

104<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# **H. R. 2202**

---

---

## **AN ACT**

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.

104<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# **H. R. 2202**

---

## **AN ACT**

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

to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes.

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

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

6 (a) SHORT TITLE.—This Act may be cited as the  
 7 “Immigration in the National Interest Act of 1996”.

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.

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

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

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

**Subtitle A—Improved Enforcement at Border**

- Sec. 101. Border patrol agents and support personnel.
- Sec. 102. Improvement of barriers at border.
- Sec. 103. Improved border equipment and technology.
- Sec. 104. Improvement in border crossing identification card.
- Sec. 105. Civil penalties for illegal entry.
- Sec. 106. Prosecution of aliens repeatedly reentering the United States unlawfully.
- Sec. 107. Inservice training for the border patrol.
- Sec. 108. Report.

**Subtitle B—Pilot Programs**

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

**Subtitle C—Interior Enforcement**

- Sec. 121. Increase in personnel for interior enforcement.
- Sec. 122. Acceptance of state services to carry out deportation functions.

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

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

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

**Subtitle B—Deterrence of Document Fraud**

- Sec. 211. Increased criminal penalties for fraudulent use of government-issued documents.
- Sec. 212. New civil penalties for document fraud.
- Sec. 213. New civil penalty for failure to present documents and for preparing immigration documents without authorization.
- Sec. 214. New criminal penalties for failure to disclose role as preparer of false application for asylum and for preparing certain post-conviction applications.
- Sec. 215. Criminal penalty for knowingly presenting document which fails to contain reasonable basis in law or fact.
- Sec. 216. Criminal penalties for false claim to citizenship.

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

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

Sec. 223. Effective date.

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

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

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

**Subtitle B—Removal of Alien Terrorists**

PART 1—REMOVAL PROCEDURES FOR ALIEN TERRORISTS

- Sec. 321. Removal procedures for alien terrorists.  
 Sec. 322. Funding for detention and removal of alien terrorists.

PART 2—INADMISSIBILITY AND DENIAL OF RELIEF FOR ALIEN TERRORISTS

- Sec. 331. Membership in terrorist organization as ground of inadmissibility.  
 Sec. 332. Denial of relief for alien terrorists.

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

- Sec. 341. Definition of stowaway.  
 Sec. 342. List of alien and citizen passengers arriving.  
 Sec. 343. Provisions relating to contracts with transportation lines.

**Subtitle D—Additional Provisions**

- Sec. 351. Definition of conviction.  
 Sec. 352. Immigration judges and compensation.  
 Sec. 353. Rescission of lawful permanent resident status.  
 Sec. 354. Civil penalties for failure to depart.  
 Sec. 355. Clarification of district court jurisdiction.  
 Sec. 356. Demonstration project for identification of illegal aliens in incarceration facility of Anaheim, California.  
 Sec. 357. Enhanced penalties for failure to depart, illegal reentry, and passport and visa fraud.  
 Sec. 358. Authorization of additional funds for removal of aliens.  
 Sec. 359. Application of additional civil penalties to enforcement.  
 Sec. 360. Prisoner transfer treaties.

- Sec. 361. Criminal alien identification system.
- Sec. 362. Waiver of exclusion and deportation ground for certain section 274C violators.
- Sec. 363. Authorizing registration of aliens on criminal probation or criminal parole.
- Sec. 364. Confidentiality provision for certain alien battered spouses and children.
- Sec. 365. Authority for State and local law enforcement assistance in deportation.

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

- Sec. 401. Pilot program for voluntary use of employment eligibility confirmation process.
- Sec. 402. Limiting liability for certain technical violations of paperwork requirements.
- Sec. 403. Paperwork and other changes in the employer sanctions program.
- Sec. 404. Strengthened enforcement of the employer sanctions provisions.
- Sec. 405. Reports on earnings of aliens not authorized to work.
- Sec. 406. Authorizing maintenance of certain information on aliens.
- Sec. 407. Unfair immigration-related employment practices.

#### **TITLE V—REFORM OF LEGAL IMMIGRATION SYSTEM**

##### **Subtitle A—Refugees**

- Sec. 501. Persecution for resistance to coercive population control methods.

##### **Subtitle B—Asylum Reform**

- Sec. 511. Asylum reform.
- Sec. 512. Fixing numerical adjustments for asylees at 10,000 each year.
- Sec. 513. Increase in asylum officers.

#### **TITLE VI—RESTRICTIONS ON BENEFITS FOR ALIENS**

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

##### **Subtitle A—Eligibility of Illegal Aliens for Public Benefits**

###### PART 1—PUBLIC BENEFITS GENERALLY

- Sec. 601. Making illegal aliens ineligible for public assistance, contracts, and licenses.
- Sec. 602. Making unauthorized aliens ineligible for unemployment benefits.
- Sec. 603. General exceptions.
- Sec. 604. Treatment of expenses subject to emergency medical services exception.
- Sec. 605. Report on disqualification of illegal aliens from housing assistance programs.
- Sec. 606. Verification of student eligibility for postsecondary Federal student financial assistance.
- Sec. 607. Payment of public assistance benefits.
- Sec. 608. Definitions.
- Sec. 609. Regulations and effective dates.

###### PART 2—HOUSING ASSISTANCE

- Sec. 611. Actions in cases of termination of financial assistance.
- Sec. 612. Verification of immigration status and eligibility for financial assistance.
- Sec. 613. Prohibition of sanctions against entities making financial assistance eligibility determinations.
- Sec. 614. Regulations.

#### PART 3—PUBLIC EDUCATION BENEFITS

- Sec. 616. Authorizing States to deny public education benefits to aliens not lawfully present in the United States.

#### **Subtitle B—Expansion of Disqualification From Immigration Benefits on the Basis of Public Charge**

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

#### **Subtitle C—Attribution of Income and Affidavits of Support**

- Sec. 631. Attribution of sponsor's income and resources to family-sponsored immigrants.
- Sec. 632. Requirements for sponsor's affidavit of support.
- Sec. 633. Cosignature of alien student loans.
- Sec. 634. Statutory construction.

#### **TITLE VII—FACILITATION OF LEGAL ENTRY**

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

#### **TITLE VIII—MISCELLANEOUS PROVISIONS**

#### **Subtitle A—Amendments to the Immigration and Nationality Act**

- Sec. 801. Nonimmigrant status for spouses and children of members of the Armed Services.
- Sec. 802. Amended definition of aggravated felony.
- 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. Change of nonimmigrant classification.
- Sec. 811. Certification requirements for foreign health-care workers.
- Sec. 812. Computation of targeted assistance.

#### **Subtitle B—Other Provisions**

- Sec. 831. Commission report on fraud associated with birth certificates.
- Sec. 832. Uniform vital statistics.

- Sec. 833. Communication between State and local government agencies, and the Immigration and Naturalization Service.
- Sec. 834. Regulations regarding habitual residence.
- Sec. 835. Female genital mutilation.
- Sec. 836. Designation of Portugal as a visa waiver pilot program country with probationary status.
- Sec. 837. Adjustment of status for certain Polish and Hungarian parolees.
- Sec. 838. Support of demonstration projects.
- Sec. 839. Treatment of certain aliens who served with special guerrilla units in Laos.
- Sec. 840. Sense of the Congress regarding the mission of the Immigration and Naturalization Service.
- Sec. 841. Authorization of reimbursement of certain Polish applicants for the 1995 diversity immigrant program.
- Sec. 842. Sense of Congress; requirements regarding notice.
- Sec. 843. Sense of the Congress with respect to State criminal alien assistance program.

**Subtitle C—Technical Corrections**

- Sec. 851. Miscellaneous technical corrections.

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

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

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

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

1 (b) INCREASE IN SUPPORT PERSONNEL.—The num-  
2 ber of full-time support positions for personnel in support  
3 of border enforcement, investigation, detention and depor-  
4 tation, intelligence, information and records, legal pro-  
5 ceedings, and management and administration in the Im-  
6 migration and Naturalization Service shall be increased,  
7 beginning with fiscal year 1996, by 800 positions above  
8 the number of equivalent positions as of September 30,  
9 1994.

10 (c) DEPLOYMENT OF NEW BORDER PATROL  
11 AGENTS.—The Attorney General shall, to the maximum  
12 extent practicable, ensure that the border patrol agents  
13 hired pursuant to subsection (a) shall—

14 (1) be deployed among the various Immigration  
15 and Naturalization Service sectors in proportion to  
16 the level of illegal crossing of the borders of the  
17 United States measured in each sector during the  
18 preceding fiscal year and reasonably anticipated in  
19 the next fiscal year, and

20 (2) be actively engaged in law enforcement ac-  
21 tivities related to such illegal crossings.

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

23 (a) IN GENERAL.—The Attorney General, in con-  
24 sultation with the Commissioner of the Immigration and  
25 Naturalization Service, shall take such actions as may be

1 necessary to install additional physical barriers and roads  
2 (including the removal of obstacles to detection of illegal  
3 entrants) in the vicinity of the United States border to  
4 deter illegal crossings in areas of high illegal entry into  
5 the United States.

6 (b) CONSTRUCTION OF FENCING AND ROAD IM-  
7 PROVEMENTS IN THE BORDER AREA NEAR SAN DIEGO,  
8 CALIFORNIA.—

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

16 (2) PROMPT ACQUISITION OF NECESSARY EASE-  
17 MENTS.—The Attorney General shall promptly ac-  
18 quire such easements as may be necessary to carry  
19 out this subsection and shall commence construction  
20 of fences immediately following such acquisition (or  
21 conclusion of portions thereof).

22 (3) AUTHORIZATION OF APPROPRIATIONS.—  
23 There are authorized to be appropriated to carry out  
24 this subsection not to exceed \$12,000,000. Amounts

1 appropriated under this paragraph are authorized to  
2 remain available until expended.

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

7 (d) FORWARD DEPLOYMENT.—

8 (1) IN GENERAL.—The Attorney General shall  
9 forward deploy existing border patrol agents in those  
10 areas of the border identified as areas of high illegal  
11 entry into the United States in order to provide a  
12 uniform and visible deterrent to illegal entry on a  
13 continuing basis. The previous sentence shall not  
14 apply to border patrol agents located at checkpoints.

15 (2) REPORT.—By not later than 6 months after  
16 the date of the enactment of this Act, the Attorney  
17 General shall submit to the appropriate committees  
18 of Congress a report on the progress and effective-  
19 ness of such forward deployments.

20 **SEC. 103. IMPROVED BORDER EQUIPMENT AND TECH-**  
21 **NOLOGY.**

22 The Attorney General is authorized to acquire and  
23 utilize, for the purpose of detection, interdiction, and re-  
24 duction of illegal immigration into the United States, any  
25 Federal equipment (including fixed wing aircraft, heli-

1 copters, four-wheel drive vehicles, sedans, night vision goggles,  
2 gles, night vision scopes, and sensor units) determined  
3 available for transfer by any other agency of the Federal  
4 Government upon request of the Attorney General.

5 **SEC. 104. IMPROVEMENT IN BORDER CROSSING IDENTIFICATION CARD.**  
6

7 (a) IN GENERAL.—Section 101(a)(6) (8 U.S.C.  
8 1101(a)(6)) is amended by adding at the end the following:  
9 “Such regulations shall provide that (A) each such  
10 document include a biometric identifier (such as the fingerprint  
11 or handprint of the alien) that is machine readable and (B) an alien  
12 presenting a border crossing identification card is not permitted to  
13 cross over the border into the United States unless the biometric  
14 identifier contained on the card matches the appropriate biometric  
15 characteristic of the alien.”.

17 (b) EFFECTIVE DATES.—

18 (1) Clause (A) of the sentence added by the  
19 amendment made by subsection (a) shall apply to  
20 documents issued on or after 18 months after the  
21 date of the enactment of this Act.

22 (2) Clause (B) of such sentence shall apply to  
23 cards presented on or after 3 years after the date  
24 of the enactment of this Act.

1 (c) REPORT.—Not later than one year after the im-  
2 plementation of clause (A) of the sentence added by the  
3 amendment made by subsection (a) the Attorney General  
4 shall submit to Congress a report on the impact of such  
5 clause on border crossing activities.

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.”.

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

5 **SEC. 106. PROSECUTION OF ALIENS REPEATEDLY REEN-**  
6 **TERING THE UNITED STATES UNLAWFULLY.**

7 (a) AUTHORIZATION OF APPROPRIATIONS.—There  
8 are authorized to be appropriated to the Attorney General  
9 such sums as may be necessary to provide for detention  
10 and prosecution of each alien who commits an act that  
11 constitutes a violation of section 275(a) of the Immigra-  
12 tion and Nationality Act if the alien has committed such  
13 an act on two previous occasions. Funds appropriated pur-  
14 suant to this subsection are authorized to remain available  
15 until expended.

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

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

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

24 “(e)(1) The Attorney General shall continue to pro-  
25 vide for such programs (including intensive language

1 training programs) of inservice training for full-time and  
2 part-time personnel of the Border Patrol in contact with  
3 the public as will familiarize the personnel with the rights  
4 and varied cultural backgrounds of aliens and citizens in  
5 order to ensure and safeguard the constitutional and civil  
6 rights, personal safety, and human dignity of all individ-  
7 uals, aliens as well as citizens, within the jurisdiction of  
8 the United States with whom such personnel have contact  
9 in their work.

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

13 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
14 are authorized to be appropriated to the Attorney General  
15 such sums as may be necessary for fiscal year 1996 to  
16 carry out the inservice training described in section  
17 103(e)(1) of the Immigration and Nationality Act. The  
18 funds appropriated pursuant to this subsection are au-  
19 thorized to remain available until expended.

20 **SEC. 108. REPORT.**

21 The Attorney General, in consultation with the Sec-  
22 retary of State and the Secretary of Defense, shall con-  
23 tract with the Comptroller General to track, monitor, and  
24 evaluate the Administration’s border strategy to deter ille-  
25 gal entry, more commonly referred to as prevention

1 through deterrence. To determine the efficacy of the Ad-  
2 ministration's strategy and related efforts, the Comptrol-  
3 ler General shall submit to Congress a report of its find-  
4 ings within one year after the date of the enactment of  
5 this Act and, for every year thereafter, up to and including  
6 fiscal year 2000. Such a report shall include a collection  
7 and systematic analysis of data, including workload indi-  
8 cators, related to activities to deter illegal entry. Such a  
9 report shall also include recommendations to improve and  
10 increase border security at both the border and ports-of-  
11 entry.

## 12 **Subtitle B—Pilot Programs**

### 13 **SEC. 111. PILOT PROGRAM ON INTERIOR REPATRIATION.**

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

23 (b) REPORT.—Not later than 30 months after the  
24 date of the enactment of this Act, the Attorney General,  
25 together with the Secretary of State, shall submit a report

1 to the Committees on the Judiciary of the House of Rep-  
2 resentatives and of the Senate on the operation of the pilot  
3 program under this section and whether the pilot program  
4 or any part thereof should be extended or made perma-  
5 nent.

6 **SEC. 112. PILOT PROGRAM ON USE OF CLOSED MILITARY**  
7 **BASES FOR THE DETENTION OF INADMIS-**  
8 **SIBLE OR DEPORTABLE ALIENS.**

9 (a) ESTABLISHMENT.—The Attorney General and  
10 the Secretary of Defense shall establish one or more pilot  
11 programs for up to 2 years each to determine the feasibil-  
12 ity of the use of military bases available because of actions  
13 under a base closure law as detention centers by the Immi-  
14 gration and Naturalization Service. In selecting real prop-  
15 erty at a military base for use as a detention center under  
16 the pilot program, the Attorney General and the Secretary  
17 shall consult with the redevelopment authority established  
18 for the military base and give substantial deference to the  
19 redevelopment plan prepared for the military base.

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

1 the Senate, on the feasibility of using military bases closed  
2 under a base closure law as detention centers by the Immi-  
3 gration and Naturalization Service.

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

6 (1) The Defense Base Closure and Realignment  
7 Act of 1990 (part A of title XXIX of Public Law  
8 101–510; 10 U.S.C. 2687 note).

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

12 (3) Section 2687 of title 10, United States  
13 Code.

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

16 **SEC. 113. PILOT PROGRAM TO COLLECT RECORDS OF DE-**  
17 **PARTING PASSENGERS.**

18 (a) ESTABLISHMENT.—The Commissioner of the Im-  
19 migration and Naturalization Service shall, within 180  
20 days after the date of the enactment of this Act, establish  
21 a pilot program in which officers of the Service collect a  
22 record of departure for every alien departing the United  
23 States and match the records of departure with the record  
24 of the alien’s arrival in the United States. The program  
25 shall be operated in as many air ports of entry as is

1 deemed appropriate, but at no less than 3 of the 5 air  
2 ports of entry with the heaviest volume of incoming traffic  
3 from foreign territories.

4 (b) REPORT.—

5 (1) DEADLINE.—The Commissioner shall sub-  
6 mit a report to Congress not later than 2 years after  
7 the date the pilot program is implemented under  
8 subsection (a).

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

12 (A) The number of departure records col-  
13 lected, with an accounting by country of nation-  
14 ality of the departing alien.

15 (B) The number of departure records that  
16 were successfully matched to records of the  
17 alien's prior arrival in the United States, with  
18 an accounting by the alien's country of nation-  
19 ality and by the alien's classification as an im-  
20 migrant or nonimmigrant.

21 (C) The number of aliens who arrived at  
22 the port of entry as nonimmigrants, or as a vis-  
23 itor under the visa waiver program under sec-  
24 tion 217 of the Immigration and Nationality  
25 Act, for whom no matching departure record

1           has been obtained through the pilot program or  
2           through other means, with an accounting by the  
3           alien's country of nationality and date of arrival  
4           in the United States.

5           (D) The estimated cost of establishing a  
6           national system to verify the departure from  
7           the United States of aliens admitted tempo-  
8           rarily as nonimmigrants.

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

12          (c) USE OF INFORMATION ON VISA OVERSTAYS.—In-  
13          formation on instances of visa overstay identified through  
14          the pilot program shall be integrated into appropriate data  
15          bases of the Immigration and Naturalization Service and  
16          the Department of State, including those used at ports  
17          of entry and at consular offices.

## 18       **Subtitle C—Interior Enforcement**

### 19       **SEC. 121. INCREASE IN PERSONNEL FOR INTERIOR EN-** 20                               **FORCEMENT.**

21          Subject to the availability of appropriations, the At-  
22          torney General shall provide for an increase in the number  
23          of investigators and enforcement personnel of the Immi-  
24          gration and Naturalization Service who are deployed in  
25          the interior so that the number of such personnel is ade-

1 quate properly to investigate violations of, and to enforce,  
2 immigration laws.

3 **SEC. 122. ACCEPTANCE OF STATE SERVICES TO CARRY OUT**  
4 **DEPORTATION FUNCTIONS.**

5 Section 287 (8 U.S.C. 1357) is amended by adding  
6 at the end the following:

7 “(g)(1) Notwithstanding section 1342 of title 31,  
8 United States, Code, the Attorney General may enter into  
9 a written agreement with a State, or any political subdivi-  
10 sion of a State, pursuant to which an officer or employee  
11 of the State or subdivision, who is determined by the At-  
12 torney General to be qualified to perform a function of  
13 an immigration officer, or any other officer of the Depart-  
14 ment of Justice, under this Act in relation to deportation  
15 of aliens in the United States (including investigation, ap-  
16 prehension, detention, presentation of evidence on behalf  
17 of the United States in administrative proceedings to de-  
18 termine the deportability of any alien, conduct of such pro-  
19 ceedings, or removal of aliens with respect to whom a final  
20 order of deportation has been rendered) may carry out  
21 such function at the expense of the State or political sub-  
22 division and to the extent consistent with State and local  
23 law.

24 “(2) An agreement under this subsection shall re-  
25 quire that an officer or employee of a State or political

1 subdivision of a State performing a function under the  
2 agreement shall have knowledge of, and adhere to, Federal  
3 law relating to the function.

4 “(3) In performing a function under this subsection,  
5 an officer or employee of a State or political subdivision  
6 of a State shall be subject to the direction and supervision  
7 of the Attorney General.

8 “(4) In performing a function under this subsection,  
9 an officer or employee of a State or political subdivision  
10 of a State may use Federal property or facilities, as pro-  
11 vided in a written agreement between the Attorney Gen-  
12 eral and the State or subdivision.

13 “(5) With respect to each officer or employee of a  
14 State or political subdivision who is authorized to perform  
15 a function under this subsection, the specific powers and  
16 duties that may be, or are required to be, exercised or  
17 performed by the individual, the duration of the authority  
18 of the individual, and the position of the agent of the At-  
19 torney General who is required to supervise and direct the  
20 individual, shall be set forth in a written agreement be-  
21 tween the Attorney General and the State or political sub-  
22 division.

23 “(6) The Attorney General may not accept a service  
24 under this subsection if the service will be used to displace  
25 any Federal employee.

1       “(7) Except as provided in paragraph (8), an officer  
2 or employee of a State or political subdivision of a State  
3 performing functions under this subsection shall not be  
4 treated as a Federal employee for any purpose other than  
5 for purposes of chapter 81 of title 5, United States Code,  
6 (relating to compensation for injury) and sections 2671  
7 through 2680 of title 28, United States Code, (relating  
8 to tort claims).

9       “(8) An officer or employee of a State or political  
10 subdivision of a State acting under color of authority  
11 under this subsection, or any agreement entered into  
12 under this subsection, shall be considered to be acting  
13 under color of Federal authority for purposes of determin-  
14 ing the liability, and immunity from suit, of the officer  
15 or employee in a civil action brought under Federal or  
16 State law.

17       “(9) Nothing in this subsection shall be construed to  
18 require any State or political subdivision of a State to  
19 enter into an agreement with the Attorney General under  
20 this subsection.

21       “(10) Nothing in this subsection shall be construed  
22 to require an agreement under this subsection in order for  
23 any officer or employee of a State or political subdivision  
24 of a State—

1           “(A) to communicate with the Attorney General  
2           regarding the immigration status of any individual,  
3           including reporting a suspicion that a particular  
4           alien is not lawfully present in the United States; or

5           “(B) otherwise to cooperate with the Attorney  
6           General in the identification, apprehension, deten-  
7           tion, or removal of aliens not lawfully present in the  
8           United States.”.

9   **TITLE II—ENHANCED ENFORCE-**  
10   **MENT AND PENALTIES**  
11   **AGAINST ALIEN SMUGGLING;**  
12   **DOCUMENT FRAUD**

13   **Subtitle A—Enhanced Enforcement**  
14   **and Penalties Against Alien**  
15   **Smuggling**

16   **SEC. 201. WIRETAP AUTHORITY FOR ALIEN SMUGGLING IN-**  
17                   **VESTIGATIONS.**

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

20           (1) by striking “and” at the end of paragraph  
21           (n),

22           (2) by redesignating paragraph (o) as para-  
23           graph (p), and

24           (3) by inserting after paragraph (n) the follow-  
25           ing new paragraph:

1           “(o)(1) a felony violation of section 1028 (relat-  
2           ing to production of false identification documenta-  
3           tion), section 1541 (relating to passport issuance  
4           without authority), section 1542 (relating to false  
5           statements in passport applications), section 1543  
6           (relating to forgery or false use of passport), section  
7           1544 (relating to misuse of passport), section 1546  
8           (relating to fraud or misuse of visas, permits, or  
9           other documents) of this title; or

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

13 **SEC. 202. RACKETEERING OFFENSES RELATING TO ALIEN**  
14 **SMUGGLING.**

15           Section 1961(1) of title 18, United States Code, is  
16 amended—

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

20           (2) by inserting “section 1542 (relating to false  
21           statement in application and use of passport), sec-  
22           tion 1543 (relating to forgery or false use of pass-  
23           port), section 1544 (relating to misuse of passport),  
24           section 1546 (relating to fraud and misuse of visas,  
25           permits, and other documents), sections 1581–1588

1 (relating to peonage and slavery),” after “section  
2 1513 (relating to retaliating against a witness, vic-  
3 tim, or an informant),”;

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

5 (4) by inserting before the period at the end the  
6 following: “, or (F) any act which is indictable under  
7 the Immigration and Nationality Act, section 274  
8 (relating to bringing in and harboring certain  
9 aliens), section 277 (relating to aiding or assisting  
10 certain aliens to enter the United States), or section  
11 278 (relating to importation of alien for immoral  
12 purpose)”.

13 **SEC. 203. INCREASED CRIMINAL PENALTIES FOR ALIEN**  
14 **SMUGGLING.**

15 (a) IN GENERAL.—Section 274(a)(1) (8 U.S.C.  
16 1324(a)(1)) is amended—

17 (1) in subparagraph (B)(i), by inserting “or in  
18 the case of a violation of subparagraph (A)(ii), (iii),  
19 or (iv) in which the offense was done for the purpose  
20 of commercial advantage or private financial gain”  
21 after “subparagraph (A)(i)”, and

22 (2) by adding at the end the following new sub-  
23 paragraph:

1       “(C) Any person who engages in any conspiracy to  
2 commit, or aids or abets the commission of, any of the  
3 acts described in—

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

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

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

13               (1) in subparagraph (B)—

14                       (A) by striking “or” at the end of clause  
15                       (ii),

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

18                       (C) by inserting after clause (iii) the fol-  
19                       lowing:

20                               “(iv) an offense committed with the  
21                               intent or with reason to believe that the  
22                               alien unlawfully brought into the United  
23                               States will commit an offense against the  
24                               United States or any State punishable by  
25                               imprisonment for more than 1 year,”; and

1           (2) by striking “be fined” and all that follows  
2 through the final period at the end and inserting the  
3 following: “be fined under title 18, United States  
4 Code, and shall be imprisoned not less than 3 years  
5 or more than 10 years.”.

6           (c) APPLYING CERTAIN PENALTIES ON A PER ALIEN  
7 BASIS.—Section 274(a)(2) (8 U.S.C. 1324(a)(2)) is  
8 amended by striking “for each transaction constituting a  
9 violation of this paragraph, regardless of the number of  
10 aliens involved” and inserting “for each alien in respect  
11 to whom a violation of this paragraph occurs”.

12 **SEC. 204. INCREASED NUMBER OF ASSISTANT UNITED**  
13 **STATES ATTORNEYS.**

14           (a) IN GENERAL.—The number of Assistant United  
15 States Attorneys employed by the Department of Justice  
16 for the fiscal year 1997 shall be increased by 25 above  
17 the number of Assistant United States Attorneys that  
18 were authorized to be employed as of September 30, 1996.

19           (b) ASSIGNMENT.—Individuals employed to fill the  
20 additional positions described in subsection (a) shall pros-  
21 ecute persons who bring into the United States or harbor  
22 illegal aliens or violate other criminal statutes involving  
23 illegal aliens.

1 **SEC. 205. UNDERCOVER INVESTIGATION AUTHORITY.**

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

4 “UNDERCOVER INVESTIGATION AUTHORITY

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

9 “(1) sums appropriated for the Service may be  
10 used for leasing space within the United States and  
11 the territories and possessions of the United States  
12 without regard to the following provisions of law:

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

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

17 “(C) section 305 of the Act of June 30,  
18 1949 (63 Stat. 396; 41 U.S.C. 255),

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

22 “(E) section 3648 of the Revised Statutes  
23 (31 U.S.C. 3324),

24 “(F) section 3741 of the Revised Statutes  
25 (41 U.S.C. 22), and

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

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

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

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

23          The authority set forth in this subsection may be exercised  
24          only upon written certification of the Commissioner, in  
25          consultation with the Deputy Attorney General, that any

1 action authorized by paragraph (1), (2), (3), or (4) is nec-  
2 essary for the conduct of the undercover operation.

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

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

24 “(d) FINANCIAL AUDITS.—The Service shall conduct  
25 detailed financial audits of closed undercover operations

1 on a quarterly basis and shall report the results of the  
2 audits in writing to the Deputy Attorney General.”.

3 (b) CLERICAL AMENDMENT.—The table of contents  
4 is amended by inserting after the item relating to section  
5 293 the following:

“Sec. 294. Undercover investigation authority.”.

6 **Subtitle B—Deterrence of**  
7 **Document Fraud**

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

11 (a) FRAUD AND MISUSE OF GOVERNMENT-ISSUED  
12 IDENTIFICATION DOCUMENTS.—Section 1028(b) of title  
13 18, United States Code, is amended—

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

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

21 (3) by redesignating paragraph (3) as para-  
22 graph (5); and

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

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

5           “(4) a fine under this title or imprisonment for  
6           not more than 25 years, or both, if the offense is  
7           committed to facilitate an act of international terror-  
8           ism (as defined in section 2331(1) of this title);  
9           and”.

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

19                 (1) not less than offense level 15 if the offense  
20                 involves 100 or more documents;

21                 (2) not less than offense level 20 if the offense  
22                 involves 1,000 or more documents, or if the docu-  
23                 ments were used to facilitate any other criminal ac-  
24                 tivity described in section 212(a)(2)(A)(i)(II) of the  
25                 Immigration and Nationality Act (8 U.S.C.

1 1182(a)(A)(i)(II)) or in section 101(a)(43) of such  
2 Act; and

3 (3) not less than offense level 25 if the offense  
4 involves—

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

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

16 (C) the provision of documents to persons  
17 involved in racketeering enterprises (described  
18 in section 1952(a) of title 18, United States  
19 Code).

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

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

23 (1) by striking “or” at the end of paragraph  
24 (3);

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

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

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

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

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

24           (c) EFFECTIVE DATES.—(1) The amendments made  
25 by subsection (a) shall apply to the preparation or filing

1 of documents, and assistance in such preparation or filing,  
2 occurring on or after the date of the enactment of this  
3 Act.

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

7 **SEC. 213. NEW CIVIL PENALTY FOR FAILURE TO PRESENT**  
8 **DOCUMENTS AND FOR PREPARING IMMIGRA-**  
9 **TION DOCUMENTS WITHOUT AUTHORIZA-**  
10 **TION.**

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 a comma;

18 (3) by inserting after paragraph (5) the follow-  
19 ing new paragraphs:

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, or



1           “(1) If a person is required by law or regulation  
2           to disclose the fact that the person, on behalf of an-  
3           other person and for a fee or other remuneration,  
4           has prepared or assisted in preparing an application  
5           for asylum pursuant to section 208, or the regula-  
6           tions promulgated thereunder, and the person know-  
7           ingly and willfully fails to disclose, conceals, or cov-  
8           ers up such fact, and the application was falsely  
9           made, the person shall—

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

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

18           “(2) Whoever, having been convicted of a viola-  
19           tion of paragraph (1), knowingly and willfully pre-  
20           pares or assists in preparing an application for asy-  
21           lum pursuant to section 208, or the regulations pro-  
22           mulgated thereunder, regardless of whether for a fee  
23           or other remuneration, in violation of paragraph  
24           (1)(B) shall be imprisoned for not less than 5 years  
25           or more than 15 years, fined in accordance with title

1 18, United States Code, or both, and prohibited  
2 from preparing or assisting in preparing any other  
3 such application.”.

4 **SEC. 215. CRIMINAL PENALTY FOR KNOWINGLY PRESENT-**  
5 **ING DOCUMENT WHICH FAILS TO CONTAIN**  
6 **REASONABLE BASIS IN LAW OR FACT.**

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

12 **SEC. 216. CRIMINAL PENALTIES FOR FALSE CLAIM TO CITI-**  
13 **ZENSHIP.**

14 Section 1015 of title 18, United States Code, is  
15 amended—

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

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

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

1 “(f) Whoever knowingly makes any false statement  
2 or claim that he is a citizen of the United States in order  
3 to register to vote or to vote in any Federal, State, or  
4 local election (including an initiative, recall, or referen-  
5 dum)—”.

6 **Subtitle C—Asset Forfeiture for**  
7 **Passport and Visa Offenses**

8 **SEC. 221. CRIMINAL FORFEITURE FOR PASSPORT AND VISA**  
9 **RELATED OFFENSES.**

10 Section 982 of title 18, United States Code, is  
11 amended—

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

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

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

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

4 Section 986(a) of title 18, United States Code, is  
5 amended by inserting “1028, 1541, 1542, 1543, 1544,  
6 1546,” before “1956”.

7 **SEC. 223. EFFECTIVE DATE.**

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

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

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

18 **SEC. 300. OVERVIEW OF CHANGES IN REMOVAL PROCE-**  
19 **DURES.**

20 This subtitle amends the provisions of the Immigra-  
21 tion and Nationality Act relating to procedures for inspec-  
22 tion, exclusion, and deportation of aliens so as to provide  
23 for the following:

24 (1) **EXPEDITED REMOVAL FOR UNDOCUMENTED**  
25 **ALIENS.**—Aliens arriving without valid documents

1 are subject to an expedited removal process, without  
2 an evidentiary hearing and subject to strictly limited  
3 judicial review.

4 (2) NO REWARD FOR ILLEGAL ENTRANTS OR  
5 VISA OVERSTAYERS.—Aliens who enter illegally or  
6 who overstay the period of authorized admission will  
7 have a greater burden of proof in removal proceed-  
8 ings and will face tougher standards for most discre-  
9 tionary immigration benefits, such as suspension of  
10 removal and work authorization.

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

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

22 (5) STREAMLINED JUDICIAL REVIEW.—Judicial  
23 review is streamlined through removing a layer of re-  
24 view in exclusion cases, shortening the time period

1 to file for review, and permitting the removal of in-  
2 admissible aliens pending the review.

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

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

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

18 **SEC. 301. TREATING PERSONS PRESENT IN THE UNITED**  
19 **STATES WITHOUT AUTHORIZATION AS NOT**  
20 **ADMITTED.**

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

24 “(13)(A) The terms ‘admission’ and ‘admitted’ mean,  
25 with respect to an alien, the lawful entry of the alien into

1 the United States after inspection and authorization by  
2 an immigration officer.

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

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

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

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

13 “(iii) has departed from the United States while  
14 under legal process seeking removal of the alien  
15 from the United States, including removal proceed-  
16 ings under this Act and extradition proceedings,

17 “(iv) has been convicted of an aggravated fel-  
18 ony, unless since such conviction the alien has been  
19 granted relief under section 240A(a), or

20 “(v) is attempting to enter at a time or place  
21 other than as designated by immigration officers or  
22 has not been admitted to the United States after in-  
23 spection and authorization by an immigration offi-  
24 cer.”.

1 (b) INADMISSIBILITY OF ALIENS PRESENT WITHOUT  
2 ADMISSION OR PAROLE.—

3 (1) IN GENERAL.—Section 212(a) (8 U.S.C.  
4 1182(a)) is amended by redesignating paragraph (9)  
5 as paragraph (10) and by inserting after paragraph  
6 (8) the following new paragraph:

7 “(9) PRESENT WITHOUT ADMISSION OR PA-  
8 ROLE.—

9 “(A) IN GENERAL.—An alien present in  
10 the United States without being admitted or  
11 paroled, or who arrives in the United States at  
12 any time or place other than as designated by  
13 the Attorney General, is inadmissible.

14 “(B) EXCEPTION FOR CERTAIN BATTERED  
15 WOMEN AND CHILDREN.—Subparagraph (A)  
16 shall not apply to an alien who can demonstrate  
17 that—

18 “(i) the alien qualifies for immigrant  
19 status under subparagraphs (A)(iii),  
20 (A)(iv), (B)(ii), or (B)(iii) of section  
21 204(a)(1),

22 “(ii)(I) the alien has been battered or  
23 subject to extreme cruelty by a spouse or  
24 parent, or by a member of the spouse’s or  
25 parent’s family residing in the same house-

1 hold as the alien and the spouse or parent  
2 consented or acquiesced to such battery or  
3 cruelty, or (II) the alien's child has been  
4 battered or subject to extreme cruelty by a  
5 spouse or parent of the alien (without the  
6 active participation of the alien in the bat-  
7 tery or extreme cruelty) or by a member of  
8 the spouse's or parent's family residing in  
9 the same household as the alien when the  
10 spouse or parent consented to or acqui-  
11 esced in such battery or cruelty and the  
12 alien did not actively participate in such  
13 battery or cruelty, and

14 “(iii) there was a substantial connec-  
15 tion between the battery or cruelty de-  
16 scribed in subclause (I) or (II) and the  
17 alien's unlawful entry into the United  
18 States.”.

19 (2) TRANSITION FOR BATTERED SPOUSE OR  
20 CHILD PROVISION.—The requirements of clauses (ii)  
21 and (iii) of section 212(a)(9)(B) of the Immigration  
22 and Nationality Act, as inserted by paragraph (1),  
23 shall not apply to an alien who demonstrates that  
24 the alien first arrived in the United States before

1 the title III–A effective date (described in section  
2 309(a)).

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

7 “(A) ALIENS PREVIOUSLY REMOVED.—

8 “(i) ARRIVING ALIENS.—Any alien  
9 who has been ordered removed under sec-  
10 tion 235(b)(1) or at the end of proceedings  
11 under section 240 initiated upon the  
12 alien’s arrival in the United States and  
13 who again seeks admission within 5 years  
14 of the date of such removal is inadmissible.

15 “(ii) OTHER ALIENS.—Any alien not  
16 described in clause (i) who has been or-  
17 dered removed under section 240 or any  
18 other provision of law and who again seeks  
19 admission within 10 years of the date of  
20 such removal (or at any time in the case  
21 of an alien convicted of an aggravated fel-  
22 ony) is inadmissible.

23 “(iii) ALIENS WHO HAD THE INTENT  
24 TO ILLEGALLY ENTER.—Any alien who  
25 had the intent to illegally enter the United

1 States and who has been ordered removed  
2 under section 235(b)(1) or at the end of  
3 proceedings under section 240 initiated  
4 upon the alien's arrival in the United  
5 States and who again seeks admission is  
6 inadmissible.

7 “(iv) OTHER ALIENS WHO HAD THE  
8 INTENT TO ILLEGALLY ENTER.—Any alien  
9 not described in clause (i) who had the in-  
10 tent to illegally enter the United States  
11 and who has been ordered removed under  
12 section 240 or any other provision of law  
13 and who again seeks admission is inadmis-  
14 sible.

15 “(v) EXCEPTION.—Clauses (i)  
16 through (iv) shall not apply to an alien  
17 seeking admission within a period if, prior  
18 to the alien's reembarkation at a place out-  
19 side the United States or attempt to be ad-  
20 mitted from foreign contiguous territory,  
21 the Attorney General has consented to the  
22 alien's reapplying for admission.

23 “(B) ALIENS PRESENT UNLAWFULLY FOR  
24 MORE THAN 1 YEAR.—

1           “(i) IN GENERAL.—Any alien who was  
2 unlawfully present in the United States for  
3 an aggregate period totaling 1 year is in-  
4 admissible unless the alien has remained  
5 outside the United States for a period of  
6 10 years.

7           “(ii) EXCEPTIONS.—

8           “(I) MINORS.—No period of time  
9 in which an alien is under 18 years of  
10 age shall be taken into account in de-  
11 termining the period of unlawful pres-  
12 ence in the United States under  
13 clause (i).

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

21           “(III) ALIENS WITH WORK AU-  
22 THORIZATION.—No period of time in  
23 which an alien is provided authoriza-  
24 tion to engage in employment in the  
25 United States (including such an au-

1                   thorization           under           section  
2                   244A(a)(1)(B)), or in which the alien  
3                   is the spouse of such an alien, shall be  
4                   taken into account in determining the  
5                   period of unlawful presence in the  
6                   United States under clause (i).

7                   “(IV) FAMILY UNITY.—No pe-  
8                   riod of time in which the alien is a  
9                   beneficiary of family unity protection  
10                  pursuant to section 301 of the Immi-  
11                  gration Act of 1990 shall be taken  
12                  into account in determining the period  
13                  of unlawful presence in the United  
14                  States under clause (i).

15                  “(V) BATTERED WOMEN AND  
16                  CHILDREN.—Clause (i) shall not apply  
17                  to an alien who would be described in  
18                  paragraph (9)(B) if ‘violation of the  
19                  terms of the alien’s nonimmigrant  
20                  visa’ were substituted for ‘unlawful  
21                  entry into the United States’ in clause  
22                  (iii) of that paragraph.

23                  “(iii) EXTENSION.—The Attorney  
24                  General may extend the period of 1 year  
25                  under clause (i) to a period of 15 months

1 in the case of an alien who applies to the  
2 Attorney General (before the alien has  
3 been present unlawfully in the United  
4 States for a period totaling 1 year) and es-  
5 tablishes to the satisfaction of the Attorney  
6 General that—

7 “(I) the alien is not inadmissible  
8 under clause (i) at the time of the ap-  
9 plication, and

10 “(II) the failure to extend such  
11 period would constitute an extreme  
12 hardship for the alien.

13 “(iv) WAIVER.—In the case of an  
14 alien who is the spouse, parent, or child of  
15 a United States citizen or the spouse or  
16 child of a permanent resident alien, the At-  
17 torney General may waive clause (i) for  
18 humanitarian purposes, to assure family  
19 unity, or when it is otherwise in the public  
20 interest.

