OMNIBUS CONSOLIDATED APPROPRIATIONS ACT OF 1997

(INCLUDING IMMIGRATION REFORM)

Volumes 1-3

H.R. 3610

PUBLIC LAW 104-208
104TH CONGRESS

REPORTS, BILLS,
DEBATES, AND ACT

SOCIAL SECURITY ADMINISTRATION

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REPORTS, BILLS, DEBATES, AND ACT

Social Security Administration

Office of the Deputy Commissioner for Legislation and Congressional Affairs

PREFACE

This 3-volume compilation contains historical documents pertaining to P.L. 104-208, the "Omnibus Consolidated Appropriations Act of 1997." The books contain congressional debates, a chronological compilation of documents pertinent to the legislative history of the public law and listings of relevant reference materials.

Pertinent documents include:

- Differing versions of key bills
- Committee reports
- Excerpts from the Congressional Record
- The Public Law

This history is prepared by the Office of the Deputy Commissioner for Legislation and Congressional Affairs and is designed to serve as a helpful resource tool for those charged with interpreting laws administered by the Social Security Administration.

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104TH CONGRESS
1ST SESSION

H. R. 2202

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

IN THE HOUSE OF REPRESENTATIVES

AUGUST 4, 1995

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

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

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A BILL

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

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

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

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

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

(1) whenever in this Act an amendment or repeal is expressed as the amendment or repeal of a

section or other provision, the reference shall be considered to be made to that section or provision in the Immigration and Nationality Act, and

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

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

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

Subtitle B—Deterrence of Document Fraud

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 212. NEW CIVIL PENALTIES FOR DOCUMENT FRAUD.

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

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

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

(3) by adding at the end the following:

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

for the purpose of satisfying a requirement of this Act.

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

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

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

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

TITLE IV—ENFORCEMENT OF RESTRICTIONS AGAINST EMPLOYMENT

SEC. 401. STRENGTHENED ENFORCEMENT OF THE EMPLOYER SANCTIONS PROVISIONS.

(a) IN GENERAL.—The number of full-time equivalent positions in the Investigations Division within the Immigration and Naturalization Service of the Department of Justice beginning in fiscal year 1996 shall be increased by 350 positions above the number of full-time equivalent positions available to such Division as of September 30, 1994.

(b) ASSIGNMENT.—Individuals employed to fill the additional positions described in subsection (a) shall be assigned to investigate violations of the employer sanctions provisions contained in section 274A of the Immigration and Nationality Act, including investigating reports of violations received from officers of the Employment Standards Administration of the Department of Labor.

SEC. 402. STRENGTHENED ENFORCEMENT OF WAGE AND HOUR LAWS.

(a) IN GENERAL.—The number of full-time equivalent positions in the Wage and Hour Division with the Employment Standards Administration of the Department of Labor beginning in fiscal year 1996 shall be increased

by 150 positions above the number of full-time equivalent positions available to the Wage and Hour Division as of September 30, 1994.

(b) ASSIGNMENT.—Individuals employed to fill the additional positions described in subsection (a) shall be assigned to investigate violations of wage and hour laws in areas where the Attorney General has notified the Secretary of Labor that there are high concentrations of undocumented aliens.

SEC. 403. CHANGES IN THE EMPLOYER SANCTIONS PROGRAM.

(a) REDUCING THE NUMBER OF DOCUMENTS ACCEPTED FOR EMPLOYMENT VERIFICATION.—Section 274A(b) (8 U.S.C. 1324a(b)) is amended—

(1) in paragraph (1)(B)—

(A) by adding "or" at the end of clause (i),

(B) by striking clauses (ii) through (iv), and

(C) in clause (v), by striking "or other alien registration card, if the card" and inserting ", alien registration card, or other document designated by regulation by the Attorney General, if the document" and redesignating such clause as clause (ii);

(2) by amending subparagraph (C) of paragraph (1) to read as follows:

"(C) SOCIAL SECURITY ACCOUNT NUMBER CARD AS EVIDENCE OF EMPLOYMENT AUTHORIZATION.—A document described in this subparagraph is an individual's social security account number card (other than such a card which specifies on the face that the issuance of the card does not authorize employment in the United States).''; and

(3) by amending paragraph (2) to read as follows:

"(2) INDIVIDUAL ATTESTATION OF EMPLOYMENT AUTHORIZATION AND PROVISION OF SOCIAL SECURITY ACCOUNT NUMBER.—The individual must—

"(A) attest, under penalty of perjury on the form designated or established for purposes of paragraph (1), that the individual is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Attorney General to be hired, recruited, or referred for such employment; and

"(B) provide on such form the individual's social security account number.".

(b) EMPLOYMENT ELIGIBILITY CONFIRMATION PROCESS.—Section 274A (8 U.S.C. 1324a) is amended—

(1) in subsection (a)(3), by inserting "(A)" after "DEFENSE.—", and by adding at the end the following:

"(B) FAILURE TO SEEK AND OBTAIN CONFIRMATION.—In the case of a hiring of an individual for employment in the United States, if such a person or entity—

"(i) has not made an inquiry, under the mechanism established under subsection (b)(6), seeking confirmation of the identity, social security number, and work eligibility of the individual, by not later than the end of 2 working days (as specified by the Attorney General) after the date of the hiring, the defense under subparagraph (A) shall not be considered to apply with respect to any employment after such 2 working days, and

"(ii) has made the inquiry described in clause (i) but has not received an appropriate confirmation of such identity, number, and work eligibility under such mechanism within

the time period specified under subsection (b)(6)(D)(iii) after the time the confirmation inquiry was received, the defense under subparagraph (A) shall not be considered to apply with respect to any employment after the end of such time period.";

(2) by amending paragraph (3) of subsection (b) to read as follows:

"(3) RETENTION OF VERIFICATION FORM AND CONFIRMATION.—After completion of such form in accordance with paragraphs (1) and (2), the person or entity must—

"(A) retain the form and make it available for inspection by officers of the Service, the Special Counsel for Immigration-Related Unfair Employment Practices, or the Department of Labor during a period beginning on the date of the hiring, recruiting, or referral of the individual and ending—

"(i) in the case of the recruiting or referral for a fee (without hiring) of an individual, three years after the date of the recruiting or referral, and

"(ii) in the case of the hiring of an individual—

"(I) three years after the date of such hiring, or

"(II) one year after the date the individual's employment is terminated,

whichever is later; and

"(B) for individuals hired on or after October 1, 1999 (or, in a State with respect to which a pilot program described in section 403(e)(2)(B) of the Immigration in the National Interest Act of 1995 is in effect, on or after such earlier date as the Attorney General specifies), seek (within 2 working days of the date of hiring) and have (within the time period specified under paragraph (6)(D)(iii)) the identity, social security number, and work eligibility of the individual confirmed in accordance with the procedures established under paragraph (6).''; and

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

"(6) EMPLOYMENT ELIGIBILITY CONFIRMATION PROCESS.—

"(A) IN GENERAL.—The Attorney General shall establish a confirmation mechanism

through which the Attorney General (or a designee of the Attorney General)—

"(i) responds to inquiries by employers, made through a toll-free telephone line or other electronic media in the form of an appropriate confirmation code or otherwise, on whether an individual is authorized to be employed by that employer, and

"(ii) maintains a record that such an inquiry was made and the confirmation provided (or not provided).

"(B) EXPEDITED PROCEDURE IN CASE OF NO CONFIRMATION.—In connection with subparagraph (A), the Attorney General shall establish, in consultation with the Commissioner of Social Security and the Commissioner of the Service, expedited procedures that shall be used to confirm the validity of information used under the confirmation mechanism in cases in which the confirmation is sought but is not provided through the confirmation mechanism.

"(C) DESIGN AND OPERATION OF MECHANISM.—The confirmation mechanism shall be designed and operated to maximize—

"(i) the reliability of the confirmation process, and

"(ii) the ease of use by employers, recruiters, and referrers,

consistent with insulating and protecting the privacy and security of the underlying information.

"(D) CONFIRMATION PROCESS.—(i) As part of the confirmation mechanism, the Commissioner of Social Security shall establish a reliable, secure method, which within the time period specified under clause (iii), compares the name and social security account number provided against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided and whether the account number indicates that the individual is authorized to be employed in the United States. The Commissioner shall not disclose or release social security information.

"(ii) As part of the confirmation mechanism, the Commissioner of the Service shall establish a reliable, secure method, which, within the time period specified under clause (iii),

compares the name and alien identification number (if any) provided against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided and whether the alien is authorized to be employed in the United States.

"(iii) For purposes of this section, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Service, an expedited time period within which confirmation is to be provided through the confirmation mechanism.

"(iv) The Commissioners shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information.

"(E) PROTECTIONS.—(i) In no case shall an individual be denied employment because of inaccurate or inaccessible data under the confirmation mechanism.

"(ii) The Attorney General shall assure that there is a timely and accessible process to challenge nonconfirmations made through the mechanism.

"(F) TESTER PROGRAM.—As part of the confirmation mechanism, the Attorney General shall implement a program of testers and investigative activities (similar to testing and other investigative activities assisted under the fair housing initiatives program under section 561 of the Housing and Community Development Act of 1987 to enforce rights under the Fair Housing Act) in order to monitor and prevent unlawful discrimination under the mechanism.".

(c) REDUCTION OF PAPERWORK FOR CERTAIN EMPLOYEES.—Section 274A(a) (8 U.S.C. 1324a(a)) is amended by adding at the end the following new paragraph:

"(6) TREATMENT OF DOCUMENTATION FOR CERTAIN EMPLOYEES.—

"(A) IN GENERAL.—For purposes of paragraphs (1)(B) and (3), if—

"(i) an individual is a member of a collective-bargaining unit and is employed, under a collective bargaining agreement entered into between one or more employee organizations and an association of two or more employers, by an employer that is a member of such association, and

"(ii) within the period specified in subparagraph (B), another employer that is a member of the association (or an agent of such association on behalf of the employer) has complied with the requirements of subsection (b) with respect to the employment of the individual,

the subsequent employer shall be deemed to have complied with the requirements of subsection (b) with respect to the hiring of the employee and shall not be liable for civil penalties described in subsection (e)(5).

"(B) PERIOD.—The period described in this subparagraph is—

"(i) up to 5 years in the case of an individual who has presented documentation identifying the individual as a national of the United States or as an alien lawfully admitted for permanent residence; or

"(ii) up to 3 years (or, if less, the period of time that the individual is authorized to be employed in the United States) in the case of another individual.

"(C) LIABILITY.—

"(i) IN GENERAL.—If any employer that is a member of an association hires for employment in the United States an individual and relies upon the provisions of subparagraph (A) to comply with the requirements of subsection (b) and the individual is an unauthorized alien, then for the purposes of paragraph (1)(A), subject to clause (ii), the employer shall be presumed to have known at the time of hiring or afterward that the individual was an unauthorized alien.

"(ii) REBUTTAL OF PRESUMPTION.—The presumption established by clause (i) may be rebutted by the employer only through the presentation of clear and convincing evidence that the employer did not know (and could not reasonably have known) that the individual at the time of hiring or afterward was an unauthorized alien.".

(d) ELIMINATION OF DATED PROVISIONS.—Section 274A (8 U.S.C. 1324a) is amended by striking subsections (i) through (n).

(e) EFFECTIVE DATES.—

(1) Except as provided in this subsection, the amendments made by this section shall apply with respect to hiring (or recruiting or referring) occurring on or after such date (not later than 180 days after the date of the enactment of this Act) as the Attorney General shall designate.

(2)(A) The Attorney General shall establish the employment eligibility confirmation mechanism (described in section 274A(b)(6) of the Immigration and Nationality Act, as added by subsection (b)) by not later than October 1, 1999.

(B) Before establishing the mechanism, the Attorney General shall undertake such pilot projects for all employers, in at least 5 of the 7 States with the highest estimated population of unauthorized aliens, as will test and assure that the mechanism implemented is reliable and easy to use. Such projects shall be initiated not later than 6 months after the date of the enactment of this Act.

(C) The Attorney General shall submit to the Congress, beginning in 1997, annual reports on the development and implementation of the mechanism.

(3) The amendment made by subsection (c) shall apply to individuals hired on or after 60 days after the date of the enactment of this Act.

(4) The amendment made by subsection (d) shall take effect on the date of the enactment of this Act.

SEC. 404. REPORTS ON EARNINGS OF ALIENS NOT AUTHORIZED TO WORK.

Subsection (c) of section 290 (8 U.S.C. 1360) is amended to read as follows:

"(c)(1) Not later than 3 months after the end of each fiscal year (beginning with fiscal year 1995), the Commissioner of Social Security shall report to the Committees on the Judiciary of the House of Representatives and the Senate on the aggregate number of social security account numbers issued to aliens not authorized to be employed to which earnings were reported to the Social Security Administration in such fiscal year.

"(2) If earnings are reported on or after January 1, 1996, to the Social Security Administration on a social security account number issued to an alien not authorized to work in the United States, the Commissioner of Social Security shall provide the Attorney General with information regarding the name and address of the alien, the name and address of the person reporting the earnings, and the amount of the earnings. The information shall be provided in an electronic form agreed upon by the Commissioner and the Attorney General.".

SEC. 405. AUTHORIZING MAINTENANCE OF CERTAIN INFORMATION ON ALIENS.

Section 264 (8 U.S.C. 1304) is amended by adding at the end the following new subsection:

"(f) Notwithstanding any other provision of law, the Attorney General is authorized to require any alien to provide the alien's social security account number for purposes of inclusion in any record of the alien maintained by the Attorney General or the Service.".

TITLE VI—RESTRICTIONS ON BENEFITS FOR ALIENS

SEC. 600. STATEMENTS OF NATIONAL POLICY CONCERNING WELFARE AND IMMIGRATION.

The Congress makes the following statements concerning national policy with respect to welfare and immigration:

(1) Self-sufficiency has been a basic principle of United States immigration law since this country's earliest immigration statutes.

(2) It continues to be the immigration policy of the United States that—

(A) aliens within the nation's borders not depend on public resources to meet their needs, but rather rely on their own capabilities and the resources of their families, their sponsors, and private organizations, and

(B) the availability of public benefits not constitute an incentive for immigration to the United States.

(3) Despite the principle of self-sufficiency, aliens have been applying for and receiving public benefits from Federal, State, and local governments at increasing rates.

(4) Current eligibility rules for public assistance and unenforceable financial support agreements have proved wholly incapable of assuring that individual aliens not burden the public benefits system.

(5) It is a compelling government interest to enact new rules for eligibility and sponsorship agreements in order to assure that aliens be self-reliant in accordance with national immigration policy.

(6) It is a compelling government interest to remove the incentive for illegal immigration provided by the availability of public benefits.

(7) Where States are authorized to follow Federal eligibility rules for public assistance programs, the Congress strongly encourages the States to adopt the Federal eligibility rules.

Subtitle A—Eligibility of Illegal Aliens for Public Benefits

PART 1—PUBLIC BENEFITS GENERALLY

SEC. 601. MAKING ILLEGAL ALIENS INELIGIBLE FOR PUBLIC ASSISTANCE, CONTRACTS, AND LICENSES.

(a) FEDERAL PROGRAMS.—Notwithstanding any other provision of law, except as provided in section 603, any alien who is not lawfully present in the United States shall not be eligible for any of the following:

(1) FEDERAL ASSISTANCE PROGRAMS.—To receive any benefits under any program of assistance provided or funded, in whole or in part, by the Federal Government for which eligibility (or the amount of assistance) is based on financial need.

(2) FEDERAL CONTRACTS OR LICENSES.—To receive any grant, to enter into any contract or loan agreement, or to be issued (or have renewed) any

professional or commercial license, if the grant, contract, loan, or license is provided or funded by any Federal agency.

(b) STATE PROGRAMS.—Notwithstanding any other provision of law, except as provided in section 603, any alien who is not lawfully present in the United States shall not be eligible for any of the following:

(1) STATE ASSISTANCE PROGRAMS.—To receive any benefits under any program of assistance (not described in subsection (a)(1)) provided or funded, in whole or in part, by a State or political subdivision of a State for which eligibility (or the amount of assistance) is based on financial need.

(2) STATE CONTRACTS OR LICENSES.—To receive any grant, to enter into any contract or loan agreement, or to be issued (or have renewed) any professional or commercial license, if the grant, contract, loan, or license is provided or funded by any State agency.

(c) REQUIRING PROOF OF IDENTITY FOR FEDERAL CONTRACTS, GRANTS, LOANS, LICENSES, AND PUBLIC ASSISTANCE.—

(1) IN GENERAL.—In considering an application for a Federal contract, grant, loan, or license, or for public assistance under a program described

in paragraph (2), a Federal agency shall require the applicant to provide proof of identity under paragraph (3) to be considered for such Federal contract, grant, loan, license, or public assistance.

(2) PUBLIC ASSISTANCE PROGRAMS COVERED.—The requirement of proof of identity under paragraph (1) shall apply to the following Federal public assistance programs:

(A) SSI.—The supplemental security income program under title XVI of the Social Security Act, including State supplementary benefits programs referred to in such title.

(B) AFDC.—The program of aid to families with dependent children under part A or E of title IV of the Social Security Act.

(C) SOCIAL SERVICES BLOCK GRANT.—The program of block grants to States for social services under title XX of the Social Security Act.

(D) MEDICAID.—The program of medical assistance under title XIX of the Social Security Act.

(E) FOOD STAMPS.—The program under the Food Stamp Act of 1977.

(F) HOUSING ASSISTANCE.—Financial assistance as defined in section 214(b) of the Housing and Community Development Act of 1980.

(3) DOCUMENTS THAT SHOW PROOF OF IDENTITY.—Any one of the documents listed under this paragraph may be used as proof of identity under this subsection. Any such document shall be current and valid. No other document or documents shall be sufficient to prove identity.

(A) United States passport (either current or expired if issued both within the previous 20 years and after the individual attained 18 years of age).

(B) Resident alien card.

(C) State driver's license, if presented with the individual's social security account number card.

(D) State identity card, if presented with the individual's social security account number card.

(d) AUTHORIZATION FOR STATES TO REQUIRE PROOF OF ELIGIBILITY FOR STATE PROGRAMS.—In considering an application for contracts, grants, loans, licenses, or public assistance under any State program, a

State is authorized to require the applicant to provide proof of eligibility to be considered for such State contracts, grants, loans, licenses, or public assistance.

SEC. 602. MAKING UNAUTHORIZED ALIENS INELIGIBLE FOR UNEMPLOYMENT BENEFITS.

(a) IN GENERAL.—Notwithstanding any other provision of law, no unemployment benefits shall be payable (in whole or in part) out of Federal funds to the extent the benefits are attributable to any employment of the alien in the United States for which the alien was not granted employment authorization pursuant to Federal law.

(b) PROCEDURES.—Entities responsible for providing unemployment benefits subject to the restrictions of this section shall make such inquiries as may be necessary to assure that applicants for such benefits are eligible consistent with this section.

SEC. 606. DEFINITIONS.

For purposes of this part:

(1) LAWFUL PRESENCE.—The determination of whether an alien is lawfully present in the United States shall be made in accordance with regulations

of the Attorney General. An alien shall not be considered to be lawfully present in the United States for purposes of this title merely because the alien may be considered to be permanently residing in the United States under color of law for purposes of any particular program.

(2) STATE.—The term "State" includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.

SEC. 607. REGULATIONS AND EFFECTIVE DATES.

(a) REGULATIONS.—The Attorney General shall first issue regulations to carry out this part (other than section 605) by not later than 60 days after the date of the enactment of this Act. Such regulations shall take effect on an interim basis, pending changes based on public comment.

(b) EFFECTIVE DATE FOR RESTRICTIONS ON ELIGIBILITY FOR PUBLIC BENEFITS.—(1) Except as provided in this subsection, section 601 shall apply to benefits provided, contracts or loan agreements entered into, and professional and commercial licenses issued (or renewed) on or after such date as the Attorney General specifies in regulations under subsection (a). Such date shall be at least 30 days, and not more than 60 days, after the date the Attorney General first issues such regulations.

(2) The Attorney General, in carrying out section 601(a)(2), may permit such section to be waived in the case of individuals for whom an application for the grant, contract, loan, or license is pending (or approved) as of a date that is on or before the effective date specified under paragraph (1).

(c) EFFECTIVE DATE FOR RESTRICTIONS ON ELIGIBILITY FOR UNEMPLOYMENT BENEFITS.—(1) Except as provided in this subsection, section 602 shall apply to unemployment benefits provided on or after such date as the Attorney General specifies in regulations under subsection (a). Such date shall be at least 30 days, and not more than 60 days, after the date the Attorney General first issues such regulations.

(2) The Attorney General, in carrying out section 602, may permit such section to be waived in the case of an individual during a continuous period of unemployment for whom an application for unemployment benefits is pending as of a date that is on or before the effective date specified under paragraph (1).

(d) BROAD DISSEMINATION OF INFORMATION.—Before the effective dates specified in subsections (b) and (c), the Attorney General shall broadly disseminate information regarding the restrictions on eligibility established under this part.

PART 2—EARNED INCOME TAX CREDIT

SEC. 611. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS NOT AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES.

(a) IN GENERAL.—Section 32(c)(1) of the Internal Revenue Code of 1986 (relating to individuals eligible to claim the earned income tax credit) is amended by adding at the end the following new subparagraph:

"(F) IDENTIFICATION NUMBER REQUIREMENT.—The term 'eligible individual' does not include any individual who does not include on the return of tax for the taxable year—

"(i) such individual's taxpayer identification number, and

"(ii) if the individual is married (within the meaning of section 7703), the taxpayer identification number of such individual's spouse."

(b) SPECIAL IDENTIFICATION NUMBER.—Section 32 of the Internal Revenue Code of 1986 (relating to earned income) is amended by adding at the end the following new subsection:

"(k) IDENTIFICATION NUMBERS.—For purposes of subsections (c)(1)(F) and (c)(3)(D), a taxpayer identification number means a social security number issued to an individual by the Social Security Administration (other

than a social security number issued pursuant to clause (II) (or that portion of clause (III) that relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security Act)."

(c) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Section 6213(g)(2) of the Internal Revenue Code of 1986 (relating to the definition of mathematical or clerical errors) is amended by striking "and" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting ", and", and by inserting after subparagraph (E) the following new subparagraph:

"(F) an omission of a correct taxpayer identification number required under section 23 (relating to credit for families with younger children) or section 32 (relating to the earned income tax credit) to be included on a return.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

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

SEC. 621. GROUND FOR INADMISSIBILITY.

(a) IN GENERAL.—Paragraph (4) of section 212(a) (8 U.S.C. 1182(a)) is amended to read as follows:

"(4) PUBLIC CHARGE.—

"(A) FAMILY-SPONSORED IMMIGRANTS.—Any alien who seeks admission or adjustment of status under a visa number issued under section 203(a), who cannot demonstrate to the consular officer at the time of application for a visa, or to the Attorney General at the time of application for admission or adjustment of status, that the alien's age, health, family status, assets, resources, financial status, education, skills, or a combination thereof, or an affidavit of support described in section 213A, or both, make it unlikely that the alien will become a public charge (as determined under section 241(a)(5)(B)) is inadmissible.

"(B) NONIMMIGRANTS.—Any alien who seeks admission under a visa number issued under section 214, who cannot demonstrate to

the consular officer at the time of application for the visa that the alien's age, health, family status, assets, resources, financial status, education, skills or a combination thereof, or an affidavit of support described in section 213A, or both, make it unlikely that the alien will become a public charge (as determined under section 241(a)(B)(5)) is inadmissible.

"(C) EMPLOYMENT-BASED IMMIGRANTS.—

"(i) IN GENERAL.—Any alien who seeks admission or adjustment of status under a visa number issued under paragraph (2) or (3) of section 203(b) who cannot demonstrate to the consular officer at the time of application for a visa, or to the Attorney General at the time of application for admission or adjustment of status, that the immigrant has a valid offer of employment is inadmissible.

"(ii) CERTAIN EMPLOYMENT-BASED IMMIGRANTS.—Any alien who seeks admission or adjustment of status under a visa number issued under section 203(b) by virtue of a classification petition filed by a relative of the alien (or by an entity in

which such relative has a significant ownership interest) is inadmissible unless such relative has executed an affidavit of support described in section 213A with respect to such alien.".

(b) EFFECTIVE DATE.—(1) Subject to paragraph (2), the amendment made by subsection (a) shall apply to applications submitted on or after such date, not earlier than 30 days and not later than 60 days after the date the Attorney General promulgates under section 632(f) a standard form for an affidavit of support, as the Attorney General shall specify.

(2) Section 212(a)(4)(C)(i) of the Immigration and Nationality Act, as amended by subsection (a), shall apply only to aliens seeking admission or adjustment of status under a visa number issued on or after October 1, 1996.

SEC. 622. GROUND FOR DEPORTABILITY.

(a) IN GENERAL.—Paragraph (5) of section 241(a) (8 U.S.C. 1251(a)) is amended to read as follows:

"(5) PUBLIC CHARGE.—

"(A) IN GENERAL.—Any alien who, within 7 years after the date of entry or admission, becomes a public charge is deportable.

"(B) EXCEPTIONS.—(i) Subparagraph (A) shall not apply if the alien establishes that the

alien has become a public charge from causes that arose after entry or admission. A condition that the alien knew (or had reason to know) existed at the time of entry or admission shall be deemed to be a cause that arose before entry or admission.

"(ii) The Attorney General, in the discretion of the Attorney General, may waive the application of subparagraph (A) in the case of an alien who is admitted as a refugee under section 207 or granted asylum under section 208.

"(C) INDIVIDUALS TREATED AS PUBLIC CHARGE.—For purposes of this title, an alien is deemed to be a 'public charge' if the alien receives benefits (other than benefits described in subparagraph (E)) under one or more of the public assistance programs described in subparagraph (D) for an aggregate period of at least 12 months within 7 years after the date of entry. The previous sentence shall not be construed as excluding any other bases for considering an alien to be a public charge, including bases in effect on the day before the date of the enactment of the Immigration in the National Interest Act of 1995. The Attorney Gen-

eral, in consultation with the Secretary of Health and Human Services, shall establish rules regarding the counting of health benefits described in subparagraph (D)(iv) for purposes of this subparagraph.

"(D) PUBLIC ASSISTANCE PROGRAMS.—For purposes of subparagraph (B), the public assistance programs described in this subparagraph are the following (and include any successor to such a program as identified by the Attorney General in consultation with other appropriate officials):

"(i) SSI.—The supplemental security income program under title XVI of the Social Security Act, including State supplementary benefits programs referred to in such title.

"(ii) AFDC.—The program of aid to families with dependent children under part A or E of title IV of the Social Security Act.

"(iii) SOCIAL SERVICES BLOCK GRANT.—The program of block grants to States for social services under title XX of the Social Security Act.

"(iv) MEDICAID.—The program of medical assistance under title XIX of the Social Security Act.

"(v) FOOD STAMPS.—The program under the Food Stamp Act of 1977.

"(vi) STATE GENERAL CASH ASSISTANCE.—A program of general cash assistance of any State or political subdivision of a State.

"(vii) HOUSING ASSISTANCE.—Financial assistance as defined in section 214(b) of the Housing and Community Development Act of 1980.

"(E) CERTAIN ASSISTANCE EXCEPTED.—For purposes of subparagraph (B), an alien shall not be considered to be a public charge on the basis of receipt of any of the following benefits:

"(i) EMERGENCY MEDICAL SERVICES.—The provision of emergency medical services (as defined by the Attorney General in consultation with the Secretary of Health and Human Services).

"(ii) PUBLIC HEALTH IMMUNIZATIONS.—Public health assistance for im-

munizations with respect to immunizable diseases and for testing and treatment for communicable diseases.

"(iii) SHORT-TERM EMERGENCY DISASTER RELIEF.—The provision of noncash, in-kind, short-term emergency disaster relief.".

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a) shall take effect as of the first day of the first month beginning at least 30 days after the date of the enactment of this Act.

(2) In applying section 241(a)(5)(C) of the Immigration and Nationality Act, as amended by subsection (a), no receipt of benefits under a public assistance program before the effective date described in paragraph (1) shall be taken into account.

Subtitle C—Attribution of Income and Affidavits of Support

SEC. 631. ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO FAMILY-SPONSORED IMMIGRANTS.

(a) FEDERAL PROGRAMS.—Notwithstanding any other provision of law, in determining the eligibility and the amount of benefits of an alien for any Federal means-tested public benefits program (as defined in subsection

(d)) the income and resources of the alien shall be deemed to include—

(1) the income and resources of any individual who executed an affidavit of support pursuant to section 213A of the Immigration and Nationality Act (as inserted by section 632(a)) in behalf of such alien, and

(2) the income and resources of the spouse (if any) of the individual.

(b) PERIOD OF ATTRIBUTION.—

(1) PARENTS OF UNITED STATES CITIZENS.—Subsection (a) shall apply with respect to an alien who is admitted to the United States as the parent of a United States citizen under section 512 until the alien is naturalized as a citizen of the United States.

(2) SPOUSES OF UNITED STATES CITIZENS AND LAWFUL PERMANENT RESIDENTS.—Subsection (a) shall apply with respect to an alien who is admitted to the United States as the spouse of a United States citizen or lawful permanent resident under section 511 or section 512 until—

(A) 7 years after the date the alien is lawfully admitted to the United States for permanent residence, or

(B) the alien is naturalized as a citizen of the United States,

whichever occurs first.

(3) MINOR CHILDREN OF UNITED STATES CITIZENS AND LAWFUL PERMANENT RESIDENTS.—Subsection (a) shall apply with respect to an alien who is admitted to the United States as the minor child of a United States citizen or lawful permanent resident under section 511 or section 512 until the child attains the age of 21 years or, if earlier, the date the child is naturalized as a citizen of the United States.

(4) ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES ENDED IF SPONSORED ALIEN BECOMES ELIGIBLE FOR OLD-AGE BENEFITS UNDER TITLE II OF THE SOCIAL SECURITY ACT.—

(A) Notwithstanding any other provision of this section, subsection (a) shall not apply and the period of attribution of a sponsor's income and resources under this subsection shall terminate if the alien is employed for a period sufficient to qualify for old age benefits under title II of the Social Security Act and the alien is able to prove to the satisfaction of the Attorney General that the alien qualifies.

(B) The Attorney General shall ensure that appropriate information pursuant to subparagraph (A) is provided to the System for Alien Verification of Eligibility (SAVE).

(c) OPTIONAL APPLICATION TO STATE PROGRAMS.—

(1) AUTHORITY.—Notwithstanding any other provision of law, in determining the eligibility and the amount of benefits of an alien for any State means-tested public benefits program, the State or political subdivision that offers the program is authorized to provide that the income and resources of the alien shall be deemed to include—

(A) the income and resources of any individual who executed an affidavit of support pursuant to section 213A of the Immigration and Nationality Act (as inserted by section 632(a)) in behalf of such alien, and

(B) the income and resources of the spouse (if any) of the individual.

(2) PERIOD OF ATTRIBUTION.—The period of attribution of a sponsor's income and resources in determining the eligibility and amount of benefits for an alien under any State means-tested public benefits program pursuant to paragraph (1) may not

exceed the Federal period of attribution with respect to the alien.

(d) MEANS-TESTED PROGRAM DEFINED.—In this section:

(1) The term "means-tested public benefits program" means a program of public benefits (including cash, medical, housing, and food assistance and social services) of the Federal Government or of a State or political subdivision of a State in which the eligibility of an individual, household, or family eligibility unit for benefits under the program, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.

(2) The term "Federal means-tested public benefits program" means a means-tested public benefits program of (or contributed to by) the Federal Government.

(3) The term "State means-tested public benefits program" means a means-tested public benefits program that is not a Federal means-tested program.

SEC. 632. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

(a) IN GENERAL.—Title II is amended by inserting after section 213 the following new section:

"REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT

"SEC. 213A. (a) ENFORCEABILITY.—(1) No affidavit of support may be accepted by the Attorney General or by any consular officer to establish that an alien is not inadmissible as a public charge under section 212(a)(4) unless such affidavit is executed by a sponsor of the alien as a contract—

"(A) that is legally enforceable against the sponsor by the Federal Government and by any State (or any political subdivision of such State) that provides any means-tested public benefits program, until the expiration of the 10-year period described in subsection (b)(4); and

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

"(2)(A) An affidavit of support shall be enforceable with respect to benefits provided under any means-tested public benefits program for an alien who is admitted to the United States as the parent of a United States citizen under section 512 until the alien is naturalized as a citizen of the United States.

"(B) An affidavit of support shall be enforceable with respect to benefits provided under any means-tested public benefits program for an alien who is admitted to the United States as the spouse of a United States citizen or lawful permanent resident under section 511 or section 512 until—

"(i) 7 years after the date the alien is lawfully admitted to the United States for permanent residence, or

"(ii) such time as the alien is naturalized as a citizen of the United States,

whichever occurs first.

"(C) An affidavit of support shall be enforceable with respect to benefits provided under any means-tested public benefits program for an alien who is admitted to the United States as the minor child of a United States citizen or lawful permanent resident under section 511 or section 512 until the child attains the age of 21 years.

"(D)(i) Notwithstanding any other provision of this subparagraph, a sponsor shall be relieved of any liability under an affidavit of support if the sponsored alien is employed for a period sufficient to qualify for old age benefits under title II of the Social Security Act and the sponsor or alien is able to prove to the satisfaction of the Attorney General that the alien qualifies.

"(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, the means to maintain an annual income equal to at least 200 percent of the poverty level for the individual and the individual's family (including the alien and any other aliens with respect to whom the individual is a sponsor); and

"(E) is petitioning for the admission of the alien under section 204.

"(2) FEDERAL POVERTY LINE.—The term 'Federal poverty line' means the income official poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) that is applicable to a family of the size involved.

"(3) MEANS-TESTED PUBLIC BENEFITS PROGRAM.—The term 'means-tested public benefits program' means a program of public benefits (including cash, medical, housing, and food assistance and social services) of the Federal Government or of a State or political subdivision of a State in which the eligibility of an individual, household, or family eligibility unit for benefits under the program, or the amount of such benefits, or both are determined on

the basis of income, resources, or financial need of the individual, household, or unit.".

(b) REQUIREMENT OF AFFIDAVIT OF SUPPORT FROM EMPLOYMENT SPONSORS.—For requirement for affidavit of support from individuals who file classification petitions for a relative as an employment-based immigrant, see the amendment made by section 621(a).

(c) SETTLEMENT OF CLAIMS PRIOR TO NATURALIZATION.—Section 316(a) (8 U.S.C. 1427(a)) is amended—

(1) by striking "and" before "(3)", and

(2) by inserting before the period at the end the following: ", and (4) in the case of an applicant that has received assistance under a means-tested public benefits program (as defined in subsection (f)(3) of section 213A) administered by a Federal, State, or local agency and with respect to which amounts may be owing under an affidavit of support executed under such section, provides satisfactory evidence that there are no outstanding amounts that may be owed to any such Federal, State, or local agency pursuant to such affidavit by the sponsor who executed such affidavit".

(d) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 213 the following:

"Sec. 213A. Requirements for sponsor's affidavit of support.".

(e) EFFECTIVE DATE.—Subsection (a) of section 213A of the Immigration and Nationality Act, as inserted by subsection (a) of this section, shall apply to affidavits of support executed on or after a date specified by the Attorney General, which date shall be not earlier than 60 days (and not later than 90 days) after the date the Attorney General formulates the form for such affidavits under subsection (f) of this section.

(f) PROMULGATION OF FORM.—Not later than 90 days after the date of the enactment of this Act, the Attorney General, in consultation with the Secretary of State and the Secretary of Health and Human Services, shall promulgate a standard form for an affidavit of support consistent with the provisions of section 213A of the Immigration and Nationality Act.

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 811. COMMISSION REPORT ON FRAUD ASSOCIATED WITH BIRTH CERTIFICATES.

Section 141 of the Immigration Act of 1990 is amended—

(1) in subsection (b)—

(A) by striking "and" at the end of paragraph (1),

(B) by striking the period at the end of paragraph (2) and inserting "; and", and

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

"(3) transmit to Congress, not later than January 1, 1997, a report containing recommendations (consistent with subsection (c)(3)) of methods of reducing or eliminating the fraudulent use of birth certificates for the purpose of obtaining other identity documents that may be used in securing immigration, employment, or other benefits."; and

(2) by adding at the end of subsection (c) the following new paragraph:

"(3) FOR REPORT ON REDUCING BIRTH CERTIFICATE FRAUD.—In the report described in subsection (b)(3), the Commission shall consider and analyze the feasibility of—

"(A) establishing national standards for counterfeit-resistant birth certificates, and

"(B) limiting the issuance of official copies of a birth certificate of an individual to anyone other than the individual or others acting on behalf of the individual.".

SEC. 812. UNIFORM VITAL STATISTICS.

(a) PILOT PROGRAM.—The Secretary of Health and Human Services shall consult with the State agency responsible for registration and certification of births and deaths and, within 3 years of the date of enactment of this Act, shall establish a pilot program for 3 of the 5 States with the largest number of undocumented aliens of an electronic network linking the vital statistics records of such States. The network shall provide, where practical, for the matching of deaths with births and shall enable the confirmation of births and deaths of citizens of such States, or of aliens within such States, by any Federal or State agency or official in the performance of official

duties. The Secretary and participating State agencies shall institute measures to achieve uniform and accurate reporting of vital statistics into the pilot program network, to protect the integrity of the registration and certification process, and to prevent fraud against the Government and other persons through the use of false birth or death certificates.

(b) REPORT.—Not later than 180 days after the establishment of the pilot program under subsection (a), the Secretary shall issue a written report to Congress with recommendations on how the pilot program could effectively be instituted as a national network for the United States.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1996 and for subsequent fiscal years such sums as may be necessary to carry out this section.

104TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPT. 104–469
Part 1

IMMIGRATION IN THE NATIONAL INTEREST ACT OF 1995

REPORT

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

ON

H.R. 2202

together with

ADDITIONAL AND DISSENTING VIEWS

[Including cost estimate of the Congressional Budget Office]

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[To accompany H.R. 2202]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred 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, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

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:

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

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.

TITLE IV—ENFORCEMENT OF RESTRICTIONS AGAINST EMPLOYMENT

SEC. 401. STRENGTHENED ENFORCEMENT OF THE EMPLOYER SANCTIONS PROVISIONS.

(a) IN GENERAL.—The number of full-time equivalent positions in the Investigations Division within the Immigration and Naturalization Service of the Department of Justice beginning in fiscal year 1996 shall be increased by 350 positions above the number of full-time equivalent positions available to such Division as of September 30, 1994.

(b) ASSIGNMENT.—Individuals employed to fill the additional positions described in subsection (a) shall be assigned to investigate violations of the employer sanctions provisions contained in section 274A of the Immigration and Nationality Act, including investigating reports of violations received from officers of the Employment Standards Administration of the Department of Labor.

SEC. 402. STRENGTHENED ENFORCEMENT OF WAGE AND HOUR LAWS.

(a) IN GENERAL.—The number of full-time equivalent positions in the Wage and Hour Division with the Employment Standards Administration of the Department of Labor beginning in fiscal year 1996 shall be increased by 150 positions above the number of full-time equivalent positions available to the Wage and Hour Division as of September 30, 1994.

(b) ASSIGNMENT.—Individuals employed to fill the additional positions described in subsection (a) shall be assigned to investigate violations of wage and hour laws in areas where the Attorney General has notified the Secretary of Labor that there are high concentrations of undocumented aliens.

SEC. 403. CHANGES IN THE EMPLOYER SANCTIONS PROGRAM.

(a) REDUCING THE NUMBER OF DOCUMENTS ACCEPTED FOR EMPLOYMENT VERIFICATION.—Section 274A(b) (8 U.S.C. 1324a(b)) is amended—

(1) in paragraph (1)(B)—

(A) by adding "or" at the end of clause (i),

(B) by striking clauses (ii) through (iv), and

(C) in clause (v), by striking "or other alien registration card, if the card" and inserting ", alien registration card, or other document designated by regulation by the Attorney General, if the document" and redesignating such clause as clause (ii);

(2) by amending subparagraph (C) of paragraph (1) to read as follows:

"(C) SOCIAL SECURITY ACCOUNT NUMBER CARD AS EVIDENCE OF EMPLOYMENT AUTHORIZATION.—A document described in this subparagraph is an individual's social security account number card (other than such a card which specifies on the face that the issuance of the card does not authorize employment in the United States).."; and

(3) by amending paragraph (2) to read as follows:

"(2) INDIVIDUAL ATTESTATION OF EMPLOYMENT AUTHORIZATION AND PROVISION OF SOCIAL SECURITY ACCOUNT NUMBER.—The individual must—

"(A) attest, under penalty of perjury on the form designated or established for purposes of paragraph (1), that the individual is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Attorney General to be hired, recruited, or referred for such employment; and

"(B) provide on such form the individual's social security account number.".

(b) EMPLOYMENT ELIGIBILITY CONFIRMATION PROCESS.—Section 274A (8 U.S.C. 1324a) is amended—

(1) in subsection (a)(3), by inserting "(A)" after "DEFENSE.—", and by adding at the end the following:

"(B) FAILURE TO SEEK AND OBTAIN CONFIRMATION.—Subject to subsection (b)(7), in the case of a hiring of an individual for employment in the United States by a person or entity that employs more than 3 employees, the following rules apply:

"(i) FAILURE TO SEEK CONFIRMATION.—

"(I) IN GENERAL.—If the person or entity has not made an inquiry, under the mechanism established under subsection (b)(6), seeking confirmation of the identity, social security number, and work eligibility of the individual, by not later than the end of 3 working days (as specified by the Attorney General) after the date of the hiring, the defense under subparagraph (A) shall not be considered to apply with respect to any

employment after such 3 working days, except as provided in subclause (II).

"(II) SPECIAL RULE FOR FAILURE OF CONFIRMATION MECHANISM.—If such a person or entity in good faith attempts to make an inquiry during such 3 working days in order to qualify for the defense under subparagraph (A) and the confirmation mechanism has registered that not all inquiries were responded to during such time, the person or entity can make an inquiry in the first subsequent working day in which the confirmation mechanism registers no nonresponses and qualify for the defense.

"(ii) FAILURE TO OBTAIN CONFIRMATION.—If the person or entity has made the inquiry described in clause (i)(I) but has not received an appropriate confirmation of such identity, number, and work eligibility under such mechanism within the time period specified under subsection (b)(6)(D)(iii) after the time the confirmation inquiry was received, the defense under subparagraph (A) shall not be considered to apply with respect to any employment after the end of such time period.";

(2) by amending paragraph (3) of subsection (b) to read as follows:

"(3) RETENTION OF VERIFICATION FORM AND CONFIRMATION.—After completion of such form in accordance with paragraphs (1) and (2), the person or entity must—

"(A) retain the form and make it available for inspection by officers of the Service, the Special Counsel for Immigration-Related Unfair Employment Practices, or the Department of Labor during a period beginning on the date of the hiring, recruiting, or referral of the individual and ending—

"(i) in the case of the recruiting or referral for a fee (without hiring) of an individual, three years after the date of the recruiting or referral, and

"(ii) in the case of the hiring of an individual—

"(I) three years after the date of such hiring, or

"(II) one year after the date the individual's employment is terminated,

whichever is later; and

"(B) subject to paragraph (7), if the person employs more than 3 employees, seek to have (within 3 working days of the date of hiring) and have (within the time period specified under paragraph (6)(D)(iii)) the identity, social security number, and work eligibility of the individual confirmed in accordance with the procedures established under paragraph (6), except that if the person or entity in good faith attempts to make an inquiry in accordance with the procedures established under paragraph (6) during such 3 working days in order to fulfill the requirements under this subparagraph, and the confirmation mechanism has registered that not all inquiries were responded to during such time, the person or entity shall make an inquiry in the first subsequent working day in which the confirmation mechanism registers no nonresponses."; and

(3) by adding at the end of subsection (b) the following new paragraphs:

"(6) EMPLOYMENT ELIGIBILITY CONFIRMATION PROCESS.—

"(A) IN GENERAL.—Subject to paragraph (7), the Attorney General shall establish a confirmation mechanism through which the Attorney General (or a designee of the Attorney General which may include a nongovernmental entity)—

"(i) responds to inquiries by employers, made through a toll-free telephone line or other electronic media in the form of an appropriate confirmation code or otherwise, on whether an individual is authorized to be employed by that employer, and

"(ii) maintains a record that such an inquiry was made and the confirmation provided (or not provided).

"(B) EXPEDITED PROCEDURE IN CASE OF NO CONFIRMATION.—In connection with subparagraph (A), the Attorney General shall establish, in consultation with the Commissioner of Social Security and the Commissioner of the Service, expedited procedures that shall be used to confirm the validity of information used under the confirmation mechanism in cases in which the confirmation is sought but is not provided through the confirmation mechanism.

"(C) DESIGN AND OPERATION OF MECHANISM.—The confirmation mechanism shall be designed and operated—

"(i) to maximize the reliability of the confirmation process, and the ease of use by employers, recruiters, and referrers, consistent with in-

sulating and protecting the privacy and security of the underlying information, and

"(ii) to respond to all inquiries made by employers on whether individuals are authorized to be employed by those employers, recruiters, or referrers registering all times when such response is not possible.

"(D) CONFIRMATION PROCESS.—(i) As part of the confirmation mechanism, the Commissioner of Social Security shall establish a reliable, secure method, which within the time period specified under clause (iii), compares the name and social security account number provided against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided and whether the individual has presented a social security account number that is not valid for employment. The Commissioner shall not disclose or release social security information.

"(ii) As part of the confirmation mechanism, the Commissioner of the Service shall establish a reliable, secure method, which, within the time period specified under clause (iii), compares the name and alien identification number (if any) provided against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided and whether the alien is authorized to be employed in the United States.

"(iii) For purposes of this section, the Attorney General (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. In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Service, an expedited time period not to exceed 10 working days within which final confirmation or denial must be provided through the confirmation mechanism in accordance with the procedures under subparagraph (B).

"(iv) The Commissioners shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information.

"(E) PROTECTIONS.—(i) In no case shall an individual be denied employment because of inaccurate or inaccessible data under the confirmation mechanism.

"(ii) The Attorney General shall assure that there is a timely and accessible process to challenge nonconfirmations made through the mechanism.

"(iii) 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.

"(F) TESTER PROGRAM.—As part of the confirmation mechanism, the Attorney General shall implement a program of testers and investigative activities (similar to testing and other investigative activities assisted under the fair housing initiatives program under section 561 of the Housing and Community Development Act of 1987 to enforce rights under the Fair Housing Act) in order to monitor and prevent unlawful discrimination under the mechanism.

"(G) 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 for any action taken in good faith reliance on information provided through the employment eligibility confirmation mechanism established under this paragraph (including any pilot program established under paragraph (7)).

"(7) APPLICATION OF CONFIRMATION MECHANISM THROUGH PILOT PROJECTS.—

"(A) IN GENERAL.—Subsection (a)(3)(B) and paragraph (3) shall only apply to individuals hired if they are covered under a pilot project established under this paragraph.

"(B) UNDERTAKING PILOT PROJECTS.—For purposes of this paragraph, the Attorney General shall undertake pilot projects for all employers in at least 5 of the 7 States with the highest estimated population of unauthorized aliens, in order to test and assure that the confirmation mechanism described in paragraph (6) is reliable and easy to use. Such projects shall be initiated not later than 6 months after the date of the enactment of this paragraph. The Attorney General, however, shall not establish such mechanism in other States unless Congress so provides by law. The pilot projects shall terminate on such dates, not later than October 1, 1999, as the Attor-

ney General determines. At least one such pilot project shall be carried out through a nongovernmental entity as the confirmation mechanism.

"(C) REPORT.—The Attorney General shall submit to the Congress annual reports in 1997, 1998, and 1999 on the development and implementation of the confirmation mechanism under this paragraph. Such reports may include an analysis of whether the mechanism implemented—

"(i) is reliable and easy to use;

"(ii) limits job losses due to inaccurate or unavailable data to less than 1 percent;

"(iii) increases or decreases discrimination;

"(iv) protects individual privacy with appropriate policy and technological mechanisms; and

"(v) burdens individual employers with costs or additional administrative requirements.".

(c) REDUCTION OF PAPERWORK FOR CERTAIN EMPLOYEES.—Section 274A(a) (8 U.S.C. 1324a(a)) is amended by adding at the end the following new paragraph:

"(6) TREATMENT OF DOCUMENTATION FOR CERTAIN EMPLOYEES.—

"(A) IN GENERAL.—For purposes of paragraphs (1)(B) and (3), if—

"(i) an individual is a member of a collective-bargaining unit and is employed, under a collective bargaining agreement entered into between one or more employee organizations and an association of two or more employers, by an employer that is a member of such association, and

"(ii) within the period specified in subparagraph (B), another employer that is a member of the association (or an agent of such association on behalf of the employer) has complied with the requirements of subsection (b) with respect to the employment of the individual,

the subsequent employer shall be deemed to have complied with the requirements of subsection (b) with respect to the hiring of the employee and shall not be liable for civil penalties described in subsection (e)(5).

"(B) PERIOD.—The period described in this subparagraph is—

"(i) up to 5 years in the case of an individual who has presented documentation identifying the individual as a national of the United States or as an alien lawfully admitted for permanent residence; or

"(ii) up to 3 years (or, if less, the period of time that the individual is authorized to be employed in the United States) in the case of another individual.

"(C) LIABILITY.—

"(i) IN GENERAL.—If any employer that is a member of an association hires for employment in the United States an individual and relies upon the provisions of subparagraph (A) to comply with the requirements of subsection (b) and the individual is an unauthorized alien, then for the purposes of paragraph (1)(A), subject to clause (ii), the employer shall be presumed to have known at the time of hiring or afterward that the individual was an unauthorized alien.

"(ii) REBUTTAL OF PRESUMPTION.—The presumption established by clause (i) may be rebutted by the employer only through the presentation of clear and convincing evidence that the employer did not know (and could not reasonably have known) that the individual at the time of hiring or afterward was an unauthorized alien.".

(d) ELIMINATION OF DATED PROVISIONS.—Section 274A (8 U.S.C. 1324a) is amended by striking subsections (i) through (n).

(e) EFFECTIVE DATES.—

(1) Except as provided in this subsection, the amendments made by this section shall apply with respect to hiring (or recruiting or referring) occurring on or after such date (not later than 180 days after the date of the enactment of this Act) as the Attorney General shall designate.

(2) 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 (c) shall apply to individuals hired on or after 60 days after the date of the enactment of this Act.

(4) The amendment made by subsection (d) shall take effect on the date of the enactment of this Act.

(5) 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 I-9, in satisfaction of the requirements of section 274A(b)(3) of the Immigration and Nationality Act as amended by this Act.

SEC. 404. REPORTS ON EARNINGS OF ALIENS NOT AUTHORIZED TO WORK.

Subsection (c) of section 290 (8 U.S.C. 1360) is amended to read as follows:

"(c)(1) Not later than 3 months after the end of each fiscal year (beginning with fiscal year 1995), the Commissioner of Social Security shall report to the Committees on the Judiciary of the House of Representatives and the Senate on the aggregate number of social security account numbers issued to aliens not authorized to be employed to which earnings were reported to the Social Security Administration in such fiscal year.

"(2) If earnings are reported on or after January 1, 1996, to the Social Security Administration on a social security account number issued to an alien not authorized to work in the United States, the Commissioner of Social Security shall provide the Attorney General with information regarding the name and address of the alien, the name and address of the person reporting the earnings, and the amount of the earnings. The information shall be provided in an electronic form agreed upon by the Commissioner and the Attorney General.".

SEC. 405. AUTHORIZING MAINTENANCE OF CERTAIN INFORMATION ON ALIENS.

Section 264 (8 U.S.C. 1304) is amended by adding at the end the following new subsection:

"(f) Notwithstanding any other provision of law, the Attorney General is authorized to require any alien to provide the alien's social security account number for purposes of inclusion in any record of the alien maintained by the Attorney General or the Service.".

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 VIII—MISCELLANEOUS PROVISIONS

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 proc-

ess, 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.

EXPLANATION OF AMENDMENT

Because H.R. 2202 was ordered reported with a single amendment in the nature of a substitute, the contents of this report constitute an explanation of that amendment.

PURPOSE AND SUMMARY

TITLE II—ENFORCEMENT AGAINST ALIEN SMUGGLING AND DOCUMENT FRAUD

Illegal immigration is facilitated through criminal activity: alien smuggling, often carried out by organized criminal elements, and document fraud, including visa and passport fraud. Federal law enforcement should have the same tools to combat immigration crimes it does to combat other serious crimes that threaten public safety and national security. Thus, H.R. 2202 extends current wiretap and undercover investigation authority to the investigation of alien smuggling, document fraud, and other immigration-related crimes. It increases criminal penalties for alien smuggling and document fraud, establishes new civil penalties for document fraud, and extends coverage of the federal anti-racketeering statute (RICO) to organized criminal enterprises engaging in such activity.

TITLE IV—PREVENTING EMPLOYMENT OF ILLEGAL ALIENS

The magnet of jobs is a driving force behind illegal immigration. Despite federal laws prohibiting the hiring of illegal aliens, and requiring the verification of eligibility for all employees, an underground market in fraudulent documents permits illegal aliens to gain employment. Recent INS crackdowns demonstrate that illegal aliens work in a variety of industries and take jobs that could otherwise be filled by American workers. Enforcement, however, is hampered by a system that is difficult to implement and invites document fraud.

