Nadler	Rangel	Thornton
Peterson (FL)	Rush	Torricelli
Porter	Stokes	Walker
Pryce	Taylor (NC)	Waters
Radanovich	Thompson	

□ 1810

The Clerk announced the following pair:

On this vote:

Mr. Radanovich and Mr. Rangel for, with Mr. Dellums against.

Ms. KAPTUR changed her vote from ''aye'' to ''present.''

Mr. MINGE changed his vote from ''present'' to ''no.''

Ms. MCKINNEY changed her vote from ''no'' to ''aye.''

So (two-thirds having voted in favor thereof), the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

The title of the concurrent resolution was amended so as to read: ''A concurrent resolution expressing the sense of the Congress that the United States is committed to military stability in the Taiwan Strait and the United States should assist in defending the Republic of China (also known as Taiwan) in the event of invasion, missile attack, or blockade by the People's Republic of China.''.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. WATERS. Mr. Speaker, during votes on Tuesday, March 19, I was unavoidably detained in my congressional district attending to pressing business.

Had I been present for those votes, I would have voted ''no'' on ordering the previous question on House Resolution 384, ''yes'' on H.R. 2937, and ''yes'' on House Concurrent Resolution 148.

PERSONAL EXPLANATION

Mr. FAWELL. Mr. Speaker, due to the primary elections held today in Illinois I was unavoidably detained and missed several rollcall votes. I would like the RECORD to reflect that had I been present in the House, I would have voted in favor of House Resolution 384, rollcall vote 68, a resolution which provides for the consideration of H.R. 2202, the Immigration in the National Interest Act. House Resolution 384 makes in order 32 amendments which may be offered during consideration of H.R. 2202.

I would also have voted in favor of H.R. 2937 rollcall vote 69, a bill to authorize sufficient funds to reimburse former White House Travel Office employees for legal expenses resulting from the termination of their employment on May 19, 1993.

Last, I would also have voted in support of House Concurrent Resolution 148 rollcall vote 70, a resolution which expresses the sense of the Congress that the United States is committed to military stability in the Taiwan Straits and to the military defense of Taiwan. In addition, the resolution declares that the United States, in accordance with the Taiwan Relations Act, should assist Taiwan in defending itself against invasion, missile attack, or naval blockade by the People's Republic of China.

PERSONAL EXPLANATION

Mr. NADLER. Mr. Speaker, earlier today I was unavoidably detained because the 1-hour flight from New York took 4. I consequently missed three rollcall votes. Had I been present for rollcall No. 68 on the previous question, I would have voted ''no''; had I been present for rollcall No. 69 on the Travel Office Reimbursement, I would have voted ''yes''; had I been present for rollcall No. 70, the Defense of Taiwan Resolution, I would have voted ''yes.''

PERSONAL EXPLANATION

Mr. CHRYSLER. Mr. Speaker, due to weather conditions, my plane could not land and I was unavoidably detained and did not cast my vote on rollcall votes numbered 68, 69, and 70.

Had I been present, I would have voted ''yes'' on rollcall vote 68, the rule on the Immigration in the National Interest Act of 1995; ''yes'' on rollcall vote 69, H.R. 2937, reimbursement of Former White House Travel Office employees; and ''yes'' on rollcall vote 70, House Concurrent Resolution 148, a sense of the congress regarding military stability in the Taiwan Strait and the defense of Taiwan.''

IMMIGRATION IN THE NATIONAL INTEREST ACT

Mr. SPEAKER pro tempore. Pursuant to House Resolution 384 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2202.

□ 1813

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes with Mr. BONILLA in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Texas [Mr. SMITH] will be recognized for 60 minutes, and the gentleman from Michigan [Mr. CONYERS] will be recognized for 60 minutes.

The Chair recognizes the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, I would like first to thank the chairman of the Committee on the Judiciary, the gentleman from Illinois [Mr. HYDE], for his generous support along the way. It is he who has been captain of the ship, and it is his steady hand at the helm who has brought us to these shores tonight.

□ 1815

Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. HYDE], the chairman of the Committee on the Judiciary.

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. HYDE. Mr. Chairman, I thank the distinguished chairman of the Subcommittee on Immigration for yielding me time, and I am pleased to speak here on this very important issue.

Mr. Chairman, immigration reform is one of the most important legislative priorities facing the 104th Congress. Today, undocumented aliens surreptitiously cross our border with impunity. Still others enter as nonimmigrants with temporary legal status, but often stay on indefinitely and illegally. The INS administrative and adjudicatory processes are a confusing, inefficient bureaucratic maze, resulting in crippling delays in decisionmaking. The easy availability of fraudulent documents frustrates honest employers, who seek to prevent the employment of persons not authorized to work in the United States. Unfortunately, the result of illicit job prospects only serves as a magnet to further illegal immigration. Clearly, we face a multifaceted breakdown of immigration law enforcement that requires our urgent attention.

The 104th Congress can make an unprecedented contribution to the prevention of illegal immigration as long as we have the will to act. H.R. 2202 provides for substantially enhanced border and interior enforcement, greater deterrence to immigration-related crimes, more effective mechanisms for denying employment to undocumented aliens, broader prohibitions on the receipt of public benefits by individuals lacking legal status, and expeditious removal of persons not legally present in the United States.

The Committee on the Judiciary, recognizing that issues involving illegal and legal migration are closely intertwined, approved a bill that takes a comprehensive approach to reforming immigration law. Today, we create unfulfillable expectations by accepting far more immigration applications than we can accommodate—resulting in backlogs numbering in the millions and waiting periods of many years. We simply need to give greater priority to unifying nuclear families, which is a priority of H.R. 2202.

In addressing family immigration, the Judiciary Committee recognized

the need for changes in the bill as originally introduced. For example, the Committee adopted my amendment deleting an overly restrictive provision that would have denied family-based immigration opportunities to parents unless at least 50 percent of their sons and daughters resided in the United States.

During our markup, we also modified provisions of the bill on employment related immigration—removing potential impediments to international trade and protecting the access of American businesses to individuals with special qualifications who can help our economy. We recognized the critical importance of outstanding professors and researchers and multinational executives and managers by placing these two immigrant categories in a new high priority—second preference—exempt from time consuming labor certification requirements. We restored a national interest waiver of labor certification requirements and delineated specific criteria for its exercise. In addition to adopting these two amendments which I sponsored, the committee also substantially modified new experience requirements for immigrants in the skilled worker and professional categories and deleted a provision potentially reducing available visas up to 50 percent. The net result of these various changes is that American competitiveness in international markets will be fostered—encouraging job creation here at home.

Another noteworthy amendment to this bill restored a modified diversity immigrant program. Up to 27,000 numbers—roughly half the figure under current law—will be made available to nationals of countries that are not major sources of immigration to the United States but have high demand for diversity visas. The program will help to compensate for the fact that nationals of many countries—such as Ireland—generally have not been eligible to immigrate on the basis of family reunification.

This week we have the opportunity to pass legislation that will give us needed tools to address illegal immigration and facilitate a more realistic approach to legal immigration. Our final work product should include an employment verification mechanism, because America's businesses cannot effectively implement the bar against employing illegal aliens without some confirmation mechanism. H.R. 2202 appropriately gives expression to the utility of reviewing immigration levels periodically, but we need to adopt an amendment by the gentleman from Kansas [Mr. BROWNBACK] and the gentleman from Illinois [Mr. GUTIERREZ] that deletes language in the bill imposing a sunset on immigrant admissions in the absence of reauthorization because such a provision can create serious potential hardships for families and major disruptions for American businesses.

There are two other amendments I wish to comment on briefly at this time. An amendment by the gentleman from Florida [Mr. CANADY] will require that employment-based immigrants and diversity immigrants demonstrate English language speaking and reading ability. I plan to support it because I believe that our common language is an essential unifying force in this pluralistic society and a key to success in the American work force. An amendment by the gentleman from Wisconsin [Mr. KLECZKA] reimburses fees to Polish nationals who applied for the 1995 diversity immigrant program without being selected. Such recompense is entirely appropriate because the State Department erred in its handling of applications from nationals of Poland.

This omnibus immigration reform legislation, introduced by the gentleman from Texas, LAMAR SMITH, chairman of the Subcommittee on Immigration and Claims, makes major needed changes in the Immigration and Nationality Act. A number of the bill's provisions are consistent with recommendations made by the Congressional Task Force on Immigration Reform, chaired by the gentleman from California, ELTON GALLEGLY, as well as by the U.S. Commission on Immigration Reform, chaired by our former colleague, the late Barbara Jordan. I also note that the administration finds itself in agreement with significant portions of the bill before us. The extent of bipartisan interest in achieving immigration reform must not be overlooked as Members debate this legislation.

The Committee on the Judiciary, during a long markup on nine different days, improved provisions on both illegal and legal immigration. We favorably reported H.R. 2202 as amended by a recorded vote of 23 to 10.

Immigration reform is very high on the list of national concerns—underscoring the importance of our task this week. I fully recognize the complexity of this issue—socially, economically, and emotionally. These are problems that generate strongly held views. Nevertheless, I am confident that this House will debate these matters with civility, patience and good will. The 104th Congress can make a major contribution toward solving our nation's immigration problems and active consideration of H.R. 2202 represents a forward step in that direction.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, on the other side of the aisle from me is the ranking minority member of the Subcommittee on Immigration, my friend and colleague, the gentleman from Texas, [Mr. JOHN BRYANT]. He has been an equal partner in this effort to reform our immigration laws, and I want to thank him as well.

Mr. Chairman, we now begin consideration of immigration legislation that reduces crime, unites families, protects jobs, and eases the burden on taxpayers. A sovereign country has a profound responsibility to secure its borders, to know who enters for how long and why. Citizens rightfully expect Congress to put the national interest first.

In approving the Immigration in the National Interest Act, Congress will provide a better future for millions of Americans and for millions of others who live in foreign lands and have yet to come to America. This pro-family, pro-worker, pro-taxpayer bill reaffirms the dreams of a nation of immigrants that has chosen to govern itself by law.

Immigration reform of this scope has been enacted by only three Congresses this century. The consideration of this bill is a momentous time for us all.

As the debate goes forward, my hope is that the discussion on the House floor will mirror the high level of debate evident when the Committee on the Judiciary considered this legislation earlier this year. Even though there were disagreements over many issues, the complex and sensitive subject of immigration reform was dealt with rationally and with mutual respect for each others positions. This is not to say that feelings about immigration do not run high. But it would be just as unfair, for example, to call someone who wanted to reform immigration laws anti-immigrant as it would be to call someone who opposed immigration reform anti-American.

The Immigration in the National Interest Act addresses both illegal and legal immigration. As a bipartisan Commission on Immigration Reform and the administration also have concluded, both are broken and both must be fixed. To wait any longer would put us on the wrong side of the strong feelings of the American people, on the wrong side of common sense, and on the wrong side of our responsibility as legislators.

Illegal immigration forces us to confront the understandable desire of people to improve their economic situation. Illegal aliens are not the enemy. I have talked with them in detention facilities along our southern border. Most have good intentions. But we cannot allow the human faces to mask the very real crisis in illegal immigration.

For example, illegal aliens account for 40 percent of the births in the public hospitals of our largest State, California. These families then are eligible to plug into our very generous government benefit system. Hospitals around the country report more and more births to illegal aliens at greater and greater cost to the taxpayer.

I would like to refer now to a chart and draw my colleagues' attention to the one that is being put on the easel right now. Over one-quarter of all Federal prisoners are foreign born, up from just 4 percent in 1980. Most are illegal aliens that have been convicted of drug trafficking. Others, like those who bombed the World Trade Center in New York City or murdered the CIA employees in Virginia, have committed particularly heinous acts of violence.

Illegal aliens are 10 times more likely than Americans as a whole to have been convicted of a Federal crime. Think about the cost to the criminal justice system, including incarceration. But most of all, think about the cost in pain and suffering to the innocent victims and their families.

Every 3 years enough illegal aliens currently enter the United States to populate a city the size of Dallas or Boston or San Francisco. Yet less than 1 percent of all illegal aliens are deported each year. Fraudulent documents that enable illegal aliens to become citizens can be bought for as little as $30. Half of the four million illegal aliens in the country today use fraudulent documents to wrongly obtain jobs and government benefits.

To remedy these problems, this legislation doubles the number of border patrol agents, increases interior enforcement, expedites the deportation of illegal aliens, and strengthens penalties. The goal is to reduce illegal immigration by at least half in 5 years.

As for legal immigration, the crisis is no less real. In its report to Congress, the Commission on Immigration Reform said, ''Our current immigration system must undergo major reform to ensure that admission continue to serve our national interest.''

Before citing why major reform is needed, let me acknowledge the obvious. Immigrants have helped make our country great. Most immigrants come to work, to produce, to contribute to our communities. My home State of Texas has thousands of legal immigrants from Mexico. The service station where I pump gas is operated by a couple originally from Iran. The cleaners where I take my shirts is owned by immigrants from Korea. My daughter's college roommate is from Israel. These are wonderful people and the kind of immigrants we want. To know them is to appreciate them.

As for those individuals in other countries who desire to come to our land of hope and opportunity, how could our hearts not go out to them? Still, America cannot absorb everyone who wants to journey here as much as our humanitarian instincts might argue otherwise. Immigration is not an entitlement. It is a distinct privilege to be conferred, keeping the interests of American families, workers, and taxpayers in mind.

Unfortunately, that is not the case with our immigration policy today. The huge backlogs and long waits for legal immigrants drive illegal immigration. When a brother or sister from the Philippines, for example, is told they have to wait 40 years to be admitted, it does not take long for them to find another way. Almost half of the illegal aliens in the country came in on a tourist visa, overstayed their visa, and then failed to return home. This flagrant abuse of the immigration system destroys its credibility.

Husbands and wives who are legal immigrants must wait up to 10 years to be united with their spouses and little children. This is inhumane and contrary to what we know is good for families. A record high 20 percent of all legal immigrants now are receiving cash and noncash welfare benefits.

The chart I refer to now shows that the number of immigrants applying for supplemental security income, which is a form of welfare, has increased 580 percent over 12 years. The cost of immigrants using just this one program plus Medicaid is $14 billion a year.

It is sometimes said that immigrants pay more in taxes than they get in welfare benefits. However, taxes go for more then just welfare. They go toward defense, highways, the national debt, and so on. Allocating their taxes to all Government programs, legal immigrants cost taxpayers a net $25 billion a year, according to economist George Borjas. His study also found that unlike a generation ago, today immigrant households are more likely to receive welfare than native households.

One-half of the decline in real wages among unskilled Americans results from competition with unskilled immigrants, according to the Bureau of Labor Statistics. Most adversely impacted are those in urban areas, particularly minorities. As the Urban Institute says, ''Immigration reduces the weekly earnings of low-skilled African-American workers.''

Significantly, wage levels in high immigration States, like California, Texas, New York, Florida, and Arizona, have declined compared to wages in other States, the Economic Policy Institute reports. Over half of all immigrants have few skills and little education. They often depress wages, take jobs away from the most vulnerable among us, and end up living off the taxpayer. Admitting so many low-skilled immigrants makes absolutely no sense.

Those who favor never-ending record levels of immigration simply are living in the abstract. But most Americans live in the real world. They know their children's classrooms are bulging. They see the crowded hospital emergency rooms. They sense the adverse impact of millions of unskilled immigrants on wages. They feel the strain of trying to pay more taxes and still make ends meet.

The Immigration in the National Interest Act fixes a broken immigration system. With millions of immigrants backlogged, priorities must be set.

I would like to point to the chart that shows to my colleagues that under this bill the number of extended family members is reduced in order to double the number of spouses and minor children admitted, which will cut their rate in half.

Greater priority is also given to admitting skilled immigrants, while the number of unskilled immigrants is decreased. Current law, which holds the sponsors of immigrants financially responsible for the new arrivals, is better enforced. This should reverse the trend toward increased welfare participation.

In short, this legislation implements the recommendations of the Commission on Immigration Reform, chaired by the late Barbara Jordan. Professor Jordan, if she was here tonight sitting in the gallery, I know she would be cheering us on. She also would approve of America's continued generosity toward immigrants. Under this bill an average of 700,000 immigrants will be admitted each year for the next 5 years. This is a higher level than at least 65 of the last 70 years.

Our approach to reducing illegal immigration and reforming legal immigration has attracted widespread support. Organizations as diverse as the National Federation of Independent Business, United We Stand America, the Washington Post, the Hispanic Business Round Table, and the Traditional Values Coalition all have endorsed our efforts.

Most importantly, the American people are demanding immigration reform. I would like to point out to my colleagues on this chart that the vast majority of Americans, including a majority of African-Americans and Hispanics, want us to better control immigration.

As we begin to consider immigration reform now, remember the hard-working families across America who worry about overcrowded schools, stagnant wages, drug-related crime, and heavier taxes. They are the ones who will bear the brunt if we do not fix a broken immigration system. Congress must act now to put the national interest first and secure our borders, protect lives, unite families, save jobs, and lighten the load on law-abiding taxpayers.

Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. GALLEGLY] who served so ably as the chairman of the House Task Force on Immigration Reform.

(Mr. GALLEGLY asked and was given permission to revise and extend his remarks.)

□ 1830

Mr. GALLEGLY. Mr. Chairman, I rise in strong support of H.R. 2202, the Immigration in the National Interest Act.

I first joined this body nearly 10 years ago, about the time I began talking about the need for the Federal Government to bring badly needed reforms to our Nation's immigration laws. Unfortunately, for many of those years I felt like I was talking to myself.

That is clearly no longer the case. Immigration reform is an issue on the minds of nearly all Americans, and nearly all express deep dissatisfaction with our current system and the strong desire for change. Today, we begin the historic debate that will deliver that change. I truly believe that the bill before us represents the most serious and comprehensive reform of our Nation's immigration law in modern times. It also closely follows the recommendations of both the Speaker's Task Force on Immigration Reform, which I

chaired, and those of the Jordan Commission.

Mr. Chairman, the primary responsibilities of any sovereign nation are the protection of its borders and the enforcement of its laws. For too long, in the area of immigration policy, we in the Federal Government have shirked both duties. It may have taken a while, but policymakers in Washington finally seem ready to acknowledge the devastating effects of illegal immigration on our cities and towns.

Mr. Chairman, America is at its core a nation of immigrants. I firmly believe that this bill celebrates legal immigration by attacking illegal immigration. It restores some sense and reason to the laws that govern both legal and illegal immigration and ensures that those laws will be enforced.

Finally, I would like to congratulate my colleague, LAMAR SMITH, who chairs the Immigration and Claims Subcommittee, for putting his heart and soul into this legislation. I would also like to thank him for his spirit of cooperation, and for welcoming the input of myself and the other members of the task force in crafting this bill.

Mr. SMITH of Texas. Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

(Mr. CONYERS asked and was given permission to revise and extend his remarks.)

Mr. CONYERS. Mr. Chairman, I would like the Chair to know that I would like to share the duties of managing this measure with the distinguished ranking minority member on the subcommittee, the gentleman from Texas [Mr. BRYANT].

Mr. Chairman, immigration policy is an important subject to African-Americans. We know much about the lack of immigration policy and the consequences, and I am happy to hear that somebody somewhere consulted African-Americans about immigration policy. I am not sure what it was they found out, but I would be happy to explain this in detail as we go throughout the debate. I have been in touch with these Americans for many years.

It is funny how we get these dichotomies. Some people that do not think much of our civil rights laws, who oppose the minimum wage, who do not have much concern about redlining, heaven forbid affirmative action be raised in dialogue. All of these kinds of questions that involve fair and equal opportunity seem to not apply when it comes to African-Americans, who were brought to this country against their will, but we have these great outpourings of sympathy along some of these similar lines when we are talking about bringing immigrants in. It is a curious set of beliefs that seem to dominate some of the people that are very anxious about this bill.

Mr. Chairman, I would like to begin our discussion by raising an issue about ID cards, which is an amendment that will be brought forward by the gentleman from Florida [Mr. MCCOLLUM] which requires, as I understand it, every single individual in the country to obtain a tamper-proof Social Security card. I guess it is a form of a national ID card, which raises a lot of questions. This card is brought on by the need of tracking people that are in the country illegally, and so we are talking about a one or two percentile of the American public that would be required to carry this kind of Social Security card. It might be called an internal passport, which is used in some countries, in some regimes.

Although there will be denials that this is not a national ID card, it is hard to figure out what it really is if everybody is going to be carrying it. There is no limitation on the use to which documents can be obtained such as a Social Security card, and there is little evidence, as I remember the hearings, to show that there would be any reduction of document fraud. As a matter of fact, the Social Security Deputy Commissioner testified that an improved Social Security card is only as good as the documents brought in to prove who they are in the first place. In other words, if a person gets a phony birth certificate, they can get a good Social Security card. So I am not sure what the logic is.

Now, Mr. Chairman, I know balancing the budget is still first in the hearts of the Members of the Congress, and I am here to suggest that the cost for this Social Security card has been costed out at around $6 billion. The annual personnel costs to administer the new system are estimated to be an additional $3.5 million annually. The business sector would be forced to incur significant cost to acquire machinery and software capable of reading the new cards, and there would be many hours required to operate the machinery and iron out the errors. This is to get 1 or 2 percent of the people in this country that are illegal. I suggest that this may be prohibitive and that perhaps we can find a more reasonable way to deal with this very serious problem.

Mr. Chairman, may I turn the Members' attention now to the part that has caused quite a bit of attention in this bill, and that is how we would deal with the welfare provisions of people who come in to the country, what the requirements might be to become sponsors. In one part of this bill, there is a requirement that a sponsor earn more than 200 percent of the Federal poverty income guideline to be able to execute an affidavit for a family member.

The 200-percent income requirement is discriminatory class action and would announce that immigration is only for those that can afford immigration. It would require a sponsor with a family of four to maintain an income in excess of $35,000 to qualify as a sponsor. That means that 91 million people in America would not be able to be a sponsor of a family member for immigration. We may want to consider that a little bit more carefully.

Mr. Chairman, I would also like Members to know about the verification system again. The employee verification system was discussed by the Social Security and the Immigration and Naturalization Service representatives who conceded that their computers do not have the capacity to read each other's data, which would completely foil their worthwhile objective. A recent study by the Immigration Service found a 28-percent error rate in the Social Security Administration's database. This verification requirement, therefore, creates huge possibilities for flawed information reaching employers, which would then deny American citizens and lawful permanent residents the opportunity to work. I hope that we examine this in the course of the time allotted us for this important program.

Mr. Chairman, there is another provision that I should bring to Members' minds. It is known as immigration for the rich. I do not know if Malcolm Forbes had anything to do with this or not, but it reserves 10,000 spots for those who are rich enough to spend, to start a multimillion-dollar business in the United States. In other words, if someone is rich enough, they would be able to get a place in line ahead of other immigrants who are waiting, that may not be able to cough up that kind of money.

There is a problem that we will need to go into about what about drug pushers and cartel kingpins, people escaping prosecution for their home country; in other words, overseas criminals who might have a million bucks and would like the idea of getting out of wherever it is they are coming from. I think we need to think through this very, very carefully.

Mr. Chairman, now comes one of my most unfavorite parts of this bill, and that is the notion that we could bring in foreign workers to displace American workers for any reason. Case in point, there is a newspaper strike in its 8th month in the city of Detroit. Knight-Ridder-Gannett have decided to bust the unions in the newspaper industry. They picked the wrong city, but that was their decision. The fact of the matter is that at the Canadian-Detroit border, they have begun picking up people coming in to work for Knight-Ridder and Gannett who are not American citizens, nor are they legal immigrants.

We are trying to find out, there is an investigation going on where they are hearing about they can get jobs by coming across international borders to gain employment in a company whose own employees are out on strike. I find that objectionable. I hope that we do not continue the practice.

☐ 1845

We also have a situation in the H–1B employers in which we find that they are bringing in even skilled workers. Example: Computer graduates from India who are displacing American-trained

computer people. Serious problem, serious problem. I find this when unemployment is still outrageously high in the United States, particularly in urban centers where there are areas in which there is 40 percent unemployment easily. So I would like to discuss and look more carefully at the instances in which American businesses have brought in foreign skilled workers after having laid off skilled American workers simply because the foreign workers are more inexpensively available.

So this program that I refer to as the H–1B program has become a major means of circumventing the costs of paying skilled American workers or the costs of training them. That is in the bill; it is objectionable.

While we are on this subject, I would like to point out, too, there are a number of people on the Committee on the Judiciary who believe bringing people into this country has no effect on the employment rates of people in this country; like, for instance, the more people you bring in that take up jobs, the fewer jobs there are for people inside this country.

Mr. Chairman, it is almost like arithmetic. Bring more in, lose more jobs. Bring fewer in, more jobs are available. That is an immutable law of arithmetic that does not turn on policy about U.S. immigration reform.

I would like to make it clear that this particular measure, which has been pointed out by the Secretary of Labor, who has urged that the displacement of American workers through the use of the H–1B program must be faced, and to do this that program must be returned to its original purpose, to provide temporary assistance to domestic businesses to fill short-term, high-skill needs. There must be a flat prohibition against laying off American workers and replacing them with foreign workers. Is that provision in this bill?

Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, first of all I would like to respond to some of the concerns that the gentleman from Michigan [Mr. CONYERS] shared with us. Now, the first was that he was worried about the 200 percent poverty rate level of income that we required of sponsors of immigrants coming into the country. Let me just say that that provision was in the Senate welfare reform bill that passed 87 to 12, with large majorities of both Republicans and Democrats supporting that welfare reform bill.

In addition to that, what this is trying to address is the crisis that we have in America today where we continue to admit people coming in under the sponsorship of individuals who are at the poverty level. So it should not surprise us that as a result of our current immigration law we have 20 percent of all legal immigrants, for instance, on welfare; it should not surprise us that the number of immigrants applying for supplemental security income, a form of welfare, has increased 580 percent over 12 years.

That is the crisis that we are trying to address by simply saying someone has to be solvent before they can sponsor an immigrant coming into the country, when they have to say they are going to be financially responsible for them.

Another concern mentioned by the gentleman from Michigan was in regard to the verification program. I just want to reassure him that it is a voluntary program that is going to be offered as a convenience to employers for 3 years. If it does not work, we will not continue it. But the important point here is that, according to the Social Security Administration, we have a 99.5 percent accuracy rate when all we are doing is checking the name and the Social Security number of someone to find out whether they are eligible to work. The whole point of the verification system, of course, is to reduce the fraudulent use of use of fraudulent documents, protect jobs for American citizens and legal immigrants already in this country, and help reduce discrimination at the workplace.

The error rate that the gentleman mentioned was not an error rate. It is called a secondary verification rate, and sometimes it ranges from 17 to 20 percent, as was mentioned. But this is just simply showing that the system works. Those are the times when there was not a person with the right Social Security number, and in many instances those were illegal aliens who should not be employed in this country.

Lastly, the gentleman expressed concern or endorsed, which I liked, the free market approach to labor in this country, but I want to say to him that that is exactly why I drew up some of the figures I did about the unskilled in this country, when we continue to allow hundreds of thousands of individuals to gain entry to our country who do not have skills and do not have education. As the gentleman said, they are going to compete directly with our own citizens and own legal immigrants who are unskilled and uneducated, and that is why we see so often in the urban areas that wages are depressed and jobs are lost as a result.

Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Chairman, immigration reform, unfortunately, is one of those hot button issues that politicians use for their own purposes. However, here on the floor of the House of Representatives, we should not be politicians, but rather we should be legislators. It seems to me, we should shoulder the responsibility the Constitution gives us to determine what our immigration policy should be and to enact the laws which implement such policy.

H.R. 2202 says our immigration policy should be ''In the National Interest''—that immigration should benefit the country as a whole. According to the Roper poll in December 1995, 83 percent of those polled want a reduction in all immigration and 75 percent want illegal aliens removed. H.R. 2202 is a step in that direction.

President Clinton organized a Commission headed by the late Barbara Jordan to study our immigration policies, to see if the current system is working, and to make recommendations if it is not. H.R. 2202 contains over 80 percent of those recommendations—recommendations which include legal and illegal immigration.

The committee will be asked to vote later on to strike some of the sections on legal immigration because they, ''don't belong in a bill about illegal immigration.'' This bill is not about legal or illegal immigration, it is about our national immigration policy—immigration in the national interest. A national interest which is impacted by both legal and illegal immigration.

Unless one supports no border or immigration control at all, then we have to make choices. This bill makes some of those choices. It chooses immediate family reunification—minor children and spouses—over extended family. It chooses skilled and educated workers over unskilled or uneducated, and reserves jobs at whatever level for those who are in this country legally.

And, most importantly, it makes the policy decision that people who are in this country illegally are breaking the law and should leave without protracted litigation that can go on for years. Let us remember almost half the illegal aliens in this country arrive legally.

To say that jobs, education, or taxpayer financed programs should be for those who are in our country legally is not ''anti-immigrant'' or ''isolationist.'' Rather it says that the Congress is finally serious about regaining control of our borders. Our first priority should be immigration policies in the Nation's interest not special interests.

Mr. CONYERS. Mr. Chairman, I yield myself 2 minutes.

I wan to commend the gentleman from Texas [Mr. SMITH] for alleviating many of my concerns. I find we have some areas in agreement, and I am delighted to know about them as well.

But I would say that the gentleman is the first person that I have heard in a long time cite as a reason for supporting an amendment is that the other body approved of it. That usually gets the amendment in much deeper trouble than it might otherwise be in.

Now the commission, we are trying to check, and I know Barbara Jordan perhaps more intimately as a colleague than anyone here since I served with her on the Committee on the Judiciary, and I do not know if she would have supported a notion that we had to means test one's family member to bring them in and that they had to make 200 percent of the poverty level to get in. In other words, I do not think

Barbara Jordan or myself would want to tell somebody that is making 1½ times the poverty level that they cannot bring their children in because they do not make enough money. That does not sound like Barbara Jordan to me.

Finally, the voluntary program that the gentleman referred to is voluntary to employers. It is not voluntary if someone is seeking a job in the place that the employer may decide to use it. So it is voluntary to some and involuntary to others.

Mr. BRYANT of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, at the beginning of last year the gentleman from Texas [Mr. SMITH], the chairman of the subcommittee, and I, in my capacity as ranking Democrat on the subcommittee, set about to write a commonsense immigration bill designated to address very real, very objectively provable problems with our immigration policy in the United States today. We set about to write a bill that did not involve Proposition 187 hysteria from the right and did not involve unnecessarily generous efforts to bring in lots of other people, perhaps coming from the left. We set about to write a bill that dealt with real problems. We set about to deal with problems such as this.

Legal immigration, and I am not talking about illegal immigration, I am talking about legal immigration under current law, resulted, between 1981 and 1985, in 2.8 million people entering the country legally. Ten years later, between 1991 and 1995, 5.3 million people entered the country legally, twice as many, and these figures do not include the 3.8 million backlog of relatives of these people who are now waiting to enter the country when their time comes.

Illegal immigration in 1994 also added to the totals. In that year 1,094,000 illegal immigrants were apprehended and deported.

□ 1900

How many succeeded in entering the country and stayed is not known, although most estimates agree it is about 300,000 people. The fact of the matter is, though, we have an enormous number of people coming into this county at a very rapid rate.

The basic question that we cannot ignore, and I appeal to those Republicans who are paying attention to certain businesses that are anxious to have more folks in here so they can get cheap laborers, and many Democrats who are concerned about the civil libertarian impact of this, who are concerned about being fair to people as we have always done on our side; I say we cannot responsibly avoid the bottom line conclusion that we have a huge number of people entering the country legally, and a smaller number but a large number entering the country illegally, and it is increasing our population very rapidly.

Perhaps the best speech in this debate has already been made on the rule, when the gentleman from California [Mr. BEILENSON], a member of the Committee on Rules, observed that our current population of 263 million people is going to reach 275 million people in 4 years, more than double the size of the country at the end of the World War II.

The long-term picture of this population situation is even more alarming. Our Census Bureau conservatively projects, and I am reading from his speech, ''that our population will rise to 400 million by the year 2050, more than a 50 percent increase from today's level, and the equivalent of adding 40 cities of the size of Los Angeles,'' and so on. In fact, those are conservative estimates. Many demographers indicate we will be at 500 billion people by the year 2050.

I would just suggest that not one Member of this body can responsibly stand on this floor and talk about how to have to balance the budget to protect future generations or how we have to maintain national security to protect future generations, and not at the same time recognize that we must manage the population growth of this country in a responsible way if we are going to protect future generations. That is simply too many people. It is a question of quantity, of low many come in here.

Neither the gentleman from Texas [Mr. SMITH], nor I harbor the slightest hard feelings toward those that have the courage and the gumption to leave home and come into this country. They are the kind of people with the get-up-and-go that we want. There is no question about that. The bottom line question, though, is how many people can we have come in here and still manage the country in a way that our economy will continue to promise in the future that people who are willing to work hard can get their foot on the bottom rung of the economic ladder and climb up into the middle class. We cannot do that with an unlimited number of people coming into the country year after year after year.

Mr. Chairman, are there things about this bill that I would like to change? Yes, there are. We have had disagreements. There are a number of things that I could criticize. I do not like the fact that we did not, in my opinion, address the H 1(b) problem mentioned by the gentleman from Michigan [Mr. CONYERS], in as effective a way as we might have. It is improved somewhat in the bill, but the fact of the matter is we could have done it much better.

We could have said we are not going to let any American jobs be given up in order to hire folks who are imported for the purpose of taking their jobs. That is what my amendment would have done. I offered it in the Committee on Rules and they refused to let us bring it to the floor. We will deal with that probably on the motion to recommit.

I do not like the diversity program. I opposed it in 1991 when it was put in and managed to get it cut in half in the current bill. I still say it is, in effect, a racist program. It is a designed to try to bring more white folks into the country because somebody does not like the number of Asians and Hispanics entering the country. I think it is wrong to have a program like that in the law at all, even if the bill cuts it in half. I have to say that, like we always do when many bills come up, we are going to have to go along with some things that we do not like in order to get a lot of things that I think we need.

I do not agree with the investor portion of the bill either. But we have to agree on a bill that will reduce the quantity of people coming into the country. That is what we are all about here tonight. Mr. Chairman, I strongly urge Republicans and Democrats alike not to vote to sever the legal immigration changes in this bill from the illegal immigration changes in this bill. If we do that we are voting to kill our attempts to reform legal immigration. It is just that simple.

Not a single person who is voting to sever this bill is coming forward saying, ''if you sever it, we will bring it back to the floor. We will deal with it later.'' Not one of them wants to deal with the question of legal immigration. On the contrary, they want to kill it and eliminate it from the bill.

Think of what that would mean. After eliminating that from the bill, many people then will be left to march around the floor beating their breasts talking about how tough they are going to get on illegal immigration. But illegal immigration amounts to, we think, maybe 300,000 a year; legal immigration amounts to 1 million a year. That is where the big numbers are. We either deal with legal immigration or we admit that we are not going to be serious and not going to have enough courage to deal with the really central problem facing this country in terms of the number of people that are entering. Please do not vote to sever illegal and legal immigration.

Mr. Chairman, this bill was written to avoid the extremes. So far we have done that. If amendments that are offered, such as this foreign agriculture worker amendment, which neither the gentleman from Texas [Mr. SMITH] nor I support, were to succeed, I could not continue to support this bill. The fact of the matter is that it is an anachronism. It was a bad part of our law many years ago. We in 1986 tried to address that problem. We ended up with amnesty and a variety of other remedies to solve the problem. Here we are, right back with it again. Please vote against these extreme amendments. Let us try to keep this thing in the middle of the road.

I could speak a long time about all the things this bill does. There is not time in the general debate to do it. I will simply say this: I wish I could avoid having to deal with this subject.

It is so sensitive, it is so subject to mischaracterization, it is so subject to misinformation of people, particularly folks that have strong views about the needs of their own ethnic communities, and so easy to imply that those of us who are trying to do something about the quantity of immigration generally somehow have hard feelings toward them.

That is not true. I think my record is strong enough over the years to make clear it is not true. It is not true of the gentleman from Texas [Mr. SMITH] either. I wish I could avoid the subject. But I will say this: If I did avoid it and I left this House, as I am going to do at the end of this year, I would look back on this year and know that I hid from a problem that was my responsibility to solve at a time when I had a chance to solve it.

I strongly urge my Democratic colleagues and my Republican colleagues as well to help us pass a constructive bill that deals with the question of the vast number of people that are coming into the country, the rapid increase in our population, and preserve a situation in which folks that are trying to get their foot on the bottom rung of the ladder can climb that ladder into the middle class without having to scramble and scrape and fight for jobs with folks that are just entering the country. That is really what we are all about here.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. BRYANT of Texas. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding, and for all his work on this bill. Mr. Chairman, the gentleman indicated it is very important to get the figures accurate. I agree. I just want to cite for the RECORD that I do not think his comments on the level of immigration during the first 5 years of the 1990's is any where near the accurate figure.

The Department of State, in a letter dated March 15, last Friday, responded to a series of questions that I asked, as follows. The first question was: ''What was the average annual immigration level for the period 1992 to 1995?'' The average annual immigration level, 1992 being the first year that the 1990 changes went into effect.

''By immigration level,'' I said in the question, ''I mean the total of all legal immigration categories, including refugees.''

The answer that the Department of State said was, ''The annual average immigration level for the period 1992 to 1995, based on total immigrant admission figures, is about 801,000,'' not 1 million or 1¼ million, to come to a 5 million——

Mr. BRYANT of Texas. Mr. Chairman, if I may reclaim my time, I think what I said was between 1991 and 1995 we had about 5 million people coming into the country. The gentleman's figures does not seem to contradict that.

Mr. BERMAN. It does. It is substantially less than that. That would be an average of 1 million people a year. In 1991 it was under the old law, it was less. The new law, which went into effect in 1992, the average was 800,000. That is barely over 3 million for those 4 years. It is substantially less.

I just wanted to clarify the Record. That includes, Mr. Chairman, refugees as well as all the other legal immigration categories. What it does not include are about 50,000 legalization categories, which are people already in this country. I just wanted to indicate that the Department of State, which has the most accurate records on legal admissions, indicates the figure is significantly less than 1 million a year.

Mr. BRYANT of Texas. Of course, I would dispute that it is significantly less, even if those figures are accurate. We are working with figures that we have worked with throughout this debate that were brought to us by the Commission on Immigration that Barbara Jordan chaired.

The bottomline figure, however, still is the same. The number of people who are entering the country is enormous, and the biggest number of people entering the country are in the category of legal immigrants.

The gentleman is advocating, as a number of my friends are, and I wish they were not, that we sever legal immigration from illegal immigration, meaning that we leave out, if we take his figures for a minute, and we leave out the question of 800,000 a year, and I say a million, we leave out that question, but we get real tough here on 300,000 illegal immigrants that are entering the country.

I would just suggest that it makes no sense to omit legal immigration. If you are concerned about the rapid growth in our population, and I did point out that between 1981 and 1985 legal immigration was 2.8 million, and from 1991 to 1995 it was 5.3 million, about twice as much, and even by Mr. Berman's figures it would be a lot more, if not twice as much, the problem is the quantity of people. How can we not deal with legal immigration if we are going to look at the problem of quantity of people coming into the country? I say we have to.

Mr. SMITH of Texas. Mr. Chairman will the gentleman yield?

Mr. BRYANT of Texas. I yield to the gentleman from Texas.

Mr. SMITH of Texas. Mr. Chairman, I just want to say to the gentleman that his figures are absolutely correct. I am reading from the chart put out by the INS called ''Immigration to the United States, Fiscal Years through 1993.'' Of course, in 1993 we had 904,000 admitted; in 1992, 973,000 admitted; in 1991, 1.8 million; 1990, 1.5 million; 1989, over 1 million. The gentleman is correct, the average has been over 1 million a year.

Mr. BERMAN. Mr. Chairman, if the gentleman will continue to yield, those figures do not reflect legal admissions through the legal immigration system. The gentleman is lumping in the legalization program for people who are already here.

The Department of State administers the granting of visas for people to come into this country. Their figure is the accurate figure. It is about 800,000. I do not want to belabor this point. There is a lot I can say in response, but I will wait for my own time.

Mr. BRYANT of Texas. Mr. Chairman, I would just conclude by saying even if we took the gentleman from California's figures, my speech would be identical. I would not change a single sentence in it. We have to deal with this huge quantity of people. We have to deal with legal immigration. We cannot just talk about illegal immigrants and try to scapegoat them. We have to deal with legal immigrants as well.

I would point out the politically potent groups lobby in regard to the legal immigrant category. The less powerful groups speak for the illegal immigrant category. So we are being asked to leave out the biggest numbers, those of legal immigration, and just pound on the illegal immigrants. That is, in effect, what is going on here. Let us deal with this subject comprehensively, both legal and illegal. I urge Members to support this bill, to vote against the more extreme amendments that might be offered, and let us do what is in the interest of our country.

Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. MCCOLLUM].

(Mr. MCCOLLUM asked and was given permission to revise and extend his remarks.)

Mr. MCCOLLUM. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise to strongly support H.R. 2202, the immigration bill before us. I have served on this subcommittee and worked with immigration for all the years I have been in Congress. I cannot think of any more important immigration legislation to pass than this bill.

Mr. Chairman, I can testify to the fact that the legal immigration provisions in here are exceedingly important and exceedingly generous, contrary to what we might hear some other people say. With the exception of the period of legalization or amnesty that occurred after the 1986 law, the 3.5 million people that this bill would allow to come into this country legally over the next 5 years would be the highest level of legal immigration over the last 70 years. So make no mistake about it, this is not a restrictionist proposal that has come out of the committee on legal immigration.

In fact, there are some good features about it, very important features. We have been skewing the legal immigration so much toward family reunification and so much toward preferences, such as allowing brothers and sisters in of those who are here legally, that we have not been taking in the traditional numbers of seed immigrants who have

special talents and skills but do not have any relatives here whom we should, and whom historically this country has and upon whose hard work we have had the great melting pot and the great energy we have had to make this economy and this great free market Nation of ours. So I urge the legal immigration provisions be maintained in the bill and be adopted.

On the illegal side, the bill has great provisions in it to remedy defects with the asylum provisions. We have had people claiming political aslym wrongfully and fraudulently for years now, saying that they would be harmed by being sent back home for religious or political persecutions of some sort. As soon as they set foot in an airport they say the magic words and they get to stay here.

This is wrong. They should not. There should be a summary or expedited exclusion process to deal with those people, especially those who do not make a credible claim of asylum when they first set foot off the plane. This bill remedies the problem, and it sets some real time limits for applying for political asylum.

Last but not least, it deals with the big problem of illegal immigration overall. There are about 4 million illegals here today. We have granted legalization to about 1 million over the last 10 years. We have 4 million permanently residing in this country today, and we are adding 300,000 to 500,000 a year. That is too many to absorb and assimilate in the communities where they are settling. They are settling in very specific communities, and they are having negative social and cultural impacts on those communities.

The only way to solve the illegal immigration problem is to cut the magnet of jobs, which is the reason they are coming. About half are coming as visa overstays, so no matter how many Border Patrol you put on the border, you cannot stop the flow of illegals here. The only way to do that is to make employer sanctions work. That has been a provision in law since 1986, that says it is illegal for an employer to knowingly hire an illegal alien.

The reason that has not been working is because of fraudulent documents, because the employer has not been able and the Immigration Service has not been able to enforce that law. I am going to offer a very simple amendment here shortly that is going to go to that problem on the Social Security card, which will be one of the six cards, one of the six documents that we will have to choose from when you go to seek a job, to show that you are eligible for employment after this bill passes.

I think what we need to do is simply require the Social Security Administration to make the Social Security card, which is the most counterfeited document in the country, be as secure against counterfeiting as the $100 bill and as proofed against fraudulent use as the passport. It would go a long way to cutting down on fraud and it would make employer sanctions work.

Mr. BRYANT of Texas. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. BERMAN].

(Mr. BERMAN asked and was given permission to revise and extend his remarks.)

□ 1915

Mr. BERMAN. First, Mr. Chairman, I want to say both to the gentleman from Texas [Mr. SMITH], chairman of the Subcommittee on Immigration, and to the gentleman from Texas [Mr. BRYANT], the ranking Democrat, that we do have some strong differences on several aspects of this bill. But I think the debate undoubtedly during the next couple of days can get very heated on a subject which is very passionate. I just want to start out indicating that I have the greatest respect for both gentlemen from Texas. These are not Pat Buchanan clones sitting on the House floor that would seek to build walls around this country. Their proposal, while I think is much too drastic a cut in legal immigration, still recognizes legal immigration. I do not believe that it is motivated by racism or xenophobia, and I compliment both of them because they have become experts in the subject and believe sincerely in where they are coming from. We just have a fundamental difference.

The rates of immigration as a percentage of the American population now are far lower than they were at any time in the 19th or early 20th century, far lower than they were at that particular time. The bill before us, we will see charts undoubtedly during the debate which will talk about backlog visas and other visas to try and show that the cuts are not severe. The fact is the cuts in legal immigration are close to 30 to 40 percent. The backlog visas that are given for the first 5 years or so are essentially to legalize people who are already here, who are protected under family unity, who came in under the legalization program. These are people who within the next year or two, in any event, will be legalized through the normal legalization process because they will have naturalized and be able to bring in spouses and minor children.

The harshest part of this bill is it essentially ends, and I say that advisedly, it essentially ends the right of U.S. citizens to bring in adult children and parents. It also wipes out any right to bring in siblings notwithstanding the fact that there are so many people who have waited so patiently, who have followed the rules, who have accepted the appropriateness of following the law and waited in line. This just cuts them off at the knees and says, ''We don't care.''

Why do I say the gentleman from Texas undoubtedly will agree that his bill wipes out the right to bring in siblings and protects no one in the backlog so that a person who has been waiting 15 years to come into this country, if his number does not come up before the effective date of this law, will be wiped out? But he will argue with me about parents and adult children. But I think if one reads the bill, he will accept my view of why I say this bill effectively eliminates that right.

With respect to parents, initially the bill created no guarantee for parents, and the State Department came in to our subcommittee and said, and there has never been a bit of refutation of that, that the spilldown effect from spouses and minor children and the using of those slots would eliminate every parent from admission for the next 5 years.

So in full committee, the chairman of the subcommittee offered an amendment to create a floor of 25,000. But along with that floor, the bill contains provisions to say that that parent has to have come in where he has already secured a health insurance policy and a long-term care insurance policy.

I venture to say there are not 10 people in this House of Representatives that will have long-term health care insurance. Where you can possibly find it, except for being in Congress, which is not necessarily long-term insurance, but the fact is I do not know where you can find it, but if you can find it, the average cost of that kind of policy is $9,000 a year. With children, the exception to the flat ban on adult children is unmarried, never married, between the ages of 21 and 25, if they have been claimed as a tax deduction, for which there are only two countries in the world in which an American citizen is allowed to claim a tax deduction for supporting a child abroad, Canada and Mexico. This bill wipes out adult children.

There will be an amendment to correct this sponsored by the gentleman from Michigan [Mr. CHRYSLER], myself, the gentleman from Kansas [Mr. BROWNBACK], the gentleman from California [Mr. DOOLEY], the gentleman from Virginia [Mr. DAVIS], and the gentleman from Illinois [Mr. CRANE]. I urge the Members to look at that. Legal immigration is good for this country.

I also at some other point, if there is time left in general debate or later on in the amendments, want to speak to the Pombo amendment which as we sit here and trumpet how we are going to stop illegal immigration, and here I am joined by my colleagues from Texas, would create a massive loophole for a new agricultural guest worker program which would flood this country with foreign guest workers at a time when we have a massive surplus of farm labor creating just the kind of job displacement that both gentlemen from Texas have spoken about.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

I would like first of all, before yielding to my colleague from California, to put in historical context a couple of

statements that my friend from California [Mr. BERMAN] made. He mentioned the high immigration level at the early part of this century. In point of fact, in the current decade of the 1990's we will admit more immigrants than any other decade in this country's history. In fact there was a high level of immigration from about 1915 to 1924, but it was followed by 40 years of extremely low immigration levels. No one here is asking for that. In addition to that, of those individuals who came in in such great numbers at the turn of the century, about one-third returned to their home country rather than staying here permanently.

Also I am reminded of a quotation by John F. Kennedy, who wrote a book in 1958 entitled ''A Nation of Immigrants.'' He said in arguing for a limit on legal immigration that the reason we should have a limit is because we no longer need settlers to discover virgin lands and we no longer have an economy growing at the rate as at the early part of the 20th century. When John Kennedy made that statement, legal immigration rates were one-fifth of what they are today.

Also in regard to the point my colleague made about the extended family members, what this bill does is to follow the recommendation of the Commission on Immigration Reform, which said when we have millions of people waiting to come in and the waits are decades long, we have to set priorities. The priority we chose and the priority other commissions have recommended is to put the interest of the close family members first. In other words, the reason we have reduced or eliminated the extended family members is to make more room for the close family members. If the choice is between admitting a 6-year-old daughter or a 60-year-old brother, we think the choice should be with the minor child. We make no apologies for that. We think that is in the best interests of the family and the best interests of the country.

Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I support the proposition that we not separate illegal immigration from legal immigration in this bill, but I think when we speak about them that it is very important to differentiate between the two.

I would like to speak primarily to the education problems that we have in the State of California, and Members can also relate them to their States, especially the border States. In California, we have over 800,000 illegals, kindergarten through 12th grade. Let us just take half of that. Take 400,000, half, so that the numbers cannot be disputed. It takes about $5,000 to educate a child per year. Take that times 400,000. That is $2 billion per year. Take a 10-year period, we are talking about $20 billion out of the coffers of Sacramento for our school systems.

Take the school meals program, 185 percent below poverty level times 400,000, at $1.90 a meal, that is $1.2 million a day for illegals in the California school system. That is just two meals. That is not three that they quality for.

The increased burden on the school systems of separate bilingual education and social services for the poor is billions of dollars out of Governor Wilson's budget. We have between 16 and 18,000 illegals in our California Federal prison system, in the California State prison system. It costs about $25,000 each to house them. We talk about sometimes building more prisons than we do schools. There would be a lot of room at the end of the prisons, maybe we could build more schools, if we did not have those illegal felons in our prison system.

I take a look at the burden on California hospitals. ''20/20'' and ''60 Minutes'' did a report, the problem was so bad in the border States, they did specials on TV where a large percentage, over 50 percent, of the children born in Los Angeles and California hospitals are illegal aliens. Those children then become American citizens and then are burdens on society.

I take a look at teacher strikes, classrooms that are not upgraded, and cut programs, and college programs, increased tuitions. We would have billions of dollars to spend if we could handle just the illegal situation.

Mr. SMITH of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. GEKAS], who is a member of the Committee on the Judiciary.

(Mr. GEKAS asked and was given permission to revise and extend his remarks.)

Mr. GEKAS. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I come to this debate with a tremendous prejudice which is born of the fact that I am a son of immigrants and the cousin of immigrants and the nephew of immigrants and distant relative to many immigrants. One would believe at the outset that I would be supporting any measure to retain the present system of legal immigration and allow all people who want to come to our Nation to safely arrive and begin to become American citizens. That prejudice I must set aside in the greater good of our country, and as a responsible public official, which I deem myself to be, I know that the time has come that we must do something about the total number of individuals who live in our country, or who will be coming into our country. So I am willing to set that prejudice aside for the time being for the purposes of this debate, not just for the time being but for a final conclusion of a bill that will do something about the sheer weight of numbers that we have of people in this country.

The other prejudice I have, I must confess, is in favor of the bill as it came out of the Committee on the Judiciary. Why am I prejudiced in favor of the bill? It does seek to do exactly what I feel must be done, namely, to corral the gigantic numbers that we can foresee as future residents of our country; to lasso that in so we can control it better is a proper policy target for the Congress of the United States. And so I come to the floor eager, prejudiced against trying to change anything that is in the bill, partly because the chairman of the subcommittee very graciously accommodated many of us when we attempted in committee and succeeded to negotiate with him amelioratory changes that came a long way toward meeting numbers of concerns.

So where are we? I am willing to set aside the prejudice that I have as a son of immigrants and I am willing to set aside the prejudice that I have that this is a bill that should be passed unchanged. I know that we have concerns. I have met some people in the corridors and in the offices all day today concerned about the unification features of the quotas, who are concerned about verification by employers, who are concerned about a great number of things. But one thing we must all agree, we should not allow the separation of the issues of legal and illegal immigration because we are dealing with one great number, and it is that number which we must fashion best for our Nation.

□ 1930

Mr. BRYANT of Texas. Mr. Chairman, I yield 4½ minutes to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Chairman, let me commence by doing the same thing I did during the debate on the rule, and that is, of course, to acknowledge the work of the chairman of the subcommittee, the gentleman from Texas [Mr. SMITH]. I will echo the words of the gentleman from California [Mr. BERMAN] in saying that I think Mr. SMITH worked as faithfully and as honestly as he could to try to craft a bill that could come to the floor and get the vote of every Member of this House, and I am proud to have been able to work with him.

I must, unfortunately, still say I oppose the bill for a number of reasons. I do not believe, unfortunately, that what we have before us is a bill that really does reform, in a meaningful way, legal immigration. And I believe that we have gone beyond the realm of reasonableness on the issue of illegal immigration. Let me touch on some of those matters.

First, as much as this Congress likes to talk about being family friendly and believing in family values, this bill will ultimately break up families. When you consider as distant relatives within this bill a child of a U.S. citizen or a parent of a U.S. citizen, or a brother or sister of a U.S. citizen, I think you have gone astray. But this bill does exactly that. When you tell a refugee, someone who has had to flee a country

in fear of death, that they have a very limited time period within which to make that claim for refuge to the United States and that they lose all chance of being able to prove a claim that they are trying to escape death or persecution, we have lost the great meaning of the Statue of Liberty.

Then the bill tells American workers in two respects something very onerous: First, we are in this bill going to preserve and protect businesses, but workers, no—because there is great pressure right now for this bill to be amended to help businesses continue to be able to bring in foreign workers, especially those with substantial skills.

I do not object to that. But I do object to the fact that political pressure is probably going to help certain interests gain something in this bill while other interests—families, citizens trying to bring in their relatives, their children—will not gain anything.

But perhaps the most onerous provision in this bill is the one that says that growers in our agricultural sector can bring in upwards of 250,000 foreign temporary workers—import workers—just in the first year alone to do the work that we have thousands, if not millions, of Americans prepared to do who are unemployed a good portion of the year, but willing to do. That, I believe, is a sin against America's workers who are saying, ''I am ready and willing to work.'' But we have before us a proposal in this bill that would say exactly that: Let us import at least 250,000 foreigners temporarily.

Then we have the issue of the problem of undocumented immigration. And we find in this bill that perhaps the greatest source of undocumented immigration, those who come into this country legally through some visa—a visitor's visa, a student visa—and then stay beyond their time, that they are permitted into the country and then become undocumented because their visas expire and they no longer have a right to be here. Those individuals can continue to come in, and we do nothing in this bill to try to prevent that.

Yet, we are being very harsh by telling a young child who probably had no say whatsoever in what his or her parent would do in coming over into this country, across the border, that that child will no longer be educated even though there is a Supreme Court decision saying children should not pay for the sins of their parents and they are entitled to be educated.

Who are the winners, and who are the losers? Well, I have mentioned a few. Let me mention a couple more. The Federal Treasury and the IRS, because in this bill we are telling legal immigrants they must pay taxes, abide by our laws, in fact, even pay the greatest sacrifice of serving this country in time of war, yet they will not be able to receive services provided by the Federal Government. Why? Well, because they are not yet citizens. So they cannot vote, and most of these folks probably do not give a lot of money to political campaigns. So there is no political risk in going after these folks. I think that is perhaps one of the most onerous things about this debate. That is the one issue that probably will get the fewest votes on behalf of immigrants, because, you know what, there is no support in this House for legal immigrants because there is no need to support someone who works hard, is law-abiding, church-going, starts up a business more often than a native-born U.S. citizen—the studies tell us that—works longer hours than most citizens do, is healthier than most citizens, has a longer life span than U.S. citizens—because they do not have some of the unhealthy habits that most citizens grow up with—but can't vote. Yet we are telling them pay your taxes and be ready to fight for this country in time of war, but yet if you should by some chance lose a job, you will not have access to the services U.S. citizens have. The only distinction you have compared to another American is you have not yet been able to become a U.S. citizen.

I think that is so egregious. I believe the Statue of Liberty and everything this country has stood for in its Constitution is being abrogated as we go this last step of telling folks who are legally here, we want your money but we do not want you to be able to take part fully in American life as those who reside in this country as citizens.

I would oppose this bill for that and a number of other reasons which I have not had an opportunity to discuss.

Mr. SMITH of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. BAKER].

Mr. BAKER of California. Mr. Chairman, just to correct a couple of facts of the gentleman from California [Mr. BECERRA]. The guest worker program is out of this bill. The gentleman from Texas [Mr. BRYANT] said it. The gentleman from Texas [Mr. SMITH] said it. There is no specter of some big corporation with campaign contributions driving this bill.

Second, minor children up to 21, children who are students up to 25 are allowed in this country. Do not talk about how we are keeping kids out, because someone is coming in to get a job.

I would like to debate the guest worker program. I do not think they are standing in line to get a job picking fruit in California. We have a shortage of people who want to work.

This bill is long overdue. I rise today in strong support of H.R. 2202, a bill that will take back our borders, save taxpayers billions, and protect jobs for American workers.

My home State of California is being hit hard by the effects of illegal immigration. Approximately one-half the estimated 3 million illegal aliens in the United States reside in California—200,000 new illegals enter California every year. Forty percent of all the births, as the gentleman from California [Mr. CUNNINGHAM] said, in southern California public hospitals are to illegal aliens. What is the price tag for this tidal wave? It is about $3 billion. Education, $1 billion. Emergency health care, $650 million. Imprisonment, anywhere from $350 million to $500 million for the 16,500 prisoners we have in our State prison system, enough to build 3 new prisons.

As we call on States to take greater responsibility for social programs, we must stop the endless flow of illegal migrants who come to this Nation to take unfair advantage of taxpayer-funded assistance. As a member of the task force on illegal immigration, I am committed to finding effective solutions to our illegal immigration crisis. H.R. 2202 has implemented the guidelines included in this task force report. I commend the chairman, the gentleman from Texas, Mr. LAMAR SMITH, and the ranking minority member, the gentleman from Texas, Mr. BRYANT, for their good work on this legislation.

H.R. 2202 will reduce the opportunity for illegal aliens to take American jobs. H.R. 2202 reduces from 29 to 6 the number of acceptable documents to establish employment eligibility. Further, worker eligibility verification pilot programs in California and other States will be implemented. Employers will be able to verify status of potential workers with a system as simple as a phone call.

The bill provides streamlined deportation guidelines, creates tracking systems to prevent visa overstays and enhances the Federal role in illegal alien document fraud and smuggling.

Mr. Chairman, H.R. 2202 will help reduce illegal immigration by up to 50 percent in 5 years. It doubles the number of border patrol agents over 5 years, increases funding for technologies that will let border forces hold the line against the stream of illegal immigration into California. Nationwide applications for welfare among immigrants have increased 580 percent in the last 14 years.

H.R. 2202 prevents illegal aliens from receiving public benefits, saving us $25 billion. It is clear that, as sound as these provisions are, the illegal immigration crisis in this Nation will not end unless we address core principles of illegal immigration. Do not allow them to split this vote. The bill eliminates billions spent on benefits that do nothing more than entice illegal aliens into the United States.

I ask for an ''aye'' vote.

Mr. SMITH of Texas. Mr. Chairman, I yield 3 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

(Mrs. ROUKEMA asked and was given permission to revise and extend her remarks.)

Mrs. ROUKEMA. Mr. Chairman, I rise in strong support of this legislation.

I would first off like to congratulate the chairman of the Immigration Subcommittee, Congressman SMITH and Congressman ELTON GALLEGLY for

their perseverance and diligence in seeing this legislation through. The gentleman from Texas has worked extremely hard to accommodate differing views and in doing so has crafted the kind of immigration reform legislation that this country so desperately needs. And Congressman GALLEGLY has put equal efforts and leadership in the bipartisan immigration task force on which I served.

H.R. 2202 is a tough bill, and it should be. And, it recognizes the most important truth to immigration—that legal and illegal immigration cannot be separated. Without addressing the deficiencies in our current legal immigration system, we will forever be unable to stem the flow of illegal immigration. Plain and simple.

I would also like to take this opportunity to commend our colleague from California, Congressman GALLEGLY, the chairman of the bipartisan task force on immigration reform. As a member of this task force, I had the privilege of working with him to investigate and propose solutions to our out of control illegal immigration problem which make up most of this bill's illegal immigration provisions.

This legislation could be known as the law is the law bill. No open borders.

As we all know too well, illegal immigration in this country is out of control. Every year an estimated 400,000 new illegal aliens appear throughout the country adding to the over 3.2 million already here. However, what many people do not realize is that only half of these illegal aliens enter at our borders. The other half comes from those who are legally admitted but who overstay temporary visas, namely student, tourist, and business visas. This is one of the main reason's that we must tackle the issues of illegal and legal immigration reform together.

Illegal immigration brings with it many costs to the taxpayer: The cost in jobs, the cost in welfare, health care, education, and other benefits, and the cost in street crime. New Jersey alone accounts for almost 5 percent of the Nation's illegal alien population. These 125,000 undocumented immigrants cost New Jersey taxpayers an estimated $160 million annually for public education, incarceration, and Medicaid services alone.

H.R. 2202 says enough is enough. Illegal aliens will no longer receive any of these benefits, except for certain emergency medical and nutrition services. Our Nation is faced with an almost $5 trillion debt and annual $200 million deficits. Our limited funds should be spent on law-abiding citizens and taxpayers. Period.

The bottom line is that for too long we have not been enforcing our own laws which prohibit illegal aliens from permanent entry into the United States nor have we made enough effort to address reforms to enforce these laws.

Well, H.R. 2202 finally takes the steps necessary to enforce these very laws. Among other things, this legislation strengthens control of our borders by: Increasing the amount of border patrol agents by 1,000 for the next 5 years, increasing the number of INS officials at ports of entry, acquiring sophisticated alien tracking equipment, issuing border crossing cards, and using closed military bases to detain illegal aliens. It also increases enforcement and penalties against alien smugglers and those engaged in document fraud.

Most importantly, this bill streamlines and expedites procedures for deporting and excluding illegal aliens. Persons making legitimate claims of asylum must get one hearing and one appeal—no more endless delays, appeals, and readjudication of immigration cases.

Under H.R. 2202, those who do not have proper documentation can be removed without further hearing or review. A second important reform requires aliens to apply for asylum within 30 days of arriving at a port of entry. If an alien applies for asylum and is found to have no credible fear of persecution, he can be removed without administrative review. Finally, an alien will undergo a single removal hearing taking place 10 days from his notification. He is entitled to one appeal only and, if he does not show up, then he can be removed.

But, I strongly believe that we must go even further than this. We must make it very clear to illegal aliens that they can't keep breaking our laws. That is why I will be joining my colleague from Washington, Congressman TATE, to support a one strike and your out system for illegal aliens who are caught and deported.

The bottom line is that we will never have the necessary money, resources, and manpower to end all illegal immigration. Illegal aliens are not only costing Americans in low-wage jobs, but they are costing the American taxpayer tens of billions of dollars in social services as well of tens of billions of dollars in enforcement and monitoring costs. This is money that should be going to improve the lives of American families—it should not be wasted on those who choose to break out laws. And, if they choose to break our laws, then they have to play by our rules. If you want to play the game of chance, then you have to be willing to pay the ultimate price. You can't come back again.

We have a commitment to all those people who are waiting months, years, some up to 10 years, to come to this country legally. Just as my grandparents waited legally to get in here, and just as my husband's parents waited legally to get in here, we must enforce the law.

At the same time, we must recognize that there is not enough room in the United States to continue an open-ended legal immigration policy when we are presently unable to assimilate those already here.

However, this country should not and will not deny its great tradition of the melting pot. No one will argue that immigrants have formed the backbone of our country. Immigrants from all over the world have helped make this great Nation what it is today. But, that does not mean that the current system is not in need of substantial reform. It is. No one would propose an open border policy, but that is in essence the practice today because our laws are so inadequate.

As many of you know, the problems with legal immigration date back to 1986 when Congress passed the Immigration Reform and Control Act. I voted against this legislation which gave lawful permanent resident status to 2.7 million illegal aliens. What this also did was afford them the benefit to petition for relatives under the family preference system. This has had the effect of pushing back many of those who had legally waited for their turn to enter the United States. They played by the rules but they still lost out.

In 1990, Congress enacted the first comprehensive reform of legal immigration since 1965. Family and employment-based preferences were separated and employment-based preferences almost tripled from 54,000 to 140,000. Moreover, there were no longer limits on family related categories for immediate relatives—spouses, unmarried minor children, and parents.

Consequently, we witnessed an annual influx of 700,000 legal immigrants until 1990 and an influx of almost 1 million legal immigrants every year since. Not only have States been unable to accommodate the huge numbers of legal immigrants coming to the United States in recent years, but more than 80 percent of them are low skilled and uneducated. Unfortunately, this is a problem that we cannot work around.

Therefore, we must reduce legal immigration to a level that our country can absorb while recognizing that the admission of certain groups of legal immigrants, particularly nuclear-family members and those with high skills/education, are in the best interest of American families, American businesses, and the American economy.

In New Jersey our foreign-born population reached 13.5 percent in 1994, our highest level since 1940. One can certainly recognize why the last surge in legal immigration took place 55 years ago—our country was becoming more and more industrialized, and many more jobs were to be found. But, in this current economic climate of corporate downsizing/mergers, technological advancement, and free trade, State's such as New Jersey cannot absorb large numbers of people from overseas.

If we set aside shear numbers and focus on the low skill/education level of many legal immigrants eligible to come to the United States, the impact is even greater. In the New York/New Jersey region 40 percent of foreign-born residents do not have high school diplomas, and 10 percent are unemployed, far greater than the 4.5 to 6.5 percent that the rest of the Nation has experienced the last few years. In New Jersey

alone, 26 percent of all foreign-born residents are at the highest poverty level.

The low skills/education of many legal immigrants being admitted to the United States has devastating consequences. These individuals drain money from our social service system in the form of public benefits. In fact, they receive $25 billion more in benefits than they pay in taxes. An even more startling fact is that SSI for legal immigrants has increased by 580 percent in the past 12 years. We just cannot afford to continue to provide unlimited services when our own citizens are living below the poverty level, without health care, without jobs.

That is why, for the first time, H.R. 2202 would make a sponsor's affidavit of support for a legal alien legally binding. This means that a sponsor's income and resources must now be taken into account when determining a legal alien's eligibility for the most public benefits. No longer will a legal alien be able to come to the United States and live off of our welfare system without the sponsors being held accountable. If an alien ends up becoming a public charge, by receiving 12 months of welfare benefits within 7 years of arrival, he could be deported. And, prospective sponsors must show that they could support both themselves and the sponsored immigrant at a minimum of twice the poverty level.

The admission of low skill/educated legal aliens has also resulted in 50 percent decline in real wages for high school dropouts. With fewer low wage and service jobs available, high school dropouts already living in the United States are having to compete with legal immigrants—who might be willing to accept lower wages because the wages are still far better than what they would have received in their home country. Consequently, with more people looking for work, employers can lower wages and still know that their work will get done.

H.R. 2202 ends the low-skilled preference program in order to keep more low wage jobs available for those without/with only high school diplomas without expanding our welfare system. At the same time, this legislation also recognizes that highly skilled/educated foreigners are invaluable in making American companies more globally competitive, and that their contributions will only create more jobs for Americans in the future.

But, in order to make sure that employers are playing by the rules, there must be guidelines and enforcement mechanisms in place. While this legislation helps to protect American workers from being replaced by temporary foreign workers—the H–1B temporary visa program—it does not go far enough in making sure that employers don't hire illegal aliens/unauthorized workers to cut costs. Just as we require illegal and legal aliens to abide by the law, so too much employers.

The original legislation, as passed by the Judiciary Committee, contained a worker phone verification pilot program under which employers in the five States with the highest number of illegal aliens would be required to verify the eligibility of a prospective employee with their Social Security number. The purpose of the system was to make it easier for employers who continue to struggle understanding the employer enforcement requirements of the Immigration Reform and Control Act of 1986 [IRCA].

Under IRCA, employer sanctions are imposed on any employer who knowingly hires an illegal alien unauthorized to work in the United States. Employers are required to verify eligibility and identity by examining up to 29 documents and completing an INS I–9 form. In enforcing these measures, employers are allowed a good faith defense and are not liable for verifying the validity of any documents, but instead are only responsible for determining if the documents appear to be genuine.

