIFICATION OF ILLEGAL**
18 **ALIENS FROM HOUSING ASSISTANCE PRO-**
19 **GRAMS.**

20 Not later than 90 days after the date of the enact-
21 ment of this Act, the Secretary of Housing and Urban
22 Development shall submit a report to the Committees on
23 the Judiciary of the House of Representatives and of the
24 Senate, the Committee on Banking of the House of Rep-
25 resentatives, and the Committee on Banking, Housing,

1 and Urban Affairs of the Senate, describing the manner
2 in which the Secretary is enforcing section 214 of the
3 Housing and Community Development Act of 1980. The
4 report shall contain statistics with respect to the number
5 of aliens denied financial assistance under such section.

6 **SEC. 605. DEFINITIONS.**

7 For purposes of this part:

8 (1) **LAWFUL PRESENCE.**—The determination of
9 whether an alien is lawfully present in the United
10 States shall be made in accordance with regulations
11 of the Attorney General. An alien shall not be con-
12 sidered to be lawfully present in the United States
13 for purposes of this title merely because the alien
14 may be considered to be permanently residing in the
15 United States under color of law for purposes of any
16 particular program.

17 (2) **STATE.**—The term “State” includes the
18 District of Columbia, Puerto Rico, the Virgin Is-
19 lands, Guam, the Northern Mariana Islands, and
20 American Samoa.

21 **SEC. 606. REGULATIONS AND EFFECTIVE DATES.**

22 (a) **REGULATIONS.**—The Attorney General shall first
23 issue regulations to carry out this part (other than section
24 604) by not later than 60 days after the date of the enact-

1 ment of this Act. Such regulations shall take effect on an
2 interim basis, pending changes based on public comment.

3 (b) EFFECTIVE DATE FOR RESTRICTIONS ON ELIGI-
4 BILITY FOR PUBLIC BENEFITS.—(1) Except as provided
5 in this subsection, section 601 shall apply to benefits pro-
6 vided, contracts or loan agreements entered into, and pro-
7 fessional and commercial licenses issued (or renewed) on
8 or after such date as the Attorney General specifies in reg-
9 ulations under subsection (a). Such date shall be at least
10 30 days, and not more than 60 days, after the date the
11 Attorney General first issues such regulations.

12 (2) The Attorney General, in carrying out section
13 601(a)(2), may permit such section to be waived in the
14 case of individuals for whom an application for the grant,
15 contract, loan, or license is pending (or approved) as of
16 a date (which is on or before the effective date specified
17 under paragraph (1)).

18 (c) EFFECTIVE DATE FOR RESTRICTIONS ON ELIGI-
19 BILITY FOR UNEMPLOYMENT BENEFITS.—(1) Except as
20 provided in this subsection, section 602 shall apply to un-
21 employment benefits provided on or after such date as the
22 Attorney General specifies in regulations under subsection
23 (a). Such date shall be at least 30 days, and not more
24 than 60 days, after the date the Attorney General first
25 issues such regulations.

1 (2) The Attorney General, in carrying out section
2 602, may permit such section to be waived in the case
3 of an individual during a continuous period of unemploy-
4 ment for whom an application for unemployment benefits
5 is pending as of a date (which is on or before the effective
6 date specified under paragraph (1)).

7 (d) BROAD DISSEMINATION OF INFORMATION.—Be-
8 fore the effective dates specified in subsections (b) and (c),
9 the Attorney General shall broadly disseminate informa-
10 tion regarding the restrictions on eligibility under this
11 part.

12 **PART 2—EARNED INCOME TAX CREDIT**

13 **SEC. 611. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS NOT AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES.**

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

20 “(F) IDENTIFICATION NUMBER REQUIRE-
21 MENT.—The term ‘eligible individual’ does not
22 include any individual who does not include on
23 the return of tax for the taxable year—

24 “(i) such individual’s taxpayer identi-
25 fication number, and

1 “(ii) if the individual is married (with-
2 in the meaning of section 7703), the tax-
3 payer identification number of such indi-
4 vidual’s spouse.”

5 (b) SPECIAL IDENTIFICATION NUMBER.—Section 32
6 of the Internal Revenue Code of 1986 (relating to earned
7 income) is amended by adding at the end the following
8 new subsection:

9 “(k) IDENTIFICATION NUMBERS.—Solely for pur-
10 poses of subsections (c)(1)(F) and (c)(3)(D), a taxpayer
11 identification number means a social security number is-
12 sued to an individual by the Social Security Administra-
13 tion (other than a social security number issued pursuant
14 to clause (II) (or that portion of clause (III) that relates
15 to clause (II)) of section 205(c)(2)(B)(i) of the Social Se-
16 curity Act).”

17 (c) EXTENSION OF PROCEDURES APPLICABLE TO
18 MATHEMATICAL OR CLERICAL ERRORS.—Section
19 6213(g)(2) of the Internal Revenue Code of 1986 (relating
20 to the definition of mathematical or clerical errors) is
21 amended by striking “and” at the end of subparagraph
22 (D), by striking the period at the end of subparagraph
23 (E) and inserting “, and”, and by inserting after subpara-
24 graph (E) the following new subparagraph:

1 “(F) an omission of a correct taxpayer
2 identification number required under section 23
3 (relating to credit for families with younger
4 children) or section 32 (relating to the earned
5 income tax credit) to be included on a return.”.

6 (d) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to taxable years beginning after
8 December 31, 1995.

9 **Subtitle B—Expansion of Disquali-**
10 **fication from Immigration Bene-**
11 **fits on the Basis of Public**
12 **Charge**

13 **SEC. 621. GROUND FOR INADMISSIBILITY.**

14 (a) IN GENERAL.—Paragraph (4) of section 212(a)
15 (8 U.S.C. 1182(a)) is amended to read as follows:

16 “(4) PUBLIC CHARGE.—

17 “(A) FAMILY-SPONSORED IMMIGRANTS.—

18 Any alien who seeks admission or adjustment of
19 status under a visa number issued under sec-
20 tion 203(a), who cannot demonstrate to the
21 consular officer at the time of application for a
22 visa, or to the Attorney General at the time of
23 application for admission or adjustment of sta-
24 tus, that the alien’s age, health, family status,
25 assets, resources, financial status, education,

1 skills, or a combination thereof, or an affidavit
2 of support described in section 213A, or both,
3 make it unlikely that the alien will become a
4 public charge (as determined under section
5 241(a)(5)(B)) is inadmissible.

6 “(B) NONIMMIGRANTS.—Any alien who
7 seeks admission under a visa number issued
8 under section 214, who cannot demonstrate to
9 the consular officer at the time of application
10 for the visa that the alien’s age, health, family
11 status, assets, resources, financial status, edu-
12 cation, skills or a combination thereof, or an af-
13 fidavit of support described in section 213A, or
14 both, make it unlikely that the alien will become
15 a public charge (as determined under section
16 241(a)(B)(5)) is inadmissible.

17 “(C) EMPLOYMENT-BASED IMMIGRANTS.—

18 “(1) IN GENERAL.—Any alien who
19 seeks admission or adjustment of status
20 under a visa number issued under section
21 203(b), except for an alien who qualifies as
22 an alien of extraordinary ability under sec-
23 tion 203(b)(1)(A), who cannot demonstrate
24 to the consular officer at the time of appli-
25 cation for a visa, or to the Attorney Gen-

1 eral at the time of application for admis-
2 sion or adjustment of status, that the im-
3 migrant has a valid offer of employment is
4 inadmissible.

5 “(2) CERTAIN EMPLOYMENT-BASED
6 IMMIGRANTS.—Any alien who seeks admis-
7 sion or adjustment of status under a visa
8 number issued under section 203(b) by vir-
9 tue of a classification petition filed by a
10 relative of the alien (or by an entity in
11 which such relative has a significant own-
12 ership interest) is inadmissible unless such
13 relative has executed an affidavit of sup-
14 port described in section 213A with respect
15 to such alien.”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 subsection (a) shall apply to applications submitted on or
18 after such date, not earlier than 30 days and not later
19 than 60 days after the date the Attorney General formu-
20 lates the new affidavit of support form under section
21 213A(b) of the Immigration and Nationality Act (as in-
22 serted by section 622(a)), as the Attorney General shall
23 specify.

