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104TH CONGRESS
1ST SESSION

# H. R. 2202

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

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 4, 1995

Mr. SMITH of Texas (for himself, Mr. BRYANT of Texas, Mr. GALLEGLY, Mr. MOORHEAD, Mr. MCCOLLUM, Mr. BRYANT of Tennessee, Mr. BONO, Mr. HEINEMAN, Mr. SENSENBRENNER, Mr. GEKAS, Mr. COBLE, Mr. CANADY of Florida, Mr. INGLIS of South Carolina, Mr. GOODLATTE, Mr. BARR, Mr. BOUCHER, Mr. BAKER of California, Mr. BALLENGER, Mr. BEILENSON, Mr. BILBRAY, Mr. BONILLA, Mr. BREWSTER, Mr. CALVERT, Mr. CONDIT, Mr. CUNNINGHAM, Mr. DEAL of Georgia, Mr. DREIER, Mr. DUNCAN, Mr. FOLEY, Mr. HAYES, Mr. HERGER, Mr. HUNTER, Mr. SAM JOHNSON of Texas, Mrs. MEYERS of Kansas, Mr. PACKARD, Mr. ROHRABACHER, Mrs. ROUKEMA, Mr. SHAYS, Mr. STENHOLM, Mr. TAUZIN, Mrs. VUCANOVICH, Mr. MCKEON, Mr. BARTON of Texas, Mr. HUTCHINSON, Mr. THORNBERRY, Mr. LAUGHLIN, Mr. TRAFICANT, Mr. KASICH, Mrs. SEASTRAND, Mr. PETE GEREN of Texas, Mr. WILSON, Mr. STOCKMAN, Mr. HASTINGS of Washington, Mr. BEREUTER, Mr. COMBEST, Mr. BARTLETT of Maryland, Mr. BARRETT of Nebraska, Mr. SHAW, Mr. PICKETT, Mr. SKEEN, Mr. GUTKNECHT, Mr. KINGSTON, Mr. TAYLOR of North Carolina, Mr. ROGERS, Mr. SOLOMON, Mr. ROBERTS, Mr. EVERETT, Mr. DOOLITTLE, Mr. HEFLEY, Mr. SCHAEFER, Mr. GOSS, Mr. BUNNING of Kentucky, Mr. PARKER, Mr. TAYLOR of Mississippi, Mr. EMERSON, Mr. SHUSTER, Mr. FIELDS of Texas, Mr. QUILLEN, Mr. HALL of Texas, Mr. HOEKSTRA, Mr. MCCRERY, Mr. STEARNS, Mr. BURTON of Indiana, Mr. LEWIS of Kentucky, Mr. BAKER of Louisiana, Mr. BACHUS, Mr. LIGHTFOOT, Mr. COLLINS of Georgia, Mr. HANSEN, Mr. HORN, Mr. PAXON, Ms. MOLINARI, Mr. LINDER, Mr. HASTERT, Mr. ROYCE, Mr. KIM, Mr. CAMP, Mr. HANCOCK, Mr. SPENCE, Mr. JONES, Mr. LIVINGSTON, Mr. REGULA, Mr. EWING, Mr. SALMON, Ms. HARMAN, Mr. ZELIFF, Mr. SHADEGG, Mr. POMBO, Mr. DORNAN, and Mr.

RADANOVICH) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on National Security, Government Reform and Oversight, Ways and Means, and Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

SEPTEMBER 20, 1995

Rereferred to the Committee on the Judiciary, and in addition to the Committees on Agriculture, Banking and Financial Services, Economic and Educational Opportunities, Government Reform and Oversight, National Security, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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# A BILL

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

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

**SECTION 1. SHORT TITLE; AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT; TABLE OF CONTENTS.**

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

(b) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided—

(1) whenever in this Act an amendment or repeal is expressed as the amendment or repeal of a section or other provision, the reference shall be considered to be made to that section or provision in the Immigration and Nationality Act, and

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

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

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

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

Subtitle A—Improved Enforcement at Border

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

Subtitle B—Pilot Programs

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

Subtitle C—Interior Enforcement

Sec. 121. Increase in personnel for interior enforcement.

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

Subtitle A—Enhanced Enforcement and Penalties Against Alien Smuggling

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

Subtitle B—Deterrence of Document Fraud

Sec. 211. Increased criminal penalties for fraudulent use of government-issued documents.
Sec. 212. New civil penalties for document fraud.
Sec. 213. New civil penalty for failure to present documents.
Sec. 214. New criminal penalties for failure to disclose role as preparer of false application for asylum and for preparing certain post-conviction applications.
Sec. 215. Criminal penalty for knowingly presenting document which fails to contain reasonable basis in law or fact.
Sec. 216. Criminal penalties for false claim to citizenship.

Subtitle C—Asset Forfeiture for Passport and Visa Offenses

Sec. 221. Criminal forfeiture for passport and visa related offenses.
Sec. 222. Subpoenas for bank records.
Sec. 223. Effective date.

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

Subtitle A—Revision of Procedures for Removal of Aliens

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

Subtitle B—Removal of Alien Terrorists

PART 1—REMOVAL PROCEDURES FOR ALIEN TERRORISTS

Sec. 321. Removal procedures for alien terrorists.

''TITLE V—SPECIAL REMOVAL PROCEDURES FOR ALIEN TERRORISTS

''Sec. 501. Definitions.
''Sec. 502. Establishment of special removal court; panel of attorneys to assist with classified information.
''Sec. 503. Application for initiation of special removal proceeding.
''Sec. 504. Consideration of application.
''Sec. 505. Special removal hearings.
''Sec. 506. Consideration of classified information.
''Sec. 507. Appeals.
''Sec. 508. Detention and custody.''.
Sec. 322. Funding for detention and removal of alien terrorists.

PART 2—INADMISSIBILITY AND DENIAL OF RELIEF FOR ALIEN TERRORISTS

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

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

Sec. 341. Definition of stowaway.
Sec. 342. List of alien and citizen passengers arriving.
Sec. 343. Transportation line responsibility for transit without visa aliens.
Sec. 344. Civil penalties for bringing inadmissible aliens from contiguous territories.

Subtitle D—Additional Provisions

Sec. 351. Definition of conviction.
Sec. 352. Use of term ''immigration judge''.
Sec. 353. Rescission of lawful permanent resident status.
Sec. 354. Civil penalties for failure to depart.
Sec. 355. Clarification of district court jurisdiction.
Sec. 356. Use of retired Federal employees for institutional hearing program.
Sec. 357. Enhanced penalties for failure to depart, illegal reentry, and passport and visa fraud.
Sec. 358. Authorization of additional funds for removal of aliens.
Sec. 359. Application of additional civil penalties to enforcement.
Sec. 360. Prisoner transfer treaties.
Sec. 361. Criminal alien identification system.
Sec. 362. Waiver of exclusion and deportation ground for certain section 274C violators.
Sec. 363. Authorizing registration of aliens on criminal probation or criminal parole.

TITLE IV—ENFORCEMENT OF RESTRICTIONS AGAINST EMPLOYMENT

Sec. 401. Strengthened enforcement of the employer sanctions provisions.
Sec. 402. Strengthened enforcement of wage and hour laws.
Sec. 403. Changes in the employer sanctions program.
Sec. 404. Reports on earnings of aliens not authorized to work.
Sec. 405. Authorizing maintenance of certain information on aliens.

Sec. 406. Limiting liability for certain technical violations of paperwork requirements.
Sec. 407. Remedies in unfair immigration-related discrimination orders.

TITLE V—REFORM OF LEGAL IMMIGRATION SYSTEM

Sec. 500. Overview of new legal immigration system.

Subtitle A—Worldwide Numerical Limits

Sec. 501. Worldwide numerical limitation on family-sponsored immigrants.
Sec. 502. Worldwide numerical limitation on employment-based immigrants.
Sec. 503. Establishment of numerical limitation on humanitarian immigrants.
Sec. 504. Requiring congressional review and reauthorization of worldwide levels every 5 years.

Subtitle B—Changes in Preference System

Sec. 511. Limitation of immediate relatives to spouses and children.
Sec. 512. Change in family-sponsored classification.
Sec. 513. Change in employment-based classification.
Sec. 514. Authorization to require periodic confirmation of classification petitions.
Sec. 515. Changes in special immigrant status.
Sec. 516. Requirements for removal of conditional status of entrepreneurs.
Sec. 517. Miscellaneous conforming amendments.

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

Sec. 521. Changes in refugee annual admissions.
Sec. 522. Fixing numerical adjustments for asylees at 10,000 each year.
Sec. 523. Increased resources for reducing asylum application backlogs.
Sec. 524. Parole available only on a case-by-case basis for humanitarian reasons or significant public benefit.
Sec. 525. Admission of humanitarian immigrants.
Sec. 526. Asylum reform.

Subtitle D—General Effective Date; Transition Provisions

Sec. 551. General effective date.
Sec. 552. General transition for current classification petitions.
Sec. 553. Special transition for certain backlogged spouses and children of lawful permanent resident aliens.
Sec. 554. Special treatment of certain disadvantaged family first preference immigrants.

TITLE VI—RESTRICTIONS ON BENEFITS FOR ALIENS

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

Subtitle A—Eligibility of Illegal Aliens for Public Benefits

PART 1—PUBLIC BENEFITS GENERALLY

Sec. 601. Making illegal aliens ineligible for public assistance, contracts, and licenses.
Sec. 602. Making unauthorized aliens ineligible for unemployment benefits.
Sec. 603. General exceptions.

Sec. 604. Treatment of expenses subject to emergency medical services exception.
Sec. 605. Report on disqualification of illegal aliens from housing assistance programs.
Sec. 606. Definitions.
Sec. 607. Regulations and effective dates.

PART 2—EARNED INCOME TAX CREDIT

Sec. 611. Earned income tax credit denied to individuals not authorized to be employed in the United States.

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

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

Subtitle C—Attribution of Income and Affidavits of Support

Sec. 631. Attribution of sponsor's income and resources to family-sponsored immigrants.
Sec. 632. Requirements for sponsor's affidavit of support.

TITLE VII—FACILITATION OF LEGAL ENTRY

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

TITLE VIII—MISCELLANEOUS PROVISIONS

Sec. 801. Amended definition of aggravated felony.
Sec. 802. Amended definitions of ''child'' and ''parent'' to facilitate adoption of children born out-of-wedlock.
Sec. 803. Authority to determine visa processing procedures.
Sec. 804. Waiver authority concerning notice of denial of application for visas.
Sec. 805. Treatment of Canadian landed immigrants.
Sec. 806. Changes relating to H–1B nonimmigrants.
Sec. 807. Validity of period of visas.
Sec. 808. Limitation on adjustment of status of individuals not lawfully present in the United States.
Sec. 809. Limited access to certain confidential INS files.
Sec. 810. Nonimmigrant status for spouses and children of members of the Armed Services.
Sec. 811. Commission report on fraud associated with birth certificates.
Sec. 812. Uniform vital statistics.
Sec. 813. Communication between State and local government agencies, and the Immigration and Naturalization Service.
Sec. 814. Criminal alien reimbursement costs.
Sec. 815. Miscellaneous technical corrections.

# 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.

(a) INCREASED NUMBER OF BORDER PATROL POSITIONS.—The number of border patrol agents shall be increased, for each fiscal year beginning with the fiscal year 1996 and ending with the fiscal year 2000, by 1,000 full-time equivalent positions above the number of equivalent positions as of September 30, 1994.

(b) INCREASE IN SUPPORT PERSONNEL.—The number of full-time support positions for personnel in support of border enforcement, investigation, detention and deportation, intelligence, information and records, legal proceedings, and management and administration in the Immigration and Naturalization Service shall be increased, beginning with fiscal year 1996, by 800 positions above the number of equivalent positions as of September 30, 1994.

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

(1) be deployed among the various Immigration and Naturalization Service sectors in proportion to the level of illegal intrusion measured in each sector during the preceding fiscal year and reasonably anticipated in the next fiscal year, and

(2) be actively engaged in law enforcement activities related to the illegal crossing of the borders of the United States.

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

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

(b) CONSTRUCTION OF FENCING AND ROAD IMPROVEMENTS IN THE BORDER AREA NEAR SAN DIEGO, CALIFORNIA.—

(1) IN GENERAL.—In carrying out subsection (a), the Attorney General shall provide for the construction along the 14 miles of the international land border of the United States, starting at the Pacific Ocean and extending eastward, of second and third fences, in addition to the existing reinforced fence, and for roads between the fences.

(2) PROMPT ACQUISITION OF NECESSARY EASEMENTS.—The Attorney General shall promptly acquire such easements as may be necessary to carry out this subsection and shall commence construction of fences immediately following such acquisition (or conclusion of portions thereof).

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

(c) WAIVER.—The provisions of the Endangered Species Act of 1973 are waived to the extent the Attorney General determines necessary to assure expeditious construction of the barriers and roads under this section.

(d) REPORT ON FORWARD DEPLOYMENT.—(1) The Attorney General shall forward deploy existing border patrol agents in those areas of the border identified as areas

of high illegal entry into the United States in order to provide a uniform and visible deterrent to illegal entry on a continuing basis.

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

**SEC. 103. IMPROVED BORDER EQUIPMENT AND TECHNOLOGY.**

The Attorney General is authorized to acquire and utilize, for the purpose of detection, interdiction, and reduction of illegal immigration into the United States, any Federal equipment (including, but not limited to, fixed wing aircraft, helicopters, four-wheel drive vehicles, sedans, night vision goggles, night vision scopes, and sensor units) determined available for transfer by any other agency of the Federal Government upon request of the Attorney General.

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

(a) IN GENERAL.—Section 101(a)(6) (8 U.S.C. 1101(a)(6)) is amended by adding at the end the following: ''Such regulations shall provide that (A) each such document include a biometric identifier (such as the fingerprint or handprint of the alien) that is machine read-

able and (B) an alien presenting a border crossing identification card is not permitted to cross over the border into the United States unless the biometric identifier contained on the card matches the appropriate biometric characteristic of the alien.''.

(b) EFFECTIVE DATES.—

(1) Clause (A) of the sentence added by the amendment made by subsection (a) shall apply to documents issued on or after 6 months after the date of the enactment of this Act.

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

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

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

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

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

(2) by inserting after subsection (a) the following new subsection:

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

"(1) at least $50 and not more than $250 for each such entry (or attempted entry), or

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

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

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

**SEC. 106. PROSECUTION OF ALIENS REPEATEDLY REENTERING THE UNITED STATES UNLAWFULLY.**

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General such sums as may be necessary to provide for detention and prosecution of each alien who commits an act that constitutes a violation of section 275(a) of the Immigration and Nationality Act if the alien has committed such

an act on two previous occasions. Funds appropriated pursuant to this subsection are authorized to remain available until expended.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Attorney General should use available resources to assure detention and prosecution of aliens in the cases described in subsection (a).

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

(a) REQUIREMENT.—Section 103 (8 U.S.C. 1103) is amended by adding at the end the following new subsection:

''(e)(1) The Attorney General shall continue to provide for such programs (including intensive language training programs) of inservice training for full-time and part-time personnel of the Border Patrol in contact with the public as will familiarize the personnel with the rights and varied cultural backgrounds of aliens and citizens in order to ensure and safeguard the constitutional and civil rights, personal safety, and human dignity of all individuals, aliens as well as citizens, within the jurisdiction of the United States with whom such personnel have contact in their work.

''(2) The Attorney General shall provide that the annual report of the Service include a description of steps taken to carry out paragraph (1).''.

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

## Subtitle B—Pilot Programs

### SEC. 111. PILOT PROGRAM ON INTERIOR REPATRIATION OF INADMISSIBLE OR DEPORTABLE ALIENS.

(a) ESTABLISHMENT.—Not later than 120 days after the date of the enactment of this Act, the Attorney General, after consultation with the Secretary of State, shall establish a pilot program for up to 2 years which provides for methods to deter multiple unauthorized entries by aliens into the United States. The pilot program may include the development and use of interior repatriation, third country repatriation, and other disincentives for multiple unlawful entries into the United States.

(b) REPORT.—Not later than 30 months after the date of the enactment of this Act, the Attorney General, together with the Secretary of State, shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate on the operation of the pilot program under this section and whether the pilot program

or any part thereof should be extended or made permanent.

**SEC. 112. PILOT PROGRAM ON USE OF CLOSED MILITARY BASES FOR THE DETENTION OF INADMISSIBLE OR DEPORTABLE ALIENS.**

(a) ESTABLISHMENT.—The Attorney General and the Secretary of Defense shall establish one or more pilot programs for up to 2 years each to determine the feasibility of the use of military bases available because of actions under a base closure law as detention centers for the Immigration and Naturalization Service.

(b) REPORT.—Not later than 30 months after the date of the enactment of this Act, the Attorney General, together with the Secretary of State, shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate, and the Committees on Armed Services of the House of Representatives and of the Senate, on the feasibility of using military bases closed under a base closure law as detention centers by the Immigration and Naturalization Service.

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

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

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

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

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

**SEC. 113. PILOT PROGRAM TO COLLECT RECORDS OF DEPARTING PASSENGERS.**

(a) ESTABLISHMENT.—The Commissioner of the Immigration and Naturalization Service shall, within 180 days of the date of the enactment of this Act, establish a pilot program in which officers of the Service collect a record of departure for every alien departing the United States and match the records of departure with the record of the alien's arrival in the United States. The program shall be operated in as many air ports of entry as is deemed appropriate, but at no less than 3 of the 5 air ports of entry with the heaviest volume of incoming traffic from foreign territories.

(b) REPORT.—

(1) DEADLINE.—The Commissioner shall submit a report to Congress not later than 2 years after the date the pilot program is implemented under subsection (a).

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

(A) The number of departure records collected, with an accounting by country of nationality of the departing alien.

(B) The number of departure records that were successfully matched to records of the alien's prior arrival in the United States, with an accounting by the alien's country of nationality and by the alien's classification as an immigrant or nonimmigrant.

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

(D) The estimated cost of establishing a national system to verify the departure from

the United States of aliens admitted temporarily as nonimmigrants.

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

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

## Subtitle C—Interior Enforcement

### SEC. 121. INCREASE IN PERSONNEL FOR INTERIOR ENFORCEMENT.

Subject to the availability of appropriations, the Attorney General shall provide for an increase in the number of investigators and enforcement personnel of the Immigration and Naturalization Service who are deployed in the interior so that the number of such personnel is approximately equal to the number of personnel of the Service involved in enforcement at the border.

# 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.

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

(1) by striking ''and'' at the end of paragraph (n),

(2) by redesignating paragraph (o) as paragraph (p), and

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

''(o)(1) a felony violation of section 1028 (relating to production of false identification documentation), section 1541 (relating to passport issuance without authority), section 1542 (relating to false statements in passport applications), section 1543 (relating to forgery or false use of passport), section 1544 (relating to misuse of passport), section 1546

(relating to fraud or misuse of visas, permits, or other documents) of this title; or

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

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

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

(1) by inserting ''section 1028 (relating to fraud and related activity in connection with identification documents),'' before ''section 1029'';

(2) by inserting ''section 1542 (relating to false statement in application and use of passport), section 1543 (relating to forgery or false use of passport), section 1544 (relating to misuse of passport), section 1546 (relating to fraud and misuse of visas, permits, and other documents), sections 1581–1588 (relating to peonage and slavery),'' after ''section 1513 (relating to retaliating against a witness, victim, or an informant),'';

(3) by striking ''or'' before ''(E)''; and

(4) by inserting before the period at the end the following: '', or (F) any act which is indictable under the Immigration and Nationality Act, section 274

(relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose)''.

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

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

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

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

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

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

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

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

(1) in subparagraph (B)—

(A) by striking ''or'' at the end of clause (ii),

(B) by adding ''or'' at the end of clause (iii), and

(C) by inserting after clause (iii) the following:

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

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

(c) APPLYING CERTAIN PENALTIES ON A PER ALIEN BASIS.—Section 274(a)(2) (8 U.S.C. 1324(a)(2)) is amended by striking ''for each transaction constituting a violation of this paragraph, regardless of the number of

aliens involved'' and inserting ''for each alien in respect to whom a violation of this paragraph occurs''.

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

(a) IN GENERAL.—The number of Assistant United States Attorneys that may be employed by the Department of Justice for the fiscal year 1996 shall be increased by 25 above the number of Assistant United States Attorneys that could be employed as of September 30, 1994.

(b) ASSIGNMENT.—Individuals employed to fill the additional positions described in subsection (a) shall be specially trained to be used for the prosecution of persons who bring into the United States or harbor illegal aliens, fraud, and other criminal statutes involving illegal aliens.

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

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

''UNDERCOVER INVESTIGATION AUTHORITY

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

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

''(A) section 3679(a) of the Revised Statutes (31 U.S.C. 1341),

''(B) section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)),

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

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

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

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

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

''(2) sums appropriated for the Service may be used to establish or to acquire proprietary corporations or business entities as part of an undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to the provisions of section 304 of the Government Corporation Control Act (31 U.S.C. 9102);

"(3) sums appropriated for the Service, and the proceeds from the undercover operation, may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and of section 3639 of the Revised Statutes (31 U.S.C. 3302); and

"(4) the proceeds from the undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3617 of the Revised Statutes (31 U.S.C. 3302).

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

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

"(c) DISPOSITION OF CERTAIN CORPORATIONS AND BUSINESS ENTITIES.—If a corporation or business entity established or acquired as part of an undercover operation under paragraph (2) of subsection (a) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Service, as much in advance as the Commissioner or Commissioner's designee determines practicable, shall report the circumstances to the Attorney General, the Director of the Office of Management and Budget, and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

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

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

"Sec. 294. Undercover investigation authority.".

# Subtitle B—Deterrence of Document Fraud

**SEC. 211. INCREASED CRIMINAL PENALTIES FOR FRAUDULENT USE OF GOVERNMENT-ISSUED DOCUMENTS.**

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

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

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

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

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

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

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

committed to facilitate an act of international terrorism (as defined in section 2331(1) of this title); or''.

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

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

(2) not less than offense level 20 if the offense involved 1,000 or more documents, or if the documents were used to facilitate any other criminal activity described in section 212(a)(2)(A)(i)(II) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(A)(i)(II)) or in section 101(a)(43) of such Act; and

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

(A) the provision of documents to a person known or suspected of engaging in a terrorist activity (as such terms are defined in section

212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B));

(B) the provision of documents to facilitate a terrorist activity or to assist a person to engage in terrorist activity (as such terms are defined in section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)); or

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

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

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

(1) by striking ''or'' at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting '', or''; and

(3) by adding at the end the following:

''(5) in reckless disregard of the fact that the information is false or does not relate to the applicant, to prepare, to file, or to assist another in preparing or filing, documents which are falsely made

for the purpose of satisfying a requirement of this Act.

For purposes of this section, the term 'falsely made' includes, with respect to a document or application, the preparation or provision of the document or application with knowledge or in reckless disregard of the fact that such document contains a false, fictitious, or fraudulent statement or material representation, or has no basis in law or fact, or otherwise fails to state a material fact pertaining to the document or application.''.

(b) CONFORMING AMENDMENTS FOR CIVIL PENALTIES.—Section 274C(d)(3) (8 U.S.C. 1324c(d)(3)) is amended by striking ''each document used, accepted, or created and each instance of use, acceptance, or creation'' both places it appears and inserting ''each instance of a violation under subsection (a)''.

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

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

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

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

(1) by striking ''or'' at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting ''; or''; and

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

''(6) to present before boarding a common carrier for the purpose of coming to the United States a document which relates to the alien's eligibility to enter the United States and to fail to present such document to an immigration officer upon arrival at a United States port of entry. The Attorney General may, in his or her discretion, waive the penalties of this section with respect to an alien who knowingly violates paragraph (6) if the alien is granted asylum under section 208 or withholding of deportation under section 243(h).''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to individuals who board a common carrier on or after 30 days after the date of the enactment of this Act.

**SEC. 214. NEW CRIMINAL PENALTIES FOR FAILURE TO DISCLOSE ROLE AS PREPARER OF FALSE APPLICATION FOR ASYLUM AND FOR PREPARING CERTAIN POST-CONVICTION APPLICATIONS.**

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

''(e) CRIMINAL PENALTIES FOR FAILURE TO DISCLOSE ROLE AS DOCUMENT PREPARER.—

''(1) If a person is required by law or regulation to disclose the fact that the person, on behalf of another person and for a fee or other remuneration, has prepared or assisted in preparing an application for asylum pursuant to section 208, or the regulations promulgated thereunder and who knowingly and willfully fails to disclose, conceals, or covers up such fact, and the application was falsely made, the person shall—

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

''(B) be prohibited from preparing or assisting in preparing, regardless of whether for a fee or other remuneration, any other such application for a period of at least 5 years and not more than 15 years.

''(2) Whoever, having been convicted of a violation of paragraph (1), knowingly and willfully prepares or assists in preparing an application for asylum pursuant to section 208, or the regulations promulgated thereunder, regardless of whether for a fee or other remuneration, in violation of paragraph (1)(B) shall be imprisoned for not less than 5 years or more than 15 years, fined in accordance with title 18, United States Code, or both, and prohibited from preparing or assisting in preparing any other such application.''.

**SEC. 215. CRIMINAL PENALTY FOR KNOWINGLY PRESENTING DOCUMENT WHICH FAILS TO CONTAIN REASONABLE BASIS IN LAW OR FACT.**

The fourth paragraph of section 1546(a) of title 18, United States Code, is amended by striking ''containing any such false statement'' and inserting ''which contains any such false statement or which fails to contain any reasonable basis in law or fact''.

**SEC. 216. CRIMINAL PENALTIES FOR FALSE CLAIM TO CITIZENSHIP.**

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

(1) by striking the dash at the end of paragraph (d) and inserting ''; or'', and

(2) by inserting after paragraph (d) the following:

''(e) Whoever knowingly makes any false statement or claim that he is, or at any time has been, a citizen or national of the United States, with the intent to obtain on behalf of himself, or any other person, any Federal benefit or service, or to engage unlawfully in employment in the United States—''.

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

### SEC. 221. CRIMINAL FORFEITURE FOR PASSPORT AND VISA RELATED OFFENSES.

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

(1) in subsection (a), by inserting after paragraph (5) the following new paragraph:

''(6) The court, in imposing sentence on a person convicted of a violation of, or conspiracy to violate, section 1541, 1542, 1543, 1544, or 1546 of this title, or a violation of, or conspiracy to violate, section 1028 of this title if committed in connection with passport or visa issuance or use, shall order that the person forfeit to the United States any property, real or personal, which the person used, or intended to be used, in committing, or facilitating the commission of, the violation, and any property con-

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

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

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

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

**SEC. 223. EFFECTIVE DATE.**

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

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

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

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

This subtitle amends the provisions of the Immigration and Nationality Act relating to procedures for inspec-

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

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

(2) NO REWARD FOR ILLEGAL ENTRANTS OR VISA OVERSTAYERS.—No alien will gain immigration benefits by entering illegally or overstaying the period of authorized admission. Such aliens will not be eligible for most discretionary immigration benefits, such as suspension of removal and work authorization.

(3) STRICTER STANDARDS TO ASSURE DETENTION OF ALIENS.—There are more stringent standards for the release of aliens (particularly aliens convicted of aggravated felonies) during and after removal proceedings.

(4) SIMPLIFIED, SINGLE REMOVAL PROCEEDING (IN PLACE OF SEPARATE EXCLUSION AND DEPORTATION PROCEEDINGS).—The procedures for exclusion and deportation are consolidated into a simpler, single procedure for removal of inadmissible and deportable aliens.

(5) STREAMLINED JUDICIAL REVIEW.—Judicial review is streamlined through removing a layer of review in exclusion cases, shortening the time period to file for review, and permitting the removal of inadmissible aliens pending the review.

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

(7) PROTECTION OF APPLICANTS FOR ASYLUM.—Throughout the process, the procedures protect those aliens who present credible claims for asylum by giving them an opportunity for a full hearing on their claims.

(8) REORGANIZATION.—The provisions of the Act are reorganized to provide a more logical progression from arrival and inspection through proceedings and removal.

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

(a) ''ADMISSION'' DEFINED.—Paragraph (13) of section 101(a) (8 U.S.C. 1101(a)) is amended to read as follows:

''(13)(A) The terms 'admission' and 'admitted' mean, with respect to an alien, the entry of the alien into the United States after inspection and authorization by an immigration officer.

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

''(C) An alien lawfully admitted for permanent residence in the United States shall not be regarded as seeking an admission into the United States for purposes of the immigration laws unless the alien—

''(i) has abandoned or relinquished that status,

''(ii) has engaged in illegal activity after having departed the United States,

''(iii) has departed from the United States while under legal process seeking removal of the alien from the United States, including removal proceedings under this Act and extradition proceedings, or

"(iv) has been convicted of an aggravated felony, unless since such conviction the alien has been granted relief under section 240A(a).".

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

"(9) PRESENT WITHOUT ADMISSION OR PAROLE.—An alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General, is inadmissible.".

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

"(A) ALIENS PREVIOUSLY REMOVED.—

"(i) ARRIVING ALIENS.—Any alien who has been ordered removed under section 235(b)(1) or at the end of proceedings under section 240 initiated upon the alien's arrival in the United States and who again seeks admission within 5 years

of the date of such removal is inadmissible, unless prior to the alien's reembarkation at a place outside the United States or attempt to be admitted from foreign contiguous territory the Attorney General has consented to the alien's reapplying for admission.

''(ii) OTHER ALIENS.—Any alien not described in clause (i) who has been ordered removed under section 240 or any other provision of law and who again seeks admission within 10 years of the date of such removal (or within 20 years in the case of an alien convicted of an aggravated felony) is inadmissible, unless prior to the alien's reembarkation at a place outside the United States or attempt to be admitted from foreign contiguous territory the Attorney General has consented to the alien's reapplying for admission.

''(B) ALIENS PRESENT UNLAWFULLY FOR MORE THAN 1 YEAR.—

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

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

''(ii) EXCEPTIONS.—

''(I) MINORS.—No period of time in which an alien is under 21 years of age shall be taken into account in determining the period of unlawful presence in the United States under clause (i).

''(II) ASYLEES.—No period of time in which an alien has a bona fide application for asylum pending under section 208 shall be taken into account in determining the period of unlawful presence in the United States under clause (i).

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

tablishes to the satisfaction of the Attorney General that—

''(I) the alien is not inadmissible under clause (i) at the time of the application, and

''(II) the failure to extend such period would constitute an extreme hardship for the alien.''.

(d) ADJUSTMENT IN GROUNDS FOR DEPORTATION.—Section 241 (8 U.S.C. 1251) is amended—

(1) in the matter before paragraph (1) of subsection (a), by striking ''in the United States'' and inserting ''in and admitted to the United States'';

(2) in subsection (a)(1), by striking ''EXCLUDABLE'' each place it appears and inserting ''INADMISSIBLE'';

(3) in subsection (a)(1)(A), by striking ''excludable'' and inserting ''inadmissible''; and

(4) by amending subparagraph (B) of subsection (a)(1) to read as follows:

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

**SEC. 302. INSPECTION OF ALIENS; EXPEDITED REMOVAL OF INADMISSIBLE ARRIVING ALIENS; REFERRAL FOR HEARING (REVISED SECTION 235).**

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

''INSPECTION BY IMMIGRATION OFFICERS; EXPEDITED REMOVAL OF INADMISSIBLE ARRIVING ALIENS; REFERRAL FOR HEARING

''SEC. 235. (a) INSPECTION.—

''(1) ALIENS TREATED AS APPLICANTS FOR ADMISSION.—An alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival) shall be deemed for purposes of this Act an applicant for admission.

''(2) STOWAWAYS.—An arriving alien who is a stowaway is not eligible to apply for admission or to be admitted and shall be ordered removed upon inspection by an immigration officer.

''(3) INSPECTION.—All aliens (including alien crewmen) who are applicants for admission or otherwise seeking admission or readmission to or transit through the United States shall be inspected by immigration officers.

''(4) WITHDRAWAL OF APPLICATION FOR ADMISSION.—An alien applying for admission may, in

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

''(5) STATEMENTS.—An applicant for admission may be required to state under oath any information sought by an immigration officer regarding the purposes and intentions of the applicant in seeking admission to the United States, including the applicant's intended length of stay and whether the applicant intends to remain permanently or become a United States citizen, and whether the applicant is inadmissible.

''(b) INSPECTION OF APPLICANTS FOR ADMISSION.—

''(1) INSPECTION OF ALIENS ARRIVING IN THE UNITED STATES.—

''(A) SCREENING.—If the examining immigration officer determines that an alien arriving in the United States (whether or not at a port of entry) is inadmissible under section 212(a)(6)(C) or 212(a)(7) and—

''(i) does not indicate either an intention to apply for asylum under section 208 or a fear of persecution, the officer shall order the alien removed from the United

States without further hearing or review; or

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

''(B) ASYLUM INTERVIEWS.—

''(i) CONDUCT BY ASYLUM OFFICERS.—An asylum officer shall promptly conduct interviews of aliens referred under subparagraph (A)(ii).

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

''(iii) REMOVAL WITHOUT FURTHER REVIEW IF NO CREDIBLE FEAR OF PERSECUTION.—

''(I) IN GENERAL.—Subject to subclause (II), if the officer determines that an alien does not have a

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

''(II) REVIEW OF DETERMINATION BY SUPERVISORY OFFICER.—The Attorney General shall promulgate regulations to provide for the immediate review by a supervisory asylum officer at the port of entry of a determination under subclause (I).

''(iv) INFORMATION ABOUT INTERVIEWS.—The Attorney General shall provide information concerning the asylum interview described in this subparagraph to aliens who may be eligible. An alien who is eligible for such interview may consult with a person or persons of the alien's choosing prior to the interview or any review thereof, according to regulations prescribed by the Attorney General. Such consultation shall be at no expense to the Government and shall not delay the process.

''(v) CREDIBLE FEAR OF PERSECUTION DEFINED.—For purposes of this sub-

paragraph, the term 'credible fear of persecution' means (I) that it is more probable than not that the statements made by the alien in support of the alien's claim are true, and (II) that there is a significant possibility, in light of such statements and of such other facts as are known to the officer, that the alien could establish eligibility for asylum under section 208.

''(C) LIMITATION ON ADMINISTRATIVE REVIEW.—A removal order entered in accordance with subparagraph (A)(i) or (B)(iii)(I) is not subject to administrative appeal, except that the Attorney General shall provide by regulation for prompt review of such an order under subparagraph (A)(i) against an alien who claims under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, after having been warned of the penalties for falsely making such claim under such conditions, to have been lawfully admitted for permanent residence.

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

not have jurisdiction to hear any claim attacking the validity of an order of removal entered under subparagraph (A)(i) or (B)(iii)(I).

''(E) ASYLUM OFFICER DEFINED.—As used in this paragraph, the term 'asylum officer' means an immigration officer who—

''(i) has had professional training in country conditions, asylum law, and interview techniques, and

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

''(2) INSPECTION OF OTHER ALIENS.—

''(A) IN GENERAL.—Subject to subparagraph (B), in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a hearing under section 240.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to an alien—

''(i) who is a crewman,

''(ii) to whom paragraph (1) applies, or

''(iii) who is a stowaway.

"(3) CHALLENGE OF DECISION.—The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien whose privilege to be admitted is so challenged, before an immigration judge for a hearing under section 240.

"(c) REMOVAL OF ALIENS INADMISSIBLE ON SECURITY AND RELATED GROUNDS.—

"(1) REMOVAL WITHOUT FURTHER HEARING.—If an immigration officer or an immigration judge suspects that an alien who has not been admitted to the United States may be inadmissible under subparagraph (A) (other than clause (ii)), (B), or (C) of section 212(a)(3), the officer or judge shall—

"(A) order the alien removed, subject to review under paragraph (2);

"(B) report the order of removal to the Attorney General; and

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

"(2) REVIEW OF ORDER.—(A) The Attorney General shall review orders issued under paragraph (1).

"(B) If the Attorney General—

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

"(ii) after consulting with appropriate security agencies of the United States Government, concludes that disclosure of the information would be prejudicial to the public interest, safety, or security,

the Attorney General may order the alien removed without further inquiry or hearing by an immigration judge.

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

"(3) SUBMISSION OF STATEMENT AND INFORMATION.—The alien or the alien's representative may submit a written statement and additional information for consideration by the Attorney General.

"(d) AUTHORITY RELATING TO INSPECTIONS.—

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

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

''(2) AUTHORITY TO ORDER DETENTION AND DELIVERY OF ARRIVING ALIENS.—Immigration officers are authorized to order an owner, agent, master, commanding officer, person in charge, purser, or consignee of a vessel or aircraft bringing an alien (except an alien crewmember) to the United States—

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

''(B) to deliver the alien to an immigration officer for inspection or to a medical officer for examination.

''(3) ADMINISTRATION OF OATH AND CONSIDERATION OF EVIDENCE.—The Attorney General and any immigration officer shall have power to administer oaths and to take and consider evidence of or from any person touching the privilege of any alien or person he believes or suspects to be an alien to enter, reenter, transit through, or reside in the United States or concerning any matter which is material and relevant to the enforcement of this Act and the administration of the Service.

"(4) SUBPOENA AUTHORITY.—(A) The Attorney General and any immigration officer shall have power to require by subpoena the attendance and testimony of witnesses before immigration officers and the production of books, papers, and documents relating to the privilege of any person to enter, reenter, reside in, or pass through the United States or concerning any matter which is material and relevant to the enforcement of this Act and the administration of the Service, and to that end may invoke the aid of any court of the United States.