However, increased numbers of fraudulent documents—Social Security cards, birth certificates, green cards, and work authorization cards—have made it difficult for employers to weed out illegal aliens. And, INS has been more concerned with sanctioning employers for paperwork violations, such as incorrectly completing I–9 forms, than with helping employers expose counterfeit documents and unauthorized/illegal workers.

Although H.R. 2202 importantly reduces the number of allowable documents from 29 to 6, significantly decreasing an employer's paperwork burden, it has changed the five State mandatory pilot program into an all-voluntary one. Opponents of the pilot claim that it will give the Federal Government the power to decide who works for whom. In addition, they fear that informational mistakes made by the computer system could either be used against an employer as evidence of hiring an illegal alien or could be used against a prospective employee as evidence of discrimination.

In fact, under this program, an employer is provided with a good faith defense shielding him from liability based on the confirmation number he receives after verifying an employee's social security number. And, if an employee is not offered a position because of faulty information which cannot be resolved within a 10-day period, than he is entitled to compensation under existing Federal law. Southern California has in place a similar pilot program that began with 220 employers. After 2,500 separate verifications and a 99.9 percent rate of effectiveness, it is now being used by almost 1,000 businesses.

That is why I will be supporting the Gallegly-Bilbray amendment to reinstate the mandatory pilot program. The purpose of the program is to make it easier for employers to verify the work eligibility of prospective employees. It will help to prevent confusion over documents, alleviate concerns about hiring someone who looks like he is illegal, and hold employers accountable for their hiring decisions. Without such a mandatory system, unscrupulous employers will continue to knowingly employ illegal aliens. And this is the end to the means for the 400,000 illegal aliens who enter our country every year. As long as the jobs are there, and someone is willing to hire them to do the work, they will always keep coming.

I deeply regret and am grieved to say that the business community is seeking low paid workers and feeding the immigration crisis. I implore the business community—make this good faith effort with us. Be part of the solution, not part of the problem.

Finally, because current law prevents us from denying one particular costly service to illegal aliens, public education, I will be supporting Congressman GALLEGLY's amendment giving States the option to deny public education to the children of illegal aliens. In 1982, the Supreme Court ruled that under the 14th amendment the children of illegal aliens cannot be denied a public elementary and secondary education. However, last November a Federal district judge in California ruled against Proposition 187 saying that only the Federal Government has the authority to regulate immigration.

Congressman GALLEGLY's amendment is consistent with this most recent ruling. Through congressional action, each State can decide whether or not it wants to divert resources away from educating the children of its hardworking taxpayers. In the case of New Jersey, this would mean having an additional $150 million available to improve public education for the State's children of citizens and legal permanent residents.

For all of the reasons mentioned, I hope all my colleagues will support this legislation. Congressman SMITH has made an extremely complex bill look easy. H.R. 2202 contains virtually all of the ingredients needed to fix the myriad problems of our current immigration system. These are commonsense reforms which recognize that, although substantial differences exist between legal and illegal immigration, they cannot be separated from one another.

Removing the legal immigration provisions would be like passing an antiterrorism bill without the ability to designate groups as terrorist. Well, we have already done that, so let us not do it again. Do not take the teeth out of this bill.

Support all of H.R. 2202.

Mr. BRYANT of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. STENHOLM].

(Mr. STENHOLM asked and was given permission to revise and extend his remarks.)

Mr. STENHOLM. Mr. Chairman, I rise in strong support in H.R. 2202, the Immigration in the National Interest Act.

I am a strong supporter of both illegal and legal immigration reform and I am gratified to have the opportunity to debate this important matter on the floor of the House. But before I continue, I would be remiss if I did not commend LAMAR SMITH and JOHN BRYANT, chairman and ranking member of the Subcommittee on Immigration and Claims, for the leadership they have shown on this issue. Our Nation is in dire need of comprehensive immigration reform and I thank them for taking on this difficult task.

We are all aware of the tremendous strain that the massive inflow of illegal aliens is having on Texas and other border States. Illegal aliens and criminal aliens are having a significant impact on State services, such as health care, public safety, education, and criminal justice.

However, in addition to combating illegal immigration, I believe that we must also address legal immigration in a fair manner. I am not opposed to immigrants coming to America seeking a better life, for I am a descendent of Swedish immigrants. And while I believe that the majority of immigrants have made, and continue to make, significant contributions to our society, I oppose increasing immigration levels until we control the overwhelming number of illegal aliens coming into our country.

In order to combat and deter illegal immigration, H.R. 2202 steps up both border security and interior enforcement. Increased manpower, technology, equipment, and physical barriers will help to provide the Immigration and Naturalization Service [INS] with the tools they need to control our borders.

Additionally, the bill removes the incentives, such as jobs and public benefits, that encourage illegal immigration. This bill specifies that illegal aliens are denied public benefits, makes enforceable the grounds for denying entry or removing aliens who are or are likely to become a public charge, and makes those who agree to sponsor immigrants legally responsible to support them.

This bill also enhances enforcement and penalties against alien smuggling, document fraud, and passport and visa offenses, as well as, reforms rules and procedures to make it easier to remove illegal aliens from the United States.

In terms of enforcement, one of the most important things we can do is to create a worker verification system. H.R. 2202 includes a voluntary pilot program in five of the seven States with the highest populations of illegal aliens to test an employment eligibility confirmation system. During House consideration of this bill, Representative ELTON GALLEGLY will offer an amendment to make this pilot program mandatory. I believe this amendment is critical to making immigration reform successful and will vigorously support it. If we do not have some type of worker verification system in place we will never have a serious opportunity to combat illegal immigration.

In addition to worker verification, Representative BILL MCCOLLUM's amendment, which directs the Commissioner of the Social Security Administration to make necessary improvements in the Social Security card to secure it against counterfeiting and fraudulent use, will make great strides in eliminating the magnet that draws illegal immigrants to our country—jobs. I firmly believe that in order to control our illegal immigration problem we must secure identification documents against counterfeiting. Without worker verification and secure documentation, much of what we are proposing here today will be difficult to enforce. I urge my colleagues to support these vital amendments, and support this comprehensive reform package on final passage.

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Mr. SMITH of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia [Mr. DEAL].

Mr. DEAL of Georgia. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, as citizens of the United States, we have always taken pride in the fact that we are a nation of laws and not of men. When any law is ignored or intentionally and openly violated, It undermines respect for this concept of a government of laws.

No area of Federal law has been more flagrantly violated than our immigration laws. As a result, almost every community in this Nation has felt the impact of these violations. The increased costs of indigent care in our hospitals and emergency rooms, and the rise in property taxes to pay for education costs and social benefits are but a few of the costs associated with the violations of our immigration laws.

At a time when we are struggling to provide health care, education, and social services to our own citizens, we cannot justify the depletion of our tax dollars for those who are illegally in our country. The public is correct in demanding that we act to stop these abuses. In my congressional district, Dalton and Whitfield County, GA have acted to form the first joint local-Federal task force on illegal immigration. But it is our job to act on this legislation, since the enforcement of immigration laws is the exclusive responsibility of the Federal Government.

I rise to support this bill. Our current system is broken and needs to be fixed. The double magnets of jobs and social benefits are drawing illegal immigrants at unprecedented levels. We must not continue to reward those who break our laws. To do so cheapens our citizenship, fosters disrespect for our laws, and undermines our system of government.

It is time to pass meaningful immigration reform. I urge Members to support H.R. 2202.

Mr. BRYANT of Texas. Mr. Chairman, I yield 4½ minutes to the gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Chairman, today we take up a massive bill to radically alter our Nation's immigration laws in a way that is more responsive to hysteria and prejudice than to reason and fact.

Let there be no mistake: This Nation has every right and obligation to control our borders and to enforce our immigration laws. But absurd boondoggles, like building a giant fence, mindless cruelty, like sending legitimate refugees back to be murdered or tortured by their oppressors, and good old-fashioned Xenophobia, have nothing to do with legitimate protection of our borders.

Immigration has not destroyed this country. New arrivals have long contributed to the social fabric and economic vitality of our communities.

There are some things we should be doing to make life better for all Americans, like strengthening our worker protections laws, or cracking down on abuses of some of the employment-based visa programs. But the majority apparently has no interest in helping working people, only in setting people against each other.

At the very leagues we need to split this bill, as the Senate has done, and not mix legal with illegal immigration issues. That is a fundamentally important step to take so we can debate the issues properly.

I had planned to offer two amendments today which would have mitigated some of the most unfair, unjust, and downright un-American provisions of this bill. My amendments were good faith attempts to address the concerns that led the authors of this bill to write those provisions, but would have avoided some of the injustices those provisions will inevitably bring about. Unfortunately, the majority did not see fit to allow these amendments to be debated or voted upon on the House floor.

One of the these amendments would have changed the so-called expedited exclusion provision of this legislation. Under this bill, if someone comes to this country with improper documents, gets off at the airport without valid documents or with improper documents or no documents, he is to be examined on the spot by an immigration officer, by the fellow at the table, 10 minutes, 15 minutes, and that follow, who is expected to know in detail the political situation, the racial situation, the war or not situation in every country in the world, will decide on the spot whether he has established the right to asylum based on showing a legitimate fear of persecution if he goes back home, without an opportunity for a lawyer, perhaps not speaking English, without an opportunity to get witnesses, without an opportunity to collect documents, without any opportunity. The appeal from a negative decision would go to the supervisor on

the spot, and then he would be sent right back.

Now, if you think about it, this is exactly backward. The people who are most in need of political asylum, who are most likely to be tortured or murdered if they are sent back, are the people who fled from a tyrannical foreign government, who fled under the guns of the East German border guards, or fled from the gestapo or the KGB or the Savak or whatever secret police there are in other countries around the world today.

They are precisely the people who are not going to have proper documents, duly stamped, notarized and cross-signed by the gestapo or the KGB or the Savak or by whatever secret police in a separate country. They are the ones we are going to be selecting here to send right back.

My amendment, which unfortunately is not going to be heard on the floor today, would have provided some basic due process, one hearing, one appeal, one opportunity, but a real opportunity for them to show the evidence and have an opportunity to show the reality if it is true they would be persecuted back home. Instead, we are negating that altogether for the most endangered people.

The second amendment would have said that the procedure for expelling, for deporting alien terrorists, people the prosecution believes are terrorists, would have had some basic due process.

Under this bill, as under a provision taken out of the terrorist bill, if someone is an alien, has been here 35 years, not a citizen, an alien, and the Government thinks he is a terrorist, there is a hearing before a judge. But you can use secret evidence. You can use secret evidence without any opportunity to reply, without a summary that gives him the opportunity to make as good a defense as if you did not. And if even that is too dangerous in the opinion of the prosecution, you can use the evidence even without a summary.

In other words, someone can be hauled before a court and say ''We won't tell you what group you allegedly belong to, we won't tell you what we think you did, we won't tell you who is accusing you, we won't tell you what the evidence is, we won't tell you who the witnesses are; go defend yourself.'' Obviously unconstitutional, totally un-American.

At least we should have used the provisions of the Classified Intelligence Procedure Act, which gives basic due process to people we think are atomic spies or Mafia kingpins. That would have given some basic due process. Unfortunately, this was not permitted on the floor. This bill is full of such provisions.

I urge my colleagues to rethink and provide basic due process in any immigration or any other bill.

Mr. SMITH of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Chairman, I rise in support of this legislation on which the gentleman from Texas [Mr. SMITH] and many others have worked so hard. I thank the gentleman from Texas for yielding me this time.

Mr. Chairman, it is true that we are a nation of immigrants, and we are all proud of that. Immigration has been a good thing for this country. But too much of any good thing can become harmful, even destructive. This is what is happening in our country today in regard to immigration. We are not controlling our borders and we are seeing many harmful effects from that.

One example is that today 25 percent of the inmates in our Federal prisons are foreign born, most of them illegal immigrants. This is a tremendous expense to our taxpayers.

Dr. Donald Huddle of Rice University, who has studied this issue perhaps as much or more than anyone, has estimated that immigrants now cost us at least $51 billion more each year than they contribute, $51 billion. With a national debt of over $5 trillion and our economy on such thin ice, this is a problem that threatens to overwhelm us.

This legislation simply responds to the very strong desire of the people we represent as any democratic legislative body should do. A recent nationwide Roper Poll with an extremely high sampling found that 83 percent of the American people want immigration greatly decreased. The same poll found that only 10 percent felt we should do less in removing illegal immigrants from our country. A columnist for the liberal magazine, the New York Republic, wrote recently that ''Sooner or later, Americans must face reality. It is going to be painful. It is on the Statue of Liberty, 'Give me your huddled masses.' The trouble is the huddled masses need jobs.''

Perhaps the most important thing this bill does, Mr. Chairman, is that it cuts off all sorts of welfare, Medicare and Medicaid benefits to illegal immigrants. Coming here legally to seek opportunity is one thing and can still be done by hundreds of thousands under this bill every year. But coming here illegally to gain welfare benefits is something else altogether and something which the American people want stopped. We are a nation of immigrants, but much more importantly we are a nation of laws. To immigrate here illegally is plain and simply wrong.

One last point, Mr. Chairman: If this bill passes to make our immigration policy more fair and reasonable, we will still be allowing more immigrants in. We will still have more immigration than any other nation in this world. If allowing in the highest number of immigrants of any country in the world is not good enough, then nothing we can do will ever really satisfy the people who oppose this legislation.

Mr. Chairman, I understand that extremely big business is against this bill but the American people are for it, and we should be too. We should pass this legislation.

Mr. SMITH of Texas. Mr. Chairman, I yield 2½ minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, I thank my friend for yielding me time.

Mr. Speaker, H.R. 2202, the Immigration in the National Interest Act, includes many important provisions to help the United States get control of its borders: 5,000 new border patrol agents over 5 years, stricter penalties for alien smuggling and document fraud, prohibitions of public assistance, and procedural reforms that would make it easier to deport people who have abused our hospitality.

I commend the gentleman from Texas, Chairman SMITH, for his work on this and even when we disagree, he is always a very fine gentleman and its fair about that.

The bill also contains some controversial provisions that would sharply reduce both family-based and employment-based immigration. I frankly think we should concentrate our efforts on illegal immigrants, and I wish the bill had even gone further in that direction; for example, by taking steps toward getting control of the situation in which people come to the United States on short-term tourist or business visas and then overstay their visas, living and working in the United States as illegal immigrants.

On balance, I support many of the provisions of H.R. 2202, precisely because it takes strong steps in controlling illegal immigration. I do want to point out that I will be strongly supporting on the floor the Chrysler-Berman-Brownback amendment which will help keep the focus on stopping illegal immigration by separating these issues from the provisions controlling and concerning legal immigrants and visas and refugee. H.R. 2202 and the amendment that Mr. CHRYSLER hopes to offer would eliminate the small number of visas now allocated for brothers and sisters.

Just let me say I also, as chairman of the Subcommittee on International Operations and Human Rights, and we have jurisdiction over the refugee budget, will be offering my own amendment that would lift the cap of 50,000 refugees after the fiscal year 1997. We have held extensive hearings in my subcommittee on the refugee situation. I do believe that consultation process between the administration and the Congress ought to be the modality used, not a cap. I think that the world is getting more volatile, not less, and doing our fair share to relieve the pressure on true refugees, people who have a well-founded fear of persecution, we ought to not cap it, and continue the consultation process.

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Mr. SMITH of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BILBRAY].

Mr. BILBRAY. Mr. Chairman, let me say that I rise in support of this legislation. Let me say I rise in support of it in no little way.

I happen to be one of the few Representatives that will have the privilege of serving on this floor that not only has experienced the border issues but actually was raised and lives on the border. Mr. Chairman, it is time that this Congress and these American States of America get sensitized to the fact of the absurdity of the situation we have allowed to occur along our frontiers.

Let me just sort of say very subtly to my colleagues here that Congress and only Congress has the authority to address the immigration policy. But as somebody who grew up on the Mexican border, I have had to live in my community with not only the crime, the destruction that has occurred from uncontrolled immigration and crime activity along the border, but also the human misery that is being imposed on the illegal immigrants. Our freeways are the scene of many people being slaughtered because smugglers are encouraging illegals to enter our country down the middle of freeways.

Mr. Chairman, the Tijuana River Valley has been filled with corpses. And I would have to say, sadly, I have been involved in the recovery of bodies in the Tijuana Valley of people who were promised a better life but only received a death sentence because this country says one thing and does the other thing about illegal immigration.

Mr. Chairman, I have seen what has happened to our society along the frontier to where not only in our country but in Mexico, nine police officers have been assassinated by the people who make their money smuggling illegal aliens. I have watched as we hear reports of not only agents but six illegals running off a 150-foot cliff because they thought they were chasing for a better life.

Mr. Chairman, I would say to my colleagues on either side of the aisle who think immigration reform is somehow a bad idea, come to my neighborhood. See what this Congress is doing to the citizens and to the immigrants along the border. Mr. Chairman, we have a responsibility to control illegal immigration, and this body does not have a right to walk away from it. I ask my colleagues to support this bill.

Mr. SMITH of Texas. Mr. Chairman, I yield 3½ minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Chairman, I would like to engage the gentleman in a colloquy.

Mr. Chairman, in H.R. 2202 under section 524 entitled, ''Admission of Humanitarian Immigrants,'' it states, ''The Attorney General shall, on a case-by-case basis and based on humanitarian concerns and the public interest, select aliens for the purpose of this subsection,'' unquote.

It is my understanding that in the interest of giving priority to reunification of nuclear families, this language could include exceptional cases involving sole surviving family members of American citizens, whether or not an individual meets the qualified family categories as set forth in this bill. The section I have referred to, for example, would allow any sole surviving member of an immediate family, including a parent, a sibling, child, or adult son or daughter over 21 years of age, a legal guardian or a charge of an American citizen or legal resident, to be admitted as a special humanitarian case. Am I correct in this assessment, Mr. Chairman?

Mr. SMITH of Texas. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. I yield to the gentleman from Texas.

Mr. SMITH of Texas. Mr. Chairman, that is correct. It is my intention to strongly urge that the Attorney General use a portion of annual humanitarian admissions for the purposes the gentleman has just mentioned.

Mr. DORNAN. Mr. Chairman, I rise in strong support of the manager's amendment and urge my colleagues to vote in favor of its passage. This amendment is particularly important to States such as my California, which are heavily impacted by criminal aliens. Although it is the responsibility of the Federal Government to enforce immigration policy, State and local governments incur significant costs relating to the incarceration of criminal aliens.

Unfortunately, many local governments heavily impacted by criminal aliens are not, as the 1994 crime bill intended, being financially compensated for these costs. In trying to meet the public safety needs of the community, these local communities are therefore being forced to bear this financial burden on their own.

Mr. Chairman, I am pleased, with the support of my colleagues, the gentleman from Texas [Mr. SMITH] and the gentleman from California [Mr. GALLEGLY], who worked so hard on this excellent bill. My provision has been included in this amendment to clarify the intent of the 1994 crime bill. It would simply ensure that all local governments have the opportunity to apply for the financial compensation they are entitled to for costs associated with incarcerating criminal aliens.

I also strongly support a provision in the amendment that would authorize a pilot project by the INS to identify illegal aliens among those incarcerated by the city of Anaheim and the County of Ventura. Under the proposed pilot program, an INS agent would be stationed in two local government jails to perform front-line documentation and appropriate questioning of criminally charged suspected illegal aliens. By helping to speed up the deportation process, I believe this program has the potential to be a significant benefit to the entire country. I support it strongly.

I rise in strong support of the manager's amendment, and urge my colleagues to vote in favor of its passage.

There are two provisions in this amendment that I believe are particularly important to States, such as California, which are heavily impacted by criminal aliens.

Although it is the responsibility of the Federal Government to enforce immigration policy, State and local governments incur significant costs relating to the incarceration of criminal aliens. And while the 1986 Immigration Reform and Control Act authorized States to receive Federal reimbursement of criminal alien incarceration costs, it was only recently that local governments received similar treatment. In fact, it was the 1994 crime bill that for the first time allowed so-called political subdivisions of a State to be reimbursed for costs associated with incarcerating criminal aliens. This was a very important gain in having the Federal Government recognize its responsibility for criminal aliens.

Unfortunately, many local governments heavily impacted by criminal aliens are not, as the 1994 crime bill intended, being financially compensated for these costs. In trying to meet the public safety needs of their community, these local communities, such as the cities of Santa Ana and Anaheim which are located in my district, are therefore being forced to bear this financial burden on their own.

I am pleased that with the support of our colleagues LAMAR SMITH and ELTON GALLEGLY, who have worked so hard on this bill, a provision has been included in this amendment to clarify the intent of the 1994 crime bill. It would simply ensure that all local governments, including counties, cities, as well as municipalities, have the opportunity to apply for the financial compensation they are entitled to for costs associated with incarcerating criminal aliens.

I also strongly support a provision in the amendment that would authorize a pilot project by the Immigration and Naturalization Service to identify illegal aliens among those incarcerated by the city of Anaheim and Ventura.

A recent 60-day survey conducted by the Anaheim Police Department, located in my district, found that 35 percent of the inmates sent to the Anaheim City Jail were unable to produce documentation that they were in the country legally. Under the proposed pilot program, an INS agent would be stationed in Anaheim's jail to perform front-line documentation and appropriate questioning of criminally charged suspected illegal aliens. This will enhance the relationship between INS officials and local law enforcement and help speed up the deportation process for criminal aliens. And I believe that, if successful, the program has the potential to be a significant benefit for the entire country.

Like the many other measures contained in the manager's amendment, these are critical provisions that deserve our support. I urge a ''yes'' vote on the manager's amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. HUNTER], a longstanding advocate of good secure fencing.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding time to me and also thank him for his leadership and statesmanship in putting together what has been a very difficult bill but

nonetheless a very necessary bill, perhaps the most important piece of legislation we will pass this year.

Mr. Chairman, I have got the gentleman from California [Mr. BILBRAY], my friend, a fellow San Diegan, with me today. I am reminded that Mr. BILBRAY lives just a mile or two from the border, and I am going to talk about border control because that dimension of handling the illegal immigration problem is a very important dimension.

This bill doubles the number of Border Patrol. To gain control of a border, we need a couple of things. We need an impediment which in this case is going to be a triple fence that the committee is building. It is a fence that was designed by Sandia Laboratories and a $600,000 study that was done for the INS by the department of drug policy. It has been endorsed by Sylvester Reyes, the most successful Border Patrol Chief in the United States who successfully held the line in El Paso. This triple fence, along with forward deployed 10,000 Border Patrolmen, will help to cut off those 12 smugglers' corridors across the Southwest.

Each place where we have an urban population on each side of the border, whether it is San Diego, Tijuana or El Paso or Brownsville, TX, in Juarez or Matamoros, Mexico, we have hotbeds of smuggling that is taking place right now. This bill addresses border control and does it in a very, very effective manner.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from California.

Mr. DORNAN. Mr. Chairman, just for a quick compliment.

We do not get to do this in the course of the year too many times, but I went down to the border with the gentleman's assistance, had a 3- or 4-hour briefing, flew with the California Guard, went out to the observation post, and had a 5-hour hearing in Santa Ana the other day. Mr. Chairman, I am not kidding when I say that the gentleman from California [Mr. HUNTER] is so highly respected for what he has done year in and year out since 1980, over 16 years, that I cannot thank him enough for what he is doing for the whole country on this issue.

Mr. HUNTER. Mr. Chairman, I would like to give this gentleman more time. I thank the gentleman.

Mr. SMITH of Texas. Mr. Chairman, I yield 2 minutes and 30 seconds to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, I would like to first congratulate the gentleman from Texas [Mr. SMITH] and the gentleman from California [Mr. GALLEGLY] for the tremendous job they have done in putting this legislation together.

I have been deeply involved in this issue for over 5 years now. While the Democrats controlled this body, we could not get a vote on the illegal immigration issue. We could not bring this Government to come to grips with this problem that was destroying the State of California and threatening to overwhelm the entire country. But in a democracy, if elected officials do not act, the people will.

What happened, there is no coincidence that proposition 187 out in California passed at the same time that the people kicked the Democratic majority out of control of the House of Representatives because they want action in their behalf. Who were we representing before? I mean, it was incredible. I could not figure out why people were voting the way they were. Whose interest was being represented?

Well, this is a new era in the House of Representatives. Every time we tried to do something before, the Democrats would say, oh these poor suffering people here and these poor suffering people here. We would have to apologize that we were trying to represent the interests of the American people. Well, that is not going to happen anymore. Yes, we are concerned. We care about other people. We care about the children of people who live in foreign countries. But that does not mean we are going to allow everybody in the world to bring their children here and break down our education system so our kids cannot get an education.

And yes, Mr. Chairman, some people may be deprived overseas, but we are not going to let criminals come into our society and commit crimes and not have our Government act upon it and see our jails being filled with illegal aliens. Yeah, we love older people from other countries. We love humanity, but we do not want senior citizens coming into America and draining all of the resources that we have saved up for our own citizens, for our own seniors so that our people will not have those programs to rely upon.

Yes, we care about sick people wherever they come from. We do not want sick people coming here from all over the world expecting to get free medical care and breaking down our system. We do not want sick people coming here from every corner of the world breaking down our health care system. That is what is happening in California.

The difference between this Congress and the last Congress is we are going to come to grips with this problem because we do care. We care about the American people, and we have no apologies for that.

Mr. BRYANT of Texas. Mr. Chairman, I yield myself such time as I may consume.

I am forced to respond forcefully to what the gentleman from California [Mr. ROHRABACHER] just said. Now, we have got a bill on the floor that is a bipartisan effort, and I think it would be helpful if we can try to keep it that way. The gentleman's comments with regard to when the Democrats were in control are completely in error, totally in error.

In 1986 this House acted for the first time with a Democratic majority in the House and Senate to make it against the law for American employers to hire somebody who is in the country illegally. That was a hard bill to pass. Not only the business community did not like it very much, but the immigrant advocate groups did not like it either. We did it.

It brought illegal immigration down for a period of years, but the counterfeiting has caused it to go back up again. That is why we have the bill out here now. We have passed legislation a number of times since then, as well, and the Clinton administration has taken a number of very dramatic initiatives to deal with the problem, including recommending this kind of legislation, including appointing the members of the committee.

Mr. Chairman, I yield to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Chairman, I too would like to echo what the gentleman from Texas is saying. My friend and colleague from California misrepresents the facts. In fact, as the gentleman from California [Mr. ROHRABACHER] knows, under the Democratic watch 2 years ago and with a Democratic President, for the first time in the history of this country we got a President who was willing to give moneys to States to reimburse them for the cost of incarceration of undocumented immigrant felons.

We, also, for the first time in more than a decade got an increased amount of funding for the INS to conduct border enforcement activities so they would not have to work with outdated equipment, with broken night scopes, all of the things that were being requested by the INS which certainly did not get fulfilled before the President, President Clinton, took office.

So certainly we have to acknowledge that there have been efforts, and hopefully we will recognize that they have been bipartisan efforts, not only by one particular party or another.

Mr. BRYANT of Texas. Mr. Chairman, let me say we are trying to get a bill passed out here, and the gentlemen are not helping us do that by starting this argument. But OK, go ahead.

Mr. BILBRAY. Mr. Chairman, will the gentleman yield?

Mr. BRYANT of Texas. I yield to the gentleman from California.

Mr. BILBRAY. Mr. Chairman, I am just saying as somebody who spent 20 years in local government in a border community, I just heard that the Federal administration 2 years ago was out to reimburse for the cost of incarcerating criminal aliens. You know, all I got to say as somebody who had to run a criminal justice system for 2.6 million people, we did not see it. We did not see it.

Mr. BRYANT of Texas. Mr. Chairman, reclaiming my time, I will explain it to the gentleman why he did not see it. In the 1986 Immigration Reform Control Act, I put an amendment in there that required 100-percent reimbursement to all border States and border communities for any immigration

cost. The Reagan administration, year after year after year, proposed a gradual cutting of that, and unfortunately that took place; so we do not have that anymore.

Mr. Chairman, I would just think it would be best to conclude this by saying there has been an adequate effort in my view on both sides. If that statement is not good enough to move the debate forward, we can waste another 10 minutes out there jeopardizing passage for the bill having a needless argument.

Mr. BILBRAY. Mr. Chairman, if the gentleman will continue to yield, I am not trying to be argumentative.

Mr. BRYANT of Texas. Mr. Chairman, the gentleman has the time.

Mr. BILBRAY. I am just saying from personal experience, what is said and what has been done are two different things. I think the one thing that we want these Chambers to have is that dose of reality of what really is going on out there. I just have to say, there is a lot of talk about it in the last 2 years. But what has been said and what is actually happening as somebody who every week I go to the border and talk with immigration agents, please be aware as somebody who cares about proper immigration legislation.

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We got to make sure that the border finds out about it and that the administration is doing what is being said, and that is all I am asking.

Mr. BRYANT of Texas. Reclaiming my time, I would just say that this administration has taken some dramatic initiatives in that direction. This House, when the Democrats were in the majority, and I would not bring this up except the gentleman from California [Mr. ROHRABACHER] did, passed the only legislation we ever had—excuse me.

The CHAIRMAN. The Chair will point out that the gentleman from Texas [Mr. BRYANT] controls the time.

Mr. BRYANT of Texas. Mr. Chairman, I simply wish to reflect my view, the basis of the erroneous statements of the gentleman from California [Mr. ROHRABACHER].

Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. ROHRABACHER], and then I am going to reclaim my time.

Mr. ROHRABACHER. Mr. Chairman, I thank the gentleman for yielding this time to me.

I guess, and am I taking it for granted that the gentleman is denying that the numerous attempts that I tried to make to get legislation on this floor concerning benefit packages going to illegal aliens, that I am just imagining that we tried to put these things through the system and were beaten down every time by the Democrats who controlled the process?

Mr. BRYANT of Texas. All I am saying to the gentleman from California {Mr. ROHRABACHER] is that I cannot say what happened with regard to the gentleman's initiatives. I know of the initiatives that were made in the past; I think they were good ones. Some things happened that I did not like. Some things——

Mr. ROHRABACHER. My remarks were aimed at benefit packages.

Mr. BRYANT of Texas. But the gentleman's characterization that this is a partisan issue that only he has dealt with is, in my view, just wrong.

Once again, Mr. Chairman, I reclaim my time.

The CHAIRMAN. The gentleman from Texas, [Mr. BRYANT], controls the time.

Mr. BRYANT of Texas. Mr. Chairman, I yield 4 minutes to the gentleman from Minnesota [Mr. VENTO].

(Mr. VENTO asked and was given permission to revise and extend his remarks.)

Mr. VENTO. Mr. Chairman, I took this time; I wanted to talk about an amendment that I planned to offer, and I understand that the manager of the bill, the gentleman from Texas [Mr. SMITH], is going to incorporate it into an en bloc amendment, and I thank him for that. I have not had a chance to visit with him personally about it. He has been very busy. And I also thank the gentleman from Texas [Mr. BRYANT].

This amendment deals with legal residents that have had difficulty attaining and passing the citizenship test principally because of the language and residency requirements, but more importantly, Mr. Chairman, I just wanted to take a few minutes today to talk about something we are doing right, I think, in this Nation.

Most of us know we were locked in a Vietnam conflict for many years, and in the process of that the United States, through its intelligence agencies and others, joined forces with some of the tribes in Laos, the Hmong specifically, H-M-O-N-G, the Hmong, and they now reside, of course. And after that conflict was concluded, of course, and came to a bitter conclusion, they, many of them, had to flee their homeland because of fear of retribution and, in fact, retribution that did occur.

They often had fought in that conflict longer than U.S. military personnel, assisting U.S. military personnel, and many of them lost their lives. In fact, 10,000 to 20,000 Hmong lost their life in that conflict in Southeast Asia. In the process of losing their lives they saved many other lives.

But today there are many that are in the United States, have served in this capacity, but are having a great deal of difficulty, because historically the Hmong did not have a written language, and, as a consequence of the chaos, and so forth, and the rural nature of their culture, they were unable to gain a education. So the consequence today is that even though repeatedly, with a lot of tutorial help, they make an effort to pass the citizenship test; they are here as legal residents, of course; they are unable do so.

So what we are trying to do here is to extend this honor to them to gain citizenship. I think some have gained it on their own. Many are elderly; some are not. But there are the spouses that have lost their husbands.

In the past, of course, I think the history of our Nation is, if one serves in the U.S. military uniform, even though they are a Nam national, they are not a U.S. citizen, they can gain citizenship through that means. What we are trying to do here is to extend that opportunity to this small group, really today, for this specific purpose.

So I wanted to give some examples of types of persons that were involved and where they live. I was looking through this, and I realize that one of them lived near the Vento homestead on Burr Street in St. Paul, and someone that had fought for 15 years in this conflict, had fought, in fact, in the French conflict before that, and he wrote here, ''I arrived in the United States on September 26, 1986, after 10 years in a refugee camp.''

So the total service here in terms of conflict and military service to the United States, of course, was some 15 years, 10 years in refugee camp, and then has a very difficult time learning a new language and culture. But he is working as a janitor, and he would like to have, and he is going to be here for the rest of his life, and he is very supportive, obviously, of citizenship and the honor.

I think really in this case we do an honor by recognizing people that have done this type of service, and I go through this over and over again, but that there are many others.

I am just going to put some of these in the record. Here is another person that lives on Lafond Street or Avenue in St. Paul. He again fought for some 15 years, again was in a refugee camp, Lee Pao Xiong, and he has lived or came here in 1987, is a U.S. citizen.

So what we are trying to do is waive, because they spent time in refugee camps, to also waive the residency requirement. Not a large number of people, but a justice and a very good provision, and I really appreciate my colleague's support for the provision.

Mr. Chairman, I include the following material in the RECORD:

BIOGRAPHIES—MN HMONG VETS WHO ARE NOT CITIZENS

Wa Chi Thao, St. Paul, Minnesota; date of birth: 6/15/1950; place of birth: Xieng Khouang, Laos.

Military Service from 1961–1975 (14 years).

My commander was Yang Chong and my sergeant was Shong Leng Xiong. I also worked under General Vang Pao through these other leaders. The American General was Jerry. I don't remember his last name.

Injuries in combat: I was hit in the back by a bomb explosion.

Places of combat: San Sous near Vietiane; Mt. Pher Bia, where my wife died in combat; Phon Sou; Thong Hai Hien, many people died and injured; Kham Houng Sat Chout Tham Lien; Moung Mount; Phon San. We rescued a down American pilot, but it was sad that both the pilots were died due to the crash. We however, recover their bodies and send home.

After 1975: I fight the communist with a group of my people call sky soldier to defend our families and ourselves.

Refugee camp: We finally made it to Nong Khai Refugee Camp on 1975 for 5 months then we went to Ban Vinai for almost 10 years.

United States: In January 1993, we came to the United States. The war had cause a great deal of depressing for me and my family. I was in camps for many years and thinking life is not worth of living. But now in the US I finally think life is worth of living.

I feel very happy here and I want to be a citizen of this great nation, but it very hard because I don't know English. I have served for the US for as a soldier for 14 years of my life. I want to be a citizen very much and I need the US government to support the Amendment H.R. 2202 as offered by Rep. Bruce Vento of Minnesota.

Lieutenant Lao Pao Xiong, 2917 18th Ave. S., Minneapolis, MN 55407;

Military Service from 4/19/60–5/15/75.

Date of birth: 8/16/45.

Place of birth: Phou Sam, Laos.

Injuries: Hit by a grenade to the right side.

Combat sites: Nam Kham; Xieng Khouang; Ban Soun; many other small sites as well.

My commanders was Youa Vang Lee and Chong Chue Yang.

After 1975: On June 26, 1975 my family came to Nong Khai Refugee Camp, then we were transferred from Nong Khai to Ban Vinai in 1979 and my family stayed there until 1988.

United States: I came to the U.S. on August 21, 1988. I want to become a citizen of the United States. I have worked for the U.S. for 15 years and lived many years in the refugee camps not knowing what to do. This country is my home now, I want to be a good citizen here. I need the government to support the Amendment H.R. 2202 as reported and offered by Rep. Bruce Vento of Minnesota. Without this bill my family have no hope of becoming citizen of U.S., which where our is and where we want to live until our last days on earth.

Commander Thong X. Thao, 1248 Margaret Ave., St. Paul, MN 55106.

Date of birth: 10–5–40.

Place of birth: Long Cheng, Xieng Khouang, Laos.

Years in secret war: 1961–1975.

Injuries in combat: Hit by a piece of grenade.

Combat sites: Phou Pha Loui; Lam Xieng—where I was injured; Long Cheng; Lam Phon Moung; Boune Loung.

After 1975: I went through Vietiane (capital of Laos) on 5–18–75 and arrived in Xieng Mai, Thailand on 5–19–75. I went to Nam Phong on 5–26–75 then to Ban Vinai Refugee Camp. On June 28, 1978, I went to Kong Thet for five months. I have been working since 1978 at many places. Right now, I work at Marsden as a janitor.

I want to be a citizen of the U.S. very much. I have been here for many years and I want to have the same rights as other citizens here do. I hope that you will support the Amendment to H.R. 2202 as offered by Rep. Bruce Vento of Minnesota. I need this bill to pass, so I can become a citizen. I have fought 14 years of my life for the United States. Learning the English language is something I want to do, but it is hard to learn. I highly support this amendment. I hope the U.S. government will support it too.

Sergeant Da Por Vang, 946 Burr St., St. Paul, MN 55101.

Soldier in secret war: I also fought with the French from 1934–50. In 1961, I began working with the US and General Vang Pao until 1975.

Battle sites: Xieng Khouang; Moua Loung; Nan Khan, Long Hae.

After 1975: I was a Sky Soldier-Chao Fa until 1983. I defended my family and my country although the support wasn't there anymore.

Refugee camp: I stayed in Ban Vinai for about 7 months and then I went to Chaing Khan for about 2 years.

United States: I arrived in the US on September 26, 1986. I am very old now. I cannot learn a new language and culture. Life is very hard and depressing. I have live almost a century.

I have no where else to go. I want to become a citizen of the US because my family is here. I want to live here for the rest of my life. I want the government to support the Amendment H.R. 2202, as reported and offered by Rep. Vento of Minnesota. I do not know English. Without this bill, I have no home, no country to belong to.

Major Lee Pao Xiong, 488 Lafond Ave, St. Paul, MN 55103.

Military service from 1961–1975.

Date of birth: 12/31/1946.

Place of birth: Xieng Khouang, Laos.

Injuries: A bullet to the left ankle all the way to the thigh.

Place of combat: Xieng Khouang; Boua Loung; Phon Savan.

I worked with General Van Pao. My commander is Moua, Gao and Shong Leng Xiong.

After 1975: I became a Choa Fa in Mt. Pher Bia until 1980. We fought to defend ourselves and families without any help from anyone.

Refugee camps: On October 1980, I arrived in Ban Vinai Refugee Camp. I lived there until 1986 then, I went to Chaing Khan.

United States: I came to the US on April 10, 1987. I want to become a citizen of the US, but it hard to learn English language now that I am old in age.

I want the government to support the Amendment to H.R. 2202, as reported and offered by Rep. Bruce Vento of Minnesota. I would like to become a citizen and participate and live in this country.

Bao Yang, 530 16th St. N., Wisconsin Rapdis, WI 54494.

Military Service from 1969–1975.

Date of birth: 1/2/1949.

Place of birth: Monang Lon He Xieng Khouang, Laos.

My husband was a soldier for the U.S. from 1969–1975. He died on 1/19/93.

After 1975: We lived in fear in Laos, moving from place to place until 1979. On April 1, 1979, we started to go on to Thailand. We came to Nong Knai Refugee Camps for four months, Then, we were transferred to Ban Vinai for 10 months.

United States: On May 2, 1980, we went to Kong Thet for 2 months. We came to the U.S. on July 25, 1980. We came directly to Edina, Minnesota.

I want to be a citizen of the United States. I want to live here for the rest of my life. It is my home now. My husband and many people in my family have work for the U.S. in the secret war in Laos. I want to be a citizen here and participate in the country.

I hope you will pass the Amendment H.R. 2202 as offered by Rep. Bruce Vento of Minnesota. I am doing this not for myself but my husband who does not fortunate enough to live to see this amendment pass. He worked many years for the U.S. please support this amendment, so we can have a country to belong to.

Sgt. Seng Thao, Minneapolis, Minnesota.

Military Service from 1968–5/15/1975.

Date of birth: 10/10/54.

Place of birth: Nam Qhuam–Vang Vieng, Laos.

When I begin training to be a soldier, I were only 14 years old.

Injuries in combat: bullet to the left shoulder; bullet through the right foot between 2 toes.

After 1975, I still had to defend my family, relatives, and my village until 1979. In 1979, my family took the voyage to Thailand. My family suffered great danger when we were taken to a concentration camp in Thailand. The people abused us and put us through so much suffering when they took everything that we had. They used knives and guns to make us give them everything that we had. We were finally taken to Ban Vinai Refugee Camp four days later and stayed there for 6 months, until we came to the United States.

In the United States: I came to the U.S. on May 21, 1980. I went to school for one year. School was hard to concentrate on, because the war I have no education background. English is hard to learn, especially if you have no basic education. Right now, I'm working at Riverview Packaging, Inc. in Minneapolis Minnesota.

Citizenship: I went to take my citizenship test on April 9, 1994. I passed only one test of the citizenship test. I would like to be a citizen of this great country here very much. I have lived in Minnesota here for all my life in the United States. I want my all family to be citizens of this great nation, because this is my home now.

I hope you will support the amendment to H.R. 2202, as Reported and Offered by Rep. Bruce Vento.

Captain Neng Mai Xiong, 761 Rose Ave. E., St. Paul, MN 55106.

Date of birth: 2–18–1944.

Place of birth: Sa Mang, Laos.

Years in the secret war: Stationed at Pho So (Site 57): 1/1960 to May 20, 1975. I was a radio operator.

Moung Phan, Site No. 236; Nong Chaing Na Seun, Site No. 214; Nam Yeu, Site No. 118 A; Xieng Lomg, Site No. 69 A; Sayaboury Lima, Site 23; Phon Haua Moui, Site 67; Hoi Phoui, Site 155.

Rank 1960–ADC, 1962–SGC—radio operator, 1970–1975—Commander, company 227B; Captain

Battle sites: Boua Loung, Site 32; Xieng Khouang, Site 75.

After 1975: I became a Sky Soldier-Chao Fa. I was taken into a work camp by the communist in 1979, my family got out of the communist training work camp and stayed at Kiao Nya until 1989. In 1989, I came to Vietiane, Capitol city of Laos and then got my passport to the United States.

Xia Shoua Thao, St. Paul, Minnesota.

Military Service from 1964–1975.

Date of birth: 2/1/47.

Place of birth: Vang Vieng, Laos.

I became a soldier when I was seventeen years old.

Injuries in combat: Injury to the upper left arm due to a bomb explosion.

Places of combat: 1965: Sala PhouKong; Tha Vieng, Xieng Khoung; Phousau, Hat Ban Phoun; Ban Tha; Maing Hien naKham; Phou Ka Xieng Khoung Thoug Hailtien; Phou Pa Sai Kham Gau, (Site 204).

After 1975: I was a leader to lead a group of Hmong soldiers to defend our village, our families, our homes.

Battle sites: Moung Pheeb; Ban Soun Na Seu; Phou Kham. For 3 years, we fought against the communist without any kind of government help.

Refugee camp: We defend ourselves for many years because we believe in freedom and democracy. After many years of fighting, we did somehow find our way to freedom. In 1984, we make it to Ban Vinai Refugee Camp in Thailand and stayed there until 1985 then transferred to Xeng Kham Refugee Camp for 3 months. On 10/85, we went to Pham Nat Nikhom.

United States: On April 28, 1987, my family came to the US. We arrived on April 29, 1987. I went to school for 9 months. It was very hard to learn a new language at an old age like me. I worked part-time at Dept. of Natural Resource as a janitor. I became very sick and could not work any more.

I want to be a citizen of the US because this is my permanent home now. I have served with and for the US for 11 years of my life. I can not pass the citizenship test because I do not know English well enough to pass the test. Please help me and my fellow people to support amendment H.R. 2202.

Mr. SMITH of Texas. Mr. Chairman, I yield 2½ minutes to the gentleman from California [Mr. COX], chairman of the policy committee.

Mr. COX of California. Mr. Chairman, I rise in support of the Immigration in the National Interest Act, and I want to congratulate the gentleman from Texas [Mr. SMITH], the chairman, for the work he has done in bringing this balanced bill to the floor.

In addition to my chairmanship of the policy committee, I am the vice chairman of the Speaker's task force on California, and our task force has made reform of illegal immigration, fighting illegal immigration, our No. 1 State priority here in the Congress. This bill answers that call.

In 1994, the voters of California sent a very loud message all the way here to Washington, DC, all the way to the floor of this Congress: Immigration, a Federal responsibility, needs to be looked after by the Federal Government. Illegal immigration, which affects California disproportionately; we have over half the illegal immigrants in America in our State, needs to be looked after.

Prop 187 was simple. It denied welfare and social service benefits to illegal aliens. This bill will fulfill that promise at the Federal level. This bill and amendments that Chairman SMITH has made in order on the floor will succeed in ensuring that the procedures for deporting people who are in the country illegally and who should be sent back to their own countries, that those procedures will be streamlined, that it will not take forever and a day to go through the judicial process for this purpose. It will add sufficient Border Patrol agents, 10,000 of them, so that we can actually enforce the law. It will end welfare dependency among illegal aliens by tightening the existing restrictions against receipt of benefits by illegal aliens and putting teeth into the sponsorship regulations that have been long on the books, but never enforced. This law will permit us to enforce them.

There is something else that the gentleman from Texas [Mr. SMITH], the chairman, has permitted to come to the floor in his manager's amendment that I think is going to be very, very important for us in southern California. Residents of Orange County were reminded of the costly delays in the current deportation process 6 months ago when Officer Tim Garcia of the Anaheim Police Force was shot and seriously wounded by an illegal alien with a criminal record. This was not an isolated instance in Anaheim. A recent 60-day survey indicates that 35 percent of all the inmates sent to the Anaheim jail are illegal aliens. The manager's amendment in this bill is going to correct this tragedy through the establishment of a 6-month project in Anaheim which will lead the way for the rest of the country. An INS agent will be stationed, the city of Anaheim's incarceration facilities to perform frontline documentation and appropriate questioning of criminally charged suspected illegal aliens.

This and other provisions to this bill make it a remarkable achievement. I want to congratulate the bipartisan leadership that has brought this bill to the floor. It is, in fact, a bipartisan effort, and it is long overdue.

Mr. BRYANT of Texas. Mr. Chairman, I yield the balance of my time to the gentleman from California [Mr. BECERRA].

The CHAIRMAN. The gentleman from California is recognized for 4½ minutes.

Mr. BECERRA. Mr. Chairman, I would like to spend the remainder of the time that we have on this side to engage the chairman of the subcommittee in a colloquy and also discuss some aspects of this bill that are of concern.

First, before we engage in the colloquy, I mention one of the principal areas of concern that is in the minds of a number of Members on both sides of the aisle, and that is, of course, the system that requires employers to conduct checks, verification processes, and I understand that the chairman has changed the bill so it no longer is a mandatory verification system, but now a voluntary system, voluntary for the employers, not voluntary for those who are seeking employment.

The concern, of course, is that there are some very glaring statistics that must be dealt with. I know the chairman had mentioned some of this in the past, but I think it bears reiterating.

First, people must understand that in this country, the size of this country, we have about 66 million job transactions that occur every year. That means either someone is hired or someone changes jobs 66 million times each year in this country.

Now we are told by the Social Security Administration and the INS that they are in the process of cleaning up their data bases that maintain records on most people in this country; INS, most people who have immigrated into this country. Yet, a recent quote from a Social Security Administration official in the Los Angeles Times said that we can expect any verification system employing the Social Security System's data base to have error rates of up to 20 percent in the first years, and by the time they worked out the glitches, a 5-percent error rate.

I must tell my colleagues that when we are told that there will be an error rate of perhaps as high or as low as 5 percent, and we are talking about 66 million job transactions in 1 year, that is well over 3 million people in this country who may be denied their livelihood. That is, to me, a dramatic introduction of a system at a government level that will intrude on the privacy and the protections that we, as Americans, have grown accustomed to having. That concerns me.

But let me focus on one particular aspect of the verification process that is of concern to me, and I must say that the gentleman from Texas [Mr. SMITH], the chairman of the subcommittee, was actually very supportive and helpful in getting a particular amendment I had in the subcommittee admitted into the bill, accepted into the bill. That was an amendment that makes sure that, to the degree that we have a verification system, we try to avoid discrimination. An employer who is not out there invidiously, trying to discriminate against people because of racial or ethnic hatred, but because it is a business practice for somebody to want to be able to make a profit and have skilled employees will take a look at some employees and say, ''Well, you look American. You don't. Why should I go through the hassles of trying to verify your status if I can get a good, qualified American who is just as qualified?''

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We put into the bill, with the help of the chairman of the subcommittee, an amendment that said let us put in a checker system, a tester program, so we would have a system where someone could act as a qualified applicant for a job, go to the employer, present himself or herself and, although acting as a checker or tester, check to find out if this employer is automatically discriminating against some people who may look or sound foreign. We got that accepted in subcommittee. It stayed in the full committee. Now it is out. We had what I thought was good bipartisan compromise which now is out.

Mr. Chairman, I would like to engage the chairman in a colloquy as to why we see that particular tester provision stricken from the bill, which would help prevent discrimination against American citizens and those legally entitled to work in this country.

Mr. SMITH of Texas. Mr. Chairman, will the gentleman yield?

Mr. BECERRA. I yield to the gentleman from Texas.

Mr. SMITH of Texas. Mr. Chairman, let me respond to my friend, the gentleman from California, by saying first of all, I do distinguish the bill as it is currently written with a volunteer verification system from the mandatory verification system that we had at the phase of the subcommittee. It was for that reason we felt we could distinguish the two and take out the testers.

I want to say that the amendment that is going to be offered in the next day or two by the gentleman from California [Mr. GALLEGLY], to make the verification system mandatory does include the testers provisions, so that is more of a parallel. We had it mandatory in subcommittee, the testers are still in the amendment, making the verification system.

Mr. BECERRA. But the bill itself no longer has that tester section. It was taken out of the bill, before the bill was coming to the House.

Mr. SMITH of Texas. Mr. Chairman, the bill does not have it now. If the gentleman believes the gentleman from California, he can support the amendment.

Mr. Chairman, I yield the balance of my time to the gentleman from Virginia [Mr. GOODLATTE], to my knowledge the only Member who was a practicing immigration attorney before he came to this Chamber.

Mr. GOODLATTE. Mr. Chairman, I thank the gentleman for yielding time to me, and for his fine work on this bill.

Mr. Chairman, we are a nation of immigrants. My grandfather emigrated to this country from Germany in the early part of this century. My wife's parents both emigrated to this country from Ireland after World War II. I daresay there is not a person in this room who cannot go back but a few generations and find a member of their family who came to this country. It is an important principle. We remain a shining beacon of much hope for people around the world, and under the bill we will remain so.

However, Mr. Chairman, we have gone too far. We have a very serious problem that is out of control with regard to illegal immigration and we have a legal immigration problem in this country that is badly in need of reform. This bill goes in tremendous strides to taking care of that problem. It is vitally important that we keep both of those aspects together in this bill. Legal immigration and illegal immigration are related to each other in so many ways. It is vitally important that we keep both in mind as we work to reform this very important process.

Mr. Chairman, we do a number of things to crack down on illegal immigration, which the Immigration Service says now numbers more than 4 million people in this country without authorization. I would suggest that that estimate is very, very low, based upon my experience. This is a problem that covers every aspect of our country. This bill increases border enforcement agents, it increases barriers at the border, it increases penalties for alien smuggling, it increases penalties for document fraud, a serious problem with people who enter legally but then get fraudulent documents to remain here.

It has provisions to expedite the removal of deportable aliens. It has the authority for the Attorney General to designate to State and local governments the ability to assist in apprehending those who are illegally here. It has a very excellent employer verification program.

I will support the amendment that makes that mandatory on a trial basis in five of the seven States that have the largest problem with illegal immigration. This bill reforms our agricultural worker program, and it has restrictions on benefits to aliens. It is an outstanding bill. I encourage all Members of the House to support it.

Ms. HARMAN. Mr. Chairman, the people of my district have been sending a strong message since the day I first took office: Stop illegal immigration. I have been listening carefully. I was a member of the bipartisan House task force on immigration which made many of the recommendations on which H.R. 2202 is based. That's why I rise today in support of H.R. 2202, which will give the Federal Government the tools necessary to take control of illegal immigration.

The long history of this issue demonstrates that we cannot stop illegal immigration without firmer controls on our borders. The bill before us does so. It gives the Border Patrol the resources necessary to cut down illegal border crossings by adding 5,000 new agents by the end of the century. It also equips Border Patrol officers with the equipment and technology they need to stem the flow of illegal entrants and to outfox the increasingly sophisticated alien smuggling rings which bring thousands of illegal aliens to our country each year.

H.R. 2202 also gives the Immigration and Naturalization Service new tools to identify and deport the large proportion of illegal aliens who come here legally but brazenly overstay their visas in order to obtain American jobs.

But in order to truly address the issue of illegal immigration, we must also take a hard look at what entices citizens of other nations to skirt our laws and enter our country illicitly. An effective policy to deter illegal immigration must counter the attraction of American jobs and benefits. It must find ways to make it virtually impossible for anyone to come to the United States illegally and expect to earn an income.

This bill is an important first step in implementing such a policy. It is strong on workplace enforcement, levying heavy fines on those employers who prefer to hire cheap undocumented workers at the expense of American labor and in violation of the law. It also provides new eligibility verification programs and improved identification documents to keep undocumented workers from obtaining employment and to protect the vast majority of American businesses who would never willingly hire an undocumented worker. In addition, it creates new anticounterfeiting laws to crack down on those who would profit from attempts to skirt worker-verification laws.

Mr. Chairman, the strong curbs on illegal immigration that this bill would put in place are of critical importance to the people of my district, to southern California, and to the Nation.

I urge my colleagues to reject attempts to weigh this bill down with new guestworker programs and, as the daughter of immigrants, I strongly urge the House to reject poorly thoughtout caps on legal immigration.

We must act on illegal immigration, and we must act today. It's important to the success of our efforts that we do it the right way.

Mr. WELDON of Florida. Mr. Chairman, this bill benefits American families, workers, and taxpayers by reducing illegal immigration and reforming legal immigration. We live in a nation built upon the very principle of immigration and open borders. However, the generosity of this great Nation has been abused and those violating and abusing our laws have made a mockery of them.

Our Nation has always welcomed legal immigrants that contribute to our society, and nothing will change with this bill. H.R. 2202 will reign in problems that are spiraling out of control. As we debate this bill, illegal aliens comprise one-fourth of our Federal prison population. And 2 million illegal aliens—one-half of the estimated 4 million illegal aliens in the country—use fraudulent documents to illegally obtain jobs and benefits. These jobs and benefits come straight out of the taxpayers' pockets, costing them billions. This is simply unacceptable. Illegal aliens are draining our scarce national resources.

There has been much debate over the content of legal immigration reform in this bill. I feel strongly that we must keep legal immigration as a part of this measure, especially since much of the illegal immigration is driven by problems in the legal immigration system. The American people support legal immigration reform—in fact, a recent Teeter poll shows that people support a 5-year ban on illegal and legal immigration. Now, this bill does not ban legal immigration, but it does significantly reform it. We cannot ignore the wishes of the American people as we consider this important legislation. We have a responsibility to reform these laws and we must not shrink from it.

H.R. 2202 is supported by a diverse coalition of organization across the country and cuts across all political, religious, racial, and socioeconomic lines. We must not ignore this strong message from the American people. Support immigration reform and support H.R. 2202.

Mrs. MEYERS of Kansas. Mr. Speaker, I rise in strong support of this bill. As an American, I feel extremely proud to live in a society that serves as such a beacon of light to the world that millions of people are willing to risk everything to come and live here. But, as a society, we cannot have an immigration policy geared solely to the desires of those who wish to come here to better their lives. We must also take into account the needs and desires of the people who live here already, and develop an immigration policy that is geared toward what is best for America. After all, the number of people around the world who would like to move to America if they could, probably numbers in the hundreds of millions. We obviously can't let them all in.

In the last 30 years since the passage of the 1965 Immigration Act, more than 18 million legal immigrants have come to this country. This is 30 percent of all the immigration to the United States since the settlement of Jamestown in 1607. This great wave of immigration has occurred not when there was a vast, unoccupied continent to populate, but when our country was already the fourth (and now the third) most populated country in the world. China is No. 1, and India is No. 2. The Soviet Union, when it existed was No. 3.

There is a legitimate debate about what the Nation's needs are concerning immigration. However, there can be no doubt about what the desires of the American people are. An overwhelming majority—between 74 and 82 percent according to polls—of the American people want to see immigration significantly reduced. As elected leaders in a representative democracy, we have the obligation to take that degree of sentiment into account when forming policy.

So what are our Nation's needs concerning immigration? Is immigration really necessary?

America certainly doesn't have the same need for immigration that it did in the 19th century, that of rolling back the frontier and supplying the labor force for a rapidly industrializing economy.

For the United States, immigration is not a necessity. Some say that they do the tough, less desirable jobs that Americans won't. But if the immigrants weren't here, does anyone really think we would simply let those jobs go undone?

Then there is the argument that we need foreign scientists and technicians to make up for the lack of Americans who have the necessary skills. Now one thing that comes immediately to mind is that Japan doesn't appear to have a lack of skilled engineers and scientists, despite no immigration. How much of this supposed shortfall could be fixed by tracking more American students into technical fields and fixing our educational system so that our students are actually taught science and math rather than self-esteem and multiculturalism? Finally, there are recent studies that indicate that there is actually an oversupply of engineers and scientists in the United States caused by immigration, and that computer professionals laid-off from defense contractors can't get new jobs because companies would rather hire immigrants for less.

We must recognize that our current immigration law is not geared toward skilled immigrants but rather toward what is called family reunification. Less than one-fifth of legal immigrants are admitted to this country for employment purposes, and the immigration reform legislation pending would not reduce employment-related immigration significantly. Under current law, an immigrant's chances of coming to America are much more likely to be based on who he knows rather than what he knows. Spouses, adult children, and siblings of immigrants all get preference over immigrants with skills and no relatives. There are some countries where the family preference backlog is 16 years, or more. In those countries, it's virtually impossible for an employment-based immigrant to get a visa. In fact, our family reunification policy allows a sibling to immigrate, go back to the old country to marry, and bring that spouse to this country, reunifying a family that was never disunited.

In closing, I would like to say that our decision on immigration should be based on what is likely to cause the least harm to our Nation if the decision we make turns out to be wrong, and how easy or difficult the mistake would be to correct. If we cut back on immigration too sharply, we would eventually discover that we were starting to experience a labor shortage. We would see that wages for certain kinds of jobs were increasing. And we could improve our educational facilities so that enough native-born Americans acquire the needed skills to fill the important ones. Besides, it's easy to let a few more immigrants in if we have to. But, if it turns out we are letting in too many immigrants, how will we deal with exploding public assistance rolls, ethnic strife, and environmental degradation? It won't be quite as easy to make people leave. Please join me in supporting H.R. 2202.

I would like to congratulate Mr. SMITH who has worked with everyone to develop a workable bill; and also Mr. GALLEGLY who has been working consistently during his 10 years in the House and is Chair of the task force on immigration.

Mr. BEREUTER. Mr. Chairman, as an original cosponsor of H.R. 2202, the Immigration in the National Interest Act, this Member rises in the strongest possible support of this important legislative proposal.

Mr. Chairman, the current U.S. immigration system is urgently in need of reform. It is inconsistent with the needs and capabilities of American society, and the citizens of this country know it first-hand. For the last 20 years, countless surveys taken on immigration reform have shown that the vast majority of Americans have consistently supported efforts to reform this country's antiquated immigration laws—95 percent of those who responded to a recent questionnaire sent to this Member's constituency agreed that border officials should be given more resources to crack down on illegal immigration.

While this Member fully realizes the contributions of legal immigration on this State and the Nation, he also agrees with the American people that serious immigration reform is needed. An immigration system that burdens public assistance programs and that allows illegal workers to enter the American job market is a system that cannot be supported by the American taxpayer or the American worker. Furthermore, Mr. Speaker, an immigration system with an official backlog of well over 1 million individuals seeking to legally gain citizenship in this country is a system that keeps families apart for undue lengths of time and encourages illegal immigration.

On the issue of refugee admissions, Mr. Chairman, this Member urges his colleagues not to be fooled by the alarmist rhetoric surrounding this debate.The refugee admissions provision of this act is consistent with the recommendations of the bipartisan U.S. Commission on Immigration Reform, chaired by the late distinguished Member from Texas, Ms. Barbara Jordan.

Moreover, contrary to what some people contend, the refugee levels in the bill are totally consistent with projected refugee levels. The Immigration in the National Interest Act sets refugee admissions at a target level of 75,000 for 1997 and 50,000 per year thereafter.

What H.R. 2202 does, Mr. Chairman, is very simply to restore the Congressional prerogative in establishing American refugee policy, including in the area of annual admission numbers. While the bill precludes unilateral increases by the executive branch in determining refugees admissions, it nevertheless gives the President sufficient flexibility to meet humanitarian emergencies by admitting additional refugees. The legislation underscores an important principle contained in the recommendations of the Immigration Commission: That is, that the United States cannot abandon its commitment to resettle refugees as a key element of the international system to protect the persecuted. H.R. 2202 honors that commitment, Mr. Chairman, in a compassionate and balanced manner.

This Member urges his colleagues to oppose any effort to diminish the legislative role in setting refugee admissions policy and to retain the refugee provisions in the bill. The Immigration in the National Interest Act will ensure that refugee admissions will be maintained at reasonable levels and that Congress will maintain its role in the admissions process.

This Member would like to offer the most enthusiastic commendations to the chairman of the subcommittee on Immigration and Claims, the distinguished gentleman from Texas [Mr. SMITH], for his steadfast efforts to bring comprehensive immigration reform legislation before the House and to see it enacted. Mr. Chairman, H.R, 2202 would take appropriate steps toward reforming U.S. immigration laws so that they reflect the interests and common sense of the American people.

Mr. STUMP. Mr. Chairman, as a strong advocate of immigration reform, I am extremely pleased that the House has turned its attention to an issue that has a growing impact on our lives and is very important to those we represent. Due to the hard work and perseverance of our colleague, Representative LAMAR SMITH, we are considering a sweeping bill that contains strong deterrents to illegal immigration, reduces legal immigration levels, and improves the priorities of legal immigration admission. This bill, the Immigration in the National Interest Act (H.R. 2202), takes an important step toward returning our immigration policies to their original intent: to serve our national interest and make America a better place for citizens and immigrants alike. I commend Representative SMITH for his willingness to confront this complex and emotionally charged issue.

As with any public policy debate, a thorough understanding of the subject's history is essential to thoughtful and productive discussion. This is particularly true with legal immigration. Unfortunately, those who oppose immigration reform frequently invoke the unjust argument that reform violates the tradition of immigration and disparages the contributions immigrants have made to our society. Such assertions irrationally and unfairly shift the immigration debate from immigration policy to immigrants themselves. Immigrants who come in this country legally are not to blame for the problems associated with immigration. The problems stem from a bad immigration policy that allows for unmanageable levels of immigrants. Under a well-regulated immigration system, immigrants can and will continue to make great contributions to our country.

Mr. Chairman, current immigration policy can hardly be called traditional. To the contrary, our current policy flouts immigration tradition. Before 1965, immigration numbers went through surges and lulls every few years. These lulls allowed for assimilation, enhancing the ability of immigrants to reach educational and economic parity with citizens. Since 1965, there have been no lulls, only a steep climb. From the founding of our Nation in 1776 until 1965, immigration traditionally averaged 230,000 people a year. Abruptly, in the 1970's and 1980's, immigration escalated above the traditional level of 230,000 to more than 500,000 a year. In the 1990's, immigration has been running around 1 million a year.

Largely to blame for this persistent swell in immigration is a series of ill-conceived amendments to our immigration laws, beginning in 1965. The most notable repercussions of the amendments are chain migration, huge backlogs of immigrants waiting to come to the United States, extended family reunification at the expense of nuclear families, and illegal immigration. The mass immigration fueled by these adverse changes to our immigration policy has resulted in overwhelmed public benefit programs, overcrowded schools, hospitals and prisons, and created undue job competition and language barriers. Moreover, our out-of-

control immigration system places an enormous burden on American taxpayers. Recent analyses by the Center for Immigration Studies have concluded that immigrants cost us at least $30 billion per year. I strongly encourage my colleagues to keep these points in mind as we debate this bill.

As for illegal immigration, H.R. 2202 will help restore integrity to our borders and send a strong message to those who would defy our immigration laws that their actions will not be tolerated. I am particularly encouraged by the bill's provisions to reform asylum, increase border security, and eliminate the welfare magnet that draws aliens across the border illegally. In fact, I have sponsored legislation that mirrors these provisions. The only essential element I find missing from the bill is a provision to end automatic-birthright citizenship, and I look forward to future debate on this issue. Clearly, H.R. 2202 is the product of an extensive analysis of the defects in our laws that drive illegal immigration. It is my most sincere hope that as this bill moves through the legislative process, these provisions are not weakened.

While I support the bill's anti-illegal immigration components, I must admit that I am not as enthusiastic about its reforms of legal immigration. Without question, it is an improvement over our current system. However, by his own admission, Representative SMITH's bill will permit higher legal immigration levels than during 65 of the past 70 years, or more than 700,000 legal immigrants per year. This is just a modest cut from the 1994 legal immigration level of about 800,000. As the sponsor of legislation to place a limited, temporary moratorium on legal immigration that would reduce immigration to a more historic level, I cannot completely endorse the bill before us. I believe that the legal immigration levels in H.R. 2202 are too high to efficiently curb the country's immigration-related problems. In addition, the levels in the bill do not accurately reflect the views of most Americans who favor a more moderate flow of immigration. As an example, a recent Roper poll of people across the country showed that 70 percent of all respondents support a level of immigration below 300,000 per year. According to the poll, this view is supported by 52 percent of Hispanics, 73 percent of blacks, 72 percent of conservatives, 71 percent of moderates, 66 percent of liberals, 72 percent of Democrats, and 70 percent of Republicans. In view of this data and a host of similar immigration polls that are as compelling, H.R. 2202 does not completely respond to the public's concerns about immigration. Consequently, I will continue my efforts on behalf of lower, more manageable immigration levels.

Mr. Chairman, immigration is beneficial and practical only when it is governed by sensible, clearly defined goals that are suited to our Nation's interests and needs. Regrettably, our current system lacks such goals. I fear that if we allow our dysfunctional immigration policies to continue, the positive aspects of immigration will be forgotten and immigration will be viewed as chaotic and destructive to the well being of our country. I strongly urge my colleagues to support immigration reform.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill, modified by the amendment printed in part 1 of House Report 104–483, is considered as an original bill for the purpose of amendment and is considered as having been read.

The text of the amendment in the nature of a substitute, as modified, is as follows:

H.R. 2202

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

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

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

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

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

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

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

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

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

Subtitle A—Improved Enforcement at Border

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

Subtitle B—Pilot Programs

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

Subtitle C—Interior Enforcement

Sec. 121. Increase in personnel for interior enforcement.

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

Subtitle A—Enhanced Enforcement and Penalties Against Alien Smuggling

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

Subtitle B—Deterrence of Document Fraud

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

Subtitle C—Asset Forfeiture for Passport and Visa Offenses

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

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

Subtitle A—Revision of Procedures for Removal of Aliens

Sec. 300. Overview of changes in removal procedures.
Sec. 301. Treating persons present in the United States without authorization as not admitted.
Sec. 302. Inspection of aliens; expedited removal of inadmissible arriving aliens; referral for hearing (revised section 235).
Sec. 303. Apprehension and detention of aliens not lawfully in the United States (revised section 236).
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TITLE I—DETERRENCE OF ILLEGAL IMMIGRATION THROUGH IMPROVED BORDER ENFORCEMENT, PILOT PROGRAMS, AND INTERIOR ENFORCEMENT

Subtitle A—Improved Enforcement at Border

SEC. 101. BORDER PATROL AGENTS AND SUPPORT PERSONNEL.

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

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

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

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

(2) be actively engaged in law enforcement activities related to such illegal crossings.

SEC. 102. IMPROVEMENT OF BARRIERS AT BORDER.

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

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

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

the existing reinforced fence, and for roads between the fences.