1 **SEC. 622. GROUND FOR DEPORTABILITY.**

2 (a) IN GENERAL.—Paragraph (5) of section 241(a)
3 (8 U.S.C. 1251(a)) is amended to read as follows:

4 “(5) PUBLIC CHARGE.—

5 “(A) IN GENERAL.—Any alien who, within
6 7 years after the date of entry or admission, be-
7 comes a public charge is deportable.

8 “(B) EXCEPTION.—Subparagraph (A)
9 shall not apply if the alien establishes that the
10 alien has become a public charge from causes
11 that arose after entry or admission. A condition
12 that the alien knew (or had reason to know) ex-
13 isted at the time of entry or admission shall be
14 deemed to be a cause that arose before entry or
15 admission.

16 “(C) INDIVIDUALS TREATED AS PUBLIC
17 CHARGE.—For purposes of this title, an alien is
18 deemed to be a ‘public charge’ if the alien re-
19 ceives benefits (other than benefits described in
20 subparagraph (E)) under one or more of the
21 public assistance programs described in sub-
22 paragraph (D) for an aggregate period of at
23 least 12 months within 7 years after the date
24 of entry. The previous sentence shall not be
25 construed as excluding any other bases for con-
26 sidering an alien to be a public charge, includ-

1 ing bases in effect on the day before the date
2 of the enactment of the Immigration in the Na-
3 tional Interest Act of 1995. The Attorney Gen-
4 eral, in consultation with the Secretary of
5 Health and Human Services, shall establish
6 rules regarding the counting of health benefits
7 described in subparagraph (D)(iv) for purposes
8 of this subparagraph.

9 “(D) PUBLIC ASSISTANCE PROGRAMS.—
10 For purposes of subparagraph (B), the public
11 assistance programs described in this subpara-
12 graph are the following (and include any suc-
13 cessor to such a program as identified by the
14 Attorney General in consultation with other ap-
15 propriate officials):

16 “(i) SSI.—The supplemental security
17 income program under title XVI of the So-
18 cial Security Act, including State supple-
19 mentary benefits programs referred to in
20 such title.

21 “(ii) AFDC.—The program of aid to
22 families with dependent children under
23 part A or E of title IV of the Social Secu-
24 rity Act.

1 “(iii) SOCIAL SERVICES BLOCK
2 GRANT.—The program of block grants to
3 States for social services under title XX of
4 the Social Security Act.

5 “(iv) MEDICAID.—The program of
6 medical assistance under title XIX of the
7 Social Security Act.

8 “(v) FOOD STAMPS.—The program
9 under the Food Stamp Act of 1977.

10 “(vi) STATE GENERAL CASH ASSIST-
11 ANCE.—A program of general cash assist-
12 ance of any State or political subdivision of
13 a State.

14 “(vii) HOUSING ASSISTANCE.—Finan-
15 cial assistance as defined in section 214(b)
16 of the Housing and Community Develop-
17 ment Act of 1980.

18 “(E) CERTAIN ASSISTANCE EXCEPTED.—
19 For purposes of subparagraph (B), an alien
20 shall not be considered to be a public charge on
21 the basis of receipt of any of the following bene-
22 fits:

23 “(i) EMERGENCY MEDICAL SERV-
24 ICES.—The provision of emergency medical
25 services (as defined by the Attorney Gen-

1 eral in consultation with the Secretary of
2 Health and Human Services).

3 “(ii) PUBLIC HEALTH IMMUNIZA-
4 TIONS.—Public health assistance for im-
5 munizations with respect to immunizable
6 diseases and for testing and treatment for
7 communicable diseases.

8 “(iii) SHORT-TERM EMERGENCY DIS-
9 ASTER RELIEF.—The provision of non-
10 cash, in-kind, short-term emergency disas-
11 ter relief.”.

12 (b) EFFECTIVE DATE.—(1) The amendment made by
13 subsection (a) shall take effect as of the first day of the
14 first month beginning at least 30 days after the date of
15 the enactment of this Act.

16 (2) In applying section 241(a)(5)(C) of the Immigra-
17 tion and Nationality Act, as amended by subsection (a),
18 no receipt of benefits under a public assistance program
19 before the effective date described in paragraph (1) shall
20 be taken into account.

1 **Subtitle C—Attribution of Income**
2 **and Affidavits of Support**

3 **SEC. 631. ATTRIBUTION OF SPONSOR'S INCOME AND RE-**
4 **SOURCES TO FAMILY-SPONSORED IMMI-**
5 **GRANTS.**

6 (a) FEDERAL PROGRAMS.—Notwithstanding any
7 other provision of law, in determining the eligibility and
8 the amount of benefits of an alien for any Federal means-
9 tested public benefits program (as defined in subsection
10 (c)) the income and resources of the alien shall be deemed
11 to include—

12 (1) the income and resources of any person who
13 executed an affidavit of support pursuant to section
14 213A of the Immigration and Nationality Act (as
15 added by section 622) in behalf of such alien, and

16 (2) the income and resources of the spouse (if
17 any) of the person.

18 (b) PERIOD OF ATTRIBUTION.—

19 (1) PARENTS OF UNITED STATES CITIZENS.—
20 Subsection (a) shall apply with respect to an alien
21 who is admitted to the United States as the parent
22 of a United States citizen under section 512 until
23 the alien is naturalized as a citizen of the United
24 States.

1 (2) SPOUSES OF UNITED STATES CITIZENS AND
2 LAWFUL PERMANENT RESIDENTS.—Subsection (a)
3 shall apply with respect to an alien who is admitted
4 to the United States as the spouse of a United
5 States citizen or lawful permanent resident under
6 sections 511 and 512 until—

7 (A) 7 years after the date the alien is law-
8 fully admitted to the United States for perma-
9 nent residence, or

10 (B) the alien is naturalized as a citizen of
11 the United States,

12 whichever occurs first.

13 (3) MINOR CHILDREN OF UNITED STATES CITI-
14 ZENS AND LAWFUL PERMANENT RESIDENTS.—Sub-
15 section (a) shall apply with respect to an alien who
16 is admitted to the United States as the minor child
17 of a United States citizen or lawful permanent resi-
18 dent under sections 511 and 512 until the child at-
19 tains the age of 21 years.

20 (4) CONTRIBUTION OF SPONSOR'S INCOME AND
21 RESOURCES ENDED IF SPONSORED ALIEN BECOMES
22 ELIGIBLE FOR OLD-AGE BENEFITS UNDER TITLE II
23 OF THE SOCIAL SECURITY ACT.—

24 (A) Notwithstanding any other provision of
25 this section, subsection (a) shall not apply and

1 the period of attribution of a sponsor's income
2 and resources under this subsection shall termi-
3 nate if the alien is employed for a period suffi-
4 cient to qualify for old age benefits under title
5 II of the Social Security Act and the alien is
6 able to prove to the satisfaction of the Attorney
7 General that the alien qualifies.

8 (B) The Attorney General shall ensure
9 that appropriate information pursuant to sub-
10 paragraph (A) is provided to the System for
11 Alien Verification of Eligibility (SAVE).

12 (c) OPTIONAL APPLICATION TO STATE PROGRAMS.—

13 (1) AUTHORITY.—Notwithstanding any other
14 provision of law, in determining the eligibility and
15 the amount of benefits of an alien for any State
16 means-tested public benefits program, the State or
17 political subdivision that offers the program is au-
18 thorized to provide that the income and resources
19 of the alien shall be deemed to include—

20 (A) the income and resources of any per-
21 son who executed an affidavit of support pursu-
22 ant to section 213A of the Immigration and
23 Nationality Act (as added by section 622) in
24 behalf of such alien, and

1 (B) the income and resources of the spouse
2 (if any) of the person.

3 (2) PERIOD OF ATTRIBUTION.—The period of
4 attribution of a sponsor’s income and resources in
5 determining the eligibility and amount of benefits
6 for an alien under any State means-tested public
7 benefits program pursuant to paragraph (1) may not
8 exceed the Federal period of attribution with respect
9 to the alien.

