

**Calendar No. 362**

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

**S. 1665**

**[Report No. 104-250]**

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**A BILL**

To amend the Immigration and Nationality Act to reform the standards and procedures for the lawful admission of immigrants and nonimmigrants into the United States.

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APRIL 10, 1996

Reported without amendment

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## IN THE SENATE OF THE UNITED STATES

APRIL 10, 1996

Mr. HATCH, from the Committee on the Judiciary, reported under authority of the order of the Senate of March 29, 1996 the following original bill; which was read twice and placed on the calendar

APRIL 10, 1996

Reported by Mr. HATCH, without amendment

**A BILL**

To amend the Immigration and Nationality Act to reform the standards and procedures for the lawful admission of immigrants and nonimmigrants into the United States.

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

1 **SECTION 1. SHORT TITLE; REFERENCES IN ACT.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Legal Immigration Act of 1996”.

4 (b) REFERENCES IN ACT.—Except as otherwise spe-  
5 cifically provided in this Act, whenever in this Act an  
6 amendment or repeal is expressed as an amendment to  
7 or repeal of a provision, the reference shall be deemed to  
8 be made to the Immigration and Nationality Act (8 U.S.C.  
9 1101 et seq.).

10 **SEC. 2. TABLE OF CONTENTS.**

11 The table of contents for this Act is as follows:

Sec. 1. Short title; references in Act.  
Sec. 2. Table of contents.

TITLE I—IMMIGRANTS

Subtitle A—Changes in Immigrant Classifications

Sec. 101. Family-sponsored preference classifications.  
Sec. 102. Repeal of preference category for unskilled immigrants.  
Sec. 103. Not counting work experience as an unauthorized alien.  
Sec. 104. Judicial review.  
Sec. 105. Conforming amendments.  
Sec. 106. Transition.

Subtitle B—Changes in Numerical Limitations on Immigrants

Sec. 111. Worldwide numerical limitation on family-sponsored immigration.  
Sec. 112. Worldwide numerical limitation on diversity immigration.  
Sec. 113. Numerical limitation on immigration from a single foreign state.  
Sec. 114. Transition for certain backlogged spouses and children of lawful per-  
manent residents and brothers and sisters of citizens.

TITLE II—NONIMMIGRANTS

Sec. 201. Changes relating to H-1B nonimmigrants.  
Sec. 202. Visa waiver program.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Repeal of Amerasian law.  
Sec. 302. Suspension of deportation for aliens who entered without inspection.  
Sec. 303. Exclusion for economic espionage or the piracy of intellectual  
property.  
Sec. 304. Mail-order bride business.

## TITLE IV—EFFECTIVE DATE

Sec. 401. Effective date.

1                   **TITLE I—IMMIGRANTS**  
 2           **Subtitle A—Changes in Immigrant**  
 3                   **Classifications**

4   **SEC. 101. FAMILY-SPONSORED PREFERENCE CLASSIFICA-**  
 5                   **TIONS.**

6           (a) PREFERENCE ALLOCATIONS.—Section 203(a) (8  
 7 U.S.C. 1153(a)) is amended to read as follows:

8           “SEC. 203. (a) PREFERENCE ALLOCATION FOR FAM-  
 9 ILY-SPONSORED IMMIGRANTS.—Aliens subject to the  
 10 worldwide level specified in section 201(c) for family-spon-  
 11 sored immigrants shall be allotted visas as follows:

12                   “(1) SPOUSES AND CHILDREN OF PERMANENT  
 13 RESIDENT ALIENS.—Qualified immigrants who are  
 14 the spouses or children of an alien lawfully admitted  
 15 for permanent residence shall be allocated visas in  
 16 each fiscal year in a number equal to the worldwide  
 17 level of family-sponsored immigrants calculated  
 18 under section 201(c)(1), plus any visas not required  
 19 in the previous fiscal year for the admission of immi-  
 20 grants under section 203(b).

21                   “(2) UNMARRIED SONS AND DAUGHTERS OF  
 22 CITIZENS.—Qualified immigrants who are the un-  
 23 married sons or daughters of citizens of the United

1 States shall be allocated visas not required for the  
2 class specified in paragraph (1).

3 “(3) MARRIED SONS AND DAUGHTERS OF CITI-  
4 ZENS.—Qualified immigrants who are the married  
5 sons and daughters of citizens of the United States  
6 shall be allocated visas not required for the classes  
7 specified in paragraphs (1) and (2).

8 “(4) UNMARRIED SONS AND DAUGHTERS OF  
9 PERMANENT RESIDENTS.—Qualified immigrants  
10 who are the unmarried sons or unmarried daughters  
11 (but are not the children) of an alien lawfully admit-  
12 ted for permanent residence shall be allocated visas  
13 not required for the classes specified in paragraphs  
14 (1), (2), and (3).

15 “(5) BROTHERS AND SISTERS OF CITIZENS.—  
16 Qualified immigrants who are the brothers or sisters  
17 of citizens of the United States, if such citizens are  
18 at least 21 years of age, shall be allocated visas not  
19 required for the classes specified in paragraphs (1),  
20 (2), (3), and (4).”.

21 (b) SPECIAL RULE FOR ALLOCATION OF VISAS DUR-  
22 ING TEMPORARY FAMILY BACKLOG REDUCTION  
23 PROGRAM.—

24 (1) UNMARRIED SONS AND DAUGHTERS OF  
25 CITIZENS.—Of the number of visas available to be

1 allotted to family-sponsored immigrants under sec-  
2 tion 203(a) of the Immigration and Nationality Act,  
3 a total of no less than 35,000 shall be allotted to the  
4 class described in paragraph (2) of that section (as  
5 amended by this section) each fiscal year until the  
6 backlog of qualified immigrants under subsection  
7 (a)(1) (relating to the spouses and children of per-  
8 manent residents) has been eliminated.