21 “(v) NATIONAL INTEREST WAIVER.—  
22 The Attorney General may waive clause (i)  
23 if the Attorney General determines that  
24 such a waiver is necessary to substantially  
25 benefit—

1           “(I) the national security, na-  
2           tional defense, or Federal, State, or  
3           local law enforcement;

4           “(II) health care, housing, or  
5           educational opportunities for an indi-  
6           gent or low-income population or in  
7           an underserved geographical area;

8           “(III) economic or employment  
9           opportunities for a specific industry or  
10          specific geographical area;

11          “(IV) the development of new  
12          technologies; or

13          “(V) environmental protection or  
14          the productive use of natural re-  
15          sources; and

16          the alien will engage in a specific under-  
17          taking to advance one or more of the inter-  
18          ests identified in subclauses (I) through  
19          (V).”.

20          (d) WAIVER OF MISREPRESENTATION GROUND OF  
21          INADMISSIBILITY FOR CERTAIN ALIENS.—Subsection (i)  
22          of section 212 (8 U.S.C. 1182) is amended to read as fol-  
23          lows:

1       “(i) The Attorney General may, in the discretion of  
2 the Attorney General, waive the application of clause (i)  
3 of subsection (a)(6)(C)—

4               “(1) in the case of an immigrant who is the  
5 spouse, son, or daughter of a United States citizen;  
6 or

7               “(2) in the case of an immigrant who is the  
8 spouse or son or daughter of an alien lawfully admit-  
9 ted for permanent residence, if it is established to  
10 the satisfaction of the Attorney General that the re-  
11 fusal of admission to the United States of such im-  
12 migrant alien would result in extreme hardship to  
13 the lawfully resident spouse or parent of such an  
14 alien.”.

15       (e) PROHIBITION ON ISSUANCE OF VISAS FOR  
16 FORMER CITIZENS WHO RENOUNCED CITIZENSHIP TO  
17 AVOID UNITED STATES TAXATION.—Section 212(a)(10)  
18 (8 U.S.C. 1182(a)(10)), as redesignated by subsection  
19 (b)(1), is amended by adding at the end the following:

20               “(D) FORMER CITIZENS WHO RENOUNCED  
21 CITIZENSHIP TO AVOID TAXATION.—Any alien  
22 who is a former citizen of the United States  
23 who officially renounced United States citizen-  
24 ship and who is determined by the Attorney  
25 General to have renounced United States citi-

1           zanship for the purpose of avoiding taxation by  
2           the United States is excludable.”.

3           (f) PROOF OF VACCINATION REQUIREMENT FOR IM-  
4 MIGRANTS.—

5           (1) IN GENERAL.—Section 212(a)(1)(A) (8  
6 U.S.C. 1182(a)(1)(A)) is amended—

7           (A) by redesignating clauses (ii) and (iii)  
8           as clauses (iii) and (iv), respectively, and

9           (B) by inserting after clause (i) the follow-  
10          ing new clause:

11                   “(ii) who seeks admission as an immi-  
12                   grant, or who seeks adjustment of status  
13                   to the status of an alien lawfully admitted  
14                   for permanent residence, and who has  
15                   failed to present documentation of having  
16                   received vaccination against vaccine-pre-  
17                   ventable diseases, which shall include at  
18                   least the following diseases: mumps, mea-  
19                   sles, rubella, polio, tetanus and diphtheria  
20                   toxoids, pertussis, influenza type B and  
21                   hepatitis B, and any other vaccinations  
22                   against vaccine-preventable diseases rec-  
23                   ommended by the Advisory Committee for  
24                   Immunization Practices,”.

1           (2) WAIVER.—Section 212(g) (8 U.S.C.  
2 1182(g)) is amended by striking “, or” at the end  
3 of paragraph (1) and all that follows and inserting  
4 a semicolon and the following:

5           “in accordance with such terms, conditions, and con-  
6 trols, if any, including the giving of bond, as the At-  
7 torney General, in the discretion of the Attorney  
8 General after consultation with the Secretary of  
9 Health and Human Services, may by regulation pre-  
10 scribe;

11           “(2) subsection (a)(1)(A)(ii) in the case of any  
12 alien—

13           “(A) who receives vaccination against the  
14 vaccine-preventable disease or diseases for  
15 which the alien has failed to present docu-  
16 mentation of previous vaccination, or

17           “(B) for whom a civil surgeon, medical of-  
18 ficer, or panel physician (as those terms are de-  
19 fined by section 34.2 of title 42 of the Code of  
20 Federal Regulations) certifies, according to  
21 such regulations as the Secretary of Health and  
22 Human Services may prescribe, that such vac-  
23 cination would not be medically appropriate; or

24           “(3) subsection (a)(1)(A)(iii) in the case of any  
25 alien, in accordance with such terms, conditions, and

1 controls, if any, including the giving of bond, as the  
2 Attorney General, in the discretion of the Attorney  
3 General after consultation with the Secretary of  
4 Health and Human Services, may by regulation pre-  
5 scribe.”.

6 (3) EFFECTIVE DATE.—The amendments made  
7 by this subsection shall apply with respect to appli-  
8 cations for immigrant visas or for adjustment of sta-  
9 tus filed after September 30, 1996.

10 (g) ADJUSTMENT IN GROUNDS FOR DEPORTA-  
11 TION.—Section 241 (8 U.S.C. 1251), before redesignation  
12 as section 237 by section 305(a)(2), is amended—

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

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

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

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

23 “(B) PRESENT IN VIOLATION OF LAW.—  
24 Any alien who is present in the United States

1           in violation of this Act or any other law of the  
2           United States is deportable.

3           (h) WAIVERS FOR IMMIGRANTS CONVICTED OF  
4 CRIMES.—Section 212(h) (8 U.S.C. 1182(h)) is amended  
5 by adding at the end the following: “No waiver shall be  
6 granted under this subsection to an immigrant who pre-  
7 viously has been admitted to the United States unless that  
8 alien has fulfilled the time in status and continuous resi-  
9 dence requirements of section 212(c). No court shall have  
10 jurisdiction to review a decision of the Attorney General  
11 to grant or deny a waiver under this subsection.”.

12 **SEC. 302. INSPECTION OF ALIENS; EXPEDITED REMOVAL**  
13 **OF INADMISSIBLE ARRIVING ALIENS; REFER-**  
14 **RAL FOR HEARING (REVISED SECTION 235).**

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

17 “INSPECTION BY IMMIGRATION OFFICERS; EXPEDITED  
18 REMOVAL OF INADMISSIBLE ARRIVING ALIENS; RE-  
19 FERRAL FOR HEARING

20 “SEC. 235. (a) INSPECTION.—

21           “(1) ALIENS TREATED AS APPLICANTS FOR AD-  
22 MISSION.—An alien present in the United States  
23 who has not been admitted, who arrives in the Unit-  
24 ed States (whether or not at a designated port of ar-  
25 rival), or who is brought to the United States after  
26 having been interdicted in international or United

1 States waters shall be deemed for purposes of this  
2 Act an applicant for admission.

3 “(2) STOWAWAYS.—An arriving alien who is a  
4 stowaway is not eligible to apply for admission or to  
5 be admitted and shall be ordered removed upon in-  
6 spection by an immigration officer. Upon such in-  
7 spection if the alien indicates an intention to apply  
8 for asylum under section 208 or a fear of persecu-  
9 tion, the officer shall refer the alien for an interview  
10 under subsection (b)(1)(B). A stowaway may apply  
11 for asylum only if the stowaway is found to have a  
12 credible fear of persecution under subsection  
13 (b)(1)(B). In no case may a stowaway be considered  
14 an applicant for admission or eligible for a hearing  
15 under section 240.

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

21 “(4) WITHDRAWAL OF APPLICATION FOR AD-  
22 MISSION.—An alien applying for admission may, in  
23 the discretion of the Attorney General and at any  
24 time, be permitted to withdraw the application for

1 admission and depart immediately from the United  
2 States.

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

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

13 “(1) INSPECTION OF ALIENS ARRIVING IN THE  
14 UNITED STATES.—

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

20 “(i) does not indicate either an inten-  
21 tion to apply for asylum under section 208  
22 or a fear of persecution, the officer shall  
23 order the alien removed from the United  
24 States without further hearing or review;  
25 or

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

6           “(B) ASYLUM INTERVIEWS.—

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

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

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

21          “(I) IN GENERAL.—Subject to  
22          subclause (II), if the officer deter-  
23          mines that an alien does not have a  
24          credible fear of persecution, the officer  
25          shall order the alien removed from the

1 United States without further hearing  
2 or review.

3 “(II) REVIEW OF DETERMINA-  
4 TION BY SUPERVISORY OFFICER.—

5 The Attorney General shall promul-  
6 gate regulations to provide for the im-  
7 mediate review by a supervisory asy-  
8 lum officer at the port of entry of a  
9 determination under subclause (I).

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

22 “(v) CREDIBLE FEAR OF PERSECU-  
23 TION DEFINED.—For purposes of this sub-  
24 paragraph, the term ‘credible fear of perse-  
25 cution’ means (I) that it is more probable

1           than not that the statements made by the  
2           alien in support of the alien’s claim are  
3           true, and (II) that there is a significant  
4           possibility, in light of such statements and  
5           of such other facts as are known to the of-  
6           ficer, that the alien could establish eligi-  
7           bility for asylum under section 208.

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

21          “(D) LIMIT ON COLLATERAL ATTACKS.—  
22          In any action brought against an alien under  
23          section 275(a) or section 276, the court shall  
24          not have jurisdiction to hear any claim attack-

1           ing the validity of an order of removal entered  
2           under subparagraph (A)(i) or (B)(iii)(I).

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

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

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

11          “(2) INSPECTION OF OTHER ALIENS.—

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

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

21                   “(i) who is a crewman,

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

23                   or

24                   “(iii) who is a stowaway.

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

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

10           “(1) REMOVAL WITHOUT FURTHER HEARING.—  
11 If an immigration officer or an immigration judge  
12 suspects that an arriving alien may be inadmissible  
13 under subparagraph (A) (other than clause (ii)),  
14 (B), or (C) of section 212(a)(3), the officer or judge  
15 shall—

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

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

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

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

25           “(B) If the Attorney General—

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

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

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

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

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

21           “(d) AUTHORITY RELATING TO INSPECTIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

16 “(2) may release the alien on—

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

20 “(B) conditional parole; but

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (1) by redesignating section 239 (8 U.S.C.  
7 1229) as section 234 and by moving such section to  
8 immediately follow section 233;

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

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

13 “INITIATION OF REMOVAL PROCEEDINGS

14 “SEC. 239. (a) NOTICE TO APPEAR.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9           “(b) SECURING OF COUNSEL.—

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

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

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

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

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

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

12 “REMOVAL PROCEEDINGS

13 “SEC. 240. (a) PROCEEDING.—

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

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

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

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

4       “(b) CONDUCT OF PROCEEDING.—

5             “(1) AUTHORITY OF IMMIGRATION JUDGE.—

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

16            “(2) FORM OF PROCEEDING.—

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

19                   “(i) in person,

20                   “(ii) through video conference, or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 “(c) DECISION AND BURDEN OF PROOF.—

4 “(1) DECISION.—

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

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

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

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

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

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

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

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

24           “(5) MOTIONS TO RECONSIDER.—

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

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

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

10          “(6) MOTIONS TO REOPEN.—

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

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

19           “(C) DEADLINE.—

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

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

12           “(iii) FAILURE TO APPEAR.—A motion  
13          to reopen may be filed within 180  
14          days after the date of the final order of removal  
15          if the order has been entered pursuant to  
16          subsection (b)(5) due to the alien’s failure  
17          to appear for proceedings under this section  
18          and the alien establishes that the alien’s  
19          failure to appear was because of exceptional  
20          circumstances beyond the control of the alien  
21          or because the alien did not receive the notice  
22          required under section 239(a)(2).  
23

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

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

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

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

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

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

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

21 “CANCELLATION OF REMOVAL; ADJUSTMENT OF STATUS

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

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

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

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

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

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

16           “(A) has been physically present in the  
17 United States for a continuous period of not  
18 less than 7 years immediately preceding the  
19 date of such application;

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

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

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

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

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

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

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

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

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

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

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

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

13 “(3) ADJUSTMENT OF STATUS.—The Attorney  
14 General may adjust to the status of an alien lawfully  
15 admitted for permanent residence any alien who the  
16 Attorney General determines meets the requirements  
17 of paragraph (1) or (2). The number of adjustments  
18 under this paragraph shall not exceed 4,000 for any  
19 fiscal year. The Attorney General shall record the  
20 alien’s lawful admission for permanent residence as  
21 of the date the Attorney General’s cancellation of re-  
22 moval under paragraph (1) or (2) or determination  
23 under this paragraph.

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

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

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

14           “(3) An alien who—

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

21           “(B) is subject to the two-year foreign res-  
22 idence requirement of section 212(e), and

23           “(C) has not fulfilled that requirement or  
24 received a waiver thereof.

1           “(4) An alien who is inadmissible under section  
2           212(a)(3) or deportable under subparagraph (B) or  
3           (D) of section 237(a)(4).

4           “(d) SPECIAL RULES RELATING TO CONTINUOUS  
5 RESIDENCE OR PHYSICAL PRESENCE.—

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

11          “(2) TREATMENT OF CERTAIN BREAKS IN  
12          PRESENCE.—An alien shall be considered to have  
13          failed to maintain continuous physical presence in  
14          the United States under subsections (b)(1) and  
15          (b)(2) if the alien has departed from the United  
16          States for any periods in the aggregate exceeding  
17          180 days, unless the Attorney General finds that re-  
18          turn could not be accomplished within that time pe-  
19          riod due to emergent reasons.

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

1           “(A) has served for a minimum period of  
2           24 months in an active-duty status in the  
3           Armed Forces of the United States and, if sep-  
4           arated from such service, was separated under  
5           honorable conditions, and

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

8           “(e) ANNUAL LIMITATION.—The Attorney General  
9           may not cancel the removal and adjust the status under  
10          this section, nor suspend the deportation and adjust the  
11          status under section 244(a) (as in effect before the enact-  
12          ment of the Immigration in the National Interest Act of  
13          1996), of a total of more than 4,000 aliens in any fiscal  
14          year. The previous sentence shall apply regardless of when  
15          an alien applied for such cancellation and adjustment and  
16          whether such an alien had previously applied for suspen-  
17          sion of deportation under such section 244(a).

18                                   “VOLUNTARY DEPARTURE

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

20           “(1) IN GENERAL.—The Attorney General may  
21          permit an alien voluntarily to depart the United  
22          States at the alien’s own expense under this sub-  
23          section, in lieu of being subject to proceedings under  
24          section 240 or prior to the completion of such pro-  
25          ceedings, if the alien is not deportable under section  
26          237(a)(2)(A)(iii) or section 237(a)(4)(B).

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

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

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

18           “(b) AT CONCLUSION OF PROCEEDINGS.—

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

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

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

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

11          “(D) the alien has established by clear and  
12          convincing evidence that the alien has the  
13          means to depart the United States and intends  
14          to do so.

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

18          “(3) BOND.—An alien permitted to depart vol-  
19          untarily under this subsection shall be required to  
20          post a voluntary departure bond, in an amount nec-  
21          essary to ensure that the alien will depart, to be sur-  
22          rendered upon proof that the alien has departed the  
23          United States within the time specified.

24          “(c) ALIENS NOT ELIGIBLE.—The Attorney General  
25          shall not permit an alien to depart voluntarily under this

1 section if the alien was previously permitted to so depart  
2 after having been found inadmissible under section  
3 212(a)(9).

4 “(d) CIVIL PENALTY FOR FAILURE TO DEPART.—  
5 If an alien is permitted to depart voluntarily under this  
6 section and fails voluntarily to depart the United States  
7 within the time period specified, the alien shall be subject  
8 to a civil penalty of not less than \$1,000 and not more  
9 than \$5,000, and be ineligible for a period of 10 years  
10 for any further relief under this section and sections 240A,  
11 245, 248, and 249.

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

15 “(f) APPEALS OF DENIALS.—An alien may appeal  
16 from denial of a request for an order of voluntary depar-  
17 ture under subsection (b) in accordance with the proce-  
18 dures in section 242. Notwithstanding the pendency of  
19 such appeal, the alien shall be removable from the United  
20 States 60 days after entry of the order of removal. The  
21 alien’s removal from the United States shall not moot the  
22 appeal.”.

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

1 **SEC. 305. DETENTION AND REMOVAL OF ALIENS ORDERED**

2 **REMOVED (NEW SECTION 241).**

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

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

5 (2) by redesignating section 241 (8 U.S.C.

6 1251) as section 237 and by moving such section to

7 immediately follow section 236, and

8 (3) by inserting after section 240C (as redesign-

9 nated by section 304(a)(2)) the following new sec-

10 tion:

11 “DETENTION AND REMOVAL OF ALIENS ORDERED

12 REMOVED

13 “SEC. 241. (a) DETENTION, RELEASE, AND RE-

14 MOVAL OF ALIENS ORDERED REMOVED.—

15 “(1) REMOVAL PERIOD.—

16 “(A) IN GENERAL.—Except as otherwise

17 provided in this section, when an alien is or-

18 dered removed, the Attorney General shall re-

19 move the alien from the United States within a

20 period of 90 days (in this section referred to as

21 the ‘removal period’).

22 “(B) BEGINNING OF PERIOD.—The re-

23 moval period begins on the latest of the follow-

24 ing:

25 “(i) The date the order of removal be-

26 comes administratively final.

1                   “(ii) If the removal order is judicially  
2                   reviewed and such review serves to stay the  
3                   removal of the alien, the date of the court’s  
4                   final order.

5                   “(iii) If the alien is detained or con-  
6                   fined (except under an immigration proc-  
7                   ess), the date the alien is released from de-  
8                   tention or confinement.

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

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

1           “(3) SUPERVISION AFTER 90-DAY PERIOD.—If  
2           the alien does not leave or is not removed within the  
3           removal period, the alien, pending removal, shall be  
4           subject to supervision under regulations prescribed  
5           by the Attorney General. The regulations shall in-  
6           clude provisions requiring the alien—

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

9                   “(B) to submit, if necessary, to a medical  
10                  and psychiatric examination at the expense of  
11                  the United States Government;

12                  “(C) to give information under oath about  
13                  the alien’s nationality, circumstances, habits,  
14                  associations, and activities, and other informa-  
15                  tion the Attorney General considers appro-  
16                  priate; and

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

20           “(4) ALIENS IMPRISONED, ARRESTED, OR ON  
21           PAROLE, SUPERVISED RELEASE, OR PROBATION.—

22                   “(A) IN GENERAL.—Except as provided in  
23                   section 343(a) of the Public Health Service Act  
24                   (42 U.S.C. 259(a)) and paragraph (2), the At-  
25                   torney General may not remove an alien who is

1 sentenced to imprisonment until the alien is re-  
2 leased from imprisonment. Parole, supervised  
3 release, probation, or possibility of arrest or  
4 further imprisonment is not a reason to defer  
5 removal.

6 “(B) EXCEPTION FOR REMOVAL OF NON-  
7 VIOLENT OFFENDERS PRIOR TO COMPLETION  
8 OF SENTENCE OF IMPRISONMENT.—The Attor-  
9 ney General is authorized to remove an alien in  
10 accordance with applicable procedures under  
11 this Act before the alien has completed a sen-  
12 tence of imprisonment—

13 “(i) in the case of an alien in the cus-  
14 tody of the Attorney General, if the Attor-  
15 ney General determines that (I) the alien  
16 is confined pursuant to a final conviction  
17 for a nonviolent offense (other than an of-  
18 fense related to smuggling or harboring of  
19 aliens) and (II) the removal of the alien is  
20 appropriate and in the best interest of the  
21 United States; or

22 “(ii) in the case of an alien in the cus-  
23 tody of a State (or a political subdivision  
24 of a State), if the chief State official exer-  
25 cising authority with respect to the incar-

1 ceration of the alien determines that (I)  
2 the alien is confined pursuant to a final  
3 conviction for a nonviolent offense, (II) the  
4 removal is appropriate and in the best in-  
5 terest of the State, and (III) submits a  
6 written request to the Attorney General  
7 that such alien be so removed.

8 “(C) NOTICE.—Any alien removed pursu-  
9 ant to this paragraph shall be notified of the  
10 penalties under the laws of the United States  
11 relating to the reentry of deported aliens, par-  
12 ticularly the expanded penalties for aliens re-  
13 moved under subparagraph (B).

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

23 “(6) INADMISSIBLE ALIENS.—An alien ordered  
24 removed who is inadmissible under section 212 may  
25 be detained beyond the removal period and, if re-

1 leased, shall be subject to the terms of supervision  
2 in paragraph (3).

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

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

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

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

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

17 “(A) IN GENERAL.—Except as provided by  
18 subparagraphs (B) and (C), an alien who ar-  
19 rives at the United States and with respect to  
20 whom proceedings under section 240 were initi-  
21 ated at the time of such alien’s arrival shall be  
22 removed to the country in which the alien  
23 boarded the vessel or aircraft on which the alien  
24 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 each country de-  
4           scribed in a previous clause of this sub-  
5           paragraph is impracticable, inadvisable, or  
6           impossible.

7           “(2) OTHER ALIENS.—Subject to paragraph  
8           (3)—

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

12           “(i) any alien not described in para-  
13           graph (1) who has been ordered removed  
14           may designate one country to which the  
15           alien wants to be removed, and

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

19           “(B) LIMITATION ON DESIGNATION.—An  
20          alien may designate under subparagraph (A)(i)  
21          a foreign territory contiguous to the United  
22          States, an adjacent island, or an island adja-  
23          cent to a foreign territory contiguous to the  
24          United States as the place to which the alien is  
25          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 30 days after the date the At-  
11                  torney General first inquires, whether the  
12                  government will accept the alien into the  
13                  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 30 days  
3           after the date the Attorney General first  
4           inquires or within another period of time  
5           the Attorney General decides is reasonable,  
6           whether the government will accept the  
7           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 each  
11          country described in a previous clause of  
12          this subparagraph, another country whose  
13          government will accept the alien into that  
14          country.

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 is a danger to the community of  
12                  the United States;

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

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

21           For purposes of clause (ii), an alien who has  
22           been convicted of an aggravated felony (or felo-  
23           nies) for which the alien has been sentenced to  
24           an aggregate term of imprisonment of at least  
25           5 years shall be considered to have committed

1 a particularly serious crime. For purposes of  
2 clause (iv), an alien who is described in section  
3 237(a)(4)(B) shall be considered to be an alien  
4 with respect to whom there are reasonable  
5 grounds for regarding as a danger to the secu-  
6 rity of the United States.

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

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

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

21 “(B) the alien is a stowaway—

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

24 “(ii) who has requested asylum, and

1           “(iii) whose application has not been  
2           adjudicated or whose asylum application  
3           has been denied but who has not exhausted  
4           all appeal rights.

5           “(2) STAY OF REMOVAL.—

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

10           “(i) immediate removal is not prac-  
11           ticable or proper; or

12           “(ii) the alien is needed to testify in  
13           the prosecution of a person for a violation  
14           of a law of the United States or of any  
15           State.

16           “(B) PAYMENT OF DETENTION COSTS.—

17           During the period an alien is detained because  
18           of a stay of removal under subparagraph  
19           (A)(ii), the Attorney General may pay from the  
20           appropriation ‘Immigration and Naturalization  
21           Service—Salaries and Expenses’—

22           “(i) the cost of maintenance of the  
23           alien; and

24           “(ii) a witness fee of \$1 a day.

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

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

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

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

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

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

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

21                   “(ii) in the case of an alien who is a  
22                   stowaway, while the alien is being detained  
23                   pursuant to—

24                           “(I) subsection (d)(2)(A) or  
25                           (d)(2)(B)(i),

1           “(II) subsection (d)(2)(B)(ii) or  
2           (iii) for the period of time reasonably  
3           necessary for the owner to arrange for  
4           repatriation or removal of the stow-  
5           away, including obtaining necessary  
6           travel documents, but not to extend  
7           beyond the date on which it is  
8           ascertained that such travel docu-  
9           ments cannot be obtained from the  
10          country to which the stowaway is to  
11          be returned, or

12          “(III) section 235(b)(1)(B)(ii),  
13          for a period not to exceed 15 days  
14          (excluding Saturdays, Sundays, and  
15          holidays) commencing on the first  
16          such day which begins on the earlier  
17          of 72 hours after the time of the ini-  
18          tial presentation of the stowaway for  
19          inspection or at the time the stow-  
20          away is determined to have a credible  
21          fear of persecution.

22          “(B) NONAPPLICATION.—Subparagraph  
23          (A) shall not apply if—

24                  “(i) the alien is a crewmember;

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

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

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

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

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

20           “(III) the owner of the vessel or air-  
21 craft satisfies the Attorney General that  
22 the existence of the condition relating to  
23 inadmissibility could not have been discov-  
24 ered by exercising reasonable care before  
25 the alien boarded the vessel or aircraft; or

1                   “(vi) the individual claims to be a na-  
2                   tional of the United States and has a Unit-  
3                   ed States passport.

4           “(d) REQUIREMENTS OF PERSONS PROVIDING  
5 TRANSPORTATION.—

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

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

15                   “(B) take the alien to the foreign country  
16                   to which the alien is ordered removed.

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

21                   “(A) shall detain the alien on board the  
22                   vessel or aircraft, or at such place as the Attor-  
23                   ney General shall designate, until completion of  
24                   the inspection of the alien by an immigration  
25                   officer;

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          The Attorney General shall grant a timely request to  
13          remove the stowaway under subparagraph (C) on a  
14          vessel or aircraft other than that on which the stow-  
15          away arrived if the requester has obtained any travel  
16          documents necessary for departure or repatriation of  
17          the stowaway and removal of the stowaway will not  
18          be unreasonably delayed.

19          “(3) REMOVAL UPON ORDER.—An owner,  
20          agent, master, commanding officer, person in  
21          charge, purser, or consignee of a vessel, aircraft, or  
22          other transportation line shall comply with an order  
23          of the Attorney General to take on board, guard  
24          safely, and transport to the destination specified any  
25          alien ordered to be removed under this Act.

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

2 “(1) COSTS OF REMOVAL AT TIME OF ARRIV-  
3 AL.—In the case of an alien who is a stowaway or  
4 who is ordered removed either without a hearing  
5 under section 235(a)(1) or 235(c) or pursuant to  
6 proceedings under section 240 initiated at the time  
7 of such alien’s arrival, the owner of the vessel or air-  
8 craft (if any) on which the alien arrived in the Unit-  
9 ed States shall pay the transportation cost of remov-  
10 ing the alien. If removal is on a vessel or aircraft not  
11 owned by the owner of the vessel or aircraft on  
12 which the alien arrived in the United States, the At-  
13 torney General may—

14 “(A) pay the cost from the appropriation  
15 ‘Immigration and Naturalization Service—Sala-  
16 ries and Expenses’; and

17 “(B) recover the amount of the cost in a  
18 civil action from the owner, agent, or consignee  
19 of the vessel or aircraft (if any) on which the  
20 alien arrived in the United States.

21 “(2) COSTS OF REMOVAL TO PORT OF REMOVAL  
22 FOR ALIENS ADMITTED OR PERMITTED TO LAND.—  
23 In the case of an alien who has been admitted or  
24 permitted to land and is ordered removed, the cost  
25 (if any) of removal of the alien to the port of re-

1 removal shall be at the expense of the appropriation  
2 for the enforcement of this Act.

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

6 “(A) THROUGH APPROPRIATION.—Except  
7 as provided in subparagraph (B), in the case of  
8 an alien who has been admitted or permitted to  
9 land and is ordered removed, the cost (if any)  
10 of removal of the alien from the port of removal  
11 shall be at the expense of the appropriation for  
12 the enforcement of this Act.

13 “(B) THROUGH OWNER.—

14 “(i) IN GENERAL.—In the case of an  
15 alien described in clause (ii), the cost of re-  
16 moval of the alien from the port of removal  
17 may be charged to any owner of the vessel,  
18 aircraft, or other transportation line by  
19 which the alien came to the United States.

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

22 “(I) is admitted to the United  
23 States (other than lawfully admitted  
24 for permanent residence) and is or-  
25 dered removed within 5 years of the

1 date of admission based on a ground  
2 that existed before or at the time of  
3 admission, or

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

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

18 “(f) ALIENS REQUIRING PERSONAL CARE DURING  
19 REMOVAL.—

20 “(1) IN GENERAL.—If the Attorney General be-  
21 lieves that an alien being removed requires personal  
22 care because of the alien’s mental or physical condi-  
23 tion, the Attorney General may employ a suitable  
24 person for that purpose who shall accompany and

1 care for the alien until the alien arrives at the final  
2 destination.

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

7 “(g) PLACES OF DETENTION.—

8 “(1) IN GENERAL.—The Attorney General shall  
9 arrange for appropriate places of detention for aliens  
10 detained pending removal or a decision on removal.  
11 When United States Government facilities are un-  
12 available or facilities adapted or suitably located for  
13 detention are unavailable for rental, the Attorney  
14 General may expend from the appropriation ‘Immi-  
15 gration and Naturalization Service—Salaries and  
16 Expenses’, without regard to section 3709 of the Re-  
17 vised Statutes (41 U.S.C. 5), amounts necessary to  
18 acquire land and to acquire, build, remodel, repair,  
19 and operate facilities (including living quarters for  
20 immigration officers if not otherwise available) nec-  
21 essary for detention.

22 “(2) DETENTION FACILITIES OF THE IMMIGRA-  
23 TION AND NATURALIZATION SERVICE.—Prior to ini-  
24 tiating any project for the construction of any new  
25 detention facility for the Service, the Commissioner

1 shall consider the availability for purchase or lease  
2 of any existing prison, jail, detention center, or other  
3 comparable facility suitable for such use.

4 “(h) STATUTORY CONSTRUCTION.—Nothing in this  
5 section shall be construed to create any substantive or pro-  
6 cedural right or benefit that is legally enforceable by any  
7 party against the United States or its agencies or officers  
8 or any other person.”.

9 (b) MODIFICATION OF AUTHORITY.—

10 (1) Section 241(i), as redesignated by section  
11 306(a)(1), is amended—

12 (A) in paragraph (3)(A) by striking “fel-  
13 ony and sentenced to a term of imprisonment”  
14 and inserting “felony or two or more mis-  
15 demeanors”, and

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

18 “(6) In this subsection, the term ‘incarceration’  
19 includes imprisonment in a State or local prison or  
20 jail the time of which is counted towards completion  
21 of a sentence or the detention of an alien previously  
22 convicted of a felony or misdemeanor who has been  
23 arrested and is being held pending judicial action on  
24 new charges or pending transfer to Federal cus-  
25 tody.”.

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

3           (c) REENTRY OF ALIEN REMOVED PRIOR TO COM-  
4 PLETION OF TERM OF IMPRISONMENT.—Section 276(b)  
5 (8 U.S.C. 1326(b)), as amended by section 321(b), is  
6 amended—

7           (1) by striking “or” at the end of paragraph  
8 (2),

9           (2) by adding “or” at the end of paragraph (3),  
10 and

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

13           “(4) who was removed from the United States  
14 pursuant to section 241(a)(4)(B) who thereafter,  
15 without the permission of the Attorney General, en-  
16 ters, attempts to enter, or is at any time found in,  
17 the United States (unless the Attorney General has  
18 expressly consented to such alien’s reentry) shall be  
19 fined under title 18, United States Code, imprisoned  
20 for not more than 10 years, or both.

21           (d) MISCELLANEOUS CONFORMING AMENDMENT.—  
22 Section 212(a)(4) (8 U.S.C. 1182(a)(4)), as amended by  
23 section 621(a), is amended by striking “241(a)(5)(B)”  
24 each place it appears and inserting “237(a)(5)(B)”.

1 **SEC. 306. APPEALS FROM ORDERS OF REMOVAL (NEW SEC-**  
2 **TION 242).**

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

5 (1) by redesignating subsection (j) as sub-  
6 section (i) and by moving such subsection and add-  
7 ing it at the end of section 241, as inserted by sec-  
8 tion 305(a)(3); and

9 (2) by amending the remainder of section 242  
10 to read as follows:

11 “JUDICIAL REVIEW OF ORDERS OF REMOVAL

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

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

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

25 “(A) except as provided in subsection (f),  
26 any individual determination or to entertain any

1 other cause or claim arising from or relating to  
2 the implementation or operation of an order of  
3 removal pursuant to section 235(b)(1),

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

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

9 “(D) procedures and policies adopted by  
10 the Attorney General to implement the provi-  
11 sions of section 235(b)(1).

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

16 “(b) REQUIREMENTS FOR ORDERS OF REMOVAL.—

17 With respect to review of an order of removal under sub-  
18 section (a)(1), the following requirements apply:

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

22 “(2) VENUE AND FORMS.—The petition for re-  
23 view shall be filed with the court of appeals for the  
24 judicial circuit in which the immigration judge com-  
25 pleted the proceedings. The record and briefs do not

1 have to be printed. The court of appeals shall review  
2 the proceeding on a typewritten record and on type-  
3 written briefs.

4 “(3) SERVICE.—

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

11 “(B) STAY OF ORDER.—

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

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

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

3           “(A) the court of appeals shall decide the  
4 petition only on the administrative record on  
5 which the order of removal is based,

6           “(B) the administrative findings of fact are  
7 conclusive if supported by reasonable, substan-  
8 tial, and probative evidence on the record con-  
9 sidered as a whole, and

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

13          “(5) TREATMENT OF NATIONALITY CLAIMS.—

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

21          “(B) TRANSFER IF ISSUE OF FACT.—If  
22 the petitioner claims to be a national of the  
23 United States and the court of appeals finds  
24 that a genuine issue of material fact about the  
25 petitioner’s nationality is presented, the court

1 shall transfer the proceeding to the district  
2 court of the United States for the judicial dis-  
3 trict in which the petitioner resides for a new  
4 hearing on the nationality claim and a decision  
5 on that claim as if an action had been brought  
6 in the district court under section 2201 of title  
7 28, United States Code.

8 “(C) LIMITATION ON DETERMINATION.—

9 The petitioner may have such nationality claim  
10 decided only as provided in this paragraph.

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

17 “(7) CHALLENGE TO VALIDITY OF ORDERS IN  
18 CERTAIN CRIMINAL PROCEEDINGS.—

19 “(A) IN GENERAL.—If the validity of an  
20 order of removal has not been judicially de-  
21 cided, a defendant in a criminal proceeding  
22 charged with violating section 243(a) may chal-  
23 lenge the validity of the order in the criminal  
24 proceeding only by filing a separate motion be-

1 fore trial. The district court, without a jury,  
2 shall decide the motion before trial.

3 “(B) CLAIMS OF UNITED STATES NATION-  
4 ALITY.—If the defendant claims in the motion  
5 to be a national of the United States and the  
6 district court finds that—

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

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

23 The defendant may have such nationality claim  
24 decided only as provided in this subparagraph.

1           “(C) CONSEQUENCE OF INVALIDATION.—

2           If the district court rules that the removal order  
3           is invalid, the court shall dismiss the indictment  
4           for violation of section 243(a). The United  
5           States Government may appeal the dismissal to  
6           the court of appeals for the appropriate circuit  
7           within 30 days after the date of the dismissal.

8           “(D) LIMITATION ON FILING PETITIONS

9           FOR REVIEW.—The defendant in a criminal  
10          proceeding under section 243(a) may not file a  
11          petition for review under subsection (a) during  
12          the criminal proceeding.

13          “(8) CONSTRUCTION.—This subsection—

14          “(A) does not prevent the Attorney Gen-  
15          eral, after a final order of removal has been is-  
16          sued, from detaining the alien under section  
17          241(a);

18          “(B) does not relieve the alien from com-  
19          plying with section 241(a)(4) and section  
20          243(g); and

21          “(C) except as provided in paragraph (3),  
22          does not require the Attorney General to defer  
23          removal of the alien.

24          “(e) REQUIREMENTS FOR PETITION.—A petition for  
25          review or for habeas corpus of an order of removal shall

1 state whether a court has upheld the validity of the order,  
2 and, if so, shall state the name of the court, the date of  
3 the court's ruling, and the kind of proceeding.

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

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

8 “(2) another court has not decided the validity  
9 of the order, unless the reviewing court finds that  
10 the petition presents grounds that could not have  
11 been presented in the prior judicial proceeding or  
12 that the remedy provided by the prior proceeding  
13 was inadequate or ineffective to test the validity of  
14 the order.

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

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

21 “(A) the alien is the alien described in the  
22 order,

23 “(B) the alien is an alien described in sec-  
24 tion 238(b)(2) and has been convicted after

1 entry into the United States of an aggravated  
2 felony, and

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

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

8 “(f) JUDICIAL REVIEW OF ORDERS UNDER SECTION  
9 235(b)(1).—

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

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

21 “(3) LIMITATION TO HABEAS CORPUS.—Judi-  
22 cial review of any matter, cause, claim, or individual  
23 determination made or arising under or pertaining  
24 to section 235(b)(1) shall only be available in habeas

1 corpus proceedings, and shall be limited to deter-  
2 minations of—

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

4 “(B) whether the petitioner was ordered  
5 removed under such section, and

6 “(C) whether the petitioner can prove by a  
7 preponderance of the evidence that the peti-  
8 tioner is an alien lawfully admitted for perma-  
9 nent residence and is entitled to such further  
10 inquiry as prescribed by the Attorney General  
11 pursuant to section 235(b)(1)(C).

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

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

16 “(B) has demonstrated by a preponderance  
17 of the evidence that the alien is a lawful perma-  
18 nent resident,

19 the court may order no remedy or relief other than  
20 to require that the petitioner be provided a hearing  
21 in accordance with section 240. Any alien who is  
22 provided a hearing under section 240 pursuant to  
23 this paragraph may thereafter obtain judicial review  
24 of any resulting final order of removal pursuant to  
25 subsection (a)(1).

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

8           “(g) LIMIT ON INJUNCTIVE RELIEF.—Regardless of  
9           the nature of the action or claim or of the identity of the  
10          party or parties bringing the action, no court (other than  
11          the Supreme Court) shall have jurisdiction or authority  
12          to enjoin or restrain the operation of the provisions of  
13          chapter 4 of title II, as amended by the Immigration in  
14          the National Interest Act of 1996, other than with respect  
15          to the application of such provisions to an individual alien  
16          against whom proceedings under such chapter have been  
17          initiated.”.

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

20          (c) TREATMENT OF POLITICAL SUBDIVISIONS.—Ef-  
21          fective as of the date of the enactment of this Act, section  
22          242(j), before being redesignated and moved under sub-  
23          section (a)(1), is amended by adding at the end the follow-  
24          ing new paragraph:



1 with the purpose of preventing or hampering  
2 the alien's departure pursuant to such, or

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

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

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

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

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

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

3           “(C) the likelihood of the alien’s resuming  
4 or following a course of conduct which made or  
5 would make the alien deportable;

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

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

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

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

1       “(c) PENALTIES RELATING TO VESSELS AND AIR-  
2 CRAFT.—

3               “(1) CIVIL PENALTIES.—

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

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

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

19               “(2) CLEARING VESSELS AND AIRCRAFT.—

20                      “(A) CLEARANCE BEFORE DECISION ON  
21 LIABILITY.—A vessel or aircraft may be grant-  
22 ed clearance before a decision on liability is  
23 made under paragraph (1) only if a bond ap-  
24 proved by the Attorney General or an amount

1 sufficient to pay the civil penalty is deposited  
2 with the Commissioner.

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

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

20 **SEC. 308. REDESIGNATION AND REORGANIZATION OF**  
21 **OTHER PROVISIONS; ADDITIONAL CONFORM-**  
22 **ING AMENDMENTS.**

23 (a) CONFORMING AMENDMENT TO TABLE OF CON-  
24 TENTS; OVERVIEW OF REORGANIZED CHAPTERS.—The

1 table of contents, as amended by section 851(d)(1), is  
2 amended—

3 (1) by striking the item relating to section 106,

4 and

5 (2) by striking the item relating to chapter 4 of

6 title II and all that follows through the item relating

7 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 territory and adjacent islands; land-  
ing 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”.

8 (b) REORGANIZATION OF OTHER PROVISIONS.—

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

10 (1) AMENDING CHAPTER HEADING.—Amend

11 the heading for chapter 4 of title II to read as fol-

12 lows:



1 follow section 237 (as redesignated by section  
2 305(a)(2)).

3 (6) STRIKING SECTION 242B.—Strike section  
4 242B (8 U.S.C. 1252b).

5 (7) STRIKING SECTION 244 AND REDESIGNAT-  
6 ING SECTION 244A AS SECTION 244.—Strike section  
7 244 (8 U.S.C. 1254) and redesignate section 244A  
8 as section 244.

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

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

13 (c) ADDITIONAL CONFORMING AMENDMENTS.—

14 (1) EXPEDITED PROCEDURES FOR AGGRA-  
15 VATED FELONS (FORMER SECTION 242A).—Section  
16 238 (which, previous to redesignation under section  
17 308(b)(5), was section 242A) is amended—

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

20 (B) in subsection (a)(2), by striking “sec-  
21 tion 242(a)(2)” and inserting “section 236(c)”;

22 and

23 (C) in subsection (b)(1), by striking “sec-  
24 tion 241(a)(2)(A)(iii)” and inserting “section  
25 237(a)(2)(A)(iii)”.