10 (e) MEANS-TESTED PROGRAM DEFINED.—In this
11 section:

12 (1) The term “means-tested public benefits pro-
13 gram” means a program of public benefits (includ-
14 ing cash, medical, housing, and food assistance and
15 social services) of the Federal Government or of a
16 State or political subdivision of a State in which the
17 eligibility of an individual, household, or family eligi-
18 bility unit for benefits under the program, or the
19 amount of such benefits, or both are determined on
20 the basis of income, resources, or financial need of
21 the individual, household, or unit.

22 (2) The term “Federal means-tested public ben-
23 efits program” means a means-tested public benefits
24 program of (or contributed to by) the Federal Gov-
25 ernment.

1 (3) The term “State means-tested public bene-
2 fits program” means a means-tested public benefits
3 program that is not a Federal means-tested pro-
4 gram.

5 **SEC. 632. REQUIREMENTS FOR SPONSOR’S AFFIDAVIT OF**
6 **SUPPORT.**

7 (a) IN GENERAL.—Title II is amended by inserting
8 after section 213 the following new section:

9 “REQUIREMENTS FOR SPONSOR’S AFFIDAVIT OF SUPPORT
10 “SEC. 213A. (a) ENFORCEABILITY.—(1) No affidavit
11 of support may be accepted by the Attorney General or
12 by any consular officer to establish that an alien is not
13 inadmissible as a public charge under section 212(a)(4)
14 unless such affidavit is executed as a contract—

15 “(A) which is legally enforceable against the
16 sponsor by the Federal Government and by any
17 State (or any political subdivision of such State)
18 which provides any means-tested public benefits pro-
19 gram, but not later than 10 years after the alien last
20 receives any such benefit; and

21 “(B) in which the sponsor agrees to submit to
22 the jurisdiction of any Federal or State court for the
23 purpose of actions brought under subsection (b)(2).

24 “(2)(A) An affidavit of support shall be enforceable
25 with respect to benefits provided under any means-tested
26 public benefits program for an alien who is admitted to

1 the United States as the parent of a United States citizen
2 under section 512 until the alien is naturalized as a citizen
3 of the United States.

4 “(B) An affidavit of support shall be enforceable with
5 respect to benefits provided under any means-tested public
6 benefits program for an alien who is admitted to the
7 United States as the spouse of a United States citizen or
8 lawful permanent resident under sections 511 and 512
9 until—

10 “(i) 7 years after the date the alien is lawfully
11 admitted to the United States for permanent resi-
12 dence, or

13 “(ii) such time as the alien is naturalized as a
14 citizen of the United States,
15 whichever occurs first.

16 “(C) An affidavit of support shall be enforceable with
17 respect to benefits provided under any means-tested public
18 benefits program for an alien who is admitted to the
19 United States as the minor child of a United States citizen
20 or lawful permanent resident under sections 511 and 512
21 until the child attains the age of 21 years.

22 “(D)(1) Notwithstanding any other provision of this
23 paragraph, a sponsor shall be relieved of any liability
24 under an affidavit of support if the sponsored alien is em-
25 ployed for a period sufficient to qualify for old age benefits

1 under title II of the Social Security Act and the sponsor
2 or alien is able to prove to the satisfaction of the Attorney
3 General that the alien qualifies.

4 “(2) The Attorney General shall ensure that appro-
5 priate information pursuant to paragraph (1) is provided
6 to the System for Alien Verification of Eligibility (SAVE).

7 “(b) REIMBURSEMENT OF GOVERNMENT EX-
8 PENSES.—(1)(A) Upon notification that a sponsored alien
9 has received any benefit under any means-tested public
10 benefits program, the appropriate Federal, State, or local
11 official shall request reimbursement by the sponsor in the
12 amount of such assistance.

13 “(B) The Attorney General, in consultation with the
14 Secretary of Health and Human Services, shall prescribe
15 such regulations as may be necessary to carry out sub-
16 paragraph (A).

17 “(2) If within 45 days after requesting reimburse-
18 ment, the appropriate Federal, State, or local agency has
19 not received a response from the sponsor indicating a will-
20 ingness to commence payments, an action may be brought
21 against the sponsor pursuant to the affidavit of support.

22 “(3) If the sponsor fails to abide by the repayment
23 terms established by such agency, the agency may, within
24 60 days of such failure, bring an action against the spon-
25 sor pursuant to the affidavit of support.

1 “(4) No cause of action may be brought under this
2 subsection later than 10 years after the alien last received
3 any benefit under any means-tested public benefits pro-
4 gram.

5 “(5) If, pursuant to the terms of this subsection, a
6 Federal, State, or local agency requests reimbursement
7 from the sponsor in the amount of assistance provided,
8 or brings an action against the sponsor pursuant to the
9 affidavit of support, the appropriate agency may appoint
10 or hire an individual or other person to act on behalf of
11 such agency acting under the authority of law for purposes
12 of collecting any moneys owed. Nothing in this subsection
13 shall preclude any appropriate Federal, State, or local
14 agency from directly requesting reimbursement from a
15 sponsor for the amount of assistance provided, or from
16 bringing an action against a sponsor pursuant to an affi-
17 davit of support.

18 “(c) REMEDIES.—Remedies available to enforce an
19 affidavit of support under this section include any or all
20 of the remedies described in section 3201, 3203, 3204,
21 or 3205 of title 28, United States Code, as well as an
22 order for specific performance and payment of legal fees
23 and other costs of collection, and include corresponding
24 remedies available under State law. A Federal agency may
25 seek to collect amounts owed under this section in accord-

1 ance with the provisions of subchapter II of chapter 37
2 of title 31, United States Code.

3 “(d) NOTIFICATION OF CHANGE OF ADDRESS.—(1)
4 The sponsor shall notify the Federal Government and the
5 State in which the sponsored alien is currently residing
6 within 30 days of any change of address of the sponsor
7 during the period specified in subsection (a)(1).

8 “(2) Any person subject to the requirement of para-
9 graph (1) who fails to satisfy such requirement shall be
10 subject to a civil penalty of—

11 “(A) not less than \$250 or more than \$2,000,

12 or

13 “(B) if such failure occurs with knowledge that
14 the sponsored alien has received any benefit under
15 any means-tested public benefits program, not less
16 than \$2,000 or more than \$5,000.

17 “(e) DEFINITIONS.—For the purposes of this sec-
18 tion—

19 “(1) SPONSOR.—The term ‘sponsor’ means an
20 individual who—

21 “(A) is a citizen or national of the United
22 States or an alien who is lawfully admitted to
23 the United States for permanent residence;

24 “(B) is 18 years of age or over;

25 “(C) is domiciled in any State;

1 “(D) demonstrates, through presentation
2 of a certified copy of a tax return or otherwise,
3 the means to maintain an annual income equal
4 to at least 200 percent of the poverty level for
5 the individual and the individual’s family (in-
6 cluding the sponsored alien or aliens); and

7 “(E) is the same individual who is petition-
8 ing for the admission of the sponsored alien
9 under section 204.

10 “(2) FEDERAL POVERTY LINE.—The term
11 ‘Federal poverty line’ means the income official pov-
12 erty line (as defined by the Office of Management
13 and Budget and revised annually in accordance with
14 section 673(2) of the Omnibus Budget Reconcili-
15 ation Act of 1981) that is applicable to a family of
16 the size involved.

17 “(3) MEANS-TESTED PUBLIC BENEFITS PRO-
18 GRAM.—The term ‘means-tested public benefits pro-
19 gram’ means a program of public benefits (including
20 cash, medical, housing, and food assistance and so-
21 cial services) of the Federal Government or of a
22 State or political subdivision of a State in which the
23 eligibility of an individual, household, or family eligi-
24 bility unit for benefits under the program, or the
25 amount of such benefits, or both are determined on

1 the basis of income, resources, or financial need of
2 the individual, household, or unit.”.

3 (b) REQUIREMENT OF AFFIDAVIT OF SUPPORT FROM
4 EMPLOYMENT SPONSORS.—For requirement for affidavit
5 of support from individuals who file classification petitions
6 for a relative as an employment-based immigrant, see the
7 amendment made by section 611.