H.R. 2202 cuts from 29 to 6 the number of acceptable documents to establish eligibility to work. It also establishes pilot projects, to be operated in States with high levels of illegal immigration, for employers to verify through a simple phone call or computer message an employee's authorization to work. The system will work through existing databases, and not require creation of any new government database. The system also will assure employers that the employment eligibility information provided to them by employees is genuine. The system could not be established on a national basis without prior approval by Congress. H.R. 2202 also establishes pilot projects to improve the security of birth certificates and birth/death registries, all of which have been subject to fraudulent use by illegal immigrants for gaining work, public benefits, and even, in some cases, voting privileges.

TITLE VI—IMMIGRANTS AND PUBLIC BENEFITS

Immigrants should be self-sufficient. Yet, the most reliable studies show that immigrants receive $25 billion more in direct public benefits than they contribute in taxes—$16 billion for direct cash benefits and $9 billion for non-cash benefits such as Food Stamps and Medicaid. In addition, immigrant participation in Supplemental Security Income (SSI) has risen 580 percent during the past dozen years. H.R. 2202 reinforces prohibitions against receipt of public benefits by illegal immigrants, 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.

BACKGROUND AND NEED FOR THE LEGISLATION

As a nation of immigrants, the United States has a singular interest that its immigration laws encourage the admission of persons who will enrich our society. President Ronald Reagan aptly observed that our nation is "an island of freedom," political and economic, toward which the world has looked as both protector and exemplar. Unlimited immigration, however, is a moral and practical impossibility. We live in an age where the nations of the world are called upon to resolve the root causes—political, economic, and humanitarian—of migration pressures. In this context, the United States must exercise its national sovereignty to control its borders and pursue an immigration policy that serves the fundamental needs of the nation. In the words of the 1981 report of the Select Commission on Immigration and Refugee Policy ("Select Commission"), "[o]ur policy—while providing opportunity for a portion of the world's population—must be guided by the basic national interests of the United States." [1]

During the ensuing 15 years, that basic message has been lost. Serious immigration reform has been frustrated by our failure to define the national interests that must be served by U.S. immigration policy. A pervasive sense exists among the public that the Federal Government lacks the will and the means to enforce existing immigration laws.

The symptoms of this failure are manifest: four million illegal aliens residing in the United States, with an annual increase in illegal immigration of more than 300,000; tens of thousands of overseas visitors each year who overstay their visas and remain in the United States illegally; a deportation process that removes only a small fraction of illegal aliens; an asylum adjudications backlog of over 400,000; a program of employer sanctions that is confusing for employers, riddled with document fraud, and ineffective in deterring both the hiring of illegal aliens and the illegal entry of aliens seeking employment; and a legal immigration system that fails to unite nuclear families promptly, encourages the "chain migration" of extended families, and admits a vast majority of immigrants without any regard to levels of education or job skills.

H.R. 2202 seeks a fundamental re-orientation of immigration policy in the direction of the national interest. The Act will curb illegal immigration and establish a legal immigration system that is generous by historic standards and serves fundamental family, economic, and humanitarian needs. The bill is comprehensive because the crisis is so deep and the challenges presented by legal and illegal immigration so closely intertwined. All aspects of immigration law must be reformed to provide clear direction and purpose to those responsible for their enforcement, and to eliminate to the

[1] "Select Commission on Immigration and Refugee Policy, U.S. Immigration Policy and the National Interest," Joint Committee Print No. 8, Committees on the Judiciary of the House of Representatives and the United States Senate, 97th Cong., 1st Sess. 3 (1981) (referred to hereinafter as 1991 Select Commission Report).

greatest possible extent special provisions and exceptions that detract from these fundamental purposes. In short, our immigration laws should enable the prompt admission of those who are entitled to be admitted, the prompt exclusion or removal of those who are not so entitled, and the clear distinction between these categories.

To place H.R. 2202 in its proper context, a more detailed assessment of current immigration problems and past efforts and proposals for reform is appropriate.

III. EMPLOYER SANCTIONS AND VERIFICATION

The availability of jobs in the U.S. economy is a primary magnet for illegal immigration. The employment of illegal aliens, in turn, causes deleterious effects for U.S. workers.

First, illegal immigrants by and large are attracted to America by the lure of jobs. As Vernon M. Briggs, Jr., professor of labor economics at Cornell University, stated in testimony before the Subcommittee on Immigration and Claims on April 5, 1995, "It has long been conceded that the driving force behind illegal immigration is access to the U.S. labor market."[30] The U.S. Commission on Immigration Reform stated:

> Employment opportunity is commonly viewed as the principal magnet which draws illegal aliens to the United States. Since the beginning of U.S. history, foreigners have come to the United States in search of a better life. Whatever initially motivated them to come here, they often ended up seeking and finding employment. For years, U.S. policy tacitly accepted illegal immigration, as it was

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[29] *Fiallo* v. *Levi*, 406 F. Supp. 162 (S.D.N.Y.), aff'd, 430 U.S. 787 (1975); *Jean* v. *Nelson*, 472 U.S. 846, aff'g, 727 F.2d 957 (11th Cir. 1984); *Kleindienst* v. *Mandel*, 408 U.S. 753 (1972) (alien's presence in U.S. is privilege extended by Congress and not fundamental right.) See also *Alvarez* v. *INS*, 539 F.2d 1220 (9th Cir.), cert. denied, 430 U.S. 918 (1976) (applying rational basis test to equal protection claim for impermissible classification of aliens).

[30] "Impact of Illegal Immigration on Public Benefit Programs and the American Labor Force: Hearing Before the Subcomm. on Immigration and Claims of the House Comm. on the Judiciary," 104th Cong., 1st Sess. (1995) (Statement of Vernon M. Briggs, Jr.).

> viewed by some to be in the interests of certain employers and the American public to do so.[31]

This "tacit acceptance" of illegal immigration was reflected in the fact that, until the last decade, no law prohibited the employment of illegal aliens. The Select Commission on Immigration and Refugee Policy (1981) stated that "[a]s long as the possibility of employment exists, men and women seeking economic opportunities will continue to take great risks to come to the United States, and curbing illegal immigration will be extremely difficult."[32] The Select Commission concluded that economic deterrents—specifically, a law prohibiting the hiring of undocumented or illegal aliens—were necessary to curb illegal immigration.

Second, employment of illegal aliens is having a detrimental effect on low skilled American workers. Professor Briggs testified further that:

> Every study of illegal immigration of which I am aware has concluded that it is the low skilled sector of the U.S. labor force that bears the brunt of the economic burden. For illegal immigrants are overwhelmingly found in the secondary labor market of the U.S. economy. This segment of the labor market is characterized by jobs that require little in the way of skill to do them and the workers have little in the way of human capital to offer. The concentration of illegals in the secondary labor market occurs because most of the illegal immigrants themselves are unskilled, poorly educated, and non-English speaking which restricts the range of jobs . . . they can seek. . . . Although occupational definitions vary, it can be crudely estimated that about one quarter to one-third of the U.S. labor force are employed in jobs that are predominately concentrated in the secondary labor market. This high percentage certainly belies the claim that U.S. citizens and resident aliens will not work in these low skilled occupations.[33]

Dean Frank Morris of Morgan State University concluded at the same hearing that "it is time that the labor market effects, especially the labor market effects of illegal immigration on African Americans and other low income workers be addressed as a top priority."[34] More recently, a paper from the Bureau of Labor Statistics reported that immigration accounts for as much as 50 percent of the decline in real wages of high school dropouts, and for approximately 25 percent of the increase in the wage gap between low- and high-skilled workers.[35]

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[31] 1994 Commission Report at 88 (1994).

[32] 1981 Select Commission Report, supra note 1, at 59.

[33] See Briggs testimony, supra note 30.

[34] "Impact of Illegal Immigration on Public Benefit Programs and the American Labor Force: Hearing Before the Subcomm. on Immigration and Claims of the House Comm. on the Judiciary," 104th Cong., 1st Sess. (1995) (Statement of Frank Morris).

[35] David A. Jaeger, "Skill Differences and the Effect of Immigrants on the Wages of Natives," U.S. Dep't of Labor, Bureau of Labor Statistics, Office of Employment Research and Program Development, Working Paper 273 (Dec. 1995).

The Immigration Reform and Control Act

Laws against the employment of illegal aliens ("employer sanctions") were considered by Congress as early as the 1952 Immigration and Nationality Act. The endorsement by the Select Commission in 1981 provided a strong impetus for the passage of such measures, and employer sanctions became a part of the Simpson-Mazzoli immigration reform bill, eventually enacted as the Immigration Reform and Control Act of 1986 (IRCA).

IRCA's employer sanctions and verification provisions prohibit employers from knowingly hiring aliens who are not authorized to work in the United States.[36] IRCA also requires that employers verify the employment eligibility and identity of all new employees by examining documents provided by new employees, and by completing the Employment Eligibility Verification Form (INS Form I-9). IRCA also prohibited discrimination in employment based on national origin or citizenship status, except with respect to persons not authorized to work in the United States.[37] Enforcement of the IRCA provisions, however, has been hampered by rampant use of fraudulent documents, confusion on the part of employers, and continued access by illegal aliens to jobs and public benefits.[38]

Work eligibility documents and document fraud

The 29 documents that may be used to establish identification and eligibility to work are divided by statute and regulation into three categories:

So-called "A List" documents establish both work eligibility and identification. An employee producing one of these 12 documents does not need to produce any other document.[39]

"B List" documents establish identity only. The most common document produced from this list is the driver's license.[40]

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[36] Title I of Pub.L. 99-603, Nov. 6, 1986, as amended, enacting section 274A of the Immigration and Nationality Act (INA). The penalties include fines from $100 to $1000 per individual for "paperwork" violations (failure to properly complete the Form I-9); fines of $250 to $10,000 for knowingly hiring, continuing to employ, recruiting, or referring an unauthorized alien to work; and criminal penalties for engaging in a pattern or practice of violating the employer sanctions provisions.

Generally, those unauthorized to work are illegal aliens and holders of certain nonimmigrant visas that do not permit employment. However, one may be a "legal alien" (for example someone who is present legally in the United States pursuant to a type of nonimmigrant visa that does not authorize employment) but not be authorized to work. Similarly, one can be an illegal alien, but be authorized to work. (This latter category would include certain asylum applicants and aliens awaiting completion of deportation proceedings.) Lawful permanent residents are always authorized to work.

[37] Section 102 of IRCA, adding section 274B of the INA. Section 274B provides for creation within the Department of Justice of a Special Counsel for Immigration-Related Unfair Employment Practices ("Special Counsel" or "OSC"). The Special Counsel employs approximately 14 attorneys and 3 investigators to investigate charges of discrimination received from the public. The Immigration Act of 1990 increased the fines that may be imposed for discrimination violations to levels equivalent to those imposed for employer sanctions violations.

[38] See generally "Verification of Eligibility for Employment and Benefits: Hearing Before the Subcomm. on Immigration and Claims of the House Comm. on the Judiciary," 104th Cong., 1st Sess. (March 30, 1995).

[39] These include a U.S passport, certificate of citizenship, certificate of naturalization, Alien Registration Receipt Card (I-151) or Resident Alien Card (I-551—"Green Card"), unexpired foreign passport stamped by the INS to indicate employment authorization, Temporary Resident Card (INS Form 688), Employment Authorization Card (Form I-688A), reentry permit (Form I-327), Refugee Travel document (Form I-571), employment authorization document issued by INS bearing a photograph. See 8 C.F.R. 274a.2(b)(1)(v)(A).

[40] There are 10 such documents, including a state driver's license or identification card with a photograph or identifying information, a school ID card with photograph, a voter registration card, and a U.S. military or dependent's ID card. See 8 CFR 274a.2(b)(v)(B).

"C List" documents establish employment eligibility only. The most common documents produced from this list are birth certificates and the social security card.[41]

The employer's responsibility is limited to determining whether or not the documents "appear" to be genuine; they are allowed a good faith defense and are not liable for verifying the validity of the documents. However, employers are the initial enforcers of the employment eligibility restrictions.

The number of permissible documents has long been subject to criticism. The INS published a proposed regulation in 1993 (with a supplement published on June 22, 1995) to reduce the number of documents from 29 to 16. This proposal, however, does not reflect the consensus of opinion that documents should be reduced even further, and that documents that are easily counterfeited should be eliminated entirely.

The problem of document fraud is pervasive. Social security cards, birth certificates, and the alien registration cards ("green cards") are the most commonly used employment eligibility documents. They are also the ones most prone to counterfeit, the incidence of which has increased sharply since the passage of IRCA. Birth certificates, even if issued by lawful authority, may be fraudulent in that they do not belong to the person who has requested that one be issued. This problem is exacerbated by the large number of authorities—numbering in the thousands—that issue birth certificates.

Enforcement issues

A majority of employers comply with both the employment restriction and verification requirements of IRCA. Nevertheless, enforcement of employer sanctions has been beset by difficulty from the start. Among the chief problems have been:

The fact that workers may present any of a large number of documents, some of which may be obscure or unfamiliar, in order to establish the worker's identification and eligibility to be employed;

A proliferation of fraudulent documents, particularly birth certificates, social security cards, drivers' licenses, and INS work authorization cards, that are used to establish identity and eligibility to be employed;

Employer confusion regarding the requirements for verification of work eligibility;

Allegations that fear of liability for hiring unauthorized workers has led some employers to discriminate against job applicants who appear to be foreign-born;

Tepid enforcement efforts by the INS on the hiring of unauthorized workers and an overemphasis on paperwork violations (failure to fully or correctly complete the I–9 form).

Employers also report feeling trapped between the work verification and anti-discrimination provisions of IRCA. "As a result of inconsistent and confused government regulations, policies or pro-

[41] There are 7 such documents, including the social security card, a certificate of birth abroad issued by the Department of State, an original or certified copy of a birth certificate, or an employment authorization card issued by the INS, but not included in List A. See 8 CFR 274a.2(b)(v)(C).

nouncements, compliance with one of these precepts sometimes inevitably means violation of the other."[42] As a result, some businesses take a less aggressive posture in identifying fraudulent documents, and thus hire (even if unknowingly) aliens not authorized to work.

[42] Hearing before the Subcomm. on Immigration, Refugees, and International Law of the House Comm. on the Judiciary, 103rd Cong., 2d Sess. 83-84 (Oct. 3, 1994) (statement of Daryl Buffenstein, President-Elect of the American Immigration Lawyers Association).

C. Reform Proposals

Commission on immigration reform

The Commission on Immigration Reform has recommended a significant redefinition of priorities and a reallocation of existing admission numbers to ensure that immigration continues to serve our national interests. The Commission defined several principles that should guide immigration policy: the establishment of clear goals and priorities; the enforcement of immigration limits; regular periodic review; clarity and efficiency; enforcement of the financial responsibility of sponsors to prevent immigrants from becoming dependent on public benefits; protection of American workers; coherence; and "Americanization"—the assimilation of immigrants to become effective citizens.

The Commission recommended that there be three major categories of legal immigration—family-based, skills-based, and refugees. The current category for diversity admissions would be eliminated.

Within the family category, the spouses and minor children of U.S. citizens would be admitted on an unlimited basis, as under

[61] Harisiades v. Shaughnessy, 342 U.S. 580 (1952); Fiallo v. Bell, 430 U.S. 787 (1977); Plyler v. Doe, 457 U.S. 202 (1982).

current law. The parents of citizens could also be admitted, but with stricter sponsorship requirements than currently exist. Third priority would be given to the spouses and minor children of lawful permanent residents. The proposed 400,000 cap for family admissions would accommodate current demand in these categories and allow for growth in the unlimited category of spouses and children of citizens. In addition, the Commission would make available 150,000 additional visas during each of the first 5 years to clear the backlog of spouses and children ("nuclear family") of lawful permanent residents.

The Commission also proposed the elimination of the following family categories: adult unmarried sons and daughters of U.S. citizens; adult unmarried sons and daughters of lawful permanent residents; adult married sons and daughters of citizens; and brothers and sisters of adult U.S. citizens. This was done for several reasons: to focus priority on the admission of nuclear family members; to reduce the waiting time for nuclear family members of lawful permanent residents without raising overall immigration numbers; and to eliminate the extraordinary backlogs in these categories that undermine credibility of the immigration system. Most importantly, the Commission believes that "[u]nless there is a compelling national interest to do otherwise, immigrants should be chosen on the basis of the skills they contribute to the U.S. economy." Admission of nuclear family members and refugees present such a compelling interest, but admission of more extended family members solely on the basis of their family relationship is not as compelling.[62]

The Commission recommended that up to 100,000 skills-based immigrants be admitted each year in two basic categories: those exempt from labor market testing, and those subject to labor testing. The exempt category would include aliens with extraordinary ability, multinational executives and managers, entrepreneurs, and ministers and religious workers. Others that would be subject to labor market testing include professionals with advanced degrees and baccalaureate degrees, and skilled workers with 5 years specialized experience. The category for unskilled workers would be eliminated. In place of the current labor certification process, those immigrants subject to labor market testing could only be admitted if their prospective employer paid a substantial fee and demonstrated appropriate attempts to find qualified U.S. workers. The fee would be used to support private sector initiatives for the education and training of U.S. workers. In addition, such immigrants would be admitted on a conditional basis that would convert to permanent status after 2 years if the immigrant was still employed by the same employer at the attested original wage or higher.

The Commission recommended that 50,000 admission numbers be allocated each year to refugees, not including the adjustment to permanent resident status of aliens already present in the U.S. who are granted asylum. Refugee admissions could exceed 50,000 in the case of an emergency, or through approval by Congress.

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[62] 1995 Commission Report at 72.

Administration

The Clinton Administration has not formally submitted to Congress recommended legislation on legal immigration reform. However, in testimony before the Senate Subcommittee on Immigration in September 1995, the Commissioner of the INS outlined the Administration's proposal on this subject.[63] The proposal would call for a flexible annual admissions ceiling of approximately 500,000, including family and employment-based admissions, but not refugees. The diversity category would be eliminated.

The Administration would maintain the current unlimited admissions for spouses, minor children, and parents of U.S. citizens, and also preserve categories for the adult children of U.S. citizens and lawful permanent residents. The category for brothers and sisters of citizens would be eliminated. The plan makes no specific provision for backlog clearance for nuclear family members of lawful permanent residents. However, the Administration believes that recent increases in applications for naturalization, combined with a new "Naturalization 2000" program being implemented by the INS, will result in naturalization of most of the sponsoring aliens who are currently lawful permanent residents. This will "move" the backlog into the unlimited category for admission of spouses and minor children of U.S. citizens. The Administration has estimated that this may increase the number of admissions in this unlimited category by as much as 60,000 per year, which would cause a concomitant increase in the overall annual admissions figure. The Administration would admit 100,000 employment-based immigrants and eliminate the current category for unskilled workers.

On refugees, the Administration would retain current law, which permits the ceiling to be set by the President on an annual basis after consultation with Congress. The State Department has projected that refugee admissions, which are to be 90,000 in FY 1996, will decrease to 70,000 in FY 1997 and 50,000 thereafter.[64]

V. PUBLIC BENEFITS

As a matter of national policy regarding immigration and welfare, self-sufficiency has been a basic principle of United States immigration law since this country's earliest immigration statutes. It continues to be the immigration policy of the United States that aliens within the nation's borders not depend on taxpayer-funded public resources to meet their needs, but rather rely on their own capabilities and the resources of their families, their sponsors, and private organizations. The availability of taxpayer-funded public benefits should not constitute an incentive for immigration to the United States.

Since 1882, aliens have been excludable from admission to the U.S. if found likely to become "public charges."[65] Since 1917, aliens have been subject to deportation from the U.S. for becoming public charges after entry from causes arising before entry. By regulation and administrative practice, the State Department and the INS

[63] "Legal Immigration Reform: Hearing Before the Subcommittee on Immigration of the Senate Judiciary Committee", 104th Cong., 1st Sess. (September 13, 1995) (Statement of Doris Meissner, Commissioner, Immigration and Naturalization Service).

[64] 1995 Commission Report at 136.

[65] INA §212(a)(4), 8 U.S.C. §1182(a)(4).

permit those immigrants who would otherwise be excluded as public charges to overcome exclusion through an affidavit of support, which is executed by a person who agrees to provide financial support for the alien (the alien's "sponsor").

Despite the long-standing principle of self-sufficiency, aliens have been applying for and receiving public benefits from Federal, State and local governments at increasing rates. Only a negligible number of aliens are deported on public charge grounds. Further, various State court decisions and decisions by immigration courts have held that the affidavits of support, as currently constituted, do not impose a binding obligation on sponsors to reimburse welfare agencies that provide public benefits to sponsored aliens. As a result, these provisions have been wholly incapable of assuring that individual aliens not burden the public benefits system and, consequently, the taxpayer.

Many studies at the national, State, and local levels have examined the use of public benefits by non-citizens. One of the better of these studies was recently conducted by Professor George J. Borjas, formerly of the University of California at San Diego and presently at Harvard University. Professor Borjas, a Cuban immigrant to the U.S. who specializes in economics, concluded in his study "Immigration and Welfare, 1970–1990" that immigrants use public benefits to a greater degree than citizens, and estimated that the annual cost to the American taxpayer of providing means-tested public assistance to immigrants, deducting the amount they pay in taxes, is $16 billion.[66] Professor Borjas cites that 9.1 percent of immigrant households received cash welfare assistance in 1990, compared with 7.4 percent of native households.[67] The average amount of cash assistance received by an immigrant household was $5,400 annually, compared with $4,000 for a native household.[68] Further, from 1970–1990 the total amount of cash assistance received by immigrant households was 56 percent higher than would have been the case if immigrants used the welfare system to the same extent as natives.[69] In a more recent study, Professor Borjas has found that 26 percent of immigrant households receive some form of public benefits. In the Supplemental Security Income program alone, immigrant applications increased 580 percent from 1982–1994, compared to a 49 percent increase for natives.[70]

Allowing immigrants to become dependent on public assistance undermines America's historic immigration policy that those who come to the country be and remain self-sufficient. Welfare destroys the recipient's work incentives, encourages the breakdown of the family unit, and transmits dependency across generations. Further, it keeps immigrants from becoming productive participants in American society.

The Committee believes that 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 the longstanding tenets of national immigration policy. It is also a com-

[66] George J. Borjas, Immigration and Welfare, 1970–1990 23 (Nat'l Bur. Econ. Res. Working Paper No. 4872, Sept. 1994).
[67] Id. at 4-5.
[68] Id. at 9.
[69] Id. at 20.
[70] Social Security Administration.

pelling government interest to remove the incentive for illegal immigration provided by the easy availability of public benefits. Finally, with respect to the State authority to make determinations concerning alien eligibility for public benefits in this legislation, a State that chooses to follow the Federal classification in determining the eligibility of aliens for public benefits shall be deemed by any Federal or State court to have chosen the least restrictive means available for achieving the compelling governmental interest of assuring that aliens be self-reliant in accordance with national immigration policy.

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

Sections 201 through 205 permit the INS to seek wiretap authorization under 18 U.S.C. 2516(1) in investigations of alien smuggling and document fraud; make document fraud and alien smuggling crimes indictable as racketeering offenses under the Racketeer Influenced and Corrupt Organizations Act (RICO); increase criminal penalties for alien smuggling, particularly where the smuggling is done for financial gain, involves criminal aliens, or multiple illegal entries; increase the number of U.S. attorneys available for the prosecution of immigration crimes; and expand the undercover investigations authority of the INS.

Section 211 through 216 increase civil and criminal penalties for document fraud, and establish new penalties for knowing preparation or presentation of fraudulent documents, and for making false claims to citizenship. Section 221 extends asset forfeiture authority under 18 U.S.C. 982(a) in the case of aliens convicted of passport or visa fraud, and section 222 permits the issuance of subpoenas for bank records in investigating such crimes.

TITLE IV—EMPLOYER SANCTIONS AND VERIFICATION

H.R. 2202 recognizes that the solution to the problems in employer sanctions is twofold. First, the number of employment eligibility documents employers are required to review must be reduced. Currently, employees can submit one or more of 29 different documents. Title IV reduces this to six: a passport or alien registration card or resident alien card, or a social security card in combination with a driver's license or state ID card.

More importantly, there must be an authoritative check of the veracity of the documents provided by new employees. Such a ver-

[93] Id.

ification mechanism will be instituted on a pilot basis, using existing databases of the SSA and the INS. Every person in America authorized to work receives a social security number. Aliens legally in this country (and many illegal aliens) have alien identification numbers issued by the INS. If a verification mechanism could compare the social security (and, for a noncitizen, alien number) provided by new employees against the existing databases, individuals presenting fictitious numbers and counterfeit documents, or who are not authorized to be employed, would be identified. A verification system could "prevent use of never-issued numbers, numbers restricted to nonwork purposes, and numbers belonging to deceased people."[94]

Title IV will institute pilot projects testing this verification mechanism in at least five of the seven states with the highest estimated populations of illegal aliens. All employers in such states having 4 or more employees will be involved. The pilots will terminate no later than October 1, 1999. The mechanism cannot be expanded nationwide without authorization by Congress.

The verification mechanism would work as follows: As under current law, once an applicant has accepted a job offer, he or she will present certain documents to the employer. The employer, within three days of the hire, must examine the document(s) to determine whether they reasonably appear on their face(s) to be genuine and complete an I–9 form attesting to this examination.

The employer will also have three days from the date of hire (which can be before the date the new employee actually reports to work) to make an inquiry by phone or other electronic means to the confirmation office established to run the mechanism. Additional time will be provided in the event the confirmation office cannot respond to all inquiries. If the new hire claims to be a citizen, the employer will transmit his or her name and social security number. The confirmation office will compare the name and social security number provided against information contained in the Social Security Administration database. If the new hire claims to be a noncitizen, the employer will transmit his or her name, social security number and alien identification number. The alien number is needed despite the fact that all work authorized aliens have social security numbers because (1) in some instances a social security number will not have been issued by the time of the verification attempt and (2) the SSA database does not provide information on changes in work eligibility status occurring after the number is issued. The confirmation office will compare the name and social security number provided against information contained in the SSA database and will compare the name and alien number provided against information contained in the INS database.

When the confirmation office ascertains that the new hire is eligible to work, the operator will within three days so inform the employer and provide a confirmation number. If the confirmation office cannot confirm the work eligibility of the new hire, it will within three days so inform the employer of a tentative nonconfirmation and provide a tentative nonconfirmation number.

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[94] Social Security Administration, Department of Health and Human Services, A Social Security Number Validation System: Feasibility, Costs, and Privacy Considerations 2 (1988) (hereinafter cited as Social Security Number Validation System).

If the new hire wishes to contest this finding, "secondary verification" will be undertaken. Secondary verification is an expedited procedure set up to confirm the validity of information contained in the government databases and provided by the new hire. Under this process, the new hire will typically contact or visit the SSA and/or INS to see why the government records disagree with the information he or she has provided. If the new hire requests secondary verification, he or she cannot be fired on the basis of the tentative nonconfirmation. The employee has 10 days to reconcile the discrepancy. If the discrepancy is reconciled, then confirmation of work eligibility and a confirmation number is given to the employer by the end of this period. If the discrepancy is not reconciled or the employee does not attempt to reconcile the information, then final denial of confirmation and a final nonconfirmation number will be given by the end of this period; the employer must then dismiss the new hire as being ineligible to work in the United States.[95]

Title IV provides protection to both employers and employees. Employers will be shielded from liability for actions they take in good faith reliance on information provided by the confirmation mechanism. Employees who would not have been dismissed from their jobs but for errors contained in the databases or made by the verification mechanism will be entitled to compensation through the Federal Tort Claims Act.

Title IV's verification mechanism will most likely reduce any temptation to engage in employment discrimination based on considerations of national origin. Currently, employers might be tempted not to hire job applicants who look or sound "foreign" in order to protect themselves from being penalized for hiring illegal aliens. After the verification mechanism is implemented, employers will receive independent confirmation that their new hires are work-authorized. The temptation to worry—and to discriminate—will be greatly reduced. As to any burden secondary verification may place on employers, it must be remembered that verification can only take place after an employee is offered a job. Thus, if an employer were to revoke a job offer because secondary verification were required, the employee would immediately know that illegal verification-related discrimination had taken place and could file a complaint with the Justice Department's Office of Special Counsel.

The verification mechanism also does not present civil liberties concerns. The system requires no new document, let alone anything approaching a "national ID" card. It requires no modification of existing identification documents. It requires no new federal government database and entails the collection by the federal government of no new data. It relies on information that the SSA and the INS have been recording for years. Employees' privacy is protected since the information contained in the existing government databases cannot be disseminated, under penalty of law to employers or anyone else. Employers will merely be told yes (information provided by an employee matches information contained in the databases and the person is eligible to work), or that secondary verification

[95] The process under which discrepancies are investigated and either reconciled or not reconciled is called "secondary verification." See notes 100–103 and accompanying text.

is required (the information indicates that the employee is not authorized to work or that there is a discrepancy) and later, whether secondary verification was or was not successful in confirming the identity and work eligibility of the employee.

Verification mechanisms like that proposed by Title IV have in fact been tested in recent years. In the late 1980's, the Social Security Administration tested a system in which about 1,500 volunteer employers received confirmation of work authorization of prospective employees and new hires by telephoning Social Security and transmitting social security numbers.[96] Upon evaluation of the pilot, it was determined that "given sufficient leadtime and resources, a [social security number] validation system using public telephone lines could be developed."[97] Since 1992, the INS has been testing a "telephone verification system" with first nine and now 223 volunteer employers who check the eligibility to work of new hires identifying themselves as aliens by contacting the system through telephones and "point-of-sale" devices and transmitting alien numbers.[98]

Employers who took part in the first phase of the INS' pilot program: (1) unanimously recommended that it be implemented as a permanent program; (2) unanimously indicated that they would be willing to pay for the service; (3) indicated in 100 percent of the monthly survey responses that overall procedures were beneficial; (4) indicated in 100 percent of the monthly survey responses that primary verification was easy to use; (5) indicated in 99 percent of the monthly survey responses that primary verification was useful; and (6) indicated in 99 percent of the monthly survey responses that secondary verification response was satisfactory.[99]

Questions have been raised about the accuracy of data in the SSA and INS databases, based on the apparently high rates of secondary verification required in both the SAVE program (Systematic Alien Verification for Entitlements) and the INS and Social Security pilot projects testing verification.[100] The concern is misplaced. Secondary verification is ordered whenever an employee or benefits applicant provided information that does not match that in the database. It typically involves a review of the files by the applicable government agency and can take from a few days to a few weeks. Secondary verification does not necessarily mean database error; it is often the fault of the employee or the applicant for mistakenly

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[96] See Social Security Number Validation System.

[97] Id. at 7.

[98] Office of Information Resources Management, Records Systems Division, SAVE Program Branch, Immigration and Naturalization Service, Telephone Verification System (TVS) Pilot: Report on the Demonstration Pilot-Phase 1 (1993) (hereinafter cited as Telephone Verification System).

[99] Id. at 9–10, 16.

[100] The SAVE program, established by section 121 of IRCA, requires state social service agencies to check alien eligibility for federal benefits through an INS database. See Verification of Eligibility for Employment and Benefits: Hearing Before the Subcomm. on Immigration and Claims of the House Comm. on the Judiciary, 104th Cong., 1st Sess. 36–37 (March 30, 1995) (Statement of Robert L. Bach, Executive Associate Commissioner, Policy and Planning, Immigration and Naturalization Service).

In FY 1994, the SAVE system secondary verification rate was 17 percent. See 1994 Commission Report at 74. The INS pilot project registered a 28 percent secondary verification rate from April to December 1993. See Telephone Verification System at 11. The Social Security Administration pilot project (conducted from January 1987 to October 1988) registered a 17 percent secondary verification rate. See Social Security Number Validation System at 6.

providing erroneous information or deliberately providing fictitious information.[101]

In cases where the alien has assumed a fictitious identity or is legally present but not authorized to work, secondary verification will reveal that the system worked properly in declining to provide employment eligibility confirmation. In cases where the alien is eligible to work but provided incorrect information or there was an error in the INS database, secondary verification should result in confirmation of employment eligibility. In the Social Security Administration pilot, only 12 percent of individuals initially denied confirmation bothered to contact the Administration,[102] indicating the other 88 percent were probably not eligible to work to begin with. In the first phase of the INS pilot, secondary verification confirmed noneligibility to work 43 percent of the time.[103]

The Principal Deputy Commissioner of the Social Security Administration testified before the Subcommittee on Immigration and Claims on June 29, 1995, that "[o]ur information on name, social security number, and so forth, so far as we know is absolutely accurate." Asked whether he "perceive[d] any problem being able to identify whether there's an individual with a particular social security number", he responded in the negative.[104] The Executive Associate Commissioner for Policy and Planning of the INS testified before the Subcommittee on March 30, 1995, that the INS is pursuing initiatives to "reduce[] error and creat[e] a capacity for resolving any errors which might now exist. The goal of these improvements is to enable INS to provide timely and accurate responses to verification requests."[105]

TITLE VI—ELIGIBILITY FOR BENEFITS AND SPONSORSHIP

This title is designed to continue the long-standing principle in U.S. immigration policy that immigrants be self-reliant and not depend on the American taxpayer for financial support. Current eligibility rules, unenforceable financial support agreements, and poorly-defined public charge provisions have undermined the tradition of self-sufficiency among the immigrant community. As a result, the cost to the American taxpayer of providing public benefits to immigrants has been in the tens of billions of dollars every year. Title VI specifies that illegal aliens are not eligible for most public benefits, makes enforceable the grounds for denying entry or removing aliens who are or are likely to become public charges, and makes those who agree to sponsor immigrants legally responsible to support them.

Section 601 makes illegal aliens ineligible for means-tested public benefits and government contracts. Federal agencies must require that applicants show one of six documents to prove eligibility to receive benefits, and State agencies are authorized to require documentation of eligibility to receive benefits. This section also requires verification of citizenship or legal resident status for the receipt of any Federal student financial assistance.

Section 621 strengthens the grounds for inadmissibility as a public charge by stating that a family-sponsored immigrant or a nonimmigrant is inadmissible if the alien cannot demonstrate that the alien's age, health, family status, education, skills, affidavit of support, or a combination thereof make it unlikely that the alien will become a public charge. An employment-based immigrant, other than an immigrant of extraordinary ability, is inadmissible unless the immigrant has employment at the time of immigration. An employment-sponsored immigrant working in a business owned by a member of his family must obtain a affidavit of support.

Section 622 strengthens the grounds for removal as a public charge by extending the time period within which such removal may occur to seven years from the date of admission, provided the alien's public charge status stems from causes arising before admission. An alien is considered to be a public charge if the alien receives benefits under Supplemental Security Income, Aid to Families with Dependent Children, Medicaid, Food Stamps, State general assistance or Federal Housing Assistance for an aggregate of twelve months within the seven-year period. More flexible standards are established for battered spouses and children.

Section 631 specifies that a sponsor's income and resources are available to the sponsored alien for the purpose of qualifying for public benefits. A legally binding affidavit of support is created for those who wish to sponsor immigrants into the U.S. The length of time for deeming income and for which the sponsorship contract is enforceable is as follows: for parents of U.S. citizens, through the time the parent becomes a citizen; for spouses of U.S. citizens and

lawful permanent residents, until the earlier of seven years after the date the spouse becomes a permanent resident or the date the spouse becomes a citizen; and for minor children, until the child reaches 21 years of age. The deeming period may end earlier if the alien works long enough to qualify for social security retirement income.

Section 632 requires that a sponsor must be the individual who is petitioning for the alien's admission (or an individual who accepts joint and several liability with the petitioner under the affidavit of sponsorship); be a U.S. citizen or permanent resident; be at least 18 years old; live in the U.S.; and demonstrate the means to maintain an annual income equal to at least 200 percent of the poverty level (unless the sponsor is on active-duty status in the U.S. military, in which case the requirement is 100 percent) for the individual and the sponsored alien. Certain provisions also were modified to provide greater flexibility to grant benefits to battered spouses and children.

HEARINGS

The Committee's Subcommittee on Immigration and Claims held one day of hearings on H.R. 1915 on June 29, 1995. Testimony was received from 19 witnesses, representing 19 organizations, with additional material submitted by 5 individuals and organizations.

COMMITTEE CONSIDERATION

On July 20, 1995, the Subcommittee on Immigration and Claims met in open session and ordered reported the bill H.R. 1915, as amended and as a clean bill, by a voice vote, a quorum being present. The clean bill was introduced on August 4, 1995, as H.R. 2202. On October 24, 1995, the Committee met in open session and ordered reported the bill H.R. 2202 with an amendment by a recorded vote of 23 to 10, a quorum being present.

VOTE OF THE COMMITTEE

Voice votes

Sixty-four amendments were adopted by a voice vote. These were: (1) An amendment by Mr. Smith of Texas to extend the effective date for new border crossing card requirements; (2) an amendment by Mr. Canady to provide specific penalties for making false claims of citizenship when registering to vote or voting; (3A) an amendment by Mr. Goodlatte to strike section 212(i) of the Immigration and Nationality Act, thus eliminating waivers of exclusion for aliens who have previously committed misrepresentations to immigration officials; (3B) an amendment by Mr. Berman to restore a modified version of the waiver under section 212(i) of the INA; (4) an amendment by Mr. Berman to provide an exception for aliens with work authorization and an exception for aliens under family unity protection to the 10 year bar on admission for aliens residing illegally in the United States for greater than 1 year; (5) an amendment by Mr. Smith of Texas to extend expedited removal

[111] Id. at B3–176.

procedures to aliens interdicted at sea and brought to the United States; (6) an amendment by Mr. Smith of Texas to preclude any private right of action arising out of mandates imposed on government officials under section 305; (7) an amendment by Mr. Smith of Texas to specify procedures for the detention and removal of stowaways; (8) an amendment by Mr. Smith of Texas to provide that a stowaway's application for asylum shall be considered under procedures for expedited removal; (9) an amendment by Mr. Bryant of Tennessee to the definition of a stowaway; (10) an amendment by Mr. Bryant of Tennessee to strike increased penalties on airlines; (11) an amendment by Mr. McCollum to the definition of immigration judge and to specify compensation for immigration judges; (12) an amendment by Mr. Gallegly to strike amended requirements regarding transit without visa aliens; (13) an amendment by Mr. Gallegly to extend federal reimbursement of state expenses for incarceration to cases involving aliens with two or more misdemeanor convictions, and to include certain pre-trial detention; (14) an amendment by Mr. Smith of Texas to exempt alien women and children who have been battered or subject to extreme cruelty from being inadmissible to the United States on the ground that they are present without being lawfully admitted; (15) an amendment by Mrs. Schroeder to protect the confidentiality of claims for relief by a person who has been battered or subject to extreme cruelty, and to prevent the use of information provided solely by an abusive spouse or family member to make a determination of admissibility or deportability; (16) an amendment by Mr. Goodlatte to state that a returning lawful permanent resident shall be regarded as applying for admission if the alien attempts to enter the United States at a time or place other than as designated by an immigration officer or has not been admitted after inspection and authorization by an immigration officer; (17) an amendment by Mr. Goodlatte to state that, for purposes of the 10-year exclusion for aliens who have been unlawfully present for more than one year, no time in which an alien is under the age of 18 (original text specified age 21) shall be taken into account in determining the period of unlawful presence; (18) an amendment by Mr. Gallegly to provide that prisoner transfer treaties shall allow the Federal Government and States to keep original prison sentences in force in the event that transferred prisoners return to the United States prior to the completion of their prison terms; to provide that independent verification shall include the length of time a transferred alien is actually incarcerated in the foreign country; and to require that upon the request of a governor, the INS shall assist State courts in identifying aliens unlawfully present in the United States pending criminal prosecution; (19) an amendment by Mr. Frank to provide for judicial review of a determination that an alien is a representative of a terrorist organization; (20) an amendment by Mr. Berman to strike the requirement that an alien have been lawfully admitted to the United States to be eligible for cancellation of removal; to provide, for purposes of meeting the seven-year continuous physical presence requirement for cancellation of removal, that an alien who has departed the United States for 180 days shall not be considered to have broken continuous physical presence if the Attorney General finds that return could not be accomplished due

to emergent reasons; to provide that the provisions regarding calculation of continuous physical presence shall apply only to notices to appear for a deportation or removal proceeding filed after the date of enactment; and to limit to 4,000 in each year the number of aliens granted cancellation of removal; (21) an amendment by Mr. Hyde to provide that the amendments reducing the number of documents that may be presented by employees to establish identity and eligibility for employment shall take effect on a date designated by the Attorney General not later than 18 months after the date of enactment; (22) an amendment offered by Mr. Goodlatte to exempt from civil or criminal liability the action of any person taken in good faith reliance on information provided through the employment eligibility confirmation mechanism; (23) an amendment by Mr. Barr, with a perfecting amendment by Mr. Goodlatte, to state that the confirmation mechanism shall confirm whether an individual has presented a social security account number or an alien identification number that is not valid for employment; (24) an amendment by Mr. Goodlatte to change from 2 days to 3 days after date of employment the period within which an employer must make an inquiry into the confirmation mechanism; (25) an en bloc amendment by Mr. Goodlatte to make a conforming change to require that the employer inquire into the confirmation mechanism within 3 days of employment; to provide that operation of the confirmation mechanism may be carried out by a nongovernmental entity designated by the Attorney General; to require that the confirmation mechanism be designed to maximize reliability and ease of use, to respond to all inquiries and to register when such response is not possible; to provide that if an employer attempts to make an inquiry within the required 3 days of employment and the confirmation mechanism has registered that not all inquiries were responded to during that time, the employer can meet requirements for making such inquiries and qualify for the defense from liability extended to those who use the confirmation mechanism, if the employer makes the inquiry on the first subsequent working day in which the confirmation mechanism registers no nonresponses; to provide that the confirmation mechanism shall provide a confirmation or tentative nonconfirmation of an individual's employment eligibility within 3 days of the initial inquiry and that in the case of a tentative nonconfirmation, the Attorney General, in consultation with the Commissioner of Social Security and the Commissioner of the INS, shall provide an expedited time period, not more than 10 days, within which final confirmation or nonconfirmation must be provided; to require that within 180 days of enactment, the Attorney General shall issue regulations providing for the electronic storage of I–9 forms; to conform to current law the bill's references to "hiring" and "employment" by adding references to recruitment and referral for employment; (26) an amendment by Mr. Hoke, with an amendment by Mr. Becerra and a perfecting amendment by Mr. Hyde, to implement the confirmation mechanism as a series of pilot projects in 5 of the 7 States with the highest estimated population of unauthorized aliens, to terminate not later than October 1, 1999, and to require the Attorney General to submit annual reports on the pilot projects which may include analysis of whether the mechanism is reliable and

easy to use, limits job losses due to inaccurate data, increases or decreases discrimination, protects individual privacy, and burdens employers; (27) an amendment by Mr. Goodlatte to state that an employer's request for more or different documents than are required under section 274A(b) of the INA shall constitute an unfair immigration-related employment practice if done for the purpose of discriminating; (28) an amendment by Mr. Hyde to create a new second employment-based immigration preference for outstanding professors and researchers and multinational executives and managers; (29) an amendment by Mr. Hyde to provide a waiver from the requirement for labor certification for certain aliens who are members of the professions holding advanced degrees or aliens of exceptional ability if such waiver is necessary to advance the national interest in one of several specific areas; (30) an amendment by Mr. Hyde to strike the requirement that at least 50 percent of an immigrant's sons and daughters are lawful permanent residents or citizens residing in the United States in order for the immigrant to be admitted as the parent of a United States citizen; (31) an amendment by Mr. Gekas, with an amendment by Mr. Smith of Texas which was adopted on a roll call vote, to create a category for the admission as immigrants of the adult sons and daughters of United States citizens and lawful permanent residents if such immigrants are under age 26, never-married, childless, and considered as dependents for Federal income tax purposes, and to set numerical limits for the admission of such immigrants; (32) an amendment by Mr. Gekas, with an amendment by Mr. Smith of Texas which was adopted on a roll call vote, to change the experience requirements for immigrants admitted as professionals and skilled workers; an amendment by Ms. Lofgren to provide a waiver of the 10-year exclusion for aliens unlawfully present if the Attorney General determined that such waiver is necessary to substantially benefit the national interest in one of several specified areas; (33) an amendment by Mr. Gallegly to provide that work experience obtained while an alien is unauthorized to work in the United States shall not count to meet the experience requirements for immigrants admitted as professionals and skilled workers; (34) an amendment by Mr. Smith of Texas to provide for the admission as immigrants of certain adult disabled children of United States nationals and lawful permanent residents; (35) an amendment by Mr. Hyde to extend refugee protection to aliens who have resisted implementation of coercive population control measures; (36) an amendment by Mr. Smith of Texas to establish that not less than 25,000 immigrant visas will be available for the parents of United States citizens; (37) an amendment by Mr. McCollum to strike provisions for the adjustment of visa numbers for professionals and skilled workers to offset excess family admissions; (38) an amendment by Mr. McCollum to change deadlines for the filing of asylum applications, and to make other reforms to the asylum process, with an amendment by Mr. Frank adopted by a roll call vote to the provision for return of an alien to a safe third country; (39) an amendment by Mr. Schiff, with a substitute amendment by Mr. Hyde, to establish deadlines for the refugee consultation process; (40) an amendment by Mr. Bryant of Tennessee to permit the use of parole authority for the prosecution of aliens in U.S. courts; (41)

an en bloc amendment by Mr. Smith of Texas to exempt family violence services from the prohibition on receipt of public benefits by illegal aliens and to, in the case of an alien battered or subject to extreme cruelty by a spouse or parent (or, under certain conditions, another family member residing in the household); exempt the alien from the prohibition on receipt of public benefits if the alien has applied for a change in immigration status within 45 days of the first application for such public benefits; lengthen to 48 months the period of receipt of public benefits which would render the alien deportable as a public charge; modify the rules for attribution of a sponsor's income to the alien; exempt the alien from the requirement that public benefits paid to the alien be reimbursed prior to naturalization of the alien in the event that the battery or cruelty resulted in issuance of a judicial or administrative order and the need for the public benefits had a substantial nexus to the battery or cruelty; (42) an amendment by Mr. Smith of Texas to exempt school lunch and child nutrition benefits from the prohibition on receipt of public benefits by illegal aliens; (43) an amendment by Mr. Smith of Texas to provide that active-duty military personnel, in order to qualify as sponsors, must maintain an income at 100 percent of the poverty level; (44) an amendment by Mr. Smith of Texas to remove social services block grants from the list of public benefits receipt of which can be used to establish that an alien is a public charge; (45) an en bloc amendment by Mr. Smith of Texas to provisions regarding the protection of American workers from displacement through the H–1B nonimmigrant program, and other conforming changes; (46) an amendment by Mrs. Schroeder to require notification to arriving aliens from certain countries regarding female genital mutilation; (47) an amendment by Mr. McCollum offered to require immigrants to submit proof of vaccination against specified diseases; (48) an amendment by Mr. Gallegly to provide that reimbursement to hospitals for emergency medical services may be made for such services provided through a contract with another hospital or facility; (49) an amendment by Mr. Gallegly to require that the pilot project for linking vital statistics records in certain States be implemented within two years of the date of enactment; (50) an amendment by Mr. Gallegly to require verification of student eligibility for post-secondary federal student financial assistance; (51) an amendment by Mr. Gallegly, with an amendment by Mr. Hyde, regarding communication between State and local government agencies and the INS; (52) an amendment by Mr. Smith of Texas to exempt from limitations on adjustment of status an alien who has reasonable grounds to fear that he or she will be subject to battery or extreme cruelty if he or she departs from the United States; (53) an amendment by Mr. Reed to require that prior to the construction of new detention facilities for aliens, that the Commissioner of the INS consider the availability for purchase or lease of existing facilities; (54) an amendment by Ms. Lofgren to provide that an alien whose status is changed under section 248 of the INA may obtain a visa without departing from the United States; (55) an amendment by Mr. Nadler to provide that an illegal alien may receive emergency relief not limited to disaster relief; (56) an amendment by Mr. Reed to designate Portugal as a country eligible for the visa waiver pilot program; (57) an amend-

ment by Mr. Berman to strike the limitation on adjustment of status under section 245(i) of the INA and increase the charge for adjustment of status to $2,500; (58) an amendment by Mr. Becerra, with an amendment by Mr. Smith of Texas adopted by a voice vote, to provide reimbursement, subject to available appropriations, of fees paid by petitioners for eliminated family-sponsored categories; (59) an amendment by Mr. Berman regarding the confidentiality of the files of legalization applicants; (60) an en bloc amendment by Mr. Goodlatte to amend requirements on the hiring of H–1B nonimmigrants by removing the expanded 30-day period to approve a labor condition application for an H–1B-dependent employer; increasing the penalties for not fulfilling H–1B attestations; clarifying that firing an employee for poor performance does not violate the no-layoff provisions; establishing criteria for the determination of prevailing wages; and making other changes; (61) an amendment by Mr. Berman to extend civil penalties for document fraud to unauthorized preparers of forms, petitions, or applications; (62) an amendment by Mr. Frank to allow relief under the Federal Tort Claims Act for persons wrongly denied employment through operation of the employment eligibility verification mechanism; (63) an amendment by Mr. Berman to permit execution of an affidavit of support for an immigrant by an individual who will accept joint and several liability with the petitioner for the immigrant; (64) an amendment by Mr. Frank to establish criteria under which an employer may request additional employment eligibility documents from an employee.

Recorded votes

There were forty recorded votes (thirty-nine on amendments and one on final passage) during the Committee's consideration of H.R. 2202, as follows:

1. Amendment offered by Mr. Watt to strike the provisions regarding construction of fencing in the border area near San Diego. Defeated 11–17.

AYES	NAYS
Mr. Conyers	Mr. Hyde
Mrs. Schroeder	Mr. Moorhead
Mr. Berman	Mr. Sensenbrenner
Mr. Reed	Mr. Coble
Mr. Nadler	Mr. Smith (TX)
Mr. Scott	Mr. Schiff
Mr. Watt	Mr. Gallegly
Mr. Becerra	Mr. Canady
Mr. Serrano	Mr. Inglis
Ms. Lofgren	Mr. Goodlatte
Ms. Jackson Lee	Mr. Hoke
	Mr. Bono
	Mr. Heineman
	Mr. Bryant (TN)
	Mr. Chabot
	Mr. Barr
	Mr. Bryant (TX)

2. Amendment offered by Mr. Becerra to strike the 10-year readmission bar for aliens who have been present unlawfully in the U.S. for more than one year. Defeated 13–19.

AYES	NAYS
Mr. Conyers	Mr. Hyde
Mrs. Schroeder	Mr. Moorhead
Mr. Berman	Mr. Sensenbrenner
Mr. Boucher	Mr. McCollum
Mr. Bryant (TX)	Mr. Coble
Mr. Reed	Mr. Smith (TX)
Mr. Nadler	Mr. Schiff
Mr. Scott	Mr. Gallegly
Mr. Watt	Mr. Canady
Mr. Becerra	Mr. Inglis
Mr. Serrano	Mr. Goodlatte
Ms. Lofgren	Mr. Buyer
Ms. Jackson Lee	Mr. Hoke
	Mr. Bono
	Mr. Heineman
	Mr. Bryant (TN)
	Mr. Chabot
	Mr. Flanagan
	Mr. Barr

3. Amendment offered by Mr. Goodlatte to permanently exclude aliens from readmission into the U.S. if convicted of an aggravated felony. Adopted 14–8.[112]

AYES	NAYS
Mr. Hyde	Mr. Bono
Mr. Moorhead	Mr. Conyers
Mr. Sensenbrenner	Mrs. Schroeder
Mr. McCollum	Mr. Frank
Mr. Coble	Mr. Berman
Mr. Smith (TX)	Mr. Nadler
Mr. Schiff	Mr. Scott
Mr. Gallegly	Mr. Watt
Mr. Canady	
Mr. Goodlatte	
Mr. Heineman	
Mr. Bryant (TN)	
Mr. Chabot	
Mr. Reed	

4. Amendment offered by Mr. Watt to strike the provisions regarding the introduction of electronic surveillance information in special proceedings to remove an alien terrorist from the U.S. Defeated 10–16.[113]

AYES	NAYS
Mr. Bono	Mr. Hyde
Mr. Conyers	Mr. Sensenbrenner

[112] Ms. Jackson Lee stated for record that, had she been present, she would have voted "nay" on this amendment.

[113] Ms. Jackson Lee stated for record that, had she been present, she would have voted "aye" on this amendment.

Mrs. Schroeder
Mr. Frank
Mr. Berman
Mr. Nadler
Mr. Scott
Mr. Watt
Mr. Serrano
Ms. Lofgren

Mr. McCollum
Mr. Gekas
Mr. Coble
Mr. Smith (TX)
Mr. Schiff
Mr. Gallegly
Mr. Canady
Mr. Inglis
Mr. Goodlatte
Mr. Heineman
Mr. Bryant (TN)
Mr. Chabot
Mr. Boucher
Mr. Reed

5. Amendment offered by Mr. Nadler to limit the introduction of classified information in special proceedings for the removal of alien terrorists. Defeated 11–18.

AYES

Mr. Conyers
Mr. Frank
Mr. Berman
Mr. Reed
Mr. Nadler
Mr. Scott
Mr. Watt
Mr. Becerra
Mr. Serrano
Ms. Lofgren
Ms. Jackson Lee

NAYS

Mr. Hyde
Mr. Moorhead
Mr. McCollum
Mr. Coble
Mr. Smith (TX)
Mr. Gallegly
Mr. Canady
Mr. Inglis
Mr. Buyer
Mr. Hoke
Mr. Bono
Mr. Heineman
Mr. Bryant (TN)
Mr. Chabot
Mr. Flanagan
Mr. Barr
Mrs. Schroeder
Mr. Schumer

6. Amendment offered by Mr. Watt to require judicial review of an order to exclude an alien under procedures for expedited removal, including review of an asylum officer's determination that an inadmissible alien does not have a credible fear of persecution. Defeated 9–15.