9 (2) MARRIED SONS AND DAUGHTERS OF CITI-  
10 ZENS.—Of the number of visas available to be allot-  
11 ted to family-sponsored immigrants under section  
12 203(a) of the Immigration and Nationality Act, a  
13 total of no less than 40,000 shall be allotted to the  
14 class described in paragraph (3) of that section (as  
15 amended by this section) each fiscal year until the  
16 backlog of qualified immigrants under subsection  
17 (a)(1) (relating to the spouses and children of per-  
18 manent residents) and subsection (a)(2) (relating to  
19 the unmarried sons and daughters of citizens) has  
20 been eliminated.

21 (c) TREATMENT OF NEW APPLICATIONS FOR  
22 BROTHERS AND SISTERS OF CITIZENS.—Beginning on  
23 the effective date of this Act, the Attorney General may  
24 not accept any petition by a citizen of the United States  
25 claiming that an alien is entitled to classification by reason

1 of a relationship described in section 203(a)(5) of the Im-  
2 migration and Nationality Act (as amended by this Act),  
3 until the backlog of qualified immigrants described in sec-  
4 tion 203(a)(5) of that Act is reduced to 150,000.

5 (d) STUDY AND REPORT ON SIBLING BACKLOG.—

6 (1) STUDY.—The Secretary of State shall con-  
7 duct a study of the number of aliens on the State  
8 Department's immigrant visa waiting list who are  
9 the brothers or sisters of United States citizens, and  
10 the number of spouses and children when accom-  
11 panying or following to join such aliens, in order to  
12 establish a reasonable estimate of the number of  
13 persons awaiting visas under section 203(a)(5) of  
14 the Immigration and Nationality Act, as amended by  
15 this section.

16 (2) REPORT.—Not later than two years after  
17 the date of enactment of this Act, the Secretary of  
18 State shall submit a report to the Committees on the  
19 Judiciary of the House of Representatives and of the  
20 Senate setting forth—

21 (A) the findings of the study required by  
22 paragraph (1); and

23 (B) the best estimate by the Secretary of  
24 State of the number of persons awaiting visas

1           under section 203(a)(5) of the Immigration and  
2           Nationality Act, as amended by this section.

3 **SEC. 102. REPEAL OF PREFERENCE CATEGORY FOR UN-**  
4 **SKILLED IMMIGRANTS.**

5           Section 203(b)(3)(A)(iii) is repealed, effective June  
6 1, 1997.

7 **SEC. 103. NOT COUNTING WORK EXPERIENCE AS AN UNAU-**  
8 **THORIZED ALIEN.**

9           Section 203(b) (8 U.S.C. 1153(b)) is amended by  
10 adding at the end the following new paragraph:

11           “(7) NOT COUNTING WORK EXPERIENCE AS AN  
12 UNAUTHORIZED ALIEN.—For purposes of this sub-  
13 section, work experience obtained in employment in  
14 the United States with respect to which the alien  
15 was an unauthorized alien (as defined in section  
16 274A(h)(3)) shall not be taken into account.”.

17 **SEC. 104. JUDICIAL REVIEW.**

18           Section 203 (8 U.S.C. 1153), as amended by sections  
19 101 and 102 of this Act, is further amended by adding  
20 at the end the following new subsection:

21           “(i) Except as otherwise provided in section  
22 203(h)(2) and notwithstanding any other provision of law,  
23 with respect to any civil action against any agency which  
24 involves a cause or claim regarding the allocation of immi-

1 grant visas or determinations made on immigrant visa pe-  
2 titions under this section—

3 “(1) suit must be brought within 90 days of the  
4 challenged action or determination;

5 “(2) venue shall lie only in the District Court  
6 for the District of Columbia;

7 “(3) suit may be brought only by persons who  
8 have petitioned for the issuance of an immigrant  
9 visa and have exhausted all available administrative  
10 remedies;

11 “(4) no suit may be brought to compel the  
12 agency to adjudicate a pending visa petition;

13 “(5) review of a denial of a visa petition shall  
14 be solely on the administrative record; and

15 “(6) the court—

16 “(A) must sustain the agency’s action un-  
17 less it has been shown by the petitioner to be  
18 clearly erroneous;

19 “(B) may not review any exercise of the  
20 agency’s discretion; and

21 “(C) may not reverse or remand a deter-  
22 mination on the basis, in whole or in part, that  
23 the agency’s explanation of its action was not  
24 sufficiently extensive.”.

1 **SEC. 105. CONFORMING AMENDMENTS.**

2 (a) Section 204(a)(1)(A)(i) is amended by striking  
3 “classification by reason of a relationship described in  
4 paragraph (1), (3), or (4) of section 203(a)” and inserting  
5 “paragraph (3) or (5) of section 203(a)”.

6 (b) The following sections of the Immigration and  
7 Nationality Act are amended by striking “203(a)(2)” each  
8 place it appears and inserting “203(a)(1)”: sections  
9 204(a)(1)(B)(i), 204(a)(2)(A), 212(a)(6)(E)(ii),  
10 216(g)(1)(C), and 241(a)(1)(E)(ii).

11 (c) The following provisions of the Immigration and  
12 Nationality Act are amended by striking “203(a)(2)(A)”  
13 each place it appears and inserting “203(a)(1)”: sections  
14 202(e), 204(a)(1)(B)(ii), and 204(a)(1)(B)(iii).