1           (2) TREATMENT OF CERTAIN HELPLESS  
2 ALIENS.—

3           (A) CERTIFICATION OF HELPLESS  
4 ALIENS.—Section 232 (8 U.S.C. 1222), as  
5 amended by section 308(b)(2), is further  
6 amended by adding at the end the following  
7 new subsection:

8           “(c) CERTIFICATION OF CERTAIN HELPLESS  
9 ALIENS.—If an examining medical officer determines that  
10 an alien arriving in the United States is inadmissible, is  
11 helpless from sickness, mental or physical disability, or in-  
12 fancy, and is accompanied by another alien whose protec-  
13 tion or guardianship may be required, the officer may cer-  
14 tify such fact for purposes of applying section  
15 212(a)(10)(B) with respect to the other alien.”.

16           (B) GROUND OF INADMISSIBILITY FOR  
17 PROTECTION AND GUARDIANSHIP OF ALIENS  
18 DENIED ADMISSION FOR HEALTH OR IN-  
19 FANCY.—Subparagraph (B) of section  
20 212(a)(10) (8 U.S.C. 1182(a)(10)), as redesign-  
21 nated by section 301(a)(1), is amended to read  
22 as follows:

23           “(B) GUARDIAN REQUIRED TO ACCOMPANY  
24 HELPLESS ALIEN.—Any alien—

1           “(i) who is accompanying another  
2           alien who is inadmissible and who is cer-  
3           tified to be helpless from sickness, mental  
4           or physical disability, or infancy pursuant  
5           to section 232(c), and

6           “(ii) whose protection or guardianship  
7           is determined to be required by the alien  
8           described in clause (i),  
9           is inadmissible.”.

10           (3) CONTINGENT CONSIDERATION IN RELATION  
11           TO REMOVAL OF ALIENS.—Section 273(a) (8 U.S.C.  
12           1323(a)) is amended—

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

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

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

23           (4) CLARIFICATION.—(A) Section 238(a)(1),  
24           which, previous to redesignation under section  
25           308(b)(5), was section 242A(a)(1), is amended by

1 adding at the end the following: “Nothing in this  
2 section shall be construed to create any substantive  
3 or procedural right or benefit that is legally enforce-  
4 able by any party against the United States or its  
5 agencies or officers or any other person.”.

6 (B) Section 225 of the Immigration and Na-  
7 tionality Technical Corrections Act of 1994 (Public  
8 Law 103–416), as amended by section 851(b)(15),  
9 is amended by striking “and nothing in” and all  
10 that follows up to “shall”.

11 (d) ADDITIONAL CONFORMING AMENDMENTS RE-  
12 LATING TO EXCLUSION AND INADMISSIBILITY.—

13 (1) SECTION 212.—Section 212 (8 U.S.C.  
14 1182(a)) is amended—

15 (A) in the heading, by striking “EX-  
16 CLUDED FROM” and inserting “INELIGIBLE  
17 FOR”;

18 (B) in the matter in subsection (a) before  
19 paragraph (1), by striking all that follows “(a)”  
20 and inserting the following: “CLASSES OF  
21 ALIENS INELIGIBLE FOR VISAS OR ADMIS-  
22 SION.—Except as otherwise provided in this  
23 Act, aliens who are inadmissible under the fol-  
24 lowing paragraphs are ineligible to receive visas

1 and ineligible to be admitted to the United  
2 States.”;

3 (C) in subsection (a), by striking “is ex-  
4 cludable” and inserting “is inadmissible” each  
5 place it appears;

6 (D) in subsections (a)(5)(C), (d)(1), (k),  
7 by striking “exclusion” and inserting “inadmis-  
8 sibility”;

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

12 (F) in subsection (b)(2), by striking “or  
13 ineligible for entry”;

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

16 (H) in subsection (h)(1)(B), by striking  
17 “exclusion” and inserting “denial of admis-  
18 sion”.

19 (2) SECTION 241.—Section 241 (8 U.S.C.  
20 1251), before redesignation as section 237 by section  
21 305(a)(2), is amended—

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

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

4 (C) in subsection (c), by striking “exclu-  
5 sion” and inserting “inadmissibility”.

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

11 (A) Sections 101(f)(3), 213, 234 (before  
12 redesignation by section 308(b)), 241(a)(1) (be-  
13 fore redesignation by section 305(a)(2)),  
14 272(a), 277, 286(h)(2)(A)(v), and  
15 286(h)(2)(A)(vi).

16 (B) Section 601(c) of the Immigration Act  
17 of 1990.

18 (C) Section 128 of the Foreign Relations  
19 Authorization Act, Fiscal Years 1992 and 1993  
20 (Public Law 102–138).

21 (D) Section 1073 of the National Defense  
22 Authorization Act for Fiscal Year 1995 (Public  
23 Law 103–337).

1           (E) Section 221 of the Immigration and  
2 Nationality Technical Corrections Act of 1994  
3 (Public Law 103–416).

4 (4) RELATED TERMS.—

5           (A) Section 101(a)(17) (8 U.S.C.  
6 1101(a)(17)) is amended by striking “or expul-  
7 sion” and inserting “expulsion, or removal”.

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

11           (C) Section 103(c)(2) (8 U.S.C.  
12 1103(c)(2)) is amended by striking “been ex-  
13 cluded or deported” and inserting “not been ad-  
14 mitted or have been removed”.

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

20           (E) Section 216(f) (8 U.S.C. 1186a) is  
21 amended by striking “exclusion” and inserting  
22 “inadmissibility”.

23           (F) Section 217 (8 U.S.C. 1187) is amend-  
24 ed by striking “excluded from admission” and

1 inserting “denied admission at the time of ar-  
2 rival” each place it appears.

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

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

11 (I)(i) Section 272 (8 U.S.C. 1322) is  
12 amended—

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

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

19 (III) in subsection (c), by striking  
20 “excluding”.

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

24 (J) Section 276(a) (8 U.S.C. 1326) is  
25 amended—

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

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

8 (K) Section 286(h)(2)(A)(vi) (8 U.S.C.  
9 1356(h)(2)(A)(vi)) is amended by striking “ex-  
10 clusion” each place it appears and inserting  
11 “removal”.

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

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

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

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

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—

23                 (i) by striking “exclusion or deporta-  
24 tion” each place it appears and inserting  
25 “removal”, and

1 (ii) by striking “deportation or exclu-  
2 sion” each place it appears and inserting  
3 “removal”.

4 (T) Section 4113(c) of title 18, United  
5 States Code, is amended by striking “exclusion  
6 and deportation” and inserting “removal”.

7 (e) REVISION OF TERMINOLOGY RELATING TO DE-  
8 PORTATION.—

9 (1) Each of the following is amended by strik-  
10 ing “deportation” each place it appears and insert-  
11 ing “removal”:

12 (A) Subparagraphs (A)(iii)(II), (A)(iv)(II),  
13 and (B)(iii)(II) of section 204(a)(1) (8 U.S.C.  
14 1154(a)(1)).

15 (B) Section 212(d)(1) (8 U.S.C.  
16 1182(d)(1)).

17 (C) Section 212(d)(11) (8 U.S.C.  
18 1182(d)(11)).

19 (D) Section 214(k)(4)(C) (8 U.S.C.  
20 1184(k)(4)(C)), as redesignated by section  
21 851(a)(3)(A).

22 (E) Section 241(a)(1)(H) (8 U.S.C.  
23 1251(a)(1)(H)), before redesignation as section  
24 237 by section 305(a)(2).

1 (F) Section 242A (8 U.S.C. 1252a), before  
2 redesignation as section 238 by subsection  
3 (b)(5).

4 (G) Subsections (a)(3) and (b)(5)(B) of  
5 section 244A (8 U.S.C. 1254a), before redesign-  
6 nation as section 244 by subsection (b)(7).

7 (H) Section 246(a) (8 U.S.C. 1256(a)).

8 (I) Section 254 (8 U.S.C. 1284).

9 (J) Section 263(a)(4) (8 U.S.C.  
10 1303(a)(4)).

11 (K) Section 276(b) (8 U.S.C. 1326(b)).

12 (L) Section 286(h)(2)(A)(v) (8 U.S.C.  
13 1356(h)(2)(A)(v)).

14 (M) Section 287(g) (8 U.S.C. 1357(g)) (as  
15 added by section 122).

16 (N) Section 291 (8 U.S.C. 1361).

17 (O) Section 318 (8 U.S.C. 1429).

18 (P) Section 130005(a) of the Violent  
19 Crime Control and Law Enforcement Act of  
20 1994 (Public Law 103–322).

21 (Q) Section 4113(b) of title 18, United  
22 States Code.

23 (2) Each of the following is amended by strik-  
24 ing “deported” each place it appears and inserting  
25 “removed”:

1 (A) Section 212(d)(7) (8 U.S.C.  
2 1182(d)(7)).

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

4 (C) Section 241(a) (8 U.S.C. 1251(a)), be-  
5 fore redesignation as section 237 by section  
6 305(a)(2).

7 (D) Section 242A(c)(2)(D)(iv) (8 U.S.C.  
8 1252a(c)(2)(D)(iv)), as amended by section  
9 851(b)(14) but before redesignation as section  
10 238 by subsection (b)(5).

11 (E) Section 252(b) (8 U.S.C. 1282(b)).

12 (F) Section 254 (8 U.S.C. 1284).

13 (G) Subsections (b) and (c) of section 266  
14 (8 U.S.C. 1306).

15 (H) Section 301(a)(1) of the Immigration  
16 Act of 1990.

17 (I) Section 4113 of title 18, United States  
18 Code.

19 (3) Section 101(g) (8 U.S.C. 1101(g)) is  
20 amended by inserting “or removed” after “deported”  
21 each place it appears.

22 (4) Section 103(c)(2) (8 U.S.C. 1103(c)(2)) is  
23 amended by striking “suspension of deportation”  
24 and inserting “cancellation of removal”.

1           (5) Section 201(b)(1)(D) (8 U.S.C.  
2 1151(b)(1)(D)) is amended by striking “deportation  
3 is suspended” and inserting “removal is canceled”.

4           (6) Section 212(l)(2)(B) (8 U.S.C.  
5 1182(l)(2)(B)) is amended by striking “deportation  
6 against” and inserting “removal of”.

7           (7) Subsections (b)(2), (c)(2)(B), (c)(3)(D),  
8 (c)(4)(A), and (d)(2)(C) of section 216 (8 U.S.C.  
9 1186a) are each amended by striking “DEPORTA-  
10 TION”, “deportation”, “deport”, and “deported”  
11 each place each appears and inserting “REMOVAL”,  
12 “removal”, “remove”, and “removed”, respectively.

13           (8) Subsections (b)(2), (c)(2)(B), (c)(3)(D),  
14 and (d)(2)(C) of section 216A (8 U.S.C. 1186b) are  
15 each amended by striking “DEPORTATION”, “depor-  
16 tation”, “deport”, and “deported” and inserting  
17 “REMOVAL”, “removal”, “remove”, and “removed”,  
18 respectively.

19           (9) Section 217(b)(2) (8 U.S.C. 1187(b)(2)) is  
20 amended by striking “deportation against” and in-  
21 serting “removal of”.

22           (10) Section 242A (8 U.S.C. 1252a), before re-  
23 designation as section 238 by subsection (b)(6), is  
24 amended, in the headings to various subdivisions, by

1 striking “DEPORTATION” and “DEPORTATION” and  
2 inserting “REMOVAL” and “REMOVAL”, respectively.

3 (11) Section 244A(a)(1)(A) (8 U.S.C.  
4 1254a(a)(1)(A)), before redesignation as section 244  
5 by subsection (b)(8), is amended—

6 (A) in subsection (a)(1)(A), by striking  
7 “deport” and inserting “remove”, and

8 (B) in subsection (e), by striking “SUS-  
9 PENSION OF DEPORTATION” and inserting  
10 “CANCELLATION OF REMOVAL”.

11 (12) Section 254 (8 U.S.C. 1284) is amended  
12 by striking “deport” each place it appears and in-  
13 serting “remove”.

14 (13) Section 273(d) (8 U.S.C. 1323(d)) is re-  
15 pealed.

16 (14)(A) Section 276 (8 U.S.C. 1326) is amend-  
17 ed by striking “DEPORTED” and inserting “RE-  
18 MOVED”.

19 (B) The item in the table of contents relating  
20 to such section is amended by striking “deported”  
21 and inserting “removed”.

22 (15) Section 318 (8 U.S.C. 1429) is amended  
23 by striking “suspending” and inserting “canceling”.

1           (16) Section 301(a) of the Immigration Act of  
2           1990 is amended by striking “DEPORTATION” and  
3           inserting “REMOVAL”.

4           (17) The heading of section 130005 of the Vio-  
5           lent Crime Control and Law Enforcement Act of  
6           1994 (Public Law 103–322) is amended by striking  
7           “**DEPORTATION**” and inserting “**REMOVAL**”.

8           (18) Section 9 of the Peace Corps Act (22  
9           U.S.C. 2508) is amended by striking “deported” and  
10          all that follows through “Deportation” and inserting  
11          “removed pursuant to chapter 4 of title II of the Im-  
12          migration and Nationality Act”.

13          (19) Section 8(c) of the Foreign Agents Reg-  
14          istration Act (22 U.S.C. 618(c)) is amended by  
15          striking “deportation” and all that follows and in-  
16          serting “removal pursuant to chapter 4 of title II of  
17          the Immigration and Nationality Act.”.

18          (f) REVISION OF REFERENCES TO ENTRY.—

19           (1) The following provisions are amended by  
20           striking “entry” and inserting “admission” each  
21           place it appears:

22                   (A) Section 101(a)(15)(K) (8 U.S.C.  
23                   1101(a)(15)(K)).

24                   (B) Section 101(a)(30) (8 U.S.C.  
25                   1101(a)(30)).

1 (C) Section 212(a)(2)(D) (8 U.S.C.  
2 1182(a)(2)(D)).

3 (D) Section 212(a)(6)(C)(i) (8 U.S.C.  
4 1182(a)(6)(C)(i)).

5 (E) Section 212(h)(1)(A)(i) (8 U.S.C.  
6 1182(h)(1)(A)(i)).

7 (F) Section 212(j)(1)(D) (8 U.S.C.  
8 1182(j)(1)(D)).

9 (G) Section 214(c)(2)(A) (8 U.S.C.  
10 1184(c)(2)(A)).

11 (H) Section 214(d) (8 U.S.C. 1184(d)).

12 (I) Section 216(b)(1)(A)(i) (8 U.S.C.  
13 1186a(b)(1)(A)(i)).

14 (J) Section 216(d)(1)(A)(i)(III) (8 U.S.C.  
15 1186a(d)(1)(A)(i)(III)).

16 (K) Subsection (b) of section 240 (8  
17 U.S.C. 1230), before redesignation as section  
18 240C by section 304(a)(2).

19 (L) Subsection (a)(1)(G) of section 241 (8  
20 U.S.C. 1251), before redesignation as section  
21 237 by section 305(a)(2).

22 (M) Subsection (a)(1)(H) of section 241 (8  
23 U.S.C. 1251), before redesignation as section  
24 237 by section 305(a)(2), other than the last  
25 time it appears.

1 (N) Paragraphs (2) and (4) of subsection  
2 (a) of section 241 (8 U.S.C. 1251), before re-  
3 designation as section 237 by section 305(a)(2).

4 (O) Section 245(e)(3) (8 U.S.C.  
5 1255(e)(3)).

6 (P) Section 247(a) (8 U.S.C. 1257(a)).

7 (Q) Section 601(c)(2) of the Immigration  
8 Act of 1990.

9 (2) The following provisions are amended by  
10 striking “enter” and inserting “be admitted”:

11 (A) Section 204(e) (8 U.S.C. 1154(e)).

12 (B) Section 221(h) (8 U.S.C. 1201(h)).

13 (C) Section 245(e)(2) (8 U.S.C.  
14 1255(e)(2)).

15 (3) The following provisions are amended by  
16 striking “enters” and inserting “is admitted to”:

17 (A) Section 212(j)(1)(D)(ii) (8 U.S.C.  
18 1154(e)).

19 (B) Section 214(c)(5)(B) (8 U.S.C.  
20 1184(c)(5)(B)).

21 (4) Subsection (a) of section 238 (8 U.S.C.  
22 1228), before redesignation as section 233 by section  
23 308(b)(4), is amended by striking “entry and inspec-  
24 tion” and inserting “inspection and admission”.

1           (5) Subsection (a)(1)(H)(ii) of section 241 (8  
2 U.S.C. 1251), before redesignation as section 237 by  
3 section 305(a)(2), is amended by striking “at  
4 entry”.

5           (6) Section 7 of the Central Intelligence Agency  
6 Act of 1949 (50 U.S.C. 403h) is amended by strik-  
7 ing “that the entry”, “given entry into”, and “enter-  
8 ing” and inserting “that the admission”, “admitted  
9 to”, and “admitted to”.

10           (7) Section 4 of the Atomic Weapons and Spe-  
11 cial Nuclear Materials Rewards Act (50 U.S.C. 47c)  
12 is amended by striking “entry” and inserting “ad-  
13 mission”.

14           (g) CONFORMING REFERENCES TO REORGANIZED  
15 SECTIONS.—

16           (1) REFERENCES TO SECTIONS 232, 234, 238,  
17 239, 240, 241, 242A, AND 244A.—Any reference in law  
18 in effect on the day before the date of the enactment  
19 of this Act to section 232, 234, 238, 239, 240, 241,  
20 242A, or 244A of the Immigration and Nationality  
21 Act (or a subdivision of such section) is deemed, as  
22 of the title III–A effective date, to refer to section  
23 232(a), 232(b), 233, 234, 234A, 237, 238, or 244  
24 of such Act (or the corresponding subdivision of  
25 such section), as redesignated by this subtitle. Any

1 reference in law to section 241 (or a subdivision of  
2 such section) of the Immigration and Nationality  
3 Act in an amendment made by a subsequent subtitle  
4 of this title is deemed a reference (as of the title  
5 III–A effective date) to section 237 (or the cor-  
6 responding subdivision of such section), as redesign-  
7 nated by this subtitle.

8 (2) REFERENCES TO SECTION 106.—

9 (A) Sections 242A(b)(3) and  
10 242A(c)(3)(A)(ii) (8 U.S.C. 1252a(b)(3),  
11 1252a(c)(3)(A)(ii)), as amended by section  
12 851(b)(14) but before redesignation as section  
13 238 by subsection (b)(5), are each amended by  
14 striking “106” and inserting “242”.

15 (B) Sections 210(e)(3)(A) and  
16 245A(f)(4)(A) (8 U.S.C. 1160(e)(3)(A),  
17 1255a(f)(4)(A)) are amended by inserting “(as  
18 in effect before October 1, 1996)” after “106”.

19 (C) Section 242A(c)(3)(A)(iii) (8 U.S.C.  
20 1252a(c)(3)(A)(iii)), as amended by section  
21 851(b)(14) but before redesignation as section  
22 238 by subsection (b)(5), is amended by strik-  
23 ing “106(a)(1)” and inserting “242(b)(1)”.

24 (3) REFERENCES TO SECTION 236.—

1 (A) Sections 205 and 209(a)(1) (8 U.S.C.  
2 1155, 1159(a)(1)) are each amended by strik-  
3 ing “236” and inserting “240”.

4 (B) Section 4113(c) of title 18, United  
5 States Code, is amended by striking “1226 of  
6 title 8, United States Code” and inserting “240  
7 of the Immigration and Nationality Act”.

8 (4) REFERENCES TO SECTION 237.—

9 (A) Section 209(a)(1) (8 U.S.C.  
10 1159(a)(1)) is amended by striking “237” and  
11 inserting “241”.

12 (B) Section 212(d)(7) (8 U.S.C.  
13 1182(d)(7)) is amended by striking “237(a)”  
14 and inserting “241(e)”.

15 (C) Section 280(a) (8 U.S.C. 1330(a)) is  
16 amended by striking “237, 239, 243” and in-  
17 serting “234, 243(e)(2)”.

18 (5) REFERENCES TO SECTION 242.—

19 (A)(i) Sections 214(d), 252(b), and  
20 287(f)(1) (8 U.S.C. 1184(d), 1282(b),  
21 1357(f)(1)) are each amended by striking  
22 “242” and inserting “240”.

23 (ii) Subsection (c)(4) of section 242A (8  
24 U.S.C. 1252a), as amended by section  
25 851(b)(14) but before redesignation as section

1           238 by subsection (b)(5), are each amended by  
2           striking “242” and inserting “240”.

3           (iii) Section 245A(a)(1)(B) (8 U.S.C.  
4           1255a(a)(1)(B)) is amended by inserting “(as  
5           in effect before October 1, 1996)” after “242”.

6           (iv) Section 4113 of title 18, United States  
7           Code, is amended—

8                   (I) in subsection (a), by striking “sec-  
9                   tion 1252(b) or section 1254(e) of title 8,  
10                   United States Code,” and inserting “sec-  
11                   tion 240B of the Immigration and Nation-  
12                   ality Act”; and

13                   (II) in subsection (b), by striking  
14                   “section 1252 of title 8, United States  
15                   Code,” and inserting “section 240 of the  
16                   Immigration and Nationality Act”.

17           (B) Section 130002(a) of Public Law 103–  
18           322, as amended by section 361(a), is amended  
19           by striking “242(a)(3)(A)” and inserting  
20           “236(d)”.

21           (C) Section 242A(b)(1) (8 U.S.C.  
22           1252a(b)(1)), before redesignation as section  
23           238 by section 308(b)(5), is amended by strik-  
24           ing “242(b)” and inserting “240”.

1 (D) Section 242A(c)(2)(D)(ii) (8 U.S.C.  
2 1252a(c)(2)(D)(ii)), as amended by section  
3 851(b)(14) but before redesignation as section  
4 238 by subsection (b)(5), is amended by strik-  
5 ing “242(b)” and inserting “240”.

6 (E) Section 1821(e) of title 28, United  
7 States Code, is amended by striking “242(b)”  
8 and inserting “240”.

9 (F) Section 130007(a) of Public Law 103–  
10 322 is amended by striking “242(i)” and in-  
11 sserting “239(d)”.

12 (G) Section 20301(c) of Public Law 103–  
13 322 is amended by striking “242(j)(5)” and  
14 “242(j)” and inserting “241(h)(5)” and  
15 “241(h)”, respectively.

16 (6) REFERENCES TO SECTION 242B.—

17 (A) Section 303(d)(2) of the Immigration  
18 Act of 1990 is amended by striking “242B”  
19 and inserting “240(b)(5)”.

20 (B) Section 545(g)(1)(B) of the Immigra-  
21 tion Act of 1990 is amended by striking  
22 “242B(a)(4)” and inserting “239(a)(4)”.

23 (7) REFERENCES TO SECTION 243.—

1 (A) Section 214(d) (8 U.S.C. 1184(d)) is  
2 amended by striking “243” and inserting  
3 “241”.

4 (B)(i) Section 315(c) of the Immigration  
5 Reform and Control Act of 1986 is amended by  
6 striking “243(g)” and “1253(g)” and inserting  
7 “243(d)” and “1253(d)” respectively.

8 (ii) Section 702(b) of the Departments of  
9 Commerce, Justice, and State, the Judiciary,  
10 and Related Agencies Appropriations Act, 1988  
11 is amended by striking “243(g)” and inserting  
12 “243(d)”.

13 (iii) Section 903(b) of Public Law 100–204  
14 is amended by striking “243(g)” and inserting  
15 “243(d)”.

16 (C)(i) Section 6(f)(2)(F) of the Food  
17 Stamp Act of 1977 (7 U.S.C. 2015(f)(2)(F)) is  
18 amended by striking “243(h)” and inserting  
19 “241(b)(3)”.

20 (ii) Section 214(a)(5) of the Housing and  
21 Community Development Act of 1980 (42  
22 U.S.C. 1436a(a)(5)) is amended by striking  
23 “243(h)” and inserting “241(b)(3)”.

24 (D)(i) Subsection (c)(2)(B)(ii) of section  
25 244A (8 U.S.C. 1254a), before redesignated as

1 section 244 by section 308(b)(7), is amended by  
2 striking “243(h)(2)” and inserting  
3 “208(b)(2)(A)”.

4 (ii) Section 301(e)(2) of the Immigration  
5 Act of 1990 is amended by striking  
6 “243(h)(2)” and inserting “208(b)(2)(A)”.

7 (E) Section 316(f) (8 U.S.C. 1427(f)) is  
8 amended by striking “subparagraphs (A)  
9 through (D) of paragraph 243(h)(2)” and in-  
10 sserting “clauses (i) through (v) of section  
11 208(b)(2)(A)”.

12 (8) REFERENCES TO SECTION 244.—

13 (A)(i) Section 201(b)(1)(D) (8 U.S.C.  
14 1151(b)(1)(D)) and subsection (e) of section  
15 244A (8 U.S.C. 1254a), before redesignation as  
16 section 244 by section 308(b)(7), are each  
17 amended by striking “244(a)” and inserting  
18 “240A(a)”.

19 (ii) Section 304(c)(1)(B) of the Miscellane-  
20 ous and Technical Immigration and Naturaliza-  
21 tion Amendments of 1991 (Public Law 102–  
22 232) is amended by striking “244(a)” and in-  
23 sserting “240A(a)”.

24 (B) Section 304(c)(1)(B) of the Mis-  
25 cellaneous and Technical Immigration and Nat-

1 uralization Amendments of 1991 (Public Law  
2 102–232) is amended by striking “244(b)(2)”  
3 and inserting “240A(b)(2)”.

4 (C) Section 364(a)(2) of this Act is  
5 amended by striking “244(a)(3)” and inserting  
6 “240A(a)(3)”.

7 (9) REFERENCES TO CHAPTER 5.—

8 (A) Sections 266(b), 266(c), and 291 (8  
9 U.S.C. 1306(b), 1306(c), 1361) are each  
10 amended by striking “chapter 5” and inserting  
11 “chapter 4”.

12 (B) Section 6(b) of the Act of August 1,  
13 1956 (50 U.S.C. 855(b)) is amended by strik-  
14 ing “chapter 5, title II, of the Immigration and  
15 Nationality Act (66 Stat. 163)” and inserting  
16 “chapter 4 of title II of the Immigration and  
17 Nationality Act”.

18 (10) MISCELLANEOUS CROSS-REFERENCE COR-  
19 RECTIONS FOR NEWLY ADDED PROVISIONS.—

20 (A) Section 245(c)(6), as amended by sec-  
21 tion 332(d), is amended by striking  
22 “241(a)(4)(B)” and inserting “237(a)(4)(B)”.

23 (B) Section 249(d), as amended by section  
24 332(e), is amended by striking “241(a)(4)(B)”  
25 and inserting “237(a)(4)(B)”.

1 (C) Section 276(b)(3), as inserted by sec-  
2 tion 321(b), is amended by striking “excluded”  
3 and “excludable” and inserting “removed” and  
4 “inadmissible”, respectively.

5 (D) Section 505(c)(7), as added by section  
6 321(a)(1), is amended by amending subpara-  
7 graphs (B) through (D) to read as follows:

8 “(B) Withholding of removal under section  
9 241(b)(3).

10 “(C) Cancellation of removal under section  
11 240A.

12 “(D) Voluntary departure under section  
13 240B.”.

14 (E) Section 506(b)(2)(B), as added by sec-  
15 tion 321(a)(1), is amended by striking “depor-  
16 tation” and inserting “removal”.

17 (F) Section 508(c)(2)(D), as added by sec-  
18 tion 321(a)(1), is amended by striking “exclu-  
19 sion because such alien is excludable” and in-  
20 serting “removal because such alien is inadmis-  
21 sible”.

22 (G) Section 130007(a) of the Violent  
23 Crime Control and Law Enforcement Act of  
24 1994 (Public Law 103–322), as amended by

1 section 851(a)(6), is amended by striking  
2 “242A(a)(3)” and inserting “238(a)(3)”.

3 (H) Section 212(h), as amended by section  
4 301(h), is amended by striking “section 212(c)”  
5 and inserting “paragraphs (1) and (2) of sec-  
6 tion 240A(a)”.

7 **SEC. 309. EFFECTIVE DATES; TRANSITION.**

8 (a) IN GENERAL.—Except as provided in this section  
9 and sections 301(f), 301(h), or 306(c), this subtitle and  
10 the amendments made by this subtitle shall take effect on  
11 the first day of the first month beginning more than 180  
12 days after the date of the enactment of this Act (in this  
13 title referred to as the “title III–A effective date”).

14 (b) PROMULGATION OF REGULATIONS.—The Attor-  
15 ney General shall first promulgate regulations to carry out  
16 this subtitle by not later than 30 days before the title III–  
17 A effective date.

18 (c) TRANSITION FOR ALIENS IN PROCEEDINGS.—

19 (1) GENERAL RULE THAT NEW RULES DO NOT  
20 APPLY.—Subject to the succeeding provisions of this  
21 subsection, in the case of an alien who is in exclu-  
22 sion or deportation proceedings as of the title III–  
23 A effective date—

24 (A) the amendments made by this subtitle  
25 shall not apply, and

1 (B) the proceedings (including judicial re-  
2 view thereof) shall continue to be conducted  
3 without regard to such amendments.

4 (2) ATTORNEY GENERAL OPTION TO ELECT TO  
5 APPLY NEW PROCEDURES.—In a case described in  
6 paragraph (1) in which an evidentiary hearing under  
7 section 236 or 242 and 242B of the Immigration  
8 and Nationality Act has not commenced as of the  
9 title III–A effective date, the Attorney General may  
10 elect to proceed under chapter 4 of title II of such  
11 Act (as amended by this subtitle). The Attorney  
12 General shall provide notice of such election to the  
13 alien involved not later than 30 days before the date  
14 any evidentiary hearing is commenced. If the Attor-  
15 ney General makes such election, the notice of hear-  
16 ing provided to the alien under section 235 or  
17 242(a) of such Act shall be valid as if provided  
18 under section 239 of such Act (as amended by this  
19 subtitle) to confer jurisdiction on the immigration  
20 judge.

21 (3) ATTORNEY GENERAL OPTION TO TERMI-  
22 NATE AND REINITIATE PROCEEDINGS.—In the case  
23 described in paragraph (1), the Attorney General  
24 may elect to terminate proceedings in which there  
25 has not been a final administrative decision and to

1       reinitiate proceedings under chapter 4 of title II the  
2       Immigration and Nationality Act (as amended by  
3       this subtitle). Any determination in the terminated  
4       proceeding shall not be binding in the reinitiated  
5       proceeding.

6               (4) TRANSITIONAL CHANGES IN JUDICIAL RE-  
7       VIEW.—In the case described in paragraph (1) in  
8       which a final order of exclusion or deportation is en-  
9       tered more than 30 days after the date of the enact-  
10      ment of this Act, notwithstanding any provision of  
11      section 106 of the Immigration and Nationality Act  
12      (as in effect as of the date of the enactment of this  
13      Act) to the contrary—

14              (A) in the case of judicial review of a final  
15      order of exclusion, subsection (b) of such sec-  
16      tion shall not apply and the action for judicial  
17      review shall be governed by the provisions of  
18      subsections (a) and (c) of such in the same  
19      manner as they apply to judicial review of or-  
20      ders of deportation;

21              (B) a court may not order the taking of  
22      additional evidence under section 2347(c) of  
23      title 28, United States Code;

1 (C) the petition for judicial review must be  
2 filed not later than 30 days after the date of  
3 the final order of exclusion or deportation; and

4 (D) the petition for review shall be filed  
5 with the court of appeals for the judicial circuit  
6 in which the administrative proceedings before  
7 the special inquiry officer or immigration judge  
8 were completed.

9 (5) TRANSITIONAL RULE WITH REGARD TO  
10 SUSPENSION OF DEPORTATION.—Paragraphs (1)  
11 and (2) of section 240A(d) of the Immigration and  
12 Nationality Act (relating to continuous residence or  
13 physical presence) shall apply to notices to appear  
14 issued after the date of the enactment of this Act.

15 (6) TRANSITION FOR CERTAIN FAMILY UNITY  
16 ALIENS.—The Attorney General may waive the ap-  
17 plication of section 212(a)(9) of the Immigration  
18 and Nationality Act, as inserted by section  
19 301(b)(1), in the case of an alien who is provided  
20 benefits under the provisions of section 301 of the  
21 Immigration Act of 1990 (relating to family unity).

22 (7) LIMITATION ON SUSPENSION OF DEPORTA-  
23 TION.—The Attorney General may not suspend the  
24 deportation and adjust the status under section 244  
25 of the Immigration and Nationality Act of more

1 than 4,000 aliens in any fiscal year (beginning after  
2 the date of the enactment of this Act). The previous  
3 sentence shall apply regardless of when an alien ap-  
4 plied for such suspension and adjustment.

5 (d) TRANSITIONAL REFERENCES.—For purposes of  
6 carrying out the Immigration and Nationality Act, as  
7 amended by this subtitle—

8 (1) any reference in section 212(a)(1)(A) of  
9 such Act to the term “inadmissible” is deemed to in-  
10 clude a reference to the term “excludable”, and

11 (2) any reference in law to an order of removal  
12 shall be deemed to include a reference to an order  
13 of exclusion and deportation or an order of deporta-  
14 tion.

15 (e) TRANSITION.—No period of time before the date  
16 of the enactment of this Act shall be included in the period  
17 of 1 year described in section 212(a)(6)(B)(i) of the Immi-  
18 gration and Nationality Act (as amended by section  
19 301(c)).



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 the facts and statements described in the previous  
5 paragraphs.

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 sub-  
21       section (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 from funds appropriated for the enforcement of title  
14 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 would likely  
6                   cause serious and irreparable harm to the  
7                   national security or death or serious bodily  
8                   injury to any person, and

9                   “(ii) the provision of the required  
10                  summary would likely cause serious and ir-  
11                  reparable harm to the national security or  
12                  death or serious bodily injury to any per-  
13                  son.

14           “(5) CONTINUATION OF HEARING WITHOUT  
15           SUMMARY.—If a judge makes the findings described  
16           in paragraph (4)(B)—

17                   “(A) if the alien involved is an alien law-  
18                   fully admitted for permanent residence, the pro-  
19                   cedures described in subsection (c) shall apply;  
20                   and

21                   “(B) in all cases the special removal hear-  
22                   ing shall continue, the Department of Justice  
23                   shall cause to be delivered to the alien a state-  
24                   ment that no summary is possible, and the clas-

1           sified information submitted in camera and ex  
2           parte may be used pursuant to section 505(e).

3           “(c) SPECIAL PROCEDURES FOR ACCESS AND CHAL-  
4           LENGES TO CLASSIFIED INFORMATION BY SPECIAL AT-  
5           TORNEYS IN CASE OF LAWFUL PERMANENT ALIENS.—

6           “(1) IN GENERAL.—The procedures described  
7           in this subsection are that the judge (under rules of  
8           the special removal court) shall designate a special  
9           attorney to assist the alien—

10           “(A) by reviewing in camera the classified  
11           information on behalf of the alien, and

12           “(B) by challenging through an in camera  
13           proceeding the veracity of the evidence con-  
14           tained in the classified information.

15           “(2) RESTRICTIONS ON DISCLOSURE.—A spe-  
16           cial attorney receiving classified information under  
17           paragraph (1)—

18           “(A) shall not disclose the information to  
19           the alien or to any other attorney representing  
20           the alien, and

21           “(B) who discloses such information in vio-  
22           lation of subparagraph (A) shall be subject to  
23           a fine under title 18, United States Code, im-  
24           prisoned for not less than 10 years nor more  
25           than 25 years, or both.

## 1 “APPEALS

2 “SEC. 507. (a) APPEALS OF DENIALS OF APPLICA-  
3 TIONS FOR ORDERS.—The Department of Justice may  
4 seek a review of the denial of an order sought in an appli-  
5 cation by the United States Court of Appeals for the Dis-  
6 trict of Columbia Circuit by notice of appeal which must  
7 be filed within 20 days after the date of such denial. In  
8 such a case the entire record of the proceeding shall be  
9 transmitted to the Court of Appeals under seal and the  
10 Court of Appeals shall hear the matter *ex parte*. In such  
11 a case the Court of Appeals shall review questions of law  
12 *de novo*, but a prior finding on any question of fact shall  
13 not be set aside unless such finding was clearly erroneous.

14 “(b) APPEALS OF DETERMINATIONS ABOUT SUM-  
15 MARIES OF CLASSIFIED INFORMATION.—Either party  
16 may take an interlocutory appeal to the United States  
17 Court of Appeals for the District of Columbia Circuit of—

18 “(1) any determination by the judge pursuant  
19 to section 506(a)—

20 “(A) concerning whether an item of evi-  
21 dence may be introduced in camera and *ex*  
22 parte, or

23 “(B) concerning the contents of any sum-  
24 mary of evidence to be introduced in camera

1           and ex parte prepared pursuant to section  
2           506(b); or

3           “(2) the refusal of the court to make the find-  
4           ings permitted by section 506(b)(4)(B).

5 In any interlocutory appeal taken pursuant to this sub-  
6 section, the entire record, including any proposed order  
7 of the judge or summary of evidence, shall be transmitted  
8 to the Court of Appeals under seal and the matter shall  
9 be heard ex parte.

10       “(c) APPEALS OF DECISION IN HEARING.—

11           “(1) IN GENERAL.—Subject to paragraph (2),  
12           the decision of the judge after a special removal  
13           hearing may be appealed by either the alien or the  
14           Department of Justice to the United States Court of  
15           Appeals for the District of Columbia Circuit by no-  
16           tice of appeal.

17           “(2) AUTOMATIC APPEALS IN CASES OF PERMA-  
18           NENT RESIDENT ALIENS IN WHICH NO SUMMARY  
19           PROVIDED.—

20           “(A) IN GENERAL.—Unless the alien  
21           waives the right to a review under this para-  
22           graph, in any case involving an alien lawfully  
23           admitted for permanent residence who is denied  
24           a written summary of classified information  
25           under section 506(b)(4) and with respect to

1           which the procedures described in section  
2           506(c) apply, any order issued by the judge  
3           shall be reviewed by the Court of Appeals for  
4           the District of Columbia Circuit.

5           “(B) USE OF SPECIAL ATTORNEY.—With  
6           respect to any issue relating to classified infor-  
7           mation that arises in such review, the alien  
8           shall be represented only by the special attorney  
9           designated under section 506(c)(1) on behalf of  
10          the alien.

11          “(d) GENERAL PROVISIONS RELATING TO AP-  
12          PEALS.—

13                 “(1) NOTICE.—A notice of appeal pursuant to  
14                 subsection (b) or (c) (other than under subsection  
15                 (c)(2)) must be filed within 20 days after the date  
16                 of the order with respect to which the appeal is  
17                 sought, during which time the order shall not be exe-  
18                 cuted.

19                 “(2) TRANSMITTAL OF RECORD.—In an appeal  
20                 or review to the Court of Appeals pursuant to sub-  
21                 section (b) or (c)—

22                         “(A) the entire record shall be transmitted  
23                         to the Court of Appeals, and

24                         “(B) information received pursuant to sec-  
25                         tion 505(e), and any portion of the judge’s

1 order that would reveal the substance or source  
2 of such information, shall be transmitted under  
3 seal.

4 “(3) EXPEDITED APPELLATE PROCEEDING.—In  
5 an appeal or review to the Court of Appeals pursu-  
6 ant to subsection (b) or (c):

7 “(A) REVIEW.—The appeal or review shall  
8 be heard as expeditiously as practicable and the  
9 Court may dispense with full briefing and hear  
10 the matter solely on the record of the judge of  
11 the special removal court and on such briefs or  
12 motions as the Court may require to be filed by  
13 the parties.

14 “(B) DISPOSITION.—The Court shall up-  
15 hold or reverse the judge’s order within 60 days  
16 after the date of the issuance of the judge’s  
17 final order.

18 “(4) STANDARD FOR REVIEW.—In an appeal or  
19 review to the Court of Appeals pursuant to sub-  
20 section (b) or (c):

21 “(A) QUESTIONS OF LAW.—The Court of  
22 Appeals shall review all questions of law de  
23 novo.

24 “(B) QUESTIONS OF FACT.—(i) Subject to  
25 clause (ii), a prior finding on any question of

1 fact shall not be set aside unless such finding  
2 was clearly erroneous.

3 “(ii) In the case of a review under sub-  
4 section (c)(2) in which an alien lawfully admit-  
5 ted for permanent residence was denied a writ-  
6 ten summary of classified information under  
7 section 506(b)(4), the Court of Appeals shall  
8 review questions of fact de novo.

9 “(e) CERTIORARI.—Following a decision by the Court  
10 of Appeals pursuant to subsection (b) or (c), either the  
11 alien or the Department of Justice may petition the Su-  
12 preme Court for a writ of certiorari. In any such case,  
13 any information transmitted to the Court of Appeals  
14 under seal shall, if such information is also submitted to  
15 the Supreme Court, be transmitted under seal. Any order  
16 of removal shall not be stayed pending disposition of a  
17 writ of certiorari except as provided by the Court of Ap-  
18 peals or a Justice of the Supreme Court.

19 “(f) APPEALS OF DETENTION ORDERS.—

20 “(1) IN GENERAL.— The provisions of sections  
21 3145 through 3148 of title 18, United States Code,  
22 pertaining to review and appeal of a release or de-  
23 tention order, penalties for failure to appear, pen-  
24 alties for an offense committed while on release, and  
25 sanctions for violation of a release condition shall

1 apply to an alien to whom section 508(b)(1) applies.

