

104TH CONGRESS
1ST SESSION

S. 269

To amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigator personnel; improving the verification system for employer sanctions; increasing penalties for alien smuggling and for document fraud; reforming asylum, exclusion, and deportation law and procedures; instituting a land border user fee; and to reduce use of welfare by aliens.

IN THE SENATE OF THE UNITED STATES

JANUARY 24 (legislative day, JANUARY 10), 1995

Mr. DOLE (for Mr. SIMPSON) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigator personnel; improving the verification system for employer sanctions; increasing penalties for alien smuggling and for document fraud; reforming asylum, exclusion, and deportation law and procedures; instituting a land border user fee; and to reduce use of welfare by aliens.

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.**

2 This Act may be cited as the “Immigrant Control and
3 Financial Responsibility Act of 1995”.

4 **SEC. 2. TABLE OF CONTENTS.**

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

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—IMMIGRANT CONTROL

Subtitle A—Law Enforcement

PART 1—ADDITIONAL ENFORCEMENT PERSONNEL

- Sec. 101. Border Patrol agents.
- Sec. 102. Investigators.

PART 2—SYSTEM TO VERIFY ELIGIBILITY TO WORK AND TO RECEIVE
PUBLIC ASSISTANCE

- Sec. 111. Establishment of new verification system.
- Sec. 112. Demonstration projects.
- Sec. 113. Database for verifying employment and public assistance eligibility.

PART 3—ALIEN SMUGGLING

- Sec. 121. Wiretap authority for investigations of alien smuggling.
- Sec. 122. Adding offenses to RICO relating to alien smuggling or fraudulent documents.
- Sec. 123. Increased criminal penalties for alien smuggling.
- Sec. 124. Expanded forfeiture for smuggling or harboring aliens.

PART 4—DOCUMENT FRAUD, MISREPRESENTATION, AND FAILURE TO
PRESENT DOCUMENTS

- Sec. 131. Increased criminal penalties for fraudulent use of government-issued documents.
- Sec. 132. New civil penalties for document fraud.
- Sec. 133. New civil penalty for failure to present documents.
- Sec. 134. New criminal penalties for failure to disclose role as preparer of false application for asylum and for preparing certain post-conviction applications.
- Sec. 135. Criminal penalty for false statement in a document required under the immigration laws or knowingly presenting document which fails to contain reasonable basis in law or fact.
- Sec. 136. New exclusion for document fraud and for failure to present documents.
- Sec. 137. Limitation on withholding of deportation and other benefits for aliens excludable for document fraud or failing to present documents.
- Sec. 138. Definition of “falsely make any document.”

PART 5—EXCLUSION AND DEPORTATION

- Sec. 141. Special port-of-entry exclusion procedure for aliens using documents fraudulently or failing to present documents, or excludable aliens apprehended at sea.
- Sec. 142. Limited judicial review.
- Sec. 143. Reduction of incentive to delay deportation proceedings.
- Sec. 144. Civil penalty for failure to depart.
- Sec. 145. Authorization of special fund for costs of deportation.
- Sec. 146. Reform of deportation proceedings and judicial review.
- Sec. 147. Denial of nonimmigrant and immigrant visas for countries refusing to accept deported aliens.
- Sec. 148. Limitation on withholding of deportation for excludable aliens apprehended at sea.

PART 6—MISCELLANEOUS

- Sec. 151. Pilot program on interior repatriation of deportable or excludable aliens.
- Sec. 152. Pilot program on use of closed military bases for the detention of excludable or deportable aliens.
- Sec. 153. Use of legalization and special agricultural worker information.
- Sec. 154. Communication between Federal, State, and local government agencies, and the Immigration and Naturalization Service.

Subtitle B—Other Control Measures

PART 1—PAROLE AUTHORITY

- Sec. 161. Useable only on a case-by-case basis for humanitarian reasons or significant public benefit.
- Sec. 162. Inclusion in world-wide level of family-sponsored immigrants.

PART 2—ASYLUM AND REFUGEES

- Sec. 171. Limitations on asylum applications by aliens using documents fraudulently or by excludable aliens apprehended at sea; use of special exclusion procedures.
- Sec. 172. Limitation on work authorization for asylum applicants.
- Sec. 173. Increased resources for reducing asylum application backlogs.
- Sec. 174. Requirement of Congressional approval for admission of more than 50,000 refugees in a fiscal year.

PART 3—CUBAN ADJUSTMENT ACT

- Sec. 181. Repeal.

Subtitle C—Effective Dates

- Sec. 191. Effective dates.

TITLE II—FINANCIAL RESPONSIBILITY

PART 1—RECEIPT OF CERTAIN PUBLIC BENEFITS

- Sec. 201. Ineligibility of excludable, deportable, and nonimmigrant aliens.
- Sec. 202. Attribution of sponsor's income and resources to family-sponsored immigrants.
- Sec. 203. Definition of "public charge" for purposes of deportation.
- Sec. 204. Requirements for sponsor's affidavit of support.

PART 2—BORDER CROSSING FEE

Sec. 211. Imposition of fee; use of collected fees.

Sec. 212. Pilot program.

PART 3—EFFECTIVE DATES

Sec. 221. Effective dates.

1 **TITLE I—IMMIGRANT CONTROL**2 **Subtitle A—Law Enforcement**3 **PART 1—ADDITIONAL ENFORCEMENT**4 **PERSONNEL**5 **SEC. 101. BORDER PATROL AGENTS.**

6 There are authorized to be appropriated to the De-
7 partment of Justice such funds as may be necessary to
8 enable the Border Patrol to increase the number of its
9 agents and support personnel by 250 for each fiscal year
10 beginning with the fiscal year 1995 and ending with the
11 fiscal year 2000.

12 **SEC. 102. INVESTIGATORS.**

13 (a) AUTHORIZATION.—There are authorized to be ap-
14 propriated to the Department of Justice such funds as
15 may be necessary to enable the Commissioner of the Immi-
16 gration and Naturalization Service in fiscal year 1995 to
17 increase the number of investigators and support person-
18 nel to investigate potential violations of sections 274 and
19 274A of the Immigration and Nationality Act by 100.

20 (b) LIMITATION ON OVERTIME.—None of the funds
21 made available to the Immigration and Naturalization
22 Service under this section shall be available for adminis-

1 trative expenses to pay any employee overtime pay in an
2 amount in excess of \$25,000 for any fiscal year.

3 **PART 2—SYSTEM TO VERIFY ELIGIBILITY TO**
4 **WORK AND TO RECEIVE PUBLIC ASSISTANCE**

5 **SEC. 111. ESTABLISHMENT OF NEW VERIFICATION SYSTEM.**

6 (a) IN GENERAL.—Within eight years of the enact-
7 ment of this Act, the Attorney General, together with the
8 Secretary of Health and Human Services, shall develop
9 and implement, subject to subsection (b), a system to ver-
10 ify eligibility for employment in the United States, and
11 eligibility for benefits under government-funded programs
12 of public assistance.

13 (b) SYSTEM REQUIREMENTS.—No verification sys-
14 tem may be implemented which does not meet the follow-
15 ing requirements:

16 (1) The system shall be capable of reliably de-
17 termining whether—

18 (A) the person with the identity claimed by
19 the individual whose eligibility is being verified
20 is in fact eligible, and

21 (B) the individual whose eligibility is being
22 verified is claiming the identity of another per-
23 son.

24 (2) If the system requires that document be
25 presented to or examined by either an employer or

1 a public assistance administrator, as the case may
2 be, then the document—

3 (A) shall be in a form that is resistant to
4 counterfeiting and to tampering; and

5 (B) shall not be required by any govern-
6 ment entity or agency as a national identifica-
7 tion card or to be carried or presented except—

8 (i) to verify eligibility for employment
9 in the United States or eligibility for bene-
10 fits under a Government-funded program
11 of public assistance,

12 (ii) to enforce sections 1001, 1028,
13 1546, or 1621 of title 18 of the United
14 States Code, or

15 (iii) if the document was designed for
16 another purpose (such as a license to drive
17 a motor vehicle, a certificate of birth, or a
18 social security account number card issued
19 by the Social Security Administration), as
20 required under law for such other purpose.

21 (3) The system shall not be used for law en-
22 forcement purposes other than to enforce the Immi-
23 gration and Nationality Act; sections 1001, 1028,
24 1542, 1546, or 1621 of title 18 of the United States
25 Code; Federal, State, or local laws pertaining to eli-

1 gibility Government-funded benefits described in sec-
2 tion 201 of this Act; or to enforce laws relating to
3 any document used by the system which was de-
4 signed for another purpose (such as a license to
5 drive a motor vehicle, a certificate of birth, or a so-
6 cial security account number card issued by the So-
7 cial Security Administration).

8 (4) The privacy and security of personal infor-
9 mation and identifiers obtained for and utilized in
10 the system must be protected in accordance with in-
11 dustry standards for privacy and security of con-
12 fidential information. No personal information ob-
13 tained from the system may be made available to
14 any person except to the extent necessary to the law-
15 ful operation of the system.

16 (5) A verification that a person is eligible for
17 employment in the United States, or for benefits
18 under a Government-funded program of public as-
19 sistance, may not be withheld or revoked under the
20 system for any reason other than the person is ineli-
21 gible under the applicable law or regulation.

22 (c) EMPLOYER SANCTIONS.—An employer shall not
23 be liable for any penalty under section 274A of the Immi-
24 gration and Nationality Act for employing an alien, if—

1 (1) the alien appeared throughout the term of
2 employment to be prima facie eligible for the em-
3 ployment (under the requirements of section
4 274A(b) of such Act);

5 (2) the employer followed all procedures re-
6 quired in the verification system established in sec-
7 tion 111 of this Act; and

8 (3) (i) the alien was verified under such system
9 as eligible for the employment; or

10 (ii) a secondary verification procedure (as de-
11 scribed in section 113(d) of this Act) was conducted
12 with respect to the alien and the employer dis-
13 charged the alien promptly after receiving notice
14 that the secondary verification procedure had failed
15 to verify that the alien was eligible for the employ-
16 ment.