15 (d) The following provision of the Immigration and  
16 Nationality Act is amended by striking “203(a)(2)(B)”  
17 each place it appears and inserting “203(a)(4)”: section  
18 202(a)(4)(C).

19 (e)(1) The following provisions of law are amended  
20 by striking “203(a)(4)” each place it appears and insert-  
21 ing “203(a)(5)”: section 2(c)(4) of Public Law 97–271  
22 and section 161(c)(2) of the Immigration Act of 1990.

23 (2) Section 204(a)(1)(A)(i) of the Immigration and  
24 Nationality Act is amended by striking “(4)” and insert-  
25 ing “(5)”.

1       (3) Section 212(d)(11) of such Act is amended by  
2 striking “paragraph (4)” and inserting “paragraph (5)”.

3       (f) The following provisions of law are amended by  
4 striking “203(a)(2)” each place it appears and inserting  
5 “203(a)(1)”: section 2(c)(4) of Public Law 97–271 and  
6 sections 112(b) and 155(b)(3) of the Immigration Act of  
7 1990.

8       (g) Public Law 102–509 is amended in subsection (a)  
9 of section 4 by striking “expertise” and inserting “edu-  
10 cation and experience”.

11 **SEC. 106. TRANSITION.**

12       (a) IN GENERAL.—Any petition filed under section  
13 204(a) of the Immigration and Nationality Act before Oc-  
14 tober 1, 1996 for preference status under section  
15 203(a)(1), section 203(a)(2)(A), section 203(a)(2)(B) or  
16 section 203(a)(4) of such Act (as in effect before such  
17 date) for qualified immigrants shall be deemed, as of such  
18 date, to be a petition filed under such section for pref-  
19 erence status under section 203(a)(2), section 203(a)(1),  
20 section 203(a)(4), or section 203(a)(5), respectively, of  
21 such Act (as amended by this Act).

22       (b) ADMISSIBILITY STANDARDS.—When an immi-  
23 grant, in possession of an unexpired immigrant visa issued  
24 before October 1, 1996, makes application for admission,  
25 the immigrant’s admissibility under paragraph (7)(A) of

1 section 212(a) of the Immigration and Nationality Act  
 2 shall be determined under the provisions of law in effect  
 3 on the date of the issuance of such visa.

4 **Subtitle B—Changes in Numerical**  
 5 **Limitations on Immigrants**

6 **SEC. 111. WORLDWIDE NUMERICAL LIMITATION ON**  
 7 **FAMILY-SPONSORED IMMIGRATION.**

8 Subsection (c)(1) of section 201 (8 U.S.C. 1151) is  
 9 amended to read as follows:

10 “(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED  
 11 IMMIGRANTS.—(1)(A) The worldwide level of family-spon-  
 12 sored immigrants under this subsection for a fiscal year  
 13 is, subject to subparagraph (B), equal to—

14 “(i) 425,000, minus

15 “(ii) the number computed under paragraph  
 16 (2), plus

17 “(iii) the number (if any) computed under para-  
 18 graph (3).

19 “(B) In no case shall the number computed under  
 20 subparagraph (A) be less than 175,000.”.

21 **SEC. 112. WORLDWIDE NUMERICAL LIMITATION ON DIVER-**  
 22 **SITY IMMIGRATION.**

23 (a) NUMERICAL LIMITATION.—Section 201(e) (8  
 24 U.S.C. 1151(e)) is amended by striking “55,000” and in-  
 25 serting “27,000”.

1 (b) DISTRIBUTION OF VISAS.—Section 203(c)(1)(E)  
2 is amended by adding at the end the following new clause:

3 “(vi) NO VISAS FOR NATIVES OF CER-  
4 TAIN COUNTRIES.—(I) Except as provided  
5 in subclause (III), the percentage of visas  
6 made available under this paragraph to na-  
7 tives of any state described in subclause  
8 (II) is zero.

9 “(II) A state described in this  
10 subclause is a state for which the average  
11 annual admission of natives of that state is  
12 less than 1 percent of the per country limit  
13 applicable under section 202(a) to natives  
14 of that state in the previous fiscal year.

15 “(III) The limitation contained in  
16 subclause (I) shall not apply to the terri-  
17 tory specified in subparagraph (F) unless  
18 the average annual admission of diversity  
19 immigrants from such territory under this  
20 subsection is less than 1 percent of the  
21 total number of diversity immigrant visas  
22 which may be made available to natives of  
23 the territory in the most recent fiscal year  
24 for which data are available.

25 “(IV) For purposes of this clause—

1           “(aa) the average annual admis-  
2           sion of natives of a foreign state is de-  
3           termined by dividing the number de-  
4           termined under subparagraph (A) by  
5           five; and

6           “(bb) the average annual admis-  
7           sion of diversity immigrants is deter-  
8           mined for the most recent 5-fiscal-  
9           year period for which data are avail-  
10          able or, if data are not available for 5-  
11          fiscal years, the next longest period of  
12          the fiscal years for which data are  
13          available, by dividing by five, or the  
14          appropriate lesser number, as the case  
15          may be, the total number of aliens  
16          who are natives of the territory and  
17          who were admitted or otherwise pro-  
18          vided lawful permanent resident sta-  
19          tus under this subsection.”.