8 (c) SETTLEMENT OF CLAIMS PRIOR TO NATURALIZA-
9 TION.—Section 316(a) (8 U.S.C. 1427(a)) is amended—

10 (1) by striking “and” before “(3)”, and

11 (2) by inserting before the period at the end the
12 following: “, and (4) in the case of an applicant that
13 has received assistance under a means-tested public
14 benefits program (as defined in subsection (f)(3) of
15 section 213A) administered by a Federal, State, or
16 local agency and with respect to which amounts may
17 be owing under an affidavit of support executed
18 under such section, provides satisfactory evidence
19 that there are no outstanding amounts that may be
20 owed to any such Federal, State, or local agency
21 pursuant to such affidavit by the sponsor who exe-
22 cuted such affidavit”.

23 (d) CLERICAL AMENDMENT.—The table of contents
24 of such Act is amended by inserting after the item relating
25 to section 213 the following:

“Sec. 213A. Requirements for sponsor’s affidavit of support.”.

1 (e) EFFECTIVE DATE.—Subsection (a) of section
 2 213A of the Immigration and Nationality Act, as inserted
 3 by subsection (a) of this section, shall apply to affidavits
 4 of support executed on or after a date specified by the
 5 Attorney General, which date shall be not earlier than 60
 6 days (and not later than 90 days) after the date the Attor-
 7 ney General formulates the form for such affidavits under
 8 subsection (b) of such section.

9 (f) PROMULGATION OF FORM.—Not later than 90
 10 days after the date of the enactment of this Act, the Attor-
 11 ney General, in consultation with the Secretary of State
 12 and the Secretary of Health and Human Services, shall
 13 formulate an affidavit of support consistent with the provi-
 14 sions of section 213A of the Immigration and Nationality
 15 Act.

16 **TITLE VII—FACILITATION OF** 17 **LEGAL ENTRY**

18 **TABLE OF CONTENTS OF TITLE**

- Sec. 701. Additional land border inspectors; infrastructure improvements.
- Sec. 702. Commuter lane pilot programs.
- Sec. 703. Preinspection at foreign airports.
- Sec. 704. Training of airline personnel in detection of fraudulent documents.
- Sec. 705. Change in limitation on collection of immigration user fees.

19 **SEC. 701. ADDITIONAL LAND BORDER INSPECTORS; INFRA-** 20 **STRUCTURE IMPROVEMENTS.**

21 (a) INCREASED PERSONNEL.—

22 (1) IN GENERAL.—In order to eliminate undue
 23 delay in the thorough inspection of persons and vehi-

1 cles lawfully attempting to enter the United States,
2 the Attorney General and Secretary of the Treasury
3 shall increase, by approximately equal numbers in
4 each of the fiscal years 1996 and 1997, the number
5 of full-time land border inspectors assigned to active
6 duty by the Immigration and Naturalization Service
7 and the United States Customs Service to a level
8 adequate to assure full staffing during peak crossing
9 hours of all border crossing lanes now in use, under
10 construction, or whose construction has been author-
11 ized by Congress.

12 (2) DEPLOYMENT OF PERSONNEL.—The Attor-
13 ney General and the Secretary of the Treasury shall,
14 to the maximum extent practicable, ensure that the
15 personnel hired pursuant to this subsection shall be
16 deployed among the various Immigration and Natu-
17 ralization Service sectors in proportion to the num-
18 ber of land border crossings measured in each such
19 sector during the preceding fiscal year.

20 (b) IMPROVED INFRASTRUCTURE.—

21 (1) IN GENERAL.—The Attorney General may,
22 from time to time, in consultation with the Secretary
23 of the Treasury, identify those physical improve-
24 ments to the infrastructure of the international land
25 borders of the United States necessary to expedite

1 the inspection of persons and vehicles attempting to
2 lawfully enter the United States in accordance with
3 existing policies and procedures of the Immigration
4 and Naturalization Service, the United States Cus-
5 toms Service, and the Drug Enforcement Agency.

6 (2) PRIORITIES.—Such improvements to the in-
7 frastructure of the land border of the United States
8 shall be substantially completed and fully funded in
9 those portions of the United States where the Attor-
10 ney General, in consultation with the Committees on
11 the Judiciary of the House of Representatives and
12 the Senate, objectively determines the need to be
13 greatest or most immediate before the Attorney Gen-
14 eral may obligate funds for construction of any im-
15 provement otherwise located.

16 **SEC. 702. COMMUTER LANE PILOT PROGRAMS.**

17 (a) MAKING LAND BORDER INSPECTION FEE PER-
18 MANENT.—Section 286(q) (8 U.S.C. 1356) is amended—

19 (1) in paragraph (1), by striking “a project”
20 and inserting “projects”;

21 (2) in paragraph (1), by striking “Such
22 project” and inserting “Such projects”; and

23 (3) by striking paragraph (5).

24 (b) CONFORMING AMENDMENT.—The Departments
25 of Commerce, Justice, and State, the Judiciary, and Re-

1 lated Agencies Appropriation Act, 1994 (P.L. 103–121,
2 107 Stat. 1161) is amended by striking the fourth proviso
3 under the heading “Immigration and Naturalization Serv-
4 ice, Salaries and Expenses”.

5 **SEC. 703. PREINSPECTION AT FOREIGN AIRPORTS.**

6 (a) IN GENERAL.—The Immigration and Nationality
7 Act is amended by inserting after section 235 the following
8 new section:

9 “PREINSPECTION AT FOREIGN AIRPORTS
10 “SEC. 235A. (a) ESTABLISHMENT OF
11 PREINSPECTION STATIONS.—(1) Subject to paragraph
12 (4), not later than 2 years after the date of the enactment
13 of this section, the Attorney General, in consultation with
14 the Secretary of State, shall establish and maintain
15 preinspection stations in at least 5 of the foreign airports
16 that are among the 10 foreign airports which the Attorney
17 General identifies as serving as last points of departure
18 for the greatest numbers of passengers who arrive from
19 abroad by air at ports of entry within the United States.
20 Such preinspection stations shall be in addition to any
21 preinspection stations established prior to the date of the
22 enactment of this section.

23 “(2) Not later than November 1, 1995, and each sub-
24 sequent November 1, the Attorney General shall compile
25 data identifying—

1 “(A) the foreign airports which served as last
2 points of departure for aliens who arrived by air at
3 United States ports of entry without valid docu-
4 mentation during the preceding fiscal years,

5 “(B) the number and nationality of such aliens
6 arriving from each such foreign airport, and

7 “(C) the primary routes such aliens followed
8 from their country of origin to the United States.

9 “(3) Subject to paragraph (4), not later than 4 years
10 after the date of enactment of this section, the Attorney
11 General, in consultation with the Secretary of State, shall
12 establish preinspection stations in at least 5 additional for-
13 eign airports which the Attorney General, in consultation
14 with the Secretary of State, determines based on the data
15 compiled under paragraph (2) and such other information
16 as may be available would most effectively reduce the
17 number of aliens who arrive from abroad by air at points
18 of entry within the United States without valid docu-
19 mentation. Such preinspection stations shall be in addition
20 to those established prior to or pursuant to paragraph (1).

21 “(4) Prior to the establishment of a preinspection
22 station the Attorney General, in consultation with the Sec-
23 retary of State, shall ensure that—

1 “(A) employees of the United States stationed
2 at the preinspection station and their accompanying
3 family members will receive appropriate protection,

4 “(B) such employees and their families will not
5 be subject to unreasonable risks to their welfare and
6 safety, and

7 “(C) the country in which the preinspection sta-
8 tion is to be established maintains practices and pro-
9 cedures with respect to asylum seekers and refugees
10 in accordance with the Convention Relating to the
11 Status of Refugees (done at Geneva, July 28, 1951),
12 or the Protocol Relating to the Status of Refugees
13 (done at New York, January 31, 1967).

14 “(b) ESTABLISHMENT OF CARRIER CONSULTANT
15 PROGRAM.—The Attorney General shall assign additional
16 immigration officers to assist air carriers in the detection
17 of fraudulent documents at foreign airports which, based
18 on the records maintained pursuant to subsection (a)(2),
19 served as a point of departure for a significant number
20 of arrivals at United States ports of entry without valid
21 documentation, but where no preinspection station ex-
22 ists.”.