AYES

Mr. Conyers
Mr. Frank
Mr. Berman
Mr. Reed
Mr. Scott
Mr. Watt
Mr. Becerra
Ms. Lofgren
Ms. Jackson Lee

NAYS

Mr. Hyde
Mr. McCollum
Mr. Coble
Mr. Smith (TX)
Mr. Gallegly
Mr. Inglis
Mr. Buyer
Mr. Hoke
Mr. Bono
Mr. Heineman

Mr. Chabot
Mr. Flanagan
Mr. Barr
Mr. Schumer
Mr. Bryant (TX)

7. Amendment offered by Mr. Chabot to strike provisions for an employment eligibility verification system. Defeated 15–17.[114]

AYES	NAYS
Mr. Sensenbrenner	Mr. Hyde
Mr. Inglis	Mr. Moorhead
Mr. Buyer	Mr. McCollum
Mr. Hoke	Mr. Gekas
Mr. Heineman	Mr. Coble
Mr. Chabot	Mr. Smith (TX)
Mr. Flanagan	Mr. Schiff
Mr. Conyers	Mr. Gallegly
Mrs. Schroeder	Mr. Canady
Mr. Reed	Mr. Goodlatte
Mr. Nadler	Mr. Bono
Mr. Watt	Mr. Bryant (TN)
Mr. Becerra	Mr. Barr
Mr. Serrano	Mr. Frank
Ms. Lofgren	Mr. Schumer
	Mr. Berman
	Mr. Bryant (TX)

8. Amendment offered by Mr. Berman to expand enforcement authority and penalties against labor standards violations. Defeated 13–18.

AYES	NAYS
Mr. Conyers	Mr. Hyde
Mrs. Schroeder	Mr. Moorhead
Mr. Frank	Mr. Sensenbrenner
Mr. Berman	Mr. McCollum
Mr. Boucher	Mr. Gekas
Mr. Bryant (TX)	Mr. Smith (TX)
Mr. Reed	Mr. Schiff
Mr. Nadler	Mr. Gallegly
Mr. Watt	Mr. Canady
Mr. Becerra	Mr. Inglis
Mr. Serrano	Mr. Goodlatte
Ms. Lofgren	Mr. Hoke
Ms. Jackson Lee	Mr. Bono
	Mr. Heineman
	Mr. Bryant (TN)
	Mr. Chabot
	Mr. Flanagan
	Mr. Barr

9. Amendment offered by Mr. Barr to exempt employers of three or less employees from the requirement to verify employment eligi-

[114] Ms. Jackson Lee stated for record that, had she been present, she would have voted "aye" on this amendment.

bility through the electronic verification mechanism. Adopted 16–13.[115]

AYES	NAYS
Mr. Moorhead	Mr. Hyde
Mr. Gekas	Mr. Sensenbrenner
Mr. Smith (TX)	Mr. McCollum
Mr. Gallegly	Mr. Schiff
Mr. Canady	Mr. Goodlatte
Mr. Inglis	Mr. Hoke
Mr. Bono	Mr. Bryant (TN)
Mr. Heineman	Mr. Frank
Mr. Flanagan	Mr. Schumer
Mr. Barr	Mr. Berman
Mr. Conyers	Mr. Watt
Mrs. Schroeder	Mr. Becerra
Mr. Boucher	Mr. Serrano
Mr. Reed	
Mr. Nadler	
Ms. Jackson Lee	

10. A perfecting amendment offered by Mr. Berman to remove from the substitute amendment offered by Mr. Smith of Texas to the amendment offered by Mr. Gekas the requirement that, in order to be eligible for an immigrant visa, the adult unmarried sons and daughters be claimed as dependents for Federal Income Tax purposes. Defeated 11–17.

AYES	NAYS
Mr. Conyers	Mr. Hyde
Mrs. Schroeder	Mr. Sensenbrenner
Mr. Frank	Mr. McCollum
Mr. Berman	Mr. Gekas
Mr. Nadler	Mr. Coble
Mr. Scott	Mr. Smith (TX)
Mr. Watt	Mr. Schiff
Mr. Becerra	Mr. Gallegly
Mr. Serrano	Mr. Canady
Ms. Lofgren	Mr. Goodlatte
Ms. Jackson Lee	Mr. Buyer
	Mr. Hoke
	Mr. Bono
	Mr. Heineman
	Mr. Chabot
	Mr. Flanagan
	Mr. Barr

11. A perfecting amendment offered by Mr. Becerra to remove from the substitute amendment offered by Mr. Smith of Texas to the amendment offered by Mr. Gekas the requirement that, in order to be eligible for an immigrant visa, a son or daughter be "never married" and to insert a requirement that the son or daughter be "unmarried." Defeated 11–19.

[115] Ms. Lofgren voted "present".

AYES	NAYS
Mr. Conyers	Mr. Hyde
Mrs. Schroeder	Mr. Sensenbrenner
Mr. Frank	Mr. McCollum
Mr. Berman	Mr. Gekas
Mr. Nadler	Mr. Coble
Mr. Scott	Mr. Smith (TX)
Mr. Watt	Mr. Schiff
Mr. Becerra	Mr. Gallegly
Mr. Serrano	Mr. Canady
Ms. Lofgren	Mr. Inglis
Ms. Jackson Lee	Mr. Goodlatte
	Mr. Buyer
	Mr. Hoke
	Mr. Bono
	Mr. Heineman
	Mr. Chabot
	Mr. Flanagan
	Mr. Barr
	Mr. Boucher

12. A substitute amendment offered by Mr. Smith of Texas to the amendment offered by Mr. Gekas to create a category for the admission of certain adult sons and daughters of citizens and permanent resident aliens. Adopted 17–12.

AYES	NAYS
Mr. Sensenbrenner	Mr. Hyde
Mr. McCollum	Mr. Conyers
Mr. Gekas	Mrs. Schroeder
Mr. Coble	Mr. Frank
Mr. Smith (TX)	Mr. Berman
Mr. Schiff	Mr. Boucher
Mr. Gallegly	Mr. Scott
Mr. Canady	Mr. Watt
Mr. Inglis	Mr. Becerra
Mr. Goodlatte	Mr. Serrano
Mr. Buyer	Ms. Lofgren
Mr. Hoke	Ms. Jackson Lee
Mr. Bono	
Mr. Heineman	
Mr. Chabot	
Mr. Flanagan	
Mr. Barr	

13. A substitute amendment offered by Mr. Smith of Texas to an amendment offered by Mr. Gekas to change the work experience requirements for aliens admitted as professionals or skilled workers. Adopted 17–9.

AYES	NAYS
Mr. Moorhead	Mr. Hyde
Mr. McCollum	Mr. Gekas
Mr. Coble	Mr. Inglis
Mr. Smith (TX)	Mr. Bono
Mr. Schiff	Mr. Chabot

Mr. Gallegly
Mr. Buyer
Mr. Hoke
Mr. Heineman
Mr. Conyers
Mr. Schumer
Mr. Berman
Mr. Bryant (TX)
Mr. Reed
Mr. Watt
Ms. Jackson Lee
Mr. Flanagan
Mr. Barr
Mr. Frank
Ms. Lofgren
Mrs. Schroeder

14. Amendment offered by Mr. Watt to eliminate the investor visa program. Defeated 8–20.

AYES	NAYS
Mr. Conyers	Mr. Hyde
Mr. Frank	Mr. Moorhead
Mr. Bryant (TX)	Mr. McCollum
Mr. Reed	Mr. Gekas
Mr. Scott	Mr. Coble
Mr. Watt	Mr. Smith (TX)
Mr. Becerra	Mr. Schiff
Mr. Serrano	Mr. Gallegly
	Mr. Canady
	Mr. Inglis
	Mr. Goodlatte
	Mr. Buyer
	Mr. Hoke
	Mr. Bono
	Mr. Heineman
	Mr. Chabot
	Mr. Flanagan
	Mr. Barr
	Mr. Berman
	Ms. Lofgren

15. Amendment offered by Mr. Watt to limit to 2,000 the numbers of visas available for investors. Defeated 10–18.

AYES	NAYS
Mr. Conyers	Mr. Hyde
Mr. Frank	Mr. Moorhead
Mr. Bryant (TX)	Mr. McCollum
Mr. Reed	Mr. Coble
Mr. Nadler	Mr. Smith (TX)
Mr. Scott	Mr. Schiff
Mr. Watt	Mr. Gallegly
Mr. Becerra	Mr. Canady
Mr. Serrano	Mr. Inglis
Ms. Jackson Lee	Mr. Goodlatte
	Mr. Buyer
	Mr. Bono
	Mr. Heineman
	Mr. Chabot
	Mr. Flanagan

Mr. Barr
Mr. Berman
Mr. Boucher

16. Amendment offered by Ms. Jackson Lee to extend the asylum filing deadline from 60 to 180 days. Defeated: 9–14.

AYES	NAYS
Mr. Conyers	Mr. Hyde
Mrs. Schroeder	Mr. McCollum
Mr. Frank	Mr. Gekas
Mr. Berman	Mr. Smith (TX)
Mr. Boucher	Mr. Gallegly
Mr. Nadler	Mr. Canady
Mr. Serrano	Mr. Goodlatte
Ms. Lofgren	Mr. Buyer
Ms. Jackson Lee	Mr. Bono
	Mr. Heineman
	Mr. Bryant (TN)
	Mr. Chabot
	Mr. Flanagan
	Mr. Barr

17. Amendment offered by Mr. Berman to strike the provisions reforming the legal immigration system (sections 500 through 517). Defeated 14–20.

AYES	NAYS
Mr. Chabot	Mr. Hyde
Mr. Conyers	Mr. Moorhead
Mrs. Schroeder	Mr. Sensenbrenner
Mr. Frank	Mr. McCollum
Mr. Schumer	Mr. Gekas
Mr. Berman	Mr. Coble
Mr. Reed	Mr. Smith (TX)
Mr. Nadler	Mr. Gallegly
Mr. Scott	Mr. Canady
Mr. Watt	Mr. Inglis
Mr. Becerra	Mr. Goodlatte
Mr. Serrano	Mr. Buyer
Ms. Lofgren	Mr. Hoke
Ms. Jackson Lee	Mr. Bono
	Mr. Heineman
	Mr. Bryant (TN)
	Mr. Flanagan
	Mr. Barr
	Mr. Boucher
	Mr. Bryant (TX)

18. Amendment offered by Mr. Frank to the amendment offered by McCollum to section 526 [now section 531] regarding the eligibility of aliens to apply for asylum. Adopted 18–11.

AYES	NAYS
Mr. Hyde	Mr. Sensenbrenner
Mr. Moorhead	Mr. McCollum
Mr. Schiff	Mr. Coble

Mr. Canady
Mr. Bono
Mr. Flanagan
Mr. Conyers
Mrs. Schroeder
Mr. Frank
Mr. Schumer
Mr. Berman
Mr. Boucher
Mr. Reed
Mr. Scott
Mr. Watt
Mr. Serrano
Ms. Lofgren
Ms. Jackson Lee
Mr. Smith (TX)
Mr. Gallegly
Mr. Inglis
Mr. Goodlatte
Mr. Buyer
Mr. Heineman
Mr. Bryant (TN)
Mr. Chabot

19. Perfecting amendment offered by Mr. Schiff to the substitute amendment offered by Mr. Hyde to the amendment offered by Mr. Schiff concerning the refugee consultation process, to permit the establishment of a higher refugee ceiling through the consultation process. Defeated 15–16.[116]

AYES	NAYS
Mr. Schiff	Mr. Hyde
Mr. Hoke	Mr. Moorhead
Mr. Chabot	Mr. Sensenbrenner
Mr. Flanagan	Mr. McCollum
Mr. Conyers	Mr. Smith (TX)
Mrs. Schroeder	Mr. Gallegly
Mr. Frank	Mr. Canady
Mr. Schumer	Mr. Inglis
Mr. Berman	Mr. Goodlatte
Mr. Reed	Mr. Buyer
Mr. Nadler	Mr. Bono
Mr. Scott	Mr. Heineman
Mr. Watt	Mr. Bryant (TN)
Mr. Becerra	Mr. Barr
Ms. Lofgren	Mr. Boucher
	Mr. Bryant (TX)

21. Amendment offered by Ms. Jackson Lee eliminating the cap on immediate relatives, restoring parents of citizens to the category of immediate relatives, and eliminating borrowing from employment based visas for family admissions. Defeated 16–16.

AYES	NAYS
Mr. Chabot	Mr. Hyde
Mr. Flanagan	Mr. Moorhead
Mr. Conyers	Mr. Sensenbrenner
Mrs. Schroeder	Mr. McCollum
Mr. Frank	Mr. Coble
Mr. Schumer	Mr. Smith (TX)
Mr. Berman	Mr. Schiff
Mr. Boucher	Mr. Canady

[116] Ms. Jackson Lee stated for the record that, had she been present, she would have voted "aye" on this amendment.

Mr. Reed	Mr. Inglis
Mr. Nadler	Mr. Goodlatte
Mr. Scott	Mr. Buyer
Mr. Watt	Mr. Hoke
Mr. Becerra	Mr. Bono
Mr. Serrano	Mr. Heineman
Ms. Lofgren	Mr. Bryant (TN)
Ms. Jackson Lee	Mr. Bryant TX)

20. Amendment offered by Mr. Berman regarding the admission of the spouses and children of aliens admitted as employment-based immigrants. Defeated 13–18.

AYES	NAYS
Mr. Conyers	Mr. Hyde
Mrs. Schroeder	Mr. Moorhead
Mr. Frank	Mr. Sensenbrenner
Mr. Berman	Mr. McCollum
Mr. Boucher	Mr. Smith (TX)
Mr. Bryant (TX)	Mr. Schiff
Mr. Reed	Mr. Canady
Mr. Nadler	Mr. Inglis
Mr. Scott	Mr. Goodlatte
Mr. Watt	Mr. Buyer
Mr. Becerra	Mr. Hoke
Mr. Serrano	Mr. Bono
Ms. Jackson Lee	Mr. Heineman
	Mr. Bryant (TN)
	Mr. Chabot
	Mr. Flanagan
	Mr. Barr
	Ms. Lofgren

21. Amendment offered by Ms. Jackson Lee eliminating the cap on immediate relatives, restoring parents of citizens to the category of immediate relatives, and eliminating borrowing from employment based visas for family admissions. Defeated 16–16.

AYES	NAYS
Mr. Chabot	Mr. Hyde
Mr. Flanagan	Mr. Moorhead
Mr. Conyers	Mr. Sensenbrenner
Mrs. Schroeder	Mr. McCollum
Mr. Frank	Mr. Coble
Mr. Schumer	Mr. Smith (TX)
Mr. Berman	Mr. Schiff
Mr. Boucher	Mr. Canady
Mr. Reed	Mr. Inglis
Mr. Nadler	Mr. Goodlatte
Mr. Scott	Mr. Buyer
Mr. Watt	Mr. Hoke
Mr. Becerra	Mr. Bono
Mr. Serrano	Mr. Heineman
Ms. Lofgren	Mr. Bryant (TN)
Ms. Jackson Lee	Mr. Bryant (TX)

22. Amendment offered by Mr. Schiff to permit an increase in the limit on refugee admissions through the refugee consultation process. Defeated 14–16.[117]

AYES	NAYS
Mr. Schiff	Mr. Hyde
Mr. Hoke	Mr. Moorhead
Mr. Chabot	Mr. Sensenbrenner
Mrs. Schroeder	Mr. McCollum
Mr. Frank	Mr. Gekas
Mr. Schumer	Mr. Smith (TX)
Mr. Berman	Mr. Gallegly
Mr. Boucher	Mr. Canady
Mr. Reed	Mr. Inglis
Mr. Nadler	Mr. Goodlatte
Mr. Scott	Mr. Buyer
Mr. Watt	Mr. Bono
Mr. Serrano	Mr. Heineman
Ms. Lofgren	Mr. Bryant (TN)
	Mr. Barr
	Mr. Bryant (TX)

23. Amendment offered by Mr. Nadler providing that the "public charge" ground for deportability would not apply in the case of a refugee or asylee. Defeated 7–14.[118]

AYES	NAYS
Mr. Conyers	Mr. Hyde
Mr. Berman	Mr. Moorhead
Mr. Nadler	Mr. Sensenbrenner
Mr. Scott	Mr. Smith (TX)
Mr. Watt	Mr. Canady
Mr. Becerra	Mr. Goodlatte
Ms. Lofgren	Mr. Bono
	Mr. Heineman
	Mr. Bryant (TN)
	Mr. Chabot
	Mr. Flanagan
	Mr. Barr
	Mr. Bryant (TX)
	Mr. Reed

24. Amendment offered by Mr. Bryant of TN requiring hospitals to provide that hospitals seeking federal reimbursement for the emergency treatment of illegal aliens shall promptly provide the INS with identifying information regarding the illegal alien. Defeated 11–15.[119]

AYES	NAYS
Mr. McCollum	Mr. Hyde
Mr. Smith (TX)	Mr. Moorhead
Mr. Inglis	Mr. Sensenbrenner

[117] Ms. Jackson Lee stated for the record that, had she been present, she would have voted "aye" on this amendment.
[118] Ms. Jackson Lee stated for the record that, had she been present, she would have voted "aye" on this amendment.
[119] Ms. Jackson Lee stated for the record that, had she been present, she would have voted "nay" on this amendment.

Mr. Buyer
Mr. Hoke
Mr. Bono
Mr. Heineman
Mr. Bryant (TN)
Mr. Chabot
Mr. Flanagan
Mr. Barr

Mr. Goodlatte
Mr. Conyers
Mrs. Schroeder
Mr. Schumer
Mr. Berman
Mr. Boucher
Mr. Bryant (TX)
Mr. Reed
Mr. Nadler
Mr. Watt
Mr. Becerra
Ms. Lofgren

25. Amendment offered by Mr. Moorhead providing that for purposes of computing prevailing wages in the H–1B program for nonprofit independent research organizations, the calculation shall take into account only employees at similar institutions and entities. Adopted 21–10.

AYES

Mr. Hyde
Mr. Moorhead
Mr. Sensenbrenner
Mr. McCollum
Mr. Coble
Mr. Smith (TX)
Mr. Schiff
Mr. Gallegly
Mr. Canady
Mr. Inglis
Mr. Goodlatte
Mr. Buyer
Mr. Hoke
Mr. Bono
Mr. Heineman
Mr. Bryant (TN)
Mr. Chabot
Mr. Flanagan
Mr. Barr
Mrs. Schroeder
Ms. Lofgren

NAYS

Mr. Conyers
Mr. Frank
Mr. Schumer
Mr. Berman
Mr. Boucher
Mr. Bryant (TX)
Mr. Reed
Mr. Nadler
Mr. Becerra
Ms. Jackson Lee

26. Amendment offered by Mr. Schumer limiting to 20 percent the number of H–1B immigrants that may be employed in any single employer's workforce. Defeated 8–18–1.[120]

AYES

Mrs. Schroeder
Mr. Frank
Mr. Schumer
Mr. Berman
Mr. Bryant (TX)
Mr. Reed
Mr. Nadler

NAYS

Mr. Hyde
Mr. Moorhead
Mr. Sensenbrenner
Mr. Smith (TX)
Mr. Gallegly
Mr. Canady
Mr. Inglis

[120] Mr. Becerra voted "present".

Mr. Watt	Mr. Goodlatte
	Mr. Buyer
	Mr. Hoke
	Mr. Bono
	Mr. Heineman
	Mr. Bryant (TN)
	Mr. Chabot
	Mr. Flanagan
	Mr. Barr
	Mr. Serrano
	Ms. Lofgren

27. An en bloc amendment offered by Ms. Lofgren to change the limitations in section 212(e) on the ability of participants in the Exchange Visitor Visa Program to apply for an immigrant visa. Defeated 10–15.

AYES	NAYS
Mr. Goodlatte	Mr. Hyde
Mr. Conyers	Mr. Moorhead
Mr. Frank	Mr. McCollum
Mr. Berman	Mr. Gekas
Mr. Bryant (TX)	Mr. Coble
Mr. Reed	Mr. Smith (TX)
Mr. Watt	Mr. Gallegly
Mr. Becerra	Mr. Canady
Ms. Lofgren	Mr. Inglis
Ms. Jackson Lee	Mr. Hoke
	Mr. Bono
	Mr. Heineman
	Mr. Chabot
	Mr. Flanagan
	Mr. Barr

28. Amendment offered by Mr. Goodlatte to the amendment offered by Mr. Schumer to restore the diversity immigrant program, to limit the foreign states whose nationals would be eligible for the program. Defeated 14–15.

AYES	NAYS
Mr. Moorhead	Mr. Hyde
Mr. Sensenbrenner	Mr. McCollum
Mr. Smith (TX)	Mr. Hoke
Mr. Canady	Mr. Bono
Mr. Inglis	Mr. Chabot
Mr. Goodlatte	Mr. Flanagan
Mr. Buyer	Mr. Conyers
Mr. Heineman	Mrs. Schroeder
Mr. Bryant (TN)	Mr. Frank
Mr. Barr	Mr. Schumer
Mr. Bryant (TX)	Mr. Berman
Mr. Watt	Mr. Boucher
Mr. Becerra	Mr. Reed
Ms. Lofgren	Mr. Nadler
	Ms. Jackson Lee

29. Amendment offered by Mr. Schumer, as amended by an amendment offered by Mr. Becerra and adopted by unanimous consent, to establish a diversity immigration program. Adopted 18–11.

AYES	NAYS
Mr. Hyde	Mr. Moorhead
Mr. McCollum	Mr. Sensenbrenner
Mr. Hoke	Mr. Gekas
Mr. Bono	Mr. Smith (TX)
Mr. Bryant (TN)	Mr. Gallegly
Mr. Flanagan	Mr. Canady
Mr. Barr	Mr. Inglis
Mr. Conyers	Mr. Goodlatte
Mr. Frank	Mr. Buyer
Mr. Schumer	Mr. Heineman
Mr. Berman	Mr. Bryant (TX)
Mr. Boucher	
Mr. Reed	
Mr. Nadler	
Mr. Watt	
Mr. Becerra	
Ms. Lofgren	
Ms. Jackson Lee	

30. Amendment offered by Mr. Becerra to limit actions that may be taken by an employer pending completion of the secondary verification process. Defeated 12–18.

AYES	NAYS
Mr. Conyers	Mr. Hyde
Mrs. Schroeder	Mr. Moorhead
Mr. Frank	Mr. Sensenbrenner
Mr. Berman	Mr. McCollum
Mr. Boucher	Mr. Gekas
Mr. Bryant (TX)	Mr. Coble
Mr. Reed	Mr. Smith (TX)
Mr. Nadler	Mr. Schiff
Mr. Watt	Mr. Gallegly
Mr. Becerra	Mr. Canady
Ms. Lofgren	Mr. Inglis
Ms. Jackson Lee	Mr. Goodlatte
	Mr. Buyer
	Mr. Bono
	Mr. Heineman
	Mr. Bryant (TN)
	Mr. Chabot
	Mr. Barr

31. Amendment offered by Mr. Goodlatte to change the percentage threshold for H–1B dependent employers and to provide a transitional program for certain H–1B dependent employers to become H–1B non-dependent employers. Adopted 22–11.

AYES	NAYS
Mr. Hyde	Mr. Conyers
Mr. Moorhead	Mr. Frank

Mr. Sensenbrenner
Mr. McCollum
Mr. Gekas
Mr. Coble
Mr. Smith (TX)
Mr. Schiff
Mr. Gallegly
Mr. Canady
Mr. Inglis
Mr. Goodlatte
Mr. Buyer
Mr. Hoke
Mr. Bono
Mr. Heineman
Mr. Bryant (TN)
Mr. Chabot
Mr. Flanagan
Mr. Barr
Mrs. Schroeder
Ms. Lofgren
Mr. Schumer
Mr. Berman
Mr. Boucher
Mr. Bryant (TX)
Mr. Reed
Mr. Nadler
Mr. Watt
Mr. Becerra
Ms. Jackson Lee

32. A perfecting amendment offered by Mr. Smith of Texas to an amendment offered by Mr. Becerra Amendment regarding reimbursement of fees to petitioners for immigrants in the eliminated family-sponsored categories. Adopted 18–13.

AYES	NAYS
Mr. Hyde	Mr. Heineman
Mr. Moorhead	Mr. Flanagan
Mr. Sensenbrenner	Mr. Conyers
Mr. McCollum	Mrs. Schroeder
Mr. Gekas	Mr. Schumer
Mr. Coble	Mr. Berman
Mr. Smith (TX)	Mr. Boucher
Mr. Gallegly	Mr. Reed
Mr. Canady	Mr. Nadler
Mr. Inglis	Mr. Watt
Mr. Goodlatte	Mr. Becerra
Mr. Buyer	Ms. Lofgren
Mr. Hoke	Ms. Jackson Lee
Mr. Bono	
Mr. Bryant (TN)	
Mr. Chabot	
Mr. Barr	
Mr. Bryant (TX)	

33. Amendment offered by Mr. Reed excluding from entry persons who renounce U.S. citizenship to avoid paying taxes. Adopted 25–5.

AYES	NAYS
Mr. Hyde	Mr. Moorhead
Mr. Sensenbrenner	Mr. McCollum
Mr. Schiff	Mr. Gekas
Mr. Gallegly	Mr. Coble
Mr. Canady	Mr. Smith (TX)

Mr. Inglis
Mr. Goodlatte
Mr. Buyer
Mr. Bono
Mr. Heineman
Mr. Bryant (TN)
Mr. Chabot
Mr. Flanagan
Mr. Barr
Mr. Conyers
Mrs. Schroeder
Mr. Schumer
Mr. Berman
Mr. Bryant (TX)
Mr. Reed
Mr. Nadler
Mr. Watt
Mr. Becerra
Ms. Lofgren
Ms. Jackson Lee

34. Amendment offered by Mr. Gallegly providing that payments of public assistance benefits only be made to individuals who are personally eligible to receive such benefits. Adopted 16–11.

AYES	NAYS
Mr. Hyde	Mr. Moorhead
Mr. Gekas	Mr. Conyers
Mr. Coble	Mrs. Schroeder
Mr. Smith (TX)	Mr. Berman
Mr. Schiff	Mr. Bryant (TX)
Mr. Gallegly	Mr. Nadler
Mr. Canady	Mr. Scott
Mr. Inglis	Mr. Watt
Mr. Goodlatte	Mr. Becerra
Mr. Buyer	Ms. Lofgrén
Mr. Bono	Ms. Jackson Lee
Mr. Heineman	
Mr. Bryant (TN)	
Mr. Chabot	
Mr. Flanagan	
Mr. Barr	

35. Amendment offered by Mr. Becerra to provide for a study to examine the cost to small businesses for participation in the employment eligibility verification system. Defeated 11–19.

AYES	NAYS
Mr. Inglis	Mr. Hyde
Mr. Chabot	Mr. Moorhead
Mr. Flanagan	Mr. Sensenbrenner
Mr. Conyers	Mr. Gekas
Mr. Reed	Mr. Coble
Mr. Nadler	Mr. Smith (TX)
Mr. Scott	Mr. Schiff
Mr. Watt	Mr. Gallegly

Mr. Becerra	Mr. Canady
Ms. Lofgren	Mr. Goodlatte
Ms. Jackson Lee	Mr. Buyer
	Mr. Bono
	Mr. Heineman
	Mr. Bryant (TN)
	Mr. Barr
	Mr. Schumer
	Mr. Berman
	Mr. Boucher
	Mr. Bryant (TX)

36. Amendment offered by Mr. Berman regarding employer responsibility in case of H–1B employees. Defeated 11–17.

AYES	NAYS
Mrs. Schroeder	Mr. Hyde
Mr. Frank	Mr. Moorhead
Mr. Berman	Mr. Sensenbrenner
Mr. Boucher	Mr. McCollum
Mr. Bryant (TX)	Mr. Coble
Mr. Reed	Mr. Smith (TX)
Mr. Nadler	Mr. Schiff
Mr. Scott	Mr. Gallegly
Mr. Watt	Mr. Canady
Mr. Becerra	Mr. Inglis
Ms. Jackson Lee	Mr. Goodlatte
	Mr. Buyer
	Mr. Bono
	Mr. Heineman
	Mr. Bryant (TN)
	Mr. Chabot
	Mr. Flanagan

37. An amendment offered by Ms. Jackson Lee providing for an exemption from expedited removal for persons fleeing a country where there is civil strife, or other, temporary unsafe conditions, or where the Secretary of State has not certified that human rights violations do not occur. Defeated 10–22.

AYES	NAYS
Mr. Conyers	Mr. Hyde
Mrs. Schroeder	Mr. Moorhead
Mr. Frank	Mr. Sensenbrenner
Mr. Berman	Mr. McCollum
Mr. Nadler	Mr. Coble
Mr. Scott	Mr. Smith (TX)
Mr. Watt	Mr. Schiff
Mr. Becerra	Mr. Gallegly
Ms. Lofgren	Mr. Canady
Ms. Jackson Lee	Mr. Inglis
	Mr. Goodlatte
	Mr. Buyer
	Mr. Bono
	Mr. Heineman
	Mr. Bryant (TN)

Mr. Chabot
Mr. Flanagan
Mr. Barr
Mr. Schumer
Mr. Boucher
Mr. Bryant (TX)
Mr. Reed

38. An amendment offered by Mr. Berman to provide visas for eliminated family preference categories whose priority date falls within 2 years of the bill's effective date. Defeated 15–18.

AYES	NAYS
Mr. Schiff	Mr. Hyde
Mr. Chabot	Mr. Moorhead
Mr. Flanagan	Mr. Sensenbrenner
Mr. Conyers	Mr. McCollum
Mrs. Schroeder	Mr. Gekas
Mr. Frank	Mr. Coble
Mr. Schumer	Mr. Smith (TX)
Mr. Berman	Mr. Gallegly
Mr. Reed	Mr. Canady
Mr. Nadler	Mr. Inglis
Mr. Scott	Mr. Goodlatte
Mr. Watt	Mr. Buyer
Mr. Becerra	Mr. Bono
Ms. Lofgren	Mr. Heineman
Ms. Jackson Lee	Mr. Bryant (TN)
	Mr. Barr
	Mr. Boucher
	Mr. Bryant (TX)

39. An amendment offered by Mr. Becerra to decrease the level of annual income required by a sponsor from 200 percent to 150 percent of the poverty level. Defeated 6–14.

AYES	NAYS
Mr. Conyers	Mr. Hyde
Mr. Frank	Mr. Moorhead
Mr. Berman	Mr. Sensenbrenner
Mr. Watt	Mr. Gekas
Mr. Becerra	Mr. Coble
Ms. Lofgren	Mr. Smith (TX)
	Mr. Schiff
	Mr. Inglis
	Mr. Buyer
	Mr. Hoke
	Mr. Bono
	Mr. Heineman
	Mr. Bryant (TN)
	Mr. Boucher

40. Vote on Final Passage: Adopted 23–10.

AYES	NAYS
Mr. Hyde	Mr. Conyers
Mr. Moorhead	Mrs. Schroeder

Mr. Sensenbrenner
Mr. McCollum
Mr. Gekas
Mr. Coble
Mr. Smith (TX)
Mr. Schiff
Mr. Gallegly
Mr. Canady
Mr. Inglis
Mr. Goodlatte
Mr. Buyer
Mr. Hoke
Mr. Bono
Mr. Heineman
Mr. Bryant (TN)
Mr. Chabot
Mr. Flanagan
Mr. Barr
Mr. Boucher
Mr. Bryant (TX)
Mr. Reed

Mr. Frank
Mr. Schumer
Mr. Berman
Mr. Nadler
Mr. Scott
Mr. Watt
Mr. Becerra
Ms. Lofgren

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(l)(3)(B) of House Rule XI is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 2202, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 4, 1996.

Hon. HENRY J. HYDE,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2202, the Immigration and the National Interest Act of 1995. Because enactment of the bill would affect direct spending, pay-as-you-go procedures would apply.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 2202.
2. Bill Title: Immigration in the National Interest Act of 1995.
3. Bill status: As ordered reported by the House Committee on the Judiciary on October 24, 1995.
4. Bill purpose: H.R. 2202 would make many changes and additions to federal laws relating to immigration. Provisions having a potentially significant budgetary impact are highlighted below.

Title I would:

specify that the number of Immigration and Naturalization (INS) border patrol agents would be increased by 1,000 in each of the fiscal years 1996 through 2000 relative to the number as of September 30, 1995; in addition, the number of full-time support positions for border patrol agents would be increased by 800;

authorize appropriations of $12 million for improvements in barriers along the U.S.-Mexico border;

require that border crossing identification cards include a biometric identifier (such as a fingerprint) that is machine-readable;

direct the Attorney General to train border patrol personnel on the rights and various cultural backgrounds of aliens and U.S. citizens;

establish several pilot programs relating to inadmissible or deportable aliens; and

direct the Attorney General to deploy enough INS investigators and enforcement personnel in the interior of the United States to properly investigate and enforce immigration laws.

Title II would:

increase by 25 the number of Assistant United States Attorneys that may be employed by the Department of Justice for fiscal year 1996; and

provide for new and increased penalties for a number of crimes related to immigration.

Title III would:

permit the Attorney General to reemploy up to 300 federal retirees for as long as two years to support the Institutional Hearing Program;

direct the Attorney General to increase the detention facilities of the INS to at least 9,000 beds by fiscal year 1997;

authorize appropriations of $5 million annually for the INS and $150 million annually for the Attorney General, beginning in fiscal year 1996, for costs related to detention and removal of aliens;

provide for an increase in pay for immigration judges;

establish in the general fund of the Treasury an Immigration Enforcement Account, and

provide for new and increased penalties for a number of crimes related to immigration.

Title IV would:

direct the INS to increase the number of positions in the Investigations Division by 350 above the number of such positions available as of September 30, 1994;

direct the Department of Labor (DOL) to increase the number of full-time equivalent positions in the Wage and Hour Division of the Employment Standards Administration by 150 above the number of such positions available as of September 30, 1994; and

direct the Attorney General to devise a system, such as a toll-free telephone line or other electronic media, by which employers could confirm the eligibility of prospective employees. This system would be implemented via pilot projects in five states through the end of fiscal year 1999; continuation of the projects would be subject to Congressional action.

Title V would:

reduce the number of legal immigrants allowed to enter the United States each year;

set a statutory cap on the number of refugees admitted into the United States;

permit the Attorney General to reemploy up to 300 federal retirees for as long as two years to reduce the backlog in asylum applications;

direct the Attorney General to increase the number of INS asylum officers to at least 600 by fiscal year 1997; and

require the Attorney General, subject to the availability of appropriations, to reimburse visa application fees paid by petitioners for family-sponsored immigrant categories that are eliminated by this bill before the petitioner receives the visa.

Title VI would affect various benefit programs. It would:

curtail the eligibility of non-legal aliens, including those permanently residing under color of law (PRUCOL), in the narrow instances where they are now eligible for federal benefits;

put sponsors of future immigrants on notice that they are expected to support them for a longer period than current law provides, by extending the period in which a sponsor's income is presumed or deemed to be available to the alien and by making affidavits of support legally enforceable;

deny the earned income tax credit to individuals not authorized to be employed in the United States; and

change federal coverage of emergency Medicaid services for illegal aliens.

Title VII would:

direct the Attorney General and the Secretary of the Treasury to increase the number of land border inspectors in fiscal years 1996 and 1997 to assure full staffing during peak border crossing hours; and

direct the Attorney General, within two years of enactment of this bill, to establish preinspection stations in at least five of the foreign airports that serve as departure points for the greatest number of air passengers traveling to the U.S. In addition, this title would direct the Attorney General, within four years of enactment, to establish preinspection stations in at least five foreign airports that would most effectively reduce the number of aliens who arrive by air without valid documentation.

5. Estimated cost to the Federal Government: Assuring appropriation of the entire amounts authorized, enacting H.R. 2202 would increase discretionary spending over fiscal years 1996 through 2002 by a total of about $5 billion. Several provisions of H.R. 2202, mainly those in Title VI affecting benefit programs, would result in changes to mandatory spending and federal revenues. CBO estimates that the changes in mandatory spending would reduce outlays by about $6 billion over the 1996–2002 period, and that revenues would increase by about $80 million over the same period. The estimated budgetary effects of the legislation are summarized in Table 1. Table 2 shows projected outlays for direct spending programs under current law, the changes that would stem from the bill, and the projected outlays for each program if the bill were enacted.

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 2202

[By fiscal years, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
SPENDING SUBJECT TO APPROPRIATIONS ACTION							
Authorizations:							
Estimated authorization level	129	699	774	856	960	978	996
Estimated outlays	0	532	637	940	994	956	976
MANDATORY SPENDING AND RECEIPTS							
Direct Spending:							
Estimated budget authority	0	−230	−428	−684	−1,020	−1,397	−2,057
Estimated outlays	0	−230	−428	−684	−1,020	−1,397	−2,057
Estimated Revenues	0	14	13	12	13	13	13

The costs of this bill fall within budget functions 550, 600, 750, and 950.

TABLE 2.—ESTIMATED EFFECTS OF H.R. 2202 ON DIRECT SPENDING PROGRAMS

(By fiscal years, in millions of dollars)

	1995	1996	1997	1998	1999	2000	2001	2002
PROJECTED SPENDING UNDER CURRENT LAW								
Supplemental Security Income	24,509	24,497	29,894	32,967	36,058	42,612	39,287	46,511
Food Stamps [1]	25,554	26,935	28,620	30,164	31,706	33,406	35,035	36,603
Family Support Payments [2]	18,086	18,544	19,048	19,534	20,132	20,793	21,477	22,184
Medicaid	89,070	99,292	110,021	122,060	134,827	148,110	162,590	177,786
Earned Income Tax Credit (outlay portion)	15,244	20,392	22,904	23,880	24,938	25,982	26,794	27,546
Receipts of Employer Contributions	−27,960	−27,365	−28,081	−28,907	−29,621	−30,938	−32,428	−33,910
Total	144,503	162,295	182,406	199,698	218,040	239,965	252,755	276,720
PROPOSED CHANGES								
Supplemental Security Income		0	−10	−80	−160	−260	−370	−670
Food Stamps [1]		0	0	−15	−45	−100	−170	−250
Family Support Payments [2]		0	−1	−13	−23	−48	−63	−78
Medicaid		0	−5	−110	−240	−390	−570	−830
Earned Income Tax Credit (outlay portion)		0	−216	−214	−218	−222	−224	−229
Receipts of Employer Contributions		0	2	4	2	0	0	0
Total		0	−230	−428	−684	−1,020	−1,397	−2,057
PROJECTED SPENDING UNDER H.R. 2202								
Supplemental Security Income	24,509	24,497	29,884	32,887	35,898	42,352	38,917	45,841
Food Stamps [1]	22,554	26,935	28,620	30,149	31,661	33,306	34,865	36,353
Family Support Payments [2]	18,086	18,544	19,047	19,521	20,109	20,745	21,414	22,106
Medicaid	89,070	99,292	110,016	121,950	134,587	147,720	162,020	176,956
Earned Income Tax Credit (outlay portion)	15,244	20,392	22,688	23,666	24,720	25,760	26,570	27,317
Receipts of Employer Contributions	−27,960	−27,365	−28,079	−28,903	−29,619	−30,938	−32,428	−33,910
Total	144,503	162,295	182,176	199,270	217,356	238,945	251,358	274,663
Changes to revenues		0	14	13	12	13	13	13
Net deficit effect		0	−244	−441	−696	−1,033	−1,410	−2,070

[1] Food Stamps includes Nutrition Assistance for Puerto Rico. Spending under current law includes the provisions of the fiscal year 1996 Agriculture appropriations.

[2] Family Support Payments includes spending on Aid to Families with Dependent Children (AFDC), AFDC related child care, administrative costs for child support enforcement, net federal savings from child support collections, and the Job Opportunities and Basic Skills Training program (JOBS).

Notes.—Assumes enactment date of August 1, 1996. Estimates will change with later effective date. Details may not add to totals because of rounding.

6. Basis of Estimate: For purposes of this estimate, CBO assumes that H.R. 2202 will be enacted by August 1, 1996.

Spending subject to appropriations

The following estimates assume that all specific amounts authorized by the bill would be appropriated for each fiscal year. For programs in the bill for which authorizations are not specified, or for programs whose specific authorizations do not provide sufficient funding, CBO estimated the cost based on information from the agencies involved. We assumed that few of the bill's programs would be implemented until fiscal year 1997. (Hence, we estimate that outlays in 1996 would not be affected by enactment.) Estimated outlays, beginning in 1997, are based on historical rates for these or similar activities.

The provisions in this bill that affect discretionary spending would increase costs to the federal government by the amounts shown in Table 3, assuming appropriation of the necessary funds. In many cases, the bill authorizes funding for programs already authorized in the violent Crime Control and Law Enforcement Act of 1994 (1994 crime bill) or already funded by fiscal year 1996 appropriations action. For example, the additional border patrol agents and support personnel in Title I already were authorized in the 1994 crime bill through fiscal year 1998. For such provisions, the amounts shown in Table 3 reflect only the cost above funding authorized in current law.

In the most recent continuing resolution enacted for fiscal year 1996, appropriations for the Department of Justice total about $14 billion, of which about $1.7 billion is for the INS.

TABLE 3.—SPENDING SUBJECT TO APPROPRIATIONS ACTION

[By fiscal years, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
Estimated authorization levels:							
Title I:							
Additional border patrol agents	0	.....	.....	116	119	123	127
Barrier improvements	0	20	.....	.....	.....	.....	.....
Improved identification cards	0	34	34	34	.....	.....	.....
Border patrol training	.....	0	3	.....	.....	.....	.....
Pilot programs	0	1	.....	.....	.....	.....	.....
Increased interior enforcement	0	130	260	390	520	530	540
Title II:							
Additional U.S. Attorneys	0	8	8	8	8	8	8
Title III:							
Increased detention facilities	0	199	220	50	52	53	55
Detention and removal of aliens [1]	129	155	155	155	155	155	155
Pay raise for immigration judges	0	1	1	1	1	1	1
Title IV:							
Additional INS investigators	0	11	11	11	12	12	12
Additional DOL employees	0	12	12	13	13	14	14
Work eligibility pilot program	0	[2]	[2]	[2]	.....	.....	.....
Title V:							
Additional asylum officers	0	34	34	35	36	37	38
Visa reimbursement	0	55	.....	.....	.....	.....	.....
Title VII:							
Additional land border inspectors	0	36	39	43	44	45	46
Total	129	699	774	856	960	978	996

TABLE 3.—SPENDING SUBJECT TO APPROPRIATIONS ACTION—Continued

[By fiscal years, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
Estimated outlays	0	532	637	940	994	956	976

[1] Amounts for this provision are specified in the bill. The amount authorized for fiscal year 1996 was reduced to reflect $26 million in appropriations already provided.
[2] Less than $500,000.

Revenues and direct spending

Table 4 details estimated changes in revenues and direct spending. The most significant changes in direct spending would result from provisions contained in Title VI of the bill, in particular, from the provisions changing benefits conferred through the Supplemental Security Income program, Medicaid, and the Earned Income Tax Credit.

TABLE 4.—CHANGES IN REVENUES AND DIRECT SPENDING

[By fiscal years, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
Revenues:							
New Criminal Fines and Forfeiture	0	(1)	(1)	(1)	(1)	(1)	(1)
Earned Income Tax Credit	0	14	13	12	13	13	13
Total Revenus	0	14	13	12	13	13	13
Direct Spending:							
New Criminal Fines and Forfeiture	0	(1)	(1)	(1)	(1)	(1)	(1)
Immigration Enforcement Account	0	(1)	(1)	(1)	(1)	(1)	(1)
Supplemental Security Income	0	−10	−80	−160	−260	−370	−670
Food Stamps	0	0	−15	−45	−100	−170	−250
Family Support	0	−1	−13	−23	−48	−63	−78
Medicaid	0	−5	−110	−240	−390	−570	−830
Earned Income Tax Credit	0	−216	−214	−218	−222	−224	−229
Federal Employee Retirement	0	2	4	2	0	0	0
Total Direct SApending	0	−230	−428	−684	−1.020	−1,397	−2.057

[1] Less than $500,000.

Fines.—The imposition of new and enhanced civil and criminal fines in H.R. 2202 could cause governmental receipts to increase, but CBO estimates that any such increase would be less than $500,000 annually, civil fines would be deposited into the general fund of the Treasury. Criminal fines would be deposited in the Crime Victims Fund and would be spent in the following year. Thus, direct spending from the fund would match the increase in revenues with a one-year lag.

Forfeiture.—A new forfeiture provision in H.R. 2202 could lead to more assets seized and forfeited to the United States, but CBO estimates that any such increase would be less than $500,000 annually in value. Proceeds from the sale of any such assets would be deposited as revenues into the Assets Forfeiture Fund of the Department of Justice and spent out of that fund in the same year. Thus, direct spending from the Assets Forfeiture fund would match any increase in revenues.

Immigration enforcement account.—The creation of an immigration enforcement account in Title III would affect both direct spending and receipts. Currently, civil fines collected from viola-

tions of certain immigration laws are classified as revenues for budgetary purposes and deposited into the general fund of the Treasury. H.R. 2202 would deposit these collections as offsetting receipts into the immigration enforcement account and would spend them out of that fund. Thus, direct spending would increase, but this increase would be less than $500,000 annually.

Legal immigration reform.—H.R. 2202 would reduce legal immigration levels by roughly 100,000 entries annually. By law, the costs incurred by INS to oversee legal immigration are covered by fees it charges, so there is no net impact on the federal budget. Reducing legal immigration would decrease the fees collected by INS, so the agency would have to reduce its costs accordingly, mainly by cutting personnel. INS would attempt to maintain a balance between fee collections and costs, as it does now. Over time, any imbalance would be corrected to achieve a net budgetary impact of zero.

Preinspection stations.—Based on information from INS, CBO estimates that the costs to establish and maintain the first five preinspection stations would reach about $40 million annually, with similar costs for the second five stations. However, as required by law, costs of this sort would be covered by increased INS user fees charged to passengers entering the United States. Such fees would be recorded as offsetting receipts, and additional spending by the INS would be considered direct spending. Thus, there would be no net budgetary impact from any additional preinspection stations.

Supplemental security income.—The SSI program pays benefits to low-income people with few assets who are aged 65 or older or disabled. According to tabulations by the Congressional Research Service (CRS), the SSI program for the aged is the major benefit program with the sharpest contrast in participation between noncitizens and citizens. The CRS reported that nearly one-quarter of aliens over the age of 65 receive SSI, versus about 4 percent of citizens. The Social Security Administration states that about 700,000 legal aliens collect SSI (although some unknown fraction of those "aliens" are really naturalized citizens, whose change in status is not reflected in program records). About three-quarters of alien SSI recipients are immigrants legally admitted for permanent residence, who must serve out a waiting period during which their sponsor's income is "deemed" to them before they can go on the program. That waiting period was temporarily lengthened to 5 years in 1994 but is slated to return to 3 years in October 1996. The other one-quarter of alien recipients of SSI are refugees, asylees, and PRUCOLs.

H.R. 2202 would have little effect on the eligibility for SSI or other benefits of legal immigrants who are already in the U.S., because the bill would not direct the agencies administering these programs to make any changes in the way they treat aliens who were legally admitted for permanent residence before the bill's enactment. Any effect on such aliens would be indirect. The bill would amend the "public charge" section of the Immigration and Nationality Act to state that anyone who collected certain benefits within 7 years of arrival could be deported, and names the programs in which participation would brand the alien a public

charge. No benefits received before the date of enactment would count against the 7-year ban. Nor would benefits paid for certain reasons arising after entry—such as the death or disability of a breadwinner—count. A public charge ban (for 5, not 7 years after the alien's entry) is already on the books, but is hardly ever enforced through deportation. The ban apparently has not acted as a major deterrent to many aliens' participation in public assistance programs. CBO does not rule out that the proposed "public charge" language might make some aliens who are already here fearful of collecting benefits, but views such psychological effects as a tenuous basis for budget estimates.

For future entrants, though, the bill has real teeth. The bill's principal effect on the SSI program would be the proposed lengthening of the deeming period for future entrants. H.R. 2202 would require the government to draft a new affidavit of support explicitly telling sponsors that they are liable for any public assistance benefits provided to the alien. Furthermore, for immigrants covered by such affidavits, the deeming period would last until naturalization (if the immigrant was admitted as a parent of a citizen or legal resident) or for at least 7 years (if admitted in another category). CBO assumes that the new forms would be in place by early 1997 and that significant savings would begin in 2000—when that first group of entrants would otherwise have graduated from the 3-year deeming period under current law. Small savings would occur before 2000, because the bill would make two other changes in the way deeming now operates in the SSI program—specifically, by requiring that all income of the sponsor and spouse be deemed, instead of only a portion of it, and by repealing the exemption from deeming for aliens who become disabled after their arrival.

Because the stiffer deeming rules would make little difference in the near term, they account for just half of the estimated savings of $1.6 billion in SSI over the entire 1996–2000 period; nevertheless, they contribute two-thirds of the estimated savings in fiscal year 2002. H.R. 2202 also proposes to shave the number of overall immigrant admissions, and would explicitly limit the number of parents of citizens or legal residents who may enter the country. Since deeming has proven to be a quite powerful tool in the SSI program, the proposed cutback in admissions is largely immaterial to CBO's estimate; from a dollar standpoint, it matters little whether immigrants can get into the country but are then barred from SSI, or whether they cannot get into the country in the first place.

Two other provisions of the bill would generate the remaining savings in SSI. First, H.R. 2202 would eliminate eligibility for SSI benefits of aliens permanently residing under color of law. That label covers such disparate groups as parolees, aliens who are granted a stay of deportation, and others with various legal statuses. PRUCOLs currently make up about 5 percent of aliens on the SSI rolls. CBO assumes that some would successfully seek to have their classification changed to another category (such as refugee or asylee) that would protect their SSI benefits. The remainder, though, would be barred from the program, generating savings of about $0.5 billion over 7 years.

The second provision would set a statutory ceiling on a number of refugee admissions, removing that prerogative from the President. The bill would limit refugee admissions to 75,000 in 1997 and 50,000 a year thereafter. It is impossible to say how many refugees would be admitted if current policy remained unchanged, since the ceiling is announced by the President annually and is affected by geopolitical conditions. For this estimate, CBO assumed that, under current policy, refugee admissions would drop from 90,000 in fiscal year 1996 (the ceiling announced by the President) to 75,000 in 1997 and beyond. Compared with that path, H.R. 2202 would require a reduction of 25,000 refugee admissions a year after 1997. Refugees often arrive with little or no money, poor English, and limited prospects for employment, so it is not surprising that they tend to rely on welfare at first. Tabulations by the Office of Refugee Resettlement in the Department of Health and Human Services indicate that, of refugees who arrived in the past 5 years, about 7 percent are on SSI, 24 percent on Aid to Families with Dependent Children (AFDC), and 60 percent on food stamps. Based on that pattern, CBO estimates that the limits on refugee admissions in H.R. 2202 would lead to savings in the SSI program of $0.1 billion over the 1998–2002 period.

Food stamps.—The estimated savings in the Food Stamp program—$0.6 billion over 7 years—are considerably smaller than those in SSI but have essentially the same explanations. The Food Stamp program imposes a 3-year deeming period. Therefore, lengthening the deeming period (to at least 7 years for most future entrants and even longer for some) would save money in food stamps beginning in 2000. Restrictions on the number of legal entrants and particularly of refugees admitted into the country account for the rest of the savings. The Food Stamp program already denies benefits to most PRUCOLs, so no additional savings are estimated from that source.

Statistics compiled by CRS suggest that about 16 percent of noncitizens live in households that receive food stamps, not so sharply different from the 12 percent participation rate of citizens. Other data on them, though, are sketchier than data on aliens in the SSI program. For example, CBO lacks information on how long aliens (other than refugees) are in the country before going on food stamps, why they file for benefits, and how many of them have financial sponsors—information that would have helped greatly in estimating the effects of H.R. 2202.

Family support.—H.R. 2202 would lead to small savings in the AFDC program—again, from essentially the same provisions that would generate savings in SSI and food stamps. CRS tabulations show that noncitizens are only slightly more likely than citizens to participate in the AFDC program (6 percent of noncitizens, versus 5 percent of citizens). Often, the household consists of a noncitizen parent and a citizen child or children—in which case H.R. 2202 would directly affect only the parent's eligibility. As for food stamps, information on sponsorship, length of time in the country, and reason for participation by aliens in AFDC is scanty.

The AFDC program already deems income from sponsors to aliens for three years after the alien's arrival. H.R. 2202 would lengthen that period to 7 years in most cases. The $0.2 billion in

total savings over the 1997–2002 period would stem from lengthening the deeming period, restricting the number of admissions of immigrants and refugees, and ending the eligibility of PRUCOLs for AFDC benefits.