17 (d) RESTRICTION ON USE OF DOCUMENTS.—If the
18 Attorney General finds, by regulation, that one (or more)
19 of the documents described in section 274A(b)(1) of the
20 Immigration and Nationality Act as establishing employ-
21 ment authorization or identity does not reliably establish
22 the same or is being used fraudulently to an unacceptable
23 degree, the Attorney General may prohibit or place condi-
24 tions on its (or their) use for purposes of the verification

1 system established in section 274A(b) of the Immigration
2 and Nationality Act or in this section.

3 **SEC. 112. DEMONSTRATION PROJECTS.**

4 (a) IN GENERAL.—(1) The President, acting through
5 the Attorney General, shall begin conducting projects in
6 five States demonstrating the feasibility of systems to ver-
7 ify eligibility for employment in the United States, and
8 for benefits under Government-funded programs of public
9 assistance. Each project shall be consistent with sub-
10 section (b) of section 111 of this Act and shall be con-
11 ducted for a period of three years in accordance with an
12 agreement entered into with the respective State. In deter-
13 mining which five States shall be designated for such
14 projects, the Attorney General shall take into account the
15 estimated number of excludable aliens and deportable
16 aliens in each State.

17 (2) Demonstration projects not using the
18 Database for Verifying Employment and Public As-
19 sistance Eligibility established in section 113 of this
20 Act must be started within six months of the date
21 of enactment of this Act.

22 (3) Demonstration projects using such
23 Database must be implemented within six months of
24 the establishment of such Database.

1 (b) ADDITIONAL PROJECTS.—(1) The President is
2 authorized to renew agreements for demonstration
3 projects, consistent with subsection (b) of section 111 of
4 this Act. Each project conducted under such renewal
5 agreement shall be completed within three years of the re-
6 port required in subsection (f)(1).

7 (2) After the report required in subsection (f)(1), the
8 President is authorized to enter into additional agree-
9 ments for demonstration projects, consistent with sub-
10 section (b) of section 111 of this Act. Each project con-
11 ducted under such agreement shall be completed within
12 three years of such report.

13 (c) NATIONWIDE PROJECT.—Effective sixty days
14 after submission of the report described in subsection
15 (f)(1), and notwithstanding section 274A(d)(3) of the Im-
16 migration and Nationality Act, the President is author-
17 ized, subject to subsection (b) of section 401 of this Act,
18 to implement one or more of the demonstration projects,
19 in whole or in part, singly or in combination, as a nation-
20 wide demonstration project, to be completed within 3 years
21 of the report required in subsection (f)(1).

22 (d) CONGRESSIONAL CONSULTATION.—The Attorney
23 General shall consult with the Committees on the Judici-
24 ary of the House of Representatives and the Senate not
25 less than every six months from the date of enactment

1 of this Act on the progress made in developing demonstra-
2 tion projects under this section.

3 (e) IMPLEMENTATION.—In carrying the projects de-
4 scribed in subsection (a), the President—

5 (1) shall support the efforts of Federal and
6 State government agencies in developing (A) tamper
7 and counterfeit-resistant documents that may be
8 used in the new verification system, including driv-
9 ers' licenses or similar documents issued by a State
10 for the purpose of identification, the Social Security
11 account number card issued by the Social Security
12 Administration, and certificates of birth in the Unit-
13 ed States or establishing United States nationality
14 at birth, and (B) recordkeeping systems that would
15 reduce the fraudulent obtaining of such documents,
16 including a nationwide system to match birth and
17 death records; and

18 (2) shall, for one or more of such projects, uti-
19 lize the Database for Verifying Employment and
20 Public Assistance Eligibility established in section
21 113 of this Act.

22 (f) REPORTS.—(1) Within thirty-eight months of the
23 commencement of the latest-to-begin of the demonstration
24 projects conducted pursuant to subsection (a) which uti-
25 lizes the Database for Verifying Employment and Public

1 Assistance Eligibility established in section 113 of this
2 Act, the President shall submit a report to Congress—

3 (A) describing the verification system the Presi-
4 dent recommends for permanent nationwide imple-
5 mentation; or

6 (B) recommending that certain of the dem-
7 onstration projects be renewed for up to three years,
8 or that additional projects be established in one or
9 more of the same or additional States for up to
10 three years.

11 (2) If any demonstration projects are completed after
12 the report required in subsection (f)(1), the President
13 shall submit a report to Congress within sixty days of the
14 completion of the last such project, describing the verifica-
15 tion system the President recommends for permanent na-
16 tionwide implementation.

17 (g) AUTHORIZATION OF APPROPRIATION.—There are
18 authorized to be appropriated such sums as may be nec-
19 essary to carry out this section.

20 **SEC. 113. DATABASE FOR VERIFYING EMPLOYMENT AND**
21 **PUBLIC ASSISTANCE ELIGIBILITY.**

22 (a) ESTABLISHMENT.—(1) Within twelve months of
23 the date of enactment of this Act, the Attorney General
24 shall establish the Database for Employment Authoriza-
25 tion Verification (referred to in this section as the

1 “Database”) containing information from the Immigra-
2 tion and Naturalization Service and the Social Security
3 Administration necessary to determine the work author-
4 ization of individuals residing in the United States.

5 (2) The Database may be used with demonstration
6 projects carried out under section 112 of this Act and with
7 any permanent system to verify eligibility for employment
8 in the United States or for benefits under any program
9 referred to in section 201 of this Act.

10 (b) LIMITATION ON DATA USE.—Any personal infor-
11 mation contained in the Database may not be made avail-
12 able to any Government agency, employer, or other person
13 except—

14 (1) to determine eligibility for employment in
15 the United States or for benefits under any Govern-
16 ment-funded program of public assistance; or

17 (2) to enforce the Immigration and Nationality
18 Act or section 1001, 1028, 1542, 1546, or 1621 of
19 title 18, United States Code.

20 (c) OFFICE OF EMPLOYMENT AND PUBLIC ASSIST-
21 ANCE ELIGIBILITY VERIFICATION.—(1) There is estab-
22 lished within the Department of Justice the Office of Em-
23 ployment and Public Assistance Eligibility Verification (in
24 this section referred to as the “Office”) which shall be re-
25 sponsible for collecting and integrating the information

1 necessary for the Database and for the administration of
2 the Database.

3 (2) For the purpose of establishing the Database, the
4 Office shall contract, to the extent practicable and subject
5 to the availability of appropriations, with computer serv-
6 ices specialists having demonstrated expertise in establish-
7 ment of confidential data systems and protection of pri-
8 vacy of individuals with respect to whom data is being col-
9 lected.

10 (d) SECONDARY VERIFICATION.—(1) The Adminis-
11 trator of Social Security and the Commissioner of Immi-
12 gration and Naturalization shall establish procedures for
13 prompt secondary verification of information in the
14 Database when necessary due to inability of the Database
15 to verify an individual's eligibility for employment in the
16 United States or for benefits under a Government-funded
17 program of public assistance.

18 (2) When an individual's assistance is required for
19 the completion of such secondary verification, the individ-
20 ual shall be promptly notified.

21 (e) DATA RELIABILITY.—(1) The Administrator of
22 the Office shall take all necessary steps to ensure that the
23 information in the Database is complete, accurate, verifi-
24 able, and revised within a period of ten business days after
25 acquisition of new or updated information provided by the

1 Immigration and Naturalization Service or the Social Se-
2 curity Administration.

3 (2) The Administrator of Social Security and the
4 Commissioner of Immigration and Naturalization Service
5 shall provide such new or updated information to the Of-
6 fice within ten business days after acquisition by those
7 agencies.

8 (f) PRIVACY AND CIVIL LIBERTIES PROTECTIONS.—

9 (1) The privacy and security of personal information and
10 identifiers obtained for and utilized in the Database must
11 be protected in accordance with industry standards for
12 privacy and security of confidential information.

13 (2) No personal information collected pursuant to
14 this section may be made available to any person except
15 to the extent necessary—

16 (i) to establish or operate the verification sys-
17 tem established in section 111 of this Act or section
18 274A(b) of the Immigration and Nationality Act,

19 (ii) to administer the Social Security Act, or

20 (iii) to enforce the Immigration and Nationality
21 Act or section 1001, 1028, 1542, 1546, or 1621 of
22 title 18 of the United States Code.

23 (g) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated such sums as may be
25 necessary to carry out this section.

1 (h) CERTIFICATION AND REPORTS.—(1) The Attor-
2 ney General shall certify to the Congress when the
3 Database is established and shall cause such certification
4 to be published in the Federal Register with a sixty-day
5 public comment period.

6 (2) Not later than three months after the date of the
7 certification under paragraph (1), the Comptroller General
8 of the United States shall submit a report to Congress
9 on the reliability of the Database.

10 (3) Not later than six months after the implementa-
11 tion of the Database the Attorney General and the Sec-
12 retary of Health and Human Services shall report to the
13 committees on the Judiciary of the House of Representa-
14 tives and the Senate on the feasibility and desirability of
15 utilizing the Database for the purposes set forth in section
16 121(a) of the Immigration Reform and Control Act of
17 1986.

18 **PART 3—ALIEN SMUGGLING**

19 **SEC. 121. WIRETAP AUTHORITY FOR INVESTIGATIONS OF**
20 **ALIEN SMUGGLING.**

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

23 (1) in paragraph (c), by inserting after
24 “trains)” the following: “, or a felony violation of
25 section 1028 (relating to production of false identi-

1 **SEC. 123. INCREASED CRIMINAL PENALTIES FOR ALIEN**
2 **SMUGGLING.**

3 (a) IN GENERAL.—Section 274(a) of the Immigra-
4 tion and Nationality Act (8 U.S.C. 1324(a)) is amended—

5 (1) in paragraph (1)(A)—

6 (A) by striking “or” at the end of clause
7 (iii);

8 (B) by striking the comma at the end of
9 clause (iv) and inserting “; or”; and

10 (C) by adding at the end the following new
11 clause:

12 “(v)(I) engages in any conspiracy to
13 commit any of the preceding acts, or

14 “(II) aids or abets the commission of
15 any of the preceding acts,”;

16 (2) in paragraph (1)(B)—

17 (A) in clause (i), by inserting “or (v)(I)”
18 after “(A)(i)”;

19 (B) in clause (ii), by striking “or (iv)” and
20 inserting “(iv), or (v)(II)”;

21 (C) in clause (iii), by striking “or (iv)” and
22 inserting “(iv), or (v)”;

23 (D) in clause (iv), by striking “or (iv)” and
24 inserting “(iv), or (v)”;

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

1 “(3) Any person who hires for employment an
2 alien—

3 “(A) knowing that such alien is an unau-
4 thorized alien (as defined in section
5 274A(h)(3)), and

6 “(B) knowing that such alien has been
7 brought into the United States in violation of
8 this subsection, shall be fined under title 18,
9 United States Code, and shall be imprisoned for
10 not less than 2 years or more than 5 years.”.