2 In applying the previous sentence—

3 “(A) for purposes of section 3145 of such  
4 title an appeal shall be taken to the United  
5 States Court of Appeals for the District of Co-  
6 lumbia Circuit, and

7 “(B) for purposes of section 3146 of such  
8 title the alien shall be considered released in  
9 connection with a charge of an offense punish-  
10 able by life imprisonment.

11 “(2) NO REVIEW OF CONTINUED DETENTION.—  
12 The determinations and actions of the Attorney  
13 General pursuant to section 508(c)(2)(C) shall not  
14 be subject to judicial review, including application  
15 for a writ of habeas corpus, except for a claim by  
16 the alien that continued detention violates the alien’s  
17 rights under the Constitution. Jurisdiction over any  
18 such challenge shall lie exclusively in the United  
19 States Court of Appeals for the District of Columbia  
20 Circuit.

21 “DETENTION AND CUSTODY

22 “SEC. 508. (a) INITIAL CUSTODY.—

23 “(1) UPON FILING APPLICATION.—Subject to  
24 paragraph (2), the Attorney General may take into  
25 custody any alien with respect to whom an applica-  
26 tion under section 503 has been filed and, notwith-

1 standing any other provision of law, may retain such  
2 an alien in custody in accordance with the proce-  
3 dures authorized by this title.

4 “(2) SPECIAL RULES FOR PERMANENT RESI-  
5 DENT ALIENS.—An alien lawfully admitted for per-  
6 manent residence shall be entitled to a release hear-  
7 ing before the judge assigned to hear the special re-  
8 moval hearing. Such an alien shall be detained pend-  
9 ing the special removal hearing, unless the alien  
10 demonstrates to the court that—

11 “(A) the alien, if released upon such terms  
12 and conditions as the court may prescribe (in-  
13 cluding the posting of any monetary amount),  
14 is not likely to flee, and

15 “(B) the alien’s release will not endanger  
16 national security or the safety of any person or  
17 the community.

18 The judge may consider classified information sub-  
19 mitted in camera and ex parte in making a deter-  
20 mination under this paragraph.

21 “(3) RELEASE IF ORDER DENIED AND NO RE-  
22 VIEW SOUGHT.—

23 “(A) IN GENERAL.—Subject to subpara-  
24 graph (B), if a judge of the special removal  
25 court denies the order sought in an application

1 with respect to an alien and the Department of  
2 Justice does not seek review of such denial, the  
3 alien shall be released from custody.

4 “(B) APPLICATION OF REGULAR PROCE-  
5 DURES.—Subparagraph (A) shall not prevent  
6 the arrest and detention of the alien pursuant  
7 to title II.

8 “(b) CONDITIONAL RELEASE IF ORDER DENIED AND  
9 REVIEW SOUGHT.—

10 “(1) IN GENERAL.—If a judge of the special re-  
11 moval court denies the order sought in an applica-  
12 tion with respect to an alien and the Department of  
13 Justice seeks review of such denial, the judge shall  
14 release the alien from custody subject to the least re-  
15 strictive condition or combination of conditions of re-  
16 lease described in section 3142(b) and clauses (i)  
17 through (xiv) of section 3142(c)(1)(B) of title 18,  
18 United States Code, that will reasonably assure the  
19 appearance of the alien at any future proceeding  
20 pursuant to this title and will not endanger the safe-  
21 ty of any other person or the community.

22 “(2) NO RELEASE FOR CERTAIN ALIENS.—If  
23 the judge finds no such condition or combination of  
24 conditions, the alien shall remain in custody until  
25 the completion of any appeal authorized by this title.

1 “(c) CUSTODY AND RELEASE AFTER HEARING.—

2 “(1) RELEASE.—

3 “(A) IN GENERAL.—Subject to subpara-  
4 graph (B), if the judge decides pursuant to sec-  
5 tion 505(i) that an alien should not be removed,  
6 the alien shall be released from custody.

7 “(B) CUSTODY PENDING APPEAL.—If the  
8 Attorney General takes an appeal from such de-  
9 cision, the alien shall remain in custody, subject  
10 to the provisions of section 3142 of title 18,  
11 United States Code.

12 “(2) CUSTODY AND REMOVAL.—

13 “(A) CUSTODY.—If the judge decides pur-  
14 suant to section 505(i) that an alien shall be re-  
15 moved, the alien shall be detained pending the  
16 outcome of any appeal. After the conclusion of  
17 any judicial review thereof which affirms the re-  
18 moval order, the Attorney General shall retain  
19 the alien in custody and remove the alien to a  
20 country specified under subparagraph (B).

21 “(B) REMOVAL.—

22 “(i) IN GENERAL.—The removal of an  
23 alien shall be to any country which the  
24 alien shall designate if such designation  
25 does not, in the judgment of the Attorney

1           General, in consultation with the Secretary  
2           of State, impair the obligation of the  
3           United States under any treaty (including  
4           a treaty pertaining to extradition) or other-  
5           wise adversely affect the foreign policy of  
6           the United States.

7           “(ii) ALTERNATE COUNTRIES.—If the  
8           alien refuses to designate a country to  
9           which the alien wishes to be removed or if  
10          the Attorney General, in consultation with  
11          the Secretary of State, determines that re-  
12          moval of the alien to the country so des-  
13          ignated would impair a treaty obligation or  
14          adversely affect United States foreign pol-  
15          icy, the Attorney General shall cause the  
16          alien to be removed to any country willing  
17          to receive such alien.

18          “(C) CONTINUED DETENTION.—If no  
19          country is willing to receive such an alien, the  
20          Attorney General may, notwithstanding any  
21          other provision of law, retain the alien in cus-  
22          tody. The Attorney General, in coordination  
23          with the Secretary of State, shall make periodic  
24          efforts to reach agreement with other countries  
25          to accept such an alien and at least every 6

1 months shall provide to the attorney represent-  
2 ing the alien at the special removal hearing a  
3 written report on the Attorney General's ef-  
4 forts. Any alien in custody pursuant to this  
5 subparagraph shall be released from custody  
6 solely at the discretion of the Attorney General  
7 and subject to such conditions as the Attorney  
8 General shall deem appropriate.

9 “(D) FINGERPRINTING.—Before an alien  
10 is transported out of the United States pursu-  
11 ant to this subsection, or pursuant to an order  
12 of exclusion because such alien is excludable  
13 under section 212(a)(3)(B), the alien shall be  
14 photographed and fingerprinted, and shall be  
15 advised of the provisions of subsection 276(b).

16 “(d) CONTINUED DETENTION PENDING TRIAL.—

17 “(1) DELAY IN REMOVAL.—Notwithstanding  
18 the provisions of subsection (c)(2), the Attorney  
19 General may hold in abeyance the removal of an  
20 alien who has been ordered removed pursuant to this  
21 title to allow the trial of such alien on any Federal  
22 or State criminal charge and the service of any sen-  
23 tence of confinement resulting from such a trial.

24 “(2) MAINTENANCE OF CUSTODY.—Pending the  
25 commencement of any service of a sentence of con-

1       finement by an alien described in paragraph (1),  
2       such an alien shall remain in the custody of the At-  
3       torney General, unless the Attorney General deter-  
4       mines that temporary release of the alien to the cus-  
5       tody of State authorities for confinement in a State  
6       facility is appropriate and would not endanger na-  
7       tional security or public safety.

8               “(3) SUBSEQUENT REMOVAL.—Following the  
9       completion of a sentence of confinement by an alien  
10       described in paragraph (1) or following the comple-  
11       tion of State criminal proceedings which do not re-  
12       sult in a sentence of confinement of an alien released  
13       to the custody of State authorities pursuant to para-  
14       graph (2), such an alien shall be returned to the  
15       custody of the Attorney General who shall proceed  
16       to carry out the provisions of subsection (e)(2) con-  
17       cerning removal of the alien.

18               “(e) APPLICATION OF CERTAIN PROVISIONS RELAT-  
19       ING TO ESCAPE OF PRISONERS.—For purposes of sections  
20       751 and 752 of title 18, United States Code, an alien in  
21       the custody of the Attorney General pursuant to this title  
22       shall be subject to the penalties provided by those sections  
23       in relation to a person committed to the custody of the  
24       Attorney General by virtue of an arrest on a charge of  
25       a felony.

1 “(f) RIGHTS OF ALIENS IN CUSTODY.—

2 “(1) FAMILY AND ATTORNEY VISITS.—An alien  
3 in the custody of the Attorney General pursuant to  
4 this title shall be given reasonable opportunity to  
5 communicate with and receive visits from members  
6 of the alien’s family, and to contact, retain, and  
7 communicate with an attorney.

8 “(2) DIPLOMATIC CONTACT.—An alien in the  
9 custody of the Attorney General pursuant to this  
10 title shall have the right to contact an appropriate  
11 diplomatic or consular official of the alien’s country  
12 of citizenship or nationality or of any country pro-  
13 viding representation services therefore. The Attor-  
14 ney General shall notify the appropriate embassy,  
15 mission, or consular office of the alien’s detention.”.

16 (b) CRIMINAL PENALTY FOR REENTRY OF ALIEN  
17 TERRORISTS.—Section 276(b) (8 U.S.C. 1326(b)) is  
18 amended—

19 (1) by striking “or” at the end of paragraph  
20 (1),

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

23 (3) by inserting after paragraph (2) the follow-  
24 ing new paragraph:

1           “(3) who has been excluded from the United  
2 States pursuant to subsection 235(c) because the  
3 alien was excludable under subsection 212(a)(3)(B)  
4 or who has been removed from the United States  
5 pursuant to the provisions of title V, and who there-  
6 after, without the permission of the Attorney Gen-  
7 eral, enters the United States or attempts to do so  
8 shall be fined under title 18, United States Code,  
9 and imprisoned for a period of 10 years, which sen-  
10 tence shall not run concurrently with any other sen-  
11 tence.”.

12           (c) ELIMINATION OF CUSTODY REVIEW BY HABEAS  
13 CORPUS.—Section 106(a) (8 U.S.C. 1105a(a)) is amend-  
14 ed—

15           (1) by adding “and” at the end of paragraph  
16 (8),

17           (2) by striking “; and” at the end of paragraph  
18 (9) and inserting a period, and

19           (3) by striking paragraph (10).

20           (d) EFFECTIVE DATE.—The amendments made by  
21 this section shall take effect on the date of the enactment  
22 of this Act and shall apply to all aliens without regard  
23 to the date of entry or attempted entry into the United  
24 States.

1 **SEC. 322. FUNDING FOR DETENTION AND REMOVAL OF**  
2 **ALIEN TERRORISTS.**

3 In addition to amounts otherwise appropriated, there  
4 are authorized to be appropriated for each fiscal year (be-  
5 ginning with fiscal year 1996) \$5,000,000 to the Immigra-  
6 tion and Naturalization Service for the purpose of detain-  
7 ing and removing alien terrorists.

8 **PART 2—INADMISSIBILITY AND DENIAL OF**  
9 **RELIEF FOR ALIEN TERRORISTS**

10 **SEC. 331. MEMBERSHIP IN TERRORIST ORGANIZATION AS**  
11 **GROUND OF INADMISSIBILITY.**

12 (a) IN GENERAL.—Section 212(a)(3)(B) (8 U.S.C.  
13 1182(a)(3)(B)) is amended—

14 (1) in clause (i)—

15 (A) by striking “or” at the end of  
16 subclause (I),

17 (B) in subclause (II), by inserting “en-  
18 gaged in or” after “believe,” and

19 (C) by inserting after subclause (II) the  
20 following:

21 “(III) is a representative of a ter-  
22 rorist organization, or

23 “(IV) is a member of a terrorist  
24 organization which the alien knows or  
25 should have known is a terrorist orga-  
26 nization,”; and

1 (2) by adding at the end the following:

2 “(iv) TERRORIST ORGANIZATION DE-  
3 FINED.—

4 “(I) DESIGNATION.—For pur-  
5 poses of this Act, the term ‘terrorist  
6 organization’ means a foreign organi-  
7 zation designated in the Federal Reg-  
8 ister as a terrorist organization by the  
9 Secretary of State, in consultation  
10 with the Attorney General, based  
11 upon a finding that the organization  
12 engages in, or has engaged in, terror-  
13 ist activity that threatens the national  
14 security of the United States.

15 “(II) PROCESS.—At least 3 days  
16 before designating an organization as  
17 a terrorist organization through publi-  
18 cation in the Federal Register, the  
19 Secretary of State, in consultation  
20 with the Attorney General, shall notify  
21 the Committees on the Judiciary of  
22 the House of Representatives and the  
23 Senate of the intent to make such  
24 designation and the findings and basis  
25 for designation. The Secretary of

1 State, in consultation with the Attor-  
2 ney General, shall create an adminis-  
3 trative record and may use classified  
4 information in making such a designa-  
5 tion. Such information is not subject  
6 to disclosure so long as it remains  
7 classified, except that it may be dis-  
8 closed to a court ex parte and in cam-  
9 era under subclause (III) for purposes  
10 of judicial review of such a designa-  
11 tion. The Secretary of State, in con-  
12 sultation with the Attorney General,  
13 shall provide notice and an oppor-  
14 tunity for public comment prior to the  
15 creation of the administrative record  
16 under this subclause.

17 “(III) JUDICIAL REVIEW.—Any  
18 organization designated as a terrorist  
19 organization under the preceding pro-  
20 visions of this clause may, not later  
21 than 30 days after the date of the  
22 designation, seek judicial review there-  
23 of in the United States Court of Ap-  
24 peals for the District of Columbia Cir-  
25 cuit. Such review shall be based solely

1 upon the administrative record, except  
2 that the Government may submit, for  
3 ex parte and in camera review, classi-  
4 fied information considered in making  
5 the designation. The court shall hold  
6 unlawful and set aside the designation  
7 if the court finds the designation to be  
8 arbitrary, capricious, an abuse of dis-  
9 cretion, or otherwise not in accord-  
10 ance with law, lacking substantial  
11 support in the administrative record  
12 taken as a whole or in classified infor-  
13 mation submitted to the court under  
14 the previous sentence, contrary to  
15 constitutional right, power, privilege,  
16 or immunity, or not in accord with the  
17 procedures required by law.

18 “(IV) CONGRESSIONAL REMOVAL  
19 AUTHORITY.—The Congress reserves  
20 the authority to remove, by law, the  
21 designation of an organization as a  
22 terrorist organization for purposes of  
23 this Act.

24 “(V) SUNSET.—Subject to  
25 subclause (IV), the designation under

1 this clause of an organization as a  
2 terrorist organization shall be effective  
3 for a period of 2 years from the date  
4 of the initial publication of the terror-  
5 ist organization designation by the  
6 Secretary of State. At the end of such  
7 period (but no sooner than 60 days  
8 prior to the termination of the 2-year-  
9 designation period), the Secretary of  
10 State, in consultation with the Attor-  
11 ney General, may redesignate the or-  
12 ganization in conformity with the re-  
13 quirements of this clause for designa-  
14 tion of the organization.

15 “(VI) REMOVAL AUTHORITY.—  
16 The Secretary of State, in consulta-  
17 tion with the Attorney General, may  
18 remove the terrorist organization des-  
19 ignation from any organization pre-  
20 viously designated as such an organi-  
21 zation, at any time, so long as the  
22 Secretary publishes notice of the re-  
23 moval in the Federal Register. The  
24 Secretary is not required to report to

1 Congress prior to so removing such  
2 designation.

3 “(v) REPRESENTATIVE DEFINED.—

4 “(I) IN GENERAL.—In this sub-  
5 paragraph, the term ‘representative’  
6 includes an officer, official, or spokes-  
7 man of the organization and any per-  
8 son who directs, counsels, commands  
9 or induces the organization or its  
10 members to engage in terrorist activ-  
11 ity.

12 “(II) JUDICIAL REVIEW.—The  
13 determination under this subpara-  
14 graph that an alien is a representative  
15 of a terrorist organization shall be  
16 subject to judicial review under sec-  
17 tion 706 of title 5, United States  
18 Code.”.

19 (b) EFFECTIVE DATE.—The amendments made by  
20 this section shall take effect on the date of the enactment  
21 of this Act.

22 **SEC. 332. DENIAL OF RELIEF FOR ALIEN TERRORISTS.**

23 (a) WITHHOLDING OF DEPORTATION.—Subsection  
24 (h)(2) of section 243 (8 U.S.C. 1253), before amendment  
25 by section 307(a), is amended by adding at the end the

1 following new sentence: “For purposes of subparagraph  
2 (D), an alien who is described in section 241(a)(4)(B)  
3 shall be considered to be an alien for whom there are rea-  
4 sonable grounds for regarding as a danger to the security  
5 of the United States.”.

6 (b) SUSPENSION OF DEPORTATION.—Section 244(a)  
7 (8 U.S.C. 1254(a)), before amendment by section 308(b),  
8 is amended by striking “section 241(a)(4)(D)” and insert-  
9 ing “subparagraph (B) or (D) of section 241(a)(4)”.

10 (c) VOLUNTARY DEPARTURE.—Section 244(e)(2) (8  
11 U.S.C. 1254(e)(2)), before amendment by section 308(b),  
12 is amended by inserting “under section 241(a)(4)(B) or”  
13 after “who is deportable”.

14 (d) ADJUSTMENT OF STATUS.—Section 245(c) (8  
15 U.S.C. 1255(c)) is amended—

16 (1) by striking “or” before “(5)”, and

17 (2) by inserting before the period at the end the  
18 following: “, or (6) an alien who is deportable under  
19 section 241(a)(4)(B)”.

20 (e) REGISTRY.—Section 249(d) (8 U.S.C. 1259(d))  
21 is amended by inserting “and is not deportable under sec-  
22 tion 241(a)(4)(B)” after “ineligible to citizenship”.

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 who ob-  
14 tains transportation without the consent of the owner,  
15 charterer, master or person in command of any vessel or  
16 aircraft through concealment aboard such vessel or air-  
17 craft. A passenger who boards with a valid ticket is not  
18 to be considered a stowaway.”.

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. PROVISIONS RELATING TO CONTRACTS WITH**  
4 **TRANSPORTATION LINES.**

5 (a) **COVERAGE OF NONCONTIGUOUS TERRITORY.**—  
6 Section 238 (8 U.S.C. 1228), before redesignation as sec-  
7 tion 233 under section 308(b), is amended—

8 (1) in the heading, by striking “CONTIGUOUS”,  
9 and

10 (2) by striking “contiguous” each place it ap-  
11 pears in subsections (a), (b), and (d).

12 (b) **COVERAGE OF RAILROAD TRAIN.**—Subsection (d)  
13 of such section is further amended by inserting “ or rail-  
14 road train” after “aircraft”.

15 **Subtitle D—Additional Provisions**

16 **SEC. 351. DEFINITION OF CONVICTION.**

17 (a) **IN GENERAL.**—Section 101(a) (8 U.S.C.  
18 1101(a)), as amended by section 341(a), is amended by  
19 adding at the end the following new paragraph:

20 “(48) The term ‘conviction’ means a formal judgment  
21 of guilt entered by a court or, if adjudication of guilt has  
22 been withheld, where all of the following elements are  
23 present:

24 “(A) A judge or jury has found the alien guilty  
25 or the alien has entered a plea of guilty or nolo

1       contendere or has admitted sufficient facts to war-  
2       rant a finding of guilt.

3               “(B) The judge has ordered some form of pun-  
4       ishment, penalty, or restraint on the alien’s liberty  
5       to be imposed.

6               “(C) A judgment or adjudication of guilt may  
7       be entered if the alien violates the terms of the pro-  
8       bation or fails to comply with the requirements of  
9       the court’s order, without availability of further pro-  
10      ceedings regarding the alien’s guilt or innocence of  
11      the original charge.”.

12      (b) EFFECTIVE DATE.—The amendment made by  
13      subsection (a) shall apply to convictions entered before,  
14      on, or after the date of the enactment of this Act.

15      **SEC. 352. IMMIGRATION JUDGES AND COMPENSATION.**

16      (a) DEFINITION OF TERM.—Paragraph (4) of section  
17      101(b) (8 U.S.C. 1101(b)) is amended to read as follows:

18               “(4) The term ‘immigration judge’ means an attorney  
19      whom the Attorney General appoints as an administrative  
20      judge within the Executive Office for Immigration Review,  
21      qualified to conduct specified classes of proceedings, in-  
22      cluding a hearing under section 240. An immigration  
23      judge shall be subject to such supervision and shall per-  
24      form such duties as the Attorney General shall prescribe,

1 but shall not be employed by the Immigration and Natu-  
2 ralization Service.”.

3 (b) SUBSTITUTION FOR TERM “SPECIAL INQUIRY  
4 OFFICER”.—The Immigration and Nationality Act is  
5 amended by striking “a special inquiry officer”, “special  
6 inquiry officer”, and “special inquiry officers” and insert-  
7 ing “an immigration judge”, “immigration judge”, and  
8 “immigration judges”, respectively, each place it appears  
9 in the following sections:

10 (1) Section 106(a)(2) (8 U.S.C. 1105a(a)(2)).

11 (2) Section 209(a)(2) (8 U.S.C. 1159(a)(2)).

12 (3) Section 234 (8 U.S.C. 1224), before redес-  
13 igation by section 308(b).

14 (4) Section 235 (8 U.S.C. 1225), before redес-  
15 igation by section 308(b).

16 (5) Section 236 (8 U.S.C. 1226), before amend-  
17 ment by section 303.

18 (6) Section 242(b) (8 U.S.C. 1252(b)), before  
19 amendment by section 306(a)(2).

20 (7) Section 242(d)(1) (8 U.S.C. 1252(d)(1)),  
21 before amendment by section 306(a)(2).

22 (8) Section 292 (8 U.S.C. 1362).

23 (c) COMPENSATION FOR IMMIGRATION JUDGES.—

24 (1) IN GENERAL.—There shall be four levels of  
25 pay for immigration judges, under the Immigration

1 Judge Schedule (designated as IJ-1, 2, 3, and 4, re-  
 2 spectively), and each such judge shall be paid at one  
 3 of those levels, in accordance with the provisions of  
 4 this subsection.

5 (2) RATES OF PAY.—

6 (A) The rates of basic pay for the levels es-  
 7 tablished under paragraph (1) shall be as fol-  
 8 lows:

IJ-1 .....	70% of the next to highest rate of basic pay for the Senior Executive Service
IJ-2 .....	80% of the next to highest rate of basic pay for the Senior Executive Service
IJ-3 .....	90% of the next to highest rate of basic pay for the Senior Executive Service
IJ-4 .....	92% of the next to highest rate of basic pay for the Senior Executive Service.

9 (B) Locality pay, where applicable, shall be  
 10 calculated into the basic pay for immigration  
 11 judges.

12 (3) APPOINTMENT.—

13 (A) Upon appointment, an immigration  
 14 judge shall be paid at IJ-1, and shall be ad-  
 15 vanced to IJ-2 upon completion of 104 weeks  
 16 of service, to IJ-3 upon completion of 104  
 17 weeks of service in the next lower rate, and to  
 18 IJ-4 upon completion of 52 weeks of service in  
 19 the next lower rate.



1 (b) EFFECTIVE DATE.—The amendment made by  
2 subsection (a) shall take effect on the title III–A effective  
3 date (as defined in section 309(a)).

4 **SEC. 354. CIVIL PENALTIES FOR FAILURE TO DEPART.**

5 (a) IN GENERAL.—The Immigration and Nationality  
6 Act is amended by inserting after section 274C the follow-  
7 ing new section:

8 “CIVIL PENALTIES FOR FAILURE TO DEPART

9 “SEC. 274D. (a) IN GENERAL.—Any alien subject to  
10 a final order of removal who—

11 “(1) willfully fails or refuses to—

12 “(A) depart from the United States pursu-  
13 ant to the order,

14 “(B) make timely application in good faith  
15 for travel or other documents necessary for de-  
16 parture, or

17 “(C) present for removal at the time and  
18 place required by the Attorney General; or

19 “(2) conspires to or takes any action designed  
20 to prevent or hamper the alien’s departure pursuant  
21 to the order,

22 shall pay a civil penalty of not more than \$500 to the  
23 Commissioner for each day the alien is in violation of this  
24 section.

25 “(b) CONSTRUCTION.—Nothing in this section shall  
26 be construed to diminish or qualify any penalties to which

1 an alien may be subject for activities proscribed by section  
2 243(a) or any other section of this Act.”.

3 (b) CLERICAL AMENDMENT.—The table of contents  
4 is amended by inserting after the item relating to section  
5 274C the following new item:

“Sec. 274D. Civil penalties for failure to depart.”.

6 (c) EFFECTIVE DATE.—The amendments made by  
7 subsection (a) shall apply to actions occurring on or after  
8 the title III–A effective date (as defined in section 309(a)).

9 **SEC. 355. CLARIFICATION OF DISTRICT COURT JURISDIC-**  
10 **TION.**

11 (a) IN GENERAL.—Section 279 (8 U.S.C. 1329) is  
12 amended—

13 (1) by amending the first sentence to read as  
14 follows: “The district courts of the United States  
15 shall have jurisdiction of all causes, civil and crimi-  
16 nal, brought by the United States that arise under  
17 the provisions of this title.”, and

18 (2) by adding at the end the following new sen-  
19 tence: “Nothing in this section shall be construed as  
20 providing jurisdiction for suits against the United  
21 States or its agencies or officers.”.

22 (b) EFFECTIVE DATE.—The amendments made by  
23 subsection (a) shall apply to actions filed after the date  
24 of the enactment of this Act.

1 **SEC. 356. DEMONSTRATION PROJECT FOR IDENTIFICATION**  
2 **OF ILLEGAL ALIENS IN INCARCERATION FA-**  
3 **CILITY OF ANAHEIM, CALIFORNIA.**

4 (a) **AUTHORITY.**—The Attorney General may conduct  
5 a project demonstrating the feasibility of identifying, from  
6 among the individuals who are incarcerated in local gov-  
7 ernmental prison facilities prior to arraignment on crimi-  
8 nal charges, those individuals who are aliens unlawfully  
9 present in the United States.

10 (b) **DESCRIPTION OF PROJECT.**—The project author-  
11 ized by subsection (a) shall include—

12 (1) the detail to incarceration facilities within  
13 the city of Anaheim, California and the county of  
14 Ventura, California, of an employee of the Immigra-  
15 tion and Naturalization Service who has expertise in  
16 the identification of aliens unlawfully in the United  
17 States, and

18 (2) provision of funds sufficient to provide  
19 for—

20 (A) access for such employee to records of  
21 the Service necessary to identify unlawful  
22 aliens, and

23 (B) in the case of an individual identified  
24 as an unlawful alien, pre-arraignment reporting  
25 to the court regarding the Service's intention to  
26 remove the alien from the United States.

1 (c) TERMINATION.—The authority under this section  
2 shall cease to be effective 6 months after the date of the  
3 enactment of this Act.

4 **SEC. 357. ENHANCED PENALTIES FOR FAILURE TO DEPART,**  
5 **ILLEGAL REENTRY, AND PASSPORT AND VISA**  
6 **FRAUD.**

7 (a) FAILING TO DEPART.—The United States Sen-  
8 tencing Commission shall promptly promulgate, pursuant  
9 to section 994 of title 28, United States Code, amend-  
10 ments to the sentencing guidelines to make appropriate  
11 increases in the base offense level for offenses under sec-  
12 tion 242(e) and 276(b) of the Immigration and National-  
13 ity Act (8 U.S.C. 1252(e) and 1326(b)) to reflect the  
14 amendments made by section 130001 of the Violent Crime  
15 Control and Law Enforcement Act of 1994.

16 (b) PASSPORT AND VISA OFFENSES.—The United  
17 States Sentencing Commission shall promptly promulgate,  
18 pursuant to section 994 of title 28, United States Code,  
19 amendments to the sentencing guidelines to make appro-  
20 priate increases in the base offense level for offenses under  
21 chapter 75 of title 18, United States Code to reflect the  
22 amendments made by section 130009 of the Violent Crime  
23 Control and Law Enforcement Act of 1994.

1 **SEC. 358. AUTHORIZATION OF ADDITIONAL FUNDS FOR RE-**  
2 **MOVAL OF ALIENS.**

3 In addition to the amounts otherwise authorized to  
4 be appropriated for each fiscal year beginning with fiscal  
5 year 1996, there are authorized to be appropriated to the  
6 Attorney General \$150,000,000 for costs associated with  
7 the removal of inadmissible or deportable aliens, including  
8 costs of detention of such aliens pending their removal,  
9 the hiring of more investigators, and the hiring of more  
10 detention and deportation officers.

11 **SEC. 359. APPLICATION OF ADDITIONAL CIVIL PENALTIES**  
12 **TO ENFORCEMENT.**

13 (a) IN GENERAL.—Subsection (b) of section 280 (8  
14 U.S.C. 1330(b)) is amended to read as follows:

15 “(b)(1) There is established in the general fund of  
16 the Treasury a separate account which shall be known as  
17 the ‘Immigration Enforcement Account’. Notwithstanding  
18 any other section of this title, there shall be deposited as  
19 offsetting receipts into the Immigration Enforcement Ac-  
20 count amounts described in paragraph (2) to remain avail-  
21 able until expended.

22 “(2) The amounts described in this paragraph are the  
23 following:

24 “(A) The increase in penalties collected result-  
25 ing from the amendments made by sections 203(b)  
26 and 543(a) of the Immigration Act of 1990.

1           “(B) Civil penalties collected under sections  
2           240B(d), 274C, 274D, and 275(b).

3           “(3)(A) The Secretary of the Treasury shall refund  
4 out of the Immigration Enforcement Account to any ap-  
5 propriation the amount paid out of such appropriation for  
6 expenses incurred by the Attorney General for activities  
7 that enhance enforcement of provisions of this title, in-  
8 cluding—

9           “(i) the identification, investigation, apprehen-  
10 sion, detention, and removal of criminal aliens;

11           “(ii) the maintenance and updating of a system  
12 to identify and track criminal aliens, deportable  
13 aliens, inadmissible aliens, and aliens illegally enter-  
14 ing the United States; and

15           “(iii) for the repair, maintenance, or construc-  
16 tion on the United States border, in areas experienc-  
17 ing high levels of apprehensions of illegal aliens, of  
18 structures to deter illegal entry into the United  
19 States.

20           “(B) The amounts which are required to be refunded  
21 under subparagraph (A) shall be refunded at least quar-  
22 terly on the basis of estimates made by the Attorney Gen-  
23 eral of the expenses referred to in subparagraph (A).  
24 Proper adjustments shall be made in the amounts subse-  
25 quently refunded under subparagraph (A) to the extent

1 prior estimates were in excess of, or less than, the amount  
2 required to be refunded under subparagraph (A).

3 “(C) The amounts required to be refunded from the  
4 Immigration Enforcement Account for fiscal year 1996  
5 and thereafter shall be refunded in accordance with esti-  
6 mates made in the budget request of the Attorney General  
7 for those fiscal years. Any proposed changes in the  
8 amounts designated in such budget requests shall only be  
9 made after notification to the Committees on Appropria-  
10 tions of the House of Representatives and the Senate in  
11 accordance with section 605 of Public Law 103–317.

12 “(D) The Attorney General shall prepare and submit  
13 annually to the Congress statements of financial condition  
14 of the Immigration Enforcement Account, including begin-  
15 ning account balance, revenues, withdrawals, and ending  
16 account balance and projection for the ensuing fiscal  
17 year.”.

18 (b) IMMIGRATION USER FEE ACCOUNT.—Section  
19 286(h)(1)(B) (8 U.S.C. 1356(h)(1)(B)) is amended by  
20 striking “271” and inserting “243(c), 271,”.

21 (c) EFFECTIVE DATE.—The amendments made by  
22 this section shall apply to fines and penalties collected on  
23 or after the date of the enactment of this Act.

1 **SEC. 360. PRISONER TRANSFER TREATIES.**

2 (a) NEGOTIATION.—Congress advises the President  
3 to begin to negotiate and renegotiate, not later than 90  
4 days after the date of the enactment of this Act, bilateral  
5 prisoner transfer treaties. The focus of such negotiations  
6 shall be—

7 (1) to expedite the transfer of aliens unlawfully  
8 in the United States who are (or are about to be)  
9 incarcerated in United States prisons,

10 (2) to ensure that a transferred prisoner serves  
11 the balance of the sentence imposed by the United  
12 States courts,

13 (3) to eliminate any requirement of prisoner  
14 consent to such a transfer, and

15 (4) to allow the Federal Government or the  
16 States to keep their original prison sentences in  
17 force so that transferred prisoners who return to the  
18 United States prior to the completion of their origi-  
19 nal United States sentences can be returned to cus-  
20 tody for the balance of their prison sentences.

21 In entering into such negotiations, the President may con-  
22 sider providing for appropriate compensation in cases  
23 where the United States is able to independently verify  
24 the adequacy of the sites where aliens will be imprisoned  
25 and the length of time the alien is actually incarcerated  
26 in the foreign country under such a treaty.

1           (b) CERTIFICATION.—The President shall submit to  
2 the Congress, annually, a certification as to whether each  
3 prisoner transfer treaty in force is effective in returning  
4 aliens unlawfully in the United States who have committed  
5 offenses for which they are incarcerated in the United  
6 States to their country of nationality for further incarcer-  
7 ation.

8 **SEC. 361. CRIMINAL ALIEN IDENTIFICATION SYSTEM.**

9           (a) OPERATION AND PURPOSE.—Subsection (a) of  
10 section 130002 of the Violent Crime Control and Law En-  
11 forcement Act of 1994 (Public Law 103–322) is amended  
12 to read as follows:

13           “(a) OPERATION AND PURPOSE.—The Commissioner  
14 of Immigration and Naturalization shall, under the au-  
15 thority of section 242(a)(3)(A) of the Immigration and  
16 Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a crimi-  
17 nal alien identification system. The criminal alien identi-  
18 fication system shall be used to assist Federal, State, and  
19 local law enforcement agencies in identifying and locating  
20 aliens who may be subject to removal by reason of their  
21 conviction of aggravated felonies, subject to prosecution  
22 under section 275 of such Act, not lawfully present in the  
23 United States, or otherwise removable. Such system shall  
24 include providing for recording of fingerprint records of  
25 aliens who have been previously arrested and removed into

1 appropriate automated fingerprint identification sys-  
2 tems.”.

3 (b) IDENTIFICATION OF CRIMINAL ALIENS UNLAW-  
4 FULLY PRESENT IN THE UNITED STATES.—Upon the re-  
5 quest of the governor or chief executive officer of any  
6 State, the Immigration and Naturalization Service shall  
7 provide assistance to State courts in the identification of  
8 aliens unlawfully present in the United States pending  
9 criminal prosecution.

10 **SEC. 362. WAIVER OF EXCLUSION AND DEPORTATION**

11 **GROUND FOR CERTAIN SECTION 274C VIOLA-**  
12 **TORS.**

13 (a) EXCLUSION GROUNDS.—Section 212 (8 U.S.C.  
14 1182) is amended—

15 (1) by amending subparagraph (F) of sub-  
16 section (a)(6) to read as follows:

17 “(F) SUBJECT OF CIVIL PENALTY.—

18 “(i) IN GENERAL.—An alien who is  
19 the subject of a final order for violation of  
20 section 274C is inadmissible.

21 “(ii) WAIVER AUTHORIZED.—For pro-  
22 vision authorizing waiver of clause (i), see  
23 subsection (d)(12).”; and

24 (2) by adding at the end of subsection (d) the  
25 following new paragraph:

1       “(12) The Attorney General may, in the discretion  
2 of the Attorney General for humanitarian purposes, to as-  
3 sure family unity, or when it is otherwise in the public  
4 interest, waive application of clause (i) of subsection  
5 (a)(6)(F)—

6               “(A) in the case of an alien lawfully admitted  
7 for permanent residence who temporarily proceeded  
8 abroad voluntarily and not under an order of depor-  
9 tation and who is otherwise admissible to the United  
10 States as a returning resident under section 211(b),  
11 and

12               “(B) in the case of an alien seeking admission  
13 or adjustment of status under section 201(b)(2)(A)  
14 or under section 203(a),  
15 if the violation under section 274C was committed solely  
16 to assist, aid, or support the alien’s spouse, parent, son,  
17 or daughter (and not another individual).”.

18       (b) GROUND OF DEPORTATION.—Subparagraph (C)  
19 of section 241(a)(3) (8 U.S.C. 1251(a)(3)), before redesi-  
20 gnation by section 305(a)(2), is amended to read as follows:

21               “(C) DOCUMENT FRAUD.—

22                       “(i) IN GENERAL.—An alien who is  
23 the subject of a final order for violation of  
24 section 274C is deportable.

1                   “(ii) WAIVER AUTHORIZED.—The At-  
2                   torney General may waive clause (i) in the  
3                   case of an alien lawfully admitted for per-  
4                   manent residence if the alien’s civil money  
5                   penalty under section 274C was incurred  
6                   solely to assist, aid, or support the alien’s  
7                   spouse, parent, son, or daughter (and no  
8                   other individual).”.

9   **SEC. 363. AUTHORIZING REGISTRATION OF ALIENS ON**  
10                   **CRIMINAL PROBATION OR CRIMINAL PA-**  
11                   **ROLE.**

12           Section 263(a) (8 U.S.C. 1303(a)) is amended by  
13 striking “and (5)” and inserting “(5) aliens who are or  
14 have been on criminal probation or criminal parole within  
15 the United States, and (6)”.

16   **SEC. 364. CONFIDENTIALITY PROVISION FOR CERTAIN**  
17                   **ALIEN BATTERED SPOUSES AND CHILDREN.**

18           (a) IN GENERAL.—Except as provided in subsection  
19 (b), in no case may the Attorney General, or any other  
20 official or employee of the Department of Justice (includ-  
21 ing any bureau or agency of such Department)—

22                   (1) make an adverse determination of admissi-  
23                   bility or deportability of an alien under the Immigra-  
24                   tion and Nationality Act using information furnished  
25                   solely by—

1           (A) a spouse or parent who has battered  
2 the alien or subjected the alien to extreme cru-  
3 elty,

4           (B) a member of the spouse's or parent's  
5 family residing in the same household as the  
6 alien who has battered the alien or subjected  
7 the alien to extreme cruelty when the spouse or  
8 parent consented to or acquiesced in such bat-  
9 tery or cruelty,

10          (C) a spouse or parent who has battered  
11 the alien's child or subjected the alien's child to  
12 extreme cruelty (without the active participation  
13 of the alien in the battery or extreme cruelty),  
14 or

15          (D) a member of the spouse's or parent's  
16 family residing in the same household as the  
17 alien who has battered the alien's child or sub-  
18 jected the alien's child to extreme cruelty when  
19 the spouse or parent consented to or acquiesced  
20 in such battery or cruelty and the alien did not  
21 actively participate in such battery or cruelty,  
22 unless the alien has been convicted of a crime or  
23 crimes listed in section 241(a)(2) of the Immigration  
24 and Nationality Act; or

1           (2) permit use by or disclosure to anyone (other  
2           than a sworn officer or employee of the Department,  
3           or bureau or agency thereof, for legitimate Depart-  
4           ment, bureau, or agency purposes) of any informa-  
5           tion which relates to an alien who is the beneficiary  
6           of an application for relief under clause (iii) or (iv)  
7           of section 204(a)(1)(A), clause (ii) or (iii) of section  
8           204(a)(1)(B), section 216(c)(4)(C), or section  
9           244(a)(3) of such Act as an alien (or the parent of  
10          a child) who has been battered or subjected to ex-  
11          treme cruelty.

12        The limitation under paragraph (2) ends when the appli-  
13        cation for relief is denied and all opportunities for appeal  
14        of the denial have been exhausted.

15        (b) EXCEPTIONS.—

16           (1) The Attorney General may provide, in the  
17           Attorney General's discretion, for the disclosure of  
18           information in the same manner and circumstances  
19           as census information may be disclosed by the Sec-  
20           retary of Commerce under section 8 of title 13,  
21           United States Code.

22           (2) The Attorney General may provide in the  
23           discretion of the Attorney General for the disclosure  
24           of information to law enforcement officials to be  
25           used solely for a legitimate law enforcement purpose.



1           “(2) any deputization, its duration, an identi-  
 2           fication of the supervising officer of the Department  
 3           of Justice, and the specific powers, privileges, and  
 4           duties to be performed or exercised are set forth in  
 5           writing; and

6           “(3) the Governor of the State, or the chief  
 7           elected or appointed official of a political subdivision  
 8           (as may be appropriate) consents to the deputiza-  
 9           tion.

10          “(2) No deputization under this subsection shall enti-  
 11          tle any State, political subdivision, or individual to any  
 12          compensation or reimbursement from the United States,  
 13          except where the amount thereof and the entitlement  
 14          thereto are set forth in the written deputization or where  
 15          otherwise explicitly provided by law.”.