Medicaid.—H.R. 2202 would erect several barriers to Medicaid eligibility for future entrants into this country. In most cases, AFDC or SSI eligibility carries Medicaid eligibility along with it. By restricting aliens' access to those two cash programs, H.R. 2202 would generate savings in Medicaid. Medicaid now has no deeming requirement at all; that is, program administrators do not consider a sponsor's income when they gauge the alien's eligibility for benefits. Therefore, it is possible for a sponsored alien to qualify for Medicaid even before he or she has satisfied the SSI waiting period. H.R. 2202 would change that by requiring that every means-tested program weigh the income of a sponsor who signed one of the new, legally enforceable affidavits of support. Under current law, PRUCOLs are specifically eligible for Medicaid; H.R. 2202 would make them ineligible.

Finally, H.R. 2202 would bar immigration by parents of citizens and legal residents unless a sponsor could document that the parent would be covered by a private insurance policy that provides coverage similar to Medicare plus long-term care protection equivalent to Medicaid. Such coverage would be extremely expensive if it even exists. That requirement was not critical to CBO's estimate of Medicaid savings in H.R. 2202, because CBO judged that the other SSI provisions and the deeming requirements would effectively bar most elderly entrants from the Medicaid program over the 1997–2002 period. The estimate assumes that the new, legally enforceable affidavits will be in place by early 1997. If that assumed timetable were to slip, perhaps because of the sheer difficulty of crafting acceptable criteria for insurance coverage, estimates of savings in other programs that also hinge on the new affidavits could also slip. If enforced stringently, the insurance requirement could effectively forbid immigration of all except the wealthiest parents of U.S. residents.

CBO estimated the savings in Medicaid by first estimating the number of aliens who would be barred from the SSI and AFDC programs by other provisions of H.R. 2202. CBO then added another group—dubbed "noncash beneficiaries" in Medicaid parlance because they participate in neither of the two cash programs. CBO assumed that the noncash participants who would be affected by H.R. 2202 essentially fall into two groups. One is the group of elderly (and less importantly, disabled) aliens who enter in 1997 and beyond and who could, under current law, seek Medicaid even before they satisfied the 3-year wait for SSI, the second is poor children and pregnant women who could, under current law, qualify for Medicaid even if they do not get AFDC. CBO then multiplied the assumed number of aliens affected times an average Medicaid cost appropriate for their group. That average cost is significantly higher for an aged or disabled person than for a younger mother or child. In selecting an average cost, CBO took into account the fact that relatively few aged or disabled aliens receive expensive long-term care in Medicaid-covered institutions, but that on the other hand few are eligible for Medicare as their primary payer.

The resulting estimate of Medicaid savings was then trimmed by 25 percent to reflect the fact that—if the aliens in question were barred from regular Medicaid—the federal government would likely end up paying more in reimbursements for emergency care and for uncompensated care. The resulting savings in Medicaid would be negligible at first but would reach an estimated $0.8 billion by 2002, totaling $2.1 billion over the 1997–2002 period.

One of the few benefits for which illegal aliens now qualify is emergency Medicaid under section 1903(v) of the Social Security Act. H.R. 2202 contains a provision that is apparently intended to make the federal government responsible for the entire cost of emergency Medicaid services, instead of splitting the cost with states as under the current matching requirements. However, the drafting of the provision leaves several legal and practical issues dangling. H.R. 2202 would not repeal the current provision in section 1903(v). It also orders the Immigration and Naturalization Service to verify the identity of recipients in order for the states to qualify for the proposed reimbursement. Emergency patients often show up with no insurance and little other identification; therefore, if the INS drafted stringent rule for verification, it is possible that hardly any providers could collect under this section. On the other hand, if the INS required only minimal identification, providers would have an incentive to classify as many patients as possible in this category because that would maximize their federal reimbursement. Also unclear is whether any reimbursement would be subject to the usual limits on allowable charges in Medicaid, or whether providers could seek reimbursement for their entire cost.

Earned income tax credit.—H.R. 2202 would deny eligibility for the Earned Income Tax Credit (EITC) to workers who are not authorized to be employed in the U.S. In practice, that provision would work by requiring valid Social Security numbers to be filed for the primary and secondary taxpayers on returns that claim the EITC. A similar provision was contained in President Clinton's 1996 budget proposal and in last fall's reconciliation bill. The Joint Committee on Taxation estimates that the provision would reduce the deficit by approximately $0.2 billion a year. Most of this reduction would appear as lower outlays for the refundable portion of the credit, but there would also be a small increase in revenues.

Federal employee retirement.—H.R. 2202 would have a small effect on the net outlays of federal retirement programs. Section 533 and 356 of the bill would permit certain civilian and military retirees to collect their full pensions in addition to their salary if they are reemployed by the Department of Justice to help tackle a backlog of asylum applications or support the Institutional Hearing Program. Under current law, an employing agency must deduct the annuity amount from the paycheck of a reemployed civil service annuitant and remit that amount to the retirement trust fund. The retirement fund, in effect, makes no net annuity payments for the period of the annuitant's reemployment. (Rules governing the reemployment of military retirees are slightly more liberal, but still require forfeiture of part of the annuity.) Under the bill, the salary reduction requirement would be waived for up to 24 months of reemployment. CBO estimates that about 200 annuitants would be

affected, and that net outlays would increase by $2 million to $4 million a year in 1997 through 1999.

Other programs.—Entitlement or direct spending programs, other than those already listed, are estimated to incur negligible costs or savings over the 1997–2002 period as a consequence of H.R. 2202. The child nutrition program would be specifically exempt from H.R. 2202's ban on benefits to illegal aliens. It is possible that child nutrition would fall under the requirement that all means-tested programs develop sponsor-to-alien deeming provisions for future entrants; however, the applicability of that section is ambiguous, and it would take time to craft deeming rules and implement them in school systems nationwide in any case. The foster care program does not appear by name on any specific list of exemptions in H.R. 2202, but CBO assumes that it would be exempt under provisions protecting battered children. CBO estimates that the bill would not lead to any significant savings in the student loan program. The Title XX social services program, an entitlement program for the states, is funded at a fixed dollar amount set by the Congress; the eligibility or ineligibility of aliens for services would not have any direct effect on those dollar amounts.

7. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. Because several sections of this bill would affect receipts and direct spending, pay-as-you-go procedures would apply. These effects are summarized in the following table.

[By fiscal year, in millions of dollars]

	1996	1997	1998
Change in outlays	0	−230	−428
Change in receipts	0	14	13

8. Estimated impact on state, local, and tribal governments: CBO has not completed its review of possible mandates in H.R. 2202. This section represents a preliminary analysis of the mandates contained in the bill and their likely impacts on the budgets of state, local, and tribal governments. A comprehensive mandate cost statement will be provided when CBO's analysis is completed.

H.R. 2202 contains a number of mandates on state and local governments. The major mandates would require that state and local governments:

Deny non-legal aliens, including those permanently residing under color of law, eligibility for all means-tested state and local benefit programs except emergency Medicaid, immunizations, disaster relief, and family violence services;

Distribute means-tested benefits only through individuals who are themselves eligible for the program, at least on the basis of their immigration status; and

Impose no restrictions on the exchange of information between governmental entities or officials and the Immigration and Naturalization Service regarding the immigration status of individuals.

In addition, H.R. 2202 would require employers, including state and local government personnel offices, in at least five states to

confirm through a toll-free telephone number (or other electronic media), the identity, Social Security number, and work eligibility of all employees within three days of hiring.

CBO's preliminary conclusion is that the total net costs of the bill's mandates on state and local governments would not exceed the $50 million annual threshold established in the Unfunded Mandates Reform Act.

9. Estimated impact on the private sector: H.R. 2202 contains several private sector mandates. Although CBO has not completed its analysis of impacts on the private sector, our preliminary analysis indicates that the expected direct costs of private sector mandates contained in H.R. 2202 would exceed $100 million a year.

Generally, speaking, the private sector mandates in H.R. 2202 lie in four areas: (1) provisions that affect aliens within the borders of the United States, (2) provisions that affect individuals who sponsor aliens and execute affidavits of support, (3) provisions that affect the transportation industry, and (4) provisions that affect employers of aliens. In addition, a few provisions would reduce existing mandates on employers and offset marginally some of the costs imposed by new mandates.

Specifially, we expect that the direct costs imposed on sponsors of aliens who execute affidavits of support to exceed $100 million a year within the first five years that the mandate is in effect. Those are costs now borne by the federal government and state and local governments for the provision of benefits under public assistance programs. We also expect that some direct costs would be imposed on aliens within U.S. borders, the transportation industry, and the employers of aliens but that those costs would not be significant.

10. Previous CBO estimate: In 1995 CBO prepared many estimates of the effects of restricting aliens' eligibility for public assistance in the context of the debate over welfare reform. Examples include CBO's estimates of H.R. 4 (the welfare reform bill) and of H.R. 2491 (the reconciliation bill), both of which were eventually vetoed. In general, however, those proposals did not draw a sharp distinction between aliens already in the country and future entrants. CBO has not previously estimated the effects of restrictions on public assistance like those in H.R. 2202 that are essentially targeted at future entrants.

11. Estimate prepared by: Federal Cost Estimate: Mark Grabowicz, Wayne Boyington, Sheila Dacey, Dorothy Rosenbaum, Robin Rudowitz, Kathy Ruffing, and Stephanie Weiner.

State and Local Government Estimate: Karen McVey and Leo Lex.

Private Sector Mandate Estimate: Matthew Eyles.

12. Estimate approved by: Paul N. Van de Water, Assistant Director, for Budget Analysis.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that H.R. 2202 will have no significant inflationary impact on prices and costs in the national economy.

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

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Subtitle B—Deterrence of Document Fraud

Sec. 211—Increased criminal penalties for fraudulent use of Government-issued documents

Subsection (a) amends 18 U.S.C. 1028(b)(1), relating to fraud and misuse of government-issued identification documents, to increase the maximum term of imprisonment from 5 to 15 years. The sentence is increased 20 years if the offense is committed to facilitate a drug-trafficking crime, and to 25 years if committed to facilitate an act of international terrorism.

Subsection (b) directs the Sentencing Commission promptly to increase the basic offense levels for document fraud offenses under sections 1028(a) and 1546(a) of title 18: offense level 15 if the offense involved 100 or more documents; level 20 if the offense involved 1,000 or more documents or was done to facilitate a drug offense or aggravated felony, and level 25 if done to provide documents to persons engaged in terrorist activity or racketeering enterprises.

Sec. 212.—New civil penalties for document fraud

Subsection (a) amends section 274C(a) by adding a new paragraph (5) to make it unlawful for any person knowingly or in reckless disregard of the fact that the information is false or does not relate to the applicant, to prepare, file, or assist another person in preparing or filing, documents which are falsely made for the purpose of satisfying a requirement of the INA. "Falsely made" shall include a document submitted with knowledge or reckless disregard of the fact that the document contains a false, fictitious, fraudulent statement or material misrepresentation, has no basis in law or fact, or fails to state a material fact.

Subsection (b) makes conforming amendments to section 274C(d)(3).

Subsection (c) provides that the amendment shall apply to assistance, preparation, or submission of documents or applications occurring on or after the date of enactment.

TITLE IV—ENFORCEMENT OF RESTRICTIONS AGAINST EMPLOYMENT

Sec. 401—Strengthened enforcement of the employer sanctions provisions

This section requires that the number of full-time INS Investigators be increased by 350 and that the new agents be assigned to investigate violations of the employer sanctions provisions of the INA.

Sec. 402—Strengthened enforcement of wage and hour laws

This section requires the number of full-time Department of Labor Wage and Hour Division employees to be increased by 150 and that the new agents be assigned to investigate violations in areas where there are high concentrations of undocumented aliens.

Sec. 403—Changes in the employer sanctions program

Subsection (a) amends section 274A(b)(1)(B) of the INA to strike clauses (ii) through (iv). This eliminates three categories of documents that now can be used to establish both employment authorization and identity: certificate of citizenship, certificate of naturalization, and unexpired foreign passport stamped by Attorney General with employment authorization. After this amendment, only a United States passport, alien registration card, or other employment authorization document issued by Attorney General would be acceptable to establish both identity and work authorization.

Subsection (a) also amends section 274A(b)(1)(C) of the INA to eliminate a birth certificate as a document that can be used to establish work authorization. Only a social security card would be acceptable for this purpose. Subsection (a) also amends section 274A(b)(2) to require that an individual being hired provide his or her social security number on the employment verification attestation form.

Subsection (b) ("Employment Eligibility Confirmation Process") amends subsections (a) and (b) of section 274A to require the development and use, on a pilot basis, of an employment eligibility confirmation mechanism.

Section 274A(a)(3) currently provides a defense against liability for hiring an unauthorized alien if the employer has complied in good faith with the document-based employment verification system in section 274A(b). Under this subsection, section 274A(a)(3) is amended to state that if an employer who (1) employs more than 3 employees and (2) is subject to the pilot program in 274A(b)(7) does not obtain appropriate confirmation through the new mechanism of the identity, social security number, and work eligibility of an individual through this process, this defense does not apply. To preserve the defense, an employer must make an inquiry through the mechanism within 3 working days after the date of hiring, unless the confirmation mechanism has registered that not all inquiries were responded to during that time, in which case the inquiry can be made on the first subsequent working day in which the confirmation mechanism is responding to all inquiries. The employer also must receive a confirmation within a time to be specified in

regulations by the Attorney General (but not to exceed 10 working days), in order to preserve the defense.

Section 274A(b)(3) currently provides that the employer must retain for a period of 3 years the verification form completed by the employee. This subsection amends section 274A(b)(3) to incorporate the requirements in amended section 274A(a)(3) regarding use of the confirmation mechanism to verify the accuracy of information provided on the form, and to require that the employer retain both the verification form as well as the receipt of confirmation for at least 3 years after the date of hiring, recruiting, or referral of the employee. It will be unlawful for an employer with more than 3 employees to hire an individual without complying with the new confirmation mechanism set out in section 274A(b)(3).

Section 274A(b)(6) is amended to require the Attorney General (or a designee that may include a private entity) to respond to inquiries by employers, through a toll-free telephone line or other electronic media, in the form of a confirmation code signifying whether or not an individual is authorized to be employed. The Attorney General shall establish expedited procedures to confirm the validity of information used under the confirmation mechanism in cases in which confirmation is sought but not provided by the mechanism. The confirmation mechanism shall be designed to maximize the reliability and ease of use of the confirmation process consistent with protecting the privacy and security of the underlying information, and to register all times when the system is not able to respond to all inquiries on whether individuals are authorized to be employed. The mechanism shall compare the name and social security account number and, in certain instances, the alien identification number, supplied by the new employee against records of the Social Security Administration and the INS to determine the validity of the information provided and whether or not the individual has presented a social security number or an alien number that is not valid for employment. The Attorney General shall provide a confirmation or tentative nonconfirmation within 3 working days of the initial inquiry. The Attorney General, in consultation with the Commissioner of Social Security and the Commissioner of INS, shall designate an expedited time period (not to exceed 10 days) within which final confirmation or denial must be provided through the confirmation mechanism. No social security information may be disclosed or released.

No individual shall be denied employment because of inaccurate or inaccessible data in the confirmation mechanism, and the Attorney General shall provide a timely and accessible process for challenging failures to confirm eligibility for employment. If an individual would not have been dismissed from a job but for an error of the confirmation mechanism, the individual is entitled to compensation through the mechanism of the Federal Tort Claims Act. The Attorney General also shall implement a program of testers and investigative activities to monitor and prevent unlawful discrimination through use of the mechanism. No person shall be civilly or criminally liable for any action taken in good faith reliance on information provided through the confirmation mechanism.

A new section 274A(b)(7) is added to require that the new requirements for employers added in subsection (b) shall only be im-

plemented (and tested for reliability and ease of use) through pilot projects in at least 5 of the 7 States with the highest estimated population of unauthorized aliens. The pilot projects shall be started within 6 months of the date of enactment, and shall terminate by no later than October 1, 1999. The confirmation mechanism shall not be established in other States unless Congress so provides by law. The Attorney General shall issue annual reports, beginning in 1997, on the development and implementation of the mechanism in the pilot states. The reports may include information on whether the mechanism: is reliable and easy to use; limits to less than 1 percent job loss due to inaccurate information; increases or decreases discrimination; protects individual privacy; and burdens employers with costs or administrative requirements.

Subsection (c) amends section 274A(a) by adding a new paragraph (6), to reduce paperwork requirements for the subsequent employers of certain employees whose eligibility to work has been confirmed by a prior employer. This provision applies in the case of an individual who is employed under a collective bargaining agreement entered into with an association of two or more employers, whose prior employer has complied with the employment verification process, and whose subsequent employer is a member of the same multi-employer association. The period during which this deeming can take place is up to 5 years in the case of a United States national or an alien lawfully admitted for permanent residence, and 3 years in the case of any other individual.

If an employer who has taken advantage of this provision is found to have hired an unauthorized alien, that hiring shall be presumed to be a knowing hire in violation of section 274A(a). The employer may rebut the presumption by presentation of clear and convincing evidence.

Subsection (d) strikes subsection (i) through (n) of section 274A, which are dated provisions.

Subsection (e) sets forth effective dates for the amendments made by this section. In general, the amendments shall be effective not later than 180 days after the date of enactment. The amendments made in subsections (a)(1) and (a)(2) (regarding reductions in the number of documents that may be presented by new employees) shall be effective not later than 18 months after enactment. The amendments made in subsection (c) (paperwork reduction) shall apply to all individuals hired on or after 60 days after enactment.

In addition, the Attorney General shall within 180 days of enactment issue regulations which provide for electronic storage of the I-9 form, in satisfaction of the record retention requirements in section 274A(b)(3).

Sec. 404—Reports on earnings of aliens not authorized to work

This section revises section 290(c) of the INA to require that the Social Security Administration (SSA) report to Congress on the number of social security numbers issued to aliens not authorized to be employed in the United States for which earnings were reported to the SSA. After January 1, 1996, if earnings are reported to the SSA for any such social security account number, the SSA shall report to the Attorney General the name and address of the

person for whom the earnings were reported and the name and address of the person (employer) reporting the earnings.

Sec. 405—Authorizing maintenance of certain information on aliens

This section amends section 264 of the INA to clarify that the Attorney General may require any alien to provide his or her social security number to include in any record of the alien.

Sec. 406—Limiting liability for certain technical violations of paperwork requirements

This section amends section 274A(e)(1) to provide that an employer shall not be considered to have been in violation of the verification requirements based upon a technical or procedural failure to meet a requirement unless the INS has explained the basis for the failure and given the employer 10 business days to correct it, and the employer has not corrected the failure during that period.

Sec. 407—Unfair immigration-related employment practices

Subsection (a) amends section 274B(g)(2) to require that employers subject to a final order for an immigration-related unfair employment practice be ordered to retain records for each person applying for employment for a period up to 3 years and be fined not less than $250 nor more than $2000 for each individual discriminated against.

Subsection (b) amends section 274B(a)(6) by providing that in the case of an employee who has presented a time-limited work authorization document to satisfy section 274A(b)(1), an employer may request a document proving that employment authorization has been renewed. The amendment also provides that if the employer has reason to believe that an alien who has presented a document valid on its face is nevertheless an unauthorized alien, the employer may inform the employee of the questions regarding the document's validity and the employer's intention to verify its validity. If the verification confirms that the employee is unauthorized to work, the employee may be discharged with no benefits or rights accruing on the basis of the period employed.

TITLE VI—RESTRICTIONS ON BENEFITS FOR ILLEGAL ALIENS

Sec. 600—Statements on national policy concerning welfare and immigration

This section states national policy with respect to welfare and immigration.

Subtitle A—Eligibility of Illegal Aliens for Public Benefits

Part 1—Public Benefits Generally

Sec. 601—Making illegal aliens ineligible for public assistance, contracts, and licenses

Subsections (a) and (b) provide that aliens not lawfully present in the United States are ineligible to receive benefits under any means-tested program provided or funded, in whole or in part, by the Federal or State Governments and also are ineligible to receive any grant, to enter into any contract or loan agreement, or to be issued or have renewed any professional or commercial license, provided or funded by the Federal or State Governments.

Subsection (c) provides that Federal agencies must require applicants to provide sufficient proof of identity to receive a Federal contract, grant, loan, or license, or the following types of public assistance: supplemental security income (SSI); Aid to Families with Dependent Children (AFDC); social services block grants; Medicaid; Food Stamps; or housing assistance. Proof of identity is limited to showing the following documents: a United States passport (either current or expired if issued within the previous 20 years and after the individual has reached the age of 18); a resident alien card; or a State driver's license or identity card, if presented with the individual's social security card.

Subsection (d) authorizes State agencies to require proof of eligibility to receive State assistance.

Subsection (e) provides exceptions to the limitations in subsections (a) and (b) in the case of an alien who (or whose child) has been battered or subject to extreme cruelty. The alien must have applied (or apply within 45 days of the initial application for benefits) for family-sponsored immigration status or classification, or cancellation of removal and adjustment of status, or the alien must be the beneficiary of a petition for family-sponsored immigration or classification. The exception terminates if no application setting forth a prima facie case for such immigration benefits has been filed or when an application is denied.

The rationale behind this provision is straightforward: aliens who are in the U.S. illegally should not be entitled to receive any of the privileges or benefits of membership in American society. It is unfair to citizens and legal residents to allow illegal aliens to access public benefits.

No aspect of illegal immigration angers the American people more than illegal aliens using taxpayer-funded public benefits. Poll after poll shows that the American people are tired of footing the bill for those who are in the country illegally. The passage of Proposition 187 in California, and other similar movements in Florida and Arizona are evidence of this. While the availability of public

benefits may not be the chief magnet that draws illegal aliens to the U.S., it is certainly one of the most powerful. As a matter of national immigration policy, Congress must remove all of the possible incentives that may lure illegal aliens to either come to or stay in the U.S. The Committee believes that, to thoroughly combat illegal immigration, illegal aliens must not be given taxpayer-funded public benefits at any level—Federal, State or local.

The prohibition on Federal, State and local contracts, grants, loans, licenses, and welfare assistance as contained in this section is not intended to address the issue of alien eligibility for a basic public education as determined by the U.S. Supreme Court in *Plyler* v. *Doe.*[125]

Sec. 602—Making unauthorized aliens ineligible for unemployment benefits

This section provides that aliens are ineligible for unemployment benefits payable in whole or in part out of Federal funds to the extent such benefits are attributable to any employment for which the alien had not had authorization. Benefits providers must make such inquiries as may be necessary to assure that applicants are eligible.

Sec. 603—General exceptions

This section provides that sections 601 and 602 shall not apply to the provision of emergency medical services, public health immunizations, short-term emergency relief, school lunch programs, child nutrition programs, and family violence services.

The allowance for treatment of communicable diseases is very narrow. The Committee intends that it only apply where absolutely necessary to prevent the spread of such diseases. This is only a short term measure until the deportation of an alien who is unlawfully present in the U.S. It is not intended to provide authority for continued long-term treatment of such diseases as a means for illegal aliens to delay their removal from the country. However, it is the Committee's intent to give public health providers the ability, within the scope of their professional judgment, to treat individuals who might have, or require immunization against, communicable diseases. So long as that judgment was made in good faith it is intended to fall within the exception for immunizations, testing, and treatment for communicable diseases. Furthermore, this exception is also intended to permit health care providers to examine patients sufficient to determine whether testing, treatment, or immunization is appropriate.

The allowance for emergency medical services under Medicaid is very narrow. The Committee intends that it only apply to medical care that is strictly of an emergency nature, such as medical treatment administered in an emergency room, critical care unit, or intensive care unit. The Committee does not intend that emergency medical services include pre-natal or delivery care assistance that is not strictly of an emergency nature as specified herein. The Committee intends that any provision of services under this exception for mental health disorders be limited to circumstances in which

[125] *Plyler* v. *Doe,* 457 U.S. 202, 102 S.Ct. 2382, 72 L.Ed.2d 786 (1982).

the alien's condition is such that he is a danger to himself or to others and has therefore been judged incompetent by a court of appropriate jurisdiction.

Sec. 604—Treatment of expenses subject to emergency medical services exception

Subsection (a) provides that, subject to advance appropriations, a State or local government that provides emergency medical services through a public hospital (including through a contract with another hospital or facility) to an illegal alien is entitled to receive payment from the Federal Government for the costs of the services, but only to the extent that such costs are not reimbursed through any other Federal program and cannot be recovered from the alien or another person. Reimbursement also may be made to a hospital eligible for additional payment adjustment under section 1886(d)(5) of the Social Security Act.

Subsection (b) provides that no payment shall be made unless the identity and immigration status of the alien has been verified with the INS. Subsection (c) provides that the program shall be administered by the Attorney General in consultation with the Secretary of Health and Human Services. Subsection (d) provides that 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

This section provides that the Secretary of Housing and Urban Development shall submit a report within 90 days to certain committees of Congress describing the manner in which the Secretary is enforcing section 214 of the Housing and Community Development Act of 1980.

Sec. 606—Verification of student eligibility for postsecondary federal student financial assistance

This section provides that no student shall be eligible for postsecondary Federal student financial assistance unless the student has certified that he or she 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 status through a procedure determined by the Attorney General.

Sec. 607—Payment of public assistance benefits

This section provides that in carrying out the provisions of this part, payment of means-tested benefits identified in section 601 (other than those exempted by section 603) shall be made only through an individual or person who is not ineligible to receive such benefits under section 601.

Sec. 608—Definitions

This section provides that for purposes of this title, an alien shall not be considered lawfully present in the U.S. 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.

Sec. 609—Regulations and effective dates

This section requires that the Attorney General issue regulations carrying out this subpart (other than section 605) within 60 days of enactment. The Attorney General shall apply section 601 to assistance provided, contracts or loan agreements entered into, and professional and commercial licenses issued or renewed at least 30 and not more than 60 days after the date the regulations are first issued, but may waive this section in the case of applications which are pending or approved on or before this date. The Attorney General shall apply section 602 to unemployment benefits provided on or after a date at least 30 and not more than 60 days after the date the regulations are first issued, but may waive this section in the case of applications for benefits pending as of this date. The Attorney General must broadly disseminate information regarding these restrictions on eligibility before the effective dates.

Part 2—Earned Income Tax Credit

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

This section amends section 32(c)(1) of the Internal Revenue Code of 1986 by adding a new subparagraph (F), providing that an individual is not eligible for the earned income tax credit if the individual does not include a taxpayer identification number on the tax return. This section also amends section 32 of the Internal Revenue Code to add a new subsection (k), providing that a taxpayer identification number means a social security account number other than one that has been issued to an individual not authorized to work in the U.S.

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

Sec. 621—Ground for inadmissibility

This section amends paragraph (4) of section 212(a) (public charge exclusion ground) to provide that a family-sponsored immigrant or nonimmigrant is inadmissible if the alien cannot demonstrate that the alien's age, health, family status, education, skills, or a combination thereof, or an affidavit of support, or both, make it unlikely that the alien will become a public charge. An employment-based immigrant is inadmissible, other than an immigrant of extraordinary ability, unless the immigrant has a valid job offer at the time of immigration. An employment-based immigrant who receives a visa by virtue of a job offer from a business owned by a relative, or from a business in which a relative has a significant ownership interest, is inadmissible (inadmissible) unless the relative has executed an affidavit of support.

Sec. 622—Ground for deportability

This section amends paragraph (5) of redesignated section 237(a) (public charge deportation ground) to provide that an alien is deportable if the alien becomes a public charge within 7 years of admission from causes arising before entry or admission. The ground may be waived in the case of an alien who is admitted as a refugee

or granted asylum. An alien is considered a public charge if he or she receives benefits under (1) Supplemental Security Income, (2) Aid to Families with Dependent Children, (3) Medicaid, (4) Food Stamps, (5) State General Assistance or (6) certain Federal housing assistance, for an aggregate period of at least 12 months within 7 years of admission. An alien shall not be considered to be a public charge on the basis of receipt of emergency medical services, public health immunizations and short-term emergency relief. In the case of an alien who (or whose child) has been battered or subject to extreme cruelty, the aggregate period for receipt of benefits shall be 48 months within 7 years, if the need for such benefits has a substantial connection to the abuse, and may exceed 48 months if the alien can demonstrate that the abuse is ongoing and has led to an issuance of an administrative or judicial order, or there has been a prior determination of abuse by the INS.

Subtitle C—Attribution of Income and Affidavits of Support

Sec. 631—Attribution of sponsor's income and resources to family-sponsored immigrants

This section provides that in determining the eligibility and the amount of benefits of an alien for any Federal means-tested public benefits program, the income and resources of the alien shall be deemed to include those of the person who executed an affidavit of support on behalf of such alien, and that person's spouse. States may act similarly in determining the eligibility and the amount of benefits of an alien for any State means-tested public benefits program. Such deeming shall end for parents of United States citizens at the time the parent becomes a citizen; for spouses of citizens and lawful permanent residents at the earlier of 7 years after the date the spouse becomes an alien lawfully admitted for permanent residence or the date the spouse becomes a citizen; and for minor children at the time the child reaches 21 years of age or, if earlier, the date the child becomes a citizen. The deeming period may end earlier than specified above if the alien is employed long enough to qualify for social security retirement income.

In the case of an alien who (or whose child) has been battered or subject to extreme cruelty, the deeming requirements shall not apply for 48 months if the need for such benefits has a substantial connection to the abuse, or for more than 48 months if the alien can demonstrate that the abuse is ongoing and has led to an issuance of an administrative or judicial order or there has been a prior determination of abuse by the INS.

For States that choose to follow the Federal model of deeming that a sponsor's income and resources is available to the sponsored immigrant for the purpose of qualifying for State or local means-tested public benefits, those States shall be deemed by any Federal or State court 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.

Sec. 632—Requirements for sponsor's affidavit of support

Subsection (a) of this section amends title II of the INA by adding a new section 213A.

Section 213A(a) provides that an affidavit of support may only be accepted as establishing that an alien is not inadmissible as a public charge if it is executed as a contract legally enforceable against the sponsor in any Federal or State court by the Federal Government, and by any State which provided any means-tested public benefits, for a period 10 years after the alien last received any benefit. Such contract shall be enforceable with respect to benefits provided for parents of United States citizens until the time the parent becomes a citizen; for spouses of United States citizens and lawful permanent residents at the earlier of 7 years after the date the spouse becomes an alien lawfully admitted for permanent residence or the date the spouse becomes a citizen; and for minor children at the time the child reaches 21 years of age. The sponsorship period may end earlier than specified above if the alien is employed long enough to qualify for social security retirement income.

Section 213A(b) provides that upon notification that a sponsored alien has received a benefit, the appropriate official shall request reimbursement from the sponsor. If the sponsor does not indicate a willingness to reimburse, or fails to abide by repayment terms, an action may be brought. The appropriate agency may appoint or hire a person to act on its behalf in collecting moneys owed. Section 213A(c) provides that available remedies include those described in sections 3201, 3203, 3204, and 3205 of title 28, U.S. Code, as well as specific performance, reimbursement of legal fees and collection costs, and corresponding State law remedies. Section 213A(d) provides that subject to civil penalties, a sponsor shall notify the federal government and the sponsored alien's State of residence of any change of address of the sponsor.

Section 213A(e) limits eligibility to sponsor an alien into the United States to individuals only (not institutions). Sponsors also must be: the United States citizen or lawful permanent resident who is petitioning for the alien's admission, or an individual who will accept joint and several liability with the petitioner; at least 18 years old; and domiciled in a State. Finally, sponsors must demonstrate, through a certified copy of a tax return, the means to maintain an annual income equal to at least 200 percent of the poverty level for the individual, the individual's family, and the sponsored alien and the alien's nuclear family, if any, who arrive with the alien at the time of the alien's admission. In the case of an individual who is on active duty in the Armed Forces, the income requirement is 100 percent of the poverty level.

Subsection (b) refers to the requirement for an affidavit of support from individuals who file petitions for a relative as an employment-based immigrant.

Subsection (c) amends section 316(a) of the INA by adding a new clause to provide that no person shall be naturalized who has received assistance under a federal or State means-tested public benefit program with respect to which amounts may be owing under an affidavit of support unless he or she provides satisfactory evidence that there are no outstanding amounts owed pursuant to such affidavit. This subsection also amends section 316 by adding

a new subsection (g), providing that the amendment made in section 316(a)(4) shall not apply to a battered alien spouse or child under specified conditions.

Subsection (d) makes a clerical amendment. Subsections (e) and (f) provide that the Attorney General shall promulgate within 90 days of enactment a new standard form for the affidavit of support that complies with new section 213A(a), and that the new section 213A(a) shall apply to affidavits of support executed on a specified date not less than 60 days nor more than 90 days after promulgation of the new form.

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Subtitle B—Other Provisions.

Sec. 831—Commission report on fraud associated with birth certificates

This section amends section 141(c) of the Immigration Act of 1990 to require that the Commission on Immigration Reform shall study and submit to Congress, not later than January 1, 1997, a report containing recommendations of methods to reduce or eliminate the fraudulent use of birth certificates for the purposes of obtaining identification documents that may be used to obtain benefits relating to immigration and employment. The Commission shall consider proposals to adopt national standards for issuing birth certificates and to limit the issuance of an individual's birth certificate to any person other than the individual or his or her representative.

Sec. 832—Uniform vital statistics

This section requires the Secretary of Health and Human Services, within 2 years of the date of enactment, to establish a pilot program for 3 of the 5 States with the largest population of un-

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documented aliens for linking through electronic network the vital statistics records of such States. The network shall provide for the matching of deaths and births and shall institute measures to protect the integrity of the records, specifically to prevent fraud against the Government through use of false birth and death certificates. The Secretary shall issue a report to Congress not later than 180 days after establishment of the pilot program with recommendations on how the pilot program could be implemented as a national network.

AGENCY VIEWS

The Administration has not provided a statement of its views regarding H.R. 2202 as reported by the Committee on October 24, 1996. The following is a statement of views received from the Attorney General regarding H.R. 2202 as introduced on August 4, 1995.

OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, DC, September 15, 1995.

Hon. HENRY J. HYDE,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR CHAIRMAN HYDE: This letter presents the views of the Administration concerning H.R. 2202, the "Immigration in the National Interest Act of 1995," as introduced on August 4, 1995.

Many of the provisions in H.R. 2202 advance the Administration's four-part strategy to control illegal immigration. This strategy calls for regaining control of our borders; removing the job magnet through worksite enforcement; aggressively pursuing the removal of criminal aliens and other illegal aliens; and securing from Congress the resources to assist states with the costs of illegal immigration that are a result of failed enforcement policies of the past. The Administration's legislative proposal to advance that strategy is H.R. 1929, the "Immigration Enforcement Improvements Act of 1995," introduced by Representative Howard Berman on June 27, 1995. We are pleased that the bill before the Committee follows our policies to a significant extent. Our positions on the provisions in the bill are summarized in the following discussion.

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

The Administration has already demonstrated that our borders can be controlled when there is a commitment to do so by the President and Congress. With an unprecedented infusion of resources since 1993, we have implemented a multi-year border control strategy of prevention through deterrence. We have carefully crafted long range strategic plans tailored to the unique geographic and demographic characteristics of each border area to restore integrity to the border.

Border Patrol Agents: We have increased the number of Border Patrol agents by 40% since 1993 and we support a further increase of 700 agents per year to reach a total strength of at least 7,281 Border Patrol agents by the end of FY 1998.

Document Security: We support improved security of Border Crossing Cards and other documents, using advanced technology, within a reasonable period of time.

Interior Repatriation: We support pilot programs to deter multiple unauthorized entries, including interior and third country repatriation.

Penalty for illegal entry: We are currently prosecuting more repeat criminal alien illegal entry offenders than ever. Our increase in prosecutions is preferable to a burdensome civil penalty.

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

The Administration is aggressively investigating, apprehending, and prosecuting alien smugglers. H.R. 2202 and the Administration bill have a common goal of significantly increasing penalties for alien smuggling, document fraud, and related crimes. In face, our bill goes beyond the provisions of H.R. 2202 by making conspiracy to violate the alien smuggling statutes a RICO predicate and by providing for civil forfeiture of proceeds of and property used to facilitate alien smuggling.

Penalty increases: We support increases in the sentences for aliens who fail to obey a deportation order, illegally re-enter the U.S. after deportation, or commit passport of visa fraud.

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

Removals of criminal aliens have increased rapidly during this Administration. More than four times as many criminal aliens were removed in 1994 than in 1988. We will nearly triple the number of criminal alien removals from 20, 138 in FY 93 to 58,200 in FY 96 by streamlining deportation procedures, expending the Institutional Hearing Program, and enhancing the international prisoner transfer treaty program. Immigration and Naturalization Service (INS) technology enhancements have also played a critical role in removing criminal aliens, as have INS alternatives to formal deportation, such as stipulated, judicial, and administrative deportation.

Special exclusion: We support special exclusion provisions which allow the Attorney General to order an alien excluded and deported without a hearing before an immigration judge when extraordinary situations threaten our ability to process cases and in the case of irregular boat arrivals.

Removal procedures: We support consolidating exclusion and deportation into one removal process and facilitating telephone and video hearings which save resources.

Authorization for removals: We urge the Committee to increase the authorization for funding the detention and removal of inadmissible or deportable aliens to $177.7 million, the amount in the President's FY 96 budget request, rather than the $150 million in H.R. 2202.

Relief from deportation: We support consolidating the processes and restricting the grounds which permit relief from deportation.

TITLE IV—ENFORCEMENT OF RESTRICTIONS AGAINST EMPLOYMENT

The Administration strongly believes that jobs are the greatest magnet for illegal immigration and that a comprehensive effort to deter illegal immigration, particularly visa overstaying, must make worksite enforcement a top priority. The Administration is concerned by the cautious steps back H.R. 2202 takes with regard to enforcement of employer sanctions and will continue to work with the Committee to address this priority enforcement area.

Enforcement personnel: The President's FY budget request calls for 202 new DOL Wage and Hour personnel while H.R. 2202 calls for 150. We support the levels of new INS investigations personnel and new DOL Wage and Hour personnel requested in the President's FY 96 budget. These resources will enhance enforcement of laws prohibiting employment of illegal aliens and the minimum labor standards laws.

Employment verification: H.R. 2202, in contrast to the Administration's bill, rejects the principle worksite enforcement recommendation of the Commission on Immigration Reform which was to thoroughly test and evaluate verification techniques before implementing them nationwide. We support continued pilot projects which will aid in the development of a system for accurate verification of a potential employee's status. Such a system will greatly assist employers in meeting their obligation to hire only authorized workers. Testing what works—from business impact, cost effectiveness, privacy and discrimination perspectives—is a necessary prerequisite for a nationwide verification system.

Employment documents. We strongly support the reduction in the number of documents that can establish employment authorization.

TITLE V—REFORM OF LEGAL IMMIGRATION SYSTEM

The Administration seeks legal immigration reform that promotes family reunification, protects U.S. workers from unfair competition while promoting the global competitiveness of our employers, and encourages naturalization to encourage full participation in the national community. The Administration supports a reduction in the overall level of legal immigration consistent with these principles.

We are proposing to reform legal immigration in ways that are consistent with the Jordan Commission's recommendations, that reduce annual levels of legal immigration, and that reach those lower numbers faster. We are also proposing a few ideas on how to use naturalization to reduce the second preference backlog numbers, which is a priority for the Commission and the Administration, while maintaining first and third family preferences for reunification of adult children of U.S. citizens.

Refugee admissions: We do not support a statutory cap on the number of refugees resettled in the U.S. Refugee admissions, which have declined in recent years, are better determined through the established consultation process between the President and the Congress.

Asylum proceedings: We do not support extensive changes in the asylum process which would reverse the significant progress the Administration has made in the asylum area.

TITLE VI—RESTRICTIONS ON BENEFITS FOR UNAUTHORIZED ALIENS

The Administration supports the denial of benefits to undocumented immigrants. The only exceptions should include matters of public health and safety—such as emergency medical services, immunization and temporary disaster relief assistance—and every child's right to a public education. In so doing, care must be taken not to limit or deny benefits or services to eligible individuals or in instances where denial does not serve the national interest. The Administration also supports tightening sponsorship and eligibility rules for non-citizens and requiring sponsors of legal immigrants to bear greater responsibility through legally enforceable sponsorship agreements for those whom they encourage to enter the United States. The Administration, however, strongly opposes application of new eligibility and deeming provisions to current recipients, including the disabled who are exempted under current law. The Administration also is deeply concerned about the application of deeming provisions to Medicaid and other programs where deeming would adversely affect public health and welfare.

TITLE VII—FACILITATION OF LEGAL ENTRY

The Administration is committed to improving services for legal entrants, and we support the provisions of this bill which enable us to do so. We are already conducting commuter land pilot programs on the Northern border to facilitate traffic at the ports of entry. Revenues from new service charges will enable us to hire additional inspectors and to enhance customer service to the traveling public at land border ports of entry.

As for air travel, our pre-inspection facilities enable us to expedite inspection at the arrival airports. In addition, we are already working with the travel industry to deter illegal traffic and improve customer services. For the past five years we have conducted a Carrier Consultant program at both United States and foreign locations in which we train airline employees and foreign government officials in the detection of fraudulent travel documents. This has resulted in a marked reduction of mala fide arrivals at United States gateway airports.

TITLE VIII—MISCELLANEOUS

Adjustment of status: We do not support limiting the class of aliens who can adjust status under section 245(i) of the Immigration and Nationality Act. This section has eliminated a burdensome paper process, and allowed resources to be shifted to anti-fraud and naturalization efforts.

Mr. Chairman, we want to work with you on bipartisan immigration enforcement legislation that is in the national interest. We look forward to working with you to address the core issues of worksite enforcement, border control, criminal alien deportation and comprehensive immigration law enforcement.

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,

JAMIE S. GORELICK,
Deputy Attorney General.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

IMMIGRATION AND NATIONALITY ACT

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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.

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UNLAWFUL EMPLOYMENT OF ALIENS

(b) EMPLOYMENT VERIFICATION SYSTEM.—The requirements referred to in paragraphs (1)(B) and (3) of subsection (a) are, in the case of a person or other entity hiring, recruiting, or referring an individual for employment in the United States, the requirements specified in the following three paragraphs:

(1) ATTESTATION AFTER EXAMINATION OF DOCUMENTATION.—

(A) * * *

(B) DOCUMENTS ESTABLISHING BOTH EMPLOYMENT AUTHORIZATION AND IDENTITY.—A document described in this subparagraph is an individual's—

(i) United States passport; *or*

[(ii) certificate of United States citizenship;

[(iii) certificate of naturalization;

[(iv) unexpired foreign passport, if the passport has an appropriate, unexpired endorsement of the Attorney General authorizing the individual's employment in the United States; or]

[(v)] *(ii)* resident alien card [or other alien registration card, if the card], *alien registration card, or other document designated by regulation by the Attorney General, if the document—*

(I) contains a photograph of the individual or such other personal identifying information relating to the individual as the Attorney General finds, by regulation, sufficient for purposes of this subsection, and

(II) is evidence of authorization of employment in the United States.

[(C) DOCUMENTS EVIDENCING EMPLOYMENT AUTHORIZATION.—A document described in this subparagraph is an individual's—

[(i) 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);

[(ii) certificate of birth in the United States or establishing United States nationality at birth, which certificate the Attorney General finds, by regulation, to be acceptable for purposes of this section; or

[(iii) other documentation evidencing authorization of employment in the United States which the Attorney General finds, by regulation, to be acceptable for purposes of this section.]

(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).

(D) DOCUMENTS ESTABLISHING IDENTITY OF INDIVIDUAL.—A document described in this subparagraph is an individual's—

(i) driver's license or similar document issued for the purpose of identification by a State, if it contains a photograph of the individual or such other personal identifying information relating to the individual as the Attorney General finds, by regulation, sufficient for purposes of this section; or

(ii) in the case of individuals under 16 years of age or in a State which does not provide for issuance of an identification document (other than a driver's license) referred to in clause (i), documentation of personal identity of such other type as the Attorney General finds, by regulation, provides a reliable means of identification.

[(2) INDIVIDUAL ATTESTATION OF EMPLOYMENT AUTHORIZATION.—The individual must attest, under penalty of perjury on the form designated or established for purposes of paragraph (1), that the individual is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Attorney General to be hired, recruited, or referred for such employment.

[(3) RETENTION OF VERIFICATION FORM.—After completion of such form in accordance with paragraphs (1) and (2), the person or entity must retain the form and make it available for inspection by officers of the Service, the Special Counsel for Immigration-Related Unfair Employment Practices, or the Department of Labor during a period beginning on the date of the hiring, recruiting, or referral of the individual and ending—

[(A) in the case of the recruiting or referral for a fee (without hiring) of an individual, three years after the date of the recruiting or referral, and

[(B) in the case of the hiring of an individual—

[(i) three years after the date of such hiring, or

[(ii) one year after the date the individual's employment is terminated,

whichever is later.]

(2) INDIVIDUAL ATTESTATION OF EMPLOYMENT AUTHORIZATION AND PROVISION OF SOCIAL SECURITY ACCOUNT NUMBER.—The individual must—

(A) attest, under penalty of perjury on the form designated or established for purposes of paragraph (1), that the individual is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Attorney General to be hired, recruited, or referred for such employment; and

(B) provide on such form the individual's social security account number.

(3) RETENTION OF VERIFICATION FORM AND CONFIRMATION.—After completion of such form in accordance with paragraphs (1) and (2), the person or entity must—

(A) retain the form and make it available for inspection by officers of the Service, the Special Counsel for Immigration-Related Unfair Employment Practices, or the Department of Labor during a period beginning on the date of the hiring, recruiting, or referral of the individual and ending—

(i) in the case of the recruiting or referral for a fee (without hiring) of an individual, three years after the date of the recruiting or referral, and

(ii) in the case of the hiring of an individual—

(I) three years after the date of such hiring, or

(II) one year after the date the individual's employment is terminated,

whichever is later; and

(B) subject to paragraph (7), if the person employs more than 3 employees, seek to have (within 3 working days of the date of hiring) and have (within the time period specified under paragraph (6)(D)(iii)) the identity, social security number, and work eligibility of the individual confirmed in accordance with the procedures established under paragraph (6), except that if the person or entity in good faith attempts to make an inquiry in accordance with the procedures established under paragraph (6) during such 3 working days in order to fulfill the requirements under this subparagraph, and the confirmation mechanism has registered that not all inquiries were responded to during such time, the person or entity shall make an inquiry in the first subsequent working day in which the confirmation mechanism registers no nonresponses.

(4) COPYING OF DOCUMENTATION PERMITTED.—Notwithstanding any other provision of law, the person or entity may copy a document presented by an individual pursuant to this subsection and may retain the copy, but only (except as otherwise permitted under law) for the purpose of complying with the requirements of this subsection.

(5) LIMITATION ON USE OF ATTESTATION FORM.—A form designated or established by the Attorney General under this subsection and any information contained in or appended to such form, may not be used for purposes other than for enforcement of this Act and sections 1001, 1028, 1546, and 1621 of title 18, United States Code.

(6) EMPLOYMENT ELIGIBILITY CONFIRMATION PROCESS.—

(A) IN GENERAL.—Subject to paragraph (7), the Attorney General shall establish a confirmation mechanism through which the Attorney General (or a designee of the Attorney General which may include a nongovernmental entity)—

(i) responds to inquiries by employers, made through a toll-free telephone line or other electronic media in the form of an appropriate confirmation code or otherwise, on whether an individual is authorized to be employed by that employer, and

(ii) maintains a record that such an inquiry was made and the confirmation provided (or not provided).

(B) EXPEDITED PROCEDURE IN CASE OF NO CONFIRMATION.—In connection with subparagraph (A), the Attorney General shall establish, in consultation with the Commissioner of Social Security and the Commissioner of the Service, expedited procedures that shall be used to confirm the validity of information used under the confirmation mechanism in cases in which the confirmation is sought but is not provided through the confirmation mechanism.

(C) DESIGN AND OPERATION OF MECHANISM.—The confirmation mechanism shall be designed and operated—

(i) to maximize the reliability of the confirmation process, and the ease of use by employers, recruiters, and referrers, consistent with insulating and protecting the privacy and security of the underlying information, and

(ii) to respond to all inquiries made by employers on whether individuals are authorized to be employed by those employers, recruiters, or referrers registering all times when such response is not possible.

(D) CONFIRMATION PROCESS.—(i) As part of the confirmation mechanism, the Commissioner of Social Security shall establish a reliable, secure method, which within the time period specified under clause (iii), compares the name and social security account number provided against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided and whether the individual has presented a social security account number that is not valid for employment. The Commissioner shall not disclose or release social security information.

(ii) As part of the confirmation mechanism, the Commissioner of the Service shall establish a reliable, secure method, which, within the time period specified under clause (iii), compares the name and alien identification number (if any) provided against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided and whether the alien is authorized to be employed in the United States.

(iii) For purposes of this section, the Attorney General (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. In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Service, an expedited time period not to exceed 10 working days within which final confirmation or denial must be provided through the confirmation mechanism in accordance with the procedures under subparagraph (B).

(iv) The Commissioners shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information.

(E) PROTECTIONS.—(i) In no case shall an individual be denied employment because of inaccurate or inaccessible data under the confirmation mechanism.

(ii) The Attorney General shall assure that there is a timely and accessible process to challenge nonconfirmations made through the mechanism.

(iii) 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.

(F) TESTER PROGRAM.—As part of the confirmation mechanism, the Attorney General shall implement a program of testers and investigative activities (similar to testing and other investigative activities assisted under the fair housing initiatives program under section 561 of the Housing and Community Development Act of 1987 to enforce rights under the Fair Housing Act) in order to monitor and prevent unlawful discrimination under the mechanism.

(G) 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 for any action taken in good faith reliance on information provided through the employment eligibility confirmation mechanism established under this paragraph (including any pilot program established under paragraph (7)).

(7) APPLICATION OF CONFIRMATION MECHANISM THROUGH PILOT PROJECTS.—

(A) IN GENERAL.—Subsection (a)(3)(B) and paragraph (3) shall only apply to individuals hired if they are covered under a pilot project established under this paragraph.

(B) UNDERTAKING PILOT PROJECTS.—For purposes of this paragraph, the Attorney General shall undertake pilot projects for all employers in at least 5 of the 7 States with the highest estimated population of unauthorized aliens, in order to test and assure that the confirmation mechanism described in paragraph (6) is reliable and easy to use. Such projects shall be initiated not later than 6 months after the date of the enactment of this paragraph. The Attorney General, however, shall not establish such mechanism in other States unless Congress so provides by law. The pilot projects shall terminate on such dates, not later than October 1, 1999, as the Attorney General determines. At least one such pilot project shall be carried out through a nongovernmental entity as the confirmation mechanism.

(C) REPORT.—The Attorney General shall submit to the Congress annual reports in 1997, 1998, and 1999 on the development and implementation of the confirmation mechanism under this paragraph. Such reports may include an analysis of whether the mechanism implemented—

(i) is reliable and easy to use;

(ii) limits job losses due to inaccurate or unavailable data to less than 1 percent;

(iii) increases or decreases discrimination;

(iv) protects individual privacy with appropriate policy and technological mechanisms; and

(v) burdens individual employers with costs or additional administrative requirements.

* * * * * * *

(e) COMPLIANCE.—

(1) COMPLAINTS AND INVESTIGATIONS.—The Attorney General shall establish procedures—

(A) for individuals and entities to file written, signed complaints respecting potential violations of subsection (a) or (g)(1),

(B) for the investigation of those complaints which, on their face, have a substantial probability of validity,

(C) for the investigation of such other violations of subsection (a) or (g)(1) as the Attorney General determines to be appropriate, [and]

(D) for the designation in the Service of a unit which has, as its primary duty, the prosecution of cases of violations of subsection (a) or (g)(1) under this subsection[.], *and*

(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).

* * * * * * *

[(i) EFFECTIVE DATES.—

[(1) 6-MONTH PUBLIC INFORMATION PERIOD.—During the six-month period beginning on the first day of the first month after the date of the enactment of this section—

[(A) the Attorney General, in cooperation with the Secretaries of Agriculture, Commerce, Health and Human Services, Labor, and the Treasury and the Administrator of the Small Business Administration, shall disseminate forms and information to employers, employment agencies, and organizations representing employees and provide for public education respecting the requirements of this section, and

[(B) the Attorney General shall not conduct any proceeding, nor issue any order, under this section on the basis of any violation alleged to have occurred during the period.

[(2) 12-MONTH FIRST CITATION PERIOD.—In the case of a person or entity, in the first instance in which the Attorney Gen-

eral has reason to believe that the person or entity may have violated subsection (a) during the subsequent 12-month period, the Attorney General shall provide a citation to the person or entity indicating that such a violation or violations may have occurred and shall not conduct any proceeding, nor issue any order, under this section on the basis of such alleged violation or violations.

[(3) DEFERRAL OF ENFORCEMENT WITH RESPECT TO SEASONAL AGRICULTURAL SERVICES.—

[(A) IN GENERAL.—Except as provided in subparagraph (B), before the end of the application period (as defined in subparagraph (C)(i)), the Attorney General shall not conduct any proceeding, nor impose any penalty, under this section on the basis of any violation alleged to have occurred with respect to employment of an individual in seasonal agricultural services.

[(B) PROHIBITION OF RECRUITMENT OUTSIDE THE UNITED STATES.—

[(i) IN GENERAL.—During the application period, it is unlawful for a person or entity (including a farm labor contractor) or an agent of such a person or entity, to recruit an unauthorized alien (other than an alien described in clause (ii)) who is outside the United States to enter the United States to perform seasonal agricultural services.

[(ii) EXCEPTION.—Clause (i) shall not apply to an alien who the person or entity reasonably believes meets the requirements of section 210(a)(2) of this Act (relating to performance of seasonal agricultural services).