11 (b) SMUGGLING OF ALIENS WHO WILL COMMIT
12 CRIMES.—Section 274(a)(2) of the Immigration and Na-
13 tionality Act (8 U.S.C. 1324(a)(2)) is amended—

14 (1) in subparagraph (B)—

15 (A) by striking “or” at the end of clause
16 (ii);

17 (B) by redesignating clause (iii) as clause
18 (iv); and

19 (C) by inserting after clause (ii) the follow-
20 ing:

21 “(iii) an offense committed with the
22 intent or with reason to believe that the
23 alien unlawfully brought into the United
24 States will commit an offense against the

1 United States or any State punishable by
2 imprisonment for more than 1 year,”; and
3 (2) at the end thereof, by striking “be fined”
4 and all that follows through the period and inserting
5 the following: “be fined under title 18, United States
6 Code, and shall be imprisoned not less than 3 years
7 or more than 10 years.”.

8 **SEC. 124. EXPANDED FORFEITURE FOR SMUGGLING OR**
9 **HARBORING ALIENS.**

10 Section 274 of the Immigration and Nationality Act
11 (8 U.S.C. 1324(b)) is amended—

12 (1) by amending subsection (b)(1) to read as
13 follows:

14 “(b) SEIZURE AND FORFEITURE.—(1) Any property,
15 real or personal, which facilitates or is intended to facili-
16 tate, or has been used in or is intended to be used in the
17 commission of, a violation of subsection (a) or of section
18 274A(a)(1) or 274A(a)(2), or which constitutes, or is de-
19 rived from or traceable to, the proceeds obtained directly
20 or indirectly from a commission of a violation of sub-
21 section (a) or of section 274A(a)(1) or 274A(a)(2), shall
22 be subject to seizure and forfeiture, except that—

23 “(A) no property used by any person as a com-
24 mon carrier in the transaction of business as a com-
25 mon carrier shall be forfeited under the provisions of

1 this section unless it shall appear that the owner or
2 other person in charge of such property was a con-
3 senting party or privy to the unlawful act;

4 “(B) no property shall be forfeited under the
5 provisions of this section by reason of any act or
6 omission established by the owner thereof to have
7 been committed or omitted by any person other than
8 such owner while such property was unlawfully in
9 the possession of a person other than the owner in
10 violation of the criminal laws of the United States
11 or of any State; and

12 “(C) no property shall be forfeited under this
13 paragraph to the extent of an interest of any owner,
14 by reason of any act or omission established by that
15 owner to have been committed or omitted without
16 the knowledge or consent of the owner, unless such
17 action or omission was committed by an employee or
18 agent of the owner, and facilitated or was intended
19 to facilitate, or was used in or intended to be used
20 in, the commission of a violation of subsection (a) or
21 of section 274A(a)(1) or 274A(a)(2) which was com-
22 mitted by the owner or which was intended to fur-
23 ther the business interests of the owner, or to confer
24 any other benefit upon the owner.”;

25 (2) in paragraph (2)—

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

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

6 (3) in paragraph (3)—

7 (A) by inserting “(A)” immediately after
8 “(3)”, and

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

10 “(B) Before the seizure of any real property
11 pursuant to this section, the Attorney General shall
12 provide notice and an opportunity to be heard to the
13 owner of the property. The Attorney General shall
14 prescribe such regulations as may be necessary to
15 carry out this subparagraph.”;

16 (4) in paragraphs (4) and (5) by striking “a
17 conveyance” and “conveyance” each place such
18 phrase or word appears and inserting “property”;
19 and

20 (5) in paragraph (4) by—

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

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

1 (C) by inserting at the end the following
2 new subparagraph:

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

7 **PART 4—DOCUMENT FRAUD, MISREPRESENTA-**
8 **TION, AND FAILURE TO PRESENT DOCU-**
9 **MENTS**

10 **SEC. 131. INCREASED CRIMINAL PENALTIES FOR FRAUDU-**
11 **LENT USE OF GOVERNMENT-ISSUED DOCU-**
12 **MENTS.**

13 (a) FRAUD AND MISUSE OF GOVERNMENT-ISSUED
14 IDENTIFICATION DOCUMENTS.—Section 1028(b)(1) of
15 title 18, United States Code, is amended by striking “five
16 years” and inserting “10 years”.

17 (b) CHANGES TO THE SENTENCING LEVELS.—Pur-
18 suant to section 944 of title 28, United States Code, and
19 section 21 of the Sentencing Act of 1987, the United
20 States Sentencing Commission shall promulgate guide-
21 lines, or amend existing guidelines, relating to defendants
22 convicted of violating, or conspiring to violate, sections
23 1546(a) and 1028(a) of title 18, United States Code. The
24 basic offense level under section 2L2.1 of the United
25 States Sentencing Guidelines shall be increased to—

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

3 (2) not less than offense level 20 if the offense
4 involved 1,000 or more documents, or if the docu-
5 ments were used to facilitate any other criminal ac-
6 tivity described in section 212(a)(2)(A)(i)(II) of the
7 Immigration and Nationality Act (8 U.S.C.
8 1182(a)(A)(i)(II)) or in section 101(a)(43) of such
9 Act, as amended by this Act; and

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

12 (A) the provision of documents to a person
13 known or suspected of engaging in a terrorist
14 activity (as such terms are defined in section
15 212(a)(3)(B) of the Immigration and National-
16 ity Act (8 U.S.C. 1182(a)(3)(B)));

17 (B) the provision of documents to facilitate
18 a terrorist activity or to assist a person to en-
19 gage in terrorist activity (as such terms are de-
20 fined in section 212(a)(3)(B) of the Immigra-
21 tion and Nationality Act (8 U.S.C.
22 1182(a)(3)(B))); or

23 (C) the provision of documents to persons
24 involved in racketeering enterprises (as such

1 acts or activities are defined in section 1952 of
2 title 18, United States Code).

3 **SEC. 132. NEW CIVIL PENALTIES FOR DOCUMENT FRAUD.**

4 (a) ACTIVITIES PROHIBITED.—Section 274C(a) of
5 the Immigration and Nationality Act (8 U.S.C. 1324c(a))
6 is amended—

7 (1) by striking “or” at the end of paragraph
8 (3);

9 (2) by striking the period and inserting “, or”
10 at the end of paragraph (4); and

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

13 “(5) in reckless disregard of the fact that the
14 information is false or does not relate to the appli-
15 cant, to prepare, to file, or to assist another in pre-
16 paring or filing, documents which are falsely made
17 (including but not limited to documents which con-
18 tain false information, contain material misrepresen-
19 tations, or information which does not relate to the
20 applicant) for the purpose of satisfying a require-
21 ment of this Act.”.

22 (b) CONFORMING AMENDMENTS FOR CIVIL PEN-
23 ALTIES.—Section 274C(d)(3) of the Immigration and Na-
24 tionality Act (8 U.S.C. 1324c(d)(3)) is amended by strik-
25 ing “each document used, accepted, or created and each

1 instance of use, acceptance, or creation” each of the two
2 places it appears and inserting “each instance of a viola-
3 tion under subsection (a)”.

4 **SEC. 133. NEW CIVIL PENALTY FOR FAILURE TO PRESENT**
5 **DOCUMENTS.**

6 Section 274C(a) (8 U.S.C. 1324c(a)), as amended by
7 section 132 of this Act, is further amended—

8 (1) by striking “or” at the end of paragraph
9 (4);

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

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

14 “(6) to present before boarding a common car-
15 rier for the purpose of coming to the United States
16 a document which relates to the alien’s eligibility to
17 enter the United States and to fail to present such
18 document to an immigration officer upon arrival at
19 a United States port of entry.

20 The Attorney General may, in his or her discretion, waive
21 the penalties of this section with respect to an alien who
22 knowingly violates paragraph (6) if the alien is granted
23 asylum under section 208 or withholding of deportation
24 under section 243(h).”.

1 **SEC. 134. NEW CRIMINAL PENALTIES FOR FAILURE TO DIS-**
2 **CLOSE ROLE AS PREPARER OF FALSE APPLI-**
3 **CATION FOR ASYLUM AND FOR PREPARING**
4 **CERTAIN POST-CONVICTION APPLICATIONS.**

5 Section 274C of the Immigration and Nationality Act
6 (8 U.S.C. 1324c) is amended by adding at the end the
7 following new subsection:

8 “(e) CRIMINAL PENALTIES FOR FAILURE TO DIS-
9 CLOSE ROLE AS DOCUMENT PREPARER.—(1) Whoever, in
10 any matter within the jurisdiction of the Service under
11 section 208 of this Act, knowingly and willfully fails to
12 disclose, conceals, or covers up the fact that they have,
13 on behalf of any person and for a fee or other remunera-
14 tion, prepared or assisted in preparing an application
15 which was falsely made (as defined in section 274C(a))
16 for immigration benefits pursuant to section 208 of this
17 Act, or the regulations promulgated thereunder, shall be
18 guilty of a felony and shall be fined in accordance with
19 title 18, United States Code, imprisoned for not less than
20 2 nor more than 5 years, or both, and prohibited from
21 preparing or assisting in preparing, regardless of whether
22 for a fee or other remuneration, any other such applica-
23 tion.

24 “(2) Whoever, having been convicted of a violation
25 of section 274C(e) of the Immigration and Nationality
26 Act, knowingly and willfully prepares or assists in prepar-

1 ing an application for immigration benefits pursuant to
2 this Act, or the regulations promulgated thereunder, re-
3 gardless of whether for a fee or other remuneration and
4 regardless of whether in any matter within the jurisdiction
5 of the Service under section 208 of this Act, shall be guilty
6 of a felony and shall be fined in accordance with title 18,
7 United States Code, imprisoned for not less than 5 years
8 or more than 15 years, or both, and prohibited from pre-
9 paring or assisting in preparing any other such applica-
10 tion.”.