20          (c) FEES.—Section 203(c) (8 U.S.C. 1153(c)) is  
21          amended by adding the following new paragraph:

22                 “(4) FEES.—Fees for the furnishing and ver-  
23                 ification of applications for visas under this sub-  
24                 section and for the issuance of visas under this sub-  
25                 section may be prescribed by the Secretary of State

1 in such amounts as are adequate to compensate the  
2 Department of State for the costs of administering  
3 the diversity immigrant program. Any such fees col-  
4 lected may be deposited as an offsetting collection to  
5 the appropriate Department of State appropriation  
6 to recover the costs of such program and shall re-  
7 main available for obligation until expended.”.

8 **SEC. 113. NUMERICAL LIMITATION ON IMMIGRATION FROM**  
9 **A SINGLE FOREIGN STATE.**

10 Section 202(a) (8 U.S.C. 1152(a)) is amended by  
11 striking paragraphs (2) through (4) and inserting the  
12 following:

13 “(2) PER COUNTRY LEVELS FOR FAMILY-SPON-  
14 SORED AND EMPLOYMENT-BASED IMMIGRANTS.—(A)  
15 Subject to subparagraph (C), the total number of  
16 immigrant visas made available in any fiscal year to  
17 natives of any single foreign state or dependent area  
18 under section 203 (a) and (b) may not exceed the  
19 difference (if any) between—

20 “(i) 20,000 in the case of any foreign state  
21 (or 5,000 in the case of a dependent area) not  
22 contiguous to the United States, or 40,000 in  
23 the case of any foreign state contiguous to the  
24 United States; and

1           “(ii) the amount specified in subparagraph  
2           (B).

3           “(B) The amount specified in this subpara-  
4           graph is the amount by which the total of the num-  
5           ber of immediate relatives (as defined in section  
6           201(b)(2)) admitted in the prior fiscal year who are  
7           natives of such state or dependent area exceeded  
8           20,000 in the case of any foreign state (or 5,000 in  
9           the case of a dependent area) not contiguous to the  
10          United States, or 40,000 in the case of any foreign  
11          state contiguous to the United States.

12          “(C) In any fiscal year in which immigrant visa  
13          numbers are made available under section 114(a)(1)  
14          of the Legal Immigration Act of 1996, the per coun-  
15          try limitation specified in subparagraph (A) shall not  
16          apply to aliens who are allotted visas under section  
17          203(a)(1), except that the number of immigrant  
18          visas made available to the natives of any foreign  
19          state or dependent area under section 203(a) for  
20          such fiscal year shall be subtracted from the level  
21          specified in subparagraph (A) for purposes of the  
22          application of such level to immigrants from such  
23          state or area under section 203(b) for such fiscal  
24          year.”.

1 **SEC. 114. TRANSITION FOR CERTAIN BACKLOGGED**  
2 **SPOUSES AND CHILDREN OF LAWFUL PER-**  
3 **MANENT RESIDENTS AND BROTHERS AND**  
4 **SISTERS OF CITIZENS.**

5 (a) IN GENERAL.—Notwithstanding the numerical  
6 limitations of section 203(a) of the Immigration and Na-  
7 tionality Act, in addition to any immigrant visas otherwise  
8 available, immigrant visas shall be made available as  
9 follows:

10 (1) BACKLOGGED SPOUSES AND CHILDREN.—

11 (A) Except as provided in subparagraph (B), and  
12 subject to subsection (b), qualified immigrants who  
13 are the spouses or children of an alien lawfully ad-  
14 mitted for permanent residence, and who had a peti-  
15 tion approved for classification under section  
16 203(a)(2)(A) (as in effect immediately prior to the  
17 date of enactment of this Act), shall be allotted visas  
18 in a number not to exceed 25,000 for each of the  
19 fiscal years 1997 through 2001.

20 (B) A visa shall not be made available under  
21 subparagraph (A) for any alien—

22 (i) who is subject to the temporary stay of  
23 deportation authorized under section 301 of the  
24 Immigration Act of 1990, or

25 (ii) whose petitioning relative has satisfied  
26 the residency requirements under section 316

1 of the Immigration and Nationality Act to  
2 qualify to apply for naturalization.

3 (2) BACKLOGGED BROTHERS AND SISTERS OF  
4 CITIZENS.—Subject to subsection (b), qualified im-  
5 migrants who are the brothers or sisters of citizens  
6 of the United States, if such citizens are at least 21  
7 years of age, and who had a petition approved for  
8 classification under section 203(a)(4) (as in effect  
9 immediately prior to the date of enactment of this  
10 Act), shall be allotted visas in a number not to ex-  
11 ceed 50,000 in each of the fiscal years 1997 through  
12 2001 and not to exceed 75,000 in each of the fiscal  
13 years 2002 through 2006.

14 (b) COVERED ALIENS.—(1) This section applies only  
15 to those aliens who—

16 (A) as of the date of enactment of this Act,  
17 have had a petition approved for classification under  
18 paragraph (2)(A) or (4), as the case may be, of sec-  
19 tion 203(a) of the Immigration and Nationality Act  
20 (as in effect immediately prior to the date of the en-  
21 actment of this Act);

22 (B) have been unable to obtain a visa, because  
23 of the unavailability of a visa number; and

1 (C) remain qualified for classification under  
2 section 203(a) of the Immigration and Nationality  
3 Act (as amended by this Act).

4 (2) The additional visa numbers provided under sub-  
5 section (a)(1) shall not be subject to the numerical limita-  
6 tions of section 202(a) of the Immigration and Nationality  
7 Act.