[(iii) PENALTY FOR VIOLATION.—A person, entity, or agent that violates clause (i) shall be deemed to be subject to an order under this section in the same manner as if it had violated subsection (a)(1)(A), without regard to paragraph (2) of this subsection.

[(C) DEFINITIONS.—In this paragraph:

[(i) APPLICATION PERIOD.—The term "application period" means the period described in section 210(a)(1).

[(ii) SEASONAL AGRICULTURAL SERVICES.—The term "seasonal agricultural services" has the meaning given such term in section 210(h).

[(j) GENERAL ACCOUNTING OFFICE REPORTS.—

[(1) IN GENERAL.—Beginning one year after the date of enactment of this section, and at intervals of one year thereafter for a period of three years after such date, the Comptroller General shall prepare and transmit to the Congress and to the taskforce established under subsection (k) a report describing the results of a review of the implementation and enforcement of this section during the preceding twelve-month period, for the purpose of determining if—

[(A) such provisions have been carried out satisfactorily;

[(B) a pattern of discrimination has resulted against citizens or nationals of the United States or against eligible workers seeking employment; and

[(C) an unnecessary regulatory burden has been created for employers hiring such workers.

[(2) DETERMINATION ON DISCRIMINATION.—In each report, the Comptroller General shall make a specific determination as to whether the implementation of this section has resulted in a pattern of discrimination in employment (against other than unauthorized aliens) on the basis of national origin.

[(3) RECOMMENDATIONS.—If the Comptroller General has determined that such a pattern of discrimination has resulted, the report—

[(A) shall include a description of the scope of that discrimination, and

[(B) may include recommendations for such legislation as may be appropriate to deter or remedy such discrimination.

[(k) REVIEW BY TASKFORCE.—

[(1) ESTABLISHMENT OF JOINT TASKFORCE.—The Attorney General, jointly with the Chairman of the Commission on Civil Rights and the Chairman of the Equal Employment Opportunity Commission, shall establish a taskforce to review each report of the Comptroller General transmitted under subsection (j)(1).

[(2) RECOMMENDATIONS TO CONGRESS.—If the report transmitted includes a determination that the implementation of this section has resulted in a pattern of discrimination in employment (against other than unauthorized aliens) on the basis of national origin, the taskforce shall, taking into consideration any recommendations in the report, report to Congress recommendations for such legislation as may be appropriate to deter or remedy such discrimination.

[(3) CONGRESSIONAL HEARINGS.—The Committees on the Judiciary of the House of Representatives and of the Senate shall hold hearings respecting any report of the taskforce under paragraph (2) within 60 days after the date of receipt of the report.

[(l) TERMINATION DATE FOR EMPLOYER SANCTIONS.—

[(1) IF REPORT OF WIDESPREAD DISCRIMINATION AND CONGRESSIONAL APPROVAL.—The provisions of this section shall terminate 30 calendar days after receipt of the last report required to be transmitted under subsection (j), if—

[(A) the Comptroller General determines, and so reports in such report, that a widespread pattern of discrimination has resulted against citizens or nationals of the United States or against eligible workers seeking employment solely from the implementation of this section; and

[(B) there is enacted, within such period of 30 calendar days, a joint resolution stating in substance that the Congress approves the findings of the Comptroller General contained in such report.

[(2) SENATE PROCEDURES FOR CONSIDERATION.—Any joint resolution referred to in clause (B) of paragraph (1) shall be considered in the Senate in accordance with subsection (n).

[(m) EXPEDITED PROCEDURES IN THE HOUSE OF REPRESENTATIVES.—For the purpose of expediting the consideration and adop-

tion of joint resolutions under subsection (l), a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

[(n) EXPEDITED PROCEDURES IN THE SENATE.—

[(1) CONTINUITY OF SESSION.—For purposes of subsection (l), the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period indicated.

[(2) RULEMAKING POWER.—Paragraphs (3) and (4) of this subsection are enacted—

[(A) as an exercise of the rulemaking power of the Senate and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of joint resolutions referred to in subsection (l), and supersede other rules of the Senate only to the extent that such paragraphs are inconsistent therewith; and

[(B) with full recognition of the constitutional right of the Senate to change such rules at any time, in the same manner as in the case of any other rule of the Senate.

[(3) COMMITTEE CONSIDERATION.—

[(A) MOTION TO DISCHARGE.—If the committee of the Senate to which has been referred a joint resolution relating to the report described in subsection (l) has not reported such joint resolution at the end of ten calendar days after its introduction, not counting any day which is excluded under paragraph (1) of this subsection, it is in order to move either to discharge the committee from further consideration of the joint resolution or to discharge the committee from further consideration of any other joint resolution introduced with respect to the same report which has been referred to the committee, except that no motion to discharge shall be in order after the committee has reported a joint resolution with respect to the same report.

[(B) CONSIDERATION OF MOTION.—A motion to discharge under subparagraph (A) of this paragraph may be made only by a Senator favoring the joint resolution, is privileged, and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the joint resolution, the time to be divided equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

[(4) MOTION TO PROCEED TO CONSIDERATION.—

[(A) IN GENERAL.—A motion in the Senate to proceed to the consideration of a joint resolution shall be privileged. An amendment to the motion shall not be in order, nor

shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

[(B) DEBATE ON RESOLUTION.—Debate in the Senate on a joint resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

[(C) DEBATE ON MOTION.—Debate in the Senate on any debatable motion or appeal in connection with a joint resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the joint resolution, except that in the event the manager of the joint resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a joint resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

[(D) MOTIONS TO LIMIT DEBATE.—A motion in the Senate to further limit debate on a joint resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommit, a joint resolution is in order in the Senate.]

IMMIGRATION ACT OF 1990

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TITLE I—IMMIGRANTS

Subtitle C—Commission and Information

SEC. 141. COMMISSION ON IMMIGRATION REFORM.

(a) * * *

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(b) FUNCTIONS OF COMMISSION.—The Commission shall—

(1) review and evaluate the impact of this Act and the amendments made by this Act, in accordance with subsection (c); [and]

(2) transmit to the Congress—

(A) not later than September 30, 1994, a first report describing the progress made in carrying out paragraph (1), and

(B) not later than September 30, 1997, a final report setting forth the Commission's findings and recommendations, including such recommendations for additional changes that should be made with respect to legal immigration into the United States as the Commission deems appropriate[.]; *and*

(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.

(c) CONSIDERATIONS.—

(1) * * *

(2) DIVERSITY PROGRAM.—The Commission shall analyze the information maintained under section 203(c)(3) of the Immigration and Nationality Act and shall report to Congress in its report under subsection (b)(2) on—

(A) the characteristics of individuals admitted under section 203(c) of the Immigration and Nationality Act, and

(B) how such characteristics compare to the characteristics of family-sponsored immigrants and employment-based immigrants.

The Commission shall include in the report an assessment of the effect of the requirement of paragraph (2) of section 203(c) of the Immigration and Nationality Act on the diversity, educational, and skill level of aliens admitted.

(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.

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ADDITIONAL VIEWS OF REP. ELTON GALLEGLY

One of the most critical challenges facing the 104th Congress is the passage of comprehensive and effective immigration reform legislation. For many years, the American people have expressed frustration that its leaders in Congress have failed to enact policies to eliminate the unacceptably high levels of illegal migration to our country. Under the able leadership of Representative Lamar Smith, Chairman of the House Subcommittee on Immigration and Claims, the Judiciary Committee has approved legislation, H.R. 2202, which finally addresses in a serious manner the public's concern over this problem.

In an effort to find solutions to this on-going crisis, Speaker Newt Gingrich earlier this year appointed me Chairman of the Congressional Task Force on Immigration Reform, which was comprised of fifty-four Members of Congress, both Republicans and Democrats. We were asked to provide a report to the Speaker and relevant congressional committees by June 30, 1995. In preparing its findings, the Task Force on Immigration Reform reviewed existing laws; committee reports; testimony before Committees of Congress; and various existing reports prepared by a wide-range of organizations and individuals. To enhance the expertise of the panel and obtain a first-hand view of the problem, the Task Force conducted fact-finding missions to San Diego, California; New York, New York; and Miami, Florida.

The Task Force was organized into six working groups to focus on the most crucial areas of immigration policy most in need of reform. The groups were: Border Enforcement, Chaired by Congressman Royce (R–CA); Workplace Enforcement, Chaired by Congressman Deal (R–GA); Public Benefits, Chaired by Congressman Goss (R–FL); Political Benefits, Chaired by Congressman Goss (R–FL); Political Asylum, Chaired by Congressman McCollum (R–FL); Deportation, Chaired by Congressman Condit (D–CA); and Visa Overstays, Chaired by Congressman Goodlatte (R–VA). These working groups met individually and made specific recommendations to the entire Task Force.

The Task Force has worked closely with Chairman Smith to include over 80% of these recommendations in H.R. 2202—the Immigration in the National Interest Act. Many measures were incorporated in the original bill, while others have been successfully added to the legislation through amendments.

At the time of introduction, H.R. 2202 included over twenty-five Task Force recommendations. In the area of border enforcement, these recommendations included the doubling of the number of border patrol agents stationed at the border over a five year period, increasing penalties for immigrant smuggling and the construction of a triple-barrier fencing along the U.S.-Mexico border.

H.R. 2202 also incorporated in its entirety H.R. 1765, a bill which I introduced earlier this year that targets long-term illegal immigration. This legislation prohibits anyone who has been in this country illegally for more than one year from receiving a visa for a ten-year period. This will serve as a strong encouragement for illegal immigrants—both persons who overstayed their visa and those who crossed the border illegally—to return to their native countries and re-enter through legal channels.

During markup of the bill in the Immigration and Claims Subcommittee, I offered four amendments, including three en bloc amendments which were accepted. The first amendment authorized full reimbursement to state and local governments for the costs of providing emergency health care service to illegal immigrants. Hospitals are required to verify with INS that the patient is illegally in the U.S. as a condition for such reimbursement.

A major focus of the three en bloc amendments involved bolstering enforcement efforts targeted at criminal aliens. They provided for improving the identification of criminal aliens by state and local authorities; mandatory detention of all illegal aliens caught re-entering the United States on three occasions; increasing penalties for immigrant smuggling; increasing funds for investigators and border patrol located in the interior; increasing criminal penalties for possessing, producing or transferring fraudulent documents; and increasing the amount reimbursable for states and local governments for the costs of incarcerating criminal aliens. Another important measure dealing with criminal aliens authorizes the President to enter into negotiations with foreign countries for the purpose of reaching agreement on the transfer of alien prisoners.

Furthermore, the en bloc amendments authorized a major expansion in the number of asylum officers and more than doubled the number of detention spaces available to the Immigration and Naturalization Service. This latter provision will allow the INS to house illegal entrants determined to be high-flight risk or pose a danger to the community.

As H.R. 2202 was considered by the full Judiciary Committee, I offered nine additional amendments, all of which were accepted. Two amendments strengthened measures against criminal aliens, including one providing that upon the request of a state governor, the INS will assist state courts in the identification of illegal aliens pending criminal prosecution.

Several other measures specifically targeted illegal aliens who attempt to receive government benefits. One important amendment requires the Department of Education to verify the immigration status of persons who apply for higher education benefits. This provision was promoted by an Education Department report which found that ineligible aliens are awarded over $70 million in Pell Grants and $45 million in Stafford Loans each year. Another measure ensures that state officials are able to communicate with the Immigration and Naturalization Service for the purpose of verifying the immigration status of aliens who are applying for public benefits. This measure also ensures that state government entities can report to the INS when an alien is illegally attempting to access taxpayer financed programs.

Finally, in an effort to protect American jobs and discourage illegal immigration, I introduced an amendment to close a major loophole in the existing immigration law. Under existing law, an alien who applies for permanent residency based on a job offer must demonstrate to INS and the Department of Labor that, depending on the visa category, they possess at least a specific level of work experience. However, illegal work is currently allowed to be counted as valid experience for this purpose. This encourages persons to come to the U.S., work illegally and then apply for a green card based on that illegal work experience. My amendment, which was adopted by the Judiciary Committee, would prohibit aliens from using this illegal work as evidence that he or she possesses sufficient experience and skills to obtain a green card.

The bill reported by the Judiciary Committee represents a watershed in our attempt to once and for all address the perplexing issues of illegal immigration. We have a good product. However, several additional provisions need to be added to the H.R. 2202 when it comes to the House floor. At this time, there are several possible amendments under consideration, including amendments to give states the option of denying free public education benefits to illegal aliens and close the loopholes in current law that allow many illegal immigrants to improperly receive free public housing.

Above all else, this landmark legislation is firmly rooted in the rule of law. As a society, we simply cannot allow anyone, regardless of motivation, to illegally cross our borders or overstay their legal welcome in this country with impunity. If enacted, this legislation will represent a major step in restoring the confidence of our people in the ability of the federal government to respond effectively to this crisis.

ELTON GALLEGLY.

ADDITIONAL VIEWS CONCERNING EMPLOYMENT VERIFICATION SYSTEM

Amazingly, at a time when many argue that Government is too intrusive and bureaucratic and spends too much, Title IV of H.R. 2202 proposes a computerized national employment registry under the guise of immigration reform. This "employment verification system" represents a perilous threat to our Constitutional rights. By forcing the government to maintain a file on every single individual within a covered state and to approve every single hiring decision within that state, H.R. 2202 will truly usher in the era of a "Big Brother," all-intrusive federal bureaucracy. Even more ominously, since the telephone verification system will inevitably be subject to government errors and discrepancies, it may will be a mere prelude to a full-fledged national ID card, complete with voice, retina and fingerprint identifiers.[1]

Although styled a "pilot program," the registry would take place in the five states with the largest illegal alien population (i.e., California, Texas, New York, Florida, and Illinois)[2] and cover 92.8 million people.[3] Businesses in these States would understandably desire to see Congress quickly impose the verification system on the rest of the country, less they be placed at an unfair economic disadvantage.

Under the pilot project, no individuals in these States will be hired without the express approval of the Federal Government. H.R. 2202 requires that all employers in these states—from General Motors to households with domestic help—report new employees to the Federal Government by a telephone 1–800 number or through computer E-mail within three days. The Federal Government would then check the employee's name and social security number through its database. If the Government does not verify that the person is authorized to work, the worker would have 10 days to try to verify his or her eligibility and two weeks in which to appeal the decision pursuant to the Federal Tort Claims Act. These procedures would apply any time anyone begins a new job, and burdens business with an additional layer on top of the current I–9 document verification requirements.

The employee verification system will not be foolproof. During hearings on the bill it was conceded that the SSA and INS computers do not even have the capacity to read each other's data.[4] A recent study by the INS found a 28 percent error rate in the Social

[1] This is in addition to provision in Title I providing for a "biometric identifier" (e.g., finger or hand print for aliens frequently crossing the Mexican border).

[2] U.S. Commission on Immigration Reform, U.S. Immigration Policy: Restoring Credibility, September 1994 at 64 [hereinafter Commission Report].

[3] Cato Institute, Statistical Abstract of the United States. (1993 figures).

[4] See Transcript of Oversight Hearing on Work Site Enforcement of Employer Sanctions, Friday, March 3, 1995, U.S. House of Representatives, Subcommittee on Immigration and Claims, Committee on the Judiciary.

Security Administration (SSA) database.[5] This verification requirement therefore creates huge possibilities for flawed information being disseminated to employers which will deny American citizens and lawful permanent residents the opportunity to work. Even if the error rate could be substantially reduced, it will still translate into millions of postponed or lost job opportunities.

The "verification system" is no answer to the problem of discrimination. In order to avoid the disruptions resulting from government errors and discrepancies, employers would most likely continue to avoid including individuals whose appearance, name, accent or family background make their profile appear "foreign." Moreover, as amended, H.R. 2202 would require that a person alleging discrimination under the existing employer sanctions provision show that the employer intended to discriminate, a burden of proof that is extremely difficult to satisfy.

And the tester program included in the bill[6] will not redeem a bad program. We doubt the Republican Majority will be clamoring to appropriate funds for testers in the present budget environment. Even if they did, the program would be able to effect only a small fraction of the nation's employers.

The verification system proposed in this bill will also dangerously increase the Federal Government's ability to monitor individuals. Although the legislation purports to limit the use of the information maintained in these new files to "employment verification" purposes only, the system is bound to be subject to unauthorized disclosures and leaks. Just as supposedly sacrosanct census data were used to identify Japanese-Americans for internment during World War II, the massive new data base necessitated by the Republican immigration bill will prove a tempting target for future legislation intent on cracking down on tax cheaters, "deadbeat" dads, or unpopular dissident groups.

The U.S. Commission on Immigration Reform estimates the cost of design and development of the combined SSA/INS database at $4 million over a two year period.[7] The Commission further estimates the annual cost of maintaining and operating the verification system at $32 million.[8] Whatever the cost, we believe that the verification system is a poor allocation of scarce resources. And the costs to the private sector will be many, many times greater, as employers will be forced to incur major operational and administrative costs in order to verify new employees.[9] Worst of all, inevitable system errors will result in economic injustice to those individuals whose right to work will be lost to computer error.

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[5] Telephone Verification System (TVS) Pilot, Report on the Demonstration Pilot-Phase I (1993) (9 company test) [hereinafter TVS Pilot Report].

[6] This requires the Attorney General implement a "tester" program which includes individuals posing as genuine applicants, in order to monitor and ensure that the verification system is being applied fairly.

[7] Commission Report, supra note 2 at 70.

[8] The report also states that correcting errors in the database will require the largest financial output. Discrepancies referred to the Social Security Administration will cost approximately $122 million initially with an annual cost of $30 million. Commission Report, supra note 2 at 64.

[9] The INS pilot project indicated compliance costs of $5,000 for each company, but actual compliance costs would be several times that, since the pilot project only checked prospective employees who identified themselves as immigrants, not every individual offered a job. See TVS Pilot Report, supra note 5.

Certainly illegal immigration is a problem. But to adopt a system that punishes honest employers and lawful residents and citizens in order to deter others from breaking the law is to lose all sense of perspective. We urge the Members to oppose the employment verification provisions of H.R. 2202.

JOHN CONYERS, Jr.
PAT SCHROEDER.
ZOE LOFGREN.
JERROLD NADLER.
SHEILA JACKSON-LEE.
MELVIN L. WATT.
JOSÉ E. SERRANO.
XAVIER BECERRA.

DISSENTING VIEWS

Although, we support legislation which would more effectively prevent illegal immigration, we strongly oppose the bill's historically shortsighted and dramatic reductions and attacks against legal immigrants, refugees, and asylum seekers. The lawful and orderly admission of close family relatives of U.S. citizens—their children, spouses, parents, brothers and sisters—strengthens American families, upholds family values, and benefits the Nation as a whole. If enacted, H.R. 2202 would create myriad hardships and inequities for millions of U.S. citizens who would be prohibited from reuniting with close family members. Moreover, according to the State Department, an estimated 2.5 million U.S. citizens who have pending petitions to secure visas for close relatives and have waited for years for the visa to be issued would have their hopes of reuniting their families arbitrarily destroyed by the bill. [1]

H.R. 2202 also makes it virtually impossible for those legitimately fleeing persecution to claim political asylum. In addition, the bill imposes a cap that will result in a reduction of admissions of refugees in fleeing persecution. This will close America's doors to many Cubans fleeing Castro, Bosnians uprooted by civil war, and Jews, Christians and other religious or ethnic minorities seeking safe haven and protection.

Some argue that dramatic cuts in legal immigration and protection of refugees are supported by the American people. Unlike this bill, however, voters draw a clear distinction between illegal and legal immigration.[2] More than eight out of ten voters believe that Congress should settle the problem of illegal immigration before worrying about reducing the number of legal immigrants.[3] In addition, by a margin of seven to one, voters reject measures which would unfairly penalize prospective legal immigrants who are following the rules in their efforts to enter the United States.[4]

The House should enact an immigration bill to address legitimate issues and concerns regarding illegal immigration. The House should *reject* the proposed dramatic reductions and restrictions in legal immigration, refugee admissions and access to political asylum which H.R. 2202 seeks to impose.

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[1] See infra note 70.

[2] Research by Public Opinion Researcher Dr. Vincent J. Breglio on the Public's View of U.S. Immigration Policy (February 27, 1996).

[3] Id.

[4] Id.

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

Triple tier fence endangers lives

Section 102, which would mandatorily institute a 14-mile three-tier fence along the U.S.-Mexico border in San Diego, constitutes a dangerous attempt to micromanage the Immigration and Naturalization Service's (INS) authority. The INS already uses fencing where the topography, support personnel, and technology make it an effective component of its overall deterrence strategy; this bill will require fencing where its use would be ineffective and even dangerous to INS personnel. Douglas Kruhm, Chief of Border Patrol has written that installing triple-tier fencing along 14 miles of the San Diego sector would:

> [I]ncrease the danger to agents by enclosing them in areas without easy escape routes . . . [O]ur experience tells us that multiple fencing with intervening roads presents multiple dangers for the physical safety of our agents [and] has shown that when we travel in a single, predictable line, aliens will attack vehicles and agents with rocks.[5]

Although section 102 authorizes appropriations of $12 million to build the fencing, the INS estimates that its cost, including land purchase, construction, and maintenance, would be between $85 and $115 million.[6] At a time when the United States economy is becoming increasingly integrated with the economies of other countries, it seems particularly inappropriate to erect more fences and walls between ourselves and friends, neighbors and trading partners.

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

I. "Streamlined" Deportation Procedures Are Unnecessary and Unfair

Subtitle A restructures the exclusion and deportation provisions of the immigration laws in a manner which strips the process of essential due process safeguards. Although the purported purpose for many of these changes is to "streamline" existing procedures and eliminate fraud in the system, many of the new procedures will serve only to prevent individuals from knowing about, or effectively asserting, their rights under U.S. law. It would be far preferable to rely on current law, under which increased staffing and enhanced INS procedures have resulted in significant gains in expediting decisions and reducing backlogs.[7] Deportations of criminal and illegal aliens in 1995 exceeded 51,600, a 15% increase over the

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[5] Letter from Douglas Kruhm, Chief, Border Patrol Immigration and Naturalization Service, U.S. Department of Justice, to Honorable Henry Hyde, Chairman, Committee on the Judiciary, U.S. House of Representatives (September 18, 1995).

[6] Letter from Jamie S. Gorelick, Deputy Attorney General, U.S. Department of Justice, to Honorable Henry J. Hyde, Chairman, Committee on the Judiciary, U.S. House of Representatives (September 15, 1995) [hereinafter, House Judiciary Views Letter].

[7] CFR Part 208 (1995). See also John M. Goshko, Revised Political Asylum System Shows Promise in Early Stages, The Washington Post, July 9, 1995, at A16.

preceding year, and a 75% increase over 1990.[8] The simplified, new asylum procedures have reduced the incentives for false claims and resulted in a drastic reduction in the asylum case load (new cases dropped by 57%) and a doubling of INS's productivity (completing 126,000 cases during 1995 compared with 61,000 in 1994).[9]

The bill includes several harsh new bans on the ability of aliens to seek lawful entry into this country. Sec. 301(c)(A) of the bill lengthens the period for which an individual is barred from the United States from one to five years in the case of an alien who has been turned away upon his or her arrival to the United States; and from five to ten years (20 years in the case of an aggravated felon) in the case of an alien who is deported from the United States. Sec. 301(c)(B) bans persons who have resided in the United States without lawful documentation for a total of 12 months from reentry for 10 years. These inflexible provisions would cause great hardship, not just to new immigrants, but to their American families. As Mr. Bryant of Texas, a cosponsor of this legislation, argued:

> I think it is a mistake for us to put [the 10-year ban] into the law because I think undoubtedly thousands of people are going to accidentally be caught by this provision when we pass this law and suddenly will be faced with not being able to reenter the United States for 10 years . . . I think that situation is going to result in a flood of individual cases coming before this committee trying to get relief . . . and every one of the cases, undoubtedly, every one of the cases, are going to be heartrending and tear-jerking and probably meritorious and we are going to turn this committee into a virtual immigration court for the next several years. I just don't think it will work.[10]

Although a few modest exceptions to this punitive provision were added during Committee markup,[11] the 10-year ban on reentry will inevitably divide families that have been waiting in line for immigrant visas for many years and inflict extreme hardship on U.S. citizens and permanent residents who will be forced to make the impossible choice of having their family divided until a visa is available or leaving the U.S. themselves to keep their families together. The Justice Department has also asserted that enforcing the 10-year ban "would generate needless and costly litigation."[12]

Section 302, providing for the expedited removal of aliens, will unfairly result in bona fide asylum seekers being expelled to face persecution. Under this section, aliens could be removed based merely on the unreviewed judgment of an immigration officer and his or her supervisor. Such "expedited" removal may be ordered if the examining immigration officer determines that an alien is inadmissible under INA sections 212(a)(6)(C) (fraud or misrepresentation) or 212(a)(7) (lack of valid documents). The notion that fraudulent documents, or the absence of appropriate documents, can be

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[8] Immigration and Naturalization Service, INS Ends 1995 with New Record in Alien Removals (December 28, 1995).

[9] INS News Release, INS Successfully Reforms U.S. Asylum System, January 4, 1996 [hereinafter INS News Release].

[10] Judiciary Committee Markup Transcript on H.R. 2202, September 20, 1995 p. 134.

[11] The Committee agreed to a number of limited exceptions, including not counting toward 12 month unlawful documentation period during which an alien is a minor, a bona fide asylum applicant, has Family Unity protection, or has work authorization. Similarly an amendment offered by Representative Berman authorizes the Attorney General to provide a waiver for the 10-year reentry ban "to assure family unity, or when it is otherwise in the public interest" for the spouse, parent or child of either a U.S. citizen or permanent resident. And an amendment added by Representative Lofgren provides that waivers would be available for certain "national security interests."

[12] House Judiciary Views Letter, supra note 6 at 17–18.

used to trigger this procedure virtually guarantees that individuals genuinely fleeing persecution and therefore least likely to obtain appropriate documents from their persecutors will be returned to the persecutors.

The new substantive standard for determining whether an alien may be subjected to expedited exclusion is similarly unworkable in the context of initial screening. Under proposed section 235(B)(v) of the INA, in order to establish a credible fear of persecution, the applicant for asylum would need to establish that "it is more probable than not that the statements made by the alien in support of the alien's claim are true, and * * * there is a significant possibility, in light of such statements * * * that the alien could establish eligibility for asylum." This is simply too onerous a standard for an asylee to meet who has just escaped dangerous persecution.

Current law and procedure strike a far more appropriate balance between the need to screen out truly frivolous claims and to afford applicants due process. Under current procedures, a person who fears persecution may go before an immigration judge to prove eligibility for asylum and can seek an administrative appeal if the claim is rejected. The asylum seeker may be represented at no cost to the government during this process.[13]

Section 304 of H.R. 2202 would eliminate the Attorney General's discretionary section 212(c) or "cancellation of removal" authority if a person is sentenced to five years, in the aggregate, for one or more aggravated felony convictions. This change would needlessly deprive the Attorney General of the discretion to provide relief to an individual who, having been convicted, did not serve a single day in prison.

II. Using Secret Evidence To Deport Aliens Poses a Threat to Due Process

Section 321 of the bill would for the first time allow aliens (including permanent residents) to be deported based on classified evidence submitted on an *ex parte* basis. An alien alleged to be involved in "terrorism" would not be permitted to receive a summary of the evidence against him or her if the 5-judge panel finds that his or her presence or the preparation of the summary would likely cause serious and irreparable harm or injury. Although permanent residents are permitted to have a member of a panel of specially approved attorneys review the secret evidence, the bill does not permit the permanent resident to select his or her own attorney—even from the pre-approved panel—or confer with such counsel concerning the secret evidence. Section 321 also provides for immediate detention without bail and limited one-sided appellate rights only for the government. Further, there is no requirement that the government disclose any exculpatory evidence to the alien or even to the special court.

This provision is a clear violation of the right to due process as guaranteed by the Fifth and Fourteenth Amendments.[14] The car-

[13] 8 CFR 3.16(b) (1995).

[14] Provisions limiting an alien's right to select an attorney and denying the attorney the ability to discuss the evidence with his or her client also raise serious ethical and lawyer-client privilege issues. It has also been noted that the section is inconsistent with U.S. treaty obliga-

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dinal rule of due process is that evidence used against a party must be fully disclosed to that party. The Supreme Court and lower courts have consistently held that aliens who have entered the United States gain the full protections of the Constitution's due process clause, and cannot be deported on the basis of evidence not disclosed to them.[15] In the 1976 case of *Matthews* v. *Diaz,* the Court wrote:

> There are literally millions of aliens within the jurisdiction of the United States. The Fifth Amendment as well as the Fourteenth Amendment, protects every one of these persons from deprivations of life, liberty, or property without due process of law. Even one whose presence in this country is unlawful, involuntary, or transitory is entitled to that constitutional protection.[16]

In *American-Arab Anti-Discrimination Committee* v. *Reno,*[17] the Ninth Circuit recently reaffirmed this principle when it found that "[a]liens who reside in this country are entitled to full due process protections" and noted that "the very foundation of the adversary process assumes the use of undisclosed information will violate due process. * * *"[18] The Court acknowledged that while "not all of the rights of criminal defendants are applicable in the civil context, the procedural due process notice and hearing requirements have 'ancient roots' in the rights to confrontation and cross-examination" and should be fully provided for in deportation proceedings.[19]

III. Excluding Individuals Based on Mere Membership in Designated Organizations Threatens Freedom of Speech and Association

We also object to section 331 of the bill which specifies that membership in any organization designated as "terrorist" constitutes grounds for deporting or excluding an alien from the United States, regardless of whether or not the individual has engaged in or supported any unlawful acts.[20] This provision would resurrect the infa-

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tions pertaining to due process protections and freedom of association under the International Covenant on Civil and Political Rights. *See* Letter from Lawyers Committee for Human Rights to Subcomm. on Crime, Committee on the Judiciary, U.S. House of Representatives (May 12, 1995).

[15] *See Kwong Hai Chew* v. *Colding,* 344 U.S. 590 (1953) (INS could not subject returning permanent resident alien to "summary exclusion" based on secret evidence); *Rafeedie* v. *INS,* 795 F. Supp. 13 (D.D.C. 1992) (INS attempt to expel a permanent resident alien on the basis of undisclosed classified information held to be unconstitutional).

[16] *Matthews* v. *Diaz,* 426 U.S. 67, 77 (1976).

[17] 70 F.3d 1045 (9th Cir. 1995).

[18] *Id.* at 1067.

[19] *Id.* at 1066.

Although we have previously allowed the use of secret evidence to exclude aliens who have not yet entered this country, our experience with such procedures highlights the dangers present in denying any party due process. In the infamous case *U.S. ex rel. Knauff* v. *Shaughnessy,* 338 U.S. 537 (1950), secret evidence was used to exclude from the United States the German wife of a U.S. citizen who had fled to England when Hitler came to power. In his dissenting opinion, Justice Jackson argued, "[t]he plea that evidence of guilt must be secret is abhorrent to free men, because it provides a cloak for the malevolent, the misinformed, the meddlesome, and the corrupt to play the role of informer undetected and uncorrected." In a subsequent hearing necessitated by public outrage over the denial of Mrs. Knauff's visa it was learned that the "confidential source" offering the secret evidence was a jilted lover. When the INS sought to use secret evidence to expel an alien several years ago, the D.C. Circuit likened the alien's position to that of "Joseph K. in The Trial," finding that "[i]t is difficult to imagine how even someone innocent of all wrongdoing could meet such a burden." *Rafeedie* v. *INS,* 880 F.2d 506, 516 (D.C. Cir. 1989).

[20] Under current law, a person who has engaged in terrorism, or about whom a consular officer or the Attorney General has a reasonable ground to believe is likely to engage in any terrorism, is already excludable from the United States. *See* 8 U.S.C. § 1182(a)(3)(B)(i).

mous McCarran-Walter Act,[21] which was repealed by Congress in 1990 after it was held to be unconstitutional as applied to several aliens.[22]

The fact that aliens in this country are entitled to full First Amedment rights was also forcefully reafirmed in *American-Arab Anti-Discrimination Committee* v. *Reno*.[23] The Ninth Circuit found that the proposed deportation of seven Palestinians and a Kenyan for their alleged ties to the Popular Front for the Liberation of Palestine was inconsistent with First Amendment freedom of association protections, holding that "the values underlying the First Amendment require the full applicability of First Amendment rights to the deportation setting."[24]

IV. Waiver of Exclusion and Deportation for Certain 274C Violations Too Narrow To Ensure Against Extreme Hardship on Families of Citizens and Lawful Permanent Residents

The Committee agreed to authorize the Attorney General to waive exclusion or deportation for an alien who is already a lawful permanent resident and who has temporarily proceeded abroad and has committed document fraud on behalf of a spouse, parent, or son or daughter.[25] Although this waiver improves current law and is a welcome addition to the bill, we believe that it should be expanded to ensure that the law does not impose extreme hardship on families of any alien who commits a 274C violation. An alien who is the spouse, parent, son or daughter of a United States citizen or lawful permanent resident whould not be excluded or deported for committing a 274C violation if the refusal of admission would result in extreme hardship to the citizen or lawful permanent resident family member. The Attorney General should at least be granted this limited amount of discretion when considering the permanent separation of close familes.

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[21] The McCarran-Walter Act allowed, among other things, for the deportation of aliens who "advocate the economic, international and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, or who are members of or affiliated with any organization" that so advocates. 8 U.S.C. 1251(a)(6)(D) & (H) (1988). That law, which applied to aliens who were members of the communist party or advocated communist doctrine, was used to exclude Pierre Trudeau, the former Prime Minister of Canada, French actor Yves Montand, British author Grapham Greene, and Columbian Nobel laureate Gabriel Garcia Marquez. See Counter Terrorism Legislation, Hearing before the Subcomm. on Terrorism, Technology, and Government Information of the Senate Comm. on the Judiciary, 104th Cong., 1st Sess. 21 (May 4, 1995) (statement of Professor David Cole).

[22] See Immigration Act of 1990, Pub. L. No. 101–649 (repealing McCarran-Walter Act); *Rafeedie* v. *INS*, 795 F. Supp. 13, 22–23 (D.D.C. 1992); *American-Arab Anti-Discrimination Comm.* v. *Meese*, 714 F. Supp. 1060 (C.D. Cal. 1989), vacated, *American-Arab Anti-Discrimination Comm.* v. *Thornburgh*, 970 F.2d 501 (9th Cir. 1991) (holding the McCarran-Walter Act to be unconstitutional as applied).

[23] 70 F.3d 1045 (9th Cir. 1995).

[24] Id. at 1063. A Washington Post editorial emphasized the fundamental fairness of the American-Arab Anti-Discrimination Comm. decision:

"[T]he bottom line from the appellate court is this: Aliens present in the United States have the same right to political speech and association as citizens. Aliens cannot be singled out for deportation because they exercise those rights. * * * These clear and principled determinations are on firm constitutional ground.

Aliens and Speech, Wash. Post, Nov. 13, 1995 at A20.

[25] H.R. 2202 § 362 (1995). Under current law, section 274C of the INA, at 8 U.S.C. 1324c prohibits the use or creation of a fraudulent document for immigration purposes. Violation of this provision would subject an alien to both a civil penalty as well as exclusion under section 212(a)(6)(F) of the INA, at 8 U.S.C. 1182 (a)(6)(F)) or deportation under section 241(a)(3)(C) of the INA, at 8 U.S.C. 1251 (a)(3)(C)).

A wide range of views exists regarding whether and to what extent the proposed new worker verification "pilot project" established under Section 403 represents sound public policy. There is no disagreement among us, however, on two key points: (i) if a verification system is ultimately adopted, protections should be afforded innocent employers and workers who might be adversely affected by inaccurate information; and (ii) regardless of whether it is adopted, the INS and Department of Labor must be granted enhanced authority to penalize unscrupulous employers who consistenly hire undocumented aliens and exploit them in near "slave-labor" conditions.

I. Protecting the rights of employees and employers under the verification system

In recognition of the potential liability that innocent employers may face by dismissing or refusing to hire job applicants due to errors in government databases or in the operation of the verification pilot program, the Committee adopted an amendment protecting from liability those employers who, in "good faith," rely on the verification confirmation mechanism. It is important to note, in this context, that the amendment should not be interpreted to prevent dismissed employees or unsuccessful job applicants from challenging employers who had other, unlawful motivations to dismiss or refuse to hire such employees and applicants. The intent is carefully limited to protect employers only under circumstances in which the relevant hiring decision is triggered solely by inaccurate information provided by the confirmation mechanism.

Equally important in this regard is an amendment offered by Representative Frank (and approved by the Committee by voice vote) protecting innocent employees from errors arising from the verification mechanism, by allowing them to seek compensation under the Federal Tort Claims Act (FTCA).[26] Because the verification process would (like employer sanctions) be administered at the time of hire, all authorized workers who may be adversely affected by errors in the pilot verification system will be afforded redress through at least one of several existing mechanisms. For example, any employee who is hired, if even for a few hours, and who is subsequently dismissed because of inaccurate information provided by the confirmation mechanism will automatically be entitled to compensation under the FTCA. In this connection, we note that the amendment's wording "shall be entitled to compensation" indicates that the employee in such circumstances need only to demonstrate, based on a preponderance of evidence, that the dismissal was attributable to an error in the confirmation mechanism. No proof of negligence is required and none of the existing exemptions from liability in the FTCA (including for harm flowing from policy decisions or claims arising from "misrepresentation, deceit, or interference with contract rights") are applicable to this new form of redress.

[26] 28 U.S.C. §§2671–2680.

To the extent that employers verify prospective employees selectively, or apply the results of information differently based, for example, on national origin or citizenship status, such employers would be liable for discrimination claims brought by the affected job applicants. In such cases job applicants have several avenues to pursue redress. First, selective application of verification procedures is already prohibited under INA §274B ("Unfair Immigration-Related Employment Practices"). Second, such actions may also be prohibited (depending on the specific circumstances), under Title VII of the Civil Rights Act and/or under 42 U.S.C. §1981, both of which address employment discrimination claims based on race and national origin. In this respect, we note that the "good faith" immunity provision does not protect employers who abuse the verification system by applying it in ways not required by the law.

The Committee also tried to strike a careful balance between protecting the rights of the employer and the rights of the employee in certain unusual circumstances arising from the temporary or time-limited nature of employment authorization documents possessed by certain individuals, or cases in which employers have reason to believe that individuals presenting what appear to be genuine documents are nonetheless unauthorized to work. At issue is the existing provision of INA §274A, which prohibits employers who have been provided documents which on their face appear genuine from requiring the production of a specific document or additional documents.[27] The Frank amendment addresses two specific circumstances in which it may be permissible for employers to request additional documents from individuals. It permits employers to request from an employee who previously submitted a time-limited employment authorization document an additional document demonstrating continuing employment eligibility. In addition, if an employer has a reasonable basis to believe that an individual who presents a document which appears on its face to genuine is in fact unauthorized to work, the bill only permits such employer to: (1) inform the individual of his intention to verify the validity of the document; and (2) dismiss the individual upon receiving confirmation that the individual is authorized to work.

Nothing in the legislation, however, prohibits the individual from offering alternative documents which demonstrate employment authorization. In addition, while verification is pending, the employer may not delay the hiring of, refuse to hire, or dismiss, or take any adverse employment-related action incident to the hiring against the individual, unless such action is wholly unrelated to the eligibility issue. In this context, nothing in the bill can or should be read to permit any action related to the document verification process in general, or to the request for additional documents or additional verification of documents presented in particular, that is a mere pretext for unlawful discrimination.

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[27] Adopted as part of the Immigration Act of 1990, this provision is designed to prevent adverse impact on authorized workers who have been required by employers to produce additional documents, even after presenting legitimate documents demonstrating employment authorization. Some employers, apparently fearing the consequences of requiring such employees to produce additional or subsequent documents, have requested a clarification of what is and what is not permitted in such circumstances.

II. The legislation fails to recognize that labor law enforcement is vital to employer sanctions enforcement

The opportunity for employment is the single most important and pervasive incentive for illegal immigration. There are industries which rely upon and, more often than not, exploit the work of undocumented workers. H.R. 2202 fails to recognize the important role played by the Department of Labor in helping combat illegal immigration by complementing enforcement of employer sanctions. The bill would authorize only 150 additional staff positions for the Wage and Hour Division to investigate violations of wage and hour laws in areas where there are high concentrations of undocumented workers,[28] a substantially weaker commitment to worksite enforcement than the President's FY96 budget request calling for (202 additional positions).[29] Even this weak provision is meaningless, since the Republican Majority has previously voted to cut funding for DOL Wage and Hour Division.[30] In this sense the bill lacks teeth by refusing to allow the Administration to complete its comprehensive anti-illegal immigration strategy which has thus far been highly successful at the border.[31]

The Committee rejected, by a party line vote, an important amendment offered by Representative Berman which would have authorized funding the new Wage and Hour inspectors, given the Secretary of Labor authority to issue subpoenas and collect evidence against violating employers and doubled the penalties for employers found to have violated both labor standards and immigration laws. This would assist the INS and Department of Labor in uncovering horrible situations like the incarceration and enslavement of Thai immigrants in El Monte, California by garment manufacturers,[32] and crack down on employers who treat the penalties available under current law as a mere cost of doing business.[33] In rejecting Representative Berman's amendment, the Majority signals an unwillingness to enforce the law. Minor and sporadic sanctions will never be sufficient to overcome the economic and competitive advantages that unscrupulous employers may achieve by hiring and exploiting illegal immigrants, thereby undercutting competitors who provide fair wages and working conditions.

TITLE V. REFORM OF LEGAL IMMIGRATION SYSTEM

Under the bill, legal immigration would be reduced from 800,000 admissions to a nominal 535,000 immigrants a (thirty percent reduction).[34] In addition, the bill includes a whole host of new proce-

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[28] H.R. 2202, § 102 (2).

[29] House Judiciary Views Letter, supra note 6. See also Worksite Enforcement of Employer Sanctions: Hearing Before the Subcom. on Immigration and Claims, 104th Cong., 1st Sess. (1995) (statement of Maria Echaveste, Administrator, Wage and Hour Division, U.S. Department of Labor) [hereinafter Statement of Maria Echaveste].

[30] 141 Cong. Rec. H3281–H3303 (daily ed. March 16, 1995). See also Statement of Maria Echaveste supra note 29.

[31] "A Good Border Year: 1995 was a Year of Progress and Innovation", San Diego Union-Tribune, December 29, 1995. See also "Encouraging Progress on Deportations: Statistics Support the Steady, Measured Approach of the INS," Los Angeles Times, January 12, 1996.

[32] Editorial, Slavery's Long Gone? Don't Bet on it, L.A. Times, August 4, 1995, at B8. (Thais paid $1.60 an hour and found confined in illegal garment factory in El Monte). See also George White, Workers held in Near-Slavery, Officials Say, L.A. Times, August 3, 1995, at A1.

[33] Id.

[34] See CRS Report for Congress, Immigration: Analysis of Major Proposals to Revise Family and Employment Admissions, February 14, 1996.

dural rules which would push the numbers far below the 535,000 cap.[35] Moreover, after a short transition period, through category elimination or new restrictions, U.S. citizens will be virtually unable to sponsor their mother, father, brother, sister or adult child for immigration. The bill sets up a false dichotomy between the "nuclear family" of permanent residents on the immigration waiting lists and the relatives of U.S. citizens. Title V's reductions in the number of legal immigrants and in access to legal immigration reflect a fundamental misunderstanding of the character and benefits of America's historic commitment to legal immigration, family reunification and protection of refugees.

Title V's premise is that legal immigration and refugee admissions are higher than ever, and create problems and costs rather than benefits and opportunities. This is a false and distorted understanding, belied by numerous government and private sector studies and the reality of how today's immigrants are revitalizing communities across the country. Last year's legal immigrant and refugee admissions roughly equaled the level of immigration in the early 1900's, but as a proportion of the population, today's admissions are about one third the level of that time period.[36]

According to both conservative and liberal analysts, from organizations such as the CATO Institute, the Urban Institute and the Councils of Economic Advisors of Presidents Reagan and Bush, immigrants pay much more in taxes than the cost of services to them (although most taxes are paid to the Federal Government and most services, especially education and health care, are provided by local governments).[37] Indeed, the Urban Institute concluded in 1994 after reviewing all relevant studies that immigrants pay $25–30 billion annually more in total taxes than the total cost of services.[38] A 1990 survey of leading U.S. economists, including seven Nobel laureates, found that 80% believed immigration has had a "very favorable impact" on economic growth.[39] The Department of Labor and the AFL–CIO have also concluded that in the aggregate immigrants stimulate the economy.[40] Moreover, a 1990 study found that there is no correlation between the levels of immigration and unemployment either in states or on the national level.[41]

Perhaps more important than the economic contributions are the familial, social and political contributions of immigrants. Legal immigrants, refugees and persons granted asylum are "new Americans" who do not threaten, but rather strengthen the great American experiment in freedom and democratic pluralism. Immigrants have died defending American interests in foreign wars and have

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[35] See discussion, infra.

[36] Current Population Reports (1994 March Supplement), U.S. Bureau of Census. On an annual basis, total legal immigration constitutes only three immigrants for every 1,000 Americans, and immigrants comprise only 8.7% of the U.S. population.

[37] Julian N. Simon, Immigration: The Demographic and Economic Facts published by CATO Institute and the National Immigration Forum.

[38] Fix, Michael and Jeffery Passel, Setting the Record Straight: Immigration and Immigrants (Urban Institute Press: 1994) (Washington, D.C.) [hereinafter Setting the Record].

[39] Survey of Economists, conducted by the Alexis de Tocqueville Institution cited in An Analysis of H.R. 2202: The Immigration in the National Interest Act of 1995 by Stuart Anderson, (September 1995) at p. 12 [hereinafter Anderson Analysis]. See also Stuart Anderson, Employment Based Immigration and High Technology February 1996

[40] See, Press Release—United States Department of Labor, July 11, 1989. See also Resolutions 59–61, AFL–CIO 1995 Resolution Book One, October 23–26, 1995.

[41] Richard Vedder, Lowell Gallaway, and Stephen Moore, Immigration and Unemployment: New Evidence, Alexis de Tocqueville Institution, July 1994.

made discoveries which have strengthened our military capacity. Immigrants who have fled tyranny and oppression deeply appreciate the freedom which America offers, and their work and perspective serves to enhance the American commitment to freedom and democracy.

I. Dramatically reduces family-sponsored immigration and punishes those who have waited to lawfully enter the United States

As noted above after a short transition period, the bill would make it virtually impossible for U.S. citizens to sponsor their mother, father, brother, sister, or adult child for immigration. In addition, the bill would set an annual cap on family immigration of 330,000—more than one-third below current levels. This arbitrary cap is inadequate to meet the needs of U.S. citizen families and would create immediate backlogs for spouses and minor children of lawful permanent residents as well as parents of U.S. citizens. We also object to the bill's arbitrary reduction to 85,000 in the number of visas granted to spouses and minor children of lawful permanent residents.[42] Immigration by spouses and minor children of lawful permanent residents is currently set at approximately 98,000 per year,[43] a number that does not meet current demand and is already creating massive backlogs.

We object to the arbitrary exclusion of parents from the immediate relative category, thereby subjecting them to a 45,000 cap and a 25,000 floor.[44] There is no justification for limiting immigration by parents who may be the main source of childcare and other familial support for working families.[45] The 25,000 visa limit would mean that 50% of U.S. citizen sponsors who wish to reunite with their parents would be prevented from doing so a massive new blacklog would be created. While we agree that spouses and minor children should receive priority, we see no rationale for this arbitrary limit on parents of U.S. citizens.

In addition, Section 512(b)'s requirement that parents of citizens procure health insurance before they can obtain a visa represents a nearly insurmountable obstacle to their immigration. The Administration estimates that even where it may be possible to purchase the required health insurance for an elderly parent, it would cost an average of $9,000 or more a year, prohibitively high for most American families.[46] We are also concerned that insurers may not agree to offer health insurance for immigrating parents at any cost.[47]

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[42] H.R. 2202, §512(a)(1).

[43] Immigration and Naturalization Factbook Summary of Recent Immigration Data, August 1995, at p. 8 [hereinafter Factbook].

[44] H.R. 2202, §512(a)(2)(A).

[45] Parent immigration currently numbers approximately 56,000 per year. As the number of spouses and children of citizens increase, the number of visas available for spouses and children of permanent residents decrease. Since that category is guaranteed of minimum of 85,000, the residuum that is left for parents of United States citizens decreases. Thus the overall family cap, combined with projected need, means that immigration by parents under H.R. 2202's would immediately meet the 25,000 floor set by the bill. The cap of 45,000 would be meaningless, as other superseding categories would prevent this number from being reached. See Factbook supra, note 43 at 13.

[46] Letter from Jamie Gorelick, Deputy Attorney General, U.S. Department of Justice, to Orrin G. Hatch, Chairman, Committee on the Judiciary, U.S. Senate (February 14, 1996).

[47] Id.

H.R. 2202 also unfairly eliminates immigration by married adult children of U.S. citizens, siblings of U.S. citizens, and most unmarried adult children of both citizens and residents. It is disturbing to think that government policy would keep American parents and their children apart simply because a child is older than 21 years of age. Of all immigrants, children on the brink of entering the workforce are exactly the type of new Americans this country needs, they will be here in their most productive years and they will be here to care for their parents in their golden years.[48]

We also find little rationale for eliminating immigration by siblings of U.S. citizens.[49] Brothers and sisters help to reinforce the family unit. They contribute to the economic and emotional strength of a family in many ways, such as pooling money to open businesses and sharing in the care of parents of each other's children.[50]

II. Unjustifiable cap on refugees

We strongly object to the bill limiting admissions of refugees to 50,000 per year—reducing current admissions by approximately half.[51] Such a cap would undermine our efforts to encourage the international community to be more forthcoming on refugee resettlement and send the wrong signal to those governments who may question our commitment to promoting human rights around the world. Given the political and economic instability in almost every region of the world, it is imperative that the United States maintain its current flexible admissions policy for domestic resettlement that allows for expansion and contraction of numbers in response to changing conditions.

A cap on refugee admissions would represent an historic shift in the country's commitment to protecting people worldwide who have been persecuted or fear persecution because of their race, religion, nationality, political opinion, or membership in a particular group. Current law provides an orderly but flexible process in which the Administration can, in consultation with Congress, set the number of annual refugee admissions at a level that accounts for both the global situation and our international commitments.[52] Congress maintains the final say over refugee admissions through the appropriations process, even as the President has the authority to provide additional slots if justified by "urgent humanitarian concerns

[48] Representative Smith's amendment allowing immigration by certain adult sons and daughters of U.S. citizens and lawful permanent residents is so narrow as to be virtually meaningless. We see no logic in barring all adult children who are over age 25 and imposing a requirement that the son/daughter has "never been married" is absolutely unjustified. This requirement would bar a 21-year-old daughter whose husband has died and who remains dependent on the family for emotional and physical support, especially in a time of grief and transition. Similarly, this requirement would bar a daughter who has fled from an abusive situation and sought a divorce in order to save her own life. And imposing a requirement that the son or daughter be childless serves only to harm innocent dependents who might at that point be in dire need of the support that grandparents can provide.

[49] At a minimum, this category should be maintained at least until those who have been waiting lawfully in line with approved petitions are allowed to immigrate to the United States.

[50] Immigration by brothers and sisters of U.S. citizens currently numbers approximately 65,000, while adult unmarried sons and daughters number only approximately 46,000 per year. Moreover, immigration by married sons and daughters of U.S. citizens are limited to 23,400. These are modest numbers and should be maintained.

[51] H.R. 2202 §521(a)(2)(A). In FY 1995, 98,000 refugees were admitted, and in FY 1996 90 slots have been set aside. See CRS Report: Immigration, Public Policy Institute, Ruth Wassen, Joyce Vialet, William Krouse, January 17, 1996.

[52] 8 U.S.C. 1157 § 207.

or are otherwise in the national interest." H.R. 2202 would take the dramatic step of requiring a full-fledged act of Congress to allow any additional refugees to meet compelling humanitarian needs.

H.R. 2202's proposed policy shift could not come at a more inappropriate time. The United Nations High Commissioner for Refugees has estimated that since 1992 the number of refugees worldwide has risen to 20 million.[53] The consequences of a refugee cap are neither abstract nor theoretical: it would require dramatic reductions not only in the number of former Soviet Jews, Evangelical Christians, and Ukrainian Catholics admitted as refugees, but also in the number of Vietnamese, Bosnian and Cuban admissions. By forcing the government to choose among equally worthy groups, the cap would politicize refugee admissions and endanger the lives of thousands of people worldwide.[54] For example, we expect to admit 40,000 Jewish refugees from the former Soviet Union over the next several years, but we are also committed to accepting between 7,000 to 14,000 Cubans as part of our agreement with Cuba. Just these two programs could exceed the 50,000 cap.[55]

An amendment was made by Chairman Hyde to permit the annual 50,000 cap to be exceeded in the event of an "emergency" at some time after the annual consultation with Congress on refugee numbers. It is unlikely, however, that the cap would be pierced. Once the State Department has squeezed the numbers down to 50,000 for a given year, by shutting down or reducing ongoing programs it is most unlikely to reverse itself by raising the numbers and re-establishing these same programs in mid-year no matter how compelling the circumstances.