11 **SEC. 135. CRIMINAL PENALTY FOR FALSE STATEMENT IN A**
12 **DOCUMENT REQUIRED UNDER THE IMMIGRA-**
13 **TION LAWS OR KNOWINGLY PRESENTING**
14 **DOCUMENT WHICH FAILS TO CONTAIN REA-**
15 **SONABLE BASIS IN LAW OR FACT.**

16 The fourth paragraph of section 1546(a) of title 18,
17 United States Code, is amended to read as follows:

18 “Whoever knowingly makes under oath, or as per-
19 mitted under penalty of perjury under section 1746 of title
20 28, United States Code, knowingly subscribes as true, any
21 false statement with respect to a material fact in any ap-
22 plication, affidavit, or other document required by the im-
23 migration laws or regulations prescribed thereunder, or
24 knowingly presents any such application, affidavit, or
25 other document which contains any such false statement

1 or which fails to contain any reasonable basis in law or
2 fact—”.

3 **SEC. 136. NEW EXCLUSION FOR DOCUMENT FRAUD AND**
4 **FOR FAILURE TO PRESENT DOCUMENTS.**

5 Section 212(a)(6)(C) of the Immigration and Nation-
6 ality Act (8 U.S.C. 1182(a)(6)(C)) is amended—

7 (1) by striking “(C) Misrepresentation” and in-
8 serting the following:

9 “(C) Fraud, misrepresentation, and failure
10 to present documents”; and

11 (2) by adding at the end the following new
12 clause:

13 “(iii) Fraud, misrepresentation, and
14 failure to present documents.—

15 “(I) Any alien who, in seeking
16 entry to the United States or board-
17 ing a common carrier for the purpose
18 of coming to the United States, pre-
19 sents any document which, in the de-
20 termination of the immigration offi-
21 cer, is forged, counterfeit, altered,
22 falsely made, stolen, or inapplicable to
23 the person presenting the document,
24 or otherwise contains a misrepresenta-
25 tion of a material fact, is excludable.

1 “(II) Any alien who is required
2 to present a document relating to the
3 alien’s eligibility to enter the United
4 States prior to boarding a common
5 carrier for the purpose of coming to
6 the United States and who fails to
7 present such document to an immi-
8 gration officer upon arrival at a port
9 of entry into the United States is ex-
10 cludable.”.

11 **SEC. 137. LIMITATION ON WITHHOLDING OF DEPORTATION**
12 **AND OTHER BENEFITS FOR ALIENS EXCLUD-**
13 **ABLE FOR DOCUMENT FRAUD OR FAILING TO**
14 **PRESENT DOCUMENTS.**

15 (a) Section 235 of the Immigration and Nationality
16 Act (8 U.S.C. 1225) is amended by adding at the end the
17 following new subsection:

18 “(d)(1) Subject to paragraph (2), any alien who has
19 not been admitted to the United States, and who is exclud-
20 able under section 212(a)(6)(C)(iii), is ineligible for with-
21 holding of deportation pursuant to section 243(h), and
22 may not apply therefor or for any other relief under this
23 Act, except that an alien found to have a credible fear
24 of persecution or of return to persecution in accordance
25 with section 208(e) shall be taken before a special inquiry

1 officer for exclusion proceedings in accordance with sec-
2 tion 236 and may apply for asylum, withholding of depor-
3 tation, or both, in the course of such proceedings.

4 “(2) An alien described in paragraph (1) who has
5 been found ineligible to apply for asylum under section
6 208(e) may be returned under the provisions of this sec-
7 tion only to a country in which (or from which) he or she
8 has no credible fear of persecution (or of return to perse-
9 cution). If there is no country to which the alien can be
10 returned in accordance with the provisions of this para-
11 graph, the alien shall be taken before a special inquiry
12 officer for exclusion proceedings in accordance with sec-
13 tion 236 and may apply for asylum, withholding of depor-
14 tation, or both, in the course of such proceedings.

15 (b) Section 237(a) of the Immigration and National-
16 ity Act (8 U.S.C. 1227(a)) is amended—

17 (1) in the second sentence of paragraph (1) by
18 striking “Deportation” and inserting “Subject to
19 section 235(d)(2), deportation”; and

20 (2) in the first sentence of paragraph (2) by
21 striking “If” and inserting “Subject to section
22 235(d)(2), if”.

1 **SEC. 138. DEFINITION OF “FALSELY MAKE ANY DOCU-**
2 **MENT”.**

3 Section 274C(a) of the Immigration and Nationality
4 Act (8 U.S.C. 1324c), as amended by sections 132 and
5 133 of this Act, is further amended by inserting at the
6 end the following new sentence: “For the purposes of this
7 subsection, the phrase ‘falsely make any document’ in-
8 cludes the preparation or provision of any application for
9 benefits under this Act, with knowledge or in reckless dis-
10 regard of the fact that such application contains a false,
11 fictitious, or fraudulent statement or material representa-
12 tion, or has no basis in law or fact, or otherwise fails to
13 state a fact pertaining to the applicant which is material
14 to whether the application should be approved.”.

15 **PART 5—EXCLUSION AND DEPORTATION**

16 **SEC. 141. SPECIAL PORT-OF-ENTRY EXCLUSION PROCE-**
17 **DURE FOR ALIENS USING DOCUMENTS**
18 **FRAUDULENTLY OR FAILING TO PRESENT**
19 **DOCUMENTS, OR EXCLUDABLE ALIENS AP-**
20 **PREHENDED AT SEA.**

21 Section 235 of the Immigration and Nationality Act
22 (8 U.S.C. 1225), as amended by sections 137 and 148
23 of this Act, is further amended by adding at the end the
24 following new subsection:

25 “(e)(1)(A) Subject to paragraph (d)(2), any alien (in-
26 cluding an alien crewman) who may appear to the examin-

1 ing immigration officer or to the special inquiry officer
2 during the examination before either of such officers to
3 be excludable under section 212(a)(6)(C)(iii) of the Immi-
4 gration and Nationality Act may be ordered specially ex-
5 cluded and deported by the Attorney General, either by
6 a special inquiry officer or otherwise; or

7 “(B) Subject to paragraph (d)(2), any alien (includ-
8 ing an alien crewman) who was brought to the United
9 States in the manner described in subsection (d)(3) and
10 who may appear to an examining immigration officer to
11 be excludable may be ordered specially excluded and de-
12 ported by the Attorney General without any further in-
13 quiry, either by a special inquiry officer or otherwise.

14 “(2) Such special exclusion order is not subject to
15 administrative appeal, except that the Attorney General
16 shall provide by regulation for prompt review of such an
17 order against an applicant who claims under oath, or as
18 permitted under penalty of perjury under section 1746 of
19 title 28, United States Code, after having been warned
20 of the penalties for falsely making such claim under such
21 conditions, to have been lawfully admitted for permanent
22 residence.

23 “(3) A special exclusion order entered in accordance
24 with the provisions of this subsection shall have the same
25 effect as if the alien had been ordered excluded and de-

1 ported pursuant to section 236, except that judicial review
2 of such an order shall be available only under section 106.

3 “(4) Nothing in this subsection shall be regarded as
4 requiring an inquiry before a special inquiry officer in the
5 case of an alien crewman.”.

6 **SEC. 142. LIMITED JUDICIAL REVIEW.**

7 (a) PRECLUSION OF JUDICIAL REVIEW.—Section
8 106 of the Immigration and Nationality Act (8 U.S.C.
9 1105a) is amended—

10 (1) by amending the section heading to read as
11 follows: “judicial review of orders of deportation and
12 exclusion, and special exclusion”; and

13 (2) by adding at the end the following new sub-
14 section:

15 “(d)(1) Notwithstanding any other provision of law,
16 and except as provided in this subsection, no court shall
17 have jurisdiction to review any individual determination,
18 or to entertain any other cause or claim, arising from or
19 relating to the implementation or operation of sections
20 208(e), 212(a)(6)(C)(iii), 235(d), and 235(e). Regardless
21 of the nature of the action or claim, or the party or parties
22 bringing the action, no court shall have jurisdiction or au-
23 thority to enter declaratory, injunctive, or other equitable
24 relief not specifically authorized in this subsection, nor to

1 certify a class under Rule 23 of the Federal Rules of Civil
2 Procedure.

3 “(2) Judicial review of any cause, claim, or individual
4 determination covered under paragraph (d)(1) shall only
5 be available in habeas corpus proceedings, and shall be
6 limited to determinations of—

7 “(A) whether the petitioner is an alien, if the
8 petitioner makes a showing that his or her claim of
9 United States nationality is not frivolous;

10 “(B) whether the petitioner was ordered spe-
11 cially excluded; and

12 “(C) whether the petitioner can prove by a pre-
13 ponderance of the evidence that he or she is an alien
14 lawfully admitted for permanent residence and is en-
15 titled to such further inquiry as is prescribed by the
16 Attorney General pursuant to section 235(e)(2).

17 “(3) In any case where the court determines that an
18 alien was not ordered specially excluded, or was not prop-
19 erly subject to special exclusion under the regulations
20 adopted by the Attorney General, the court may order no
21 relief beyond requiring that the alien receive a hearing in
22 accordance with section 236, or a determination in accord-
23 ance with section 235(c) or 273(d). Any alien excludable
24 under section 212(a)(6)(C)(iii) who receives a hearing
25 under section 236, whether by order of court or otherwise,

1 may thereafter obtain judicial review of any resulting final
2 order of exclusion pursuant to subsection (b).

3 “(4) In determining whether an alien has been or-
4 dered specially excluded, the court’s inquiry shall be lim-
5 ited to whether such an order was in fact issued and
6 whether it relates to the petitioner. There shall be no re-
7 view of whether the alien is actually excludable under sec-
8 tion 212(a)(6)(C)(iii) or entitled to any relief from exclu-
9 sion.”.