23 (c) CLERICAL AMENDMENT.—The table of contents
24 is amended by inserting after the item relating to section
25 235 the following new item:

“Sec. 235A. Preinspection at foreign airports.”.

1 **SEC. 704. TRAINING OF AIRLINE PERSONNEL IN DETEC-**
2 **TION OF FRAUDULENT DOCUMENTS.**

3 (a) USE OF FUNDS.—Section 286(h)(2)(A) (8 U.S.C.
4 1356(h)(2)(A)) is amended—

5 (1) in clause (iv), by inserting “, including
6 training of, and technical assistance to, commercial
7 airline personnel on such detection” after “United
8 States”, and

9 (2) by adding at the end the following:

10 “The Attorney General shall provide for expenditures for
11 training and assistance described in clause (iv) in an
12 amount, for any fiscal year, not less than 5 percent of
13 the total of the expenses incurred that are described in
14 the previous sentence.”.

15 (b) COMPLIANCE WITH DETECTION REGULA-
16 TIONS.—Section 212(f) (8 U.S.C. 1182(f)) is amended by
17 adding at the end the following: “Whenever the Attorney
18 General finds that a commercial airline has failed to com-
19 ply with regulations of the Attorney General relating to
20 requirements of airlines for the detection of fraudulent
21 documents used by passengers traveling to the United
22 States (including the training of personnel in such detec-
23 tion), the Attorney General may suspend the entry of some
24 or all aliens transported to the United States by such air-
25 line.”.

26 (c) EFFECTIVE DATES.—

1 (1) The amendments made by subsection (a)
2 shall apply to expenses incurred during or after fis-
3 cal year 1996.

4 (2) The Attorney General shall first issue, in
5 proposed form, regulations referred to in the second
6 sentence of section 212(f) of the Immigration and
7 Nationality Act, as added by the amendment made
8 by subsection (b), by not later than 90 days after
9 the date of the enactment of this Act.

10 **SEC. 705. CHANGE IN LIMITATION ON COLLECTION OF IM-**
11 **MIGRATION USER FEES.**

12 (a) IN GENERAL.—Section 286(e)(1) (8 U.S.C.
13 1356(e)(1)) is amended by striking all that follows “any
14 passenger” and inserting “aboard an international ferry.”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 subsection (a) shall apply to fees charged with respect to
17 immigration inspection or preinspection services rendered
18 in regard to arriving passengers using transportation for
19 which documents or tickets were issued after the date of
20 the enactment of this Act.

21 **TITLE VIII—MISCELLANEOUS**
22 **PROVISIONS**

23 TABLE OF CONTENTS OF TITLE

TITLE VIII—MISCELLANEOUS PROVISIONS

Sec. 801. Amended definition of aggravated felony.

Sec. 802. Amended definitions of “child” and “parent” to facilitate adoption of
children born out-of-wedlock.

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

1 **SEC. 801. AMENDED DEFINITION OF AGGRAVATED FELONY.**

2 (a) IN GENERAL.—Section 101(a)(43) (8 U.S.C.
3 1101(a)(43)), as amended by section 222 of the Immigra-
4 tion and Nationality Technical Corrections Act of 1994
5 (Public Law 103-416), is amended—

6 (1) in subparagraph (N), by striking “of title
7 18, United States Code”, and

8 (2) in subparagraph (O), by striking “which
9 constitutes” and all that follows up to the semicolon
10 at the end and inserting “, for the purpose of com-
11 mercial advantage”.

12 (b) EFFECTIVE DATE OF CONVICTION.—Section
13 101(a)(43) (8 U.S.C. 1101(a)(43)), as amended by section
14 222(b) of the Immigration and Nationality Technical Cor-
15 rections Act of 1994 (Public Law 103-416) is amended
16 by adding at the end the following sentence: “Notwith-
17 standing any other provision of law, the term applies for

1 all purposes to convictions entered before, on, or after the
2 date of enactment of this Act.”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall be effective as if included in the enact-
5 ment of the Immigration and Nationality Technical Cor-
6 rections Act of 1994 (Public Law 103–416).

7 **SEC. 802. AMENDED DEFINITIONS OF “CHILD” AND “PAR-**
8 **ENT” TO FACILITATE ADOPTION OF CHIL-**
9 **DREN BORN OUT-OF-WEDLOCK.**

10 (a) IN GENERAL.—Section 101(b) (8 U.S.C.
11 1101(b)(1)) is amended—

12 (1) in paragraph (1)(A), by striking “a legiti-
13 mate child” and inserting “a child born in wedlock”,
14 and

15 (2) by paragraphs (1)(D) and (2), by striking
16 “an illegitimate child” and inserting “a child born
17 out of wedlock”.

18 (b) EFFECTIVE DATE.—The amendments made by
19 subsection (a) shall take effect on the date of the enact-
20 ment of this Act.

21 **SEC. 803. AUTHORITY TO DETERMINE VISA PROCESSING**
22 **PROCEDURES.**

23 (a) IN GENERAL.—Section 202(a) (8 U.S.C.
24 1152(a)) is amended—

1 (1) in paragraph (1), by striking “paragraph
2 (2)” and inserting “paragraphs (2) and (5)”, and

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

5 “(5) CONSTRUCTION.—Nothing in paragraph
6 (1) shall be construed to limit the authority of the
7 Secretary of State to determine the procedures for
8 the processing of immigrant visa applications or the
9 locations where such applications will be processed.”

10 (b) EFFECTIVE DATE.—The amendments made by
11 subsection (a) shall apply to visas issued before, on, or
12 after the date of the enactment of this Act.

13 **SEC. 804. WAIVER AUTHORITY CONCERNING NOTICE OF**
14 **DENIAL OF APPLICATION FOR VISAS.**

15 Section 212(b) (8 U.S.C. 1182(b)) is amended—

16 (1) by redesignating paragraphs (1) and (2) as
17 subparagraphs (A) and (B);

18 (2) by striking “If” and inserting “(1) Subject
19 to paragraph (2), if”; and

20 (3) by inserting at the end the following para-
21 graph:

22 “(2) With respect to applications for visas, the Sec-
23 retary of State may waive the application of paragraph
24 (1) in the case of a particular alien or any class or classes
25 of aliens inadmissible under subsection (a)(2) or (a)(3).”.

1 **SEC. 805. TREATMENT OF CANADIAN LANDED IMMIGRANTS.**

2 Section 212(d)(4)(B) (8 U.S.C. 1182(d)(4)(B)) is
3 amended—

4 (1) by striking “and residents” and inserting “,
5 residents”, and

6 (2) by striking “nationals,” and inserting “na-
7 tionals, and aliens who are granted permanent resi-
8 dence by the government of the foreign contiguous
9 territory and who are residing in that territory”.

10 **SEC. 806. CHANGES RELATING TO H-1B NONIMMIGRANTS.**

11 (a) REMOVAL OF ANY REQUIREMENT FOR OBJEC-
12 TIVE WAGE SYSTEM FOR ALL EMPLOYERS.—Section
13 212(n) (8 U.S.C. 1182(n)) is amended by adding at the
14 end the following new paragraph:

15 “(3) For purposes of determining the actual wages
16 paid under paragraph (1)(A)(i)(I), an employer shall not
17 be required to have and document an objective system to
18 determine the wages of workers.”.

19 (b) INAPPLICABILITY OF CERTAIN REGULATIONS TO
20 NON-H-1B DEPENDENT EMPLOYERS.—

21 (1) DEFINITION OF H-1B DEPENDENT EM-
22 PLOYER.—Section 212(n)(2) (8 U.S.C. 1182(n)(2))
23 is amended by inserting after subparagraph (D) the
24 following new subparagraph:

1 “(E) In this subsection, the term ‘H-1B de-
2 pendent employer’ means, in the case of an employer
3 that has—

4 “(i) fewer than 41 full-time equivalent em-
5 ployees who are employed in the United States,
6 if the employer employs 4 or more
7 nonimmigrants under section
8 101(a)(15)(H)(i)(b), or

9 “(ii) at least 41 such full-time equivalent
10 employees, if the number of nonimmigrants
11 under section 101(a)(15)(H)(i)(b) that the em-
12 ployer employs is equal to at least 10 percent
13 of number of full-time equivalent employees of
14 the employer who are employed in the United
15 States.