III. Severely limits attorney general's humanitarian parole authority

We oppose the bill's sweeping new restrictions on the Attorney General's parole authority. Section 524 of the bill states that the Attorney General may parole aliens on a case by case basis only for urgent humanitarian reasons or for a reason deemed strictly in the public interest. We believe that there is no rationale for this legislative change. The current law provides the Attorney General with appropriate flexibility to deal with compelling immigration situations.[56] For example, the amendment would not permit the parole of an alien to attend the funeral of a close family member or of a parent to accompany a child paroled into the United States for an organ transplant.[57] In light of the proposed refugee cap, this provision unwisely ties the Administration's hand in an area where

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[53] Letter from Reno von Rooyen, Representative of the United Nations High Commissioner for Refugees, to Hon. Henry J. Hyde, Chairman, Committee on the Judiciary, U.S. House of Representatives (October 25, 1995).

[54] The refugee cap is in direct conflict with the will of the House of Representatives. On May 28, 1995, the House adopted an amendment to H.R. 1561 that questions the potential forced repatriation of Vietnamese asylum seekers held in detention throughout Southeast Asia. It also foresaw the potential resettlement of these Vietnamese, which would put additional pressures on the U.S. refugee admissions program just as a refugee cap of 50,000 is enacted. The amendment, sponsored by Representative Chris Smith, requires the United States to offer as many as 40,000 of these people the opportunity to resettle here or in other free countries would be impossible to implement under a "hard cap" of 50,000 refugees per year.

[55] *Anderson Analysis, supra*, note 39, p. 26.

[56] 8 U.S.C. § 1157.

[57] Letter from Jamie S. Gorelick, Deputy Attorney General, U.S. Department of Justice, to Henry J. Hyde, Chairman, Committee on the Judiciary, U.S. House of Representatives (September 15, 1995) at 4.

flexibility is always needed to deal with unforeseen emergency migration circumstances.

IV. Asylum procedures contravene international norms

Section 531 represents an unnecessary and dangerous effort to reform the system by which asylum is granted to persons who have a well-founded fear of persecution and need protection in the United States. As a result of the regulatory changes adopted in January of 1995,[58] and the increases in appropriations provided under the 1994 Crime Bill, the asylum process has been improved substantially.[59] Additional asylum officers and the increases in the immigration judge corps have allowed us to gain control over the potential fraud in asylum applications and increase our effectiveness in completing cases within 180 days of application. New asylum claims filed with the INS since the reforms have decreased by 57 percent, from 123,000 in 1994 to 53,000 in 1995.[60] And the asylum process was able to process more than 126,000 cases as compared to only 61,000 cases in the previous year.[61] Eighty-four percent of cases are now heard within 60 days of applications,[62] ensuring that applicants obtain access to a speedy procedure. At the same time, the INS has redirected their sources to focus on fraud investigations concerning asylum, and several cases have resulted in convictions.[63] Yet, in the face of these positive developments, H.R. 2202 unnecessarily imposes time limits on applications and restricts the Attorney General's discretionary authority to withhold deportation.

The 30-day time limit for filing asylum applications set forth in Section 531 will create a complex layer of adjudication and divert resources from resolving the merits of the asylum applications.[64] The 30-day time limit will also result in increased applications which have not been carefully prepared, since asylum seekers will be forced to submit by the deadline or be categorically denied. Most meritorious applicants rarely make their first contact with human rights organizations, much less find legal assistance for the preparation of their applications, within such a short time period.[65]

The requirement that asylum applications be filed within 30 days also violates U.S. international obligations. Article 33 of the 1967 Protocol regarding the Status of Refugees binds signatories to the duty of not returning any refugee who could face a threat to his or her life or liberty in the country of reared persecution, regardless of when the person makes known the claim to need such pro-

[58] 59 Fed. Reg. 62284–62303 (1994) (amending 8. C.F.R. §228 effective January 4, 1995).

[59] See Celia W. Dugger, Immigration Bills' Deadlines May Imperil Asylum Seekers, N.Y. Times, February 12, 1996, at B1.

[60] INS News Release supra note 9.

[61] Id.

[62] Id.

[63] William Branigan, INS Chief Highlights Reform in Political Asylum System: Year-Long Campaign Slashes New Claims by 57 Percent, Wash. Post, January 5, 1996, at A2.

[64] Since the bill rightfully does not apply a 30 day limit to withholding of deportation, the Attorney General will have to decide the merits of a refugee's claim regardless of the timeliness of the application. Also, while the Committee correctly amended the bill to incorporate a waiver of the 30 day time limit where there has been a change of in any circumstances, the INS will now not only have to divert resources to adjudicate the timeliness of the application, but to adjudicate the waivers available for changed personal circumstances as well as country conditions.

[65] Since many asylum seekers flee their home countries with few resources, many persons cannot afford private attorneys and have to rely on church groups, charitable organizations and other low cost legal service providers. See David Cole, Making Time for Freedom Thirty-Day Deadline for Political Asylum Requests Defies Reality, Legal Times, December 4, 1995, at 20.

tection. While the United Nations High Commissioner for Refugees has acknowledged that some countries can impose filing deadlines, they have forcefully stated that the failure to abide by such deadlines cannot be a reason by which the application is not considered at any future time.[66]

Section 305 of the bill eliminates the Attorney General's current discretionary authority of "withholding of deportation." This is a serious breach of current policy and U.S. obligations under United Nations conventions.[67] Under current law, if a person is denied discretionary asylum, he or she can still seek protection under a higher standard for withholding of deportation. This requires that the applicant show that it is more likely than not that his or her life or freedom would be threatened in the country of origin. By eliminating such withholding of deportation discretion, the bill abrogates international refugee law requiring that a country not forcibly return (refoul) a person to a place of persecution.[68]

We would also note that under section 531 asylum may be precluded if the Attorney General, pursuant to bilateral agreements with third countries, is able to find another country that is willing to accept that person. In our view it is essential that the third country return provision be construed to retain a high level of discretion for the Attorney General to decide what is most appropriate in individual cases, consistent with humanitarian circumstances and United States security concerns.[69]

IV. Keeps families separated and fails to eliminate backlogs

While the formula for backlog reduction set forth in section 553 of the bill addresses a substantial portion of the existing backlog for spouses and minor children of lawful permanent residents, it does nothing to address the issue of equity for those in eliminated family categories who have been waiting lawfully for their turn to immigrate for many years.[70] Even with the visas provided to ad-

[66] During Committee mark-up of the bill, the Majority stated the Committee's expectation that the application itself could be simplified, so that asylum seekers could submit a short and simplified application within the 30 day time limit, with a second opportunity to amplify and strengthen the application at a later date. While this is not the best or the preferred solution, if necessary the Committee should make this understanding very clear to the Administration so that the regulations clearly allow for a subsequent opportunity for the applicant to supplement, amplify, and complete the formal application at a later date after the 30-day period.

[67] U.N. Convention on the Status of Refugees—Article 33 (1951).

[68] During deliberations at the Committee mark-up, there were several statements by the Majority that it is their intent that withholding of deportation will be restored as the bill moves to a floor vote. *See* Judiciary Committee Markup Transcript October 11, 1995, at p. 101–103. We fully expect such a change to be made, consistent with current law and obligations under international refugee law, and are willing to work with the Majority to ensure that this vital protection remains in the U.S. law.

[69] In this regard, the discussion at the Committee mark-up highlighted the common understanding about this flexibility for the Attorney General, and the inclusion of a public interest exception in this discretionary authority. We view the potential of these return agreements with caution. Assurances must be obtained that the intent of the agreement now being negotiated with Canada, and other future schemes with other countries, will not serve to diminish refugee protection for those who need it. In this regard, we urge that such agreements be based not on the concept of entry, but targeted to reduce the number of double applications. What is important is not necessarily the route which a refugee goes through before applying for asylum in a given country, but rather that an asylum seeker can make a claim in one country, and if found not to be refugee under a fair and substantive procedure, he or she would be prevented from shopping around and making unfounded claims in other countries. Return agreements should not focus on the method, time or process of transit and entry; they should focus on the need to prevent duplicate applications in various nations, when their cases have been already fairly determined not to be well founded and are clearly abusive.

[70] There are approximately 2.5 million eligible relatives in the potentially eliminated categories whose visa petitions have been approved according to Testimony by Cornelius D. Scully,

dress the backlog of spouses and minor children of lawful permanent residents, there will remain as estimated 300,000 people in the backlog at the end of five years.[71] Tragically, the bill would result in the permanent separation of the families of U.S. citizens, in a purported effort to benefit the immediate relatives of lawful permanent residents in the second family preference category.

Proponents of this legislation have argued that the elimination of the adult children and siblings family preference categories is necessary in order to expedite the reunification of the "nuclear families" of permanent residents—for which there is a 1.1 million person backlog. Approximately 850,000 of the people in the backlog are the spouses and minor children of permanent residents who were undocumented immigrants who were granted legalized status according to the legalization provisions of the Immigration Reform and Control Act of 1986 (IRCA).[72] It has been estimated that up to half[73] of the 850,000 are already in the country under quasi-legal resident status under the Family Unity protection provisions of the Immigration Act of 1990.[74]

Nearly all of the immigrants legalized by IRCA have now satisfied the five-year residency requirement for naturalization.[75] The newly gained eligibility for naturalization of legalized permanent residents is contributing greatly to the record surge of naturalization applications being filed at INS district offices throughout the United States.[76] The families of those who are naturalizing will become eligible to immigrate immediately and subject to no numerical limits as the spouses and minor children of new citizens.

At the same time, as noted above, this legislation would eliminate forever, the ability of United States citizens and lawful permanent residents to petition for the immigration of their children over the age of 21 or to bring in their siblings. Given these changes, a more equitable solution to the backlog problem would be to "grandfather in" all those with approved visa petitions, or at least those within a year or two after enactment of reaching their "priority date." A new legal immigration system that begins with backlogs is not a system that has been meaningfully reformed.

V. Sunset provision is backdoor attempt to stop all immigration

We are extremely troubled by Section 505 which amends Section 201 of the INA to require Congressional review of the numerical limits placed on immigration. Although, the review provision has been described as merely requiring a "periodic" revisitation of immigration policy by Congress, we are concerned, however, that the sunset provision, could end all numerically limited immigration

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Director, Office of Legislation, Regulation and Advisory Assistance, U.S. State Department, at Markup of H.R. 1915, Immigration in the National Interest Act of 1995, U.S. House of Representatives, Subcomm. on Immigration and Claims, Committee on the Judiciary, (July 17, 1995).

[71] *Id.*

[72] *Id.*

[73] *See* CRS Report for Congress, Immigration: Analysis of Major Proposals to Revise Family and Employment Admissions, February 14, 1996.

[74] Pub. L. No. 101–649, 105 Stat. 322, §301 (1990).

[75] *See* 8 U.S.C. §1447.

[76] Harry Pachon, *Prop. 187 Isn't All That's Propelling Latinos to INS, The Sacramento Bee, May 22, 1995, at B7.*

into the United States after the fiscal year 2004, the year the bill designates as the first period of review.

This provision could be construed as a backdoor attempt at a moratorium on immigration. Under this provision determined immigration opponents would be given significant leverage in blocking new immigration legislation. If, for example, during a review period, a small group of Senators who are opponents of all immigration decide to filibuster the required reauthorization bill, the sunset requires that all numerically limited immigration be halted. Ultimately, this section could have the effect of eliminating immigration to the United States, with the exception of the immediate relatives of U.S. citizens who fall within a numerically unrestricted category.[77]

TITLE VI. RESTRICTIONS ON BENEFITS FOR ILLEGAL ALIENS

Title VI effectuates a number of redundant[78] and unneeded changes relating to the availability of public benefits not only to undocumented but also to legal aliens, and imposes a series of harsh new restrictions and burdens on families seeking to sponsor immigrants.

I. Unfunded mandates on state and local governments and harsh restrictions on public assistance available to legal immigrants

Section 601(b) would require state and local governments to deny any contracts, loan agreements, and professional or commercial licenses funded by the state to aliens not lawfully present in the United States. This would impose significant new unfunded mandates on state and local governments, and slow down services for all residents, aliens and citizens alike.[79] Although section 603 contains a list of programs that would be excepted from the requirements of section 601 and 602 (e.g., for "non-cash, in-kind, short-term emergency disaster relief"), the language is too narrowly drawn to relieve states and localities from most of these time-consuming, administrative requirements.

The "public charge" provisions of section 622 are also far too rigid.[80] For example, it would require the deportation of someone for having received public benefits even if the individual later becomes completely self-reliant. Another example of the rigidity of

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[77] See also Letter from Larry M. Eig, Legislative Attorney, American Law Division, Congressional Research Service, to Honorable Patsy T. Mink, Member, U.S. Congress (February 28, 1996).

[78] Most major needs-based programs are already denied to illegal aliens. Generally, those programs that do not check immigration status provide crisis intervention, public health service or services for small children; or small programs such as soup kitchens and baseball leagues that are administered by non-profit charities or church groups. See, Larry Eig and Joyce Vialet, CRS Report 93–1046A, Alien Eligibility Requirements for Major Federal Assistance Programs (December 8, 1993).

[79] This provision would require that federal, state and local government entities that issue such licenses develop a system to verify the immigration status of every applicant for such licenses. For example, section 601(b)'s prohibition on state and local governments' provision of professional or commercial licenses to persons not lawfully present implicitly requires that all federal, state and local government entities that issue such licenses develop systems to verify the immigration status of every applicant for such licenses. Not only would this likely result in discriminatory treatment, it would also pose an enormous unfunded burden on state and local entities that would inhibit their ability to provide services to all applicants and residents in their states or localities.

[80] Current law already provides for the deportation of immigrants who become public charges, and we feel it more appropriate that we encourage the Immigration and Naturalization Service to step up its enforcement of existing law. See 8 U.S.C. 1251(a)(1)(A).

section 622 is its subjecting refugees or asylees who become "public charges" to deportation notwithstanding the fact that requirement is waived at the time of entry.[81] We are also troubled by the list of programs in section 622 for which receipt by an immigrant would constitute being a "public charge." For instance, Title XX Social Service Block Grants to states (used for emergency needs such as homeless shelters, soup kitchens, and battered spouse shelters) are included on the list even though these programs are provided through state and local governments and are often administered by private charities.[82]

II. Harsh restrictions on sponsors of immigrants

Under section 631's "deeming" provision, the income and resources of an immigrant's sponsor would be attributed to the immigrant for purposes of determining eligibility for public benefits without regard to whether the sponsor is actually making any contribution to the immigrant's well-being or whether the sponsor is able to meet his or her own family obligations. Section 631 also dramatically expands the number of federal programs that are "deemed" (SSI, AFDC, and Food Stamps) to include nearly every federal means-tested benefit—both cash and non-cash.

Programs that receive federal funds and would be forced to implement these burdensome restrictions include child protective services, foster care, prenatal care, job training, teen crisis centers, soup kitchens, homeless shelters, Pell grants for education, and student loans. This means that state and local governments, colleges and universities, and private charities would have to ask all of their clients, including U.S. citizens, whether they came to the U.S. as immigrants and whether they had sponsors. Furthermore, these individuals would have to demonstrate their sponsors' incomes before they could be considered eligible for services.

These punitive changes are being made despite the fact that many of the programs for which immigrants would be "deemed" are relatively low-cost and are of vital importance to the immigrant (e.g., programs to assist the homeless, the hungry, abused and neglected children, and emergency Medicaid). If immigrants cannot get access to health care, the entire community suffers.

Section 631 would also repeal the current exemption from "deeming" for sponsored immigrants who become disabled after entry and create new administrative complexities and requirements for state and local governments and private charities. Further, by attributing 100 percent of a sponsor's income and resources to the immigrant, the bill is inconsistent with current practice in the major entitlement programs and could cause severe problems where the spouse of a signatory to an affidavit of support becomes separated or divorced from the sponsor.

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[81] Under current law a refugee or asylee who is admitted to the United States is admitted without regard to whether they may later become a public charge because it is thought their flight from persecution and our offer of safe harbor should not be dependent on their financial circumstance. See 8 U.S.C. §§ 1157(c)(3), 1159(c). Yet, section 622 would subject these individuals to public charge deportation if they were to use more than 12 months of public services within their first seven years in the United States.

[82] See 42 U.S.C. 1397(o).

III. Deters individuals from becoming sponsors

We also object to section 632's requirement that a sponsor earn more than 200% of the Federal poverty income guideline to be eligible to execute an affidavit of support for a family member. The 200% income requirement constitutes nothing less than "class warfare," and tells the world that immigration is only for the wealthy. This would require that a sponsor with a family of four maintain an income above $35,420 to qualify as a sponsor,[83] and mean that 91 million people in America could not sponsor a family member for immigration.[84] The requirement is unnecessary since current law already provides that an immigrant may not be admitted to the United States unless he or she can prove that they are unlikely to become a public charge.[85]

Section 632 also requires that the sponsor be the petitioner and prevents organizations from sponsoring individuals. Since the bill unilaterally eliminates whole categories of family reunification, this would preclude U.S. citizens from sponsoring all but their "nuclear family" as immigrants. Under this harsh and nonsensical provision a child would be precluded from sponsoring his or her stepparents or grandparents; an immigrant spouse would be unable to sponsor his or her brothers and sisters; and a church could not sponsor a parishioner's child. The fact that these relatives were otherwise fully eligible to immigrate to the United States would be of no avail.

IV. Unreasonable requirements of paying off benefits before naturalization

We also oppose section 632(c)'s requirement that sponsored immigrants "pay off" certain benefits that they may have received before they are permitted to become naturalized U.S. citizens. This would deny citizenship simply because a person temporarily fell on hard times. Under this provision an immigrant who, as a child, received school lunch benefits would be obligated to pay back those benefits before becoming a naturalized U.S. citizen.

We are also troubled by Section 632's requirement that a family-based immigrant's sponsor notify the government within thirty days of any time he or she changes residences.[86] This burdensome provision would necessitate the creation of a recordkeeping bureaucracy at the state and Federal level to monitor and penalize U.S. citizens or lawful permanent residents who have sponsored the immigration of a close family member.

V. Denying benefits to legal permanent residents and citizens based on parent's citizenship

We are also troubled by language in section 607 which precludes the provision of any benefit (even to U.S. citizens) if that benefit

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[83] Current Population Survey (March 1994 Supplement) from the U.S. Bureau of the Census. Poverty level determined by the U.S. Department of Labor.

[84] Anderson Analysis supra note 39 at 16.

[85] 8 U.S.C. 1182 (a)(4). Nearly all incoming immigrants quickly support themselves, and do not have to rely on the help of their sponsors. According to a 1995 study by the Urban Institute, 93.4 percent of foreign born in America survive without public assistance. See Setting the Record, supra note 38.

[86] H.R. 2202, § 632.

is being administered by someone who is not lawfully present in the United States. Under this provision, a child who is a U.S. citizen would not be able to receive food stamps or housing assistance simply because his or her parent is not lawfully present in the United States. This provision is blatantly disrespectful of an individual's 14th Amendment citizenship and equal protection rights, and could impose a "caste" system on innocent children.

VI. Unrealistic requirements for hospital reimbursement

Section 604 provides state and local governments with reimbursements of emergency medical services provided to undocumented aliens. Although we support the goal of reimbursement, we are concerned that language denying reimbursement unless the identity and immigration status of the individual has been verified with the INS. The INS does not have a data base listing illegal immigrants nor does it have a database that lists all U.S. citizens, making verification nearly impossible. The provision would also require that all hospital personnel become experts in citizenship verification forms. In addition, because the bill requires each person be verified, it would create a huge administrative burden for hospitals. The verification requirement will also keep many ill aliens away from emergency rooms, raising severe public health risks.

CONCLUSION

We believe it is imperative that the Congress pass legislation increasing enforcement against illegal immigration. However, reforming immigration does not mean denying asylees' rights to legitimate due process, drastically capping family immigrant and refugee admissions, or endangering our public heath by denying crucial benefits to children. We urge the Members to reject H.R. 2202 and pass immigration reform that respects our heritage as a "nation of immigrants" and invests in our country's future.

JOHN CONYERS, Jr.
PATRICIA SCHROEDER.
SHEILA JACKSON-LEE.
HOWARD L. BERMAN.
MELVIN L. WATT.
ZOE LOFGREN.
JERROLD NADLER.
BOBBY SCOTT.
BARNEY FRANK.
JOSÉ E. SERRANO.
XAVIER BECERRA.

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104TH CONGRESS } HOUSE OF REPRESENTATIVES { REPT. 104–469
2d Session } { Part 2

IMMIGRATION IN THE NATIONAL INTEREST ACT OF 1995

MARCH 7, 1996.—Ordered to be printed

Mr. CLINGER, from the Committee on Government Reform and Oversight, submitted the following

REPORT

[To accompany H.R. 2202]

[Including cost estimate of the Congressional Budget Office]

The Committee on Government Reform and Oversight, to whom was referred 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, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

Strike section 356 (page 198, line 17, through page 200, line 16), and make all necessary technical and conforming changes.

Strike section 523 (page 270, line 16, through page 273, line 10), and make all necessary technical and conforming changes.

I. BACKGROUND AND NEED FOR THIS LEGISLATION

Sections 356 and 523 of H.R. 2202 would have provided the Immigration and Naturalization Service (INS) authority to hire retired Federal employees without a reduction in salary to offset the amount of their Federal pensions. Section 356 would authorize the employment of up to 300 persons for no more than two years to provide support for the Institutional Hearing Program, a program established to facilitate the deportation of criminal aliens. Section

23-020

523 would have authorized the re-employment of up to 300 persons for no more than two years to assist the INS in the processing of backlogged asylum applications. Annuitants re-employed under these provisions would have been compensated at full salary in addition to their annuities. They would not, however, have accumulated additional retirement credit for this service.

A. Current use of re-employed annuitants by Federal agencies

OPM reported that Federal agencies currently rely upon 73,446 re-employed annuitants. These include 1,794 Civil-Service Retirement System (CSRS) annuitants, 196 Federal Employee Retirement System (FERS) annuitants, and 9,588 retired military officers. The vast majority of other re-employed annuitants are retired enlisted military personnel. Under provisions of 5 U.S.C. § 8344, if a retired CSRS employee becomes re-employed in either elective or appointive office, the re-employed annuitant's salary for the position is to be reduced by an amount equal to the annuity. Comparable provisions govern reductions for FERS employees under a formula established in 5 U.S.C. § 8421(a). The proposed sections of the immigration bill would supersede these reductions, enabling annuitants re-employed under these provisions to collect full salaries and full pensions during their period of re-employment. At minimum, these provisions would establish a basis for inequitable treatment of employees who are re-employed under current law mandating pension offset and those who might be hired under this authority.

B. Provisions of current regulations

Under regulations promulgated at 5 C.F.R. § 553.201, agencies may petition the Office of Personnel Management (OPM) for authority to re-employ individual annuitants without a reduction in annuities. Re-employment in such individual cases is intended for emergency situations, and requires a request from the agency's headquarters to the Director of OPM. These provisions would bypass OPM scrutiny and grant direct authority for a significant number of individuals to perform support functions that would not necessarily meet the rigorous knowledge, skills, and abilities requirements of current regulations governing these situations. Because existing statutes and regulations already provide administrative authority to grant the exceptions being proposed, the administration informed the Committee on the Judiciary that it considers these provisions unnecessary.

C. INS' applications for authority to re-employ annuitants

The INS is currently hiring numerous Border Patrol officers, Immigration Investigators, and Immigration Inspectors. It has submitted a request to OPM seeking authority to re-employ annuitants to assist with the training of these personnel. It has not sought authority to re-employ annuitants to perform the functions identified in these provisions. Although the INS has a substantial backlog of asylum applications, standards for adjudicating asylum cases were revised following the adoption of new asylum regulations in 1990 and the settlement of the court case, *American Baptist Churches* v. *Thornburgh*. The pool of retired Immigration Examiners who had

received training in the new asylum procedures would be small, so annuitants who would be refired to accomplish this function would be required to undergo a three-week training program to learn new legal standards for the work.

Although these sections are intended to provide additional staffing for the designated functions, they appear likely to have wider unanticipated consequences. By eliminating the salary reduction that offsets re-employed annuitants' pensions, the legislation would enable current employees of these offices who might be eligible for retirement to increase their income substantially by retiring and returning as re-employed annuitants. This factor could present especially severe problems for the Institutional Hearing Program, where the support envisioned is less technical than the asylum adjudication responsibilities and where the agency has a larger cadre of senior investigators.

Beyond the incentives that might adversely affect the current workforce, the option to re-employ annuitants without reductions in salaries could establish undesirable precedent and generate pressure to extend comparable benefits government-wide. The precedent would increase incentives for retirement among employees having critical skills in a way that would expose agencies to the vulnerability of losing valuable employees unless the government was willing to pay both salaries and retirement annuities for the same work.

D. Need for the legislation

These provisions were included in the Immigration in the National Interest Act reported by the Committee on the Judiciary. The Committee on the Judiciary could not identify the sponsor of these provisions, provided no hearing record or analysis to support inclusion of these provisions in the bill as reported, and did not object when informed of the Civil Service Subcommittee's findings of their inconsistency with other provisions of Title 5, United States Code.

II. LEGISLATIVE HEARINGS AND COMMITTEE ACTIONS

H.R. 2202, Sections 356 and 523 were referred to the Committee on Government Reform and Oversight. The bill was marked-up in the Civil Service Subcommittee on March 5, 1996, where Subcommittee Member Rep. Burton of Indiana presented an amendment to strike sections 356 and 523. This amendment was considered and adopted without objection. The Committee met on March 7, 1996, and ordered reported the bill H.R. 2202, as amended by voice vote.

III. COMMITTEE HEARINGS AND WRITTEN TESTIMONY

The Civil Service Subcommittee held no formal hearings on H.R. 2202.

IV. EXPLANATION OF THE BILL

The amendment simply strikes section 356 and section 523 of H.R. 2202, thereby leaving in place existing law.

V. COMPLIANCE WITH RULE XI

Pursuant to rule XI, 2(l)(3)(A), of the Rules of the House of Representatives, under the authority of rule X, clause 2(b)(1) and clause 3(f), the results and findings from those oversight activities are incorporated in the recommendations found in the bill and in this report.

VI. BUDGET ANALYSIS AND PROJECTIONS

This Act provides for no new authorization or budget authority or tax expenditures. Consequently, the provisions of section 308(a) of the Congressional Budget Act are not applicable.

VII. COST ESTIMATE OF THE CONGRESSIONAL BUDGET OFFICE

VIII. INFLATIONARY IMPACT STATEMENT

In accordance with rule XI, clause 2(l)(4) of the Rules of the House of Representatives, this legislation is assessed to have no inflationary effect on prices and costs in the operations of the national economy.

IX. CHANGES IN EXISTING LAW

The bill was referred to this committee for consideration of such provisions of the bill as fall within the jurisdiction of this committee pursuant to clause 1(g) of rule X of the Rules of the House of Representatives. The changes made to existing law by the amendment reported by the Committee on the Judiciary are shown in the report filed by that committee (Rept. 104–469, Part 1). The amendments made by this committee do not make any changes in existing law.

X. COMMITTEE RECOMMENDATIONS

On March 7, 1996, a quorum being present, the Committee ordered the bill favorably reported.

Committee on Government Reform and Oversight—104th Congress rollcall

Date: March 7, 1996.
Final Passage of H.R. 2202, as amended.
Offered by: Hon. William F. Clinger, Jr. (R–PA).
Voice Vote: Yea.

XI. CONGRESSIONAL ACCOUNTABILITY ACT; PUBLIC LAW 104–1; SECTION 102(B)(3)

H.R. 2202 as amended by the committee is inapplicable to the legislative branch because it does not relate to any terms or conditions of employment or access to public services or accommodations.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 7, 1996.

Hon. WILLIAM F. CLINGER, JR.,
Chairman, Committee on Government Reform and Oversight,
U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office (CBO) has prepared the enclosed cost estimate for H.R. 2202, the Immigration in the National Interest Act of 1995, as amended by the Committee on Government Reform and Oversight on March 7, 1996. The amendment strikes from H.R. 2202 sections 356 and 523, which deal with federal employee retirement.

Attached is a table summarizing the estimated spending and revenue effects of H.R. 2202, as amended. CBO estimates that striking sections 356 and 523 would increase net direct spending savings by $2 million to $4 million a year in 1997 through 1999. These provisions would permit certain civilian and military retirees to collect their full pensions in addition to their salary if they are reemployed by the Department of Justice to help tackle a backlog of asylum applications or support the Institutional Hearing Program. A more detailed description of the provisions that were stricken is included in the CBO cost estimate sent to Chairman Henry J. Hyde of the House Committee on the Judiciary dated March 4, 1996. That cost estimate also includes detail on the estimated budgetary impact of the other provisions of the bill. Striking sections 356 and 523 would not affect the cost of intergovernmental or private sector mandates in H.R. 2202.

If you wish further details on this estimate, we will be pleased to provide them. the CBO staff contact is Wayne Boyington.

Sincerely,

JUNE E. O'NEILL,
Director.

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
SPENDING SUBJECT TO APPROPRIATIONS ACTION							
Authorizations:							
Estimated Authorizations Level	129	699	774	856	960	978	996
Estimated Outlays	0	532	637	940	994	956	976
MANDATORY SPENDING AND RECEIPTS							
Revenues:							
New Criminal Fines and Forfeiture	0	1	1	1	1	1	1
Earned Income Tax Credit	0	14	13	12	13	13	13
Change in Revenues	0	14	13	12	13	13	13
Direct Spending:							
New Criminal Fines and Forfeiture	0	1	1	1	1	1	1
Immigration Enforcement Account	0	1	1	1	1	1	1
Supplemental Security Income	0	−10	−80	−160	−260	−370	−670
Food Stamps	0	0	−15	−45	−100	−170	−250
Family Support	0	−1	−13	−23	−48	−63	−78
Medicaid	0	−5	−110	−240	−390	−570	−830
Earned Income Tax Credit	0	−216	−214	−218	−222	−224	−229
Change in Direct Spending Outlays	0	−232	−432	−686	−1,020	−1,397	−2,057

[1] Less than $500,000.

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104TH CONGRESS 2d Session } HOUSE OF REPRESENTATIVES { REPT. 104–469 Part 3

IMMIGRATION IN THE NATIONAL INTEREST ACT OF 1995; TEMPORARY AGRICULTURAL WORKER AMENDMENTS OF 1996

MARCH 8, 1996.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. ROBERTS, from the Committee on Agriculture, submitted the following

REPORT

together with

MINORITY AND ADDITIONAL VIEWS

[To accompany H.R. 2202]

The Committee on Agriculture, to whom was referred 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, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

On page 364, after line 13, add the following (and conform the table of contents accordingly):

Subtitle A—Miscellaneous Provisions

Add at the end the following (and conform the table of contents accordingly):

23–040

NOTE: THERE WERE NO SOCIAL SECURITY/SSI PROVISIONS IN THE COMMITTEE ON AGRICULTURE REPORT

Union Calendar No. 229

104TH CONGRESS
2D SESSION

H. R. 2202

[Report No. 104–469, Parts I, II, and III]

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.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 4, 1995

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

BACHUS, Mr. LIGHTFOOT, Mr. COLLINS of Georgia, Mr. HANSEN, Mr. HORN, Mr. PAXON, Ms. MOLINARI, Mr. LINDER, Mr. HASTERT, Mr. ROYCE, Mr. KIM, Mr. CAMP, Mr. HANCOCK, Mr. SPENCE, Mr. JONES, Mr. LIVINGSTON, Mr. REGULA, Mr. EWING, Mr. SALMON, Ms. HARMAN, Mr. ZELIFF, Mr. SHADEGG, Mr. POMBO, Mr. DORNAN, and Mr. RADANOVICH) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on National Security, Government Reform and Oversight, Ways and Means, and Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

SEPTEMBER 19, 1995

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

MARCH 4, 1996

Reported from the Committee on the Judiciary with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

MARCH 4, 1996

Referral to the Committees on Agriculture, Banking and Financial Services, Economic and Educational Opportunities, Government Reform and Oversight, National Security, and Ways and Means extended for a period ending not later than March 8, 1996

MARCH 7, 1996

Reported from the Committee on Government Reform and Oversight with amendments

[Omit the part struck through in brackets and insert the part printed in italic in brackets]

MARCH 8, 1996

Reported from the Committee on Agriculture with amendments

[Insert the part printed in boldface roman]

MARCH 8, 1996

Additional sponsors: Mr. BUYER, Mr. CRAMER, Mr. NORWOOD, Mr. RIGGS, Mr. LIPINSKI, Mr. FRANKS of Connecticut, Mr. COX of California, Mr. TALENT, Mrs. FOWLER, Mr. FRAZER, Mr. COOLEY, Mr. CHAMBLISS, Mr. BEVILL, Mr. GREENWOOD, Mr. OBEY, Mr. BROWDER, Mrs. LINCOLN, Mr. SISISKY, Mr. CREMEANS, Mr. BATEMAN, and Mr. MARTINI

Deleted sponsor: Mr. KIM (added August 4, 1995; deleted September 27, 1995)

MARCH 8, 1996

The Committees on Banking and Financial Services, Economic and Edu-

cational Opportunities, National Security, and Ways and Means discharged; committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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A BILL

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

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

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

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

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

~~(1) whenever in this Act an amendment or repeal is expressed as the amendment or repeal of a section or other provision, the reference shall be con-~~

sidered 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:

Subtitle B—Deterrence of Document Fraud

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 212. NEW CIVIL PENALTIES FOR DOCUMENT FRAUD.

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

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

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

(3) by adding at the end the following:

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

for the purpose of satisfying a requirement of this Act.

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

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

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

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

spouse, parent, son, or daughter (and no other individual).".

SEC. [363.] [*362.*] AUTHORIZING REGISTRATION OF ALIENS ON CRIMINAL PROBATION OR CRIMINAL PAROLE.

Section 263(a) (8 U.S.C. 1303(a)) is amended by striking "and (5)" and inserting "(5) aliens who are or have been on criminal probation or criminal parole within the United States, and (6)".

TITLE IV—ENFORCEMENT OF RESTRICTIONS AGAINST EMPLOYMENT

SEC. 401. STRENGTHENED ENFORCEMENT OF THE EMPLOYER SANCTIONS PROVISIONS.

(a) IN GENERAL.—The number of full-time equivalent positions in the Investigations Division within the Immigration and Naturalization Service of the Department of Justice beginning in fiscal year 1996 shall be increased by 350 positions above the number of full-time equivalent positions available to such Division as of September 30, 1994.

(b) ASSIGNMENT.—Individuals employed to fill the additional positions described in subsection (a) shall be assigned to investigate violations of the employer sanctions provisions contained in section 274A of the Immigration

and Nationality Act, including investigating reports of violations received from officers of the Employment Standards Administration of the Department of Labor.

SEC. 402. STRENGTHENED ENFORCEMENT OF WAGE AND HOUR LAWS.

(a) IN GENERAL.—The number of full-time equivalent positions in the Wage and Hour Division with the Employment Standards Administration of the Department of Labor beginning in fiscal year 1996 shall be increased by 150 positions above the number of full-time equivalent positions available to the Wage and Hour Division as of September 30, 1994.

(b) ASSIGNMENT.—Individuals employed to fill the additional positions described in subsection (a) shall be assigned to investigate violations of wage and hour laws in areas where the Attorney General has notified the Secretary of Labor that there are high concentrations of undocumented aliens.

SEC. 403. CHANGES IN THE EMPLOYER SANCTIONS PROGRAM.

(a) REDUCING THE NUMBER OF DOCUMENTS ACCEPTED FOR EMPLOYMENT VERIFICATION.—Section 274A(b) (8 U.S.C. 1324a(b)) is amended—

(1) in paragraph (1)(B)—

(A) by adding "or" at the end of clause (i),

(B) by striking clauses (ii) through (iv), and

(C) in clause (v), by striking "or other alien registration card, if the card" and inserting ", alien registration card, or other document designated by regulation by the Attorney General, if the document" and redesignating such clause as clause (ii);

(2) by amending subparagraph (C) of paragraph (1) to read as follows:

"(C) SOCIAL SECURITY ACCOUNT NUMBER CARD AS EVIDENCE OF EMPLOYMENT AUTHORIZATION.—A document described in this subparagraph is an individual's social security account number card (other than such a card which specifies on the face that the issuance of the card does not authorize employment in the United States)."; and

(3) by amending paragraph (2) to read as follows:

"(2) INDIVIDUAL ATTESTATION OF EMPLOYMENT AUTHORIZATION AND PROVISION OF SOCIAL SECURITY ACCOUNT NUMBER.—The individual must—

"(A) attest, under penalty of perjury on the form designated or established for purposes of paragraph (1), that the individual is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Attorney General to be hired, recruited, or referred for such employment, and

"(B) provide on such form the individual's social security account number.".

(b) EMPLOYMENT ELIGIBILITY CONFIRMATION PROCESS.—Section 274A (8 U.S.C. 1324a) is amended—

(1) in subsection (a)(3), by inserting "(A)" after "DEFENSE.—", and by adding at the end the following:

"(B) FAILURE TO SEEK AND OBTAIN CONFIRMATION.—In the case of a hiring of an individual for employment in the United States, if such a person or entity—

"(i) has not made an inquiry, under the mechanism established under subsection (b)(6), seeking confirmation of the identity, social security number, and work eligibility of the individual, by not later than the end of 2 working days (as specified by the Attorney General) after the

date of the hiring, the defense under subparagraph (A) shall not be considered to apply with respect to any employment after such 2 working days, and

"(ii) has made the inquiry described in clause (i) but has not received an appropriate confirmation of such identity, number, and work eligibility under such mechanism within the time period specified under subsection (b)(6)(D)(iii) after the time the confirmation inquiry was received, the defense under subparagraph (A) shall not be considered to apply with respect to any employment after the end of such time period.";

(2) by amending paragraph (3) of subsection (b) to read as follows:

"(3) RETENTION OF VERIFICATION FORM AND CONFIRMATION.—After completion of such form in accordance with paragraphs (1) and (2), the person or entity must—

"(A) retain the form and make it available for inspection by officers of the Service, the Special Counsel for Immigration-Related Unfair Employment Practices, or the Department of Labor during a period beginning on the date of

the hiring, recruiting, or referral of the individual and ending—

"(i) in the case of the recruiting or referral for a fee (without hiring) of an individual, three years after the date of the recruiting or referral, and

"(ii) in the case of the hiring of an individual—

"(I) three years after the date of such hiring, or

"(II) one year after the date the individual's employment is terminated,

whichever is later; and

"(B) for individuals hired on or after October 1, 1999 (or, in a State with respect to which a pilot program described in section 403(c)(2)(B) of the Immigration in the National Interest Act of 1995 is in effect, on or after such earlier date as the Attorney General specifies), seek (within 2 working days of the date of hiring) and have (within the time period specified under paragraph (6)(D)(iii)) the identity, social security number, and work eligibility of the individual confirmed in accordance with

the procedures established under paragraph (6).''; and

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

''(6) EMPLOYMENT ELIGIBILITY CONFIRMATION PROCESS.—

''(A) IN GENERAL.—The Attorney General shall establish a confirmation mechanism through which the Attorney General (or a designee of the Attorney General)—

''(i) responds to inquiries by employers, made through a toll-free telephone line or other electronic media in the form of an appropriate confirmation code or otherwise, on whether an individual is authorized to be employed by that employer, and

''(ii) maintains a record that such an inquiry was made and the confirmation provided (or not provided).

''(B) EXPEDITED PROCEDURE IN CASE OF NO CONFIRMATION.—In connection with subparagraph (A), the Attorney General shall establish, in consultation with the Commissioner of Social Security and the Commissioner of the Service, expedited procedures that shall be used

to confirm the validity of information used under the confirmation mechanism in cases in which the confirmation is sought but is not provided through the confirmation mechanism.

"(C) DESIGN AND OPERATION OF MECHANISM.—The confirmation mechanism shall be designed and operated to maximize—

"(i) the reliability of the confirmation process, and

"(ii) the ease of use by employers, recruiters, and referrers,

consistent with insulating and protecting the privacy and security of the underlying information.

"(D) CONFIRMATION PROCESS.—(i) As part of the confirmation mechanism, the Commissioner of Social Security shall establish a reliable, secure method, which within the time period specified under clause (iii), compares the name and social security account number provided against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided and whether the account number indicates that the individual is authorized to be em-

~~ployed in the United States. The Commissioner shall not disclose or release social security information.~~

~~"(ii) As part of the confirmation mechanism, the Commissioner of the Service shall establish a reliable, secure method, which, within the time period specified under clause (iii), compares the name and alien identification number (if any) provided against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided and whether the alien is authorized to be employed in the United States.~~

~~"(iii) For purposes of this section, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Service, an expedited time period within which confirmation is to be provided through the confirmation mechanism.~~

~~"(iv) The Commissioners shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information.~~

"(E) PROTECTIONS.—(i) In no case shall an individual be denied employment because of inaccurate or inaccessible data under the confirmation mechanism.

"(ii) The Attorney General shall assure that there is a timely and accessible process to challenge nonconfirmations made through the mechanism.

"(F) TESTER PROGRAM.—As part of the confirmation mechanism, the Attorney General shall implement a program of testers and investigative activities (similar to testing and other investigative activities assisted under the fair housing initiatives program under section 561 of the Housing and Community Development Act of 1987 to enforce rights under the Fair Housing Act) in order to monitor and prevent unlawful discrimination under the mechanism.".

(c) REDUCTION OF PAPERWORK FOR CERTAIN EMPLOYEES.—Section 274A(a) (8 U.S.C. 1324a(a)) is amended by adding at the end the following new paragraph:

"(6) TREATMENT OF DOCUMENTATION FOR CERTAIN EMPLOYEES.—

"(A) IN GENERAL.—For purposes of paragraphs (1)(B) and (3), if—

"(i) an individual is a member of a collective-bargaining unit and is employed, under a collective bargaining agreement entered into between one or more employee organizations and an association of two or more employers, by an employer that is a member of such association, and

"(ii) within the period specified in subparagraph (B), another employer that is a member of the association (or an agent of such association on behalf of the employer) has complied with the requirements of subsection (b) with respect to the employment of the individual,

the subsequent employer shall be deemed to have complied with the requirements of subsection (b) with respect to the hiring of the employee and shall not be liable for civil penalties described in subsection (e)(5).

"(B) PERIOD.—The period described in this subparagraph is—

"(i) up to 5 years in the case of an individual who has presented documentation

identifying the individual as a national of the United States or as an alien lawfully admitted for permanent residence; or

"(ii) up to 3 years (or, if less, the period of time that the individual is authorized to be employed in the United States) in the case of another individual.

"(C) LIABILITY.—

"(i) IN GENERAL.—If any employer that is a member of an association hires for employment in the United States an individual and relies upon the provisions of subparagraph (A) to comply with the requirements of subsection (b) and the individual is an unauthorized alien, then for the purposes of paragraph (1)(A), subject to clause (ii), the employer shall be presumed to have known at the time of hiring or afterward that the individual was an unauthorized alien.

"(ii) REBUTTAL OF PRESUMPTION.—The presumption established by clause (i) may be rebutted by the employer only through the presentation of clear and convincing evidence that the employer did not

know (and could not reasonably have known) that the individual at the time of hiring or afterward was an unauthorized alien.''.

(d) ELIMINATION OF DATED PROVISIONS.—Section 274A (8 U.S.C. 1324a) is amended by striking subsections (i) through (n).

(e) EFFECTIVE DATES.—

(1) Except as provided in this subsection, the amendments made by this section shall apply with respect to hiring (or recruiting or referring) occurring on or after such date (not later than 180 days after the date of the enactment of this Act) as the Attorney General shall designate.

(2)(A) The Attorney General shall establish the employment eligibility confirmation mechanism (described in section 274A(b)(6) of the Immigration and Nationality Act, as added by subsection (b)) by not later than October 1, 1999.

(B) Before establishing the mechanism, the Attorney General shall undertake such pilot projects for all employers, in at least 5 of the 7 States with the highest estimated population of unauthorized aliens, as will test and assure that the mechanism implemented is reliable and easy to use. Such

projects shall be initiated not later than 6 months after the date of the enactment of this Act.

(C) The Attorney General shall submit to the Congress, beginning in 1997, annual reports on the development and implementation of the mechanism.

(3) The amendment made by subsection (c) shall apply to individuals hired on or after 60 days after the date of the enactment of this Act.

(4) The amendment made by subsection (d) shall take effect on the date of the enactment of this Act.

SEC. 404. REPORTS ON EARNINGS OF ALIENS NOT AUTHORIZED TO WORK.

Subsection (c) of section 290 (8 U.S.C. 1360) is amended to read as follows:

"(c)(1) Not later than 3 months after the end of each fiscal year (beginning with fiscal year 1995), the Commissioner of Social Security shall report to the Committees on the Judiciary of the House of Representatives and the Senate on the aggregate number of social security account numbers issued to aliens not authorized to be employed to which earnings were reported to the Social Security Administration in such fiscal year.

"(2) If earnings are reported on or after January 1, 1996, to the Social Security Administration on a social

security account number issued to an alien not authorized to work in the United States, the Commissioner of Social Security shall provide the Attorney General with information regarding the name and address of the alien, the name and address of the person reporting the earnings, and the amount of the earnings. The information shall be provided in an electronic form agreed upon by the Commissioner and the Attorney General.''.

SEC. 405. AUTHORIZING MAINTENANCE OF CERTAIN INFORMATION ON ALIENS.

Section 264 (8 U.S.C. 1304) is amended by adding at the end the following new subsection:

''(f) Notwithstanding any other provision of law, the Attorney General is authorized to require any alien to provide the alien's social security account number for purposes of inclusion in any record of the alien maintained by the Attorney General or the Service.''.

SEC. 406. LIMITING LIABILITY FOR CERTAIN TECHNICAL VIOLATIONS OF PAPERWORK REQUIREMENTS.

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

(1) by striking ''and'' at the end of subparagraph (C),

this subsection shall not be counted in determining whether there are excess family admissions in a fiscal year under section 201(e)(3)(B) of the Immigration and Nationality Act (as amended by section 501(b) of this Act).

TITLE VI—RESTRICTIONS ON BENEFITS FOR ALIENS

SEC. 600. STATEMENTS OF NATIONAL POLICY CONCERNING WELFARE AND IMMIGRATION.

The Congress makes the following statements concerning national policy with respect to welfare and immigration:

(1) Self-sufficiency has been a basic principle of United States immigration law since this country's earliest immigration statutes.

(2) It continues to be the immigration policy of the United States that—

(A) aliens within the nation's borders not depend on public resources to meet their needs, but rather rely on their own capabilities and the resources of their families, their sponsors, and private organizations, and

(B) the availability of public benefits not constitute an incentive for immigration to the United States.

~~(3) Despite the principle of self-sufficiency, aliens have been applying for and receiving public benefits from Federal, State, and local governments at increasing rates.~~

~~(4) Current eligibility rules for public assistance and unenforceable financial support agreements have proved wholly incapable of assuring that individual aliens not burden the public benefits system.~~

~~(5) It is a compelling government interest to enact new rules for eligibility and sponsorship agreements in order to assure that aliens be self-reliant in accordance with national immigration policy.~~

~~(6) It is a compelling government interest to remove the incentive for illegal immigration provided by the availability of public benefits.~~

~~(7) Where States are authorized to follow Federal eligibility rules for public assistance programs, the Congress strongly encourages the States to adopt the Federal eligibility rules.~~

Subtitle A—Eligibility of Illegal Aliens for Public Benefits

PART 1—PUBLIC BENEFITS GENERALLY

SEC. 601. MAKING ILLEGAL ALIENS INELIGIBLE FOR PUBLIC ASSISTANCE, CONTRACTS, AND LICENSES.

(a) FEDERAL PROGRAMS.—Notwithstanding any other provision of law, except as provided in section 603, any alien who is not lawfully present in the United States shall not be eligible for any of the following:

(1) FEDERAL ASSISTANCE PROGRAMS.—To receive any benefits under any program of assistance provided or funded, in whole or in part, by the Federal Government for which eligibility (or the amount of assistance) is based on financial need.

(2) FEDERAL CONTRACTS OR LICENSES.—To receive any grant, to enter into any contract or loan agreement, or to be issued (or have renewed) any professional or commercial license, if the grant, contract, loan, or license is provided or funded by any Federal agency.

(b) STATE PROGRAMS.—Notwithstanding any other provision of law, except as provided in section 603, any alien who is not lawfully present in the United States shall not be eligible for any of the following:

(1) STATE ASSISTANCE PROGRAMS.—To receive any benefits under any program of assistance (not described in subsection (a)(1)) provided or funded, in whole or in part, by a State or political subdivision of a State for which eligibility (or the amount of assistance) is based on financial need.

(2) STATE CONTRACTS OR LICENSES.—To receive any grant, to enter into any contract or loan agreement, or to be issued (or have renewed) any professional or commercial license, if the grant, contract, loan, or license is provided or funded by any State agency.

(c) REQUIRING PROOF OF IDENTITY FOR FEDERAL CONTRACTS, GRANTS, LOANS, LICENSES, AND PUBLIC ASSISTANCE.—

(1) IN GENERAL.—In considering an application for a Federal contract, grant, loan, or license, or for public assistance under a program described in paragraph (2), a Federal agency shall require the applicant to provide proof of identity under paragraph (3) to be considered for such Federal contract, grant, loan, license, or public assistance.

(2) PUBLIC ASSISTANCE PROGRAMS COVERED.—The requirement of proof of identity under

paragraph (1) shall apply to the following Federal public assistance programs:

(A) SSI.—The supplemental security income program under title XVI of the Social Security Act, including State supplementary benefits programs referred to in such title.

(B) AFDC.—The program of aid to families with dependent children under part A or E of title IV of the Social Security Act.

(C) SOCIAL SERVICES BLOCK GRANT.—The program of block grants to States for social services under title XX of the Social Security Act.

(D) MEDICAID.—The program of medical assistance under title XIX of the Social Security Act.

(E) FOOD STAMPS.—The program under the Food Stamp Act of 1977.

(F) HOUSING ASSISTANCE.—Financial assistance as defined in section 214(b) of the Housing and Community Development Act of 1980.

(3) DOCUMENTS THAT SHOW PROOF OF IDENTITY.—Any one of the documents listed under this paragraph may be used as proof of identity under

this subsection. Any such document shall be current and valid. No other document or documents shall be sufficient to prove identity.

(A) United States passport (either current or expired if issued both within the previous 20 years and after the individual attained 18 years of age).

(B) Resident alien card.

(C) State driver's license, if presented with the individual's social security account number card.

(D) State identity card, if presented with the individual's social security account number card.

(d) AUTHORIZATION FOR STATES TO REQUIRE PROOF OF ELIGIBILITY FOR STATE PROGRAMS.—In considering an application for contracts, grants, loans, licenses, or public assistance under any State program, a State is authorized to require the applicant to provide proof of eligibility to be considered for such State contracts, grants, loans, licenses, or public assistance.

SEC. 602. MAKING UNAUTHORIZED ALIENS INELIGIBLE FOR UNEMPLOYMENT BENEFITS.

(a) IN GENERAL.—Notwithstanding any other provision of law, no unemployment benefits shall be payable

(in whole or in part) out of Federal funds to the extent the benefits are attributable to any employment of the alien in the United States for which the alien was not granted employment authorization pursuant to Federal law.

(b) PROCEDURES.—Entities responsible for providing unemployment benefits subject to the restrictions of this section shall make such inquiries as may be necessary to assure that applicants for such benefits are eligible consistent with this section.

SEC. 603. GENERAL EXCEPTIONS.

Sections 601 and 602 shall not apply to the following:

(1) EMERGENCY MEDICAL SERVICES.—The provision of emergency medical services (as defined by the Attorney General in consultation with the Secretary of Health and Human Services).

(2) PUBLIC HEALTH IMMUNIZATIONS.—Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment for communicable diseases.

(3) SHORT-TERM EMERGENCY DISASTER RELIEF.—The provision of non-cash, in-kind, short-term emergency disaster relief.

SEC. 605. REPORT ON DISQUALIFICATION OF ILLEGAL ALIENS FROM HOUSING ASSISTANCE PROGRAMS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate, the Committee on Banking of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate, describing the manner in which the Secretary is enforcing section 214 of the Housing and Community Development Act of 1980. The report shall contain statistics with respect to the number of aliens denied financial assistance under such section.

SEC. 606. DEFINITIONS.

For purposes of this part:

(1) LAWFUL PRESENCE.—The determination of whether an alien is lawfully present in the United States shall be made in accordance with regulations of the Attorney General. An alien shall not be considered to be lawfully present in the United States for purposes of this title merely because the alien may be considered to be permanently residing in the United States under color of law for purposes of any particular program.

~~(2) STATE.—The term "State" includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.~~

~~SEC. 607. REGULATIONS AND EFFECTIVE DATES.~~

~~(a) REGULATIONS.—The Attorney General shall first issue regulations to carry out this part (other than section 605) by not later than 60 days after the date of the enactment of this Act. Such regulations shall take effect on an interim basis, pending changes based on public comment.~~

~~(b) EFFECTIVE DATE FOR RESTRICTIONS ON ELIGIBILITY FOR PUBLIC BENEFITS.—(1) Except as provided in this subsection, section 601 shall apply to benefits provided, contracts or loan agreements entered into, and professional and commercial licenses issued (or renewed) on or after such date as the Attorney General specifies in regulations under subsection (a). Such date shall be at least 30 days, and not more than 60 days, after the date the Attorney General first issues such regulations.~~

~~(2) The Attorney General, in carrying out section 601(a)(2), may permit such section to be waived in the case of individuals for whom an application for the grant, contract, loan, or license is pending (or approved) as of a date that is on or before the effective date specified under paragraph (1).~~

(c) EFFECTIVE DATE FOR RESTRICTIONS ON ELIGIBILITY FOR UNEMPLOYMENT BENEFITS.—(1) Except as provided in this subsection, section 602 shall apply to unemployment benefits provided on or after such date as the Attorney General specifies in regulations under subsection (a). Such date shall be at least 30 days, and not more than 60 days, after the date the Attorney General first issues such regulations.