## 8 **TITLE II—NONIMMIGRANTS**

### 9 **SEC. 201. CHANGES RELATING TO H-1B NONIMMIGRANTS.**

10 (a) COMPLAINTS AND INVESTIGATIONS OF H-1B  
11 EMPLOYERS.—Section 212(n)(2)(A) (8 U.S.C.  
12 1182(n)(2)(A)) is amended by striking the period at the  
13 end of the second sentence and inserting the following: “,  
14 except that the Secretary may only file such a complaint  
15 in the case of an H-1B dependent employer (as defined  
16 in subparagraph (E)) or when conducting an annual re-  
17 view of a plan pursuant to subparagraph (F)(i) if there  
18 appears to be a violation of an attestation. No investiga-  
19 tion or hearing shall be conducted with respect to an em-  
20 ployer that is not an H-1B dependent employer except  
21 in response to a complaint filed under the preceding  
22 sentence.”.

23 (b) INCREASED PENALTIES FOR VIOLATIONS OF H-  
24 1B REQUIREMENTS.—Section 212(n)(2) of the Immigra-  
25 tion and Nationality Act is amended—

1           (1) in subparagraph (C)(i), by striking  
2           “\$1,000” and inserting “\$5,000”;

3           (2) by amending subparagraph (C)(ii) to read  
4           as follows:

5           “(ii) the Attorney General shall not approve pe-  
6           titions filed with respect to that employer (or any  
7           employer who is a successor in interest) under sec-  
8           tion 204 or 214(e) for aliens to be employed by the  
9           employer—

10           “(I) during a period of at least 1 year in  
11           the case of the first determination of a violation  
12           or any subsequent determination of a violation  
13           occurring within 1 year of that first violation;

14           “(II) during a period of at least 5 years in  
15           the case of a determination of a willful violation  
16           occurring more than 1 year after the first viola-  
17           tion; and

18           “(III) at any time in the case of a deter-  
19           mination of a willful violation occurring more  
20           than 5 years after a violation described in  
21           subelause (II);”;

22           (3) in subparagraph (D), by adding at the end  
23           the following new sentence: “If a penalty under sub-  
24           paragraph (C) has been imposed in the case of a  
25           willful violation, the Secretary shall impose on the

1 employer a civil monetary penalty in an amount  
2 equaling twice the amount of backpay.”.

3 (c) DEFINITION OF H-1B DEPENDENT EM-  
4 PLOYER.—Section 212(n)(2) (8 U.S.C. 1182(n)(2)) is  
5 amended by inserting after subparagraph (D) the follow-  
6 ing new subparagraphs:

7 “(E) In this subsection, the term ‘H-1B dependent  
8 employer’ means an employer that—

9 “(i)(I) has fewer than 21 full-time equivalent  
10 employees who are employed in the United States,  
11 and

12 “(II) employs 4 or more nonimmigrants de-  
13 scribed in section 101(a)(15)(H)(i)(b); or

14 “(ii)(I) has at least 21 full-time equivalent em-  
15 ployees who are employed in the United States, and

16 “(II) employs nonimmigrants described in sec-  
17 tion 101(a)(15)(H)(i)(b) in a number that is equal  
18 to at least 20 percent of the number of such full-  
19 time equivalent employees.

20 “(F)(i) An employer who is an H-1B dependent as  
21 defined in section 212(n)(2)(E) may nevertheless be treat-  
22 ed as an H-1B nondependent employer for 5 years on a  
23 probationary status if—

24 “(I) the employer has demonstrated to the sat-  
25 isfaction of the Secretary of Labor that the employer

1 has developed a plan for reasonably reducing the  
2 percentage of H-1B workers in its workforce over a  
3 5-year period, and

4 “(II) annual reviews of that plan by the Sec-  
5 retary of Labor indicate successful implementation  
6 of that plan.

7 If the employer has not met the requirements established  
8 in this subparagraph, the probationary status shall termi-  
9 nate and the employer shall be treated as an H-1B de-  
10 pendent employer until such time as the employer dem-  
11 onstrates to the satisfaction of the Secretary of Labor that  
12 the employer no longer is an H-1B dependent employer  
13 as defined in section 212(n)(2)(E).

14 “(ii) The probationary status accorded in this sub-  
15 paragraph shall cease to be effective 5 years after the date  
16 of enactment of the plan to reduce dependence on H-1B  
17 workers. In applying this subparagraph, any group treated  
18 as a single employer under subsection (b), (c), (m), or (o)  
19 of section 414 of the Internal Revenue Code of 1986 shall  
20 be treated as a single employer under this subparagraph.  
21 For purposes of this subparagraph, aliens employed under  
22 a petition for nonimmigrants described in section  
23 101(a)(15)(H)(i)(b) shall be treated as employees, and  
24 counted as nonimmigrants under section  
25 101(a)(15)(H)(i)(b).

1       “(G) Under regulations of the Secretary, the provi-  
2 sions of this paragraph shall apply to complaints with re-  
3 spect to a failure of another employer to comply with an  
4 attestation described in paragraph (1)(E)(ii) in the same  
5 manner as they apply to complaints of a petitioner with  
6 respect to a failure to comply with a condition described  
7 in paragraph (1)(E)(i).”.

8       (d) COMPUTATION OF ACTUAL AND PREVAILING  
9 WAGE LEVEL.—Section 212(n) (8 U.S.C. 1182(n)) is  
10 amended by adding at the end the following new para-  
11 graphs:

12           “(3) For purposes of determining the actual  
13 wages paid under paragraph (1)(A)(i)(I), an em-  
14 ployer shall not be required to have and document  
15 an objective system to determine the wages of  
16 workers.