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

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

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

(d) FORWARD DEPLOYMENT.—

(1) IN GENERAL.—The Attorney General shall forward deploy existing border patrol agents in those areas of the border identified as areas of high illegal entry into the United States in order to provide a uniform and visible deterrent to illegal entry on a continuing basis.

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

SEC. 103. IMPROVED BORDER EQUIPMENT AND TECHNOLOGY.

The Attorney General is authorized to acquire and utilize, for the purpose of detection, interdiction, and reduction of illegal immigration into the United States, any Federal equipment (including fixed wing aircraft, helicopters, four-wheel drive vehicles, sedans, night vision goggles, night vision scopes, and sensor units) determined available for transfer by any other agency of the Federal Government upon request of the Attorney General.

SEC. 104. IMPROVEMENT IN BORDER CROSSING IDENTIFICATION CARD.

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

(b) EFFECTIVE DATES.—

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

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

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

SEC. 105. CIVIL PENALTIES FOR ILLEGAL ENTRY.

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

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

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

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

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

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

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

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

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

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General such sums as may be necessary to provide for detention and prosecution of each alien who commits an act that constitutes a violation of section 275(a) of the Immigration and Nationality Act if the alien has committed such an act on two previous occasions. Funds appropriated pursuant to this subsection are authorized to remain available until expended.

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

SEC. 107. INSERVICE TRAINING FOR THE BORDER PATROL.

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

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

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

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

Subtitle B—Pilot Programs

SEC. 111. PILOT PROGRAM ON INTERIOR REPATRIATION.

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

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

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

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

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

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

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

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

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

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

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

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

(b) REPORT.—

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

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

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

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

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

(D) The estimated cost of establishing a national system to verify the departure from the United States of aliens admitted temporarily as nonimmigrants.

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

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

Subtitle C—Interior Enforcement

SEC. 121. INCREASE IN PERSONNEL FOR INTERIOR ENFORCEMENT.

Subject to the availability of appropriations, the Attorney General shall provide for an increase in the number of investigators and enforcement personnel of the Immigration and Naturalization Service who are deployed in the interior so that the number of such personnel is adequate properly to investigate violations of, and to enforce, immigration laws.

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

Subtitle A—Enhanced Enforcement and Penalties Against Alien Smuggling

SEC. 201. WIRETAP AUTHORITY FOR ALIEN SMUGGLING INVESTIGATIONS.

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

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

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

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

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

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

SEC. 202. RACKETEERING OFFENSES RELATING TO ALIEN SMUGGLING.

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

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

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

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

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

SEC. 203. INCREASED CRIMINAL PENALTIES FOR ALIEN SMUGGLING.

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

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

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

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

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

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

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

(1) in subparagraph (B)—

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

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

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

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

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

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

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

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

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

SEC. 205. UNDERCOVER INVESTIGATION AUTHORITY.

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

''UNDERCOVER INVESTIGATION AUTHORITY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''Sec. 294. Undercover investigation authority.''.

Subtitle B—Deterrence of Document Fraud

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

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

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

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

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

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

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

''(4) a fine under this title or imprisonment for not more than 25 years, or both, if the offense is committed to facilitate an act of international terrorism (as defined in section 2331(1) of this title); and''.

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

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

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

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

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

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

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

SEC. 212. NEW CIVIL PENALTIES FOR DOCUMENT FRAUD.

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

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

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

(3) by adding at the end the following:

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

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

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

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

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

SEC. 213. NEW CIVIL PENALTY FOR FAILURE TO PRESENT DOCUMENTS AND FOR PREPARING IMMIGRATION DOCUMENTS WITHOUT AUTHORIZATION.

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

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

(2) by striking the period at the end of paragraph (5) and inserting a comma; and

(3) by inserting after paragraph (5) the following new paragraphs:

''(6) to present before boarding a common carrier for the purpose of coming to the United States a document which relates to the alien's eligibility to enter the United States and to fail to present such document to an immigration officer upon arrival at a United States port of entry, or

''(7) to prepare or assist in the preparation and submission of immigration forms, petitions, and applications if the person or entity is not authorized to represent aliens, or to prepare or assist in the preparation and submission of such forms, petitions, and applications pursuant to regulations promulgated by the Attorney General.''; and

(4) by adding at the end the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(f) Whoever knowingly makes any false statement or claim that he is a citizen of the United States in order to register to vote or to vote in any Federal, State, or local election (including an initiative, recall, or referendum)—''.

Subtitle C—Asset Forfeiture for Passport and Visa Offenses

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

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

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

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

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

SEC. 222. SUBPOENAS FOR BANK RECORDS.

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

SEC. 223. EFFECTIVE DATE.

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

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

Subtitle A—Revision of Procedures for Removal of Aliens

SEC. 300. OVERVIEW OF CHANGES IN REMOVAL PROCEDURES.

This subtitle amends the provisions of the Immigration and Nationality Act relating to procedures for inspection, exclusion, and deportation of aliens so as to provide for the following:

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

(2) NO REWARD FOR ILLEGAL ENTRANTS OR VISA OVERSTAYERS.—Aliens who enter illegally or who overstay the period of authorized admission will have a greater burden of proof in removal proceedings and will face tougher standards for most discretionary immigration benefits, such as suspension of removal and work authorization.

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

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

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

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

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

(8) REORGANIZATION.—The provisions of the Act are reorganized to provide a more logical

progression from arrival and inspection through proceedings and removal.

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

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

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

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

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

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

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

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

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

''(v) is attempting to enter at a time or place other than as designated by immigration officers or has not been admitted to the United States after inspection and authorization by an immigration officer.''.

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

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

''(9) PRESENT WITHOUT ADMISSION OR PAROLE.—

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

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

''(i) the alien qualifies for immigrant status under subparagraphs (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1),

''(ii)(I) the alien has been battered or subject to extreme cruelty by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, or (II) the alien's child has been battered or subject to extreme cruelty by a spouse or parent of the alien (without the active participation of the alien in the battery or extreme cruelty) or by a member of the spouse's or parent's family residing in the same household as the alien when the spouse or parent consented to or acquiesced in such battery or cruelty and the alien did not actively participate in such battery or cruelty, and

''(iii) there was a substantial connection between the battery or cruelty described in subclause (I) or (II) and the alien's unlawful entry into the United States.''.

(2) TRANSITION FOR BATTERED SPOUSE OR CHILD PROVISION.—The requirements of clauses (ii) and (iii) of section 212(a)(9)(B) of the Immigration and Nationality Act, as inserted by paragraph (1), shall not apply to an alien who demonstrates that the alien first arrived in the United States before the title III–A effective date (described in section 309(a)).

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

''(A) ALIENS PREVIOUSLY REMOVED.—

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

''(ii) OTHER ALIENS.—Any alien not described in clause (i) who has been ordered removed under section 240 or any other provision of law and who again seeks admission within 10 years of the date of such removal (or at any time in the case of an alien convicted of an aggravated felony) is inadmissible.

''(iii) EXCEPTION.—Clauses (i) and (ii) shall not apply to an alien seeking admission within a period if, prior to the alien's reembarkation at a place outside the United States or attempt to be admitted from foreign contiguous territory, the Attorney General has consented to the alien's reapplying for admission.

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

''(i) IN GENERAL.—Any alien who was unlawfully present in the United States for an aggregate period totaling 1 year is inadmissible unless the alien has remained outside the United States for a period of 10 years.

''(ii) EXCEPTIONS.—

''(I) MINORS.—No period of time in which an alien is under 18 years of age shall be taken into account in determining the period of unlawful presence in the United States under clause (i).

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

''(III) ALIENS WITH WORK AUTHORIZATION.—No period of time in which an alien is provided authorization to engage in employment in the United States (including such an authorization under section 244A(a)(1)(B)), or in which the alien is the spouse of such an alien, shall be taken into account in determining the period of unlawful presence in the United States under clause (i).

''(IV) FAMILY UNITY.—No period of time in which the alien is a beneficiary of family unity protection pursuant to section 301 of the Immigration Act of 1990 shall be taken into account in determining the period of unlawful presence in the United States under clause (i).

''(V) BATTERED WOMEN AND CHILDREN.—Clause (i) shall not apply to an alien described in paragraph (9)(B).

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

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

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

''(iv) WAIVER.—In the case of an alien who is the spouse, parent, or child of a United States citizen or the spouse or child of a permanent resident alien, the Attorney General may waive clause (i) for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

''(v) NATIONAL INTEREST WAIVER.—The Attorney General may waive clause (i) if the Attorney General determines that such a waiver is necessary to substantially benefit—

''(I) the national security, national defense, or Federal, State, or local law enforcement;

''(II) health care, housing, or educational opportunities for an indigent or low-income population or in an underserved geographical area;

''(III) economic or employment opportunities for a specific industry or specific geographical area;

''(IV) the development of new technologies; or

''(V) environmental protection or the productive use of natural resources; and

the alien will engage in a specific undertaking to advance one or more of the interests identified in subclauses (I) through (V).''.

(d) WAIVER OF MISREPRESENTATION GROUND OF INADMISSIBILITY FOR CERTAIN ALIENS.—Subsection (i) of section 212 is amended to read as follows:

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

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

''(2) in the case of an immigrant who is the spouse or son or daughter of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Attorney General that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the lawfully resident spouse or parent of such an alien.''.

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

''(D) FORMER CITIZENS WHO RENOUNCED CITIZENSHIP TO AVOID TAXATION.—Any alien who is a former citizen of the United States who officially renounced United States citizenship and who is determined by the Attorney General to have renounced United States citizenship for the purpose of avoiding taxation by the United States is excludable.''.

(f) PROOF OF VACCINATION REQUIREMENT FOR IMMIGRANTS.—

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

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

(B) by inserting after clause (i) the following new clause:

''(ii) who seeks admission as an immigrant, or who seeks adjustment of status to the status of an alien lawfully admitted for permanent residence, and who has failed to present documentation of having received vaccination against vaccine-preventable diseases, which shall include at least the following diseases: mumps, measles, rubella, polio, tetanus and diphtheria toxoids, pertussis, influenza type B and hepatitis B, and any other vaccinations against vaccine-preventable diseases recommended by the Advisory Committee for Immunization Practices,''.

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

''in accordance with such terms, conditions, and controls, if any, including the giving of bond, as the Attorney General, in the discretion of the Attorney General after consultation with the Secretary of Health and Human Services, may by regulation prescribe;

''(2) subsection (a)(1)(A)(ii) in the case of any alien—

''(A) who receives vaccination against the vaccine-preventable disease or diseases for which the alien has failed to present documentation of previous vaccination, or

''(B) for whom a civil surgeon, medical officer, or panel physician (as those terms are defined by 42 C.F.R. 34.2) certifies, according to such regulations as the Secretary of Health and Human Services may prescribe, that such vaccination would not be medically appropriate; or

''(3) subsection (a)(1)(A)(iii) in the case of any alien, in accordance with such terms, conditions, and controls, if any, including the giving of bond, as the Attorney General, in the discretion of the Attorney General after consultation with the Secretary of Health and Human Services, may by regulation prescribe.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to applications for immigrant visas or for adjustment of status filed after September 30, 1996.

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

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

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

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

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

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

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

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

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

''SEC. 235. (a) INSPECTION.—

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

''(2) STOWAWAYS.—An arriving alien who is a stowaway is not eligible to apply for admission or to be admitted and shall be ordered removed upon inspection by an immigration officer. Upon such inspection if the alien indicates an intention to apply for asylum under section 208 or a fear of persecution, the officer shall refer the alien for an interview under subsection (b)(1)(B). A stowaway may apply for asylum only if the stowaway is found to have a credible fear of persecution under subsection (b)(1)(B). In no case may a stowaway be considered an applicant for admission or eligible for a hearing under section 240.

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

''(4) WITHDRAWAL OF APPLICATION FOR ADMISSION.—An alien applying for admission may, in the discretion of the Attorney General and at any time, be permitted to withdraw the application for admission and depart immediately from the United States.

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

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

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

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

''(i) does not indicate either an intention to apply for asylum under section 208 or a fear of persecution, the officer shall order the alien removed from the United States without further hearing or review; or

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

''(B) ASYLUM INTERVIEWS.—

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

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

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

''(I) IN GENERAL.—Subject to subclause (II), if the officer determines that an alien does not have a credible fear of persecution, the officer shall order the alien removed from the United States without further hearing or review.

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

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

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

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

''(D) LIMIT ON COLLATERAL ATTACKS.—In any action brought against an alien under section 275(a) or section 276, the court shall not have jurisdiction to hear any claim attacking the validity of an order of removal entered under subparagraph (A)(i) or (B)(iii)(I).

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

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

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

''(2) INSPECTION OF OTHER ALIENS.—

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

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

''(i) who is a crewman,

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

''(iii) who is a stowaway.

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

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

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

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

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

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

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

''(B) If the Attorney General—

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

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

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

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

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

''(d) AUTHORITY RELATING TO INSPECTIONS.—

''(1) AUTHORITY TO SEARCH CONVEYANCES.—Immigration officers are authorized to board and search any vessel, aircraft, railway car, or other conveyance or vehicle in which they believe aliens are being brought into the United States.

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

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

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

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

''(4) SUBPOENA AUTHORITY.—(A) The Attorney General and any immigration officer shall have power to require by subpoena the attendance and testimony of witnesses before immigration officers and the production of books, papers, and documents relating to the privilege of any

person to enter, reenter, reside in, or pass through the United States or concerning any matter which is material and relevant to the enforcement of this Act and the administration of the Service, and to that end may invoke the aid of any court of the United States.

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

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

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

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

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

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

''(2) may release the alien on—

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

''(B) conditional parole; but

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

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

''(c) ALIENS CONVICTED OF AGGRAVATED FELONIES.—

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

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

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

''(B) the alien was not lawfully admitted to the United States, cannot be removed because the designated country of removal will not accept the alien, and satisfies the Attorney General that the alien will not pose a danger to the safety of other persons or of property and is likely to appear for any scheduled proceeding; or

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

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

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

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

''(B) to designate and train officers and employees of the Service to serve as a liaison to Federal, State, and local law enforcement and correctional agencies and courts with respect to the arrest, conviction, and release of any alien charged with an aggravated felony; and

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

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

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

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

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

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

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

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

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

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

''INITIATION OF REMOVAL PROCEEDINGS

''SEC. 239. (a) NOTICE TO APPEAR.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(b) SECURING OF COUNSEL.—

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

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

''(c) SERVICE BY MAIL.—Service by mail under this section shall be sufficient if there is proof of attempted delivery to the last address provided by the alien in accordance with subsection (a)(1)(F).

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

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

''REMOVAL PROCEEDINGS

''SEC. 240. (a) PROCEEDING.—

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

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

''(3) EXCLUSIVE PROCEDURES.—Unless otherwise specified in this Act, a proceeding under this section shall be the sole and exclusive procedure for determining whether an alien may be admitted to the United States or, if the alien has been so admitted, removed from the United States. Nothing in this section shall affect proceedings conducted pursuant to section 238.

''(b) CONDUCT OF PROCEEDING.—

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

''(2) FORM OF PROCEEDING.—

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

''(i) in person,

''(ii) through video conference, or

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

''(B) CONSENT REQUIRED IN CERTAIN CASES.—An evidentiary hearing on the merits may only be conducted through a telephone conference with the consent of the alien involved after the alien has been advised of the right to proceed in person or through video conference.

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

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

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

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

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

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

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

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

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

''(i) upon a motion to reopen filed within 180 days after the date of the order of removal if the alien demonstrates that the failure to appear was because of exceptional circumstances (as defined in subsection (e)(1)), or

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

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

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

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

''(A) define in a proceeding before an immigration judge or before an appellate administrative body under this title, frivolous behavior for which attorneys may be sanctioned,

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

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

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

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

''(c) DECISION AND BURDEN OF PROOF.—

''(1) DECISION.—

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

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

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

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

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

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

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

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

''(5) MOTIONS TO RECONSIDER.—

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

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

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

''(6) MOTIONS TO REOPEN.—

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

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

''(C) DEADLINE.—

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

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

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

''(d) STIPULATED REMOVAL.—The Attorney General shall provide by regulation for the entry by an immigration judge of an order of removal stipulated to by the alien (or the alien's representative) and the Service. A stipulated order shall constitute a conclusive determination of the alien's removability from the United States.

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

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

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

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

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

''CANCELLATION OF REMOVAL; ADJUSTMENT OF STATUS

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

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

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

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

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

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

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

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

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

''(D) establishes that removal would result in extreme hardship to the alien or to the alien's spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence.

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

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

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

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

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

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

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

''(3) ADJUSTMENT OF STATUS.—The Attorney General may adjust to the status of an alien lawfully admitted for permanent residence any alien who the Attorney General determines meets the requirements of paragraph (1) or (2). The number of adjustments under this paragraph shall not exceed 4,000 for any fiscal year. The Attorney General shall record the alien's lawful admission for permanent residence as of the date the Attorney General's cancellation of removal under paragraph (1) or (2) or determination under this paragraph.

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

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

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

''(3) An alien who—

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

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

''(C) has not fulfilled that requirement or received a waiver thereof.

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

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

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

''(2) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—An alien shall be considered to have failed to maintain continuous physical presence in the United States under subsections (b)(1) and (b)(2) if the alien has departed from the United States for any periods in the aggregate exceeding 180 days, unless the Attorney General finds that return could not be accomplished within that time period due to emergent reasons.

''(3) CONTINUITY NOT REQUIRED BECAUSE OF HONORABLE SERVICE IN ARMED FORCES AND PRESENCE UPON ENTRY INTO SERVICE.—The requirements of continuous residence or continuous physical presence in the United States under subsections (a) and (b) shall not apply to an alien who—

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

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

''VOLUNTARY DEPARTURE

''SEC. 240B. (a) CERTAIN CONDITIONS.—

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

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

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

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

''(b) AT CONCLUSION OF PROCEEDINGS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''DETENTION AND REMOVAL OF ALIENS ORDERED REMOVED

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

''(1) REMOVAL PERIOD.—

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

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

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

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

''(iii) If the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement.

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

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

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

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

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

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

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

''(4) ALIENS IMPRISONED, ARRESTED, OR ON PAROLE, SUPERVISED RELEASE, OR PROBATION.—Except as provided in section 343(a) of the Public

Health Service Act (42 U.S.C. 259(a)), the Attorney General may not remove an alien who is sentenced to imprisonment until the alien is released from imprisonment. Parole, supervised release, probation, or possibility of arrest or further imprisonment is not a reason to defer removal.

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

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

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

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

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

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

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

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

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

''(C) ALTERNATIVE COUNTRIES.—If the government of the country designated in subparagraph (A) or (B) is unwilling to accept the alien into that country's territory, removal shall be to any of the following countries, as directed by the Attorney General:

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

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

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

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

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

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

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

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

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

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

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

''(ii) the government of the country does not inform the Attorney General finally, within 30 days after the date the Attorney General first inquires, whether the government will accept the alien into the country;

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

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

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

''(i) does not inform the Attorney General or the alien finally, within 30 days after the date the Attorney General first inquires or within another period of time the Attorney General decides is reasonable, whether the government will accept the alien into the country; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(B) the alien is a stowaway—

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

''(ii) who has requested asylum, and

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

''(2) STAY OF REMOVAL.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(I) subsection (d)(2)(A) or (d)(2)(B)(i),

''(II) subsection (d)(2)(B)(ii) or (iii) for the period of time reasonably necessary for the owner to arrange for repatriation or removal of the stowaway, including obtaining necessary travel documents, but not to extend beyond the date on which it is ascertained that such travel documents cannot be obtained from the country to which the stowaway is to be returned, or

''(III) section 235(b)(1)(B)(ii), for a period not to exceed 15 days (excluding Saturdays, Sundays, and holidays) commencing on the first such day which begins on the earlier of 72 hours after the time of the initial presentation of the stowaway for inspection or at the time the stowaway is determined to have a credible fear of persecution.

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

''(i) the alien is a crewmember;

''(ii) the alien has an immigrant visa;

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

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

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

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

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

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

''(d) REQUIREMENTS OF PERSONS PROVIDING TRANSPORTATION.—

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

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

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

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

''(A) shall detain the alien on board the vessel or aircraft, or at such place as the Attorney General shall designate, until completion of the inspection of the alien by an immigration officer;

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

''(i) for medical treatment,

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

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

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

The Attorney General shall grant a timely request to remove the stowaway under subparagraph (C) on a vessel or aircraft other than that on which the stowaway arrived if any travel documents necessary for departure or repatriation of the stowaway have been obtained and removal of the stowaway will not be unreasonably delayed.

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

''(e) PAYMENT OF EXPENSES OF REMOVAL.—

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

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

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

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

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

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

''(B) THROUGH OWNER.—

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

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

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

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

''(C) COSTS OF REMOVAL OF CERTAIN ALIENS GRANTED VOLUNTARY DEPARTURE.—In the case of an alien who has been granted voluntary departure under section 240B and who is financially unable to depart at the alien's own expense and whose removal the Attorney General deems to be in the best interest of the United States, the expense of such removal may be paid from the appropriation for the enforcement of this Act.

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

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

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

''(g) PLACES OF DETENTION.—

''(1) IN GENERAL.—The Attorney General shall arrange for appropriate places of detention for aliens detained pending removal or a decision on removal. When United States Government facilities are unavailable or facilities adapted or suitably located for detention are unavailable for rental, the Attorney General may expend from the appropriation 'Immigration and Naturalization Service—Salaries and Expenses', without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), amounts necessary to acquire land and to acquire, build, remodel, repair, and operate facilities (including living quarters for immigration officers if not otherwise available) necessary for detention.

''(2) DETENTION FACILITIES OF THE IMMIGRATION AND NATURALIZATION SERVICE.—Prior to initiating any project for the construction of any new detention facility for the Service, the Commissioner shall consider the availability for purchase or lease of any existing prison, jail, detention center, or other comparable facility suitable for such use.

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

(b) MODIFICATION OF AUTHORITY.—

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

(A) in paragraph (3)(A) by striking ''felony and sentenced to a term of imprisonment'' and inserting ''felony or two or more misdemeanors'', and

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

''(6) In this subsection, the term 'incarceration' includes imprisonment in a State or local prison or jail the time of which is counted towards completion of a sentence or the detention of an alien previously convicted of a felony or misdemeanor who has been arrested and is being held pending judicial action on new charges or pending transfer to Federal custody.''.

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

(c) MISCELLANEOUS CONFORMING AMENDMENT.—Section 212(a)(4) (8 U.S.C. 1182(a)(4)), as amended by section 621(a), is amended by striking ''241(a)(5)(B)'' each place it appears and inserting ''237(a)(5)(B)''.

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

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

(1) by redesignating subsection (j) as subsection (i) and by moving such subsection and adding it at the end of section 241, as inserted by section 305(a)(3); and

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

''JUDICIAL REVIEW OF ORDERS OF REMOVAL

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

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

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

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

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

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

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

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

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

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

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

''(3) SERVICE.—

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

''(B) STAY OF ORDER.—

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

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

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

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

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

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

''(5) TREATMENT OF NATIONALITY CLAIMS.—

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

''(B) TRANSFER IF ISSUE OF FACT.—If the petitioner claims to be a national of the United States and the court of appeals finds that a genuine issue of material fact about the petitioner's nationality is presented, the court shall transfer the proceeding to the district court of the United States for the judicial district in which the petitioner resides for a new hearing on the nationality claim and a decision on that claim as if an action had been brought in the district court under section 2201 of title 28, United States Code.

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

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

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

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

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

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

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

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

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

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

''(8) CONSTRUCTION.—This subsection—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(A) whether the petitioner is an alien,

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

''(C) whether the petitioner can prove by a preponderance of the evidence that the petitioner is an alien lawfully admitted for permanent residence and is entitled to such further inquiry as prescribed by the Attorney General pursuant to section 235(b)(1)(C).

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

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

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

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

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

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

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

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

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

''PENALTIES RELATED TO REMOVAL

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

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

''(A) willfully fails or refuses to depart from the United States within a period of 90 days from the date of the final order of removal under administrative processes, or if judicial review is had, then from the date of the final order of the court,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(1) CIVIL PENALTIES.—

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

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

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

''(2) CLEARING VESSELS AND AIRCRAFT.—

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

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

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

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

(a) CONFORMING AMENDMENT TO TABLE OF CONTENTS; OVERVIEW OF REORGANIZED CHAPTERS.—The table of contents, as amended by section 851(d)(1), is amended—

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

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

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

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

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

''Sec. 233. Entry through or from foreign contiguous territory and adjacent islands; landing stations.

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

''Sec. 235. Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing.

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

''Sec. 237. General classes of deportable aliens.

''Sec. 238. Expedited removal of aliens convicted of committing aggravated felonies.

''Sec. 239. Initiation of removal proceedings.

''Sec. 240. Removal proceedings.

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

''Sec. 240B. Voluntary departure.

''Sec. 240C. Records of admission.

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

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

''Sec. 243. Penalties relating to removal.

''Sec. 244. Temporary protected status.

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

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

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

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

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

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

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

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

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

(A) by striking the heading,

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

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

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

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

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

(7) STRIKING SECTION 244 AND REDESIGNATING SECTION 244A AS SECTION 244.—Strike section 244 and redesignate section 244A as section 244.

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

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

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) EXPEDITED PROCEDURES FOR AGGRAVATED FELONS (FORMER SECTION 242A).—Section 238 (which, previous to redesignation under section 308(b)(5), was section 242A) is amended—

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

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

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

(2) TREATMENT OF CERTAIN HELPLESS ALIENS.—

(A) CERTIFICATION OF HELPLESS ALIENS.—Section 232, as amended by section 308(b)(2), is further amended by adding at the end the following new subsection:

''(c) CERTIFICATION OF CERTAIN HELPLESS ALIENS.—If an examining medical officer determines that an alien arriving in the United States is inadmissible, is helpless from sickness, mental or physical disability, or infancy, and is accompanied by another alien whose protection or guardianship may be required, the officer may certify such fact for purposes of applying section 212(a)(10)(B) with respect to the other alien.''.

(B) GROUND OF INADMISSIBILITY FOR PROTECTION AND GUARDIANSHIP OF ALIENS DENIED ADMISSION FOR HEALTH OR INFANCY.—Subparagraph (B) of section 212(a)(10) (8 U.S.C. 1182(a)(10)), as redesignated by section 301(a)(1), is amended to read as follows:

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

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

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

is inadmissible.''.

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

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

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

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

(4) CLARIFICATION.—(A) Section 238(a)(1), which, previous to redesignation under section 308(b)(5), was section 242A(a)(1), is amended by adding at the end the following: ''Nothing in this section shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.''.

(B) Section 225 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416), as amended by section 851(b)(15), is amended by striking ''and nothing in'' and all that follows up to ''shall''.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Sections 101(f)(3), 213, 234 (before redesignation by section 308(b)), 241(a)(1) (before redesignation by section 305(a)(2)), 272(a), 277, 286(h)(2)(A)(v), and 286(h)(2)(A)(vi).

(B) Section 601(c) of the Immigration Act of 1990.

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

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

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

(4) RELATED TERMS.—

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

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

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

(D) Section 206 (8 U.S.C. 1156) is amended by striking ''excluded from admission to the United States and deported'' and inserting ''denied admission to the United States and removed''.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(S) Section 501(e)(2) of the Refugee Education Assistance Act of 1980 (Public Law 96–422) is amended—

(i) by striking ''exclusion or deportation'' each place it appears and inserting ''removal'', and

(ii) by striking ''deportation or exclusion'' each place it appears and inserting ''removal''.

(T) Section 4113(c) of title 18, United States Code, is amended by striking ''exclusion and deportation'' and inserting ''removal''.

(e) REVISION OF TERMINOLOGY RELATING TO DEPORTATION.—

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

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

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

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

(D) Section 214(k)(4)(C) (8 U.S.C. 1184(k)(4)(C)), as redesignated by section 851(a)(3)(A).

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

(F) Section 242A (8 U.S.C. 1252a), before redesignation as section 238 by subsection (b)(5).

(G) Subsections (a)(3) and (b)(5)(B) of section 244A (8 U.S.C. 1254a), before redesignation as section 244 by subsection (b)(7).

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

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

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

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

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

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

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

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

(P) Section 4113(b) of title 18, United States Code.

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

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

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

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

(D) Section 242A(c)(2)(D)(iv) (8 U.S.C. 1252a(c)(2)(D)(iv)), as amended by section 851(b)(14) but before redesignation as section 238 by subsection (b)(5).

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

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

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

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

(I) Section 4113 of title 18, United States Code.

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

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

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

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

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

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

(9) Section 217(b)(2) (8 U.S.C. 1187(b)(2)) is amended by striking ''deportation against'' and inserting ''removal of''.

(10) Section 242A (8 U.S.C. 1252a), before redesignation as section 238 by subsection (b)(6), is amended, in the headings to various subdivisions, by striking ''DEPORTATION'' and ''DEPORTATION'' and inserting ''REMOVAL'' and ''REMOVAL'', respectively.

(11) Section 244A(a)(1)(A) (8 U.S.C. 1254a(a)(1)(A)), before redesignation as section 244 by subsection (b)(8), is amended—

(A) in subsection (a)(1)(A), by striking ''deport'' and inserting ''remove'', and

(B) in subsection (e), by striking ''SUSPENSION OF DEPORTATION'' and inserting ''CANCELLATION OF REMOVAL''.

(12) Section 254 (8 U.S.C. 1284) is amended by striking ''deport'' each place it appears and inserting ''remove''.

(13) Section 273(d) (8 U.S.C. 1323(d)) is repealed.

(14)(A) Section 276 (8 U.S.C. 1326) is amended by striking ''DEPORTED'' and inserting ''REMOVED''.

(B) The item in the table of contents relating to such section is amended by striking ''deported'' and inserting ''removed''.

(15) Section 318 (8 U.S.C. 1429) is amended by striking ''suspending'' and inserting ''canceling''.

(16) Section 301(a) of the Immigration Act of 1990 is amended by striking ''DEPORTATION'' and inserting ''REMOVAL''.

(17) The heading of section 130005 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) is amended by striking ''DEPORTATION'' and inserting ''REMOVAL''.

(18) Section 9 of the Peace Corps Act (22 U.S.C. 2508) is amended by striking ''deported'' and all that follows through ''Deportation'' and inserting ''removed pursuant to chapter 4 of title II of the Immigration and Nationality Act''.

(19) Section 8(c) of the Foreign Agents Registration Act (22 U.S.C. 618(c)) is amended by striking ''deportation'' and all that follows and inserting ''removal pursuant to chapter 4 of title II of the Immigration and Nationality Act.''.

(f) REVISION OF REFERENCES TO ENTRY.—

(1) The following provisions are amended by striking ''entry'' and inserting ''admission'' each place it appears:

(A) Section 101(a)(15)(K) (8 U.S.C. 1101(a)(15)(K)).

(B) Section 101(a)(30) (8 U.S.C. 1101(a)(30)).

(C) Section 212(a)(2)(D) (8 U.S.C. 1182(a)(2)(D)).

(D) Section 212(a)(6)(C)(i) (8 U.S.C. 1182(a)(6)(C)(i)).

(E) Section 212(h)(1)(A)(i) (8 U.S.C. 1182(h)(1)(A)(i)).

(F) Section 212(j)(1)(D) (8 U.S.C. 1182(j)(1)(D)).

(G) Section 214(c)(2)(A) (8 U.S.C. 1184(c)(2)(A)).

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

(I) Section 216(b)(1)(A)(i) (8 U.S.C. 1186a(b)(1)(A)(i)).

(J) Section 216(d)(1)(A)(i)(III) (8 U.S.C. 1186a(d)(1)(A)(i)(III)).

(K) Subsection (b) of section 240 (8 U.S.C. 1230), before redesignation as section 240C by section 304(a)(2).

(L) Subsection (a)(1)(G) of section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2).

(M) Subsection (a)(1)(H) of section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2), other than the last time it appears.

(N) Paragraphs (2) and (4) of subsection (a) of section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2).

(O) Section 245(e)(3) (8 U.S.C. 1255(e)(3)).

(P) Section 247(a) (8 U.S.C. 1257(a)).

(Q) Section 601(c)(2) of the Immigration Act of 1990.

(2) The following provisions are amended by striking ''enter'' and inserting ''be admitted'':

(A) Section 204(e) (8 U.S.C. 1154(e)).

(B) Section 221(h) (8 U.S.C. 1201(h)).

(C) Section 245(e)(2) (8 U.S.C. 1255(e)(2)).

(3) The following provisions are amended by striking ''enters'' and inserting ''is admitted to'':

(A) Section 212(j)(1)(D)(ii) (8 U.S.C. 1154(e)).

(B) Section 214(c)(5)(B) (8 U.S.C. 1184(c)(5)(B)).

(4) Subsection (a) of section 238 (8 U.S.C. 1228), before redesignation as section 233 by section 308(b)(4), is amended by striking ''entry and inspection'' and inserting ''inspection and admission''.

(5) Subsection (a)(1)(H)(ii) of section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2), is amended by striking ''at entry''.

(6) Section 7 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403h) is amended by striking ''that the entry'', ''given entry into'', and ''entering'' and inserting ''that the admission'', ''admitted to'', and ''admitted to''.

(7) Section 4 of the Atomic Weapons and Special Nuclear Materials Rewards Act (50 U.S.C. 47c) is amended by striking ''entry'' and inserting ''admission''.

(g) CONFORMING REFERENCES TO REORGANIZED SECTIONS.—

(1) REFERENCES TO SECTIONS 232, 234, 238, 239, 240, 241, 242A, AND 244A.—Any reference in law in effect on the day before the date of the enactment of this Act to section 232, 234, 238, 239, 240, 241, 242A, or 244A of the Immigration and Nationality Act (or a subdivision of such section) is deemed, as of the title III–A effective date, to refer to section 232(a), 232(b), 233, 234, 234A, 237, 238, or 244 of such Act (or the corresponding subdivision of such section), as redesignated by this subtitle. Any reference in law to section 241 (or a subdivision of such section) of the Immigration and Nationality Act in an amendment made by a subsequent subtitle of this title is deemed a reference (as of the title III–A effective date) to section 237 (or the corresponding subdivision of such section), as redesignated by this subtitle.

(2) REFERENCES TO SECTION 106.—

(A) Sections 242A(b)(3) and 242A(c)(3)(A)(ii) (8 U.S.C. 1252a(b)(3), 1252a(c)(3)(A)(ii)), as amended by section 851(b)(14) but before redesignation as section 238 by subsection (b)(5), are each amended by striking ''106'' and inserting ''242''.

(B) Sections 210(e)(3)(A) and 245A(f)(4)(A) (8 U.S.C. 1160(e)(3)(A), 1255a(f)(4)(A)) are amended by inserting ''(as in effect before October 1, 1996)'' after ''106''.

(C) Section 242A(c)(3)(A)(iii) (8 U.S.C. 1252a(c)(3)(A)(iii)), as amended by section 851(b)(14) but before redesignation as section 238 by subsection (b)(5), is amended by striking ''106(a)(1)'' and inserting ''242(b)(1)''.

(3) REFERENCES TO SECTION 236.—

(A) Sections 205 and 209(a)(1) (8 U.S.C. 1155, 1159(a)(1)) are each amended by striking ''236'' and inserting ''240''.

(B) Section 4113(c) of title 18, United States Code, is amended by striking ''1226 of title 8, United States Code'' and inserting ''240 of the Immigration and Nationality Act''.

(4) REFERENCES TO SECTION 237.—

(A) Section 209(a)(1) (8 U.S.C. 1159(a)(1)) is amended by striking ''237'' and inserting ''241''.

(B) Section 212(d)(7) (8 U.S.C. 1182(d)(7)) is amended by striking ''237(a)'' and inserting ''241(c)''.

(C) Section 280(a) (8 U.S.C. 1330(a)) is amended by striking ''237, 239, 243'' and inserting ''234, 243(c)(2)''.

(5) REFERENCES TO SECTION 242.—

(A)(i) Sections 214(d), 252(b), and 287(f)(1) (8 U.S.C. 1184(d), 1282(b), 1357(f)(1)) are each amended by striking ''242'' and inserting ''240''.

(ii) Subsection (c)(4) of section 242A (8 U.S.C. 1252a), as amended by section 851(b)(14) but before redesignation as section 238 by subsection (b)(5), are each amended by striking ''242'' and inserting ''240''.

(iii) Section 245A(a)(1)(B) (8 U.S.C. 1255a(a)(1)(B)) is amended by inserting ''(as in effect before October 1, 1996)'' after ''242''.

(iv) Section 4113 of title 18, United States Code, is amended—

(I) in subsection (a), by striking ''section 1252(b) or section 1254(e) of title 8, United States Code,'' and inserting ''section 240B of the Immigration and Nationality Act''; and

(II) in subsection (b), by striking ''section 1252 of title 8, United States Code,'' and inserting ''section 240 of the Immigration and Nationality Act''.

(B) Section 130002(a) of Public Law 103–322, as amended by section 361(a), is amended by striking ''242(a)(3)(A)'' and inserting ''236(d)''.

(C) Section 242A(b)(1) (8 U.S.C. 1252a(b)(1)), before redesignation as section 238 by section 308(b)(5), is amended by striking ''242(b)'' and inserting ''240''.

(D) Section 242A(c)(2)(D)(ii) (8 U.S.C. 1252a(c)(2)(D)(ii)), as amended by section 851(b)(14) but before redesignation as section 238 by subsection (b)(5), is amended by striking ''242(b)'' and inserting ''240''.

(E) Section 1821(e) of title 28, United States Code, is amended by striking ''242(b)'' and inserting ''240''.

(F) Section 130007(a) of Public Law 103–322 is amended by striking ''242(i)'' and inserting ''239(d)''.

(G) Section 20301(c) of Public Law 103–322 is amended by striking ''242(j)(5)'' and ''242(j)'' and inserting ''241(h)(5)'' and ''241(h)'', respectively.

(6) REFERENCES TO SECTION 242B.—

(A) Section 303(d)(2) of the Immigration Act of 1990 is amended by striking ''242B'' and inserting ''240(b)(5)''.

(B) Section 545(g)(1)(B) of the Immigration Act of 1990 is amended by striking ''242B(a)(4)'' and inserting ''239(a)(4)''.

(7) REFERENCES TO SECTION 243.—

(A) Section 214(d) (8 U.S.C. 1184(d)) is amended by striking ''243'' and inserting ''241''.

(B)(i) Section 315(c) of the Immigration Reform and Control Act of 1986 is amended by striking ''243(g)'' and ''1253(g)''and inserting ''243(d)'' and ''1253(d)'' respectively.

(ii) Section 702(b) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 is amended by striking ''243(g)'' and inserting ''243(d)''.

(iii) Section 903(b) of Public Law 100–204 is amended by striking ''243(g)'' and inserting ''243(d)''.

(C)(i) Section 6(f)(2)(F) of the Food Stamp Act of 1977 (7 U.S.C. 2015(f)(2)(F)) is amended by striking ''243(h)'' and inserting ''241(b)(3)''.

(ii) Section 214(a)(5) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(a)(5)) is amended by striking ''243(h)'' and inserting ''241(b)(3)''.

(D)(i) Subsection (c)(2)(B)(ii) of section 244A (8 U.S.C. 1254a), before redesignated as section 244 by section 308(b)(7), is amended by striking ''243(h)(2)'' and inserting ''208(b)(2)(A)''.

(ii) Section 301(e)(2) of the Immigration Act of 1990 is amended by striking ''243(h)(2)'' and inserting ''208(b)(2)(A)''.

(E) Section 316(f) (8 U.S.C. 1427(f)) is amended by striking ''subparagraphs (A) through (D) of paragraph 243(h)(2)'' and inserting ''clauses (i) through (v) of section 208(b)(2)(A)''.

(8) REFERENCES TO SECTION 244.—

(A)(i) Section 201(b)(1)(D) (8 U.S.C. 1151(b)(1)(D)) and subsection (e) of section 244A (8 U.S.C. 1254a), before redesignation as section 244 by section 308(b)(7), are each amended by striking ''244(a)'' and inserting ''240A(a)''.

(ii) Section 304(c)(1)(B) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (Public Law 102–232) is amended by striking ''244(a)'' and inserting ''240A(a)''.

(B) Section 304(c)(1)(B) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (Public Law 102–232) is amended by striking ''244(b)(2)'' and inserting ''240A(b)(2)''.

(C) Section 364(a)(2) of this Act is amended by striking ''244(a)(3)'' and inserting ''240A(a)(3)''.

(9) REFERENCES TO CHAPTER 5.—

(A) Sections 266(b), 266(c), and 291 (8 U.S.C. 1306(b), 1306(c), 1361) are each amended by striking ''chapter 5'' and inserting ''chapter 4''.

(B) Section 6(b) of the Act of August 1, 1956 (50 U.S.C. 855(b)) is amended by striking ''chapter 5, title II, of the Immigration and Nationality Act (66 Stat. 163)'' and inserting ''chapter 4 of title II of the Immigration and Nationality Act''.

(10) MISCELLANEOUS CROSS-REFERENCE CORRECTIONS FOR NEWLY ADDED PROVISIONS.—

(A) Section 245(c)(6), as amended by section 332(d), is amended by striking ''241(a)(4)(B)'' and inserting ''237(a)(4)(B)''.

(B) Section 249(d), as amended by section 332(e), is amended by striking ''241(a)(4)(B)'' and inserting ''237(a)(4)(B)''.

(C) Section 276(b)(3), as inserted by section 321(b), is amended by striking ''excluded'' and ''excludable'' and inserting ''removed'' and ''inadmissible'', respectively.

(D) Section 505(c)(7), as added by section 321(a)(1), is amended by amending subparagraphs (B) through (D) to read as follows:

''(B) Withholding of removal under section 241(b)(3).

''(C) Cancellation of removal under section 240A.

''(D) Voluntary departure under section 240B.''.

(E) Section 506(b)(2)(B), as added by section 321(a)(1), is amended by striking ''deportation'' and inserting ''removal''.

(F) Section 508(c)(2)(D), as added by section 321(a)(1), is amended by striking ''exclusion because such alien is excludable'' and inserting ''removal because such alien is inadmissible''.

(G) Section 130007(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), as amended by section 851(a)(6), is amended by striking ''242A(a)(3)'' and inserting ''238(a)(3)''.

SEC. 309. EFFECTIVE DATES; TRANSITION.

(a) IN GENERAL.—Except as provided in this section and section 301(f), this subtitle and the amendments made by this subtitle shall take effect on the first day of the first month beginning more than 180 days after the date of the enactment of this Act (in this title referred to as the ''title III–A effective date'').

(b) PROMULGATION OF REGULATIONS.—The Attorney General shall first promulgate regulations to carry out this subtitle by not later than 30 days before the title III–A effective date.

(c) TRANSITION FOR ALIENS IN PROCEEDINGS.—

(1) GENERAL RULE THAT NEW RULES DO NOT APPLY.—Subject to the succeeding provisions of this subsection, in the case of an alien who is in exclusion or deportation proceedings as of the title III–A effective date—

(A) the amendments made by this subtitle shall not apply, and

(B) the proceedings (including judicial review thereof) shall continue to be conducted without regard to such amendments.

(2) ATTORNEY GENERAL OPTION TO ELECT TO APPLY NEW PROCEDURES.—In a case described in paragraph (1) in which an evidentiary hearing under section 236 or 242 and 242B of the Immigration and Nationality Act has not commenced as of the title III–A effective date, the Attorney General may elect to proceed under chapter 4 of title II of such Act (as amended by this subtitle). The Attorney General shall provide notice of such election to the alien involved not later than 30 days before the date any evidentiary hearing is commenced. If the Attorney General makes such election, the notice of hearing provided to the alien under section 235 or 242(a) of such Act shall be valid as if provided under section 239 of such Act (as amended by this subtitle) to confer jurisdiction on the immigration judge.

(3) ATTORNEY GENERAL OPTION TO TERMINATE AND REINITIATE PROCEEDINGS.—In the case described in paragraph (1), the Attorney General may elect to terminate proceedings in which there has not been a final administrative decision and to reinitiate proceedings under chapter 4 of title II the Immigration and Nationality Act (as amended by this subtitle). Any determination in the terminated proceeding shall not be binding in the reinitiated proceeding.

(4) TRANSITIONAL CHANGES IN JUDICIAL REVIEW.—In the case described in paragraph (1) in which a final order of exclusion or deportation is entered more than 30 days after the date of the enactment of this Act, notwithstanding any provision of section 106 of the Immigration and Nationality Act (as in effect as of the date of the enactment of this Act) to the contrary—

(A) in the case of judicial review of a final order of exclusion, subsection (b) of such section shall not apply and the action for judicial review shall be governed by the provisions of subsections (a) and (c) of such in the same manner as they apply to judicial review of orders of deportation;

(B) a court may not order the taking of additional evidence under section 2347(c) of title 28, United States Code;

(C) the petition for judicial review must be filed not later than 30 days after the date of the final order of exclusion or deportation; and

(D) the petition for review shall be filed with the court of appeals for the judicial circuit in which the administrative proceedings before the special inquiry officer or immigration judge were completed.

(5) TRANSITIONAL RULE WITH REGARD TO SUSPENSION OF DEPORTATION.—Paragraphs (1) and (2) of section 240A(d) of the Immigration and Nationality Act (relating to continuous residence or physical presence) shall apply to notices to appear issued after the date of the enactment of this Act.

(6) TRANSITION FOR CERTAIN FAMILY UNITY ALIENS.—The Attorney General may waive the application of section 212(a)(9) of the Immigration and Nationality Act, as inserted by section 301(b)(1), in the case of an alien who is provided benefits under the provisions of section 301 of the Immigration Act of 1990 (relating to family unity).

(d) TRANSITIONAL REFERENCES.—For purposes of carrying out the Immigration and Nationality Act, as amended by this subtitle—

(1) any reference in section 212(a)(1)(A) of such Act to the term ''inadmissible'' is deemed to include a reference to the term ''excludable'', and

(2) any reference in law to an order of removal shall be deemed to include a reference to an order of exclusion and deportation or an order of deportation.

(e) TRANSITION.—No period of time before the date of the enactment of this Act shall be included in the period of 1 year described in section 212(a)(6)(B)(i) of the Immigration and Nationality Act (as amended by section 301(c)).

Subtitle B—Removal of Alien Terrorists

PART 1—REMOVAL PROCEDURES FOR ALIEN TERRORISTS

SEC. 321. REMOVAL PROCEDURES FOR ALIEN TERRORISTS.

(a) IN GENERAL.—The Immigration and Nationality Act is amended—

(1) by adding at the end of the table of contents the following:

''TITLE V—SPECIAL REMOVAL PROCEDURES FOR ALIEN TERRORISTS

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

and

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

''TITLE V—SPECIAL REMOVAL PROCEDURES FOR ALIEN TERRORISTS

''DEFINITIONS

''SEC. 501. In this title:

''(1) The term 'alien terrorist' means an alien described in section 241(a)(4)(B).

''(2) The term 'classified information' has the meaning given such term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.).

''(3) The term 'national security' has the meaning given such term in section 1(b) of the Classified Information Procedures Act (18 U.S.C. App.).

''(4) The term 'special attorney' means an attorney who is on the panel established under section 502(e).

''(5) The term 'special removal court' means the court established under section 502(a).

''(6) The term 'special removal hearing' means a hearing under section 505.

''(7) The term 'special removal proceeding' means a proceeding under this title.

''ESTABLISHMENT OF SPECIAL REMOVAL COURT; PANEL OF ATTORNEYS TO ASSIST WITH CLASSIFIED INFORMATION

''SEC. 502. (a) IN GENERAL.—The Chief Justice of the United States shall publicly designate 5 district court judges from 5 of the United States judicial circuits who shall constitute a court which shall have jurisdiction to conduct all special removal proceedings.

''(b) TERMS.—Each judge designated under subsection (a) shall serve for a term of 5 years and shall be eligible for redesignation, except that the four associate judges first so designated shall be designated for terms of one, two, three, and four years so that the term of one judge shall expire each year.

''(c) CHIEF JUDGE.—The Chief Justice shall publicly designate one of the judges of the special removal court to be the chief judge of the court. The chief judge shall promulgate rules to facilitate the functioning of the court and shall be responsible for assigning the consideration of cases to the various judges.

''(d) EXPEDITIOUS AND CONFIDENTIAL NATURE OF PROCEEDINGS.—The provisions of section 103(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(c)) shall apply to proceedings under this title in the same manner as they apply to proceedings under such Act.

''(e) ESTABLISHMENT OF PANEL OF SPECIAL ATTORNEYS.—The special removal court shall provide for the designation of a panel of attorneys each of whom—

''(1) has a security clearance which affords the attorney access to classified information, and

''(2) has agreed to represent permanent resident aliens with respect to classified information under section 506 in accordance with (and subject to the penalties under) this title.

''APPLICATION FOR INITIATION OF SPECIAL REMOVAL PROCEEDING

''SEC. 503. (a) IN GENERAL.—Whenever the Attorney General has classified information that an alien is an alien terrorist, the Attorney General, in the Attorney General's discretion, may seek removal of the alien under this title through the filing of a written application described in subsection (b) with the special removal court seeking an order authorizing a special removal proceeding under this title. The application shall be submitted in camera and ex parte and shall be filed under seal with the court.

''(b) CONTENTS OF APPLICATION.—Each application for a special removal proceeding shall include all of the following:

''(1) The identity of the Department of Justice attorney making the application.

''(2) The approval of the Attorney General or the Deputy Attorney General for the filing of the application based upon a finding by that individual that the application satisfies the criteria and requirements of this title.

''(3) The identity of the alien for whom authorization for the special removal proceedings is sought.

''(4) A statement of the facts and circumstances relied on by the Department of Justice to establish that—

''(A) the alien is an alien terrorist and is physically present in the United States, and

''(B) with respect to such alien, adherence to the provisions of title II regarding the removal of aliens would pose a risk to the national security of the United States.

''(5) An oath or affirmation respecting each of the facts and statements described in the previous paragraphs.

''(c) RIGHT TO DISMISS.—The Department of Justice retains the right to dismiss a removal action under this title at any stage of the proceeding.

''CONSIDERATION OF APPLICATION

''SEC. 504. (a) IN GENERAL.—In the case of an application under section 503 to the special removal court, a single judge of the court shall be assigned to consider the application. The judge, in accordance with the rules of the court, shall consider the application and may consider other information, including classified information, presented under oath or affirmation. The judge shall consider the application (and any hearing thereof) in camera and ex parte. A verbatim record shall be maintained of any such hearing.

''(b) APPROVAL OF ORDER.—The judge shall enter ex parte the order requested in the application if the judge finds, on the basis of such application and such other information (if any), that there is probable cause to believe that—

''(1) the alien who is the subject of the application has been correctly identified and is an alien terrorist, and

''(2) adherence to the provisions of title II regarding the removal of the identified alien would pose a risk to the national security of the United States.

''(c) DENIAL OF ORDER.—If the judge denies the order requested in the application, the judge shall prepare a written statement of the judge's reasons for the denial.

''(d) EXCLUSIVE PROVISIONS.—Whenever an order is issued under this section with respect to an alien—

''(1) the alien's rights regarding removal and expulsion shall be governed solely by the provisions of this title, and

''(2) except as they are specifically referenced, no other provisions of this Act shall be applicable.

''SPECIAL REMOVAL HEARINGS

''SEC. 505. (a) IN GENERAL.—In any case in which the application for the order is approved under section 504, a special removal hearing shall be conducted under this section for the purpose of determining whether the alien to whom the order pertains should be removed from the United States on the grounds that the alien is an alien terrorist. Consistent with section 506, the alien shall be given reasonable notice of the nature of the charges against the alien and a general account of the basis for the charges. The alien shall be given notice, reasonable under all the circumstances, of the time and place at which the hearing will be held. The hearing shall be held as expeditiously as possible.

''(b) USE OF SAME JUDGE.—The special removal hearing shall be held before the same judge who granted the order pursuant to section 504 unless that judge is deemed unavailable due to illness or disability by the chief judge of the special removal court, or has died, in which case the chief judge shall assign another judge to

conduct the special removal hearing. A decision by the chief judge pursuant to the preceding sentence shall not be subject to review by either the alien or the Department of Justice.

''(c) RIGHTS IN HEARING.—

''(1) PUBLIC HEARING.—The special removal hearing shall be open to the public.

''(2) RIGHT OF COUNSEL.—The alien shall have a right to be present at such hearing and to be represented by counsel. Any alien financially unable to obtain counsel shall be entitled to have counsel assigned to represent the alien. Such counsel shall be appointed by the judge pursuant to the plan for furnishing representation for any person financially unable to obtain adequate representation for the district in which the hearing is conducted, as provided for in section 3006A of title 18, United States Code. All provisions of that section shall apply and, for purposes of determining the maximum amount of compensation, the matter shall be treated as if a felony was charged.

''(3) INTRODUCTION OF EVIDENCE.—The alien shall have a right to introduce evidence on the alien's own behalf.

''(4) EXAMINATION OF WITNESSES.—Except as provided in section 506, the alien shall have a reasonable opportunity to examine the evidence against the alien and to cross-examine any witness.

''(5) RECORD.—A verbatim record of the proceedings and of all testimony and evidence offered or produced at such a hearing shall be kept.

''(6) DECISION BASED ON EVIDENCE AT HEARING.—The decision of the judge in the hearing shall be based only on the evidence introduced at the hearing, including evidence introduced under subsection (e).

''(7) NO RIGHT TO ANCILLARY RELIEF.—In the hearing, the judge is not authorized to consider or provide for relief from removal based on any of the following:

''(A) Asylum under section 208.

''(B) Withholding of deportation under section 243(h).

''(C) Suspension of deportation under section 244(a).

''(D) Voluntary departure under section 244(e).

''(E) Adjustment of status under section 245.

''(F) Registry under section 249.

''(d) SUBPOENAS.—

''(1) REQUEST.—At any time prior to the conclusion of the special removal hearing, either the alien or the Department of Justice may request the judge to issue a subpoena for the presence of a named witness (which subpoena may also command the person to whom it is directed to produce books, papers, documents, or other objects designated therein) upon a satisfactory showing that the presence of the witness is necessary for the determination of any material matter. Such a request may be made ex parte except that the judge shall inform the Department of Justice of any request for a subpoena by the alien for a witness or material if compliance with such a subpoena would reveal evidence or the source of evidence which has been introduced, or which the Department of Justice has received permission to introduce, in camera and ex parte pursuant to subsection (e) and section 506, and the Department of Justice shall be given a reasonable opportunity to oppose the issuance of such a subpoena.

''(2) PAYMENT FOR ATTENDANCE.—If an application for a subpoena by the alien also makes a showing that the alien is financially unable to pay for the attendance of a witness so requested, the court may order the costs incurred by the process and the fees of the witness so subpoenaed to be paid from funds appropriated for the enforcement of title II.

''(3) NATIONWIDE SERVICE.—A subpoena under this subsection may be served anywhere in the United States.

''(4) WITNESS FEES.—A witness subpoenaed under this subsection shall receive the same fees and expenses as a witness subpoenaed in connection with a civil proceeding in a court of the United States.

''(5) NO ACCESS TO CLASSIFIED INFORMATION.—Nothing in this subsection is intended to allow an alien to have access to classified information.

''(e) INTRODUCTION OF CLASSIFIED INFORMATION.—

''(1) IN GENERAL.—When classified information has been summarized pursuant to section 506(b) or where a finding has been made under section 506(b)(5) that no summary is possible, classified information shall be introduced (either in writing or through testimony) in camera and ex parte and neither the alien nor the public shall be informed of such evidence or its sources other than through reference to the summary provided pursuant to such section. Notwithstanding the previous sentence, the Department of Justice may, in its discretion and, in the case of classified information, after coordination with the originating agency, elect to introduce such evidence in open session.

''(2) TREATMENT OF ELECTRONIC SURVEILLANCE INFORMATION.—

''(A) USE OF ELECTRONIC SURVEILLANCE.—The Government is authorized to use in a special removal proceedings the fruits of electronic surveillance and unconsented physical searches authorized under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) without regard to subsections (c), (e), (f), (g), and (h) of section 106 of that Act.

''(B) NO DISCOVERY OF ELECTRONIC SURVEILLANCE INFORMATION.—An alien subject to removal under this title shall have no right of discovery of information derived from electronic surveillance authorized under the Foreign Intelligence Surveillance Act of 1978 or otherwise for national security purposes. Nor shall such alien have the right to seek suppression of evidence.

''(C) CERTAIN PROCEDURES NOT APPLICABLE.—The provisions and requirements of section 3504 of title 18, United States Code, shall not apply to procedures under this title.

''(3) RIGHTS OF UNITED STATES.—Nothing in this section shall prevent the United States from seeking protective orders and from asserting privileges ordinarily available to the United States to protect against the disclosure of classified information, including the invocation of the military and state secrets privileges.

''(f) INCLUSION OF CERTAIN EVIDENCE.—The Federal Rules of Evidence shall not apply to hearings under this section. Evidence introduced at the special removal hearing, either in open session or in camera and ex parte, may, in the discretion of the Department of Justice, include all or part of the information presented under section 504 used to obtain the order for the hearing under this section.

''(g) ARGUMENTS.—Following the receipt of evidence, the attorneys for the Department of Justice and for the alien shall be given fair opportunity to present argument as to whether the evidence is sufficient to justify the removal of the alien. The attorney for the Department of Justice shall open the argument. The attorney for the alien shall be permitted to reply. The attorney for the Department of Justice shall then be permitted to reply in rebuttal. The judge may allow any part of the argument that refers to evidence received in camera and ex parte to be heard in camera and ex parte.

''(h) BURDEN OF PROOF.—In the hearing the Department of Justice has the burden of showing by clear and convincing evidence that the alien is subject to removal because the alien is an alien terrorist. If the judge finds that the Department of Justice has met this burden, the judge shall order the alien removed and detained pending removal from the United States. If the alien was released pending the special removal hearing, the judge shall order the Attorney General to take the alien into custody.

''(i) WRITTEN ORDER.—At the time of rendering a decision as to whether the alien shall be removed, the judge shall prepare a written order containing a statement of facts found and conclusions of law. Any portion of the order that would reveal the substance or source of information received in camera and ex parte pursuant to subsection (e) shall not be made available to the alien or the public.

''CONSIDERATION OF CLASSIFIED INFORMATION

''SEC. 506. (a) CONSIDERATION IN CAMERA AND EX PARTE.—In any case in which the application for the order authorizing the special procedures of this title is approved, the judge who granted the order shall consider each item of classified information the Department of Justice proposes to introduce in camera and ex parte at the special removal hearing and shall order the introduction of such information pursuant to section 505(e) if the judge determines the information to be relevant.

''(b) PREPARATION AND PROVISION OF WRITTEN SUMMARY.—

''(1) PREPARATION.—The Department of Justice shall prepare a written summary of such classified information which does not pose a risk to national security.

''(2) CONDITIONS FOR APPROVAL BY JUDGE AND PROVISION TO ALIEN.—The judge shall approve the summary so long as the judge finds that the summary is sufficient—

''(A) to inform the alien of the general nature of the evidence that the alien is an alien terrorist, and

''(B) to permit the alien to prepare a defense against deportation.

The Department of Justice shall cause to be delivered to the alien a copy of the summary.

''(3) OPPORTUNITY FOR CORRECTION AND RESUBMITTAL.—If the judge does not approve the summary, the judge shall provide the Department a reasonable opportunity to correct the deficiencies identified by the court and to submit a revised summary.

''(4) CONDITIONS FOR TERMINATION OF PROCEEDINGS IF SUMMARY NOT APPROVED.—

''(A) IN GENERAL.—If, subsequent to the opportunity described in paragraph (3), the judge does not approve the summary, the judge shall terminate the special removal hearing unless the judge makes the findings described in subparagraph (B).

''(B) FINDINGS.—The findings described in this subparagraph are, with respect to an alien, that—

''(i) the continued presence of the alien in the United States would likely cause serious and irreparable harm to the national security or death or serious bodily injury to any person, and

''(ii) the provision of the required summary would likely cause serious and irreparable harm to the national security or death or serious bodily injury to any person.

''(5) CONTINUATION OF HEARING WITHOUT SUMMARY.—If a judge makes the findings described in paragraph (4)(B)—

''(A) if the alien involved is an alien lawfully admitted for permanent residence, the procedures described in subsection (c) shall apply; and

''(B) in all cases the special removal hearing shall continue, the Department of Justice shall cause to be delivered to the alien a statement that no summary is possible, and the classified information submitted in camera and ex parte may be used pursuant to section 505(e).

''(c) SPECIAL PROCEDURES FOR ACCESS AND CHALLENGES TO CLASSIFIED INFORMATION BY SPECIAL ATTORNEYS IN CASE OF LAWFUL PERMANENT ALIENS.—

''(1) IN GENERAL.—The procedures described in this subsection are that the judge (under rules of the special removal court) shall designate a special attorney to assist the alien—

''(A) by reviewing in camera the classified information on behalf of the alien, and

''(B) by challenging through an in camera proceeding the veracity of the evidence contained in the classified information.

''(2) RESTRICTIONS ON DISCLOSURE.—A special attorney receiving classified information under paragraph (1)—

''(A) shall not disclose the information to the alien or to any other attorney representing the alien, and

''(B) who discloses such information in violation of subparagraph (A) shall be subject to a fine under title 18, United States Code, imprisoned for not less than 10 years nor more than 25 years, or both.

''APPEALS

''SEC. 507. (a) APPEALS OF DENIALS OF APPLICATIONS FOR ORDERS.—The Department of Justice may seek a review of the denial of an order sought in an application by the United States Court of Appeals for the District of Columbia Circuit by notice of appeal which must be filed within 20 days after the date of such denial. In such a case the entire record of the proceeding shall be transmitted to the Court of Appeals under seal and the Court of Appeals shall hear the matter ex parte. In such a case the Court of Appeals shall review questions of law de novo, but a prior finding on any question of fact shall not be set aside unless such finding was clearly erroneous.

''(b) APPEALS OF DETERMINATIONS ABOUT SUMMARIES OF CLASSIFIED INFORMATION.—Either party may take an interlocutory appeal to the United States Court of Appeals for the District of Columbia Circuit of—

''(1) any determination by the judge pursuant to section 506(a)—

''(A) concerning whether an item of evidence may be introduced in camera and ex parte, or

''(B) concerning the contents of any summary of evidence to be introduced in camera and ex parte prepared pursuant to section 506(b); or

''(2) the refusal of the court to make the findings permitted by section 506(b)(4)(B).

In any interlocutory appeal taken pursuant to this subsection, the entire record, including any proposed order of the judge or summary of evidence, shall be transmitted to the Court of Appeals under seal and the matter shall be heard ex parte.

''(c) APPEALS OF DECISION IN HEARING.—

''(1) IN GENERAL.—Subject to paragraph (2), the decision of the judge after a special removal hearing may be appealed by either the alien or the Department of Justice to the United States Court of Appeals for the District of Columbia Circuit by notice of appeal.

''(2) AUTOMATIC APPEALS IN CASES OF PERMANENT RESIDENT ALIENS IN WHICH NO SUMMARY PROVIDED.—

''(A) IN GENERAL.—Unless the alien waives the right to a review under this paragraph, in any case involving an alien lawfully admitted for permanent residence who is denied a written summary of classified information under section 506(b)(4) and with respect to which the procedures described in section 506(c) apply, any order issued by the judge shall be reviewed by the Court of Appeals for the District of Columbia Circuit.

''(B) USE OF SPECIAL ATTORNEY.—With respect to any issue relating to classified information that arises in such review, the alien shall be represented only by the special attorney designated under section 506(c)(1) on behalf of the alien.

''(d) GENERAL PROVISIONS RELATING TO APPEALS.—

''(1) NOTICE.—A notice of appeal pursuant to subsection (b) or (c) (other than under subsection (c)(2)) must be filed within 20 days after the date of the order with respect to which the appeal is sought, during which time the order shall not be executed.

''(2) TRANSMITTAL OF RECORD.—In an appeal or review to the Court of Appeals pursuant to subsection (b) or (c)—

''(A) the entire record shall be transmitted to the Court of Appeals, and

''(B) information received pursuant to section 505(e), and any portion of the judge's order that would reveal the substance or source of such information, shall be transmitted under seal.

''(3) EXPEDITED APPELLATE PROCEEDING.—In an appeal or review to the Court of Appeals pursuant to subsection (b) or (c):

''(A) REVIEW.—The appeal or review shall be heard as expeditiously as practicable and the Court may dispense with full briefing and hear the matter solely on the record of the judge of the special removal court and on such briefs or motions as the Court may require to be filed by the parties.

''(B) DISPOSITION.—The Court shall uphold or reverse the judge's order within 60 days after the date of the issuance of the judge's final order.

''(4) STANDARD FOR REVIEW.—In an appeal or review to the Court of Appeals pursuant to subsection (b) or (c):

''(A) QUESTIONS OF LAW.—The Court of Appeals shall review all questions of law de novo.

''(B) QUESTIONS OF FACT.—(i) Subject to clause (ii), a prior finding on any question of fact shall not be set aside unless such finding was clearly erroneous.

''(ii) In the case of a review under subsection (c)(2) in which an alien lawfully admitted for permanent residence was denied a written summary of classified information under section 506(b)(4), the Court of Appeals shall review questions of fact de novo.

''(e) CERTIORARI.—Following a decision by the Court of Appeals pursuant to subsection (b) or (c), either the alien or the Department of Justice may petition the Supreme Court for a writ of certiorari. In any such case, any information transmitted to the Court of Appeals under seal shall, if such information is also submitted to the Supreme Court, be transmitted under seal. Any order of removal shall not be stayed pending disposition of a writ of certiorari except as provided by the Court of Appeals or a Justice of the Supreme Court.

''(f) APPEALS OF DETENTION ORDERS.—

''(1) IN GENERAL.— The provisions of sections 3145 through 3148 of title 18, United States Code, pertaining to review and appeal of a release or detention order, penalties for failure to appear, penalties for an offense committed while on release, and sanctions for violation of a release condition shall apply to an alien to whom section 508(b)(1) applies. In applying the previous sentence—

''(A) for purposes of section 3145 of such title an appeal shall be taken to the United States Court of Appeals for the District of Columbia Circuit, and

''(B) for purposes of section 3146 of such title the alien shall be considered released in connection with a charge of an offense punishable by life imprisonment.

''(2) NO REVIEW OF CONTINUED DETENTION.—The determinations and actions of the Attorney General pursuant to section 508(c)(2)(C) shall not be subject to judicial review, including application for a writ of habeas corpus, except for a claim by the alien that continued detention violates the alien's rights under the Constitution. Jurisdiction over any such challenge shall lie exclusively in the United States Court of Appeals for the District of Columbia Circuit.

''DETENTION AND CUSTODY

''SEC. 508. (a) INITIAL CUSTODY.—

''(1) UPON FILING APPLICATION.—Subject to paragraph (2), the Attorney General may take into custody any alien with respect to whom an application under section 503 has been filed and, notwithstanding any other provision of law, may retain such an alien in custody in accordance with the procedures authorized by this title.

''(2) SPECIAL RULES FOR PERMANENT RESIDENT ALIENS.—An alien lawfully admitted for permanent residence shall be entitled to a release hearing before the judge assigned to hear the special removal hearing. Such an alien shall be detained pending the special removal hearing, unless the alien demonstrates to the court that—

''(A) the alien, if released upon such terms and conditions as the court may prescribe (including the posting of any monetary amount), is not likely to flee, and

''(B) the alien's release will not endanger national security or the safety of any person or the community.

The judge may consider classified information submitted in camera and ex parte in making a determination under this paragraph.

''(3) RELEASE IF ORDER DENIED AND NO REVIEW SOUGHT.—

''(A) IN GENERAL.—Subject to subparagraph (B), if a judge of the special removal court denies the order sought in an application with respect to an alien and the Department of Justice does not seek review of such denial, the alien shall be released from custody.

''(B) APPLICATION OF REGULAR PROCEDURES.—Subparagraph (A) shall not prevent the arrest and detention of the alien pursuant to title II.

''(b) CONDITIONAL RELEASE IF ORDER DENIED AND REVIEW SOUGHT.—

''(1) IN GENERAL.—If a judge of the special removal court denies the order sought in an application with respect to an alien and the Department of Justice seeks review of such denial, the judge shall release the alien from custody subject to the least restrictive condition or combination of conditions of release described in section 3142(b) and clauses (i) through (xiv) of section 3142(c)(1)(B) of title 18, United States Code, that will reasonably assure the appearance of the alien at any future proceeding pursuant to this title and will not endanger the safety of any other person or the community.

''(2) NO RELEASE FOR CERTAIN ALIENS.—If the judge finds no such condition or combination of conditions, the alien shall remain in custody until the completion of any appeal authorized by this title.