16       **TITLE IV—ENFORCEMENT OF**  
 17       **RESTRICTIONS AGAINST EM-**  
 18       **PLOYMENT**

19       **SEC. 401. PILOT PROGRAM FOR VOLUNTARY USE OF EM-**  
 20                   **PLOYMENT ELIGIBILITY CONFIRMATION**  
 21                   **PROCESS.**

22           (a) VOLUNTARY ELECTION TO PARTICIPATE IN  
 23       PILOT PROGRAM CONFIRMATION MECHANISM.—

24           (1) IN GENERAL.—An employer (or a recruiter  
 25           or referrer subject to section 274A(a)(1)(B)(ii) of

1 the Immigration and Nationality Act) may elect to  
2 participate in the pilot program for employment eli-  
3 gibility confirmation provided under this section  
4 (such program in this section referred to as the  
5 “pilot program”). Except as specifically provided in  
6 this section, the Attorney General is not authorized  
7 to require any entity to participate in the program  
8 under this section. The pilot program shall operate  
9 in at least 5 of the 7 States with the highest esti-  
10 mated population of unauthorized aliens.

11 (2) EFFECT OF ELECTION.—The following pro-  
12 visions apply in the case of an entity electing to par-  
13 ticipate in the pilot program:

14 (A) OBLIGATION TO USE CONFIRMATION  
15 MECHANISM.—The entity agrees to comply with  
16 the confirmation mechanism under subsection  
17 (c) to confirm employment eligibility under the  
18 pilot program for all individuals covered under  
19 the election in accordance with this section.

20 (B) BENEFIT OF REBUTTABLE PRESUMP-  
21 TION.—

22 (i) IN GENERAL.—If the entity ob-  
23 tains confirmation of employment eligibility  
24 under the pilot program with respect to the  
25 hiring (or recruiting or referral that is sub-

1           ject to section 274A(a)(1)(B)(ii) of the Im-  
2           migration and Nationality Act) of an indi-  
3           vidual for employment in the United  
4           States, the entity has established a rebut-  
5           table presumption that the entity has not  
6           violated section 274A(a)(1)(A) of the Im-  
7           migration and Nationality Act with respect  
8           to such hiring (or such recruiting or refer-  
9           ral).

10           (ii) CONSTRUCTION.—Clause (i) shall  
11           not be construed as preventing an entity  
12           that has an election in effect under this  
13           section from establishing an affirmative de-  
14           fense under section 274A(a)(3) of the Im-  
15           migration and Nationality Act if the entity  
16           complies with the requirements of section  
17           274A(a)(1)(B) of such Act but fails to  
18           comply with the obligations under subpara-  
19           graph (A).

20           (C) BENEFIT OF NOTICE BEFORE EMPLOY-  
21           MENT-RELATED INSPECTIONS.—The Immigra-  
22           tion and Naturalization Service, the Special  
23           Counsel for Immigration-Related Unfair Em-  
24           ployment Practices, and any other agency au-  
25           thorized to inspect forms required to be re-

1           tained under section 274A of the Immigration  
2           and Nationality Act or to search property for  
3           purposes of enforcing such section shall provide  
4           at least 3 days notice prior to such an inspec-  
5           tion or search, except that such notice is not re-  
6           quired if the inspection or search is conducted  
7           with an administrative or judicial subpoena or  
8           warrant or under exigent circumstances.

9           (3) GENERAL TERMS OF ELECTIONS.—

10           (A) IN GENERAL.—An election under para-  
11           graph (1) shall be in a form and manner and  
12           under such terms and conditions as the Attor-  
13           ney General shall specify and shall take effect  
14           as the Attorney General shall specify. Such an  
15           election shall apply (under such terms and con-  
16           ditions and as specified in the election) either to  
17           all hiring (and all recruitment or referral that  
18           is subject to section 274A(a)(1)(B)(ii) of the  
19           Immigration and Nationality Act) by the entity  
20           during the period in which the election is in ef-  
21           fect or to hiring (or recruitment or referral that  
22           is subject to section 274A(a)(1)(B)(ii) of the  
23           Immigration and Nationality Act) in one or  
24           more States or one or more places of such hir-  
25           ing (or such recruiting or referral, as the case

1 may be) covered by the election. The Attorney  
2 General may not impose any fee as a condition  
3 of making an election or participation in the  
4 pilot program under this section.

5 (B) ACCEPTANCE OF ELECTIONS.—Except  
6 as otherwise provided in this paragraph, the At-  
7 torney General shall accept all elections made  
8 under paragraph (1). The Attorney General  
9 may establish a process under which entities  
10 seek to make elections in advance, in order to  
11 permit the Attorney General the opportunity to  
12 identify and develop appropriate resources to  
13 accommodate the demand for participation in  
14 the pilot program under this section.

15 (C) REJECTION OF ELECTIONS.—The At-  
16 torney General may reject an election by an en-  
17 tity under paragraph (1) because the Attorney  
18 General has determined that there are insuffi-  
19 cient resources to provide services under the  
20 pilot program for the entity.

21 (D) TERMINATION OF ELECTIONS.—The  
22 Attorney General may terminate an election by  
23 an entity under paragraph (1) because the en-  
24 tity has substantially failed to comply with the

1 obligations of the entity under the pilot pro-  
2 gram.

3 (E) RESCISSION OF ELECTION.—An entity  
4 may rescind an election made under this sub-  
5 section in such form and manner as the Attor-  
6 ney General shall specify.

7 (b) CONSULTATION, EDUCATION, AND PUBLICITY.—

8 (1) CONSULTATION.—The Attorney General  
9 shall closely consult with representatives of employ-  
10 ers (and recruiters and referrers whose recruiting or  
11 referring is subject to section 274A(a)(1)(B)(ii) of  
12 the Immigration and Nationality Act) in the develop-  
13 ment and implementation of the pilot program under  
14 this section, including the education of employers  
15 (and such recruiters and referrers) about the pro-  
16 gram.

17 (2) PUBLICITY.—The Attorney General shall  
18 widely publicize the election process and pilot pro-  
19 gram under this section, including the voluntary na-  
20 ture of the program and the advantages to employ-  
21 ers of making an election under subsection (a).

22 (3) ASSISTANCE THROUGH DISTRICT OF-  
23 FICES.—The Attorney General shall designate one or  
24 more individuals in each District office of the Immi-  
25 gration and Naturalization Service—

1 (A) to inform entities that seek informa-  
2 tion about the program of the voluntary nature  
3 of the program, and

4 (B) to assist entities in electing and par-  
5 ticipating in the pilot program, in complying  
6 with the requirements of section 274A of the  
7 Immigration and Nationality Act, and in facili-  
8 tating identification of individuals authorized to  
9 be employed consistent with such section.

10 (c) CONFIRMATION PROCESS UNDER PILOT PRO-  
11 GRAM.—An entity that is participating in the pilot pro-  
12 gram agrees to conform to the following procedures in the  
13 case of a hiring (or recruiting or referral in the case of  
14 recruitment or referral that is subject to section  
15 274A(a)(1)(B)(ii) of the Immigration and Nationality  
16 Act) of each individual covered under the program for em-  
17 ployment in the United States:

18 (1) PROVISION OF ADDITIONAL INFORMA-  
19 TION.—The entity shall obtain from the individual  
20 (and the individual shall provide) and shall record on  
21 the form used for purposes of section 274A(b)(1)(A)  
22 of the Immigration and Nationality Act—

23 (A) the individual's social security account  
24 number (if the individual has been issued such  
25 a number), and

1           (B) if the individual is an alien, such iden-  
2           tification or authorization number established  
3           by the Service for the alien as the Attorney  
4           General shall specify.

5           (2) SEEKING CONFIRMATION.—

6           (A) IN GENERAL.—The entity shall make  
7           an inquiry, under the confirmation mechanism  
8           established under subsection (d), to seek con-  
9           firmation of the identity, applicable number (or  
10          numbers) described in section 274A(b)(2)(B) of  
11          the Immigration and Nationality Act, and work  
12          eligibility of the individual, by not later than  
13          the end of 3 working days (as specified by the  
14          Attorney General) after the date of the hiring  
15          (or recruitment or referral, as the case may be).

16          (B) EXTENSION OF TIME PERIOD.—If the  
17          entity in good faith attempts to make an in-  
18          quiry during such 3 working days and the con-  
19          firmation mechanism has registered that not all  
20          inquiries were responded to during such time,  
21          the entity can make an inquiry in the first sub-  
22          sequent working day in which the confirmation  
23          mechanism registers no nonresponses and qual-  
24          ify for the presumption. If the confirmation  
25          mechanism is not responding to inquiries at all

1 times during a day, the entity merely has to as-  
2 sert that the entity attempted to make the in-  
3 quiry on that day for the previous sentence to  
4 apply to such an inquiry, and does not have to  
5 provide any additional proof concerning such in-  
6 quiry.

7 (3) CONFIRMATION.—

8 (A) IN GENERAL.—If the entity receives an  
9 appropriate confirmation of such identity, appli-  
10 cable number or numbers, and work eligibility  
11 under the confirmation mechanism within the  
12 time period specified under subsection (d) after  
13 the time the confirmation inquiry was received,  
14 the entity shall record on the form used for  
15 purposes of section 274A(b)(1)(A) of the Immi-  
16 gration and Nationality Act an appropriate code  
17 indicating a confirmation of such identity, num-  
18 ber or numbers, and work eligibility.

19 (B) FAILURE TO OBTAIN CONFIRMA-  
20 TION.—If the entity has made the inquiry de-  
21 scribed in paragraph (1) but has received a  
22 nonconfirmation within the time period speci-  
23 fied—

1 (i) the presumption under subsection  
2 (a)(2)(B) shall not be considered to apply,  
3 and

4 (ii) if the entity nonetheless continues  
5 to employ (or recruits or refers, if such re-  
6 cruitment or referral is subject to section  
7 274A(a)(1)(B)(ii) of the Immigration and  
8 Nationality Act) the individual for employ-  
9 ment in the United States, the entity shall  
10 notify the Attorney General of such fact  
11 through the confirmation mechanism or in  
12 such other manner as the Attorney Gen-  
13 eral may specify.

14 (C) CONSEQUENCES.—

15 (i) FAILURE TO NOTIFY.—If the en-  
16 tity fails to provide notice with respect to  
17 an individual as required under subpara-  
18 graph (B)(ii), the failure is deemed to con-  
19 stitute a violation of section 274A(a)(1)(A)  
20 of the Immigration and Nationality Act  
21 with respect to that individual.

22 (ii) CONTINUED EMPLOYMENT.—If  
23 the entity provides notice under subpara-  
24 graph (B)(ii) with respect to an individual,  
25 the entity has the burden of proof, for pur-

1 poses of applying section 274A(a)(1)(A) of  
2 the Immigration and Nationality Act with  
3 respect to such entity and individual, of es-  
4 tablishing that the individual is not an un-  
5 authorized alien (as defined in section  
6 274A(h)(3) of such Act).

7 (iii) NO APPLICATION TO CRIMINAL  
8 PENALTY.—Clauses (i) and (ii) shall not  
9 apply in any prosecution under section  
10 274A(f)(1) of the Immigration and Nation-  
11 ality Act.

12 (d) EMPLOYMENT ELIGIBILITY PILOT CONFIRMA-  
13 TION MECHANISM.—

14 (1) IN GENERAL.—The Attorney General shall  
15 establish a pilot program confirmation mechanism  
16 (in this section referred to as the “confirmation  
17 mechanism”) through which the Attorney General  
18 (or a designee of the Attorney General which may  
19 include a nongovernmental entity)—

20 (A) responds to inquiries by electing enti-  
21 ties, made at any time through a toll-free tele-  
22 phone line or other electronic media in the form  
23 of an appropriate confirmation code or other-  
24 wise, on whether an individual is authorized to  
25 be employed, and

1           (B) maintains a record that such an in-  
2           quiry was made and the confirmation provided  
3           (or not provided).

4           To the extent practicable, the Attorney General shall  
5           seek to establish such a mechanism using one or  
6           more nongovernmental entities. For purposes of this  
7           section, the Attorney General (or a designee of the  
8           Attorney General) shall provide through the con-  
9           firmation mechanism confirmation or a tentative  
10          nonconfirmation of an individual's employment eligi-  
11          bility within 3 working days of the initial inquiry.

12           (2) EXPEDITED PROCEDURE IN CASE OF NON-  
13          CONFIRMATION.—In connection with paragraph (1),  
14          the Attorney General shall establish, in consultation  
15          with the Commissioner of Social Security and the  
16          Commissioner of the Immigration and Naturaliza-  
17          tion Service, expedited procedures that shall be used  
18          to confirm the validity of information used under the  
19          confirmation mechanism in cases in which the con-  
20          firmation is sought but is not provided through the  
21          confirmation mechanism.

22           (3) DESIGN AND OPERATION OF MECHANISM.—  
23          The confirmation mechanism shall be designed and  
24          operated—

1 (A) to maximize the reliability of the con-  
2 firmation process, and the ease of use by enti-  
3 ties making elections under subsection (a) con-  
4 sistent with insulating and protecting the pri-  
5 vacy and security of the underlying information,  
6 and

7 (B) to respond to all inquiries made by  
8 such entities on whether individuals are author-  
9 ized to be employed registering all times when  
10 such response is not possible.

11 (4) CONFIRMATION PROCESS.—

12 (A) CONFIRMATION OF VALIDITY OF SO-  
13 CIAL SECURITY ACCOUNT NUMBER.—As part of  
14 the confirmation mechanism, the Commissioner  
15 of Social Security, in consultation with the en-  
16 tity responsible for administration of the mech-  
17 anism, shall establish a reliable, secure method,  
18 which within the time period specified under  
19 paragraph (1), compares the name and social  
20 security account number provided against such  
21 information maintained by the Commissioner in  
22 order to confirm (or not confirm) the validity of  
23 the information provided and whether the indi-  
24 vidual has presented a social security account  
25 number that is not valid for employment. The

1 Commissioner shall not disclose or release social  
2 security information.

3 (B) CONFIRMATION OF ALIEN AUTHORIZA-  
4 TION.—As part of the confirmation mechanism,  
5 the Commissioner of the Service, in consulta-  
6 tion with the entity responsible for administra-  
7 tion of the mechanism, shall establish a reliable,  
8 secure method, which, within the time period  
9 specified under paragraph (1), compares the  
10 name and alien identification or authorization  
11 number (if any) described in subsection  
12 (c)(1)(B) provided against such information  
13 maintained by the Commissioner in order to  
14 confirm (or not confirm) the validity of the in-  
15 formation provided and whether the alien is au-  
16 thorized to be employed in the United States.

17 (C) PROCESS IN CASE OF TENTATIVE  
18 NONCONFIRMATION.—In cases of tentative  
19 nonconfirmation, the Attorney General shall  
20 specify, in consultation with the Commissioner  
21 of Social Security and the Commissioner of the  
22 Immigration and Naturalization Service, an ex-  
23 pedited time period not to exceed 10 working  
24 days after the date of the tentative  
25 nonconfirmation within which final confirmation

1 or denial must be provided through the con-  
2 firmation mechanism in accordance with the  
3 procedures under paragraph (2).

4 (D) UPDATING INFORMATION.—The Com-  
5 missioners shall update their information in a  
6 manner that promotes the maximum accuracy  
7 and shall provide a process for the prompt cor-  
8 rection of erroneous information.

9 (5) PROTECTIONS.—(A) In no case shall an em-  
10 ployer terminate employment of an individual be-  
11 cause of a failure of the individual to have work eli-  
12 gibility confirmed under this section, until after the  
13 end of the 10-working-day period in which a final  
14 confirmation or nonconfirmation is being sought  
15 under paragraph (4)(C). Nothing in this subpara-  
16 graph shall apply to a termination of employment  
17 for any reason other than because of such a failure.

18 (B) The Attorney General shall assure that  
19 there is a timely and accessible process to challenge  
20 nonconfirmations made through the mechanism.

21 (C) If an individual would not have been dis-  
22 missed from a job but for an error of the confirma-  
23 tion mechanism, the individual will be entitled to  
24 compensation through the mechanism of the Federal  
25 Tort Claims Act.

1           (6) PROTECTION FROM LIABILITY FOR ACTIONS  
2           TAKEN ON THE BASIS OF INFORMATION PROVIDED  
3           BY THE EMPLOYMENT ELIGIBILITY CONFIRMATION  
4           MECHANISM.—No person shall be civilly or crimi-  
5           nally liable under any law (including the Civil Rights  
6           Act of 1964, the Americans with Disabilities Act of  
7           1990, the Fair Labor Standards Act of 1938, or the  
8           Age Discrimination in Employment Act of 1967) for  
9           any action taken in good faith reliance on informa-  
10          tion provided through the employment eligibility con-  
11          firmation mechanism established under this sub-  
12          section.

13          (7) MULTIPLE MECHANISMS PERMITTED.—  
14          Nothing in this subsection shall be construed as pre-  
15          venting the Attorney General from experimenting  
16          with different mechanisms for different entities.

17          (e) SELECT ENTITIES REQUIRED TO PARTICIPATE IN  
18          PILOT PROGRAM.—

19          (1) FEDERAL GOVERNMENT.—Each entity of  
20          the Federal Government that is subject to the re-  
21          quirements of section 274A of the Immigration and  
22          Nationality Act (including the Legislative and Exec-  
23          utive Branches of the Federal Government) shall  
24          participate in the pilot program under this section

1 and shall comply with the terms and conditions of  
2 such an election.

3 (2) APPLICATION TO CERTAIN VIOLATORS.—An  
4 order under section 274A(e)(4) or section  
5 274B(g)(2)(B) of the Immigration and Nationality  
6 Act may require the subject of the order to partici-  
7 pate in the pilot program and comply with the re-  
8 quirements of subsection (c).

9 (3) CONSEQUENCE OF FAILURE TO PARTICI-  
10 PATE.—If an entity is required under this subsection  
11 to participate in the pilot program and fails to com-  
12 ply with the requirements of subsection (c) with re-  
13 spect to an individual such failure shall be treated  
14 as a violation of section 274A(a)(1)(B) of the Immi-  
15 gration and Nationality Act with respect to that in-  
16 dividual.

17 (f) PROGRAM INITIATION; REPORTS; TERMI-  
18 NATION.—

19 (1) INITIATION OF PROGRAM.—The Attorney  
20 General shall implement the pilot program in a man-  
21 ner that permits entities to have elections under sub-  
22 section (a) made and in effect by not later than 1  
23 year after the date of the enactment of this Act.

24 (2) REPORTS.—The Attorney General shall  
25 submit to Congress annual reports on the pilot pro-

1       gram under this section at the end of each year in  
2       which the program is in effect. The last two such re-  
3       ports shall each include recommendations on wheth-  
4       er or not the pilot program should be continued or  
5       modified and on benefits to employers and enforce-  
6       ment of section 274A of the Immigration and Na-  
7       tionality Act obtained from use of the pilot program.

8               (3) TERMINATION.—Unless the Congress other-  
9       wise provides, the Attorney General shall terminate  
10      the pilot program under this section at the end of  
11      the third year in which it is in effect under this sec-  
12      tion.

13      (g) CONSTRUCTION.—This section shall not affect  
14      the authority of the Attorney General under other law (in-  
15      cluding section 274A(d)(4) of the Immigration and Na-  
16      tionality Act) to conduct demonstration projects in rela-  
17      tion to section 274A of such Act.

18      (h) LIMITATION ON USE OF THE CONFIRMATION  
19      PROCESS AND ANY RELATED MECHANISMS.—Notwith-  
20      standing any other provision of law, nothing in this section  
21      shall be construed to permit or allow any department, bu-  
22      reau, or other agency of the United States Government  
23      to utilize any information, data base, or other records as-  
24      sembled under this section for any other purpose other

1 than as provided for under the pilot program under this  
2 section.

3 **SEC. 402. LIMITING LIABILITY FOR CERTAIN TECHNICAL**  
4 **VIOLATIONS OF PAPERWORK REQUIRE-**  
5 **MENTS.**

6 (a) IN GENERAL.—Section 274A(e)(1) (8 U.S.C.  
7 1324a(e)(1)) is amended—

8 (1) by striking “and” at the end of subpara-  
9 graph (C),

10 (2) by striking the period at the end of sub-  
11 paragraph (D) and inserting “, and”, and

12 (3) by adding at the end the following new sub-  
13 paragraph:

14 “(E) under which a person or entity shall  
15 not be considered to have failed to comply with  
16 the requirements of subsection (b) based upon  
17 a technical or procedural failure to meet a re-  
18 quirement of such subsection in which there  
19 was a good faith attempt to comply with the re-  
20 quirement unless (i) the Service (or another en-  
21 forcement agency) has explained to the person  
22 or entity the basis for the failure, (ii) the per-  
23 son or entity has been provided a period of not  
24 less than 10 business days (beginning after the  
25 date of the explanation) within which to correct

1 the failure, and (iii) the person or entity has  
2 not corrected the failure voluntarily within such  
3 period, except that this subparagraph shall not  
4 apply with respect to the engaging by any per-  
5 son or entity of a pattern or practice of viola-  
6 tions of subsection (a)(1)(A) or (a)(2).”.

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

10 **SEC. 403. PAPERWORK AND OTHER CHANGES IN THE EM-**  
11 **PLOYER SANCTIONS PROGRAM.**

12 (a) REDUCING TO 6 THE NUMBER OF DOCUMENTS  
13 ACCEPTED FOR EMPLOYMENT VERIFICATION.—Section  
14 274A(b) (8 U.S.C. 1324a(b)) is amended—

15 (1) in paragraph (1)(B)—

16 (A) by adding “or” at the end of clause (i),

17 (B) by striking clauses (ii) through (iv),

18 and

19 (C) in clause (v), by striking “or other  
20 alien registration card, if the card” and insert-  
21 ing “, alien registration card, or other docu-  
22 ment designated by regulation by the Attorney  
23 General, if the document” and redesignating  
24 such clause as clause (ii); and

1           (2) by amending subparagraph (C) of para-  
2 graph (1) to read as follows:

3           “(C) SOCIAL SECURITY ACCOUNT NUMBER  
4 CARD AS EVIDENCE OF EMPLOYMENT AUTHOR-  
5 IZATION.—A document described in this sub-  
6 paragraph is an individual’s social security ac-  
7 count number card (other than such a card  
8 which specifies on the face that the issuance of  
9 the card does not authorize employment in the  
10 United States).”.

11       (b) REDUCTION OF PAPERWORK FOR CERTAIN EM-  
12 PLOYEES.—Section 274A(a) (8 U.S.C. 1324a(a)) is  
13 amended by adding at the end the following new para-  
14 graph:

15           “(6) TREATMENT OF DOCUMENTATION FOR  
16 CERTAIN EMPLOYEES.—

17           “(A) IN GENERAL.—For purposes of para-  
18 graphs (1)(B) and (3), if—

19           “(i) an individual is a member of a  
20 collective-bargaining unit and is employed,  
21 under a collective bargaining agreement  
22 entered into between one or more employee  
23 organizations and an association of two or  
24 more employers, by an employer that is a  
25 member of such association, and

1           “(ii) within the period specified in  
2           subparagraph (B), another employer that  
3           is a member of the association (or an  
4           agent of such association on behalf of the  
5           employer) has complied with the require-  
6           ments of subsection (b) with respect to the  
7           employment of the individual,

8           the subsequent employer shall be deemed to  
9           have complied with the requirements of sub-  
10          section (b) with respect to the hiring of the em-  
11          ployee and shall not be liable for civil penalties  
12          described in subsection (e)(5).

13          “(B) PERIOD.—The period described in  
14          this subparagraph is—

15               “(i) up to 5 years in the case of an in-  
16               dividual who has presented documentation  
17               identifying the individual as a national of  
18               the United States or as an alien lawfully  
19               admitted for permanent residence; or

20               “(ii) up to 3 years (or, if less, the pe-  
21               riod of time that the individual is author-  
22               ized to be employed in the United States)  
23               in the case of another individual.

24          “(C) LIABILITY.—

1           “(i) IN GENERAL.—If any employer  
2           that is a member of an association hires  
3           for employment in the United States an in-  
4           dividual and relies upon the provisions of  
5           subparagraph (A) to comply with the re-  
6           quirements of subsection (b) and the indi-  
7           vidual is an unauthorized alien, then for  
8           the purposes of paragraph (1)(A), subject  
9           to clause (ii), the employer shall be pre-  
10          sumed to have known at the time of hiring  
11          or afterward that the individual was an un-  
12          authorized alien.

13           “(ii) REBUTTAL OF PRESUMPTION.—  
14          The presumption established by clause (i)  
15          may be rebutted by the employer only  
16          through the presentation of clear and con-  
17          vincing evidence that the employer did not  
18          know (and could not reasonably have  
19          known) that the individual at the time of  
20          hiring or afterward was an unauthorized  
21          alien.”.

22          (c) ELIMINATION OF DATED PROVISIONS.—Section  
23          274A (8 U.S.C. 1324a) is amended by striking subsections  
24          (i) through (n).

1 (d) CLARIFICATION OF APPLICATION TO FEDERAL  
2 GOVERNMENT.—Section 274A(a) (8 U.S.C. 1324a(a)) is  
3 amended by adding at the end the following new para-  
4 graph:

5 “(5) APPLICATION TO FEDERAL GOVERN-  
6 MENT.—For purposes of this section, the term ‘en-  
7 tity’ includes an entity in any Branch of the Federal  
8 Government.”.

9 (e) EFFECTIVE DATES.—

10 (1) Except as provided in this subsection, the  
11 amendments made by this section shall apply with  
12 respect to hiring (or recruiting or referring) occur-  
13 ring on or after such date (not later than 180 days  
14 after the date of the enactment of this Act) as the  
15 Attorney General shall designate.

16 (2) The amendments made by subsections  
17 (a)(1) and (a)(2) shall apply with respect to the hir-  
18 ing (or recruiting or referring) occurring on or after  
19 such date (not later than 18 months after the date  
20 of the enactment of this Act) as the Attorney Gen-  
21 eral shall designate.

22 (3) The amendment made by subsection (b)  
23 shall apply to individuals hired on or after 60 days  
24 after the date of the enactment of this Act.



1           (b) ASSIGNMENT.—Individuals employed to fill the  
2 additional positions described in subsection (a) shall be as-  
3 signed to investigate violations of the employer sanctions  
4 provisions contained in section 274A of the Immigration  
5 and Nationality Act.

6           (c) PRIORITY FOR WORKSITE ENFORCEMENT.—

7           (1) IN GENERAL.—In addition to its efforts on  
8 border control and easing the worker verification  
9 process, the Attorney General shall make worksite  
10 enforcement of employer sanctions a top priority of  
11 the Immigration and Naturalization Service.

12           (2) REPORT.—Not later than 1 year after the  
13 date of the enactment of this Act, the Attorney Gen-  
14 eral shall submit to Congress a report on any addi-  
15 tional authority or resources needed—

16                   (A) by the Immigration and Naturalization  
17 Service in order to enforce section 274A of the  
18 Immigration and Nationality Act, or

19                   (B) by Federal agencies in order to carry  
20 out the Executive Order of February 13, 1996  
21 (entitled “Economy and Efficiency in Govern-  
22 ment Procurement Through Compliance with  
23 Certain Immigration and Naturalization Act  
24 Provisions”) and to expand the restrictions in  
25 such Order to cover agricultural subsidies,

1 grants, job training programs, and other Feder-  
2 ally subsidized assistance programs.

3 **SEC. 405. REPORTS ON EARNINGS OF ALIENS NOT AUTHOR-**  
4 **IZED TO WORK.**

5 Subsection (c) of section 290 (8 U.S.C. 1360) is  
6 amended to read as follows:

7 “(c)(1) Not later than 3 months after the end of each  
8 fiscal year (beginning with fiscal year 1996), the Commis-  
9 sioner of Social Security shall report to the Committees  
10 on the Judiciary of the House of Representatives and the  
11 Senate on the aggregate number of social security account  
12 numbers issued to aliens not authorized to be employed  
13 to which earnings were reported to the Social Security Ad-  
14 ministration in such fiscal year.

15 “(2) If earnings are reported on or after January 1,  
16 1997, to the Social Security Administration on a social  
17 security account number issued to an alien not authorized  
18 to work in the United States, the Commissioner of Social  
19 Security shall provide the Attorney General with informa-  
20 tion regarding the name and address of the alien, the  
21 name and address of the person reporting the earnings,  
22 and the amount of the earnings. The information shall be  
23 provided in an electronic form agreed upon by the Com-  
24 missioner and the Attorney General.”.

1 **SEC. 406. AUTHORIZING MAINTENANCE OF CERTAIN IN-**  
2 **FORMATION ON ALIENS.**

3 Section 264 (8 U.S.C. 1304) is amended by adding  
4 at the end the following new subsection:

5 “(f) Notwithstanding any other provision of law, the  
6 Attorney General is authorized to require any alien to pro-  
7 vide the alien’s social security account number for pur-  
8 poses of inclusion in any record of the alien maintained  
9 by the Attorney General or the Service.”.

10 **SEC. 407. UNFAIR IMMIGRATION-RELATED EMPLOYMENT**  
11 **PRACTICES.**

12 (a) **REQUIRING CERTAIN REMEDIES IN UNFAIR IM-**  
13 **MIGRATION-RELATED DISCRIMINATION ORDERS.**—Sec-  
14 tion 274B(g)(2) (8 U.S.C. 1324b(g)(2)) is amended—

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

19 (2) in subparagraph (B), by striking “Such an  
20 order” and inserting “Subject to the second sentence  
21 of subparagraph (A), such an order”; and

22 (3) in subparagraph (B)(vi), by inserting before  
23 the semicolon at the end the following: “and to cer-  
24 tify the fact of such education”.

1 (b) TREATMENT OF CERTAIN DOCUMENTARY PRAC-  
2 TICE AS EMPLOYMENT PRACTICES.—Section 274B(a)(6)  
3 (8 U.S.C. 1324b(a)(6)) is amended—

4 (1) by striking “For” and inserting “(A) Sub-  
5 ject to subparagraph (B), for”, and

6 (2) by adding at the end the following new sub-  
7 paragraph:

8 “(B) A person or other entity—

9 “(i) may request a document proving a re-  
10 newal of employment authorization when an in-  
11 dividual has previously submitted a time-limited  
12 document to satisfy the requirements of section  
13 274A(b)(1); or

14 “(ii) if possessing reason to believe that an  
15 individual presenting a document which reason-  
16 ably appears on its face to be genuine is none-  
17 theless an unauthorized alien, may (I) inform  
18 the individual of the question about the docu-  
19 ment’s validity, and of such person or other en-  
20 tity’s intention to verify the validity of such  
21 document, and (II) upon receiving confirmation  
22 that the individual is unauthorized to work,  
23 may dismiss the individual.

1 Nothing in this provision prohibits an individual  
2 from offering alternative documents that satisfy the  
3 requirements of section 274A(b)(1).”.

4 (c) EFFECTIVE DATE.—The amendments made by  
5 subsection (a) shall apply to orders issued on or after the  
6 first day of the first month beginning at least 90 days  
7 after the date of the enactment of this Act.

8 **TITLE V—REFORM OF LEGAL**  
9 **IMMIGRATION SYSTEM**

10 **Subtitle A—Refugees**

11 **SEC. 501. PERSECUTION FOR RESISTANCE TO COERCIVE**  
12 **POPULATION CONTROL METHODS.**

13 (a) DEFINITION OF REFUGEE.—Section 101(a)(42)  
14 (8 U.S.C. 1101(a)(42)) is amended by adding at the end  
15 the following: “For purposes of determinations under this  
16 Act, a person who has been forced to abort a pregnancy  
17 or to undergo involuntary sterilization, or who has been  
18 persecuted for failure or refusal to undergo such a proce-  
19 dure or for other resistance to a coercive population con-  
20 trol program, shall be deemed to have been persecuted on  
21 account of political opinion, and a person who has a well  
22 founded fear that he or she will be forced to undergo such  
23 a procedure or subject to persecution for such failure, re-  
24 fusals, or resistance shall be deemed to have a well founded  
25 fear of persecution on account of political opinion.”.

1 (b) NUMERICAL LIMITATION.—Section 207(a) (8  
2 U.S.C. 1157(a)), as amended by section 512(b), is amend-  
3 ed by adding at the end the following new paragraph:

4 “(4) For any fiscal year, not more than a total of  
5 1,000 refugees may be admitted under this subsection or  
6 granted asylum under section 208 pursuant to a deter-  
7 mination under the last sentence of section 101(a)(42) (re-  
8 lating to persecution for resistance to coercive population  
9 control methods).”.

## 10 **Subtitle B—Asylum Reform**

### 11 **SEC. 511. ASYLUM REFORM.**

12 (a) ASYLUM REFORM.—Section 208 (8 U.S.C. 1158)  
13 is amended to read as follows:

14 “ASYLUM

15 “SEC. 208. (a) AUTHORITY TO APPLY FOR ASY-  
16 LUM.—

17 “(1) IN GENERAL.—Any alien who is physically  
18 present in the United States or who arrives in the  
19 United States (whether or not at a designated port  
20 of arrival), irrespective of such alien’s status, may  
21 apply for asylum in accordance with this section.

22 “(2) EXCEPTIONS.—

23 “(A) SAFE THIRD COUNTRY.—Paragraph

24 (1) shall not apply to an alien if the Attorney  
25 General determines that the alien may be re-  
26 moved, including pursuant to a bilateral or mul-

1           tilateral agreement, to a country (other than  
2           the country of the alien’s nationality or, in the  
3           case of an alien having no nationality, the coun-  
4           try of the alien’s last habitual residence) in  
5           which the alien’s life or freedom would not be  
6           threatened on account of race, religion, nation-  
7           ality, membership in a particular social group,  
8           or political opinion, and where the alien would  
9           have access to a full and fair procedure for de-  
10          termining a claim to asylum or equivalent tem-  
11          porary protection, unless the Attorney General  
12          finds that it is in the public interest for the  
13          alien to receive asylum in the United States.

14                 “(B) TIME LIMIT.—Paragraph (1) shall  
15          not apply to an alien unless the alien dem-  
16          onstrates by clear and convincing evidence that  
17          the application has been filed within 180 days  
18          after the alien’s arrival in the United States.

19                 “(C) PREVIOUS ASYLUM APPLICATIONS.—  
20          Paragraph (1) shall not apply to an alien if the  
21          alien has previously applied for asylum and had  
22          such application denied.

23                 “(D) CHANGED CONDITIONS.—An applica-  
24          tion for asylum of an alien may be considered,  
25          notwithstanding subparagraphs (B) and (C), if

1           the alien demonstrates to the satisfaction of the  
2           Attorney General the existence of fundamen-  
3           tally changed circumstances which affect the  
4           applicant’s eligibility for asylum.

5           “(3) LIMITATION ON JUDICIAL REVIEW.—No  
6           court shall have jurisdiction to review a determina-  
7           tion of the Attorney General under paragraph (2).

8           “(b) CONDITIONS FOR GRANTING ASYLUM.—

9           “(1) IN GENERAL.—The Attorney General may  
10          grant asylum to an alien who has applied for asylum  
11          in accordance with the requirements and procedures  
12          established by the Attorney General under this sec-  
13          tion if the Attorney General determines that such  
14          alien is a refugee within the meaning of section  
15          101(a)(42)(A).

16          “(2) EXCEPTIONS.—

17                 “(A) IN GENERAL.—Paragraph (1) shall  
18                 not apply to an alien if the Attorney General  
19                 determines that—

20                         “(i) the alien ordered, incited, as-  
21                         sisted, or otherwise participated in the per-  
22                         secution of any person on account of race,  
23                         religion, nationality, membership in a par-  
24                         ticular social group, or political opinion;

1           “(ii) the alien, having been convicted  
2 by a final judgment of a particularly seri-  
3 ous crime, constitutes a danger to the com-  
4 munity of the United States;

5           “(iii) there are serious reasons for be-  
6 lieving that the alien has committed a seri-  
7 ous nonpolitical crime outside the United  
8 States prior to the arrival of the alien in  
9 the United States;

10           “(iv) there are reasonable grounds for  
11 regarding the alien as a danger to the se-  
12 curity of the United States;

13           “(v) the alien is inadmissible under  
14 subclause (I), (II), (III), or (IV) of section  
15 212(a)(3)(B)(i) or removable under section  
16 237(a)(4)(B) (relating to terrorist activ-  
17 ity), unless, in the case only of an alien in-  
18 admissible under subclause (IV) of section  
19 212(a)(3)(B)(i), the Attorney General de-  
20 termines, in the Attorney General’s discre-  
21 tion, that there are not reasonable grounds  
22 for regarding the alien as a danger to the  
23 security of the United States; or

1           “(vi) the alien was firmly resettled in  
2           another country prior to arriving in the  
3           United States.

4           “(B) SPECIAL RULES.—

5           “(i) CONVICTION OF AGGRAVATED  
6           FELONY.—For purposes of clause (ii) of  
7           subparagraph (A), an alien who has been  
8           convicted of an aggravated felony shall be  
9           considered to have been convicted of a par-  
10          ticularly serious crime.

11          “(ii) OFFENSES.—The Attorney Gen-  
12          eral may designate by regulation offenses  
13          that will be considered to be a crime de-  
14          scribed in clause (ii) or (iii) of subpara-  
15          graph (A).

16          “(C) ADDITIONAL LIMITATIONS.—The At-  
17          torney General may by regulation establish ad-  
18          ditional limitations and conditions under which  
19          an alien shall be ineligible for asylum under  
20          paragraph (1).

21          “(D) NO JUDICIAL REVIEW.—There shall  
22          be no judicial review of a determination of the  
23          Attorney General under subparagraph (A)(v).

24          “(3) TREATMENT OF SPOUSE AND CHIL-  
25          DREN.—A spouse or child (as defined in section

1 101(b)(1)(A), (B), (C), (D), or (E)) of an alien who  
2 is granted asylum under this subsection may, if not  
3 otherwise eligible for asylum under this section, be  
4 granted the same status as the alien if accompany-  
5 ing, or following to join, such alien.

6 “(c) ASYLUM STATUS.—

7 “(1) IN GENERAL.—In the case of an alien  
8 granted asylum under subsection (b), the Attorney  
9 General—

10 “(A) shall not remove or return the alien  
11 to the alien’s country of nationality or, in the  
12 case of a person having no nationality, the  
13 country of the alien’s last habitual residence;

14 “(B) shall authorize the alien to engage in  
15 employment in the United States and provide  
16 the alien with appropriate endorsement of that  
17 authorization; and

18 “(C) may allow the alien to travel abroad  
19 with the prior consent of the Attorney General.

20 “(2) TERMINATION OF ASYLUM.—Asylum  
21 granted under subsection (b) does not convey a right  
22 to remain permanently in the United States, and  
23 may be terminated if the Attorney General deter-  
24 mines that—

1           “(A) the alien no longer meets the condi-  
2           tions described in subsection (b)(1) owing to a  
3           fundamental change in circumstances;

4           “(B) the alien meets a condition described  
5           in subsection (b)(2);

6           “(C) the alien may be removed, including  
7           pursuant to a bilateral or multilateral agree-  
8           ment, to a country (other than the country of  
9           the alien’s nationality or, in the case of an alien  
10          having no nationality, the country of the alien’s  
11          last habitual residence) in which the alien can-  
12          not establish that it is more likely than not that  
13          the alien’s life or freedom would be threatened  
14          on account of race, religion, nationality, mem-  
15          bership in a particular social group, or political  
16          opinion, and where the alien is eligible to re-  
17          ceive asylum or equivalent temporary protec-  
18          tion;

19          “(D) the alien has voluntarily availed him-  
20          self or herself of the protection of the alien’s  
21          country of nationality or, in the case of an alien  
22          having no nationality, the alien’s country of last  
23          habitual residence, by returning to such country  
24          with permanent resident status or the reason-  
25          able possibility of obtaining such status with

1 the same rights and obligations pertaining to  
2 other permanent residents of that country; or

3 “(E) the alien has acquired a new nation-  
4 ality and enjoys the protection of the country of  
5 his new nationality.

6 “(3) REMOVAL WHEN ASYLUM IS TERMI-  
7 NATED.—An alien described in paragraph (2) is sub-  
8 ject to any applicable grounds of inadmissibility or  
9 deportability under section 212(a) and 237(a), and  
10 the alien’s removal or return shall be directed by the  
11 Attorney General in accordance with sections 240  
12 and 241.

13 “(4) LIMITATION ON JUDICIAL REVIEW.—No  
14 court shall have jurisdiction to review a determina-  
15 tion of the Attorney General under paragraph (2).

16 “(d) ASYLUM PROCEDURE.—

17 “(1) APPLICATIONS.—The Attorney General  
18 shall establish a procedure for the consideration of  
19 asylum applications filed under subsection (a). An  
20 application for asylum shall not be considered unless  
21 the alien submits fingerprints and a photograph in  
22 a manner to be determined by regulation by the At-  
23 torney General.

24 “(2) EMPLOYMENT.—An applicant for asylum  
25 is not entitled to employment authorization, but

1 such authorization may be provided under regulation  
2 by the Attorney General. An applicant who is not  
3 otherwise eligible for employment authorization shall  
4 not be granted such authorization prior to 180 days  
5 after the date of filing of the application for asylum.