10 (b) PRECLUSION OF COLLATERAL ATTACKS.—Sec-
11 tion 235 of the Immigration and Nationality Act (8 U.S.C.
12 1225), as amended by sections 137, 141, and 148 of this
13 Act, is further amended by adding at the end the following
14 new subsection:

15 “(f) In any action brought for the assessment of pen-
16 alties for improper entry or re-entry of an alien under sec-
17 tions 275 and 276 of the Immigration and Nationality
18 Act, no court shall have jurisdiction to hear claims collat-
19 erally attacking the validity of orders of exclusion, special
20 exclusion, or deportation entered under sections 235, 236,
21 and 242 of the Immigration and Nationality Act.”.

22 **SEC. 143. REDUCTION OF INCENTIVE TO DELAY DEPORTA-**
23 **TION PROCEEDINGS.**

24 Section 212(c) of the Immigration and Nationality
25 Act (8 U.S.C. 1182(c)) is amended—

1 (1) by redesignating subsection (c) as sub-
2 section (c)(1); and

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

4 “(2) The seven-year period described in paragraph
5 (1) shall not include any period beginning after the alien
6 has received an order to show cause issued under section
7 242 or 242B.”.

8 **SEC. 144. CIVIL PENALTY FOR FAILURE TO DEPART.**

9 (A) IN GENERAL.—Section 274C of the Immigration
10 and Nationality Act (8 U.S.C. 1342c) is amended—

11 (1) by amending the section heading to read as
12 follows: “**PENALTIES FOR DOCUMENT**
13 **FRAUD, FAILURE TO DEPART, AND**
14 **FAILURE TO PRESENT DOCUMENTS”;**

15 (2) in subsection (a)—

16 (A) by striking “or” at the end of para-
17 graph (3);

18 (B) by striking the period at the end of
19 paragraph (4) and inserting “; or”; and

20 (C) by adding at the end the following new
21 paragraph:

22 “(5) if such person is an alien—

23 “(A) to fail or refuse to depart from the
24 United States by the date that any final,

1 unappealable order (as defined in subsection
2 (e)) become effective against such person; or

3 “(B) to fail or refuse to voluntarily depart
4 the United States by the date granted by the
5 Attorney General in lieu of a final,
6 unappealable order of deportation,”;

7 (3) in subsection (c), by inserting before the pe-
8 riod the following: “or in section 237 or section 242
9 of this Act”;

10 (4) in subsection (d)(3)—

11 (A) by striking “or” at the end of subpara-
12 graph (A);

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

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

17 “(C) up to \$500 for each day that an alien
18 is in violation of subsection (a)(5)”;

19 (5) by inserting at the end the following new
20 subsection:

21 “(e) DEFINITION.—For the purposes of this section,
22 the term ‘final, unappealable order of deportation’ means
23 any order of exclusion and deportation or deportation is-
24 sued by the Attorney General which has not been adminis-
25 tratively or judicially appealed within the deadlines estab-

1 lished by this Act or regulations thereunder, or any such
2 order the judicial appeal of which has been denied.”.

3 (b) AMENDMENT TO THE TABLE OF CONTENTS.—

4 The table of contents for the Immigration and Nationality
5 Act is amended by amending the item relating to section
6 274C to read as follows:

“Sec. 274C. Penalties for document fraud, failure to depart, and failure to
present documents.”.

7 **SEC. 145. AUTHORIZATION OF SPECIAL FUND FOR COSTS**
8 **OF DEPORTATION.**

9 In addition to any other funds otherwise authorized
10 to be appropriated in any fiscal year for the purpose de-
11 scribed in this section, there are authorized to be appro-
12 priated to the Immigration and Naturalization Service
13 \$10,000,000 for use without fiscal year limitation for the
14 purpose of—

15 (1) executing final orders of deportation pursu-
16 ant to sections 242 and 242A of the Immigration
17 and Nationality Act (8 U.S.C. 1252); and

18 (2) detaining aliens prior to the execution of
19 final orders issued under such sections.

20 **SEC. 146. REFORM OF DEPORTATION PROCEEDINGS AND**
21 **JUDICIAL REVIEW.**

22 (a) LANGUAGE OF ORDER TO SHOW CAUSE.—Sec-
23 tion 242B of the Immigration and Nationality Act (8
24 U.S.C. 1252b) is amended in subsection (a)(3) by striking

1 “under this subsection” and all that follows through “(B)”
2 and inserting “under this subsection”.

3 (b) PRIVILEGE OF COUNSEL.—(1) Section
4 242B(b)(1) of such Act (8 U.S.C. 1252(b)(1)) is amended
5 by inserting before the period at the end the following:
6 “, except that a hearing may be scheduled as early as 3
7 days after the service of the order to show cause if the
8 alien has been continued in custody subject to section
9 242”.

10 (2) The parenthetical phrase in section 292 of such
11 Act (8 U.S.C. 1362) is amended to read as follows: “(at
12 no expense to the Government or unreasonable delay to
13 the proceedings)”.

14 (3) Section 242B(b) of such Act is further amended
15 by inserting at the end the following new paragraph:

16 “(3) RULE OF CONSTRUCTION.—Nothing in
17 this subsection may be construed to prevent the At-
18 torney General from proceeding against an alien
19 pursuant to section 242 if the time period described
20 in paragraph (1) has elapsed and the alien has failed
21 to secure counsel.”.

22 (c) JUDICIAL REVIEW.—Section 106(a) of such Act
23 (8 U.S.C. 1105a(a)) is amended by amending paragraph
24 (1) to read as follows:

1 “(1)(A) a petition for review may be filed not
2 later than thirty days after the date of the issuance
3 of the final deportation order, or, in the case of an
4 alien convicted of an aggravated felony, not later
5 than fifteen days after the issuance of such order;

6 “(B) the alien shall serve and file a brief not
7 later than forty days after the date on which the ad-
8 ministrative record is available, and may serve and
9 file a reply brief not later than fourteen days after
10 service of the brief of the Attorney General, and the
11 court may not extend these deadlines except upon
12 motion for good cause shown; and

13 “(C) if an alien fails to file a brief within the
14 time provided in this paragraph, the Attorney Gen-
15 eral may move to dismiss the appeal, and the court
16 shall grant such motion unless a manifest injustice
17 would result;”.

18 **SEC. 147. DENIAL OF NONIMMIGRANT AND IMMIGRANT**
19 **VISAS FOR COUNTRIES REFUSING TO AC-**
20 **CEPT DEPORTED ALIENS.**

21 Section 243(g) of the Immigration and Nationality
22 Act (8 U.S.C. 1253(g)) is amended by inserting “and non-
23 immigrant” after “immigrant”.

1 **SEC. 148. LIMITATION ON WITHHOLDING OF DEPORTATION**
2 **FOR EXCLUDABLE ALIENS APPREHENDED AT**
3 **SEA.**

4 Section 235 of the Immigration and Nationality Act
5 (8 U.S.C. 1225), as amended by section 137 of this Act,
6 is further amended in subsection (d)—

7 (1) by inserting in paragraph (1), after the
8 words “section 212(a)(6)(C)(iii)”, the following: “or
9 who is an alien described in paragraph (3),”; and

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

12 “(3) Any alien who is excludable under section
13 212(a), and who has been brought or escorted under
14 the authority of the United States—

15 “(A) into the United States, having been
16 on board a vessel encountered seaward of the
17 territorial sea by officers of the United States,
18 or

19 “(B) to a port of entry, having been on
20 board a vessel encountered within the territorial
21 sea or internal waters of the United States,
22 shall either be detained on board the vessel on
23 which such person arrived or in such facilities
24 as are designated by the Attorney General or
25 paroled in the discretion of the Attorney Gen-
26 eral pursuant to section 212(d)(5) pending ac-

1 accomplishment of the purpose for which the per-
2 son was brought or escorted into the United
3 States or to the port of entry, except that no
4 alien shall be detained on board a public vessel
5 of the United States without the concurrence of
6 the head of the department under whose au-
7 thority the vessel is operating.”.

8 **PART 6—MISCELLANEOUS**

9 **SEC. 151. PILOT PROGRAM ON INTERIOR REPATRIATION**
10 **OF DEPORTABLE OR EXCLUDABLE ALIENS.**

11 (a) ESTABLISHMENT.—Not later than one hundred
12 and twenty days after the date of enactment of this Act,
13 the Attorney General, after consultation with the Sec-
14 retary of State, shall establish a pilot program for up to
15 two years which provides for methods to deter multiple
16 unauthorized entries by aliens into the United States. The
17 pilot program may include the development and use of in-
18 terior repatriation, third country repatriation, and other
19 disincentives for multiple unlawful entries into the United
20 States.

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

1 program under this section and whether the pilot program
2 or any part thereof should be extended or made perma-
3 nent.

4 **SEC. 152. PILOT PROGRAM ON USE OF CLOSED MILITARY**
5 **BASES FOR THE DETENTION OF EXCLUDABLE**
6 **OR DEPORTABLE ALIENS.**

7 (a) ESTABLISHMENT.—The Attorney General and
8 the Secretary of Defense shall establish a pilot program
9 for up to two years to determine the feasibility of the use
10 of military bases available through the defense base clo-
11 sure and realignment process as detention centers for the
12 Immigration and Naturalization Service.

13 (b) REPORT.—Not later than thirty-five months after
14 the date of enactment of this Act, the Attorney General,
15 together with the Secretary of State, shall submit a report
16 to the Committees on the Judiciary of the House of Rep-
17 resentatives and of the Senate, and the Committees on
18 Armed Services of the House of Representatives and of
19 the Senate, on the feasibility of using military bases closed
20 through the defense base closure and realignment process
21 as detention centers by the Immigration and Naturaliza-
22 tion Service.