"(B) Any United States district court within the jurisdiction of which investigations or inquiries are being conducted by an immigration officer may, in the event of neglect or refusal to respond to a subpoena issued under this paragraph or refusal to testify before an immigration officer, issue an order requiring such persons to appear before an immigration officer, produce books, papers, and documents if demanded, and testify, and any failure to obey such order of the court may be punished by the court as a contempt thereof.".

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

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

''APPREHENSION AND DETENTION OF ALIENS NOT LAWFULLY IN THE UNITED STATES

''SEC. 236. (a) ARREST, DETENTION, AND RELEASE.—On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States. Except as provided in subsection (c) and pending such decision, the Attorney General—

''(1) may continue to detain the arrested alien; and

''(2) may release the alien on—

''(A) bond of at least $1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or

''(B) conditional parole; but

''(3) may not provide the alien with work authorization (including an 'employment authorized' endorsement or other appropriate work permit), unless the alien is lawfully admitted for permanent residence or otherwise would (without regard to removal proceedings) be provided such authorization.

"(b) REVOCATION OF BOND OR PAROLE.—The Attorney General at any time may revoke a bond or parole authorized under subsection (a), rearrest the alien under the original warrant, and detain the alien.

"(c) ALIENS CONVICTED OF AGGRAVATED FELONIES.—

"(1) CUSTODY.—The Attorney General shall take into custody any alien convicted of an aggravated felony when the alien is released, without regard to whether the alien is released on parole, supervised release, or probation, and without regard to whether the alien may be arrested or imprisoned again for the same offense.

"(2) RELEASE.—The Attorney General may release the alien only if—

"(A) the alien was lawfully admitted to the United States and satisfies the Attorney General that the alien will not pose a danger to the safety of other persons or of property and is likely to appear for any scheduled proceeding;

"(B) the alien was not lawfully admitted to the United States, cannot be removed because the designated country of removal will not accept the alien, and satisfies the Attorney General that the alien will not pose a danger to the

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

''(C) the Attorney General decides pursuant to section 3521 of title 18, United States Code, that release of the alien from custody is necessary to provide protection to a witness, a potential witness, a person cooperating with an investigation into major criminal activity, or an immediate family member or close associate of a witness, potential witness, or person cooperating with such an investigation.

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

''(d) IDENTIFICATION OF ALIENS CONVICTED OF AGGRAVATED FELONIES.—(1) The Attorney General shall devise and implement a system—

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

''(B) to designate and train officers and employees of the Service to serve as a liaison to Fed-

eral, State, and local law enforcement and correctional agencies and courts with respect to the arrest, conviction, and release of any alien charged with an aggravated felony; and

''(C) which uses computer resources to maintain a current record of aliens who have been convicted of an aggravated felony and who have been removed.

''(2) The record under paragraph (1)(C) shall be made available—

''(A) to inspectors at ports of entry and to border patrol agents at sector headquarters for purposes of immediate identification of any such previously removed alien seeking to reenter the United States, and

''(B) to officials of the Department of State for use in its automated visa lookout system.''.

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

**SEC. 304. REMOVAL PROCEEDINGS; CANCELLATION OF REMOVAL AND ADJUSTMENT OF STATUS; VOLUNTARY DEPARTURE (REVISED AND NEW SECTIONS 239 TO 240C).**

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

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

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

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

''INITIATION OF REMOVAL PROCEEDINGS

''SEC. 239. (a) NOTICE TO APPEAR.—

''(1) IN GENERAL.—In removal proceedings under section 240, written notice (in this section referred to as a 'notice to appear') shall be given in person to the alien (or, if personal service is not practicable, through service by mail to the alien or to the alien's counsel of record, if any) specifying the following:

''(A) The nature of the proceedings against the alien.

''(B) The legal authority under which the proceedings are conducted.

''(C) The acts or conduct alleged to be in violation of law.

''(D) The charges against the alien and the statutory provisions alleged to have been violated.

''(E) The alien may be represented by counsel and the alien will be provided (A) a period of time to secure counsel under subsection (b)(1) and (B) a current list of counsel prepared under subsection (b)(2).

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

''(ii) The requirement that the alien must provide the Attorney General immediately with a written record of any change of the alien's address or telephone number.

''(iii) The consequences under section 240(b)(5) of failure to provide address and telephone information pursuant to this subparagraph.

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

"(ii) The consequences under section 240(b)(5) of the failure, except under exceptional circumstances, to appear at such proceedings.

"(2) NOTICE OF CHANGE IN TIME OR PLACE OF PROCEEDINGS.—

"(A) IN GENERAL.—In removal proceedings under section 240, in the case of any change or postponement in the time and place of such proceedings, subject to subparagraph (B) a written notice shall be given in person to the alien (or, if personal service is not practicable, through service by mail to the alien or to the alien's counsel of record, if any) specifying—

"(i) the new time or place of the proceedings, and

"(ii) the consequences under section 240(b)(5) of failing, except under exceptional circumstances, to attend such proceedings.

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

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

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

''(b) SECURING OF COUNSEL.—

''(1) IN GENERAL.—In order that an alien be permitted the opportunity to secure counsel before the first hearing date in proceedings under section 240, the hearing date shall not be scheduled earlier than 10 days after the service of the notice to appear, unless the alien requests in writing an earlier hearing date.

''(2) CURRENT LISTS OF COUNSEL.—The Attorney General shall provide for lists (updated not less often than quarterly) of persons who have indicated their availability to represent pro bono aliens in proceedings under section 240. Such lists shall be provided under subsection (a)(1)(E) and otherwise made generally available.

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

delivery to the last address provided by the alien in accordance with subsection (a)(1)(F).

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

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

''REMOVAL PROCEEDINGS

''SEC. 240. (a) PROCEEDING.—

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

''(2) CHARGES.—An alien placed in proceedings under this section may be charged with any applicable ground of inadmissibility under section 212(a) or any applicable ground of deportability under section 237(a).

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

ted, removed from the United States. Nothing in this section shall affect proceedings conducted pursuant to section 238.

''(b) CONDUCT OF PROCEEDING.—

''(1) AUTHORITY OF IMMIGRATION JUDGE.—The immigration judge shall administer oaths, receive evidence, and interrogate, examine, and cross-examine the alien and any witnesses. The immigration judge may issue subpoenas for the attendance of witnesses and presentation of evidence. The immigration judge shall have authority (under regulations prescribed by the Attorney General) to sanction by civil money penalty any action (or inaction) in contempt of the judge's proper exercise of authority under this Act.

''(2) FORM OF PROCEEDING.—

''(A) IN GENERAL.—The proceeding may take place—

''(i) in person,

''(ii) through video conference, or

''(iii) subject to subparagraph (B), through telephone conference.

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

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

''(3) PRESENCE OF ALIEN.—If it is impracticable by reason of an alien's mental incompetency for the alien to be present at the proceeding, the Attorney General shall prescribe safeguards to protect the rights and privileges of the alien.

''(4) ALIENS RIGHTS IN PROCEEDING.—In proceedings under this section, under regulations of the Attorney General—

''(A) the alien shall have the privilege of being represented, at no expense to the Government, by counsel of the alien's choosing who is authorized to practice in such proceedings,

''(B) the alien shall have a reasonable opportunity to examine the evidence against the alien, to present evidence on the alien's own behalf, and to cross-examine witnesses presented by the Government, and

''(C) a complete record shall be kept of all testimony and evidence produced at the proceeding.

''(5) CONSEQUENCES OF FAILURE TO APPEAR.—

"(A) IN GENERAL.—Any alien who, after written notice required under paragraph (1) or (2) of section 239(a) has been provided to the alien or the alien's counsel of record, does not attend a proceeding under this section, shall be ordered removed in absentia if the Service establishes by clear, unequivocal, and convincing evidence that the written notice was so provided and that the alien is removable (as defined in subsection (e)(2)). The written notice by the Attorney General shall be considered sufficient for purposes of this subparagraph if provided at the most recent address provided under section 239(a)(1)(F).

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

"(C) RESCISSION OF ORDER.—Such an order may be rescinded only—

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

tional circumstances (as defined in subsection (e)(1)), or

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

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

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

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

''(A) define in a proceeding before an immigration judge or before an appellate adminis-

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

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

''(C) impose appropriate sanctions (which may include suspension and disbarment) in the case of frivolous behavior.

Nothing in this paragraph shall be construed as limiting the authority of the Attorney General to take actions with respect to inappropriate behavior.

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

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

''(c) DECISION AND BURDEN OF PROOF.—

''(1) DECISION.—

''(A) IN GENERAL.—At the conclusion of the proceeding the immigration judge shall decide whether an alien is removable from the United States. The determination of the immigration judge shall be based only on the evidence produced at the hearing.

''(B) CERTAIN MEDICAL DECISIONS.—If a medical officer or civil surgeon or board of medical officers has certified under section 232(b) that an alien has a disease, illness, or addiction which would make the alien inadmissible under paragraph (1) of section 212(a), the decision of the immigration judge shall be based solely upon such certification.

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

''(A) if the alien is an applicant for admission, that the alien is clearly and beyond doubt entitled to be admitted and is not inadmissible under section 212; or

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

In meeting the burden of proof under subparagraph (B), the alien shall have access to the alien's visa or other entry document, if any, and any other records and documents, not considered by the Attorney General to be confidential, pertaining to the alien's admission or presence in the United States.

"(3) BURDEN ON SERVICE IN CASES OF DEPORTABLE ALIENS.—In the proceeding the Service has the burden of establishing by clear and convincing evidence that, in the case of an alien who has been admitted to the United States, the alien is deportable. No decision on deportability shall be valid unless it is based upon reasonable, substantial, and probative evidence.

"(4) NOTICE.—If the immigration judge decides that the alien is removable and orders the alien to be removed, the judge shall inform the alien of the right to appeal that decision and of the consequences for failure to depart under the order of removal, including civil and criminal penalties.

"(5) MOTIONS TO RECONSIDER.—

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

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

"(C) CONTENTS.—The motion shall specify the errors of law or fact in the previous order and shall be supported by pertinent authority.

"(6) MOTIONS TO REOPEN.—

"(A) IN GENERAL.—An alien may file one motion to reopen proceedings under this section.

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

"(C) DEADLINE.—

"(i) IN GENERAL.—Except as provided in this subparagraph, the motion to reopen shall be filed within 90 days of the date of entry of a final administrative order of removal.

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

"(iii) FAILURE TO APPEAR.—A motion to reopen may be filed within 180 days after the date of the final order of removal if the order has been entered pursuant to subsection (b)(5) due to the alien's failure to appear for proceedings under this section and the alien establishes that the alien's failure to appear was because of exceptional circumstances beyond the control of the alien or because the alien did not receive the notice required under section 239(a)(2).

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

judge of an order of removal stipulated to by the alien (or the alien's representative) and the Service. A stipulated order shall constitute a conclusive determination of the alien's removability from the United States.

"(e) DEFINITIONS.—In this section and section 240A:

"(1) EXCEPTIONAL CIRCUMSTANCES.—The term 'exceptional circumstances' refers to exceptional circumstances (such as serious illness of the alien or serious illness or death of the spouse, child, or parent of the alien, but not including less compelling circumstances) beyond the control of the alien.

"(2) REMOVABLE.—The term 'removable' means—

"(A) in the case of an alien not admitted to the United States, that the alien is inadmissible under section 212, or

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

"CANCELLATION OF REMOVAL; ADJUSTMENT OF STATUS

"SEC. 240A. (a) CANCELLATION OF REMOVAL FOR CERTAIN PERMANENT RESIDENTS.—The Attorney General may cancel removal in the case of an alien who is inadmissible or deportable from the United States if the alien—

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

"(2) has resided in the United States continuously for 7 years after having been admitted in any status, and

"(3) has not been convicted of an aggravated felony or felonies for which the alien has been sentenced, in the aggregate, to a term of imprisonment of at least 5 years.

"(b) CANCELLATION OF REMOVAL AND ADJUSTMENT OF STATUS FOR CERTAIN NONPERMANENT RESIDENTS.—

"(1) IN GENERAL.—The Attorney General may cancel removal in the case of an alien is deportable from the United States if the alien—

"(A) has been physically present in the United States for a continuous period of not less than 7 years since being admitted to the United States;

"(B) has been a person of good moral character during such period;

"(C) has not been convicted of an aggravated felony; and

"(D) establishes that removal would result in extreme hardship to the alien or to the

alien's spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence.

''(2) SPECIAL RULE FOR BATTERED SPOUSE OR CHILD.—The Attorney General may cancel removal in the case of an alien who is inadmissible or deportable from the United States if the alien—

''(A) has been battered or subjected to extreme cruelty in the United States by a spouse or parent who is a United States citizen or lawful permanent resident (or is the parent of a child of a United States citizen or lawful permanent resident and the child has been battered or subjected to extreme cruelty in the United States by such citizen or permanent resident parent);

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

''(C) has been a person of good moral character during such period;

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

section 237, and has not been convicted of an aggravated felony; and

"(E) establishes that removal would result in extreme hardship to the alien, the alien's child, or (in the case of an alien who is a child) to the alien's parent.

In acting on applications under this paragraph, the Attorney General shall consider any credible evidence relevant to the application. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General.

"(3) ADJUSTMENT OF STATUS.—The Attorney General may adjust to the status of an alien lawfully admitted for permanent residence any alien who the Attorney General determines meets the requirements of paragraph (1) or (2). The Attorney General shall record the alien's lawful admission for permanent residence as of the date the Attorney General's cancellation of removal under paragraph (1) or (2) or determination under this paragraph.

"(c) ALIENS INELIGIBLE FOR RELIEF.—The provisions of subsections (a) and (b)(1) shall not apply to any of the following aliens:

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

''(2) An alien who was admitted to the United States as a visitor for business or pleasure under section 101(a)(15)(B) or as a student under section 101(a)(15)(F) or 101(a)(15)(M), unless the alien has adjusted status to that of an alien lawfully admitted for permanent residence.

''(3) An alien who was admitted to the United States as a nonimmigrant exchange alien as defined in section 101(a)(15)(J), or has acquired the status of such a nonimmigrant exchange alien after admission, in order to receive graduate medical education or training, regardless of whether or not the alien is subject to or has fulfilled the two-year foreign residence requirement of section 212(e).

''(4) An alien who—

''(i) was admitted to the United States as a nonimmigrant exchange alien as defined in section 101(a)(15)(J) or has acquired the status of such a nonimmigrant exchange alien after admission other than to receive graduate medical education or training,

''(ii) is subject to the two-year foreign residence requirement of section 212(e), and

"(iii) has not fulfilled that requirement or received a waiver thereof.

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

"(d) SPECIAL RULES RELATING TO CONTINUOUS RESIDENCE OR PHYSICAL PRESENCE.—

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

"(2) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—An alien shall be considered to have failed to maintain continuous physical presence in the United States under subsections (b)(1) and (b)(2) if the alien has departed from the United States for any continuous period exceeding 90 days or for any periods in the aggregate exceeding 180 days.

"(3) CONTINUITY NOT REQUIRED BECAUSE OF HONORABLE SERVICE IN ARMED FORCES AND PRESENCE UPON ENTRY INTO SERVICE.—The requirements of continuous residence or continuous physical

presence in the United States under subsections (a) and (b) shall not apply to an alien who—

"(A) has served for a minimum period of 24 months in an active-duty status in the Armed Forces of the United States and, if separated from such service, was separated under honorable conditions, and

"(B) at the time of the alien's enlistment or induction was in the United States.

"VOLUNTARY DEPARTURE

"SEC. 240B. (a) CERTAIN CONDITIONS.—

"(1) IN GENERAL.—The Attorney General may permit an alien voluntarily to depart the United States at the alien's own expense under this subsection, in lieu of being subject to proceedings under section 240 or prior to the completion of such proceedings, if the alien is not deportable under section 237(a)(2)(A)(iii) or section 237(a)(4)(B).

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

"(3) BOND.—The Attorney General may require an alien permitted to depart voluntarily under this subsection to post a voluntary departure bond, to be surrendered upon proof that the alien has departed the United States within the time specified.

"(4) TREATMENT OF ALIENS ARRIVING IN THE UNITED STATES.—In the case of an alien who is arriving in the United States and with respect to whom proceedings under section 240 are (or would otherwise be) initiated at the time of such alien's arrival, paragraph (1) shall not apply. Nothing in this paragraph shall be construed as preventing such an alien from withdrawing the application for admission in accordance with section 235(a)(4).

"(b) AT CONCLUSION OF PROCEEDINGS.—

"(1) IN GENERAL.—The Attorney General may permit an alien voluntarily to depart the United States at the alien's own expense if, at the conclusion of a proceeding under section 240, the immigration judge enters an order granting voluntary departure in lieu of removal and finds that—

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

"(B) the alien is, and has been, a person of good moral character for at least 5 years immediately preceding the alien's application for voluntary departure;

"(C) the alien is not deportable under section 237(a)(2)(A)(iii) or section 237(a)(4); and

"(D) the alien has established by clear and convincing evidence that the alien has the means to depart the United States and intends to do so.

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

"(3) BOND.—An alien permitted to depart voluntarily under this subsection shall be required to post a voluntary departure bond, in an amount necessary to ensure that the alien will depart, to be surrendered upon proof that the alien has departed the United States within the time specified.

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

"(d) CIVIL PENALTY FOR FAILURE TO DEPART.—If an alien is permitted to depart voluntarily under this section and fails voluntarily to depart the United States within the time period specified, the alien shall be subject to a civil penalty of not less than $1,000 and not more

than $5,000, and be ineligible for a period of 10 years for any further relief under this section and sections 240A, 245, 248, and 249.

''(e) ADDITIONAL CONDITIONS.—The Attorney General may by regulation limit eligibility for voluntary departure under this section for any class or classes of aliens.

''(f) APPEALS OF DENIALS.—An alien may appeal from denial of a request for an order of voluntary departure under subsection (b) in accordance with the procedures in section 242. Notwithstanding the pendency of such appeal, the alien shall be removable from the United States 60 days after entry of the order of removal. The alien's removal from the United States shall not moot the appeal.''.

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

**SEC. 305. DETENTION AND REMOVAL OF ALIENS ORDERED REMOVED (NEW SECTION 241).**

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

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

(2) by redesignating section 241 as section 237 and by moving such section to immediately follow section 236, and

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

"DETENTION AND REMOVAL OF ALIENS ORDERED REMOVED

"SEC. 241. (a) DETENTION, RELEASE, AND REMOVAL OF ALIENS ORDERED REMOVED.—

"(1) REMOVAL PERIOD.—

"(A) IN GENERAL.—Except as otherwise provided in this section, when an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days (in this section referred to as the 'removal period').

"(B) BEGINNING OF PERIOD.—The removal period begins on the latest of the following:

"(i) The date the order of removal becomes administratively final.

"(ii) If the removal order is judicially reviewed and such review serves to stay the removal of the alien, the date of the court's final order.

"(iii) If the alien is detained or confined (except under an immigration proc-

ess), the date the alien is released from detention or confinement.

''(C) SUSPENSION OF PERIOD.—The removal period shall be extended beyond a period of 90 days and the alien may remain in detention during such extended period if the alien willfully fails or refuses to make timely application in good faith for travel or other documents necessary to the alien's departure or conspires or acts to prevent the alien's removal subject to an order of removal.

''(2) DETENTION AND RELEASE BY THE ATTORNEY GENERAL.—During the removal period, the Attorney General shall detain the alien. If there is insufficient detention space to detain the alien, the Attorney General shall make a specific finding to this effect and may release the alien on a bond containing such conditions as the Attorney General may prescribe.

''(3) SUPERVISION AFTER 90-DAY PERIOD.—If the alien does not leave or is not removed within the removal period, the alien, pending removal, shall be subject to supervision under regulations prescribed by the Attorney General. The regulations shall include provisions requiring the alien—

"(A) to appear before an immigration officer periodically for identification;

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

"(C) to give information under oath about the alien's nationality, circumstances, habits, associations, and activities, and other information the Attorney General considers appropriate; and

"(D) to obey reasonable written restrictions on the alien's conduct or activities that the Attorney General prescribes for the alien.

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

"(5) REINSTATEMENT OF REMOVAL ORDERS AGAINST ALIENS ILLEGALLY REENTERING.—If the Attorney General finds that an alien has reentered

the United States illegally after having been removed or having departed voluntarily, under an order of removal, the prior order of removal is reinstated from its original date and is not subject to being reopened or reviewed, and the alien shall be removed under the prior order at any time after the reentry.

''(6) INADMISSIBLE ALIENS.—An alien ordered removed who is inadmissible under section 212 may be detained beyond the removal period and, if released, shall be subject to the terms of supervision in paragraph (3).

''(7) EMPLOYMENT AUTHORIZATION.—No alien ordered removed shall be eligible to receive authorization to be employed in the United States unless the Attorney General makes a specific finding that—

''(A) the alien cannot be removed due to the refusal of all countries designated by the alien or under this section to receive the alien, or

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

''(b) COUNTRIES TO WHICH ALIENS MAY BE REMOVED.—

''(1) ALIENS ARRIVING AT THE UNITED STATES.—Subject to paragraph (3)—

"(A) IN GENERAL.—Except as provided by subparagraphs (B) and (C), an alien who arrives at the United States and with respect to whom proceedings under section 240 were initiated at the time of such alien's arrival shall be removed to the country in which the alien boarded the vessel or aircraft on which the alien arrived in the United States.

"(B) TRAVEL FROM CONTIGUOUS TERRITORY.—If the alien boarded the vessel or aircraft on which the alien arrived in the United States in a foreign territory contiguous to the United States, an island adjacent to the United States, or an island adjacent to a foreign territory contiguous to the United States, and the alien is not a native, citizen, subject, or national of, or does not reside in, the territory or island, removal shall be to the country in which the alien boarded the vessel that transported the alien to the territory or island.

"(C) ALTERNATIVE COUNTRIES.—If the government of the country designated in subparagraph (A) or (B) is unwilling to accept the alien into that country's territory, removal shall

be to any of the following countries, as directed by the Attorney General:

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

"(ii) The country in which the alien was born.

"(iii) The country in which the alien has a residence.

"(iv) A country with a government that will accept the alien into the country's territory if removal to each country described in a previous clause of this subparagraph is impracticable, inadvisable, or impossible.

"(2) OTHER ALIENS.—Subject to paragraph (3)—

"(A) SELECTION OF COUNTRY BY ALIEN.—Except as otherwise provided in this paragraph—

"(i) any alien not described in paragraph (1) who has been ordered removed may designate one country to which the alien wants to be removed, and

"(ii) the Attorney General shall remove the alien to the country the alien so designates.

"(B) LIMITATION ON DESIGNATION.—An alien may designate under subparagraph (A)(i) a foreign territory contiguous to the United States, an adjacent island, or an island adjacent to a foreign territory contiguous to the United States as the place to which the alien is to be removed only if the alien is a native, citizen, subject, or national of, or has resided in, that designated territory or island.

"(C) DISREGARDING DESIGNATION.—The Attorney General may disregard a designation under subparagraph (A)(i) if—

"(i) the alien fails to designate a country promptly;

"(ii) the government of the country does not inform the Attorney General finally, within 1 month after the date the Attorney General first inquires, whether the government will accept the alien into the country;

"(iii) the government of the country is not willing to accept the alien into the country; or

"(iv) the Attorney General decides that removing the alien to the country is prejudicial to the United States.

"(D) ALTERNATIVE COUNTRY.—If an alien is not removed to a country designated under subparagraph (A)(i), the Attorney General shall remove the alien to a country of which the alien is a subject, national, or citizen unless the government of the country—

"(i) does not inform the Attorney General or the alien finally, within 1 month after the date the Attorney General first inquires or within another period of time the Attorney General decides is reasonable, whether the government will accept the alien into the country; or

"(ii) is not willing to accept the alien into the country.

"(E) ADDITIONAL REMOVAL COUNTRIES.—If an alien is not removed to a country under the previous subparagraphs of this paragraph,

the Attorney General shall remove the alien to any of the following countries:

''(i) The country from which the alien was admitted to the United States.

''(ii) The country in which is located the foreign port from which the alien left for the United States or for a foreign territory contiguous to the United States.

''(iii) A country in which the alien resided before the alien entered the country from which the alien entered the United States.

''(iv) The country in which the alien was born.

''(v) The country that had sovereignty over the alien's birthplace when the alien was born.

''(vi) The country in which the alien's birthplace is located when the alien is ordered removed.

''(vii) If impracticable, inadvisable, or impossible to remove the alien to each country described in a previous clause of this subparagraph, another country whose

government will accept the alien into that country.

''(F) REMOVAL COUNTRY WHEN UNITED STATES IS AT WAR.—When the United States is at war and the Attorney General decides that it is impracticable, inadvisable, inconvenient, or impossible to remove an alien under this subsection because of the war, the Attorney General may remove the alien—

''(i) to the country that is host to a government in exile of the country of which the alien is a citizen or subject if the government of the host country will permit the alien's entry; or

''(ii) if the recognized government of the country of which the alien is a citizen or subject is not in exile, to a country, or a political or territorial subdivision of a country, that is very near the country of which the alien is a citizen or subject, or, with the consent of the government of the country of which the alien is a citizen or subject, to another country.

''(c) REMOVAL OF ALIENS ARRIVING AT PORT OF ENTRY.—

"(1) VESSELS AND AIRCRAFT.—An alien arriving at a port of entry of the United States who is ordered removed either without a hearing under section 235(a)(1) or 235(c) or pursuant to proceedings under section 240 initiated at the time of such alien's arrival shall be removed immediately on a vessel or aircraft owned by the owner of the vessel or aircraft on which the alien arrived in the United States, unless—

"(A) it is impracticable to remove the alien on one of those vessels or aircraft within a reasonable time, or

"(B) the alien is a stowaway—

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

"(ii) who has requested asylum, and

"(iii) whose application has not been adjudicated or whose asylum application has been denied but who has not exhausted all appeal rights.

"(2) STAY OF REMOVAL.—

"(A) IN GENERAL.—The Attorney General may stay the removal of an alien under this subsection if the Attorney General decides that—

"(i) immediate removal is not practicable or proper; or

"(ii) the alien is needed to testify in the prosecution of a person for a violation of a law of the United States or of any State.

"(B) PAYMENT OF DETENTION COSTS.—During the period an alien is detained because of a stay of removal under subparagraph (A)(ii), the Attorney General may pay from the appropriation 'Immigration and Naturalization Service—Salaries and Expenses'—

"(i) the cost of maintenance of the alien; and

"(ii) a witness fee of $1 a day.

"(C) RELEASE DURING STAY.—The Attorney General may release an alien whose removal is stayed under subparagraph (A)(ii) on—

"(i) the alien's filing a bond of at least $500 with security approved by the Attorney General;

"(ii) condition that the alien appear when required as a witness and for removal; and

"(iii) other conditions the Attorney General may prescribe.

"(3) COSTS OF DETENTION AND MAINTENANCE PENDING REMOVAL.—

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

"(i) while the alien is detained under subsection (d)(1), and

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

"(B) NONAPPLICATION.—Subparagraph (A) shall not apply if—

"(i) the alien is a crewmember;

"(ii) the alien has an immigrant visa;

"(iii) the alien has a nonimmigrant visa or other documentation authorizing the alien to apply for temporary admission to the United States and applies for admission not later than 120 days after the date the visa or documentation was issued;

"(iv) the alien has a reentry permit and applies for admission not later than 120 days after the date of the alien's last inspection and admission;

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

"(II) the alien applies for admission more than 120 days after the date the visa or documentation was issued or after the date of the last inspection and admission under the reentry permit; and

"(III) the owner of the vessel or aircraft satisfies the Attorney General that the existence of the condition relating to inadmissibility could not have been discovered by exercising reasonable care before the alien boarded the vessel or aircraft; or

"(vi) the individual claims to be a national of the United States and has a United States passport.

"(d) REQUIREMENTS OF PERSONS PROVIDING TRANSPORTATION.—

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

"(A) receive an alien back on the vessel or aircraft or another vessel or aircraft owned or operated by the same interests if the alien is ordered removed under this part; and

"(B) take the alien to the foreign country to which the alien is ordered removed.

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

"(A) shall detain the alien on board the vessel or aircraft;

"(B) may not permit the stowaway to land in the United States, except pursuant to regulations of the Attorney General temporarily—

"(i) for medical treatment,

"(ii) for detention of the stowaway by the Attorney General, or

"(iii) for departure or removal of the stowaway; and

"(C) if ordered by an immigration officer, shall remove the stowaway on the vessel or aircraft or on another vessel or aircraft.

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

"(e) PAYMENT OF EXPENSES OF REMOVAL.—

"(1) COSTS OF REMOVAL AT TIME OF ARRIVAL.—In the case of an alien who is a stowaway or who is ordered removed either without a hearing under section 235(a)(1) or 235(c) or pursuant to proceedings under section 240 initiated at the time of such alien's arrival, the owner of the vessel or aircraft (if any) on which the alien arrived in the United States shall pay the transportation cost of removing the alien. If removal is on a vessel or aircraft not owned by the owner of the vessel or aircraft on which the alien arrived in the United States, the Attorney General may—

"(A) pay the cost from the appropriation 'Immigration and Naturalization Service—Salaries and Expenses'; and

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

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

"(3) COSTS OF REMOVAL FROM PORT OF REMOVAL FOR ALIENS ADMITTED OR PERMITTED TO LAND.—

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

"(B) THROUGH OWNER.—

"(i) IN GENERAL.—In the case of an alien described in clause (ii), the cost of removal of the alien from the port of removal may be charged to any owner of the vessel, aircraft, or other transportation line by which the alien came to the United States.

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

"(I) is admitted to the United States (other than lawfully admitted for permanent residence) and is ordered removed within 5 years of the date of admission based on a ground that existed before or at the time of admission, or

"(II) is an alien crewman permitted to land temporarily under section 252 and is ordered removed within 5 years of the date of landing.

"(C) COSTS OF REMOVAL OF CERTAIN ALIENS GRANTED VOLUNTARY DEPARTURE.—In the case of an alien who has been granted voluntary departure under section 240B and who is financially unable to depart at the alien's own expense and whose removal the Attorney Gen-

eral deems to be in the best interest of the United States, the expense of such removal may be paid from the appropriation for the enforcement of this Act.

"(f) ALIENS REQUIRING PERSONAL CARE DURING REMOVAL.—

"(1) IN GENERAL.—If the Attorney General believes that an alien being removed requires personal care because of the alien's mental or physical condition, the Attorney General may employ a suitable person for that purpose who shall accompany and care for the alien until the alien arrives at the final destination.

"(2) COSTS.—The costs of providing the service described in paragraph (1) shall be defrayed in the same manner as the expense of removing the accompanied alien is defrayed under this section.

"(g) PLACES OF DETENTION.—The Attorney General shall arrange for appropriate places of detention for aliens detained pending removal or a decision on removal. When United States Government facilities are unavailable or facilities adapted or suitably located for detention are unavailable for rental, the Attorney General may expend from the appropriation 'Immigration and Naturalization Service—Salaries and Expenses', without regard to sec-

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

(b) MODIFICATION OF AUTHORITY.—

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

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

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

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

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

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

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

(1) by redesignating subsection (j) as subsection (h) and by moving such subsection and add-

ing it at the end of section 241, as amended by section 305(a)(3); and

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

''JUDICIAL REVIEW OF ORDERS OF REMOVAL

''SEC. 242. (a) APPLICABLE PROVISIONS.—

''(1) GENERAL ORDERS OF REMOVAL.—Judicial review of a final order of removal (other than an order of removal without a hearing pursuant to section 235(b)(1)) is governed only by chapter 158 of title 28 of the United States Code, except as provided in subsection (b) and except that the court may not order the taking of additional evidence under section 2347(c) of such title.

''(2) LIMITATIONS ON REVIEW RELATING TO SECTION 235(b)(1).—Notwithstanding any other provision of law, no court shall have jurisdiction to review—

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

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

"(C) the application of such section to individual aliens, including the determination made under section 235(b)(1)(B), or

"(D) procedures and policies adopted by the Attorney General to implement the provisions of section 235(b)(1).

"(3) TREATMENT OF CERTAIN DECISIONS.—No alien shall have a right to appeal from a decision of an immigration judge which is based solely on a certification described in section 240(c)(1)(B).

"(b) REQUIREMENTS FOR ORDERS OF REMOVAL.—With respect to review of an order of removal under subsection (a)(1), the following requirements apply:

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

"(2) VENUE AND FORMS.—The petition for review shall be filed with the court of appeals for the judicial circuit in which the immigration judge completed the proceedings. The record and briefs do not have to be printed. The court of appeals shall review the proceeding on a typewritten record and on typewritten briefs.

"(3) SERVICE.—

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

"(B) STAY OF ORDER.—

"(i) IN GENERAL.—Except as provided in clause (ii), service of the petition on the officer or employee stays the removal of an alien pending the court's decision on the petition, unless the court orders otherwise.

"(ii) EXCEPTION.—If the alien has been convicted of an aggravated felony, or the alien has been ordered removed pursuant to a finding that the alien is inadmissible under section 212, service of the petition does not stay the removal unless the court orders otherwise.

"(4) DECISION.—Except as provided in paragraph (5)(B)—

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

"(B) the administrative findings of fact are conclusive if supported by reasonable, substantial, and probative evidence on the record considered as a whole, and

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

"(5) TREATMENT OF NATIONALITY CLAIMS.—

"(A) COURT DETERMINATION IF NO ISSUE OF FACT.—If the petitioner claims to be a national of the United States and the court of appeals finds from the pleadings and affidavits that no genuine issue of material fact about the petitioner's nationality is presented, the court shall decide the nationality claim.

"(B) TRANSFER IF ISSUE OF FACT.—If the petitioner claims to be a national of the United States and the court of appeals finds that a genuine issue of material fact about the petitioner's nationality is presented, the court shall transfer the proceeding to the district court of the United States for the judicial district in which the petitioner resides for a new hearing on the nationality claim and a decision on that claim as if an action had been brought

in the district court under section 2201 of title 28, United States Code.

"(C) LIMITATION ON DETERMINATION.—The petitioner may have such nationality claim decided only as provided in this paragraph.

"(6) CONSOLIDATION WITH REVIEW OF MOTIONS TO REOPEN OR RECONSIDER.—When a petitioner seeks review of an order under this section, any review sought of a motion to reopen or reconsider the order shall be consolidated with the review of the order.

"(7) CHALLENGE TO VALIDITY OF ORDERS IN CERTAIN CRIMINAL PROCEEDINGS.—

"(A) IN GENERAL.—If the validity of an order of removal has not been judicially decided, a defendant in a criminal proceeding charged with violating section 243(a) may challenge the validity of the order in the criminal proceeding only by filing a separate motion before trial. The district court, without a jury, shall decide the motion before trial.

"(B) CLAIMS OF UNITED STATES NATIONALITY.—If the defendant claims in the motion to be a national of the United States and the district court finds that—

"(i) no genuine issue of material fact about the defendant's nationality is presented, the court shall decide the motion only on the administrative record on which the removal order is based and the administrative findings of fact are conclusive if supported by reasonable, substantial, and probative evidence on the record considered as a whole; or

"(ii) a genuine issue of material fact about the defendant's nationality is presented, the court shall hold a new hearing on the nationality claim and decide that claim as if an action had been brought under section 2201 of title 28, United States Code.

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

"(C) CONSEQUENCE OF INVALIDATION.—If the district court rules that the removal order is invalid, the court shall dismiss the indictment for violation of section 243(a). The United States Government may appeal the dismissal to the court of appeals for the appropriate circuit within 30 days after the date of the dismissal.

"(D) LIMITATION ON FILING PETITIONS FOR REVIEW.—The defendant in a criminal proceeding under section 243(a) may not file a petition for review under subsection (a) during the criminal proceeding.

"(8) CONSTRUCTION.—This subsection—

"(A) does not prevent the Attorney General, after a final order of removal has been issued, from detaining the alien under section 241(a);

"(B) does not relieve the alien from complying with section 241(a)(4) and section 243(g); and

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

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

"(d) REVIEW OF FINAL ORDERS.—A court may review a final order of removal only if—

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

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

"(e) LIMITED REVIEW FOR NON-PERMANENT RESIDENTS CONVICTED OF AGGRAVATED FELONIES.—

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

"(A) the alien is the alien described in the order,

"(B) the alien is an alien described in section 238(b)(2) and has been convicted after entry into the United States of an aggravated felony, and

"(C) proceedings against the alien complied with section 238(b)(4).

"(2) LIMITED JURISDICTION.—A court reviewing the petition has jurisdiction only to review the issues described in paragraph (1).

"(f) JUDICIAL REVIEW OF ORDERS UNDER SECTION 235(b)(1).—

"(1) APPLICATION.—The provisions of this subsection apply with respect to judicial review of orders of removal effected under section 235(b)(1).

"(2) LIMITATIONS ON RELIEF.—Regardless of the nature of the action or claim and regardless of the identity of the party or parties bringing the action, no court shall have jurisdiction or authority to enter declaratory, injunctive, or other equitable relief not specifically authorized in this subsection, or to certify a class under Rule 23 of the Federal Rules of Civil Procedure.

"(3) LIMITATION TO HABEAS CORPUS.—Judicial review of any matter cause, claim, or individual determination made or arising under or pertaining to section 235(b)(1) shall only be available in habeas corpus proceedings, and shall be limited to determinations of—

"(A) whether the petitioner is an alien,

"(B) whether the petitioner was ordered removed under such section, and

"(C) whether the petitioner can prove by a preponderance of the evidence that the petitioner is an alien lawfully admitted for perma-

nent residence and is entitled to such further inquiry as prescribed by the Attorney General pursuant to section 235(b)(1)(C).