6 “(3) FEES.—The Attorney General may impose  
7 fees for the consideration of an application for asy-  
8 lum, for employment authorization under this sec-  
9 tion, and for adjustment of status under section  
10 209(b). Such fees shall not exceed the Attorney Gen-  
11 eral’s costs in adjudicating the applications. The At-  
12 torney General may provide for the assessment and  
13 payment of such fees over a period of time or by in-  
14 stallments. Nothing in this paragraph shall be con-  
15 strued to require the Attorney General to charge  
16 fees for adjudication services provided to asylum ap-  
17 plicants, or to limit the authority of the Attorney  
18 General to set adjudication and naturalization fees  
19 in accordance with section 286(m).

20 “(4) NOTICE OF PRIVILEGE OF COUNSEL AND  
21 CONSEQUENCES OF FRIVOLOUS APPLICATION.—At  
22 the time of filing an application for asylum, the At-  
23 torney General shall—

24 “(A) advise the alien of the privilege of  
25 being represented by counsel and of the con-

1 sequences, under paragraph (6), of knowingly  
2 filing a frivolous application for asylum; and

3 “(B) provide the alien a list of persons  
4 (updated not less often than quarterly) who  
5 have indicated their availability to represent  
6 aliens in asylum proceedings on a pro bono  
7 basis.

8 “(5) CONSIDERATION OF ASYLUM APPLICA-  
9 TIONS.—

10 “(A) PROCEDURES.—The procedure estab-  
11 lished under paragraph (1) shall provide that—

12 “(i) asylum cannot be granted until  
13 the identity of the applicant has been  
14 checked against all appropriate records or  
15 databases maintained by the Attorney Gen-  
16 eral and by the Secretary of State, includ-  
17 ing the Automated Visa Lookout System,  
18 to determine any grounds on which the  
19 alien may be inadmissible to or deportable  
20 from the United States, or ineligible to  
21 apply for or be granted asylum;

22 “(ii) in the absence of exceptional cir-  
23 cumstances, the initial interview or hearing  
24 on the asylum application shall commence

1 not later than 45 days after the date an  
2 application is filed;

3 “(iii) in the absence of exceptional cir-  
4 cumstances, final administrative adjudica-  
5 tion of the asylum application, not includ-  
6 ing administrative appeal, shall be com-  
7 pleted within 180 days after the date an  
8 application is filed;

9 “(iv) any administrative appeal shall  
10 be filed within 30 days of a decision grant-  
11 ing or denying asylum, or within 30 days  
12 of the completion of removal proceedings  
13 before an immigration judge under section  
14 240, whichever is later; and

15 “(v) in the case of an applicant for  
16 asylum who fails without prior authoriza-  
17 tion or in the absence of exceptional cir-  
18 cumstances to appear for an interview or  
19 hearing, including a hearing under section  
20 240, the application may be dismissed or  
21 the applicant may be otherwise sanctioned  
22 for such failure.

23 “(B) ADDITIONAL REGULATORY CONDI-  
24 TIONS.—The Attorney General may provide by  
25 regulation for any other conditions or limita-

1           tions on the consideration of an application for  
2           asylum not inconsistent with this Act.

3           “(6) FRIVOLOUS APPLICATIONS.—

4                   “(A) IN GENERAL.—If the Attorney Gen-  
5           eral determines that an alien has knowingly  
6           made a frivolous application for asylum and the  
7           alien has received the notice under paragraph  
8           (4)(A), the alien shall be permanently ineligible  
9           for any benefits under this Act, effective as of  
10          the date of a final determination on such appli-  
11          cation.

12                   “(B) MATERIAL MISREPRESENTATIONS.—  
13          An application shall be considered to be frivo-  
14          lous if the Attorney General determines that  
15          the application contains a willful misrepresenta-  
16          tion or concealment of a material fact.

17                   “(7) NO PRIVATE RIGHT OF ACTION.—Nothing  
18          in this subsection shall be construed to create any  
19          substantive or procedural right or benefit that is le-  
20          gally enforceable by any party against the United  
21          States or its agencies or officers or any other per-  
22          son.”.

23          (b) CONFORMING AND CLERICAL AMENDMENTS.—

24                   (1) The item in the table of contents relating  
25          to section 208 is amended to read as follows:

“Sec. 208. Asylum.”.

1           (2) Section 104(d)(1)(A) of the Immigration  
2 Act of 1990 (Public Law 101–649) is amended by  
3 striking “208(b)” and inserting “208”.

4           (c) EFFECTIVE DATE.—The amendment made by  
5 subsection (a) shall apply to applications for asylum filed  
6 on or after the first day of the first month beginning more  
7 than 180 days after the date of the enactment of this Act.

8 **SEC. 512. FIXING NUMERICAL ADJUSTMENTS FOR ASYLEES**  
9 **AT 10,000 EACH YEAR.**

10          (a) IN GENERAL.—Section 209(b) (8 U.S.C.  
11 1159(b)) is amended by striking “Not more than” and  
12 all that follows through “adjust” and inserting the follow-  
13 ing: “The Attorney General, in the Attorney General’s dis-  
14 cretion and under such regulations as the Attorney Gen-  
15 eral may prescribe, and in a number not to exceed 10,000  
16 aliens in any fiscal year, may adjust”.

17          (b) CONFORMING AMENDMENT.—Section 207(a) (8  
18 U.S.C. 1157(a)) is amended by striking paragraph (4).

19          (c) EFFECTIVE DATE.—The amendment made by  
20 subsection (a) shall take effect on October 1, 1996.

21 **SEC. 513. INCREASE IN ASYLUM OFFICERS.**

22          Subject to the availability of appropriations, the At-  
23 torney General shall provide for an increase in the number  
24 of asylum officers to at least 600 asylum officers by fiscal  
25 year 1997.

1       **TITLE VI—RESTRICTIONS ON**  
2                   **BENEFITS FOR ALIENS**

3       **SEC. 600. STATEMENTS OF NATIONAL POLICY CONCERNING**  
4                   **WELFARE AND IMMIGRATION.**

5           The Congress makes the following statements con-  
6       cerning national policy with respect to welfare and immi-  
7       gration:

8           (1) Self-sufficiency has been a basic principle of  
9       United States immigration law since this country's  
10      earliest immigration statutes.

11          (2) It continues to be the immigration policy of  
12      the United States that—

13           (A) aliens within the nation's borders not  
14      depend on public resources to meet their needs,  
15      but rather rely on their own capabilities and the  
16      resources of their families, their sponsors, and  
17      private organizations, and

18           (B) the availability of public benefits not  
19      constitute an incentive for immigration to the  
20      United States.

21          (3) Despite the principle of self-sufficiency,  
22      aliens have been applying for and receiving public  
23      benefits from Federal, State, and local governments  
24      at increasing rates.

1           (4) Current eligibility rules for public assistance  
2           and unenforceable financial support agreements have  
3           proved wholly incapable of assuring that individual  
4           aliens not burden the public benefits system.

5           (5) It is a compelling government interest to  
6           enact new rules for eligibility and sponsorship agree-  
7           ments in order to assure that aliens be self-reliant  
8           in accordance with national immigration policy.

9           (6) It is a compelling government interest to re-  
10          move the incentive for illegal immigration provided  
11          by the availability of public benefits.

12          (7) With respect to the State authority to make  
13          determinations concerning the eligibility of aliens for  
14          public benefits, a State that chooses to follow the  
15          Federal classification in determining the eligibility of  
16          such aliens for public assistance shall be considered  
17          to have chosen the least restrictive means available  
18          for achieving the compelling government interest of  
19          assuring that aliens be self-reliant in accordance  
20          with national immigration policy.

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 603,  
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 603, 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 IDENTITY FOR FEDERAL  
14          CONTRACTS, GRANTS, LOANS, LICENSES, AND PUBLIC  
15          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 identity 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 identity under  
25           paragraph (1) shall apply to the following Federal

1 public assistance programs (and include any succes-  
2 sor to such a program as identified by the Attorney  
3 General in consultation with other appropriate offi-  
4 cials):

5 (A) SSI.—The supplemental security in-  
6 come program under title XVI of the Social Se-  
7 curity Act, including State supplementary bene-  
8 fits programs referred to in such title.

9 (B) AFDC.—The program of aid to fami-  
10 lies with dependent children under part A or E  
11 of title IV of the Social Security Act.

12 (C) SOCIAL SERVICES BLOCK GRANT.—The  
13 program of block grants to States for social  
14 services under title XX of the Social Security  
15 Act.

16 (D) MEDICAID.—The program of medical  
17 assistance under title XIX of the Social Secu-  
18 rity Act.

19 (E) FOOD STAMPS.—The program under  
20 the Food Stamp Act of 1977.

21 (F) HOUSING ASSISTANCE.—Financial as-  
22 sistance as defined in section 214(b) of the  
23 Housing and Community Development Act of  
24 1980.

1           (3) DOCUMENTS THAT SHOW PROOF OF IDEN-  
2           TITY.—

3           (A) IN GENERAL.—Any one of the docu-  
4           ments described in subparagraph (B) may be  
5           used as proof of identity under this subsection  
6           if the document is current and valid. No other  
7           document or documents shall be sufficient to  
8           prove identity.

9           (B) DOCUMENTS DESCRIBED.—The docu-  
10          ments described in this subparagraph are the  
11          following:

12           (i) A United States passport (either  
13           current or expired if issued both within the  
14           previous 20 years and after the individual  
15           attained 18 years of age).

16           (ii) A resident alien card.

17           (iii) A State driver's license, if pre-  
18           sented with the individual's social security  
19           account number card.

20           (iv) A State identity card, if presented  
21           with the individual's social security account  
22           number card.

23          (d) AUTHORIZATION FOR STATES TO REQUIRE  
24          PROOF OF ELIGIBILITY FOR STATE PROGRAMS.—In con-  
25          sidering an application for contracts, grants, loans, li-

1 censes, or public assistance under any State program, a  
2 State is authorized to require the applicant to provide  
3 proof of eligibility to be considered for such State con-  
4 tracts, grants, loans, licenses, or public assistance.

5 (e) EXCEPTION FOR BATTERED ALIENS.—

6 (1) EXCEPTION.—The limitations on eligibility  
7 for benefits under subsection (a) or (b) shall not  
8 apply to an alien if—

9 (A)(i) the alien has been battered or sub-  
10 ject to extreme cruelty in the United States by  
11 a spouse or parent, or by a member of the  
12 spouse or parent’s family residing in the same  
13 household as the alien and the spouse or parent  
14 consented or acquiesced to such battery or cru-  
15 elty, or

16 (ii) the alien’s child has been battered or  
17 subject to extreme cruelty in the United States  
18 by a spouse or parent of the alien (without the  
19 active participation of the alien in the battery  
20 or extreme cruelty) or by a member of the  
21 spouse or parent’s family residing in the same  
22 household as the alien when the spouse or par-  
23 ent consented or acquiesced to, and the alien  
24 did not actively participate in, such battery or  
25 cruelty; and

1 (B)(i) the alien has petitioned (or petitions  
2 within 45 days after the first application for as-  
3 sistance subject to the limitations under sub-  
4 section (a) or (b)) for—

5 (I) status as a spouse or child of a  
6 United States citizen pursuant to clause  
7 (ii), (iii), or (iv) of section 204(a)(1)(A) of  
8 the Immigration and Nationality Act,

9 (II) classification pursuant to clauses  
10 (ii) or (iii) of section 204(a)(1)(B) of such  
11 Act, or

12 (III) cancellation of removal and ad-  
13 justment of status pursuant to section  
14 240A(b)(2) of such Act ; or

15 (ii) the alien is the beneficiary of a petition  
16 filed for status as a spouse or child of a United  
17 States citizen pursuant to clause (i) of section  
18 204(a)(1)(A) of the Immigration and National-  
19 ity Act, or of a petition filed for classification  
20 pursuant to clause (i) of section 204(a)(1)(B)  
21 of such Act.

22 (2) TERMINATION OF EXCEPTION.—The excep-  
23 tion under paragraph (1) shall terminate if no com-  
24 plete petition which sets forth a prima facie case is

1 filed pursuant to the requirement of paragraph  
2 (1)(B) or (1)(C) or when an petition is denied.

3 **SEC. 602. MAKING UNAUTHORIZED ALIENS INELIGIBLE**  
4 **FOR UNEMPLOYMENT BENEFITS.**

5 (a) IN GENERAL.—Notwithstanding any other provi-  
6 sion of law, no unemployment benefits shall be payable  
7 (in whole or in part) out of Federal funds to the extent  
8 the benefits are attributable to any employment of the  
9 alien in the United States for which the alien was not  
10 granted employment authorization pursuant to Federal  
11 law.

12 (b) PROCEDURES.—Entities responsible for providing  
13 unemployment benefits subject to the restrictions of this  
14 section shall make such inquiries as may be necessary to  
15 assure that recipients of such benefits are eligible consist-  
16 ent with this section.

17 **SEC. 603. GENERAL EXCEPTIONS.**

18 Sections 601 and 602 shall not apply to the following:

19 (1) EMERGENCY MEDICAL SERVICES.—The pro-  
20 vision of emergency medical services (as defined by  
21 the Attorney General in consultation with the Sec-  
22 retary of Health and Human Services).

23 (2) PUBLIC HEALTH IMMUNIZATIONS.—Public  
24 health assistance for immunizations with respect to  
25 immunizable diseases and for testing and treatment

1 of symptoms of communicable diseases, whether or  
2 not such symptoms are actually caused by a commu-  
3 nicable disease.

4 (3) SHORT-TERM EMERGENCY RELIEF.—The  
5 provision of non-cash, in-kind, short-term emergency  
6 relief.

7 (4) FAMILY VIOLENCE SERVICES.—The provi-  
8 sion of any services directly related to assisting the  
9 victims of domestic violence or child abuse.

10 (5) SCHOOL LUNCH ACT.—Programs carried  
11 out under the National School Lunch Act (and any  
12 successor to such a program as identified by the At-  
13 torney General in consultation with other appro-  
14 priate officials).

15 (6) CHILD NUTRITION ACT.—Programs of as-  
16 sistance under the Child Nutrition Act of 1966 (and  
17 any successor to such a program as identified by the  
18 Attorney General in consultation with other appro-  
19 priate officials).

20 (7) HEAD START PROGRAM.—Benefits under  
21 the Head Start Act.

22 **SEC. 604. TREATMENT OF EXPENSES SUBJECT TO EMER-**  
23 **GENCY MEDICAL SERVICES EXCEPTION.**

24 (a) IN GENERAL.—Subject to such amounts as are  
25 provided in advance in appropriation Acts, each State or

1 local government that provides emergency medical services  
2 (as defined for purposes of section 603(1)) through a pub-  
3 lic hospital or other public facility (including a nonprofit  
4 hospital that is eligible for an additional payment adjust-  
5 ment under section 1886 of the Social Security Act) or  
6 through contract with another hospital or facility to an  
7 individual who is an alien not lawfully present in the Unit-  
8 ed States is entitled to receive payment from the Federal  
9 Government of its costs of providing such services, but  
10 only to the extent that such costs are not otherwise reim-  
11 bursed through any other Federal program and cannot be  
12 recovered from the alien or another person.

13 (b) CONFIRMATION OF IMMIGRATION STATUS RE-  
14 QUIRED.—No payment shall be made under this section  
15 with respect to services furnished to an individual unless  
16 the identity and immigration status of the individual has  
17 been verified with the Immigration and Naturalization  
18 Service in accordance with procedures established by the  
19 Attorney General.

20 (c) ADMINISTRATION.—This section shall be adminis-  
21 tered by the Attorney General, in consultation with the  
22 Secretary of Health and Human Services.

23 (d) EFFECTIVE DATE.—Subsection (a) shall not  
24 apply to emergency medical services furnished before Oc-  
25 tober 1, 1995.

1 **SEC. 605. REPORT ON DISQUALIFICATION OF ILLEGAL**  
2 **ALIENS FROM HOUSING ASSISTANCE PRO-**  
3 **GRAMS.**

4 Not later than 90 days after the date of the enact-  
5 ment of this Act, the Secretary of Housing and Urban  
6 Development shall submit a report to the Committees on  
7 the Judiciary of the House of Representatives and of the  
8 Senate, the Committee on Banking of the House of Rep-  
9 resentatives, and the Committee on Banking, Housing,  
10 and Urban Affairs of the Senate, describing the manner  
11 in which the Secretary is enforcing section 214 of the  
12 Housing and Community Development Act of 1980. The  
13 report shall contain statistics with respect to the number  
14 of aliens denied financial assistance under such section.

15 **SEC. 606. VERIFICATION OF STUDENT ELIGIBILITY FOR**  
16 **POSTSECONDARY FEDERAL STUDENT FINAN-**  
17 **CIAL ASSISTANCE.**

18 No student shall be eligible for postsecondary Federal  
19 student financial assistance unless the student has cer-  
20 tified that the student is a citizen or national of the United  
21 States or an alien lawfully admitted for permanent resi-  
22 dence and the Secretary of Education has verified such  
23 certification through an appropriate procedure determined  
24 by the Attorney General.

1 **SEC. 607. PAYMENT OF PUBLIC ASSISTANCE BENEFITS.**

2 In carrying out this part, the payment or provision  
3 of benefits (other than those described in section 603  
4 under a program of assistance described in section  
5 601(a)(1)) shall be made only through an individual or  
6 person who is not ineligible to receive such benefits under  
7 such program on the basis of immigration status pursuant  
8 to the requirements and limitations of this part.

9 **SEC. 608. DEFINITIONS.**

10 For purposes of this part:

11 (1) **LAWFUL PRESENCE.**—The determination of  
12 whether an alien is lawfully present in the United  
13 States shall be made in accordance with regulations  
14 of the Attorney General. An alien shall not be con-  
15 sidered to be lawfully present in the United States  
16 for purposes of this title merely because the alien  
17 may be considered to be permanently residing in the  
18 United States under color of law for purposes of any  
19 particular program.

20 (2) **STATE.**—The term “State” includes the  
21 District of Columbia, Puerto Rico, the Virgin Is-  
22 lands, Guam, the Northern Mariana Islands, and  
23 American Samoa.

24 **SEC. 609. REGULATIONS AND EFFECTIVE DATES.**

25 (a) **REGULATIONS.**—The Attorney General shall first  
26 issue regulations to carry out this part (other than section

1 605) by not later than 60 days after the date of the enact-  
2 ment of this Act. Such regulations shall take effect on an  
3 interim basis, pending change after opportunity for public  
4 comment.

5 (b) EFFECTIVE DATE FOR RESTRICTIONS ON ELIGI-  
6 BILITY FOR PUBLIC BENEFITS.—(1) Except as provided  
7 in this subsection, section 601 shall apply to benefits pro-  
8 vided, contracts or loan agreements entered into, and pro-  
9 fessional and commercial licenses issued (or renewed) on  
10 or after such date as the Attorney General specifies in reg-  
11 ulations under subsection (a). Such date shall be at least  
12 30 days, and not more than 60 days, after the date the  
13 Attorney General first issues such regulations.

14 (2) The Attorney General, in carrying out section  
15 601(a)(2), may permit such section to be waived in the  
16 case of individuals for whom an application for the grant,  
17 contract, loan, or license is pending (or approved) as of  
18 a date that is on or before the effective date specified  
19 under paragraph (1).

20 (c) EFFECTIVE DATE FOR RESTRICTIONS ON ELIGI-  
21 BILITY FOR UNEMPLOYMENT BENEFITS.—(1) Except as  
22 provided in this subsection, section 602 shall apply to un-  
23 employment benefits provided on or after such date as the  
24 Attorney General specifies in regulations under subsection  
25 (a). Such date shall be at least 30 days, and not more

1 than 60 days, after the date the Attorney General first  
2 issues such regulations.

3 (2) The Attorney General, in carrying out section  
4 602, may permit such section to be waived in the case  
5 of an individual during a continuous period of unemploy-  
6 ment for whom an application for unemployment benefits  
7 is pending as of a date that is on or before the effective  
8 date specified under paragraph (1).

9 (d) BROAD DISSEMINATION OF INFORMATION.—Be-  
10 fore the effective dates specified in subsections (b) and (c),  
11 the Attorney General shall broadly disseminate informa-  
12 tion regarding the restrictions on eligibility established  
13 under this part.

## 14 **PART 2—HOUSING ASSISTANCE**

### 15 **SEC. 611. ACTIONS IN CASES OF TERMINATION OF FINAN-** 16 **CIAL ASSISTANCE.**

17 (a) IN GENERAL.—Section 214(c)(1) of the Housing  
18 and Community Development Act of 1980 (42 U.S.C.  
19 1436a(c)(1)) is amended—

20 (1) in the matter preceding subparagraph (A),  
21 by striking “may, in its discretion,” and inserting  
22 “shall”;

23 (2) in subparagraph (A), by inserting after the  
24 period at the end the following new sentence: “Fi-  
25 nancial assistance continued under this subpara-

1 graph for a family may be provided only on a pro-  
2 rated basis under which the amount of financial as-  
3 sistance is based on the percentage of the total num-  
4 ber of members of the family that are eligible for  
5 such assistance under the program for financial as-  
6 sistance and this section.”; and

7 (3) in subparagraph (B), by striking “6-month  
8 period” and all that follows through “affordable  
9 housing” and inserting “single 3-month period”.

10 (b) SCOPE OF APPLICATION.—The amendment made  
11 by subsection (a)(3) shall apply to any deferral granted  
12 under section 214(c)(1)(B) of the Housing and Commu-  
13 nity Development Act of 1980 on or after the date of the  
14 enactment of this Act, including any renewal of any defer-  
15 ral initially granted before such date of enactment, except  
16 that a public housing agency or other entity referred to  
17 in such section 214(c)(1)(B) may not renew, after such  
18 date of enactment, any deferral which was granted under  
19 such section before such date and has been effective for  
20 at least 3 months on and after such date.

21 **SEC. 612. VERIFICATION OF IMMIGRATION STATUS AND**  
22 **ELIGIBILITY FOR FINANCIAL ASSISTANCE.**

23 Section 214(d) of the Housing and Community De-  
24 velopment Act of 1980 (42 U.S.C. 1436a(d)) is amend-  
25 ed—

1           (1) in the matter preceding paragraph (1), by  
2 inserting “or to be” after “being”;

3           (2) in paragraph (1)(A), by inserting at the end  
4 the following new sentences: “If the declaration  
5 states that the individual is not a citizen or national  
6 of the United States, the declaration shall be verified  
7 by the Immigration and Naturalization Service. If  
8 the declaration states that the individual is a citizen  
9 or national of the United States, the Secretary shall  
10 request verification of the declaration by requiring  
11 presentation of documentation the Secretary consid-  
12 ers appropriate, including a social security card, cer-  
13 tificate of birth, driver’s license, or other documenta-  
14 tion.”;

15           (3) in paragraph (2)—

16           (A) in the matter preceding subparagraph  
17 (A), by striking “on the date of the enactment  
18 of the Housing and Community Development  
19 Act of 1987” and inserting “or applying for fi-  
20 nancial assistance”; and

21           (B) by inserting at the end the following  
22 new sentence:

23           “In the case of an individual applying for financial  
24 assistance, the Secretary may not provide such as-  
25 sistance for the benefit of the individual before such

1 documentation is presented and verified under para-  
2 graph (3) or (4).”;

3 (4) in paragraph (4)—

4 (A) in the matter preceding subparagraph  
5 (A), by striking “on the date of the enactment  
6 of the Housing and Community Development  
7 Act of 1987” and inserting “or applying for fi-  
8 nancial assistance”;

9 (B) in subparagraph (A)—

10 (i) in clause (i)—

11 (I) by inserting “, not to exceed  
12 30 days,” after “reasonable oppor-  
13 tunity”; and

14 (II) by striking “and” at the end;

15 and

16 (ii) by striking clause (ii) and insert-  
17 ing the following new clauses:

18 “(ii) in the case of any individual who  
19 is already receiving assistance, may not  
20 delay, deny, reduce, or terminate the indi-  
21 vidual’s eligibility for financial assistance  
22 on the basis of the individual’s immigra-  
23 tion status until such 30-day period has  
24 expired, and

1           “(iii) in the case of any individual who  
2           is applying for financial assistance, may  
3           not deny the application for such assist-  
4           ance on the basis of the individual’s immi-  
5           gration status until such 30-day period has  
6           expired; and”;

7           (C) in subparagraph (B), by striking clause  
8           (ii) and inserting the following new clause:

9                   “(ii) pending such verification or ap-  
10                  peal, the Secretary may not—

11                          “(I) in the case of any individual  
12                          who is already receiving assistance,  
13                          delay, deny, reduce, or terminate the  
14                          individual’s eligibility for financial as-  
15                          sistance on the basis of the individ-  
16                          ual’s immigration status, and

17                          “(II) in the case of any individ-  
18                          ual who is applying for financial as-  
19                          sistance, deny the application for such  
20                          assistance on the basis of the individ-  
21                          ual’s immigration status, and”;

22           (5) in paragraph (5), by striking all that follows  
23           “satisfactory immigration status” and inserting the  
24           following: “, the Secretary shall—

1           “(A) deny the individual’s application for  
2           financial assistance or terminate the individ-  
3           ual’s eligibility for financial assistance, as the  
4           case may be; and

5           “(B) provide the individual with written  
6           notice of the determination under this para-  
7           graph.”; and

8           (6) by striking paragraph (6) and inserting the  
9           following new paragraph:

10           “(6) The Secretary shall terminate the eligi-  
11           bility for financial assistance of an individual and  
12           the members of the household of the individual, for  
13           a period of not less than 24 months, upon determin-  
14           ing that such individual has knowingly permitted an-  
15           other individual who is not eligible for such assist-  
16           ance to use the assistance (including residence in the  
17           unit assisted).”.

18 **SEC. 613. PROHIBITION OF SANCTIONS AGAINST ENTITIES**  
19                           **MAKING FINANCIAL ASSISTANCE ELIGI-**  
20                           **BILITY DETERMINATIONS.**

21           Section 214(e)(4) of the Housing and Community  
22           Development Act of 1980 (42 U.S.C. 1436a(e)(4)) is  
23           amended—

24           (1) in paragraph (2), by inserting “or” at the  
25           end;

1           (2) in paragraph (3), by striking “, or” at the  
2           end and inserting a period; and  
3           (3) by striking paragraph (4).

4 **SEC. 614. REGULATIONS.**

5           (a) **ISSUANCE.**—Not later than the expiration of the  
6 60-day period beginning on the date of the enactment of  
7 this Act, the Secretary of Housing and Urban Develop-  
8 ment shall issue any regulations necessary to implement  
9 the amendments made by this part. Such regulations shall  
10 be issued in the form of an interim final rule, which shall  
11 take effect upon issuance and shall not be subject to the  
12 provisions of section 533 of title 5, United States Code,  
13 regarding notice or an opportunity for comment.

14           (b) **FAILURE TO ISSUE.**—If the Secretary fails to  
15 issue the regulations required under subsection (a) before  
16 the expiration of the period referred to in such subsection,  
17 the regulations relating to restrictions on assistance to  
18 noncitizens, contained in the final rule issued by the Sec-  
19 retary of Housing and Urban Development in RIN 2501–  
20 AA63 (Docket No. R-95–1409; FR–2383–F–050), pub-  
21 lished in the Federal Register of March 20, 1995 (Vol.  
22 60., No. 53; pp. 14824–14861), shall not apply after the  
23 expiration of such period.

1           **PART 3—PUBLIC EDUCATION BENEFITS**

2   **SEC. 616. AUTHORIZING STATES TO DENY PUBLIC EDU-**  
3                   **CATION BENEFITS TO ALIENS NOT LAW-**  
4                   **FULLY PRESENT IN THE UNITED STATES.**

5           (a) IN GENERAL.—The Immigration and Nationality  
6 Act, as amended by section 321(a)(2), is amended by add-  
7 ing at the end the following new title:

8   “TITLE VI—DISQUALIFICATION OF ALIENS NOT  
9           LAWFULLY PRESENT IN THE UNITED  
10          STATES FROM CERTAIN PROGRAM

11   “CONGRESSIONAL POLICY REGARDING INELIGIBILITY OF  
12          ALIENS NOT LAWFULLY PRESENT IN THE UNITED  
13          STATES FOR PUBLIC EDUCATION BENEFITS

14          “SEC. 601. (a) Because Congress views that the right  
15 to a free public education for aliens who are not lawfully  
16 present in the United States promotes violations of the  
17 immigration laws and because such a free public education  
18 for such aliens creates a significant burden on States’  
19 economies and depletes States’ limited educational re-  
20 sources, Congress declares it to be the policy of the United  
21 States that—

22               “(1) aliens who are not lawfully present in the  
23           United States not be entitled to public education  
24           benefits in the same manner as United States citi-  
25           zens and lawful resident aliens; and

1           “(2) States should not be obligated to provide  
2           public education benefits to aliens who are not law-  
3           fully present in the United States.

4           “(b) Nothing in this section shall be construed as ex-  
5           pressing any statement of Federal policy with regard to—

6           “(1) aliens who are lawfully present in the  
7           United States, or

8           “(2) benefits other than public education bene-  
9           fits provided under State law.

10                           “AUTHORITY OF STATES

11           “SEC. 602. (a) In order to carry out the policies de-  
12           scribed in section 601, each State may provide that an  
13           alien who is not lawfully present in the United States is  
14           not eligible for public education benefits in the State or,  
15           at the option of the State, may be treated as a non-resi-  
16           dent of the State for purposes of provision of such  
17           benefits.

18           “(b) For purposes of subsection (a), an individual  
19           shall be considered to be not lawfully present in the United  
20           States unless the individual (or, in the case of an individ-  
21           ual who is a child, another on the child’s behalf)—

22           “(1) declares in writing under penalty of per-  
23           jury that the individual (or child) is a citizen or na-  
24           tional of the United States and (if required by a  
25           State) presents evidence of United States citizenship  
26           or nationality; or

1           “(2)(A) declares in writing under penalty of  
2           perjury that the individual (or child) is not a citizen  
3           or national of the United States but is lawfully  
4           present in the United States, and

5           “(B) presents either—

6           “(i) alien registration documentation or  
7           other proof of immigration registration from  
8           the Service, or

9           “(ii) such other documents as the State de-  
10          termines constitutes reasonable evidence indi-  
11          cating that the individual (or child) is lawfully  
12          present in the United States.

13       If the documentation described in paragraph (2)(B)(i) is  
14       presented, the State may (at its option) verify with the  
15       Service the alien’s immigration status through a system  
16       described in section 1137(d)(3) of the Social Security Act  
17       (42 U.S.C. 1320b–7(d)(3)).

18       “(c) If a State denies public education benefits under  
19       this section with respect to an alien, the State shall pro-  
20       vide the alien with an opportunity for a fair hearing to  
21       establish that the alien is lawfully present in the United  
22       States, consistent with subsection (b) and Federal immi-  
23       gration law.”.

1 (b) CLERICAL AMENDMENT.—The table of contents,  
 2 as amended by section 321(a)(1), is amended by adding  
 3 at the end the following new items:

“TITLE VI—DISQUALIFICATION OF ALIENS NOT LAWFULLY  
 PRESENT IN THE UNITED STATES FROM CERTAIN PROGRAM

“Sec. 601. Congressional policy regarding ineligibility of aliens not lawfully  
 present in the United States for public education benefits.

“Sec. 602. Authority of States.”.

4 (c) EFFECTIVE DATE.—The amendments made by  
 5 this section shall take effect as of the date of the enact-  
 6 ment of this Act.

7 **Subtitle B—Expansion of Disquali-**  
 8 **fication From Immigration Ben-**  
 9 **efits on the Basis of Public**  
 10 **Charge**

11 **SEC. 621. GROUND FOR INADMISSIBILITY.**

12 (a) IN GENERAL.—Paragraph (4) of section 212(a)  
 13 (8 U.S.C. 1182(a)) is amended to read as follows:

14 “(4) PUBLIC CHARGE.—

15 “(A) FAMILY-SPONSORED IMMIGRANTS.—

16 Any alien who seeks admission or adjustment of  
 17 status under a visa number issued under sec-  
 18 tion 203(a), who cannot demonstrate to the  
 19 consular officer at the time of application for a  
 20 visa, or to the Attorney General at the time of  
 21 application for admission or adjustment of sta-  
 22 tus, that the alien’s age, health, family status,

1 assets, resources, financial status, education,  
2 skills, or a combination thereof, and an affida-  
3 vit of support described in section 213A, make  
4 it unlikely that the alien will become a public  
5 charge (as determined under section  
6 241(a)(5)(B)) is inadmissible.

7 “(B) CERTAIN EMPLOYMENT-BASED IMMI-  
8 GRANTS.—Any alien who seeks admission or ad-  
9 justment of status under a visa number issued  
10 under section 203(b) by virtue of a classifica-  
11 tion petition filed by a relative of the alien (or  
12 by an entity in which such relative has a signifi-  
13 cant ownership interest) is inadmissible unless  
14 such relative has executed an affidavit of sup-  
15 port described in section 213A with respect to  
16 such alien.”.

17 (b) EFFECTIVE DATE.—(1) Subject to paragraph  
18 (2), the amendment made by subsection (a) shall apply  
19 to applications submitted on or after such date, not earlier  
20 than 30 days and not later than 60 days after the date  
21 the Attorney General promulgates under section 632(f) a  
22 standard form for an affidavit of support, as the Attorney  
23 General shall specify.

24 (2) Section 212(a)(4)(C)(i) of the Immigration and  
25 Nationality Act, as amended by subsection (a), shall apply

1 only to aliens seeking admission or adjustment of status  
2 under a visa number issued on or after October 1, 1996.

3 **SEC. 622. GROUND FOR DEPORTABILITY.**

4 (a) IN GENERAL.—Paragraph (5) of subsection (a)  
5 of section 241 (8 U.S.C. 1251(a)), before redesignation  
6 as section 237 by section 305(a)(2), is amended to read  
7 as follows:

8 “(5) PUBLIC CHARGE.—

9 “(A) IN GENERAL.—Any alien who, within  
10 7 years after the date of entry or admission, be-  
11 comes a public charge is deportable.

12 “(B) EXCEPTIONS.—(i) Subparagraph (A)  
13 shall not apply if the alien establishes that the  
14 alien has become a public charge from causes  
15 that arose after entry or admission. A condition  
16 that the alien knew (or had reason to know) ex-  
17 isted at the time of entry or admission shall be  
18 deemed to be a cause that arose before entry or  
19 admission.

20 “(ii) The Attorney General, in the discre-  
21 tion of the Attorney General, may waive the ap-  
22 plication of subparagraph (A) in the case of an  
23 alien who is admitted as a refugee under sec-  
24 tion 207 or granted asylum under section 208.

1           “(C) INDIVIDUALS TREATED AS PUBLIC  
2 CHARGE.—

3           “(i) IN GENERAL.—For purposes of  
4 this title, an alien is deemed to be a ‘public  
5 charge’ if the alien receives benefits (other  
6 than benefits described in subparagraph  
7 (E)) under one or more of the public as-  
8 sistance programs described in subpara-  
9 graph (D) for an aggregate period, except  
10 as provided in clauses (ii) and (iii), of at  
11 least 12 months within 7 years after the  
12 date of entry. The previous sentence shall  
13 not be construed as excluding any other  
14 bases for considering an alien to be a pub-  
15 lic charge, including bases in effect on the  
16 day before the date of the enactment of the  
17 Immigration in the National Interest Act  
18 of 1996. The Attorney General, in con-  
19 sultation with the Secretary of Health and  
20 Human Services, shall establish rules re-  
21 garding the counting of health benefits de-  
22 scribed in subparagraph (D)(iv) for pur-  
23 poses of this subparagraph.

24           “(ii) DETERMINATION WITH RESPECT  
25 TO BATTERED WOMEN AND CHILDREN.—

1 For purposes of a determination under  
2 clause (i) and except as provided in clause  
3 (iii), the aggregate period shall be 48  
4 months within 7 years after the date of  
5 entry if the alien can demonstrate that (I)  
6 the alien has been battered or subject to  
7 extreme cruelty in the United States by a  
8 spouse or parent, or by a member of the  
9 spouse or parent's family residing in the  
10 same household as the alien and the  
11 spouse or parent consented or acquiesced  
12 to such battery or cruelty, or (II) the  
13 alien's child has been battered or subject  
14 to extreme cruelty in the United States by  
15 a spouse or parent of the alien (without  
16 the active participation of the alien in the  
17 battery or extreme cruelty), or by a mem-  
18 ber of the spouse or parent's family resid-  
19 ing in the same household as the alien  
20 when the spouse or parent consented or ac-  
21 quiesced to and the alien did not actively  
22 participate in such battery or cruelty, and  
23 the need for the public benefits received  
24 has a substantial connection to the battery

1 or cruelty described in subclause (I) or  
2 (II).

3 “(iii) SPECIAL RULE FOR ONGOING  
4 BATTERY OR CRUELTY.—For purposes of a  
5 determination under clause (i), the aggregate  
6 period may exceed 48 months within  
7 7 years after the date of entry if the alien  
8 can demonstrate that any battery or cruelty  
9 under clause (ii) is ongoing, has led to  
10 the issuance of an order of a judge or an  
11 administrative law judge or a prior determination  
12 of the Service, and that the need  
13 for the benefits received has a substantial  
14 connection to such battery or cruelty.

15 “(D) PUBLIC ASSISTANCE PROGRAMS.—  
16 For purposes of subparagraph (B), the public  
17 assistance programs described in this subparagraph  
18 are the following (and include any successor  
19 to such a program as identified by the  
20 Attorney General in consultation with other appropriate  
21 officials):

22 “(i) SSI.—The supplemental security  
23 income program under title XVI of the Social  
24 Security Act, including State supple-

1           mentary benefits programs referred to in  
2           such title.

3           “(ii) AFDC.—The program of aid to  
4           families with dependent children under  
5           part A or E of title IV of the Social Secu-  
6           rity Act.

7           “(iii) MEDICAID.—The program of  
8           medical assistance under title XIX of the  
9           Social Security Act.

10          “(iv) FOOD STAMPS.—The program  
11          under the Food Stamp Act of 1977.

12          “(v) STATE GENERAL CASH ASSIST-  
13          ANCE.—A program of general cash assist-  
14          ance of any State or political subdivision of  
15          a State.

16          “(vi) HOUSING ASSISTANCE.—Finan-  
17          cial assistance as defined in section 214(b)  
18          of the Housing and Community Develop-  
19          ment Act of 1980.

20          “(E) CERTAIN ASSISTANCE EXCEPTED.—  
21          For purposes of subparagraph (B), an alien  
22          shall not be considered to be a public charge on  
23          the basis of receipt of any of the following bene-  
24          fits:

1                   “(i) EMERGENCY MEDICAL SERV-  
2                   ICES.—The provision of emergency medical  
3                   services (as defined by the Attorney Gen-  
4                   eral in consultation with the Secretary of  
5                   Health and Human Services).

6                   “(ii) PUBLIC HEALTH IMMUNIZA-  
7                   TIONS.—Public health assistance for im-  
8                   munizations with respect to immunizable  
9                   diseases and for testing and treatment for  
10                  communicable diseases.

11                  “(iii) SHORT-TERM EMERGENCY RE-  
12                  LIEF.—The provision of non-cash, in-kind,  
13                  short-term emergency relief.”.

14                  (b) EFFECTIVE DATE.—(1) The amendment made by  
15                  subsection (a) shall take effect as of the first day of the  
16                  first month beginning at least 30 days after the date of  
17                  the enactment of this Act.

18                  (2) In applying section 241(a)(5)(C) of the Immigra-  
19                  tion and Nationality Act (which is subsequently redesignig-  
20                  nated as section 237(a)(5)(C) of such Act), as amended  
21                  by subsection (a), no receipt of benefits under a public  
22                  assistance program before the effective date described in  
23                  paragraph (1) shall 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.—

7                 (1) IN GENERAL.—Notwithstanding any other  
8             provision of law (except as provided in paragraph  
9             (2)), in determining the eligibility and the amount of  
10            benefits of an alien for any Federal means-tested  
11            public benefits program (as defined in subsection  
12            (d)) the income and resources of the alien shall be  
13            deemed to include—

14                 (A) the income and resources of any indi-  
15             vidual who executed an affidavit of support pur-  
16             suant to section 213A of the Immigration and  
17             Nationality Act (as inserted by section 632(a))  
18             in behalf of such alien, and

19                 (B) the income and resources of the spouse  
20             (if any) of the individual.

21             (2) EXCEPTIONS.—Paragraph (1) shall not  
22            apply to the following:

23                 (A) Medical assistance provided for emer-  
24             gency medical services under title XIX of the  
25             Social Security Act.

1 (B) The provision of short-term, non-cash,  
2 in kind emergency relief.

3 (C) Benefits under the National School  
4 Lunch Act.

5 (D) Assistance under the Child Nutrition  
6 Act of 1966.

7 (E) Public health assistance for immuniza-  
8 tions with respect to immunizable diseases and  
9 for testing and treatment for communicable dis-  
10 eases.

11 (F) The provision of services directly relat-  
12 ed to assisting the victims of domestic violence  
13 or child abuse.

14 (G) Benefits under programs of student  
15 assistance under titles IV, V, IX, and X of the  
16 Higher Education Act of 1965 and titles III,  
17 VII, and VIII of the Public Health Service Act.

18 (H) Benefits under means-tested programs  
19 under the Elementary and Secondary Education  
20 Act of 1965.

21 (I) Benefits under the Head Start Act.