1 **SEC. 153. USE OF LEGALIZATION AND SPECIAL AGRICUL-**
2 **TURAL WORKER INFORMATION.**

3 (a) CONFIDENTIALITY OF INFORMATION.—Section
4 245A(c)(5)(C) of the Immigration and Nationality Act (8
5 U.S.C. 1255a(c)(5)(C)) is amended by amending the text
6 after subparagraph (C) to read as follows: “except that
7 the Attorney General shall provide information furnished
8 under this section when such information is requested in
9 writing by a duly recognized law enforcement entity in
10 connection with a criminal investigation or prosecution, or
11 to an official coroner for purposes of affirmatively identify-
12 ing a deceased individual (whether or not such individual
13 is deceased as a result of a crime), and the Attorney Gen-
14 eral may provide, in the Attorney General’s discretion, for
15 the furnishing of information furnished under this section
16 in the same manner and circumstances as census informa-
17 tion may be disclosed by the Secretary of Commerce under
18 section 8 of title 13, United States Code. Anyone who
19 uses, publishes, or permits information to be examined in
20 violation of this paragraph shall be fined in accordance
21 with title 18, United States Code, or imprisoned not more
22 than five years, or both.”.

23 (b) SPECIAL AGRICULTURAL WORKERS.—Section
24 210(b)(6)(C) of such Act (8 U.S.C. 1160(b)(6)(C)) is
25 amended—

1 (1) by striking the period at the end of sub-
2 paragraph (C) and inserting a comma; and

3 (2) by adding in full measure margin after sub-
4 paragraph (C) the following: “except that the Attor-
5 ney General shall provide information furnished
6 under this section when such information is re-
7 quested in writing by a duly recognized law enforce-
8 ment entity in connection with a criminal investiga-
9 tion or prosecution, or to an official coroner for pur-
10 poses of affirmatively identifying a deceased individ-
11 ual (whether or not such individual is deceased as a
12 result of a crime).”.

13 **SEC. 154. COMMUNICATION BETWEEN FEDERAL, STATE,**
14 **AND LOCAL GOVERNMENT AGENCIES, AND**
15 **THE IMMIGRATION AND NATURALIZATION**
16 **SERVICE.**

17 Notwithstanding any other provision of Federal,
18 State, or local law, no Federal, State, or local government
19 entity shall prohibit, or in any way restrict, any govern-
20 ment entity or any official within its jurisdiction from
21 sending to or receiving from the Immigration and Natu-
22 ralization Service information regarding the immigration
23 status, lawful or unlawful, of an alien in the United
24 States.

1 **Subtitle B—Other Control Measures**

2 **PART 1—PAROLE AUTHORITY**

3 **SEC. 161. USEABLE ONLY ON A CASE-BY-CASE BASIS FOR**
4 **HUMANITARIAN REASONS OR SIGNIFICANT**
5 **PUBLIC BENEFIT.**

6 Section 212(d)(5) of the Immigration and Nationality
7 Act (8 U.S.C. 1182(d)(5)) is amended—

8 (1) by redesignating subparagraph (A) as sub-
9 paragraph (A)(i);

10 (2) in subparagraph (A)(i) (as so redesignated),
11 by striking “emergent reasons or for reasons deemed
12 strictly in the public interest” and inserting “on a
13 case-by-case for urgent humanitarian reasons or sig-
14 nificant public benefit”.

15 **SEC. 162. INCLUSION IN WORLD-WIDE LEVEL OF FAMILY-**
16 **SPONSORED IMMIGRANTS.**

17 Section 201(c) of the Immigration and Nationality
18 Act (8 U.S.C. 1151(c)) is amended—

19 (1) by amending paragraph (1)(A)(ii) to read
20 as follows:

21 “(ii) the sum of the number computed under
22 paragraph (2) and the number computed under
23 paragraph (4), plus”; and

24 (2) by adding at the end the following new
25 paragraph:

1 “(4) The number computed under this paragraph for
2 a fiscal year is the number of aliens who were paroled into
3 the United States under section 212(d)(5) in the two pre-
4 vious fiscal years and who as of the last day of the pre-
5 vious fiscal year had not departed from the United States
6 within 365 days.”.

7 **PART 2—ASYLUM AND REFUGEES**

8 **SEC. 171. LIMITATIONS ON ASYLUM APPLICATIONS BY**
9 **ALIENS USING DOCUMENTS FRAUDULENTLY**
10 **OR BY EXCLUDABLE ALIENS APPREHENDED**
11 **AT SEA; USE OF SPECIAL EXCLUSION PROCE-**
12 **DURES.**

13 Section 208 of the Immigration and Nationality Act
14 (8 U.S.C. 1158) is amended by adding at the end the fol-
15 lowing new subsection:

16 “(e)(1) Notwithstanding subsection (a), any alien
17 who, in seeking entry to the United States or boarding
18 a common carrier for the purpose of coming to the United
19 States, presents any document which, in the determination
20 of the immigration officer, is fraudulent, forged, stolen,
21 or inapplicable to the person presenting the document, or
22 otherwise contains a misrepresentation of a material fact,
23 may not apply for or be granted asylum, unless presen-
24 tation of the document was necessary for direct departure

1 from a country in which (or from which) the alien has
2 a credible fear of persecution (or of return to persecution).

3 “(2) Notwithstanding subsection (a), an alien who
4 boards a common carrier for the purpose of coming to the
5 United States through the presentation of any document
6 which relates or purports to relate to the alien’s eligibility
7 to enter the United States, and who fails to present such
8 document to an immigration officer upon arrival at a port
9 of entry into the United States, may not apply for or be
10 granted asylum, unless presentation of such document was
11 necessary to direct departure from a country in which (or
12 from which) the alien has a credible fear of persecution
13 (or of return to persecution).

14 “(3) Notwithstanding subsection (a), an alien de-
15 scribed in section 235(d)(3) may not apply for or be grant-
16 ed asylum, unless the person departed directly from a
17 country in which (or from which) the alien has a credible
18 fear of persecution (or of return to persecution).

19 “(4) Notwithstanding paragraphs (1), (2), and (3),
20 the Attorney General may, under extraordinary cir-
21 cumstances, permit an alien described in paragraph (1),
22 (2), or (3) to apply for asylum.

23 “(5)(A) When an immigration officer has determined
24 that an alien has sought entry under either of the cir-
25 cumstances described in paragraph (1) or (2), or is an

1 alien described in section 235(d)(3), and the alien has in-
2 dicated a desire to apply for asylum, the immigration offi-
3 cer shall refer the matter to an asylum officer who shall
4 interview the alien to determine whether presentation of
5 the document was necessary to direct departure from a
6 country in which (or from which) the alien has a credible
7 fear of persecution (or of return to persecution), or in the
8 case of an alien described in section 235(d)(3), whether
9 the alien had directly departed from such a country.

10 “(B) If the officer determines that the alien does not
11 have a credible fear of persecution or of return to persecu-
12 tion in (or from) the country in which the alien was last
13 present prior to attempting entry into the United States,
14 or arriving in the United States or a port of entry under
15 the circumstances described in section 235(d)(3), the alien
16 may be specially excluded and deported in accordance with
17 section 235(e).

18 “(C) The Attorney General shall provide by regula-
19 tion for the prompt supervisory review of a determination
20 under subparagraph (B) that an alien does not have a
21 credible fear of persecution or of return to persecution in
22 (or from) the country in which the alien was last present.

23 “(D) The Attorney General shall provide information
24 concerning the procedure described in this paragraph to
25 persons who may be eligible. An alien who is eligible for

1 such procedure pursuant to subparagraph (A) may consult
2 with a person or persons of his or her choosing prior to
3 the procedure or any review thereof, according to regula-
4 tions prescribed by the Attorney General. Such consulta-
5 tion shall be at no expense to the Government and shall
6 not delay the process.

7 “(6) As used in this section, the term ‘credible fear
8 of persecution (or of return to persecution)’ means—

9 “(A) it is more probable than not that the
10 statements made by the alien in support of his or
11 her claim are true; and

12 “(B) there is a significant possibility, in light of
13 such statements and of such other facts as are
14 known to the officer about country conditions, that
15 the alien could establish eligibility as a refugee with-
16 in the meaning of section 101(a)(42)(A) with respect
17 to the country from which the alien has directly de-
18 parted (or a country to which the alien is likely to
19 be returned without access to a full and fair proce-
20 dure for determining refugee status).

21 “(7) As used in this subsection, the term ‘asylum offi-
22 cer’ means an immigration officer who—

23 “(A) has had professional training in country
24 conditions, asylum law, and interview techniques;
25 and

1 “(B) is supervised by an officer who meets the
2 condition in subparagraph (A).”.

3 **SEC. 172. LIMITATION ON WORK AUTHORIZATION FOR ASY-**
4 **LUM APPLICANTS.**

5 Section 208 of the Immigration and Nationality Act
6 (8 U.S.C. 1158) is amended by inserting the following new
7 subsection:

8 “(f) An applicant for asylum may not engage in em-
9 ployment in the United States except pursuant to this sub-
10 section. The Attorney General may deny any application
11 for, or suspend or place conditions on any grant of, au-
12 thorization to engage in employment in the United States
13 to any alien who makes an application under this section.

14 **SEC. 173. INCREASED RESOURCES FOR REDUCING ASYLUM**
15 **APPLICATION BACKLOGS.**

16 (a) PURPOSE AND PERIOD OF AUTHORIZATION.—
17 For the purpose of reducing the number of applications
18 pending under sections 208 and 243(h) of the Immigra-
19 tion and Nationality Act (8 U.S.C. 1158 and 8 U.S.C.
20 1253) as of the date of enactment of this Act, the Attor-
21 ney General shall have the authority described in sub-
22 sections (b) and (c) for a period of two years, beginning
23 ninety days after the date of enactment of this Act.

24 (b) PROCEDURES FOR PROPERTY ACQUISITION ON
25 LEASING.—Notwithstanding the Federal Property and

1 Administrative Services Act of 1949 (40 U.S.C. 471 et
2 seq.), the Attorney General is authorized to expend out
3 of funds made available to the Department of Justice for
4 the administration of the Immigration and Nationality Act
5 such amounts as may be necessary for the leasing or ac-
6 quisition of property to carry out the purpose described
7 in subsection (a).

8 (c) USE OF FEDERAL RETIREES.—(1) In order to
9 carry out the purpose described in subsection (a), the At-
10 torney General may employ temporarily not more than
11 three hundred persons who, by reason of retirement on
12 or before January 1, 1993, are receiving—

13 (A) annuities under the provisions of sub-
14 chapter III of chapter 83 of title 5, United States
15 Code, or chapter 84 of such title;

16 (B) annuities under any other retirement sys-
17 tem for employees of the Federal Government; or

18 (C) retired or retainer pay as retired officers of
19 regular components of the uniformed services.