17           “(4) For purposes of determining the actual  
18 wage level paid under paragraph (1)(A)(i)(I), an H-  
19 1B nondependent employer of more than 1,000 em-  
20 ployees in the United States may demonstrate that  
21 in determining the wages of nonimmigrants de-  
22 scribed in section 101(a)(15)(H)(i)(B), the employer  
23 utilizes a compensation and benefits system that has  
24 been previously certified by the Secretary of Labor  
25 (and recertified at such intervals the Secretary of

1 Labor may designate) to satisfy all of the following  
2 conditions:

3 “(A) The employer has a company-wide  
4 compensation policy for its full-time equivalent  
5 employees which ensures salary equity among  
6 employees similarly employed.

7 “(B) The employer has a company-wide  
8 benefits policy under which all full-time equiva-  
9 lent employees similarly employed are eligible  
10 for benefits or under which some employees  
11 may accept higher pay, at least equal in value  
12 to the benefits, in lieu of benefits.

13 “(C) The compensation and benefits policy  
14 is communicated to all employees.

15 “(D) The employer has a Human Re-  
16 sources or Compensation function that admin-  
17 isters its compensation system.

18 “(E) The employer has established docu-  
19 mentation for the job categories in question.

20 An employer’s payment of wages consistent with a  
21 system which meets the conditions of subparagraphs  
22 (A) through (E) and which has been certified by the  
23 Secretary of Labor pursuant to this paragraph shall  
24 be deemed to satisfy the requirements of paragraph  
25 (1)(A)(i).

1           “(5) For purposes of determining and enforcing  
2 the prevailing wage paid under paragraph  
3 (1)(A)(i)(II), employers may provide a published  
4 survey, a State employment agency determination, a  
5 determination by an accepted private source or any  
6 other legitimate source. Not later than 180 days  
7 from the date of enactment of this Act, the Sec-  
8 retary of Labor shall provide for acceptance of pre-  
9 vailing wage determinations not made by a State  
10 employment security agency. The Secretary of Labor  
11 or his designate must either accept such non-State  
12 employment security agency wage determination or  
13 issue a written decision rejecting the determination  
14 and detailing the legitimate reasons that the deter-  
15 mination is not acceptable. If a detailed rejection is  
16 not issued within 45 days of the date of the Sec-  
17 retary’s receipt of such determination, the deter-  
18 mination shall be deemed acceptable. An employer’s  
19 payment of wages consistent with a prevailing wage  
20 determination not rejected by the Secretary of Labor  
21 under this paragraph shall be deemed to satisfy the  
22 requirements of paragraph (1)(A)(i)(II).

23           “(6) In computing the prevailing wage level for  
24 researchers in an area of employment for purposes  
25 of paragraph (1)(A)(i)(II) and subsection (a)(5)(A)

1 in the case of an employee of (A) an institution of  
2 higher education (as defined in section 1201(a) of  
3 the Higher Education Act of 1965), or a related or  
4 affiliated nonprofit entity, or (B) a nonprofit or Fed-  
5 eral research institute or agency, the prevailing wage  
6 level shall only take into account researchers at such  
7 institutions, entities, and agencies in the area of em-  
8 ployment.”.

9 (e) APPLICATION OF CERTAIN REQUIREMENTS FOR  
10 NON-H-1B DEPENDENT EMPLOYERS.—Section 212(n)  
11 (8 U.S.C. 1182(n)) is further amended by adding at the  
12 end the following new paragraph:

13 “(7) In carrying out this subsection, in the case  
14 of an employer that is not an H-1B dependent  
15 employer—

16 “(A) the employer is not required to post  
17 notices at worksites that were not listed on the  
18 application under paragraph (1) if the worksites  
19 are within the area of intended employment list-  
20 ed on such application; and

21 “(B) if the employer has filed and had cer-  
22 tified an application under paragraph (1) with  
23 respect to one or more nonimmigrants described  
24 in section 101(a)(15)(H)(i)(b) for one or more  
25 areas of employment—

1           “(i) the employer is not required to  
2           file and have certified an additional appli-  
3           cation under paragraph (1) with respect to  
4           such a nonimmigrant for an area of em-  
5           ployment not listed in the previous applica-  
6           tion because the employer has placed one  
7           or more such nonimmigrants in such a  
8           nonlisted area so long as either (I) each  
9           such nonimmigrant is not placed in such  
10          nonlisted areas for a period exceeding 45  
11          workdays in any 12-month period and not  
12          to exceed 90 workdays in any 36-month  
13          period, or (II) each such nonimmigrant’s  
14          principal place of employment has not  
15          changed to a nonlisted area, and

16                 “(ii) the employer is not required to  
17                 pay per diem and transportation costs at  
18                 any specified rates for work performed in  
19                 such a nonlisted area.”.

20           (f) EFFECTIVE DATES.—(1) Except as otherwise pro-  
21          vided in this subsection, the amendments made by this  
22          section shall take effect on the date of the enactment of  
23          this Act and shall apply to applications filed with the Sec-  
24          retary of Labor on or after 30 days after the date of the  
25          enactment of this Act.

1           (2) The amendments made by subsection (b)(1) shall  
2 apply to complaints filed, and to investigations or hearings  
3 initiated, on or after January 19, 1995.

4 **SEC. 202. VISA WAIVER PROGRAM.**

5           (a) **EXTENSION OF PROGRAM.**—Section 217(f) (8  
6 U.S.C. 1187(f)) is amended by striking “1996” and in-  
7 serting “1998”.

8           (b) **REPEAL OF PROBATIONARY PROGRAM.**—(1) Sec-  
9 tion 217(g) (8 U.S.C. 1187(g)) is repealed.

10           (2) A country designated as a pilot program country  
11 with probationary status under section 217(g) of the Im-  
12 migration and Nationality Act (as in effect prior to the  
13 date of enactment of this Act) shall be subject to para-  
14 graphs (3) and (4) of that subsection as if such para-  
15 graphs were not repealed.