''(c) CUSTODY AND RELEASE AFTER HEARING.—

''(1) RELEASE.—

''(A) IN GENERAL.—Subject to subparagraph (B), if the judge decides pursuant to section 505(i) that an alien should not be removed, the alien shall be released from custody.

''(B) CUSTODY PENDING APPEAL.—If the Attorney General takes an appeal from such decision, the alien shall remain in custody, subject to the provisions of section 3142 of title 18, United States Code.

''(2) CUSTODY AND REMOVAL.—

''(A) CUSTODY.—If the judge decides pursuant to section 505(i) that an alien shall be removed, the alien shall be detained pending the outcome of any appeal. After the conclusion of any judicial review thereof which affirms the removal order, the Attorney General shall retain the alien in custody and remove the alien to a country specified under subparagraph (B).

''(B) REMOVAL.—

''(i) IN GENERAL.—The removal of an alien shall be to any country which the alien shall designate if such designation does not, in the judgment of the Attorney General, in consultation with the Secretary of State, impair the obligation of the United States under any treaty (including a treaty pertaining to extradition) or otherwise adversely affect the foreign policy of the United States.

''(ii) ALTERNATE COUNTRIES.—If the alien refuses to designate a country to which the alien wishes to be removed or if the Attorney General, in consultation with the Secretary of State, determines that removal of the alien to the country so designated would impair a treaty obligation or adversely affect United States foreign policy, the Attorney General shall cause the alien to be removed to any country willing to receive such alien.

''(C) CONTINUED DETENTION.—If no country is willing to receive such an alien, the Attorney General may, notwithstanding any other provision of law, retain the alien in custody. The Attorney General, in coordination with the Secretary of State, shall make periodic efforts to reach agreement with other countries to accept such an alien and at least every 6 months shall

provide to the attorney representing the alien at the special removal hearing a written report on the Attorney General's efforts. Any alien in custody pursuant to this subparagraph shall be released from custody solely at the discretion of the Attorney General and subject to such conditions as the Attorney General shall deem appropriate.

''(D) FINGERPRINTING.—Before an alien is transported out of the United States pursuant to this subsection, or pursuant to an order of exclusion because such alien is excludable under section 212(a)(3)(B), the alien shall be photographed and fingerprinted, and shall be advised of the provisions of subsection 276(b).

''(d) CONTINUED DETENTION PENDING TRIAL.—

''(1) DELAY IN REMOVAL.—Notwithstanding the provisions of subsection (c)(2), the Attorney General may hold in abeyance the removal of an alien who has been ordered removed pursuant to this title to allow the trial of such alien on any Federal or State criminal charge and the service of any sentence of confinement resulting from such a trial.

''(2) MAINTENANCE OF CUSTODY.—Pending the commencement of any service of a sentence of confinement by an alien described in paragraph (1), such an alien shall remain in the custody of the Attorney General, unless the Attorney General determines that temporary release of the alien to the custody of State authorities for confinement in a State facility is appropriate and would not endanger national security or public safety.

''(3) SUBSEQUENT REMOVAL.—Following the completion of a sentence of confinement by an alien described in paragraph (1) or following the completion of State criminal proceedings which do not result in a sentence of confinement of an alien released to the custody of State authorities pursuant to paragraph (2), such an alien shall be returned to the custody of the Attorney General who shall proceed to carry out the provisions of subsection (c)(2) concerning removal of the alien.

''(e) APPLICATION OF CERTAIN PROVISIONS RELATING TO ESCAPE OF PRISONERS.—For purposes of sections 751 and 752 of title 18, United States Code, an alien in the custody of the Attorney General pursuant to this title shall be subject to the penalties provided by those sections in relation to a person committed to the custody of the Attorney General by virtue of an arrest on a charge of a felony.

''(f) RIGHTS OF ALIENS IN CUSTODY.—

''(1) FAMILY AND ATTORNEY VISITS.—An alien in the custody of the Attorney General pursuant to this title shall be given reasonable opportunity to communicate with and receive visits from members of the alien's family, and to contact, retain, and communicate with an attorney.

''(2) DIPLOMATIC CONTACT.—An alien in the custody of the Attorney General pursuant to this title shall have the right to contact an appropriate diplomatic or consular official of the alien's country of citizenship or nationality or of any country providing representation services therefore. The Attorney General shall notify the appropriate embassy, mission, or consular office of the alien's detention.''.

(b) CRIMINAL PENALTY FOR REENTRY OF ALIEN TERRORISTS.—Section 276(b) (8 U.S.C. 1326(b)) is amended—

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

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

(3) by inserting after paragraph (2) the following new paragraph:

''(3) who has been excluded from the United States pursuant to subsection 235(c) because the alien was excludable under subsection 212(a)(3)(B) or who has been removed from the United States pursuant to the provisions of title V, and who thereafter, without the permission of the Attorney General, enters the United States or attempts to do so shall be fined under title 18, United States Code, and imprisoned for a period of 10 years, which sentence shall not run concurrently with any other sentence.''.

(c) ELIMINATION OF CUSTODY REVIEW BY HABEAS CORPUS.—Section 106(a) (8 U.S.C. 1105a(a)) is amended—

(1) by adding ''and'' at the end of paragraph (8),

(2) by striking ''; and'' at the end of paragraph (9) and inserting a period, and

(3) by striking paragraph (10).

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to all aliens without regard to the date of entry or attempted entry into the United States.

SEC. 322. FUNDING FOR DETENTION AND REMOVAL OF ALIEN TERRORISTS.

In addition to amounts otherwise appropriated, there are authorized to be appropriated for each fiscal year (beginning with fiscal year 1996) $5,000,000 to the Immigration and Naturalization Service for the purpose of detaining and removing alien terrorists.

PART 2—INADMISSIBILITY AND DENIAL OF RELIEF FOR ALIEN TERRORISTS

SEC. 331. MEMBERSHIP IN TERRORIST ORGANIZATION AS GROUND OF INADMISSIBILITY.

(a) IN GENERAL.—Section 212(a)(3)(B) (8 U.S.C. 1182(a)(3)(B)) is amended—

(1) in clause (i)—

(A) by striking ''or'' at the end of subclause (I),

(B) in subclause (II), by inserting ''engaged in or'' after ''believe,'', and

(C) by inserting after subclause (II) the following:

''(III) is a representative of a terrorist organization, or

''(IV) is a member of a terrorist organization which the alien knows or should have known is a terrorist organization,''; and

(2) by adding at the end the following:

''(iv) TERRORIST ORGANIZATION DEFINED.—

''(I) DESIGNATION.—For purposes of this Act, the term 'terrorist organization' means a foreign organization designated in the Federal Register as a terrorist organization by the Secretary of State, in consultation with the Attorney General, based upon a finding that the organization engages in, or has engaged in, terrorist activity that threatens the national security of the United States.

''(II) PROCESS.—At least 3 days before designating an organization as a terrorist organization through publication in the Federal Register, the Secretary of State, in consultation with the Attorney General, shall notify the Committees on the Judiciary of the House of Representatives and the Senate of the intent to make such designation and the findings and basis for designation. The Secretary of State, in consultation with the Attorney General, shall create an administrative record and may use classified information in making such a designation. Such information is not subject to disclosure so long as it remains classified, except that it may be disclosed to a court ex parte and in camera under subclause (III) for purposes of judicial review of such a designation. The Secretary of State, in consultation with the Attorney General, shall provide notice and an opportunity for public comment prior to the creation of the administrative record under this subclause.

''(III) JUDICIAL REVIEW.—Any organization designated as a terrorist organization under the preceding provisions of this clause may, not later than 30 days after the date of the designation, seek judicial review thereof in the United States Court of Appeals for the District of Columbia Circuit. Such review shall be based solely upon the administrative record, except that the Government may submit, for ex parte and in camera review, classified information considered in making the designation. The court shall hold unlawful and set aside the designation if the court finds the designation to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, lacking substantial support in the administrative record taken as a whole or in classified information submitted to the court under the previous sentence, contrary to constitutional right, power, privilege, or immunity, or not in accord with the procedures required by law.

''(IV) CONGRESSIONAL REMOVAL AUTHORITY.—The Congress reserves the authority to remove, by law, the designation of an organization as a terrorist organization for purposes of this Act.

''(V) SUNSET.—Subject to subclause (IV), the designation under this clause of an organization as a terrorist organization shall be effective for a period of 2 years from the date of the initial publication of the terrorist organization designation by the Secretary of State. At the end of such period (but no sooner than 60 days prior to the termination of the 2-year-designation period), the Secretary of State, in consultation with the Attorney General, may redesignate the organization in conformity with the requirements of this clause for designation of the organization.

''(VI) REMOVAL AUTHORITY.—The Secretary of State, in consultation with the Attorney General, may remove the terrorist organization designation from any organization previously designated as such an organization, at any time, so long as the Secretary publishes notice of the removal in the Federal Register. The Secretary is not required to report to Congress prior to so removing such designation.

''(v) REPRESENTATIVE DEFINED.—

''(I) IN GENERAL.—In this subparagraph, the term 'representative' includes an officer, official, or spokesman of the organization and any person who directs, counsels, commands or induces the organization or its members to engage in terrorist activity.

''(II) JUDICIAL REVIEW.—The determination under this subparagraph that an alien is a representative of a terrorist organization shall be subject to judicial review under section 706 of title 5, United States Code.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 332. DENIAL OF RELIEF FOR ALIEN TERRORISTS.

(a) WITHHOLDING OF DEPORTATION.—Subsection (h)(2) of section 243 (8 U.S.C. 1253), before amendment by section 307(a), is amended by adding at the end the following new sentence: ''For purposes of subparagraph (D), an alien who is described in section 241(a)(4)(B) shall be considered to be an alien for whom there are reasonable grounds for regarding as a danger to the security of the United States.''.

(b) SUSPENSION OF DEPORTATION.—Section 244(a) (8 U.S.C. 1254(a)), before amendment by section 308(b), is amended by striking ''section 241(a)(4)(D)'' and inserting ''subparagraph (B) or (D) of section 241(a)(4)''.

(c) VOLUNTARY DEPARTURE.—Section 244(e)(2) (8 U.S.C. 1254(e)(2)), before amendment by section 308(b), is amended by inserting ''under section 241(a)(4)(B) or'' after ''who is deportable''.

(d) ADJUSTMENT OF STATUS.—Section 245(c) (8 U.S.C. 1255(c)) is amended—

(1) by striking ''or'' before ''(5)'', and

(2) by inserting before the period at the end the following: '', or (6) an alien who is deportable under section 241(a)(4)(B)''.

(e) REGISTRY.—Section 249(d) (8 U.S.C. 1259(d)) is amended by inserting ''and is not deportable under section 241(a)(4)(B)'' after ''ineligible to citizenship''.

(f) EFFECTIVE DATE.—(1) The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to applications filed before, on, or after such date if final action has not been taken on them before such date.

(2) The amendments made by subsections (a) through (c) are subsequently superseded by the amendments made by subtitle A.

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

SEC. 341. DEFINITION OF STOWAWAY.

(a) STOWAWAY DEFINED.—Section 101(a) (8 U.S.C. 1101(a)) is amended by adding the following new paragraph:

''(47) The term 'stowaway' means any alien who obtains transportation without the consent of the owner, charterer, master or person in command of any vessel or aircraft through concealment aboard such vessel or aircraft. A passenger who boards with a valid ticket is not to be considered a stowaway.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 342. LIST OF ALIEN AND CITIZEN PASSENGERS ARRIVING.

(a) IN GENERAL.—Section 231(a) (8 U.S.C. 1221(a)) is amended—

(1) by amending the first sentence to read as follows: ''In connection with the arrival of any person by water or by air at any port within the United States from any place outside the United States, it shall be the duty of the master or commanding officer, or authorized agent, owner, or consignee of the vessel or aircraft, having such person on board to deliver to the immigration officers at the port of arrival, or other place designated by the Attorney General, electronic, typewritten, or printed lists or manifests of the persons on board such vessel or aircraft.'';

(2) in the second sentence, by striking ''shall be prepared'' and inserting ''shall be prepared and submitted''; and

(3) by inserting after the second sentence the following sentence: ''Such lists or manifests shall contain, but not be limited to, for each person transported, the person's full name, date of birth, gender, citizenship, travel document number (if applicable) and arriving flight number.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to vessels or aircraft arriving at ports of entry on or after such date (not later than 60 days after the date of the enactment of this Act) as the Attorney General shall specify.

Subtitle D—Additional Provisions

SEC. 351. DEFINITION OF CONVICTION.

(a) IN GENERAL.—Section 101(a) (8 U.S.C. 1101(a)), as amended by section 341(a), is amended by adding at the end the following new paragraph:

''(48) The term 'conviction' means a formal judgment of guilt entered by a court or, if adjudication of guilt has been withheld, where all of the following elements are present:

''(A) A judge or jury has found the alien guilty or the alien has entered a plea of guilty or nolo contendere or has admitted sufficient facts to warrant a finding of guilt.

''(B) The judge has ordered some form of punishment, penalty, or restraint on the alien's liberty to be imposed.

''(C) A judgment or adjudication of guilt may be entered if the alien violates the terms of the probation or fails to comply with the requirements of the court's order, without availability of further proceedings regarding the alien's guilt or innocence of the original charge.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to convictions entered before, on, or after the date of the enactment of this Act.

SEC. 352. IMMIGRATION JUDGES AND COMPENSATION.

(a) DEFINITION OF TERM.—Paragraph (4) of section 101(b) (8 U.S.C. 1101(b)) is amended to read as follows:

''(4) The term 'immigration judge' means an attorney whom the Attorney General appoints as an administrative judge within the Executive Office for Immigration Review, qualified to conduct specified classes of proceedings, including a hearing under section 240. An immigration judge shall be subject to such supervision and shall perform such duties as the Attorney General shall prescribe, but shall not be employed by the Immigration and Naturalization Service.''.

(b) SUBSTITUTION FOR TERM ''SPECIAL INQUIRY OFFICER''.—The Immigration and Nationality Act is amended by striking ''a special inquiry officer'', ''special inquiry officer'', and ''special inquiry officers'' and inserting ''an immigration judge'', ''immigration judge'', and ''immigration judges'', respectively, each place it appears in the following sections:

(1) Section 106(a)(2) (8 U.S.C. 1105a(a)(2)).

(2) Section 209(a)(2) (8 U.S.C. 1159(a)(2)).

(3) Section 234 (8 U.S.C. 1224), before redesignation by section 308(b).

(4) Section 235 (8 U.S.C. 1225), before redesignation by section 308(b).

(5) Section 236 (8 U.S.C. 1226), before amendment by section 303.

(6) Section 242(b) (8 U.S.C. 1252(b)), before amendment by section 306(a)(2).

(7) Section 242(d)(1) (8 U.S.C. 1252(d)(1)), before amendment by section 306(a)(2).

(8) Section 292 (8 U.S.C. 1362).

(c) COMPENSATION FOR IMMIGRATION JUDGES.—

(1) IN GENERAL.—There shall be four levels of pay for immigration judges, under the Immigration Judge Schedule (designated as IJ–1, 2, 3, and 4, respectively), and each such judge shall be paid at one of those levels, in accordance with the provisions of this subsection.

(2) RATES OF PAY.—

(A) The rates of basic pay for the levels established under paragraph (1) shall be as follows:

IJ–1	70% of the next to highest rate of basic pay for the Senior Executive Service
IJ–2	80% of the next to highest rate of basic pay for the Senior Executive Service
IJ–3	90% of the next to highest rate of basic pay for the Senior Executive Service
IJ–4	92% of the next to highest rate of basic pay for the Senior Executive Service.

(B) Locality pay, where applicable, shall be calculated into the basic pay for immigration judges.

(3) APPOINTMENT.—

(A) Upon appointment, an immigration judge shall be paid at IJ–1, and shall be advanced to IJ–2 upon completion of 104 weeks of service, to IJ–3 upon completion of 104 weeks of service in the next lower rate, and to IJ–4 upon completion of 52 weeks of service in the next lower rate.

(B) The Attorney General may provide for appointment of an immigration judge at an advanced rate under such circumstances as the Attorney General may determine appropriate.

(4) TRANSITION.—Judges serving on the Immigration Court as of the effective date shall be paid at the rate that corresponds to the amount of time, as provided under paragraph (3)(A), that they have served as an immigration judge.

(d) EFFECTIVE DATES.—

(1) Subsections (a) and (b) shall take effect on the date of the enactment of this Act.

(2) Subsection (c) shall take effect 90 days after the date of the enactment of this Act.

SEC. 353. RESCISSION OF LAWFUL PERMANENT RESIDENT STATUS.

(a) IN GENERAL.—Section 246(a) (8 U.S.C. 1256(a)) is amended by adding at the end the following sentence: ''Nothing in this subsection shall require the Attorney General to rescind the alien's status prior to commencement of procedures to remove the alien under section 240, and an order of removal issued by an immigration judge shall be sufficient to rescind the alien's status.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the title III–A effective date (as defined in section 309(a)).

SEC. 354. CIVIL PENALTIES FOR FAILURE TO DEPART.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by inserting after section 274C the following new section:

''CIVIL PENALTIES FOR FAILURE TO DEPART

''SEC. 274D. (a) IN GENERAL.—Any alien subject to a final order of removal who—

''(1) willfully fails or refuses to—

''(A) depart from the United States pursuant to the order,

''(B) make timely application in good faith for travel or other documents necessary for departure, or

''(C) present for removal at the time and place required by the Attorney General; or

''(2) conspires to or takes any action designed to prevent or hamper the alien's departure pursuant to the order,

shall pay a civil penalty of not more than $500 to the Commissioner for each day the alien is in violation of this section.

''(b) CONSTRUCTION.—Nothing in this section shall be construed to diminish or qualify any penalties to which an alien may be subject for activities proscribed by section 243(a) or any other section of this Act.''.

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 274C the following new item:

''Sec. 274D. Civil penalties for failure to depart.''.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to actions occurring on or after the title III–A effective date (as defined in section 309(a)).

SEC. 355. CLARIFICATION OF DISTRICT COURT JURISDICTION.

(a) IN GENERAL.—Section 279 (8 U.S.C. 1329) is amended—

(1) by amending the first sentence to read as follows: ''The district courts of the United States shall have jurisdiction of all causes, civil and criminal, brought by the United States that arise under the provisions of this title.'', and

(2) by adding at the end the following new sentence: ''Nothing in this section shall be construed as providing jurisdiction for suits against the United States or its agencies or officers.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to actions filed after the date of the enactment of this Act.

SEC. 356. USE OF RETIRED FEDERAL EMPLOYEES FOR INSTITUTIONAL HEARING PROGRAM.

(a) AUTHORIZATION OF TEMPORARY EMPLOYMENT OF CERTAIN ANNUITANTS AND RETIREES.—For the purpose of performing duties in connection with supporting the enhanced Institutional Hearing Program, the Attorney General may employ for a period not to exceed 24 months (beginning 3 months after the date of the enactment of this Act) not more than 300 individuals (at any one time) who, by reason of separation from service on or before January 1, 1995, are receiving—

(1) annuities under the provisions of subchapter III of chapter 83 of title 5, United States Code, or chapter 84 of such title;

(2) annuities under any other retirement system for employees of the Federal Government; or

(3) retired or retainer pay as retired officers of regular components of the uniformed services.

(b) NO REDUCTION IN ANNUITY OR RETIREMENT PAY OR REDETERMINATION OF PAY DURING TEMPORARY EMPLOYMENT.—

(1) RETIREES UNDER CIVIL SERVICE RETIREMENT SYSTEM AND FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—In the case of an individual employed under subsection (a) who is receiving an annuity described in subsection (a)(1)—

(A) such individual's annuity shall continue during the employment under subsection (a) and shall not be increased as a result of service performed during that employment;

(B) retirement deductions shall not be withheld from such individual's pay; and

(C) such individual's pay shall not be subject to any deduction based on the portion of such individual's annuity which is allocable to the period of employment.

(2) OTHER FEDERAL RETIREES.—The President shall apply the provisions of paragraph (1) to individuals who are receiving an annuity described in subsection (a)(2) and who are employed under subsection (a) in the same manner and to the same extent as such provisions apply to individuals who are receiving an annuity described in subsection (a)(1) and who are employed under subsection (a).

(3) RETIRED OFFICERS OF THE UNIFORM SERVICES.—The retired or retainer pay of a retired officer of a regular component of a uniformed service shall not be reduced under section 5532 of title 5, United States Code, by reason of temporary employment authorized under subsection (a).

SEC. 357. ENHANCED PENALTIES FOR FAILURE TO DEPART, ILLEGAL REENTRY, AND PASSPORT AND VISA FRAUD.

(a) FAILING TO DEPART.—The United States Sentencing Commission shall promptly promulgate, pursuant to section 994 of title 28, United States Code, amendments to the sentencing guidelines to make appropriate increases in the base offense level for offenses under section 242(e) and 276(b) of the Immigration and Nationality Act (8 U.S.C. 1252(e) and 1326(b)) to reflect the amendments made by section 130001 of the Violent Crime Control and Law Enforcement Act of 1994.

(b) PASSPORT AND VISA OFFENSES.—The United States Sentencing Commission shall promptly promulgate, pursuant to section 994 of title 28, United States Code, amendments to the sentencing guidelines to make appropriate increases in the base offense level for offenses under chapter 75 of title 18, United States Code to reflect the amendments made by section 130009 of the Violent Crime Control and Law Enforcement Act of 1994.

SEC. 358. AUTHORIZATION OF ADDITIONAL FUNDS FOR REMOVAL OF ALIENS.

In addition to the amounts otherwise authorized to be appropriated for each fiscal year beginning with fiscal year 1996, there are authorized to be appropriated to the Attorney General $150,000,000 for costs associated with the removal of inadmissible or deportable aliens, including costs of detention of such aliens pending their removal, the hiring of more investigators, and the hiring of more detention and deportation officers.

SEC. 359. APPLICATION OF ADDITIONAL CIVIL PENALTIES TO ENFORCEMENT.

(a) IN GENERAL.—Subsection (b) of section 280 (8 U.S.C. 1330(b)) is amended to read as follows:

''(b)(1) There is established in the general fund of the Treasury a separate account which shall be known as the 'Immigration Enforcement Account'. Notwithstanding any other section of this title, there shall be deposited as offsetting receipts into the Immigration Enforcement Account amounts described in paragraph (2) to remain available until expended.

''(2) The amounts described in this paragraph are the following:

''(A) The increase in penalties collected resulting from the amendments made by sections 203(b) and 543(a) of the Immigration Act of 1990.

''(B) Civil penalties collected under sections 240B(d), 274C, 274D, and 275(b).

''(3)(A) The Secretary of the Treasury shall refund out of the Immigration Enforcement Account to any appropriation the amount paid out of such appropriation for expenses incurred by the Attorney General for activities that enhance enforcement of provisions of this title, including—

''(i) the identification, investigation, apprehension, detention, and removal of criminal aliens;

''(ii) the maintenance and updating of a system to identify and track criminal aliens, deportable aliens, inadmissible aliens, and aliens illegally entering the United States; and

''(iii) for the repair, maintenance, or construction on the United States border, in areas experiencing high levels of apprehensions of illegal aliens, of structures to deter illegal entry into the United States.

''(B) The amounts which are required to be refunded under subparagraph (A) shall be refunded at least quarterly on the basis of estimates made by the Attorney General of the expenses referred to in subparagraph (A). Proper adjustments shall be made in the amounts subsequently refunded under subparagraph (A) to the extent prior estimates were in excess of, or less than, the amount required to be refunded under subparagraph (A).''.

(b) IMMIGRATION USER FEE ACCOUNT.—Section 286(h)(1)(B) (8 U.S.C. 1356(h)(1)(B)) is amended by striking ''271'' and inserting ''243(c), 271,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fines and penalties collected on or after the date of the enactment of this Act.

SEC. 360. PRISONER TRANSFER TREATIES.

(a) NEGOTIATION.—Congress advises the President to begin to negotiate and renegotiate, not later than 90 days after the date of the enactment of this Act, bilateral prisoner transfer treaties. The focus of such negotiations shall be—

(1) to expedite the transfer of aliens unlawfully in the United States who are (or are about to be) incarcerated in United States prisons,

(2) to ensure that a transferred prisoner serves the balance of the sentence imposed by the United States courts,

(3) to eliminate any requirement of prisoner consent to such a transfer, and

(4) to allow the Federal Government or the States to keep their original prison sentences in force so that transferred prisoners who return to the United States prior to the completion of their original United States sentences can be returned to custody for the balance of their prison sentences.

In entering into such negotiations, the President may consider providing for appropriate compensation in cases where the United States is able to independently verify the adequacy of the sites where aliens will be imprisoned and the length of time the alien is actually incarcerated in the foreign country under such a treaty.

(b) CERTIFICATION.—The President shall submit to the Congress, annually, a certification as to whether each prisoner transfer treaty in force is effective in returning aliens unlawfully in the United States who have committed offenses for which they are incarcerated in the United States to their country of nationality for further incarceration.

SEC. 361. CRIMINAL ALIEN IDENTIFICATION SYSTEM.

(a) OPERATION AND PURPOSE.—Subsection (a) of section 130002 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) is amended to read as follows:

''(a) OPERATION AND PURPOSE.—The Commissioner of Immigration and Naturalization shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien identification system. The criminal alien identification system shall be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be subject to removal by reason of their conviction of aggravated felonies, subject to prosecution under section 275 of such Act, not lawfully present in the United States, or otherwise removable. Such system shall include providing for recording of fingerprint records of aliens who have been previously arrested and removed into appropriate automated fingerprint identification systems.''.

(b) IDENTIFICATION OF CRIMINAL ALIENS UNLAWFULLY PRESENT IN THE UNITED STATES.—Upon the request of the governor or chief executive officer of any State, the Immigration and Naturalization Service shall provide assistance to State courts in the identification of aliens unlawfully present in the United States pending criminal prosecution.

SEC. 362. WAIVER OF EXCLUSION AND DEPORTATION GROUND FOR CERTAIN SECTION 274C VIOLATORS.

(a) EXCLUSION GROUNDS.—Section 212 (8 U.S.C. 1182) is amended—

(1) by amending subparagraph (F) of subsection (a)(6) to read as follows:

''(F) SUBJECT OF CIVIL PENALTY.—

''(i) IN GENERAL.—An alien who is the subject of a final order for violation of section 274C is inadmissible.

''(ii) WAIVER AUTHORIZED.—For provision authorizing waiver of clause (i), see subsection (d)(12).''; and

(2) by adding at the end of subsection (d) the following new paragraph:

''(12) The Attorney General may, in the discretion of the Attorney General for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest, waive application of clause (i) of subsection (a)(6)(F)—

''(A) in the case of an alien lawfully admitted for permanent residence who temporarily proceeded abroad voluntarily and not under an order of deportation and who is otherwise admissible to the United States as a returning resident under section 211(b), and

''(B) in the case of an alien seeking admission or adjustment of status under section 201(b)(2)(A) or under section 203(a),

if the violation under section 274C was committed solely to assist, aid, or support the alien's spouse, parent, son, or daughter (and not another individual).''.

(b) GROUND OF DEPORTATION.—Subparagraph (C) of section 241(a)(3) (8 U.S.C. 1251(a)(3)), before redesignation by section 305(a)(2), is amended to read as follows:

''(C) DOCUMENT FRAUD.—

''(i) IN GENERAL.—An alien who is the subject of a final order for violation of section 274C is deportable.

''(ii) WAIVER AUTHORIZED.—The Attorney General may waive clause (i) in the case of an alien lawfully admitted for permanent residence if the alien's civil money penalty under section 274C was incurred solely to assist, aid, or support the alien's spouse, parent, son, or daughter (and no other individual).''.

SEC. 363. AUTHORIZING REGISTRATION OF ALIENS ON CRIMINAL PROBATION OR CRIMINAL PAROLE.

Section 263(a) (8 U.S.C. 1303(a)) is amended by striking ''and (5)'' and inserting ''(5) aliens who are or have been on criminal probation or criminal parole within the United States, and (6)''.

SEC. 364. CONFIDENTIALITY PROVISION FOR CERTAIN ALIEN BATTERED SPOUSES AND CHILDREN.

(a) IN GENERAL.—Except as provided in subsection (b), in no case may the Attorney General, or any other official or employee of the Department of Justice (including any bureau or agency of such Department)—

(1) make an adverse determination of admissibility or deportability of an alien under the Immigration and Nationality Act using information furnished solely by—

(A) a spouse or parent who has battered the alien or subjected the alien to extreme cruelty,

(B) a member of the spouse's or parent's family residing in the same household as the alien who has battered the alien or subjected the alien to extreme cruelty when the spouse or parent consented to or acquiesced in such battery or cruelty,

(C) a spouse or parent who has battered the alien's child or subjected the alien's child to extreme cruelty (without the active participation of the alien in the battery or extreme cruelty), or

(D) a member of the spouse's or parent's family residing in the same household as the alien

who has battered the alien's child or subjected the alien's child to extreme cruelty when the spouse or parent consented to or acquiesced in such battery or cruelty and the alien did not actively participate in such battery or cruelty,

unless the alien has been convicted of a crime or crimes listed in section 241(a)(2) of the Immigration and Nationality Act; or

(2) permit use by or disclosure to anyone (other than a sworn officer or employee of the Department, or bureau or agency thereof, for legitimate Department, bureau, or agency purposes) of any information which relates to an alien who is the beneficiary of an application for relief under clause (iii) or (iv) of section 204(a)(1)(A), clause (ii) or (iii) of section 204(a)(1)(B), section 216(c)(4)(C), or section 244(a)(3) of such Act as an alien (or the parent of a child) who has been battered or subjected to extreme cruelty.

The limitation under paragraph (2) ends when the application for relief is denied and all opportunities for appeal of the denial have been exhausted.

(b) EXCEPTIONS.—

(1) The Attorney General may provide, in the Attorney General's discretion, for the disclosure of information in the same manner and circumstances as census information may be disclosed by the Secretary of Commerce under section 8 of title 13, United States Code.

(2) The Attorney General may provide in the discretion of the Attorney General for the disclosure of information to law enforcement officials to be used solely for a legitimate law enforcement purpose.

(3) Subsection (a) shall not be construed as preventing disclosure of information in connection with judicial review of a determination in a manner that protects the confidentiality of such information.

(4) Subsection (a)(2) shall not apply if all the battered individuals in the case are adults and they have all waived the restrictions of such subsection.

(c) PENALTIES FOR VIOLATIONS.—Anyone who uses, publishes, or permits information to be disclosed in violation of this section shall be fined in accordance with title 18, United States Code, or imprisoned not more than 5 years, or both.

TITLE IV—ENFORCEMENT OF RESTRICTIONS AGAINST EMPLOYMENT

SEC. 401. PILOT PROGRAM FOR VOLUNTARY USE OF EMPLOYMENT ELIGIBILITY CONFIRMATION PROCESS.

(a) VOLUNTARY ELECTION TO PARTICIPATE IN PILOT PROGRAM CONFIRMATION MECHANISM.—

(1) IN GENERAL.—An employer (or a recruiter or referrer subject to section 274A(a)(1)(B)(ii) of the Immigration and Nationality Act) may elect to participate in the pilot program for employment eligibility confirmation provided under this section (such program in this section referred to as the ''pilot program''). Except as specifically provided in this section, the Attorney General is not authorized to require any entity to participate in the program under this section. The pilot program shall operate in at least 5 of the 7 States with the highest estimated population of unauthorized aliens.

(2) EFFECT OF ELECTION.—The following provisions apply in the case of an entity electing to participate in the pilot program:

(A) OBLIGATION TO USE CONFIRMATION MECHANISM.—The entity agrees to comply with the confirmation mechanism under subsection (c) to confirm employment eligibility under the pilot program for all individuals covered under the election in accordance with this section.

(B) BENEFIT OF REBUTTABLE PRESUMPTION.—

(i) IN GENERAL.—If the entity obtains confirmation of employment eligibility under the pilot program with respect to the hiring (or recruiting or referral that is subject to section 274A(a)(1)(B)(ii) of the Immigration and Nationality Act) of an individual for employment in the United States, the entity has established a rebuttable presumption that the entity has not violated section 274A(a)(1)(A) of the Immigration and Nationality Act with respect to such hiring (or such recruiting or referral).

(ii) CONSTRUCTION.—Clause (i) shall not be construed as preventing an entity that has an election in effect under this section from establishing an affirmative defense under section 274A(a)(3) of the Immigration and Nationality Act if the entity complies with the requirements of section 274A(a)(1)(B) of such Act but fails to comply with the obligations under subparagraph (A).

(C) BENEFIT OF NOTICE BEFORE EMPLOYMENT-RELATED INSPECTIONS.—The Immigration and Naturalization Service, the Special Counsel for Immigration-Related Unfair Employment Practices, and any other agency authorized to inspect forms required to be retained under section 274A of the Immigration and Nationality Act or to search property for purposes of enforcing such section shall provide at least 3 days notice prior to such an inspection or search, except that such notice is not required if the inspection or search is conducted with an administrative or judicial subpoena or warrant or under exigent circumstances.

(3) GENERAL TERMS OF ELECTIONS.—

(A) IN GENERAL.—An election under paragraph (1) shall be in a form and manner and under such terms and conditions as the Attorney General shall specify and shall take effect as the Attorney General shall specify. Such an election shall apply (under such terms and conditions and as specified in the election) either to all hiring (and all recruitment or referral that is subject to section 274A(a)(1)(B)(ii) of the Immigration and Nationality Act) by the entity during the period in which the election is in effect or to hiring (or recruitment or referral that is subject to section 274A(a)(1)(B)(ii) of the Immigration and Nationality Act) in one or more States or one or more places of such hiring (or such recruiting or referral, as the case may be) covered by the election. The Attorney General may not impose any fee as a condition of making an election or participation in the pilot program under this section.

(B) ACCEPTANCE OF ELECTIONS.—Except as otherwise provided in this paragraph, the Attorney General shall accept all elections made under paragraph (1). The Attorney General may establish a process under which entities seek to make elections in advance, in order to permit the Attorney General the opportunity to identify and develop appropriate resources to accommodate the demand for participation in the pilot program under this section.

(C) REJECTION OF ELECTIONS.—The Attorney General may reject an election by an entity under paragraph (1) because the Attorney General has determined that there are insufficient resources to provide services under the pilot program for the entity.

(D) TERMINATION OF ELECTIONS.—The Attorney General may terminate an election by an entity under paragraph (1) because the entity has substantially failed to comply with the obligations of the entity under the pilot program.

(E) RESCISSION OF ELECTION.—An entity may rescind an election made under this subsection in such form and manner as the Attorney General shall specify.

(b) CONSULTATION, EDUCATION, AND PUBLICITY.—

(1) CONSULTATION.—The Attorney General shall closely consult with representatives of employers (and recruiters and referrers whose recruiting or referring is subject to section 274A(a)(1)(B)(ii) of the Immigration and Nationality Act) in the development and implementation of the pilot program under this section, including the education of employers (and such recruiters and referrers) about the program.

(2) PUBLICITY.—The Attorney General shall widely publicize the election process and pilot program under this section, including the voluntary nature of the program and the advantages to employers of making an election under subsection (a).

(3) ASSISTANCE THROUGH DISTRICT OFFICES.—The Attorney General shall designate one or more individuals in each District office of the Immigration and Naturalization Service—

(A) to inform entities that seek information about the program of the voluntary nature of the program, and

(B) to assist entities in electing and participating in the pilot program, in complying with the requirements of section 274A of the Immigration and Nationality Act, and in facilitating identification of individuals authorized to be employed consistent with such section.

(c) CONFIRMATION PROCESS UNDER PILOT PROGRAM.—An entity that is participating in the pilot program agrees to conform to the following procedures in the case of a hiring (or recruiting or referral in the case of recruitment or referral that is subject to section 274A(a)(1)(B)(ii) of the Immigration and Nationality Act) of each individual covered under the program for employment in the United States:

(1) PROVISION OF ADDITIONAL INFORMATION.—The entity shall obtain from the individual (and the individual shall provide) and shall record on the form used for purposes of section 274A(b)(1)(A) of the Immigration and Nationality Act—

(A) the individual's social security account number (if the individual has been issued such a number), and

(B) if the individual is an alien, such identification or authorization number established by the Service for the alien as the Attorney General shall specify.

(2) SEEKING CONFIRMATION.—

(A) IN GENERAL.—The entity shall make an inquiry, under the confirmation mechanism established under subsection (d), to seek confirmation of the identity, applicable number (or numbers) described in section 274A(b)(2)(B) of the Immigration and Nationality Act, and work eligibility of the individual, by not later than the end of 3 working days (as specified by the Attorney General) after the date of the hiring (or recruitment or referral, as the case may be).

(B) EXTENSION OF TIME PERIOD.—If the entity in good faith attempts to make an inquiry during such 3 working days and the confirmation mechanism has registered that not all inquiries were responded to during such time, the entity can make an inquiry in the first subsequent working day in which the confirmation mechanism registers no nonresponses and qualify for the presumption. If the confirmation mechanism is not responding to inquiries at all times during a day, the entity merely has to assert that the entity attempted to make the inquiry on that day for the previous sentence to apply to such an inquiry, and does not have to provide any additional proof concerning such inquiry.

(3) CONFIRMATION.—

(A) IN GENERAL.—If the entity receives an appropriate confirmation of such identity, applicable number or numbers, and work eligibility under the confirmation mechanism within the time period specified under subsection (d) after the time the confirmation inquiry was received, the entity shall record on the form used for purposes of section 274A(b)(1)(A) of the Immigration and Nationality Act an appropriate code indicating a confirmation of such identity, number or numbers, and work eligibility.

(B) FAILURE TO OBTAIN CONFIRMATION.—If the entity has made the inquiry described in paragraph (1) but has received a nonconfirmation within the time period specified—

(i) the presumption under subsection (a)(2)(B) shall not be considered to apply, and

(ii) if the entity nonetheless continues to employ (or recruits or refers, if such recruitment or referral is subject to section 274A(a)(1)(B)(ii) of the Immigration and Nationality Act) the individual for employment in the United States, the entity shall notify the Attorney General of such fact through the confirmation mechanism or in

such other manner as the Attorney General may specify.

(C) CONSEQUENCES.—

(i) FAILURE TO NOTIFY.—If the entity fails to provide notice with respect to an individual as required under subparagraph (B)(ii), the failure is deemed to constitute a violation of section 274A(a)(1)(A) of the Immigration and Nationality Act with respect to that individual.

(ii) CONTINUED EMPLOYMENT.—If the entity provides notice under subparagraph (B)(ii) with respect to an individual, the entity has the burden of proof, for purposes of applying section 274A(a)(1)(A) of the Immigration and Nationality Act with respect to such entity and individual, of establishing that the individual is not an unauthorized alien (as defined in section 274A(h)(3) of such Act).

(iii) NO APPLICATION TO CRIMINAL PENALTY.—Clauses (i) and (ii) shall not apply in any prosecution under section 274A(f)(1) of the Immigration and Nationality Act.

(d) EMPLOYMENT ELIGIBILITY PILOT CONFIRMATION MECHANISM.—

(1) IN GENERAL.—The Attorney General shall establish a pilot program confirmation mechanism (in this section referred to as the ''confirmation mechanism'') through which the Attorney General (or a designee of the Attorney General which may include a nongovernmental entity)—

(A) responds to inquiries by electing entities, made at any time through a toll-free telephone line or other electronic media in the form of an appropriate confirmation code or otherwise, on whether an individual is authorized to be employed, and

(B) maintains a record that such an inquiry was made and the confirmation provided (or not provided).

To the extent practicable, the Attorney General shall seek to establish such a mechanism using one or more nongovernmental entities. For purposes of this section, the Attorney General (or a designee of the Attorney General) shall provide through the confirmation mechanism confirmation or a tentative nonconfirmation of an individual's employment eligibility within 3 working days of the initial inquiry.

(2) EXPEDITED PROCEDURE IN CASE OF NONCONFIRMATION.—In connection with paragraph (1), the Attorney General shall establish, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, expedited procedures that shall be used to confirm the validity of information used under the confirmation mechanism in cases in which the confirmation is sought but is not provided through the confirmation mechanism.

(3) DESIGN AND OPERATION OF MECHANISM.—The confirmation mechanism shall be designed and operated—

(A) to maximize the reliability of the confirmation process, and the ease of use by entities making elections under subsection (a) consistent with insulating and protecting the privacy and security of the underlying information, and

(B) to respond to all inquiries made by such entities on whether individuals are authorized to be employed registering all times when such response is not possible.

(4) CONFIRMATION PROCESS.—

(A) CONFIRMATION OF VALIDITY OF SOCIAL SECURITY ACCOUNT NUMBER.—As part of the confirmation mechanism, the Commissioner of Social Security, in consultation with the entity responsible for administration of the mechanism, shall establish a reliable, secure method, which within the time period specified under paragraph (1), compares the name and social security account number provided against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided and whether the individual has presented a social security account number that is not valid for employment. The Commissioner shall not disclose or release social security information.

(B) CONFIRMATION OF ALIEN AUTHORIZATION.—As part of the confirmation mechanism, the Commissioner of the Service, in consultation with the entity responsible for administration of the mechanism, shall establish a reliable, secure method, which, within the time period specified under paragraph (1), compares the name and alien identification or authorization number (if any) described in subsection (c)(1)(B) provided against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided and whether the alien is authorized to be employed in the United States.

(C) PROCESS IN CASE OF TENTATIVE NONCONFIRMATION.—In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, an expedited time period not to exceed 10 working days after the date of the tentative nonconfirmation within which final confirmation or denial must be provided through the confirmation mechanism in accordance with the procedures under paragraph (2).

(D) UPDATING INFORMATION.—The Commissioners shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information.

(5) PROTECTIONS.—(A) In no case shall an employer terminate employment of an individual because of a failure of the individual to have work eligibility confirmed under this section, until after the end of the 10-working-day period in which a final confirmation or nonconfirmation is being sought under paragraph (4)(C). Nothing in this subparagraph shall apply to a termination of employment for any reason other than because of such a failure.

(B) The Attorney General shall assure that there is a timely and accessible process to challenge nonconfirmations made through the mechanism.

(B) If an individual would not have been dismissed from a job but for an error of the confirmation mechanism, the individual will be entitled to compensation through the mechanism of the Federal Tort Claims Act.

(6) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION PROVIDED BY THE EMPLOYMENT ELIGIBILITY CONFIRMATION MECHANISM.—No person shall be civilly or criminally liable under any law (including the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, the Fair Labor Standards Act of 1938, or the Age Discrimination in Employment Act of 1967) for any action taken in good faith reliance on information provided through the employment eligibility confirmation mechanism established under this subsection.

(7) MULTIPLE MECHANISMS PERMITTED.—Nothing in this subsection shall be construed as preventing the Attorney General from experimenting with different mechanisms for different entities.

(e) SELECT ENTITIES REQUIRED TO PARTICIPATE IN PILOT PROGRAM.—

(1) FEDERAL GOVERNMENT.—Each entity of the Federal Government that is subject to the requirements of section 274A of the Immigration and Nationality Act (including the Legislative and Executive Branches of the Federal Government) shall participate in the pilot program under this section and shall comply with the terms and conditions of such an election.

(2) APPLICATION TO CERTAIN VIOLATORS.—An order under section 274A(e)(4) or section 274B(g)(2)(B) of the Immigration and Nationality Act may require the subject of the order to participate in the pilot program and comply with the requirements of subsection (c).

(3) CONSEQUENCE OF FAILURE TO PARTICIPATE.—If an entity is required under this subsection to participate in the pilot program and fails to comply with the requirements of subsection (c) with respect to an individual such failure shall be treated as a violation of section 274A(a)(1)(B) of the Immigration and Nationality Act with respect to that individual.

(f) PROGRAM INITIATION; REPORTS; TERMINATION.—

(1) INITIATION OF PROGRAM.—The Attorney General shall implement the pilot program in a manner that permits entities to have elections under subsection (a) made and in effect by not later than 1 year after the date of the enactment of this Act.

(2) REPORTS.—The Attorney General shall submit to Congress annual reports on the pilot program under this section at the end of each year in which the program is in effect. The last two such reports shall each include recommendations on whether or not the pilot program should be continued or modified and on benefits to employers and enforcement of section 274A of the Immigration and Nationality Act obtained from use of the pilot program.

(3) TERMINATION.—Unless the Congress otherwise provides, the Attorney General shall terminate the pilot program under this section at the end of the third year in which it is in effect under this section.

(g) CONSTRUCTION.—This section shall not affect the authority of the Attorney General under other law (including section 274A(d)(4) of the Immigration and Nationality Act) to conduct demonstration projects in relation to section 274A of such Act.

(h) LIMITATION ON USE OF THE CONFIRMATION PROCESS AND ANY RELATED MECHANISMS.—Notwithstanding any other provision of law, nothing in this section shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this section for any other purpose other than as provided for under the pilot program under this section.

SEC. 402. LIMITING LIABILITY FOR CERTAIN TECHNICAL VIOLATIONS OF PAPERWORK REQUIREMENTS.

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

(1) by striking ''and'' at the end of subparagraph (C),

(2) by striking the period at the end of subparagraph (D) and inserting '', and'', and

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

''(E) under which a person or entity shall not be considered to have failed to comply with the requirements of subsection (b) based upon a technical or procedural failure to meet a requirement of such subsection in which there was a good faith attempt to comply with the requirement unless (i) the Service (or another enforcement agency) has explained to the person or entity the basis for the failure, (ii) the person or entity has been provided a period of not less than 10 business days (beginning after the date of the explanation) within which to correct the failure, and (iii) the person or entity has not corrected the failure voluntarily within such period, except that this subparagraph shall not apply with respect to the engaging by any person or entity of a pattern or practice of violations of subsection (a)(1)(A) or (a)(2).''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to failures occurring on or after the date of the enactment of this Act.

SEC. 403. PAPERWORK AND OTHER CHANGES IN THE EMPLOYER SANCTIONS PROGRAM.

(a) REDUCING TO 6 THE NUMBER OF DOCUMENTS ACCEPTED FOR EMPLOYMENT VERIFICATION.—Section 274A(b) (8 U.S.C. 1324a(b)) is amended—

(1) in paragraph (1)(B)—

(A) by adding ''or'' at the end of clause (i),

(B) by striking clauses (ii) through (iv), and

(C) in clause (v), by striking ''or other alien registration card, if the card'' and inserting '',

alien registration card, or other document designated by regulation by the Attorney General, if the document'' and redesignating such clause as clause (ii); and

(2) by amending subparagraph (C) of paragraph (1) to read as follows:

''(C) SOCIAL SECURITY ACCOUNT NUMBER CARD AS EVIDENCE OF EMPLOYMENT AUTHORIZATION.—A document described in this subparagraph is an individual's social security account number card (other than such a card which specifies on the face that the issuance of the card does not authorize employment in the United States).''.

(b) REDUCTION OF PAPERWORK FOR CERTAIN EMPLOYEES.—Section 274A(a) (8 U.S.C. 1324a(a)) is amended by adding at the end the following new paragraph:

''(6) TREATMENT OF DOCUMENTATION FOR CERTAIN EMPLOYEES.—

''(A) IN GENERAL.—For purposes of paragraphs (1)(B) and (3), if—

''(i) an individual is a member of a collective-bargaining unit and is employed, under a collective bargaining agreement entered into between one or more employee organizations and an association of two or more employers, by an employer that is a member of such association, and

''(ii) within the period specified in subparagraph (B), another employer that is a member of the association (or an agent of such association on behalf of the employer) has complied with the requirements of subsection (b) with respect to the employment of the individual,

the subsequent employer shall be deemed to have complied with the requirements of subsection (b) with respect to the hiring of the employee and shall not be liable for civil penalties described in subsection (e)(5).

''(B) PERIOD.—The period described in this subparagraph is—

''(i) up to 5 years in the case of an individual who has presented documentation identifying the individual as a national of the United States or as an alien lawfully admitted for permanent residence; or

''(ii) up to 3 years (or, if less, the period of time that the individual is authorized to be employed in the United States) in the case of another individual.

''(C) LIABILITY.—

''(i) IN GENERAL.—If any employer that is a member of an association hires for employment in the United States an individual and relies upon the provisions of subparagraph (A) to comply with the requirements of subsection (b) and the individual is an unauthorized alien, then for the purposes of paragraph (1)(A), subject to clause (ii), the employer shall be presumed to have known at the time of hiring or afterward that the individual was an unauthorized alien.

''(ii) REBUTTAL OF PRESUMPTION.—The presumption established by clause (i) may be rebutted by the employer only through the presentation of clear and convincing evidence that the employer did not know (and could not reasonably have known) that the individual at the time of hiring or afterward was an unauthorized alien.''.

(c) ELIMINATION OF DATED PROVISIONS.—Section 274A (8 U.S.C. 1324a) is amended by striking subsections (i) through (n).

(d) CLARIFICATION OF APPLICATION TO FEDERAL GOVERNMENT.—Section 274A(a) (8 U.S.C. 1324a(a)) is amended by adding at the end the following new paragraph:

''(5) APPLICATION TO FEDERAL GOVERNMENT.—For purposes of this section, the term 'entity' includes an entity in any Branch of the Federal Government.''.

(e) EFFECTIVE DATES.—

(1) Except as provided in this subsection, the amendments made by this section shall apply with respect to hiring (or recruiting or referring) occurring on or after such date (not later than 180 days after the date of the enactment of this Act) as the Attorney General shall designate.

(2) The amendments made by subsections (a)(1) and (a)(2) shall apply with respect to the hiring (or recruiting or referring) occurring on or after such date (not later than 18 months after the date of the enactment of this Act) as the Attorney General shall designate.

(3) The amendment made by subsection (b) shall apply to individuals hired on or after 60 days after the date of the enactment of this Act.

(4) The amendment made by subsection (c) shall take effect on the date of the enactment of this Act.

(5) The amendment made by subsection (d) applies to hiring occurring before, on, or after the date of the enactment of this Act, but no penalty shall be imposed under section 274A(e) of the Immigration and Nationality Act for such hiring occurring before such date.

(f) IMPLEMENTATION OF ELECTRONIC STORAGE OF I–9 FORMS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall issue regulations which shall provide for the electronic storage of forms used in satisfaction of the requirements of section 274A(b)(3) of the Immigration and Nationality Act.

SEC. 404. STRENGTHENED ENFORCEMENT OF THE EMPLOYER SANCTIONS PROVISIONS.

(a) IN GENERAL.—The number of full-time equivalent positions in the Investigations Division within the Immigration and Naturalization Service of the Department of Justice beginning in fiscal year 1997 shall be increased by 500 positions above the number of full-time equivalent positions available to such Division as of September 30, 1995.

(b) ASSIGNMENT.—Individuals employed to fill the additional positions described in subsection (a) shall be assigned to investigate violations of the employer sanctions provisions contained in section 274A of the Immigration and Nationality Act.

SEC. 405. REPORTS ON EARNINGS OF ALIENS NOT AUTHORIZED TO WORK.

Subsection (c) of section 290 (8 U.S.C. 1360) is amended to read as follows:

''(c)(1) Not later than 3 months after the end of each fiscal year (beginning with fiscal year 1996), the Commissioner of Social Security shall report to the Committees on the Judiciary of the House of Representatives and the Senate on the aggregate number of social security account numbers issued to aliens not authorized to be employed to which earnings were reported to the Social Security Administration in such fiscal year.

''(2) If earnings are reported on or after January 1, 1997, to the Social Security Administration on a social security account number issued to an alien not authorized to work in the United States, the Commissioner of Social Security shall provide the Attorney General with information regarding the name and address of the alien, the name and address of the person reporting the earnings, and the amount of the earnings. The information shall be provided in an electronic form agreed upon by the Commissioner and the Attorney General.''.

SEC. 406. AUTHORIZING MAINTENANCE OF CERTAIN INFORMATION ON ALIENS.

Section 264 (8 U.S.C. 1304) is amended by adding at the end the following new subsection:

''(f) Notwithstanding any other provision of law, the Attorney General is authorized to require any alien to provide the alien's social security account number for purposes of inclusion in any record of the alien maintained by the Attorney General or the Service.''.

SEC. 407. UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES.

(a) REQUIRING CERTAIN REMEDIES IN UNFAIR IMMIGRATION-RELATED DISCRIMINATION ORDERS.—Section 274B(g)(2) (8 U.S.C. 1324b(g)(2)) is amended—

(1) in subparagraph (A), by adding at the end the following: ''Such order also shall require the person or entity to comply with the requirements of clauses (ii) and (vi) of subparagraph (B).'';

(2) in subparagraph (B), by striking ''Such an order'' and inserting ''Subject to the second sentence of subparagraph (A), such an order''; and

(3) in subparagraph (B)(vi), by inserting before the semicolon at the end the following: ''and to certify the fact of such education''.

(b) TREATMENT OF CERTAIN DOCUMENTARY PRACTICE AS EMPLOYMENT PRACTICES.—Section 274B(a)(6) (8 U.S.C. 1324b(a)(6)) is amended—

(1) by striking ''For'' and inserting ''(A) Subject to subparagraph (B), for'', and

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

''(B) A person or other entity—

''(i) may request a document proving a renewal of employment authorization when an individual has previously submitted a time-limited document to satisfy the requirements of section 274A(b)(1); or

''(ii) if possessing reason to believe that an individual presenting a document which reasonably appears on its face to be genuine is nonetheless an unauthorized alien, may (I) inform the individual of the question about the document's validity, and of such person or other entity's intention to verify the validity of such document, and (II) upon receiving confirmation that the individual is unauthorized to work, may dismiss the individual.

Nothing in this provision prohibits an individual from offering alternative documents that satisfy the requirements of section 274A(b)(1).''.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to orders issued on or after the first day of the first month beginning at least 90 days after the date of the enactment of this Act.

TITLE V—REFORM OF LEGAL IMMIGRATION SYSTEM

SEC. 500. OVERVIEW OF NEW LEGAL IMMIGRATION SYSTEM.

This title amends the legal immigration provisions of the Immigration and Nationality Act so as to provide for the following (beginning with fiscal year 1997):

(1) DIVISION OF IMMIGRATION AMONG 3 CATEGORIES.—There will be a worldwide level of immigration of approximately 562,000, divided among—

(A) family-sponsored immigrants, with a worldwide annual numerical limitation (after a transition) of approximately 330,000,

(B) employment-based immigrants, with a worldwide annual numerical limitation of 135,000,

(C) diversity immigrants, with a worldwide annual numerical limitation of 27,000, and

(D) humanitarian immigrants, with a worldwide annual numerical limitation (after a transition) of approximately 70,000.

Congress is required to reevaluate and reauthorize these numbers every 5 years.

(2) FAMILY-SPONSORED IMMIGRANTS.—

(A) CATEGORIES.—Family-sponsored immigrants are (i) spouses and children of citizens, (ii) spouses and children of permanent resident aliens, (iii) parents of adult United States citizens if the parents meet certain insurance requirements, and (iv) sons or daughters of United States citizens or sons or daughters of permanent resident aliens who have never been married, are childless, but for the residence requirements would qualify as dependents for Federal income tax purposes, and are at least 21 but not more than 25 years of age.

(B) NUMERICAL LIMITATIONS.—

(i) There will be no direct numerical limit on admission of spouses and children of United States citizens.

(ii) The annual numerical limit on admission of spouses and children of permanent residents will not be below 85,000.

(iii) The annual numerical limit on admission of parents of United States citizens will not be below 25,000.

(3) EMPLOYMENT-BASED IMMIGRANTS.—Employment-based immigrants will fall within the following categories and numerical limitations:

(A) EXTRAORDINARY IMMIGRANTS.—First, aliens with extraordinary ability, up to 15,000 each year.

(B) OUTSTANDING PROFESSORS AND RESEARCHERS AND MULTINATIONAL EXECUTIVES.—Second, aliens who are outstanding professors and researchers or multinational executives or managers, up to 30,000 each year, plus any left from the previous category.

(C) PROFESSIONALS WITH ADVANCED DEGREES OR EXCEPTIONAL ABILITY ALIENS.—Third, aliens who are members of the professions holding advanced degrees or who have exceptional ability, up to 30,000 each year, plus any left from the previous categories.

(D) OTHER PROFESSIONALS AND SKILLED WORKERS.—Fourth, aliens who are skilled workers with at least 4 years of training and work experience or are professionals with a baccalaureate degree and at least 2 years' experience, up to 45,000 each year, plus any left from the previous categories.

(E) INVESTORS.—Fifth, aliens who are investing at least $1,000,000 in enterprises in the United States that will employ at least 10 workers, up to 10,000 each year (with a 2-year pilot program for those investing at least $500,000 in enterprises employing at least 5 workers).

(F) CERTAIN SPECIAL IMMIGRANTS.—Lastly, aliens who fall within certain classes of special immigrants (such as religious ministers, aliens who have worked for the Government abroad, certain long-term alien employees of international organizations, certain dependent juveniles, and certain long-term alien members of the Armed Forces), up to 5,000 each year.

(4) DIVERSITY IMMIGRANTS.—Diversity immigrants are chosen from the 10 countries in each region with the highest demand for diversity visas by random selection.

(5) HUMANITARIAN IMMIGRANTS.—Humanitarian immigrants will fall within the following categories and numerical limitations:

(A) REFUGEES.—Refugees, subject to a numerical limitation (after a transition and excluding emergency refugees) of 50,000 or such higher number as the Congress may provide by law.

(B) ASYLEES.—Aliens seeking asylum, subject to no numerical limitation in any year. As under current law, asylees may adjust to permanent residence status at a rate of up to 10,000 each year.

(C) OTHER HUMANITARIAN IMMIGRANTS.—Other immigrants who are of special humanitarian concern to the United States, up to 10,000 each year.

(6) TRANSITION.—

(A) ADDITIONAL VISA NUMBERS FOR SPOUSES AND MINOR, UNMARRIED CHILDREN OF PERMANENT RESIDENT ALIENS.—In order to reduce the current backlog for spouses and minor, unmarried children of lawful permanent residents, there will be at least an additional 50,000 immigrant visa numbers made available for these aliens for each of 5 fiscal years, with priority for spouses and children of aliens who did not participate in a legalization program.

(B) PHASE-DOWN IN NORMAL FLOW REFUGEE NUMERICAL LIMITATION.—The annual numerical limitation on non-emergency refugees (without specific approval of Congress) will be phased down to 75,000 in fiscal year 1997 and 50,000 in fiscal year 1998 and thereafter.

Subtitle A—Worldwide Numerical Limits

SEC. 501. WORLDWIDE NUMERICAL LIMITATION ON FAMILY-SPONSORED IMMIGRANTS.

(a) OVERVIEW.—

(1) The amendment made by subsection (b) provides for a worldwide level of family-sponsored immigrants of 330,000 less the number of spouses and children of citizens admitted in the previous year.

(2) However, there will be no limit on spouses and children of citizens, nor would the number of visas available to spouses and children of lawful permanent residents go below 85,000, nor would the number of visas available to parents of citizens go below 25,000.

(3) Any excess in family immigration above 330,000 would come from other unused visas and, if necessary, from future visa numbers.

(4) If there are any remaining family visas, these visas would be added to the visas made available to spouses and children of lawful permanent resident aliens.

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

''(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.—

''(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, the worldwide level of family-sponsored immigrants under this subsection (in this subsection referred to as the 'worldwide family level') for a fiscal year is 330,000.

''(2) REDUCTION FOR SPOUSES AND CHILDREN OF UNITED STATES CITIZENS AND CERTAIN OTHER FAMILY-RELATED IMMIGRANTS.—The worldwide family level for a fiscal year shall be reduced (but not below a number sufficient to provide for the minimum visa numbers described in paragraph (4)) by the number of aliens described in subsection (b)(2) who were issued immigrant visas or who otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence in the previous fiscal year.

''(3) FURTHER REDUCTION FOR ANY PREVIOUS EXCESS FAMILY IMMIGRATION.—

''(A) IN GENERAL.—If there are excess family admissions in a particular fiscal year (as determined under subparagraph (B)) beginning with fiscal year 1997, then for the following fiscal year the worldwide family level shall be reduced (but not below a number sufficient to provide for the minimum visa numbers described in paragraph (4)) by the net number of excess admissions in that particular fiscal year (as defined in subparagraph (C)).

''(B) DETERMINATION OF EXCESS FAMILY ADMISSIONS.—For purposes of subparagraph (A), there are excess family admissions in a fiscal year if—

''(i) the number of aliens who are issued immigrant visas or who otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence under section 203(a) or subsection (b)(2) in a fiscal year, exceeds

''(ii) 330,000, less the carryforward number of excess admissions for the previous fiscal year (as defined in subparagraph (D)).

For purposes of this subparagraph, immigrant visa numbers issued under section 553 of the Immigration in the National Interest Act of 1995 (relating to certain transition immigrants) shall not be counted under clause (i).

''(C) NET NUMBER OF EXCESS ADMISSIONS.—For purposes of subparagraph (A), the 'net number of excess admissions' for a fiscal year is—

''(i) the excess described in subparagraph (B) for the fiscal year, reduced (but not below zero) by

''(ii) the number (if any) by which the worldwide level under subsection (d) for the previous fiscal year exceeds the number of immigrants who are issued immigrant visas or who otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence under section 203(b) in that previous fiscal year.

''(D) CARRYFORWARD NUMBER OF EXCESS ADMISSIONS.—For purposes of subparagraph (B)(ii), the carryforward number of excess admissions for a particular fiscal year is the net number of excess admissions for the previous fiscal year (as defined in subparagraph (C)), reduced by the reductions effected under subparagraph (A) and paragraph (5) in visa numbers for the particular fiscal year.

''(4) NO REDUCTION IN NUMBER OF SPOUSES AND CHILDREN OF LAWFUL PERMANENT RESIDENTS OR PARENTS OF UNITED STATES CITIZENS.—

''(A) SPOUSES AND CHILDREN OF LAWFUL PERMANENT RESIDENTS.—Any reductions in the worldwide family level for a fiscal year under paragraph (2) or (3) shall not reduce the number of visas available to spouses and children of lawful permanent residents below 85,000.

''(B) PARENTS OF UNITED STATES CITIZENS.—Any reductions in the worldwide family level for a fiscal year under paragraph (2) or (3) shall not reduce the number of visas available to parents of United States citizens below 25,000.

''(5) ADJUSTMENT IN CERTAIN EMPLOYMENT-BASED VISA NUMBERS IN CASE OF REMAINING EXCESS FAMILY ADMISSIONS.—

''(A) IN GENERAL.—If there is a remaining excess number of family admissions (as described in subparagraph (B)) in a fiscal year (beginning with fiscal year 1997) that is greater than zero, then for the following fiscal year there shall be reductions in immigrant visa numbers made available under subsection (d) and section 203(b)(4) by the lesser of—

''(i) the remaining excess number of family admissions (described in subparagraph (B)), or

''(ii) ½ of the maximum number of visa numbers that could (but for this paragraph) otherwise be made available under section 203(b)(5) in such following fiscal year.

''(B) REMAINING EXCESS NUMBER OF FAMILY ADMISSIONS DESCRIBED.—For purposes of subparagraph (A), the 'remaining excess number of family admissions' in a fiscal year is the net number of excess admissions for the fiscal year (as defined in paragraph (3)(C)), reduced by the reduction (if any) effected under paragraph (3) in visa numbers for the succeeding fiscal year.''.

SEC. 502. WORLDWIDE NUMERICAL LIMITATION ON EMPLOYMENT-BASED IMMIGRANTS.

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

''(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED IMMIGRANTS.—The worldwide level of employment-based immigrants under this subsection for a fiscal year is—

''(1) 135,000, minus

''(2) beginning with fiscal year 1998, the total of the reductions (if any) in visa numbers under section 203(a)(3)(C) made for the fiscal year pursuant to subsection (c)(5) and in visa numbers under this subsection for the fiscal year pursuant to section 203(a)(3)(B)(ii)(II).''.

SEC. 503. WORLDWIDE NUMERICAL LIMITATION ON DIVERSITY IMMIGRANTS.

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

''(e) WORLDWIDE LEVEL OF DIVERSITY IMMIGRANTS.—The worldwide level of diversity immigrants is equal to 27,000 for each fiscal year.''.

SEC. 504. ESTABLISHMENT OF NUMERICAL LIMITATION ON HUMANITARIAN IMMIGRANTS.

(a) IN GENERAL.—Section 201 (8 U.S.C. 1151) is amended—

(1) in subsection (a)—

(A) by striking ''and'' at the end of paragraph (2),

(B) by striking the period at the end of paragraph (3) and inserting ''; and'', and

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

''(4) for fiscal years beginning with fiscal year 1997, humanitarian immigrants described in section 203(e) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(e)) in a number not to exceed in any fiscal year the number specified in subsection (f) for that year, and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under such subsection for all of such fiscal year.''; and

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

''(f) WORLDWIDE LEVEL OF HUMANITARIAN IMMIGRANTS.—

''(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, the worldwide

level of humanitarian immigrants (in this subsection referred to as the 'worldwide humanitarian level') under this subsection for a fiscal year is equal to 70,000.

''(2) REDUCTION FOR HUMANITARIAN IMMIGRANTS WHO ARE REFUGEES OR ASYLEES.—The worldwide humanitarian level for a fiscal year shall be reduced by the sum of—

''(A) 50,000, or, if less, the number of aliens who were admitted as refugees under section 207 in the previous fiscal year, and

''(B) the number of aliens who had been granted asylum whose status was adjusted in the previous fiscal year under section 209(b).

''(3) REDUCTION FOR PRIOR YEAR CANCELLATION OF REMOVAL AND REGISTRY.—The worldwide humanitarian level for a fiscal year shall be further reduced by the sum of—

''(A) the number of aliens whose removal was canceled and who were provided lawful permanent resident status in the previous fiscal year under section 240A, and

''(B) the number of aliens who were provided permanent resident status in the previous fiscal year under section 249.

''(4) LIMITATION.—In no case shall the worldwide humanitarian level for a fiscal year (taking into account any reductions under paragraphs (2) and (3)) exceed 10,000.''.

(b) TRANSITION.—In determining the worldwide humanitarian level under section 201(f) of the Immigration and Nationality Act for fiscal year 1997, the reference in paragraph (3)(A) of such section to 'section 240A' is deemed a reference to 'section 244(a)'.

SEC. 505. REQUIRING CONGRESSIONAL REVIEW AND REAUTHORIZATION OF WORLDWIDE LEVELS EVERY 5 YEARS.

Section 201 (8 U.S.C. 1151) is further amended by adding at the end the following new subsection:

''(g) REQUIREMENT FOR PERIODIC REVIEW AND REAUTHORIZATION OF WORLDWIDE LEVELS.—

''(1) CONGRESSIONAL REVIEW.—The Committees on the Judiciary of the House of Representatives and of the Senate shall undertake during fiscal year 2004 (and each fifth fiscal year thereafter) a thorough review of the appropriate worldwide levels of immigration to be provided under this section during the 5-fiscal-year period beginning with the second subsequent fiscal year.

''(2) CONGRESSIONAL REAUTHORIZATION.—The Congress, after consideration of the reviews under paragraph (1) and by amendment to this section, shall specify the appropriate worldwide levels of immigration to be provided under this section during the 5-fiscal-year period beginning with the second subsequent fiscal year.

''(3) SUNSET IN ABSENCE OF REAUTHORIZATION.—The worldwide levels specified under the previous provisions of this section are applicable only to fiscal years 1997 through 2005. Immigrant visa numbers for fiscal years after fiscal year 2005 that are subject to such levels are only authorized to the extent provided by amendment under paragraph (2) made to this section.''.

Subtitle B—Changes in Preference System

SEC. 511. LIMITATION OF IMMEDIATE RELATIVES TO SPOUSES AND CHILDREN.

(a) RECLASSIFICATION.—Section 201(b)(2)(A) (8 U.S.C. 1151(b)(2)(A)) is amended—

(1) in clause (i)—

(A) by striking ''IMMEDIATE RELATIVES.—'' and all that follows through the end of the first sentence and inserting ''An alien who is a spouse or child of a citizen of the United States.'', and

(B) in the second sentence, by striking ''an immediate relative'' and inserting ''a spouse of a citizen of the United States''; and

(2) in clause (ii), by striking ''such an immediate relative'' and inserting ''a spouse of a citizen of the United States''.