''(4) DECISION.—In any case where the court determines that the petitioner—

''(A) is an alien who was not ordered removed under section 235(b)(1), or

''(B) has demonstrated by a preponderance of the evidence that the alien is a lawful permanent resident,

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

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

"(g) LIMIT ON INJUNCTIVE RELIEF.—Regardless of the nature of the action or claim or of the identity of the party or parties bringing the action, no court (other than the Supreme Court) shall have jurisdiction or authority to enjoin or restrain the operation of the provisions of chapter 4 of title II, as amended by the Immigration in the National Interest Act of 1995, other than with respect to the application of such provisions to an individual alien against whom proceedings under such chapter have been initiated.".

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

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

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

"PENALTIES RELATED TO REMOVAL

"SEC. 243. "(a) PENALTY FOR FAILURE TO DEPART.—

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

"(A) willfully fails or refuses to depart from the United States within a period of 90 days from the date of the final order of removal

under administrative processes, or if judicial review is had, then from the date of the final order of the court,

''(B) willfully fails or refuses to make timely application in good faith for travel or other documents necessary to the alien's departure,

''(C) connives or conspires, or takes any other action, designed to prevent or hamper or with the purpose of preventing or hampering the alien's departure pursuant to such, or

''(D) willfully fails or refuses to present himself or herself for removal at the time and place required by the Attorney General pursuant to such order,

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

''(2) EXCEPTION.—It is not a violation of paragraph (1) to take any proper steps for the purpose of securing cancellation of or exemption from such order of removal or for the purpose of securing the alien's release from incarceration or custody.

"(3) SUSPENSION.—The court may for good cause suspend the sentence of an alien under this subsection and order the alien's release under such conditions as the court may prescribe. In determining whether good cause has been shown to justify releasing the alien, the court shall take into account such factors as—

"(A) the age, health, and period of detention of the alien;

"(B) the effect of the alien's release upon the national security and public peace or safety;

"(C) the likelihood of the alien's resuming or following a course of conduct which made or would make the alien deportable;

"(D) the character of the efforts made by such alien himself and by representatives of the country or countries to which the alien's removal is directed to expedite the alien's departure from the United States;

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

"(F) the eligibility of the alien for discretionary relief under the immigration laws.

"(b) WILLFUL FAILURE TO COMPLY WITH TERMS OF RELEASE UNDER SUPERVISION.—An alien who shall willfully fail to comply with regulations or requirements issued pursuant to section 241(a)(3) or knowingly give false information in response to an inquiry under such section shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

"(c) PENALTIES RELATING TO VESSELS AND AIRCRAFT.—

"(1) CIVIL PENALTIES.—

"(A) FAILURE TO CARRY OUT CERTAIN ORDERS.—If the Attorney General is satisfied that a person has violated subsection (d) or (e) of section 241, the person shall pay to the Commissioner the sum of $2,000 for each violation.

"(B) FAILURE TO REMOVE ALIEN STOWAWAYS.—If the Attorney General is satisfied that a person has failed to remove an alien stowaway as required under section 241(d)(2), the person shall pay to the Commissioner the sum of $5,000 for each alien stowaway not removed.

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

"(2) CLEARING VESSELS AND AIRCRAFT.—

"(A) CLEARANCE BEFORE DECISION ON LIABILITY.—A vessel or aircraft may be granted clearance before a decision on liability is made under paragraph (1) only if a bond approved by the Attorney General or an amount sufficient to pay the civil penalty is deposited with the Commissioner.

"(B) PROHIBITION ON CLEARANCE WHILE PENALTY UNPAID.—A vessel or aircraft may not be granted clearance if a civil penalty imposed under paragraph (1) is not paid.

"(d) DISCONTINUING GRANTING VISAS TO NATIONALS OF COUNTRY DENYING OR DELAYING ACCEPTING ALIEN.—On being notified by the Attorney General that the government of a foreign country denies or unreasonably delays accepting an alien who is a citizen, subject, national, or resident of that country after the Attorney General asks whether the government will accept the alien under this section, the Secretary of State shall order consular officers in that foreign country to discontinue granting immigrant visas or nonimmigrant visas, or both, to

citizens, subjects, nationals, and residents of that country until the Attorney General notifies the Secretary that the country has accepted the alien.''.

**SEC. 308. REDESIGNATION AND REORGANIZATION OF OTHER PROVISIONS; ADDITIONAL CONFORMING AMENDMENTS.**

(a) CONFORMING AMENDMENT TO TABLE OF CONTENTS; OVERVIEW OF REORGANIZED CHAPTERS.—The table of contents, as amended by section 815(d)(1), is amended—

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

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

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

''Sec. 231. Lists of alien and citizen passengers arriving or departing; record of resident aliens and citizens leaving permanently for foreign country.
''Sec. 232. Detention of aliens for physical and mental examination.
''Sec. 233. Entry through or from foreign contiguous territory and adjacent islands; landing stations.
''Sec. 234. Designation of ports of entry for aliens arriving by civil aircraft.
''Sec. 235. Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing.
''Sec. 236. Apprehension and detention of aliens not lawfully in the United States.
''Sec. 237. General classes of deportable aliens.
''Sec. 238. Expedited removal of aliens convicted of committing aggravated felonies.
''Sec. 239. Initiation of removal proceedings.
''Sec. 240. Removal proceedings.
''Sec. 240A. Cancellation of removal; adjustment of status.
''Sec. 240B. Voluntary departure.
''Sec. 240C. Records of admission.

''Sec. 241. Detention and removal of aliens ordered removed.
''Sec. 242. Judicial review of orders of removal.
''Sec. 243. Penalties relating to removal.
''Sec. 244. Temporary protected status.

''CHAPTER 5—ADJUSTMENT AND CHANGE OF STATUS''.

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

(1) AMENDING CHAPTER HEADING.—Amend the heading for chapter 4 of title II to read as follows:

''CHAPTER 4—INSPECTION, APPREHENSION, EXAMINATION, EXCLUSION, AND REMOVAL''.

(2) REDESIGNATING SECTION 232 AS SECTION 232(a).—Amend section 232 (8 U.S.C. 1222)—

(A) by inserting ''(a) DETENTION OF ALIENS.—'' after ''SEC. 232.'', and

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

''DETENTION OF ALIENS FOR PHYSICAL AND MENTAL EXAMINATION''.

(3) REDESIGNATING SECTION 234 AS SECTION 232(b).—Amend section 234 (8 U.S.C. 1224)—

(A) by striking the heading,

(B) by striking ''SEC. 234.'' and inserting the following: ''(b) PHYSICAL AND MENTAL EXAMINATION.—'', and

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

(4) REDESIGNATING SECTION 238 AS SECTION 233.—Redesignate section 238 (8 U.S.C. 1228) as section 233 and move the section to immediately follow section 232.

(5) REDESIGNATING SECTION 240 AS SECTION 234A.—Redesignate section 240 (8 U.S.C. 1230) as section 234A and move the section to immediately follow section 233.

(6) REDESIGNATING SECTION 242A AS SECTION 238.—Redesignate section 242A as section 238, strike ''DEPORTATION'' in its heading and insert ''REMOVAL'', and move the section to immediately follow section 237 (as redesignated by section 305(2)).

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

(8) REDESIGNATING SECTION 244A AS SECTION 244.—Strike section 244 and redesignate section 244A as section 244.

(9) AMENDING CHAPTER HEADING.—Amend the heading for chapter 5 of title II to read as follows:

"CHAPTER 5—ADJUSTMENT AND CHANGE OF STATUS".

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) EXPEDITED PROCEDURES FOR AGGRAVATED FELONS (FORMER SECTION 242A).—Section 238 (which, previous to redesignation under section 308(b)(6), was section 242A) is amended—

(A) in subsection (a)(1), by striking "section 242" and inserting "section 240";

(B) in subsection (a)(2), by striking "section 242(a)(2)" and inserting "section 236(b)"; and

(C) in subsection (b)(1), by striking "section 241(a)(2)(A)(iii)" and inserting "section 237(a)(2)(A)(iii)".

(2) TREATMENT OF CERTAIN HELPLESS ALIENS.—

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

"(c) CERTIFICATION OF CERTAIN HELPLESS ALIENS.—If an examining medical officer determines that an alien arriving in the United States is inadmissible, is helpless from sickness or mental and physical disability, or infancy, and is accompanied by another alien whose

protection or guardianship may be required, the officer may certify such fact for purposes of applying section 212(a)(9)(B) with respect to the other alien.''.

(B) GROUND OF INADMISSIBILITY FOR PROTECTION AND GUARDIANSHIP OF ALIENS DENIED ADMISSION FOR HEALTH OR INFANCY.—Subparagraph (B) of section 212(a)(9) (8 U.S.C. 1182(a)(9)) is amended to read as follows:

''(B) GUARDIAN REQUIRED TO ACCOMPANY HELPLESS ALIEN.—Any alien—

''(i) who is accompanying another alien who is inadmissible and who is certified to be helpless from sickness or mental or physical disability or infancy pursuant to section 232(c), and

''(ii) whose protection or guardianship is determined to be required by the alien described in clause (i),

is inadmissible.''.

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

(A) by inserting ''(1)'' after ''(a)'', and

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

''(2) It is unlawful for an owner, agent, master, commanding officer, person in charge, purser, or consignee of a vessel or aircraft who is bringing an alien (except an alien crewmember) to the United States to take any consideration to be kept or returned contingent on whether an alien is admitted to, or ordered removed from, the United States.''.

(4) CLARIFICATION.—(A) Section 238(a)(1), which, previous to redesignation under section 308(b)(6), was section 242A(a)(1), is amended by adding at the end the following: ''Nothing in this section shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.''.

(B) Section 225 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416), as amended by section 815(b), is amended by striking ''and nothing in'' and all that follows up to ''shall''.

(d) ADDITIONAL CONFORMING AMENDMENTS RELATING TO EXCLUSION AND INADMISSIBILITY.—

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

(A) in the heading, by striking ''EXCLUDED FROM'' and inserting ''INELIGIBLE FOR'';

(B) in the matter in subsection (a) before paragraph (1), by striking all that follows ''(a)'' and inserting the following: ''CLASSES OF ALIENS INELIGIBLE FOR VISAS OR ADMISSION.—Except as otherwise provided in this Act, aliens who are inadmissible under the following paragraphs are ineligible to receive visas and ineligible to be admitted to the United States:'';

(C) in subsection (a), by striking ''is excludable'' and inserting ''is inadmissible'' each place it appears;

(D) in subsections (a)(5)(C), (d)(1), (k), by striking ''exclusion'' and inserting ''inadmissibility'';

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

(F) in subsection (b)(2), by striking ''and ineligible for entry'';

(G) in subsection (d)(7), by striking ''excluded from'' and inserting ''denied''; and

(H) in subsection (h)(1)(B), by striking ''exclusion'' and inserting ''denial of admission''.

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

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

(B) in subsection (a)(4)(C)(ii), by striking ''excludability'' and inserting ''inadmissibility''; and

(C) in subsections (c) and (h), by striking ''exclusion'' and inserting ''inadmissibility''.

(3) OTHER GENERAL REFERENCES.—The following provisions are amended by striking ''excludability'' and ''excludable'' each place each appears and inserting ''inadmissibility'' and ''inadmissible'', respectively:

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

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

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

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

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

(4) RELATED TERMS.—

(A) Section 101(a)(17) (8 U.S.C. 1101(a)(17)) is amended by striking ''or expulsion'' and inserting ''expulsion, or removal''.

(B) Section 102 (8 U.S.C. 1102) is amended by striking ''exclusion or deportation'' and inserting ''removal''.

(C) Section 103(c)(2) (8 U.S.C. 1103(c)(2)) is amended by striking ''been excluded or deported'' and inserting ''not been admitted or have been removed''.

(D) Section 206 (8 U.S.C. 1156) is amended by striking ''excluded from admission

to the United States and deported'' and inserting ''denied admission to the United States and removed''.

(E) Section 216(f) (8 U.S.C. 1186a) is amended by striking ''exclusion'' and inserting ''inadmissibility''.

(F) Section 217 (8 U.S.C. 1187) is amended by striking ''excluded from admission'' and inserting ''denied admission at the time of arrival'' each place it appears.

(G) Section 221(f) (8 U.S.C. 1201) is amended by striking ''exclude'' and inserting ''deny admission to''.

(H) Section 232(a) (8 U.S.C. 1222(a)), as redesignated by subsection (b)(2), is amended by striking ''excluded by'' and ''the excluded classes'' and inserting ''inadmissible under'' and ''inadmissible classes'', respectively.

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

(I) by striking ''EXCLUSION'' in the heading and inserting ''DENIAL OF ADMISSION'',

(II) in subsection (a), by striking ''excluding condition'' and inserting ''condition causing inadmissibility'', and

(III) in subsection (c), by striking ''excluding''.

(ii) The item in the table of contents relating to such section is amended by striking ''exclusion'' and inserting ''denial of admission''.

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

(i) in paragraph (1), by striking ''deported or excluded and deported'' and inserting ''denied admission or removed'', and

(ii) in paragraph (2)(B), by striking ''excluded and deported'' and inserting ''denied admission and removed''.

(K) Section 286(h)(2)(A)(vi) (8 U.S.C. 1356(h)(2)(A)(vi)) is amended by striking ''exclusion'' each place it appears and inserting ''removal''.

(L) Section 287 (8 U.S.C. 1357) is amended—

(i) in subsection (a), by striking ''or expulsion'' each place it appears and inserting ''expulsion, or removal'', and

(ii) in subsection (c), by striking ''exclusion from'' and inserting ''denial of admission to''.

(M) Section 290(a) (8 U.S.C. 1360(a)) is amended by striking ''admitted to the United States, or excluded therefrom'' each place it appears and inserting ''admitted or denied admission to the United States''.

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

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

(P) Section 360 (8 U.S.C. 1503) is amended—

(i) in subsection (a), by striking ''exclusion'' each place it appears and inserting ''removal'', and

(ii) in subsection (c), by striking ''excluded from'' and inserting ''denied''.

(Q) Section 301(a)(1) of the Immigration Act of 1990 is amended by striking ''exclusion'' and inserting ''inadmissibility''.

(R) Section 401(c) of the Refugee Act of 1980 is amended by striking ''deportation or exclusion'' and inserting ''removal''.

(S) Section 501(e)(2) of the Refugee Education Assistance Act of 1980 (Public Law 96–422) is amended by striking ''exclusion or deportation'' each place it appears and inserting ''removal''.

(e) REVISION OF TERMINOLOGY RELATING TO DEPORTATION.—

(1) Each of the following is amended by striking ''deportation'' each place it appears and inserting ''removal'':

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

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

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

(D) Section 214(k)(4)(C) (8 U.S.C. 1184(k)(4)(C)), as redesignated by section 815(a)(4)(A) of this Act.

(E) Section 241(a)(1)(H) (8 U.S.C. 1251(a)(1)(H)), before redesignation as section 237 by section 305(2) .

(F) Section 242A (8 U.S.C. 1252a), before redesignation as section 238 by subsection (b)(6).

(G) Subsections (a)(3) and (b)(5)(B) of section 244A (8 U.S.C. 1254a), before redesignation as section 244 by subsection (b)(8).

(H) Section 246(a) (8 U.S.C. 1256(a)).

(I) Section 254 (8 U.S.C. 1284).

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

(K) Section 276(b) (8 U.S.C. 1326(b)).

(L) Section 280(b)(2) (8 U.S.C. 1330(b)(2)).

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

(N) Section 291 (8 U.S.C. 1361).

(O) Section 318 (8 U.S.C. 1429).

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

(2) Each of the following is amended by striking ''deported'' and inserting ''removed'':

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

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

(C) Section 241(a) (8 U.S.C. 1251(a)), before redesignation as section 237 by section 305(2).

(D) Section 242A(c)(2)(D)(iv) (8 U.S.C. 1252a(c)(2)(D)(iv)), as amended by section 815(b)(14) but before redesignation as section 238 by subsection (b)(6).

(E) Section 252(b) (8 U.S.C. 1282(b)).

(F) Section 254 (8 U.S.C. 1284).

(G) Subsections (b) and (c) of section 266 (8 U.S.C. 1306).

(H) Section 301(a)(1) of the Immigration Act of 1990.

(3) Section 101(g) (8 U.S.C. 1101(g)) is amended by inserting ''or removed'' after ''deported'' each place it appears.

(4) Section 103(c)(2) (8 U.S.C. 1103(c)(2)) is amended by striking ''suspension of deportation'' and inserting ''cancellation of removal''.

(5) Section 201(b)(1)(D) (8 U.S.C. 1151(b)(1)(D)) is amended by striking ''deportation is suspended'' and inserting ''removal is canceled''.

(6) Section 212(l)(2)(B) (8 U.S.C. 1182(l)(2)(B)) is amended by striking ''deportation against'' and inserting ''removal of''.

(7) Subsections (b)(2), (c)(2)(B), (c)(3)(D), (c)(4)(A), and (d)(2)(C) of section 216 (8 U.S.C. 1186a) are each amended by striking ''DEPORTATION'', ''deportation'', ''deport'', and ''deported'' each place each appears and inserting ''REMOVAL'', ''removal'', ''remove'', and ''removed'', respectively.

(8) Subsections (b)(2), (c)(2)(B), (c)(3)(D), and (d)(2)(C) of section 216A (8 U.S.C. 1186b) are each amended by striking ''DEPORTATION'', ''deportation'', ''deport'', and ''deported'' and inserting ''REMOVAL'', ''removal'', ''remove'', and ''removed'', respectively.

(9) Section 217(b)(2) (8 U.S.C. 1187(b)(2)) is amended by striking ''deportation against'' and inserting ''removal of''.

(10) Section 242A (8 U.S.C. 1252a), before redesignation as section 238 by subsection (b)(6), is amended, in the headings to various subdivisions, by striking ''DEPORTATION'' and ''DEPORTATION'' and inserting ''REMOVAL'' and ''REMOVAL'', respectively.

(11) Section 244A(a)(1)(A) (8 U.S.C. 1254a(a)(1)(A)), before redesignation as section 244 by subsection (b)(8), is amended—

(A) in subsection (a)(1)(A), by striking ''deport'' and inserting ''remove'', and

(B) in subsection (e), by striking ''SUSPENSION OF DEPORTATION'' and inserting ''CANCELLATION OF REMOVAL''.

(12) Section 254 (8 U.S.C. 1284) is amended by striking ''deport'' each place it appears and inserting ''remove''.

(13) Section 273(d) (8 U.S.C. 1323(d)) is repealed.

(14)(A) Section 276 (8 U.S.C. 1326) is amended by striking ''DEPORTED'' and inserting ''REMOVED''.

(B) The item in the table of contents relating to such section is amended by striking ''deported'' and inserting ''removed''.

(15) Section 318 (8 U.S.C. 1429) is amended by striking ''suspending'' and inserting ''canceling''.

(16) Section 301(a) of the Immigration Act of 1990 is amended by striking ''DEPORTATION'' and inserting ''REMOVAL''.

(17) The heading of section 130005 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) is amended by striking ''**DEPORTATION**'' and inserting ''**REMOVAL**''.

(f) REVISION OF REFERENCES TO ENTRY.—

(1) The following provisions are amended by striking ''entry'' and inserting ''admission'' each place it appears:

(A) Section 101(a)(15)(K) (8 U.S.C. 1101(a)(15)(K)).

(B) Section 101(a)(30) (8 U.S.C. 1101(a)(30)).

(C) Section 212(a)(2)(D) (8 U.S.C. 1182(a)(2)(D)).

(D) Section 212(a)(6)(C)(i) (8 U.S.C. 1182(a)(6)(C)(i)).

(E) Section 212(h)(1)(A)(i) (8 U.S.C. 1182(h)(1)(A)(i)).

(F) Section 212(i)(2) (8 U.S.C. 1182(i)(2)).

(G) Section 212(j)(1)(D) (8 U.S.C. 1182(j)(1)(D)).

(H) Section 214(c)(2)(A) (8 U.S.C. 1184(c)(2)(A)).

(I) Section 214(d) (8 U.S.C. 1184(d)).

(J) Section 216(b)(1)(A)(i) (8 U.S.C. 1186a(b)(1)(A)(i)).

(K) Section 216(d)(1)(A)(i)(III) (8 U.S.C. 1186a(d)(1)(A)(i)(III)).

(L) Section 240(b) (8 U.S.C. 1230(b)).

(M) Section 241(a)(1)(G) (8 U.S.C. 1251(a)(1)(G)).

(N) Section 241(a)(1)(H) (8 U.S.C. 1251(a)(1)(H)), other than the last time it appears.

(O) Paragraphs (2) and (4) of section 241(a) (8 U.S.C. 1251(a)).

(P) Section 245(e)(3) (8 U.S.C. 1255(e)(3)).

(Q) Section 247(a) (8 U.S.C. 1257(a)).

(R) Section 601(c)(2) of the Immigration Act of 1990.

(2) The following provisions are amended by striking ''enter'' and inserting ''be admitted'':

(A) Section 204(e) (8 U.S.C. 1154(e)).

(B) Section 221(h) (8 U.S.C. 1201(h)).

(C) Section 245(e)(2) (8 U.S.C. 1255(e)(2)).

(3) The following provisions are amended by striking ''enters'' and inserting ''is admitted to'':

(A) Section 212(j)(1)(D)(ii) (8 U.S.C. 1154(e)).

(B) Section 214(c)(5)(B) (8 U.S.C. 1184(c)(5)(B)).

(4) Section 238(a) (8 U.S.C. 1228(a)) is amended by striking ''entry and inspection'' and inserting ''inspection and admission''.

(5) Section 241(a)(1)(H)(ii) (8 U.S.C. 1251(a)(1)(H)(ii)) is amended by striking ''at entry''.

(6) Section 7 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403h) is amended by striking ''that the entry'', ''given entry into'', and ''entering'' and inserting ''that the admission'', ''admitted to'', and ''admitted to''.

(7) Section 4 of the Atomic Weapons and Special Nuclear Materials Rewards Act (50 U.S.C. 47c) is amended by striking ''entry'' and inserting ''admission''.

(g) CONFORMING REFERENCES TO REORGANIZED SECTIONS.—

(1) REFERENCES TO SECTIONS 232, 234, 238, 239, 240, 241, 242A, AND 244A.—Any reference in law in effect on the day before the date of the enactment of this Act to section 232, 234, 238, 239, 240, 241, 242A, or 244A of the Immigration and Nationality Act (or a subdivision of such section) is deemed, as of the title III–A effective date, to refer to section 232(a), 232(b), 233, 234, 234A, 237, 238, or 244 of such Act (or the corresponding subdivision of such section), as redesignated by this subtitle. Any reference in law to section 241 (or a subdivision of such section) of the Immigration and Nationality Act in an amendment made by a subsequent subtitle of this title is deemed a reference (as of the title III–A effective date) to section 237 (or the corresponding subdivision of such section), as redesignated by this subtitle.

(2) REFERENCES TO SECTION 106.—

(A) Sections 242A(b)(3) and 242A(c)(3)(A)(ii) (8 U.S.C. 1252a(b)(3), 1252a(c)(3)(A)(ii)), as amended by section 815(b)(14) but before redesignation as section

238 by subsection (b)(6), are each amended by striking ''106'' and inserting ''242''.

(B) Sections 210(e)(3)(A) and 245A(f)(4)(A) (8 U.S.C. 1160(e)(3)(A), 1255a(f)(4)(A)) are amended by inserting ''(as in effect before October 1, 1996)'' after ''106''.

(C) Section 242A(c)(3)(A)(iii) (8 U.S.C. 1252a(c)(3)(A)(iii)), as amended by section 815(b)(14) but before redesignation as section 238 by subsection (b)(6), is amended by striking ''106(a)(1)'' and inserting ''242(b)(1)''.

(3) REFERENCES TO SECTION 236.—

(A) Sections 205 and 209(a)(1) (8 U.S.C. 1155, 1159(a)(1)) are each amended by striking ''236'' and inserting ''240''.

(B) Section 4113(c) of title 18, United States Code, is amended by striking ''1226 of title 8, United States Code'' and inserting ''section 240 of the Immigration and Nationality Act''.

(4) REFERENCES TO SECTION 237.—

(A) Section 209(a)(1) (8 U.S.C. 1159(a)(1)) is amended by striking ''237'' and inserting ''241''.

(B) Section 212(a)(9)(B) (8 U.S.C. 1182(a)(9)(B)) is amended by striking ''section 237(e)'' and inserting ''section 232(c)''.

(C) Section 212(d)(7) (8 U.S.C. 1182(d)(7)) is amended by striking ''237(a)'' and inserting ''241(c)''.

(D) Section 280(a) (8 U.S.C. 1330(a)) is amended by striking ''237, 239, 243'' and inserting ''234, 243(c)(2)''.

(5) REFERENCES TO SECTION 242.—

(A)(i) Sections 214(d), 252(b), 280(b)(2), and 287(f)(1) (8 U.S.C. 1184(d), 1282(b), 1330(b)(2), 1357(f)(1)) are each amended by striking ''242'' and inserting ''240''.

(ii) Subsections (a)(1) and (c)(4) of section 242A (8 U.S.C. 1252a), as amended by section 815(b)(14) but before redesignation as section 238 by section 308(b)(6), are each amended by striking ''242'' and inserting ''240''.

(iii) Section 245A(a)(1)(B) (8 U.S.C. 1255a(a)(1)(B)) is amended by inserting ''(as in effect before October 1, 1996)'' after ''242''.

(iv) Section 4113(b) of title 18, United States Code, is amended by striking ''242'' and inserting ''240''.

(v) Section 8(c) of the Foreign Agents Registration Act of 1938 (as amended) (22 U.S.C. 618(c)) is amended by striking ''242'' and inserting ''240''.

(vi) Section 9 of the Peace Corps Act (22 U.S.C. 2508) is amended by striking ''242'' and inserting ''240''.

(B) Section 242A(a)(2) (8 U.S.C. 1252a(a)(2)), before redesignation as section 238 by section 308(b)(6), is amended by striking ''section 242(a)(2)'' and inserting ''section 236(c)''.

(C) Section 130002(a) of Public Law 103–322 is amended by striking ''242(a)(3)(A)'' and inserting ''236(d)''.

(D) Section 242A(b)(1) (8 U.S.C. 1252a(b)(1)), before redesignation as section 238 by section 308(b)(6), is amended by striking ''242(b)'' and inserting ''240''.

(E) Section 242A(c)(2)(D)(ii) (8 U.S.C. 1252a(c)(2)(D)(ii)), as amended by section 815(b)(14) but before redesignation as section 238 by section 308(b)(6), is amended by striking ''242(b)'' and inserting ''240''.

(F) Section 4113(a) of title 18, United States Code, is amended by striking ''242(b)'' and inserting ''240B''.

(G) Section 1821(e) of title 28, United States Code, is amended by striking ''242(b)'' and inserting ''240''.

(H) Section 225 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416) is amended by striking ''242(i)'' and inserting ''239(d)''.

(I) Section 130007(a) of Public Law 103–322 is amended by striking ''242(i)'' and inserting ''239(d)''.

(J) Section 20301(c) of Public Law 103–322 is amended by striking ''242(j)(5)'' and ''242(j)'' and inserting ''241(h)(5)'' and ''241(h)'', respectively.

(6) REFERENCES TO SECTION 242B.—

(A) Section 303(d)(2) of the Immigration Act of 1990 is amended by striking ''242B'' and inserting ''240(b)(5)''.

(B) Section 545(g)(1)(B) of the Immigration Act of 1990 is amended by striking ''242B(a)(4)'' and inserting ''239(a)(4)''.

(7) REFERENCES TO SECTION 243.—

(A)(i) Section 214(d) (8 U.S.C. 1184(d)) is amended by striking ''243'' and inserting ''241''.

(ii) Section 8(c) of the Foreign Agents Registration Act of 1938 (as amended) (22 U.S.C. 618(c)) is amended by striking ''243'' and inserting ''241''.

(iii) Section 9 of the Peace Corps Act (22 U.S.C. 2508) is amended by striking ''243'' and inserting ''241''.

(B) Section 236(e)(2) (8 U.S.C. 1226(e)(2)) is amended by striking ''section 243(g)'' and inserting ''section 243(d)''.

(C)(i) Section 315(c) of Public Law 99–603 is amended by striking ''243(g)'' and inserting ''243(d)''.

(ii) Section 315(c) of the Immigration Reform and Control Act of 1986 is amended by striking ''243(g)'' and inserting ''243(d)''.

(iii) Section 702(b) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 is amended by striking ''243(g)'' and inserting ''243(d)''.

(iv) Section 903(b) of Public Law 100–204 is amended by striking ''243(g)'' and inserting ''243(d)''.

(D)(i) Section 6(f)(2)(F) of the Food Stamp Act of 1977 (7 U.S.C. 2015(f)(2)(F)) is amended by striking ''243(h)'' and inserting ''241(b)(3)''.

(ii) Section 214(a)(5) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(a)(5)) is amended by striking ''243(h)'' and inserting ''241(b)(3)''.

(E)(i) Section 244A(c)(2)(B)(ii) (8 U.S.C. 1254a(c)(2)(B)(ii)) is amended by striking ''243(h)(2)'' and inserting ''241(b)(3)(B)''.

(ii) Section 202(a)(3) of the Immigration Reform and Control Act of 1986 is amended by striking ''243(h)(2)'' and inserting ''241(b)(3)(B)''.

(iii) Section 301(e)(2) of the Immigration Act of 1990 is amended by striking ''243(h)(2)'' and inserting ''241(b)(3)(B)''.

(F) Section 316(f) (8 U.S.C. 1427(f)) is amended by striking ''subparagraphs (A) through (D) of paragraph 243(h)(2)'' and in-

serting ''clauses (i) through (iv) of section 241(b)(3)(B)''.

(8) REFERENCES TO SECTION 244.—

(A)(i) Sections 201(b)(1)(D) and 244A(e) (8 U.S.C. 1151(b)(1)(D), 1254a(e)) are each amended by striking ''244(a)'' and inserting ''240A(a)''.

(ii) Section 304(c)(1)(A) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (Public Law 102–232) is amended by striking ''244(a)'' and inserting ''244A(a)''.

(B) Section 304(c)(1)(B) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (Public Law 102–232) is amended by striking ''244(a)(2)'' and inserting ''240A(a)(2)''.

(C) Section 4113(a) of title 18, United States Code, is amended by striking ''244(e)'' and inserting ''240B(e)''.

(D) Section 242B(e)(2)(A) (8 U.S.C. 1252b(e)(2)(A)) is amended by striking ''section 244(e)(1)'' and inserting ''section 240B(e)(1)''.

(9) REFERENCES TO CHAPTER 5.—

(A) Sections 266(b), 266(c), and 291 (8 U.S.C. 1306(b), 1306(c), 1361) are each amended by striking ''chapter 5'' and inserting ''chapter 4''.

(B) Section 6(b) of the Act of August 1, 1956 (50 U.S.C. 855(b)) is amended by striking ''chapter 5, title II, of the Immigration and Nationality Act (66 Stat. 163)'' and inserting ''chapter 4 of title II of the Immigration and Nationality Act''.

(10) MISCELLANEOUS CROSS-REFERENCE CORRECTIONS FOR NEWLY ADDED PROVISIONS.—

(A) The last sentence of section 208(a), as added by section 332(a), is amended by striking ''241(a)(4)(B)'' and inserting ''237(a)(4)(B)''.

(B) Section 245(c)(6), as amended by section 333(d), is amended by striking ''241(a)(4)(B)'' and inserting ''237(a)(4)(B)''.

(C) The last sentence of section 246(a), as added by section 353(a), is amended by striking ''deport the alien under sections 242 and 242A'' and inserting ''remove the alien under section 240''.

(D) Section 249(d), as amended by section 333(e), is amended by striking ''241(a)(4)(B)'' and inserting ''237(a)(4)(B)''.

(E) Section 276(b)(3), as inserted by section 321(b), is amended by striking ''excluded'' and ''excludable'' and inserting ''removed'' and ''inadmissible'', respectively.

(F) Section 505(c)(7), as added by section 321(a)(1), is amended by amending subparagraphs (B) through (D) to read as follows:

''(B) Withholding of removal under section 241(b)(3).

''(C) Cancellation of removal under section 240A.

''(D) Voluntary departure under section 240B.''.

(G) Section 506(b)(2)(B), as added by section 321(a)(1), is amended by striking ''deportation'' and inserting ''removal''.

(H) Section 508(c)(2)(D), as added by section 321(a)(1), is amended by striking ''exclusion because such alien is excludable'' and inserting ''removal because such alien is inadmissible''.

(I) Section 130007(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), as amended by section 815(a)(8), is amended by striking ''242A(a)(3)'' and inserting ''238(a)(3)''.

**SEC. 309. EFFECTIVE DATES; TRANSITION.**

(a) IN GENERAL.—Except as provided in this section, this subtitle and the amendments made by this subtitle shall take effect on the first day of the first month beginning more than 180 days after the date of the enactment of this Act (in this title referred to as the ''title III–A effective date'').

(b) PROMULGATION OF REGULATIONS.—The Attorney General shall first promulgate regulations to carry out this subtitle by not later than 1 month before the title III–A effective date.

(c) TRANSITION FOR ALIENS IN PROCEEDINGS.—

(1) GENERAL RULE THAT NEW RULES DO NOT APPLY.—Subject to the succeeding provisions of this subsection, in the case of an alien who is in exclusion or deportation proceedings as of the title III–A effective date—

(A) the amendments made by this subtitle shall not apply, and

(B) the proceedings (including judicial review thereof) shall continue to be conducted without regard to such amendments.

(2) ATTORNEY GENERAL OPTION TO ELECT TO APPLY NEW PROCEDURES.—In a case described in paragraph (1) in which an evidentiary hearing under section 236 or 242 and 242B of the Immigration and Nationality Act has not commenced as of the title III–A effective date, the Attorney General may elect to proceed under chapter 4 of title II of such Act (as amended by this subtitle). The Attorney General shall provide notice of such election to the alien involved not later than 30 days before the date any evidentiary hearing is commenced. If the Attorney General makes such election, the notice of hearing provided to the alien under section 235 or 242(a) of such Act shall be valid as if provided under section 239 of such Act (as amended by this subtitle) to confer jurisdiction on the immigration judge.

(3) ATTORNEY GENERAL OPTION TO TERMINATE AND REINITIATE PROCEEDINGS.—In the case described in paragraph (1), the Attorney General may elect to terminate proceedings in which there has not been a final administrative decision and to

reinitiate proceedings under chapter 4 of title II the Immigration and Nationality Act (as amended by this subtitle). Any determination in the terminated proceeding shall not be binding in the reinitiated proceeding.

(4) TRANSITIONAL CHANGES IN JUDICIAL REVIEW.—In the case described in paragraph (1) in which a final order of exclusion or deportation is entered more than 30 days after the date of the enactment of this Act, notwithstanding any provision of section 106 of the Immigration and Nationality Act (as in effect as of the date of the enactment of this Act) to the contrary—

(A) in the case of judicial review of a final order of exclusion, subsection (b) of such section shall not apply and the action for judicial review shall be governed by the provisions of subsections (a) and (c) of such in the same manner as they apply to judicial review of orders of deportation;

(B) a court may not order the taking of additional evidence under section 2347(c) of title 28, United States Code;

(C) the petition for judicial review must be filed not later than 30 days after the date of the final order of exclusion or deportation; and

(D) the petition for review shall be filed with the court of appeals for the judicial circuit in which the administrative proceedings before the special inquiry officer or immigration judge were completed.

(5) TRANSITIONAL RULE WITH REGARD TO SUSPENSION OF DEPORTATION.—In applying section 244(a) of the Immigration and Nationality Act (as in effect before the date of the enactment of this Act) with respect to an application for suspension of deportation which is filed before, on, or after the date of the enactment of this Act and which has not been adjudicated as of 30 days after the date of the enactment of this Act, the period of continuous physical presence under such section shall be deemed to have ended on the date the alien was served an order to show cause pursuant to section 242A of such Act (as in effect before such date of enactment).

(6) TRANSITION FOR CERTAIN FAMILY UNITY ALIENS.—The Attorney General may waive the application of section 212(a)(9) of the Immigration

and Nationality Act, as inserted by section 301(b) of this subtitle, in the case of an alien who is provided benefits under the provisions of section 301 of the Immigration Act of 1990 (relating to family unity).

(d) TRANSITIONAL REFERENCES.—For purposes of carrying out the Immigration and Nationality Act, as amended by this subtitle—

(1) any reference in section 212(a)(1)(A) of such Act to the term ''inadmissible'' is deemed to include a reference to the term ''excludable'', and

(2) any reference in law to an order of removal shall be deemed to include a reference to an order of exclusion and deportation or an order of deportation.

(e) TRANSITION.—No period of time before the date of the enactment of this Act shall be included in the period of 1 year described in section 212(a)(6)(B)(i) of the Immigration and Nationality Act (as amended by section 301(d)).

# Subtitle B—Removal of Alien Terrorists

## PART 1—REMOVAL PROCEDURES FOR ALIEN TERRORISTS

### SEC. 321. REMOVAL PROCEDURES FOR ALIEN TERRORISTS.

(a) IN GENERAL.—The Immigration and Nationality Act is amended—

(1) by adding at the end of the table of contents the following:

''TITLE V—SPECIAL REMOVAL PROCEDURES FOR ALIEN TERRORISTS

''Sec. 501. Definitions.
''Sec. 502. Establishment of special removal court; panel of attorneys to assist with classified information.
''Sec. 503. Application for initiation of special removal proceeding.
''Sec. 504. Consideration of application.
''Sec. 505. Special removal hearings.
''Sec. 506. Consideration of classified information.
''Sec. 507. Appeals.
''Sec. 508. Detention and custody.'',

and

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

## ''TITLE V—SPECIAL REMOVAL PROCEDURES FOR ALIEN TERRORISTS

### ''DEFINITIONS

''SEC. 501. In this title:

''(1) The term 'alien terrorist' means an alien described in section 241(a)(4)(B).