16 In applying this subparagraph, any group treated as
17 a single employer under subsection (b), (c), (m), or
18 (o) of section 414 of the Internal Revenue Code of
19 1986 shall be treated as a single employer under
20 this subparagraph. Aliens with respect to whom the
21 employer has filed such an application shall be treat-
22 ed as employees, and counted as nonimmigrants
23 under section 101(a)(15)(H)(i)(b), under this sub-
24 paragraph.”.

1 (2) LIMITING APPLICATION OF CERTAIN RE-
2 QUIREMENTS FOR NON-H-1B-DEPENDENT EMPLOY-
3 ERS.—Section 212(n) (8 U.S.C. 1182(n)), as
4 amended in subsection (a), is further amended by
5 adding at the end the following new paragraph:

6 “(4) In carrying out this subsection in the case of
7 an employer that is not an H-1B-dependent employer—

8 “(A) the employer is not required to post no-
9 tices at worksites that were not listed on the applica-
10 tion under paragraph (1) if the worksites are within
11 the area of intended employment listed on such ap-
12 plication; and

13 “(B) if the employer has filed and had certified
14 an application under paragraph (1) with respect to
15 one or more nonimmigrants described in section
16 101(a)(15)(H)(i)(b) for one or more areas of em-
17 ployment—

18 “(i) the employer is not required to file
19 and have certified an additional application
20 under paragraph (1) with respect to such a
21 nonimmigrant for an area of employment not
22 listed in the previous application because the
23 employer has placed one or more such
24 nonimmigrants in such a nonlisted area so long
25 as each such nonimmigrant is not placed in

1 such nonlisted areas for a period exceeding 45
2 workdays in any 12-month period and not to
3 exceed 90 workdays in any 36-month period,
4 and

5 “(ii) the employer is not required to pay
6 per diem and transportation costs at any speci-
7 fied rates for work performed in such a
8 nonlisted area.”.

9 (3) LIMITATION ON AUTHORITY TO INITIATE
10 COMPLAINTS AND CONDUCT INVESTIGATIONS FOR
11 NON-H-1B-DEPENDENT EMPLOYERS.—Section
12 212(n)(2)(A) (8 U.S.C. 1182(n)(2)(A)) is amend-
13 ed—

14 (A) in the second sentence, by inserting be-
15 fore the period at the end the following: “, ex-
16 cept that the Secretary may only file such a
17 complaint in the case of an H-1B-dependent
18 employer (as defined in subparagraph (E))”,
19 and

20 (B) by inserting after the second sentence
21 the following new sentence: “No investigation or
22 hearing shall be conducted with respect to an
23 employer that is not an H-1B-dependent em-
24 ployer except in response to a complaint filed
25 under the previous sentence.”.

1 (4) DELAY PERMITTED FOR CERTIFICATION IN
2 THE CASE OF H-1B-DEPENDENT EMPLOYERS.—Sec-
3 tion 212(n)(1) (8 U.S.C. 1182(n)(1)) is amended by
4 inserting before the period at the end the following:
5 “(or 30 days in the case of an employer which is an
6 H-1B dependent employer)”.

7 (c) NO DISPLACEMENT OF AMERICAN WORKERS
8 PERMITTED.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)),
9 as amended by subsection (a), is amended by inserting
10 after subparagraph (E) the following new subparagraph:

11 “(F)(i) At the time of filing the application, the
12 employer—

13 “(I) within the 6 months preceding the
14 date of filing the application the employer has
15 not laid off protected individuals (within the
16 meaning of section 274B(a)(3)) with the same
17 qualifications and experience in the specific em-
18 ployment for which the nonimmigrant is being
19 sought, unless the employer pays an actual
20 wage to each nonimmigrant that is at least 110
21 percent of the median of the last wage earned
22 by the laid off employees, and

23 “(II) within the 90 days following the date
24 of filing the application the employer will not
25 lay off protected individuals unless the employer

1 pays an actual wage to each nonimmigrant that
2 is at least 110 percent of the median of the last
3 wage earned by the laid off employees.

4 “(ii) In the case of an employer that is a job
5 contractor (within the meaning of regulations pro-
6 mulgated to carry out this subsection), the contrac-
7 tor shall not place the employee with another em-
8 ployer if the other employer would not meet the re-
9 quirements of clause (i) if the employee were an em-
10 ployee of that other employer.

11 “(iii) For purposes of this subparagraph, the
12 term ‘laid off’, with respect to an employee—

13 “(I) means the employee’s loss of employ-
14 ment, other than a discharge for cause, vol-
15 untary departure, or retirement, and

16 “(II) does not include any situation in
17 which the employee involved is offered a similar
18 job opportunity with the same employer carry-
19 ing similar compensation and benefits as the
20 position from which the employee was laid off,
21 regardless of whether or not the employee ac-
22 cepts the offer.”.

23 (d) EFFECTIVE DATES.—

24 (1) Except as otherwise provided in this sub-
25 section, the amendments made by this section shall

1 take effect on the date of the enactment of this Act
2 and shall apply to applications filed with the Sec-
3 retary of Labor on or after 30 days after the date
4 of the enactment of this Act.

5 (2) The amendments made by subsection (b)(3)
6 shall apply to complaints filed, and to investigations
7 or hearings initiated, on or after January 15, 1995.

8 **SEC. 807. VALIDITY OF PERIOD OF VISAS.**

9 (a) EXTENSION OF VALIDITY OF IMMIGRANT VISAS
10 TO 6 MONTHS.—Section 221(c) (8 U.S.C. 1201(c)) is
11 amended by striking “four months” and inserting “six
12 months”.

13 (b) AUTHORIZING APPLICATION OF RECIPROCITY
14 RULE FOR NONIMMIGRANT VISA IN CASE OF REFUGEES
15 AND PERMANENT RESIDENTS.—Such section is amended
16 by inserting before the period at the end of the third sen-
17 tence the following: “; except that in the case of aliens
18 who are nationals of a foreign country and who either are
19 granted refugee status and firmly resettled in another for-
20 eign country or are granted permanent residence and re-
21 siding in another foreign country, the Secretary of State
22 may prescribe the period of validity of such a visa based
23 upon the treatment granted by that other foreign country
24 to alien refugees and permanent residents, respectively, in
25 the United States”.

1 (1) by redesignating subparagraphs (A) through
2 (C) as clauses (i) through (iii), respectively;

3 (2) by striking “Neither” and inserting “(A)
4 Except as provided in this paragraph, neither”;

5 (3) by redesignating the last sentence as sub-
6 paragraph (D);

7 (4) by striking the semicolon and inserting a
8 period;

9 (5) by striking “except that the” and inserting
10 the following:

11 “(B) The”;

12 (6) by inserting after subparagraph (B), as cre-
13 ated by the amendment made by paragraph (5), the
14 following:

15 “(C) The Attorney General may authorize dis-
16 closure of information contained in the application of
17 the alien under this section to be used—

18 “(i) for identification of the alien when
19 there is reason to believe that the alien has
20 been killed or severely incapacitated;

21 “(ii) for criminal law enforcement purposes
22 against the alien whose application is to be dis-
23 closed if the alleged criminal activity occurred
24 after the legalization application was filed and
25 such activity involves terrorist activity or poses

1 either an immediate risk to life or to national
2 security, or would be prosecutable as an aggra-
3 vated felony, but without regard to the length
4 of sentence that could be imposed on the appli-
5 cant; or

6 “(iii) for immigration enforcement pur-
7 poses but only if the information is the date or
8 disposition of the application.”; and

9 (7) by adding at the end the following new sub-
10 paragraph:

11 “(E) Nothing in this paragraph shall preclude
12 the release for immigration enforcement purposes of
13 the following information contained in files or
14 records of the Service pertaining to the application:

15 “(i) The immigration status of the appli-
16 cant on any given date after the date of filing
17 the application (including whether the applicant
18 was authorized to work).