(2) The Attorney General, in carrying out section 602, may permit such section to be waived in the case of an individual during a continuous period of unemployment for whom an application for unemployment benefits is pending as of a date that is on or before the effective date specified under paragraph (1).

(d) BROAD DISSEMINATION OF INFORMATION.—Before the effective dates specified in subsections (b) and (c), the Attorney General shall broadly disseminate information regarding the restrictions on eligibility established under this part.

PART 2—EARNED INCOME TAX CREDIT

SEC. 611. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS NOT AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES.

(a) IN GENERAL.—Section 32(c)(1) of the Internal Revenue Code of 1986 (relating to individuals eligible to

claim the earned income tax credit) is amended by adding at the end the following new subparagraph:

"(F) IDENTIFICATION NUMBER REQUIREMENT.—The term 'eligible individual' does not include any individual who does not include on the return of tax for the taxable year—

"(i) such individual's taxpayer identification number, and

"(ii) if the individual is married (within the meaning of section 7703), the taxpayer identification number of such individual's spouse."

(b) SPECIAL IDENTIFICATION NUMBER.—Section 32 of the Internal Revenue Code of 1986 (relating to earned income) is amended by adding at the end the following new subsection:

"(k) IDENTIFICATION NUMBERS.—For purposes of subsections (c)(1)(F) and (c)(3)(D), a taxpayer identification number means a social security number issued to an individual by the Social Security Administration (other than a social security number issued pursuant to clause (II) (or that portion of clause (III) that relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security Act)."

(c) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Section 6213(g)(2) of the Internal Revenue Code of 1986 (relating to the definition of mathematical or clerical errors) is amended by striking "and" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting ", and", and by inserting after subparagraph (E) the following new subparagraph:

"(F) an omission of a correct taxpayer identification number required under section 23 (relating to credit for families with younger children) or section 32 (relating to the earned income tax credit) to be included on a return.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

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

SEC. 621. GROUND FOR INADMISSIBILITY.

(a) IN GENERAL.—Paragraph (4) of section 212(a) (8 U.S.C. 1182(a)) is amended to read as follows:

"(4) PUBLIC CHARGE.—

"(A) FAMILY-SPONSORED IMMIGRANTS.—Any alien who seeks admission or adjustment of status under a visa number issued under section 203(a), who cannot demonstrate to the consular officer at the time of application for a visa, or to the Attorney General at the time of application for admission or adjustment of status, that the alien's age, health, family status, assets, resources, financial status, education, skills, or a combination thereof, or an affidavit of support described in section 213A, or both, make it unlikely that the alien will become a public charge (as determined under section 241(a)(5)(B)) is inadmissible.

"(B) NONIMMIGRANTS.—Any alien who seeks admission under a visa number issued under section 214, who cannot demonstrate to the consular officer at the time of application for the visa that the alien's age, health, family status, assets, resources, financial status, education, skills or a combination thereof, or an affidavit of support described in section 213A, or both, make it unlikely that the alien will become a public charge (as determined under section 241(a)(B)(5)) is inadmissible.

"(C) EMPLOYMENT-BASED IMMIGRANTS.—

"(i) IN GENERAL.—Any alien who seeks admission or adjustment of status under a visa number issued under paragraph (2) or (3) of section 203(b) who cannot demonstrate to the consular officer at the time of application for a visa, or to the Attorney General at the time of application for admission or adjustment of status, that the immigrant has a valid offer of employment is inadmissible.

"(ii) CERTAIN EMPLOYMENT-BASED IMMIGRANTS.—Any alien who seeks admission or adjustment of status under a visa number issued under section 203(b) by virtue of a classification petition filed by a relative of the alien (or by an entity in which such relative has a significant ownership interest) is inadmissible unless such relative has executed an affidavit of support described in section 213A with respect to such alien.".

(b) EFFECTIVE DATE.—(1) Subject to paragraph (2), the amendment made by subsection (a) shall apply to applications submitted on or after such date, not earlier

than 30 days and not later than 60 days after the date the Attorney General promulgates under section 632(f) a standard form for an affidavit of support, as the Attorney General shall specify.

(2) Section 212(a)(4)(C)(i) of the Immigration and Nationality Act, as amended by subsection (a), shall apply only to aliens seeking admission or adjustment of status under a visa number issued on or after October 1, 1996.

SEC. 622. GROUND FOR DEPORTABILITY.

(a) IN GENERAL.—Paragraph (5) of section 241(a) (8 U.S.C. 1251(a)) is amended to read as follows:

"(5) PUBLIC CHARGE.—

"(A) IN GENERAL.—Any alien who, within 7 years after the date of entry or admission, becomes a public charge is deportable.

"(B) EXCEPTIONS.—(i) Subparagraph (A) shall not apply if the alien establishes that the alien has become a public charge from causes that arose after entry or admission. A condition that the alien knew (or had reason to know) existed at the time of entry or admission shall be deemed to be a cause that arose before entry or admission.

"(ii) The Attorney General, in the discretion of the Attorney General, may waive the ap-

plication of subparagraph (A) in the case of an alien who is admitted as a refugee under section 207 or granted asylum under section 208.

"(C) INDIVIDUALS TREATED AS PUBLIC CHARGE.—For purposes of this title, an alien is deemed to be a 'public charge' if the alien receives benefits (other than benefits described in subparagraph (E)) under one or more of the public assistance programs described in subparagraph (D) for an aggregate period of at least 12 months within 7 years after the date of entry. The previous sentence shall not be construed as excluding any other bases for considering an alien to be a public charge, including bases in effect on the day before the date of the enactment of the Immigration in the National Interest Act of 1995. The Attorney 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.

"(D) PUBLIC ASSISTANCE PROGRAMS.—For purposes of subparagraph (B), the public assistance programs described in this subpara-

graph are the following (and include any successor to such a program as identified by the Attorney General in consultation with other appropriate officials).

"(i) SSI.—The supplemental security income program under title XVI of the Social Security Act, including State supplementary benefits programs referred to in such title.

"(ii) AFDC.—The program of aid to families with dependent children under part A or E of title IV of the Social Security Act.

"(iii) SOCIAL SERVICES BLOCK GRANT.—The program of block grants to States for social services under title XX of the Social Security Act.

"(iv) MEDICAID.—The program of medical assistance under title XIX of the Social Security Act.

"(v) FOOD STAMPS.—The program under the Food Stamp Act of 1977.

"(vi) STATE GENERAL CASH ASSISTANCE.—A program of general cash assist-

ance of any State or political subdivision of a State.

"(vii) HOUSING ASSISTANCE.—Financial assistance as defined in section 214(b) of the Housing and Community Development Act of 1980.

"(E) CERTAIN ASSISTANCE EXCEPTED.—For purposes of subparagraph (B), an alien shall not be considered to be a public charge on the basis of receipt of any of the following benefits:

"(i) EMERGENCY MEDICAL SERVICES.—The provision of emergency medical services (as defined by the Attorney General in consultation with the Secretary of Health and Human Services).

"(ii) PUBLIC HEALTH IMMUNIZATIONS.—Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment for communicable diseases.

"(iii) SHORT-TERM EMERGENCY DISASTER RELIEF.—The provision of non-cash, in-kind, short-term emergency disaster relief.".

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a) shall take effect as of the first day of the first month beginning at least 30 days after the date of the enactment of this Act.

(2) In applying section 241(a)(5)(C) of the Immigration and Nationality Act, as amended by subsection (a), no receipt of benefits under a public assistance program before the effective date described in paragraph (1) shall be taken into account.

Subtitle C—Attribution of Income and Affidavits of Support

SEC. 631. ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO FAMILY-SPONSORED IMMIGRANTS.

(a) FEDERAL PROGRAMS.—Notwithstanding any other provision of law, in determining the eligibility and the amount of benefits of an alien for any Federal means-tested public benefits program (as defined in subsection (d)) the income and resources of the alien shall be deemed to include—

(1) the income and resources of any individual who executed an affidavit of support pursuant to section 213A of the Immigration and Nationality Act (as inserted by section 632(a)) in behalf of such alien, and

~~(2) the income and resources of the spouse (if any) of the individual.~~

~~(b) PERIOD OF ATTRIBUTION.—~~

~~(1) PARENTS OF UNITED STATES CITIZENS.—~~ ~~Subsection (a) shall apply with respect to an alien who is admitted to the United States as the parent of a United States citizen under section 512 until the alien is naturalized as a citizen of the United States.~~

~~(2) SPOUSES OF UNITED STATES CITIZENS AND LAWFUL PERMANENT RESIDENTS.—Subsection (a) shall apply with respect to an alien who is admitted to the United States as the spouse of a United States citizen or lawful permanent resident under section 511 or section 512 until—~~

~~(A) 7 years after the date the alien is lawfully admitted to the United States for permanent residence, or~~

~~(B) the alien is naturalized as a citizen of the United States,~~

~~whichever occurs first.~~

~~(3) MINOR CHILDREN OF UNITED STATES CITIZENS AND LAWFUL PERMANENT RESIDENTS.—Subsection (a) shall apply with respect to an alien who is admitted to the United States as the minor child~~

of a United States citizen or lawful permanent resident under section 511 or section 512 until the child attains the age of 21 years or, if earlier, the date the child is naturalized as a citizen of the United States.

(4) ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES ENDED IF SPONSORED ALIEN BECOMES ELIGIBLE FOR OLD-AGE BENEFITS UNDER TITLE II OF THE SOCIAL SECURITY ACT.—

(A) Notwithstanding any other provision of this section, subsection (a) shall not apply and the period of attribution of a sponsor's income and resources under this subsection shall terminate if the alien is employed for a period sufficient to qualify for old age benefits under title II of the Social Security Act and the alien is able to prove to the satisfaction of the Attorney General that the alien qualifies.

(B) The Attorney General shall ensure that appropriate information pursuant to subparagraph (A) is provided to the System for Alien Verification of Eligibility (SAVE).

(c) OPTIONAL APPLICATION TO STATE PROGRAMS.—

(1) AUTHORITY.—Notwithstanding any other provision of law, in determining the eligibility and

the amount of benefits of an alien for any State means-tested public benefits program, the State or political subdivision that offers the program is authorized to provide that the income and resources of the alien shall be deemed to include—

(A) the income and resources of any individual who executed an affidavit of support pursuant to section 213A of the Immigration and Nationality Act (as inserted by section 632(a)) in behalf of such alien, and

(B) the income and resources of the spouse (if any) of the individual.

(2) PERIOD OF ATTRIBUTION.—The period of attribution of a sponsor's income and resources in determining the eligibility and amount of benefits for an alien under any State means-tested public benefits program pursuant to paragraph (1) may not exceed the Federal period of attribution with respect to the alien.

(d) MEANS-TESTED PROGRAM DEFINED.—In this section:

(1) The term "means-tested public benefits program" means a program of public benefits (including cash, medical, housing, and food assistance and social services) of the Federal Government or of a

State or political subdivision of a State in which the eligibility of an individual, household, or family eligibility unit for benefits under the program, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.

(2) The term "Federal means-tested public benefits program" means a means-tested public benefits program of (or contributed to by) the Federal Government.

(3) The term "State means-tested public benefits program" means a means-tested public benefits program that is not a Federal means-tested program.

SEC. 632. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

(a) IN GENERAL.—Title H is amended by inserting after section 213 the following new section:

"REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT

"SEC. 213A. (a) ENFORCEABILITY.—(1) No affidavit of support may be accepted by the Attorney General or by any consular officer to establish that an alien is not inadmissible as a public charge under section 212(a)(4) unless such affidavit is executed by a sponsor of the alien as a contract—

"(A) that is legally enforceable against the sponsor by the Federal Government and by any State (or any political subdivision of such State) that provides any means-tested public benefits program, until the expiration of the 10-year period described in subsection (b)(4), and

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

"(2)(A) An affidavit of support shall be enforceable with respect to benefits provided under any means-tested public benefits program for an alien who is admitted to the United States as the parent of a United States citizen under section 512 until the alien is naturalized as a citizen of the United States.

"(B) An affidavit of support shall be enforceable with respect to benefits provided under any means-tested public benefits program for an alien who is admitted to the United States as the spouse of a United States citizen or lawful permanent resident under section 511 or section 512 until—

"(i) 7 years after the date the alien is lawfully admitted to the United States for permanent residence, or

"(ii) such time as the alien is naturalized as a citizen of the United States,

whichever occurs first.

"(C) An affidavit of support shall be enforceable with respect to benefits provided under any means-tested public benefits program for an alien who is admitted to the United States as the minor child of a United States citizen or lawful permanent resident under section 511 or section 512 until the child attains the age of 21 years.

"(D)(i) Notwithstanding any other provision of this subparagraph, a sponsor shall be relieved of any liability under an affidavit of support if the sponsored alien is employed for a period sufficient to qualify for old age benefits under title II of the Social Security Act and the sponsor or alien is able to prove to the satisfaction of the Attorney General that the alien qualifies.

"(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.

"(c) DEFINITIONS.—For the purposes of this section—

"(1) SPONSOR.—The term 'sponsor' means, with respect to an alien, an individual who—

"(A) is a citizen or national of the United States or an alien who is lawfully admitted to the United States for permanent residence;

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

"(C) is domiciled in any State;

"(D) demonstrates, through presentation of a certified copy of a tax return or otherwise, the means to maintain an annual income equal to at least 200 percent of the poverty level for the individual and the individual's family (including the alien and any other aliens with respect to whom the individual is a sponsor); and

"(E) is petitioning for the admission of the alien under section 204.

"(2) FEDERAL POVERTY LINE.—The term 'Federal poverty line' means the income official poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) that is applicable to a family of the size involved.

"(3) MEANS-TESTED PUBLIC BENEFITS PROGRAM.—The term 'means-tested public benefits program' means a program of public benefits (including cash, medical, housing, and food assistance and social services) of the Federal Government or of a State or political subdivision of a State in which the eligibility of an individual, household, or family eligibility unit for benefits under the program, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.".

(b) REQUIREMENT OF AFFIDAVIT OF SUPPORT FROM EMPLOYMENT SPONSORS.—For requirement for affidavit of support from individuals who file classification petitions for a relative as an employment-based immigrant, see the amendment made by section 621(a).

(c) SETTLEMENT OF CLAIMS PRIOR TO NATURALIZATION.—Section 316(a) (8 U.S.C. 1427(a)) is amended—

(1) by striking "and" before "(3)", and

(2) by inserting before the period at the end the following: ", and (4) in the case of an applicant that has received assistance under a means-tested public benefits program (as defined in subsection (f)(3) of section 213A) administered by a Federal, State, or local agency and with respect to which amounts may be owing under an affidavit of support executed under such section, provides satisfactory evidence that there are no outstanding amounts that may be owed to any such Federal, State, or local agency pursuant to such affidavit by the sponsor who executed such affidavit".

(d) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 213 the following:

"Sec. 213A. Requirements for sponsor's affidavit of support.".

(e) EFFECTIVE DATE.—Subsection (a) of section 213A of the Immigration and Nationality Act, as inserted by subsection (a) of this section, shall apply to affidavits of support executed on or after a date specified by the Attorney General, which date shall be not earlier than 60 days (and not later than 90 days) after the date the Attorney General formulates the form for such affidavits under subsection (f) of this section.

(f) PROMULGATION OF FORM.—Not later than 90 days after the date of the enactment of this Act, the Attorney General, in consultation with the Secretary of State and the Secretary of Health and Human Services, shall promulgate a standard form for an affidavit of support consistent with the provisions of section 213A of the Immigration and Nationality Act.

TITLE VII—FACILITATION OF LEGAL ENTRY

SEC. 701. ADDITIONAL LAND BORDER INSPECTORS; INFRASTRUCTURE IMPROVEMENTS.

(a) INCREASED PERSONNEL.—

(1) IN GENERAL.—In order to eliminate undue delay in the thorough inspection of persons and vehicles lawfully attempting to enter the United States, the Attorney General and Secretary of the Treasury shall increase, by approximately equal numbers in each of the fiscal years 1996 and 1997, the number of full-time land border inspectors assigned to active duty by the Immigration and Naturalization Service and the United States Customs Service to a level adequate to assure full staffing during peak crossing hours of all border crossing lanes now in use, under construction, or whose construction has been authorized by Congress.

SEC. 811. COMMISSION REPORT ON FRAUD ASSOCIATED WITH BIRTH CERTIFICATES.

Section 141 of the Immigration Act of 1990 is amended—

(1) in subsection (b)—

(A) by striking "and" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting "; and"; and

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

"(3) transmit to Congress, not later than January 1, 1997, a report containing recommendations (consistent with subsection (c)(3)) of methods of reducing or eliminating the fraudulent use of birth certificates for the purpose of obtaining other identity documents that may be used in securing immigration, employment, or other benefits."; and

(2) by adding at the end of subsection (c) the following new paragraph:

"(3) FOR REPORT ON REDUCING BIRTH CERTIFICATE FRAUD.—In the report described in subsection (b)(3), the Commission shall consider and analyze the feasibility of—

"(A) establishing national standards for counterfeit-resistant birth certificates, and

"(B) limiting the issuance of official copies of a birth certificate of an individual to anyone other than the individual or others acting on behalf of the individual.".

SEC. 812. UNIFORM VITAL STATISTICS.

(a) PILOT PROGRAM.—The Secretary of Health and Human Services shall consult with the State agency responsible for registration and certification of births and deaths and, within 3 years of the date of enactment of this Act, shall establish a pilot program for 3 of the 5 States with the largest number of undocumented aliens of an electronic network linking the vital statistics records of such States. The network shall provide, where practical, for the matching of deaths with births and shall enable the confirmation of births and deaths of citizens of such States, or of aliens within such States, by any Federal or State agency or official in the performance of official duties. The Secretary and participating State agencies shall institute measures to achieve uniform and accurate reporting of vital statistics into the pilot program network, to protect the integrity of the registration and certification process, and to prevent fraud against the Government and other persons through the use of false birth or death certificates.

(b) REPORT.—Not later than 180 days after the establishment of the pilot program under subsection (a), the Secretary shall issue a written report to Congress with recommendations on how the pilot program could effectively be instituted as a national network for the United States.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1996 and for subsequent fiscal years such sums as may be necessary to carry out this section.

SEC. 813. COMMUNICATION BETWEEN STATE AND LOCAL GOVERNMENT AGENCIES, AND THE IMMIGRATION AND NATURALIZATION SERVICE.

Notwithstanding any other provision of Federal, State, or local law, no State or local government entity shall prohibit, or in any way restrict, any government entity or any official within its jurisdiction from sending to or receiving from the Immigration and Naturalization Service information regarding the immigration status, lawful or unlawful, of an alien in the United States.

SEC. 814. CRIMINAL ALIEN REIMBURSEMENT COSTS.

Amounts appropriated to carry out section 501 of the Immigration and Reform Act of 1986 for fiscal year 1995 shall be available to carry out section 242(j) of the Immigration and Nationality Act in that fiscal year with respect

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:

Subtitle B—Pilot Programs

Subtitle C—Interior Enforcement

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

Subtitle A—Enhanced Enforcement and Penalties Against Alien Smuggling

Subtitle B—Deterrence of Document Fraud

Subtitle C—Asset Forfeiture for Passport and Visa Offenses

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

Subtitle A—Revision of Procedures for Removal of Aliens

TITLE IV—ENFORCEMENT OF RESTRICTIONS AGAINST EMPLOYMENT

TITLE V—REFORM OF LEGAL IMMIGRATION SYSTEM

Subtitle A—Worldwide Numerical Limits

Subtitle B—Changes in Preference System

Subtitle C—Refugees, Parole, and Humanitarian Admissions

Subtitle D—Asylum Reform

Subtitle E—General Effective Date; Transition Provisions

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-

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 com-

mitted 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 prep-

aration 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.

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. STRENGTHENED ENFORCEMENT OF THE EMPLOYER SANCTIONS PROVISIONS.

(a) IN GENERAL.—The number of full-time equivalent positions in the Investigations Division within the Immi-

gration and Naturalization Service of the Department of Justice beginning in fiscal year 1996 shall be increased by 350 positions above the number of full-time equivalent positions available to such Division as of September 30, 1994.

(b) ASSIGNMENT.—Individuals employed to fill the additional positions described in subsection (a) shall be assigned to investigate violations of the employer sanctions provisions contained in section 274A of the Immigration and Nationality Act, including investigating reports of violations received from officers of the Employment Standards Administration of the Department of Labor.

SEC. 402. STRENGTHENED ENFORCEMENT OF WAGE AND HOUR LAWS.

(a) IN GENERAL.—The number of full-time equivalent positions in the Wage and Hour Division with the Employment Standards Administration of the Department of Labor beginning in fiscal year 1996 shall be increased by 150 positions above the number of full-time equivalent positions available to the Wage and Hour Division as of September 30, 1994.

(b) ASSIGNMENT.—Individuals employed to fill the additional positions described in subsection (a) shall be assigned to investigate violations of wage and hour laws in areas where the Attorney General has notified the Secretary

of Labor that there are high concentrations of undocumented aliens.

SEC. 403. CHANGES IN THE EMPLOYER SANCTIONS PROGRAM.

(a) REDUCING THE NUMBER OF DOCUMENTS ACCEPTED FOR EMPLOYMENT VERIFICATION.—Section 274A(b) (8 U.S.C. 1324a(b)) is amended—

(1) in paragraph (1)(B)—

(A) by adding "or" at the end of clause (i),

(B) by striking clauses (ii) through (iv), and

(C) in clause (v), by striking "or other alien registration card, if the card" and inserting ", alien registration card, or other document designated by regulation by the Attorney General, if the document" and redesignating such clause as clause (ii);

(2) by amending subparagraph (C) of paragraph (1) to read as follows:

"(C) SOCIAL SECURITY ACCOUNT NUMBER CARD AS EVIDENCE OF EMPLOYMENT AUTHORIZATION.—A document described in this subparagraph is an individual's social security account number card (other than such a card which specifies on the face that the issuance of

the card does not authorize employment in the United States).''; and

(3) by amending paragraph (2) to read as follows:

''(2) INDIVIDUAL ATTESTATION OF EMPLOYMENT AUTHORIZATION AND PROVISION OF SOCIAL SECURITY ACCOUNT NUMBER.—The individual must—

''(A) attest, under penalty of perjury on the form designated or established for purposes of paragraph (1), that the individual is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Attorney General to be hired, recruited, or referred for such employment; and

''(B) provide on such form the individual's social security account number.''.

(b) EMPLOYMENT ELIGIBILITY CONFIRMATION PROCESS.—Section 274A (8 U.S.C. 1324a) is amended—

(1) in subsection (a)(3), by inserting ''(A)'' after ''DEFENSE.—'', and by adding at the end the following:

''(B) FAILURE TO SEEK AND OBTAIN CONFIRMATION.—Subject to subsection (b)(7), in the case of a hiring of an individual for employment in the United

States by a person or entity that employs more than 3 employees, the following rules apply:

"(i) FAILURE TO SEEK CONFIRMATION.—

"(I) IN GENERAL.—If the person or entity has not made an inquiry, under the mechanism established under subsection (b)(6), seeking confirmation of the identity, social security number, and work eligibility of the individual, by not later than the end of 3 working days (as specified by the Attorney General) after the date of the hiring, the defense under subparagraph (A) shall not be considered to apply with respect to any employment after such 3 working days, except as provided in subclause (II).

"(II) SPECIAL RULE FOR FAILURE OF CONFIRMATION MECHANISM.—If such a person or entity in good faith attempts to make an inquiry during such 3 working days in order to qualify for the defense under subparagraph (A) and the confirmation mechanism has registered that not all inquiries were responded to during such time, the person or entity can make an inquiry in the first subsequent working day in which

the confirmation mechanism registers no nonresponses and qualify for the defense.

"(ii) FAILURE TO OBTAIN CONFIRMATION.—If the person or entity has made the inquiry described in clause (i)(I) but has not received an appropriate confirmation of such identity, number, and work eligibility under such mechanism within the time period specified under subsection (b)(6)(D)(iii) after the time the confirmation inquiry was received, the defense under subparagraph (A) shall not be considered to apply with respect to any employment after the end of such time period.";

(2) by amending paragraph (3) of subsection (b) to read as follows:

"(3) RETENTION OF VERIFICATION FORM AND CONFIRMATION.—After completion of such form in accordance with paragraphs (1) and (2), the person or entity must—

"(A) retain the form and make it available for inspection by officers of the Service, the Special Counsel for Immigration-Related Unfair Employment Practices, or the Department of Labor during a period beginning on the date of

the hiring, recruiting, or referral of the individual and ending—

"(i) in the case of the recruiting or referral for a fee (without hiring) of an individual, three years after the date of the recruiting or referral, and

"(ii) in the case of the hiring of an individual—

"(I) three years after the date of such hiring, or

"(II) one year after the date the individual's employment is terminated, whichever is later; and

"(B) subject to paragraph (7), if the person employs more than 3 employees, seek to have (within 3 working days of the date of hiring) and have (within the time period specified under paragraph (6)(D)(iii)) the identity, social security number, and work eligibility of the individual confirmed in accordance with the procedures established under paragraph (6), except that if the person or entity in good faith attempts to make an inquiry in accordance with the procedures established under paragraph (6) during such 3 working days in order to fulfill the re-

quirements under this subparagraph, and the confirmation mechanism has registered that not all inquiries were responded to during such time, the person or entity shall make an inquiry in the first subsequent working day in which the confirmation mechanism registers no nonresponses.''; and

(3) by adding at the end of subsection (b) the following new paragraphs:

''(6) EMPLOYMENT ELIGIBILITY CONFIRMATION PROCESS.—

''(A) IN GENERAL.—Subject to paragraph (7), the Attorney General shall establish a confirmation mechanism through which the Attorney General (or a designee of the Attorney General which may include a nongovernmental entity)—

''(i) responds to inquiries by employers, made through a toll-free telephone line or other electronic media in the form of an appropriate confirmation code or otherwise, on whether an individual is authorized to be employed by that employer, and

"(ii) maintains a record that such an inquiry was made and the confirmation provided (or not provided).

"(B) EXPEDITED PROCEDURE IN CASE OF NO CONFIRMATION.—In connection with subparagraph (A), the Attorney General shall establish, in consultation with the Commissioner of Social Security and the Commissioner of the Service, expedited procedures that shall be used to confirm the validity of information used under the confirmation mechanism in cases in which the confirmation is sought but is not provided through the confirmation mechanism.

"(C) DESIGN AND OPERATION OF MECHANISM.—The confirmation mechanism shall be designed and operated—

"(i) to maximize the reliability of the confirmation process, and the ease of use by employers, recruiters, and referrers, consistent with insulating and protecting the privacy and security of the underlying information, and

"(ii) to respond to all inquiries made by employers on whether individuals are authorized to be employed by those employ-

ers, recruiters, or referrers registering all times when such response is not possible.

"(D) CONFIRMATION PROCESS.—(i) As part of the confirmation mechanism, the Commissioner of Social Security shall establish a reliable, secure method, which within the time period specified under clause (iii), compares the name and social security account number provided against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided and whether the individual has presented a social security account number that is not valid for employment. The Commissioner shall not disclose or release social security information.

"(ii) As part of the confirmation mechanism, the Commissioner of the Service shall establish a reliable, secure method, which, within the time period specified under clause (iii), compares the name and alien identification number (if any) provided against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided and whether the alien is authorized to be employed in the United States.

"(iii) For purposes of this section, the Attorney General (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. In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Service, an expedited time period not to exceed 10 working days within which final confirmation or denial must be provided through the confirmation mechanism in accordance with the procedures under subparagraph (B).

"(iv) The Commissioners shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information.

"(E) PROTECTIONS.—(i) In no case shall an individual be denied employment because of inaccurate or inaccessible data under the confirmation mechanism.

"(ii) The Attorney General shall assure that there is a timely and accessible process to chal-

lenge nonconfirmations made through the mechanism.

"(iii) 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.

"(F) TESTER PROGRAM.—As part of the confirmation mechanism, the Attorney General shall implement a program of testers and investigative activities (similar to testing and other investigative activities assisted under the fair housing initiatives program under section 561 of the Housing and Community Development Act of 1987 to enforce rights under the Fair Housing Act) in order to monitor and prevent unlawful discrimination under the mechanism.

"(G) 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 for any action taken in good faith reliance on information provided through the employment eligibility confirmation mechanism established under this paragraph (in-

cluding any pilot program established under paragraph (7)).

"(7) APPLICATION OF CONFIRMATION MECHANISM THROUGH PILOT PROJECTS.—

"(A) IN GENERAL.—Subsection (a)(3)(B) and paragraph (3) shall only apply to individuals hired if they are covered under a pilot project established under this paragraph.

"(B) UNDERTAKING PILOT PROJECTS.—For purposes of this paragraph, the Attorney General shall undertake pilot projects for all employers in at least 5 of the 7 States with the highest estimated population of unauthorized aliens, in order to test and assure that the confirmation mechanism described in paragraph (6) is reliable and easy to use. Such projects shall be initiated not later than 6 months after the date of the enactment of this paragraph. The Attorney General, however, shall not establish such mechanism in other States unless Congress so provides by law. The pilot projects shall terminate on such dates, not later than October 1, 1999, as the Attorney General determines. At least one such pilot project shall be carried out through a non-

governmental entity as the confirmation mechanism.

"(C) REPORT.—The Attorney General shall submit to the Congress annual reports in 1997, 1998, and 1999 on the development and implementation of the confirmation mechanism under this paragraph. Such reports may include an analysis of whether the mechanism implemented—

"(i) is reliable and easy to use;

"(ii) limits job losses due to inaccurate or unavailable data to less than 1 percent;

"(iii) increases or decreases discrimination;

"(iv) protects individual privacy with appropriate policy and technological mechanisms; and

"(v) burdens individual employers with costs or additional administrative requirements.".

(c) REDUCTION OF PAPERWORK FOR CERTAIN EMPLOYEES.—Section 274A(a) (8 U.S.C. 1324a(a)) is amended by adding at the end the following new paragraph:

"(6) TREATMENT OF DOCUMENTATION FOR CERTAIN EMPLOYEES.—

"(A) IN GENERAL.—For purposes of paragraphs (1)(B) and (3), if—

"(i) an individual is a member of a collective-bargaining unit and is employed, under a collective bargaining agreement entered into between one or more employee organizations and an association of two or more employers, by an employer that is a member of such association, and

"(ii) within the period specified in subparagraph (B), another employer that is a member of the association (or an agent of such association on behalf of the employer) has complied with the requirements of subsection (b) with respect to the employment of the individual,

the subsequent employer shall be deemed to have complied with the requirements of subsection (b) with respect to the hiring of the employee and shall not be liable for civil penalties described in subsection (e)(5).

"(B) PERIOD.—The period described in this subparagraph is—

"(i) up to 5 years in the case of an individual who has presented documentation

identifying the individual as a national of the United States or as an alien lawfully admitted for permanent residence; or

"(ii) up to 3 years (or, if less, the period of time that the individual is authorized to be employed in the United States) in the case of another individual.

"(C) LIABILITY.—

"(i) IN GENERAL.—If any employer that is a member of an association hires for employment in the United States an individual and relies upon the provisions of subparagraph (A) to comply with the requirements of subsection (b) and the individual is an unauthorized alien, then for the purposes of paragraph (1)(A), subject to clause (ii), the employer shall be presumed to have known at the time of hiring or afterward that the individual was an unauthorized alien.

"(ii) REBUTTAL OF PRESUMPTION.—The presumption established by clause (i) may be rebutted by the employer only through the presentation of clear and convincing evidence that the employer did not

know (and could not reasonably have known) that the individual at the time of hiring or afterward was an unauthorized alien.".

(d) ELIMINATION OF DATED PROVISIONS.—Section 274A (8 U.S.C. 1324a) is amended by striking subsections (i) through (n).

(e) EFFECTIVE DATES.—

(1) Except as provided in this subsection, the amendments made by this section shall apply with respect to hiring (or recruiting or referring) occurring on or after such date (not later than 180 days after the date of the enactment of this Act) as the Attorney General shall designate.

(2) 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 (c) shall apply to individuals hired on or after 60 days after the date of the enactment of this Act.

(4) The amendment made by subsection (d) shall take effect on the date of the enactment of this Act.

(5) 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 I-9, in satisfaction of the requirements of section 274A(b)(3) of the Immigration and Nationality Act as amended by this Act.

SEC. 404. REPORTS ON EARNINGS OF ALIENS NOT AUTHORIZED TO WORK.

Subsection (c) of section 290 (8 U.S.C. 1360) is amended to read as follows:

"(c)(1) Not later than 3 months after the end of each fiscal year (beginning with fiscal year 1995), the Commissioner of Social Security shall report to the Committees on the Judiciary of the House of Representatives and the Senate on the aggregate number of social security account numbers issued to aliens not authorized to be employed to which earnings were reported to the Social Security Administration in such fiscal year.

"(2) If earnings are reported on or after January 1, 1996, to the Social Security Administration on a social security account number issued to an alien not authorized to work in the United States, the Commissioner of Social Security shall provide the Attorney General with information regarding the name and address of the alien, the name and address of the person reporting the earnings, and the

amount of the earnings. The information shall be provided in an electronic form agreed upon by the Commissioner and the Attorney General.".

SEC. 405. AUTHORIZING MAINTENANCE OF CERTAIN INFORMATION ON ALIENS.

Section 264 (8 U.S.C. 1304) is amended by adding at the end the following new subsection:

"(f) Notwithstanding any other provision of law, the Attorney General is authorized to require any alien to provide the alien's social security account number for purposes of inclusion in any record of the alien maintained by the Attorney General or the Service.".

SEC. 406. LIMITING LIABILITY FOR CERTAIN TECHNICAL VIOLATIONS OF PAPERWORK REQUIREMENTS.

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

(1) by striking "and" at the end of subparagraph (C),

(2) by striking the period at the end of subparagraph (D) and inserting ", and", and

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

"(E) under which a person or entity shall not be considered to have failed to comply with

the requirements of subsection (b) based upon a technical or procedural failure to meet a requirement of such subsection in which there was a good faith attempt to comply with the 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. 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—

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 redesig-

nated 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

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

Union Calendar No. 229

104TH CONGRESS
2D SESSION

H. R. 2202

[Report No. 104-469, Parts I, II, and III]

A BILL

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

MARCH 8, 1996

Reported from the Committee on Agriculture with amendments

MARCH 8, 1996

The Committees on Banking and Financial Services, Economic and Educational Opportunities, National Security, and Ways and Means discharged; committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

House Calendar No. 193

104TH CONGRESS
2D SESSION

H. RES. 384

[Report No. 104–483]

Providing for 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.

IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 1996

Mr. DREIER, from the Committee on Rules, reported the following resolution; which was referred to the House Calendar and ordered to be printed

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RESOLUTION

Providing for 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.

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for 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. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived except those arising under section 425(a) of the Congressional Budget Act of 1974. General debate shall be confined to the bill and shall not exceed two hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the

amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill, modified by the amendment printed in part 1 of the report of the Committee on Rules accompanying this resolution. That amendment in the nature of a substitute shall be considered as read. No other amendment shall be in order except the amendments printed in part 2 of the report of the Committee on Rules and amendments en bloc described in section 2 of this resolution. Each amendment printed in part 2 of the report may be considered only in the order printed, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, 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 in the House or in the Committee of the Whole. All points of order against amendments made in order by this resolution are waived except those arising under section 425(a) of the Congressional Budget Act of 1974. 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. The chairman of the Committee of the Whole may reduce to not less than five 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 be not less than fifteen minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. 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 of the Committee on Rules accompanying this resolution that were not earlier disposed of or germane modifications of any such amendments. Amendments en block offered pursuant to this section shall be considered as read (except that modifications shall be reported), shall be debatable for twenty minutes equally di-

vided and controlled by the chairman and ranking minority member of the Committee on the Judiciary or their designees, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. For the purpose of inclusion in such amendments en bloc, an amendment printed in the form of a motion to strike may be modified to the form of a germane perfecting amendment to the text originally proposed to be stricken. The original proponent of an amendment included in such amendments en bloc may insert a statement in the Congressional Record immediately before the disposition of the amendments en bloc.

House Calendar No. 193

104TH CONGRESS
2D SESSION

H. RES. 384

[Report No. 104–483]

RESOLUTION

Providing for 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.

MARCH 14, 1996

Referred to the House Calendar and ordered to be printed

104TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { 104–483

PROVIDING FOR THE CONSIDERATION OF H.R. 2202, THE IMMIGRATION IN THE NATIONAL INTEREST ACT OF 1995

MARCH 14, 1996.—Referred to the House Calendar and ordered to be printed

Mr. DREIER, from the Committee on Rules,
submitted the following

REPORT

[To accompany H. Res. 384]

The Committee on Rules, having had under consideration House Resolution 384, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

BRIEF SUMMARY OF PROVISIONS OF RESOLUTION

The resolution provides for the consideration of H.R. 2202, the "Immigration in the National Interest Act of 1995" under a modified closed rule. The rule provides two hours of general debate divided equally between the chairman and ranking minority member of the Committee on the Judiciary.

The rule waives all points of order against consideration of the bill, except those arising under section 425(a) of the Congressional Budget Act of 1974 (unfunded mandates).

The rule makes in order the Committee on the Judiciary amendment in the nature of a substitute now printed in the bill, as modified by the amendment printed in part 1 of this report. The amendment in the nature of a substitute, as modified, shall be considered as read.

Only amendments printed in the Rules Committee report are in order and shall be considered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against the amendments printed in the report are waived, except those arising

under section 425(a) of the Congressional Budget Act of 1974 (unfunded mandates).

The rule further allows the Chairman of the Committee of the Whole to postpone votes during consideration of the bill, and allows the Chairman of the Committee of the Whole to reduce votes to five minutes on a postponed question if the vote follows a fifteen minute vote.

The rule provides that a separate vote may be demanded in the House on any amendment adopted to the committee amendment in the nature of a substitute. The rule also provides one motion to recommit, with or without instructions.

The chairman of the Committee on the Judiciary or a designee may offer amendments en bloc consisting of amendments not previously disposed of which are printed in the Rules Committee report or germane modifications thereof. The amendments offered en bloc shall be considered as read (except that modifications shall be reported), shall be debatable for 20 minutes equally divided between the chairman and ranking minority member of the Judiciary Committee or their designees.

Finally, the rule permits the original proponent of an amendment included in an en bloc amendment to insert a statement in the Congressional Record immediately prior to the disposition of the amendments en bloc.

SUMMARY OF AMENDMENTS MADE IN ORDER FOR H.R. 2202, THE IMMIGRATION IN THE NATIONAL INTEREST ACT OF 1995 (LISTED IN THE ORDER THEY APPEAR IN THIS REPORT)

Self-Executed—Smith (TX): Modifies the employment eligibility verification system by making it voluntary for at least 5 of the 7 states with the highest levels of illegal immigration. Employers will be offered incentives to participate in the verification system.

1. Smith (TX): Manager's amendment. Makes a number of technical and conforming changes as well as a number of substantive amendments—which include clarifying provisions regarding the removal of illegal aliens from the U.S. (Title III), the eligibility criteria for aliens to receive public benefits (Title VI) and miscellaneous provisions (Title VIII). (20 min.)

2. Traficant: Requires the Attorney General, in consultation with the Secretaries of State and Defense, to contract with the Comptroller General to submit a report to the Congress on the Administration's strategy on deterring illegal aliens from U.S. borders, thus giving Congress oversight responsibility. (10 min.)

3. Beilenson: Strikes the triple fence requirement and replaces it with a new subsection that authorizes $110 million appropriation for the INS to install additional physical barriers and roads. (10 min.)

4. McCollum: Directs the commissioner of the Social Security Administration to make such improvements in the Social Security account number card as are necessary to secure it against counterfeiting and fraudulent use. (30 min.)

5. Tate: Permanently bars admission to the U. S. for those individuals that intentionally entered the U.S. illegally. (30 min.)

6. Conyers: Strikes Section 331 relating to membership in terrorist organizations as a ground of inadmissibility. (30 min.)

7. Latham: Gives local and state law enforcement officers the authority to detain illegal aliens who are violating a deportation requirement for purpose of expeditiously delivering such person to the INS. (40 min.)

8. Bryant (TN): Requires public medical facilities to provide INS with identifying information about an illegal alien they provided services to (except patients under 18 years old). (20 min.)

9. Velázquez/Roybal-Allard: Eliminates section 607 which would keep undocumented parents from seeking benefits on behalf of their U.S.-born children. (20 min.)

10. Gallegly: Allows states the option of denying free public education benefits to illegal aliens. (30 min.)

11. Cardin: Makes worksite enforcement a priority of the INS and requires the Attorney General to report to Congress, within one year, stating the authority and resources needed for worksite enforcement. (10 min.)

12. Chabot: Strikes subsection relating to the establishment of a new and additional "employment eligibility confirmation process." (60 min.)

13. Gallegly/Bilbray Seastrand/Stenholm: Establishes mandatory 800 telephone number pilot program for employee verification in 5 or 7 states with the highest number of illegal aliens. (60 min.)

14. Brownback/Gutierrez: Changes section 505 by requiring that only congressional review of worldwide levels take place every 5 years. (20 min.)

15. Kim: Allows any unused family and employment-based visas to be used, on an annual basis, for adult children and brothers and sisters who have applications for admission filed before March 13, 1996, but disqualifies any applicant who has been or is illegally present in the U.S. or violates other conditions for stay in the U.S. as a nonimmigrant. (10 min.)

16. Canady: Establishes an English language requirement for immigrants arriving under the Diversity Immigrant program, under the Employment-Based Classification. (30 min.)

17. Smith (NJ)/Schiff: Deletes provision of section 521 which imposes a statutory limit on the number of refugees admitted to the United States each fiscal year. (30 min.)

18. Dreier: Ensures that except for 10% preserved for discretionary allocation, all qualifying counties would receive the same amount of targeted assistance per refugee. (10 min.)

19. Chrysler/Berman/Brownback: Deletes Subtitles A, B, and C of Title V. These provisions concern changes made to legal immigration, specifically in areas of preference and level of immigration. (60 min.)

20. Bryant (TX): Protects certain adult children of U.S. citizens and lawful permanent residents as a result of the elimination of the adult child family preference category. (10 min.)

21. Rohrabacher: Replaces section 808 as reported with section 808 as introduced. This would amend section 245 (I) (1) (B) of the Immigration and Nationality Act to repeal the provision allowing illegal aliens to apply for permanent status and remain in the U.S. while their applications are adjudicated. (10 min.)

22. Pombo/Chambliss: Modifies the current temporary agricultural worker program known as H–2A, by creating an alternative

program to be known as H–2B. The new program will be a pilot program authorized for three years. This is the Agriculture Committee amendment reported from the Agriculture Committee. (60 min.)

23. Condit: Phases out the current H–2A guest worker program over a 2 year period, only if the proposed H–2B program gains permanent status. (Amendment to Pombo/Chambliss) (10 min.)

24. Goodlatte: Alters the H–2A temporary agricultural worker program by: shifting responsibility for considering and approving petitions for workers by agricultural employers from the DoL to the Attorney General; employers seeking H–2A workers would first have to positively recruit domestic workers for 20 rather than 40 days; employers would no longer be required to offer American applicants jobs for the first 50% of the work contract period for the H–2A workers; employers could offer H–2A workers a housing allowance as opposed to actual housing; employers would only have to guarantee pay to H–2A workers for 3/4 of the workdays, as opposed to the current 3/4 of the work contract period; and visas will be made available for no more that 100,000 aliens each year. (30 min.)

25. Lipinski: Adjusts the status of approximately 800 Poles and Hungarians from parolee to permanent resident. (10 min.)

26. Farr: Establishes 10 national demonstration sites, selected by the INS, for systemic outreach and planning activities associated with naturalization swearing-in ceremonies. (10 min.)

27. Traficant: Sense of Congress to "buy American." (10 min.)

28. Burr: Extends the H–1A non-immigrant nurse program for 6 months after the enactment of H.R. 2202. (10 min.)

29. Vento: Waives the English language test for Hmong soldiers and their spouses or widows who served in Special Guerilla Units during the Vietnam war, thus putting U.S. citizenship within their reach. (10 min.)

30. Waldholtz: Sense of Congress that the mission statement of the INS should include the apprehension and removal of illegal aliens, particularly those involved in drug trafficking or other criminal activity. (10 min.)

31. Kleczka: Require the Dept. of State to refund fees to Poles who were erroneously notified of their eligibility for visas but did not receive a visa. (10 min.)

32. Dreier: Sense of Congress that the Justice Department has been very slow in distributing funds to states to reimburse for the cost of incarcerating illegal immigrant felons, and that SCAAP funds should be distributed to states during the fiscal year in which they are appropriated. (10 min.)

COMMITTEE VOTES

Pursuant to clause 2(l)(2)(B) of House rule XI the results of each rollcall vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee Rollcall No. 299

Date: March 14, 1996.

Measure: Rule for consideration of H.R. 2202, the Immigration in the National Interest Act.

Motion By: Mr. Beilenson.

Summary of Motion: Make in order Beilenson amendment No. 101 to increase civil penalties for employer sanctions: for first violations to $1,000–$3,000; for second violations to $3,000–$8,000; for subsequent violations to $8,000–$25,000; and allow penalties to be doubled if employer violates certain specified acts.

Results: Rejected, 3 to 7.

Vote by Members: Dreier—Nay; Goss—Yea; Linder—Nay; Pryce—Nay; Diaz-Balart—Nay; McInnis—Nay; Waldholtz—Nay; Beilenson—Yea; Frost—Yea; Solomon—Nay.

Rules Committee Rollcall No. 300

Date: March 14, 1996.

Measure: Rule for consideration of H.R. 2202, the Immigration in the National Interest Act.

Motion By: Rep. Frost.

Summary of Motion: Strike from the proposed list of amendments to be made in order the amendment by Rep. Gallegly No. 53 that would allow states the option of denying free public education benefits to illegal aliens.

Results: Rejected, 3 to 5.

Vote by Members: Dreier—Nay; Goss—Nay; Linder—Nay; Diaz-Balart—Yea; McInnis—Nay; Waldholtz—Nay; Beilenson—Yea; Frost—Yea.

PART 1

The amendment to be considered as adopted is as follows:

Amend title IV to read as follows (and conform the table of contents accordingly):

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 Attor-

ney 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 NON-CONFIRMATION.—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 ELIGI-

BILITY 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.

PART 2

The amendments made in order by the rule.

[TITLE VI AMENDMENTS]:

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):".

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4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MCCOLLUM OF FLORIDA, OR A DESIGNEE, DEBATABLE FOR 30 MINUTES

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.

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10. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GALLEGLY OF CALIFORNIA, OR A DESIGNEE, DEBATABLE FOR 30 MINUTES

At the end of subtitle A of title VI insert the following new part:

PART 3—PUBLIC EDUCATION BENEFITS

SEC. 615. AUTHORIZING STATES TO DENY PUBLIC EDUCATION BENEFITS TO ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by adding at the end the following new title:

"TITLE VI—DISQUALIFICATION OF ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES FROM CERTAIN PROGRAM

"CONGRESSIONAL POLICY REGARDING INELIGIBILITY OF ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES FOR PUBLIC EDUCATION BENEFITS

"SEC. 601. (a) Because Congress views that the right to a free public education for aliens who are not lawfully present in the United States promotes violations of the immigration laws and because such a free public education for such aliens creates a significant burden on States' economies and depletes States' limited educational resources, Congress declares it to be the policy of the United States that—

"(1) aliens who are not lawfully present in the United States not be entitled to public education benefits in the same manner as United States citizens and lawful resident aliens; and

"(2) States should not be obligated to provide public education benefits to aliens who are not lawfully present in the United States.

"(b) Nothing in this section shall be construed as expressing any statement of Federal policy with regard to—

"(1) aliens who are lawfully present in the United States, or

"(2) benefits other than public education benefits provided under State law.

"AUTHORITY OF STATES

"SEC. 602. (a) In order to carry out the policies described in section 601, each State may provide that an alien who is not lawfully present in the United States is not eligible for public education benefits in the State or, at the option of the State, may be treated as a non-resident of the State for purposes of provision of such benefits.

"(b) For purposes of subsection (a), an individual shall be considered to be not lawfully present in the United States unless the individual (or, in the case of an individual who is a child, another on the child's behalf)—

"(1) declares in writing under penalty of perjury that the individual (or child) is a citizen or national of the United States and (if required by a State) presents evidence of United States citizenship or nationality; or

"(2)(A) declares in writing under penalty of perjury that the individual (or child) is not a citizen or national of the United States but is lawfully present in the United States, and

"(B) presents either—

"(i) alien registration documentation or other proof of immigration registration from the Service, or

"(ii) such other documents as the State determines constitutes reasonable evidence indicating that the individual (or child) is lawfully present in the United States.

If the documentation described in paragraph (2)(B)(i) is presented, the State may (at its option) verify with the Service the alien's immigration status through a system described in section 1137(d)(3) of the Social Security Act (42 U.S.C. 1320b–7(d)(3)).

"(c) If a State denies public education benefits under this section with respect to an alien, the State shall provide the alien with an opportunity for a fair hearing to establish that the alien is lawfully present in the United States, consistent with subsection (b) and Federal immigration law.".

(b) CLERICAL AMENDMENT.—The table of contents of such Act is amended by adding at the end the following new items:

"TITLE VI—DISQUALIFICATION OF ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES FROM CERTAIN PROGRAM

"Sec. 601. Congressional policy regarding ineligibility of aliens not lawfully present in the United States for public education benefits.
"Sec. 602. Authority of States.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of the date of the enactment of this Act.

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11. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CARDIN OF MARYLAND, OR A DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of section 401 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 Gen-

eral 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.

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12. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CHABOT OF OHIO, OR A DESIGNEE, DEBATABLE FOR 60 MINUTES

Strike subsection (b) of section 403.

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13. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GALLEGLY OF CALIFORNIA, OR A DESIGNEE, DEBATABLE FOR 60 MINUTES

Amend subsection (b) of section 403 to read as follows:

(b) EMPLOYMENT ELIGIBILITY CONFIRMATION PROCESS.—Section 274A (8 U.S.C. 1324a) is amended—

(1) in subsection (a)(3), by inserting "(A)" after "DEFENSE.—", and by adding at the end the following:

"(B) FAILURE TO SEEK AND OBTAIN CONFIRMATION.—Subject to subsection (b)(7), in the case of a hiring of an individual for employment in the United States by a person or entity that employs more than 3 employees, the following rules apply:

"(i) FAILURE TO SEEK CONFIRMATION.—

"(I) IN GENERAL.—If the person or entity has not made an inquiry, under the mechanism established under subsection (b)(6), seeking confirmation of the identity, social security number, and work eligibility of the individual, by not later than the end of 3 working days (as specified by the Attorney General) after the date of the hiring, the defense under subparagraph (A) shall not be considered to apply with respect to any employment after such 3 working days, except as provided in subclause (II).

"(II) SPECIAL RULE FOR FAILURE OF CONFIRMATION MECHANISM.—If such a person or entity in good faith attempts to make an inquiry during such 3 working days in order to qualify for the defense under subparagraph (A) and the confirmation mechanism has registered that not all inquiries were responded to during such time, the person or entity can make an inquiry in the first subsequent working day in which the con-

firmation mechanism registers no nonresponses and qualify for the defense.

"(ii) FAILURE TO OBTAIN CONFIRMATION.—If the person or entity has made the inquiry described in clause (i)(I) but has not received an appropriate confirmation of such identity, number, and work eligibility under such mechanism within the time period specified under subsection (b)(6)(D)(iii) after the time the confirmation inquiry was received, the defense under subparagraph (A) shall not be considered to apply with respect to any employment after the end of such time period.";

(2) by amending paragraph (3) of subsection (b) to read as follows:

"(3) RETENTION OF VERIFICATION FORM AND CONFIRMATION.—After completion of such form in accordance with paragraphs (1) and (2), the person or entity must—

"(A) if the person employs not more than 3 employees, retain the form and make it available for inspection by officers of the Service, the Special Counsel for Immigration-Related Unfair Employment Practices, or the Department of Labor during a period beginning on the date of the hiring, recruiting, or referral of the individual and ending—

"(i) in the case of the recruiting or referral for a fee (without hiring) of an individual, three years after the date of the recruiting or referral, and

"(ii) in the case of the hiring of an individual—

"(I) three years after the date of such hiring, or

"(II) one year after the date the individual's employment is terminated,

whichever is later; and

"(B) subject to paragraph (7), if the person employs more than 3 employees, seek to have (within 3 working days of the date of hiring) and have (within the time period specified under paragraph (6)(D)(iii)) the identity, social security number, and work eligibility of the individual confirmed in accordance with the procedures established under paragraph (6), except that if the person or entity in good faith attempts to make an inquiry in accordance with the procedures established under paragraph (6) during such 3 working days in order to fulfill the requirements under this subparagraph, and the confirmation mechanism has registered that not all inquiries were responded to during such time, the person or entity shall make an inquiry in the first subsequent working day in which the confirmation mechanism registers no nonresponses."; and

(3) by adding at the end of subsection (b) the following new paragraphs:

"(6) EMPLOYMENT ELIGIBILITY CONFIRMATION PROCESS.—

"(A) IN GENERAL.—Subject to paragraph (7), the Attorney General shall establish a confirmation mechanism through which the Attorney General (or a designee of the Attorney General which may include a nongovernmental entity)—

"(i) responds to inquiries by employers, made through a toll-free telephone line, other electronic media, or toll-free facsimile number in the form of an appropriate confirmation code or otherwise, on whether an individual is authorized to be employed by that employer, and

"(ii) maintains a record that such an inquiry was made and the confirmation provided (or not provided).