"(2) The term 'classified information' has the meaning given such term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.).

"(3) The term 'national security' has the meaning given such term in section 1(b) of the Classified Information Procedures Act (18 U.S.C. App.).

"(4) The term 'special attorney' means an attorney who is on the panel established under section 502(e).

"(5) The term 'special removal court' means the court established under section 502(a).

"(6) The term 'special removal hearing' means a hearing under section 505.

"(7) The term 'special removal proceeding' means a proceeding under this title.

"ESTABLISHMENT OF SPECIAL REMOVAL COURT; PANEL OF ATTORNEYS TO ASSIST WITH CLASSIFIED INFORMATION

"SEC. 502. (a) IN GENERAL.—The Chief Justice of the United States shall publicly designate 5 district court judges from 5 of the United States judicial circuits who shall constitute a court which shall have jurisdiction to conduct all special removal proceedings.

"(b) TERMS.—Each judge designated under subsection (a) shall serve for a term of 5 years and shall be eligible for redesignation, except that the four associate

judges first so designated shall be designated for terms of one, two, three, and four years so that the term of one judge shall expire each year.

''(c) CHIEF JUDGE.—The Chief Justice shall publicly designate one of the judges of the special removal court to be the chief judge of the court. The chief judge shall promulgate rules to facilitate the functioning of the court and shall be responsible for assigning the consideration of cases to the various judges.

''(d) EXPEDITIOUS AND CONFIDENTIAL NATURE OF PROCEEDINGS.—The provisions of section 103(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(c)) shall apply to proceedings under this title in the same manner as they apply to proceedings under such Act.

''(e) ESTABLISHMENT OF PANEL OF SPECIAL ATTORNEYS.—The special removal court shall provide for the designation of a panel of attorneys each of whom—

''(1) has a security clearance which affords the attorney access to classified information, and

''(2) has agreed to represent permanent resident aliens with respect to classified information under section 506 in accordance with (and subject to the penalties under) this title.

"APPLICATION FOR INITIATION OF SPECIAL REMOVAL PROCEEDING

"SEC. 503. (a) IN GENERAL.—Whenever the Attorney General has classified information that an alien is an alien terrorist, the Attorney General, in the Attorney General's discretion, may seek removal of the alien under this title through the filing of a written application described in subsection (b) with the special removal court seeking an order authorizing a special removal proceeding under this title. The application shall be submitted in camera and ex parte and shall be filed under seal with the court.

"(b) CONTENTS OF APPLICATION.—Each application for a special removal proceeding shall include all of the following:

"(1) The identity of the Department of Justice attorney making the application.

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

"(3) The identity of the alien for whom authorization for the special removal proceedings is sought.

"(4) A statement of the facts and circumstances relied on by the Department of Justice to establish that—

"(A) the alien is an alien terrorist and is physically present in the United States, and

"(B) with respect to such alien, adherence to the provisions of title II regarding the removal of aliens would pose a risk to the national security of the United States.

"(5) An oath or affirmation respecting each of the facts and statements described in the previous paragraphs.

"(c) RIGHT TO DISMISS.—The Department of Justice retains the right to dismiss a removal action under this title at any stage of the proceeding.

"CONSIDERATION OF APPLICATION

"SEC. 504. (a) IN GENERAL.—In the case of an application under section 503 to the special removal court, a single judge of the court shall be assigned to consider the application. The judge, in accordance with the rules of the court, shall consider the application and may consider other information, including classified information, presented under oath or affirmation. The judge shall consider the application (and any hearing thereof) in camera and ex parte. A verbatim record shall be maintained of any such hearing.

"(b) APPROVAL OF ORDER.—The judge shall enter ex parte the order requested in the application if the judge finds, on the basis of such application and such other information (if any), that there is probable cause to believe that—

"(1) the alien who is the subject of the application has been correctly identified and is an alien terrorist, and

"(2) adherence to the provisions of title II regarding the removal of the identified alien would pose a risk to the national security of the United States.

"(c) DENIAL OF ORDER.—If the judge denies the order requested in the application, the judge shall prepare a written statement of the judge's reasons for the denial.

"(d) EXCLUSIVE PROVISIONS.—Whenever an order is issued under this section with respect to an alien—

"(1) the alien's rights regarding removal and expulsion shall be governed solely by the provisions of this title, and

"(2) except as they are specifically referenced, no other provisions of this Act shall be applicable.

"SPECIAL REMOVAL HEARINGS

"SEC. 505. (a) IN GENERAL.—In any case in which the application for the order is approved under section 504, a special removal hearing shall be conducted under

this section for the purpose of determining whether the alien to whom the order pertains should be removed from the United States on the grounds that the alien is an alien terrorist. Consistent with section 506, the alien shall be given reasonable notice of the nature of the charges against the alien and a general account of the basis for the charges. The alien shall be given notice, reasonable under all the circumstances, of the time and place at which the hearing will be held. The hearing shall be held as expeditiously as possible.

''(b) USE OF SAME JUDGE.—The special removal hearing shall be held before the same judge who granted the order pursuant to section 504 unless that judge is deemed unavailable due to illness or disability by the chief judge of the special removal court, or has died, in which case the chief judge shall assign another judge to conduct the special removal hearing. A decision by the chief judge pursuant to the preceding sentence shall not be subject to review by either the alien or the Department of Justice.

''(c) RIGHTS IN HEARING.—

''(1) PUBLIC HEARING.—The special removal hearing shall be open to the public.

''(2) RIGHT OF COUNSEL.—The alien shall have a right to be present at such hearing and to be represented by counsel. Any alien financially unable to

obtain counsel shall be entitled to have counsel assigned to represent the alien. Such counsel shall be appointed by the judge pursuant to the plan for furnishing representation for any person financially unable to obtain adequate representation for the district in which the hearing is conducted, as provided for in section 3006A of title 18, United States Code. All provisions of that section shall apply and, for purposes of determining the maximum amount of compensation, the matter shall be treated as if a felony was charged.

''(3) INTRODUCTION OF EVIDENCE.—The alien shall have a right to introduce evidence on the alien's own behalf.

''(4) EXAMINATION OF WITNESSES.—Except as provided in section 506, the alien shall have a reasonable opportunity to examine the evidence against the alien and to cross-examine any witness.

''(5) RECORD.—A verbatim record of the proceedings and of all testimony and evidence offered or produced at such a hearing shall be kept.

''(6) DECISION BASED ON EVIDENCE AT HEARING.—The decision of the judge in the hearing shall be based only on the evidence introduced at the

hearing, including evidence introduced under subsection (e).

''(7) NO RIGHT TO ANCILLARY RELIEF.—In the hearing, the judge is not authorized to consider or provide for relief from removal based on any of the following:

''(A) Asylum under section 208.

''(B) Withholding of deportation under section 243(h).

''(C) Suspension of deportation under section 244(a).

''(D) Voluntary departure under section 244(e).

''(E) Adjustment of status under section 245.

''(F) Registry under section 249.

''(d) SUBPOENAS.—

''(1) REQUEST.—At any time prior to the conclusion of the special removal hearing, either the alien or the Department of Justice may request the judge to issue a subpoena for the presence of a named witness (which subpoena may also command the person to whom it is directed to produce books, papers, documents, or other objects designated therein) upon a satisfactory showing that the pres-

ence of the witness is necessary for the determination of any material matter. Such a request may be made ex parte except that the judge shall inform the Department of Justice of any request for a subpoena by the alien for a witness or material if compliance with such a subpoena would reveal evidence or the source of evidence which has been introduced, or which the Department of Justice has received permission to introduce, in camera and ex parte pursuant to subsection (e) and section 506, and the Department of Justice shall be given a reasonable opportunity to oppose the issuance of such a subpoena.

''(2) PAYMENT FOR ATTENDANCE.—If an application for a subpoena by the alien also makes a showing that the alien is financially unable to pay for the attendance of a witness so requested, the court may order the costs incurred by the process and the fees of the witness so subpoenaed to be paid from funds appropriated for the enforcement of title II.

''(3) NATIONWIDE SERVICE.—A subpoena under this subsection may be served anywhere in the United States.

''(4) WITNESS FEES.—A witness subpoenaed under this subsection shall receive the same fees and

expenses as a witness subpoenaed in connection with a civil proceeding in a court of the United States.

"(5) NO ACCESS TO CLASSIFIED INFORMATION.—Nothing in this subsection is intended to allow an alien to have access to classified information.

"(e) INTRODUCTION OF CLASSIFIED INFORMATION.—

"(1) IN GENERAL.—When classified information has been summarized pursuant to section 506(b) or where a finding has been made under section 506(b)(5) that no summary is possible, classified information shall be introduced (either in writing or through testimony) in camera and ex parte and neither the alien nor the public shall be informed of such evidence or its sources other than through reference to the summary provided pursuant to such section. Notwithstanding the previous sentence, the Department of Justice may, in its discretion and, in the case of classified information, after coordination with the originating agency, elect to introduce such evidence in open session.

"(2) TREATMENT OF ELECTRONIC SURVEILLANCE INFORMATION.—

"(A) USE OF ELECTRONIC SURVEILLANCE.—The Government is authorized to use in a special removal proceedings the fruits of electronic surveillance and unconsented physical searches authorized under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) without regard to subsections (c), (e), (f), (g), and (h) of section 106 of that Act.

"(B) NO DISCOVERY OF ELECTRONIC SURVEILLANCE INFORMATION.—An alien subject to removal under this title shall have no right of discovery of information derived from electronic surveillance authorized under the Foreign Intelligence Surveillance Act of 1978 or otherwise for national security purposes. Nor shall such alien have the right to seek suppression of evidence.

"(C) CERTAIN PROCEDURES NOT APPLICABLE.—The provisions and requirements of section 3504 of title 18, United States Code, shall not apply to procedures under this title.

"(3) RIGHTS OF UNITED STATES.—Nothing in this section shall prevent the United States from seeking protective orders and from asserting privileges ordinarily available to the United States to

1 protect against the disclosure of classified informa-
2 tion, including the invocation of the military and
3 state secrets privileges.

4 ''(f) INCLUSION OF CERTAIN EVIDENCE.—The Fed-
5 eral Rules of Evidence shall not apply to hearings under
6 this section. Evidence introduced at the special removal
7 hearing, either in open session or in camera and ex parte,
8 may, in the discretion of the Department of Justice, in-
9 clude all or part of the information presented under sec-
10 tion 504 used to obtain the order for the hearing under
11 this section.

12 ''(g) ARGUMENTS.—Following the receipt of evi-
13 dence, the attorneys for the Department of Justice and
14 for the alien shall be given fair opportunity to present ar-
15 gument as to whether the evidence is sufficient to justify
16 the removal of the alien. The attorney for the Department
17 of Justice shall open the argument. The attorney for the
18 alien shall be permitted to reply. The attorney for the De-
19 partment of Justice shall then be permitted to reply in
20 rebuttal. The judge may allow any part of the argument
21 that refers to evidence received in camera and ex parte
22 to be heard in camera and ex parte.

23 ''(h) BURDEN OF PROOF.—In the hearing the De-
24 partment of Justice has the burden of showing by clear
25 and convincing evidence that the alien is subject to re-

moval because the alien is an alien terrorist. If the judge finds that the Department of Justice has met this burden, the judge shall order the alien removed and detained pending removal from the United States. If the alien was released pending the special removal hearing, the judge shall order the Attorney General to take the alien into custody.

''(i) WRITTEN ORDER.—At the time of rendering a decision as to whether the alien shall be removed, the judge shall prepare a written order containing a statement of facts found and conclusions of law. Any portion of the order that would reveal the substance or source of information received in camera and ex parte pursuant to subsection (e) shall not be made available to the alien or the public.

''CONSIDERATION OF CLASSIFIED INFORMATION

''SEC. 506. (a) CONSIDERATION IN CAMERA AND EX PARTE.—In any case in which the application for the order authorizing the special procedures of this title is approved, the judge who granted the order shall consider each item of classified information the Department of Justice proposes to introduce in camera and ex parte at the special removal hearing and shall order the introduction of such information pursuant to section 505(e) if the judge determines the information to be relevant.

''(b) PREPARATION AND PROVISION OF WRITTEN SUMMARY.—

"(1) PREPARATION.—The Department of Justice shall prepare a written summary of such classified information which does not pose a risk to national security.

"(2) CONDITIONS FOR APPROVAL BY JUDGE AND PROVISION TO ALIEN.—The judge shall approve the summary so long as the judge finds that the summary is sufficient—

"(A) to inform the alien of the general nature of the evidence that the alien is an alien terrorist, and

"(B) to permit the alien to prepare a defense against deportation.

The Department of Justice shall cause to be delivered to the alien a copy of the summary.

"(3) OPPORTUNITY FOR CORRECTION AND RESUBMITTAL.—If the judge does not approve the summary, the judge shall provide the Department a reasonable opportunity to correct the deficiencies identified by the court and to submit a revised summary.

"(4) CONDITIONS FOR TERMINATION OF PROCEEDINGS IF SUMMARY NOT APPROVED.—

"(A) IN GENERAL.—If, subsequent to the opportunity described in paragraph (3), the

judge does not approve the summary, the judge shall terminate the special removal hearing unless the judge makes the findings described in subparagraph (B).

''(B) FINDINGS.—The findings described in this subparagraph are, with respect to an alien, that—

''(i) the continued presence of the alien in the United States would likely cause serious and irreparable harm to the national security or death or serious bodily injury to any person, and

''(ii) the provision of the required summary would likely cause serious and irreparable harm to the national security or death or serious bodily injury to any person.

''(5) CONTINUATION OF HEARING WITHOUT SUMMARY.—If a judge makes the findings described in paragraph (4)(B)—

''(A) if the alien involved is an alien lawfully admitted for permanent residence, the procedures described in subsection (c) shall apply; and

"(B) in all cases the special removal hearing shall continue, the Department of Justice shall cause to be delivered to the alien a statement that no summary is possible, and the classified information submitted in camera and ex parte may be used pursuant to section 505(e).

"(c) SPECIAL PROCEDURES FOR ACCESS AND CHALLENGES TO CLASSIFIED INFORMATION BY SPECIAL ATTORNEYS IN CASE OF LAWFUL PERMANENT ALIENS.—

"(1) IN GENERAL.—The procedures described in this subsection are that the judge (under rules of the special removal court) shall designate a special attorney to assist the alien—

"(A) by reviewing in camera the classified information on behalf of the alien, and

"(B) by challenging through an in camera proceeding the veracity of the evidence contained in the classified information.

"(2) RESTRICTIONS ON DISCLOSURE.—A special attorney receiving classified information under paragraph (1)—

"(A) shall not disclose the information to the alien or to any other attorney representing the alien, and

"(B) who discloses such information in violation of subparagraph (A) shall be subject to a fine under title 18, United States Code, imprisoned for not less than 10 years nor more than 25 years, or both.

"APPEALS

"SEC. 507. (a) APPEALS OF DENIALS OF APPLICATIONS FOR ORDERS.—The Department of Justice may seek a review of the denial of an order sought in an application by the United States Court of Appeals for the District of Columbia Circuit by notice of appeal which must be filed within 20 days after the date of such denial. In such a case the entire record of the proceeding shall be transmitted to the Court of Appeals under seal and the Court of Appeals shall hear the matter ex parte. In such a case the Court of Appeals shall review questions of law de novo, but a prior finding on any question of fact shall not be set aside unless such finding was clearly erroneous.

"(b) APPEALS OF DETERMINATIONS ABOUT SUMMARIES OF CLASSIFIED INFORMATION.—Either party may take an interlocutory appeal to the United States Court of Appeals for the District of Columbia Circuit of—

"(1) any determination by the judge pursuant to section 506(a)—

"(A) concerning whether an item of evidence may be introduced in camera and ex parte, or

"(B) concerning the contents of any summary of evidence to be introduced in camera and ex parte prepared pursuant to section 506(b); or

"(2) the refusal of the court to make the findings permitted by section 506(b)(4)(B).

In any interlocutory appeal taken pursuant to this subsection, the entire record, including any proposed order of the judge or summary of evidence, shall be transmitted to the Court of Appeals under seal and the matter shall be heard ex parte.

"(c) APPEALS OF DECISION IN HEARING.—

"(1) IN GENERAL.—Subject to paragraph (2), the decision of the judge after a special removal hearing may be appealed by either the alien or the Department of Justice to the United States Court of Appeals for the District of Columbia Circuit by notice of appeal.

"(2) AUTOMATIC APPEALS IN CASES OF PERMANENT RESIDENT ALIENS IN WHICH NO SUMMARY PROVIDED.—

"(A) IN GENERAL.—Unless the alien waives the right to a review under this paragraph, in any case involving an alien lawfully admitted for permanent residence who is denied a written summary of classified information under section 506(b)(4) and with respect to which the procedures described in section 506(c) apply, any order issued by the judge shall be reviewed by the Court of Appeals for the District of Columbia Circuit.

"(B) USE OF SPECIAL ATTORNEY.—With respect to any issue relating to classified information that arises in such review, the alien shall be represented only by the special attorney designated under section 506(c)(1) on behalf of the alien.

"(d) GENERAL PROVISIONS RELATING TO APPEALS.—

"(1) NOTICE.—A notice of appeal pursuant to subsection (b) or (c) (other than under subsection (c)(2)) must be filed within 20 days after the date of the order with respect to which the appeal is sought, during which time the order shall not be executed.

"(2) TRANSMITTAL OF RECORD.—In an appeal or review to the Court of Appeals pursuant to subsection (b) or (c)—

"(A) the entire record shall be transmitted to the Court of Appeals, and

"(B) information received pursuant to section 505(e), and any portion of the judge's order that would reveal the substance or source of such information, shall be transmitted under seal.

"(3) EXPEDITED APPELLATE PROCEEDING.—In an appeal or review to the Court of Appeals pursuant to subsection (b) or (c):

"(A) REVIEW.—The appeal or review shall be heard as expeditiously as practicable and the Court may dispense with full briefing and hear the matter solely on the record of the judge of the special removal court and on such briefs or motions as the Court may require to be filed by the parties.

"(B) DISPOSITION.—The Court shall uphold or reverse the judge's order within 60 days after the date of the issuance of the judge's final order.

"(4) STANDARD FOR REVIEW.—In an appeal or review to the Court of Appeals pursuant to subsection (b) or (c):

"(A) QUESTIONS OF LAW.—The Court of Appeals shall review all questions of law de novo.

"(B) QUESTIONS OF FACT.—(i) Subject to clause (ii), a prior finding on any question of fact shall not be set aside unless such finding was clearly erroneous.

"(ii) In the case of a review under subsection (c)(2) in which an alien lawfully admitted for permanent residence was denied a written summary of classified information under section 506(b)(4), the Court of Appeals shall review questions of fact de novo.

"(e) CERTIORARI.—Following a decision by the Court of Appeals pursuant to subsection (b) or (c), either the alien or the Department of Justice may petition the Supreme Court for a writ of certiorari. In any such case, any information transmitted to the Court of Appeals under seal shall, if such information is also submitted to the Supreme Court, be transmitted under seal. Any order of removal shall not be stayed pending disposition of a

writ of certiorari except as provided by the Court of Appeals or a Justice of the Supreme Court.

''(f) APPEALS OF DETENTION ORDERS.—

''(1) IN GENERAL.— The provisions of sections 3145 through 3148 of title 18, United States Code, pertaining to review and appeal of a release or detention order, penalties for failure to appear, penalties for an offense committed while on release, and sanctions for violation of a release condition shall apply to an alien to whom section 508(b)(1) applies. In applying the previous sentence—

''(A) for purposes of section 3145 of such title an appeal shall be taken to the United States Court of Appeals for the District of Columbia Circuit, and

''(B) for purposes of section 3146 of such title the alien shall be considered released in connection with a charge of an offense punishable by life imprisonment.

''(2) NO REVIEW OF CONTINUED DETENTION.— The determinations and actions of the Attorney General pursuant to section 508(c)(2)(C) shall not be subject to judicial review, including application for a writ of habeas corpus, except for a claim by the alien that continued detention violates the alien's

rights under the Constitution. Jurisdiction over any such challenge shall lie exclusively in the United States Court of Appeals for the District of Columbia Circuit.

''DETENTION AND CUSTODY

''SEC. 508. (a) INITIAL CUSTODY.—

''(1) UPON FILING APPLICATION.—Subject to paragraph (2), the Attorney General may take into custody any alien with respect to whom an application under section 503 has been filed and, notwithstanding any other provision of law, may retain such an alien in custody in accordance with the procedures authorized by this title.

''(2) SPECIAL RULES FOR PERMANENT RESIDENT ALIENS.—An alien lawfully admitted for permanent residence shall be entitled to a release hearing before the judge assigned to hear the special removal hearing. Such an alien shall be detained pending the special removal hearing, unless the alien demonstrates to the court that—

''(A) the alien, if released upon such terms and conditions as the court may prescribe (including the posting of any monetary amount), is not likely to flee, and

"(B) the alien's release will not endanger national security or the safety of any person or the community.

The judge may consider classified information submitted in camera and ex parte in making a determination under this paragraph.

"(3) RELEASE IF ORDER DENIED AND NO REVIEW SOUGHT.—

"(A) IN GENERAL.—Subject to subparagraph (B), if a judge of the special removal court denies the order sought in an application with respect to an alien and the Department of Justice does not seek review of such denial, the alien shall be released from custody.

"(B) APPLICATION OF REGULAR PROCEDURES.—Subparagraph (A) shall not prevent the arrest and detention of the alien pursuant to title II.

"(b) CONDITIONAL RELEASE IF ORDER DENIED AND REVIEW SOUGHT.—

"(1) IN GENERAL.—If a judge of the special removal court denies the order sought in an application with respect to an alien and the Department of Justice seeks review of such denial, the judge shall release the alien from custody subject to the least re-

strictive condition or combination of conditions of release described in section 3142(b) and clauses (i) through (xiv) of section 3142(c)(1)(B) of title 18, United States Code, that will reasonably assure the appearance of the alien at any future proceeding pursuant to this title and will not endanger the safety of any other person or the community.

''(2) NO RELEASE FOR CERTAIN ALIENS.—If the judge finds no such condition or combination of conditions, the alien shall remain in custody until the completion of any appeal authorized by this title.

''(c) CUSTODY AND RELEASE AFTER HEARING.—

''(1) RELEASE.—

''(A) IN GENERAL.—Subject to subparagraph (B), if the judge decides pursuant to section 505(i) that an alien should not be removed, the alien shall be released from custody.

''(B) CUSTODY PENDING APPEAL.—If the Attorney General takes an appeal from such decision, the alien shall remain in custody, subject to the provisions of section 3142 of title 18, United States Code.

''(2) CUSTODY AND REMOVAL.—

''(A) CUSTODY.—If the judge decides pursuant to section 505(i) that an alien shall be re-

moved, the alien shall be detained pending the outcome of any appeal. After the conclusion of any judicial review thereof which affirms the removal order, the Attorney General shall retain the alien in custody and remove the alien to a country specified under subparagraph (B).

''(B) REMOVAL.—

''(i) IN GENERAL.—The removal of an alien shall be to any country which the alien shall designate if such designation does not, in the judgment of the Attorney General, in consultation with the Secretary of State, impair the obligation of the United States under any treaty (including a treaty pertaining to extradition) or otherwise adversely affect the foreign policy of the United States.

''(ii) ALTERNATE COUNTRIES.—If the alien refuses to designate a country to which the alien wishes to be removed or if the Attorney General, in consultation with the Secretary of State, determines that removal of the alien to the country so designated would impair a treaty obligation or adversely affect United States foreign pol-

icy, the Attorney General shall cause the alien to be removed to any country willing to receive such alien.

''(C) CONTINUED DETENTION.—If no country is willing to receive such an alien, the Attorney General may, notwithstanding any other provision of law, retain the alien in custody. The Attorney General, in coordination with the Secretary of State, shall make periodic efforts to reach agreement with other countries to accept such an alien and at least every 6 months shall provide to the attorney representing the alien at the special removal hearing a written report on the Attorney General's efforts. Any alien in custody pursuant to this subparagraph shall be released from custody solely at the discretion of the Attorney General and subject to such conditions as the Attorney General shall deem appropriate.

''(D) FINGERPRINTING.—Before an alien is transported out of the United States pursuant to this subsection, or pursuant to an order of exclusion because such alien is excludable under section 212(a)(3)(B), the alien shall be

photographed and fingerprinted, and shall be advised of the provisions of subsection 276(b).

''(d) CONTINUED DETENTION PENDING TRIAL.—

''(1) DELAY IN REMOVAL.—Notwithstanding the provisions of subsection (c)(2), the Attorney General may hold in abeyance the removal of an alien who has been ordered removed pursuant to this title to allow the trial of such alien on any Federal or State criminal charge and the service of any sentence of confinement resulting from such a trial.

''(2) MAINTENANCE OF CUSTODY.—Pending the commencement of any service of a sentence of confinement by an alien described in paragraph (1), such an alien shall remain in the custody of the Attorney General, unless the Attorney General determines that temporary release of the alien to the custody of State authorities for confinement in a State facility is appropriate and would not endanger national security or public safety.

''(3) SUBSEQUENT REMOVAL.—Following the completion of a sentence of confinement by an alien described in paragraph (1) or following the completion of State criminal proceedings which do not result in a sentence of confinement of an alien released to the custody of State authorities pursuant to para-

graph (2), such an alien shall be returned to the custody of the Attorney General who shall proceed to carry out the provisions of subsection (c)(2) concerning removal of the alien.

''(e) APPLICATION OF CERTAIN PROVISIONS RELATING TO ESCAPE OF PRISONERS.—For purposes of sections 751 and 752 of title 18, United States Code, an alien in the custody of the Attorney General pursuant to this title shall be subject to the penalties provided by those sections in relation to a person committed to the custody of the Attorney General by virtue of an arrest on a charge of a felony.

''(f) RIGHTS OF ALIENS IN CUSTODY.—

''(1) FAMILY AND ATTORNEY VISITS.—An alien in the custody of the Attorney General pursuant to this title shall be given reasonable opportunity to communicate with and receive visits from members of the alien's family, and to contact, retain, and communicate with an attorney.

''(2) DIPLOMATIC CONTACT.—An alien in the custody of the Attorney General pursuant to this title shall have the right to contact an appropriate diplomatic or consular official of the alien's country of citizenship or nationality or of any country providing representation services therefore. The Attor-

ney General shall notify the appropriate embassy, mission, or consular office of the alien's detention.''.

(b) CRIMINAL PENALTY FOR REENTRY OF ALIEN TERRORISTS.—Section 276(b) (8 U.S.C. 1326(b)) is amended—

(1) by striking ''or'' at the end of paragraph (1),

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

(3) by inserting after paragraph (2) the following new paragraph:

''(3) who has been excluded from the United States pursuant to subsection 235(c) because the alien was excludable under subsection 212(a)(3)(B) or who has been removed from the United States pursuant to the provisions of title V, and who thereafter, without the permission of the Attorney General, enters the United States or attempts to do so shall be fined under title 18, United States Code, and imprisoned for a period of 10 years, which sentence shall not run concurrently with any other sentence.''.

(c) ELIMINATION OF CUSTODY REVIEW BY HABEAS CORPUS.—Section 106(a) (8 U.S.C. 1105a(a)) is amended—

(1) by adding ''and'' at the end of paragraph (8),

(2) by striking ''; and'' at the end of paragraph (9) and inserting a period, and

(3) by striking paragraph (10).

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to all aliens without regard to the date of entry or attempted entry into the United States.

**SEC. 322. FUNDING FOR DETENTION AND REMOVAL OF ALIEN TERRORISTS.**

In addition to amounts otherwise appropriated, there are authorized to be appropriated for each fiscal year (beginning with fiscal year 1996) $5,000,000 to the Immigration and Naturalization Service for the purpose of detaining and removing alien terrorists.

## PART 2—INADMISSIBILITY AND DENIAL OF RELIEF FOR ALIEN TERRORISTS

**SEC. 331. MEMBERSHIP IN TERRORIST ORGANIZATION AS GROUND OF INADMISSIBILITY.**

(a) IN GENERAL.—Section 212(a)(3)(B) (8 U.S.C. 1182(a)(3)(B)) is amended—

(1) in clause (i)—

(A) by striking ''or'' at the end of subclause (I),

(B) in subclause (II), by inserting ''engaged in or'' after ''believe,'', and

(C) by inserting after subclause (II) the following:

''(III) is a representative of a terrorist organization, or

''(IV) is a member of a terrorist organization which the alien knows or should have known is a terrorist organization,''; and

(2) by adding at the end the following:

''(iv) TERRORIST ORGANIZATION DEFINED.—

''(I) DESIGNATION.—For purposes of this Act, the term 'terrorist organization' means a foreign organization designated in the Federal Register as a terrorist organization by the Secretary of State, in consultation with the Attorney General, based upon a finding that the organization engages in, or has engaged in, terror-

ist activity that threatens the national security of the United States.

''(II) PROCESS.—At least 3 days before designating an organization as a terrorist organization through publication in the Federal Register, the Secretary of State, in consultation with the Attorney General, shall notify the Committees on the Judiciary of the House of Representatives and the Senate of the intent to make such designation and the findings and basis for designation. The Secretary of State, in consultation with the Attorney General, shall create an administrative record and may use classified information in making such a designation. Such information is not subject to disclosure so long as it remains classified, except that it may be disclosed to a court ex parte and in camera under subclause (III) for purposes of judicial review of such a designation. The Secretary of State, in consultation with the Attorney General,

shall provide notice and an opportunity for public comment prior to the creation of the administrative record under this subclause.

''(III) JUDICIAL REVIEW.—Any organization designated as a terrorist organization under the preceding provisions of this clause may, not later than 30 days after the date of the designation, seek judicial review thereof in the United States Court of Appeals for the District of Columbia Circuit. Such review shall be based solely upon the administrative record, except that the Government may submit, for ex parte and in camera review, classified information considered in making the designation. The court shall hold unlawful and set aside the designation if the court finds the designation to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, lacking substantial support in the administrative record taken as a whole or in classified infor-

mation submitted to the court under the previous sentence, contrary to constitutional right, power, privilege, or immunity, or not in accord with the procedures required by law.

''(IV) CONGRESSIONAL REMOVAL AUTHORITY.—The Congress reserves the authority to remove, by law, the designation of an organization as a terrorist organization for purposes of this Act.

''(V) SUNSET.—Subject to subclause (IV), the designation under this clause of an organization as a terrorist organization shall be effective for a period of 2 years from the date of the initial publication of the terrorist organization designation by the Secretary of State. At the end of such period (but no sooner than 60 days prior to the termination of the 2-year-designation period), the Secretary of State, in consultation with the Attorney General, may redesignate the organization in conformity with the re-

quirements of this clause for designation of the organization.

''(VI) REMOVAL AUTHORITY.—The Secretary of State, in consultation with the Attorney General, may remove the terrorist organization designation from any organization previously designated as such an organization, at any time, so long as the Secretary publishes notice of the removal in the Federal Register. The Secretary is not required to report to Congress prior to so removing such designation.

''(v) REPRESENTATIVE DEFINED.—In this subparagraph, the term 'representative' includes an officer, official, or spokesman of the organization and any person who directs, counsels, commands or induces the organization or its members to engage in terrorist activity.''.

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

**SEC. 332. DENIAL OF RELIEF FOR ALIEN TERRORISTS.**

(a) WITHHOLDING OF DEPORTATION.—Section 243(h)(2) (8 U.S.C. 1253(h)(2)) is amended by adding at the end the following new sentence: ''For purposes of subparagraph (D), an alien who is described in section 241(a)(4)(B) shall be considered to be an alien for whom there are reasonable grounds for regarding as a danger to the security of the United States.''.

(b) SUSPENSION OF DEPORTATION.—Section 244(a) (8 U.S.C. 1254(a)) is amended by striking ''section 241(a)(4)(D)'' and inserting ''subparagraph (B) or (D) of section 241(a)(4)''.

(c) VOLUNTARY DEPARTURE.—Section 244(e)(2) (8 U.S.C. 1254(e)(2)) is amended by inserting ''under section 241(a)(4)(B) or'' after ''who is deportable''.

(d) ADJUSTMENT OF STATUS.—Section 245(c) (8 U.S.C. 1255(c)) is amended—

(1) by striking ''or'' before ''(5)'', and

(2) by inserting before the period at the end the following: '', or (6) an alien who is deportable under section 241(a)(4)(B)''.

(e) REGISTRY.—Section 249(d) (8 U.S.C. 1259(d)) is amended by inserting ''and is not deportable under section 241(a)(4)(B)'' after ''ineligible to citizenship''.

(f) EFFECTIVE DATE.—(1) The amendments made by this section shall take effect on the date of the enact-

ment of this Act and shall apply to applications filed before, on, or after such date if final action has not been taken on them before such date.

(2) The amendments made by subsections (a) through (c) are subsequently superseded by the amendments made by subtitle A.

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

**SEC. 341. DEFINITION OF STOWAWAY.**

(a) STOWAWAY DEFINED.—Section 101(a) (8 U.S.C. 1101(a)) is amended by adding the following new paragraph:

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

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

**SEC. 342. LIST OF ALIEN AND CITIZEN PASSENGERS ARRIVING.**

(a) IN GENERAL.—Section 231(a) (8 U.S.C. 1221(a)) is amended—

(1) by amending the first sentence to read as follows: ''In connection with the arrival of any person by water or by air at any port within the United States from any place outside the United States, it shall be the duty of the master or commanding officer, or authorized agent, owner, or consignee of the vessel or aircraft, having such person on board to deliver to the immigration officers at the port of arrival, or other place designated by the Attorney General, electronic, typewritten, or printed lists or manifests of the persons on board such vessel or aircraft.'';

(2) in the second sentence, by striking ''shall be prepared'' and inserting ''shall be prepared and submitted''; and

(3) by inserting after the second sentence the following sentence: ''Such lists or manifests shall contain, but not be limited to, for each person transported, the person's full name, date of birth, gender, citizenship, travel document number (if applicable) and arriving flight number.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to vessels or aircraft arriving at ports of entry on or after such date (not later than 60 days after the date of the enactment of this Act) as the Attorney General shall specify.

**SEC. 343. TRANSPORTATION LINE RESPONSIBILITY FOR TRANSIT WITHOUT VISA ALIENS.**

(a) IN GENERAL.—Section 238(c) (8 U.S.C. 1228(c)), before redesignation as section 233 under section 308(b)(4), is amended—

(1) by inserting ''(1)'' after ''(a)'', and

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

''(2) Notwithstanding any other provision of this Act and in consideration for bringing aliens transiting through the United States without a visa, a transportation line that has entered into a contract under this section is deemed to have agreed to indemnify the United States against any costs for the detention and removal from the United States of any such alien who for any reason—

''(A) is refused admission to the United States,

''(B) fails to continue the alien's journey to a foreign country within the time prescribed by regulation, or

"(C) is refused admission by the foreign country to which the alien is travelling while transiting through the United States. ".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to aliens arriving in the United States on or after such date (not later than 60 days after the date of the enactment of this Act) as the Attorney General shall specify.

**SEC. 344. CIVIL PENALTIES FOR BRINGING INADMISSIBLE ALIENS FROM CONTIGUOUS TERRITORIES.**

(a) IN GENERAL.—Section 273 (8 U.S.C. 1323) is amended—

(1) in subsection (a), by striking "(other than from foreign contiguous territory)", and

(2) in subsection (b), by striking "$3,000" and inserting "$5,000".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to aliens arriving in the United States on or after such date (not later than 60 days after the date of the enactment of this Act) as the Attorney General shall specify.

# Subtitle D—Additional Provisions

**SEC. 351. DEFINITION OF CONVICTION.**

(a) IN GENERAL.—Section 101(a) (8 U.S.C. 1101(a)), as amended by section 341, is amended by adding at the end the following new paragraph:

''(48) The term 'conviction' means a formal judgment of guilt entered by a court or, if adjudication of guilt has been withheld, where all of the following elements are present:

''(A) A judge or jury has found the alien guilty or the alien has entered a plea of guilty or nolo contendere or has admitted sufficient facts to warrant a finding of guilt.

''(B) The judge has ordered some form of punishment, penalty, or restraint on the alien's liberty to be imposed.

''(C) A judgment or adjudication of guilt may be entered if the alien violates the terms of the probation or fails to comply with the requirements of the court's order, without availability of further proceedings regarding the alien's guilt or innocence of the original charge.''.

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

**SEC. 352. USE OF TERM "IMMIGRATION JUDGE".**

(a) DEFINITION OF TERM.—Paragraph (4) of section 101(b) (8 U.S.C. 1101(b)) is amended to read as follows:

''(4) The term 'immigration judge' means an attorney whom the Attorney General deems specially qualified to conduct specified classes of proceedings, including a hearing under section 240. An immigration judge shall be subject to such supervision and shall perform such duties as the Attorney General shall prescribe, but shall not be employed by the Immigration and Naturalization Service.''.

(b) SUBSTITUTION FOR TERM ''SPECIAL INQUIRY OFFICER''.—The Immigration and Nationality Act is amended by striking ''special inquiry officer'' and ''special inquiry officers'' and inserting ''immigration judge'' and ''immigration judges'', respectively, each place it appears in the following sections:

(1) Section 106(a)(2) (8 U.S.C. 1105a(a)(2)).

(2) Section 209(a)(2) (8 U.S.C. 1159(a)(2)).