20 (2) In the case of a person retired under the provi-
21 sions of subchapter III of chapter 83 of title 5, United
22 States Code—

23 (A) no amounts may be deducted from the per-
24 son's pay,

1 (B) the annuity of such person may not be ter-
2 minated,

3 (C) payment of annuity to such person may not
4 be discontinued, and

5 (D) the annuity of such person may not be re-
6 computed, under section 8344 of such title by reason
7 of temporary employment authorized in paragraph
8 (1).

9 (3) In the case of a person retired under the provi-
10 sions of chapter 84 of title 5, United States Code—

11 (A) no amounts may be deducted from the per-
12 son's pay,

13 (B) contributions to the Civil Service Retire-
14 ment and Disability Fund may not be made, and

15 (C) the annuity of such person may not be re-
16 computed, under section 8468 of such title by reason
17 of temporary employment authorized in paragraph
18 (1).

19 (4) The retired or retainer pay of a retired officer
20 of a regular component of a uniformed service may not
21 be reduced under section 5532 of title 5, United States
22 Code, by reason of temporary employment authorized in
23 paragraph (1).

24 (5) The President shall apply the provisions of para-
25 graphs (2) and (3) to persons referred to in paragraph

1 (1)(B) in the same manner and to the same extent as such
 2 provisions apply to persons referred to in paragraph
 3 (1)(A).

4 **SEC. 174. REQUIREMENT OF CONGRESSIONAL APPROVAL**
 5 **FOR ADMISSION OF MORE THAN 50,000 REFU-**
 6 **GEEES IN A FISCAL YEAR.**

7 Section 207(a)(2) of the Immigration and Nationality
 8 Act (8 U.S.C. 1157(a)(2)) is amended—

9 (1) by inserting “(A)” immediately after “(2)”;

10 (2) by inserting “in subparagraph (B) and”
 11 after “provided”; and

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

13 “(B) The number of refugees admitted in
 14 any fiscal year may not exceed 50,000 unless
 15 Congress enacts a bill or joint resolution specifi-
 16 cally authorizing a greater number.”.

17 **PART 3—CUBAN ADJUSTMENT ACT**

18 **SEC. 181. REPEAL.**

19 Public Law 89–73, as amended, is hereby repealed.

20 **Subtitle C—Effective Dates**

21 **SEC. 191. EFFECTIVE DATES.**

22 (a) PROVISIONS TAKING EFFECT UPON ENACT-
 23 MENT.—Except as otherwise provided in this title and
 24 subject to subsection (b), this title and the amendments
 25 made by this title shall take effect on the date of the en-

1 actment of this Act, and apply beginning in fiscal year
2 1995.

3 (b) OTHER EFFECTIVE DATES.—(1)(A) The amend-
4 ments made by sections 136, 137, 141, 142, 148, and 171
5 shall be effective upon the date of enactment of this Act,
6 and shall apply to aliens who arrive in or seek admission
7 to the United States on or after such date.

8 (B) Notwithstanding any other provision of law, the
9 Attorney General may issue interim final regulations to
10 implement the provisions of the amendments listed in sub-
11 paragraph (A) at any time on or after the date of enact-
12 ment of this Act, which regulations may become effective
13 upon publication without prior notice or opportunity for
14 public comment.

15 (2) The amendment made by section 138 applies to
16 the preparation of applications before, on, or after the
17 date of enactment of this Act.

18 (3) The amendment made by section 143 shall apply
19 to all applications for relief under section 212(c) or 244
20 of the Immigration and Nationality Act filed on or after
21 the date of enactment of this Act.

22 (4) The amendments made by section 146(c) shall
23 apply to all final orders of deportation entered on or after
24 the date of enactment of this Act.

1 (D) assistance or benefits under the Child Nu-
2 trition Act of 1966, and

3 (E) public health assistance for immunizations
4 with respect to immunizable diseases and for testing
5 and treatment for communicable diseases.

6 (2) BENEFITS OF RESIDENCE.—Notwithstanding
7 any other provision of law, no State or local government
8 entity shall consider any ineligible alien as a resident when
9 to do so would place such alien in a more favorable posi-
10 tion, regarding access to, or the cost of, any benefit or
11 government service, than a United States citizen who is
12 not regarded as such a resident.

13 (3) NOTIFICATION OF ALIENS.—The agency admin-
14 istering a program referred to in paragraph (1) or (2)
15 shall, directly or, in the case of a Federal agency, through
16 the States, notify individually or by public notice, all ineli-
17 gible aliens who receive benefits under the program on the
18 date of the enactment of this Act and whose eligibility for
19 the program is terminated by reason of this subsection.

20 (b) UNEMPLOYMENT BENEFITS.—Notwithstanding
21 any other provision of law, only eligible aliens who have
22 been granted employment authorization pursuant to Fed-
23 eral law and United States citizens may receive any por-
24 tion of unemployment benefits payable out of Federal
25 funds, and such eligible aliens may receive only the portion

1 of such benefits which is attributable to the authorized
2 employment.

3 (c) HOUSING ASSISTANCE PROGRAMS.—Not later
4 than ninety days after the date of the enactment of this
5 Act, the Secretary of Housing and Urban Development
6 shall submit a report to the Committee on the Judiciary
7 of the Senate, the Committee on the Judiciary of the
8 House of Representatives, the Committee on Banking,
9 Housing, and Urban Affairs of the Senate, and the Com-
10 mittee on Banking and Financial Services of the House
11 of Representatives describing the manner in which the
12 Secretary is enforcing section 214 of the Housing and
13 Community Development Act of 1980 and containing sta-
14 tistics with respect to the number of individuals denied
15 financial assistance under such section.

16 (d) DEFINITIONS.—For the purposes of this sec-
17 tion—

18 (1) ELIGIBLE ALIEN.—The term “eligible
19 alien” means an individual who is—

20 (A) an alien lawfully admitted for perma-
21 nent residence,

22 (B) an alien granted asylum,

23 (C) a refugee,

1 (D) an alien whose deportation has been
2 withheld under section 243(h) of the Immigra-
3 tion and Nationality Act, or

4 (E) a parolee who has been paroled for a
5 period of 1 year or more.

6 (2) INELIGIBLE ALIEN.—The term “ineligible
7 alien” means an individual who is not—

8 (A) a United States citizen; or

9 (B) an eligible alien.

10 **SEC. 202. ATTRIBUTION OF SPONSOR'S INCOME AND RE-**
11 **SOURCES TO FAMILY-SPONSORED IMMI-**
12 **GRANTS.**

13 Notwithstanding any other provision of law, in deter-
14 mining the eligibility and the amount of benefits of an eli-
15 gible alien (as defined in section 201(d)(1) of this Act)
16 under any Federal program, the income and resources of
17 the alien shall be presumed to include—

18 (1) the income and resources of any person
19 who, as a sponsor of such alien's entry into the
20 United States, executed an affidavit of support or
21 similar agreement with respect to such alien, and

22 (2) the income and resources of such sponsor's
23 spouse.

24 The preceding sentence shall apply until such time as the
25 alien achieves United States citizenship through natu-

1 realization pursuant to chapter 2 of title III of the Immi-
2 gration and Nationality Act.

3 **SEC. 203. DEFINITION OF “PUBLIC CHARGE” FOR PUR-**
4 **POSES OF DEPORTATION.**

5 (a) IN GENERAL.—Section 241(a)(5) of the Immi-
6 gration and Nationality Act (8 U.S.C. 1251(a)(5)) is
7 amended to read as follows:

8 “(5) PUBLIC CHARGE.—

9 “(A) IN GENERAL.—Any alien who, within
10 five years after the date of entry, has become
11 a public charge from causes not affirmatively
12 shown to have arisen since entry is deportable.

13 “(B) DEFINITION.—For purposes of sub-
14 paragraph (A), the term ‘public charge’ shall
15 include any alien who receives benefits under
16 one or more of the programs described in sub-
17 paragraph (C) for more than an aggregate of
18 12 months.

19 “(C) PROGRAMS DESCRIBED.—The pro-
20 grams described in this subparagraph are the
21 following:

22 “(i) The aid to families with depend-
23 ent children program under title IV of the
24 Social Security Act.

1 “(ii) The medicaid program under
2 title XIX of the Social Security Act.

3 “(iii) The food stamp program under
4 the Food Stamp Act of 1977.

5 “(iv) The supplemental security in-
6 come program under title XVI of the So-
7 cial Security Act.

8 “(v) Any State general assistance pro-
9 gram.

10 “(vi) any other program of assistance
11 funded, in whole or in part, by the Federal
12 Government or any State or local govern-
13 ment entity, for which eligibility for bene-
14 fits is based on need, except the programs
15 listed as exceptions in section 201(a)(1) of
16 this Act.”

17 (b) CONSTRUCTION.—Nothing in section
18 241(a)(5)(B) of the Immigration and Nationality Act may
19 be construed to invalidate other factual bases for consider-
20 ation of an alien as a public charge which were in effect
21 on the day before the date of the enactment of this Act.

22 (c) REVIEW OF STATUS.—(1) In reviewing any appli-
23 cation by an alien for benefits under section 216, section
24 245, or chapter 2 of title III of the Immigration and Na-
25 tionality Act, the Attorney General shall determine wheth-

1 er or not the applicant is described in section 241(a)(5)(B)
2 of such Act.

3 (2) If the Attorney General determines that an alien
4 is described in section 241(a)(5)(B) of such Act, the At-
5 torney General shall deny such application and shall insti-
6 tute deportation proceedings with respect to such alien,
7 unless the Attorney General exercises discretion to with-
8 hold or suspend deportation pursuant to one of the other
9 sections of such Act.

10 **SEC. 204. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF**
11 **SUPPORT.**

12 (a) ENFORCEABILITY.—No affidavit of support may
13 be relied upon by the Attorney General or by any consular
14 officer to establish that an alien is not excludable as a
15 public charge under section 212(a)(4) of the Immigration
16 and Nationality Act unless such affidavit is executed as
17 a contract—

18 (1) which is legally enforceable against the
19 sponsor by the Federal Government and by any
20 State, district, territory, or possession of the United
21 States (or any subdivision of such State, district,
22 territory, or possession of the United States) which
23 provides any benefit described in section
24 241(a)(5)(C), but not later than ten years after the
25 alien last receives any such benefit; and

1 (2) in which the sponsor agrees to submit to
2 the jurisdiction of any Federal or State court for the
3 purpose of actions brought under subsection (e)(2).