22 (b) PERIOD OF ATTRIBUTION.—

23 (1) PARENTS OF UNITED STATES CITIZENS AND  
24 ADULT SONS AND DAUGHTERS OF CITIZENS AND  
25 PERMANENT RESIDENTS.—Subsection (a) shall

1 apply with respect to an alien who is admitted to the  
2 United States as the parent of a United States citi-  
3 zen under section 201(b)(2) of the Immigration and  
4 Nationality Act, or as the son or daughter of a citi-  
5 zen or lawful permanent resident under paragraph  
6 (1) or (3) of section 203(a) of such Act, until the  
7 alien is naturalized as a citizen of the United States.

8 (2) SPOUSES OF UNITED STATES CITIZENS AND  
9 LAWFUL PERMANENT RESIDENTS.—Subsection (a)  
10 shall apply with respect to an alien who is admitted  
11 to the United States as the spouse of a United  
12 States citizen or lawful permanent resident under  
13 section 201(b)(2) of 203(a)(1) of the Immigration  
14 and Nationality Act until—

15 (A) 7 years after the date the alien is law-  
16 fully admitted to the United States for perma-  
17 nent residence, or

18 (B) the alien is naturalized as a citizen of  
19 the United States,

20 whichever occurs first.

21 (3) MINOR CHILDREN OF UNITED STATES CITI-  
22 ZENS AND LAWFUL PERMANENT RESIDENTS.—Sub-  
23 section (a) shall apply with respect to an alien who  
24 is admitted to the United States as the minor child

1 of a United States citizen or lawful permanent resident  
2 under section 201(b)(2) of 203(a)(1) of the Immigration  
3 and Nationality Act until the child attains the age of 21  
4 years or, if earlier, the date the child is naturalized as  
5 a citizen of the United States.

6 (4) ATTRIBUTION OF SPONSOR'S INCOME AND  
7 RESOURCES ENDED IF SPONSORED ALIEN BECOMES  
8 ELIGIBLE FOR OLD-AGE BENEFITS UNDER TITLE II  
9 OF THE SOCIAL SECURITY ACT.—

10 (A) Notwithstanding any other provision of  
11 this section, subsection (a) shall not apply and  
12 the period of attribution of a sponsor's income  
13 and resources under this subsection shall termi-  
14 nate if the alien is able to prove to the satisfac-  
15 tion of the Attorney General that the alien has  
16 been employed for 40 qualifying quarters of  
17 coverage as defined under title II of the Social  
18 Security Act and the alien did not receive any  
19 benefit under a means-tested public benefits  
20 program of (or contributed to by) the Federal  
21 Government during any such quarter.

22 (B) The Attorney General shall ensure  
23 that appropriate information pursuant to sub-  
24 paragraph (A) is provided to the System for  
25 Alien Verification of Eligibility (SAVE).

1           (5) BATTERED WOMEN AND CHILDREN.—Not-  
2           withstanding any other provision of this section, sub-  
3           sections (a) and (c) shall not apply and the period  
4           of attribution of the income and resources of any in-  
5           dividual under paragraphs (1) or (2) of subsection  
6           (a) or paragraph (1) shall not apply—

7                   (A) for up to 48 months if the alien can  
8                   demonstrate that (i) the alien has been battered  
9                   or subject to extreme cruelty in the United  
10                  States by a spouse or parent, or by a member  
11                  of the spouse or parent’s family residing in the  
12                  same household as the alien and the spouse or  
13                  parent consented or acquiesced to such battery  
14                  or cruelty, or (ii) the alien’s child has been bat-  
15                  tered or subject to extreme cruelty in the Unit-  
16                  ed States by a spouse or parent of the alien  
17                  (without the active participation of the alien in  
18                  the battery or extreme cruelty), or by a member  
19                  of the spouse or parent’s family residing in the  
20                  same household as the alien when the spouse  
21                  or parent consented or acquiesced to and the  
22                  alien did not actively participate in such battery  
23                  or cruelty, and need for the public benefits ap-  
24                  plied for has a substantial connection to the

1 battery or cruelty described in clause (i) or (ii);  
2 and

3 (B) for more than 48 months if the alien  
4 can demonstrate that any battery or cruelty  
5 under subparagraph (A) is ongoing, has led to  
6 the issuance of an order of a judge or an ad-  
7 ministrative law judge or a prior determination  
8 of the Service, and that need for such benefits  
9 has a substantial connection to such battery or  
10 cruelty.

11 (c) OPTIONAL APPLICATION TO STATE PROGRAMS.—

12 (1) AUTHORITY.—Notwithstanding any other  
13 provision of law, in determining the eligibility and  
14 the amount of benefits of an alien for any State  
15 means-tested public benefits program, the State or  
16 political subdivision that offers the program is au-  
17 thorized to provide that the income and resources of  
18 the alien shall be deemed to include—

19 (A) the income and resources of any indi-  
20 vidual who executed an affidavit of support pur-  
21 suant to section 213A of the Immigration and  
22 Nationality Act (as inserted by section 632(a))  
23 in behalf of such alien, and

24 (B) the income and resources of the spouse  
25 (if any) of the individual.

1           (2) PERIOD OF ATTRIBUTION.—The period of  
2 attribution of a sponsor’s income and resources in  
3 determining the eligibility and amount of benefits  
4 for an alien under any State means-tested public  
5 benefits program pursuant to paragraph (1) may not  
6 exceed the Federal period of attribution with respect  
7 to the alien.

8           (d) MEANS-TESTED PROGRAM DEFINED.—In this  
9 section:

10           (1) The term “means-tested public benefits pro-  
11 gram” means a program of public benefits (includ-  
12 ing cash, medical, housing, and food assistance and  
13 social services) of the Federal Government or of a  
14 State or political subdivision of a State in which the  
15 eligibility of an individual, household, or family eligi-  
16 bility unit for benefits under the program, or the  
17 amount of such benefits, or both are determined on  
18 the basis of income, resources, or financial need of  
19 the individual, household, or unit.

20           (2) The term “Federal means-tested public ben-  
21 efits program” means a means-tested public benefits  
22 program of (or contributed to by) the Federal Gov-  
23 ernment.

24           (3) The term “State means-tested public bene-  
25 fits program” means a means-tested public benefits

1 program that is not a Federal means-tested pro-  
2 gram.

3 **SEC. 632. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF**  
4 **SUPPORT.**

5 (a) IN GENERAL.—Title II is amended by inserting  
6 after section 213 the following new section:

7 “REQUIREMENTS FOR SPONSOR’S AFFIDAVIT OF SUPPORT

8 “SEC. 213A. (a) ENFORCEABILITY.—(1) No affidavit  
9 of support may be accepted by the Attorney General or  
10 by any consular officer to establish that an alien is not  
11 inadmissible as a public charge under section 212(a)(4)  
12 unless such affidavit is executed by a sponsor of the alien  
13 as a contract—

14 “(A) that is legally enforceable against the  
15 sponsor by the Federal Government and by any  
16 State (or any political subdivision of such State)  
17 that provides any means-tested public benefits pro-  
18 gram, subject to subsection (b)(4); and

19 “(B) in which the sponsor agrees to submit to  
20 the jurisdiction of any Federal or State court for the  
21 purpose of actions brought under subsection (b)(2).

22 “(2)(A) An affidavit of support shall be enforceable  
23 with respect to benefits provided under any means-tested  
24 public benefits program for an alien who is admitted to  
25 the United States as the parent of a United States citizen

1 under section 201(b)(2) until the alien is naturalized as  
2 a citizen of the United States.

3 “(B) An affidavit of support shall be enforceable with  
4 respect to benefits provided under any means-tested public  
5 benefits program for an alien who is admitted to the Unit-  
6 ed States as the spouse of a United States citizen or lawful  
7 permanent resident under section 201(b)(2) or 203(a)(2)  
8 until—

9 “(i) 7 years after the date the alien is lawfully  
10 admitted to the United States for permanent resi-  
11 dence, or

12 “(ii) such time as the alien is naturalized as a  
13 citizen of the United States,  
14 whichever occurs first.

15 “(C) An affidavit of support shall be enforceable with  
16 respect to benefits provided under any means-tested public  
17 benefits program for an alien who is admitted to the Unit-  
18 ed States as the minor child of a United States citizen  
19 or lawful permanent resident under section 201(b)(2) or  
20 section 203(a)(2) until the child attains the age of 21  
21 years.

22 “(D)(i) Notwithstanding any other provision of this  
23 subparagraph, a sponsor shall be relieved of any liability  
24 under an affidavit of support if the sponsored alien is able  
25 to prove to the satisfaction of the Attorney General that

1 the alien has been employed for 40 qualifying quarters of  
2 coverage as defined under title II of the Social Security  
3 Act and the alien did not receive any benefit under a  
4 means-tested public benefits program of (or contributed  
5 to by) the Federal Government during any such quarter.

6 “(ii) The Attorney General shall ensure that appro-  
7 priate information pursuant to clause (i) is provided to  
8 the System for Alien Verification of Eligibility (SAVE).

9 “(b) REIMBURSEMENT OF GOVERNMENT EX-  
10 PENSES.—(1)(A) Upon notification that a sponsored alien  
11 has received any benefit under any means-tested public  
12 benefits program, the appropriate Federal, State, or local  
13 official shall request reimbursement by the sponsor in the  
14 amount of such assistance.

15 “(B) The Attorney General, in consultation with the  
16 Secretary of Health and Human Services, shall prescribe  
17 such regulations as may be necessary to carry out sub-  
18 paragraph (A).

19 “(2) If within 45 days after requesting reimburse-  
20 ment, the appropriate Federal, State, or local agency has  
21 not received a response from the sponsor indicating a will-  
22 ingness to commence payments, an action may be brought  
23 against the sponsor pursuant to the affidavit of support.

24 “(3) If the sponsor fails to abide by the repayment  
25 terms established by such agency, the agency may, within

1 60 days of such failure, bring an action against the spon-  
2 sor pursuant to the affidavit of support.

3 “(4) No cause of action may be brought under this  
4 subsection later than 10 years after the alien last received  
5 any benefit under any means-tested public benefits pro-  
6 gram.

7 “(5) If, pursuant to the terms of this subsection, a  
8 Federal, State, or local agency requests reimbursement  
9 from the sponsor in the amount of assistance provided,  
10 or brings an action against the sponsor pursuant to the  
11 affidavit of support, the appropriate agency may appoint  
12 or hire an individual or other person to act on behalf of  
13 such agency acting under the authority of law for purposes  
14 of collecting any moneys owed. Nothing in this subsection  
15 shall preclude any appropriate Federal, State, or local  
16 agency from directly requesting reimbursement from a  
17 sponsor for the amount of assistance provided, or from  
18 bringing an action against a sponsor pursuant to an affi-  
19 davit of support.

20 “(c) REMEDIES.—Remedies available to enforce an  
21 affidavit of support under this section include any or all  
22 of the remedies described in section 3201, 3203, 3204,  
23 or 3205 of title 28, United States Code, as well as an  
24 order for specific performance and payment of legal fees  
25 and other costs of collection, and include corresponding

1 remedies available under State law. A Federal agency may  
2 seek to collect amounts owed under this section in accord-  
3 ance with the provisions of subchapter II of chapter 37  
4 of title 31, United States Code.

5 “(d) NOTIFICATION OF CHANGE OF ADDRESS.—(1)  
6 The sponsor of an alien shall notify the Federal Govern-  
7 ment and the State in which the sponsored alien is cur-  
8 rently residing within 30 days of any change of address  
9 of the sponsor during the period specified in subsection  
10 (a)(1).

11 “(2) Any person subject to the requirement of para-  
12 graph (1) who fails to satisfy such requirement shall be  
13 subject to a civil penalty of—

14 “(A) not less than \$250 or more than \$2,000,  
15 or

16 “(B) if such failure occurs with knowledge that  
17 the sponsored alien has received any benefit under  
18 any means-tested public benefits program, not less  
19 than \$2,000 or more than \$5,000.

20 “(e) DEFINITIONS.—For the purposes of this sec-  
21 tion—

22 “(1) SPONSOR.—The term ‘sponsor’ means,  
23 with respect to an alien, an individual who—

1           “(A) is a citizen or national of the United  
2 States or an alien who is lawfully admitted to  
3 the United States for permanent residence;

4           “(B) is 18 years of age or over;

5           “(C) is domiciled in any State;

6           “(D) demonstrates, through presentation  
7 of a certified copy of an individual’s Federal in-  
8 come tax returns for the individual’s most re-  
9 cent two taxable years and a written statement,  
10 executed under oath or as permitted under pen-  
11 alty of perjury under section 1746 of title 28,  
12 United States Code, that the copies are accu-  
13 rate copies of such returns, (i) the means to  
14 maintain an annual income equal to at least  
15 200 percent of the poverty level for the individ-  
16 ual and the individual’s family (including the  
17 alien and any other aliens with respect to whom  
18 the individual is a sponsor), or (ii) for an indi-  
19 vidual who is on active duty (other than active  
20 duty for training) in the Armed Forces of the  
21 United States, the means to maintain an an-  
22 nual income equal to at least 100 percent of the  
23 poverty level for the individual and the individ-  
24 ual’s family including the alien and any other

1           aliens with respect to whom the individual is a  
2           sponsor); and

3           “(E) is petitioning for the admission of the  
4           alien under section 204 (or is an individual who  
5           is a United States citizen and who accepts joint  
6           and several liability with the petitioner).

7           “(2) FEDERAL POVERTY LINE.—The term  
8           ‘Federal poverty line’ means the income official pov-  
9           erty line (as defined in section 673(2) of the Com-  
10          munity Services Block Grant Act) that is applicable  
11          to a family of the size involved.

12          “(3) MEANS-TESTED PUBLIC BENEFITS PRO-  
13          GRAM.—

14               “(A) IN GENERAL.—Subject to subpara-  
15               graph (B), the term ‘means-tested public bene-  
16               fits program’ means a program of public bene-  
17               fits (including cash, medical, housing, and food  
18               assistance and social services) of the Federal  
19               Government or of a State or political subdivi-  
20               sion of a State in which the eligibility of an in-  
21               dividual, household, or family eligibility unit for  
22               benefits under the program, or the amount of  
23               such benefits, or both are determined on the  
24               basis of income, resources, or financial need of  
25               the individual, household, or unit.

1           “(B) EXCEPTIONS.—Such term does not  
2 include the following benefits:

3           “(i) Medical assistance provided for  
4 emergency medical services under title XIX  
5 of the Social Security Act.

6           “(ii) The provision of short-term, non-  
7 cash, in kind emergency relief.

8           “(iii) Benefits under the National  
9 School Lunch Act.

10           “(iv) Assistance under the Child Nu-  
11 trition Act of 1966.

12           “(v) Public health assistance for im-  
13 munizations with respect to immunizable  
14 diseases and for testing and treatment for  
15 communicable diseases.

16           “(vi) The provision of services directly  
17 related to assisting the victims of domestic  
18 violence or child abuse.

19           “(vii) Benefits under programs of stu-  
20 dent assistance under titles IV, V, IX, and  
21 X of the Higher Education Act of 1965  
22 and titles III, VII, and VIII of the Public  
23 Health Service Act.

1                   “(viii) Benefits under means-tested  
2                   programs under the Elementary and Sec-  
3                   ondary Education Act of 1965.

4                   “(ix) Benefits under the Head Start  
5                   Act.”.

6           (b) REQUIREMENT OF AFFIDAVIT OF SUPPORT  
7 FROM EMPLOYMENT SPONSORS.—For requirement for af-  
8 fidavit of support from individuals who file classification  
9 petitions for a relative as an employment-based immi-  
10 grant, see the amendment made by section 621(a).

11           (c) SETTLEMENT OF CLAIMS PRIOR TO NATURALIZA-  
12 TION.—Section 316 (8 U.S.C. 1427) is amended—

13                   (1) in subsection (a), by striking “and” before  
14                   “(3)”, and by inserting before the period at the end  
15                   the following: “, and (4) in the case of an applicant  
16                   that has received assistance under a means-tested  
17                   public benefits program (as defined in subsection  
18                   (f)(3) of section 213A) administered by a Federal,  
19                   State, or local agency and with respect to which  
20                   amounts may be owing under an affidavit of support  
21                   executed under such section, provides satisfactory  
22                   evidence that there are no outstanding amounts that  
23                   may be owed to any such Federal, State, or local  
24                   agency pursuant to such affidavit by the sponsor

1 who executed such affidavit, except as provided in  
2 subsection (g)”; and

3 (2) by adding at the end the following new sub-  
4 section:

5 “(g) Clause (4) of subsection (a) shall not apply to  
6 an applicant where the applicant can demonstrate that—

7 “(A) either—

8 “(i) the applicant has been battered or  
9 subject to extreme cruelty in the United States  
10 by a spouse or parent or by a member of the  
11 spouse or parent’s family residing in the same  
12 household as the applicant and the spouse or  
13 parent consented or acquiesced to such battery  
14 or cruelty, or

15 “(ii) the applicant’s child has been bat-  
16 tered or subject to extreme cruelty in the Unit-  
17 ed States by the applicant’s spouse or parent  
18 (without the active participation of the appli-  
19 cant in the battery or extreme cruelty), or by a  
20 member of the spouse or parent’s family resid-  
21 ing in the same household as the applicant  
22 when the spouse or parent consented or acqui-  
23 esced to and the applicant did not actively par-  
24 ticipate in such battery or cruelty;

1           “(B) such battery or cruelty has led to the issu-  
2           ance of an order of a judge or an administrative law  
3           judge or a prior determination of the Service; and

4           “(C) the need for the public benefits received as  
5           to which amounts are owing had a substantial con-  
6           nection to the battery or cruelty described in sub-  
7           paragraph (A).”.

8           (d) CLERICAL AMENDMENT.—The table of contents  
9           is amended by inserting after the item relating to section  
10          213 the following:

          “Sec. 213A. Requirements for sponsor’s affidavit of support.”.

11          (e) EFFECTIVE DATE.—Subsection (a) of section  
12          213A of the Immigration and Nationality Act, as inserted  
13          by subsection (a) of this section, shall apply to affidavits  
14          of support executed on or after a date specified by the  
15          Attorney General, which date shall be not earlier than 60  
16          days (and not later than 90 days) after the date the Attor-  
17          ney General formulates the form for such affidavits under  
18          subsection (f) of this section.

19          (f) PROMULGATION OF FORM.—Not later than 90  
20          days after the date of the enactment of this Act, the Attor-  
21          ney General, in consultation with the Secretary of State  
22          and the Secretary of Health and Human Services, shall  
23          promulgate a standard form for an affidavit of support  
24          consistent with the provisions of section 213A of the Im-  
25          migration and Nationality Act.

1 **SEC. 633. COSIGNATURE OF ALIEN STUDENT LOANS.**

2 Section 484(b) of the Higher Education Act of 1965  
3 (20 U.S.C. 1091(b)) is amended by adding at the end the  
4 following new paragraph:

5 “(6) Notwithstanding sections 427(a)(2)(A),  
6 428B(a), 428C(b)(4)(A), and 464(c)(1)(E), a student who  
7 is an alien lawfully admitted under the Immigration and  
8 Nationality Act, otherwise eligible for student financial as-  
9 sistance under this title, and for whom an affidavit of sup-  
10 port has been provided under section 213A of such Act  
11 shall not be eligible for a loan under this title unless the  
12 loan is endorsed and cosigned by the alien’s sponsor under  
13 such section or by another credit-worthy individual who  
14 is a citizen or national of the United States.”.

15 **SEC. 634. STATUTORY CONSTRUCTION.**

16 Nothing in this title may be construed as an entitle-  
17 ment or a determination of an individual’s eligibility or  
18 fulfillment of the requisite requirements for any Federal,  
19 State, or local governmental program, assistance, or bene-  
20 fits. For purposes of this title, eligibility relates only to  
21 the general issue of eligibility or ineligibility on the basis  
22 of alienage.

1       **TITLE VII—FACILITATION OF**  
2                   **LEGAL ENTRY**

3       **SEC. 701. ADDITIONAL LAND BORDER INSPECTORS; INFRA-**  
4                   **STRUCTURE IMPROVEMENTS.**

5           (a) INCREASED PERSONNEL.—

6               (1) IN GENERAL.—In order to eliminate undue  
7               delay in the thorough inspection of persons and vehi-  
8               cles lawfully attempting to enter the United States,  
9               the Attorney General shall increase, by approxi-  
10              mately equal numbers in each of the fiscal years  
11              1996 and 1997, the number of full-time land border  
12              inspectors assigned to active duty by the Immigra-  
13              tion and Naturalization Service to a level adequate  
14              to assure full staffing during peak crossing hours of  
15              all border crossing lanes now in use, under construc-  
16              tion, or construction of which has been authorized  
17              by Congress.

18              (2) DEPLOYMENT OF PERSONNEL.—The Attor-  
19              ney General shall, to the maximum extent prac-  
20              ticable, ensure that the personnel hired pursuant to  
21              this subsection shall be deployed among the various  
22              Immigration and Naturalization Service sectors in  
23              proportion to the number of land border crossings  
24              measured in each such sector during the preceding  
25              fiscal year.

1 (b) IMPROVED INFRASTRUCTURE.—

2 (1) IN GENERAL.—The Attorney General from  
3 time to time may identify those physical improve-  
4 ments to the infrastructure of the international land  
5 borders of the United States necessary to expedite  
6 the inspection by the Immigration and Naturaliza-  
7 tion Service of persons and vehicles attempting to  
8 lawfully enter the United States in accordance with  
9 existing policies and procedures of the Immigration  
10 and Naturalization Service and the Drug Enforce-  
11 ment Agency.

12 (2) PRIORITIES.—Such improvements to the in-  
13 frastructure of the land border of the United States  
14 shall be substantially completed and fully funded in  
15 those portions of the United States where the Attor-  
16 ney General, in consultation with the Committees on  
17 the Judiciary of the House of Representatives and  
18 the Senate, objectively determines the need to be  
19 greatest or most immediate before the Attorney Gen-  
20 eral may obligate funds for construction of any im-  
21 provement otherwise located.

22 **SEC. 702. COMMUTER LANE PILOT PROGRAMS.**

23 (a) MAKING LAND BORDER INSPECTION FEE PER-  
24 MANENT.—Section 286(q) (8 U.S.C. 1356(q)) is amend-  
25 ed—

1           (1) in paragraph (1), by striking “a project”  
2           and inserting “projects”;

3           (2) in paragraph (1), by striking “Such  
4           project” and inserting “Such projects”; and

5           (3) by striking paragraph (5).

6           (b) CONFORMING AMENDMENT.—The Departments  
7 of Commerce, Justice, and State, the Judiciary, and Re-  
8 lated Agencies Appropriation Act, 1994 (Public Law 103–  
9 121, 107 Stat. 1161) is amended by striking the fourth  
10 proviso under the heading “Immigration and Naturaliza-  
11 tion Service, Salaries and Expenses”.

12 **SEC. 703. PREINSPECTION AT FOREIGN AIRPORTS.**

13           (a) IN GENERAL.—The Immigration and Nationality  
14 Act is amended by inserting after section 235 the following  
15 new section:

16           “PREINSPECTION AT FOREIGN AIRPORTS

17           “SEC. 235A. (a) ESTABLISHMENT OF PRE-  
18 INSPECTION STATIONS.—(1) Subject to paragraph (4),  
19 not later than 2 years after the date of the enactment of  
20 this section, the Attorney General, in consultation with the  
21 Secretary of State, shall establish and maintain  
22 preinspection stations in at least 5 of the foreign airports  
23 that are among the 10 foreign airports which the Attorney  
24 General identifies as serving as last points of departure  
25 for the greatest numbers of passengers who arrive from  
26 abroad by air at ports of entry within the United States.

1 Such preinspection stations shall be in addition to any  
2 preinspection stations established prior to the date of the  
3 enactment of this section.

4 “(2) Not later than November 1, 1995, and each sub-  
5 sequent November 1, the Attorney General shall compile  
6 data identifying—

7 “(A) the foreign airports which served as last  
8 points of departure for aliens who arrived by air at  
9 United States ports of entry without valid docu-  
10 mentation during the preceding fiscal years,

11 “(B) the number and nationality of such aliens  
12 arriving from each such foreign airport, and

13 “(C) the primary routes such aliens followed  
14 from their country of origin to the United States.

15 “(3) Subject to paragraph (4), not later than 4 years  
16 after the date of enactment of this section, the Attorney  
17 General, in consultation with the Secretary of State, shall  
18 establish preinspection stations in at least 5 additional for-  
19 eign airports which the Attorney General, in consultation  
20 with the Secretary of State, determines based on the data  
21 compiled under paragraph (2) and such other information  
22 as may be available would most effectively reduce the  
23 number of aliens who arrive from abroad by air at points  
24 of entry within the United States without valid docu-

1 mentation. Such preinspection stations shall be in addition  
2 to those established prior to or pursuant to paragraph (1).

3 “(4) Prior to the establishment of a preinspection  
4 station the Attorney General, in consultation with the Sec-  
5 retary of State, shall ensure that—

6 “(A) employees of the United States stationed  
7 at the preinspection station and their accompanying  
8 family members will receive appropriate protection,

9 “(B) such employees and their families will not  
10 be subject to unreasonable risks to their welfare and  
11 safety, and

12 “(C) the country in which the preinspection sta-  
13 tion is to be established maintains practices and pro-  
14 cedures with respect to asylum seekers and refugees  
15 in accordance with the Convention Relating to the  
16 Status of Refugees (done at Geneva, July 28, 1951),  
17 or the Protocol Relating to the Status of Refugees  
18 (done at New York, January 31, 1967).

19 “(b) ESTABLISHMENT OF CARRIER CONSULTANT  
20 PROGRAM.—The Attorney General shall assign additional  
21 immigration officers to assist air carriers in the detection  
22 of fraudulent documents at foreign airports which, based  
23 on the records maintained pursuant to subsection (a)(2),  
24 served as a point of departure for a significant number  
25 of arrivals at United States ports of entry without valid

1 documentation, but where no preinspection station ex-  
2 ists.”.

3 (b) CLERICAL AMENDMENT.—The table of contents,  
4 as amended by section 308(a)(2), is further amended by  
5 inserting after the item relating to section 235 the follow-  
6 ing new item:

“Sec. 235A. Preinspection at foreign airports.”.

7 **SEC. 704. TRAINING OF AIRLINE PERSONNEL IN DETEC-**  
8 **TION OF FRAUDULENT DOCUMENTS.**

9 (a) USE OF FUNDS.—Section 286(h)(2)(A) (8 U.S.C.  
10 1356(h)(2)(A)) is amended—

11 (1) in clause (iv), by inserting “, including  
12 training of, and technical assistance to, commercial  
13 airline personnel regarding such detection” after  
14 “United States”, and

15 (2) by adding at the end the following:

16 “The Attorney General shall provide for expenditures for  
17 training and assistance described in clause (iv) in an  
18 amount, for any fiscal year, not less than 5 percent of  
19 the total of the expenses incurred that are described in  
20 the previous sentence.”.

21 (b) COMPLIANCE WITH DETECTION REGULA-  
22 TIONS.—Section 212(f) (8 U.S.C. 1182(f)) is amended by  
23 adding at the end the following: “Whenever the Attorney  
24 General finds that a commercial airline has failed to com-  
25 ply with regulations of the Attorney General relating to

1 requirements of airlines for the detection of fraudulent  
2 documents used by passengers traveling to the United  
3 States (including the training of personnel in such detec-  
4 tion), the Attorney General may suspend the entry of some  
5 or all aliens transported to the United States by such air-  
6 line.”.

7 (c) EFFECTIVE DATES.—

8 (1) The amendments made by subsection (a)  
9 shall apply to expenses incurred during or after fis-  
10 cal year 1996.

11 (2) The Attorney General shall first issue, in  
12 proposed form, regulations referred to in the second  
13 sentence of section 212(f) of the Immigration and  
14 Nationality Act, as added by the amendment made  
15 by subsection (b), by not later than 90 days after  
16 the date of the enactment of this Act.

17 **TITLE VIII—MISCELLANEOUS**  
18 **PROVISIONS**

19 **Subtitle A—Amendments to the**  
20 **Immigration and Nationality Act**

21 **SEC. 801. NONIMMIGRANT STATUS FOR SPOUSES AND CHIL-**  
22 **DREN OF MEMBERS OF THE ARMED SERV-**  
23 **ICES.**

24 Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amend-  
25 ed—

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

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

5 (3) by inserting after subparagraph (S) the fol-  
6 lowing new subparagraph:

7 “(T) an alien who is the spouse or child of a  
8 another alien who is serving on active duty in the  
9 Armed Forces of the United States during the pe-  
10 riod in which the other alien is stationed in the  
11 United States.”.

12 **SEC. 802. AMENDED DEFINITION OF AGGRAVATED FELONY.**

13 (a) IN GENERAL.—Section 101(a)(43) (8 U.S.C.  
14 1101(a)(43)), as amended by section 222 of the Immigra-  
15 tion and Nationality Technical Corrections Act of 1994  
16 (Public Law 103–416), is amended—

17 (1) in subparagraph (N), by striking “of title  
18 18, United States Code” and inserting “of this Act”,  
19 and

20 (2) in subparagraph (O), by striking “which  
21 constitutes” and all that follows up to the semicolon  
22 at the end and inserting “, for the purpose of com-  
23 mercial advantage”.

24 (b) EFFECTIVE DATE OF CONVICTION.—Section  
25 101(a)(43) (8 U.S.C. 1101(a)(43)), as amended by section

1 222(a) of the Immigration and Nationality Technical Cor-  
2 rections Act of 1994 (Public Law 103–416), is amended  
3 by adding at the end the following sentence: “Notwith-  
4 standing any other provision of law, the term applies for  
5 all purposes to convictions entered before, on, or after the  
6 date of enactment of the Immigration and Nationality  
7 Technical Corrections Act of 1994.”.

8 (c) EFFECTIVE DATE.—The amendments made by  
9 this section shall be effective as if included in the enact-  
10 ment of the Immigration and Nationality Technical Cor-  
11 rections Act of 1994 (Public Law 103–416).

12 **SEC. 803. AUTHORITY TO DETERMINE VISA PROCESSING**  
13 **PROCEDURES.**

14 (a) IN GENERAL.—Section 202(a) (8 U.S.C.  
15 1152(a)) is amended—

16 (1) in paragraph (1), by striking “paragraph  
17 (2)” and inserting “paragraphs (2) and (5)”, and

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

20 “(5) CONSTRUCTION.—Nothing in paragraph  
21 (1) shall be construed to limit the authority of the  
22 Secretary of State to determine the procedures for  
23 the processing of immigrant visa applications or the  
24 locations where such applications will be processed.”.

1 (b) ELIMINATION OF CONSULATE SHOPPING FOR  
2 VISA OVERSTAYS.—Section 222 (8 U.S.C. 1202) is  
3 amended by adding at the end the following new sub-  
4 section:

5 “(g) In the case of an alien who has entered and re-  
6 mained in the United States beyond the authorized period  
7 of stay, the alien is not eligible to be admitted to the Unit-  
8 ed States as a nonimmigrant on the basis of a visa issued  
9 other than in a consular office located in the country of  
10 the alien’s nationality (or, if there is no office in such  
11 country, at such other consular office as the Secretary of  
12 State shall specify).”.

13 (c) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply to visas issued before, on, or after  
15 the date of the enactment of this Act.

16 **SEC. 804. WAIVER AUTHORITY CONCERNING NOTICE OF**  
17 **DENIAL OF APPLICATION FOR VISAS.**

18 Section 212(b) (8 U.S.C. 1182(b)) is amended—

19 (1) by redesignating paragraphs (1) and (2) as  
20 subparagraphs (A) and (B);

21 (2) by striking “If” and inserting “(1) Subject  
22 to paragraph (2), if”; and

23 (3) by inserting at the end the following para-  
24 graph:

1       “(2) With respect to applications for visas, the Sec-  
2 retary of State may waive the application of paragraph  
3 (1) in the case of a particular alien or any class or classes  
4 of aliens inadmissible under subsection (a)(2) or (a)(3).”.

5 **SEC. 805. TREATMENT OF CANADIAN LANDED IMMIGRANTS.**

6       Section 212(d)(4)(B) (8 U.S.C. 1182(d)(4)(B)) is  
7 amended—

8           (1) by striking “and residents” and inserting “,  
9 residents”, and

10          (2) by striking “nationals,” and inserting “na-  
11 tionals, and aliens who are granted permanent resi-  
12 dence by the government of the foreign contiguous  
13 territory and who are residing in that territory”.

14 **SEC. 806. CHANGES RELATING TO H-1B NONIMMIGRANTS.**

15       (a) PROVISIONS RELATING TO WAGE DETERMINA-  
16 TIONS.—Section 212(n) (8 U.S.C. 1182(n)) is amended  
17 by adding at the end the following new paragraphs:

18       “(3) For purposes of determining the actual wage  
19 level paid under paragraph (1)(A)(i)(I), an employer shall  
20 not be required to have and document an objective system  
21 to determine the wages of workers.

22       “(4) For purposes of determining the actual wage  
23 level paid under paragraph (1)(A)(i)(I), a non-H-1B-de-  
24 pendent employer of more than 1,000 full-time equivalent  
25 employees in the United States may demonstrate that in

1 determining the wages of H-1B nonimmigrants, it utilizes  
2 a compensation and benefits system that has been pre-  
3 viously certified by the Secretary of Labor (and recertified  
4 at such intervals the Secretary of Labor may designate)  
5 to satisfy all of the following conditions:

6           “(A) The employer has a company-wide com-  
7           pensation policy for its full-time equivalent employ-  
8           ees which ensures salary equity among employees  
9           similarly employed.

10           “(B) The employer has a company-wide benefits  
11           policy under which all full-time equivalent employees  
12           similarly employed are eligible for substantially the  
13           same benefits or under which some employees may  
14           accept higher pay, at least equal in value to the ben-  
15           efits, in lieu of benefits.

16           “(C) The compensation and benefits policy is  
17           communicated to all employees.

18           “(D) The employer has a human resources or  
19           compensation function that administers its com-  
20           pensation system.

21           “(E) The employer has established documenta-  
22           tion for the job categories in question.

23 An employer’s payment of wages consistent with a system  
24 which meets the conditions of subparagraphs (A) through  
25 (E) of this paragraph which has been certified by the Sec-

1 retary of Labor pursuant to this paragraph shall be  
2 deemed to satisfy the requirements of paragraph  
3 (1)(A)(i)(I).

4       “(5) For purposes of determining the prevailing wage  
5 level paid under paragraph (1)(A)(i)(II), employers may  
6 provide a published survey, a State Employment Security  
7 Agency determination, a determination by an accepted pri-  
8 vate source, or any other legitimate source. The Secretary  
9 of Labor shall, not later than 180 days from the date of  
10 enactment of this paragraph, provide for acceptance of  
11 prevailing wage determinations not made by a State Em-  
12 ployment Security Agency. The Secretary of Labor or the  
13 Secretary’s designate must either accept such a non-State  
14 Employment Security Agency wage determination or issue  
15 a written decision rejecting the determination and detail-  
16 ing the legitimate reasons that the determination is not  
17 acceptable. If a detailed rejection is not issued within 45  
18 days of the date of the Secretary’s receipt of such deter-  
19 mination, the determination will be deemed accepted. An  
20 employer’s payment of wages consistent with a prevailing  
21 wage determination not rejected by the Secretary of Labor  
22 under this paragraph shall be deemed to satisfy the re-  
23 quirements of paragraph (1)(A)(i)(II).”.

24       (b) INAPPLICABILITY OF CERTAIN REGULATIONS TO  
25 NON-H-1B-DEPENDENT EMPLOYERS.—

1           (1) DEFINITION OF H-1B-DEPENDENT EM-  
2           PLOYER.—Section 212(n)(2) (8 U.S.C. 1182(n)(2))  
3           is amended by inserting after subparagraph (D) the  
4           following new subparagraphs:

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

7           “(i)(I) has fewer than 21 full-time equivalent  
8           employees who are employed in the United States,  
9           and (II) employs 4 or more H-1B nonimmigrants;  
10          or

11          “(ii)(I) has at least 21 but not more than 150  
12          full-time equivalent employees who are employed in  
13          the United States, and (II) employs H-1B  
14          nonimmigrants in a number that is equal to at least  
15          20 percent of the number of such full-time equiva-  
16          lent employees; or

17          “(iii)(I) has at least 151 full-time equivalent  
18          employees who are employed in the United States,  
19          and (II) employs H-1B nonimmigrants in a number  
20          that is equal to at least 15 percent of the number  
21          of such full-time equivalent employees.

22          In applying this subparagraph, any group treated as a sin-  
23          gle employer under subsection (b), (c), (m), or (o) of sec-  
24          tion 414 of the Internal Revenue Code of 1986 shall be  
25          treated as a single employer. Aliens employed under a pe-

1 titution for H-1B nonimmigrants shall be treated as em-  
2 ployees, and counted as nonimmigrants under section  
3 101(a)(15)(H)(i)(b) under this subparagraph. In this sub-  
4 section, the term ‘non-H-1B-dependent employer’ means  
5 an employer that is not an H-1B-dependent employer.

6 “(F)(i) An employer who is an H-1B-dependent em-  
7 ployer as defined in subparagraph (E) can nevertheless be  
8 treated as a non-H-1B-dependent employer for five years  
9 on a probationary status if—

10 “(I) the employer has demonstrated to the sat-  
11 isfaction of the Secretary of Labor that it has devel-  
12 oped a reasonable plan for reducing its use of H-  
13 1B nonimmigrants over a five-year period to the  
14 level of a non-H-1B-dependent employer, and

15 “(II) annual reviews of that plan by the Sec-  
16 retary of Labor indicate successful implementation  
17 of that plan.

18 If the employer has not met the requirements established  
19 in this clause, the probationary status ends and the em-  
20 ployer shall be treated as an H-1B-dependent employer  
21 until such time as the employer can prove to the Secretary  
22 of Labor that it no longer is an H-1B-dependent employer  
23 as defined in subparagraph (E).

1       “(ii) The probationary program set out in clause (i)  
2 shall be effective for no longer than five years after the  
3 date of the enactment of this subparagraph.”.

4           (2) LIMITING APPLICATION OF CERTAIN RE-  
5 QUIREMENTS FOR NON-H-1B-DEPENDENT EMPLOY-  
6 ERS.—Section 212(n) (8 U.S.C. 1182(n)), as  
7 amended by subsection (a), is further amended by  
8 adding at the end the following new paragraph:

9       “(6) In carrying out this subsection in the case of  
10 an employer that is a non-H-1B-dependent employer—

11           “(A) the employer is not required to post a no-  
12 tice at a worksite that was not listed on the applica-  
13 tion under paragraph (1) if the worksite is within  
14 the area of intended employment listed on such ap-  
15 plication for such nonimmigrant; and

16           “(B) if the employer has filed and had certified  
17 an application under paragraph (1) with respect to  
18 one or more H-1B nonimmigrants for one or more  
19 areas of employment—

20           “(i) the employer is not required to file  
21 and have certified an additional application  
22 under paragraph (1) with respect to such a  
23 nonimmigrant for an area of employment not  
24 listed in the previous application because the  
25 employer has placed one or more such

1 nonimmigrants in such a nonlisted area so long  
2 as either (I) each such nonimmigrant is not  
3 placed in such nonlisted areas for a period ex-  
4 ceeding 45 workdays in any 12-month period  
5 and not to exceed 90 workdays in any 36-month  
6 period, or (II) each such nonimmigrant's prin-  
7 cipal place of employment has not changed to  
8 a nonlisted area, and

9 “(ii) the employer is not required to pay  
10 per diem and transportation costs at any speci-  
11 fied rates for work performed in such a  
12 nonlisted area.”.

13 (3) LIMITATION ON AUTHORITY TO INITIATE  
14 COMPLAINTS AND CONDUCT INVESTIGATIONS FOR  
15 NON-H-1B-DEPENDENT EMPLOYERS.—Section  
16 212(n)(2)(A) (8 U.S.C. 1182(n)(2)(A)) is amend-  
17 ed—

18 (A) in the second sentence, by inserting be-  
19 fore the period at the end the following: “, ex-  
20 cept that the Secretary may only file such a  
21 complaint in the case of an H-1B-dependent  
22 employer (as defined in subparagraph (E)) or  
23 when conducting an annual review of a plan  
24 pursuant to subparagraph (F)(i) if there ap-  
25 pears to be a violation of an attestation or a

1 misrepresentation of a material fact in an appli-  
2 cation”, and

3 (B) by inserting after the second sentence  
4 the following new sentence: “No investigation or  
5 hearing shall be conducted with respect to a  
6 non-H-1B-dependent employer except in re-  
7 sponse to a complaint filed under the previous  
8 sentence.”.