19 “(ii) The date of the applicant’s adjust-
20 ment (if any) to the status of an alien lawfully
21 admitted for permanent residence.

22 “(iii) Information concerning whether the
23 applicant has been convicted of a crime occur-
24 ring after the date of filing the application.”.

1 (b) SPECIAL AGRICULTURAL WORKER PROGRAM.—
2 Section 210(b) of such Act (8 U.S.C. 1160(b)) is amend-
3 ed—

4 (1) in paragraph (5), by inserting “, except as
5 permitting under paragraph (6)(B)” after “consent
6 of the alien”, and

7 (2) in paragraph (6)—

8 (A) by striking “Neither” and inserting
9 “(A) Except as provided in subparagraph (B),
10 neither”;

11 (B) by striking “Anyone” and inserting
12 the following:

13 “(C) Anyone”;

14 (C) by inserting after the first sentence the
15 following:

16 “(B) The Attorney General may authorize dis-
17 closure of information contained in the application of
18 the alien to be used—

19 “(i) for identification of the alien when
20 there is reason to believe that the alien has
21 been killed or severely incapacitated,

22 “(ii) for criminal law enforcement purposes
23 against the alien whose application is to be dis-
24 closed if the alleged criminal activity occurred
25 after the special agricultural worker application

1 was filed and such activity involves terrorist ac-
2 tivity or poses either an immediate risk to life
3 or to national security, or would be prosecutable
4 as an aggravated felony, but without regard to
5 the length of sentence that could be imposed on
6 the applicant, or

7 “(iii) for immigration enforcement pur-
8 poses but only if the information is the date or
9 disposition of the application.”; and

10 (7) by adding at the end the following new sub-
11 paragraph:

12 “(D) Nothing in this paragraph shall preclude
13 the release for immigration enforcement purposes of
14 the following information contained in files or
15 records of the Service pertaining to the application:

16 “(i) The immigration status of the appli-
17 cant on any given date after the date of filing
18 the application (including whether the applicant
19 was authorized to work).

20 “(ii) The date of the applicant’s adjust-
21 ment (if any) to the status of an alien lawfully
22 admitted for permanent residence.

23 “(iii) Information concerning whether the
24 applicant has been convicted of a crime occur-
25 ring after the date of filing the application.”.

1 **SEC. 810. NONIMMIGRANT STATUS FOR SPOUSES AND CHIL-**
2 **DREN OF MEMBERS OF THE ARMED SERV-**
3 **ICES.**

4 Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amend-
5 ed—

6 (1) by striking “or” at the end of subparagraph
7 (R),

8 (2) by striking the period at the end of sub-
9 paragraph (S), and

10 (3) by inserting after subparagraph (S) the fol-
11 lowing new subparagraph:

12 “(T) an alien who is the spouse or child of a
13 another alien who is serving on active duty in the
14 Armed Forces of the United States during the pe-
15 riod in which the other alien is stationed in the
16 United States.”.

17 **SEC. 811. COMMISSION REPORT ON FRAUD ASSOCIATED**
18 **WITH BIRTH CERTIFICATES.**

19 Section 141(c) of the Immigration Act of 1990 is
20 amended by adding at the end the following new para-
21 graph:

22 “(3) REPORT ON REDUCTION OF FRAUD ASSO-
23 CIATED WITH BIRTH CERTIFICATES.—

24 “(A) STUDY AND REPORT.—The Commis-
25 sion shall study and submit to Congress, by not
26 later than January 1, 1997, a report containing

1 recommendations (consistent with subparagraph
2 (B)) of methods of reducing or eliminating the
3 fraudulent use of birth certificate for the pur-
4 pose of obtaining other identity documents that
5 may be used in securing immigration, employ-
6 ment, and other benefits.

7 “(B) CONSIDERATIONS.—In conducting
8 the study and making recommendations, the
9 Commission shall consider and analyze the fea-
10 sibility of—

11 “(i) establishing national standards
12 for counterfeit-resistant birth certificates,
13 and

14 “(ii) limiting the issuance of official
15 copies of a birth certificate of an individual
16 to anyone other than the individual or oth-
17 ers acting on behalf of the individual.”.

18 **SEC. 812. UNIFORM VITAL STATISTICS.**

19 (a) PILOT PROGRAM.—The Secretary of Health and
20 Human Services shall consult with the State agency re-
21 sponsible for registration and certification of births and
22 deaths and, within 3 years of the date of enactment of
23 this Act, shall establish a pilot program for 3 of the 5
24 States with the largest number of undocumented aliens
25 of an electronic network linking the vital statistics records

1 of such States. The network shall provide, where practical,
2 for the matching of deaths with births and shall enable
3 the confirmation of births and deaths of citizens of such
4 States, or of aliens within such States, by any Federal
5 or State agency or official in the performance of official
6 duties. The Secretary and participating State agencies
7 shall institute measures to achieve uniform and accurate
8 reporting of vital statistics into the pilot program network,
9 to protect the integrity of the registration and certification
10 process, and to prevent fraud against the Government and
11 other persons through the use of false birth or death cer-
12 tificates.

13 (b) REPORT.—Not later than 180 days after the es-
14 tablishment of the pilot program under subsection (a), the
15 Secretary shall issue a written report to Congress with rec-
16 ommendations on how the pilot program could effectively
17 be instituted as a national network for the United States.

18 (c) AUTHORIZATION OF APPROPRIATIONS.—There
19 are authorized to be appropriated for fiscal year 1996 and
20 for subsequent fiscal years such sums as may be necessary
21 to carry out this section.

1 **SEC. 813. COMMUNICATION BETWEEN STATE AND LOCAL**
2 **GOVERNMENT AGENCIES, AND THE IMMIGRA-**
3 **TION AND NATURALIZATION SERVICE.**

4 Notwithstanding any other provision of Federal,
5 State, or local law, no State or local government entity
6 shall prohibit, or in any way restrict, any government en-
7 tity or any official within its jurisdiction from sending to
8 or receiving from the Immigration and Naturalization
9 Service information regarding the immigration status,
10 lawful or unlawful, of an alien in the United States.

11 **SEC. 814. MISCELLANEOUS TECHNICAL CORRECTIONS.**

12 (a) AMENDMENTS RELATING TO PUBLIC LAW 103-
13 322 (VIOLENT CRIME CONTROL AND LAW ENFORCEMENT
14 ACT OF 1994).—

15 (1) Effective as if included in the enactment of
16 the Violent Crime Control and Law Enforcement
17 Act of 1994 (Public Law 103-322) (in this sub-
18 section referred to as “VCCLEA”), section
19 60024(1)(F) of such Act is amended by inserting
20 “United States Code,” after “title 18,”.

21 (2) Section 274(a)(2) (8 U.S.C. 1324(a)(2)), as
22 amended by section 60024(2) of VCCLEA, is
23 amended by striking the first period after “both”.

24 (3) Effective as if included in the enactment of
25 VCCLEA, section 130003(b)(3) of such Act is

1 amended by striking “Naturalization” and inserting
2 “Nationality”.

3 (4)(A) Section 214 (8 U.S.C. 1184) is amended
4 by redesignating the subsection (j), added by section
5 130003(b)(2) of VCCLEA (108 Stat. 2025), and the
6 subsection (k), added by section 220(b) of the Immi-
7 gration and Nationality Technical Amendments Act
8 of 1994 (Public Law 103–416, 108 Stat. 4319), as
9 subsections (k) and (l), respectively.

10 (B) Section 101(a)(15)(S) (8 U.S.C.
11 1101(a)(15)(S)) is amended by striking “214(j)”
12 and inserting “214(k)”.

13 (5)(A) Section 245 (8 U.S.C. 1255) is amended
14 by redesignating the subsection (i) added by section
15 130003(c)(1) of VCCLEA as subsection (j).

16 (B) Section 241(a)(2)(A)(i)(I) (8 U.S.C.
17 1251(a)(2)(A)(i)(I)), as amended by section
18 130003(d) of VCCLEA and before redesignation by
19 section 305(2), is amended by striking “245(i)” and
20 inserting “245(j)”.