(b) PROTECTION OF CERTAIN CHILDREN FROM AGING OUT OF PREFERENCE STATUS.—

(1) IN GENERAL.—Section 204 (8 U.S.C. 1154) is amended by adding at the end the following new subsection:

''(i) For purposes of applying section 101(b)(1) in the case of issuance of an immigrant visa to, or admission or adjustment of status of, an alien under section 201(b)(2)(A), section 203(a)(1), or 203(e) as a child of a citizen of the United States or a permanent resident alien, the age of the alien shall be determined as of the date of the filing of the classification petition under section 204(a)(1) as such a child of a citizen of the United States or a permanent resident alien.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to immigrant visas issued on or after October 1, 1996.

SEC. 512. CHANGE IN FAMILY-SPONSORED CLASSIFICATION.

(a) IN GENERAL.—Section 203(a) (8 U.S.C. 1153(a)) is amended by striking paragraphs (1) through (4) and inserting the following:

''(1) SPOUSES AND CHILDREN OF LAWFUL PERMANENT RESIDENT ALIENS.—Immigrants who are the spouses and children of an alien lawfully admitted for permanent residence shall be allocated visas in a number not to exceed 85,000, plus any immigrant visas not used under paragraphs (2) and (3).

''(2) PARENTS OF UNITED STATES CITIZENS.—

''(A) IN GENERAL.—Immigrants who are the parents of an individual who is at least 21 years of age and a citizen of the United States shall be allocated visas in a number, which is not less than 25,000 and does not exceed the lesser of—

''(i) 45,000, or

''(ii) the number by which the worldwide level exceeds 85,000.

''(B) REFERENCE TO INSURANCE REQUIREMENT.—For requirement relating to insurance for parents, see section 212(a)(4)(D).

''(3) ADULT SONS AND DAUGHTERS.—

''(A) IN GENERAL.—Immigrants who are the qualifying adult sons or daughters (as defined in subparagraph (C)) of an individual who is (i) at least 21 years of age and (ii) either a citizen of the United States or an alien lawfully admitted for permanent residence shall be allocated visas according to the levels established in subparagraph (B).

''(B) ALLOCATION OF VISAS TO ADULT SONS AND DAUGHTERS OF UNITED STATES CITIZENS AND PERMANENT RESIDENT ALIENS.—

''(i) IN GENERAL.—Subject to clause (ii), any remaining visas shall be allocated under this paragraph in a number not to exceed the lesser of—

''(I) 5,000, or

''(II) the number by which the worldwide level exceeds the sum of 85,000 and the number of immigrant visas used under paragraph (2).

''(ii) ALLOCATION OF ADDITIONAL VISA NUMBERS.—

''(I) IN GENERAL.—If the demand for visa numbers under this paragraph exceeds the number (if any) available under clause (i) in any fiscal year, an additional number of visas shall be made available under this paragraph, but not to exceed 5,000 additional visas numbers in any fiscal year.

''(II) OFFSETTING REDUCTION IN THE LEVELS OF EMPLOYMENT-BASED VISAS.—If an additional number of visa numbers are made available under subclause (I) in a fiscal year, the number of visas made available under section 201(a)(2) and paragraphs (1) through (6) of subsection (b) in the fiscal year shall be reduced by a number equal to such additional number reduced by the amount (if any) by which 110,000 exceeds the number of immigrant visas used under paragraphs (1) and (2) of this subsection in the fiscal year. The reduction under each such paragraph of subsection (b) shall be in the same proportion to the total reduction as the ratio of the numerical limitation under each such paragraph specified under such subsection to the worldwide level of employment-based immigrants (as specified in section 201(d)).

''(C) QUALIFICATIONS.—For purposes of this paragraph, the term 'qualifying adult son or daughter' means an immigrant who, as of the date of approval of the classification petition under section 204(a)(1)—

''(i) is at least 21, but not more than 25 years of age,

''(ii) has never been married,

''(iii) is childless, and

''(iv) would qualify as a dependent of the petitioning individual for Federal income tax purposes, except that the immigrant does not meet the residence requirements.

''(D) THREE-YEAR CONDITIONAL REQUIREMENT.—

''(i) CONDITIONAL BASIS FOR STATUS.—Notwithstanding any other provision of this Act, an alien provided lawful permanent residence status on the basis of being a qualifying adult son or daughter shall be considered, at the time of obtaining the status of an alien lawfully admitted for permanent residence, to have obtained such status on a conditional basis subject to the provisions of this subparagraph.

''(ii) REQUIREMENTS OF NOTICE AND PETITIONING FOR REMOVAL OF CONDITIONAL STATUS.—The Attorney General shall establish, by regulation, procedures which incorporate the requirements of notice and petitioning for removal of conditional status similar to the requirements for removal of conditional status under section 216A.

''(iii) TERMINATION OF STATUS.—In the case of an alien with permanent resident status on a conditional basis under clause (i), the alien must demonstrate that the alien met the qualifications set forth in subparagraph (C) as of the date of approval of the classification petition under section 204(a). In the absence of such a demonstration by the alien, the alien's status shall be terminated.

''(iv) SPECIAL RULE.—In applying section 216A under this subparagraph, any reference to the 'second' anniversary in such section is deemed a reference to the 'third' anniversary.''.

(b) INSURANCE REQUIREMENT.—Section 212(a)(4) (8 U.S.C. 1182(a)(4)), as amended by section 621(a), is amended by adding at the end the following new subparagraph:

''(D) INSURANCE REQUIREMENTS FOR PARENTS.—

''(i) IN GENERAL.—Any alien who seeks admission as a parent under section 203(a)(2) is inadmissible unless the alien demonstrates at the time of issuance of the visa (and at the time of admission) to the satisfaction of the consular officer and the Attorney General that the alien—

''(I) will have coverage under an adequate health insurance policy (at least comparable to coverage provided under the medicare program under title XVIII of the Social Security Act), and

''(II) will have coverage with respect to long-term health needs (at least comparable to such coverage provided under the medicaid program under title XIX of such Act for the State in which either the alien intends to reside or in which the petitioner, on behalf of the alien under section 204(a)(1), resides),

throughout the period the individual is residing in the United States.

''(ii) FACTORS TO BE TAKEN INTO ACCOUNT.—In making a determination under clause (i), the Attorney General shall take into account the age of the parent and the likelihood of the parent securing health insurance coverage through employment.''.

SEC. 513. CHANGE IN EMPLOYMENT-BASED CLASSIFICATION.

(a) IN GENERAL.—Section 203(b) (8 U.S.C. 1153(b)) is amended—

(1) by redesignating paragraph (6) as paragraph (7);

(2) by striking paragraphs (1) through (5) and inserting the following:

''(1) ALIENS WITH EXTRAORDINARY ABILITY.—Visas shall first be made available in a number not to exceed 15,000 of such worldwide level to immigrants—

''(A) who have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose

achievements have been recognized in the field through sufficient documentation,

''(B) who seek to be admitted into the United States to continue work in the area of extraordinary ability, and

''(C) whose admission into the United States will substantially benefit prospectively the United States.

''(2) ALIENS WHO ARE OUTSTANDING PROFESSORS AND RESEARCHERS OR MULTINATIONAL EXECUTIVES AND MANAGERS.—

''(A) IN GENERAL.—Visas shall be made available, in a number not to exceed 30,000 of such worldwide level, plus any visas not required for the class specified in paragraph (1), to immigrants who are aliens described in subparagraph (B) or (C).

''(B) OUTSTANDING PROFESSORS AND RESEARCHERS.—An alien is described in this subparagraph if—

''(i) the alien is recognized internationally as outstanding in a specific academic area,

''(ii) the alien has at least 3 years of experience in teaching or research in the academic area, and

''(iii) the alien seeks to enter the United States—

''(I) for a tenured position (or tenure-track position) within a university or institution of higher education to teach in the academic area,

''(II) for a comparable position with a university or institution of higher education to conduct research in the area, or

''(III) for a comparable position to conduct research in the area with a department, division, or institute of a private employer, if the department, division, or institute employs at least 3 persons full-time in research activities and has achieved documented accomplishments in an academic field.

''(C) CERTAIN MULTINATIONAL EXECUTIVES AND MANAGERS.—An alien is described in this subparagraph if the alien, in the 3 years preceding the time of the alien's application for classification and admission into the United States under this subparagraph, has been employed for at least 1 year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof and the alien seeks to enter the United States in order to continue to render services to the same employer or to a subsidiary or affiliate thereof in a capacity that is managerial or executive.

''(3) ALIENS WHO ARE MEMBERS OF THE PROFESSIONS HOLDING ADVANCED DEGREES OR ALIENS OF EXCEPTIONAL ABILITY.—

''(A) IN GENERAL.—Visas shall be made available, in a number not to exceed 30,000 of such worldwide level, plus any visas not required for the classes specified in paragraphs (1) and (2), to immigrants who are aliens described in subparagraph (B).

''(B) ALIENS WHO ARE MEMBERS OF THE PROFESSIONS HOLDING ADVANCED DEGREES OR ALIENS OF EXCEPTIONAL ABILITY.—

''(i) IN GENERAL.—An alien is described in this subparagraph if the alien is a member of a profession holding an advanced degree or its equivalent or who because of exceptional ability in the sciences, arts, or business will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.

''(ii) DETERMINATION OF EXCEPTIONAL ABILITY.—In determining under clause (i) whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning or a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

''(iii) LABOR CERTIFICATION REQUIRED.—An immigrant visa may not be issued to an immigrant under this subparagraph until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(5)(A).

''(iv) NATIONAL INTEREST WAIVER.—The Attorney General may waive the requirement under clause (iii) and the requirement under clause (i) that an alien's services be sought by an employer in the United States only if—

''(I) such a waiver is necessary to substantially benefit—

''(aa) the national security, national defense, or Federal, State, or local law enforcement;

''(bb) health care, housing, or educational opportunities for an indigent or low-income population or in an underserved geographical area;

''(cc) economic or employment opportunities for a specific industry or a specific geographical area;

''(dd) the development of new technologies; or

''(ee) environmental protection or the productive use of natural resources, and

''(II) the alien will engage in a specific undertaking to advance one or more of the interests under subclause (I).

''(4) SKILLED WORKERS AND PROFESSIONALS.—

''(A) IN GENERAL.—Visas shall be made available, in a number not to exceed 45,000 of such worldwide level, plus any visas not required for the classes specified in paragraphs (1) through (3) to immigrants who are described in subparagraph (B) or (C).

''(B) SKILLED WORKERS.—An alien described in this subparagraph is an immigrant who is capable, at the time a petition is filed, of performing skilled labor (requiring at least 2 years of training or experience), not of a temporary or seasonal nature, for which qualified workers are not available in the United States, and who has a total of 4 years of training or experience (or both) with respect to such labor.

''(C) PROFESSIONALS.—

''(i) IN GENERAL.—An alien described in this subparagraph is an immigrant who holds a baccalaureate degree and is a member of the professions and, subject to clause (ii), has at least 2 years of experience in the profession after the receipt of the degree.

''(ii) SPECIAL RULE FOR LANGUAGE TEACHERS.—An alien who is a teacher and has (within the previous 5 years) at least 2 years of experience teaching a language (other than English) full-time at an accredited elementary or middle school may be classified and admitted as a professional under this subparagraph if the alien is seeking admission to teach such language full-time in an accredited elementary or middle school.

''(D) LABOR CERTIFICATION REQUIRED.—An immigrant visa may not be issued to an immigrant under this paragraph until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(5)(A).

''(E) EXPERIENCE REQUIREMENT.—Any period of experience acquired as a nonimmigrant under section 101(a)(15)(E), 101(a)(15)(H)(i), or 101(a)(15)(L) may be used to fulfill a requirement for experience under this paragraph.

''(5) INVESTORS IN JOB CREATION.—

''(A) IN GENERAL.—Visas shall be made available, in a number not to exceed 10,000 of such worldwide level less the reduction in visa numbers under this paragraph required to be effected under section 201(c)(5)(A) for the fiscal year involved, to immigrants seeking to enter the United States for the purpose of engaging in a new commercial enterprise—

''(i) which the alien has established,

''(ii) in which the alien has invested (after the date of the enactment of the Immigration Act of 1990), or is actively in the process of investing, capital in an amount not less $1,000,000, and

''(iii) which will benefit the United States economy and create full-time employment for not fewer than 10 United States citizens or aliens lawfully admitted for permanent residence or other immigrants lawfully authorized to be employed in the United States (other than the immigrant and the immigrant's spouse, sons, or daughters).

''(B) PILOT PROGRAM.—For each of fiscal years 1997 and 1998, up to 2,000 visas otherwise made available under this paragraph shall be made available to immigrants who would be described in subparagraph (A) if '$500,000' were substituted for '$1,000,000' in subparagraph (A)(ii) and if 'for not fewer than 5' were substituted for 'for not fewer than 10' in subparagraph (A)(iii). By not later than April 1, 1998, the Attorney General shall submit to Congress a report on the operation of this subparagraph and shall include in the report information describing the immigrants admitted under this paragraph and the enterprises they invest in and a recommendation on whether the pilot program under this subparagraph should be continued or modified.

''(6) CERTAIN SPECIAL IMMIGRANTS.—Visas shall be made available, in a number not to exceed 5,000 of such worldwide level, to qualified special immigrants described in section 101(a)(27) (other than those described in subparagraph (A) thereof), of which not more than 4,000 may be made available in any fiscal year to special immigrants described in subclause (II) or (III) of section 101(a)(27)(C)(ii).''; and

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

''(8) NOT COUNTING WORK EXPERIENCE AS AN UNAUTHORIZED ALIEN.—For purposes of this subsection, work experience obtained in employment in the United States with respect to which the alien was an unauthorized alien (as defined in section 274A(h)(3)) shall not be taken into account.''.

(b) CONDITIONAL STATUS FOR CERTAIN FOREIGN LANGUAGE TEACHERS.—

(1) IN GENERAL.—Title II is amended by inserting after section 216A the following new section:

''CONDITIONAL PERMANENT RESIDENT STATUS FOR CERTAIN FOREIGN LANGUAGE TEACHERS

''SEC. 216B. (a) IN GENERAL.—Subject to the succeeding provisions of this section, section 216A shall apply to an alien foreign language teacher (as defined in subsection (d)(1)) and to an alien spouse or alien child (as defined in subsection (d)(2)) in the same manner as such section applies to an alien entrepreneur and an alien spouse or alien child.

''(b) TIMING FOR PETITION.—

''(1) IN GENERAL.—In applying section 216A under subsection (a), any reference to a 'second anniversary of an alien's lawful admission for permanent residence' is deemed a reference to the end of the time period described in paragraph (2).

''(2) TIME PERIOD FOR DETERMINATION.—The time period described in this paragraph is 5 years less the period of experience, during the 5-year period ending on the date the alien foreign language teacher obtains permanent resident status, of teaching a language (other than English) full-time at an accredited elementary or middle school.

''(c) REQUIREMENT FOR TOTAL OF 5 YEARS' TEACHING EXPERIENCE.—In applying section 216A under subsection (a), the determination of the Attorney General under section 216A(b)(1) shall be whether (and the facts and information under section 216A(d)(1) shall demonstrate that) the alien has been employed on a substantially full-time basis as a foreign language teacher at an accredited elementary or middle school in the United States during the period since obtaining permanent residence status (instead of the determinations described in section 216A(b)(1) and of the facts and information described in section 216A(d)(1)).

''(d) DEFINITIONS.—In this section:

''(1) The term 'alien foreign language teacher' means an alien who obtains the status of an alien lawfully admitted for permanent residence (whether on a conditional basis or otherwise) under section 203(b)(4)(C)(ii) on the basis of less than 5 years' teaching experience.

''(2) The term 'alien spouse' and the term 'alien child' mean an alien who obtains the status of an alien lawfully admitted for permanent residence (whether on a conditional basis or

otherwise) by virtue of being the spouse or child, respectively, of an alien foreign language teacher.''.

(2) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 216A the following:

''Sec. 216B. Conditional permanent resident status for certain foreign language teachers.''.

SEC. 514. CHANGES IN DIVERSITY IMMIGRANT PROGRAM.

(a) APPLICATION ONLY TO 10 COUNTRIES WITH HIGHEST REGISTRANTS.—Section 203(c) (8 U.S.C. 1153(c)) is amended—

(1) in paragraph (1)(B)(ii), by striking ''and'' at the end of subclause (I), by striking the period at the end of subclause (II) and inserting '', and'', and by adding at the end the following new subclause:

''(III) within each region, the 10 foreign states which had the highest number of registrants for the diversity immigrant program under this subsection for the period beginning October 1, 1994, and ending September 30, 1996, and which are not high-admission states.''; and

(2) by adding at the end of paragraph (1)(E) the following new clause:

''(vi) TEN STATES ELIGIBLE IN EACH REGION.—Only natives of the 10 states identified for each region in subparagraph (B)(ii)(III) are eligible for diversity visas.''.

(b) CHANGE IN DEFINITION OF REGION.—Section 203(c)(1)(F) (8 U.S.C. 1153(c)(1)(F)) is amended—

(1) by striking ''Northern Ireland shall be treated as a separate foreign state,'',

(2) by striking the comma after ''foreign state'',

(3) in clause (iv), by striking ''(other than Mexico)'',

(4) in clause (vi), by striking ''Mexico,''.

(c) ESTABLISHING JOB OFFER REQUIREMENT.—Paragraph (2) of section 203(c) (8 U.S.C. 1153(c)) is amended to read as follows:

''(2) REQUIREMENT OF JOB OFFER AND EDUCATION OR SKILLED WORKER.—An alien is not eligible for a visa under this subsection unless the alien—

''(A) has a job offer in the United States which has been verified;

''(B) has at least a high school education or its equivalent; and

''(C) has at least 2 years of work experience in an occupation which requires at least 2 years of training.''.

(d) ADDITIONAL PROVISIONS.—Section 203(c) (8 U.S.C. 1153) is further amended by adding at the end the following new paragraphs:

''(4) FEES.—Fees for the furnishing and verification of applications for visas under this subsection and for the issuance of visas under this subsection may be prescribed by the Secretary of State in such amounts as are adequate to compensate the Department of State for the costs of administering the diversity immigrant program. Any such fees collected may be deposited as an offsetting collection to the appropriate Department of State appropriation to recover the costs of such program and shall remain available for obligation until expended.

''(5) INELIGIBILITY OF ALIENS UNLAWFULLY PRESENT IN THE UNITED STATES.—An alien who is unlawfully present in the United States at the time of filing of an application, within 5 years prior to the filing of such application, or at any time subsequent to the filing of the application is ineligible for a visa under this subsection.''.

SEC. 515. AUTHORIZATION TO REQUIRE PERIODIC CONFIRMATION OF CLASSIFICATION PETITIONS.

(a) IN GENERAL.—Section 204(b) (8 U.S.C. 1154(b)) is amended by inserting ''(1)'' after ''(b)'' and by adding at the end the following new paragraph:

''(2)(A) The Attorney General may provide that a petition approved with respect to an alien (and the priority date established with respect to the petition) shall expire after a period (specified by the Attorney General and of not less than 2 years) following the date of approval of the petition, unless the petitioner files with the Attorney General a form described in subparagraph (B).

''(B) The Attorney General shall specify the form to be used under this paragraph. Such form shall be designed—

''(i) to reconfirm the continued intention of the petitioner to seek admission of the alien based on the classification involved, and

''(ii) as may be provided by the Attorney General, to update the contents of the original classification petition.

''(C) The Attorney General may apply subparagraph (A) to one or more classes of classification petitions and for different periods of time for different classes of such petitions, as specified by the Attorney General.''.

(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by subsection (a) shall not apply to classification petitions filed before October 1, 1996.

(2) The Attorney General may apply such amendments to such classification petitions, but only in a manner so that no such petition expires under such amendments before October 1, 2000.

SEC. 516. CHANGES IN SPECIAL IMMIGRANT STATUS.

(a) REPEALING CERTAIN OBSOLETE PROVISIONS.—Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended by striking subparagraphs (B), (E), (F), (G), and (H).

(b) SPECIAL IMMIGRANT STATUS FOR CERTAIN NATO CIVILIAN EMPLOYEES.—Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is further amended—

(1) by striking ''or'' at the end of subparagraph (J),

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

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

''(L) an immigrant who would be described in clause (i), (ii), (iii), or (iv) of subparagraph (I) if any reference in such a clause—

''(i) to an international organization described in paragraph (15)(G)(i) were treated as a reference to the North American Treaty Organization (NATO);

''(ii) to a nonimmigrant under paragraph (15)(G)(iv) were treated as a reference to a nonimmigrant classifiable under NATO–6 (as a member of a civilian component accompanying a force entering in accordance with the provisions of the NATO Status-of-Forces Agreement, a member of a civilian component attached to or employed by an Allied Headquarters under the 'Protocol on the Status of International Military Headquarters' set up pursuant to the North Atlantic Treaty, or as a dependent); and

''(iii) to the Immigration Technical Corrections Act of 1988 or to the Immigration and Nationality Technical Corrections Act of 1994 were a reference to the Immigration in the National Interest Act of 1995.''.

(c) CONFORMING NONIMMIGRANT STATUS FOR CERTAIN PARENTS OF SPECIAL IMMIGRANT CHILDREN.—Section 101(a)(15)(N) (8 U.S.C. 1101(a)(15)(N)) is amended—

(1) by inserting ''(or under analogous authority under paragraph (27)(L))'' after ''(27)(I)(i)'', and

(2) by inserting ''(or under analogous authority under paragraph (27)(L))'' after ''(27)(I)''.

(d) EXTENSION OF SUNSET FOR RELIGIOUS WORKERS.—Section 101(a)(27)(C)(ii) (8 U.S.C. 1101(a)(27)(C)(ii)) is amended by striking ''1997'' and inserting ''2005'' each place it appears.

(e) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 201(b)(1)(A) (8 U.S.C. 1151(b)(1)(A)) is amended by striking ''or (B)''.

(2) Section 203(b)(4) (8 U.S.C. 1153(b)(4)) is amended by striking ''or (B)''.

(3) Section 214(l)(3) (8 U.S.C. 1184(l)(3)), as redesignated by section 851(a)(3)(A), is amended by striking '', who has not otherwise been accorded status under section 101(a)(27)(H),''.

(4) Section 245(c)(2) (8 U.S.C. 1255(c)(2)) is amended by striking ''101(a)(27)(H), (I),'' and inserting ''101(a)(27)(I),''.

(f) EFFECTIVE DATES.—(1) Except as provided in this section, the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendments made by subsection (a) shall not apply to any alien with respect to whom an application for special immigrant status under a subparagraph repealed by such amendments has been filed by not later than September 30, 1996.

SEC. 517. REQUIREMENTS FOR REMOVAL OF CONDITIONAL STATUS OF ENTREPRENEURS.

(a) IN GENERAL.—Section 216A(b) (8 U.S.C. 1186b(b)) is amended—

(1) by amending clause (ii) of paragraph (1)(B) to read as follows:

''(ii) subject to paragraph (3), the alien did not invest (and maintain investment of) the requisite capital, or did not employ the requisite number of employees, throughout substantially the entire period since the alien's admission; or'', and

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

''(3) EXCEPTIONS.—

''(A) GOOD FAITH EXCEPTION.—Paragraph (1)(B)(ii) shall not apply to an alien to the extent that the alien continues to attempt in good faith throughout the period since admission to invest (and maintain investment of) the requisite capital, and to employ the requisite number of employees, but was unable to do so due to circumstances for which the alien should not justly be held responsible.

''(B) EXTENSION.—In the case of an alien to whom the exception under subparagraph (A) applies, the application period under subsection (d)(2) (and period for termination under paragraph (1)) shall be extended (for up to 3 additional years) by such additional period as may be necessary to enable the alien to have had the requisite capital and number of employees throughout a 2-year period. Such extension shall terminate at any time at which the Attorney General finds that the alien has not continued to attempt in good faith to invest such capital and employ such employees.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to aliens admitted on or after the date of the enactment of this Act.

SEC. 518. ADULT DISABLED CHILDREN.

Section 101(b)(1) (8 U.S.C. 1101(b)(1)) is amended—

(1) in subparagraph (E) by striking ''or'' at the end,

(2) in subparagraph (F) by striking the period at the end and inserting ''; or'', and

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

''(G) a child of a citizen or national of the United States or lawful permanent resident alien, regardless of age, who has never been married, and who has a severe mental or physical impairment, or combination of mental or physical impairments, which—

''(i) is likely to continue indefinitely; and

''(ii) causes substantially total inability to perform functions necessary for independent living, including but not necessarily limited to 3 or more of the following areas of major life activity—

''(I) self-care,

''(II) interpersonal communication,

''(III) learning,

''(IV) mobility, and

''(V) self-direction:

Provided, That no child may be considered to be a child within the meaning of this subparagraph on the basis, in whole or in part, of any physical or mental impairment that is not being ameliorated through medical treatment to the maximum extent reasonably possible given the ability and resources of such child and the citizen, national, or lawful permanent resident alien who is the child's parent.''.

SEC. 519. MISCELLANEOUS CONFORMING AMENDMENTS.

(a) CONFORMING AMENDMENTS RELATING TO IMMEDIATE RELATIVES.—

(1) Section 101(b)(1)(F) (8 U.S.C. 1101(b)(1)(F)) is amended by striking ''as an immediate relative under section 201(b)'' and inserting ''as a child of a citizen of the United States''.

(2) Section 204 (8 U.S.C. 1154) is amended—

(A) in subsection (a)(1)(A)(i), by striking ''to an immediate relative status'' and inserting ''to status as the spouse or child of a citizen of the United States'';

(B) in subsection (a)(1)(A)(iii), by striking ''as an immediate relative'' and inserting ''as the spouse of a citizen of the United States'';

(C) in subsection (a)(1)(iv), by striking ''as an immediate relative'' and inserting ''as a child of a citizen of the United States'';

(D) in subsection (b), by striking ''an immediate relative specified in section 201(b)'' and inserting ''a spouse or child of a citizen of the United States under section 201(b)'';

(E) in subsection (c), by striking ''an immediate relative or preference'' and inserting ''a preferential'';

(F) in subsection (e)—

(i) by striking ''an immediate relative'' and inserting ''a spouse or child of a citizen of the United States'', and

(ii) by striking ''his'' and ''he'' and inserting ''the alien's'' and ''the alien'', respectively; and

(G) in subsection (g), by striking ''immediate relative status'' and inserting ''status as a spouse or child of a citizen of the United States or other''.

(3) Section 212(a)(6)(E)(ii) (8 U.S.C. 1182(a)(6)(E)(ii)) is amended by striking ''an immediate relative'' and inserting ''a spouse, child, or parent of a citizen of the United States''.

(4) Section 212(d)(11) (8 U.S.C. 1182(d)(11)) is amended by striking ''an immediate relative'' and inserting ''a spouse or child of a citizen of the United States''.

(5) Section 216(g)(1)(A) (8 U.S.C. 1186a(g)(1)(A)) is amended by striking ''an immediate relative (described in section 201(b)) as the spouse of a citizen of the United States'' and inserting ''the spouse of a citizen of the United States (described in section 201(b))''.

(6) Section 221(a) (8 U.S.C. 1201(a)) is amended by striking '', immediate relative,''.

(7)(A) Section 224 (8 U.S.C. 1204) is amended—

(i) by amending the heading to read as follows:

''VISAS FOR SPOUSES AND CHILDREN OF CITIZENS AND SPECIAL IMMIGRANTS'',

(ii) by striking ''immediate relative'' the first place it appears and inserting ''a spouse or child of a citizen of the United States'', and

(iii) by striking ''immediate relative status'' and inserting ''status or status as a spouse or child of a citizen of the United States''.

(B) The item in the table of contents relating to section 224 is amended to read as follows:

''Sec. 224. Visas for spouses and children of citizens and special immigrants.''.

(8) Subsection (a)(1)(E)(ii) of section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2), is amended by striking ''an immediate relative'' and inserting ''a spouse, child, or parent of a citizen of the United States under section 201(b) or 203(a)(2)''.

(9) Section 245(c) (8 U.S.C. 1255(c)) is amended by striking ''an immediate relative as defined in section 201(b)'' and inserting ''a spouse or child of a citizen of the United States under section 201(b) or a parent of a citizen under section 203(a)(2)'' each place it appears.

(10) Section 291 (8 U.S.C. 1361) is amended by striking ''immigrant, special immigrant, immediate relative'' and inserting ''immigrant status, special immigrant status, status as a spouse or child of a citizen of the United States''.

(11) Section 401 of the Immigration Reform and Control Act of 1986 is amended by striking ''immediate relatives'' and inserting ''spouses and children of citizens''.

(b) CONFORMING AMENDMENTS FOR OTHER FAMILY-SPONSORED IMMIGRANTS.—

(1) PETITIONING REQUIREMENTS.—Section 204 (8 U.S.C. 1154) is amended—

(A) in subsection (a)(1)(A)(i), by striking ''paragraph (1), (3), or (4)'' and inserting ''paragraph (2) or (3)'';

(B) in subsection (a)(1)(B)(i), by striking ''section 203(a)(2)'' and inserting ''paragraph (1) or (3) of section 203(a)(1)'';

(C) in clauses (ii) and (iii) of subsection (a)(1)(B), by striking ''203(a)(2)(A)'' and inserting ''203(a)(1)''; and

(D) in subsection (f)(1), by striking '', 203(a)(1), or 203(a)(3)'' and inserting ''or 203(a)(2)''.

(2) APPLICATION OF PER COUNTRY LEVELS.—Section 202 (8 U.S.C. 1152) is amended—

(A) by amending paragraph (4) of subsection (a) to read as follows:

''(4) SPECIAL RULES FOR SPOUSES AND CHILDREN OF LAWFUL PERMANENT RESIDENT ALIENS.—

''(A) 75 PERCENT OF 1ST PREFERENCE NOT SUBJECT TO PER COUNTRY LIMITATION.—Of the visa numbers made available under section 203(a) to immigrants described in paragraph (1) of that section in any fiscal year, 63,750 shall be issued without regard to the numerical limitation under paragraph (2).

''(B) LIMITING PASS DOWN FOR CERTAIN COUNTRIES SUBJECT TO SUBSECTION (e).—In the case of a foreign state or dependent area to which subsection (e) applies, if the total number of visas issued under section 203(a)(1) exceeds the maximum number of visas that may be made available to immigrants of the state or area under such section consistent with subsection (e) (determined without regard to this paragraph), in applying paragraph (2) of section 203(a) under subsection (e)(2) all visas shall be deemed to have been required for the classes specified in paragraph (1) of such section.''; and

(B) in subsection (e)—

(i) in paragraph (1), by inserting before the semicolon the following: ''(determined without regard to subsections (c)(4) and (d)(2) of section 201)'',

(ii) in paragraph (2), by striking ''paragraphs (1) through (4)'' and inserting ''paragraphs (1) and (2)'', and

(iii) in the last sentence, by striking ''203(a)(2)(A)'' and inserting ''203(a)(1)''.

(3) ADDITIONAL CONFORMING AMENDMENTS.—

(A) Subsection (d) of section 203 (8 U.S.C. 1153), before redesignation by section 524(a)(1), is amended by striking ''(a)'' and inserting ''(a)(2)''.

(B) Section 212(a)(6)(E)(ii) (8 U.S.C. 1182(a)(6)(E)(ii)) and subsection (a)(1)(E)(ii) of section 241 (8 U.S.C. 1251)), before redesignation as section 237 under section 305(a)(2), are each amended by striking ''203(a)(2)'' and inserting ''203(a)(1)''.

(C) Section 212(d)(11) (8 U.S.C. 1182(d)(11)) is amended by striking ''immigrant under section 203(a) (other than paragraph (4) thereof)'' and inserting ''an immigrant under section 203(a)''.

(D) Section 216(g)(1)(C) (8 U.S.C. 1186a(g)(1)(C)) is amended by striking ''203(a)(2)'' and inserting ''203(a)(1)''.

(E) Section 2(c) of the Virgin Islands Nonimmigrant Alien Adjustment Act of 1982 (Public Law 97–271) is amended—

(i) in paragraph (2), by inserting ''or first or third family preference petitions'' after ''second preference petitions'';

(ii) in paragraph (3)(A), by striking ''or'' at the end;

(iii) in paragraph (3)(B), by striking the period at the end and inserting ''; or'';

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

''(C) by virtue of a first or third family preference petition filed by an individual who was admitted to the United States as an immigrant by virtue of a second family preference petition filed by the son or daughter of the individual, if that son or daughter had his or her status adjusted under this section.''; and

(v) in paragraph (4), by striking ''on or after such date).'' and inserting the following: ''on or after such date and before October 1, 1996). For purposes of this subsection, the terms 'first family preference petition', 'second family preference petition', and 'third family preference petition' mean, in the case of an alien, a petition filed under section 204(a) of the Act to grant preference status to the alien by reason of the relationship described in section 203(a)(1), 203(a)(2), or 203(a)(3), respectively (as in effect on and after October 1, 1996).''.

(c) CONFORMING AMENDMENTS RELATING TO EMPLOYMENT-BASED IMMIGRANTS.—

(1) TREATMENT OF SPECIAL K IMMIGRANTS.—Subparagraph (B) of section 203(b)(7) (8 U.S.C. 1153(b)(7)), as redesignated by section 513(a)(1), is amended—

(A) in clause (i), by striking ''and (3) shall each be reduced by ⅓'' and inserting ''(3), and (4) shall each be reduced by the same proportion, as the proportion (of the visa numbers made available under all such paragraphs) that were made available under each respective paragraph,'', and

(B) in clause (iii), by striking ''(3) of this subsection in the fiscal year shall be reduced by ⅓'' and inserting ''(4) in the fiscal year reduced by the same proportion, as the proportion (of the visa numbers made available under all such paragraphs to natives of the foreign state) that were made available under each respective paragraph to such natives,''.

(2) CONFORMING AMENDMENTS RELATING TO PETITIONING RIGHTS.—Section 204(a)(1) (8 U.S.C. 1154(a)(1)) is amended—

(A) in subparagraph (C), by striking ''203(b)(1)(A)'' and inserting ''203(b)(1)'';

(B) in subparagraph (D), by striking ''section 203(b)(1)(B), 203(b)(1)(C), 203(b)(2), or 203(b)(3)'' and inserting ''section 203(b)(2), 203(b)(3), or 203(b)(4)'';

(C) in subparagraph (E)(i), by striking ''203(b)(4)'' and inserting ''203(b)(6)''; and

(D) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (E), respectively, and by moving subparagraph (E) (as so redesignated) to precede subparagraph (F) (as so redesignated).

(3) GROUND FOR INADMISSIBILITY.—Section 212(a)(5)(C) (8 U.S.C. 1182(a)(5)(C)) is amended by striking ''(2) or (3)'' and inserting ''(3) or (4)''.

(4) OTHER CONFORMING AMENDMENTS.—

(A) Section 202(e)(3) (8 U.S.C. 1152(e)(3)) is amended by striking ''through (5)'' and inserting ''through (6)''.

(B) Section 245(j)(3) (8 U.S.C. 1255(j)(3)), as added by section 130003(c)(1) Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) and as redesignated by section 851(a)(3)(A) of this Act, is amended by striking ''203(b)(4)'' and inserting ''203(b)(6)''.

(C) Section 154(b)(1)(B)(i) of the Immigration Act of 1990 is amended by striking ''1991)'' and inserting ''1991, and before October 1, 1996) or under section 203(a), 203(b)(1), or 203(b)(2) (as in effect on and after October 1, 1996)''.

(D) Section 206(a) of the Immigration Act of 1990 is amended by striking ''203(b)(1)(C)'' and inserting ''203(b)(2)(C)''.

(E) Section 2(d)(2)(A) of the Chinese Student Protection Act of 1992 (Public Law 102–404) is amended by striking ''203(b)(3)(A)(i)'' and inserting ''203(b)(4)(B)''.

(F) The Soviet Scientists Immigration Act of 1992 (Public Law 102–509) is amended—

(i) in sections 3 and 4(a), by striking ''203(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(2)(A))'' and inserting ''203(b)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(3)(B)(i))'', and

(ii) in section 4(c), by striking ''203(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(2)(A))'' and inserting ''203(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(2))''.

(d) REPEAL OF CERTAIN OUTDATED PROVISIONS.—The following provisions of law are repealed:

(1) Section 9 of Public Law 94–571 (90 Stat. 2707).

(2) Section 19 of Public Law 97–116 (95 Stat. 1621).

Subtitle C—Refugees, Parole, and Humanitarian Admissions

SEC. 521. CHANGES IN REFUGEE ANNUAL ADMISSIONS.

(a) IN GENERAL.—Paragraphs (1) and (2) of section 207(a) (8 U.S.C. 1157(a)) are amended to read as follows:

''(1) Except as provided in paragraph (2) and subsection (b), the number of refugees who may be admitted under this section in any fiscal year shall be such number as the President determines, before the beginning of the fiscal year and after appropriate consultation, is justified by humanitarian concerns or is otherwise in the national interest.

''(2)(A) Except as provided in subparagraph (B), the number determined under paragraph (1) for a fiscal year may not exceed—

''(i) 75,000 in the case of fiscal year 1997, or

''(ii) 50,000 in the case of any succeeding fiscal year.

''(B) The number determined under paragraph (1) for a fiscal year may exceed the limit specified under subparagraph (A) if Congress enacts a law providing for a higher number.''.

(b) ADMISSIONS IN EMERGENCY REFUGEE SITUATIONS AND TIMING OF THE REFUGEE CONSULTATION PROCESS.—

(1) Section 207(b) (8 U.S.C. 1157(b)) and section 207(d)(3)(B) (8 U.S.C. 1157(d)(3)(B)) are amended by striking ''unforeseen''.

(2) Section 207(d)(1) (8 U.S.C. 1157(d)(1)) is amended by striking ''Before the start of each fiscal year'' and inserting ''Before June 1 of the preceding fiscal year''.

(3) Section 207(e) (8 U.S.C. 1157(e)) is amended by adding at the end the following:

''Such discussions shall occur before July 1 of the fiscal year preceding the fiscal year of admissions, except that discussions relating to an emergency refugee situation shall occur not more than 30 days after the President proposes admissions in response to the emergency.''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply beginning with fiscal year 1997.

SEC. 522. PERSECUTION FOR RESISTANCE TO COERCIVE POPULATION CONTROL METHODS.

(a) DEFINITION OF REFUGEE.—Section 101(a)(42) (8 U.S.C. 1101(a)(42)) is amended by adding at the end the following: ''For purposes of determinations under this Act, a person who has been forced to abort a pregnancy or to undergo involuntary sterilization, or who has been persecuted for failure or refusal to undergo such a procedure or for other resistance to a coercive population control program, shall be deemed to have been persecuted on account of political opinion, and a person who has a well founded fear that he or she will be forced to undergo such a procedure or subject to persecution for such failure, refusal, or resistance shall be deemed to have a well founded fear of persecution on account of political opinion.''.

(b) NUMERICAL LIMITATION.—Section 207(a) (8 U.S.C. 1157(a)), as amended by section 532(b), is amended by adding at the end the following new paragraph:

''(4) For any fiscal year, not more than a total of 1,000 refugees may be admitted under this subsection or granted asylum under section 208 pursuant to a determination under the last sentence of section 101(a)(42) (relating to persecution for resistance to coercive population control methods).''.

SEC. 523. PAROLE AVAILABLE ONLY ON A CASE-BY-CASE BASIS FOR HUMANITARIAN REASONS OR SIGNIFICANT PUBLIC BENEFIT.

(a) IN GENERAL.—Paragraph (5) of section 212(d) (8 U.S.C. 1182(d)) is amended to read as follows:

''(5)(A) Subject to the provisions of this paragraph and section 214(f)(2), the Attorney General, in the sole discretion of the Attorney General, may on a case-by-case basis parole an alien into the United States temporarily, under such conditions as the Attorney General may prescribe, only—

''(i) for an urgent humanitarian reason (as described under subparagraph (B)); or

''(ii) for a reason deemed strictly in the public interest (as described under subparagraph (C)).

''(B) The Attorney General may parole an alien based on an urgent humanitarian reason described in this subparagraph only if—

''(i) the alien has a medical emergency and the alien cannot obtain necessary treatment in the foreign state in which the alien is residing or the medical emergency is life-threatening and there is insufficient time for the alien to be admitted through the normal visa process;

''(ii) the alien is needed in the United States in order to donate an organ or other tissue for transplant into a close family member; or

''(iii) the alien has a close family member in the United States whose death is imminent and the alien could not arrive in the United States in time to see such family member alive if the alien were to be admitted through the normal visa process.

''(C) The Attorney General may parole an alien based on a reason deemed strictly in the public interest described in this subparagraph only if—

''(i) the alien has assisted the United States Government in a matter, such as a criminal investigation, espionage, or other similar law enforcement activity, and either the alien's presence in the United States is required by the Government or the alien's life would be threatened if the alien were not permitted to come to the United States; or

''(ii) the alien is to be prosecuted in the United States for a crime.

''(D) The Attorney General may not use the parole authority under this paragraph to permit to come to the United States aliens who have applied for and have been found to be ineligible for refugee status or any alien to whom the provisions of this paragraph do not apply.

''(E) Parole of an alien under this paragraph shall not be considered an admission of the alien into the United states. When the purposes of the parole of an alien have been served, as determined by the Attorney General, the alien shall immediately return or be returned to the custody from which the alien was paroled and the alien shall be considered for admission to the United States on the same basis as other similarly situated applicants for admission.

''(F) Not later than 90 days after the end of each fiscal year, the Attorney General shall submit a report to the Committees on the Judiciary of the House of Representatives and the Senate describing the number and categories of aliens paroled into the United States under this paragraph. Each such report shall contain information and data concerning the number and categories of aliens paroled, the duration of parole, and the current status of aliens paroled during the preceding fiscal year.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals paroled into the United States on or after the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

SEC. 524. ADMISSION OF HUMANITARIAN IMMIGRANTS.

(a) IN GENERAL.—Section 203 (8 U.S.C. 1153) is amended—

(1) by redesignating subsections (d) through (g) as subsections (e) through (h), respectively, and

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

''(d) HUMANITARIAN IMMIGRANTS.—

''(1) IN GENERAL.—Aliens subject to the worldwide humanitarian level specified in section 201(e) shall be allotted visas only if the aliens have been selected by the Attorney General under paragraph (2) as of special humanitarian concern to the United States.

''(2) SELECTION OF IMMIGRANTS.—

''(A) IN GENERAL.—The Attorney General shall, on a case-by-case basis and based on humanitarian concerns and the public interest, select aliens for purposes of this subsection.

''(B) RESTRICTION.—The Attorney General may not select an alien under this paragraph if the alien is a refugee (within the meaning of section 101(a)(42)) unless the Attorney General determines that compelling reasons in the public interest with respect to that particular alien require that the alien be admitted into the United States as a humanitarian immigrant under this subsection rather than as a refugee under section 207.

''(3) ANNUAL REPORT.—Not later than 90 days after the end of each fiscal year, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report describing the number of immigrant visas issued under this subsection and the individuals to whom the visas were issued.''.

(b) PETITIONING.—Section 204(a)(1) (8 U.S.C. 1154(a)(1)) is amended by adding at the end the following new subparagraph:

''(I) Any alien desiring to be provided an immigrant visa under section 203(d) may file a petition with the Attorney General for such classification, but only if the Attorney General has identified the alien as possibly qualifying for such a visa.''.

(c) ORDER OF CONSIDERATION.—Subsection (f) of section 203 (8 U.S.C. 1153), as redesignated by subsection (a)(1), is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) Immigrant visa numbers made available under subsection (d) (relating to humanitarian immigrants) shall be issued to eligible immigrants in an order specified by the Attorney General.''.

(d) APPLICATION OF PER COUNTRY NUMERICAL LIMITATIONS.—Section 202(a) (8 U.S.C. 1152(a)) is amended by adding at the end the following new paragraph:

''(5) PER COUNTRY LEVELS FOR HUMANITARIAN IMMIGRANTS.—The total number of immigrant visas made available to natives of any single foreign state or dependent area under section 203(d) in any fiscal year may not exceed 50 percent (in the case of a single foreign state) or 15 percent (in the case of a dependent area) of the total number of such visas made available under such subsection in that fiscal year.''.

(e) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—Section 212(a) (8 U.S.C. 1182(a)) is amended—

(1) in paragraph (4), as amended by sections 621(a) and 512(b), by adding at the end the following new subparagraph:

''(E) WAIVER AUTHORIZED FOR HUMANITARIAN IMMIGRANTS.—The Attorney General, in the discretion of the Attorney General, may waive the ground of inadmissibility under subparagraph (A) in the case of an alien seeking admission as a humanitarian immigrant under section 203(d).'';

(2) in paragraph (5)(C), by inserting before the period at the end the following: '', and shall not apply to immigrants seeking admissions as humanitarian immigrants under section 203(d)''; and

(3) in paragraph (7)(A), by redesignating clause (ii) as clause (iii) and by inserting after clause (i) the following new clause:

''(ii) WAIVER AUTHORIZED FOR HUMANITARIAN IMMIGRANTS.—The Attorney General, in the discretion of the Attorney General, may waive the ground of inadmissibility under clause (i) in the case of an alien seeking admission as a humanitarian immigrant under section 203(d).''.

(f) CONFORMING AMENDMENT.—Section 216(g)(1) (8 U.S.C. 1186a(g)(1)) is amended by striking ''203(d)'' and inserting ''203(e)''.

Subtitle D—Asylum Reform

SEC. 531. ASYLUM REFORM.

(a) ASYLUM REFORM.—Section 208 (8 U.S.C. 1158) is amended to read as follows:

''ASYLUM

''SEC. 208. (a) AUTHORITY TO APPLY FOR ASYLUM.—

''(1) IN GENERAL.—Any alien who is physically present in the United States or who arrives in the United States (whether or not at a designated port of arrival), irrespective of such alien's status, may apply for asylum in accordance with this section.

''(2) EXCEPTIONS.—

''(A) SAFE THIRD COUNTRY.—Paragraph (1) shall not apply to an alien if the Attorney General determines that the alien may be removed, including pursuant to a bilateral or multilateral agreement, to a country (other than the country of the alien's nationality or, in the case of an alien having no nationality, the country of the alien's last habitual residence) in which the alien's life or freedom would not be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion, and where the alien would have access to a full and fair procedure for determining a claim to asylum or equivalent temporary protection, unless the Attorney General finds that it is in the public interest for the alien to receive asylum in the United States.

''(B) TIME LIMIT.—Paragraph (1) shall not apply to an alien unless the alien demonstrates by clear and convincing evidence that the application has been filed within 30 days after the alien's arrival in the United States.

''(C) PREVIOUS ASYLUM APPLICATIONS.—Paragraph (1) shall not apply to an alien if the alien has previously applied for asylum and had such application denied.

''(D) CHANGED CONDITIONS.—An application for asylum of an alien may be considered, notwithstanding subparagraphs (B) and (C), if the alien demonstrates to the satisfaction of the Attorney General the existence of fundamentally changed circumstances which affect the applicant's eligibility for asylum.

''(3) LIMITATION ON JUDICIAL REVIEW.—No court shall have jurisdiction to review a determination of the Attorney General under paragraph (2).

''(b) CONDITIONS FOR GRANTING ASYLUM.—

''(1) IN GENERAL.—The Attorney General may grant asylum to an alien who has applied for asylum in accordance with the requirements and procedures established by the Attorney General under this section if the Attorney General determines that such alien is a refugee within the meaning of section 101(a)(42)(A).

''(2) EXCEPTIONS.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to an alien if the Attorney General determines that—

''(i) the alien ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

''(ii) the alien, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the United States;

''(iii) there are serious reasons for believing that the alien has committed a serious nonpolitical crime outside the United States prior to the arrival of the alien in the United States;

''(iv) there are reasonable grounds for regarding the alien as a danger to the security of the United States;

''(v) the alien is inadmissible under subclause (I), (II), (III), or (IV) of section 212(a)(3)(B)(i) or removable under section 237(a)(4)(B) (relating to terrorist activity), unless, in the case only of an alien inadmissible under subclause (IV) of section 212(a)(3)(B)(i), the Attorney General determines, in the Attorney General's discretion, that there are not reasonable grounds for regarding the alien as a danger to the security of the United States; or

''(vi) the alien was firmly resettled in another country prior to arriving in the United States.

''(B) SPECIAL RULES.—

''(i) CONVICTION OF AGGRAVATED FELONY.—For purposes of clause (ii) of subparagraph (A), an alien who has been convicted of an aggravated felony shall be considered to have been convicted of a particularly serious crime.

''(ii) OFFENSES.—The Attorney General may designate by regulation offenses that will be considered to be a crime described in clause (ii) or (iii) of subparagraph (A).

''(C) ADDITIONAL LIMITATIONS.—The Attorney General may by regulation establish additional limitations and conditions under which an alien shall be ineligible for asylum under paragraph (1).

''(D) NO JUDICIAL REVIEW.—There shall be no judicial review of a determination of the Attorney General under subparagraph (A)(v).

''(3) TREATMENT OF SPOUSE AND CHILDREN.—A spouse or child (as defined in section 101(b)(1)(A), (B), (C), (D), or (E)) of an alien who is granted asylum under this subsection may, if not otherwise eligible for asylum under this section, be granted the same status as the alien if accompanying, or following to join, such alien.

''(c) ASYLUM STATUS.—

''(1) IN GENERAL.—In the case of an alien granted asylum under subsection (b), the Attorney General—

''(A) shall not remove or return the alien to the alien's country of nationality or, in the case of a person having no nationality, the country of the alien's last habitual residence;

''(B) shall authorize the alien to engage in employment in the United States and provide the alien with appropriate endorsement of that authorization; and

''(C) may allow the alien to travel abroad with the prior consent of the Attorney General.

''(2) TERMINATION OF ASYLUM.—Asylum granted under subsection (b) does not convey a right to remain permanently in the United States, and may be terminated if the Attorney General determines that—

''(A) the alien no longer meets the conditions described in subsection (b)(1) owing to a fundamental change in circumstances;

''(B) the alien meets a condition described in subsection (b)(2);

''(C) the alien may be removed, including pursuant to a bilateral or multilateral agreement, to a country (other than the country of the alien's nationality or, in the case of an alien having no nationality, the country of the alien's last habitual residence) in which the alien cannot establish that it is more likely than not that the alien's life or freedom would be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion, and where the alien is eligible to receive asylum or equivalent temporary protection;

''(D) the alien has voluntarily availed himself or herself of the protection of the alien's country of nationality or, in the case of an alien having no nationality, the alien's country of last habitual residence, by returning to such country with permanent resident status or the reasonable possibility of obtaining such status with the same rights and obligations pertaining to other permanent residents of that country; or

''(E) the alien has acquired a new nationality and enjoys the protection of the country of his new nationality.

''(3) REMOVAL WHEN ASYLUM IS TERMINATED.—An alien described in paragraph (2) is subject to any applicable grounds of inadmissibility or deportability under section 212(a) and 237(a), and the alien's removal or return shall be directed by the Attorney General in accordance with sections 240 and 241.

''(4) LIMITATION ON JUDICIAL REVIEW.—No court shall have jurisdiction to review a determination of the Attorney General under paragraph (2).

''(d) ASYLUM PROCEDURE.—

''(1) APPLICATIONS.—The Attorney General shall establish a procedure for the consideration of asylum applications filed under subsection (a). An application for asylum shall not be considered unless the alien submits fingerprints and a photograph in a manner to be determined by regulation by the Attorney General.

''(2) EMPLOYMENT.—An applicant for asylum is not entitled to employment authorization, but such authorization may be provided under regulation by the Attorney General. An applicant who is not otherwise eligible for employment authorization shall not be granted such authorization prior to 180 days after the date of filing of the application for asylum.

''(3) FEES.—The Attorney General may impose fees for the consideration of an application for asylum, for employment authorization under this section, and for adjustment of status under section 209(b). The Attorney General may provide for the assessment and payment of such fees over a period of time or by installments. Nothing in this paragraph shall be construed to require the Attorney General to charge fees for adjudication services provided to asylum applicants, or to limit the authority of the Attorney General to set adjudication and naturalization fees in accordance with section 286(m).

''(4) NOTICE OF PRIVILEGE OF COUNSEL AND CONSEQUENCES OF FRIVOLOUS APPLICATION.—At the time of filing an application for asylum, the Attorney General shall—

''(A) advise the alien of the privilege of being represented by counsel and of the consequences, under paragraph (6), of knowingly filing a frivolous application for asylum; and

''(B) provide the alien a list of persons (updated not less often than quarterly) who have indicated their availability to represent aliens in asylum proceedings on a pro bono basis.

''(5) CONSIDERATION OF ASYLUM APPLICATIONS.—

''(A) PROCEDURES.—The procedure established under paragraph (1) shall provide that—

''(i) asylum cannot be granted until the identity of the applicant has been checked against all appropriate records or databases maintained by the Attorney General and by the Secretary of State, including the Automated Visa Lookout System, to determine any grounds on which the alien may be inadmissible to or deportable from the United States, or ineligible to apply for or be granted asylum;

''(ii) in the absence of exceptional circumstances, the initial interview or hearing on the asylum application shall commence not later than 45 days after the date an application is filed;

''(iii) in the absence of exceptional circumstances, final administrative adjudication of the asylum application, not including administrative appeal, shall be completed within 180 days after the date an application is filed;

''(iv) any administrative appeal shall be filed within 30 days of a decision granting or denying asylum, or within 30 days of the completion of removal proceedings before an immigration judge under section 240, whichever is later; and

''(v) in the case of an applicant for asylum who fails without prior authorization or in the absence of exceptional circumstances to appear for an interview or hearing, including a hearing under section 240, the application may be dismissed or the applicant may be otherwise sanctioned for such failure.

''(B) ADDITIONAL REGULATORY CONDITIONS.—The Attorney General may provide by regulation for any other conditions or limitations on the consideration of an application for asylum not inconsistent with this Act.

''(6) FRIVOLOUS APPLICATIONS.—

''(A) IN GENERAL.—If the Attorney General determines that an alien has knowingly made a frivolous application for asylum and the alien has received the notice under paragraph (4)(A),

the alien shall be permanently ineligible for any benefits under this Act, effective as of the date of a final determination on such application.

''(B) MATERIAL MISREPRESENTATIONS.—An application shall be considered to be frivolous if the Attorney General determines that the application contains a willful misrepresentation or concealment of a material fact.

''(7) NO PRIVATE RIGHT OF ACTION.—Nothing in this subsection shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.''.

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) The item in the table of contents relating to section 208 is amended to read as follows:

''Sec. 208. Asylum.''.

(2) Section 104(d)(1)(A) of the Immigration Act of 1990 (Public Law 101–649) is amended by striking ''208(b)'' and inserting ''208''.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to applications for asylum filed on or after the first day of the first month beginning more than 180 days after the date of the enactment of this Act.

SEC. 532. FIXING NUMERICAL ADJUSTMENTS FOR ASYLEES AT 10,000 EACH YEAR.

(a) IN GENERAL.—Section 209(b) (8 U.S.C. 1159(b)) is amended by striking ''Not more than'' and all that follows through ''adjust'' and inserting the following: ''The Attorney General, in the Attorney General's discretion and under such regulations as the Attorney General may prescribe, and in a number not to exceed 10,000 aliens in any fiscal year, may adjust''.

(b) CONFORMING AMENDMENT.—Section 207(a) (8 U.S.C. 1157(a)) is amended by striking paragraph (4).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1996.

SEC. 533. INCREASED RESOURCES FOR REDUCING ASYLUM APPLICATION BACKLOGS.

(a) AUTHORIZATION OF TEMPORARY EMPLOYMENT OF CERTAIN ANNUITANTS AND RETIREES.—

(1) IN GENERAL.—For the purpose of performing duties in connection with adjudicating applications for asylum pending as of the date of the enactment of this Act, the Attorney General may employ for a period not to exceed 24 months (beginning 3 months after the date of the enactment of this Act) not more than 300 individuals (at any one time) who, by reason of separation from service on or before January 1, 1995, are receiving—

(A) annuities under the provisions of subchapter III of chapter 83 of title 5, United States Code, or chapter 84 of such title;

(B) annuities under any other retirement system for employees of the Federal Government; or

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

(2) NO REDUCTION IN ANNUITY OR RETIREMENT PAY OR REDETERMINATION OF PAY DURING TEMPORARY EMPLOYMENT.—

(A) RETIREES UNDER CIVIL SERVICE RETIREMENT SYSTEM AND FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—In the case of an individual employed under paragraph (1) who is receiving an annuity described in paragraph (1)(A)—

(i) such individual's annuity shall continue during the employment under paragraph (1) and shall not be increased as a result of service performed during that employment;

(ii) retirement deductions shall not be withheld from such individual's pay; and

(iii) such individual's pay shall not be subject to any deduction based on the portion of such individual's annuity which is allocable to the period of employment.

(B) OTHER FEDERAL RETIREES.—The President shall apply the provisions of subparagraph (A) to individuals who are receiving an annuity described in paragraph (1)(B) and who are employed under paragraph (1) in the same manner and to the same extent as such provisions apply to individuals who are receiving an annuity described in paragraph (1)(A) and who are employed under paragraph (1).

(C) RETIRED OFFICERS OF THE UNIFORM SERVICES.—The retired or retainer pay of a retired officer of a regular component of a uniformed service shall not be reduced under section 5532 of title 5, United States Code, by reason of temporary employment authorized under paragraph (1).

(b) PROCEDURES FOR PROPERTY ACQUISITION ON LEASING.—Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Attorney General is authorized to expend out of funds made available to the Department of Justice for the administration of the Immigration and Nationality Act such amounts as may be necessary for the leasing or acquisition of property to carry out the purpose described in subsection (a)(1).

(c) INCREASE IN ASYLUM OFFICERS.—Subject to the availability of appropriations, the Attorney General shall provide for an increase in the number of asylum officers to at least 600 asylum officers by fiscal year 1997.

Subtitle E—General Effective Date; Transition Provisions

SEC. 551. GENERAL EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in subsection (b) or in this title, this title and the amendments made by this title shall take effect on October 1, 1996, and shall apply beginning with fiscal year 1997.

(b) PROVISIONS TAKING EFFECT UPON ENACTMENT.—Sections 523 and 554 shall take effect on the date of the enactment of this Act.

SEC. 552. GENERAL TRANSITION FOR CURRENT CLASSIFICATION PETITIONS.

(a) FAMILY-SPONSORED IMMIGRANTS.—

(1) IMMEDIATE RELATIVES.—Any petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1996, for immediate relative status under section 201(b)(2)(A) of such Act (as in effect before such date) as a spouse or child of a United States citizen or as a parent of a United States citizen shall be deemed, as of such date, to be a petition filed under such section for status under section 201(b)(2)(A) (as such a spouse or child) or under section 203(a)(2), respectively, of such Act (as amended by this title).

(2) SPOUSES AND CHILDREN OF PERMANENT RESIDENTS.—Any petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1996, for preference status under section 203(a)(2) of such Act as a spouse or child of an alien lawfully admitted for permanent residence shall be deemed, as of such date, to be a petition filed under such section for preference status under section 203(a)(1) of such Act (as amended by this title).

(b) EMPLOYMENT-BASED IMMIGRANTS.—

(1) IN GENERAL.—Subject to paragraph (2), any petition filed before October 1, 1996, and approved on any date, to accord status under section 203(b)(1)(A), 203(b)(1)(B), 203(b)(1)(C), 203(b)(2), 203(b)(3)(A)(i), 203(b)(3)(A)(ii), 203(b)(4), 203(b)(5) of the Immigration and Nationality Act (as in effect before such date) shall be deemed, on and after October 1, 1996 (or, if later, the date of such approval), to be a petition approved to accord status under section 203(b)(1), 203(b)(2)(B), 203(b)(2)(C), 203(b)(3), 203(b)(4)(B), 203(b)(4)(C), 203(b)(6), or 203(b)(5), respectively, of such Act (as in effect on and after such date). Nothing in this paragraph shall be construed as exempting the beneficiaries of such petitions from the numerical limitations under section 203(b) of such Act (as amended by section 513).

(2) TIME LIMITATION.—Paragraph (1) shall not apply more than two years after the date the priority date for issuance of a visa on the basis of such a petition has been reached.

(c) ADMISSIBILITY STANDARDS.—When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1996, makes application for admission, the immigrant's admissibility under paragraph (7)(A) of section 212(a) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa.

(d) CONSTRUCTION.—Nothing in this title shall be construed as affecting the provisions of section 19 of Public Law 97–116, section 2(c)(1) of Public Law 97–271, or section 202(e) of Public Law 99–603.

SEC. 553. SPECIAL TRANSITION FOR CERTAIN BACKLOGGED SPOUSES AND CHILDREN OF LAWFUL PERMANENT RESIDENT ALIENS.

(a) IN GENERAL.—(1) In addition to any immigrant visa numbers otherwise available, immigrant visa numbers in a number not to exceed 50,000 (or, if greater, 1/5 of the number of aliens described in paragraph (2)) immigrant visa numbers shall be made available in each of fiscal years 1997 through 2001 for aliens who have petitions approved for classification under section 203(a)(1) of the Immigration and Nationality Act (as amended by this title) for the fiscal year.

(2) Aliens described in this paragraph are aliens, for whom petitions are pending as of the beginning of the fiscal year involved, with respect to whom the petitioning alien became an alien admitted for lawful permanent residence through the operation of section 210 or 245A of the Immigration and Nationality Act.

(b) ORDER.—(1) Subject to paragraph (2), visa numbers under this section shall be made available in the order in which a petition, in behalf of each such immigrant for classification under section 203(a)(1) of the Immigration and Nationality Act, is filed with the Attorney General under section 204 of such Act.

(2) Visa numbers shall first be made available to aliens for whom the petitioning alien did not become an alien lawfully admitted for permanent residence through the operation of section 210 or 245A of the Immigration and Nationality Act.

(3) The per country numerical limitations of section 202 of such Act shall not apply with respect to visa numbers made available under this section, and visa numbers made available under this section shall not be counted in determining whether there are excess family admissions in a fiscal year under section 201(c)(3)(B) of the Immigration and Nationality Act (as amended by section 501(b)).

(c) REPORT.—The Attorney General shall submit to Congress, by April 1, 2001, a report on the operation of this section and the extent to which this section will, by October 1, 2001, have resulted in visa numbers being available to immigrants described in paragraphs (1) and (2) of subsection (b) being available on a current basis.

SEC. 554. SPECIAL TREATMENT OF CERTAIN DISADVANTAGED FAMILY FIRST PREFERENCE IMMIGRANTS.

(a) DISREGARD OF PER COUNTRY LIMITS FOR LAST HALF OF FISCAL YEAR 1996.—The per country numerical limitations specified in section 202(a) of the Immigration and Nationality Act shall not apply to immigrant numbers made available under section 203(a)(1) of such Act (as in effect before the date of the enactment of this Act) on or after April 1, 1996, but only to the extent necessary to assure that the priority date for aliens classified under such section who are nationals of a country is not earlier than the priority date for aliens classified under section 203(a)(2)(B) of such Act for aliens who are nationals of that country.

(b) ADDITIONAL VISA NUMBERS POTENTIALLY AVAILABLE TO ASSURE EQUITABLE TREATMENT FOR UNMARRIED SONS AND DAUGHTERS OF UNITED STATES CITIZENS.—

(1) IN GENERAL.—In addition to any immigrant visa otherwise available, immigrant visa numbers shall be made available during fiscal year 1997 for disadvantaged family first preference aliens (as defined in paragraph (2)) and

for spouses and children of such aliens who would otherwise be eligible to immigrant status under section 203(e) of the Immigration and Nationality Act in relation to such aliens if the aliens remained entitled to immigrant status under section 203(a) of such Act.

(2) DISADVANTAGED FAMILY FIRST PREFERENCE ALIEN DEFINED.—In this subsection, the term ''disadvantaged family first preference alien'' means an alien—

(A) with respect to whom a petition for classification under section 203(a)(1) of the Immigration and Nationality Act (as in effect on the date of the enactment of this Act) was approved as of September 30, 1996, and

(B) whose priority date, as of September 30, 1996, under such classification was earlier than the priority date as of such date for aliens of the same nationality with respect to whom a petition for classification under section 203(a)(2)(B) of such Act (as in effect on such date) had been approved.

(3) DISREGARD OF PER COUNTRY NUMERICAL LIMITATIONS.—Additional visa numbers made available under this subsection shall not be taken into account for purposes of applying any numerical limitation applicable to the country under section 202 of such Act, and visa numbers made available under this subsection shall not be counted in determining whether there are excess family admissions in a fiscal year under section 201(c)(3)(B) of the Immigration and Nationality Act (as amended by section 501(b) of this Act).

SEC. 555. AUTHORIZATION OF REIMBURSEMENT OF PETITIONERS FOR ELIMINATED FAMILY-SPONSORED CATEGORIES.

(a) IN GENERAL.—Subject to the availability of appropriations, after the effective date of this title, the Attorney General shall establish a process to provide for the reimbursement to each petitioner of all fees paid to the United States, and which were required to be paid under the Immigration and Nationality Act, for a petition, which was not disapproved as of such date and for which a visa has not been issued, for a family-sponsored immigrant category which is eliminated by this title or the amendments made by this title. Any such process shall provide that such a petitioner shall present any required documentation or other proof of such claim, in person, to the Immigration and Naturalization Service.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

TITLE VI—RESTRICTIONS ON BENEFITS FOR ALIENS

SEC. 600. STATEMENTS OF NATIONAL POLICY CONCERNING WELFARE AND IMMIGRATION.

The Congress makes the following statements concerning national policy with respect to welfare and immigration:

(1) Self-sufficiency has been a basic principle of United States immigration law since this country's earliest immigration statutes.

(2) It continues to be the immigration policy of the United States that—

(A) aliens within the nation's borders not depend on public resources to meet their needs, but rather rely on their own capabilities and the resources of their families, their sponsors, and private organizations, and

(B) the availability of public benefits not constitute an incentive for immigration to the United States.

(3) Despite the principle of self-sufficiency, aliens have been applying for and receiving public benefits from Federal, State, and local governments at increasing rates.

(4) Current eligibility rules for public assistance and unenforceable financial support agreements have proved wholly incapable of assuring that individual aliens not burden the public benefits system.

(5) It is a compelling government interest to enact new rules for eligibility and sponsorship agreements in order to assure that aliens be self-reliant in accordance with national immigration policy.

(6) It is a compelling government interest to remove the incentive for illegal immigration provided by the availability of public benefits.

(7) Where States are authorized to follow Federal eligibility rules for public assistance programs, the Congress strongly encourages the States to adopt the Federal eligibility rules.

Subtitle A—Eligibility of Illegal Aliens for Public Benefits

PART 1—PUBLIC BENEFITS GENERALLY

SEC. 601. MAKING ILLEGAL ALIENS INELIGIBLE FOR PUBLIC ASSISTANCE, CONTRACTS, AND LICENSES.

(a) FEDERAL PROGRAMS.—Notwithstanding any other provision of law, except as provided in section 603, any alien who is not lawfully present in the United States shall not be eligible for any of the following:

(1) FEDERAL ASSISTANCE PROGRAMS.—To receive any benefits under any program of assistance provided or funded, in whole or in part, by the Federal Government for which eligibility (or the amount of assistance) is based on financial need.

(2) FEDERAL CONTRACTS OR LICENSES.—To receive any grant, to enter into any contract or loan agreement, or to be issued (or have renewed) any professional or commercial license, if the grant, contract, loan, or license is provided or funded by any Federal agency.

(b) STATE PROGRAMS.—Notwithstanding any other provision of law, except as provided in section 603, any alien who is not lawfully present in the United States shall not be eligible for any of the following:

(1) STATE ASSISTANCE PROGRAMS.—To receive any benefits under any program of assistance (not described in subsection (a)(1)) provided or funded, in whole or in part, by a State or political subdivision of a State for which eligibility (or the amount of assistance) is based on financial need.

(2) STATE CONTRACTS OR LICENSES.—To receive any grant, to enter into any contract or loan agreement, or to be issued (or have renewed) any professional or commercial license, if the grant, contract, loan, or license is provided or funded by any State agency.

(c) REQUIRING PROOF OF IDENTITY FOR FEDERAL CONTRACTS, GRANTS, LOANS, LICENSES, AND PUBLIC ASSISTANCE.—

(1) IN GENERAL.—In considering an application for a Federal contract, grant, loan, or license, or for public assistance under a program described in paragraph (2), a Federal agency shall require the applicant to provide proof of identity under paragraph (3) to be considered for such Federal contract, grant, loan, license, or public assistance.

(2) PUBLIC ASSISTANCE PROGRAMS COVERED.—The requirement of proof of identity under paragraph (1) shall apply to the following Federal public assistance programs:

(A) SSI.—The supplemental security income program under title XVI of the Social Security Act, including State supplementary benefits programs referred to in such title.

(B) AFDC.—The program of aid to families with dependent children under part A or E of title IV of the Social Security Act.