(3) Section 234 (8 U.S.C. 1224).

(4) Section 235 (8 U.S.C. 1225).

(5) Section 236 (8 U.S.C. 1226).

(6) Section 242(b) (8 U.S.C. 1252(b)).

(7) Section 242(d)(1) (8 U.S.C. 1252(d)(1)).

(8) Section 292 (8 U.S.C. 1362).

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

**SEC. 353. RESCISSION OF LAWFUL PERMANENT RESIDENT STATUS.**

(a) IN GENERAL.—Section 246(a) (8 U.S.C. 1256(a)) is amended by adding at the end the following sentence: ''Nothing in this subsection shall require the Attorney General to rescind the alien's status prior to commencement of procedures to remove the alien under section 240, and an order of removal issued by an immigration judge shall be sufficient to rescind the alien's status.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the title III–A effective date (as defined in section 309(a)).

**SEC. 354. CIVIL PENALTIES FOR FAILURE TO DEPART.**

(a) IN GENERAL.—The Immigration and Nationality Act is amended by inserting after section 274C the following new section:

''CIVIL PENALTIES FOR FAILURE TO DEPART

''SEC. 274D. (a) IN GENERAL.—Any alien subject to a final order of removal who—

''(1) willfully fails or refuses to—

''(A) depart from the United States pursuant to the order,

''(B) make timely application in good faith for travel or other documents necessary for departure, or

''(C) present for removal at the time and place required by the Attorney General; or

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

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

''(b) CONSTRUCTION.—Nothing in this section shall be construed to diminish or qualify any penalties to which an alien may be subject for activities proscribed by section 243(a) or any other section of this Act.''.

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 274C the following new item:

''Sec. 274D. Civil penalties for failure to depart.''.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to actions occurring on or after the title III–A effective date (as defined in section 309(a)).

**SEC. 355. CLARIFICATION OF DISTRICT COURT JURISDICTION.**

(a) IN GENERAL.—Section 279 (8 U.S.C. 1329) is amended—

(1) by amending the first sentence to read as follows: ''The district courts of the United States shall have jurisdiction of all causes, civil and criminal, brought by the United States that arise under the provisions of this title.'', and

(2) by adding at the end the following new sentence: ''Nothing in this section shall be construed as providing jurisdiction for suits against the United States or its agencies or officers.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to actions filed after the date of the enactment of this Act.

**SEC. 356. USE OF RETIRED FEDERAL EMPLOYEES FOR INSTITUTIONAL HEARING PROGRAM.**

(a) AUTHORIZATION OF TEMPORARY EMPLOYMENT OF CERTAIN ANNUITANTS AND RETIREES.—For the purpose of performing duties in connection with supporting the enhanced Institutional Hearing Program, the Attorney General may employ for a period not to exceed 24 months (beginning 3 months after the date of the enactment of this Act) not more than 300 individuals (at any one time)

who, by reason of separation from service on or before January 1, 1995, are receiving—

(1) annuities under the provisions of subchapter III of chapter 83 of title 5, United States Code, or chapter 84 of such title;

(2) annuities under any other retirement system for employees of the Federal Government; or

(3) retired or retainer pay as retired officers of regular components of the uniformed services.

(b) NO REDUCTION IN ANNUITY OR RETIREMENT PAY OR REDETERMINATION OF PAY DURING TEMPORARY EMPLOYMENT.—

(1) RETIREES UNDER CIVIL SERVICE RETIREMENT SYSTEM AND FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—In the case of an individual employed under subsection (a) who is receiving an annuity described in subsection (a)(1)—

(A) such individual's annuity shall continue during the employment under subsection (a) and shall not be increased as a result of service performed during that employment;

(B) retirement deductions shall not be withheld from such individual's pay; and

(C) such individual's pay shall not be subject to any deduction based on the portion of

such individual's annuity which is allocable to the period of employment.

(2) OTHER FEDERAL RETIREES.—The President shall apply the provisions of paragraph (1) to individuals who are receiving an annuity described in subsection (a)(2) and who are employed under subsection (a) in the same manner and to the same extent as such provisions apply to individuals who are receiving an annuity described in subsection (a)(1) and who are employed under subsection (a).

(3) RETIRED OFFICERS OF THE UNIFORM SERVICES.—The retired or retainer pay of a retired officer of a regular component of a uniformed service shall not be reduced under section 5532 of title 5, United States Code, by reason of temporary employment authorized under subsection (a).

**SEC. 357. ENHANCED PENALTIES FOR FAILURE TO DEPART, ILLEGAL REENTRY, AND PASSPORT AND VISA FRAUD.**

(a) FAILING TO DEPART.—The United States Sentencing Commission shall promptly promulgate, pursuant to section 994 of title 28, United States Code, amendments to the sentencing guidelines to make appropriate increases in the base offense level for offenses under section 242(e) and 276(b) of the Immigration and National-

ity Act (8 U.S.C. 1252(e) and 1326(b)) to reflect the amendments made by section 130001 of the Violent Crime Control and Law Enforcement Act of 1994.

(b) PASSPORT AND VISA OFFENSES.—The United States Sentencing Commission shall promptly promulgate, pursuant to section 994 of title 28, United States Code, amendments to the sentencing guidelines to make appropriate increases in the base offense level for offenses under chapter 75 of title 18, United States Code to reflect the amendments made by section 130009 of the Violent Crime Control and Law Enforcement Act of 1994.

**SEC. 358. AUTHORIZATION OF ADDITIONAL FUNDS FOR REMOVAL OF ALIENS.**

In addition to the amounts otherwise authorized to be appropriated for each fiscal year beginning with fiscal year 1996, there are authorized to be appropriated to the Attorney General $150,000,000 for costs associated with the removal of inadmissible or deportable aliens, including costs of detention of such aliens pending their removal, the hiring of more investigators, and the hiring of more detention and deportation officers.

**SEC. 359. APPLICATION OF ADDITIONAL CIVIL PENALTIES TO ENFORCEMENT.**

(a) IN GENERAL.—Subsection (b) of section 280 (8 U.S.C. 1330(b)) is amended to read as follows:

''(b)(1) There is established in the general fund of the Treasury a separate account which shall be known as the 'Immigration Enforcement Account'. Notwithstanding any other section of this title, there shall be deposited as offsetting receipts into the Immigration Enforcement Account amounts described in paragraph (2) to remain available until expended.

''(2) The amounts described in this paragraph are the following:

''(A) The increase in penalties collected resulting from the amendments made by sections 203(b) and 543(a) of the Immigration Act of 1990.

''(B) Civil penalties collected under sections 240B(d), 274C, 274D, and 275(b).

''(3)(A) The Secretary of the Treasury shall refund out of the Immigration Enforcement Account to any appropriation the amount paid out of such appropriation for expenses incurred by the Attorney General for activities that enhance enforcement of provisions of this title, including—

''(i) the identification, investigation, apprehension, detention, and removal of criminal aliens;

''(ii) the maintenance and updating of a system to identify and track criminal aliens, deportable

aliens, inadmissible aliens, and alien illegally entering the United States; and

''(iii) for the repair, maintenance, or construction on the United States border, in areas experiencing high levels of apprehensions of illegal aliens, of structures to deter illegal entry into the United States.

''(B) The amounts which are required to be refunded under subparagraph (A) shall be refunded at least quarterly on the basis of estimates made by the Attorney General of the expenses referred to in subparagraph (A). Proper adjustments shall be made in the amounts subsequently refunded under subparagraph (A) to the extent prior estimates were in excess of, or less than, the amount required to be refunded under subparagraph (A).''.

(b) IMMIGRATION USER FEE ACCOUNT.—Section 286(h)(1)(B) (8 U.S.C. 1356(h)(1)(B)) is amended by striking ''271'' and inserting ''243(c), 271,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fines and penalties collected on or after the date of the enactment of this Act.

**SEC. 360. PRISONER TRANSFER TREATIES.**

(a) NEGOTIATION.—Congress advises the President to begin to negotiate and renegotiate, not later than 90 days after the date of the enactment of this Act, bilateral

prisoner transfer treaties. The focus of such negotiations shall be—

(1) to expedite the transfer of aliens unlawfully in the United States who are (or are about to be) incarcerated in United States prisons,

(2) to ensure that a transferred prisoner serves the balance of the sentence imposed by the United States courts, and

(3) to eliminate any requirement of prisoner consent to such a transfer.

In entering into such negotiations, the President may consider providing for appropriate compensation in cases where the United States is able to independently verify the adequacy of the sites where aliens will be imprisoned under such a treaty.

(b) CERTIFICATION.—The President shall submit to the Congress, annually, a certification as to whether each prisoner transfer treaty in force is effective in returning aliens unlawfully in the United States who have committed offenses for which they are incarcerated in the United States to their country of nationality for further incarceration.

**SEC. 361. CRIMINAL ALIEN IDENTIFICATION SYSTEM.**

Subsection (a) of section 130002 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–312) is amended to read as follows:

''(a) OPERATION AND PURPOSE.—The Commissioner of Immigration and Naturalization shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien identification system. The criminal alien identification system shall be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be subject to removal by reason of their conviction of aggravated felonies, subject to prosecution under section 275 of such Act, not lawfully present in the United States, or otherwise removable. Such system shall include providing for recording of fingerprint records of aliens who have been previously arrested and removed into appropriate automated fingerprint identification systems.''.

**SEC. 362. WAIVER OF EXCLUSION AND DEPORTATION GROUND FOR CERTAIN SECTION 274C VIOLATORS.**

(a) EXCLUSION GROUNDS.—Section 212 (8 U.S.C. 1182) is amended—

(1) by amending subparagraph (F) of subsection (a)(6) to read as follows:

"(F) SUBJECT OF CIVIL PENALTY.—

"(i) IN GENERAL.—An alien who is the subject of a final order for violation of section 274C is inadmissible.

"(ii) WAIVER AUTHORIZED.—For provision authorizing waiver of clause (i), see subsection (d)(12)."; and

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

"(12) The Attorney General may, in the discretion of the Attorney General for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest, waive application of clause (i) of subsection (a)(6)(F)—

"(A) in the case of an alien lawfully admitted for permanent residence who temporarily proceeded abroad voluntarily and not under an order of deportation and who is otherwise admissible to the United States as a returning resident under section 211(b), and

"(B) in the case of an alien seeking admission or adjustment of status under section 201(b)(2)(A) or under section 203(a),

if the violation under section 274C was committed solely to assist, aid, or support the alien's spouse, parent, son, or daughter (and not another individual).''.

(b) GROUND OF DEPORTATION.—Subparagraph (C) of section 241(a)(3) (8 U.S.C. 1251(a)(3)), before redesignation by section 305(a)(2), is amended to read as follows:

''(C) DOCUMENT FRAUD.—

''(i) IN GENERAL.—An alien who is the subject of a final order for violation of section 274C is deportable.

''(ii) WAIVER AUTHORIZED.—The Attorney General may waive clause (i) in the case of an alien lawfully admitted for permanent residence if the alien's civil money penalty under section 274C was incurred solely to assist, aid, or support the alien's spouse, parent, son, or daughter (and no other individual).''.

**SEC. 363. AUTHORIZING REGISTRATION OF ALIENS ON CRIMINAL PROBATION OR CRIMINAL PAROLE.**

Section 263(a) (8 U.S.C. 1303(a)) is amended by striking ''and (5)'' and inserting ''(5) aliens who are or have been on criminal probation or criminal parole within the United States, and (6)''.

# TITLE IV—ENFORCEMENT OF RESTRICTIONS AGAINST EMPLOYMENT

## SEC. 401. STRENGTHENED ENFORCEMENT OF THE EMPLOYER SANCTIONS PROVISIONS.

(a) IN GENERAL.—The number of full-time equivalent positions in the Investigations Division within the Immigration and Naturalization Service of the Department of Justice beginning in fiscal year 1996 shall be increased by 350 positions above the number of full-time equivalent positions available to such Division as of September 30, 1994.

(b) ASSIGNMENT.—Individuals employed to fill the additional positions described in subsection (a) shall be assigned to investigate violations of the employer sanctions provisions contained in section 274A of the Immigration and Nationality Act, including investigating reports of violations received from officers of the Employment Standards Administration of the Department of Labor.

## SEC. 402. STRENGTHENED ENFORCEMENT OF WAGE AND HOUR LAWS.

(a) IN GENERAL.—The number of full-time equivalent positions in the Wage and Hour Division with the Employment Standards Administration of the Department of Labor beginning in fiscal year 1996 shall be increased

by 150 positions above the number of full-time equivalent positions available to the Wage and Hour Division as of September 30, 1994.

(b) ASSIGNMENT.—Individuals employed to fill the additional positions described in subsection (a) shall be assigned to investigate violations of wage and hour laws in areas where the Attorney General has notified the Secretary of Labor that there are high concentrations of undocumented aliens.

**SEC. 403. CHANGES IN THE EMPLOYER SANCTIONS PROGRAM.**

(a) REDUCING THE NUMBER OF DOCUMENTS ACCEPTED FOR EMPLOYMENT VERIFICATION.—Section 274A(b) (8 U.S.C. 1324a(b)) is amended—

(1) in paragraph (1)(B)—

(A) by adding ''or'' at the end of clause (i),

(B) by striking clauses (ii) through (iv), and

(C) in clause (v), by striking ''or other alien registration card, if the card'' and inserting '', alien registration card, or other document designated by regulation by the Attorney General, if the document'' and redesignating such clause as clause (ii);

(2) by amending subparagraph (C) of paragraph (1) to read as follows:

''(C) SOCIAL SECURITY ACCOUNT NUMBER CARD AS EVIDENCE OF EMPLOYMENT AUTHORIZATION.—A document described in this subparagraph is an individual's social security account number card (other than such a card which specifies on the face that the issuance of the card does not authorize employment in the United States).''; and

(3) by amending paragraph (2) to read as follows:

''(2) INDIVIDUAL ATTESTATION OF EMPLOYMENT AUTHORIZATION AND PROVISION OF SOCIAL SECURITY ACCOUNT NUMBER.—The individual must—

''(A) attest, under penalty of perjury on the form designated or established for purposes of paragraph (1), that the individual is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Attorney General to be hired, recruited, or referred for such employment; and

"(B) provide on such form the individual's social security account number.".

(b) EMPLOYMENT ELIGIBILITY CONFIRMATION PROCESS.—Section 274A (8 U.S.C. 1324a) is amended—

(1) in subsection (a)(3), by inserting "(A)" after "DEFENSE.—", and by adding at the end the following:

"(B) FAILURE TO SEEK AND OBTAIN CONFIRMATION.—In the case of a hiring of an individual for employment in the United States, if such a person or entity—

"(i) has not made an inquiry, under the mechanism established under subsection (b)(6), seeking confirmation of the identity, social security number, and work eligibility of the individual, by not later than the end of 2 working days (as specified by the Attorney General) after the date of the hiring, the defense under subparagraph (A) shall not be considered to apply with respect to any employment after such 2 working days, and

"(ii) has made the inquiry described in clause (i) but has not received an appropriate confirmation of such identity, number, and work eligibility under such mechanism within

the time period specified under subsection (b)(6)(D)(iii) after the time the confirmation inquiry was received, the defense under subparagraph (A) shall not be considered to apply with respect to any employment after the end of such time period.'';

(2) by amending paragraph (3) of subsection (b) to read as follows:

''(3) RETENTION OF VERIFICATION FORM AND CONFIRMATION.—After completion of such form in accordance with paragraphs (1) and (2), the person or entity must—

''(A) retain the form and make it available for inspection by officers of the Service, the Special Counsel for Immigration-Related Unfair Employment Practices, or the Department of Labor during a period beginning on the date of the hiring, recruiting, or referral of the individual and ending—

''(i) in the case of the recruiting or referral for a fee (without hiring) of an individual, three years after the date of the recruiting or referral, and

''(ii) in the case of the hiring of an individual—

"(I) three years after the date of such hiring, or

"(II) one year after the date the individual's employment is terminated, whichever is later; and

"(B) for individuals hired on or after October 1, 1999 (or, in a State with respect to which a pilot program described in section 403(e)(2)(B) of the Immigration in the National Interest Act of 1995 is in effect, on or after such earlier date as the Attorney General specifies), seek (within 2 working days of the date of hiring) and have (within the time period specified under paragraph (6)(D)(iii)) the identity, social security number, and work eligibility of the individual confirmed in accordance with the procedures established under paragraph (6)."; and

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

"(6) EMPLOYMENT ELIGIBILITY CONFIRMATION PROCESS.—

"(A) IN GENERAL.—The Attorney General shall establish a confirmation mechanism

through which the Attorney General (or a designee of the Attorney General)—

"(i) responds to inquiries by employers, made through a toll-free telephone line or other electronic media in the form of an appropriate confirmation code or otherwise, on whether an individual is authorized to be employed by that employer, and

"(ii) maintains a record that such an inquiry was made and the confirmation provided (or not provided).

"(B) EXPEDITED PROCEDURE IN CASE OF NO CONFIRMATION.—In connection with subparagraph (A), the Attorney General shall establish, in consultation with the Commissioner of Social Security and the Commissioner of the Service, expedited procedures that shall be used to confirm the validity of information used under the confirmation mechanism in cases in which the confirmation is sought but is not provided through the confirmation mechanism.

"(C) DESIGN AND OPERATION OF MECHANISM.—The confirmation mechanism shall be designed and operated to maximize—

"(i) the reliability of the confirmation process, and

"(ii) the ease of use by employers, recruiters, and referrers,

consistent with insulating and protecting the privacy and security of the underlying information.

"(D) CONFIRMATION PROCESS.—(i) As part of the confirmation mechanism, the Commissioner of Social Security shall establish a reliable, secure method, which within the time period specified under clause (iii), compares the name and social security account number provided against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided and whether the account number indicates that the individual is authorized to be employed in the United States. The Commissioner shall not disclose or release social security information.

"(ii) As part of the confirmation mechanism, the Commissioner of the Service shall establish a reliable, secure method, which, within the time period specified under clause (iii),

compares the name and alien identification number (if any) provided against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided and whether the alien is authorized to be employed in the United States.

''(iii) For purposes of this section, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Service, an expedited time period within which confirmation is to be provided through the confirmation mechanism.

''(iv) The Commissioners shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information.

''(E) PROTECTIONS.—(i) In no case shall an individual be denied employment because of inaccurate or inaccessible data under the confirmation mechanism.

''(ii) The Attorney General shall assure that there is a timely and accessible process to challenge nonconfirmations made through the mechanism.

"(F) TESTER PROGRAM.—As part of the confirmation mechanism, the Attorney General shall implement a program of testers and investigative activities (similar to testing and other investigative activities assisted under the fair housing initiatives program under section 561 of the Housing and Community Development Act of 1987 to enforce rights under the Fair Housing Act) in order to monitor and prevent unlawful discrimination under the mechanism.".

(c) REDUCTION OF PAPERWORK FOR CERTAIN EMPLOYEES.—Section 274A(a) (8 U.S.C. 1324a(a)) is amended by adding at the end the following new paragraph:

"(6) TREATMENT OF DOCUMENTATION FOR CERTAIN EMPLOYEES.—

"(A) IN GENERAL.—For purposes of paragraphs (1)(B) and (3), if—

"(i) an individual is a member of a collective-bargaining unit and is employed, under a collective bargaining agreement entered into between one or more employee organizations and an association of two or more employers, by an employer that is a member of such association, and

"(ii) within the period specified in subparagraph (B), another employer that is a member of the association (or an agent of such association on behalf of the employer) has complied with the requirements of subsection (b) with respect to the employment of the individual,

the subsequent employer shall be deemed to have complied with the requirements of subsection (b) with respect to the hiring of the employee and shall not be liable for civil penalties described in subsection (e)(5).

"(B) PERIOD.—The period described in this subparagraph is—

"(i) up to 5 years in the case of an individual who has presented documentation identifying the individual as a national of the United States or as an alien lawfully admitted for permanent residence; or

"(ii) up to 3 years (or, if less, the period of time that the individual is authorized to be employed in the United States) in the case of another individual.

"(C) LIABILITY.—

"(i) IN GENERAL.—If any employer that is a member of an association hires for employment in the United States an individual and relies upon the provisions of subparagraph (A) to comply with the requirements of subsection (b) and the individual is an unauthorized alien, then for the purposes of paragraph (1)(A), subject to clause (ii), the employer shall be presumed to have known at the time of hiring or afterward that the individual was an unauthorized alien.

"(ii) REBUTTAL OF PRESUMPTION.—The presumption established by clause (i) may be rebutted by the employer only through the presentation of clear and convincing evidence that the employer did not know (and could not reasonably have known) that the individual at the time of hiring or afterward was an unauthorized alien.".

(d) ELIMINATION OF DATED PROVISIONS.—Section 274A (8 U.S.C. 1324a) is amended by striking subsections (i) through (n).

(e) EFFECTIVE DATES.—

(1) Except as provided in this subsection, the amendments made by this section shall apply with respect to hiring (or recruiting or referring) occurring on or after such date (not later than 180 days after the date of the enactment of this Act) as the Attorney General shall designate.

(2)(A) The Attorney General shall establish the employment eligibility confirmation mechanism (described in section 274A(b)(6) of the Immigration and Nationality Act, as added by subsection (b)) by not later than October 1, 1999.

(B) Before establishing the mechanism, the Attorney General shall undertake such pilot projects for all employers, in at least 5 of the 7 States with the highest estimated population of unauthorized aliens, as will test and assure that the mechanism implemented is reliable and easy to use. Such projects shall be initiated not later than 6 months after the date of the enactment of this Act.

(C) The Attorney General shall submit to the Congress, beginning in 1997, annual reports on the development and implementation of the mechanism.

(3) The amendment made by subsection (c) shall apply to individuals hired on or after 60 days after the date of the enactment of this Act.

(4) The amendment made by subsection (d) shall take effect on the date of the enactment of this Act.

**SEC. 404. REPORTS ON EARNINGS OF ALIENS NOT AUTHORIZED TO WORK.**

Subsection (c) of section 290 (8 U.S.C. 1360) is amended to read as follows:

''(c)(1) Not later than 3 months after the end of each fiscal year (beginning with fiscal year 1995), the Commissioner of Social Security shall report to the Committees on the Judiciary of the House of Representatives and the Senate on the aggregate number of social security account numbers issued to aliens not authorized to be employed to which earnings were reported to the Social Security Administration in such fiscal year.

''(2) If earnings are reported on or after January 1, 1996, to the Social Security Administration on a social security account number issued to an alien not authorized to work in the United States, the Commissioner of Social Security shall provide the Attorney General with information regarding the name and address of the alien, the name and address of the person reporting the earnings, and the amount of the earnings. The information shall be provided in an electronic form agreed upon by the Commissioner and the Attorney General.''.

**SEC. 405. AUTHORIZING MAINTENANCE OF CERTAIN INFORMATION ON ALIENS.**

Section 264 (8 U.S.C. 1304) is amended by adding at the end the following new subsection:

''(f) Notwithstanding any other provision of law, the Attorney General is authorized to require any alien to provide the alien's social security account number for purposes of inclusion in any record of the alien maintained by the Attorney General or the Service.''.

**SEC. 406. LIMITING LIABILITY FOR CERTAIN TECHNICAL VIOLATIONS OF PAPERWORK REQUIREMENTS.**

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

(1) by striking ''and'' at the end of subparagraph (C),

(2) by striking the period at the end of subparagraph (D) and inserting '', and'', and

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

''(E) under which a person or entity shall not be considered to have failed to comply with the requirements of subsection (b) based upon a technical or procedural failure to meet a requirement of such subsection in which there was a good faith attempt to comply with the re-

quirement unless (i) the Service (or another enforcement agency) has explained to the person or entity the basis for the failure, (ii) the person or entity has been provided a period of not less than 10 business days (beginning after the date of the explanation) within which to correct the failure, and (iii) the person or entity has not corrected the failure voluntarily within such period, except that this subparagraph shall not apply with respect to the engaging by any person or entity of a pattern or practice of violations of subsection (a)(1)(A) or (a)(2).''.

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

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

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

(1) in subparagraph (A), by adding at the end the following: ''Such order also shall require the person or entity to comply with the requirements of clauses (ii) and (vi) of subparagraph (B).'';

(2) in subparagraph (B), by striking ''Such an order'' and inserting ''Subject to the second sentence of subparagraph (A), such an order''; and

(3) in subparagraph (B)(vi), by inserting before the semicolon at the end the following: ''and to certify the fact of such education''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to orders issued on or after the first day of the first month beginning at least 90 days after the date of the enactment of this Act.

# TITLE V—REFORM OF LEGAL IMMIGRATION SYSTEM

## SEC. 500. OVERVIEW OF NEW LEGAL IMMIGRATION SYSTEM.

This title amends the legal immigration provisions of the Immigration and Nationality Act so as to provide for the following (beginning with fiscal year 1997):

(1) DIVISION OF IMMIGRATION AMONG 3 CATEGORIES.—There will be a worldwide level of immigration of approximately 535,000, divided among—

(A) family-sponsored immigrants, with a worldwide annual numerical limitation (after a transition) of approximately 330,000,

(B) employment-based immigrants, with a worldwide annual numerical limitation of 135,000, and

(C) humanitarian immigrants, with a worldwide annual numerical limitation (after a transition) of approximately 70,000.

Congress is required to reevaluate and reauthorize these numbers every 5 years.

(2) FAMILY-SPONSORED IMMIGRANTS.—

(A) CATEGORIES.—Family-sponsored immigrants are (i) spouses and children of citizens, (ii) spouses and children of permanent resident aliens, and (iii) parents of adult United States citizens if a majority of the sons and daughters of the parents are in the United States and the parents meet certain insurance requirements.

(B) NUMERICAL LIMITATIONS.—

(i) There will be no direct numerical limit on admission of spouses and children of United States citizens.

(ii) The annual numerical limit on admission of spouses and children of permanent residents will be below 85,000.

(3) EMPLOYMENT-BASED IMMIGRANTS.—Employment-based immigrants will fall within the following categories and numerical limitations:

(A) EXTRAORDINARY IMMIGRANTS.—First, aliens with extraordinary ability, up to 15,000 each year.

(B) VERY HIGHLY SKILLED IMMIGRANTS.—Second, aliens with exceptional ability, who are members of the professions holding advanced degrees, or who are multinational executives and managers, up to 60,000 each year, plus any left from the previous category.

(C) OTHER PROFESSIONALS AND SKILLED WORKERS.—Third, aliens who are either other professionals with a baccalaureate degree and at least 5 years' experience or skilled workers with at least 7 years of training and work experience, up to 45,000 each year, plus any left from the previous category.

(D) INVESTORS.—Fourth, aliens who are investing at least $1,000,000 in enterprises in the United States that will employ at least 10 workers, up to 10,000 each year (with a 2-year pilot program for those investing at least

$500,000 in enterprises employing at least 5 workers).

(E) CERTAIN SPECIAL IMMIGRANTS.—Lastly, aliens who fall within certain classes of special immigrants (such as religious ministers, aliens who have worked for the Government abroad, certain long-term alien employees of international organizations, certain dependent juveniles, and certain long-term alien members of the Armed Forces), up to 5,000 each year.

(4) HUMANITARIAN IMMIGRANTS.—Humanitarian immigrants will fall within the following categories and numerical limitations:

(A) REFUGEES.—Refugees, subject to a numerical limitation (after a transition and excluding emergency refugees) of 50,000 or such higher number as the Congress may provide by law.

(B) ASYLEES.—Aliens seeking asylum, subject to no numerical limitation in any year. As under current law, asylees may adjust to permanent residence status at a rate of up to 10,000 each year.

(C) OTHER HUMANITARIAN IMMIGRANTS.—Other immigrants who are of special

humanitarian concern to the United States, up to 10,000 each year.

(5) TRANSITION.—

(A) ADDITIONAL VISA NUMBERS FOR SPOUSES AND MINOR, UNMARRIED CHILDREN OF PERMANENT RESIDENT ALIENS.—In order to reduce the current backlog for spouses and minor, unmarried children of lawful permanent residents, there will be at least an additional 50,000 immigrant visa numbers made available for these aliens for each of 5 fiscal years, with priority for spouses and children of aliens who did not participate in a legalization program.

(B) PHASE-DOWN IN NORMAL FLOW REFUGEE NUMERICAL LIMITATION.—The annual numerical limitation on non-emergency refugees (without specific approval of Congress) will be phased down to 75,000 in fiscal year 1997 and 50,000 in fiscal year 1998 and thereafter.

# Subtitle A—Worldwide Numerical Limits

## SEC. 501. WORLDWIDE NUMERICAL LIMITATION ON FAMILY-SPONSORED IMMIGRANTS.

(a) OVERVIEW.—

(1) The amendment made by subsection (b) provides for a worldwide level of family-sponsored immigrants of 330,000 less the number of spouses and children of citizens admitted in the previous year.

(2) However, there will be no limit on spouses and children of citizens nor would the number of visas available to spouses and children of lawful permanent residents go below 85,000.

(3) Any excess in family immigration above 330,000 would come from other unused visas and, if necessary, from future visa numbers.

(4) If there are any unused family visas, those visas would be added to the spouses and children of lawful permanent resident aliens.

(b) AMENDMENT.—Subsection (c) of section 201 (8 U.S.C. 1151) is amended to read as follows:

''(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.—

''(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, the worldwide level of family-sponsored immigrants under this subsection (in this subsection referred to as the 'worldwide family level') for a fiscal year is 330,000.

"(2) REDUCTION FOR SPOUSES AND CHILDREN OF UNITED STATES CITIZENS AND CERTAIN OTHER FAMILY-RELATED IMMIGRANTS.—The worldwide family level for a fiscal year shall be reduced (but not below 85,000) by the number of aliens described in subsection (b)(2) who were issued immigrant visas or who otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence in the previous fiscal year.

"(3) FURTHER REDUCTION FOR ANY PREVIOUS EXCESS FAMILY IMMIGRATION.—

"(A) IN GENERAL.—If there are excess family admissions in a particular fiscal year (as determined under subparagraph (B)) beginning with fiscal year 1997, then for the following fiscal year the worldwide family level shall be reduced (but not below 85,000) by the net number of excess admissions in that particular fiscal year (as defined in subparagraph (C)).

"(B) DETERMINATION OF EXCESS FAMILY ADMISSIONS.—For purposes of subparagraph (A), there are excess family admissions in a fiscal year if—

"(i) the number of aliens who are issued immigrant visas or who otherwise ac-

quire the status of aliens lawfully admitted to the United States for permanent residence under section 203(a) or subsection (b)(2) in a fiscal year, exceeds

''(ii) 330,000, less the carryforward number of excess admissions computed for the previous fiscal year (as defined in subparagraph (D)).

For purposes of this subparagraph, immigrant visa numbers issued under section 553 of the Immigration in the National Interest Act of 1995 (relating to certain transition immigrants) shall not be counted under clause (i).

''(C) NET NUMBER OF EXCESS ADMISSIONS.—For purposes of subparagraph (A), the 'net number of excess admissions' for a fiscal year is—

''(i) the excess described in subparagraph (B) for the fiscal year, reduced (but not below zero) by

''(ii) the number (if any) by which the worldwide level under subsection (d) for the previous fiscal year exceeds the number of immigrants who are issued immigrant visas or who otherwise acquire the status

of aliens lawfully admitted to the United States for permanent residence under section 203(b) in that previous fiscal year.

''(D) CARRYFORWARD NUMBER OF EXCESS ADMISSIONS.—For purposes of subparagraph (B)(ii), the carryforward number of excess admissions for a particular fiscal year is the net number of excess admissions for the previous fiscal year (as defined in subparagraph (C)), reduced by the reductions effected under subparagraph (A) and paragraph (4) in visa numbers for the particular fiscal year.

''(4) ADJUSTMENT IN CERTAIN EMPLOYMENT-BASED VISA NUMBERS IN CASE OF REMAINING EXCESS FAMILY ADMISSIONS.—

''(A) IN GENERAL.—If there is a remaining excess number of family admissions (as described in subparagraph (B)) in a fiscal year (beginning with fiscal year 1997) that is greater than zero, then for the following fiscal year there shall be reductions in immigrant visa numbers made available, pursuant to subsection (d) and paragraphs (3) and (4) of section 203(b), as follows:

"(i) FIRST, ADJUSTMENT OF UP TO ½ OF NUMBERS OF VISAS FOR INVESTORS.—First, the number of immigrant visa numbers made available under section 203(b)(4) shall be reduced by the lesser of—

"(I) the remaining excess number of family admissions (described in subparagraph (B)), or

"(II) ½ of the maximum number of visa numbers that could (but for this paragraph) otherwise be made available under section 203(b)(4) in such following fiscal year.

"(ii) THEN, ADJUSTMENT OF UP TO ½ OF NUMBERS OF VISAS FOR PROFESSIONALS AND SKILLED WORKERS.—If the remaining excess number of family admissions is greater than the reduction in visa numbers effected under clause (i), then the number of immigrant visa numbers made available under section 203(b)(3) shall be reduced by the lesser of—

"(I) the remaining excess number of family admissions (described in

subparagraph (B)) less the reduction in visa numbers effected under clause (i), or

''(II) ½ of the maximum number of visa numbers that could (but for this paragraph) otherwise be made available under section 203(b)(3) in such following fiscal year.

''(B) REMAINING EXCESS NUMBER OF FAMILY ADMISSIONS DESCRIBED.—For purposes of subparagraph (A), the remaining excess number of family admissions in a fiscal year is the net number of excess admissions for the fiscal year (as defined in paragraph (3)(C)), reduced by the reduction (if any) effected under paragraph (3) in visa numbers for the succeeding fiscal year.''.

**SEC. 502. WORLDWIDE NUMERICAL LIMITATION ON EMPLOYMENT-BASED IMMIGRANTS.**

Subsection (d) of section 201 (8 U.S.C. 1151) is amended to read as follows:

''(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED IMMIGRANTS.—The worldwide level of employment-based immigrants under this subsection for a fiscal year is—

''(1) 135,000, minus

''(2) beginning with fiscal year 1998, the total of the reductions (if any) in visa numbers made under subsection (c)(4) for that fiscal year.''.

**SEC. 503. ESTABLISHMENT OF NUMERICAL LIMITATION ON HUMANITARIAN IMMIGRANTS.**

(a) IN GENERAL.—Section 201 (8 U.S.C. 1151) is amended—

(1) in subsection (a)(3), by striking ''1995, diversity'' and inserting ''1997, humanitarian'', and

(2) by amending subsection (e) to read as follows:

''(e) WORLDWIDE LEVEL OF HUMANITARIAN IMMIGRANTS.—

''(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, the worldwide level of humanitarian immigrants is equal to 70,000 for each fiscal year.

''(2) REDUCTION FOR HUMANITARIAN IMMIGRANTS WHO ARE REFUGEES OR ASYLEES.—Such worldwide level for a fiscal year under paragraph (1) shall be reduced by the sum of—

''(A) 50,000, or, if less, the number of aliens who were admitted as refugees under section 207 in the previous fiscal year, and

"(B) the number of aliens who had been granted asylum whose status was adjusted in the previous fiscal year under section 209(b).

"(3) REDUCTION FOR PRIOR YEAR CANCELLATION OF REMOVAL AND REGISTRY.—Such worldwide level for a fiscal year under paragraph (1) shall be further reduced by the sum of—

"(A) the number of aliens whose removal was canceled and who were provided lawful permanent resident status in the previous fiscal year under section 240A, and

"(B) the number of aliens who were provided permanent resident status in the previous fiscal year under section 249.

"(4) LIMITATION.—In no case shall the worldwide level for a fiscal year under this subsection (taking into account any reductions under paragraphs (2) and (3)) exceed 10,000.".

**SEC. 504. REQUIRING CONGRESSIONAL REVIEW AND REAUTHORIZATION OF WORLDWIDE LEVELS EVERY 5 YEARS.**

Section 201 (8 U.S.C. 1151) is amended by adding at the end the following new subsection:

"(f) REQUIREMENT FOR PERIODIC REVIEW AND REAUTHORIZATION OF WORLDWIDE LEVELS.—

"(1) CONGRESSIONAL REVIEW.—The Committees on the Judiciary of the House of Representatives and of the Senate shall undertake during fiscal year 2004 (and each fifth fiscal year thereafter) a thorough review of the appropriate worldwide levels of immigration to be provided under this section during the 5-fiscal-year period beginning with the second subsequent fiscal year.

"(2) CONGRESSIONAL REAUTHORIZATION.—The Congress, after consideration of the reviews under paragraph (1) and by law, shall specify the appropriate worldwide levels of immigration to be provided under this section during the 5-fiscal-year period beginning with the second subsequent fiscal year.

"(3) SUNSET IN ABSENCE OF REAUTHORIZATION.—The worldwide levels specified under the previous provisions of this section are applicable only to fiscal years 1997 through 2005 and admissions after fiscal year 2005 that are subject to such levels are only authorized to the extent provided by amendment under paragraph (2) made to this section.".

# Subtitle B—Changes in Preference System

**SEC. 511. LIMITATION OF IMMEDIATE RELATIVES TO SPOUSES AND CHILDREN.**

(a) RECLASSIFICATION.—Section 201(b)(2)(A) (8 U.S.C. 1151(b)(2)(A)) is amended—

(1) in clause (i)—

(A) by striking ''IMMEDIATE RELATIVES.—'' and all that follows through the end of the first sentence and inserting ''An alien who is a spouse or child of a citizen of the United States.'', and

(B) in the second sentence, by striking ''an immediate relative'' and inserting ''a spouse of a citizen of the United States''; and

(2) in clause (ii), by striking ''an immediate relative'' and inserting ''a spouse of a citizen of the United States''.