16           (c) **DURATION AND TERMINATION OF DESIGNATION**  
17 **OF PILOT PROGRAM COUNTRIES.**—Section 217, as  
18 amended by this section, is further amended by adding  
19 at the end the following:

20           “(g) **DURATION AND TERMINATION OF DESIGNA-**  
21 **TION.**—

22                   “(1) **PROGRAM COUNTRIES.**—(A) Upon deter-  
23 mination by the Attorney General that a visa waiver  
24 program country’s disqualification rate is 2 percent

1 or more, the Attorney General shall notify the Sec-  
2 retary of State.

3 “(B) If the program country’s disqualification  
4 rate is greater than 2 percent but less than 3.5 per-  
5 cent, the Attorney General and the Secretary of  
6 State shall place the program country in probation-  
7 ary status for a period not to exceed 3 full fiscal  
8 years following the year in which the designation of  
9 the country as a pilot program country is made.

10 “(C) If the program country’s disqualification  
11 rate is 3.5 percent or more, the Attorney General  
12 and the Secretary of State, acting jointly, shall ter-  
13 minate the country’s designation effective at the be-  
14 ginning of the second fiscal year following the fiscal  
15 year in which the determination is made.

16 “(2) END OF PROBATIONARY STATUS.—(A) If  
17 the Attorney General and the Secretary of State,  
18 acting jointly, determine at the end of the probation-  
19 ary period described in subparagraph (B) that the  
20 program country’s disqualification rate is less than  
21 2 percent, they shall redesignate the country as a  
22 program country.

23 “(B) If the Attorney General and the Secretary  
24 of State, acting jointly, determine at the end of the

1       probationary period described in subparagraph (B)  
2       that a visa waiver country has—

3               “(i) failed to develop a machine readable  
4               passport program as required by subparagraph  
5               (C) of subsection (e)(2), or

6               “(ii) has a disqualification rate of 2 per-  
7               cent or more,

8       then the Attorney General and the Secretary of  
9       State shall jointly terminate the designation of the  
10      country as a visa waiver program country, effective  
11      at the beginning of the first fiscal year following the  
12      fiscal year in which in the determination is made.

13              “(3) DISCRETIONARY TERMINATION.—Notwith-  
14              standing any other provision of this section, the At-  
15              torney General and the Secretary of State, acting  
16              jointly, may for any reason (including national secu-  
17              rity or failure to meet any other requirement of this  
18              section), at any time, rescind any waiver under sub-  
19              section (a) or terminate any designation under sub-  
20              section (e), effective upon such date as they shall  
21              jointly determine.

22              “(4) EFFECTIVE DATE OF TERMINATION.—Na-  
23              tionals of a country whose eligibility for the program  
24              is terminated by the Attorney General and the Sec-  
25              retary of State, acting jointly, may continue to have

1 paragraph (7)(B)(i)(II) of section 212(a) waived, as  
2 authorized by subsection (a), until the country's ter-  
3 mination of designation becomes effective as pro-  
4 vided in this subsection.

5 “(5) NONAPPLICABILITY PROVISIONS.—Para-  
6 graphs (1)(C) and (3) shall not apply unless the  
7 total number of nationals of a designated country, as  
8 described in paragraph (6)(A), is in excess of 100.

9 “(6) DEFINITION.—For purposes of this sub-  
10 section, the term ‘disqualification rate’ means the  
11 ratio of—

12 “(A) the total number of nationals of the  
13 visa waiver program country—

14 “(i) who were excluded from admis-  
15 sion or withdrew their application for ad-  
16 mission during the most recent fiscal year  
17 for which data is available, and

18 “(ii) who were admitted as non-  
19 immigrant visitors during such fiscal year  
20 and who violated the terms of such admis-  
21 sion, to

22 “(B) the total number of nationals of that  
23 country who applied for admission as non-  
24 immigrant visitors during such fiscal year.”.

1           **TITLE III—MISCELLANEOUS**  
2                           **PROVISIONS**

3   **SEC. 301. REPEAL OF AMERASIAN LAW.**

4           (a) **IN GENERAL.**—Section 584 of the Foreign Oper-  
5 ations, Export Financing, and Related Programs Appro-  
6 priations Act, 1988 (as contained in section 101(e) of  
7 Public Law 100–202; 8 U.S.C. 1101 note) is repealed ef-  
8 fective October 1, 1997.

9           (b) **TRANSITION PERIOD.**—(1) Effective October 1,  
10 1996, only an alien described in subparagraph (A) or (B)  
11 of section 584(b) of such Act may be admitted to the Unit-  
12 ed States pursuant to section 584(a) of such Act.

13           (2) The repeal of section 584 of such Act made by  
14 subsection (a) shall not affect the admission into the Unit-  
15 ed States of an alien who was interviewed and approved  
16 for admission before October 1, 1997, and who was admit-  
17 ted to the United States before October 1, 1998.

18   **SEC. 302. SUSPENSION OF DEPORTATION FOR ALIENS WHO**  
19                           **ENTERED WITHOUT INSPECTION.**

20           (a) **IN GENERAL.**—Section 244(a)(2) (8 U.S.C.  
21 1254(a)(1)) is amended by inserting “(1)(B),” after  
22 “paragraph”.

23           (b) **EFFECTIVE DATE.**—The amendments made by  
24 subsection (a) shall apply to aliens who enter the United  
25 States on or after the date of enactment of this Act.