(C) SOCIAL SERVICES BLOCK GRANT.—The program of block grants to States for social services under title XX of the Social Security Act.

(D) MEDICAID.—The program of medical assistance under title XIX of the Social Security Act.

(E) FOOD STAMPS.—The program under the Food Stamp Act of 1977.

(F) HOUSING ASSISTANCE.—Financial assistance as defined in section 214(b) of the Housing and Community Development Act of 1980.

(3) DOCUMENTS THAT SHOW PROOF OF IDENTITY.—

(A) IN GENERAL.—Any one of the documents described in subparagraph (B) may be used as proof of identity under this subsection if the document is current and valid. No other document or documents shall be sufficient to prove identity.

(B) DOCUMENTS DESCRIBED.—The documents described in this subparagraph are the following:

(i) A United States passport (either current or expired if issued both within the previous 20 years and after the individual attained 18 years of age).

(ii) A resident alien card.

(iii) A State driver's license, if presented with the individual's social security account number card.

(iv) A State identity card, if presented with the individual's social security account number card.

(d) AUTHORIZATION FOR STATES TO REQUIRE PROOF OF ELIGIBILITY FOR STATE PROGRAMS.—In considering an application for contracts, grants, loans, licenses, or public assistance under any State program, a State is authorized to require the applicant to provide proof of eligibility to be considered for such State contracts, grants, loans, licenses, or public assistance.

(e) EXCEPTION FOR BATTERED ALIENS.—

(1) EXCEPTION.—The limitations on eligibility for benefits under subsection (a) or (b) shall not apply to an alien if—

(A)(i) the alien has been battered or subject to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, or

(ii) the alien's child has been battered or subject to extreme cruelty in the United States by a spouse or parent of the alien (without the active participation of the alien in the battery or extreme cruelty) or by a member of the spouse or parent's family residing in the same household as the alien when the spouse or parent consented or acquiesced to, and the alien did not actively participate in, such battery or cruelty; and

(B)(i) the alien has petitioned (or petitions within 45 days after the first application for assistance subject to the limitations under subsection (a) or (b)) for—

(I) status as a spouse or child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act,

(II) classification pursuant to clauses (ii) or (iii) of section 204(a)(1)(B) of such Act, or

(III) cancellation of removal and adjustment of status pursuant to section 240A(b)(2) of such Act ; or

(ii) the alien is the beneficiary of a petition filed for status as a spouse or child of a United States citizen pursuant to clause (i) of section 204(a)(1)(A) of the Immigration and Nationality Act, or of a petition filed for classification pursuant to clause (i) of section 204(a)(1)(B) of such Act.

(2) TERMINATION OF EXCEPTION.—The exception under paragraph (1) shall terminate if no complete petition which sets forth a prima facie case is filed pursuant to the requirement of paragraph (1)(B) or (1)(C) or when an petition is denied.

SEC. 602. MAKING UNAUTHORIZED ALIENS INELIGIBLE FOR UNEMPLOYMENT BENEFITS.

(a) IN GENERAL.—Notwithstanding any other provision of law, no unemployment benefits shall be payable (in whole or in part) out of Federal funds to the extent the benefits are attributable to any employment of the alien in the United States for which the alien was not granted employment authorization pursuant to Federal law.

(b) PROCEDURES.—Entities responsible for providing unemployment benefits subject to the restrictions of this section shall make such inquiries as may be necessary to assure that recipients of such benefits are eligible consistent with this section.

SEC. 603. GENERAL EXCEPTIONS.

Sections 601 and 602 shall not apply to the following:

(1) EMERGENCY MEDICAL SERVICES.—The provision of emergency medical services (as defined by the Attorney General in consultation with the Secretary of Health and Human Services).

(2) PUBLIC HEALTH IMMUNIZATIONS.—Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment for communicable diseases.

(3) SHORT-TERM EMERGENCY RELIEF.—The provision of non-cash, in-kind, short-term emergency relief.

(4) FAMILY VIOLENCE SERVICES.—The provision of any services directly related to assisting the victims of domestic violence or child abuse.

(5) SCHOOL LUNCH ACT.—Programs carried out under the National School Lunch Act.

(6) CHILD NUTRITION ACT.—Programs of assistance under the Child Nutrition Act of 1966.

SEC. 604. TREATMENT OF EXPENSES SUBJECT TO EMERGENCY MEDICAL SERVICES EXCEPTION.

(a) IN GENERAL.—Subject to such amounts as are provided in advance in appropriation Acts, each State or local government that provides emergency medical services (as defined for purposes of section 603(1)) through a public hospital or other public facility (including a nonprofit hospital that is eligible for an additional payment adjustment under section 1886 of the Social Security Act) or through contract with another hospital or facility to an individual who is an alien not lawfully present in the United States is entitled to receive payment from the Federal Government of its costs of providing such services, but only to the extent that such costs are not otherwise reimbursed through any other Federal program and cannot be recovered from the alien or another person.

(b) CONFIRMATION OF IMMIGRATION STATUS REQUIRED.—No payment shall be made under this section with respect to services furnished to an individual unless the identity and immigration status of the individual has been verified with the Immigration and Naturalization Service in accordance with procedures established by the Attorney General.

(c) ADMINISTRATION.—This section shall be administered by the Attorney General, in consultation with the Secretary of Health and Human Services.

(d) EFFECTIVE DATE.—Subsection (a) shall not apply to emergency medical services furnished before October 1, 1995.

SEC. 605. REPORT ON DISQUALIFICATION OF ILLEGAL ALIENS FROM HOUSING ASSISTANCE PROGRAMS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate, the Committee on Banking of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate, describing the manner in which the Secretary is enforcing section 214 of the Housing and Community Development Act of 1980. The report shall contain statistics with respect to the number of aliens denied financial assistance under such section.

SEC. 606. VERIFICATION OF STUDENT ELIGIBILITY FOR POSTSECONDARY FEDERAL STUDENT FINANCIAL ASSISTANCE.

No student shall be eligible for postsecondary Federal student financial assistance unless the student has certified that the student is a citizen or national of the United States or an alien lawfully admitted for permanent residence and the Secretary of Education has verified such certification through an appropriate procedure determined by the Attorney General.

SEC. 607. PAYMENT OF PUBLIC ASSISTANCE BENEFITS.

In carrying out this part, the payment or provision of benefits (other than those described in section 603 under a program of assistance described in section 601(a)(1)) shall be made only through an individual or person who is not ineligible to receive such benefits under such program on the basis of immigration status pursuant to the requirements and limitations of this part.

SEC. 608. DEFINITIONS.

For purposes of this part:

(1) LAWFUL PRESENCE.—The determination of whether an alien is lawfully present in the United States shall be made in accordance with regulations of the Attorney General. An alien shall not be considered to be lawfully present in the United States for purposes of this title merely because the alien may be considered to be permanently residing in the United States under color of law for purposes of any particular program.

(2) STATE.—The term ''State'' includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.

SEC. 609. REGULATIONS AND EFFECTIVE DATES.

(a) REGULATIONS.—The Attorney General shall first issue regulations to carry out this part (other than section 605) by not later than 60 days after the date of the enactment of this Act. Such regulations shall take effect on an interim basis, pending change after opportunity for public comment.

(b) EFFECTIVE DATE FOR RESTRICTIONS ON ELIGIBILITY FOR PUBLIC BENEFITS.—(1) Except as provided in this subsection, section 601 shall apply to benefits provided, contracts or loan agreements entered into, and professional and commercial licenses issued (or renewed) on or after such date as the Attorney General specifies in regulations under subsection (a). Such date shall be at least 30 days, and not more than 60 days, after the date the Attorney General first issues such regulations.

(2) The Attorney General, in carrying out section 601(a)(2), may permit such section to be waived in the case of individuals for whom an application for the grant, contract, loan, or license is pending (or approved) as of a date that is on or before the effective date specified under paragraph (1).

(c) EFFECTIVE DATE FOR RESTRICTIONS ON ELIGIBILITY FOR UNEMPLOYMENT BENEFITS.—(1) Except as provided in this subsection, section 602 shall apply to unemployment benefits provided on or after such date as the Attorney General specifies in regulations under subsection (a). Such date shall be at least 30 days, and not more than 60 days, after the date the Attorney General first issues such regulations.

(2) The Attorney General, in carrying out section 602, may permit such section to be waived in the case of an individual during a continuous period of unemployment for whom an application for unemployment benefits is pending as of a date that is on or before the effective date specified under paragraph (1).

(d) BROAD DISSEMINATION OF INFORMATION.—Before the effective dates specified in subsections (b) and (c), the Attorney General shall broadly disseminate information regarding the restrictions on eligibility established under this part.

PART 2—EARNED INCOME TAX CREDIT

SEC. 611. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS NOT AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES.

(a) IN GENERAL.—Section 32(c)(1) of the Internal Revenue Code of 1986 (relating to individuals eligible to claim the earned income tax credit) is amended by adding at the end the following new subparagraph:

''(F) IDENTIFICATION NUMBER REQUIREMENT.—The term 'eligible individual' does not include any individual who does not include on the return of tax for the taxable year—

''(i) such individual's taxpayer identification number, and

''(ii) if the individual is married (within the meaning of section 7703), the taxpayer identification number of such individual's spouse.''

(b) SPECIAL IDENTIFICATION NUMBER.—Section 32 of the Internal Revenue Code of 1986 (relating to earned income) is amended by adding at the end the following new subsection:

''(k) IDENTIFICATION NUMBERS.—For purposes of subsections (c)(1)(F) and (c)(3)(D), a taxpayer identification number means a social security number issued to an individual by the Social Security Administration (other than a social security number issued pursuant to clause (II) (or that portion of clause (III) that relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security Act).''

(c) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Section 6213(g)(2) of the Internal Revenue Code of 1986 (relating to the definition of mathematical or clerical errors) is amended by striking ''and'' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting '', and'', and by inserting after subparagraph (E) the following new subparagraph:

''(F) an omission of a correct taxpayer identification number required under section 23 (relating to credit for families with younger children) or section 32 (relating to the earned income tax credit) to be included on a return.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

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

SEC. 621. GROUND FOR INADMISSIBILITY.

(a) IN GENERAL.—Paragraph (4) of section 212(a) (8 U.S.C. 1182(a)) is amended to read as follows:

''(4) PUBLIC CHARGE.—

''(A) FAMILY-SPONSORED IMMIGRANTS.—Any alien who seeks admission or adjustment of status under a visa number issued under section 203(a), who cannot demonstrate to the consular officer at the time of application for a visa, or to the Attorney General at the time of application for admission or adjustment of status, that the alien's age, health, family status, assets, resources, financial status, education, skills, or a combination thereof, or an affidavit of support described in section 213A, or both, make it unlikely that the alien will become a public charge (as determined under section 241(a)(5)(B)) is inadmissible.

''(B) NONIMMIGRANTS.—Any alien who seeks admission under a visa number issued under section 214, who cannot demonstrate to the consular officer at the time of application for the visa that the alien's age, health, family status, assets, resources, financial status, education, skills or a combination thereof, or an affidavit of support described in section 213A, or both, make it unlikely that the alien will become a public charge (as determined under section 241(a)(5)(B)) is inadmissible.

''(C) EMPLOYMENT-BASED IMMIGRANTS.—

''(i) IN GENERAL.—Any alien who seeks admission or adjustment of status under a visa number issued under paragraph (2) or (3) of section 203(b) who cannot demonstrate to the consular officer at the time of application for a visa, or to the Attorney General at the time of application for admission or adjustment of status, that the immigrant has a valid offer of employment is inadmissible.

''(ii) CERTAIN EMPLOYMENT-BASED IMMIGRANTS.—Any alien who seeks admission or adjustment of status under a visa number issued under section 203(b) by virtue of a classification petition filed by a relative of the alien (or by an entity in which such relative has a significant ownership interest) is inadmissible unless such relative has executed an affidavit of support described in section 213A with respect to such alien.''.

(b) EFFECTIVE DATE.—(1) Subject to paragraph (2), the amendment made by subsection

(a) shall apply to applications submitted on or after such date, not earlier than 30 days and not later than 60 days after the date the Attorney General promulgates under section 632(f) a standard form for an affidavit of support, as the Attorney General shall specify.

(2) Section 212(a)(4)(C)(i) of the Immigration and Nationality Act, as amended by subsection (a), shall apply only to aliens seeking admission or adjustment of status under a visa number issued on or after October 1, 1996.

SEC. 622. GROUND FOR DEPORTABILITY.

(a) IN GENERAL.—Paragraph (5) of subsection (a) of section 241 (8 U.S.C. 1251(a)), before redesignation as section 237 by section 305(a)(2), is amended to read as follows:

''(5) PUBLIC CHARGE.—

''(A) IN GENERAL.—Any alien who, within 7 years after the date of entry or admission, becomes a public charge is deportable.

''(B) EXCEPTIONS.—(i) Subparagraph (A) shall not apply if the alien establishes that the alien has become a public charge from causes that arose after entry or admission. A condition that the alien knew (or had reason to know) existed at the time of entry or admission shall be deemed to be a cause that arose before entry or admission.

''(ii) The Attorney General, in the discretion of the Attorney General, may waive the application of subparagraph (A) in the case of an alien who is admitted as a refugee under section 207 or granted asylum under section 208.

''(C) INDIVIDUALS TREATED AS PUBLIC CHARGE.—

''(i) IN GENERAL.—For purposes of this title, an alien is deemed to be a 'public charge' if the alien receives benefits (other than benefits described in subparagraph (E)) under one or more of the public assistance programs described in subparagraph (D) for an aggregate period, except as provided in clauses (ii) and (iii), of at least 12 months within 7 years after the date of entry. The previous sentence shall not be construed as excluding any other bases for considering an alien to be a public charge, including bases in effect on the day before the date of the enactment of the Immigration in the National Interest Act of 1995. The Attorney General, in consultation with the Secretary of Health and Human Services, shall establish rules regarding the counting of health benefits described in subparagraph (D)(iv) for purposes of this subparagraph.

''(ii) DETERMINATION WITH RESPECT TO BATTERED WOMEN AND CHILDREN.—For purposes of a determination under clause (i) and except as provided in clause (iii), the aggregate period shall be 48 months within 7 years after the date of entry if the alien can demonstrate that (I) the alien has been battered or subject to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, or (II) the alien's child has been battered or subject to extreme cruelty in the United States by a spouse or parent of the alien (without the active participation of the alien in the battery or extreme cruelty), or by a member of the spouse or parent's family residing in the same household as the alien when the spouse or parent consented or acquiesced to and the alien did not actively participate in such battery or cruelty, and the need for the public benefits received has a substantial connection to the battery or cruelty described in subclause (I) or (II).

''(iii) SPECIAL RULE FOR ONGOING BATTERY OR CRUELTY.—For purposes of a determination under clause (i), the aggregate period may exceed 48 months within 7 years after the date of entry if the alien can demonstrate that any battery or cruelty under clause (ii) is ongoing, has led to the issuance of an order of a judge or an administrative law judge or a prior determination of the Service, and that the need for the benefits received has a substantial connection to such battery or cruelty.

''(D) PUBLIC ASSISTANCE PROGRAMS.—For purposes of subparagraph (B), the public assistance programs described in this subparagraph are the following (and include any successor to such a program as identified by the Attorney General in consultation with other appropriate officials):

''(i) SSI.—The supplemental security income program under title XVI of the Social Security Act, including State supplementary benefits programs referred to in such title.

''(ii) AFDC.—The program of aid to families with dependent children under part A or E of title IV of the Social Security Act.

''(iii) MEDICAID.—The program of medical assistance under title XIX of the Social Security Act.

''(iv) FOOD STAMPS.—The program under the Food Stamp Act of 1977.

''(v) STATE GENERAL CASH ASSISTANCE.—A program of general cash assistance of any State or political subdivision of a State.

''(vi) HOUSING ASSISTANCE.—Financial assistance as defined in section 214(b) of the Housing and Community Development Act of 1980.

''(E) CERTAIN ASSISTANCE EXCEPTED.—For purposes of subparagraph (B), an alien shall not be considered to be a public charge on the basis of receipt of any of the following benefits:

''(i) EMERGENCY MEDICAL SERVICES.—The provision of emergency medical services (as defined by the Attorney General in consultation with the Secretary of Health and Human Services).

''(ii) PUBLIC HEALTH IMMUNIZATIONS.—Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment for communicable diseases.

''(iii) SHORT-TERM EMERGENCY RELIEF.—The provision of non-cash, in-kind, short-term emergency relief.''.

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a) shall take effect as of the first day of the first month beginning at least 30 days after the date of the enactment of this Act.

(2) In applying section 241(a)(5)(C) of the Immigration and Nationality Act (which is subsequently redesignated as section 237(a)(5)(C) of such Act), as amended by subsection (a), no receipt of benefits under a public assistance program before the effective date described in paragraph (1) shall be taken into account.

Subtitle C—Attribution of Income and Affidavits of Support

SEC. 631. ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO FAMILY-SPONSORED IMMIGRANTS.

(a) FEDERAL PROGRAMS.—Notwithstanding any other provision of law, in determining the eligibility and the amount of benefits of an alien for any Federal means-tested public benefits program (as defined in subsection (d)) the income and resources of the alien shall be deemed to include—

(1) the income and resources of any individual who executed an affidavit of support pursuant to section 213A of the Immigration and Nationality Act (as inserted by section 632(a)) in behalf of such alien, and

(2) the income and resources of the spouse (if any) of the individual.

(b) PERIOD OF ATTRIBUTION.—

(1) PARENTS OF UNITED STATES CITIZENS.—Subsection (a) shall apply with respect to an alien who is admitted to the United States as the parent of a United States citizen under section 203(a)(2) of the Immigration and Nationality Act, as amended by section 512(a), until the alien is naturalized as a citizen of the United States.

(2) SPOUSES OF UNITED STATES CITIZENS AND LAWFUL PERMANENT RESIDENTS.—Subsection (a) shall apply with respect to an alien who is admitted to the United States as the spouse of a United States citizen or lawful permanent resident under section 201(b)(2) of 203(a)(1) of the Immigration and Nationality Act until—

(A) 7 years after the date the alien is lawfully admitted to the United States for permanent residence, or

(B) the alien is naturalized as a citizen of the United States,

whichever occurs first.

(3) MINOR CHILDREN OF UNITED STATES CITIZENS AND LAWFUL PERMANENT RESIDENTS.—Subsection (a) shall apply with respect to an alien who is admitted to the United States as the minor child of a United States citizen or lawful permanent resident under section 201(b)(2) of 203(a)(1) of the Immigration and Nationality Act until the child attains the age of 21 years or, if earlier, the date the child is naturalized as a citizen of the United States.

(4) ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES ENDED IF SPONSORED ALIEN BECOMES ELIGIBLE FOR OLD-AGE BENEFITS UNDER TITLE II OF THE SOCIAL SECURITY ACT.—

(A) Notwithstanding any other provision of this section, subsection (a) shall not apply and the period of attribution of a sponsor's income and resources under this subsection shall terminate if the alien is employed for a period sufficient to qualify for old age benefits under title II of the Social Security Act and the alien is able to prove to the satisfaction of the Attorney General that the alien so qualifies.

(B) The Attorney General shall ensure that appropriate information pursuant to subparagraph (A) is provided to the System for Alien Verification of Eligibility (SAVE).

(5) BATTERED WOMEN AND CHILDREN.—Notwithstanding any other provision of this section, subsections (a) and (c) shall not apply and the period of attribution of the income and resources of any individual under paragraphs (1) or (2) of subsection (a) or paragraph (1) shall not apply—

(A) for up to 48 months if the alien can demonstrate that (i) the alien has been battered or subject to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, or (ii) the alien's child has been battered or subject to extreme cruelty in the United States by a spouse or parent of the alien (without the active participation of the alien in the battery or extreme cruelty), or by a member of the spouse or parent's family residing in the same household as the alien when the spouse or parent consented or acquiesced to and the alien did not actively participate in such battery or cruelty, and need for the public benefits applied for has a substantial connection to the battery or cruelty described in clause (i) or (ii); and

(B) for more than 48 months if the alien can demonstrate that any battery or cruelty under subparagraph (A) is ongoing, has led to the issuance of an order of a judge or an administrative law judge or a prior determination of the Service, and that need for such benefits has a substantial connection to such battery or cruelty.

(c) OPTIONAL APPLICATION TO STATE PROGRAMS.—

(1) AUTHORITY.—Notwithstanding any other provision of law, in determining the eligibility and the amount of benefits of an alien for any State means-tested public benefits program, the State or political subdivision that offers the program is authorized to provide that the income and resources of the alien shall be deemed to include—

(A) the income and resources of any individual who executed an affidavit of support pursuant to section 213A of the Immigration and Nationality Act (as inserted by section 632(a)) in behalf of such alien, and

(B) the income and resources of the spouse (if any) of the individual.

(2) PERIOD OF ATTRIBUTION.—The period of attribution of a sponsor's income and resources in determining the eligibility and amount of benefits for an alien under any State means-tested

public benefits program pursuant to paragraph (1) may not exceed the Federal period of attribution with respect to the alien.

(d) MEANS-TESTED PROGRAM DEFINED.—In this section:

(1) The term ''means-tested public benefits program'' means a program of public benefits (including cash, medical, housing, and food assistance and social services) of the Federal Government or of a State or political subdivision of a State in which the eligibility of an individual, household, or family eligibility unit for benefits under the program, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.

(2) The term ''Federal means-tested public benefits program'' means a means-tested public benefits program of (or contributed to by) the Federal Government.

(3) The term ''State means-tested public benefits program'' means a means-tested public benefits program that is not a Federal means-tested program.

SEC. 632. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

(a) IN GENERAL.—Title II is amended by inserting after section 213 the following new section:

''REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT

''SEC. 213A. (a) ENFORCEABILITY.—(1) No affidavit of support may be accepted by the Attorney General or by any consular officer to establish that an alien is not inadmissible as a public charge under section 212(a)(4) unless such affidavit is executed by a sponsor of the alien as a contract—

''(A) that is legally enforceable against the sponsor by the Federal Government and by any State (or any political subdivision of such State) that provides any means-tested public benefits program, subject to subsection (b)(4); and

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

''(2)(A) An affidavit of support shall be enforceable with respect to benefits provided under any means-tested public benefits program for an alien who is admitted to the United States as the parent of a United States citizen under section 203(a)(2) until the alien is naturalized as a citizen of the United States.

''(B) An affidavit of support shall be enforceable with respect to benefits provided under any means-tested public benefits program for an alien who is admitted to the United States as the spouse of a United States citizen or lawful permanent resident under section 201(b)(2) or 203(a)(2) until—

''(i) 7 years after the date the alien is lawfully admitted to the United States for permanent residence, or

''(ii) such time as the alien is naturalized as a citizen of the United States,

whichever occurs first.

''(C) An affidavit of support shall be enforceable with respect to benefits provided under any means-tested public benefits program for an alien who is admitted to the United States as the minor child of a United States citizen or lawful permanent resident under section 201(b)(2) or section 203(a)(2) until the child attains the age of 21 years.

''(D)(i) Notwithstanding any other provision of this subparagraph, a sponsor shall be relieved of any liability under an affidavit of support if the sponsored alien is employed for a period sufficient to qualify for old age benefits under title II of the Social Security Act and the sponsor or alien is able to prove to the satisfaction of the Attorney General that the alien so qualifies.

''(ii) The Attorney General shall ensure that appropriate information pursuant to clause (i) is provided to the System for Alien Verification of Eligibility (SAVE).

''(b) REIMBURSEMENT OF GOVERNMENT EXPENSES.—(1)(A) Upon notification that a sponsored alien has received any benefit under any means-tested public benefits program, the appropriate Federal, State, or local official shall request reimbursement by the sponsor in the amount of such assistance.

''(B) The Attorney General, in consultation with the Secretary of Health and Human Services, shall prescribe such regulations as may be necessary to carry out subparagraph (A).

''(2) If within 45 days after requesting reimbursement, the appropriate Federal, State, or local agency has not received a response from the sponsor indicating a willingness to commence payments, an action may be brought against the sponsor pursuant to the affidavit of support.

''(3) If the sponsor fails to abide by the repayment terms established by such agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.

''(4) No cause of action may be brought under this subsection later than 10 years after the alien last received any benefit under any means-tested public benefits program.

''(5) If, pursuant to the terms of this subsection, a Federal, State, or local agency requests reimbursement from the sponsor in the amount of assistance provided, or brings an action against the sponsor pursuant to the affidavit of support, the appropriate agency may appoint or hire an individual or other person to act on behalf of such agency acting under the authority of law for purposes of collecting any moneys owed. Nothing in this subsection shall preclude any appropriate Federal, State, or local agency from directly requesting reimbursement from a sponsor for the amount of assistance provided, or from bringing an action against a sponsor pursuant to an affidavit of support.

''(c) REMEDIES.—Remedies available to enforce an affidavit of support under this section include any or all of the remedies described in section 3201, 3203, 3204, or 3205 of title 28, United States Code, as well as an order for specific performance and payment of legal fees and other costs of collection, and include corresponding remedies available under State law. A Federal agency may seek to collect amounts owed under this section in accordance with the provisions of subchapter II of chapter 37 of title 31, United States Code.

''(d) NOTIFICATION OF CHANGE OF ADDRESS.—(1) The sponsor of an alien shall notify the Federal Government and the State in which the sponsored alien is currently residing within 30 days of any change of address of the sponsor during the period specified in subsection (a)(1).

''(2) Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall be subject to a civil penalty of—

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

''(B) if such failure occurs with knowledge that the sponsored alien has received any benefit under any means-tested public benefits program, not less than $2,000 or more than $5,000.

''(e) DEFINITIONS.—For the purposes of this section—

''(1) SPONSOR.—The term 'sponsor' means, with respect to an alien, an individual who—

''(A) is a citizen or national of the United States or an alien who is lawfully admitted to the United States for permanent residence;

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

''(C) is domiciled in any State;

''(D) demonstrates, through presentation of a certified copy of a tax return or otherwise, (i) the means to maintain an annual income equal to at least 200 percent of the poverty level for the individual and the individual's family (including the alien and any other aliens with respect to whom the individual is a sponsor), or (ii) for an individual who is on active duty (other than active duty for training) in the Armed Forces of the United States, the means to maintain an annual income equal to at least 100 percent of the poverty level for the individual and the individual's family including the alien and any other aliens with respect to whom the individual is a sponsor); and

''(E) is petitioning for the admission of the alien under section 204 (or is an individual who accepts joint and several liability with the petitioner).

''(2) FEDERAL POVERTY LINE.—The term 'Federal poverty line' means the income official poverty line (as defined in section 673(2) of the Community Services Block Grant Act) that is applicable to a family of the size involved.

''(3) MEANS-TESTED PUBLIC BENEFITS PROGRAM.—The term 'means-tested public benefits program' means a program of public benefits (including cash, medical, housing, and food assistance and social services) of the Federal Government or of a State or political subdivision of a State in which the eligibility of an individual, household, or family eligibility unit for benefits under the program, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.''.

(b) REQUIREMENT OF AFFIDAVIT OF SUPPORT FROM EMPLOYMENT SPONSORS.—For requirement for affidavit of support from individuals who file classification petitions for a relative as an employment-based immigrant, see the amendment made by section 621(a).

(c) SETTLEMENT OF CLAIMS PRIOR TO NATURALIZATION.—Section 316 (8 U.S.C. 1427) is amended—

(1) in subsection (a), by striking ''and'' before ''(3)'', and by inserting before the period at the end the following: '', and (4) in the case of an applicant that has received assistance under a means-tested public benefits program (as defined in subsection (f)(3) of section 213A) administered by a Federal, State, or local agency and with respect to which amounts may be owing under an affidavit of support executed under such section, provides satisfactory evidence that there are no outstanding amounts that may be owed to any such Federal, State, or local agency pursuant to such affidavit by the sponsor who executed such affidavit, except as provided in subsection (g)''; and

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

''(g) Clause (4) of subsection (a) shall not apply to an applicant where the applicant can demonstrate that—

''(A) either—

''(i) the applicant has been battered or subject to extreme cruelty in the United States by a spouse or parent or by a member of the spouse or parent's family residing in the same household as the applicant and the spouse or parent consented or acquiesced to such battery or cruelty, or

''(ii) the applicant's child has been battered or subject to extreme cruelty in the United States by the applicant's spouse or parent (without the active participation of the applicant in the battery or extreme cruelty), or by a member of the spouse or parent's family residing in the same household as the applicant when the spouse or parent consented or acquiesced to and the applicant did not actively participate in such battery or cruelty;

''(B) such battery or cruelty has led to the issuance of an order of a judge or an administrative law judge or a prior determination of the Service; and

''(C) the need for the public benefits received as to which amounts are owing had a substantial connection to the battery or cruelty described in subparagraph (A).''.

(d) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 213 the following:

''Sec. 213A. Requirements for sponsor's affidavit of support.''.

(e) EFFECTIVE DATE.—Subsection (a) of section 213A of the Immigration and Nationality

Act, as inserted by subsection (a) of this section, shall apply to affidavits of support executed on or after a date specified by the Attorney General, which date shall be not earlier than 60 days (and not later than 90 days) after the date the Attorney General formulates the form for such affidavits under subsection (f) of this section.

(f) PROMULGATION OF FORM.—Not later than 90 days after the date of the enactment of this Act, the Attorney General, in consultation with the Secretary of State and the Secretary of Health and Human Services, shall promulgate a standard form for an affidavit of support consistent with the provisions of section 213A of the Immigration and Nationality Act.

TITLE VII—FACILITATION OF LEGAL ENTRY

SEC. 701. ADDITIONAL LAND BORDER INSPECTORS; INFRASTRUCTURE IMPROVEMENTS.

(a) INCREASED PERSONNEL.—

(1) IN GENERAL.—In order to eliminate undue delay in the thorough inspection of persons and vehicles lawfully attempting to enter the United States, the Attorney General and Secretary of the Treasury shall increase, by approximately equal numbers in each of the fiscal years 1996 and 1997, the number of full-time land border inspectors assigned to active duty by the Immigration and Naturalization Service and the United States Customs Service to a level adequate to assure full staffing during peak crossing hours of all border crossing lanes now in use, under construction, or construction of which has been authorized by Congress.

(2) DEPLOYMENT OF PERSONNEL.—The Attorney General and the Secretary of the Treasury shall, to the maximum extent practicable, ensure that the personnel hired pursuant to this subsection shall be deployed among the various Immigration and Naturalization Service sectors in proportion to the number of land border crossings measured in each such sector during the preceding fiscal year.

(b) IMPROVED INFRASTRUCTURE.—

(1) IN GENERAL.—The Attorney General may, from time to time, in consultation with the Secretary of the Treasury, identify those physical improvements to the infrastructure of the international land borders of the United States necessary to expedite the inspection of persons and vehicles attempting to lawfully enter the United States in accordance with existing policies and procedures of the Immigration and Naturalization Service, the United States Customs Service, and the Drug Enforcement Agency.

(2) PRIORITIES.—Such improvements to the infrastructure of the land border of the United States shall be substantially completed and fully funded in those portions of the United States where the Attorney General, in consultation with the Committees on the Judiciary of the House of Representatives and the Senate, objectively determines the need to be greatest or most immediate before the Attorney General may obligate funds for construction of any improvement otherwise located.

SEC. 702. COMMUTER LANE PILOT PROGRAMS.

(a) MAKING LAND BORDER INSPECTION FEE PERMANENT.—Section 286(q) (8 U.S.C. 1356(q)) is amended—

(1) in paragraph (1), by striking ''a project'' and inserting ''projects'';

(2) in paragraph (1), by striking ''Such project'' and inserting ''Such projects''; and

(3) by striking paragraph (5).

(b) CONFORMING AMENDMENT.—The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1994 (Public Law 103–121, 107 Stat. 1161) is amended by striking the fourth proviso under the heading ''Immigration and Naturalization Service, Salaries and Expenses''.

SEC. 703. PREINSPECTION AT FOREIGN AIRPORTS.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by inserting after section 235 the following new section:

''PREINSPECTION AT FOREIGN AIRPORTS

''SEC. 235A. (a) ESTABLISHMENT OF PREINSPECTION STATIONS.—(1) Subject to paragraph (4), not later than 2 years after the date of the enactment of this section, the Attorney General, in consultation with the Secretary of State, shall establish and maintain preinspection stations in at least 5 of the foreign airports that are among the 10 foreign airports which the Attorney General identifies as serving as last points of departure for the greatest numbers of passengers who arrive from abroad by air at ports of entry within the United States. Such preinspection stations shall be in addition to any preinspection stations established prior to the date of the enactment of this section.

''(2) Not later than November 1, 1995, and each subsequent November 1, the Attorney General shall compile data identifying—

''(A) the foreign airports which served as last points of departure for aliens who arrived by air at United States ports of entry without valid documentation during the preceding fiscal years,

''(B) the number and nationality of such aliens arriving from each such foreign airport, and

''(C) the primary routes such aliens followed from their country of origin to the United States.

''(3) Subject to paragraph (4), not later than 4 years after the date of enactment of this section, the Attorney General, in consultation with the Secretary of State, shall establish preinspection stations in at least 5 additional foreign airports which the Attorney General, in consultation with the Secretary of State, determines based on the data compiled under paragraph (2) and such other information as may be available would most effectively reduce the number of aliens who arrive from abroad by air at points of entry within the United States without valid documentation. Such preinspection stations shall be in addition to those established prior to or pursuant to paragraph (1).

''(4) Prior to the establishment of a preinspection station the Attorney General, in consultation with the Secretary of State, shall ensure that—

''(A) employees of the United States stationed at the preinspection station and their accompanying family members will receive appropriate protection,

''(B) such employees and their families will not be subject to unreasonable risks to their welfare and safety, and

''(C) the country in which the preinspection station is to be established maintains practices and procedures with respect to asylum seekers and refugees in accordance with the Convention Relating to the Status of Refugees (done at Geneva, July 28, 1951), or the Protocol Relating to the Status of Refugees (done at New York, January 31, 1967).

''(b) ESTABLISHMENT OF CARRIER CONSULTANT PROGRAM.—The Attorney General shall assign additional immigration officers to assist air carriers in the detection of fraudulent documents at foreign airports which, based on the records maintained pursuant to subsection (a)(2), served as a point of departure for a significant number of arrivals at United States ports of entry without valid documentation, but where no preinspection station exists.''.

(c) CLERICAL AMENDMENT.—The table of contents, as amended by section 308(a)(2), is further amended by inserting after the item relating to section 235 the following new item:

''Sec. 235A. Preinspection at foreign airports.''.

SEC. 704. TRAINING OF AIRLINE PERSONNEL IN DETECTION OF FRAUDULENT DOCUMENTS.

(a) USE OF FUNDS.—Section 286(h)(2)(A) (8 U.S.C. 1356(h)(2)(A)) is amended—

(1) in clause (iv), by inserting '', including training of, and technical assistance to, commercial airline personnel regarding such detection'' after ''United States'', and

(2) by adding at the end the following:

''The Attorney General shall provide for expenditures for training and assistance described in clause (iv) in an amount, for any fiscal year, not less than 5 percent of the total of the expenses incurred that are described in the previous sentence.''.

(b) COMPLIANCE WITH DETECTION REGULATIONS.—Section 212(f) (8 U.S.C. 1182(f)) is amended by adding at the end the following: ''Whenever the Attorney General finds that a commercial airline has failed to comply with regulations of the Attorney General relating to requirements of airlines for the detection of fraudulent documents used by passengers traveling to the United States (including the training of personnel in such detection), the Attorney General may suspend the entry of some or all aliens transported to the United States by such airline.''.

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply to expenses incurred during or after fiscal year 1996.

(2) The Attorney General shall first issue, in proposed form, regulations referred to in the second sentence of section 212(f) of the Immigration and Nationality Act, as added by the amendment made by subsection (b), by not later than 90 days after the date of the enactment of this Act.

TITLE VIII—MISCELLANEOUS PROVISIONS

Subtitle A—Amendments to the Immigration and Nationality Act

SEC. 801. NONIMMIGRANT STATUS FOR SPOUSES AND CHILDREN OF MEMBERS OF THE ARMED SERVICES.

Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amended—

(1) by striking ''or'' at the end of subparagraph (R),

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

(3) by inserting after subparagraph (S) the following new subparagraph:

''(T) an alien who is the spouse or child of a another alien who is serving on active duty in the Armed Forces of the United States during the period in which the other alien is stationed in the United States.''.

SEC. 802. AMENDED DEFINITION OF AGGRAVATED FELONY.

(a) IN GENERAL.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)), as amended by section 222 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416), is amended—

(1) in subparagraph (N), by striking ''of title 18, United States Code'' and inserting ''of this Act'', and

(2) in subparagraph (O), by striking ''which constitutes'' and all that follows up to the semicolon at the end and inserting '', for the purpose of commercial advantage''.

(b) EFFECTIVE DATE OF CONVICTION.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)), as amended by section 222(a) of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416), is amended by adding at the end the following sentence: ''Notwithstanding any other provision of law, the term applies for all purposes to convictions entered before, on, or after the date of enactment of the Immigration and Nationality Technical Corrections Act of 1994.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective as if included in the enactment of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416).

SEC. 803. AUTHORITY TO DETERMINE VISA PROCESSING PROCEDURES.

(a) IN GENERAL.—Section 202(a) (8 U.S.C. 1152(a)), as amended by section 524(d), is amended—

(1) in paragraph (1), by striking ''paragraph (2)'' and inserting ''paragraphs (2) and (6)'', and

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

''(6) CONSTRUCTION.—Nothing in paragraph (1) shall be construed to limit the authority of the Secretary of State to determine the procedures for the processing of immigrant visa applications or the locations where such applications will be processed.''.

(b) ELIMINATION OF CONSULATE SHOPPING FOR VISA OVERSTAYS.—Section 222 (8 U.S.C. 1202) is amended by adding at the end the following new subsection:

''(g) In the case of an alien who has entered and remained in the United States beyond the authorized period of stay, the alien is not eligible to be admitted to the United States as a nonimmigrant on the basis of a visa issued other than in a consular office located in the country of the alien's nationality (or, if there is no office in such country, at such other consular office as the Secretary of State shall specify).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to visas issued before, on, or after the date of the enactment of this Act.

SEC. 804. WAIVER AUTHORITY CONCERNING NOTICE OF DENIAL OF APPLICATION FOR VISAS.

Section 212(b) (8 U.S.C. 1182(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(2) by striking ''If'' and inserting ''(1) Subject to paragraph (2), if''; and

(3) by inserting at the end the following paragraph:

''(2) With respect to applications for visas, the Secretary of State may waive the application of paragraph (1) in the case of a particular alien or any class or classes of aliens inadmissible under subsection (a)(2) or (a)(3).''.

SEC. 805. TREATMENT OF CANADIAN LANDED IMMIGRANTS.

Section 212(d)(4)(B) (8 U.S.C. 1182(d)(4)(B)) is amended—

(1) by striking ''and residents'' and inserting '', residents'', and

(2) by striking ''nationals,'' and inserting ''nationals, and aliens who are granted permanent residence by the government of the foreign contiguous territory and who are residing in that territory''.

SEC. 806. CHANGES RELATING TO H–1B NONIMMIGRANTS.

(a) PROVISIONS RELATING TO WAGE DETERMINATIONS.—Section 212(n) (8 U.S.C. 1182(n)) is amended by adding at the end the following new paragraphs:

''(3) For purposes of determining the actual wage level paid under paragraph (1)(A)(i)(I), an employer shall not be required to have and document an objective system to determine the wages of workers.

''(4) For purposes of determining the actual wage level paid under paragraph (1)(A)(i)(I), a non-H–1B-dependent employer of more than 1,000 full-time equivalent employees in the United States may demonstrate that in determining the wages of H–1B nonimmigrants, it utilizes a compensation and benefits system that has been previously certified by the Secretary of Labor (and recertified at such intervals the Secretary of Labor may designate) to satisfy all of the following conditions:

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

''(B) The employer has a company-wide benefits policy under which all full-time equivalent employees similarly employed are eligible for substantially the same benefits or under which some employees may accept higher pay, at least equal in value to the benefits, in lieu of benefits.

''(C) The compensation and benefits policy is communicated to all employees.

''(D) The employer has a human resources or compensation function that administers its compensation system.

''(E) The employer has established documentation for the job categories in question.

An employer's payment of wages consistent with a system which meets the conditions of subparagraphs (A) through (E) of this paragraph which has been certified by the Secretary of Labor pursuant to this paragraph shall be deemed to satisfy the requirements of paragraph (1)(A)(i)(I).

''(5) For purposes of determining the prevailing wage level paid under paragraph (1)(A)(i)(II), employers may provide a published survey, a State Employment Security Agency determination, a determination by an accepted private source, or any other legitimate source. The Secretary of Labor shall, not later than 180 days from the date of enactment of this paragraph, provide for acceptance of prevailing wage determinations not made by a State Employment Security Agency. The Secretary of Labor or the Secretary's designate must either accept such a non-State Employment Security Agency wage determination or issue a written decision rejecting the determination and detailing the legitimate reasons that the determination is not acceptable. If a detailed rejection is not issued within 45 days of the date of the Secretary's receipt of such determination, the determination will be deemed accepted. An employer's payment of wages consistent with a prevailing wage determination not rejected by the Secretary of Labor under this paragraph shall be deemed to satisfy the requirements of paragraph (1)(A)(i)(II).''.

(b) INAPPLICABILITY OF CERTAIN REGULATIONS TO NON-H–1B-DEPENDENT EMPLOYERS.—

(1) DEFINITION OF H–1B-DEPENDENT EMPLOYER.—Section 212(n)(2) (8 U.S.C. 1182(n)(2)) is amended by inserting after subparagraph (D) the following new subparagraphs:

''(E) In this subsection, the term 'H–1B-dependent employer' means an employer that—

''(i)(I) has fewer than 21 full-time equivalent employees who are employed in the United States, and (II) employs 4 or more H–1B nonimmigrants; or

''(ii)(I) has at least 21 but not more than 150 full-time equivalent employees who are employed in the United States, and (II) employs H–1B nonimmigrants in a number that is equal to at least 20 percent of the number of such full-time equivalent employees; or

''(iii)(I) has at least 151 full-time equivalent employees who are employed in the United States, and (II) employs H–1B nonimmigrants in a number that is equal to at least 15 percent of the number of such full-time equivalent employees.

In applying this subparagraph, any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as a single employer. Aliens employed under a petition for H–1B nonimmigrants shall be treated as employees, and counted as nonimmigrants under section 101(a)(15)(H)(i)(b) under this subparagraph. In this subsection, the term 'non-H–1B-dependent employer' means an employer that is not an H–1B-dependent employer.

''(F)(i) An employer who is an H–1B-dependent employer as defined in subparagraph (E) can nevertheless be treated as a non-H–1B-dependent employer for five years on a probationary status if—

''(I) the employer has demonstrated to the satisfaction of the Secretary of Labor that it has developed a reasonable plan for reducing its use of H–1B nonimmigrants over a five-year period to the level of a non-H–1B-dependent employer, and

''(II) annual reviews of that plan by the Secretary of Labor indicate successful implementation of that plan.

If the employer has not met the requirements established in this clause, the probationary status ends and the employer shall be treated as an H–1B-dependent employer until such time as the employer can prove to the Secretary of Labor that it no longer is an H–1B-dependent employer as defined in subparagraph (E).

''(ii) The probationary program set out in clause (i) shall be effective for no longer than five years after the date of the enactment of this subparagraph.''.

(2) LIMITING APPLICATION OF CERTAIN REQUIREMENTS FOR NON-H–1B-DEPENDENT EMPLOYERS.—Section 212(n) (8 U.S.C. 1182(n)), as amended by subsection (a), is further amended by adding at the end the following new paragraph:

''(6) In carrying out this subsection in the case of an employer that is a non-H–1B-dependent employer—

''(A) the employer is not required to post a notice at a worksite that was not listed on the application under paragraph (1) if the worksite is within the area of intended employment listed on such application for such nonimmigrant; and

''(B) if the employer has filed and had certified an application under paragraph (1) with respect to one or more H–1B nonimmigrants for one or more areas of employment—

''(i) the employer is not required to file and have certified an additional application under paragraph (1) with respect to such a nonimmigrant for an area of employment not listed in the previous application because the employer has placed one or more such nonimmigrants in such a nonlisted area so long as either (I) each such nonimmigrant is not placed in such nonlisted areas for a period exceeding 45 workdays in any 12-month period and not to exceed 90 workdays in any 36-month period, or (II) each such nonimmigrant's principal place of employment has not changed to a nonlisted area, and

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

(3) LIMITATION ON AUTHORITY TO INITIATE COMPLAINTS AND CONDUCT INVESTIGATIONS FOR NON-H–1B-DEPENDENT EMPLOYERS.—Section 212(n)(2)(A) (8 U.S.C. 1182(n)(2)(A)) is amended—

(A) in the second sentence, by inserting before the period at the end the following: '', except that the Secretary may only file such a complaint in the case of an H–1B-dependent employer (as defined in subparagraph (E)) or when conducting an annual review of a plan pursuant to subparagraph (F)(i) if there appears to be a violation of an attestation or a misrepresentation of a material fact in an application'', and

(B) by inserting after the second sentence the following new sentence: ''No investigation or hearing shall be conducted with respect to a non-H–1B-dependent employer except in response to a complaint filed under the previous sentence.''.

(c) NO DISPLACEMENT OF AMERICAN WORKERS PERMITTED.—(1) Section 212(n)(1) (8 U.S.C. 1182(n)(1)) is amended by inserting after subparagraph (D) the following new subparagraph:

''(E)(i) If the employer, within the period beginning 6 months before and ending 90 days following the date of filing of the application or during the 90 days immediately preceding and following the date of filing of any visa petition supported by the application, has laid off or lays off any protected individual with substantially equivalent qualifications and experience in the specific employment as to which the nonimmigrant is sought or is employed, the employer will pay a wage to the nonimmigrant that is at least 110 percent of the arithmetic mean of the last wage earned by all such laid off individuals (or, if greater, at least 110 percent of the arithmetic mean of the highest wage earned by all such laid off individuals within the most recent year if the employer reduced the wage of any such laid off individual during

such year other than in accordance with a general company-wide reduction of wages for substantially all employees).

''(ii) Except as provided in clause (iii), in the case of an H–1B-dependent employer which employs an H–1B nonimmigrant, the employer shall not place the nonimmigrant with another employer where—

''(I) the nonimmigrant performs his or her duties in whole or in part at one or more worksites owned, operated, or controlled by such other employer, and

''(II) there are indicia of an employment relationship between the nonimmigrant and such other employer.

''(iii) Clause (ii) shall not apply to an employer's placement of an H–1B nonimmigrant with another employer if—

''(I) the other employer has executed an attestation that it, within the period beginning 6 months before and ending 90 days following the date of filing of the application or during the 90 days immediately preceding and following the date of filing of any visa petition supported by the application, has not laid off and will not lay off any protected individual with substantially equivalent qualifications and experience in the specific employment as to which the H–1B nonimmigrant is being sought or is employed, or

''(II) the employer pays a wage to the nonimmigrant that is at least 110 percent of the arithmetic mean of the last wage earned by all such laid off individuals (or, if greater, at least 110 percent of the arithmetic mean of the highest wage earned by all such laid off individuals within the most recent year if the other employer reduced the wage of any such laid off individual during such year other than in accordance with a general company-wide reduction of wages for substantially all employees).

''(iv) For purposes of this subparagraph, the term 'laid off', with respect to an individual—

''(I) refers to the individual's loss of employment, other than a discharge for inadequate performance, cause, voluntary departure, or retirement, and

''(II) does not include any situation in which the individual involved is offered, as an alternative to such loss of employment, a similar job opportunity with the same employer (or with the H–1B-dependent employer described in clause (ii)) carrying equivalent or higher compensation and benefits as the position from which the employee was laid off, regardless of whether or not the employee accepts the offer.

''(v) For purposes of this subparagraph, the term 'protected individual' means an individual who—

''(I) is a citizen or national of the United States, or

''(II) is an alien who is lawfully admitted for permanent residence, is granted the status of an alien lawfully admitted for temporary residence under section 210(a), 210A(a), or 245(a)(1), is admitted as a refugee under section 207, or is granted asylum under section 208.''.

(2) Section 212(n)(2) (8 U.S.C. 1182(n)(2)), as amended by subsection (b)(1), is amended by adding at the end the following new subparagraph:

''(G) Under regulations of the Secretary, the previous provisions of this paragraph shall apply to complaints respecting a failure of an other employer to comply with an attestation described in paragraph (1)(E)(iii)(I) in the same manner that they apply to complaints with respect to a failure to comply with a condition described in paragraph (1)(E)(i).''.

(3) Section 212(n)(2)(C) (8 U.S.C. 1182(n)(2)(C)) is amended by inserting ''or (1)(E)'' after ''(1)(B)''.

(d) INCREASED PENALTIES.—Section 212(n)(2) is amended—

(1) in subparagraph (C)(i), by striking ''$1,000'' and inserting ''$5,000'';

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

''(ii) the Attorney General shall not approve petitions filed with respect to that employer (or any employer who is a successor in interest) under section 204 or 214(c) for aliens to be employed by the employer—

''(I) during a period of at least 1 year in the case of the first determination of a violation or any subsequent determination of a violation occurring within 1 year of that first violation or any subsequent determination of a nonwillful violation occurring more than 1 year after the first violation;

''(II) during a period of at least 5 years in the case of a determination of a willful violation occurring more than 1 year after the first violation; and

''(III) at any time in the case of a determination of a willful violation occurring more than 5 years after a violation described in subclause (II).''; and

(3) in subparagraph (D), by adding at the end the following: ''If a penalty under subparagraph (C) has been imposed in the case of a willful violation, the Secretary shall impose on the employer a civil monetary penalty in an amount equalling twice the amount of backpay.''.

(e) COMPUTATION OF PREVAILING WAGE LEVEL.—Section 212(n) (8 U.S.C. 1182(n)), as amended by subsections (a) and (b)(2), is further amended by adding at the end the following new paragraph:

''(7) In computing the prevailing wage level for an occupational classification in an area of employment for purposes of paragraph (1)(A)(i)(II) and subsection (a)(5)(A) in the case of an employee of (A) an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965), or a related or affiliated nonprofit entity, or (B) a nonprofit scientific research organization, the prevailing wage level shall only take into account employees at such institutions and entities in the area of employment.''.

(f) CONFORMING AMENDMENTS.—Section 212(n) (8 U.S.C. 1182(n)) is further amended—

(1) in the matter in paragraph (1) before subparagraph (A), by inserting ''(in this subsection referred to as an 'H–1B nonimmigrant')'' after ''101(a)(15)(H)(i)(b)''; and

(2) in paragraph (1)(A), by striking ''nonimmigrant described in section 101(a)(15)(H)(i)(b)'' and inserting ''H–1B nonimmigrant''.

(g) EFFECTIVE DATES.—

(1) Except as otherwise provided in this subsection, the amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to applications filed with the Secretary of Labor on or after 30 days after the date of the enactment of this Act.

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

SEC. 807. VALIDITY OF PERIOD OF VISAS.

(a) EXTENSION OF VALIDITY OF IMMIGRANT VISAS TO 6 MONTHS.—Section 221(c) (8 U.S.C. 1201(c)) is amended by striking ''four months'' and inserting ''six months''.

(b) AUTHORIZING APPLICATION OF RECIPROCITY RULE FOR NONIMMIGRANT VISA IN CASE OF REFUGEES AND PERMANENT RESIDENTS.—Such section is further amended by inserting before the period at the end of the third sentence the following: ''; except that in the case of aliens who are nationals of a foreign country and who either are granted refugee status and firmly resettled in another foreign country or are granted permanent residence and residing in another foreign country, the Secretary of State may prescribe the period of validity of such a visa based upon the treatment granted by that other foreign country to alien refugees and permanent residents, respectively, in the United States''.

SEC. 808. LIMITATION ON ADJUSTMENT OF STATUS OF INDIVIDUALS NOT LAWFULLY PRESENT IN THE UNITED STATES.

(a) IN GENERAL.—Section 245(i)(1) (8 U.S.C. 1255), as added by section 506(b) of the Department of State and Related Agencies Appropriations Act, 1995 (Public Law 103–317, 108 Stat. 1765), is amended by striking all that follows ''equalling'' through ''application,'' and inserting ''$2,500''.

(b) ELIMINATION OF LIMITATION.—Section 212 (8 U.S.C. 1182) is amended by striking subsection (o).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to applications for adjustment of status filed after September 30, 1996.

SEC. 809. LIMITED ACCESS TO CERTAIN CONFIDENTIAL INS FILES.

(a) LEGALIZATION PROGRAM.—Section 245A(c)(5) (8 U.S.C. 1255a(c)(5)) is amended—

(1) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively;

(2) by striking ''Neither'' and inserting ''(A) Except as provided in this paragraph, neither'';

(3) by redesignating the last sentence as subparagraph (D);

(4) by striking the semicolon and inserting a period;

(5) by striking ''except that the'' and inserting the following:

''(B) The'';

(6) by inserting after subparagraph (B), as created by the amendment made by paragraph (5), the following:

''(C) The Attorney General may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien under this section to be used—

''(i) for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated; or

''(ii) for criminal law enforcement purposes against the alien whose application is to be disclosed if the alleged criminal activity occurred after the legalization application was filed and such activity involves terrorist activity or poses either an immediate risk to life or to national security, or would be prosecutable as an aggravated felony, but without regard to the length of sentence that could be imposed on the applicant.''; and

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

''(E) Nothing in this paragraph shall preclude the release for immigration enforcement purposes of the following information contained in files or records of the Service pertaining to the application:

''(i) The immigration status of the applicant on any given date after the date of filing the application (including whether the applicant was authorized to work) but only for purposes of a determination of whether the applicant is eligible for relief from deportation or removal and not otherwise.

''(ii) The date of the applicant's adjustment (if any) to the status of an alien lawfully admitted for permanent residence.

''(iii) Information concerning whether the applicant has been convicted of a crime occurring after the date of filing the application.

''(iv) The date or disposition of the application.''.

(b) SPECIAL AGRICULTURAL WORKER PROGRAM.—Section 210(b) of such Act (8 U.S.C. 1160(b)) is amended—

(1) in paragraph (5), by inserting '', except as permitted under paragraph (6)(B)'' after ''consent of the alien''; and

(2) in paragraph (6)—

(A) in subparagraph (A), by striking the period at the end and inserting a comma,

(B) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively,

(C) by striking ''Neither'' and inserting ''(A) Except as provided in subparagraph (B), neither'',

(D) by striking ''Anyone'' and inserting the following:

''(C) Anyone'',

(E) by inserting after the first sentence the following:

''(B) The Attorney General may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien to be used—

''(i) for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated, or

''(ii) for criminal law enforcement purposes against the alien whose application is to be disclosed if the alleged criminal activity occurred after the special agricultural worker application was filed and such activity involves terrorist activity or poses either an immediate risk to life or to national security, or would be prosecutable as an aggravated felony, but without regard to the length of sentence that could be imposed on the applicant.'', and

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

''(D) Nothing in this paragraph shall preclude the release for immigration enforcement purposes of the following information contained in files or records of the Service pertaining to the application:

''(i) The immigration status of the applicant on any given date after the date of filing the application (including whether the applicant was authorized to work).

''(ii) The date of the applicant's adjustment (if any) to the status of an alien lawfully admitted for permanent residence.

''(iii) Information concerning whether the applicant has been convicted of a crime occurring after the date of filing the application.

''(iv) The date or disposition of the application.''.

SEC. 810. CHANGE OF NONIMMIGRANT CLASSIFICATION.

Section 248 (8 U.S.C. 1258) is amended by inserting at the end the following:

''Any alien whose status is changed under this section may apply to the Secretary of State for a visa without having to leave the United States and apply at the visa office.''.

Subtitle B—Other Provisions

SEC. 831. COMMISSION REPORT ON FRAUD ASSOCIATED WITH BIRTH CERTIFICATES.

Section 141 of the Immigration Act of 1990 is amended—

(1) in subsection (b)—

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

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

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

''(3) transmit to Congress, not later than January 1, 1997, a report containing recommendations (consistent with subsection (c)(3)) of methods of reducing or eliminating the fraudulent use of birth certificates for the purpose of obtaining other identity documents that may be used in securing immigration, employment, or other benefits.''; and

(2) by adding at the end of subsection (c), the following new paragraph:

''(3) FOR REPORT ON REDUCING BIRTH CERTIFICATE FRAUD.—In the report described in subsection (b)(3), the Commission shall consider and analyze the feasibility of—

''(A) establishing national standards for counterfeit-resistant birth certificates, and

''(B) limiting the issuance of official copies of a birth certificate of an individual to anyone other than the individual or others acting on behalf of the individual.''.

SEC. 832. UNIFORM VITAL STATISTICS.

(a) PILOT PROGRAM.—The Secretary of Health and Human Services shall consult with the State agency responsible for registration and certification of births and deaths and, within 2 years of the date of enactment of this Act, shall establish a pilot program for 3 of the 5 States with the largest number of undocumented aliens of an electronic network linking the vital statistics records of such States. The network shall provide, where practical, for the matching of deaths with births and shall enable the confirmation of births and deaths of citizens of such States, or of aliens within such States, by any Federal or State agency or official in the performance of official duties. The Secretary and participating State agencies shall institute measures to achieve uniform and accurate reporting of vital statistics into the pilot program network, to protect the integrity of the registration and certification process, and to prevent fraud against the Government and other persons through the use of false birth or death certificates.

(b) REPORT.—Not later than 180 days after the establishment of the pilot program under subsection (a), the Secretary shall issue a written report to Congress with recommendations on how the pilot program could effectively be instituted as a national network for the United States.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1996 and for subsequent fiscal years such sums as may be necessary to carry out this section.

SEC. 833. COMMUNICATION BETWEEN STATE AND LOCAL GOVERNMENT AGENCIES, AND THE IMMIGRATION AND NATURALIZATION SERVICE.

Notwithstanding any other provision of Federal, State, or local law, no State or local government entity shall prohibit, or in any way restrict, any government entity or any official within its jurisdiction from sending to or receiving from the Immigration and Naturalization Service information regarding the immigration status, lawful or unlawful, of an alien in the United States. Notwithstanding any other provision of Federal, State, or local law (and excepting the attorney-client privilege), no State or local government entity may be prohibited, or in any way restricted, from sending to or receiving from the Immigration and Naturalization Service information regarding the immigration status, lawful or unlawful, of an alien in the United States.

SEC. 834. CRIMINAL ALIEN REIMBURSEMENT COSTS.

Amounts appropriated to carry out section 501 of the Immigration and Reform Act of 1986 for fiscal year 1995 shall be available to carry out section 242(j) of the Immigration and Nationality Act in that fiscal year with respect to undocumented criminal aliens incarcerated under the authority of political subdivisions of a State.

SEC. 835. FEMALE GENITAL MUTILATION.

(a) INFORMATION REGARDING FEMALE GENITAL MUTILATION.—The Immigration and Naturalization Service (in cooperation with the Department of State) shall make available for all aliens who are issued immigrant or nonimmigrant visas, prior to or at the time of entry into the United States, the following information:

(1) Information on the severe harm to physical and psychological health caused by female genital mutilation which is compiled and presented in a manner which is limited to the practice itself and respectful to the cultural values of the societies in which such practice takes place.

(2) Information concerning potential legal consequences in the United States for (A) performing female genital mutilation, or (B) allowing a child under his or her care to be subjected to female genital mutilation, under criminal or child protection statutes or as a form of child abuse.

(b) LIMITATION.—In consultation with the Secretary of State, the Commissioner of Immigration and Naturalization shall identify those countries in which female genital mutilation is commonly practiced and, to the extent practicable, limit the provision of information under subsection (a) to aliens from such countries.

(c) DEFINITION.—For purposes of this section, the term ''female genital mutilation'' means the removal or infibulation (or both) of the whole or part of the clitoris, the labia minora, or labia majora.

SEC. 836. DESIGNATION OF PORTUGAL AS A VISA WAIVER PILOT PROGRAM COUNTRY WITH PROBATIONARY STATUS.

Notwithstanding any other provision of law, Portugal is designated as a visa waiver pilot program country with probationary status under section 217(g) of the Immigration and Nationality Act for each of the fiscal years 1996, 1997, and 1998.

Subtitle C—Technical Corrections

SEC. 851. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) AMENDMENTS RELATING TO PUBLIC LAW 103–322 (VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994).—

(1) Section 60024(1)(F) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) (in this subsection referred to as ''VCCLEA'') is amended by inserting ''United States Code,'' after ''title 18,''.

(2) Section 130003(b)(3) of VCCLEA is amended by striking ''Naturalization'' and inserting ''Nationality''.

(3)(A) Section 214 (8 U.S.C. 1184) is amended by redesignating the subsection (j), added by section 130003(b)(2) of VCCLEA (108 Stat. 2025), and the subsection (k), added by section 220(b) of the Immigration and Nationality Technical Amendments Act of 1994 (Public Law 103–416, 108 Stat. 4319), as subsections (k) and (l), respectively.

(B) Section 101(a)(15)(S) (8 U.S.C. 1101(a)(15)(S)) is amended by striking ''214(j)'' and inserting ''214(k)''.

(4)(A) Section 245 (8 U.S.C. 1255) is amended by redesignating the subsection (i) added by section 130003(c)(1) of VCCLEA as subsection (j).

(B) Section 241(a)(2)(A)(i)(I) (8 U.S.C. 1251(a)(2)(A)(i)(I)), as amended by section 130003(d) of VCCLEA and before redesignation by section 305(a)(2), is amended by striking ''245(i)'' and inserting ''245(j)''.

(5) Section 245(j)(3), as added by section 130003(c)(1) of VCCLEA and as redesignated by paragraph (4)(A), is amended by striking ''paragraphs (1) or (2)'' and inserting ''paragraph (1) or (2)''.

(6) Section 130007(a) of VCCLEA is amended by striking ''242A(d)'' and inserting ''242A(a)(3)''.

(7) The amendments made by this subsection shall be effective as if included in the enactment of the VCCLEA.

(b) AMENDMENTS RELATING TO IMMIGRATION AND NATIONALITY TECHNICAL CORRECTIONS ACT OF 1994.—

(1) Section 101(d) of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416) (in this subsection referred to as ''INTCA'') is amended—

(A) by striking ''APPLICATION'' and all that follows through ''This'' and inserting ''APPLICABILITY OF TRANSMISSION REQUIREMENTS.—This'';

(B) by striking ''any residency or other retention requirements for'' and inserting ''the application of any provision of law relating to residence or physical presence in the United States for purposes of transmitting United States''; and

(C) by striking ''as in effect'' and all that follows through the end and inserting ''to any person whose claim is based on the amendment made by subsection (a) or through whom such a claim is derived.''.

(2) Section 102 of INTCA is amended by adding at the end the following new subsection:

''(e) TRANSITION.—In applying the amendment made by subsection (a) to children born before November 14, 1986, any reference in the matter inserted by such amendment to 'five years, at least two of which' is deemed a reference to '10 years, at least 5 of which'.''.

(3) Section 351(a) (8 U.S.C. 1483(a)), as amended by section 105(a)(2)(A) of INTCA, is amended by striking the comma after ''nationality''.

(4) Section 207(2) of INTCA is amended by inserting a comma after ''specified''.

(5) Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended—

(A) in subparagraph (K)(ii), by striking the comma after ''1588'', and

(B) in subparagraph (O), by striking ''suspicion'' and inserting ''suspension''.

(6) Section 273(b) (8 U.S.C. 1323(b)), as amended by section 209(a) of INTCA, is amended by striking ''remain'' and inserting ''remains''.

(7) Section 209(a)(1) of INTCA is amended by striking ''$3000'' and inserting ''$3,000''.

(8) Section 209(b) of INTCA is amended by striking ''subsection'' and inserting ''section''.

(9) Section 217(f) (8 U.S.C. 1187(f)), as amended by section 210 of INTCA, is amended by adding a period at the end.

(10) Section 219(cc) of INTCA is amended by striking '' 'year 1993 the first place it appears' '' and inserting '' 'year 1993' the first place it appears''.

(11) Section 219(ee) of INTCA is amended by adding at the end the following new paragraph: ''(3) The amendments made by this subsection shall take effect on the date of the enactment of this Act.''.

(12) Paragraphs (4) and (6) of section 286(r) (8 U.S.C. 1356(r)) are amended by inserting ''the'' before ''Fund'' each place it appears.

(13) Section 221 of INTCA is amended—

(A) by striking each semicolon and inserting a comma,

(B) by striking ''disasters.'' and inserting ''disasters,'', and

(C) by striking ''The official'' and inserting ''the official''.

(14) Section 242A (8 U.S.C. 1252a), as added by section 224(a) of INTCA and before redesignation as section 238 by section 308(b)(5), is amended by redesignating subsection (d) as subsection (c).

(15) Section 225 of INTCA is amended—

(A) by striking ''section 242(i)'' and inserting ''sections 242(i) and 242A'', and

(B) by inserting '', 1252a'' after ''1252(i)''.

(16) Except as otherwise provided in this subsection, the amendments made by this subsection shall take effect as if included in the enactment of INTCA.

(c) STRIKING REFERENCES TO SECTION 210A.—

(1)(A) Section 201(b)(1)(C) (8 U.S.C. 1151(b)(1)(C)) and section 274B(a)(3)(B) (8 U.S.C. 1324b(a)(3)(B)) are each amended by striking '', 210A,''.

(B) Section 241(a)(1) (8 U.S.C. 1251(a)(1)), before redesignation by section 305(a)(2), is amended by striking subparagraph (F).

(2) Sections 204(c)(1)(D)(i) and 204(j)(4) of Immigration Reform and Control Act of 1986 are each amended by striking '', 210A,''.

(d) MISCELLANEOUS CHANGES IN THE IMMIGRATION AND NATIONALITY ACT.—

(1) Before being amended by section 308(a), the item in the table of contents relating to section 242A is amended to read as follows:

''Sec. 242A. Expedited deportation of aliens convicted of committing aggravated felonies.''.

(2) Section 101(c)(1) (8 U.S.C. 1101(c)(1)) is amended by striking '', 321, and 322'' and inserting ''and 321''.

(3) Pursuant to section 6(b) of Public Law 103–272 (108 Stat. 1378)—

(A) section 214(f)(1) (8 U.S.C. 1184(f)(1)) is amended by striking ''section 101(3) of the Federal Aviation Act of 1958'' and inserting ''section 40102(a)(2) of title 49, United States Code''; and

(B) section 258(b)(2) (8 U.S.C. 1288(b)(2)) is amended by striking ''section 105 or 106 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1804, 1805)'' and inserting ''section 5103(b), 5104, 5106, 5107, or 5110 of title 49, United States Code''.

(4) Section 286(h)(1)(A) (8 U.S.C. 1356(h)(1)(A)) is amended by inserting a period after ''expended''.

(5) Section 286(h)(2)(A) (8 U.S.C. 1356(h)(2)(A)) is amended—

(A) by striking ''and'' at the end of clause (iv),

(B) by moving clauses (v) and (vi) 2 ems to the left,

(C) by striking ''; and'' in clauses (v) and (vi) and inserting ''and for'',

(D) by striking the colons in clauses (v) and (vi), and

(E) by striking the period at the end of clause (v) and inserting ''; and''.

(6) Section 412(b) (8 U.S.C. 1522(b)) is amended by striking the comma after ''is authorized'' in paragraph (3) and after ''The Secretary'' in paragraph (4).

(e) MISCELLANEOUS CHANGE IN THE IMMIGRATION ACT OF 1990.—Section 161(c)(3) of the Immigration Act of 1990 is amended by striking ''an an'' and inserting ''of an''.

(f) MISCELLANEOUS CHANGES IN OTHER ACTS.—

(1) Section 506(a) of the Intelligence Authorization Act, Fiscal Year 1990 (Public Law 101–193) is amended by striking ''this section'' and inserting ''such section''.

(2) Section 140 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, as amended by section 505(2) of Public Law 103–317, is amended—

(A) by moving the indentation of subsections (f) and (g) 2 ems to the left, and

(B) in subsection (g), by striking ''(g)'' and all that follows through ''shall'' and inserting ''(g) Subsections (d) and (e) shall''.

The CHAIRMAN. No other amendments are in order except the amendments printed in part 2 of the report and pursuant to the order of the House of today and amendments en bloc described in section 2 of House Resolution 384. Amendments printed in part 2 of the report shall be considered in the order printed, may be offered only by a member designated in the report, shall be considered read, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question. Debate time for each amendment shall be equally divided and controlled by the proponent and an opponent of the amendment.