4 (b) FORMS.—Not later than ninety days after the
5 date of enactment of this Act, the Secretary of State, the
6 Attorney General, and the Secretary of Health and
7 Human Resources shall jointly formulate the affidavit of
8 support described in this section.

9 (c) STATUTORY CONSTRUCTION.—Nothing in this
10 section shall be construed to grant third party beneficiary
11 rights to any sponsored alien under an affidavit of sup-
12 port.

13 (d) NOTIFICATION OF CHANGE OF ADDRESS.—(1)
14 The sponsor shall notify the Federal Government and the
15 State, district, territory, or possession in which the spon-
16 sored alien is currently resident within thirty days of any
17 change of address of the sponsor during the period speci-
18 fied in subsection (a)(1).

19 (2) Any person subject to the requirement of para-
20 graph (1) who fails to satisfy such requirement shall be
21 subject to a civil penalty of—

22 (A) not less than \$250 or more than \$2,000, or

23 (B) if such failure occurs with knowledge that
24 the sponsored alien has received any benefit de-
25 scribed in section 241(a)(5)(C) of the Immigration

1 and Nationality Act, not less than \$2,000 or more
2 than \$5,000.

3 (e) REIMBURSEMENT OF GOVERNMENT EX-
4 PENSES.—(1)(A) Upon notification that a sponsored alien
5 has received any benefit described in section 241(a)(5)(C)
6 of the Immigration and Nationality Act, the appropriate
7 Federal, State, or local official shall request reimburse-
8 ment by the sponsor in the amount of such assistance.

9 (B) The Secretary of Health and Human Services
10 shall prescribe such regulations as may be necessary to
11 carry out subparagraph (A). Such regulations shall pro-
12 vide for notification to the sponsor by certified mail to the
13 sponsor's last known address.

14 (2) If within forty-five days after requesting reim-
15 bursement, the appropriate Federal, State, or local agency
16 has not received a response from the sponsor indicating
17 a willingness to commence payments, an action may be
18 brought against the sponsor pursuant to the affidavit of
19 support.

20 (3) If the sponsor fails to abide by the repayment
21 terms established by such agency, the agency may, within
22 sixty days of such failure, bring an action against the
23 sponsor pursuant to the affidavit of support.

24 (4) No cause of action may be brought under this
25 subsection later than ten years after the alien last received

1 any benefit described in section 241(a)(5)(C) of the Immi-
2 gration and Nationality Act.

3 (f) JURISDICTION.—For purposes of this section, no
4 State court shall decline for lack of jurisdiction to hear
5 any action brought against a sponsor for reimbursement
6 of the cost of any benefit described in section 241(a)(5)(C)
7 of the Immigration and Nationality Act if the sponsored
8 alien received public assistance while residing in the State.

9 (g) DEFINITIONS.—For the purposes of this sec-
10 tion—

11 (1) the term “sponsor” means an individual
12 who—

13 (A) is a United States citizen or an alien
14 who is lawfully admitted to the United States
15 for permanent residence;

16 (B) is 18 years of age or over;

17 (C) is domiciled in any of the several
18 States of the United States, the District of Co-
19 lumbia, or any territory or possession of the
20 United States; and

21 (D) demonstrates the means to maintain
22 an annual income equal to at least 125 percent
23 of the Federal poverty line for the individual
24 and for the sponsored alien; and

1 (2) the term “poverty line” means the income
2 official poverty line (as defined by the Office of Man-
3 agement and Budget, and revised annually in ac-
4 cordance with section 673(2) of the Omnibus Budget
5 Reconciliation Act of 1981) that is applicable to a
6 family of the size involved.

7 **PART 2—BORDER CROSSING FEE**

8 **SEC. 211. IMPOSITION OF FEE; USE OF COLLECTED FEES.**

9 (a) LAND BORDER USER FEE ACCOUNT.—Section
10 286(q) of the Immigration and Nationality Act (8 U.S.C.
11 1356(q)) is amended to read as follows:

12 “(q) LAND BORDER USER FEE ACCOUNT.—(1) The
13 Attorney General, after consultation with the Secretary of
14 State, shall institute a policy of imposing a fee at the time
15 of any person’s entry into the United States at a land bor-
16 der port of entry for the person’s use of border facilities
17 or services of the Immigration and Naturalization Service
18 in an amount necessary to make the total of such fees
19 substantially equal to the cost of maintaining and operat-
20 ing such facilities and services.

21 “(2) All fees collected under paragraph (1) shall be
22 deposited as offsetting receipts in a separate account with-
23 in the general fund of the Treasury of the United States
24 and shall remain available until expended. Such account
25 shall be known as the ‘Land Border User Fee Account’.

1 “(3)(A) The Secretary of the Treasury shall refund
2 out of the Land Border User Fee Account, at least on
3 a quarterly basis, amounts to any appropriations for ex-
4 penses incurred in providing inspection services at land
5 border points of entry. Such expenses shall include—

6 “(i) the cost of providing inspection services;

7 “(ii) the cost of operating and maintaining in-
8 spection facilities at land border points of entry;

9 “(iii) the cost of expanding, operating, and
10 maintaining information systems for nonimmigrant
11 control;

12 “(iv) the cost of employing additional perma-
13 nent and temporary inspectors;

14 “(v) the minor construction costs associated
15 with adding new traffic lanes (with the concurrence
16 of the General Services Administration), including
17 the establishment of commuter lanes to be made
18 available to qualified United States citizens and
19 aliens, as determined by the Attorney General;

20 “(vi) the cost of detecting fraudulent documents
21 used by passengers traveling to the United States;
22 and

23 “(vii) the cost of administering the Land Bor-
24 der User Fee Account.

1 “(B) Beginning with the fiscal year which begins
2 after the effective date of this subsection, amounts re-
3 quired to be refunded in any fiscal year shall be refunded
4 in accordance with estimates made in the budget request
5 of the Attorney General for that fiscal year. Any proposed
6 change in an amount specified in such budget request shall
7 only be made after notification to the Committees on Ap-
8 propriations of the House of Representatives and the Sen-
9 ate in accordance with section 606 of the Public Law 101-
10 162 and only if the Committees on the Judiciary of the
11 House of Representatives and the Senate are notified at
12 least fifteen days in advance.

13 “(4) Beginning two years after the date of enactment
14 of this Act, and every two years thereafter, the Attorney
15 General shall prepare and submit to the Congress a report
16 containing—

17 “(A) a statement of the financial condition of
18 the Land Border Use Fee Account, including the be-
19 ginning account balance, revenues, withdrawals, and
20 ending account balance and projection for the next
21 two fiscal years; and

22 “(B) a recommendation, if necessary, regarding
23 any adjustment in the prescribed fee that may be re-
24 quired to ensure that the receipts collected from the
25 fee charged for the succeeding two-year period equal,

1 as closely as possible, the cost of providing the facili-
2 ties and services described in paragraph (1).”.

3 (b) SUBMISSION OF PLAN.—Not later than ninety
4 days after the date of enactment of this Act, the Attorney
5 General shall submit in writing to the Committees on the
6 Judiciary and the Committees on Appropriations of the
7 House of Representatives and of the Senate a plan detail-
8 ing the proposed implementation of section 286(q) of the
9 Immigration and Nationality Act (as amended by this
10 Act).

11 (c) REPEAL OF PROVISOR.—Effective six months after
12 the date of enactment of this Act, the fourth proviso under
13 the heading “ Immigration and Naturalization Service,
14 Salaries and Expenses” in Public Law 103–121 is re-
15 pealed.

16 (d) USE OF UNUSED MONEYS FOR BORDER SECUR-
17 ITY.—(1) Notwithstanding any other provision of law,
18 upon the date of enactment of this Act, the Secretary of
19 the Treasury shall refund to the Appropriation Account
20 of the Immigration and Naturalization Service the follow-
21 ing amounts of unobligated funds in the Land Border In-
22 spection Fee Account (to the extent available), for use as
23 follows:

24 (A) Such funds may be used for the hiring and
25 equipping of additional Border Patrol agents and of

1 support personnel and equipment for increases in
2 the number of Border Patrol agents for that fiscal
3 year;

4 (B) Any portion of such funds not used for the
5 purposes described in paragraph (A) may be used
6 for the deportation-related purposes described in sec-
7 tion 145 of this Act.

8 **SEC. 212. PILOT PROGRAMS.**

9 (a) ADDITIONAL COMMUTER BORDER CROSSING
10 FEES PILOT PROJECTS.—In addition to the land border
11 fee pilot projects extended by the fourth proviso under the
12 heading “ Immigration and Naturalization Service, Sala-
13 ries and Expenses” of Public Law 103–121, the Attorney
14 General is authorized to establish another such pilot
15 project on the northern land border and another such pilot
16 project on the southern land border of the United States.

17 (b) AUTOMATED PERMIT PILOT PROJECTS.—The
18 Attorney General and the Commissioner of Customs are
19 authorized to conduct pilot projects to demonstrate—

20 (1) the feasibility of expanding port of entry
21 hours at designated ports of entry on the United
22 States-Canada border; or

23 (2) the use of designated ports of entry after
24 working hours through the use of card readers or
25 other appropriate technology.

1 **PART 3—EFFECTIVE DATES**

2 **SEC. 221. EFFECTIVE DATES.**

3 (a) PROVISIONS TAKING EFFECT UPON ENACT-
 4 MENT.—Except as otherwise provided in this title and
 5 subject to subsection (b), this title and the amendments
 6 made by this title shall take effect on the date of the en-
 7 actment of this Act, and apply beginning in fiscal year
 8 1995.

9 (b) OTHER EFFECTIVE DATES.—(1) The provisions
 10 of section 201 and section 202 shall apply to benefits or
 11 applications for benefits received on or after the date of
 12 the enactment of this Act.

13 (2) The amendment made by section 211(a) shall
 14 take effect six months after the date of enactment of this
 15 Act.

○

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