(b) PROTECTION OF CERTAIN CHILDREN FROM AGING OUT OF PREFERENCE STATUS.—

(1) IN GENERAL.—Section 204 (8 U.S.C. 1154) is amended by adding at the end the following new subsection:

''(i) For purposes of applying section 101(b)(1) in the case of issuance of an immigrant visa to, or admission or

adjustment of status of, an alien under section 201(b)(1)(A), section 203(a)(1), or 203(d) as a child of a citizen of the United States or a permanent resident alien, the age of the alien shall be determined as of the date of the filing of the classification petition under section 204(a)(1) as such a child of a citizen of the United States or a permanent resident alien.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to immigrant visas issued on or after October 1, 1996.

**SEC. 512. CHANGE IN FAMILY-SPONSORED CLASSIFICATION.**

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

''(1) SPOUSES AND CHILDREN OF LAWFUL PERMANENT RESIDENT ALIENS.—Immigrants who are the spouses and children of an alien lawfully admitted for permanent residence shall be allocated visas in a number not to exceed 85,000, plus any immigrant visas not required for the class described in paragraph (2).

''(2) PARENTS OF UNITED STATES CITIZENS.—

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

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

''(i) 50,000, or

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

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

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

(b) INSURANCE REQUIREMENT.—Section 212(a)(4) (8 U.S.C. 1182(a)(4)), as amended by section 621(a) of this Act, is amended by adding at the end the following new subparagraph:

"(D) INSURANCE REQUIREMENTS FOR QUALIFYING PARENTS.—

"(i) IN GENERAL.—Any alien who seeks admission as a qualifying parent under section 203(a)(2) is inadmissible unless the alien demonstrates at the time of issuance of the visa (and at the time of admission) to the satisfaction of the consular officer and the Attorney General that the alien—

"(I) will have coverage under an adequate health insurance policy (at least comparable to coverage provided under the medicare program under title XVIII of the Social Security Act), and

"(II) will have coverage with respect to long-term health needs (at least comparable to such coverage provided under the medicaid program under title XIX of such Act for the State in which either the alien intends to reside or in which the petitioner (on behalf of the alien under section 204(a)(1)) resides,

throughout the period the individual is residing in the United States.

''(ii) FACTORS TO BE TAKEN INTO ACCOUNT.—In making a determination under clause (i), the Attorney General shall take into account the age of the qualifying parent and the likelihood of the parent securing health insurance coverage through employment.''.

**SEC. 513. CHANGE IN EMPLOYMENT-BASED CLASSIFICATION.**

(a) IN GENERAL.—Section 203(b) (8 U.S.C. 1153(b)) is amended by striking paragraphs (1) through (5) and inserting the following:

''(1) ALIENS WITH EXTRAORDINARY ABILITY.—Visas shall first be made available in a number not to exceed 15,000 of such worldwide level to immigrants—

''(A) who have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through sufficient documentation,

"(B) who seek to be admitted into the United States to continue work in the area of extraordinary ability, and

"(C) whose admission into the United States will substantially benefit prospectively the United States.

"(2) ALIENS WHO ARE MEMBERS OF THE PROFESSIONS HOLDING ADVANCED DEGREES OR ALIENS OF EXCEPTIONAL ABILITY.—

"(A) IN GENERAL.—Visas shall be made available, in a number not to exceed 60,000 of such worldwide level, plus any visas not required for the class specified in paragraph (1), to immigrants who are aliens described in subparagraph (B) or (C).

"(B) ALIENS WHO ARE MEMBERS OF THE PROFESSIONS HOLDING ADVANCED DEGREES OR ALIENS OF EXCEPTIONAL ABILITY.—

"(i) IN GENERAL.—An alien is described in this subparagraph if the alien is a member of a profession holding an advanced degree or its equivalent or who because of exceptional ability in the sciences, arts, or business will substantially benefit prospectively the national economy, cul-

tural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.

''(ii) DETERMINATION OF EXCEPTIONAL ABILITY.—In determining under clause (i) whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning or a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

''(iii) LABOR CERTIFICATION REQUIRED.—An immigrant visa may not be issued to an immigrant under this subparagraph until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(5)(A).

''(C) CERTAIN MULTINATIONAL EXECUTIVES AND MANAGERS.—An alien is described

in this subparagraph if the alien, in the 3 years preceding the time of the alien's application for classification and admission into the United States under this subparagraph, has been employed for at least 1 year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof and the alien seeks to enter the United States in order to continue to render services to the same employer or to a subsidiary or affiliate thereof in a capacity that is managerial or executive.

''(3) SKILLED WORKERS AND PROFESSIONALS.—

''(A) IN GENERAL.—Visas shall be made available, in a number not to exceed 45,000 of such worldwide level, plus any visas not required for the classes specified in paragraphs (1) and (2) less the reduction in visa numbers under this paragraph required to be effected under section 201(c)(4)(A)(ii) for the fiscal year involved, to aliens described in subparagraph (B) or (C).

''(B) SKILLED WORKERS.—An alien described in this subparagraph is an immigrant who is capable, at the time a petition is filed,

of performing skilled labor (requiring at least 2 years training or experience), not of a temporary or seasonal nature, for which qualified workers are not available in the United States, who has a total of 7 years of training or experience (or both) with respect to such labor.

''(C) PROFESSIONALS.—(i) An alien described in this subparagraph is an immigrant who holds a baccalaureate degree and is a member of the professions and, subject to clause (ii), has at least 5 years of experience in the profession after the receipt of the degree.

''(ii) An alien who is a teacher and has (within the previous 5 years) at least 2 years of experience teaching a language (other than English) full-time at an accredited elementary or middle school may be classified and admitted as a professional under this subparagraph notwithstanding that the alien does not have 5 years of experience in the profession if the alien is seeking admission to teach such language full-time in an accredited elementary or middle school.

''(D) LABOR CERTIFICATION REQUIRED.—An immigrant visa may not be issued to an im-

migrant under this paragraph until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(5)(A).

''(4) INVESTORS IN JOB CREATION.—

''(A) IN GENERAL.—Visas shall be made available, in a number not to exceed 10,000 of such worldwide level less the reduction in visa numbers under this paragraph required to be effected under section 201(c)(4)(A)(i) for the fiscal year involved, to immigrants seeking to enter the United States for the purpose of engaging in a new commercial enterprise—

''(i) which the alien has established,

''(ii) in which such alien has invested (after the date of the enactment of the Immigration Act of 1990), or is actively in the process of investing, capital in an amount not less $1,000,000, and

''(iii) which will benefit the United States economy and create full-time employment for not fewer than 10 United States citizens or aliens lawfully admitted for permanent residence or other immigrants lawfully authorized to be employed

in the United States (other than the immigrant and the immigrant's spouse, sons, or daughters).

''(B) PILOT PROGRAM.—For each of fiscal years 1997 and 1998, up to 2,000 visas otherwise made available under this paragraph shall be made available to immigrants who would be described in subparagraph (A) if '$500,000' were substituted for '$1,000,000' in subparagraph (A)(ii) and if 'for not fewer than 5' were substituted for 'for not fewer than 10' in subparagraph (A)(iii). By not later than April 1, 1998, the Attorney General shall submit to Congress a report on the operation of this subparagraph and shall include in the report information describing the immigrants admitted under this paragraph and the enterprises they invest in and a recommendation on whether the pilot program under this subparagraph should be continued or modified.

''(5) CERTAIN SPECIAL IMMIGRANTS.—Visas shall be made available, in a number not to exceed 5,000 of such worldwide level, to qualified special immigrants described in section 101(a)(27) (other than those described in subparagraph (A) thereof),

of which not more than 4,000 may be made available in any fiscal year to special immigrants described in subclause (II) or (III) of section 101(a)(27)(C)(ii).''.

(b) CONDITIONAL STATUS FOR CERTAIN FOREIGN LANGUAGE TEACHERS.—(1) Title II is amended by inserting after section 216A the following new section:

''CONDITIONAL PERMANENT RESIDENT STATUS FOR CERTAIN FOREIGN LANGUAGE TEACHERS

''SEC. 216B. (a) IN GENERAL.—Subject to the succeeding provisions of this section, section 216A shall apply to an alien foreign language teacher (as defined in subsection (d)(1)) and to an alien spouse or alien child (as defined in subsection (d)(2)) in the same manner as such section applies to an alien entrepreneur and an alien spouse or alien child.

''(b) TIMING FOR PETITION.—

''(1) IN GENERAL.—In applying section 216A under subsection (a), any reference to a 'second anniversary of an alien's lawful admission for permanent residence' is deemed a reference to the end of the time period described in paragraph (2).

''(2) TIME PERIOD FOR DETERMINATION.—The time period described in this paragraph is 5 years less the period of experience, during the 5-year period ending on the date the alien foreign language

teacher obtains permanent resident status, of teaching a language (other than English) full-time at an accredited elementary or middle school.

''(c) REQUIREMENT FOR TOTAL OF 5 YEARS' TEACHING EXPERIENCE.—In applying section 216A under subsection (a), the determination of the Attorney General under subsection (b)(1) of such section shall be whether (and the facts and information under subsection (d)(1) of such section shall demonstrate that) the alien has been employed on a substantially full-time basis as a foreign language teacher at an accredited elementary or middle school in the United States during the period since obtaining permanent residence status (instead of the determinations described in section 216A(b)(1) and of the facts and information described in section 216A(d)(1)).

''(d) DEFINITIONS.—In this section:

''(1) The term 'alien foreign language teacher' means an alien who obtains the status of an alien lawfully admitted for permanent residence (whether on a conditional basis or otherwise) under section 203(b)(3)(C)(ii) on the basis of less than 5 years' teaching experience.

''(2) The term 'alien spouse' and the term 'alien child' mean an alien who obtains the status of an alien lawfully admitted for permanent residence

(whether on a conditional basis or otherwise) by virtue of being the spouse or child, respectively, of an alien foreign language teacher.''.

(2) The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 216A the following:

''Sec. 216B. Conditional permanent resident status for certain foreign language teachers.''.

**SEC. 514. AUTHORIZATION TO REQUIRE PERIODIC CONFIRMATION OF CLASSIFICATION PETITIONS.**

(a) IN GENERAL.—Section 204(b) (8 U.S.C. 1154(b)) is amended by inserting ''(1)'' after ''(b)'' and by adding at the end the following new paragraph:

''(2)(A) The Attorney General may provide that a petition approved with respect to an alien (and the priority date established with respect to the petition) shall expire after a period (specified by the Attorney General and of not less than 2 years) following the date of approval of the petition, unless the petitioner files with the Attorney General a form described in subparagraph (B).

''(B) The Attorney General shall specify the form to be used under this paragraph. Such form shall be designed—

''(i) to reconfirm the continued intention of the petitioner to seek admission of the alien based on the classification involved, and

''(ii) as may be provided by the Attorney General, to update the contents of the original classification petition.

''(C) The Attorney General may apply subparagraph (A) to one or more classes of classification petitions and for different periods of time for different classes of such petitions, as specified by the Attorney General.''.

(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by subsection (a) shall not apply to classification petitions filed before October 1, 1996.

(2) The Attorney General may apply such amendments to such classification petitions, but only in a manner so that no such petition expires under such amendments before October 1, 2000.

**SEC. 515. CHANGES IN SPECIAL IMMIGRANT STATUS.**

(a) REPEALING CERTAIN OBSOLETE PROVISIONS.—Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended by striking subparagraphs (B), (E), (F), (G), and (H).

(b) SPECIAL IMMIGRANT STATUS FOR CERTAIN NATO CIVILIAN EMPLOYEES.—Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is further amended—

(1) by striking ''or'' at the end of subparagraph (J),

(2) by striking the period at the end of subparagraph (K) and inserting ''; or'', and

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

''(L) an immigrant who would be described in clause (i), (ii), (iii), or (iv) of subparagraph (I) if any reference in such a clause—

''(i) to an international organization described in paragraph (15)(G)(i) were treated as a reference to the North American Treaty Organization (NATO);

''(ii) to a nonimmigrant under paragraph (15)(G)(iv) were treated as a reference to a nonimmigrant classifiable under NATO–6 (as a member of a civilian component accompanying a force entering in accordance with the provisions of the NATO Status-of-Forces Agreement, a member of a civilian component attached to or employed by an Allied Headquarters under the 'Protocol on the Status of International Military Headquarters' set up pursuant to the North Atlantic Treaty, or as a dependent); and

''(iii) to the Immigration Technical Corrections Act of 1988 or to the Immigration and

Nationality Technical Corrections Act of 1994 were a reference to the Immigration in the National Interest Act of 1995.''.

(c) CONFORMING NONIMMIGRANT STATUS FOR CERTAIN PARENTS OF SPECIAL IMMIGRANT CHILDREN.—Section 101(a)(15)(N) (8 U.S.C. 1101(a)(15)(N)) is amended—

(1) by inserting ''(or under analogous authority under paragraph (27)(L))'' after ''(27)(I)(i)'', and

(2) by inserting ''(or under analogous authority under paragraph (27)(L))'' after ''(27)(I)''.

(d) EXTENSION OF SUNSET FOR RELIGIOUS WORKERS.—Section 101(a)(27)(C)(ii) (8 U.S.C. 1101(a)(27)(C)(ii)) is amended by striking ''1997'' and inserting ''2005'' each place it appears.

(e) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 201(b)(1)(A) (8 U.S.C. 1151(b)(1)(A)) is amended by striking ''or (B)''.

(2) Section 203(b)(4) (8 U.S.C. 1153(b)(4)) is amended by striking ''or (B)''.

(3) Section 214(l)(3) (8 U.S.C. 1184(l)(3)), as redesignated by section 815(a)(4)(A) of this Act, is amended by striking '', who has not otherwise been accorded status under section 101(a)(27)(H),''.

(4) Section 245(c)(2) (8 U.S.C. 1255(c)(2)) is amended by striking ''101(a)(27)(H), (I),'' and inserting ''101(a)(27)(I),''.

(f) EFFECTIVE DATES.—(1) Except as provided in this section, the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendments made by subsection (a) shall not apply to any alien with respect to whom an application for special immigrant status under a subparagraph repealed by such amendments has been filed by not later than September 30, 1996.

**SEC. 516. REQUIREMENTS FOR REMOVAL OF CONDITIONAL STATUS OF ENTREPRENEURS.**

(a) IN GENERAL.—Section 216A(b) (8 U.S.C. 1186b(b)) is amended—

(1) by amending clause (ii) of paragraph (1)(B) to read as follows:

''(ii) subject to paragraph (3), the alien did not invest (and maintain investment of) the requisite capital, or did not employ the requisite number of employees, throughout substantially the entire period since the alien's admission; or'', and

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

"(3) EXCEPTIONS.—

"(A) GOOD FAITH EXCEPTION.—Paragraph (1)(B)(ii) shall not apply to an alien to the extent that the alien continues to attempt in good faith throughout the period since admission to invest (and maintain investment of) the requisite capital, and to employ the requisite number of employees, but was unable to do so due to circumstances for which the alien should not justly be held responsible.

"(B) EXTENSION.—In the case of an alien to whom the exception under subparagraph (A) applies, the application period under subsection (d)(2) (and period for termination under paragraph (1)) shall be extended (for up to 3 additional years) by such additional period as may be necessary to enable the alien to have had the requisite capital and number of employees throughout a 2-year period. Such extension shall terminate at any time at which the Attorney General finds that the alien has not continued to attempt in good faith to invest such capital and employ such employees.".

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

**SEC. 517. MISCELLANEOUS CONFORMING AMENDMENTS.**

(a) CONFORMING AMENDMENTS RELATING TO IMMEDIATE RELATIVES.—

(1) Section 101(b)(1)(F) (8 U.S.C. 1101(b)(1)(F)) is amended by striking ''as an immediate relative under section 201(b)'' and inserting ''as a child of a citizen of the United States''.

(2) Section 204 (8 U.S.C. 1154) is amended—

(A) in subsection (a)(1)(A)(i), by striking ''paragraph (1), (3), or (4) of section 203(a) or to an immediate relative status'' and inserting ''section 203(a)(2) or to status as the spouse or child of a citizen of the United States'';

(B) in subsection (a)(1)(A)(iii), by striking ''as an immediate relative'' and inserting ''as the spouse of a citizen of the United States'';

(C) in subsection (a)(1)(iv), by striking ''as an immediate relative'' and inserting ''as a child of a citizen of the United States'';

(D) in subsection (b), by striking ''an immediate relative specified in section 201(b)''

and inserting ''a spouse or child of a citizen of the United States under section 201(b)'';

(E) in subsection (c), by striking ''an immediate relative or preference'' and inserting ''a preferential'';

(F) in subsection (e)—

(i) by striking ''an immediate relative'' and inserting ''a spouse or child of a citizen of the United States'', and

(ii) by striking ''his'' and ''he'' and inserting ''the alien's'' and ''the alien'', respectively; and

(G) in subsection (g), by striking ''immediate relative status'' and inserting ''status as a spouse or child of a citizen of the United States or other''.

(3) Section 212(a)(6)(E)(ii) (8 U.S.C. 1182(a)(6)(E)(ii)) is amended by striking ''an immediate relative'' and inserting ''a spouse, child, or parent of a citizen of the United States''.

(4) Section 212(d)(11) (8 U.S.C. 1182(d)(11)) is amended by striking ''an immediate relative'' and inserting ''a spouse or child of a citizen of the United States''.

(5) Section 216(g)(1)(A) (8 U.S.C. 1186a(g)(1)(A)) is amended by striking ''an immediate relative (described in section 201(b)) as the spouse of a citizen of the United States'' and inserting ''as the spouse of a citizen of the United States (described in section 201(b))''.

(6) Section 221(a) (8 U.S.C. 1201(a)) is amended by striking '', immediate relative,''.

(7)(A) Section 224 (8 U.S.C. 1204) is amended—

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

''VISAS FOR SPOUSES AND CHILDREN OF CITIZENS AND SPECIAL IMMIGRANTS'',

(ii) by striking ''immediate relative'' the first place it appears and inserting ''a spouse or child of a citizen of the United States'', and

(iii) by striking ''immediate relative status'' and inserting ''status or status as a spouse or child of a citizen of the United States''.

(B) The item in the table of contents relating to section 224 is amended to read as follows:

''Sec. 224. Visas for spouses and children of citizens and special immigrants.''.

(8) Subsection (a)(1)(E)(ii) of section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(2), is amended by striking ''an imme-

diate relative'' and inserting ''a spouse, child, or parent of a citizen of the United States under section 201(b) or 203(a)(2)''.

(9) Section 245(c) (8 U.S.C. 1255(c)) is amended by striking ''an immediate relative as defined in section 201(b)'' and inserting ''a spouse or child of a citizen of the United States under section 201(b) or a parent of a citizen under section 203(a)(2)'' each place it appears.

(10) Section 291 (8 U.S.C. 1361) is amended by striking ''immigrant, special immigrant, immediate relative'' and inserting ''immigrant status, special immigrant status, status as a spouse or child of a citizen of the United States''.

(11) Section 401 of the Immigration Reform and Control Act of 1986 is amended by striking ''immediate relatives'' and inserting ''spouses and children of citizens''.

(b) CONFORMING AMENDMENTS FOR OTHER FAMILY-SPONSORED IMMIGRANTS.—

(1) PETITIONING REQUIREMENTS.—Section 204 (8 U.S.C. 1154) is amended—

(A) in subsection (a)(1)(B)(i), by striking ''203(a)(2)'' and inserting ''203(a)(1)'';

(B) in clauses (ii) and (iii) of subsection (a)(1), by striking ''203(a)(2)(A)'' and inserting ''203(a)(1)''; and

(C) in subsection (f)(1), by striking '', 203(a)(1), or 203(a)(3)'' and inserting ''or 203(a)(2)''.

(2) APPLICATION OF PER COUNTRY LEVELS.—Section 202 (8 U.S.C. 1152) is amended—

(A) by amending paragraph (4) of subsection (a) to read as follows:

''(4) SPECIAL RULES FOR SPOUSES AND CHILDREN OF LAWFUL PERMANENT RESIDENT ALIENS.—

''(A) 75 PERCENT OF 1ST PREFERENCE NOT SUBJECT TO PER COUNTRY LIMITATION.—Of the visa numbers made available under section 203(a) to immigrants described in paragraph (1) of that section in any fiscal year, 63,750 shall be issued without regard to the numerical limitation under paragraph (2).

''(B) LIMITING PASS DOWN FOR CERTAIN COUNTRIES SUBJECT TO SUBSECTION (e).—In the case of a foreign state or dependent area to which subsection (e) applies, if the total number of visas issued under section 203(a)(1) exceeds the maximum number of visas that may be

made available to immigrants of the state or area under such section consistent with subsection (e) (determined without regard to this paragraph), in applying paragraph (2) of section 203(a) under subsection (e)(2) all visas shall be deemed to have been required for the classes specified in paragraph (1) of such section.''; and

(B) in subsection (e)—

(i) in paragraph (1), by inserting before the semicolon the following: ''(determined without regard to subsections (c)(4) and (d)(2) of section 201)'',

(ii) in paragraph (2), by striking ''paragraphs (1) through (4)'' and inserting ''paragraphs (1) and (2)'', and

(iii) in the last sentence, by striking ''203(a)(2)(A)'' and inserting ''203(a)(1)''.

(3) ADDITIONAL CONFORMING AMENDMENTS.—

(A) Section 203(d) (8 U.S.C. 1153(d)) is amended by striking ''(a)'' and inserting ''(a)(2)''.

(B) Section 212(a)(6)(E)(ii) (8 U.S.C. 1182(a)(6)(E)(ii)) is amended by striking ''203(a)(2)'' and inserting ''203(a)(1)''.

(C) Section 212(d)(11) (8 U.S.C. 1182(d)(11)) is amended by striking ''immigrant under section 203(a) (other than paragraph (4) thereof)'' and inserting ''an immigration under section 203(a)''.

(D) Section 216(g)(1)(C) (8 U.S.C. 1186a(g)(1)(C)) is amended by striking ''203(a)(2)'' and inserting ''203(a)(1)''.

(E) Section 241(a)(1)(E)(ii) (8 U.S.C. 1251(a)(1)(E)(ii)), before redesignation as section 237 under section 305(a)(2), is amended by striking ''203(a)(2)'' and inserting ''203(a)(1)''.

(F) Section 2(c) of the Virgin Islands Nonimmigrant Alien Adjustment Act of 1982 (Public Law 97–271) is amended—

(i) in paragraph (2), by inserting ''or first family preference petitions'' after ''second preference petitions'';

(ii) in paragraph (3)(A), by striking ''or'' at the end;

(iii) in paragraph (3)(B), by striking the period at the end and inserting '', or'';

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

''(C) by virtue of a first family preference petition filed by an individual who was admitted to the United States as an immigrant by virtue of a second family preference petition filed by the son or daughter of the individual, if that son or daughter had his or her status adjusted under this section.''; and

(v) in paragraph (4), by striking ''on or after such date).'' and inserting the following: ''on or after such date and before October 1, 1996). For purposes of this subsection, the terms 'first family preference petition' and 'second family preference petition' mean, in the case of an alien, a petition filed under section 204(a) of the Act to grant preference status to the alien by reason of the relationship described in section 203(a)(1) or 203(a)(2), respectively (as in effect on and after October 1, 1996).''.

(c) CONFORMING AMENDMENTS RELATING TO EMPLOYMENT-BASED IMMIGRANTS.—

(1) TREATMENT OF SPECIAL K IMMIGRANTS.—Section 203(b)(6)(B) (8 U.S.C. 1153(b)(6)(B)) is amended—

(A) in clause (i), by striking ''reduced by ⅓'' and inserting ''reduced by the same proportion, as the proportion (of the visa numbers made available under all such paragraphs) that were made available under each respective paragraph,'', and

(B) in clause (iii), by striking ''reduced by ⅓'' and inserting ''reduced by the same proportion, as the proportion (of the visa numbers made available under all such paragraphs to natives of the foreign state) that were made available under each respective paragraph to such natives,''.

(2) CONFORMING AMENDMENTS RELATING TO PETITIONING RIGHTS.—Section 204(a)(1) (8 U.S.C. 1154(a)(1)) is amended—

(A) in subparagraph (C), by striking ''203(b)(1)(A)'' and inserting ''203(b)(1)'';

(B) in subparagraph (D), by striking ''section 203(b)(1)(B), 203(b)(1)(C), 203(b)(2), or 203(b)(3)'' and inserting ''section 203(b)(2) or 203(b)(3)'';

(C) in subparagraph (E)(i), by striking ''203(b)(4)'' and inserting ''203(b)(5)'';

(D) in subparagraph (F), by striking ''203(b)(5)'' and inserting ''203(b)(4)''; and

(E) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (E), respectively, and by moving subparagraph (E) (as so redesignated) to precede subparagraph (F) (as so redesignated).

(3) GROUND FOR INADMISSIBILITY.—Section 212(a)(5)(C) (8 U.S.C. 1182(a)(5)(C)) is amended by striking ''(2)'' and inserting ''(2)(B)''.

(4) OTHER CONFORMING AMENDMENTS.—

(A) Subsections (b)(1)(C) and (f)(1) of section 216A (8 U.S.C. 1186b) are each amended by striking ''203(b)(5)'' and inserting ''203(b)(4)''.

(B) Section 245(j)(3) (8 U.S.C. 1255(j)(3)), as added by section 130003(c)(1) Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) and as redesignated by section 815(a)(4)(A) of this Act, is amended by striking ''203(b)(4)'' and inserting ''203(b)(5)''.

(C) Section 154(b)(1)(B)(i) of the Immigration Act of 1990 is amended by striking ''1991)'' and inserting ''1991, and before Octo-

ber 1, 1996) or under section 203(a), 203(b)(1), or 203(b)(2)(C) (as in effect on and after October 1, 1996)''.

(D) Section 206(a) of the Immigration Act of 1990 is amended by striking ''203(b)(1)(C)'' and inserting ''203(b)(2)(C)''.

(E) Section 610 of Public Law 102–395 is amended—

(i) in subsection (a), by striking ''section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5))'' and inserting ''section 203(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(4))'',

(ii) in subsection (b), by striking ''section 203(b)(5)'' and inserting ''section 203(b)(4)'', and

(iii) in subsection (c), by striking ''203(b)(5)(A)(iii)'' and inserting ''203(b)(4)(A)(iii)''.

(F) Section 2(d)(2) of the Chinese Student Protection Act of 1992 (Public Law 102–404) is amended—

(i) in subparagraph (A), by striking ''203(b)(3)(A)(i)'' and inserting ''203(b)(3)(B)'', and

(ii) in subparagraph (B), by striking ''203(b)(5)'' and inserting ''203(b)(4)''.

(G) The Soviet Scientists Immigration Act of 1992 (Public Law 102–509) is amended—

(i) in sections 3 and 4(a), by striking ''203(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(2)(A))'' and inserting ''203(b)(2)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(2)(B)(i))'', and

(ii) in section 4(c), by striking ''203(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(2)(A))'' and inserting ''203(b)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(2)(B))''.

(d) REPEAL OF CERTAIN OUTDATED PROVISIONS.—The following provisions of law are repealed:

(1) Section 9 of Public Law 94–571 (90 Stat. 2707).

(2) Section 19 of Public Law 97-116 (95 Stat. 1621).

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

**SEC. 521. CHANGES IN REFUGEE ANNUAL ADMISSIONS.**

(a) IN GENERAL.—Paragraphs (1) and (2) of section 207(a) (8 U.S.C. 1157(a)) are amended to read as follows:

''(1) Except as provided in paragraph (2) and subsection (b), the number of refugees who may be admitted under this section in any fiscal year shall be such number as the President determines, before the beginning of the fiscal year and after appropriate consultation, is justified by humanitarian concerns or is otherwise in the national interest.

''(2)(A) Except as provided in subparagraph (B), the number determined under paragraph (1) for a fiscal year may not exceed—

''(i) 75,000 in the case of fiscal year 1997, or

''(ii) 50,000 in the case of any succeeding fiscal year.

''(B) The number determined under paragraph (1) for a fiscal year may exceed the limit specified under subparagraph (A) if Congress enacts a law providing for a higher number.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply beginning with fiscal year 1997.

**SEC. 522. FIXING NUMERICAL ADJUSTMENTS FOR ASYLEES AT 10,000 EACH YEAR.**

(a) IN GENERAL.—Section 209(b) (8 U.S.C. 1159(b)) of such Act is amended by striking ''Not more than'' and all that follows through ''who—'' and inserting the following: ''The Attorney General, in the Attorney General's discretion and under such regulations as the Attorney General may prescribe, and in a number not to exceed 10,000 aliens in any fiscal year, may adjust to the status of an alien lawfully admitted for permanent residence the status of any alien granted asylum who—''.

(b) CONFORMING AMENDMENT.—Section 207(a) (8 U.S.C. 1157(a)) is amended by striking paragraph (4).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1996.

**SEC. 523. INCREASED RESOURCES FOR REDUCING ASYLUM APPLICATION BACKLOGS.**

(a) AUTHORIZATION OF TEMPORARY EMPLOYMENT OF CERTAIN ANNUITANTS AND RETIREES.—

(1) IN GENERAL.—For the purpose of performing duties in connection with adjudicating applications for asylum pending as of the date of the enactment of this Act, the Attorney General may employ for a period not to exceed 24 months (beginning 3 months after the date of the enactment of this Act) not more than 300 individuals (at any one time)

who, by reason of separation from service on or before January 1, 1995, are receiving—

(A) annuities under the provisions of subchapter III of chapter 83 of title 5, United States Code, or chapter 84 of such title;

(B) annuities under any other retirement system for employees of the Federal Government; or

(C) retired or retainer pay as retired officers of regular components of the uniformed services.

(2) NO REDUCTION IN ANNUITY OR RETIREMENT PAY OR REDETERMINATION OF PAY DURING TEMPORARY EMPLOYMENT.—

(A) RETIREES UNDER CIVIL SERVICE RETIREMENT SYSTEM AND FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—In the case of an individual employed under paragraph (1) who is receiving an annuity described in paragraph (1)(A)—

(i) such individual's annuity shall continue during the employment under paragraph (1) and shall not be increased as a result of service performed during that employment;

(ii) retirement deductions shall not be withheld from such individual's pay; and

(iii) such individual's pay shall not be subject to any deduction based on the portion of such individual's annuity which is allocable to the period of employment.

(B) OTHER FEDERAL RETIREES.—The President shall apply the provisions of subparagraph (A) to individuals who are receiving an annuity described in paragraph (1)(B) and who are employed under paragraph (1) in the same manner and to the same extent as such provisions apply to individuals who are receiving an annuity described in paragraph (1)(A) and who are employed under paragraph (1).

(C) RETIRED OFFICERS OF THE UNIFORM SERVICES.—The retired or retainer pay of a retired officer of a regular component of a uniformed service shall not be reduced under section 5532 of title 5, United States Code, by reason of temporary employment authorized under paragraph (1).

(b) PROCEDURES FOR PROPERTY ACQUISITION ON LEASING.—Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et

seq.), the Attorney General is authorized to expend out of funds made available to the Department of Justice for the administration of the Immigration and Nationality Act such amounts as may be necessary for the leasing or acquisition of property to carry out the purpose described in subsection (a)(1).

(c) INCREASE IN ASYLUM OFFICERS.—Subject to the availability of appropriations, the Attorney General shall provide for an increase in the number of asylum officers to at least 600 asylum officers by fiscal year 1997.

**SEC. 524. PAROLE AVAILABLE ONLY ON A CASE-BY-CASE BASIS FOR HUMANITARIAN REASONS OR SIGNIFICANT PUBLIC BENEFIT.**

(a) IN GENERAL.—Paragraph (5) of section 212(d) (8 U.S.C. 1182(d)) is amended to read as follows:

''(5) HUMANITARIAN AND PUBLIC INTEREST PAROLE.—

''(A) IN GENERAL.—Subject to the provisions of this paragraph and section 214(f)(2), the Attorney General, in the sole discretion of the Attorney General, may on a case-by-case basis parole an alien into the United States temporarily, under such conditions as the Attorney General may prescribe, only—

''(i) for an urgent humanitarian reason (as described under subparagraph (B)); or

"(ii) for a reason deemed strictly in the public interest (as described under subparagraph (C)).

"(B) HUMANITARIAN PAROLE.—The Attorney General may parole an alien based on an urgent humanitarian reason described in this subparagraph only if—

"(i) the alien has a medical emergency and the alien cannot obtain necessary treatment in the foreign state in which the alien is residing or the medical emergency is life-threatening and there is insufficient time for the alien to be admitted through the normal visa process;

"(ii) the alien is needed in the United States in order to donate an organ or other tissue for transplant into a close family member; or

"(iii) the alien has a close family member in the United States whose death is imminent and the alien could not arrive in the United States in time to see such family member alive if the alien were to be admitted through the normal visa process.

"(C) PUBLIC INTEREST PAROLE.—The Attorney General may parole an alien based on a reason

deemed strictly in the public interest described in this subparagraph only if the alien has assisted the United States Government in a matter, such as a criminal investigation, espionage, or other similar law enforcement activity, and either the alien's presence in the United States is required by the Government or the alien's life would be threatened if the alien were not permitted to come to the United States.

''(D) LIMITATION ON THE USE OF PAROLE AUTHORITY.—The Attorney General may not use the parole authority under this paragraph to permit to come to the United States aliens who have applied for and have been found to be ineligible for refugee status or any alien to whom the provisions of this paragraph do not apply.

''(E) PAROLE NOT AN ADMISSION.—Parole of an alien under this paragraph shall not be considered an admission of the alien into the United states. When the purposes of the parole of an alien have been served, as determined by the Attorney General, the alien shall immediately return or be returned to the custody from which the alien was paroled and the alien shall be considered for admission

to the United States on the same basis as other similarly situated applicants for admission.

''(F) REPORT TO CONGRESS.—Not later than 90 days after the end of each fiscal year, the Attorney General shall submit a report to the Committees on the Judiciary of the House of Representatives and the Senate describing the number and categories of aliens paroled into the United States under this paragraph. Each such report shall contain information and data concerning the number and categories of aliens paroled, the duration of parole, and the current status of aliens paroled during the preceding fiscal year.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

**SEC. 525. ADMISSION OF HUMANITARIAN IMMIGRANTS.**

(a) IN GENERAL.—Subsection (c) of section 203 (8 U.S.C. 1153) is amended to read as follows:

''(c) HUMANITARIAN IMMIGRANTS.—

''(1) IN GENERAL.—Aliens subject to the worldwide level specified in section 201(e) for humanitarian immigrants shall be allotted visas only if the aliens have been selected by the Attorney General,

under paragraph (2), as of special humanitarian concern to the United States.

''(2) SELECTION OF IMMIGRANTS.—

''(A) IN GENERAL.—The Attorney General shall, on a case-by-case basis and based on humanitarian concerns and the public interest, select aliens for purposes of this subsection.

''(B) RESTRICTION.—The Attorney General may not select an alien under this paragraph if the alien is a refugee (within the meaning of section 101(a)(42)) unless the Attorney General determines that compelling reasons in the public interest with respect to that particular alien require that the alien be admitted into the United States as a humanitarian immigrant under this subsection rather than as a refugee under section 207.

''(3) ANNUAL REPORT.—Not later than 90 days after the end of each fiscal year, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report describing the number of immigrant visas issued under this subsection and the individuals to whom the visas were issued.''.

(b) PETITIONING.—Subparagraph (G) of section 204(a)(1) (8 U.S.C. 1154(a)(1)) is amended to read as follows:

''(G) Any alien desiring to be provided an immigrant visa under section 203(c) may file a petition with the Attorney General for such classification, but only if the Attorney General has identified the alien as possibly qualifying for such a visa.''.

(c) ORDER OF CONSIDERATION.—Section 203 (8 U.S.C. 1153) is amended—

(1) by amending paragraph (2) of subsection (e) to read as follows:

''(2) Immigrant visa numbers made available under subsection (c) (relating to humanitarian immigrants) shall be issued to eligible immigrants in an order specified by the Attorney General.'', and

(2) in subsection (g), by striking ''(a), (b), and (c)'' and inserting ''(a) and (b)''.

(d) APPLICATION OF PER COUNTRY NUMERICAL LIMITATIONS.—Section 202(a) (8 U.S.C. 1152(a)) is amended by adding at the end the following new paragraph:

''(5) PER COUNTRY LEVELS FOR HUMANITARIAN IMMIGRANTS.—The total number of immigrant visas made available to natives of any single

foreign state or dependent area under section 203(c) in any fiscal year may not exceed 50 percent (in the case of a single foreign state) or 15 percent (in the case of a dependent area) of the total number of such visas made available under such subsection in that fiscal year.''.

(e) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—Section 212(a) (8 U.S.C. 1182(a)) is amended—

(1) in paragraph (4), as amended by section 621, by adding at the end the following new subparagraph:

''(C) WAIVER AUTHORIZED FOR HUMANITARIAN IMMIGRANTS.—The Attorney General, in the discretion of the Attorney General, may waive the ground of inadmissibility under subparagraph (A) in the case of an alien seeking admission as a humanitarian immigrant under section 203(c).'';

(2) in paragraph (5)(C), by inserting before the period at the end the following: '', and shall not apply to immigrants seeking admissions as humanitarian immigrants under section 203(c)''; and

(3) in paragraph (7)(A), by redesignating clause (ii) as clause (iii) and by inserting after clause (i) the following new clause:

''(ii) WAIVER AUTHORIZED FOR HUMANITARIAN IMMIGRANTS.—The Attorney General, in the discretion of the Attorney General, may waive the ground of inadmissibility under clause (i) in the case of an alien seeking admission as a humanitarian immigrant under section 203(c).''.