The Chairman of the Committee of the Whole may postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment made in order by the resolution and may reduce to not less than 5 minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device without intervening business, provided that the time for voting by electronic device on the first in any series of questions shall not be less than 15 minutes.

It shall be in order at any time for the chairman of the Committee on the Judiciary or a designee to offer amendments en bloc consisting of amendments printed in the report not earlier disposed of or germane modifications of such amendments.

The amendments en bloc shall be considered read (except that modifications shall be reported), shall not be subject to amendment or to a demand for a division of the question, and shall be debatable for 20 minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary or their designees.

The original proponents of the amendments en bloc shall have permission to insert statements in the CONGRESSIONAL RECORD immediately before disposition of the amendments en bloc.

It is now in order to consider amendment No. 1 printed in part 2 of House Report 104–483.

AMENDMENT OFFERED BY MR. SMITH OF TEXAS

Mr. SMITH of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SMITH of Texas:

In section 1(a), strike ''1995'' and insert ''1996'' and conform subsequent references throughout the bill accordingly.

[TITLE I AMENDMENTS:]

In section 102(d)(1), add at the end the following: ''The previous sentence shall not apply to border patrol agents located at checkpoints.''.

In section 104(b)(1), strike ''6 months'' and insert ''18 months''.

At the end of section 112(a), relating to a pilot program for the use of closed military bases, add the following new sentence: ''In selecting real property at a military base for use as a detention center under the pilot program, the Attorney General and the Secretary shall consult with the redevelopment authority established for the military base and give substantial deference to the redevelopment plan prepared for the military base.''.

[TITLE II AMENDMENTS]

In section 204(a), strike ''fiscal year 1996'' and insert ''fiscal year 1997'' and strike ''1994'' and insert ''1996''.

Amend subsection (b) of section 204 to read as follows:

(b) ASSIGNMENT.—Individuals employed to fill the additional positions described in subsection (a) shall prosecute persons who bring into the United States or harbor illegal aliens or violate other criminal statutes involving illegal aliens.

[TITLE III AMENDMENTS]

In section 301(a), in proposed paragraph (13)(A), insert ''lawful'' before ''entry''.

In section 301(c), amend subclause (V) of proposed subparagraph (B)(ii) to read as follows:

''(V) BATTERED WOMEN AND CHILDREN.—Clause (i) shall not apply to an alien who would be described in paragraph (9)(B) if 'violation of the terms of the alien's nonimmigrant visa' were substituted for 'unlawful entry into the United States ' in clause (iii) of that paragraph.

In section 301, add at the end the following new subsection:

(h) WAIVERS FOR IMMIGRANTS CONVICTED OF CRIMES.—Section 212(h) (8 U.S.C. 1182(h)) is amended by adding at the end the following: ''No waiver shall be granted under this subsection to an immigrant who previously has been admitted to the United States unless that alien has fulfilled the time in status and continuous residence requirements of section 212(c). No court shall have jurisdiction to review a decision of the Attorney General to grant or deny a waiver under this subsection.''.

*In section 304(a)(3), in the new section 240A of the Immigration and Nationality

Act, add at the end the following new subsection:

''(e) ANNUAL LIMITATION.—The Attorney General may not cancel the removal and adjust the status under this section, nor suspend the deportation and adjust the status under section 244(a) (as in effect before the enactment of the Immigration in the National Interest Act of 1996), of a total of more than 4,000 aliens in any fiscal year. The previous sentence shall apply regardless of when an alien applied for such cancellation and adjustment and whether such an alien had previously applied for suspension of deportation under such section 244(a).

In section 305(a)(3), amend paragraph (4) of section 241(a) of the Immigration and Nationality Act (inserted by such section) to read as follows:

''(4) ALIENS IMPRISONED, ARRESTED, OR ON PAROLE, SUPERVISED RELEASE, OR PROBATION.—

''(A) IN GENERAL.—Except as provided in section 343(a) of the Public Health Service Act (42 U.S.C. 259(a)) and paragraph (2), the Attorney General may not remove an alien who is sentenced to imprisonment until the alien is released from imprisonment. Parole, supervised release, probation, or possibility of arrest or further imprisonment is not a reason to defer removal.

''(B) EXCEPTION FOR REMOVAL OF NONVIOLENT OFFERNDERS PRIOR TO COMPLETION OF SENTENCE OF IMPRISONMENT.—The Attorney General is authorized to remove an alien in accordance with applicable procedures under this Act before the alien has completed a sentence of imprisonment—

''(i) in the case of an alien in the custody of the Attorney General, if the Attorney General determines that (I) the alien is confined pursuant to a final conviction for a nonviolent offense (other than an offense related to smuggling or harboring of aliens) and (II) the removal of the alien is appropriate and in the best interest of the United States; or

''(ii) in the case of an alien in the custody of a State (or a political subdivision of a State), if the chief State official exercising authority with respect to the incarceration of the alien determines that (I) the alien is confined pursuant to a final conviction for a nonviolent offense, (II) the removal is appropriate and in the best interest of the State, and (III) submits a written request to the Attorney General that such alien be so removed.

''(C) NOTICE.—Any alien removed pursuant to this paragraph shall be notified of the penalties under the laws of the United States relating to the reentry of deported aliens, particularly the expanded penalties for aliens removed under subparagraph (B).''.

In section 305(a)(3), in new section 241(b) of the Immigration and Nationality Act, add at the end the following new paragraph:

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

''(A) IN GENERAL.—Notwithstanding paragraphs (1) and (2), the Attorney General may not remove an alien to a country if the Attorney General decides that the alien's life or freedom would be threatened in that country because of the alien's race, religion, nationality, membership in a particular social group, or political opinion.

''(B) EXCEPTION.—Subparagraph (A) does not apply to an alien deportable under section 237(a)(4)(D) or if the Attorney General decides that—

''(i) the alien ordered, incited, assisted, or otherwise participated in the persecution of an individual because of the individual's race, religion, nationality, membership in a particular social group, or political opinion;

''(ii) the alien, having been convicted by a final judgment of a particularly serious crime is a danger to the community of the United States;

''(iii) there are serious reasons to believe that the alien committed a serious nonpolitical crime outside the United States before the alien arrived in the United States; or

''(iv) there are reasonable grounds to believe that the alien is a danger to the security of the United States.

For purposes of clause (ii), an alien who has been convicted of an aggravated felony (or felonies) for which the alien has been sentenced to an aggregate term of imprisonment of at least 5 years shall be considered to have committed a particularly serious crime. For purposes of clause (iv), an alien who is described in section 237(a)(4)(B) shall be considered to be an alien with respect to whom there are reasonable grounds for regarding as a danger to the security of the United States.

In section 305(a), in new section 241(d)(2), strike ''any travel documents necessary for departure or repatriation of the stowaway have been obtained'' and insert ''the requester has obtained any travel documents necessary for departure or repatriation of the stowaway''.

In section 305, redesignate subsection (c) as subsection (d) and insert after subsection (b) the following new section:

(c) REENTRY OF ALIEN REMOVED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Section 276(b) (8 U.S.C. 1326(b)), as amended by section 321(b), is amended—

(1) by striking ''or'' at the end of paragraph (2),

(2) by adding ''or'' at the end of paragraph (3), and

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

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

At the end of section 306, add the following new subsection:

(c) TREATMENT OF POLITICAL SUBDIVISIONS.—Effective as of the date of the enactment of this Act, section 242(j), before being redesignated and moved under subsection (a)(1), is amended by adding at the end the following new paragraph:

''(6) For purposes of this subsection, the term 'political subdivision' includes a county, city, municipality, or other similar subdivision recognized under State law.''.

In section 308(g)(10), add at the end the following:

(H) Section 212(h), as amended by section 301(h), is amended by striking ''section 212(c)'' and inserting ''paragraphs (1) and (2) of section 240A(a)''.

In section 309(a), insert '', 301(h), or 306(c)'' after ''301(f)''.

*In section 309(c), add at the end the following new paragraph:

(7) LIMITATION ON SUSPENSION OF DEPORTATION.—The Attorney General may not suspend the deportation and adjust the status under section 244 of the Immigration and Nationality Act of more than 4,000 aliens in any fiscal year (beginning after the date of the enactment of this Act). The previous sentence shall apply regardless of when an alien applied for such suspension and adjustment.

After section 342, insert the following new section (and conform the table of contents accordingly):

SEC. 343. PROVISIONS RELATING TO CONTRACTS WITH TRANSPORTATION LINES.

(a) COVERAGE OF NONCONTIGUOUS TERRITORY.—.—Section 238 (8 U.S.C. 1228), before redesignation as section 233 under section 308(b), is amended—

(1) in the heading, by striking ''CONTIGUOUS'', and

(2) by striking ''contiguous'' each place it appears in subsections (a), (b), and (d).

(b) COVERAGE OF RAILROAD TRAIN.—Subsection (d) of such section is further amended by inserting '' or railroad train'' after ''aircraft''.

In section 308(a)(2), in the item inserted relating to section 233, strike ''contiguous''.

Strike section 356 and insert the following (and conform the table of contents accordingly):

SEC. 356. DEMONSTRATION PROJECT FOR IDENTIFICATION OF ILLEGAL ALIENS IN INCARCERTAION FACILITY OF ANAHEIM, CALIFORNIA.

(a) AUTHORITY.—The Attorney General may conduct a project demonstrating the feasibility of identifying, from among the individuals who are incarcerated in local governmental prison facilities prior to arraignment on criminal charges, those individuals who are aliens unlawfully present in the United States.

(b) DESCRIPTION OF PROJECT.—The project authorized by subsection (a) shall include—

(1) the detail to incarceration facilities within the city of Anaheim, California and the county of Ventura, California, of an employee of the Immigration and Naturalization Service who has expertise in the identification of aliens unlawfully in the United States, and

(2) provision of funds sufficient to provide for—

(A) access for such employee to records of the Service necessary to identify unlawful aliens, and

(B) in the case of an individual identified as an unlawful alien, pre-arraignment reporting to the court regarding the Service's intention to remove the alien from the United States.

(c) TERMINATION.—The authority under this section shall cease to be effective 6 months after the date of the enactment of this Act.

In section 359(a), strike the quotation marks at the end of the matter inserted and insert the following:

''(C) The amounts required to be refunded from the Immigration Enforcement Account for fiscal year 1996 and thereafter shall be refunded in accordance with estimates made in the budget request of the Attorney General for those fiscal years. Any proposed changes in the amounts designated in such budget requests shall only be made after notification to the Committees on Appropriations of the House of Representatives amd the Senate in accordance with section 605 of Public Law 103–317.

''(D) The Attorney General shall prepare and submit annually to the Congress statements of financial condition of the Immigration Enforcement Account, including beginning account balance, revenues, withdrawals, and ending account balance and projection for the ensuing fiscal year.''.

[TITLE V AMENDMENTS]

At the end of section 512, add the following new subsection:

(c) PERMITTING PERFORMANCE BOND IN LIEU OF INSURANCE.—Section 213 (8 U.S.C. 1183) is amended—

(1) by inserting ''(a)'' after ''213.'', and

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

''(b)(1) IN GENERAL.—An alien excludable under paragraph (4)(D) of section 212(a) may, if otherwise admissible, be admitted in the

discretion of the Attorney General upon the giving of a suitable and proper performance bond approved by the Attorney General and furnished either by the alien or by any individual executing an affidavit of support for the alien pursuant to section 213A if the alien demonstrates that the alien, despite reasonable attempts, has been unable to secure insurance described in section 212(a)(4)(D)(i). Such performance bond shall be in such amount and containing such conditions (including conditions similar to those specified for bonds and undertakings under subsection (a)) as the Attorney General may prescribe and shall cover all costs which would otherwise be covered under such insurance.''.

''(2) MECHANISM FOR CREATING BOND.—

The Attorney General shall create a mechanism for establishing a suitable and proper performance bond as set forth in paragraph (1). The use of such bond for the purpose of satisfying the provisions of this subsection shall be at the discretion of the Attorney General.''.

In section 513(a)(2), in the paragraph (4)(E) inserted by such section, strike ''or 101(a)(15)(L)'' and insert ''101(a)(15)(L), 101(a)(15)(O), or 101(a)(15)(P)''.

In section 524(a)(2), in the subsection (d)(2) inserted by such section, add at the end the following:

''(C) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—The provisions of paragraphs (4), (5), and (7)(A) of section 212(a) shall not be applicable to any alien seeking admission to the United States or adjustment of status under this subsection, and the Attorney General may waive any other provision of such section (other than paragraph (2)(C) or subparagraph (A), (B), (C), or (E) of paragraph (3)) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Any such waiver by the Attorney General shall be in writing and shall be granted only on an individual basis following investigation. The Attorney General shall provide for the annual reporting to Congress of the number of waivers granted under this subparagraph in the previous fiscal year and a summary of the reasons for granting such waivers.

Strike subsection (d) of section 524 (relating to application of per country numerical limitation for humanitarian immigrants), and insert the following:

(d) SPECIAL RULES IN CASE OF ADJUSTMENT OF STATUS.—Section 245 (8 U.S.C. 1255) is amended by adding at the end the following new subsection:

''(k) For purposes of subsection (a), an alien who is in the United States and is identified by the Attorney General under section 204(a)(1)(I) may be treated as having been paroled into the United States.''.

Strike subsection (e) of section 524 (relating to waiver of certain grounds of inadmissibility), and redesignate the succeeding subsection accordingly.

Amend section 533 to read as follows (and conform the table of contents accordingly):

SEC. 533. INCREASE IN ASYLUM OFFICERS.

Subject to the availability of appropriations, the Attorney General shall provide for an increase in the number of asylum officers to at least 600 asylum officers by fiscal year 1997.

[TITLE VI AMENDMENT]:

In section 600, amend paragraph (7) to read as follows:

(7) With respect to the State authority to make determinations concerning the eligibility of aliens for public benefits, a State that chooses to follow the Federal classification in determining the eligibility of such aliens for public assistance shall be considered to have chosen the least restrictive means available for achieving the compelling government interest of assuring that aliens be self-reliant in accordance with national immigration policy.

In section 601(c)(2), strike ''programs:'' and insert ''programs (and include any successor to such a program as identified by the Attorney General in consultation with other appropriate officials):''.

In section 603, amend paragraph (2) to read as follows:

(2) PUBLIC HEALTH IMMUNIZATIONS.—Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases, whether or not such symptoms are actually caused by a communicable disease.

In section 603(5), insert ''(and any successor to such a program as identified by the Attorney General in consultation with other appropriate officials)'' after ''National School Lunch Act''.

In section 603(6), insert ''(and any successor to such a program as identified by the Attorney General in consultation with other appropriate officials)'' after ''1966''.

At the end of section 603, add the following new paragraph:

(7) HEAD START PROGRAM.—Benefits under the Head Start Act.

At the end of subtitle A of title VI of the bill, insert the following new part (and conform the table of contents accordingly):

PART 3—HOUSING ASSISTANCE

SEC. 615. ACTIONS IN CASES OF TERMINATION OF FINANCIAL ASSISTANCE.

(a) IN GENERAL.—Section 214(c)(1) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(c)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking ''may, in its discretion,'' and inserting ''shall'';

(2) in subparagraph (A), by inserting after the period at the end the following new sentence: ''Financial assistance continued under this subparagraph for a family may be provided only on a prorated basis under which the amount of financial assistance is based on the percentage of the total number of members of the family that are eligible for such assistance under the program for financial assistance and this section.''; and

(3) in subparagraph (B), by striking ''6-month period'' and all that follows through ''affordable housing'' and inserting ''single 3-month period''.

(b) SCOPE OF APPLICATION.—The amendment made by subsection (a)(3) shall apply to any deferral granted under section 214(c)(1)(B) of the Housing and Community Development Act of 1980 on or after the date of the enactment of this Act, including any renewal of any deferral initially granted before such date of enactment, except that a public housing agency or other entity referred to in such section 214(c)(1)(B) may not renew, after such date of enactment, any deferral which was granted under such section before such date and has been effective for at least 3 months on and after such date.

SEC. 616. VERIFICATION OF IMMIGRATION STATUS AND ELIGIBILITY FOR FINANCIAL ASSISTANCE.

Section 214(d) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(d)) is amended—

(1) in the matter preceding paragraph (1), by inserting ''or to be'' after ''being'';

(2) in paragraph (1)(A), by inserting at the end the following new sentences: ''If the declaration states that the individual is not a citizen or national of the United States, the declaration shall be verified by the Immigration and Naturalization Service. If the declaration states that the individual is a citizen or national of the United States, the Secretary shall request verification of the declaration by requiring presentation of documentation the Secretary considers appropriate, including a social security card, certificate of birth, driver's license, or other documentation.'';

(3) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking ''on the date of the enactment of the Housing and Community Development Act of 1987'' and inserting ''or applying for financial assistance''; and

(B) by inserting at the end the following new sentence:

''In the case of an individual applying for financial assistance, the Secretary may not provide such assistance for the benefit of the individual before such documentation is presented and verified under paragraph (3) or (4).'';

(4) in paragraph (4)—

(A) in the matter preceding subparagraph (A), by striking ''on the date of the enactment of the Housing and Community Development Act of 1987'' and inserting ''or applying for financial assistance'';

(B) in subparagraph (A)—

(i) in clause (i)—

(I) by inserting '', not to exceed 30 days,'' after ''reasonable opportunity''; and

(II) by striking ''and'' at the end; and

(ii) by striking clause (ii) and inserting the following new clauses:

''(ii) in the case of any individual who is already receiving assistance, may not delay, deny, reduce, or terminate the individual's eligibility for financial assistance on the basis of the individual's immigration status until such 30-day period has expired, and

''(iii) in the case of any individual who is applying for financial assistance, may not deny the application for such assistance on the basis of the individual's immigration status until such 30-day period has expired; and'';

(C) in subparagraph (B), by striking clause (ii) and inserting the following new clause:

''(ii) pending such verification or appeal, the Secretary may not—

''(I) in the case of any individual who is already receiving assistance, delay, deny, reduce, or terminate the individual's eligibility for financial assistance on the basis of the individual's immigration status, and

''(II) in the case of any individual who is applying for financial assistance, deny the application for such assistance on the basis of the individual's immigration status, and'';

(5) in paragraph (5), by striking all that follows ''satisfactory immigration status'' and inserting the following: '', the Secretary shall—

''(A) deny the individual's application for financial assistance or terminate the individual's eligibility for financial assistance, as the case may be; and

''(B) provide the individual with written notice of the determination under this paragraph.''; and

(6) by striking paragraph (6) and inserting the following new paragraph:

''(6) The Secretary shall terminate the eligibility for financial assistance of an individual and the members of the household of the individual, for a period of not less than 24 months, upon determining that such individual has knowingly permitted another individual who is not eligible for such assistance to use the assistance (including residence in the unit assisted).''.

SEC. 617. PROHIBITION OF SANCTIONS AGAINST ENTITIES MAKING FINANCIAL ASSISTANCE ELIGIBILITY DETERMINATIONS.

Section 214(e)(4) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(e)(4)) is amended—

(1) in paragraph (2), by inserting ''or'' at the end;

(2) in paragraph (3), by striking '', or'' at the end and inserting a period; and

(3) by striking paragraph (4).

SEC. 618. REGULATIONS.

(a) ISSUANCE.—Not later than the expiration of the 60-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall issue any regulations necessary to implement the amendments made by this part. Such regulations shall be issued in the form of an interim final rule, which shall take effect upon issuance and shall not be subject to the provisions of section 533 of title 5, United States Code, regarding notice or an opportunity for comment.

(b) FAILURE TO ISSUE.—If the Secretary fails to issue the regulations required under subsection (a) before the expiration of the period referred to in such subsection, the regulations relating to restrictions on assistance to noncitizens, contained in the final rule issued by the Secretary of Housing and Urban Development in RIN 2501–AA63 (Docket No. R-95–1409; FR–2383–F–050), published in the Federal Register of March 20, 1995 (Vol. 60., No. 53; pp. 14824–14861), shall not apply after the expiration of such period.

In section 621(a), in amended paragraph (4)(A), strike ''thereof, or'' and insert ''thereof, and'' and strike ''or both,''.

In section 621(a), in paragraph (4), strike subparagraph (B) and strike clause (i) of subparagraph (C) and redesignate subparagraph (C)(ii) as subparagraph (B).

Amend subsection (a) of section 631 to read as follows:

(a) FEDERAL PROGRAMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law (except as provided in paragraph (2)), in determining the eligibility and the amount of benefits of an alien for any Federal means-tested public benefits program (as defined in subsection (d)) the income and resources of the alien shall be deemed to include—

(A) the income and resources of any individual who executed an affidavit of support pursuant to section 213A of the Immigration and Nationality Act (as inserted by section 632(a)) in behalf of such alien, and

(B) the income and resources of the spouse (if any) of the individual.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to the following:

(A) Medical assistance provided for emergency medical services under title XIX of the Social Security Act.

(B) The provision of short-term, non-cash, in kind emergency relief.

(C) Benefits under the National School Lunch Act.

(D) Assistance under the Child Nutrition Act of 1966.

(E) Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment for communicable diseases.

(F) The provision of services directly related to assisting the victims of domestic violence or child abuse.

(G) Benefits under programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965 and titles III, VII, and VIII of the Public Health Service Act.

(H) Benefits under means-tested programs under the Elementary and Secondary Education Act of 1965.

(I) Benefits under the Head Start Act.

In section 631(b), amend paragraph (1) to read as follows:

(1) PARENTS OF UNITED STATES CITIZENS AND ADULT SONS AND DAUGHTERS OF CITIZENS AND PERMANENT RESIDENTS.—Subsection (a) shall apply with respect to an alien who is admitted to the United States as the parent of a United States citizen under section 203(a)(2) of the Immigration and Nationality Act, as amended by section 512(a), or as the son or daughter of a citizen or lawful permanent resident under section 203(a)(3) of such Act, until the alien is naturalized as a citizen of the United States.

In section 631(b)(4)(A), strike ''if the alien'' and all that follows and insert ''if the alien is able to prove to the satisfaction of the Attorney General that the alien has been employed for 40 qualifying quarters of coverage as defined under title II of the Social Security Act and the alien did not receive any benefit under a means-tested public benefits program of (or contributed to by) the Federal Government during any such quarter.''.

In section 632(a), in new section 213A(a)(2)(D)(i), strike ''if the sponsored alien'' and all that follows and insert the following: ''if the sponsored alien is able to prove to the satisfaction of the Attorney General that the alien has been employed for 40 qualifying quarters of coverage as defined under title II of the Social Security Act and the alien did not receive any benefit under a means-tested public benefits program of (or contributed to by) the Federal Government during any such quarter.''.

In section 632(a), amend paragraph (3) of the section 213A of the Immigration and Nationality Act inserted by such section, to read as follows:

''(3) MEANS-TESTED PUBLIC BENEFITS PROGRAM.—

''(A) IN GENERAL.—Subject to subparagraph (B), the term 'means-tested public benefits program' means a program of public benefits (including cash, medical, housing, and food assistance and social services) of the Federal Government or of a State or political subdivision of a State in which the eligibility of an individual, household, or family eligibility unit for benefits under the program, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.

''(B) EXCEPTIONS.—Such term does not include the following benefits:

''(i) Medical assistance provided for emergency medical services under title XIX of the Social Security Act.

''(ii) The provision of short-term, non-cash, in kind emergency relief.

''(iii) Benefits under the National School Lunch Act.

''(iv) Assistance under the Child Nutrition Act of 1966.

''(v) Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment for communicable diseases.

''(vi) The provision of services directly related to assisting the victims of domestic violence or child abuse.

''(vii) Benefits under programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965 and titles III, VII, and VIII of the Public Health Service Act.

''(viii) Benefits under means-tested programs under the Elementary and Secondary Education Act of 1965.

''(ix) Benefits under the Head Start Act.''.

In section 632(a), in new section 213A(e)(1)(D), strike ''a tax return or otherwise'' and insert ''an individual's Federal income tax returns for the individual's most recent two taxable years and a written statement, executed under oath or as permitted under penalty of perjury under section 1746 of title 28, United States Code, that the copies are accurate copies of such returns''.

In section 632(a), in new section 213A(e)(1)(E), insert ''who is a United States citizen and'' after ''(or is an individual''.

After section 632, insert the following new sections (and conform the table of contents accordingly):

SEC. 633. COSIGNATURE OF ALIEN STUDENT LOANS.

Section 484(b) of the Higher Education Act of 1965 (20 U.S.C. 1091(b)) is amended by adding at the end the following new paragraph:

''(6) Notwithstanding sections 427(a)(2)(A), 428B(a), 428C(b)(4)(A), and 464(c)(1)(E), a student who is an alien lawfully admitted under the Immigration and Nationality Act, otherwise eligible for student financial assistance under this title, and for whom an affidavit of support has been provided under section 213A of such Act shall not be eligible for a loan under this title unless the loan is endorsed and cosigned by the alien's sponsor under such section or by another credit-worthy individual who is a citizen or national of the United States.''.

SEC. 634. STATUTORY CONTRUCTION.

Nothing in this title may be construed as an entitlement or a determination of an individual's eligibility or fulfillment of the requisite requirements for any Federal, State, or local governmental program, assistance, or benefits. For purposes of this title, eligibility relates only to the general issue of eligibility or ineligibility on the basis of alienage.

[TITLE VIII AMENDMENTS]

After section 810, insert the following new sections (and conform the table of contents accordingly):

SEC. 811. CERTIFICATION REQUIREMENTS FOR FOREIGN HEALTH-CARE WORKERS.

(a) IN GENERAL.—Section 212(a) (8 U.S.C. 1182(a)), as amended by section 301(b)(1), is amended—

(1) by redesignating paragraph (10) as paragraph (11), and

(2) by inserting after paragraph (9) the following new paragraph:

''(10) CERTIFICATION REQUIREMENTS FOR FOREIGN HEALTH-CARE WORKERS.—Any alien who seeks to enter the United States for the purpose of performing labor as a health care-worker, other than a physician, is inadmissible unless the consular officer receives a certification from the Commission on Graduates of Foreign Nursing Schools or a certificate from an equivalent independent credentialing organization approved by the Secretary of Labor verifying that—

''(A) the alien's education, training, or experience meet all applicable statutory and regulatory requirements for entry into the United States under the classification specified in the application and is comparable to that required for an American practitioner of the same type;

''(B) any foreign license submitted by the alien is authentic and unencumbered;

''(C) the alien must have the ability to read, write, and speak the English language at a level required for standard business communication, as demonstrated by the alien's score on one or more standardized tests; and

''(D) if the alien is a registered nurse, the alien has passed an examination testing both nursing skills and English language proficiency.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to aliens entering the United States more than 180 days after the date of the enactment of this Act.

Amend section 834 to read as follows (and conform the table of contents accordingly):

SEC. 834. REGULATIONS REGARDING HABITUAL RESIDENCE.

Not later than 6 months after the date of the enactment of this Act, the Commissioner of the Immigration and Naturalization Service shall issue regulations governing rights

of ''habitual residence'' in the United States under the terms of Compacts of Free Association (Public Law 99–239, Public Law 99–658, and Public Law 101–219).

After section 121, insert the following:

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

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

''(g)(1) Notwithstanding section 1342 of title 31, United States Code, the Attorney General may enter into a written agreement with a State, or any political subdivision of a State, pursuant to which an officer or employee of the State or subdivision, who is determined by the Attorney General to be qualified to perform a function of an immigration officer, or any other officer of the Department of Justice, under this Act in relation to deportation of aliens in the United States (including investigation, apprehension, detention, presentation of evidence on behalf of the United States in administrative proceedings to determine the deportability of any alien, conduct of such proceedings, or removal of aliens with respect to whom a final order of deportation has been rendered) may carry out such function at the expense of the State or political subdivision and to the extent consistent with State and local law.

''(2) An agreement under this subsection shall require that an officer or employee of a State or political subdivision of a State performing a function under the agreement shall have knowledge of, and adhere to, Federal law relating to the function.

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

''(4) In performing a function under this subsection, an officer or employee of a State or political subdivision of a State may use Federal property or facilities, as provided in a written agreement between the Attorney General and the State or subdivision.

''(5) With respect to each officer or employee of a State or political subdivision who is authorized to perform a function under this subsection, the specific powers and duties that may be, or are required to be, exercised or performed by the individual, the duration of the authority of the individual, and the position of the agent of the Attorney General who is required to supervise and direct the individual, shall be set forth in a written agreement between the Attorney General and the State or political subdivision.

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

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

''(8) An officer or employee of a State or political subdivision of a State acting under color of authority under this subsection, or any agreement entered into under this subsection, shall be considered to be acting under color of Federal authority for purposes of determining the liability, and immunity from suit, of the officer or employee in a civil action brought under Federal or State law.

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

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

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

''(B) otherwise to cooperate with the Attorney General in the identification, apprehension, detention, or removal of aliens not lawfully present in the United States.''.

In section 308(e)(1), insert after the colon the following (and redesignate subparagraphs (A) through (P) as subparagraphs (B) through (Q), respectively):

(A) Section 287(g) (8 U.S.C. 1357(g)) (as added by section 122).

In section 523, make the following amendments:

(1) in section 212(d)(5)(C)(i), remove ''or'';

(2) in section 212(d)(5)(C)(ii), remove the ''.'' and add ''or'';

(3) add at the end the following:

''(iii) the alien has filed an application to adjust status to that of an immigrant under section 203, and must travel outside the United States for emergent business or family reasons.''

Strike section 611 (and conform the table of contents accordingly).

In section 531, in paragraph (3) of section 208(d), insert at the end of the first sentence the following sentence:

''Such fees shall not exceed the Attorney General's costs in adjudicating the applications.''

In section 701, make the following amendments:

On page 328, line 24 delete: ''and Secretary of the Treasury''.

Page 329, line 4 delete: ''and the United States Customs Service''.

Page 329, line 10 delete: ''and the Secretary of the Treasury''.

Page 329, line 19 to 20 delete: '', in consultation with the Secretary of The Treasury.''.

Page 329, line 23 insert after ''inspection'': ''by the Immigration and Naturalization Service''.

Page 330, line 1 to 2 delete: '', the United States Customs Service,''.

In section 531, amend section 208(a)(2)(B) of the Immigration and Nationality Act (as amended by such section) by striking ''30 days'' and inserting ''180 days''.

The CHAIRMAN. Pursuant to the rule, the gentleman from Texas [Mr. SMITH] and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Texas, Mr. SMITH.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

(Mr. SMITH of Texas asked and was given permission to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Chairman, I want to thank my colleague, the gentleman from Texas, for his help on the manager's amendment. His amendment is included in it.

Mr. Chairman, this amendment makes a number of technical and conforming changes to the underlying attacks of H.R. 2202, and in addition it includes several amendments that were proposed by several of my colleagues; specifically, the gentleman from California, Mr. COX, the gentlemen from Florida, Mr. FOLEY and Mr. MCCOLLUM, and the gentlemen from California, Mr. DORNAN, Mr. GALLEGLY, and Mr. CAMPBELL, were each responsible for significant portions of this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. BRYANT of Texas. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas [Mr. BRYANT] is recognized for 10 minutes.

Mr. BRYANT of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment is a situation in which the majority giveth and the majority taketh away, to some extent. Three of the provisions in the amendment are in our view good, and helpful; in particular, the one that does not disqualify people with children who are here whose parents are illegal aliens from participating in Head Start, because our effort, of course, is to keep every child in school and to get every child educated, no matter what their status.

The other changes, however, raise some questions. I think they raise some questions which should have been the subject to hearings in committee. For example, the proposal that the Attorney General be given authority to deputize State and local law enforcement officers to even conduct deportation proceedings raises some very serious questions with regard to workability and with regard to perhaps constitutionality. I am not sure we want them to be conducting deportation proceedings.

The third proposal that is in the amendment which raises questions as well, and I think some very practical ones, suggests that the law would read that a person who is eligible for housing assistance and knowingly permits someone not eligible to use their housing would then face a 2-year termination of their housing assistance.

While none of us want to encourage anyone who is not eligible to be able to use public housing, the possibility for accidentally having someone in your home for a period of time who is not eligible, there are just an unlimited number of possibilities. Also, what does ''use'' mean? Does that mean overnight? Does that mean an evening of dinner? What does that mean? The consequences are enormous. The potential for being able to accidentally have this happen to you are enormous. I am surprised that the majority would bring that kind of a provision forward. I would hope to modify it substantially in conference if this amendment were to be adopted and stay in the bill all the way.

Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I too must rise in opposition to this particular amendment and acknowledge that there are some changes that are made in the amendment, the manager's amendment, which I think improve the bill. I thank the gentleman for making some of those changes. Unfortunately, some of the changes made were matters that were never even discussed in committee, and which many of us on this side of the aisle never had a chance to really examine until just recently.

It is unfortunate, because we are talking about making some major changes in immigration policy and law, and it would be a shame, I believe, to break from what is currently a bipartisan effort; although I still am still opposed to the bill, there is a bipartisan effort to try to do this. I think it is unfortunate in that there are various provisions in this particular amendment that I think go beyond the scope of real reform.

The gentleman from Texas [Mr. BRYANT] mentioned that we talk now in this particular amendment of terminating Federal housing assistance to someone who is eligible to receive it, based on a particular criteria which may cause these eligible recipients of Federal assistance from being denied, accidentally or not, some assistance.

I think before we take steps that would get us to that point, we should have had opportunity to have had input, have had some hearings to find out if in fact this is the way to go. I would say it is not, but certainly I would be willing to consider this as something that might be possible if in fact we were told by the experts that we would not be denying those lawfully entitled to housing assistance that assistance, and that we would not end up causing discrimination in the process of trying to somehow decipher who is and who is not going to fall under the umbrella of this particular provision within the amendment.

I would also mention that this amendment broaches an area which has been one of great delicacy for quite some time; that is, the law enforcement powers of the Federal Government and when we should extend those to the States and local governments.

Mr. Chairman, we have on many occasions rightfully been very circumspect in allowing someone other than the Federal Government to enforce or administer the laws of the Federal Government, because you never know when it get out of your own hands how it will be done. There is a great concern, and I know it was expressed in the terrorism bill, that we were going too far in deputizing State and local law enforcement agencies in what they could and could not do, and what that might mean.

Mr. Chairman, this particular amendment allows the Attorney General, at the Attorney General's discretion, to enter into agreements with States to allow State law enforcement officials to perform deportation duties, those things that are conducted currently by immigration officials.

I would say that when you start allowing local law enforcement to go out there and seek out people who may be undocumented, or who may have questionable immigration status, what you are doing is asking them to perform the work of immigration or Border Patrol officers. If they are going to go through the whole training that a Border Patrol officer goes through, that is something different, and perhaps we could discuss it then, but I see nothing in this amendment that would provide for that. I see no monies in the amendment to provide for that, and what it does for me is cause a great deal of concern that what we are doing is extending the reach of the Federal Government, without extending the protections that should be there with it.

For those reasons, Mr. Chairman, I believe that we should be opposing this particular amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. COX].

Mr. COX of California. Mr. Chairman, I rise in support of the inclusion of the amendment of the gentleman from Texas [Mr. SMITH] in the manager's amendment, the inclusion of provisions that will help us make sure that our law really means what it says; that is, that you cannot come into this country illegally, but you must follow the rules in the process.

Mr. Chairman, if the Federal Government has a law that requires an honest procedure for admission into the country, and people violate it willfully, once they are successful in doing so, once they make it across the border, they are not subject to any realistic threat of enforcement of the law if there is no realistic prospect of deportation. We are going to have ever worsening problems of illegal immigration, and with millions, millions of lawbreakers in this respect, millions of people crossing our borders illegally, it is quickly becoming beyond the capacity of the INS to keep up. There is not any realistic threat of enforcement, because they simply are not doing the job.

Mr. Chairman, if the Federal Government were in charge of prosecuting all murders, rapes, robberies, or what have you in America, we would have a big bottleneck, and nobody would ever get prosecuted for anything, but we have a marvelous system for dealing with that problem. All the important laws in America are enforced by our police, are enforced in our State courts.

The amendment included in the manager's amendment would permit the Attorney General of the United States to deputize States who elect and who are willing to use their own resources to assist in the enforcement of these Federal laws. Only when we do that, only when we expand the number of personnel who are involved in picking up people in violation of the law, only when we expand the court facilities that we have to process deportation matters, are we going to have a realistic threat of enforcement of the law.

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That is why this amendment is so important. I note in response to my colleague from California's concerns that the Attorney General will enter into agreements with States requiring ongoing Federal supervision of these efforts so that everything will be conducted under the watch of the INS and the Attorney General in conformity with Federal standards. I think this is a very wise and sound amendment, and I congratulate the gentleman from Texas [Mr. SMITH] for including it in his manager's amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. GOODLATTE].

Mr. GOODLATTE. I thank the gentleman from Texas for yielding me the time.

Mr. Chairman, I would like to commend the gentleman from California [Mr. COX] for the amendment that he offered and the gentleman from Texas for including it in his manager's amendment. I think it is a very, very important part of the bill.

A few years ago when I was practicing law, I represented a client whose family was being harassed by an individual who was unlawfully in the United States and who also was engaged in unlawful, unauthorized employment in the United States as well. After a great deal of effort we finally got through to a representative of the Immigration Service who had authority to act on this and requested that they send an investigator down to Roanoke, VA, 240 miles from the office here in Washington, to investigate this. We assured them that we had very substantial evidence to indicate this individual was in the country without authorization. The individual said that there was absolutely nothing they could do. There was simply no money in the budget to send somebody down to Roanoke, VA to make this investigation. When we pressed him harder, he finally said,

> Look, I can go right outside the door on the street in front of our building and find 5 people who are in a similar status, who have overstayed their visas, are not authorized in the country. We simply don't have the manpower and resources to take this action and to apprehend people who are not here legally.

This provision in the bill would enable the Attorney General to designate local law enforcement authorities in Roanoke, VA and everywhere else in the country to be able to step in and assist in dealing with what is a very, very difficult problem for the understaffed, undermanned Immigration Service to handle.

I commend the gentleman for including this in the bill and strongly urge support for the manager's amendment.

Mr. BRYANT of Texas. Mr. Chairman, I yield the balance of my time to the gentleman from California [Mr. BECERRA].

The CHAIRMAN. The gentleman from California [Mr. BECERRA] is recognized for 4 minutes.

Mr. BECERRA. Mr. Chairman, let me mention one other provision within this amendment that does cause some concern, and that is a change again that was made to what came out of committee, the Committee on the Judiciary, in the immigration bill. That is a change that would permit someone who was sponsoring an immigrant coming into this country, and in the process of trying to meet the income threshold required to be able to sponsor, we provided for the case where there might be a joint sponsorship, so that if one wanted to come into this country and we had sponsors who were willing to obligate themselves to provide the support necessary for this immigrant to come into the country, that that would make it possible for this individual, this immigrant, to make it into the country.

The change that is being made in this amendment would no longer allow individuals to be able to be jointly sponsoring an immigrant that wishes to come into this country, as a family member of otherwise. It makes it a requirement that the joint sponsor be a citizen.

In and of itself, that is not bad. But if you have the case where you have a lawful, permanent resident who may have been in this country 25 years, is awaiting the INS to process an application to be a citizen and there is a spouse, or a child, or a parent of a citizen that wishes to come in, we have a situation now where that legal immigrant, who is financially capable of sponsoring that individual and a lawful permanent resident who is not only financially able to sponsor or help jointly sponsor this immigrant that wishes to come in but is also preparing to become a U.S. citizen himself or herself, is now no longer qualified under this new change to be able to be a joint sponsor to allow this immigrant to come in.

I do not understand the rationale for it. It would have been, I think, preferable had we had an opportunity in committee to discuss this, especially since in committee, both subcommittee and full committee, we had the opportunities to do the changes and provide for certain aspects of sponsorship. Yet here we find all of a sudden that out of committee and onto the House floor the bill looks different. The manager's amendment is now making additional changes which we did not have a chance to debate in committee. I think it is unfortunate because what we will do in the cases of very worthy individuals who are seeking to provide sponsorship, the financial obligation to have someone come into this country under family-based unification, that now that will no longer be possible.

I do not understand the rationale for it and perhaps before the debate is over we will hear it. But to me it seems unfortunate that we are making changes that did not get the light of day and we are being told that this is meaningful reform. This is just another reason why I believe that ultimately this is going to be a bill that will be difficult for at least this Member of Congress to support, but certainly on the manager's amendment there are sufficient reasons to object to the bill.

Having said that, I would urge Members to oppose this particular manager's amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. BILBRAY].

Mr. BILBRAY. Mr. Chairman, I rise in favor of the amendment and point out to my colleagues that the concern that was previously stated about the participation of States or local government in the issue of immigration control as being somehow a new radical idea just is not reflected in reality. Especially the gentleman from California. my colleague from California, must obviously be aware that the State of California at this time participates in immigration control through the participation of the National Guard of the State of California, who actually not only does observation and enforcement along the border for the INS but also does transportation and transport and processing for the Federal Government.

And so this local-Federal cooperative effort on immigration control is not something new that is in this bill. It basically is a reflection of reality, that there are certain situations out there that we need to do in cooperation with States and local government.

Mr. Chairman, let me make this point quite strong, and I want to say it to both sides of the aisle. There are people who believe that the Federal Government ought to be involved in law enforcement across the aisle in this country, across the board. There are those who believe the Federal Government should be involved in education across the board in this country. Their opinion is their opinion. They have the right to that opinion. But let me remind everybody here that it does not take an act of Congress for a school board to elect a teacher. It does not take an act of Congress for a city to hire a police officer. But, Mr. Chairman, it takes an act of Congress for local government and the States to cooperate with us on immigration control. It takes an act of Congress to address these issues that are before us in these amendments.

So as we run around with a lot of issues of a lot of things we would like to do, that are nice to do, immigration control and management is something that only this body has the right to do as determined by the Constitution, as declared by the Supreme Court.

So I would ask my colleagues, rather than finding the excuses to sort of walk away and side slip off this issue, to recognize that they want to justify being involved in all these other issues that are nice to do, but they recognize that the Constitution and the Supreme Court has ruled only Congress has the right to address these issues. Local participation in immigration control can only be delegated by the Congress of the United States. The city and the State and the school board cannot determine those things. If you do not want to have the guts to stand up and say, we want to cooperate with local government, to delegate this right and this responsibility and these authorities, then you should not be in this House or in the other house that believes in the Constitution, because this is a responsibility, Mr. Chairman, that we cannot give up, that we must accept.

Mr. GALLEGLY. Mr. Chairman, I rise in support of the manager's amendment. I want to especially thank the chairman of the subcommittee for including two of my amendments in this text.

My first amendment would expand a criminal alien identification system pilot program to include Ventura County. This program will help INS officers to identify whether persons arrested are illegal aliens or previously convicted criminal aliens and will help speed deportation.

My second amendment addresses the ability of illegal aliens to receive Federal housing assistance despite the fact that HUD housing law expressly prohibits illegal aliens from receiving this assistance.

My amendment would tighten existing HUD law and regulations by closing waiting list loopholes, would require verification of eligibility, would prorate assistance for families of mixed eligibility and would suspend assistance if a family knowingly permits other non-eligible tenants to use the assistance.

I want to thank Housing Subcommittee Chairman LAZIO and ranking member KENNEDY and their staffs for their assistance. I also want to express my appreciation to HUD for their constructive input and their support.

I urge passage of this amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. SMITH].

The amendment was agreed to.

AMENDMENTS EN BLOC, AS MODIFIED, OFFERED BY MR. SMITH OF TEXAS

Mr. SMITH of Texas. Mr. Chairman, I offer amendments en bloc pursuant to the authority granted in the rule, consisting of No. 2 Traficant; No. 11 Cardin, as modified, No. 25 Lipinski; No. 26 Farr, No. 27 Traficant; No. 29 Vento; No. 30 Waldholtz; No. 31 Kleczka; and No. 32 Dreier, and I ask unanimous consent that the modification to amendment No. 11 be considered as read and printed in the RECORD.

The CHAIRMAN. The Clerk will designate the amendments en bloc, as modified.

The text of the amendments en bloc, as modified, is as follows:

Amendments en bloc, as modified, offered by Mr. SMITH of Texas, consisting of No. 2 Traficant; No. 11 Cardin, as modified; No. 25 Lipinski; No. 26 Farr, No. 27 Traficant; No. 29 Vento; No. 30 Waldholtz; No. 31 Kleczka; and No. 32 Dreier:

AMENDMENT NO. 2 OFFERED BY MR. TRAFICANT

At the end of subtitle A of title I insert the following new section:

SEC. 108. REPORT.

The Attorney General, in consultation with the Secretary of State and the Secretary of Defense, shall contract with the Comptroller General to track, monitor, and evaluate the Administration's border strategy to deter illegal entry, more commonly referred to as prevention through deterrence. To determine the efficacy of the Administration's strategy and related efforts, the Comptroller General shall submit to Congress a report of its findings within one year after the date of the enactment of this Act and, for every year thereafter, up to and including fiscal year 2000. Such a report shall include a collection and systematic analysis of data, including workload indicators, related to activities to deter illegal entry. Such a report shall also include recommendations to improve and increase border security at both the border and ports-of-entry.

AMENDMENT NO. 11 OFFERED BY MR. CARDIN, AS MODIFIED:

At the end of section 404 the following new subsection:

(c) PRIORITY FOR WORKSITE ENFORCEMENT.—

(1) IN GENERAL.—In addition to its efforts on border control and easing the worker verification process, the Attorney General shall make worksite enforcement of employer sanctions a top priority of the Immigration and Naturalization Service.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall submit to Congress a report on any additional authority or resources needed—

(A) by the Immigration and Naturalization Service in order to enforce section 274A of the Immigration and Nationality Act, or

(B) by Federal agencies in order to carry out the Executive Order of February 13, 1996 (entitled ''Economy and Efficiency in Government Procurement Through Compliance with Certain Immigration and Naturalization Act Provisions'') and to expand the restrictions in such Order to cover agricultural subsidies, grants, job training programs, and other Federally subsidized assistance programs.

AMENDMENT NO. 25 OFFERED BY MR. LIPINSKI:

At the end of subtitle B of title VIII insert the following new section:

SEC. 837. ADJUSTMENT OF STATUS FOR CERTAIN POLISH AND HUNGARIAN PAROLEES.

(a) IN GENERAL.—The Attorney General shall adjust the status of an alien described in subsection (b) to that of an alien lawfully admitted for permanent residence if the alien—

(1) applies for such adjustment,

(2) has been physically present in the United States for at least 1 year and is physically present in the United States on the date the application for such adjustment is filed,

(3) is admissible to the United States as an immigrant, except as provided in subsection (c), and

(4) pays a fee (determined by the Attorney General) for the processing of such application.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided in subsection (a) shall only apply to an alien who—

(1) was a national of Poland or Hungary, and

(2) was inspected and granted parole into the United States during the period beginning on November 1, 1989, and ending on December 31, 1991, after being denied refugee status.

(c) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.—The provisions of paragraphs (4), (5), and (7)(A) of section 212(a) of the Immigration and Nationality Act shall not apply to adjustment of status under this section and the Attorney General may waive any other provision of such section (other than paragraph (2)(C) and subparagraphs (A), (B), (C), or (E) of paragraph (3)) with respect to such an adjustment for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

(d) DATE OF APPROVAL.—Upon the approval of such an application for adjustment of status, the Attorney General shall create a record of the alien's admission as a lawful permanent resident as of the date of the alien's inspection and parole described in subsection (b)(2).

(e) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent residence under this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act.

AMENDMENT NO. 26 OFFERED BY MR. FARR OF CALIFORNIA

At the end of subtitle B of title VIII insert the following new section:

SEC. 837. SUPPORT OF DEMONSTRATION PROJECTS.

(a) IN GENERAL.—The Attorney General shall make available funds under this section, in each of 5 consecutive years (beginning with 1996), to the Immigration and Naturalization Service or to other public or private nonprofit entities to support demonstration projects under this section at 10 sites throughout the United States. Each such project shall be designed to provide for the administration of the oath of allegiance (under section 337(a) of the Immigration and Nationality Act) on a business day around the 4th of July for approximately 500 people whose application for naturalization has been approved. Each project shall provide for appropriate outreach and ceremonial and celebratory activities.

(b) SELECTION OF SITES.-The Attorney General shall, in the Attorney General's discretion, select diverse locations for sites on the basis of the number of naturalization applicants living in proximity to each site and on the degree of local community participation and support in the project to be held at the site. Not more than 2 sites may be located in the same State. The Attorney General should consider changing the sites selected from year to year.

(c) AMOUNTS AVAILABLE; USE OF FUNDS.—

(1) AMOUNT.—The amount that may be made available under this section with respect to any single site for a site for a year shall not exceed $5,000.

(2) USE.—Funds provided under this section may only be used to cover expenses incurred carrying out symbolic swearing-in ceremonies at the demonstration sites, including expenses for—

(A) cost of personnel of the Immigration and Naturalization Service (including travel and overtime expenses),

(B) local outreach,

(C) rental of space, and

(D) costs of printing appropriate brochures and other information about the ceremonies.

(3) AVAILABILITY OF FUNDS.—Funds that are otherwise available to the Immigration and Naturalization Service to carry out naturalization activities (including funds in the Immigration Examination Fee Account, under section 286(n) of the Immigration and Nationality Act) shall be available under this section.

(d) APPLICATION.—In the case of an entity other than the Immigration and Naturalization Service seeking to conduct a demonstration project under this section, no amounts may be made available to the entity under this section unless an appropriate application has been made to, and approved by, the Attorney General, in a form and manner specified by the Attorney General.

(e) STATE DEFINED.—In this section, the term ''State'' has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)).

AMENDMENT NO. 27 OFFERED BY MR. TRAFICANT:

After section 836, insert the following new section (and conform the table of contents accordingly):

SEC. 837. SENSE OF CONGRESS; REQUIREMENTS REGARDING NOTICE.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act should be American-made.

(b) NOTICE TO RECIPIENTS OF GRANTS.—In providing grants under this Act, the Attorney General, to the greatest extent practicable, shall provide to each recipient of a grant a notice describing the statement made in subsection (a) by the Congress.

AMENDMENT NO. 29 OFFERED BY MR. VENTO:

At the end of subtitle B of the VIII add the following new section:

SEC. 837. TREATMENT OF CERTAIN ALIENS WHO SERVED WITH SPECIAL GUERRILLA UNITS IN LAOS.

(a) WAIVER OF ENGLISH LANGUAGE REQUIREMENT FOR CERTAIN ALIENS WHO SERVED WITH SPECIAL GUERRILLA UNITS IN LAOS.—The requirement of paragraph (1) of section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)) shall not apply to the nationalization of any person who—

(1) served with a special guerrilla unit operating from a base in Laos in support of the United States at any time during the period beginning February 28, 1961, and ending September 18, 1978, or

(2) is the spouse or widow of a person described in paragraph (1).

(b) NATURALIZATION THROUGH SERVICE IN A SPECIAL GUERRILLA UNIT IN LAOS.—

(1) IN GENERAL.—The first sentence of subsection (a) and subsection (b) (other than paragraph (3)) of section 329 of the Immigration and Nationality Act (8 U.S.C. 1440) shall apply to an alien who served with a special guerrilla unit operating from a base in Laos in support of the United States at any time during the period beginning February 28, 1961, and ending September 18, 1978, in the same manner as they apply to an alien who has served honorably in an active-duty status in the military forces of the United States during the period of the Vietnam hostilities.

(2) PROOF.—The Immigration and Naturalization Service shall verify an alien's service with a guerrilla unit described in paragraph (1) through—

(A) review of refugee processing documentation for the alien,

(B) the affidavit of the alien's superior officer,

(C) original documents,

(D) two affidavits from persons who were also serving with such a special guerrilla unit and who personally knew of the alien's service, or

(E) other appropriate proof.

The Service shall liberally construe the provisions of this subsection to take into account the difficulties inherent in proving service in such a guerrilla unit.

AMENDMENT NO. 30 OFFERED BY MRS. WALDHOLTZ:

After section 836, insert the following:

SEC. 837. SENSE OF THE CONGRESS REGARDING THE MISSION OF THE IMMIGRATION AND NATURALIZATION SERVICE.

It is the sense of the Congress that the mission statement of the Immigration and

Naturalization Service of the Department of Justice should include that it is the responsibility of the Service to detect, apprehend, and remove those noncitizens whose entry was illegal, whether undocumented or fraudulent, and those found to have violated the conditions of their stay, particularly those involved in drug trafficking or other criminal activity.

AMENDMENT NO. 31 OFFERED BY MR. KLECZKA:

At the end of subtitle B of title VIII insert the following new section:

SEC. 837. AUTHORIZATION OF REIMBURSEMENT OF CERTAIN POLISH APPLICANTS FOR THE 1995 DIVERSITY IMMIGRANT PROGRAM.

(a) IN GENERAL.—After the date of enactment of this Act, the Secretary of State, in consultation with the Commissioner of the Immigration and Naturalization Service, shall establish a process to provide for the reimbursement of all fees to each national of Poland (other than a national illegally residing in the United States) who was an applicant for the diversity immigrant program for 1995 under section 203(c) of the Immigration and Nationality Act who did not receive such a visa.

(b) FUNDING.—The Secretary of State shall use such funds as may be available at the discretion of the Secretary to carry out the purpose of this section.

(c) REVIEW.—The Secretary of State shall review the procedures of the Department of State regarding the administration of the diversity immigrant program to ensure that the erroneous notification which occurred with respect to the 1995 diversity immigrant program for Polish residents does not recur.

AMENDMENT NO. 32 OFFERED BY MR. DREIER:

After section 836, insert the following:

SEC. 837. SENSE OF THE CONGRESS WITH RESPECT TO STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.

(a) FINDINGS.—The Congress finds as follows:

(1) Of the $130,000,000 appropriated in fiscal year 1995 for the State Criminal Alien Assistance Program (SCAAP), the Department of Justice disbursed the first $43,000,000 to States on October 6, 1994, 32 days before the 1994 general election, and then failed to disburse the remaining $87,000,000 until January 31, 1996, 123 days after the end of fiscal year 1995.

(2) While H.R. 2880, the continuing appropriation measure funding certain operations of the Federal Government from January 26, 1996 to March 15, 1996, included $66,000,000 to reimburse States for the cost of incarcerating documented illegal immigrant felons, the Department of Justice failed to disburse any of the funds to the States during the period of the continuing appropriation.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the Department of Justice was disturbingly slow in disbursing fiscal year 1995 funds under the State Criminal Alien Assistance Program to States after the initial grants were released just prior to the 1994 election; and

(2) the Attorney General should make it a high priority to expedite the disbursement of Federal funds intended to reimburse States for the cost of incarcerating illegal immigrants, aiming for all State Criminal Alien Assistance Program funds to be disbursed during the fiscal year for which they are appropriated.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. BECERRA. Mr. Chairman, reserving the right to object, I was wondering if we could just take a moment to just go quickly through the amendments.

I do not wish to have all the amendments discussed. I just want to make sure I know which amendments are being consolidated in the en bloc amendments. If I could just take a moment to pull out my list of the amendments, I would just like to make sure, if the gentleman would run through those.

Mr. SMITH of Texas. If the gentleman will yield, as I understand the gentleman, he was asking for a description——

The CHAIRMAN. The gentleman will suspend.

The gentleman from California reserves the right to object to the reading of the modifications?

Mr. BECERRA. To the reading of the modifications, no, but to the consolidation of various amendments en bloc, I am reserving the right to object.

The CHAIRMAN. The gentleman is not correct.

The amendments are offered en bloc pursuant to the rule. However, the modifications have to be read, and there was one modification.

PARLIAMENTARY INQUIRY

Mr. BECERRA. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BECERRA. Mr. Chairman, are we in the process of consolidating amendments en bloc, which the rule provides?

The CHAIRMAN. Yes, under section 2 of House Resolution 384.

Mr. BECERRA. Further parliamentary inquiry. Is it then, based on the rule that was passed earlier, the prerogative of an individual who wishes to object only to object to the dispensing of the reading of those particular amendments?

The CHAIRMAN. No, just to germane modifications.

Mr. BECERRA. If the Chair would indulge me in explaining what the Chair means.

The CHAIRMAN. The rule makes in order amendments en bloc and dispenses with the reading. But the rule does not dispense with the reading of germane modifications, and there is one modification.

Mr. BECERRA. Mr. Chairman, I understand that the changes being made are purely technical, in the modification.

Mr. Chairman, I am being advised that the changes are technical in nature in the modification.

I would accept the representations that are made.

Mr. Chairman, for those reasons, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The gentleman from Texas [Mr. SMITH] and the gentleman from Texas [Mr. BRYANT] each will control 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. SMITH].

□ 2100

Mr. BRYANT of Texas. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding this time to me.

I just want to again offer my support for this amendment en bloc, which includes amendment 29 which I spoke on earlier. I anticipated we would be moving expeditiously at this point. I do not want to delay things. I do appreciate the gentleman's work and that of the gentleman from Texas [Mr. BRYANT] on this.

I do not see anything controversial in this amendment, as I peruse it. My learned colleagues here, who have spent time in the committee, may find some basis, but this amendment, insofar as amendment 29, is an important amendment to us. I very much appreciate the inclusion of this and the consideration under this expedited procedure.

Mr. BRYANT of Texas. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Chairman, I thank the gentleman for yielding me this time.

I will not be opposing the amendment so much as asking some questions and perhaps maybe some clarification. A couple of the amendments are of interest to me because, for example, the Lipinski amendment would adjust the status of approximately 800 Poles and Hungarians from parolee to permanent resident status.

Now, I do not question whether that is something that is worthwhile or not. I just am wondering why we do it for some groups and not others, and it seems to me that this legislation, I hope, is going to be meaningful reform.

We have another amendment that is part of the en bloc, which I see here would require the Department of State to refund fees to Poles who were erroneously notified of their eligibility for visas but did not receive a visa. If I recall correctly, I had an amendment very similar to this, but it did not apply just to Poles, it applied to anyone who applied for a visa. But as a result of the elimination of categories of immigrants in the bill, there were a number of people who should be refunded moneys by the State Department for fees paid for something they would no longer receive, and that is an opportunity to have an immigrant emigrate to this country.

If I can try to simplify what I am saying, right now, in order for someone to emigrate into this country, a fee must be paid typically by the sponsor of the immigrant, someone who says I will state here that I will be responsible for this immigrant to make sure that this person does not become a public charge as he or she wishes to enter this country; I will pay a fee to have the application for admission processed.

As a result of H.R. 2202, various categories of individuals will no longer qualify for visas, siblings of U.S. citizens. For example, adult children of U.S. citizens can no longer come into the country in most cases. Yet fees were paid by U.S. citizens to get these folks, their relatives, to come into the country.

Now as I understand it, that is no longer part of the legislation we are considering. Yet, in the case of one of these en bloc amendments, we will be reimbursing fees paid by some individuals even though what we are doing in this bill is saying that they no longer qualify or because they no longer qualify for admission as immigrants in this case.

We are doing this for the Poles that are mentioned in this particular amendment. Again I have no problems in doing so, because I think it is only fair that if somebody paid a fee and now the service the fee is meant to provide can no longer be rendered, then someone should get that fee reimbursed.

But it is not just Poles who have paid a fee, that should be reimbursed. It seems to me that anyone who has paid for something is entitled to either receive the service or get the money reimbursed, and I would have that reservation.

I would still support all of the amendments, including those that I just mentioned, but I would have the reservation. It seems we should be doing this on an equal and fair basis and not in some particular cases.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I might consume.

I just wanted to respond to my friend from California to say there is in the bill a mechanism to reimburse individuals who are not admitted to this country. But furthermore, I want to say in regard to the amendment he was referring to, I would distinguish this amendment from the overall group of individuals who might not be admitted by saying that this amendment is specifically to reimburse individuals who were given an erroneous notification by the State Department.

So in this case the State Department made a mistake, and we are simply trying to rectify that. This is a very narrow instance of where we need to bring some equity to bear.

Mr. Chairman, I yield 3 minutes to the gentlewoman from Utah [Mrs. WALDHOLTZ].

Ms. WALDHOLTZ. Mr. Chairman, included in the en bloc amendment offered by Chairman SMITH is an amendment I offered that will express the sense of Congress that the mission statement of the Immigration and Naturalization Service should include a provision that the INS has the responsibility to detect, apprehend, and deport illegal aliens, particularly those involved in drug trafficking or other criminal activity.

Like many other communities around the Nation, the people in my district are having a critical problem with illegal aliens dealing in drugs, that are involved in criminal activities, especially drug trafficking.

In 1995 alone, Salt Lake City police arrested over 3,600 people for felony-level narcotic violations, of which 80 percent were illegal aliens. Because of the lack of sufficient funding and staffing, the local INS office has been unable to handle this volume of cases and has had to focus almost exclusively on the worst offenders.

I would like to submit for the RECORD a letter sent to me by Captain Roy Wasden of the Salt Lake Police Department that outlines the difficulties that the police are having dealing with this problem.

In a drug sweep early this year, Salt Lake police arrested 193 people for felony narcotic violations, of which 156 were illegal aliens. The INS tried to help Salt Lake police process the illegal aliens, but they did not have enough staff and ran out of funds. As a result the suspects were back on the streets.

Sadly, that action had a tragic result. One of the illegal aliens arrested and released, later shot and killed Diane Purper, a mother of five, over a minor traffic dispute. Since the killer had been arrested four times prior to this shooting, perhaps this tragedy could have been avoided if the INS would have had the manpower to do their job and deport this individual after his first arrest.

As the INS works to detect, apprehend, and deport illegal aliens, a much grater emphasis should be given to arresting and deporting criminal illegal aliens. I urge my colleagues to support this amendment so that the INS can have a clear mandate from the House that we must rid our communities of these criminal elements.

SALT LAKE CITY CORP.
POLICE DEPARTMENT,
Salt Lake City, UT, March 1, 1996.

Hon. ENID GREENE-WALDHOLTZ,
House of Representatives,
Washington, DC.

DEAR CONGRESSWOMAN: In the spring of 1994 the Salt Lake City Police Department began to see that a large number of undocumented aliens were involved in crimes in the Salt Lake area. The largest problem existed in the drug arena. Officers started a strong order maintenance effort in the areas of the city that were plagued by open air drug markets. In this initial effort all violations of the law were challenged. Officers were making thousands of stops and arrests for minor violations such as littering, trespassing, jay walking, open container, etc. In an effort to gauge the magnitude of the undocumented alien problem officers tried to determine the number of persons they encountered that were undocumented aliens. During the approximate time frame of May to November 1994 we found that in about 7,000 contacts around 6,000 persons told the officers that they were undocumented aliens (85%). This is consistent with what we have found during the past 18 months as we have made major efforts to arrest drug dealers.

During 1995 our records indicate that we made 3,652 arrests for felony level narcotics violations. Of those arrests, 2,922 were undocumented aliens (80%). The local I.N.S. Office could not even begin to deal with this volume and had to focus their efforts on only the most egregious offenders. During 1995 there were a record number of homicides (27) committed in Salt Lake City. Of these homicides 11 were directly related to the drug trade (41%). Of the 27 homicides, 14 of the victims were undocumented aliens (52%) and 8 of the suspects were undocumented aliens (30%). These statistics clearly show that criminal undocumented aliens are violent and dangerous to our community.

This year we have conducted one drug operation in the city that netted 193 felony narcotic arrests with 156 of those arrests being undocumented aliens (81%). I.N.S. attempted to assist but ran out of funds and staffing. Virtually all of the suspects from these arrests were released from jail with their promise to appear in court (history indicates they do not appear in court). They are back on the street dealing drugs as I write this document. It was one of these drug dealers that shot and killed a mother of 5 over a traffic dispute. He is still at large and had been arrested 4 times prior to committing the homicide.

Salt Lake City, Salt Lake County and the State of Utah are at a crisis point. Despite thousands of arrests, strong enforcement efforts and the City's unceasing efforts the numbers of criminal aliens are increasing. I believe the word is out that State of Utah and Salt Lake City in particular are prime markets where there is no consequence for criminal behavior. We must have more assistance in dealing with criminal undocumented aliens.

Thank you for your attention to and attendance in this very important matter. Please feel free to contact me for any questions or assistance. I can be reached at (801) 799–3115.

Sincerely,
ROY W. WASDEN, CAPTAIN,
Pioneer Patrol Division.

Mr. CARDIN. Mr. Chairman, I rise in strong support of amendment No. 11 to H.R. 2202, included in the en bloc amendment currently under consideration. The amendment is straightforward; it strengthens enforcement of employer sanctions.

Despite the rhetoric on the issue, border enforcement will not solve the illegal immigration problem. The lure of high wages and plentiful job opportunities attracts thousands of illegal immigrants each year. If illegal workers could not secure employment, they would go home and fewer unauthorized aliens would attempt to enter the United States illegally.

We must reduce the job magnet. We can do this by deterring employers who hire illegal immigrants in order to obtain an unfair competitive advantage over law-abiding employers. Those employers who do not abide by the law, pay lower wages, given no benefits, pay no taxes, and thereby, suppress wages and working conditions for our country's legal workers.

In 1986, Congress, enacted the Immigration Reform and Control Act (IRCA) prohibiting the employment of unauthorized aliens. Although the intent of Congress was clear, the INS admits, "this law was not properly enforced, except immediately after passage of the Act, because the Federal Government until recently lacked the resources . . . [and] has not made employer sanctions a sufficiently high priority."

The President should be commended for his efforts in this area. Not only has worksite enforcement become a high priority of his Administration, on February 13, 1996, the President issued an Executive Order, stating that

''in procuring goods, . . . contracting agencies should not contract with employers that have not compiled with section 274A of the IRCA . . . prohibiting the unlawful employment of aliens.''

Amendment No. 11 to H.R. 2202 would ensure that section 274A of the IRAC, and the Executive Order, can be enforced properly. The amendment states that worksite enforcement should be a high priority for the Immigration and naturalization Service. In addition, it requires the Attorney General to report to Congress whether there are any additional authorities or resources needed to enforce: the Immigration Reform and Control Act's employer sanctions; the Presidential Executive Order which states that employers who hire illegal immigrants are denied Federal contracts; and an expansion of the Executive Order so that employers who hire illegal immigrants are denied all federally subsidized assistance programs.

I urge my colleagues to support the en bloc amendment so that sanctions become a reality for those employers who break the law.

Mr. BRYANT of Texas. Mr. Chairman, I would say that the minority has no objection to this amendment, and I yield back the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments en bloc, as modified, offered by the gentleman from Texas [Mr. SMITH].

The amendments en bloc, as modified, were agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in part II of House Report 104–483.

AMENDMENT OFFERED BY MR. BEILENSON

Mr. BEILENSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BEILENSON:

Amend subsection (b) of section 102 to read as follows:

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section not to exceed $110,000,000. Amounts appropriated under this subsection are authorized to remain available until expended.

The CHAIRMAN. Pursuant to the rule, the gentleman from California [Mr. BEILENSON] will be recognized for 5 minutes, and the gentleman from California [Mr. HUNTER] will be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. BEILENSON].

Mr. BEILENSON. Mr. Chairman, the amendment I am offering would replace the bill's requirement for the construction of 14 miles of triple fencing along the San Diego border with an authorization for the installation of additional physical barriers in all areas of high illegal entry into the United States.

As a cosponsor of H.R. 2202, I agree completely with my many colleagues who support the need to better reinforce physical barriers along the border to deter illegal immigration. But this particular barrier—a triple fence—is one which is opposed by the very law enforcement officials who will be responsible for patrolling it.

The San Diego triple fence is opposed by the Border Patrol, by the Department of Justice, and by the union representing Border Patrol agents in the San Diego area, largely because—in their opinion—the fence would subject Border Patrol agents to unnecessary danger, and would merely shift the illegal entry problem to other areas of the 1,500-mile United States-Mexico border.

Douglas Kruhm, the Chief of the U.S. Border Patrol, who is a uniformed agent who worked his way up through the ranks, explained the Border Patrol's opposition to the triple fence in a letter to the Judiciary Committee, in which he said:

This proposal threatens to endanger the physical safety of Border Patrol agents . . . by enclosing them in areas without easy escape routes, and [it] will reduce our ability to prevent illegal entry along the border . . . In our view, the deployment of personnel, physical barriers, technology, and operational judgments are decisions best left to the border patrol agents who are responsible for the day-to-day operation at the ground level.

The Border Patrol agents' union echoed this position in a recent statement, when they said that ''there is no support from U.S. Border Patrol Agents in the field for the three-tiered fence. We see it as a dangerous situation.''

And in a letter to the Speaker of the House, the Department of Justice made this plea:

We request that the House defer to the experience of those in the Border Patrol who are responsible for the safety of the Patrol's men and women and strike this section from the bill.