1 **SEC. 303. EXCLUSION FOR ECONOMIC ESPIONAGE OR THE**  
2 **PIRACY OF INTELLECTUAL PROPERTY.**

3 Section 212(a)(2) (8 U.S.C. 1182(a)(2)) is  
4 amended—

5 (1) by redesignating subparagraph (F) as sub-  
6 paragraph (G); and

7 (2) by inserting after subparagraph (E) the  
8 following:

9 “(F) ECONOMIC ESPIONAGE AND PIRACY  
10 OF INTELLECTUAL PROPERTY.—Any person  
11 convicted of, or who admits having committed,  
12 an act in violation of any law, or who has vio-  
13 lated any law, as determined by a court, per-  
14 taining to economic espionage or the piracy of  
15 intellectual property is excludable.”.

16 **SEC. 304. MAIL-ORDER BRIDE BUSINESS.**

17 (a) CONGRESSIONAL FINDINGS.—The Congress  
18 makes the following findings:

19 (1) There is a substantial “mail-order bride”  
20 business in the United States. With approximately  
21 200 companies in the United States, an estimated  
22 2,000 to 3,500 American men find wives through  
23 mail-order bride catalogs each year. However, there  
24 are no official statistics available on the number of  
25 mail-order brides entering the United States each  
26 year.

1           (2) The companies engaged in the mail-order  
2           bride business earn substantial profits from their  
3           businesses.

4           (3) Although many of these mail-order mar-  
5           riages work out, in many other cases, anecdotal evi-  
6           dence suggests that mail-order brides often find  
7           themselves in abusive relationships. There is also  
8           evidence to suggest that a substantial number of  
9           mail-order marriages constitute marriage fraud  
10          under United States law.

11          (4) Many mail-order brides come to the United  
12          States unaware or ignorant of United States immi-  
13          gration law. Mail-order brides who are battered  
14          spouses often think that if they flee an abusive mar-  
15          riage, they will be deported. Often the citizen spouse  
16          threatens to have them deported if they report the  
17          abuse.

18          (5) The Immigration and Naturalization Serv-  
19          ice estimates the rate of marriage fraud between for-  
20          eign nationals and United States citizens or legal  
21          permanent residents as eight percent. It is unclear  
22          what percent of those marriage fraud cases origi-  
23          nated as mail-order marriages.

24          (b) INFORMATION DISSEMINATION.—Each inter-  
25          national matchmaking organization doing business in the

1 United States shall disseminate to recruits, upon recruit-  
2 ment, such immigration and naturalization information as  
3 the Immigration and Naturalization Service deems appro-  
4 priate, in the recruit's native language, including informa-  
5 tion regarding conditional permanent residence status,  
6 permanent resident status, the battered spouse waiver of  
7 conditional permanent resident status requirement, mar-  
8 riage fraud penalties, immigrants' rights, the unregulated  
9 nature of the business, and the study mandated in sub-  
10 section (c).

11 (c) STUDY.—The Attorney General, in consultation  
12 with the Commissioner of Immigration and Naturalization  
13 and the Violence Against Women Office of the Depart-  
14 ment of Justice, shall conduct a study to determine,  
15 among other things—

16 (1) the number of mail-order marriages;

17 (2) the extent of marriage fraud arising as a re-  
18 sult of the services provided by international match-  
19 making organizations;

20 (3) the extent to which mail-order spouses uti-  
21 lize section 244(a)(3) of the Immigration and Na-  
22 tionality Act providing for waiver of deportation in  
23 the event of abuse, or section 204(a)(1)(A)(iii) of  
24 such Act providing for self-petitioning for permanent  
25 resident status;

1           (4) the extent of domestic abuse in mail-order  
2 marriages; and

3           (5) the need for continued or expanded regula-  
4 tion and education to implement the objectives of  
5 the Violence Against Women Act of 1994 in this  
6 area.

7           (d) REPORT.—Not later than one year after the date  
8 of enactment of this Act, the Attorney General shall sub-  
9 mit a report to the Congress setting forth the results of  
10 the study conducted under subsection (c).

11          (e) CIVIL PENALTY.—(1) The Attorney General shall  
12 impose a civil penalty of not to exceed \$20,000 for each  
13 violation of subsection (b).

14          (2) Any penalty under paragraph (1) may be imposed  
15 only after notice and opportunity for an agency hearing  
16 on the record in accordance with sections 554 through 557  
17 of title 5, United States Code.

18          (f) DEFINITIONS.—As used in this section:

19           (1) INTERNATIONAL MATCHMAKING ORGANIZA-  
20 TION.—The term “international matchmaking orga-  
21 nization” means a corporation, partnership, busi-  
22 ness, or other legal entity, whether or not organized  
23 under the laws of the United States or any State,  
24 that does business in the United States and for prof-  
25 it offers to United States citizens or permanent resi-

1 dent aliens, dating, matrimonial, or social referral  
2 services to nonresident, noncitizens, by—

3 (A) an exchange of names, telephone num-  
4 bers, addresses, or statistics;

5 (B) selection of photographs; or

6 (C) a social environment provided by the  
7 organization in a country other than the United  
8 States.

9 (2) RECRUIT.—The term “recruit” means a  
10 noncitizen, nonresident person, recruited by the  
11 international matchmaking organization for the pur-  
12 pose of providing dating, matrimonial, or social re-  
13 ferral services to United States citizens or perma-  
14 nent resident aliens.

## 15 **TITLE IV—EFFECTIVE DATE**

### 16 **SEC. 401. EFFECTIVE DATE.**

17 This Act, and the amendments made by this Act,  
18 shall take effect on October 1, 1996.