21 (6) Section 245(i)(3), as added by
22 § 130003(c)(1) of VCCLEA, is amended by striking
23 “paragraphs (1) or (2)” and inserting “paragraph
24 (1) or (2)”.

1 (7) Section 130007(a) of VCCLEA is amended
2 by striking “242A(d)” and inserting “242A(a)(3)”.

3 (8) The amendments made by this subsection
4 shall be effective as if included in the enactment of
5 the VCCLEA.

6 (b) AMENDMENTS RELATING TO IMMIGRATION AND
7 NATIONALITY TECHNICAL CORRECTIONS ACT OF 1994.—

8 (1) Section 101(d) of the Immigration and Na-
9 tionality Technical Corrections Act of 1994 (Public
10 Law 103–416) (in this subsection referred to as
11 “INTCA”) is amended—

12 (A) by striking “APPLICATION” and all
13 that follows through “This” and inserting “AP-
14 PLICABILITY OF TRANSMISSION REQUIRE-
15 MENTS.—This”;

16 (B) by striking “any residency or other re-
17 tention requirements for ” and inserting “the
18 application of any provision of law relating to
19 residence or physical presence in the United
20 States for purposes of transmitting United
21 States”; and

22 (C) by striking “as in effect” and all that
23 follows through the end and inserting “to any
24 person whose claim is based on the amendment

1 made by subsection (a) or through whom such
2 a claim is derived.”.

3 (2) Section 102 of INTCA is amended by add-
4 ing at the end the following new subsection:

5 “(e) TRANSITION.—In applying the amendment made
6 by subsection (a) to children born before November 14,
7 1986, any reference in the matter inserted by such amend-
8 ment to ‘five years, at least two of which’ is deemed a
9 reference to ‘10 years, at least 5 of which’.”.

10 (3) Section 351(a) (8 U.S.C. 1483(a)), as
11 amended by section 105(a)(2)(A) of INTCA, is
12 amended by striking the comma after “nationality”.

13 (4) Section 207(2) of INTCA is amended by in-
14 serting a comma after “specified”.

15 (5) Section 101(a)(43) (8 U.S.C. 1101(a)(43))
16 is amended—

17 (A) in subparagraph (K)(ii), by striking
18 the comma after “1588”, and

19 (B) in subparagraph (O), by striking
20 “suspicion” and inserting “suspension”.

21 (6) Section 273(b) (8 U.S.C. 1323(b)), as
22 amended by section 209(a) of INTCA, is amended
23 by striking “remain” and inserting “remains”.

24 (7) Section 209(a)(1) of INTCA is amended by
25 striking “\$3000” and inserting “\$3,000”.

1 (8) Section 209(b) of INTCA is amended by
2 striking “subsection” and inserting “section”.

3 (9) Section 217(f) (8 U.S.C. 1187(f)), as
4 amended by section 210 of INTCA, is amended by
5 adding a period at the end.

6 (10) Effective as if included in enactment of
7 § 219(cc) of INTCA, section 204(a)(1)(C) of the Im-
8 migration Reform and Control Act of 1986 is
9 amended by striking “year 1993” the first place it
10 appears” and inserting “years 1993”.

11 (11) Section 219(ee) of INTCA is amended by
12 adding at the end the following new paragraph:

13 “(3) The amendments made by this section shall take
14 effect on the date of the enactment of this Act.”.

15 (12) Paragraphs (4) and (6) of section 286(r)
16 (8 U.S.C. 1356(r)) are amended by inserting “the”
17 before “Fund” each place it appears.

18 (13) Section 221 of INTCA is amended—

19 (A) by striking each semicolon and insert-
20 ing a comma,

21 (B) by striking “disasters.” and inserting
22 “disasters,”, and

23 (C) by striking “The official” and inserting
24 “the official”.

25 (14)(A) Section 225 of INTCA is amended—

1 (i) by striking “section 242(i)” and insert-
2 ing “sections 242(i) and 242A”, and

3 (ii) by inserting “, 1252a” after “1252(i)”.

4 (15) Except as otherwise provided in this sub-
5 section, the amendments made by this subsection
6 shall take effect as if included in the enactment of
7 INTCA.

8 (c) STRIKING REFERENCES TO SECTION 210A.—

9 (1)(A) Section 201(b)(1)(C) (8 U.S.C.
10 1151(b)(1)(C)) and section 274B(a)(3)(B) (8 U.S.C.
11 1324b(a)(3)(B)) are each amended by striking “,
12 210A, or”.

13 (B) Section 241(a)(1) (8 U.S.C. 1251(a)(1)),
14 before redesignation by section 305(2), is amended
15 by striking subparagraph (F).

16 (2) Sections 204(c)(1)(D)(i) and 204(j)(4) of
17 Immigration Reform and Control Act of 1986 are
18 each amended by striking “, 210A,”.

19 (d) MISCELLANEOUS CHANGES IN THE IMMIGRATION
20 AND NATIONALITY ACT.—

21 (1) The item in the table of contents relating
22 to section 242A is amended to read as follows:

“Sec. 242A. Expedited deportation of aliens convicted of committing aggravated felonies.”.

1 (2) Section 101(a)(43)(N) (8 U.S.C.
2 1101(a)(43)(N)) is amended by striking “of title 18,
3 United States Code”.

4 (3) Section 101(c)(1) (8 U.S.C. 1101(c)(1)) is
5 amended by striking “, 321, and 322” and inserting
6 “and 321”.

7 (4) Pursuant to section 6(b) of Public Law
8 103–272 (108 Stat. 1378)—

9 (A) section 214(f)(1) (8 U.S.C.
10 1184(f)(1)) is amended by striking “section
11 101(3) of the Federal Aviation Act of 1958”
12 and inserting “section 40102(a)(2) of title 49,
13 United States Code”; and

14 (B) section 258(b)(2) (8 U.S.C.
15 1288(b)(2)) is amended by striking “section
16 105 or 106 of the Hazardous Materials Trans-
17 portation Act (49 U.S.C. App. 1804, 1805” and
18 inserting “section 5103(b), 5104, 5106, 5107,
19 or 5110 of title 49, United States Code”.

20 (5) Section 273(d) (8 U.S.C. 1323(d)) is
21 amended by striking “the sum” and inserting “a
22 fine”.

23 (6) Section 286(h)(2)(A) (8 U.S.C.
24 1356(h)(2)(A)) is amended—

1 (A) by moving clauses (v) and (vi) 2 ems
2 to the left,

3 (B) by striking the semicolon and colons,
4 and

5 (C) by striking the period at the end of
6 clause (v) and inserting “; and”.

7 (7) Section 337(a) (8 U.S.C. 1448(a)) is amended
8 by striking the last sentence.

9 (8) Section 412(b) (8 U.S.C. 1522(b)) is
10 amended by striking the comma after “is author-
11 ized” in paragraph (3) and after “The Secretary” in
12 paragraph (4).

13 (e) MISCELLANEOUS CHANGES IN THE IMMIGRATION
14 ACT OF 1990.—

15 (1) Section 160(c)(3) of the Immigration Act of
16 1990 is amended by striking “an an” and inserting
17 “an”.

18 (2) Effective as if included in the enactment of
19 the Immigration Act of 1990, section 302(c) of such
20 Act is amended by striking “AFFECT” and inserting
21 “EFFECT”.

22 (f) MISCELLANEOUS CHANGES IN OTHER ACTS.—

23 (1) Section 506(a) of the Intelligence Author-
24 ization Act, Fiscal Year 1990 (Public Law 101–193)

1 is amended by striking “this section” and inserting
 2 “such section”.

3 (2) Section 140 of the Foreign Relations Au-
 4 thorization Act, Fiscal Years 1994 and 1995, as
 5 amended by section 505(2) of Public Law 103-317,
 6 is amended—

7 (A) by moving the indentation of sub-
 8 sections (f) and (g) 2 ems to the left, and

9 (B) in subsection (g), by striking “(g)”
 10 and all that follows through “shall” and insert-
 11 ing “(g) Subsections (d) and (e) shall”.



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