(f) CONFORMING AMENDMENTS RELATING TO ELIMINATION OF DIVERSITY PROGRAM.—

(1) Section 141(c) of the Immigration Act of 1990 is amended by striking paragraph (2).

(2) Section 204(b)(1) of Immigration Act of 1990 is amended by inserting '', as in effect before fiscal year 1996'' after ''Immigration and Nationality Act''.

**SEC. 526. ASYLUM REFORM.**

(a) ASYLUM REFORM.—Section 208 (8 U.S.C. 1158) is amended to read as follows:

''ASYLUM

''SEC. 208. (a) AUTHORITY TO APPLY FOR ASYLUM.—Any alien who is physically present in the United States or who arrives in the United States (whether or not at a designated port of arrival), at a land border or

port of entry, irrespective of such alien's status, may apply for asylum in accordance with this section.

''(b) CONDITIONS FOR GRANTING ASYLUM.—

''(1) MANDATORY AUTHORITY.—The Attorney General shall grant asylum to an alien if the alien applies for asylum in accordance with the requirements of this section and establishes that it is more likely than not that in the alien's country of nationality (or, in the case of a person having no nationality, the country in which such alien last habitually resided) such alien's life or freedom would be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion.

''(2) DISCRETIONARY AUTHORITY.—The Attorney General may grant asylum to an alien if the alien applies for asylum in accordance with the requirements of this section and establishes that the alien is a refugee within the meaning of section 101(a)(42).

''(3) LIMITATIONS.—(A) Paragraphs (1) and (2) shall not apply to an alien if the Attorney General determines that—

''(i) the alien ordered, incited, assisted, or otherwise participated in the persecution of any

person on account of race, religion, nationality, membership in a particular social group, or political opinion;

''(ii) the alien, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the United States;

''(iii) there are serious reasons for believing that the alien has committed a serious nonpolitical crime outside the United States prior to the arrival of the alien in the United States;

''(iv) there are reasonable grounds for regarding the alien as a danger to the security of the United States;

''(v) the alien is inadmissible under subclause (I), (II), or (III) of section 212(a)(3)(B)(i) or removable under section 237(a)(4)(B) (relating to terrorist activity); or

''(vi) a country willing to accept the alien has been identified (other than the country described in paragraph (1)) to which the alien can be removed or returned and the alien does not establish that it is more likely than not that the alien's life or freedom would be threatened in such country on account of race, religion, na-

tionality, membership in a particular social group, or political opinion.

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

''(ii) The Attorney General shall promulgate regulations that specify additional crimes that will be considered to be a crime described in subparagraph (A)(ii) or (A)(iii).

''(iii) The Attorney General shall promulgate regulations establishing such additional limitations and conditions as the Attorney General considers appropriate under which an alien shall be ineligible to apply for asylum under paragraph (2).

''(c) ASYLUM STATUS.—

''(1) IN GENERAL.—In the case of any alien granted asylum under subsection (b), the Attorney General, in accordance with this section—

''(A) shall not remove or return the alien to the country described in subsection (b)(1);

''(B) shall authorize the alien to engage in employment in the United States and provide the alien with an 'employment authorized' en-

dorsement or other appropriate work permit; and

''(C) may allow the alien to travel abroad with the prior consent of the Attorney General.

''(2) LIMITATIONS.—Asylum status does not include or convey a right to remain permanently in the United States.

''(d) TERMINATION OF ASYLUM.—Asylum granted under subsection (b) may be terminated if the Attorney General, pursuant to such regulations as the Attorney General may prescribe, determines that—

''(1) the alien no longer meets the conditions described in subsection (b) owing to a change in circumstances in the alien's country of nationality or, in the case of an alien having no nationality, in the country in which the alien last habitually resided;

''(2) the alien meets a condition described in subsection (b)(3); or

''(3) a country willing to accept the alien has been identified (other than the country described in subsection (b)(1)) to which the alien can be removed or returned and the alien cannot establish that it is more likely than not that the alien's life or freedom would be threatened in such country on account of

race, religion, nationality, membership in a particular social group, or political opinion.

''(e) ACCEPTANCE BY ANOTHER COUNTRY.—In the case of an alien described in subsection (b)(3)(A)(vi) or subsection (d)(3), the alien's removal or return shall be directed by the Attorney General in the sole discretion of the Attorney General, to any country which is willing to accept the alien into its territory (other than the country described in subsection (b)(1)).

''(f) ASYLUM PROCEDURE.—

''(1) APPLICATIONS.—

''(A) DEADLINE.—(i) Subject to clause (ii), an alien's application for asylum shall not be considered under this section unless—

''(I) the alien has filed, not later than 30 days after being admitted or coming to the United States, notice of intention to file such an application, and

''(II) such application is actually filed not later than 60 days after being admitted or coming to the United States.

''(ii) An application for asylum may be considered, notwithstanding that the requirements of clause (i) have not been met, only if the alien demonstrates by clear and convincing

evidence changed circumstances in the alien's country of nationality (or in the case of an alien with no nationality, in the country where the alien has habitually resided) affecting eligibility for asylum.

''(B) REQUIREMENTS.—An application for asylum shall not be considered unless the alien submits to the taking of fingerprints and a photograph in a manner determined by the Attorney General.

''(C) FEES.—In the discretion of the Attorney General, the Attorney General may impose reasonable fees for the consideration of an application for asylum, for employment authorization under this section, and for adjustment of status under section 209(b). The Attorney General is authorized to provide for the assessment and payment of any such fee over a period of time or by installments.

''(D) NOTICE OF PRIVILEGE OF COUNSEL AND CONSEQUENCES OF FRIVOLOUS APPLICATION.—

''(i) NOTICE.—At the time of filing a notice of intention to apply for asylum, the alien shall be advised of the privilege of

being presented by counsel and of the consequences, under subsection (h), of filing a frivolous application for asylum.

''(ii) PROVISION OF LIST OF COUNSEL.—The Attorney General shall provide lists (updated not less often than quarterly) of persons who have indicated their availability to represent pro bono aliens in asylum proceedings. Such lists shall be provided to the alien at the time of filing of notice of intention to apply for asylum, and otherwise be made generally available.

''(E) EMPLOYMENT AUTHORIZATION.—An applicant for asylum is not entitled to engage in employment in the United States. The Attorney General may authorize an alien who has filed an application for asylum to engage in employment in the United States, in the discretion of the Attorney General.

''(2) CONSIDERATION OF ASYLUM APPLICATIONS.—

''(A) IN GENERAL.—The Attorney General shall establish a procedure for considering applications for asylum submitted pursuant to paragraph (1). Such procedure shall include—

"(i) a requirement that, unless an applicant (or an attorney for an applicant) consents in writing to the contrary, hearings on asylum applications shall commence not later than 45 days after the date an application is filed;

"(ii) a requirement that applications for asylum shall be considered by asylum officers who are specially designated by the Service as having special training and knowledge of international conditions and human rights records of foreign countries; and

"(iii) summary dismissal of applications for asylum of an alien who does not appear for a hearing on such application, unless the alien can show exceptional circumstances (as defined in section 239(e)), as determined by the asylum officer, or unless written and oral notice were not provided as required by section 239.

"(B) FINALITY OF DETERMINATIONS.—The decision of an asylum officer shall be the final administrative determination of a claim for asylum.

"(g) TREATMENT OF SPOUSE AND CHILDREN.—A spouse or child (as defined in section 101(b)(1)(A), (B), (C), (D), or (E)) of an alien who is granted asylum under subsection (f)(2) may, if not otherwise eligible for asylum under this section, be granted the same status as the alien if accompanying, or following to join, such alien.

"(h) DENIAL OF IMMIGRATION BENEFITS FOR FRIVOLOUS APPLICATIONS.—

"(1) IN GENERAL.—If the asylum officer determines that an alien has made a frivolous application for asylum under this section and the alien has received the notice under subsection (f)(1)(D)(i), the alien shall be permanently ineligible for any benefits under this Act, effective as of the date of a final determination on such application.

"(2) TREATMENT OF MATERIAL MISREPRESENTATIONS.—For purposes of this subsection, an application considered to be 'frivolous' includes, but is not limited to, an application which contains a willful misrepresentation or concealment of a material fact.

"(i) JUDICIAL REVIEW.—The procedure prescribed by, and all the provisions of chapter 158 of title 28, United States Code, shall apply to, and shall be the sole and ex-

clusive procedure for, the judicial review of all final orders granting or denying asylum, except that—

"(1) a petition for review may be filed not later than 90 days after the date of the issuance of the final order granting or denying asylum;

"(2) the venue of any petition for review under this subsection shall be in the judicial circuit in which the administrative proceedings before an asylum officer were conducted in whole or in part, or in the judicial circuit therein is the residence, as defined in this Act, of the petitioner, but not in more than one circuit; and

"(3) notwithstanding any other provision of law, a determination granting or denying asylum based on changed circumstances pursuant to subsection (f)(1)(A)(ii) shall be in the sole discretion of the asylum officer.".

(b) CONFORMING AND CLERICAL AMENDMENTS.—(1) The item in the table of contents relating to section 208 is amended to read as follows:

"Sec. 208. Asylum.".

(2) Section 104(d)(1)(A) of the Immigration Act of 1990 (Public Law 101–649) is amended by striking "208(b)" and inserting "208".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to applications for asylum filed

on or after such date (not later than 180 days after the date of the enactment of this Act) as the Attorney General shall specify.

## Subtitle D—General Effective Date; Transition Provisions

**SEC. 551. GENERAL EFFECTIVE DATE.**

(a) IN GENERAL.—Except as otherwise provided in subsection (b) or in this title, this title and the amendments made by this title shall take effect on October 1, 1996, and shall apply beginning with fiscal year 1997.

(b) PROVISIONS TAKING EFFECT UPON ENACTMENT.—Sections 523 and 554 shall take effect on the date of the enactment of this Act.

**SEC. 552. GENERAL TRANSITION FOR CURRENT CLASSIFICATION PETITIONS.**

(a) FAMILY-SPONSORED IMMIGRANTS.—

(1) IMMEDIATE RELATIVES.—Any petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1996, for immediate relative status under section 201(b)(2)(A) of such Act (as in effect before such date) as a spouse or child of a United States citizen or as a parent of a United States citizen shall be deemed, as of such date, to be a petition filed under such section for status under section 201(b)(2)(A) (as such a spouse

or child) or under section 203(a)(2), respectively, of such Act (as amended by this title).

(2) SPOUSES AND CHILDREN OF PERMANENT RESIDENTS.—Any petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1996, for preference status under section 203(a)(2) of such Act as a spouse or child of an alien lawfully admitted for permanent residence shall be deemed, as of such date, to be a petition filed under such section for preference status under section 203(a)(1) of such Act (as amended by this title).

(b) EMPLOYMENT-BASED IMMIGRANTS.—

(1) IN GENERAL.—Subject to paragraph (2), any petition filed before October 1, 1996, and approved on any date, to accord status under section 203(b)(1)(A), 203(b)(1)(B), 203(b)(1)(C), 203(b)(2), 203(b)(3)(A)(i), 203(b)(3)(A)(ii), 203(b)(4), or 203(b)(5) of the Immigration and Nationality Act (as in effect before such date) shall be deemed, on and after October 1, 1996 (or, if later, the date of such approval), to be a petition approved to accord status under section 203(b)(1), 203(b)(2)(B), 203(b)(2)(C), 203(b)(2)(B), 203(b)(3)(B), 203(b)(3)(C), 203(b)(5), or 203(b)(4),

respectively, of such Act (as in effect on and after such date). Nothing in this paragraph shall be construed as exempting the beneficiaries of such petitions from the numerical limitations under section 203(b) of such Act (as amended by section 513).

(2) TIME LIMITATION.—Paragraph (1) shall not apply more than two years after the date the priority date for issuance of a visa on the basis of such a petition has been reached.

(c) ADMISSIBILITY STANDARDS.—When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1996, makes application for admission, the immigrant's admissibility under paragraph (7)(A) of section 212(a) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa.

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

**SEC. 553. SPECIAL TRANSITION FOR CERTAIN BACKLOGGED SPOUSES AND CHILDREN OF LAWFUL PERMANENT RESIDENT ALIENS.**

(a) IN GENERAL.—(1) In addition to any immigrant visa numbers otherwise available, 50,000 (or, if greater,

1/5 of the number of aliens described in paragraph (2)) immigrant visa numbers shall be made available in each of fiscal years 1997 through 2001 for aliens who have petitions approved for classification under section 203(a)(1) of the Immigration and Nationality Act (as amended by this title) for the fiscal year.

(2) Aliens described in this paragraph are aliens, for whom petitions are pending as of the beginning of the fiscal year involved, with respect to whom the petitioning alien became an alien admitted for lawful permanent residence through the operation of section 210 or 245A of the Immigration and Nationality Act.

(b) ORDER.—(1) Subject to paragraph (2), visa numbers under this section shall be made available in the order in which a petition, in behalf of each such immigrant for classification under section 203(a)(1) of the Immigration and Nationality Act, is filed with the Attorney General under section 204 of such Act.

(2) Visa numbers shall first be made available to aliens for whom the petitioning alien did not become an alien lawfully admitted for permanent residence thorough the operation of section 210 or 245A of the Immigration and Nationality Act.

(3) The per country numerical limitations of section 202 of such Act shall not apply with respect to visa num-

bers made available under this section, and visa numbers made available under this section shall not be counted in determining whether there are excess family admissions in a fiscal year under section 201(c)(3)(B) of the Immigration and Nationality Act (as amended by section 501(b) of this Act).

(c) REPORT.—The Attorney General shall submit to Congress, by April 1, 2001, a report on the operation of this section and the extent to which this section will, by October 1, 2001, have resulted in visa numbers being available to immigrants described in paragraphs (1) and (2) of subsection (b) being available on a current basis.

**SEC. 554. SPECIAL TREATMENT OF CERTAIN DISADVANTAGED FAMILY FIRST PREFERENCE IMMIGRANTS.**

(a) DISREGARD OF PER COUNTRY LIMITS FOR LAST HALF OF FISCAL YEAR 1996.—The per country numerical limitations specified in section 202(a) of the Immigration and Nationality Act shall not apply to immigrant numbers made available under section 203(a)(1) of such Act (as in effect before the date of the enactment of this Act) on or after April 1, 1996, but only to the extent necessary to assure that the priority date for aliens classified under such section who are nationals of a country is not earlier than the priority date for aliens classified under

section 203(a)(2)(B) of such Act for aliens who are nationals of that country.

(b) ADDITIONAL VISA NUMBERS POTENTIALLY AVAILABLE TO ASSURE EQUITABLE TREATMENT FOR UNMARRIED SONS AND DAUGHTERS OF UNITED STATES CITIZENS.—

(1) IN GENERAL.—In addition to any immigrant visa otherwise available, immigrant visa numbers shall be made available during fiscal year 1997 for disadvantaged family first preference aliens (as defined in paragraph (2)) and for spouses and children of such aliens who would otherwise be eligible to immigrant status under section 203(d) of the Immigration and Nationality Act in relation to such aliens if the aliens remained entitled to immigrant status under section 203(a) of such Act.

(2) DISADVANTAGED FAMILY FIRST PREFERENCE ALIEN DEFINED.—In this subsection, the term ''disadvantaged family first preference alien'' means an alien—

(A) with respect to whom a petition for classification under section 203(a)(1) of the Immigration and Nationality Act (as in effect on the date of the enactment of this Act) was approved as of September 30, 1996, and

(B) whose priority date, as of September 30, 1996, under such classification was earlier than the priority date as of such date for aliens of the same nationality with respect to whom a petition for classification under section 203(a)(2)(B) of such Act (as in effect on such date) had been approved.

(3) DISREGARD OF PER COUNTRY NUMERICAL LIMITATIONS.—Additional visa numbers made available under this subsection shall not be taken into account for purposes of applying any numerical limitation applicable to the country under section 202 of such Act, and visa numbers made available under this subsection shall not be counted in determining whether there are excess family admissions in a fiscal year under section 201(c)(3)(B) of the Immigration and Nationality Act (as amended by section 501(b) of this Act).

# TITLE VI—RESTRICTIONS ON BENEFITS FOR ALIENS

## SEC. 600. STATEMENTS OF NATIONAL POLICY CONCERNING WELFARE AND IMMIGRATION.

The Congress makes the following statements concerning national policy with respect to welfare and immigration:

(1) Self-sufficiency has been a basic principle of United States immigration law since this country's earliest immigration statutes.

(2) It continues to be the immigration policy of the United States that—

(A) aliens within the nation's borders not depend on public resources to meet their needs, but rather rely on their own capabilities and the resources of their families, their sponsors, and private organizations, and

(B) the availability of public benefits not constitute an incentive for immigration to the United States.

(3) Despite the principle of self-sufficiency, aliens have been applying for and receiving public benefits from Federal, State, and local governments at increasing rates.

(4) Current eligibility rules for public assistance and unenforceable financial support agreements have proved wholly incapable of assuring that individual aliens not burden the public benefits system.

(5) It is a compelling government interest to enact new rules for eligibility and sponsorship agreements in order to assure that aliens be self-reliant in accordance with national immigration policy.

(6) It is a compelling government interest to remove the incentive for illegal immigration provided by the availability of public benefits.

(7) Where States are authorized to follow Federal eligibility rules for public assistance programs, the Congress strongly encourages the States to adopt the Federal eligibility rules.

# 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.

(a) FEDERAL PROGRAMS.—Notwithstanding any other provision of law, except as provided in section 603, any alien who is not lawfully present in the United States shall not be eligible for any of the following:

(1) FEDERAL ASSISTANCE PROGRAMS.—To receive any benefits under any program of assistance provided or funded, in whole or in part, by the Federal Government for which eligibility (or the amount of assistance) is based on financial need.

(2) FEDERAL CONTRACTS OR LICENSES.—To receive any grant, to enter into any contract or loan agreement, or to be issued (or have renewed) any

professional or commercial license, if the grant, contract, loan, or license is provided or funded by any Federal agency.

(b) STATE PROGRAMS.—Notwithstanding any other provision of law, except as provided in section 603, any alien who is not lawfully present in the United States shall not be eligible for any of the following:

(1) STATE ASSISTANCE PROGRAMS.—To receive any benefits under any program of assistance (not described in subsection (a)(1)) provided or funded, in whole or in part, by a State or political subdivision of a State for which eligibility (or the amount of assistance) is based on financial need.

(2) STATE CONTRACTS OR LICENSES.—To receive any grant, to enter into any contract or loan agreement, or to be issued (or have renewed) any professional or commercial license, if the grant, contract, loan, or license is provided or funded by any State agency.

(c) REQUIRING PROOF OF IDENTITY FOR FEDERAL CONTRACTS, GRANTS, LOANS, LICENSES, AND PUBLIC ASSISTANCE.—

(1) IN GENERAL.—In considering an application for a Federal contract, grant, loan, or license, or for public assistance under a program described

in paragraph (2), a Federal agency shall require the applicant to provide proof of identity under paragraph (3) to be considered for such Federal contract, grant, loan, license, or public assistance.

(2) PUBLIC ASSISTANCE PROGRAMS COVERED.—The requirement of proof of identity under paragraph (1) shall apply to the following Federal public assistance programs:

(A) SSI.—The supplemental security income program under title XVI of the Social Security Act, including State supplementary benefits programs referred to in such title.

(B) AFDC.—The program of aid to families with dependent children under part A or E of title IV of the Social Security Act.

(C) SOCIAL SERVICES BLOCK GRANT.—The program of block grants to States for social services under title XX of the Social Security Act.

(D) MEDICAID.—The program of medical assistance under title XIX of the Social Security Act.

(E) FOOD STAMPS.—The program under the Food Stamp Act of 1977.

(F) HOUSING ASSISTANCE.—Financial assistance as defined in section 214(b) of the Housing and Community Development Act of 1980.

(3) DOCUMENTS THAT SHOW PROOF OF IDENTITY.—Any one of the documents listed under this paragraph may be used as proof of identity under this subsection. Any such document shall be current and valid. No other document or documents shall be sufficient to prove identity.

(A) United States passport (either current or expired if issued both within the previous 20 years and after the individual attained 18 years of age).

(B) Resident alien card.

(C) State driver's license, if presented with the individual's social security account number card.

(D) State identity card, if presented with the individual's social security account number card.

(d) AUTHORIZATION FOR STATES TO REQUIRE PROOF OF ELIGIBILITY FOR STATE PROGRAMS.—In considering an application for contracts, grants, loans, licenses, or public assistance under any State program, a

State is authorized to require the applicant to provide proof of eligibility to be considered for such State contracts, grants, loans, licenses, or public assistance.

**SEC. 602. MAKING UNAUTHORIZED ALIENS INELIGIBLE FOR UNEMPLOYMENT BENEFITS.**

(a) IN GENERAL.—Notwithstanding any other provision of law, no unemployment benefits shall be payable (in whole or in part) out of Federal funds to the extent the benefits are attributable to any employment of the alien in the United States for which the alien was not granted employment authorization pursuant to Federal law.

(b) PROCEDURES.—Entities responsible for providing unemployment benefits subject to the restrictions of this section shall make such inquiries as may be necessary to assure that applicants for such benefits are eligible consistent with this section.

**SEC. 603. GENERAL EXCEPTIONS.**

Sections 601 and 602 shall not apply to the following:

(1) EMERGENCY MEDICAL SERVICES.—The provision of emergency medical services (as defined by the Attorney General in consultation with the Secretary of Health and Human Services).

(2) PUBLIC HEALTH IMMUNIZATIONS.—Public health assistance for immunizations with respect to

immunizable diseases and for testing and treatment for communicable diseases.

(3) SHORT-TERM EMERGENCY DISASTER RELIEF.—The provision of non-cash, in-kind, short-term emergency disaster relief.

**SEC. 604. TREATMENT OF EXPENSES SUBJECT TO EMERGENCY MEDICAL SERVICES EXCEPTION.**

(a) IN GENERAL.—Subject to such amounts as are provided in advance in appropriation Acts, each State or local government that provides emergency medical services (as defined for purposes of section 603(1)) through a public hospital or other public facility to an individual who is an alien not lawfully present in the United States is entitled to receive payment from the Federal Government of its costs of providing such services, but only to the extent that such costs are not otherwise reimbursed through any other Federal program and cannot be recovered from the alien or another person.

(b) CONFIRMATION OF IMMIGRATION STATUS REQUIRED.—No payment shall be made under this section with respect to services furnished to an individual unless the identity and immigration status of the individual has been verified with the Immigration and Naturalization Service in accordance with procedures established by the Attorney General.

(c) ADMINISTRATION.—This section shall be administered by the Attorney General, in consultation with the Secretary of Health and Human Services.

(d) EFFECTIVE DATE.—Subsection (a) shall not apply to emergency medical services furnished before October 1, 1995.

**SEC. 605. REPORT ON DISQUALIFICATION OF ILLEGAL ALIENS FROM HOUSING ASSISTANCE PROGRAMS.**

Not later than 90 days after the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate, the Committee on Banking of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate, describing the manner in which the Secretary is enforcing section 214 of the Housing and Community Development Act of 1980. The report shall contain statistics with respect to the number of aliens denied financial assistance under such section.

**SEC. 606. DEFINITIONS.**

For purposes of this part:

(1) LAWFUL PRESENCE.—The determination of whether an alien is lawfully present in the United States shall be made in accordance with regulations

of the Attorney General. An alien shall not be considered to be lawfully present in the United States for purposes of this title merely because the alien may be considered to be permanently residing in the United States under color of law for purposes of any particular program.

(2) STATE.—The term ''State'' includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.

**SEC. 607. REGULATIONS AND EFFECTIVE DATES.**

(a) REGULATIONS.—The Attorney General shall first issue regulations to carry out this part (other than section 605) by not later than 60 days after the date of the enactment of this Act. Such regulations shall take effect on an interim basis, pending changes based on public comment.

(b) EFFECTIVE DATE FOR RESTRICTIONS ON ELIGIBILITY FOR PUBLIC BENEFITS.—(1) Except as provided in this subsection, section 601 shall apply to benefits provided, contracts or loan agreements entered into, and professional and commercial licenses issued (or renewed) on or after such date as the Attorney General specifies in regulations under subsection (a). Such date shall be at least 30 days, and not more than 60 days, after the date the Attorney General first issues such regulations.

(2) The Attorney General, in carrying out section 601(a)(2), may permit such section to be waived in the case of individuals for whom an application for the grant, contract, loan, or license is pending (or approved) as of a date that is on or before the effective date specified under paragraph (1).

(c) EFFECTIVE DATE FOR RESTRICTIONS ON ELIGIBILITY FOR UNEMPLOYMENT BENEFITS.—(1) Except as provided in this subsection, section 602 shall apply to unemployment benefits provided on or after such date as the Attorney General specifies in regulations under subsection (a). Such date shall be at least 30 days, and not more than 60 days, after the date the Attorney General first issues such regulations.

(2) The Attorney General, in carrying out section 602, may permit such section to be waived in the case of an individual during a continuous period of unemployment for whom an application for unemployment benefits is pending as of a date that is on or before the effective date specified under paragraph (1).

(d) BROAD DISSEMINATION OF INFORMATION.—Before the effective dates specified in subsections (b) and (c), the Attorney General shall broadly disseminate information regarding the restrictions on eligibility established under this part.

## PART 2—EARNED INCOME TAX CREDIT

### SEC. 611. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS NOT AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES.

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

"(F) IDENTIFICATION NUMBER REQUIREMENT.—The term 'eligible individual' does not include any individual who does not include on the return of tax for the taxable year—

"(i) such individual's taxpayer identification number, and

"(ii) if the individual is married (within the meaning of section 7703), the taxpayer identification number of such individual's spouse."

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

"(k) IDENTIFICATION NUMBERS.—For purposes of subsections (c)(1)(F) and (c)(3)(D), a taxpayer identification number means a social security number issued to an individual by the Social Security Administration (other

than a social security number issued pursuant to clause (II) (or that portion of clause (III) that relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security Act).''

(c) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Section 6213(g)(2) of the Internal Revenue Code of 1986 (relating to the definition of mathematical or clerical errors) is amended by striking ''and'' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting '', and'', and by inserting after subparagraph (E) the following new subparagraph:

> ''(F) an omission of a correct taxpayer identification number required under section 23 (relating to credit for families with younger children) or section 32 (relating to the earned income tax credit) to be included on a return.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

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

**SEC. 621. GROUND FOR INADMISSIBILITY.**

(a) IN GENERAL.—Paragraph (4) of section 212(a) (8 U.S.C. 1182(a)) is amended to read as follows:

"(4) PUBLIC CHARGE.—

"(A) FAMILY-SPONSORED IMMIGRANTS.—Any alien who seeks admission or adjustment of status under a visa number issued under section 203(a), who cannot demonstrate to the consular officer at the time of application for a visa, or to the Attorney General at the time of application for admission or adjustment of status, that the alien's age, health, family status, assets, resources, financial status, education, skills, or a combination thereof, or an affidavit of support described in section 213A, or both, make it unlikely that the alien will become a public charge (as determined under section 241(a)(5)(B)) is inadmissible.

"(B) NONIMMIGRANTS.—Any alien who seeks admission under a visa number issued under section 214, who cannot demonstrate to

the consular officer at the time of application for the visa that the alien's age, health, family status, assets, resources, financial status, education, skills or a combination thereof, or an affidavit of support described in section 213A, or both, make it unlikely that the alien will become a public charge (as determined under section 241(a)(B)(5)) is inadmissible.

''(C) EMPLOYMENT-BASED IMMIGRANTS.—

''(i) IN GENERAL.—Any alien who seeks admission or adjustment of status under a visa number issued under paragraph (2) or (3) of section 203(b) who cannot demonstrate to the consular officer at the time of application for a visa, or to the Attorney General at the time of application for admission or adjustment of status, that the immigrant has a valid offer of employment is inadmissible.

''(ii) CERTAIN EMPLOYMENT-BASED IMMIGRANTS.—Any alien who seeks admission or adjustment of status under a visa number issued under section 203(b) by virtue of a classification petition filed by a relative of the alien (or by an entity in

which such relative has a significant ownership interest) is inadmissible unless such relative has executed an affidavit of support described in section 213A with respect to such alien.''.

(b) EFFECTIVE DATE.—(1) Subject to paragraph (2), the amendment made by subsection (a) shall apply to applications submitted on or after such date, not earlier than 30 days and not later than 60 days after the date the Attorney General promulgates under section 632(f) a standard form for an affidavit of support, as the Attorney General shall specify.

(2) Section 212(a)(4)(C)(i) of the Immigration and Nationality Act, as amended by subsection (a), shall apply only to aliens seeking admission or adjustment of status under a visa number issued on or after October 1, 1996.

**SEC. 622. GROUND FOR DEPORTABILITY.**

(a) IN GENERAL.—Paragraph (5) of section 241(a) (8 U.S.C. 1251(a)) is amended to read as follows:

''(5) PUBLIC CHARGE.—

''(A) IN GENERAL.—Any alien who, within 7 years after the date of entry or admission, becomes a public charge is deportable.

''(B) EXCEPTIONS.—(i) Subparagraph (A) shall not apply if the alien establishes that the

alien has become a public charge from causes that arose after entry or admission. A condition that the alien knew (or had reason to know) existed at the time of entry or admission shall be deemed to be a cause that arose before entry or admission.

''(ii) The Attorney General, in the discretion of the Attorney General, may waive the application of subparagraph (A) in the case of an alien who is admitted as a refugee under section 207 or granted asylum under section 208.

''(C) INDIVIDUALS TREATED AS PUBLIC CHARGE.—For purposes of this title, an alien is deemed to be a 'public charge' if the alien receives benefits (other than benefits described in subparagraph (E)) under one or more of the public assistance programs described in subparagraph (D) for an aggregate period of at least 12 months within 7 years after the date of entry. The previous sentence shall not be construed as excluding any other bases for considering an alien to be a public charge, including bases in effect on the day before the date of the enactment of the Immigration in the National Interest Act of 1995. The Attorney Gen-

eral, in consultation with the Secretary of Health and Human Services, shall establish rules regarding the counting of health benefits described in subparagraph (D)(iv) for purposes of this subparagraph.

''(D) PUBLIC ASSISTANCE PROGRAMS.—For purposes of subparagraph (B), the public assistance programs described in this subparagraph are the following (and include any successor to such a program as identified by the Attorney General in consultation with other appropriate officials):

''(i) SSI.—The supplemental security income program under title XVI of the Social Security Act, including State supplementary benefits programs referred to in such title.

''(ii) AFDC.—The program of aid to families with dependent children under part A or E of title IV of the Social Security Act.

''(iii) SOCIAL SERVICES BLOCK GRANT.—The program of block grants to States for social services under title XX of the Social Security Act.

"(iv) MEDICAID.—The program of medical assistance under title XIX of the Social Security Act.

"(v) FOOD STAMPS.—The program under the Food Stamp Act of 1977.

"(vi) STATE GENERAL CASH ASSISTANCE.—A program of general cash assistance of any State or political subdivision of a State.

"(vii) HOUSING ASSISTANCE.—Financial assistance as defined in section 214(b) of the Housing and Community Development Act of 1980.

"(E) CERTAIN ASSISTANCE EXCEPTED.—For purposes of subparagraph (B), an alien shall not be considered to be a public charge on the basis of receipt of any of the following benefits:

"(i) EMERGENCY MEDICAL SERVICES.—The provision of emergency medical services (as defined by the Attorney General in consultation with the Secretary of Health and Human Services).

"(ii) PUBLIC HEALTH IMMUNIZATIONS.—Public health assistance for im-

munizations with respect to immunizable diseases and for testing and treatment for communicable diseases.

''(iii) SHORT-TERM EMERGENCY DISASTER RELIEF.—The provision of non-cash, in-kind, short-term emergency disaster relief.''.

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a) shall take effect as of the first day of the first month beginning at least 30 days after the date of the enactment of this Act.

(2) In applying section 241(a)(5)(C) of the Immigration and Nationality Act, as amended by subsection (a), no receipt of benefits under a public assistance program before the effective date described in paragraph (1) shall be taken into account.

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

### SEC. 631. ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO FAMILY-SPONSORED IMMIGRANTS.

(a) FEDERAL PROGRAMS.—Notwithstanding any other provision of law, in determining the eligibility and the amount of benefits of an alien for any Federal means-tested public benefits program (as defined in subsection

(d)) the income and resources of the alien shall be deemed to include—

(1) the income and resources of any individual who executed an affidavit of support pursuant to section 213A of the Immigration and Nationality Act (as inserted by section 632(a)) in behalf of such alien, and

(2) the income and resources of the spouse (if any) of the individual.

(b) PERIOD OF ATTRIBUTION.—

(1) PARENTS OF UNITED STATES CITIZENS.—Subsection (a) shall apply with respect to an alien who is admitted to the United States as the parent of a United States citizen under section 512 until the alien is naturalized as a citizen of the United States.

(2) SPOUSES OF UNITED STATES CITIZENS AND LAWFUL PERMANENT RESIDENTS.—Subsection (a) shall apply with respect to an alien who is admitted to the United States as the spouse of a United States citizen or lawful permanent resident under section 511 or section 512 until—

(A) 7 years after the date the alien is lawfully admitted to the United States for permanent residence, or

(B) the alien is naturalized as a citizen of the United States,

whichever occurs first.

(3) MINOR CHILDREN OF UNITED STATES CITIZENS AND LAWFUL PERMANENT RESIDENTS.—Subsection (a) shall apply with respect to an alien who is admitted to the United States as the minor child of a United States citizen or lawful permanent resident under section 511 or section 512 until the child attains the age of 21 years or, if earlier, the date the child is naturalized as a citizen of the United States.

(4) ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES ENDED IF SPONSORED ALIEN BECOMES ELIGIBLE FOR OLD-AGE BENEFITS UNDER TITLE II OF THE SOCIAL SECURITY ACT.—

(A) Notwithstanding any other provision of this section, subsection (a) shall not apply and the period of attribution of a sponsor's income and resources under this subsection shall terminate if the alien is employed for a period sufficient to qualify for old age benefits under title II of the Social Security Act and the alien is able to prove to the satisfaction of the Attorney General that the alien qualifies.

(B) The Attorney General shall ensure that appropriate information pursuant to subparagraph (A) is provided to the System for Alien Verification of Eligibility (SAVE).

(c) OPTIONAL APPLICATION TO STATE PROGRAMS.—

(1) AUTHORITY.—Notwithstanding any other provision of law, in determining the eligibility and the amount of benefits of an alien for any State means-tested public benefits program, the State or political subdivision that offers the program is authorized to provide that the income and resources of the alien shall be deemed to include—

(A) the income and resources of any individual who executed an affidavit of support pursuant to section 213A of the Immigration and Nationality Act (as inserted by section 632(a)) in behalf of such alien, and

(B) the income and resources of the spouse (if any) of the individual.

(2) PERIOD OF ATTRIBUTION.—The period of attribution of a sponsor's income and resources in determining the eligibility and amount of benefits for an alien under any State means-tested public benefits program pursuant to paragraph (1) may not

exceed the Federal period of attribution with respect to the alien.

(d) MEANS-TESTED PROGRAM DEFINED.—In this section:

(1) The term ''means-tested public benefits program'' means a program of public benefits (including cash, medical, housing, and food assistance and social services) of the Federal Government or of a State or political subdivision of a State in which the eligibility of an individual, household, or family eligibility unit for benefits under the program, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.

(2) The term ''Federal means-tested public benefits program'' means a means-tested public benefits program of (or contributed to by) the Federal Government.

(3) The term ''State means-tested public benefits program'' means a means-tested public benefits program that is not a Federal means-tested program.

**SEC. 632. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.**

(a) IN GENERAL.—Title II is amended by inserting after section 213 the following new section:

''REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT

''SEC. 213A. (a) ENFORCEABILITY.—(1) No affidavit of support may be accepted by the Attorney General or by any consular officer to establish that an alien is not inadmissible as a public charge under section 212(a)(4) unless such affidavit is executed by a sponsor of the alien as a contract—

''(A) that is legally enforceable against the sponsor by the Federal Government and by any State (or any political subdivision of such State) that provides any means-tested public benefits program, until the expiration of the 10-year period described in subsection (b)(4); and

''(B) in which the sponsor agrees to submit to the jurisdiction of any Federal or State court for the purpose of actions brought under subsection (b)(2).

''(2)(A) An affidavit of support shall be enforceable with respect to benefits provided under any means-tested public benefits program for an alien who is admitted to the United States as the parent of a United States citizen under section 512 until the alien is naturalized as a citizen of the United States.

"(B) An affidavit of support shall be enforceable with respect to benefits provided under any means-tested public benefits program for an alien who is admitted to the United States as the spouse of a United States citizen or lawful permanent resident under section 511 or section 512 until—

"(i) 7 years after the date the alien is lawfully admitted to the United States for permanent residence, or

"(ii) such time as the alien is naturalized as a citizen of the United States,

whichever occurs first.

"(C) An affidavit of support shall be enforceable with respect to benefits provided under any means-tested public benefits program for an alien who is admitted to the United States as the minor child of a United States citizen or lawful permanent resident under section 511 or section 512 until the child attains the age of 21 years.

"(D)(i) Notwithstanding any other provision of this subparagraph, a sponsor shall be relieved of any liability under an affidavit of support if the sponsored alien is employed for a period sufficient to qualify for old age benefits under title II of the Social Security Act and the sponsor or alien is able to prove to the satisfaction of the Attorney General that the alien qualifies.