9 (c) NO DISPLACEMENT OF AMERICAN WORKERS  
10 PERMITTED.—(1) Section 212(n)(1) (8 U.S.C.  
11 1182(n)(1)) is amended by inserting after subparagraph  
12 (D) the following new subparagraph:

13 “(E)(i) If the employer, within the period be-  
14 ginning 6 months before and ending 90 days follow-  
15 ing the date of filing of the application or during the  
16 90 days immediately preceding and following the  
17 date of filing of any visa petition supported by the  
18 application, has laid off or lays off any protected in-  
19 dividual with substantially equivalent qualifications  
20 and experience in the specific employment as to  
21 which the nonimmigrant is sought or is employed,  
22 the employer will pay a wage to the nonimmigrant  
23 that is at least 110 percent of the arithmetic mean  
24 of the last wage earned by all such laid off individ-  
25 uals (or, if greater, at least 110 percent of the arith-

1        metric mean of the highest wage earned by all such  
2        laid off individuals within the most recent year if the  
3        employer reduced the wage of any such laid off indi-  
4        vidual during such year other than in accordance  
5        with a general company-wide reduction of wages for  
6        substantially all employees).

7            “(ii) Except as provided in clause (iii), in the  
8        case of an H-1B-dependent employer which employs  
9        an H-1B nonimmigrant, the employer shall not  
10       place the nonimmigrant with another employer  
11       where—

12            “(I) the nonimmigrant performs his or her  
13        duties in whole or in part at one or more work-  
14        sites owned, operated, or controlled by such  
15        other employer, and

16            “(II) there are indicia of an employment  
17        relationship between the nonimmigrant and  
18        such other employer.

19            “(iii) Clause (ii) shall not apply to an employ-  
20        er’s placement of an H-1B nonimmigrant with an-  
21        other employer if—

22            “(I) the other employer has executed an  
23        attestation that it, within the period beginning  
24        6 months before and ending 90 days following  
25        the date of filing of the application or during

1 the 90 days immediately preceding and follow-  
2 ing the date of filing of any visa petition sup-  
3 ported by the application, has not laid off and  
4 will not lay off any protected individual with  
5 substantially equivalent qualifications and expe-  
6 rience in the specific employment as to which  
7 the H-1B nonimmigrant is being sought or is  
8 employed, or

9 “(II) the employer pays a wage to the non-  
10 immigrant that is at least 110 percent of the  
11 arithmetic mean of the last wage earned by all  
12 such laid off individuals (or, if greater, at least  
13 110 percent of the arithmetic mean of the high-  
14 est wage earned by all such laid off individuals  
15 within the most recent year if the other em-  
16 ployer reduced the wage of any such laid off in-  
17 dividual during such year other than in accord-  
18 ance with a general company-wide reduction of  
19 wages for substantially all employees).

20 “(iv) For purposes of this subparagraph, the  
21 term ‘laid off’, with respect to an individual—

22 “(I) refers to the individual’s loss of em-  
23 ployment, other than a discharge for inadequate  
24 performance, cause, voluntary departure, or re-  
25 tirement, and

1           “(II) does not include any situation in  
2           which the individual involved is offered, as an  
3           alternative to such loss of employment, a simi-  
4           lar job opportunity with the same employer (or  
5           with the H–1B-dependent employer described in  
6           clause (ii)) carrying equivalent or higher com-  
7           pensation and benefits as the position from  
8           which the employee was laid off, regardless of  
9           whether or not the employee accepts the offer.

10          “(v) For purposes of this subparagraph, the  
11          term ‘protected individual’ means an individual  
12          who—

13                 “(I) is a citizen or national of the United  
14                 States, or

15                 “(II) is an alien who is lawfully admitted  
16                 for permanent residence, is granted the status  
17                 of an alien lawfully admitted for temporary res-  
18                 idence under section 210(a), 210A(a), or  
19                 245(a)(1), is admitted as a refugee under sec-  
20                 tion 207, or is granted asylum under section  
21                 208.”.

22          (2) Section 212(n)(2) (8 U.S.C. 1182(n)(2)), as  
23          amended by subsection (b)(1), is amended by adding at  
24          the end the following new subparagraph:

1       “(G) Under regulations of the Secretary, the previous  
2 provisions of this paragraph shall apply to complaints re-  
3 specting a failure of an other employer to comply with an  
4 attestation described in paragraph (1)(E)(iii)(I) in the  
5 same manner that they apply to complaints with respect  
6 to a failure to comply with a condition described in para-  
7 graph (1)(E)(i).”.

8       (3) Section 212(n)(2)(C) (8 U.S.C. 1182(n)(2)(C)) is  
9 amended by inserting “or (1)(E)” after “(1)(B)”.

10       (d) INCREASED PENALTIES.—Section 212(n)(2) is  
11 amended—

12           (1) in subparagraph (C)(i), by striking  
13 “\$1,000” and inserting “\$5,000”;

14           (2) by amending subparagraph (C)(ii) to read  
15 as follows:

16           “(ii) the Attorney General shall not approve pe-  
17 titions filed with respect to that employer (or any  
18 employer who is a successor in interest) under sec-  
19 tion 204 or 214(e) for aliens to be employed by the  
20 employer—

21           “(I) during a period of at least 1 year in  
22 the case of the first determination of a violation  
23 or any subsequent determination of a violation  
24 occurring within 1 year of that first violation or  
25 any subsequent determination of a nonwillful

1 violation occurring more than 1 year after the  
2 first violation;

3 “(II) during a period of at least 5 years in  
4 the case of a determination of a willful violation  
5 occurring more than 1 year after the first viola-  
6 tion; and

7 “(III) at any time in the case of a deter-  
8 mination of a willful violation occurring more  
9 than 5 years after a violation described in  
10 subclause (II).”; and

11 (3) in subparagraph (D), by adding at the end  
12 the following: “If a penalty under subparagraph (C)  
13 has been imposed in the case of a willful violation,  
14 the Secretary shall impose on the employer a civil  
15 monetary penalty in an amount equalling twice the  
16 amount of backpay.”.

17 (e) COMPUTATION OF PREVAILING WAGE LEVEL.—  
18 Section 212(n) (8 U.S.C. 1182(n)), as amended by sub-  
19 sections (a) and (b)(2), is further amended by adding at  
20 the end the following new paragraph:

21 “(7) In computing the prevailing wage level for an  
22 occupational classification in an area of employment for  
23 purposes of paragraph (1)(A)(i)(II) and subsection  
24 (a)(5)(A) in the case of an employee of (A) an institution  
25 of higher education (as defined in section 1201(a) of the

1 Higher Education Act of 1965), or a related or affiliated  
2 nonprofit entity, or (B) a nonprofit scientific research or-  
3 ganization, the prevailing wage level shall only take into  
4 account employees at such institutions and entities in the  
5 area of employment.”.

6 (f) CONFORMING AMENDMENTS.—Section 212(n) (8  
7 U.S.C. 1182(n)) is further amended—

8 (1) in the matter in paragraph (1) before sub-  
9 paragraph (A), by inserting “(in this subsection re-  
10 ferred to as an ‘H–1B nonimmigrant’)” after  
11 “101(a)(15)(H)(i)(b)”; and

12 (2) in paragraph (1)(A), by striking “non-  
13 immigrant described in section 101(a)(15)(H)(i)(b)”  
14 and inserting “H–1B nonimmigrant”.

15 (g) EFFECTIVE DATES.—

16 (1) Except as otherwise provided in this sub-  
17 section, the amendments made by this section shall  
18 take effect on the date of the enactment of this Act  
19 and shall apply to applications filed with the Sec-  
20 retary of Labor on or after 30 days after the date  
21 of the enactment of this Act.

22 (2) The amendments made by subsection (b)(3)  
23 shall apply to complaints filed, and to investigations  
24 or hearings initiated, on or after January 19, 1995.

1 **SEC. 807. VALIDITY OF PERIOD OF VISAS.**

2 (a) EXTENSION OF VALIDITY OF IMMIGRANT VISAS  
3 TO 6 MONTHS.—Section 221(c) (8 U.S.C. 1201(c)) is  
4 amended by striking “four months” and inserting “six  
5 months”.

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

19 **SEC. 808. LIMITATION ON ADJUSTMENT OF STATUS OF IN-**  
20 **DIVIDUALS NOT LAWFULLY PRESENT IN THE**  
21 **UNITED STATES.**

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



1           (4) by striking the semicolon and inserting a  
2           period;

3           (5) by striking “except that the” and inserting  
4           the following:

5           “(B) The”;

6           (6) by inserting after subparagraph (B), as cre-  
7           ated by the amendment made by paragraph (5), the  
8           following:

9           “(C) The Attorney General may authorize an  
10          application to a Federal court of competent jurisdic-  
11          tion for, and a judge of such court may grant, an  
12          order authorizing disclosure of information con-  
13          tained in the application of the alien under this sec-  
14          tion to be used—

15                 “(i) for identification of the alien when  
16                 there is reason to believe that the alien has  
17                 been killed or severely incapacitated; or

18                 “(ii) for criminal law enforcement purposes  
19                 against the alien whose application is to be dis-  
20                 closed if the alleged criminal activity occurred  
21                 after the legalization application was filed and  
22                 such activity involves terrorist activity or poses  
23                 either an immediate risk to life or to national  
24                 security, or would be prosecutable as an aggra-  
25                 vated felony, but without regard to the length

1 of sentence that could be imposed on the appli-  
2 cant.”; and

3 (7) by adding at the end the following new sub-  
4 paragraph:

5 “(E) Nothing in this paragraph shall preclude  
6 the release for immigration enforcement purposes of  
7 the following information contained in files or  
8 records of the Service pertaining to the application:

9 “(i) The immigration status of the appli-  
10 cant on any given date after the date of filing  
11 the application (including whether the applicant  
12 was authorized to work) but only for purposes  
13 of a determination of whether the applicant is  
14 eligible for relief from deportation or removal  
15 and not otherwise.

16 “(ii) The date of the applicant’s adjust-  
17 ment (if any) to the status of an alien lawfully  
18 admitted for permanent residence.

19 “(iii) Information concerning whether the  
20 applicant has been convicted of a crime occur-  
21 ring after the date of filing the application.

22 “(iv) The date or disposition of the appli-  
23 cation.”.

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 permitted under paragraph (6)(B)” after “consent  
6 of the alien”; and

7 (2) in paragraph (6)—

8 (A) in subparagraph (A), by striking the  
9 period at the end and inserting a comma,

10 (B) by redesignating subparagraphs (A)  
11 through (C) as clauses (i) through (iii), respec-  
12 tively,

13 (C) by striking “Neither” and inserting  
14 “(A) Except as provided in subparagraph (B),  
15 neither”,

16 (D) by striking “Anyone” and inserting  
17 the following:

18 “(C) Anyone”,

19 (E) by inserting after the first sentence the  
20 following:

21 “(B) The Attorney General may authorize an  
22 application to a Federal court of competent jurisdic-  
23 tion for, and a judge of such court may grant, an  
24 order authorizing disclosure of information con-  
25 tained in the application of the alien to be used—

1           “(i) for identification of the alien when  
2           there is reason to believe that the alien has  
3           been killed or severely incapacitated, or

4           “(ii) for criminal law enforcement purposes  
5           against the alien whose application is to be dis-  
6           closed if the alleged criminal activity occurred  
7           after the special agricultural worker application  
8           was filed and such activity involves terrorist ac-  
9           tivity or poses either an immediate risk to life  
10          or to national security, or would be prosecutable  
11          as an aggravated felony, but without regard to  
12          the length of sentence that could be imposed on  
13          the applicant.”, and

14          (F) by adding at the end the following new  
15          subparagraph:

16          “(D) Nothing in this paragraph shall preclude  
17          the release for immigration enforcement purposes of  
18          the following information contained in files or  
19          records of the Service pertaining to the application:

20                 “(i) The immigration status of the appli-  
21                 cant on any given date after the date of filing  
22                 the application (including whether the applicant  
23                 was authorized to work).

1           “(ii) The date of the applicant’s adjust-  
2           ment (if any) to the status of an alien lawfully  
3           admitted for permanent residence.

4           “(iii) Information concerning whether the  
5           applicant has been convicted of a crime occur-  
6           ring after the date of filing the application.

7           “(iv) The date or disposition of the appli-  
8           cation.”.

9   **SEC. 810. CHANGE OF NONIMMIGRANT CLASSIFICATION.**

10       Section 248 (8 U.S.C. 1258) is amended by inserting  
11       at the end the following:

12       “Any alien whose status is changed under this section may  
13       apply to the Secretary of State for a visa without having  
14       to leave the United States and apply at the visa office.”.

15   **SEC. 811. CERTIFICATION REQUIREMENTS FOR FOREIGN**  
16                           **HEALTH-CARE WORKERS.**

17       (a) IN GENERAL.—Section 212(a) (8 U.S.C.  
18       1182(a)), as amended by section 301(b)(1), is amended—

19           (1) by redesignating paragraph (10) as para-  
20           graph (11), and

21           (2) by inserting after paragraph (9) the follow-  
22           ing new paragraph:

23           “(10) CERTIFICATION REQUIREMENTS FOR  
24           FOREIGN HEALTH-CARE WORKERS.—Any alien who  
25           seeks to enter the United States for the purpose of

1 performing labor as a health care-worker, other than  
2 a physician, is inadmissible unless the consular offi-  
3 cer receives a certification from the Commission on  
4 Graduates of Foreign Nursing Schools or a certifi-  
5 cate from an equivalent independent credentialing  
6 organization approved by the Secretary of Labor  
7 verifying that—

8 “(A) the alien’s education, training, or ex-  
9 perience meet all applicable statutory and regu-  
10 latory requirements for entry into the United  
11 States under the classification specified in the  
12 application and is comparable to that required  
13 for an American practitioner of the same type;

14 “(B) any foreign license submitted by the  
15 alien is authentic and unencumbered;

16 “(C) the alien must have the ability to  
17 read, write, and speak the English language at  
18 a level required for standard business commu-  
19 nication, as demonstrated by the alien’s score  
20 on one or more standardized tests; and

21 “(D) if the alien is a registered nurse, the  
22 alien has passed an examination testing both  
23 nursing skills and English language pro-  
24 ficiency.”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 subsection (a) shall apply to aliens entering the United  
3 States more than 180 days after the date of the enactment  
4 of this Act.

5 **SEC. 812. COMPUTATION OF TARGETED ASSISTANCE.**

6 Section 412(c)(2) (8 U.S.C. 1522(c)(2)) is amended  
7 by adding at the end the following new subparagraph:

8 “(C) Except for the Targeted Assistance Ten Percent  
9 Discretionary Program, all grants made available under  
10 this paragraph for a fiscal year shall be allocated by the  
11 Office of Resettlement in a manner that ensures that each  
12 qualifying county shall receive the same amount of assist-  
13 ance for each refugee and entrant residing in the county  
14 as of the beginning of the fiscal year who arrived in the  
15 United States not more than 60 months prior to such fis-  
16 cal year.”.

17 **Subtitle B—Other Provisions**

18 **SEC. 831. COMMISSION REPORT ON FRAUD ASSOCIATED**

19 **WITH BIRTH CERTIFICATES.**

20 Section 141 of the Immigration Act of 1990 is  
21 amended—

22 (1) in subsection (b)—

23 (A) by striking “and” at the end of para-  
24 graph (1),

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

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

5 “(3) transmit to Congress, not later than Janu-  
6 ary 1, 1997, a report containing recommendations  
7 (consistent with subsection (c)(3)) of methods of re-  
8 ducing or eliminating the fraudulent use of birth  
9 certificates for the purpose of obtaining other iden-  
10 tity documents that may be used in securing immi-  
11 gration, employment, or other benefits.”; and

12 (2) by adding at the end of subsection (c), the  
13 following new paragraph:

14 “(3) FOR REPORT ON REDUCING BIRTH CER-  
15 TIFICATE FRAUD.—In the report described in sub-  
16 section (b)(3), the Commission shall consider and  
17 analyze the feasibility of—

18 “(A) establishing national standards for  
19 counterfeit-resistant birth certificates, and

20 “(B) limiting the issuance of official copies  
21 of a birth certificate of an individual to anyone  
22 other than the individual or others acting on  
23 behalf of the individual.”.

1 **SEC. 832. UNIFORM VITAL STATISTICS.**

2 (a) PILOT PROGRAM.—The Secretary of Health and  
3 Human Services shall consult with the State agency re-  
4 sponsible for registration and certification of births and  
5 deaths and, within 2 years of the date of enactment of  
6 this Act, shall establish a pilot program for 3 of the 5  
7 States with the largest number of undocumented aliens  
8 of an electronic network linking the vital statistics records  
9 of such States. The network shall provide, where practical,  
10 for the matching of deaths with births and shall enable  
11 the confirmation of births and deaths of citizens of such  
12 States, or of aliens within such States, by any Federal  
13 or State agency or official in the performance of official  
14 duties. The Secretary and participating State agencies  
15 shall institute measures to achieve uniform and accurate  
16 reporting of vital statistics into the pilot program network,  
17 to protect the integrity of the registration and certification  
18 process, and to prevent fraud against the Government and  
19 other persons through the use of false birth or death cer-  
20 tificates.

21 (b) REPORT.—Not later than 180 days after the es-  
22 tablishment of the pilot program under subsection (a), the  
23 Secretary shall issue a written report to Congress with rec-  
24 ommendations on how the pilot program could effectively  
25 be instituted as a national network for the United States.

1           (c) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated for fiscal year 1996 and  
3 for subsequent fiscal years such sums as may be necessary  
4 to carry out this section.

5 **SEC. 833. COMMUNICATION BETWEEN STATE AND LOCAL**  
6                           **GOVERNMENT AGENCIES, AND THE IMMIGRA-**  
7                           **TION AND NATURALIZATION SERVICE.**

8           Notwithstanding any other provision of Federal,  
9 State, or local law, no State or local government entity  
10 shall prohibit, or in any way restrict, any government en-  
11 tity or any official within its jurisdiction from sending to  
12 or receiving from the Immigration and Naturalization  
13 Service information regarding the immigration status,  
14 lawful or unlawful, of an alien in the United States. Not-  
15 withstanding any other provision of Federal, State, or  
16 local law (and excepting the attorney-client privilege), no  
17 State or local government entity may be prohibited, or in  
18 any way restricted, from sending to or receiving from the  
19 Immigration and Naturalization Service information re-  
20 garding the immigration status, lawful or unlawful, of an  
21 alien in the United States.

22 **SEC. 834. REGULATIONS REGARDING HABITUAL RESI-**  
23                           **DENCE.**

24           Not later than 6 months after the date of the enact-  
25 ment of this Act, the Commissioner of the Immigration

1 and Naturalization Service shall issue regulations govern-  
2 ing rights of “habitual residence” in the United States  
3 under the terms of Compacts of Free Association (Public  
4 Law 99–239, Public Law 99–658, and Public Law 101–  
5 219).

6 **SEC. 835. FEMALE GENITAL MUTILATION.**

7 (a) INFORMATION REGARDING FEMALE GENITAL  
8 MUTILATION.—The Immigration and Naturalization  
9 Service (in cooperation with the Department of State)  
10 shall make available for all aliens who are issued immi-  
11 grant or nonimmigrant visas, prior to or at the time of  
12 entry into the United States, the following information:

13 (1) Information on the severe harm to physical  
14 and psychological health caused by female genital  
15 mutilation which is compiled and presented in a  
16 manner which is limited to the practice itself and re-  
17 spectful to the cultural values of the societies in  
18 which such practice takes place.

19 (2) Information concerning potential legal con-  
20 sequences in the United States for (A) performing  
21 female genital mutilation, or (B) allowing a child  
22 under his or her care to be subjected to female geni-  
23 tal mutilation, under criminal or child protection  
24 statutes or as a form of child abuse.

1 (b) LIMITATION.—In consultation with the Secretary  
2 of State, the Commissioner of Immigration and Natu-  
3 ralization shall identify those countries in which female  
4 genital mutilation is commonly practiced and, to the ex-  
5 tent practicable, limit the provision of information under  
6 subsection (a) to aliens from such countries.

7 (c) DEFINITION.—For purposes of this section, the  
8 term “female genital mutilation” means the removal or  
9 infibulation (or both) of the whole or part of the clitoris,  
10 the labia minora, or labia majora.

11 **SEC. 836. DESIGNATION OF PORTUGAL AS A VISA WAIVER**  
12 **PILOT PROGRAM COUNTRY WITH PROBA-**  
13 **TIONARY STATUS.**

14 Notwithstanding any other provision of law, Portugal  
15 is designated as a visa waiver pilot program country with  
16 probationary status under section 217(g) of the Immigra-  
17 tion and Nationality Act for each of the fiscal years 1996,  
18 1997, and 1998.

19 **SEC. 837. ADJUSTMENT OF STATUS FOR CERTAIN POLISH**  
20 **AND HUNGARIAN PAROLEES.**

21 (a) IN GENERAL.—The Attorney General shall adjust  
22 the status of an alien described in subsection (b) to that  
23 of an alien lawfully admitted for permanent residence if  
24 the alien—

25 (1) applies for such adjustment,

1           (2) has been physically present in the United  
2           States for at least 1 year and is physically present  
3           in the United States on the date the application for  
4           such adjustment is filed,

5           (3) is admissible to the United States as an im-  
6           migrant, except as provided in subsection (c), and

7           (4) pays a fee (determined by the Attorney  
8           General) for the processing of such application.

9           (b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STA-  
10          TUS.—The benefits provided in subsection (a) shall only  
11          apply to an alien who—

12           (1) was a national of Poland or Hungary, and

13           (2) was inspected and granted parole into the  
14          United States during the period beginning on No-  
15          vember 1, 1989, and ending on December 31, 1991,  
16          after being denied refugee status.

17          (c) WAIVER OF CERTAIN GROUNDS FOR INADMIS-  
18          SIBILITY.—The provisions of paragraphs (4), (5), and  
19          (7)(A) of section 212(a) of the Immigration and National-  
20          ity Act shall not apply to adjustment of status under this  
21          section and the Attorney General may waive any other  
22          provision of such section (other than paragraph (2)(C)  
23          and subparagraphs (A), (B), (C), or (E) of paragraph (3))  
24          with respect to such an adjustment for humanitarian pur-

1 poses, to assure family unity, or when it is otherwise in  
2 the public interest.

3 (d) DATE OF APPROVAL.—Upon the approval of such  
4 an application for adjustment of status, the Attorney Gen-  
5 eral shall create a record of the alien’s admission as a law-  
6 ful permanent resident as of the date of the alien’s inspec-  
7 tion and parole described in subsection (b)(2).

8 (e) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—  
9 When an alien is granted the status of having been law-  
10 fully admitted for permanent residence under this section,  
11 the Secretary of State shall not be required to reduce the  
12 number of immigrant visas authorized to be issued under  
13 the Immigration and Nationality Act.

14 **SEC. 838. SUPPORT OF DEMONSTRATION PROJECTS.**

15 (a) IN GENERAL.—The Attorney General shall make  
16 available funds under this section, in each of 5 consecutive  
17 years (beginning with 1996), to the Immigration and Nat-  
18 uralization Service or to other public or private nonprofit  
19 entities to support demonstration projects under this sec-  
20 tion at 10 sites throughout the United States. Each such  
21 project shall be designed to provide for the administration  
22 of the oath of allegiance (under section 337(a) of the Im-  
23 migration and Nationality Act) on a business day around  
24 the 4th of July for approximately 500 people whose appli-  
25 cation for naturalization has been approved. Each project

1 shall provide for appropriate outreach and ceremonial and  
2 celebratory activities.

3 (b) SELECTION OF SITES.—The Attorney General  
4 shall, in the Attorney General’s discretion, select diverse  
5 locations for sites on the basis of the number of natu-  
6 ralization applicants living in proximity to each site and  
7 on the degree of local community participation and sup-  
8 port in the project to be held at the site. Not more than  
9 2 sites may be located in the same State. The Attorney  
10 General should consider changing the sites selected from  
11 year to year.

12 (c) AMOUNTS AVAILABLE; USE OF FUNDS.—

13 (1) AMOUNT.—The amount that may be made  
14 available under this section with respect to any sin-  
15 gle site for a site for a year shall not exceed \$5,000.

16 (2) USE.—Funds provided under this section  
17 may only be used to cover expenses incurred carry-  
18 ing out symbolic swearing-in ceremonies at the dem-  
19 onstration sites, including expenses for—

20 (A) cost of personnel of the Immigration  
21 and Naturalization Service (including travel and  
22 overtime expenses),

23 (B) local outreach,

24 (C) rental of space, and

1 (D) costs of printing appropriate brochures  
2 and other information about the ceremonies.

3 (3) AVAILABILITY OF FUNDS.—Funds that are  
4 otherwise available to the Immigration and Natu-  
5 ralization Service to carry out naturalization activi-  
6 ties (including funds in the Immigration Examina-  
7 tions Fee Account, under section 286(n) of the Im-  
8 migration and Nationality Act) shall be available  
9 under this section.

10 (d) APPLICATION.—In the case of an entity other  
11 than the Immigration and Naturalization Service seeking  
12 to conduct a demonstration project under this section, no  
13 amounts may be made available to the entity under this  
14 section unless an appropriate application has been made  
15 to, and approved by, the Attorney General, in a form and  
16 manner specified by the Attorney General.

17 (e) STATE DEFINED.—In this section, the term  
18 “State” has the meaning given such term in section  
19 101(a)(36) of the Immigration and Nationality Act (8  
20 U.S.C. 1101(a)(36)).

21 **SEC. 839. TREATMENT OF CERTAIN ALIENS WHO SERVED**  
22 **WITH SPECIAL GUERRILLA UNITS IN LAOS.**

23 (a) WAIVER OF ENGLISH LANGUAGE REQUIREMENT  
24 FOR CERTAIN ALIENS WHO SERVED WITH SPECIAL  
25 GUERRILLA UNITS IN LAOS.—The requirement of para-

1 graph (1) of section 312(a) of the Immigration and Na-  
2 tionality Act (8 U.S.C. 1423(a)) shall not apply to the nat-  
3 uralization of any person who—

4 (1) served with a special guerrilla unit operat-  
5 ing from a base in Laos in support of the United  
6 States at any time during the period beginning Feb-  
7 ruary 28, 1961, and ending September 18, 1978, or

8 (2) is the spouse or widow of a person described  
9 in paragraph (1).

10 (b) NATURALIZATION THROUGH SERVICE IN A SPE-  
11 CIAL GUERRILLA UNIT IN LAOS.—

12 (1) IN GENERAL.—The first sentence of sub-  
13 section (a) and subsection (b) (other than paragraph  
14 (3)) of section 329 of the Immigration and National-  
15 ity Act (8 U.S.C. 1440) shall apply to an alien who  
16 served with a special guerrilla unit operating from a  
17 base in Laos in support of the United States at any  
18 time during the period beginning February 28,  
19 1961, and ending September 18, 1978, in the same  
20 manner as they apply to an alien who has served  
21 honorably in an active-duty status in the military  
22 forces of the United States during the period of the  
23 Vietnam hostilities.

1           (2) PROOF.—The Immigration and Naturaliza-  
2           tion Service shall verify an alien’s service with a  
3           guerrilla unit described in paragraph (1) through—

4                   (A) review of refugee processing docu-  
5                   mentation for the alien,

6                   (B) the affidavit of the alien’s superior of-  
7                   ficer,

8                   (C) original documents,

9                   (D) two affidavits from persons who were  
10                  also serving with such a special guerrilla unit  
11                  and who personally knew of the alien’s service,  
12                  or

13                  (E) other appropriate proof.

14   The Service shall liberally construe the provisions of this  
15   subsection to take into account the difficulties inherent in  
16   proving service in such a guerrilla unit.

17   **SEC. 840. SENSE OF THE CONGRESS REGARDING THE MIS-**  
18                   **SION OF THE IMMIGRATION AND NATU-**  
19                   **RALIZATION SERVICE.**

20           It is the sense of the Congress that the mission state-  
21   ment of the Immigration and Naturalization Service of the  
22   Department of Justice should include that it is the respon-  
23   sibility of the Service to detect, apprehend, and remove  
24   those noncitizens whose entry was illegal, whether undocu-  
25   mented or fraudulent, and those found to have violated

1 the conditions of their stay, particularly those involved in  
2 drug trafficking or other criminal activity.

3 **SEC. 841. AUTHORIZATION OF REIMBURSEMENT OF CER-**  
4 **TAIN POLISH APPLICANTS FOR THE 1995 DI-**  
5 **VERSITY IMMIGRANT PROGRAM.**

6 (a) IN GENERAL.—After the date of enactment of  
7 this Act, the Secretary of State, in consultation with the  
8 Commissioner of the Immigration and Naturalization  
9 Service, shall establish a process to provide for the reim-  
10 bursement of all fees to each national of Poland (other  
11 than a national illegally residing in the United States) who  
12 was an applicant for the diversity immigrant program for  
13 1995 under section 203(e) of the Immigration and Nation-  
14 ality Act who did not receive such a visa.

15 (b) FUNDING.—The Secretary of State shall use such  
16 funds as may be available at the discretion of the Sec-  
17 retary to carry out the purpose of this section.

18 (c) REVIEW.—The Secretary of State shall review the  
19 procedures of the Department of State regarding the ad-  
20 ministration of the diversity immigrant program to ensure  
21 that the erroneous notification which occurred with re-  
22 spect to the 1995 diversity immigrant program for Polish  
23 residents does not recur.

1 **SEC. 842. SENSE OF CONGRESS; REQUIREMENTS REGARD-**  
2 **ING NOTICE.**

3 (a) PURCHASE OF AMERICAN-MADE EQUIPMENT  
4 AND PRODUCTS.—It is the sense of the Congress that, to  
5 the greatest extent practicable, all equipment and products  
6 purchased with funds made available under this Act  
7 should be American-made.

8 (b) NOTICE TO RECIPIENTS OF GRANTS.—In provid-  
9 ing grants under this Act, the Attorney General, to the  
10 greatest extent practicable, shall provide to each recipient  
11 of a grant a notice describing the statement made in sub-  
12 section (a) by the Congress.

13 **SEC. 843. SENSE OF THE CONGRESS WITH RESPECT TO**  
14 **STATE CRIMINAL ALIEN ASSISTANCE PRO-**  
15 **GRAM.**

16 (a) FINDINGS.—The Congress finds as follows:

17 (1) Of the \$130,000,000 appropriated in fiscal  
18 year 1995 for the State Criminal Alien Assistance  
19 Program (SCAAP), the Department of Justice dis-  
20 bursed the first \$43,000,000 to States on October 6,  
21 1994, 32 days before the 1994 general election, and  
22 then failed to disburse the remaining \$87,000,000  
23 until January 31, 1996, 123 days after the end of  
24 fiscal year 1995.

25 (2) While H.R. 2880, the continuing appropria-  
26 tion measure funding certain operations of the Fed-

1 eral Government from January 26, 1996 to March  
2 15, 1996, included \$66,000,000 to reimburse States  
3 for the cost of incarcerating documented illegal im-  
4 migrant felons, the Department of Justice failed to  
5 disburse any of the funds to the States during the  
6 period of the continuing appropriation.

7 (b) SENSE OF THE CONGRESS.—It is the sense of  
8 the Congress that—

9 (1) the Department of Justice was disturbingly  
10 slow in disbursing fiscal year 1995 funds under the  
11 State Criminal Alien Assistance Program to States  
12 after the initial grants were released just prior to  
13 the 1994 election; and

14 (2) the Attorney General should make it a high  
15 priority to expedite the disbursement of Federal  
16 funds intended to reimburse States for the cost of  
17 incarcerating illegal immigrants, aiming for all State  
18 Criminal Alien Assistance Program funds to be dis-  
19 bursed during the fiscal year for which they are ap-  
20 propriated.

## 21 **Subtitle C—Technical Corrections**

### 22 **SEC. 851. MISCELLANEOUS TECHNICAL CORRECTIONS.**

23 (a) AMENDMENTS RELATING TO PUBLIC LAW 103–  
24 322 (VIOLENT CRIME CONTROL AND LAW ENFORCEMENT  
25 ACT OF 1994).—

1           (1) Section 60024(1)(F) of the Violent Crime  
2           Control and Law Enforcement Act of 1994 (Public  
3           Law 103–322) (in this subsection referred to as  
4           “VCCLEA”) is amended by inserting “United  
5           States Code,” after “title 18,”.

6           (2) Section 130003(b)(3) of VCCLEA is  
7           amended by striking “Naturalization” and inserting  
8           “Nationality”.

9           (3)(A) Section 214 (8 U.S.C. 1184) is amended  
10          by redesignating the subsection (j), added by section  
11          130003(b)(2) of VCCLEA (108 Stat. 2025), and the  
12          subsection (k), added by section 220(b) of the Immi-  
13          gration and Nationality Technical Amendments Act  
14          of 1994 (Public Law 103–416, 108 Stat. 4319), as  
15          subsections (k) and (l), respectively.

16          (B) Section 101(a)(15)(S) (8 U.S.C.  
17          1101(a)(15)(S)) is amended by striking “214(j)”  
18          and inserting “214(k)”.

19          (4)(A) Section 245 (8 U.S.C. 1255) is amended  
20          by redesignating the subsection (i) added by section  
21          130003(c)(1) of VCCLEA as subsection (j).

22          (B) Section 241(a)(2)(A)(i)(I) (8 U.S.C.  
23          1251(a)(2)(A)(i)(I)), as amended by section  
24          130003(d) of VCCLEA and before redesignation by

1 section 305(a)(2), is amended by striking “245(i)”  
2 and inserting “245(j)”.

3 (5) Section 245(j)(3), as added by section  
4 130003(c)(1) of VCCLEA and as redesignated by  
5 paragraph (4)(A), is amended by striking “para-  
6 graphs (1) or (2)” and inserting “paragraph (1) or  
7 (2)”.

8 (6) Section 130007(a) of VCCLEA is amended  
9 by striking “242A(d)” and inserting “242A(a)(3)”.

10 (7) The amendments made by this subsection  
11 shall be effective as if included in the enactment of  
12 the VCCLEA.

13 (b) AMENDMENTS RELATING TO IMMIGRATION AND  
14 NATIONALITY TECHNICAL CORRECTIONS ACT OF 1994.—

15 (1) Section 101(d) of the Immigration and Na-  
16 tionality Technical Corrections Act of 1994 (Public  
17 Law 103–416) (in this subsection referred to as  
18 “INTCA”) is amended—

19 (A) by striking “APPLICATION” and all  
20 that follows through “This” and inserting “AP-  
21 PPLICABILITY OF TRANSMISSION REQUIRE-  
22 MENTS.—This”;

23 (B) by striking “any residency or other re-  
24 tention requirements for” and inserting “the  
25 application of any provision of law relating to

1 residence or physical presence in the United  
2 States for purposes of transmitting United  
3 States”; and

4 (C) by striking “as in effect” and all that  
5 follows through the end and inserting “to any  
6 person whose claim is based on the amendment  
7 made by subsection (a) or through whom such  
8 a claim is derived.”.

9 (2) Section 102 of INTCA is amended by add-  
10 ing at the end the following new subsection:

11 “(e) TRANSITION.—In applying the amendment made  
12 by subsection (a) to children born before November 14,  
13 1986, any reference in the matter inserted by such amend-  
14 ment to ‘five years, at least two of which’ is deemed a  
15 reference to ‘10 years, at least 5 of which’.”.

16 (3) Section 351(a) (8 U.S.C. 1483(a)), as  
17 amended by section 105(a)(2)(A) of INTCA, is  
18 amended by striking the comma after “nationality”.

19 (4) Section 207(2) of INTCA is amended by in-  
20 serting a comma after “specified”.

21 (5) Section 101(a)(43) (8 U.S.C. 1101(a)(43))  
22 is amended—

23 (A) in subparagraph (K)(ii), by striking  
24 the comma after “1588”, and

1 (B) in subparagraph (O), by striking “sus-  
2 picion” and inserting “suspension”.

3 (6) Section 273(b) (8 U.S.C. 1323(b)), as  
4 amended by section 209(a) of INTCA, is amended  
5 by striking “remain” and inserting “remains”.

6 (7) Section 209(a)(1) of INTCA is amended by  
7 striking “\$3000” and inserting “\$3,000”.

8 (8) Section 209(b) of INTCA is amended by  
9 striking “subsection” and inserting “section”.

10 (9) Section 217(f) (8 U.S.C. 1187(f)), as  
11 amended by section 210 of INTCA, is amended by  
12 adding a period at the end.

13 (10) Section 219(cc) of INTCA is amended by  
14 striking “ ‘year 1993 the first place it appears’ ”  
15 and inserting “ ‘year 1993’ the first place it ap-  
16 pears”.

17 (11) Section 219(ee) of INTCA is amended by  
18 adding at the end the following new paragraph:

19 “(3) The amendments made by this subsection shall  
20 take effect on the date of the enactment of this Act.”.

21 (12) Paragraphs (4) and (6) of section 286(r)  
22 (8 U.S.C. 1356(r)) are amended by inserting “the”  
23 before “Fund” each place it appears.

24 (13) Section 221 of INTCA is amended—

1 (A) by striking each semicolon and insert-  
2 ing a comma,

3 (B) by striking “disasters.” and inserting  
4 “disasters,” and

5 (C) by striking “The official” and inserting  
6 “the official”.

7 (14) Section 242A (8 U.S.C. 1252a), as added  
8 by section 224(a) of INTCA and before redesigna-  
9 tion as section 238 by section 308(b)(5), is amended  
10 by redesignating subsection (d) as subsection (c).

11 (15) Section 225 of INTCA is amended—

12 (A) by striking “section 242(i)” and in-  
13 serting “sections 242(i) and 242A”, and

14 (B) by inserting “, 1252a” after  
15 “1252(i)”.

16 (16) Except as otherwise provided in this sub-  
17 section, the amendments made by this subsection  
18 shall take effect as if included in the enactment of  
19 INTCA.

20 (c) STRIKING REFERENCES TO SECTION 210A.—

21 (1)(A) Section 201(b)(1)(C) (8 U.S.C.  
22 1151(b)(1)(C)) and section 274B(a)(3)(B) (8 U.S.C.  
23 1324b(a)(3)(B)) are each amended by striking “,  
24 210A,”.

1 (B) Section 241(a)(1) (8 U.S.C. 1251(a)(1)),  
2 before redesignation by section 305(a)(2), is amend-  
3 ed by striking subparagraph (F).

4 (2) Sections 204(e)(1)(D)(i) and 204(j)(4) of  
5 Immigration Reform and Control Act of 1986 are  
6 each amended by striking “, 210A,”.

7 (d) MISCELLANEOUS CHANGES IN THE IMMIGRATION  
8 AND NATIONALITY ACT.—

9 (1) Before being amended by section 308(a),  
10 the item in the table of contents relating to section  
11 242A is amended to read as follows:

“Sec. 242A. Expedited deportation of aliens convicted of committing aggra-  
vated felonies.”.

12 (2) Section 101(c)(1) (8 U.S.C. 1101(c)(1)) is  
13 amended by striking “, 321, and 322” and inserting  
14 “and 321”.

15 (3) Pursuant to section 6(b) of Public Law  
16 103–272 (108 Stat. 1378)—

17 (A) section 214(f)(1) (8 U.S.C.  
18 1184(f)(1)) is amended by striking “section  
19 101(3) of the Federal Aviation Act of 1958”  
20 and inserting “section 40102(a)(2) of title 49,  
21 United States Code”; and

22 (B) section 258(b)(2) (8 U.S.C.  
23 1288(b)(2)) is amended by striking “section  
24 105 or 106 of the Hazardous Materials Trans-

1 portation Act (49 U.S.C. App. 1804, 1805)”  
2 and inserting “section 5103(b), 5104, 5106,  
3 5107, or 5110 of title 49, United States Code”.

4 (4) Section 286(h)(1)(A) (8 U.S.C.  
5 1356(h)(1)(A)) is amended by inserting a period  
6 after “expended”.

7 (5) Section 286(h)(2)(A) (8 U.S.C.  
8 1356(h)(2)(A)) is amended—

9 (A) by striking “and” at the end of clause  
10 (iv),

11 (B) by moving clauses (v) and (vi) 2 ems  
12 to the left,

13 (C) by striking “; and” in clauses (v) and  
14 (vi) and inserting “and for”,

15 (D) by striking the colons in clauses (v)  
16 and (vi), and

17 (E) by striking the period at the end of  
18 clause (v) and inserting “; and”.

19 (6) Section 412(b) (8 U.S.C. 1522(b)) is  
20 amended by striking the comma after “is author-  
21 ized” in paragraph (3) and after “The Secretary” in  
22 paragraph (4).

23 (e) MISCELLANEOUS CHANGE IN THE IMMIGRATION  
24 ACT OF 1990.—Section 161(c)(3) of the Immigration Act

1 of 1990 is amended by striking “an an” and inserting “of  
2 an”.

3 (f) MISCELLANEOUS CHANGES IN OTHER ACTS.—

4 (1) Section 506(a) of the Intelligence Author-  
5 ization Act, Fiscal Year 1990 (Public Law 101–193)  
6 is amended by striking “this section” and inserting  
7 “such section”.

8 (2) Section 140 of the Foreign Relations Au-  
9 thorization Act, Fiscal Years 1994 and 1995, as  
10 amended by section 505(2) of Public Law 103–317,  
11 is amended—

12 (A) by moving the indentation of sub-  
13 sections (f) and (g) 2 ems to the left, and

14 (B) in subsection (g), by striking “(g)”  
15 and all that follows through “shall” and insert-  
16 ing “(g) Subsections (d) and (e) shall”.

Passed the House of Representatives March 21,  
1996.

Attest:

*Clerk.*