The triple fence proposal was developed 5 years ago by Sandia National Laboratories, a weapons laboratory that was asked by the Bush administration to do a study on drug traffic. Without considering the practicality or danger to Border Patrol personnel of such a fence, Sandia concluded that a triple fence would more effectively prevent illegal crossing than the existing single fence.

While their conclusions may be valid in theory, they make no sense to those who have experienced the reality of patrolling a 1,500 mile border. Sandia's experience with triple fencing is in settings where the authorities can control both sides of it—like surrounding a secure national laboratory or a prison—which is quite different from the United States-Mexico border. In addition, much has changed since Sandia issued its report—there are more agents, more sensors, more single fencing, more night scopes and other technology on the border, all of which were not evaluated by Sandia and have proven to be enormously effective in deterring illegal immigration.

Some supporters of the triple fence say that it is supported by Silvestre Reyes, the former head of the El Paso Border Patrol, whose ''Operation Hold the Line'' cut the number of illegal crossing from 8,000 to a few hundred a day. But the fact is that, while Mr. Reyes agrees that fences, when supported by adequate staffing, can help to deter illegal immigrants, he opposes the triple fence proposal for the same reasons voiced by other agents.

Finally, even if a triple fence were a good idea, the $12 million authorized in the bill is inadequate to fund a 14 mile triple fence. Depending on the cost of land acquisition and the type of fence used, and assuming there is no road construction involved, the total cost will range from $87 million to $110 million, according to estimates made by the Department of Justice in conjunction with the Department of Defense.

This amendment before us would strike the triple fence requirement and replace it with a new subsection that authorizes a $110 million appropriation for the Immigration and Naturalization Service [INS] to install additional physical barriers and roads—including the removal of obstacles to detection of illegal entrants—anywhere along the border where improvements are needed. This approach would ensure that Congress is not requiring the INS to construct a barrier that it does not have sufficient funds to build. And, more importantly, by deferring to the expertise and experience of border enforcement personnel on the type of barriers that would be most useful, it would ensure that taxpayer dollars will be spent wisely and effectively.

Finally, Mr. Chairman, I think an editorial in the San Diego Union-Tribune said it best when it said, ''If the—triple fence—were free, it would be a lousy idea. The fact that it could cost as much as $110 million * * * makes it an extraordinarily bad idea.'' The same newspaper wisely urged that rather than trying to micromanage how the Border Patrol does it job in the San Diego sector, Congress should give the agency the financial support it needs to stem the flow of illegals as it sees fit.

Mr. Speaker, instead of jeopardizing the safety of our Border Patrol agents and merely shifting the problem of illegal crossings away from 14 miles of the San Diego border, we need to put our resources where they can do the most good—as determined by the officers on the line. Only then will we have a demonstrable impact on stopping illegal immigration into this country.

I urge my colleagues to support this amendment.

□ 2115

Mr. Chairman, instead of jeopardizing the safety of our Border Patrol agents and merely shifting the problem of illegal crossings away from the 14 miles of the San Diego border, we need to put our resources where they will do the most good as determined by the professionals on the line. Only then will we have a demonstrable impact on stopping illegal entry into the country.

I urge my colleagues to support this amendment.

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I can understand now why the amendment was offered, because there are a number of mistakes with respect to the facts. The gentleman mentioned that Chief Reyes, Silvester Reyes, who is by far the most famous Border Patrol chief in this country because he actually did something in terms of stemming the tide and holding the line in El Paso, was represented by a San Diego Union editorial writer as being opposed to the fence.

After he testified before the Subcommittee on Immigration and Claims of the Committee on the Judiciary, he stated that, if you had sufficient agencies and you had a triple fence, you could indeed stop illegal immigration. When I sent the editorial that the gentleman just read and another editorial to Silvester Reyes, he responded with a corrective letter to the newspaper admonishing them not to misrepresent his position.

His position just a couple of days ago was this: As a former chief of the El Paso Border Patrol sector, I testified last year before Congress on our efforts to control illegal immigration in the El Paso area. I might add that he testified with Mrs. Meissner, head of the INS, who opposed the fence, sitting right next to him and glaring at him as he testified. He said: Representative DUNCAN HUNTER asked me if triple fencing along the border and additional staffing would provide us with the proper resources to control illegal immigration. I replied that it would.

Mr. Chairman, now, that is the word from Silvester Reyes. We can cable him, we can pass him on the street, we can phone him, but he has repudiated the statement by the San Diego Union that he really did not mean it when he said that the border fence would stop illegal immigration if it was erected and if it had sufficient staffing.

Now, the gentleman has talked about safety. I have had a number of Border Patrol agents to my town meetings, and they like the triple fence and the INS, which has tried to scare its agents, has not told them about the provision in this lengthy Sandia analysis that engineers the fence, which is dedicated to safety, and it said we are going to do a number of things for safety. It said we are going to make sure that the cars are armored that go in between. We are going to give them plenty of turn-around room. And most importantly, we are going to have safety gates that they can exit from on a moment's notice and that backup can proceed into if they are in-between these fences.

Mr. Chairman, the border is still out of control, despite the resources that we voted in this Congress. We need to have a secure barrier. The most famous and most knowledgeable and I think one of the Border Patrol chiefs with the best safety record supports this fence. We need to build it. It is in the bill.

I would ask all Members to support it.

Mr. BILBRAY. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from California.

Mr. BILBRAY. Mr. Chairman, I would like to commend the gentleman from California [Mr. HUNTER] because I think this body ought to recognize that the gentleman not only had the foresight but he also had the intestinal fortitude to address an issue that was ignored too long.

We remember when this man was ridiculed because he talked about taking surplus matte and basically free welding classes being given to the National Guard to weld up a structure along the border. And everybody laughed at the gentleman from California [Mr. HUNTER] and said it was outrageous, that it was not going to do any good. Well, let me say as somebody that not only lives down there but as somebody whose teenage daughter goes down to feed the horses within a half a mile of the border where Mr. HUNTER's fence went up, I say to the gentleman, Mr. HUNTER, thank you for having the guts to do what no one else dared to do. And I would say to my colleague, I know his concerns.

Mr. Chairman, I just finished this weekend talking with some agents. Their concern is that they not be required to work within the perimeter but to be allowed operational latitude. I would ask the gentleman make sure that this administration gives the operational latitude. But this administration stopped this fence, refused to recognize the benefits of the fence.

Frankly, I have got to go with a winning team, somebody who has credibility along the border. And in all fairness, this is a man who knows the border, has been successful, has had the guts to move forward and be ahead of the rest of the Congress on this issue. And I say to my colleague that there are those that may be concerned, but his experience, his success leaves me to say I have supported him along the border on this issue and I will take the heat.

Mr. Chairman, I would ask those of my colleagues to come visit the border and tell me that it is not a safer place because this man stood up years ago and said that physical structures are part, not all, but part of the answer. I thank my colleague for giving us this fence.

Mr. HUNTER. Mr. Chairman, I thank the gentleman from California [Mr. BILBRAY].

Mr. LAUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to my friend, the gentleman from Texas.

Mr. LAUGHLIN. Mr. Chairman, I am a non-Californian who is going to speak on this amendment, and I have to confess my knowledge of it comes as a result of Army Reserve duty. I was assigned as an Army reservist to work with the Army Reserve units building the first perimeter fence from the steel matte from landing mats that were used in Vietnam that had been in storage for many years.

What I learned by this is it was not just stopping illegal immigrants. It was safety for the officers, safety for people. The rapes, the robberies, the drug sales, and the murders went down because of the fence. So I urge opposition to the amendment.

Mr. HUNTER. I thank the gentleman.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from California [Mr. BEILENSON].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BEILENSON. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from California [Mr. BEILENSON] will be postponed.

It is now in order to consider amendment No. 4 printed in part 2 of House Report 104–483.

AMENDMENT OFFERED BY MR. MCCOLLUM

Mr. MCCOLLUM. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part 2 amendment number 4 offered by Mr. MCCOLLUM: After section 216, insert the following new section (and conform the table of contents accordingly):

SEC. 217. PROTECTING THE INTEGRITY OF THE SOCIAL SECURITY ACCOUNT NUMBER CARD.

(a) IMPROVEMENTS TO CARD.—

(1) IN GENERAL.—For purposes of carrying out section 274A of the Immigration and Nationality Act, the Commissioner of Social Security (in this section referred to as the ''Commissioner'') shall make such improvements to the physical design, technical specifications, and materials of the social security account number card as are necessary to ensure that it is a genuine official document and that it offers the best possible security against counterfeiting, forgery, alteration, and misuse.

(2) PERFORMANCE STANDARDS.—In making the improvements required in paragraph (1), the Commissioner shall—

(A) make the card as secure against counterfeiting as the 100 dollar Federal Reserve note, with a rate of counterfeit detection comparable to the 100 dollar Federal Reserve note, and

(B) make the card as secure against fraudulent use as a United States passport.

(3) REFERENCE.—In this section, the term ''secured social security account number card'' means a social security account number card issued in accordance with the requirements of this subsection.

(4) EFFECTIVE DATE.—All social security account number cards issued after January 1, 1999, whether new or replacement, shall be secured social security account number cards.

(b) USE FOR EMPLOYMENT VERIFICATION.—Beginning on January 1, 2006, a document described in section 274A(b)(1)(C) of the Immigration and Nationality Act is a secured social security account number card (other

than such a card which specifies on the face that the issuance of the card does not authorize employment in the United States).

(c) NOT A NATIONAL IDENTIFICATION CARD.—Cards issued pursuant to this section shall not be required to be carried upon one's person, and nothing in this section shall be construed as authorizing the establishment of a national identification card.

(d) NO NEW DATABASES.—Nothing in this section shall be construed as authorizing the establishment of any new databases.

(e) EDUCATION CAMPAIGN.—The Commissioner of Immigration and Naturalization, in consultation with the Commissioner of Social Security, shall conduct a comprehensive campaign to educate employers about the security features of the secured social security card and how to detect counterfeit or fraudulently used social security account number cards.

(f) ANNUAL REPORTS.—The Commissioner of Social Security shall submit to Congress by July 1 of each year a report on—

(1) the progress and status of developing a secured social security account number card under this section,

(2) the incidence of counterfeit production and fraudulent use of social security account number cards, and

(3) the steps being taken to detect and prevent such counterfeiting and fraud.

(g) GAO ANNUAL AUDITS.—The Comptroller General shall perform an annual audit, the results of which are to be presented to the Congress by January 1 of each year, on the performance of the Social Security Administration in meeting the requirements in subsection (a).

(h) EXPENSES.—No costs incurred in developing and issuing cards under this section that are above the costs that would have been incurred for cards issued in the absence of this section shall be paid for out of any Trust Fund established under the Social Security Act. There are authorized to be appropriated such sums as may be necessary to carry out this section.

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

I want to explain this amendment to everybody so they clearly understand what it is. It is a requirement so that the Social Security Administration move over the next few years to make a Social Security card as counterfeit-proof as the $100 bill that is out now, and as free and protected from fraudulent use as the passport. I would submit that this is something that is long overdue. It is not very complicated. It is not a national ID card. There is no new use. There are no fingerprints. There are no retina scans. There are no magnetic strips. This is a simple improvement in the existing paper that is out there which is absolutely essential if we are going to control illegal immigration in this country and make employer sanctions work.

We have today in the Nation about 4 million illegals present in this country. We legalized a few years ago about 1 million in the legalization process that I opposed in the 1986 law. Well, since then we have gotten 4 million more, we are adding about 300,000 to 500,000 illegals a year to this country, and in that process we cannot absorb and assimilate all of them coming in that rapidly and settling in the communities where they are settling and having the impacts that they are having. We are seeing our cultural, our social and our economic costs skyrocket in those communities, and that is why we are here tonight addressing the illegal immigration portion of this bill.

Well, how do we stop that? What is causing people to come? Well, I would submit the reason people are coming here to this country is something we have known for a long time, jobs, to get a job. The only way that we are going to stop people from coming here is by cutting off the magnet of jobs. No matter how many Border Patrol we put up on the border, and I am all for doing that, we will never completely stop it. Plus, about 50 percent or so of those who come here or were here illegally are visa overstays. They never crossed the border illegally in that sense, anyway, but they are here illegally.

Mr. Chairman, the way we have to make this work is to make an act provision from 1986, the current law, operable. It is now against the law for an employer to knowingly hire an illegal alien. It has been for 10 years. The problem is document fraud. The problem is we cannot enforce employer sanctions because we have today some 29 documents that may be used when somebody goes to get a job to prove they are eligible to get that job. The employer has to check an I–9 form off and look for some combination of those documents. One of those documents is the Social Security card.

Under this bill, we reduce the number of documents that we may use when we go to seek a job from 29 down to 6. One of those documents remains the Social Security card which today is the most counterfeited, most fraudulently used official document of the United States.

We can buy a counterfeited Social Security card of the so-called newer variety on the streets of Los Angeles for $30 or $40. It is a very common thing as long as that is the case. As long as counterfeiting of the Social Security card can be that easy, we can never make employer sanctions work. We can never stop employers hiring illegal aliens because they do not know who they are and they get documents that are fraudulent. And we can never then control illegal immigration coming into this country. That is not the end-all, be-all, but making the Social Security card more secure and more tamper resistent is critical to being able to ever do this, and that is what my amendment does.

Mr. Chairman, it is the simple amendment that I am offering tonight that would get at that problem. Again it would require the Social Security Administration over the next 3 years to go to a card that is as counterfeit-proof as the $100 bill and as resistant to fraudulent use as the passport. It would require it for new issues. It would not require everybody to get one of these cards. It would not have any new use, no new data bank, no fingerprints, no national ID of any sort.

By the year 2006, under this amendment, nobody would be able to use a Social Security card that was not of the new variety in order to prove their eligibility, but there are other documents that would still be around besides a Social Security card they could use. So some of them will go back after that and seek the use of the Social Security card. Maybe they will want a new one. But I would submit by that time things will be pretty well taxed away.

Last comment, Social Security Administration apparently thinks this is going to cost billions of dollars to implement, but the Congressional Budget Office says that it would average about $51 million a year over the next 10 years. I think after that it would go down in cost, not up, since about half the cards will already be new, and fewer and fewer people would be seeking to have new cards at that particular point.

So I would encourage my colleagues to adopt this amendment. It is the most important immigration amendment I think I have ever offered, and I have been around this body offering immigration amendments for a long time.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Indiana [Mr. JACOBS] is recognized for 15 minutes in opposition to the amendment.

Mr. JACOBS. Mr. Chairman, I yield 5 minutes to the gentleman from Kentucky [Mr. BUNNING], the Hall of Famer.

(Mr. BUNNING of Kentucky asked and was given permission to revise and extend his remarks.)

Mr. BUNNING of Kentucky. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I include for the RECORD a letter from Shirley Chater, the head of the Social Security Administration, in direct opposition to this amendment.

The letter referred to is as follows:

SOCIAL SECURITY,
Washington, DC, March 19, 1996.

Hon. JIM BUNNING,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE BUNNING: I am writing today to state the Administration's concerns regarding an amendment to H.R. 2202, the Immigration in the National Interest Act of 1995, which will be offered by Representative Bill McCollum (R., FL). Mr. McCollum's amendment would require the Social Security Administration to improve the physical design, technical specifications, and materials used in the Social Security card, to ensure that it is a genuine official document, and that it is secure against counterfeiting, forgery, alteration and misuse. Beginning in 1999, all new and replacement Social Security cards would need to contain these features. We are opposed to the adoption of this amendment.

In making these improvements, the amendment would require SSA to use two performance standards. The first would be to ensure that new and replacement Social Security cards would be as secure against counterfeiting as the $100 Federal reserve note. The second performance standard would require SSA to make the Social Security card as secure against fraudulent use as a United States passport.

The current Social Security card that is issued by SSA is already counterfeit-resistant. The current card includes most of the features that have recently been incorporated in the newly redesigned $100 bill, such as small disks that can be seen with the eye, but that cannot be reproduced by color photocopiers. In addition, the current card is printed on banknote-quality paper that has a blue marbleized background with raised printing that can be felt by running one's fingers across the card.

While the McCollum amendment's requirements are non-specific, it appears that, at a minimum, SSA would be required to place an individual's photograph on each Social Security card, effectively turning it into a photo-identification document similar to the U.S. passport. It is not clear what other features might be required.

We are opposed to this amendment because it changes the basic nature of the Social Security card. The card is intended to enable employees and employers to assure that wages paid to an individual are properly recorded to the employee's Social Security earnings record. Throughout its history, the card has never contained any identifying information other than the name of the individual to whom the number has been assigned. Many editions of the card have expressly stated that the card was not intended for identification.

This has assured that the Social Security card did not become a de facto national identity card. Mr. McCollum's amendment includes language stating that the new card would not be a National identification card. However, to the extent that an individual's Social Security card has information of identity, the practical effect is to establish that card as a National identification document. The Administration is opposed to the establishment, both de jure and de facto, of the Social Security card as a National identification document.

The Administration is also concerned that a de facto National identification card, such as the upgraded Social Security card, has the potential for becoming a source of harassment for citizens and non-citizens who appear or sound ''foreign.'' Such individuals could be subject to discriminatory status checks by law enforcement officials, banks, merchants, schools, landlords, and others who might ask for an individual's Social Security identification card. We are opposed to jeopardizing the civil rights of such individuals and urge the Members of the House to oppose the McCollum amendment from this perspective as well.

Moreover, we believe that the additional workload associated with placing a photograph and other additional features on all new and replacement Social Security cards would adversely affect SSA's ability to handle its core mission, which is to administer the Social Security program. In that regard, I would note that the current Social Security card is entirely satisfactory from the perspective of fulfilling its role in the administration of the Social Security program.

Any implementation of the McCollum amendment, should it be enacted, would have a substantial fiscal and personnel impact. We estimate that placing photographs on Social Security cards would increase SSA's administrative needs by as much as $450 million annually. Over 5 years, this would result in additional administrative spending by SSA of as much as $2.25 billion. If the effect of the McCollum amendment is to replace all Social Security cards currently in use, the cost would be $3 to $6 billion, depending on the features required.

Finally, this workload would increase SSA's staffing needs by an estimated 5,700 work years annually. This would be a 10 percent increase in SSA's projected authorized staffing for 1999. The amendment would adversely affect SSA's core mission because it would establish a costly new work load that would significantly increase SSA's staffing needs. As you know, the Congress in 1994 passed crime legislation calling for a reduction in overall Federal staffing by 272,000 work years. SSA's projected share of this reduction is about 4,500 work years. To assure that these work year savings were realized, the crime bill placed a ceiling on all Federal employment. This, coupled with the freeze that has been imposed on the domestic discretionary spending cap, which includes SSA's administrative budget, makes it highly unlikely that SSA will be provided with the additional resources required for placing photographs on Social Security cards.

If SSA did not have authority to employ additional staff, the only other alternative available to the agency would be to defer or discontinue other work loads associated with the administration of the Social Security program. We believe that this possibility could pose a grave threat to SSA's ability to carry out the essential tasks associated with assuring that benefits are paid to those who apply for them as soon as possible.

The Office of Management and Budget has advised that there is no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

SHIRLEY S. CHATER,
Commissioner of Social Security.

Mr. Chairman, let me say at the onset that all aspects of the Social Security number fall solely under the jurisdiction of the Ways and Means Committee, specifically, the Social Security Subcommittee, of which I am chairman.

The McCollum amendment would expand the use of the Social Security card for immigration control purposes without a fair hearing before the Ways and Means Committee.

The McCollum amendment would require the Social Security Administration to issue new and replacement Social Security number cards beginning in 1999 that are as secure against counterfeiting as the $100 Federal Reserve note, and as secure against fraudulent use as a U.S. passport. That means you have to have your picture on it.

This radically changes the purpose of the Social Security card from a wage reporting document to an immigration control national identification card.

The Social Security Administration has already incorporated a series of security features designed to secure Social Security cards against counterfeiting or tampering. These include very similar technologies that were used in the recently issued $100 Federal Reserve note.

But, by implication, the McCollum amendment goes beyond this and requires that future Social Security cards have a photo I.D., one of the main features of the U.S. passport. The overall impact could result in the Social Security Administration having to replace up to 200 million cards by the year 2006, at a cost to the Social Security Administration of 3 to 6 billion dollars, depending on what you add to them.

To put this in perspective, the entire annual administrative budget for processing applications and paying monthly Social Security benefits to all 43 million eligible Americans is $3 billion.

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Although Social Security benefit payments are off budget, SSA administrative expenses are subject to the domestic discretionary cap, and funds are already insufficient to enable SSA to carry out its mission or processing disability claims on time, or conducting the continuing disability reviews required by law.

Furthermore, SSA staffing is subject to a ceiling, and is scheduled for reduction by 4,500 positions by 1999, even though the number of those receiving Social Security benefits is projected to increase by 3 million in the same period.

While the McCollum amendment would authorize the appropriation from general revenues to carry out the new duties required, it is impossible to determine what the Appropriations Committee will fund from year to year.

In short, spending caps are tight and are projected to get tighter, and requiring SSA to assume duties outside its mission would cause further deterioration of the Social Security services it is required to provide.

The current tamper-resistant Social Security card currently issued enables SSA to credit wages and fulfill its mission administering the Social Security programs.

While I strongly support appropriate measures to curb illegal immigration and employment, I must oppose any proposals that would change the issuance or purpose of the current Social Security card without thorough examination and debate by the Committee on Ways and Means.

Most Social Security cards belong to law-abiding citizens. According to SSA, unless a totally fool-proof method is discovered to prevent fraudulent documents from being used to obtain Social Security cards, the result of reissuing these cards would be inconveniences to law-abiding citizens, rather than the added immigration control benefits intended by this amendment.

I urge my colleagues to oppose the McCollum amendment.

Mr. MCCOLLUM. Mr. Chairman, I yield myself 1 minute to respond.

Mr. Chairman, I just simply want to comment on my good friend and colleague's comments on this. I do not doubt his sincerity, and I do not doubt the sincerity of the Social Security Administration. But some of the things that they are putting out just does not jibe with my amendment.

One of them is, there is no new use by my amendment for the Social Security card from existing law. The Social Security card, whether we like it or not, is today utilized as one of the documents to show a person is eligible to get a job. It is also utilized in welfare. It is utilized in a lot of other places. I add not one new use to the Social Security card.

Second, through the year 2006 at least there is no real new cost to issuing cards because the Social Security Administration regularly issues new cards anyway, and reissues cards upon request, and there would be no additional demand on them, at least through that period of time, and the cost, as the CBO [Congressional Budget Office] has indicated, is very minimal to make this transition to what would equivalently be like the passports which has paper like this, that has all kinds of codes and inking and special designs in it, which today is simply not a part of the Social Security card.

I wish I could agree with the gentleman that the Social Security card, as my colleagues know, is already tamper-proof, but it is not. It is the most fraudulently used card today in America, it is rampant with counterfeiting, and that is why INS and others have so much trouble with it.

I do not wish to expand in any way, and I do not believe the costs I am imposing in any way, impinges in the way that the Social Security Administration wants, and neither does the Congressional Budget Office.

Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. BEILENSON].

Mr. BEILENSON. Mr. Chairman, I rise in strong support of the McCollum amendment.

When Congress enacted employer sanctions as part of the 1986 Immigration Reform and Control Act, we did so in recognition of the fact that the primary reason immigrants come to the United States is to find jobs, and that we cannot possibly stop illegal immigration unless we stop employers from hiring illegal immigrants.

Unfortunately, however, we made the employer sanctions law virtually impossible to enforce, because we failed to provide a sound and dependable way for employers to determine whether or not a prospective employee is here in the United States legally.

Right now, a person can use any of 29 documents to demonstrate work eligibility. That has given rise to a huge, multimillion-dollar industry in counterfeit Social Security cards, and other documents, that are easy to forge.

It has also put employers in the position of trying to determine whether or not work authorization documents are authentic. Many employers, not wanting to take on that responsibility simply avoid hiring employees who look or sound foreign, causing widespread discrimination against U.S. citizens and legal residents.

H.R. 2202 wisely reduces the number of documents a job seeker can use to prove employment authorization, but it does nothing to make one of those key remaining documents—Social Security cards—counterfeit-resistant. That is a major flaw in this bill that this amendment would correct.

I would like to point out that using Social Security for proof of work eligibility does not pose any greater threat to privacy than already exists. All workers must already provide a Social Security number upon taking employment. This proposal would simply help ensure that the Social Security care a prospective employee shows to an employer is not fraudulent.

No matter how many other ways we attempt to curb illegal immigration, we will not succeed unless we have a realistic way of stopping illegal immigrants from getting jobs in this country. If Social Security cards are going to be one of the primary documents prospective employees use to prove employment eligibility—as this bill provides for—it is absolutely essential that we ensure that those cards cannot be easily forged, as they can be right now.

Mr. Chairman, this amendment would provide one of the most effective tools possible to fight illegal immigration. If we are really serious about stopping illegal immigration, we must ensure that the documentation workers use to obtain jobs is authentic. I urge Members to vote ''yes'' on the McCollum amendment.

Mr. MCCOLLUM. Mr. Chairman, I reserve the balance of my time.

Mr. JACOBS. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, it has been said that we need a reliable source to identify illegal immigrants, or legal immigrants or legal people, citizens. So the question arises: Just how reliable would a Social Security card with a picture on it be? And the answer lies in an old Volkswagen ad on a snowy day, when a guy gets up real dark and early, gets in a Volkswagen, tools along, goes to a barn and pulls out a snow plow and they said, ''Do you ever wonder how the guy who drives the snow plow gets to the snow plow in the morning?''

Now, how does one get to a Social Security card if one is not born in the United States? Submit a birth certificate. How difficult is it to fake a birth certificate? Or do we want to amend this now and require pictures on birth certificates?

The law would require that a baby submit a picture, I guess. Here we got a 3-day-old baby in the hospital, and they motor on down to the Federal building, take a shot of the baby and, as my colleagues know, people will not always look the same after 20 years or so as they do 2 or 3 days after they are born.

What would we do with Mrs. Clinton? I mean, she might look one way one day and another way another day. So how reliable is it ultimately going to be?

As a matter of fact, my own judgment is that we have had this over the years. This is about $3 billion worth of wishful thinking.

Now, let us try another one. Two hundred million mug shots on file here in the Federal Government. Well, that makes the original terrorism bill that everybody was up in arms about look like a tinker toy set. It is a noble purpose, but I do not really think that it would accomplish its purpose after we finish bankrupting the Federal Government by blowing $3 billion on it.

Mr. Chairman, I reserve the balance of my time.

Mr. MCCOLLUM. Mr. Chairman, I yield 1½ minutes to the gentleman from Virginia [Mr. GOODLATTE].

Mr. GOODLATTE. Mr. Chairman, I thank the gentleman from Florida [Mr. MCCOLLUM] for yielding me the time, and I rise in support of this amendment.

Mr. Chairman, I think it is important that we make clear what this does not do. First of all, it is not a national ID card, as some have suggested. One would not have to carry it with them. They would not use it in any way different than they use their Social Security card right now, which is if someone presents it at the time they enroll with an employer for employment purposes.

There is no new use called for for the Social Security card or Social Security number. There is no new data base here. There is nothing involved here other than the information that the Social Security Administration uses right now, and yet it ends a substantial amount of bureaucracy.

Mr. Chairman, it is going to be the step toward curing the problem of dealing with whether or not, when somebody presents, they are using somebody else's Social Security number, and all manner of havoc can be caused when somebody takes somebody else's identity and uses that Social Security number. It costs the taxpayer money if we add to somebody else's record in terms of how much Social Security benefits have been paid. It can have a devastating impact on somebody if that takes place.

The bill does not require that a photograph be put on the card. The Congressional Budget Office says that it does not cost $3 to $6 billion. It costs $51 million, according to the Congressional Budget Office, our own agency, and we need this, and I am afraid I do not have the time to yield.

I support the amendment.

Mr. MCCOLLUM. Mr. Chairman, I reserve the balance of my time.

Mr. JACOBS. Mr. Chairman, I yield 1 minute to the gentleman from Texas, Mr. SAM JOHNSON.

Mr. SAM JOHNSON of Texas. Mr. Chairman, as my colleagues know, I think it is time we took a look at this thing. The purpose of the Social Security Administration is to provide benefits to seniors, not to police the borders.

This card that we are talking about here costs about $10.54 to make. A card

like my colleagues are talking about, if it is like a passport, is $60. Taxpayers pay for a passport. They do not pay for this except through payroll tax deductions.

Let me just read for my colleagues what the Social Security Administration says this is today. The current Social Security card is already counterfeit resistant, contains most of the features that have been incorporated in the newly redesigned $100 bill, such as small disks that can be seen with the eye, cannot be reproduced by color photographs. In addition, the current card is printed on banknote-quality card paper that has blue marbleized background with raised printing that can be felt by running one's fingers across the card.

It seems to me that maybe we are not looking at the Social Security cards when we hire people or when we ask people, ''Are you a legal immigrant?''

Now I think it is time that we got down to brass tacks and said Americans do not want, do not need, and do not deserve a Federal identification card.

Mr. MCCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. STENHOLM].

(Mr. STENHOLM asked and was given permission to revise and extend his remarks.)

Mr. STENHOLM. Mr. Chairman, I rise in support of the McCollum amendment. This is not a national identification card; nothing could be further from the truth to make this argument.

We have to look and, first off, answer a simple question: Do we have an illegal immigration problem? The answer usually comes back, yes, we do. If we do, then we have to use all of the tools available to us to help solve the problem.

We currently have the technology to make identification cards highly resistant to counterfeiting. I do not know why we do not use it. Frankly, I believe we need to look beyond the Social Security card, as the previous speaker just mentioned, and apply this same technology that we have available to birth certificates and the other documents used to verify one's status in our country.

I think that would be committing the resources to the problem that we need to have in this country if we are, in fact, going to solve the problem. The Congressional Budget Office has scored the McCollum amendment at an annual average cost of approximately $51 million over the next 10 years.

Mr. Chairman, I yield to the gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING of Kentucky. Mr. Chairman, I believe that scoring was on a different McCollum amendment, not the present one being offered.

Mr. STENHOLM. It is my information, according to the CBO, this is the amendment that we are talking about today.

Mr. BUNNING of Kentucky. It is on the original McCollum amendment; it is not on this one.

□ 2145

Mr. STENHOLM. I believe it is in fact the amendment that we are considering today, Mr. Chairman. Also, we have heard a lot of other, I believe, well-intended but misinformed information concerning the cost of the technology that we are talking about on the particular card. We will be glad to provide the additional information as to the true cost of the technology involved in making this as counterfeit-proof as possible. Nothing is totally, counterfeit-proof, that is not technologically possible, but we can do a lot better job. I do not understand how my colleagues can argue that we should not do the best we possibly can in solving the problem.

Mr. JACOBS. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, the gentleman from Texas said we ought to do the same thing with birth certificates. There goes another $3 billion, for my fiscally conservative friend. If it were worth $3 billion, I would be the first one to say yes, but we are a little short of change here in the Federal Government right now. If we buy $3 billion worth of wishful thinking, we have not exactly made a good bargain. It will not work.

There are not very many people in this country that want their pictures on file with the Social Security system, or any other part of the Federal Government. We can say it is not a national ID card, and we can say if it quacks it is not a duck, but it has a lot of the earmarks of a national identification card. I, for one, do not want my picture on file in the Federal Government. I do not want that many people to find out how ugly I am.

Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I will be brief, because I believe the arguments have been made in this particular debate very well by those who are opposing the amendment.

Mr. Chairman, let me just say that it seems odd to me, at a time when we are talking about having the Federal Government downsize and devolve and allow us to have more control locally over what happens, that we have an initiative that would create a big Government enterprise. It would ask that the Social Security Administration do with the data base it has created over the last several decades what it was never meant to do, and that is, act as an identifier program. Never was the Social Security Administration told that the Social Security number would be used to check status. Yet, as we have seen and has been admitted by Members on both sides of the aisle, that is exactly what we see.

The Social Security card is used for all sorts of purposes. Yet, we are told by the Social Security Administration that fully 60 percent of all the people who currently hold a Social Security card never had to prove that they were U.S. citizens, or whether they were here legally in this country. So we are talking about 60 percent of all the cards that we have issued out there that have no verification behind them. That will have to be provided, insurances would have to be provided, and we have to provide the money to do that. Where is the money? It is not there.

Mr. MCCOLLUM. Mr. Chairman, I understand I have the right to close.

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] is correct.

Mr. JACOBS. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING of Kentucky. Mr. Chairman, I would like to point out one thing about the Social Security Administration and their ability to deliver the services that they are now required to deliver. We have a program in Social Security called SSDI, or Social Security disability insurance. Because of lack of funds in the Social Security Administration's administrative budget, there is presently a backlog of a half million people waiting a year or more to qualify for Social Security disability. I know there are an awful lot of Members who hear from constituents who are having trouble getting on SSDI because the Social Security Administration's administrative budget is inadequate to process claims on time.

On the back end of SSDI, there is a backlog of 1.7 million people on disability that are overdue for continuing disability reviews. CDR's are not being done because the Social Security Administration does not have enough money in its administrative budget now to do those reviews in a timely fashion.

Mr. Chairman, if we could get just a little more money into the Social Security Administration's administrative budget, we could literally save billions of dollars. We have a GAO study that showed we can save $6 in benefits for every $1 we spend on continuing disability reviews. The point I am trying to make is that SSA cannot handle the functions that they are required to do now with the administrative budget that they have, without adding the additional burden the McCollum amendment would impose on SSA.

Mr. MCCOLLUM. Mr. Chairman, I yield 1½ minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for yielding time to me, salute him for his work on this, and rise in support of the amendment.

First of all, the Social Security card is used from one end of America to the other as an identification card right now. Who are we kidding. If my colleagues want to pass a law and say it should not be, I would ask the chairman and the distinguished minority member of the Social Security Subcommittee to pass that law. But let us

admit the trust; everywhere people go they are asked for a Social Security card. In fact, one way to prove you are a bona fide person who can have a job is to ask for a driver's license and a Social Security card.

Mr. Chairman, this is an antifraud amendment. All over where we go people say, ''Why can you not stop illegal immigrants or others from coming here'' The No. 1 answer we give our constituents is that when they come here they can get jobs, get benefits, against the law because of fraud. Here the Gentleman from Florida [Mr. MCCOLLUM] has put together the most effective antifraud measure we can find, without it changing the actions of the Government one bit, and we find all this opposition.

Mr. Chairman, what I worry about is that this bill, which started out with good intentions, whether Members agree with it or disagree with it, is going to end up being the same kind of thing that the public gets angry with us on: We say we are doing something and we do nothing, because every time someone makes a rational and small proposal to get something done, people say, ''What about this hypothetical, that hypothetical,'' et cetera?

Mr. Chairman, I urge support of this amendment. If Members believe they want to stop fraud and immigration, they have no choice but to support this amendment.

Mr. JACOBS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, yes, do nothing. Which would we rather do? Do nothing for nothing, or do nothing for $3 billion? Because that is what this comes up to. Now they say, ''We will plug the loophole. We will just put pictures on birth certificates.'' States issue birth certificates. Now go out and get the 50 States to issue birth certificates with pictures on them. We do not have jurisdiction to do that. This is flawed. It will not work.

Finally, we have heard all evening long on this amendment that it is either a nickel ninety-eight or it is $3 billion. They say, ''Well, the Congressional Budget Office,'' which the gentleman from Florida, [Mr. MCCOLLUM], never had much faith in the past as I recall, says it hardly amounts to anything. He said the Social Security Administration can do it for peanuts, which is a bad taste in my mouth from the other day, by the way. However, the proponents of this amendment say that it will cost the Social Security Administration far less than $3 billion. The Social Security Administration says it will cost the Social Security Administration $3 billion.

I say to my friend, the gentleman from New York, even though we are in dire straits financially in this Government, I think the cause is worthy. If I thought it would be effective, I would probably be advocating it. I do not think it is effective. I think it fits right into that old show tune, ''I Got Plenty of Nothing,'' and in this case it would be about $3 billion worth of nothing, and that we clearly cannot afford.

Mr. MCCOLLUM. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I want to clarify something. I had the Social Security Administration folks in my office a week ago this last Friday. I listened to what they had to say. I batted around a number of ideas with them, including the possibility of renewing the Social Security card every 10 years. They told me how expensive and difficult that would be; what it would be like if we required hardening and doing a lot of other things.

Then I presented to them the passport and the $100 bill concept. They said ''Look, the cost is not in creating the new card, the cost is in if you force us to reissue it to everybody.'' So I developed an amendment that does not require them to issue a new card to everybody or to reissue something every 10 years, or to reissue at all. I simply have an amendment out here to prevent fraud, as the gentleman from New York said, with the existing Social Security card, where we take it and make the single piece of paper that is not 24 pages long like the passport, that the gentleman from Texas [Mr. SAM JOHNSON] was referring to, so it does not cost anything near $60 apiece; one page, just do the type of threading, coloring, and inking this passport does, and the threading, coloring, and inking that the $100 bill does. It does not require them to do a picture or anything else, it would just make this more secure.

I said, ''This is not going to cost very much,'' and CBO said, ''Yes, it will not cost a whole lot to do this.'' I think it is the lease we can do if we are going to do the steps that are required to stop illegal immigration from coming into this country. That is what the McCollum amendment is all about, the key to making it work, a key to making employer sanctions work being the key to making it truly meaningful.

When we say, as the law now says, it is illegal to knowingly hire an illegal alien, and when you go to get a job, one, not the only, but one of the documents you may produce in conjunction with the driver's license is the Social Security card. We must make it tamper-resistent. We must make it at least as counterfeit-proof as the $100 bill.

I urge the adoption of the McCollum amendment for the sake of saving us from the illegal alien overrun we have.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Florida [Mr. MCCOLLUM].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. BUNNING of Kentucky. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from Florida [Mr. MCCOLLUM] will be postponed.

It is now in order to consider amendment No. 5 printed in part 2 of House Report 104–483.

AMENDMENT OFFERED BY MR. TATE

Mr. TATE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TATE: In section 301(c) of the bill (relating to revision to ground of inadmissibility for illegal entrants and immigration violators), in subparagraph (A) of section 212(a)(6) of the Immigration and Nationality Act as proposed to be amended by such section of the bill insert after clause (ii) the following clauses, and redesignate clause (iii) accordingly:

''(iii) ALIENS WHO HAD THE INTENT TO ILLEGALLY ENTER.—Any alien who had the intent to illegally enter the United States and who has been ordered removed under section 235(b)(1) or at the end of proceedings under section 240 initiated upon the alien's arrival in the United States and who again seeks admission is inadmissible.

''(iv) OTHER ALIENS WHO HAD THE INTENT TO ILLEGALLY ENTER.—Any alien not described in clause (i) who had the intent to illegally enter the United States and who has been ordered removed under section 240 or any other provision of law and who again seeks admission is inadmissible.

In redesignated clause (v) (as redesignated by this provision), strike ''(i) and (ii)'' and insert ''(i) through (iv)''.

The CHAIRMAN. Pursuant to the rule, the gentleman from Washington [Mr. TATE] and the gentleman from Texas [Mr. BRYANT] each will control 15 minutes.

The Chair recognizes the gentleman from Washington [Mr. TATE].

Mr. TATE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first and foremost, I would like to thank the chairman of the committee, the gentleman from Texas [Mr. SMITH], for his tireless efforts on this issue. It is a volatile and tough issue, and I appreciate his efforts.

Mr. Chairman, this amendment is designed to bring honesty and integrity back to our administration system. But what most Americans are not aware of is that those that come to this country and intentionally violate our immigration laws are still eligible for legal immigration and temporary visa benefits in future years. We have created a revolving door, so to speak.

Mr. Chairman, our Forefathers, with great foresight, created a system to make this the strongest, most prosperous country in the world by allowing people from all countries to come to our great Nation. However, many take advantage of this open door policy. Even if one is caught and deported, they can still in the future apply for a student visa or a green card. This is not what America is all about.

Mr. Chairman, illegals enter at the expense of those that play by the rules, and there is no incentive to comply. There is not much differentiation between a criminal, someone who has

broken the law in this country, and those that are law-abiding citizens.

Mr. Chairman, my amendment will go after those that intentionally break our laws, our immigration laws. We should not reward them with a temporary visa or an immigrant visa in the future. Our current laws send the wrong message, Mr. Chairman, to would-be illegal immigrants that there are no real penalties for breaking our laws.

Let me give a couple of examples. In recent meetings as of last year with my local policemen and women in the city of Tacoma out in Washington State, I was shocked and taken aback to discover that a majority of their time investigating narcotics claims is dealing directly with non-citizens of the United States.

I was also surprised to realize that the Seattle Police Department spent an inordinate amount of time investigating international organized crime networks in our area. It is no wonder that those who break our laws to enter this country do not think twice many times of breaking our laws once they get here as well. They are using our resources, those resources that could be spent more wisely in our community.

A recent preliminary estimate by the Congressional Budget Office states that this amendment will add no additional cost. In fact, I believe it will save money in the long run. My amendment is to restore a strong sense of law and order in regards to immigration, to restore that strong sense of pride and accomplishment for those who play by the rules and to punish those that violate our laws for selfish gain.

This particular amendment has been endorsed by the Americans for Tax Reform, the Federation of Americans for Immigration Reform, and an organization in my State that represents over 90 percent of the police officers, an organization entitled ''COPS.''

□ 2200

This amendment is a one-strike, commonsense provision. It provides incentives for people to obey our laws, not to reward those that break our laws. There is a right way, Mr. Chairman, and a wrong way to enter this country. We need to reward those that enter the right way.

Mr. Chairman, I believe my amendment will serve to strengthen H.R. 2202, the Immigration in the National Interest Act, and bring honesty and integrity back to United States immigration law.

Most American don't know it, but any individual who enters the United States illegally and is deported, is still eligible for legal immigration or a temporary visa in future years. The United States border has become a revolving door for illegal immigrants. It's time we shut that revolving door forever.

From the time of our forefathers, United States immigration policy has provided the opportunity for millions of people to come to America to help us build the strongest, most prosperous democracy in the world. In more recent years, however, many have begun to take advantage of our open door policy and our generosity. Today, some believe that immigration to the United States is a right instead of a privilege.

Every year, 300,000 people enter this country illegally—breaking our laws and betraying our openness. The U.S. Immigration and Naturalization Service estimates that 3.8 million people currently live in this country illegally. Even if these illegal immigrants are caught and deported, any one of them can later apply for a student visa or a green card without penalty. This is not what America is all about.

Illegal immigrants come to the United States at the expense of those who choose to play by the rules and come to America legally. While millions or honest people wait years for their applications to be processed so they can join their relatives who have legally immigrated to the United States, hundreds of thousands sneak across our borders in the dark of night without conscience. There is no incentive to comply with our immigration law because we do not differentiate between these criminals and law-abiding individuals.

My amendment will put an end to this madness by taking a strong step in the right direction.

According to my amendment, if an individual breaks our immigration laws by intentionally entering the United States illegally, he or she will never be rewarded with any kind of temporary or immigrant visa. Not 1 year later, not 20 years later, never—one strike you're out.

We must use our scarce immigration resources wisely instead of wasting them on people who have no respect for the privilege bestowed upon them by American citizens.

This is a commonsense approach to a problem that has plagued America for decades. Our current law sends the wrong message to would-be illegal immigrants—you won't be penalized for breaking United States law. It is no wonder that so many illegal immigrants are drawn to crime once they reach our country. Police organizations in my home state believe that illegal aliens have a significant impact on crime.

According to the U.S. Attorney for western Washington, illegal aliens in the Puget Sound region are involved in bank fraud, credit fraud, check kiting, false marriages, assault, extortion, and drug dealing. The Tacoma Police Department reports that illegal aliens account for a large percentage of narcotics related crime in its jurisdiction, while the Seattle Police Department reports illegal aliens are involved in international organized crime rings and ethnic street gangs. The Governor's office recently released statistics showing that illegal aliens account for 14 percent of Washington State's prison population. My colleagues have assured me that there are similar problems in their States. Clearly, these are not the caliber of people that deserve legal immigration benefits from U.S. taxpayers.

That is why I am working to enact this reasonable change to American immigration law. Simply said, if you don't obey immigration laws, you will not get a green card. Illegal immigrants will be illegal forever.

My amendment will deter immigration at no cost to the American taxpayers. A preliminary/informal cost estimate from the Congressional Budget Office finds that my amendment will not significantly affect the Immigration and Naturalization Service's workload, and therefore, will result in no significant costs to the Federal Government.

Some Members have expressed a concern that my amendment will inadvertently apply to individuals who enter the United States legally on a temporary visa and stay on once that visa has expired. I can assure you, Mr. Speaker, that my amendment does not apply to visa overstayers. I have consulted with legislative counsel and counsel and the Judiciary Subcommittee on Immigration and Claims. They agree that because my amendment applies only to individuals who intentionally entered the United States illegally, it will not affect visa overstayers. The burden of intent will be very difficult to prove in the case of an individual who legally entered the United States.

Others have asked whether my bill will permanently bar minor children who enter the United States illegally with their parents or another adult from future legal immigration benefits. The answer is no. My bill only applies to people who had the intent to cross our border illegally. According to common law, children age 7 and under are incapable of possessing criminal intent, while children 7 to 14 can be found to have criminal intent but such intent is very difficult to prove.

Mr. Chairman, my amendment is sound immigration policy that will return a strong sense of law and order to U.S. immigration law. It will give those who play by the rules and follow our immigration laws a sense of pride and accomplishment and will punish those who, with no regard for their fellow man, choose to violate our laws for their own selfish gain. We must return honesty and integrity to American immigration law.

My amendment has been endorsed by the Federation for American Immigration Reform, Eagle Forum, Americans for Tax Reform, the Carrying Capacity Network, Washington State Citizens for Immigration Control, and the Washington State Council of Police Officers. These organizations all agree that we must impose strong penalties against illegal immigrants in order to deter future illegal immigration and to bring common sense back to U.S. immigration law.

I urge my colleagues to support my amendment and return common sense to U.S. immigration law.

Mr. Chairman, before I reserve the balance of my time, I would like to enter into a brief colloquy with the chairman of the subcommittee.

Mr. SMITH of Texas. Mr. Chairman, will the gentleman yield?

Mr. TATE. I yield to the gentleman from Texas.

Mr. SMITH of Texas. Mr. Chairman, I would like to ask the gentleman this question. It is my understanding that your amendment is designed to deny immigration benefits to individuals who intentionally enter the United States illegally, is that correct?

Mr. TATE. Yes, that is correct. My amendment applies only to those individuals who knowingly and intentionally enter the United States illegally. It is intended to apply to those who enter the United States with fraudulent documents, knowingly fraudulent, those who enter with no documents and those who purposely avoid Federal officials by sneaking across the border without inspection. It is not intended to apply to individuals who in good faith present themselves at the border for inspection with

a visa or other documentation required by Federal law to enter the United States and whose legal admission is denied because the Federal immigration officials determined that the applicant's reasons for entering the United States do not reasonably fall within the scope and the purpose of the stated reason for entry with a visa or other documentation.

Mr. Chairman, I reserve the balance of my time.

Mr. BRYANT of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am opposed to this amendment. I think it is a case of just one-upping a provision that is already in the bill. It makes it a much stronger penalty than current law with regard to people that try to come into the country illegally. I am fearful that it is this kind of sort of piling-on amendment that is going to make this bill tough for everybody to support, many of the people who are supporting it.

First let us just apply some common sense to it. Let me tell what the bill does. The bill says already that you can exclude people from 5 years to 10 years depending on the category they are in if they come into the country illegally and are ordered removed. We have already got a stiff penalty in the bill. That is an increase over the current law. It also proposes in the bill a new 10-year bar on any alien unlawfully present in the country for an aggregate period of 1 year. That is a pretty tough penalty in my view. This amendment just goes further and says they are going to be excluded permanently if they come into the country illegally one time.

Let me just point something out. It is going to have no deterrent value because the vast majority of the people that come into the country illegally are going to have no idea that is in the law, so it is not going to stop anybody from coming. Other provisions in the law I think will, but this one will not.

Second, it is going to no doubt lead to a variety of very cruel situations where somebody comes into the country illegally to see members of their family, and I do not condone that, of course, but the fact of the matter is we are going to have situations where people like that later on as a member of a family are going to be eligible to come in in some fashion or apply to come in in some fashion, and I think it is wrong to put something in the law that is not going to deter anything, but lead to what very likely would be an inadvertent family tragedy.

They can come back and say the Attorney General has the discretion to waive the application of the law and give consent to come in, anyway. How many people are going to have the wherewithal to apply for that kind of special treatment from the Attorney General of the United States? I do not think very many at all.

We have already got a tough provision in the bill. It is a 5- to 10-year ban. It is a 10-year ban if you stay in the country illegally for a year. That is a much harsher provision than we have in the current law an it is sufficient. The Tate amendment just goes too far. One strike is not enough for anybody.

Mr. Chairman, I reserve the balance of my time.

Mr. TATE. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Mrs. SEASTRAND].

Mrs. SEASTRAND. Mr. Chairman, I rise in strong support of this amendment. Since the dawn of our Nation, immigrants have been the backbone of growth, creativity, and opportunity for America. I know these truths to be self-evident because I am the granddaughter of Polish immigrants. We must remember the distinction between legal and illegal entry into America. Hundreds of thousands of people enter this country legally every year and contribute a great deal to our society. However, hundreds of thousands more scoff at our laws by sneaking across our borders. I know firsthand. I have watched them. They overstay their visitor visas and they abuse our legal immigration system. Our current immigration laws send the wrong message to individuals that would break our laws: ''If at first you don't succeed, try, try again to receive the fruits of our society.''

This amendment is going to bring honesty and integrity back to the U.S. immigration laws. Simply put, ''If you don't play by the rules, then you don't get to play at all. No more warnings, no more slaps on the wrist. When we catch you, you're gone.''

Never again will those who break the law be rewarded with a temporary or immigrant visa. No longer will they be able to enjoy the benefits of our hardworking citizens and the ones they are entitled to. Not 1 year later, not 10 years later. ''One strike and you're out.''

This amendment will return a strong sense of law and order to the U.S. immigration law. It will give those who choose to play by the rules a sense of dignity. If we are to remain true to our heritage, we must ensure that immigration is once again seen as a noble experience that enriches America both economically and socially rather than be demeaned by criminality and deceit. That means denying the benefits of our society to those who break our immigration laws while rewarding the honesty and patience of hundreds of thousands of others with the opportunity to obtain their goal, a chance to live the American dream.

Mr. Chairman. I urge my colleagues to support this amendment.

Mr. BRYANT of Texas. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. I thank the gentleman for yielding me the time.

Mr. Chairman, let me say that I would agree with the remarks of the gentleman from Texas in opposing this particular amendment. We currently have in existing law prohibitions, civil penalties, criminal penalties as well, jail terms that would be served by someone who was in the country without documentation. We also have under current law provisions that would cause the deportation and exclusion of an individual from this country for many years.

Under this bill that we have before us, the penalty is increased even more as the gentleman from Texas mentioned, up to 10 years, you would be banned from being able to come into this country if you are caught without documents.

Mr. Chairman, this bill goes the final step and says, ''If we catch you, you can never return.'' It takes into account not one bit what the circumstances may have been for that individual who was in the country.

If that individual happened to be here and had a great deal of family here and made the mistake of trying to come in here without documents, let us make the person pay a price. But to forever banish that individual from seeing a family member in this country I think is extremely harsh.

Ten years is very severe punishment to serve and that is already in the bill. But let me mention something that most Members probably are not aware of that this amendment does not do.

Here we have again an amendment that treats classes of people differently. If you happen to be here through a visitor's visa or a student visa, you have come into this country legally. You entered with proper documentation and the authority of this country to be here. If you overstay the tenure of that visa, whatever the term may be, then you have now become undocumented because you no longer have a right to be in this country. Yet this particular amendment does not address that problem.

Is it a big problem? More than 50 percent of all the people that are in this country as undocumented come into this country legally. They they overstay their visas and do not return, and then they become undocumented individuals. Yet this amendment would do nothing to those individuals who have come into the country under legal means, yet overstayed and are now undocumented.

Here again we seem to see an amendment that attacks the issue with a very small perspective, with blinders, and says only to those who have crossed a border, and certainly the focus is on the southern border, and certainly it is in regard to people who look like they come from across the southern border, and its says to those individuals, ''Forever more you will be denied access to this country.'' Admittedly, you committed a wrong, and everyone should admit that, and that person should be punished, not only with deportation but with punishment that would require that person not be able to come into this country for a time. But this amendment goes well

beyond and says never again will you set foot in this country regardless of how compelling your case is to perhaps at some point come back. At the same time while it is doing this as dramatically to this one individual, this immigrant, in denying him or her access, it says to fully 50 percent or more of those who are undocumented into this country, that they do not have to worry about this amendment because it will not apply. I think that is not only unfair treatment but unwise policy.

I would urge Members to reject this amendment and vote against it.

Mr. TATE. Mr. Chairman, I yield myself 30 seconds to respond.

A couple of points. This amendment is directed at intent, the intent to knowingly come into the United States and breaking our laws of immigration. If the gentleman does have concerns in other areas of illegal immigration, I would like to join with him to address some of those issues. This amendment is specifically on those whose intent is to violate our immigration laws.

Mr. Chairman, with that I yield 2 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

(Mrs. ROUKEMA asked and was given permission to revise and extend her remarks.)

Mrs. ROUKEMA. Mr. Chairman, I thank the gentleman from Washington [Mr. TATE], the author of this common sense amendment, for yielding me the time.

I do say this is common sense, which is what many Americans believe that we in Washington do not seem to have. But, something tells me that this is also one of those if-the-American-people-only-knew issues. What would the American people think if they knew that aliens could wantonly violate U.S. law by crossing the border illegally and then be welcomed with open arms just a few years later?

We have heard throughout this debate that people in other lands see the United States as a land of promise. Let me suggest a play on words. This is a land of promise, and if we pass this amendment, we will be saying, ''If you attempt to cross our border, we promise you will never be allowed to come here again.'' This will be a deterrent I do not know what the opponents are speaking of. This will be a commonsense deterrent way to get control over our borders.

The files of my district office, and I suspect they are the same as yours, are filled with cases of people who are working within the INS system to come to America. They filled out the paperwork, in some cases several times. They have played by the rules and waited their turn. Yet the continuing flood of illegal immigration is unfair to them. It is a disincentive to play by the rules and, I might add, a strong disincentive to all our forebears who played by the rules and came through Ellis Island, whatever way that was at that time. Indeed, millions of Americans today work within our system and are outraged, I hear this at the beauty parlor every week, outraged by the thousands of people who sneak across our borders in the dead of night when they and their parents before them waited 1, 2, 5 years to get in.

Mr. Chairman, the one-strike-and-you're-out amendment will attach a real penalty to those who have crossed our borders illegally. It is a common sense measure and it will prove to be a very effective deterrent.

Mr. BRYANT of Texas. Mr. Chairman, I yield myself such time as I may consume.

This is a press release, OK? This is not an amendment. This is a press release. So you folks can write letters home and say, ''Oh, boy, I got tough on illegal immigration.'' This bill gets tough on illegal immigration. Unfortunately, I guess the situation is that some do not feel that by cosponsoring the bill or voting for it they are going to get enough of a zing out of the press release when it gets back home again.

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The fact of the matter is you are putting these people that will never even know what our law is and wander into the country, come to the country on purpose trying to make a better life for themselves in the same situation in which we put international terrorists. It is perfectly ridiculous to say we are going to have a permanent ban on somebody who is totally ignorant of our laws and comes into our country illegally. The bill puts a 10-year probation on some and 5 years on others. It is based on a lengthy study by the commission that was chaired by Barbara Jordan and by the previous commission that came out of the 1986 bill. This amendment is not based on any study. I think on the face of it, obviously it is not going to have any impact. Do not pile on this bill and make it impossible to pass, for goodness sakes. There is no point in putting these folks in the same category that you put an international terrorist. There is no logical person that thinks that a jobless person who is desperately looking for a job as a waiter and comes across the border is going to know in advance he is going to be permanently barred from the United States if he does that. There is no way to argue that. I just simply urge you guys not to take everything to extremes. You are going to get a good enough press release by voting for the bill. Do not mess the bill up with something like this.

Mr. Chairman, I reserve the balance of my time.

Mr. TATE. Mr. Chairman, I yield myself 1 minute to respond.

The press release argument is, let us face it, is a bogus argument. What this comes down to is common sense. That is what we are looking at. There is a right way to come to America and a wrong way. It is unfair to those that stand in line, that go through the bureaucracy, that do it the right way, to find out that there is someone standing maybe in front of them that came here previously.

Once again, this comes back to the issue of intent. There is a wrong way and a right way. We have got to continually come back to that. It is unfair to those that play by the rules to see someone next to them that does not.

Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. LAUGHLIN].

(Mr. LAUGHLIN asked and was given permission to revise and extend his remarks.)

Mr. LAUGHLIN. Mr. Chairman, I first want to commend the two gentlemen from Texas, Mr. SMITH and Mr. BRYANT, for their hard work on this very important bill.

I rise in support of H.R. 2202 and this amendment which will bring back honesty and integrity to the U.S. immigration laws. From the earliest days of our Nation, the U.S. immigration policy has provided opportunity for millions of people to come to America and to help us build the strongest and most prosperous democracy in the world. However, many people have begun to take advantage of our open-door policy and our generosity. I represent 22 Texas counties and many of the judges, the county judges in those 22 counties, tell me they spend substantially over 50 percent of their indigent funds on indigent illegal aliens and not indigent American citizens.

Currently, illegal aliens who are deported can turn around and apply for legal immigration or a temporary visa 1 year later, and this amendment will correct that egregious policy.

Immigration to the United States is not a right. It is a privilege. If immigrants do not choose to play by the rules, then they should not be allowed to immigrate to the United States. This is a simple commonsense approach to immigration reform. Simply put, if you break our immigration laws, you can never be rewarded with the right to immigrate or enter the United States.

People in my district constantly say to me, ''GREG, why cannot the U.S. Congress apply some common sense to the laws it passes?'' This bill makes common sense. And to the gentleman from Dallas, my good friend Mr. BRYANT, I would say this is a deterrent, and word does spread among the community of those who are considering illegal entry. And while you may disagree, those of us that support this amendment feel like it will be a deterrent.

So if you entered the United States illegally, you forfeit the right to ever become a U.S. citizen. That is common sense, Mr. Chairman. Let us pass this amendment. Let us reward those who play by the rules in how they enter our country, and let us punish those who enter illegally.

Mr. BRYANT of Texas. Mr. Chairman, I yield myself such time as I may consume.

I would just like for you guys, just stop and think about something. You have got a guy desperate for a job, he has got a serious short-term need, there is an American employer lured him over there. He is young, crosses the border to get the job. The result is he finds out when he grows older, he is permanently barred for the rest of his life from being able to apply for legal entry into the United States.

It does not make any sense at all. Tomorrow, I dare say, every single Member is going to have a press release in the mail back to hometown newspapers about how tough you got on illegal immigration, when, in fact, after 10 or 12 years studying it, nobody has ever said a permanent bar could be communicated back to the population and would have any deterrent value whatsoever.

Why go to extremes? We have a 10-year bar in the bill now. We have a 5-year bar for some categories. Why must you put these people in the category of being like the international terrorists, for goodness sake. If it is such a bad thing, why do you have a waiver in here to let the Attorney General waive this ban?

If these people deserve to be banned for life for crossing the border, why would you let the Attorney General ever waive that ban.

I will yield to the gentleman from Washington for his answer.

Mr. TATE. I thank the gentleman for allowing me some time.

A couple of points in your example. The poor gentleman that was lured across the border would not fall under this, because, if you look specifically in the bill, it talks about intent, not someone who has had the issue misrepresented to them that was lured across the border. It deals with intent to knowingly come across.

Mr. BRYANT of Texas. Reclaiming my time, we are talking about a situation in which a business on the other side of the border which was offering jobs, and the guy says, well, I know I do not have any papers, I am going to cross anyway and get that job because I need the money. That is what I am talking about. That would purely manifest intent.

Mr. TATE. Mr. Chairman, it comes back, there is a right way and a wrong way to come across the border, and the ends do not justify the means. Once again, that is taking the jobs away from working Americans when someone comes across the border the wrong way. Once again, it is a privilege to come into this country.

Mr. BRYANT of Texas. Reclaiming my time, I think everybody agrees with that. That is kind of a platitude. We are talking about the difference of a 10-year ban and lifetime ban. Why would you stick anybody with a lifetime ban, for goodness sake?

Mr. TATE. Once again, with the limited Federal resources we have in this country, with my own example in Tacoma, WA, all the resources our taxpayers pay to the local police departments, and substantial amount of time spent investigating narcotics claims in the city of Tacoma, WA, not a border town, along our southern border or our northern border, a town like Tacoma, WA, where they are spending those resources, those taxpayers have a right to ensure those dollars are being used properly.

Mr. BRYANT of Texas. Reclaiming my time, let us talk about immigration. So a Canadian wanders across the border at a young age and wants to get a job and goes back again and finds out 20 years later, when he goes to apply to come here legally, maybe he has got a job, maybe married to an American, he cannot come for the rest of his life because he came across the border into Washington State when he was a young man. Is that not a curious result? For the rest of his life, he is permanently banned. Is that not a curious result?

Mr. TATE. Once again, I reflect back to my earlier statements. That it is not unreasonable to expect someone that would come to this country, when there are people waiting to come here, that they should be able to jump ahead in line, and the people, I think, of this country would be outraged to find out we have very few laws on the books.

Mr. BRYANT of Texas. Suppose a person gets married. You mean, they cannot come in the country with their new wife because at a young age they crossed the border illegally, for the rest of their life they cannot come across and live with their spouse.

Mr. TATE. Our current law, as you know and I know, currently provides preference to spouses to come to this country. In fact, they get priority.

Mr. BRYANT of Texas. This is a permanent ban in your amendment.

Mr. TATE. There is a right way and a wrong way to come to America.

Mr. BRYANT of Texas. Reclaiming my time, let us get this pinned down. Is it or is it not the case that your amendment would say that a person who crossed the border at an early age and later in life married an American citizen, could not come in the country to live with his American citizen spouse because the Tate amendment said the rest of his life he is banned. Is not that what it means? That is what it means.

Mr. Chairman, I reserve the balance of my time.

Mr. TATE. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, in closing, several issues that I would like to address once again. What we are talking about here is eliminating fraud in our system to ensure that those that come across the border have played by the rules. What frustrates Americans, as the gentlewoman from New Jersey stated, is there are people that come to our country many times that do not play by those rules. We are trying to bring honesty and integrity back to the system. What has made this country great, as I stated in my opening remarks, is it has been open to people from all walks of life, from all backgrounds, that have made this country the great country that is.

But many people find it interesting that we do not have laws on the books to deal with those that come back come to our country illegally and come back years later and are still qualified and may be ahead in line. Once again, we need incentives in our system to encourage people to comply with our laws.

My amendment is just common sense, says one strike and you are out proposal, that is not going to cost the taxpayers more money. It is, in fact, going to save money. It will reward people that come here the right way and that they should not be trampled on by those that come here the wrong way.

Mr. Chairman, I yield back the balance of my time.

Mr. BRYANT of Texas. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the only reason I would make a big issue in this debate out of this is because I want to deter Members from supporting amendments that make this bill so extreme that it is no longer tenable.

Look, a guy, let us just take a guy, for example, it could be a woman, too, comes into the country at a young age, crosses the border in search of a better life or adventure, whatever, gets caught, gets deported, many years later he marries somebody who is an American citizen.

Under the Tate amendment that person can never for the rest of his life enter this country. He cannot come here and live with his wife or if it is a woman, her husband. This is a ridiculous result. That is not going to deter anybody from coming here illegally. The bill already increases the penalty for coming illegally. You can be banned for 5 years in one category, 10 years in the other. That is enough.

We did a lot of work on this bill; we considered it a very, I think, careful way. We took our time with it. It is based on a lot of study and a lot of work by a lot of experts. These sort of ad hoc ideas that sound great when you send it back home in the newspaper, but have enormously negative consequences on a lot of people and do not deter any bad actions should not be in this bill.

I urge Members to vote against the Tate amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington [Mr. TATE].

The amendment was agreed to.

Mr. GOODLATTE. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. TAYLOR of North Carolina) having assumed the chair, Mr. BONILLA, Chairman of the

Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes, had come to no resolution thereon.

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SPECIAL ORDERS

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Guam [Mr. UNDERWOOD] is recognized for 5 minutes.

[Mr. UNDERWOOD addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. SMITH] is recognized for 5 minutes.

[Mr. SMITH of Michigan addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized for 5 minutes.

[Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

THE STUDENT LOAN PROGRAM AND THE DEPARTMENT OF EDUCATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina [Mr. GRAHAM] is recognized for 5 minutes.

Mr. GRAHAM. Mr. Speaker, I would like to take this opportunity to bring up a subject that is on many people's minds and affects every Member of this body, and that is the student loan program and the Department of Education's mishandling of almost 1 million student loan financial aid applications. I have got behind me here an article in last week's Chronicle of Higher Education. The article is titled, ''Sorting Out a Foul-up in Student Loans.'' The foul-up is that 900,000 financial aid applications that should have already been processed by the Department of Education are in a bureaucratic backlog caused by the irresponsible mismanagement of the student loan program.

Before we go any further, I think it is important to note the way the student loan program works. Most student loans are guaranteed by the Federal Government, and the money comes from a private banking institution. The banks will be reimbursed in the event of a default, 98 cents on the dollar. We are trying to streamline that process to have more risk being shared by the private sector. But believe it or not, there is a move afoot to replace private-sector capital, private-sector enterprise and have the Federal Government become the sole lending agency for student loans in this country. Can you imagine the Department of Education becoming the third largest consumer loan entity in the United States?

Now, what this means is that there is a move afoot by this administration to replace the private sector totally where we share risk with the private sector. The Federal Government cosigns these notes and in the event of a default, the private sector absorbs part of the loan default and the Federal Government absorbs the largest part. But the direct lending program advocated by the administration would totally take the private sector out. The Department of Education would become the third largest consumer loan institution in America.

You would have bureaucrats at the Department of Education become bankers. They would lend the money. They would collect the money in theory and it would be a disaster. It would be a disaster for the taxpayer. It would be a disaster for the students because the very same group that would be in the banking business is the very same group that is trying to process applications for loans that would be approved by the private sector. The state of that situation is that 900,000 student loan applications are backlogged and the Department of Education is trying to blame it on the snow and the shutdown of the government for 21 days. Both of them are just flat false reasons.

The truth is that it is a very bureaucratic, very ineffective system that they have in place to process these loans. The last thing in the world we need to do is to extend their power, not only let them process the applications but lend and collect the money. That would be disastrous for the American taxpayer.

Mr. HOEKSTRA. Mr. Speaker, will the gentleman yield?

Mr. GRAHAM. I yield to the gentleman from Michigan.

Mr. HOEKSTRA. Mr. Speaker, it is very interesting. The Secretary of education has moved this into the political arena and has identified the government shutdown, the weather as being reasons why they have this tremendous backlog. In reality, the reason for this backlog is last fall the department was late in developing the new forms. They had some severe computer start-up problems. The Secretary of Education had the authority, actually had the responsibility to keep the people working who worked on the student loan program during the government shutdown but decided not to have those people employed and to furlough them even though they are on permanent appropriations.

As oversight chairman, we challenged that decision by the Secretary of Education. The OMB came back and instructed the Secretary of Education that their application of government rules and regulations was being applied inappropriately, that these people should be at work, and so now to come back and put the blame on Congress is totally inappropriate.

I think the gentleman brings out another good point here because we had a hearing today. We had a hearing on the Corporation for National Service. The same thing that is going on with the student loan program is going on with the Corporation for National Service, the student loan program is mismanaged, mismanagement of financial resources. Corporation for National Service, $500 million per year of taxpayers' spending, the books for 1994, the books for 1995 are not auditable. This is not just student loans, this is a pattern of mismanagement of tax dollars throughout a number of different agencies through the Federal bureaucracy.

I thank the gentleman for yielding.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. GORDON] is recognized for 5 minutes.

[Mr. GORDON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. MCINNIS] is recognized for 5 minutes.

[Mr. MCINNIS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

BRIDGEHAMPTON KILLER BEES WIN NEW YORK STATE CLASS D BOYS BASKETBALL CHAMPIONSHIP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. FORBES] is recognized for 5 minutes.

Mr. FORBES. Mr. Speaker, I rise today to pay a special tribute and to congratulate the championship Bridgehampton Killer Bees for winning the New York State Class D boys basketball championship. It is indeed a