1 ''(ii) The Attorney General shall ensure that appro-
2 priate information pursuant to clause (i) is provided to
3 the System for Alien Verification of Eligibility (SAVE).
4 ''(b) REIMBURSEMENT OF GOVERNMENT EX-
5 PENSES.—(1)(A) Upon notification that a sponsored alien
6 has received any benefit under any means-tested public
7 benefits program, the appropriate Federal, State, or local
8 official shall request reimbursement by the sponsor in the
9 amount of such assistance.
10 ''(B) The Attorney General, in consultation with the
11 Secretary of Health and Human Services, shall prescribe
12 such regulations as may be necessary to carry out sub-
13 paragraph (A).
14 ''(2) If within 45 days after requesting reimburse-
15 ment, the appropriate Federal, State, or local agency has
16 not received a response from the sponsor indicating a will-
17 ingness to commence payments, an action may be brought
18 against the sponsor pursuant to the affidavit of support.
19 ''(3) If the sponsor fails to abide by the repayment
20 terms established by such agency, the agency may, within
21 60 days of such failure, bring an action against the spon-
22 sor pursuant to the affidavit of support.
23 ''(4) No cause of action may be brought under this
24 subsection later than 10 years after the alien last received

any benefit under any means-tested public benefits program.

''(5) If, pursuant to the terms of this subsection, a Federal, State, or local agency requests reimbursement from the sponsor in the amount of assistance provided, or brings an action against the sponsor pursuant to the affidavit of support, the appropriate agency may appoint or hire an individual or other person to act on behalf of such agency acting under the authority of law for purposes of collecting any moneys owed. Nothing in this subsection shall preclude any appropriate Federal, State, or local agency from directly requesting reimbursement from a sponsor for the amount of assistance provided, or from bringing an action against a sponsor pursuant to an affidavit of support.

''(c) REMEDIES.—Remedies available to enforce an affidavit of support under this section include any or all of the remedies described in section 3201, 3203, 3204, or 3205 of title 28, United States Code, as well as an order for specific performance and payment of legal fees and other costs of collection, and include corresponding remedies available under State law. A Federal agency may seek to collect amounts owed under this section in accordance with the provisions of subchapter II of chapter 37 of title 31, United States Code.

"(d) NOTIFICATION OF CHANGE OF ADDRESS.—(1) The sponsor of an alien shall notify the Federal Government and the State in which the sponsored alien is currently residing within 30 days of any change of address of the sponsor during the period specified in subsection (a)(1).

"(2) Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall be subject to a civil penalty of—

"(A) not less than $250 or more than $2,000, or

"(B) if such failure occurs with knowledge that the sponsored alien has received any benefit under any means-tested public benefits program, not less than $2,000 or more than $5,000.

"(e) DEFINITIONS.—For the purposes of this section—

"(1) SPONSOR.—The term 'sponsor' means, with respect to an alien, an individual who—

"(A) is a citizen or national of the United States or an alien who is lawfully admitted to the United States for permanent residence;

"(B) is 18 years of age or over;

"(C) is domiciled in any State;

"(D) demonstrates, through presentation of a certified copy of a tax return or otherwise, the means to maintain an annual income equal to at least 200 percent of the poverty level for the individual and the individual's family (including the alien and any other aliens with respect to whom the individual is a sponsor); and

"(E) is petitioning for the admission of the alien under section 204.

"(2) FEDERAL POVERTY LINE.—The term 'Federal poverty line' means the income official poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) that is applicable to a family of the size involved.

"(3) MEANS-TESTED PUBLIC BENEFITS PROGRAM.—The term 'means-tested public benefits program' means a program of public benefits (including cash, medical, housing, and food assistance and social services) of the Federal Government or of a State or political subdivision of a State in which the eligibility of an individual, household, or family eligibility unit for benefits under the program, or the amount of such benefits, or both are determined on

the basis of income, resources, or financial need of the individual, household, or unit.''.

(b) REQUIREMENT OF AFFIDAVIT OF SUPPORT FROM EMPLOYMENT SPONSORS.—For requirement for affidavit of support from individuals who file classification petitions for a relative as an employment-based immigrant, see the amendment made by section 621(a).

(c) SETTLEMENT OF CLAIMS PRIOR TO NATURALIZATION.—Section 316(a) (8 U.S.C. 1427(a)) is amended—

(1) by striking ''and'' before ''(3)'', and

(2) by inserting before the period at the end the following: '', and (4) in the case of an applicant that has received assistance under a means-tested public benefits program (as defined in subsection (f)(3) of section 213A) administered by a Federal, State, or local agency and with respect to which amounts may be owing under an affidavit of support executed under such section, provides satisfactory evidence that there are no outstanding amounts that may be owed to any such Federal, State, or local agency pursuant to such affidavit by the sponsor who executed such affidavit''.

(d) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 213 the following:

''Sec. 213A. Requirements for sponsor's affidavit of support.''.

(e) EFFECTIVE DATE.—Subsection (a) of section 213A of the Immigration and Nationality Act, as inserted by subsection (a) of this section, shall apply to affidavits of support executed on or after a date specified by the Attorney General, which date shall be not earlier than 60 days (and not later than 90 days) after the date the Attorney General formulates the form for such affidavits under subsection (f) of this section.

(f) PROMULGATION OF FORM.—Not later than 90 days after the date of the enactment of this Act, the Attorney General, in consultation with the Secretary of State and the Secretary of Health and Human Services, shall promulgate a standard form for an affidavit of support consistent with the provisions of section 213A of the Immigration and Nationality Act.

# TITLE VII—FACILITATION OF LEGAL ENTRY

## SEC. 701. ADDITIONAL LAND BORDER INSPECTORS; INFRASTRUCTURE IMPROVEMENTS.

(a) INCREASED PERSONNEL.—

(1) IN GENERAL.—In order to eliminate undue delay in the thorough inspection of persons and vehicles lawfully attempting to enter the United States, the Attorney General and Secretary of the Treasury shall increase, by approximately equal numbers in

each of the fiscal years 1996 and 1997, the number of full-time land border inspectors assigned to active duty by the Immigration and Naturalization Service and the United States Customs Service to a level adequate to assure full staffing during peak crossing hours of all border crossing lanes now in use, under construction, or whose construction has been authorized by Congress.

(2) DEPLOYMENT OF PERSONNEL.—The Attorney General and the Secretary of the Treasury shall, to the maximum extent practicable, ensure that the personnel hired pursuant to this subsection shall be deployed among the various Immigration and Naturalization Service sectors in proportion to the number of land border crossings measured in each such sector during the preceding fiscal year.

(b) IMPROVED INFRASTRUCTURE.—

(1) IN GENERAL.—The Attorney General may, from time to time, in consultation with the Secretary of the Treasury, identify those physical improvements to the infrastructure of the international land borders of the United States necessary to expedite the inspection of persons and vehicles attempting to lawfully enter the United States in accordance with existing policies and procedures of the Immigration

and Naturalization Service, the United States Customs Service, and the Drug Enforcement Agency.

(2) PRIORITIES.—Such improvements to the infrastructure of the land border of the United States shall be substantially completed and fully funded in those portions of the United States where the Attorney General, in consultation with the Committees on the Judiciary of the House of Representatives and the Senate, objectively determines the need to be greatest or most immediate before the Attorney General may obligate funds for construction of any improvement otherwise located.

**SEC. 702. COMMUTER LANE PILOT PROGRAMS.**

(a) MAKING LAND BORDER INSPECTION FEE PERMANENT.—Section 286(q) (8 U.S.C. 1356(q)) is amended—

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

(2) in paragraph (1), by striking ''Such project'' and inserting ''Such projects''; and

(3) by striking paragraph (5).

(b) CONFORMING AMENDMENT.—The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1994 (Public Law 103–121, 107 Stat. 1161) is amended by striking the fourth

proviso under the heading ''Immigration and Naturalization Service, Salaries and Expenses''.

**SEC. 703. PREINSPECTION AT FOREIGN AIRPORTS.**

(a) IN GENERAL.—The Immigration and Nationality Act is amended by inserting after section 235 the following new section:

''PREINSPECTION AT FOREIGN AIRPORTS

''SEC. 235A. (a) ESTABLISHMENT OF PREINSPECTION STATIONS.—(1) Subject to paragraph (4), not later than 2 years after the date of the enactment of this section, the Attorney General, in consultation with the Secretary of State, shall establish and maintain preinspection stations in at least 5 of the foreign airports that are among the 10 foreign airports which the Attorney General identifies as serving as last points of departure for the greatest numbers of passengers who arrive from abroad by air at ports of entry within the United States. Such preinspection stations shall be in addition to any preinspection stations established prior to the date of the enactment of this section.

''(2) Not later than November 1, 1995, and each subsequent November 1, the Attorney General shall compile data identifying—

''(A) the foreign airports which served as last points of departure for aliens who arrived by air at

United States ports of entry without valid documentation during the preceding fiscal years,

''(B) the number and nationality of such aliens arriving from each such foreign airport, and

''(C) the primary routes such aliens followed from their country of origin to the United States.

''(3) Subject to paragraph (4), not later than 4 years after the date of enactment of this section, the Attorney General, in consultation with the Secretary of State, shall establish preinspection stations in at least 5 additional foreign airports which the Attorney General, in consultation with the Secretary of State, determines based on the data compiled under paragraph (2) and such other information as may be available would most effectively reduce the number of aliens who arrive from abroad by air at points of entry within the United States without valid documentation. Such preinspection stations shall be in addition to those established prior to or pursuant to paragraph (1).

''(4) Prior to the establishment of a preinspection station the Attorney General, in consultation with the Secretary of State, shall ensure that—

''(A) employees of the United States stationed at the preinspection station and their accompanying family members will receive appropriate protection,

"(B) such employees and their families will not be subject to unreasonable risks to their welfare and safety, and

"(C) the country in which the preinspection station is to be established maintains practices and procedures with respect to asylum seekers and refugees in accordance with the Convention Relating to the Status of Refugees (done at Geneva, July 28, 1951), or the Protocol Relating to the Status of Refugees (done at New York, January 31, 1967).

"(b) ESTABLISHMENT OF CARRIER CONSULTANT PROGRAM.—The Attorney General shall assign additional immigration officers to assist air carriers in the detection of fraudulent documents at foreign airports which, based on the records maintained pursuant to subsection (a)(2), served as a point of departure for a significant number of arrivals at United States ports of entry without valid documentation, but where no preinspection station exists.".

(c) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 235 the following new item:

"Sec. 235A. Preinspection at foreign airports.".

**SEC. 704. TRAINING OF AIRLINE PERSONNEL IN DETECTION OF FRAUDULENT DOCUMENTS.**

(a) USE OF FUNDS.—Section 286(h)(2)(A) (8 U.S.C. 1356(h)(2)(A)) is amended—

(1) in clause (iv), by inserting ‘‘, including training of, and technical assistance to, commercial airline personnel regarding such detection’’ after ‘‘United States’’, and

(2) by adding at the end the following: ‘‘The Attorney General shall provide for expenditures for training and assistance described in clause (iv) in an amount, for any fiscal year, not less than 5 percent of the total of the expenses incurred that are described in the previous sentence.’’.

(b) COMPLIANCE WITH DETECTION REGULATIONS.—Section 212(f) (8 U.S.C. 1182(f)) is amended by adding at the end the following: ‘‘Whenever the Attorney General finds that a commercial airline has failed to comply with regulations of the Attorney General relating to requirements of airlines for the detection of fraudulent documents used by passengers traveling to the United States (including the training of personnel in such detection), the Attorney General may suspend the entry of some or all aliens transported to the United States by such airline.’’.

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply to expenses incurred during or after fiscal year 1996.

(2) The Attorney General shall first issue, in proposed form, regulations referred to in the second sentence of section 212(f) of the Immigration and Nationality Act, as added by the amendment made by subsection (b), by not later than 90 days after the date of the enactment of this Act.

# TITLE VIII—MISCELLANEOUS PROVISIONS

**SEC. 801. AMENDED DEFINITION OF AGGRAVATED FELONY.**

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

(1) in subparagraph (N), by striking ''of title 18, United States Code'' and inserting ''of this Act'', and

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

(b) EFFECTIVE DATE OF CONVICTION.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)), as amended by section

222(b) of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416), is amended by adding at the end the following sentence: ''Notwithstanding any other provision of law, the term applies for all purposes to convictions entered before, on, or after the date of enactment of the Immigration and Nationality Technical Corrections Act of 1994.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective as if included in the enactment of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416).

**SEC. 802. AMENDED DEFINITIONS OF "CHILD" AND "PARENT" TO FACILITATE ADOPTION OF CHILDREN BORN OUT-OF-WEDLOCK.**

(a) IN GENERAL.—Section 101(b) (8 U.S.C. 1101(b)(1) is amended—

(1) in paragraph (1)(A), by striking ''a legitimate child'' and inserting ''a child born in wedlock'', and

(2) by paragraphs (1)(D) and (2), by striking ''an illegitimate child'' and inserting ''a child born out of wedlock''.

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

**SEC. 803. AUTHORITY TO DETERMINE VISA PROCESSING PROCEDURES.**

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

(1) in paragraph (1), by striking ''paragraph (2)'' and inserting ''paragraphs (2) and (5)'', and

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

''(5) CONSTRUCTION.—Nothing in paragraph (1) shall be construed to limit the authority of the Secretary of State to determine the procedures for the processing of immigrant visa applications or the locations where such applications will be processed.''.

(b) ELIMINATION OF CONSULATE SHOPPING FOR VISA OVERSTAYS.—Section 222 (8 U.S.C. 1202) is amended by adding at the end the following new subsection:

''(g) In the case of an alien who has entered and remained in the United States beyond the authorized period of stay, the alien is not eligible to be admitted to the United States as a nonimmigrant on the basis of a visa issued other than in a consular office located in the country of the alien's nationality (or, if there is no office in such country, at such other consular office as the Secretary of State shall specify).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to visas issued before, on, or after the date of the enactment of this Act.

**SEC. 804. WAIVER AUTHORITY CONCERNING NOTICE OF DENIAL OF APPLICATION FOR VISAS.**

Section 212(b) (8 U.S.C. 1182(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(2) by striking ''If'' and inserting ''(1) Subject to paragraph (2), if''; and

(3) by inserting at the end the following paragraph:

''(2) With respect to applications for visas, the Secretary of State may waive the application of paragraph (1) in the case of a particular alien or any class or classes of aliens inadmissible under subsection (a)(2) or (a)(3).''.

**SEC. 805. TREATMENT OF CANADIAN LANDED IMMIGRANTS.**

Section 212(d)(4)(B) (8 U.S.C. 1182(d)(4)(B)) is amended—

(1) by striking ''and residents'' and inserting '', residents'', and

(2) by striking ''nationals,'' and inserting ''nationals, and aliens who are granted permanent residence by the government of the foreign contiguous territory and who are residing in that territory''.

**SEC. 806. CHANGES RELATING TO H–1B NONIMMIGRANTS.**

(a) REMOVAL OF ANY REQUIREMENT FOR OBJECTIVE WAGE SYSTEM FOR ALL EMPLOYERS.—Section 212(n) (8 U.S.C. 1182(n)) is amended by adding at the end the following new paragraph:

''(3) For purposes of determining the actual wages paid under paragraph (1)(A)(i)(I), an employer shall not be required to have and document an objective system to determine the wages of workers.''.

(b) INAPPLICABILITY OF CERTAIN REGULATIONS TO NON-H–1B-DEPENDENT EMPLOYERS.—

(1) DEFINITION OF H–1B-DEPENDENT EMPLOYER.—Section 212(n)(2) (8 U.S.C. 1182(n)(2)) is amended by inserting after subparagraph (D) the following new subparagraph:

''(E) In this subsection, the term 'H–1B-dependent employer' means an employer that—

''(i)(I) has fewer than 41 full-time equivalent employees who are employed in the United States, and (II) employs 4 or more nonimmigrants under section 101(a)(15)(H)(i)(b); or

''(ii)(I) has at least 41 full-time equivalent employees who are employed in the United States, and (II) employs nonimmigrants described in section 101(a)(15)(H)(i)(b) in a

number that is equal to at least 10 percent of the number of such full-time equivalent employees.

In applying this subparagraph, any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as a single employer under this subparagraph. Aliens with respect to whom the employer has filed such an application shall be treated as employees, and counted as nonimmigrants under section 101(a)(15)(H)(i)(b), under this subparagraph.''.

(2) LIMITING APPLICATION OF CERTAIN REQUIREMENTS FOR NON-H–1B-DEPENDENT EMPLOYERS.—Section 212(n) (8 U.S.C. 1182(n)), as amended in subsection (a), is further amended by adding at the end the following new paragraph:

''(4) In carrying out this subsection in the case of an employer that is not an H–1B-dependent employer—

''(A) the employer is not required to post notices at worksites that were not listed on the application under paragraph (1) if the worksites are within the area of intended employment listed on such application; and

"(B) if the employer has filed and had certified an application under paragraph (1) with respect to one or more nonimmigrants described in section 101(a)(15)(H)(i)(b) for one or more areas of employment—

"(i) the employer is not required to file and have certified an additional application under paragraph (1) with respect to such a nonimmigrant for an area of employment not listed in the previous application because the employer has placed one or more such nonimmigrants in such a nonlisted area so long as each such nonimmigrant is not placed in such nonlisted areas for a period exceeding 45 workdays in any 12-month period and not to exceed 90 workdays in any 36-month period, and

"(ii) the employer is not required to pay per diem and transportation costs at any specified rates for work performed in such a nonlisted area.".

(3) LIMITATION ON AUTHORITY TO INITIATE COMPLAINTS AND CONDUCT INVESTIGATIONS FOR NON-H–1B-DEPENDENT EMPLOYERS.—Section

212(n)(2)(A) (8 U.S.C. 1182(n)(2)(A)) is amended—

(A) in the second sentence, by inserting before the period at the end the following: ‘‘, except that the Secretary may only file such a complaint in the case of an H–1B-dependent employer (as defined in subparagraph (E))’’, and

(B) by inserting after the second sentence the following new sentence: ‘‘No investigation or hearing shall be conducted with respect to an employer that is not an H–1B-dependent employer except in response to a complaint filed under the previous sentence.’’.

(4) DELAY PERMITTED FOR CERTIFICATION IN THE CASE OF H–1B-DEPENDENT EMPLOYERS.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)) is amended by inserting before the period at the end the following: ‘‘(or 30 days in the case of an employer which is an H–1B-dependent employer)’’.

(c) NO DISPLACEMENT OF AMERICAN WORKERS PERMITTED.—(1) Section 212(n)(1) (8 U.S.C. 1182(n)(1)) is amended by inserting after subparagraph (D) the following new subparagraph:

‘‘(E)(i) If the employer—

"(I) within the 6 months preceding the date the alien begins employment pursuant to such admission or the provision of such status, laid off any protected individual (within the meaning of section 274B(a)(3)) with substantially equivalent qualifications and experience in the specific employment for which the nonimmigrant is being sought, the employer will pay an actual wage to the nonimmigrant that is at least 110 percent of the arithmetic mean of the last wage earned by such laid off employees (or, if greater, 110 percent of arithmetic mean of the highest wage earned by such laid off employees within the most recent year if the employer reduced such wage during such year other than as part of a general company-wide reduction of wages for substantially all employees); and

"(II) within the 90 days following the date the alien so begins employment and for so long as the application remains active or a visa remains in effect with respect to a nonimmigrant pursuant to such an application, lays off any protected individual (within the meaning of section 274B(a)(3)) with substantially equivalent

qualifications and experience in the specific employment for which the nonimmigrant is employed, the employer will pay an actual wage to the nonimmigrant that is at least 110 percent of the arithmetic mean of the last wage earned by such laid off employees (or, if greater, 110 percent of arithmetic mean of the highest wage earned by such laid off employees within the most recent year if the employer reduced such wage during such year other than as part of a general company-wide reduction of wages for substantially all employees).

''(ii) In the case of an employer that is a job contractor (within the meaning of regulations promulgated to carry out this subsection), the contractor will not place the employee with any other employer unless such other employer has executed an attestation that the employer is complying and will continue to comply with the requirements of clause (i) in the same manner as they apply to the job contractor.

''(iii) For purposes of this subparagraph, the term 'laid off', with respect to an employee—

"(I) means the employee's loss of employment, other than a discharge for cause, voluntary departure, or retirement, and

"(II) does not include any situation in which the employee involved is offered a similar job opportunity with the same employer carrying similar compensation and benefits as the position from which the employee was laid off, regardless of whether or not the employee accepts the offer.".

(2) Section 212(n)(2) (8 U.S.C. 1182(n)(2)) is amended by adding at the end the following new subparagraph:

"(F) Under regulations of the Secretary, the previous provisions of this paragraph shall apply to complaints respecting a failure of an other employer to comply with an attestation described in paragraph (1)(E)(ii) in the same manner that they apply to complaints of a petitioner with respect to a failure to comply with a condition described in paragraph (1)(E)(i).".

(3) Section 212(n)(2)(C) (8 U.S.C. 1182(n)(2)(C)) is amended by inserting "or (1)(E)" after "(1)(B)".

(d) COMPUTATION OF PREVAILING WAGE LEVEL.—Section 212(n) (8 U.S.C. 1182(n)) is amended by adding at the end the following new paragraph:

"(3) In computing the prevailing wage level for an occupational classification in an area of employment for purposes of paragraph (1)(A)(i)(II) and subsection (a)(5)(A) in the case of an employee of an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965), or a related or affiliated nonprofit entity, the prevailing wage level shall only take into account employees at such institutions and entities in the area of employment.".

(e) EFFECTIVE DATES.—

(1) Except as otherwise provided in this subsection, the amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to applications filed with the Secretary of Labor on or after 30 days after the date of the enactment of this Act.

(2) The amendments made by subsection (b)(3) shall apply to complaints filed, and to investigations or hearings initiated, on or after January 15, 1995.

**SEC. 807. VALIDITY OF PERIOD OF VISAS.**

(a) EXTENSION OF VALIDITY OF IMMIGRANT VISAS TO 6 MONTHS.—Section 221(c) (8 U.S.C. 1201(c)) is amended by striking "four months" and inserting "six months".

(b) AUTHORIZING APPLICATION OF RECIPROCITY RULE FOR NONIMMIGRANT VISA IN CASE OF REFUGEES AND PERMANENT RESIDENTS.—Such section is further amended by inserting before the period at the end of the third sentence the following: ''; except that in the case of aliens who are nationals of a foreign country and who either are granted refugee status and firmly resettled in another foreign country or are granted permanent residence and residing in another foreign country, the Secretary of State may prescribe the period of validity of such a visa based upon the treatment granted by that other foreign country to alien refugees and permanent residents, respectively, in the United States''.

**SEC. 808. LIMITATION ON ADJUSTMENT OF STATUS OF INDIVIDUALS NOT LAWFULLY PRESENT IN THE UNITED STATES.**

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

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

(2) by adding at the end of paragraph (2) the following: ''For purposes of subparagraph (A), the ground of inadmissibility described in section 212(a)(9) shall not apply.''.

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a)(1) shall apply to applications for adjustment of status filed after September 30, 1996.

(2) The amendment made by subsection (a)(2) shall take effect on the title III–A effective date (as defined in section 309(a)).

**SEC. 809. LIMITED ACCESS TO CERTAIN CONFIDENTIAL INS FILES.**

(a) LEGALIZATION PROGRAM.—Section 245A(c)(5) (8 U.S.C. 1255a(c)(5)) is amended—

(1) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively;

(2) by striking ''Neither'' and inserting ''(A) Except as provided in this paragraph, neither'';

(3) by redesignating the last sentence as subparagraph (D);

(4) by striking the semicolon and inserting a period;

(5) by striking ''except that the'' and inserting the following:

''(B) The'';

(6) by inserting after subparagraph (B), as created by the amendment made by paragraph (5), the following:

''(C) The Attorney General may authorize disclosure of information contained in the application of the alien under this section to be used—

''(i) for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated;

''(ii) for criminal law enforcement purposes against the alien whose application is to be disclosed if the alleged criminal activity occurred after the legalization application was filed and such activity involves terrorist activity or poses either an immediate risk to life or to national security, or would be prosecutable as an aggravated felony, but without regard to the length of sentence that could be imposed on the applicant; or

''(iii) for immigration enforcement purposes but only if the information is the date or disposition of the application.''; and

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

"(E) Nothing in this paragraph shall preclude the release for immigration enforcement purposes of the following information contained in files or records of the Service pertaining to the application:

"(i) The immigration status of the applicant on any given date after the date of filing the application (including whether the applicant was authorized to work).

"(ii) The date of the applicant's adjustment (if any) to the status of an alien lawfully admitted for permanent residence.

"(iii) Information concerning whether the applicant has been convicted of a crime occurring after the date of filing the application.".

(b) SPECIAL AGRICULTURAL WORKER PROGRAM.—Section 210(b) of such Act (8 U.S.C. 1160(b)) is amended—

(1) in paragraph (5), by inserting ", except as permitting under paragraph (6)(B)" after "consent of the alien";

(2) in paragraph (6)—

(A) by striking "Neither" and inserting "(A) Except as provided in subparagraph (B), neither";

(B) by striking ''Anyone'' and inserting the following:

''(C) Anyone'';

(C) by inserting after the first sentence the following:

''(B) The Attorney General may authorize disclosure of information contained in the application of the alien to be used—

''(i) for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated,

''(ii) for criminal law enforcement purposes against the alien whose application is to be disclosed if the alleged criminal activity occurred after the special agricultural worker application was filed and such activity involves terrorist activity or poses either an immediate risk to life or to national security, or would be prosecutable as an aggravated felony, but without regard to the length of sentence that could be imposed on the applicant, or

''(iii) for immigration enforcement purposes but only if the information is the date or disposition of the application.''; and

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

''(D) Nothing in this paragraph shall preclude the release for immigration enforcement purposes of the following information contained in files or records of the Service pertaining to the application:

''(i) The immigration status of the applicant on any given date after the date of filing the application (including whether the applicant was authorized to work).

''(ii) The date of the applicant's adjustment (if any) to the status of an alien lawfully admitted for permanent residence.

''(iii) Information concerning whether the applicant has been convicted of a crime occurring after the date of filing the application.''.

**SEC. 810. NONIMMIGRANT STATUS FOR SPOUSES AND CHILDREN OF MEMBERS OF THE ARMED SERVICES.**

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

(1) by striking ''or'' at the end of subparagraph (R),

(2) by striking the period at the end of subparagraph (S) and inserting ''; or'', and

(3) by inserting after subparagraph (S) the following new subparagraph:

''(T) an alien who is the spouse or child of a another alien who is serving on active duty in the Armed Forces of the United States during the period in which the other alien is stationed in the United States.''.

**SEC. 811. COMMISSION REPORT ON FRAUD ASSOCIATED WITH BIRTH CERTIFICATES.**

Section 141 of the Immigration Act of 1990 is amended—

(1) in subsection (b)—

(A) by striking ''and'' at the end of paragraph (1),

(B) by striking the period at the end of paragraph (2) and inserting ''; and'', and

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

''(3) transmit to Congress, not later than January 1, 1997, a report containing recommendations (consistent with subsection (c)(3)) of methods of reducing or eliminating the fraudulent use of birth certificates for the purpose of obtaining other identity documents that may be used in securing immigration, employment, or other benefits.''; and

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

''(3) FOR REPORT ON REDUCING BIRTH CERTIFICATE FRAUD.—In the report described in subsection (b)(3), the Commission shall consider and analyze the feasibility of—

''(A) establishing national standards for counterfeit-resistant birth certificates, and

''(B) limiting the issuance of official copies of a birth certificate of an individual to anyone other than the individual or others acting on behalf of the individual.''.

**SEC. 812. UNIFORM VITAL STATISTICS.**

(a) PILOT PROGRAM.—The Secretary of Health and Human Services shall consult with the State agency responsible for registration and certification of births and deaths and, within 3 years of the date of enactment of this Act, shall establish a pilot program for 3 of the 5 States with the largest number of undocumented aliens of an electronic network linking the vital statistics records of such States. The network shall provide, where practical, for the matching of deaths with births and shall enable the confirmation of births and deaths of citizens of such States, or of aliens within such States, by any Federal or State agency or official in the performance of official

duties. The Secretary and participating State agencies shall institute measures to achieve uniform and accurate reporting of vital statistics into the pilot program network, to protect the integrity of the registration and certification process, and to prevent fraud against the Government and other persons through the use of false birth or death certificates.

(b) REPORT.—Not later than 180 days after the establishment of the pilot program under subsection (a), the Secretary shall issue a written report to Congress with recommendations on how the pilot program could effectively be instituted as a national network for the United States.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1996 and for subsequent fiscal years such sums as may be necessary to carry out this section.

**SEC. 813. COMMUNICATION BETWEEN STATE AND LOCAL GOVERNMENT AGENCIES, AND THE IMMIGRATION AND NATURALIZATION SERVICE.**

Notwithstanding any other provision of Federal, State, or local law, no State or local government entity shall prohibit, or in any way restrict, any government entity or any official within its jurisdiction from sending to or receiving from the Immigration and Naturalization

Service information regarding the immigration status, lawful or unlawful, or an alien in the United States.

**SEC. 814. CRIMINAL ALIEN REIMBURSEMENT COSTS.**

Amounts appropriated to carry out section 501 of the Immigration and Reform Act of 1986 for fiscal year 1995 shall be available to carry out section 242(j) of the Immigration and Nationality Act in that fiscal year with respect to undocumented criminal aliens incarcerated under the authority of political subdivisions of a State.

**SEC. 815. MISCELLANEOUS TECHNICAL CORRECTIONS.**

(a) AMENDMENTS RELATING TO PUBLIC LAW 103–322 (VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994).—

(1) Section 60024(1)(F) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) (in this subsection referred to as ''VCCLEA'') is amended by inserting ''United States Code,'' after ''title 18,''.

(2) Section 274(a)(2) (8 U.S.C. 1324(a)(2)), as amended by section 60024(2) of VCCLEA, is amended by striking the first period after ''both''.

(3) Section 130003(b)(3) of VCCLEA is amended by striking ''Naturalization'' and inserting ''Nationality''.

(4)(A) Section 214 (8 U.S.C. 1184) is amended by redesignating the subsection (j), added by section 130003(b)(2) of VCCLEA (108 Stat. 2025), and the subsection (k), added by section 220(b) of the Immigration and Nationality Technical Amendments Act of 1994 (Public Law 103–416, 108 Stat. 4319), as subsections (k) and (l), respectively.

(B) Section 101(a)(15)(S) (8 U.S.C. 1101(a)(15)(S)) is amended by striking ''214(j)'' and inserting ''214(k)''.

(5)(A) Section 245 (8 U.S.C. 1255) is amended by redesignating the subsection (i) added by section 130003(c)(1) of VCCLEA as subsection (j).

(B) Section 241(a)(2)(A)(i)(I) (8 U.S.C. 1251(a)(2)(A)(i)(I)), as amended by section 130003(d) of VCCLEA and before redesignation by section 305(2), is amended by striking ''245(i)'' and inserting ''245(j)''.

(6) Section 245(i)(3), as added by section 130003(c)(1) of VCCLEA, is amended by striking ''paragraphs (1) or (2)'' and inserting ''paragraph (1) or (2)''.

(7) Section 130007(a) of VCCLEA is amended by striking ''242A(d)'' and inserting ''242A(a)(3)''.

(8) The amendments made by this subsection shall be effective as if included in the enactment of the VCCLEA.

(b) AMENDMENTS RELATING TO IMMIGRATION AND NATIONALITY TECHNICAL CORRECTIONS ACT OF 1994.—

(1) Section 101(d) of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416) (in this subsection referred to as ''INTCA'') is amended—

(A) by striking ''APPLICATION'' and all that follows through ''This'' and inserting ''APPLICABILITY OF TRANSMISSION REQUIREMENTS.—This'';

(B) by striking ''any residency or other retention requirements for'' and inserting ''the application of any provision of law relating to residence or physical presence in the United States for purposes of transmitting United States''; and

(C) by striking ''as in effect'' and all that follows through the end and inserting ''to any person whose claim is based on the amendment made by subsection (a) or through whom such a claim is derived.''.

(2) Section 102 of INTCA is amended by adding at the end the following new subsection:

''(e) TRANSITION.—In applying the amendment made by subsection (a) to children born before November 14, 1986, any reference in the matter inserted by such amendment to 'five years, at least two of which' is deemed a reference to '10 years, at least 5 of which'.''.

(3) Section 351(a) (8 U.S.C. 1483(a)), as amended by section 105(a)(2)(A) of INTCA, is amended by striking the comma after ''nationality''.

(4) Section 207(2) of INTCA is amended by inserting a comma after ''specified''.

(5) Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended—

(A) in subparagraph (K)(ii), by striking the comma after ''1588'', and

(B) in subparagraph (O), by striking ''suspicion'' and inserting ''suspension''.

(6) Section 273(b) (8 U.S.C. 1323(b)), as amended by section 209(a) of INTCA, is amended by striking ''remain'' and inserting ''remains''.

(7) Section 209(a)(1) of INTCA is amended by striking ''$3000'' and inserting ''$3,000''.

(8) Section 209(b) of INTCA is amended by striking ''subsection'' and inserting ''section''.

(9) Section 217(f) (8 U.S.C. 1187(f)), as amended by section 210 of INTCA, is amended by adding a period at the end.

(10) Section 219(cc) of INTCA is amended by striking '' 'year 1993 the first place it appears' '' and inserting '' 'year 1993' the first place it appears''.

(11) Section 219(ee) of INTCA is amended by adding at the end the following new paragraph:

''(3) The amendments made by this subsection shall take effect on the date of the enactment of this Act.''.

(12) Paragraphs (4) and (6) of section 286(r) (8 U.S.C. 1356(r)) are amended by inserting ''the'' before ''Fund'' each place it appears.

(13) Section 221 of INTCA is amended—

(A) by striking each semicolon and inserting a comma,

(B) by striking ''disasters.'' and inserting ''disasters,'', and

(C) by striking ''The official'' and inserting ''the official''.

(14) Section 242A (8 U.S.C. 1252a), as added by section 224(a) of INTCA and before redesignation as section 238 by section 308(b)(6), is amended by redesignating subsection (d) as subsection (c).

(15) Section 225 of INTCA is amended—

(A) by striking ''section 242(i)'' and inserting ''sections 242(i) and 242A'', and

(B) by inserting '', 1252a'' after ''1252(i)''.

(16) Except as otherwise provided in this subsection, the amendments made by this subsection shall take effect as if included in the enactment of INTCA.

(c) STRIKING REFERENCES TO SECTION 210A.—

(1)(A) Section 201(b)(1)(C) (8 U.S.C. 1151(b)(1)(C)) and section 274B(a)(3)(B) (8 U.S.C. 1324b(a)(3)(B)) are each amended by striking '', 210A,''.

(B) Section 241(a)(1) (8 U.S.C. 1251(a)(1)), before redesignation by section 305(2), is amended by striking subparagraph (F).

(2) Sections 204(c)(1)(D)(i) and 204(j)(4) of Immigration Reform and Control Act of 1986 are each amended by striking '', 210A,''.

(d) MISCELLANEOUS CHANGES IN THE IMMIGRATION AND NATIONALITY ACT.—

(1) Before being amended by section 308(a), the item in the table of contents relating to section 242A is amended to read as follows:

''Sec. 242A. Expedited deportation of aliens convicted of committing aggravated felonies.''.

(2) Section 101(a)(43)(N) (8 U.S.C. 1101(a)(43)(N)) is amended by striking ''of title 18, United States Code''.

(3) Section 101(c)(1) (8 U.S.C. 1101(c)(1)) is amended by striking '', 321, and 322'' and inserting ''and 321''.

(4) Pursuant to section 6(b) of Public Law 103–272 (108 Stat. 1378)—

(A) section 214(f)(1) (8 U.S.C. 1184(f)(1)) is amended by striking ''section 101(3) of the Federal Aviation Act of 1958'' and inserting ''section 40102(a)(2) of title 49, United States Code''; and

(B) section 258(b)(2) (8 U.S.C. 1288(b)(2)) is amended by striking ''section 105 or 106 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1804, 1805'' and inserting ''section 5103(b), 5104, 5106, 5107, or 5110 of title 49, United States Code''.

(5) Section 286(h)(1)(A) (8 U.S.C. 1356(h)(1)(A)) is amended by inserting a period after ''expended''.

(6) Section 286(h)(2)(A) (8 U.S.C. 1356(h)(2)(A)) is amended—

(A) by striking ''and'' at the end of clause (iv),

(B) by moving clauses (v) and (vi) 2 ems to the left,

(C) by striking ''; and'' in clauses (v) and (vi) and inserting ''and for'',

(D) by striking the colons in clauses (v) and (vi), and

(E) by striking the period at the end of clause (v) and inserting ''; and''.

(7) Section 412(b) (8 U.S.C. 1522(b)) is amended by striking the comma after ''is authorized'' in paragraph (3) and after ''The Secretary'' in paragraph (4).

(e) MISCELLANEOUS CHANGE IN THE IMMIGRATION ACT OF 1990.—Section 161(c)(3) of the Immigration Act of 1990 is amended by striking ''an an'' and inserting ''of an''.

(f) MISCELLANEOUS CHANGES IN OTHER ACTS.—

(1) Section 506(a) of the Intelligence Authorization Act, Fiscal Year 1990 (Public Law 101–193) is amended by striking ''this section'' and inserting ''such section''.

(2) Section 140 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, as amended by section 505(2) of Public Law 103–317, is amended—

(A) by moving the indentation of subsections (f) and (g) 2 ems to the left, and

(B) in subsection (g), by striking ''(g)'' and all that follows through ''shall'' and inserting ''(g) Subsections (d) and (e) shall''.

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