"(B) EXPEDITED PROCEDURE IN CASE OF NO CONFIRMATION.—In connection with subparagraph (A), the Attorney General shall establish, in consultation with the Commissioner of Social Security and the Commissioner of the Service, expedited procedures that shall be used to confirm the validity of information used under the confirmation mechanism in cases in which the confirmation is sought but is not provided through the confirmation mechanism.

"(C) DESIGN AND OPERATION OF MECHANISM.—The confirmation mechanism shall be designed and operated—

"(i) to maximize the reliability of the confirmation process, and the ease of use by employers, recruiters, and referrers, consistent with insulating and protecting the privacy and security of the underlying information, and

"(ii) to respond to all inquiries made by employers on whether individuals are authorized to be employed by those employers, recruiters, or referrers registering all times when such response is not possible.

"(D) CONFIRMATION PROCESS.—(i) As part of the confirmation mechanism, the Commissioner of Social Security shall establish a reliable, secure method, which within the time period specified under clause (iii), compares the name and social security account number provided against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided and whether the individual has presented a social security account number that is not valid for employment. The Commissioner shall not disclose or release social security information.

"(ii) As part of the confirmation mechanism, the Commissioner of the Service shall establish a reliable, secure method, which, within the time period specified under clause (iii), compares the name and alien identification number (if any) provided against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided and whether the alien is authorized to be employed in the United States.

"(iii) For purposes of this section, the Attorney General (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. In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of So-

cial Security and the Commissioner of the Service, an expedited time period not to exceed 10 working days within which final confirmation or denial must be provided through the confirmation mechanism in accordance with the procedures under subparagraph (B).

"(iv) The Commissioners shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information.

"(E) PROTECTIONS.—(i) In no case shall an individual be denied employment because of inaccurate or inaccessible data under the confirmation mechanism.

"(ii) The Attorney General shall assure that there is a timely and accessible process to challenge nonconfirmations made through the mechanism.

"(iii) 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.

"(F) TESTER PROGRAM.—As part of the confirmation mechanism, the Attorney General shall implement a program of testers and investigative activities (similar to testing and other investigative activities assisted under the fair housing initiatives program under section 561 of the Housing and Community Development Act of 1987 to enforce rights under the Fair Housing Act) in order to monitor and prevent unlawful discrimination under the mechanism.

"(G) 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 for any action taken in good faith reliance on information provided through the employment eligibility confirmation mechanism established under this paragraph (including any pilot program established under paragraph (7)).

"(7) APPLICATION OF CONFIRMATION MECHANISM THROUGH PILOT PROJECTS.—

"(A) IN GENERAL.—Subsection (a)(3)(B) and paragraph (3) shall only apply to individuals hired if they are covered under a pilot project established under this paragraph.

"(B) UNDERTAKING PILOT PROJECTS.—For purposes of this paragraph, the Attorney General shall undertake pilot projects for all employers in at least 5 of the 7 States with the highest estimated population of unauthorized aliens, in order to test and assure that the confirmation mechanism described in paragraph (6) is reliable and easy to use. Such projects shall be initiated not later than 6 months after the date of the enactment of this paragraph. The Attorney General, however, shall not establish such mechanism in other States unless Congress so provides by law. The pilot projects shall terminate on such dates, not later than October 1, 1999, as the Attorney General determines. At least

one such pilot project shall be carried out through a non-governmental entity as the confirmation mechanism.

"(C) REPORT.—The Attorney General shall submit to the Congress annual reports in 1997, 1998, and 1999 on the development and implementation of the confirmation mechanism under this paragraph. Such reports may include an analysis of whether the mechanism implemented—

"(i) is reliable and easy to use;

"(ii) limits job losses due to inaccurate or unavailable data to less than 1 percent;

"(iii) increases or decreases discrimination;

"(iv) protects individual privacy with appropriate policy and technological mechanisms; and

"(v) burdens individual employers with costs or additional administrative requirements.".

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16. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CANADY OF FLORIDA, OR A DESIGNEE, DEBATABLE FOR 30 MINUTES

Amend subsection (c) of section 514 to read as follows:

(c) ESTABLISHING JOB OFFER AND ENGLISH LANGUAGE PROFICIENCY REQUIREMENTS.—Paragraph (2) of section 203(c) (8 U.S.C. 1153(c)) is amended to read as follows:

"(2) REQUIREMENTS OF JOB OFFER AND EDUCATION OR SKILLED WORKER AND ENGLISH LANGUAGE PROFICIENCY.—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;

"(C) has at least 2 years of work experience in an occupation which requires at least 2 years of training; and

"(D) demonstrates the ability to speak and to read the English language at an appropriate level specified under subsection (i).".

Redesignate section 519 as section 520 and insert after section 518 the following new section (and conform the table of contents, and cross-references to section 519, accordingly):

SEC. 519. STANDARDS FOR ENGLISH LANGUAGE PROFICIENCY FOR MOST IMMIGRANTS.

Section 203 (8 U.S.C. 1153), as amended by section 524(a), is amended by adding at the end the following new subsection:

"(i) ENGLISH LANGUAGE PROFICIENCY STANDARDS.—(1) For purposes of this section, the levels of English language speaking and reading ability specified in this subsection are as follows:

"(A) The ability to speak English at a level required, without a dictionary, to meet routine social demands and to engage in a generally effective manner in casual conversation about topics of general interest, such as current events, work, family, and personal history, and to have a basic understanding of most conversations on nontechnical subjects, as shown by an appropriate score on the standardized test of English-speaking ability most commonly used by private firms doing business in the United States.

"(B) The ability to read English at a level required to understand simple prose in a form equivalent to typescript or printing on subjects familiar to most general readers, and, with a dictionary, the general sense of routine business letters, and articles in newspapers and magazines directed to the general reader.

"(2) The levels of ability described in paragraph (1) shall be shown by an appropriate score on the standardized test of English-speaking ability most commonly used by private firms doing business in the United States. Determinations of the tests required and the computing of the appropriate score on each such test are within the sole discretion of the Secretary of Education, and are not subject to further administrative or judicial review.

"(3) The level of English language speaking and reading ability specified under this subsection shall not apply to family members accompanying, or following to join, an immigrant under subsection (e).".

Amend paragraph (3) of section 513(a) to read as follows:

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

"(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.

"(9) ENGLISH LANGUAGE PROFICIENCY REQUIREMENT.—An alien is not eligible for an immigrant visa number under this subsection unless the alien demonstrates the ability to speak and to read the English language at an appropriate level specified under subsection (i).".

In section 553(b)—

(1) in paragraph (1), strike "paragraph (2)" and insert "paragraphs (2) and (3)", and

(2) redesignate paragraph (3) and paragraph (4), and

(3) insert after paragraph (2) the following new paragraph:

"(3) In determining the order of issuance of visa numbers under this section, if an immigrant demonstrates the ability to speak and to read the English language at appropriate levels specified under section 203(i) of the Immigration and Nationality Act (as added by section 519), the immigrant's priority date shall be advanced to 180 days before the priority date otherwise established."

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2202, THE IMMIGRATION IN THE NATIONAL INTEREST ACT OF 1995

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 104–483) on the resolution (H. Res. 384) providing for 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, which was referred to the House Calendar and ordered to be printed.

THE IMMIGRATION IN THE NATIONAL INTEREST ACT OF 1995

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 5 minutes.

Mr. DREIER. Mr. Speaker, I know that I first want to express my great appreciation to my very good friends who are sitting and standing behind me at this point, and I will be as brief as possible.

I have risen to briefly talk about the rule that we are going to be considering next Tuesday, which the Committee on Rules has reported out just a

couple of hours ago and which I have just filed at the desk.

The issue of reform of both legal and illegal immigration is one of the most contentious debates that we will have, and it will take place next week. The rule that we are considering is one of the most fair and balanced rules that could possibly be offered. In fact, we had over 100, I believe 104, amendments that were filed to the Committee on Rules by noon yesterday, and we spent today considering those amendments, and we have made in order 32 amendments that will be considered.

The issue of illegal immigration is a very difficult and pressing one for my State of California. We in California deal daily with the flood of illegal immigrants who are coming across the border seeking either government services, job opportunities, seeking family members, and it is very important that we take strong and decisive action here at the Federal level to deal with that problem.

In the area of legal immigration, I am very pleased that this legislation will allow us to maintain the highest level of legal immigration in 70 years and that in itself is a very good and positive move, because this country was founded on legal immigration and this country has had tremendous benefits because of immigrants who continue to come to this country today.

In fact, my State of California and other parts of this country are on the cutting edge technologically and in many other areas because of legal immigration.

So I would like to congratulate the chairman of the subcommittee, the gentleman from Texas [Mr. SMITH], who has worked long and hard throughout the past year and up until just recently, and he has been working, as he said today, nearly 12 hours a day constantly trying to bring this legislation forward.

As we look at the many different amendments that are going to be considered next week when we proceed with this legislation, one of the most controversial and hotly debated has been the proposal that was offered by the gentleman from Michigan, Mr. CHRYSLER, and my California colleague, Mr. BERMAN, and the gentleman from Kansas, Mr. BROWNBACK, seeking to split the legislation. That is an amendment that will be made to order, will be considered.

So, as we look at the resolution which I have just sent down that will allow us to bring about debate on the issue of legal and illegal immigration, I believe that we are taking a very bold and positive step toward getting the Federal Government to step up to the plate and acknowledge its responsibility. It has been a long time since we have been able to do this, and there are many problems that have taken place because of the 1986 Immigration Reform and Control Act, IRCA, that need to be addressed, and I am pleased that we will in time be doing that.

I would simply say, Mr. Speaker, that I anxiously look forward to a very interesting debate which will be far-reaching and allow every single proposal that has come forward to be considered and discussed.

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. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived except those arising under section 425(a) of the Congressional Budget Act of 1974. General debate shall be confined to the bill and shall not exceed two hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill, modified by the amendment printed in part 1 of the report of the Committee on Rules accompanying this resolution. That amendment in the nature of a substitute shall be considered as read. No other amendment shall be in order except the amendments printed in part 2 of the report of the Committee on Rules and amendments en bloc described in section 2 of this resolution. Each amendment printed in part 2 of the report may be considered only in the order printed, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, 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 in the House or in the Committee of the Whole. All points of order against amendments made in order by this resolution are waived except those arising under section 425(a) of the Congressional Budget Act of 1974. 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. The chairman of the Committee of the Whole may reduce to not less than five 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 be not less than fifteen minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. 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 of the Committee on Rules accompanying this resolution that were not earlier disposed of or germane modifications of any such amendments. Amendments en block offered pursuant to this section shall be considered as read (except that modifications shall be reported), shall be debatable for twenty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary or their designees, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. For the purpose of inclusion in such amendments en bloc, an amendment printed in the form of a motion to strike may be modified to the form of a germane perfecting amendment to the text originally proposed to be stricken. The original proponent of an amendment included in such amendments en bloc may insert a statement in the Congressional Record immediately before the disposition of the amendments en bloc.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. DREIER] is recognized for 1 hour.

MODIFICATIONS TO CERTAIN AMENDMENTS PRINTED IN HOUSE REPORT 104-483

Mr. DREIER. Mr. Speaker, I ask unanimous consent that during consideration of H.R. 2202, pursuant to House Resolution 384, it shall be in order for the designated proponents of the amendments numbered 11, 12, and 13 in part 2 of House Report 104-483 to offer their amendments in modified forms to accommodate the changes in the amendment in the nature of a substitute recommended by the Committee on the Judiciary that are reflected in part 1 of that report, and effected by the adoption of the rule; and it shall be in order for the designated proponent of the amendment numbered 19 in part 2 of House Report 104-483 to offer his amendment in a modified form that strikes from title V all except section 522 of subtitle D.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON]. All time yielded is for the purposes of debate only.

Mr. Speaker, I yield myself such time as I may consume.

(Mr. DREIER asked and was given permission to revise and extend his remarks and include extraneous material.)

Mr. DREIER. Mr. Speaker, stopping the 300,000 illegal immigrants that stream across our border each year in pickup trucks and under barbed wire fences is the most important Federal law and order issue in generations. This is a modified closed rule providing for comprehensive consideration of H.R. 2202, legislation addressing two critical national issues: Getting control of illegal immigration, and improving our system of legal immigration.

Mr. Speaker, make no mistake, while H.R. 2202 is tough on those who enter this country illegally, it maintains and strengthens legal immigration, ensuring that immigrants remain a positive force for change, growth, and prosperity. This rule provides for 2 hours of general debate, equally divided between the chairman and ranking minority member of the Committee on

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PROVIDING FOR CONSIDERATION OF H.R. 2202, IMMIGRATION IN THE NATIONAL INTEREST ACT OF 1995

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 384 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 384

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for 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

the Judiciary. The rule waives all points of order against the bill except those relating to unfunded Federal mandates.

I would note that the Congressional Budget Office has determined that the mandates in the bill are minimal and do not establish grounds for a point of order against the bill.

The rule makes in order the Committee on the Judiciary amendment in the nature of a substitute as modified by the amendment printed in part 1 of the report of the Committee on Rules. That amendment establishes a voluntary program to permit businesses to check the validity of Social Security numbers in order to help ensure that Federal laws regarding the employment of illegal immigrants are obeyed. The amendment in the nature of a substitute is considered as read.

The rules provides for the consideration of 32 amendments. Let me say that again, Mr. Speaker: 32 amendments have been made in order. That are printed in the report of the Committee on Rules. They shall be considered only in the order in which they are printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debated for the time specified in the report, shall not be subject to amendment unless specified in the committee report, and shall not be subject to a division of the question in the House or in the Committee of the Whole.

The rule waives all points of order against the amendments, other than those relating to the unfunded mandates issue.

Mr. Speaker, the rule allows the chairman of the Committee of the Whole to postpone votes during consideration of the bill, as well as to reduce to 5 minutes the time on a postponed question if it follows a 15-minute vote. The rule also permits the chairman of the Committee on the Judiciary or his designee to offer amendments en bloc or germane modifications thereof. Amendments offered en bloc shall be considered as read and shall be debatable for 20 minutes.

The issue of both legal and illegal immigration is one of the most contentious debates that we will have this year. This rule, while not an open rule, is fair and very balanced. It offers the House the opportunity to debate nearly all of the important and substantive issues surrounding both illegal and legal immigration reform. This debate will stretch over more than 2 days, and will highlight the important issues addressed by this well-crafted legislation.

The bill's principal author, the gentleman from Texas [Mr. SMITH], has worked long and hard ensuring that all parties truly interested in dealing with the overlapping issues of illegal and legal immigration have participated in a bipartisan process.

Mr. Speaker, illegal immigration has reached crisis proportions in my State of California. We deal daily with a flood of illegal immigrants who are coming across the border seeking government services, job opportunities, and family members. There is simply no question that the President, for all his rhetoric, has failed to make this a top priority. He opposed California's proposition 187. He vetoed legislation establishing that illegal immigrants are not entitled to Federal and State welfare services. He vetoed reimbursement to the States for the cost of incarcerating illegal immigrant felons, and his Justice Department has been woefully slow in disbursing to States the meager incarceration funds that were appropriated back in 1994.

Mr. Speaker, as Members well know, California will never support a President that is soft on illegal immigration. Illegal immigration might just be taking center stage in Washington today, but the issue is like an overnight sensation in Hollywood. This is a problem that has been building up for years and years. A decade ago my colleague, the gentleman from Glendale, CA [Mr. MOORHEAD], who is retiring after 24 years of highly distinguished service, offered amendments to strengthen the Border Patrol when Congress last addressed immigration reform.

Many Members of Congress, especially the Members from California, like Mr. KIM, Mr. BILBRAY, Mrs. SEASTRAND, Mr. RIGGS, Mr. GALLEGLY, and others, have worked for years to address illegal immigration in the comprehensive manner of H.R. 2202. Just as California suffers from more illegal immigration than any State, California is home to more legal immigrants and refugees than any other State. Those immigrants have brought tremendous benefits to our State. I am proud of the fact that H.R. 2202 will allow us to maintain one of the highest levels of legal immigration in 70 years. That in itself is a good and positive move, because this country was founded on legal immigration.

□ 1615

Legal immigrants continue to provide the United States with a steady stream of hard-working, freedom-loving, patriotic new Americans. Legal immigrants bringing special skills to our workplace have been instrumental in placing American firms, especially many in California, on the cutting edge of high technology.

Mr. Speaker, as we look at the broad range of amendments that will be brought forward this week, we will first debate issues relating to illegal immigration. Then after addressing that issue, the House will address the different but related issue of legal immigration. We will clearly have an opportunity to debate nearly all controversial issues.

The gentleman from California [Mr. GALLEGLY], the chairman of the Speaker's task force on illegal immigration, will offer amendments to create a mandatory but clearly nonintrusive Social Security number verification program to reduce the employment lure for illegal immigration. He will also offer a very sensible amendment to clarify that States have the right to determine if local and State tax dollars will be used to give free education to illegal immigrants.

Mr. Speaker, the gentleman from Washington [Mr. TATE] and the gentlewoman from California [Mrs. SEASTRAND] will offer a commonsense amendment to clarify that if someone violates American laws and enters the country illegally, then they will no longer be eligible to later become a legal immigrant. Legal immigration should be reserved for those who respect our laws.

Mr. Speaker, finally we are certain to have lively debates regarding the creation of a tamper resistant Social Security card as well as an effort to eliminate the bill's voluntary system to verify the accuracy of Social Security numbers. The House bill will also be able to debate the legal immigration provisions of the bill.

Mr. Speaker, make no mistake, this bill establishes a very generous level of immigration by historical standards; however, it focuses legal immigration policy on reunifying nuclear families so that spouses and young children are reunited in strong families. This is a good and very important thing. Nevertheless, there is disagreement on these provisions and the House will decide this question.

The bipartisan amendment offered by the gentleman from Michigan [Mr. CHRYSLER] and the gentleman from California [Mr. BERMAN] and the gentleman from Kansas [Mr. BROWNBACK], which seeks to maintain the status quo on legal immigration, is in order under this rule. The amendment by the Committee on Agriculture to create a new guest worker program will also come before this House by the gentleman from California [Mr. POMBO] and others.

Mr. Speaker, the Committee on Rules has made in order 32 amendments, as I have said. This is a fair rule that will let the House deal responsibly with H.R. 2202 and send the legislation to the Senate in a timely manner. Immigration reform is important to our Nation's economic and social future, and I urge my colleagues to support this rule.

Mr. Speaker, I include the following material for the RECORD.

Mr. DREIER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Glens Falls, NY, [Mr. SOLOMON] chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the vice chairman of the Committee on Rules for an excellent explanation of the rule. I thank my good friend from California, TONY BEILENSON, who is always more than reasonable, for letting me go out of order because of an emergency that is coming up that may expedite the procedures for the House for the next several days. It will inure to his benefit and to all the other Members.

Mr. Speaker, having said that, I do rise in support of this rule and the bill that it makes in order, the Immigration in the National Interest Act.

Mr. Speaker, just to put into perspective the problem we will be considering over the next 2 days, let me begin with a few facts.

No. 1: Nationwide more than one-quarter of all Federal prisoners are illegal aliens.

According to the Immigration and Naturalization Service, in 1980, the total foreign-born population in Federal prisons was 1,000 which was less than 4 percent of all inmates. In 1995, the foreign-born population in Federal prisons was 27,938, which constitutes 29 percent of all inmates. The result is an enormous extra expense to be picked up by the Federal taxpayers.

Fact No. 2: the U.S. welfare system is rapidly becoming a retirement home for the elderly of other countries. In 1994, nearly 738,000 noncitizen residents were receiving aid from the Supplemental Security Income program known as SSI. This is a 580-percent increase—up from 127,900 in 1982—in just 12 years.

The overwhelming majority of noncitizen SSI recipients are elderly. Most apply for welfare within 5 years of arriving in the United States. By way of comparison, the number of U.S.-born applying for SSI benefits has increased just 49 percent in the same period. Without reform, according to the Wall Street Journal, the total cost of SSI and Medicaid benefits for elderly noncitizen immigrants will amount to more than $328 billion over the next 10 years.

Fact No. 3: In the public hospitals of our largest State, California, 40 percent of the births are to illegal aliens. Since each newborn is automatically a citizen, he or she becomes eligible for all the benefits of citizenship.

Fact No. 4: There is a link between legal immigration and illegal immigration. According to the report of the Judiciary Committee on this bill, close to half of all illegal aliens come in on legal temporary visas, and never return home.

Fact No. 5: According to a Roper Poll in December of 1995, 83 percent of all Americans are in favor of reducing all immigration. Within these totals, 80 percent of African-Americans favor reducing all immigration and 67 percent of Hispanic-Americans favor reducing all immigration.

Mr. Speaker, these facts serve to point out the nature of the problem we are facing.

The poll numbers point the direction our constituents want us to go.

The bill which will be before the House over the next couple of days is a giant step toward solving the problems facing our Nation and I commend the members of the Judiciary Committee who did the work to put it together.

I would particularly like to commend the chairman of the Immigration and Claims Subcommittee, the gentleman from Texas, Mr. LAMAR SMITH, and his ranking minority member, the gentleman from Texas, Mr. JOHN BRYANT, for long hours spent on this legislation.

And I also owe thanks to the chairman of that full committee, the gentleman from Illinois, Mr. HENRY HYDE, and his ranking member, the gentleman from Michigan, Mr. CONYERS for perseverance under difficult circumstances.

Mr. Speaker, any rule that does not make in order every amendment requested is going to be unpopular with some. But given the need to finish the bill on the floor this week, the Rules Committee has come up with a reasonable solution. I ask for a "yes" vote on the motion for the previous question, and a "yes" vote on adoption of this balanced rule on the immigration bill.

Mr. DREIER. Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2202, the Immigration in the National Interest Act, which this modified closed rule makes in order, is one of the most important pieces of legislation we shall consider this year. There is no question that U.S. immigration policy needs to be revised and improved to respond to our national interests and this bill is a sensible and measured response to that critical challenge.

I, too, commend our colleagues from Texas, Mr. SMITH, the chairman of the Immigration Subcommittee, and the ranking member of the subcommittee, Mr. BRYANT, for their outstanding work in bringing this bipartisan bill to the floor. I would also like to point out the important work of my friend and fellow Californian, Mr. GALLEGLY, who chaired the Speaker's task force on immigration. As a member of that task force, I know how diligently Mr. GALLEGLY and the other members worked to help develop recommendations for the subcommittee.

Mr. Speaker, this bill would affect many aspects of life in the United States and a broad range of national issues and concerns, including the availability of jobs for skilled and unskilled American workers; the responsibility of businesses and corporations to obey the laws we have already enacted to prohibit the hiring of individuals who have entered the United States in violation of our border and our immigration laws; the serious stress that population growth fueled by immigration is creating for our country; and, most important, the kind of country we will leave to our children and grandchildren who will have to live with the consequences of our decisions in terms of how heavily populated the United States will become.

Because of the significance of this bill, we commend the Committee on Rules for allowing debate on 32 amendments. More than 100 amendments were submitted to the committee and for the most part, we think, the committee did a good job of making in order amendments that cover most of the important areas of disagreement in this wide-ranging piece of legislation. However, we do want our colleagues to know that we are disappointed that the rule did not make in order several important amendments. For that reason, after debate on the rule, Mr. Speaker, we shall move to defeat the previous question so that we may amend the rule to make the following three additional amendments in order:

An amendment that would delete the H-1B foreign temporary worker provisions in the bill and replace them with

provisions that protect American workers; an amendment that would promote self-sufficiency for refugees and make the Federal Government, not the States or local communities, assume the cost for refugees; and an amendment that would increase civil penalties for already existing employer sanctions.

Mr. Speaker, one of those amendments in particular lies at the heart of this debate, the third amendment, the one that would increase the civil penalties for already existing employer sanctions.

The amendment's intent is to finally stop employers from knowingly hiring illegal immigrants by making the existing employer-sanction law truly effective and meaningful. While H.R. 2202 includes increased penalties for document fraud by immigrants, it does not include any increased penalties for employers who knowingly violate the law prohibiting the hiring of individuals who are here illegally.

Enhanced employer enforcement penalties have bipartisan support. They were advocated by the Speaker's congressional task force on immigration reform, by the late Congresswoman Barbara Jordan's U.S. Commission on Immigration Reform, and by the administration. They were included also in the immigration bill reported to the Senate Immigration Subcommittee.

These increased penalties are essential to reducing the incentive employers have for hiring illegal aliens and the lure of employment that brings illegal immigrants to this country. If we have learned anything at all from the failures of the 1986 immigration laws, it must be that weak sanctions are meaningless and will do little to prevent illegals from seeking jobs and employers from hiring illegals for those jobs.

The need for this amendment is underscored not only by the lack of any increased penalties on employers in the bill but also by the rule's self-executing provision that makes the Judiciary Committee's modest worker verification system voluntary instead of mandatory as the committee itself had recommended.

While the Gallegly amendment to restore the committee-reported language will be considered, it is obvious that if we think it is necessary to get tougher on employers who break the law by hiring illegals, we must also have the opportunity to consider an amendment increasing penalties on them.

In order to reduce the employment magnet for illegal immigrants, penalties for knowing violations of the law should be more than merely a nominal cost of doing business. In addition, while some illegal aliens obtain employment through the use of fraudulent documents, others are employed in the underground economy by businesses that do not even check documentation. Many of those businesses violate other labor standards as well.

The presence of unauthorized workers too fearful of deportation to complain about working conditions may be the very factor that enables those employers to break other labor laws. Thus, increased penalties and effective enforcement are critical not only to reducing illegal immigration but also to protecting the workers themselves from unfair labor practices.

Importantly, Mr. Speaker, this amendment would protect Americans from losing jobs to those who are here in violation of our laws and it would protect Americans from being paid less than they are worth because of low-wage competition.

□ 1630

If we care at all about protecting jobs for Americans and improving their economic security, if we really believe that all Americans, those seeking jobs and those doing the hiring, should be held responsible for obeying the law, then we must defeat the previous question and allow a vote on that amendment.

Despite the absence of the opportunity to debate these amendments, as I said earlier, the rule would allow the House to debate a large number of amendments, 32 in total, on a wide range of issues. One of the most important issues, Mr. Speaker, the amendments will address is the bill's employment verification system, which was weakened significantly in the full Committee on the Judiciary and which, as I mentioned earlier, this rule, through its self-executing provision, will unfortunately weaken further by making it voluntary rather than mandatory.

To succeed in reducing illegal immigration, we must do two things; tighten control of our borders and remove to the greatest extent possible the incentives that encourage illegal immigration. The most powerful incentive of all, Mr. Speaker, is the opportunity to work in this country. When Congress enacted employer sanctions as part of the Immigration Reform and Control Act of 1986, we did so in recognition of the fact that, because immigrants come here primarily to find jobs, it is necessary to deter employers from hiring those who are not here legally. What we failed to do at that time, however, was to provide a sound and dependable way for employers to determine whether or not a prospective employee is here legally. Without that, it is virtually impossible, as we have discovered, to enforce the employer sanction laws.

Our failure to establish a reliable means of enforcing the law has created other problems as well. The law has generated widespread discrimination against U.S. citizens and legal residents who may look or sound foreign and has created a huge mulitmillion-dollar underground industry, in counterfeit and fraudulent Social Security cards, green cards, voter registration cards, and the 26 other kinds of documents that can be used to demonstrate one's work eligibility under the current law.

H.R. 2202 wisely reduces that number, but it does not go far enough toward making employer sanctions enforceable. Establishing a dependable widescale and mandatory system for checking individuals' authorization to work in this country is the only way to solve those problems.

In fact, to crack down on the more than 50 percent of illegal immigrants who come here legally and overstay their visas and remain often permanently, improving employer sanctions is essential, because we cannot obviously stop those immigrants from settling here permanently simply by improving border control.

There will be three amendments dealing with employment verification that we would like to bring to our colleagues' attention. One is the McCollum amendment, which would provide for development of a counterfeit-proof Social Security card. Establishing such a card is, I believe, absolutely essential to making the prohibition on hiring illegal immigrants enforceable, and I believe it deserves our strong support.

The second is the Gallegly amendment, which would make the bill's telephone employment verification system mandatory in the States, where it will be tried on an experimental basis, restoring the provision to the form it was in when it was reported by the House Committee on the Judiciary. That amendment also deserves our strong support.

In the same vein, if I may say so, Mr. Speaker, the Chabot-Conyers amendment to eliminate entirely the verification system should be rejected if we are at all serious about doing something real about this very real problem of illegal immigration.

Mr. Speaker, in another major issue, perhaps the most important one to be considered in this debate, will be when to retain the bill's reductions in legal immigration. Our decision on that issue will occur whether we consider the Chrysler-Berman-Brownback amendment to strike the legal immigration sections of the bill. It is essential in the view of many of us that we reject that amendment. The limits on legal immigration in the bill go to the crucial question that up until now has been missing from this debate, which is how big do we want this country to be, how populated do we want the United States to be.

The population of this country, currently about 263 million, is growing so quickly that by the end of this decade, less than 4 years from now, our population will reach 275 million, more than double its present size at the end of World War II. Only during the 1950's, at the height of the so-called baby boom, were more people added to the Nation's population than are projected to be added during the 1990's.

The long-term picture is even more alarming. The U.S. Census Bureau conservatively projects our population will rise to 400 million by the year 2050, a more than 50 percent increase from today's level, the equivalent of adding

more than 40 cities the size of Los Angeles to our population. That is by far the fastest growing growth rate projected for any industrialized country in the world. But many demographers, Mr. Speaker, believe it will even be much worse. The alternative Census Bureau projections agree if current trends continue,. the Nation's population will more than double during this same time period and reach half a billion people by the middle of the next century, a little more than 50 years from now. The Census Bureau says one-third of the U.S. population growth is due to immigration, both legal and illegal. That is a misleading statistic; if U.S.-born children of recent immigrants are counted, immigration now accounts for more than 50 percent of recent growth in the United States.

Post-1970 immigrants and their descendants have been responsible for U.S. population increases of nearly 25 million, half the growth of those years. In other words, much of what demographers consider our natural growth rate is actually the result of our Nation's large number of immigrants. Those numbers have led the Census Bureau to forecast much higher population growth over the coming decades than in the past. As recently as 1990, the bureau assumed the population of the United States would peak about 45 years from now and then decline to and level off at about 300 million, about 300 million, Mr. Speaker, by the year 2050. But as a result of unexpected rates of immigration, the Census Bureau revised its figures just 2 years ago by adding another 92 million to the number of people projected for the year 2050. But that projection is probably much too low because the bureau assumes a net immigration rate of about 820,000 a year, at least 400,000 below today's annual level. And even with that conservative assumption about immigration, the Census Bureau estimates about 93 percent, 93 percent of the population growth by the year 2050 will result from immigration that has occurred since 1991.

The really frightening change in the Census Bureau's 1994 forecast is that it now assumes the population of this country will not level off a few decades from now as was thought would be the case and as recently as 1990, but will continue to grow unabated into the late 21st century.

Those of us who represent communities where large numbers of immigrants have settled have long felt the effects of our Nation's high rate of immigration, the highest in the world. Our communities are being overwhelmed by the burden of providing educational, health, and social services for the newcomers. With a population of half a billion or more, it will be extremely difficult to solve our most serious environmental problems, such as air and water pollution, water disposal, waste disposal and loss of our arable land. But the challenges of having our population double our current size will go far beyond dealing with simply environmental problems. With twice as many people, we can expect to have at least twice as much crime, twice as much congestion, twice as much poverty. We will also face demands for twice as many jobs, twice as many schools, twice as much food at a time when many of our communities are already straining now to educate, house, protect, provide services for the people we have right now, Mr. Speaker. How will they begin to cope with the needs and problems of twice as many people?

The legal immigration provisions of this bill constitute a relatively modest response to the enormous problems our children and grandchildren will face in the next century if we do not reduce the enormous number of new residents the United States accepts each year beginning now.

So I urge Members, Mr. Speaker, to reject the Chrysler-Berman-Brownback amendment when that proposal is offered.

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

Mr. DREIER. Mr. Speaker, I yield 3 minutes to my dear friend and Committee on Rules colleague, the gentleman from Sanibel, FL [Mr. GOSS], chairman of the Subcommittee on Legislative and Budget Process.

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

Mr. GOSS. Mr. Speaker, this is a fair and generous rule which allows for a broad debate on a massive subject. I congratulate Mr. SMITH for persevering in bringing H.R. 2202 to the floor—and I am proud to be a cosponsor. This is about the failure of the Federal Government to control our borders and the impact that failure has had on our society. Although I agree that the issues of illegal and legal immigration are distinct, I know that they are closely related. All immigration is out of control. We cannot consider either legal or illegal in a vacuum without looking at the other—a conclusion with which many Americans agree. In recent weeks the Wall Street Journal reported that 50 percent of Americans surveyed oppose any legal immigration. Such views are born of years of watching the system fail. Mr. Speaker, the problems of illegal immigration are readily definable. Today more than one quarter of all Federal prisoners are illegal immigrants; fraudulent employment and benefit documentation is rampant; and criminal aliens linger in our country at significant taxpayer expense. Well, H.R. 2202 doubles the number of Border Patrol agents; dedicates more resources to prosecuting illegal aliens; streamlines the rules for removal of illegal and criminal aliens; and strengthens penalties against those who disobey orders to leave. H.R. 2202 also clamps down on illegal aliens accessing public benefits. And it implements a program to address a major incentive of today's illegal immigration—the promise of jobs—by setting up a 1-800 number for employers to call and verify citizenship status. This provision does not—repeat, does not—create a "Big Brother is watching you" system with a new national identity card. And this provision is not an unfair burden on employers. In fact, employers who have tried it have given it rave reviews.

When it comes to legal immigration, there are also serious problems. Today there are approximately 1.1 million cases pending in the system, which can translate into a 40-year waiting period. Those who get caught up in this bureaucratic nightmare suffer from prolonged separation from their families and uncertainty about their futures. It's no surprise that they get frustrated and seek to jump the line. H.R. 2202 increases the percentage of immigrants admitted on the basis of needed skills and education. It places emphasis on core family units, favoring "nuclear family" admission over "extended family" admissions. And it guarantees a way for bona fide refugees to enter our country in an orderly manner.

Immigrants have contributed immeasurably to the greatness of this Nation. This legislation doesn't close the door—but it does seek to balance the generous nature of Americans with the reality of limited resources. That is a laudable result.

Mr. ROHRABACHER. Mr. Speaker, I rise in support of this rule, but with a major reservation. I had planned to offer an amendment which I feel is vital to stem the tide of illegal immigration pounding our Nation, but the Rules Committee did not make this amendment in order.

My amendment would have simply applied the employer telephone verification system in title IV of H.R. 2202 to Government agencies and require administrators of federally funded Government assistance programs to use the verification system to check the eligibility of applicants for public benefits.

As the bill stands now, only employers can use the telephone verification system to check on the eligibility of job applicants. Why shouldn't public agencies use the same verification system to check on the eligibility of applicants for federally funded benefits?

If the bill is left the way it is, it threatens to create a perverse incentive that makes it safer for illegal aliens to apply for welfare than to apply for jobs. This is insane. With our welfare system nearly stretched to the breaking point, why in the world are we making it easier for illegal aliens to get welfare than jobs?

We all know that a large number of illegal aliens use fake documents to get jobs. This is why we need a telephone verification system. But what everyone seems to be forgetting is that illegal aliens can use these same fake documents to get billions of dollars in public benefits.

I am glad to see that the Senate version of this bill does includes a verification system which is to be used to verify a person's eligibility for both welfare and employment. Hopefully, the House conferees will agree to the Senate's provision. If we truly want to get serious about stemming the tide of illegal immigration, we must eliminate the magnets which draw them here.

There are free enterprisers who claim not to care if illegal aliens come here to work.

But there is a dynamic at play that needs consideration. Many illegal immigrants work at wages so low even the illegal immigrants wouldn't accept the job—if not for the health care, education and other benefits provided by the taxpayers.

Government benefits subsidize the exploitation on illegals. As it turns out American taxpayers and illegal aliens are being exploited by avaricious businessmen who are not offering a living wage. Correcting the error of providing benefits will help solve the job problem as well.

Mr. BECERRA. Mr. Speaker, let me first acknowledge the work of the chairman of the subcommittee which I sit on, the gentleman from Texas [Mr. SMITH] for his work in trying to bring forward a bill on immigration.

Let me say that I am very disappointed in the rule today because, despite what we have constantly heard over the last 2 years from the new majority about having open rules, this is a very, very closed and restricted rule. Although we have about 32 amendments on the floor for debate, some for only 5 to 10 minutes, we had over 130 amendments that we wished to have heard, and unfortunately very few of those are now made in order.

This is also a very unfair bill. Despite the characterizations of this as a very fair bill, it is a very unfair bill for both American families and for American workers. Unfair for American families because the only choice American families have under this legislation to preserve their opportunity to bring in a spouse, a child, a brother or sister is to try to strike an entire portion of this bill. If we leave in that particular portion of the bill that deals with immigration of family members, what we will see is devastation for families trying to bring in their immediate family relatives.

For American workers, it is a devastating bill because it has no protection for American workers. In fact, on the contrary, what we see is a program that will allow up to 250,000 temporary foreign workers to be imported into this country to do the work that American workers are dying to be able to do. That is unfair to America's workers.

It is also unfair that this bill does nothing to try to enhance worker protections or the ability to enforce our current labor laws so that at the workplace we know that workers, American and those legally allowed to work in this country, are protected from abuse.

Everyone should strive for immigration reform. Talk to anyone. It makes no difference what poll we take or what poll we listen to. Everyone wants to see reform of our immigration laws. But it should be meaningful reform of our immigration laws. We should not be targeting legal immigrants because we have to attack the issue of illegal immigration.

Mr. Speaker, I would suggest to all the Members here to look closely at this legislation and vote with their heart and their mind. This is not a good bill. Vote against the rule.

Mr. DREIER. Mr. Speaker, I would remind my California colleague that we have made 32 amendments in order, which will allow for a full 2 days of debate looking at almost every aspect of this legislation.

Mr. Speaker, with that, I yield 1½ minutes to my very good friend, the gentleman from Roanoke, VA [Mr. GOODLATTE].

Mr. GOODLATTE. Mr. Speaker, I thank the gentleman from California for yielding me this time.

I rise in strong support of this rule. I think it is a very fair rule. This legislation has been marked up very, very extensively in the Subcommittee on Immigration and Claims and in the full Committee on the Judiciary for weeks and weeks, and I think the legislation we brought forward is outstanding.

We have allowed nonetheless 32 separate opportunities to amend the bill, and I commend the Committee on Rules for their work and strongly support this rule. I also strongly support the underlying legislation.

I want to particularly call to my colleagues' attention an amendment that I strongly oppose, and that is the Chrysler-Berman-Brownback amendment that deals with what some are representing as splitting out the legal portion of this bill and only dealing with illegal immigration. The fact of the matter is this does not split the bill. In the Senate, they voted to split the bill and are actually moving two separate bills forward. But this amendment would not do that.

Mr. Speaker, what this amendment does is kill legal immigration reform because there is no provision anywhere to move forward with those provisions of the bill dealing with legal immigration. Therefore I would strongly urge the Members of the House to oppose that amendment when it comes up for consideration probably tomorrow.

I also would urge strong support for the amendment that I will be offering dealing with the H-2B program as a much more reasonable reform of the current H-2A program than to go with the Pombo amendment which sets up an entirely new program with 250,000 new nonimmigrants coming into the country. That is not good, and I would urge opposition to that and support for the rule.

Mr. BEILENSON. Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield 1½ minutes to the hard-working gentleman from Iowa [Mr. GANSKE].

Mr. GANSKE. Mr. Speaker, I rise in support of the rule and this bill.

Mr. Speaker, my heritage is German, Irish, Polish, and even a little Bohemian, and my children are all of that plus Norwegian, and I appreciate America as a melting pot.

Our current immigration laws are broken and they must be fixed. One-quarter of all Federal prisoners are illegal aliens. Forty percent of all births in California's public hospitals are due to illegal aliens. In Los Angeles alone, 60 percent of all births in the county hospital are to women who are in this country illegally.

In the last 12 years, the number of immigrants applying for Social Security income has increased by 580 percent. These facts signal an immigration crisis in America. This bill is a bipartisan, reasonable bill that addresses serious flaws in the current law. The legislation doubles the number of border patrol agents, streamlines rules and procedures for removing illegal aliens and makes it tougher for illegal immigrants to fraudulently obtain jobs and take those jobs away from our citizens who need them.

Mr. Speaker, we must act quickly and decisively or the economic and social consequences for this country could be devastating. I urge my colleagues to support this bill and this rule.

Mr. DREIER. Mr. Speaker, I appreciate the very kind remarks from my friend from Los Angeles.

Mr. Speaker, I am stating the facts as to what this administration has done. The President stood here in his State of the Union message and said he is what my friend, the gentleman from California [Mr. BEILENSON] just said, the first President to stand up and deal with this issue. The fact of the matter is when he has had opportunities to deal with it he has not.

Yes, the legislative branch in a bipartisan way is recognizing the importance of this, and this rule allows us to bring forward bipartisan amendments and amendments the Democrats offer. We will have 32 amendments that will be considered.

Now it is my hope that we will be able to pass this quickly over the next couple of days, get an agreement with the Senate on this and get it to the President, so he can sign this legislation and so that he will be able to be exactly what my friend, the gentleman from California [Mr. BEILENSON], claims that he is. Unfortunately he has not been that up to this point, but we are going to give him a chance to do it.

Pass this rule, pass this very important legislation, so that we can turn the corner on these very important problems that we face.

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

Before the House begins debate on the immigration reform measure before us today, I wanted to set the stage for this debate and to put H.R. 2202 into a proper perspective.

For many years the American people have expressed frustration that its leaders in Congress have failed to enact tough policies which would eliminate the high levels of illegal entry into our country.

After the highly controversial amnesty of 1986 and today's feeling of deja vu all over again, the American people are demanding action.

Sensing this national frustration and recognizing that one of the most critical challenges facing the 104th Congress was the passage of comprehensive and effective immigration reform legislation, Speaker GINGRICH last year appointed me chairman of a Congressional Task Force on Immigration Reform.

This 54-member, bipartisan task force was asked by the Speaker to review existing laws and practices to determine the extent of needed reform and to provide a report with recommendations to him by June 1995.

To expedite our work, the task force was organized into 6 working groups focusing on the most crucial areas of immigration policy—border enforcement, workplace enforcement, public benefits, political asylum, deportation, and visa overstays. I want to again thank the chairs of those groups, Representatives ROYCE, DEAL, GOSS, MCCOLLUM, CONDIT, and GOODLATTE for all their hard work.

In order to obtain a first-hand understanding of the problem, the task force reviewed the record of the Immigration Reform and Control Act of 1986, received testimony and reports from a wide range of individuals and organizations and conducted 3 fact-finding missions to San Diego, New York, and Miami. With an estimated 4 million persons illegally crossing the border each year the issues of border enforcement and enhancement, political asylum, and refugees were explored at these major ports of entry. The insights we gained during these trips were critical to our efforts to find effective solutions to the problem of illegal immigration. I would like to thank all of the members who accompanied me on those visits.

Once the investigating and fact finding concluded the task force set out to produce a comprehensive and results oriented report.

On June 29, the task force presented to the Speaker its findings and recommendations.

Our Task Force concluded that the 1986 IRCA law had failed to deter illegal immigration; that the Federal Government did not provide the necessary resources to combat the problem; and that the incentives which bring people here illegally—employment, social welfare benefits, and free education—had to be seriously addressed or our success at ending this problem would be minimal.

Our Task Force made 100 separate recommendations ranging from ways to enhance and enforce existing policies such as additional border patrol agents and new barriers, to proposing enactment of new, but forceful laws regarding criminal incarceration and verification.

Mr. Chairman, we all know task forces come and task forces go and little is ever accomplished. We knew that our work to produce the report was just the beginning and that we had to translate our efforts into meaningful legislation.

Working closely with Immigration Subcommittee Chairman LAMAR SMITH, who deserves so much praise for his efforts, the task force was successful in including over 25 of our recommendations in H.R. 2202 when it was first introduced.

By the time H.R. 2202 emerged from the subcommittee and full Judiciary Committee markups, over 80 percent of our recommendations were incorporated into what I consider a forceful bill.

In conclusion my colleagues, America is often described as a land of immigrants. But it is also true that certain areas of this Nation have become a land of illegal immigrants. Despite the amnesty of 1986, it is estimated that between 4 and 6 million persons are in this country illegally with that number growing by 300,000 each year.

America is also referred to as the "land of opportunity." Again, that is true. But America is not the land of unlimited resources. The impact of illegal immigration is profound: It severely affects our Federal budget as well as those of our State and local governments. It contributes to high crime rates and is often linked to criminal activities such as narcotics trafficking. It displaces American workers. And most of all, it is in itself against the law.

My colleagues, the legislation before you today is the product of a very intense and comprehensive review of our current immigration crisis. And believe me, we are in a crisis.

The provisions of H.R. 2202 provide the legislative reforms and enforcement procedures necessary to accomplish our two principle objectives—discouraging and preventing illegal entry, and identifying, apprehending, and removing illegals already here.

I am proud of the work of the task force which I chaired which has become such an integral part of H.R. 2202. I urge all Members to support this bill—it is legislation which is absolutely needed.

Mr. Chairman, I include for the RECORD an Executive Summary of the Congressional Task Force on Immigration Reform.

MEMBERS OF THE CONGRESSIONAL TASK FORCE ON IMMIGRATION REFORM

Chairman: Elton Gallegly (R–CA).
Matt Salmon (R–AZ).
Bob Stump (R–AZ).
Duke Cunningham (R–CA).
Dana Rohrabacher (R–CA).
Bill Baker (R–CA).
Brian Bilbray (R–CA).
John Doolittle (R–CA).
Jane Harman (D–CA).
Stephen Horn (R–CA).
Jay Kim (R–CA).
Carlos Moorhead (R–CA).
George Radanovich (R–CA).
Andrea Seastrand (R–CA).
Porter Goss (R–FL).
Charles Canady (R–FL).
Cliff Stearns (R–FL).
Nathan Deal (R–GA).
Michael Flanagan (R–IL).
Dan Burton (R–IN).
Billy Tauzin (D–LA).
Barbara Vucanovich (R–NV).
Bill Martini (R–NJ).
Jim Saxton (R–NJ).
Charles Taylor (R–NC).
John Duncan (R–TN).
Bill Archer (R–TX).
Bob Goodlatte (R–VA).
John Shadegg (R–AZ).
Tony Beilenson (D–CA).
Gary Condit (D–CA).
Ed Royce (R–CA).
Howard Berman (D–CA).
Ken Calvert (R–CA).
David Dreier (R–CA).
Wally Herger (R–CA).
Duncan Hunter (R–CA).
Buck McKeon (R–CA).
Ron Packard (R–CA).
Frank Riggs (R–CA).
Christopher Shays (R–CT).
Karen Thurman (D–FL),
Bill McCollum (R–FL).
Mark Foley (R–FL).
Dennis Hastert (R–IL).
Thomas Ewing (R–IL).
Jan Meyers (R–KS).
Bill Emerson (R–MO).
Joe Skeen (R–NM).
Marge Roukema (R–NJ).
Susan Molinari (R–NY).
Frank Cremeans (R–OH).
Ed Bryant (R–TN).
Pete Geren (D–TX).

TASK FORCE MISSION AND ORGANIZATION

The Congressional Task Force on Immigration Reform was created by Speaker Newt Gingrich at the beginning of the 104th session of Congress. It has become apparent to many Americans that the federal government has failed in its efforts to enforce existing laws, to enact new laws or adopt effective policies to prevent illegal immigration.

Seastrand	Spence	Walsh
Sensenbrenner	Stearns	Wamp
Shadegg	Stockman	Watts (OK)
Shaw	Stump	Weldon (FL)
Shays	Tate	Weldon (PA)
Shuster	Tauzin	Weller
Skeen	Taylor (NC)	White
Skelton	Thomas	Whitfield
Slaughter	Thornberry	Wicker
Smith (MI)	Tiahrt	Wolf
Smith (NJ)	Torkildsen	Young (AK)
Smith (TX)	Traficant	Young (FL)
Smith (WA)	Upton	Zeliff
Solomon	Vucanovich	Zimmer
Souder	Waldholtz	

NAYS—152

Abercrombie	Gonzalez	Oberstar
Ackerman	Gordon	Obey
Andrews	Green	Ortiz
Baesler	Gutknecht	Orton
Baldacci	Hall (OH)	Owens
Barcia	Hamilton	Pallone
Barrett (WI)	Harman	Pastor
Becerra	Hastings (FL)	Payne (NJ)
Beilenson	Hefner	Payne (VA)
Bentsen	Hilliard	Pelosi
Berman	Hinchey	Peterson (MN)
Bonior	Holden	Pickett
Borski	Jackson (IL)	Pomeroy
Brown (CA)	Jackson-Lee	Poshard
Brown (FL)	(TX)	Rahall
Brown (OH)	Jacobs	Reed
Bryant (TX)	Jefferson	Rivers
Cardin	Johnson (SD)	Roemer
Chapman	Johnson, E. B.	Rose
Clayton	Kanjorski	Roybal-Allard
Clement	Kaptur	Sabo
Coleman	Kennedy (RI)	Sanders
Collins (MI)	Kennelly	Sawyer
Conyers	Kildee	Schroeder
Coyne	Kleczka	Schumer
Danner	Klink	Scott
de la Garza	LaFalce	Serrano
DeFazio	Lantos	Sisisky
DeLauro	Levin	Skaggs
Deutsch	Lewis (GA)	Spratt
Dicks	Lowey	Stark
Dingell	Luther	Stenholm
Dixon	Manton	Studds
Doggett	Markey	Stupak
Dooley	Martinez	Tanner
Doyle	Mascara	Taylor (MS)
Edwards	Matsui	Tejeda
Engel	McCarthy	Thurman
Evans	McDermott	Towns
Fattah	McHale	Velazquez
Fazio	McKinney	Vento
Fields (LA)	McNulty	Visclosky
Flake	Meek	Volkmer
Foglietta	Menendez	Ward
Ford	Miller (CA)	Watt (NC)
Frank (MA)	Minge	Williams
Frost	Mink	Wilson
Furse	Mollohan	Wise
Gejdenson	Moran	Woolsey
Gephardt	Murtha	Wynn
Gibbons	Neal	Yates

NOT VOTING—46

Bishop	Hoke	Porter
Bryant (TN)	Hostettler	Pryce
Chrysler	Hoyer	Radanovich
Clay	Inglis	Rangel
Clyburn	Johnston	Rush
Collins (IL)	Kennedy (MA)	Stokes
Costello	Latham	Talent
Dellums	Lightfoot	Thompson
Durbin	Lipinski	Thornton
Eshoo	Maloney	Torres
Farr	Martini	Torricelli
Fawell	Meehan	Walker
Filner	Moakley	Waters
Flanagan	Nadler	Waxman
Gutierrez	Olver	
Hayes	Peterson (FL)	

□ 1736

The Clerk announced the following pair: On this vote:

Mr. Radanovich for, with Mr. Filner against.

Mr. PAYNE of Virginia changed his vote from "yea" to "nay."

Mrs. SEASTRAND changed her vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. LATHAM. Mr. Speaker, on rollcall No. 68, I was unavoidably detained. Had I been present, I would have voted "yea."

PERSONAL EXPLANATION

Mr. LIGHTFOOT. Mr. Speaker, I missed rollcall vote No. 68. I was unavoidably detained due to a late flight on my return from Iowa. Had I been present, I would have voted "yea" on rollcall vote No. 68.

PERSONAL EXPLANATION

Ms. ESHOO. Mr. Speaker, during rollcall vote No. 68 on the previous question to House Resolution 384, I was unavoidably detained because of a flight being late. Had I been present, I would have voted "nay."

PERSONAL EXPLANATION

Mr. FARR of California. Mr. Speaker, during Rollcall Vote No. 68 on the previous question to House Resolution 384, I was on the same flight and detained. Had I been present, I would have voted "nay."

The SPEAKER pro tempore (Mr. RIGGS). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

104th Congress Rept. 104-469
HOUSE OF REPRESENTATIVES
2d Session Part 4

I MMIGRATION IN THE NATIONAL INTEREST ACT OF 1995; TEMPORARY AGRICULTURAL WORKER AMENDMENTS OF 1996

March 21, 1996.--Ordered to be printed

Mr. Roberts, from the Committee on Agriculture, submitted the following

SUPPLEMENTAL REPORT

[To accompany H.R. 2202]

This supplemental report contains the Congressional Budget Office cost estimate on H.R. 2202, as amended by the Committee on Agriculture, that adds a new subtitle B to title VIII, the Temporary Agricultural Worker Amendments of 1996, and relevant conforming amendment thereto.

The Congressional Budget Office cost estimate was not available to be included in the report submitted by the Committee on Agriculture on March 8, 1996 (H. Rept. 104-469, Part 3), recommending passage of the bill, as amended, by the House.

U.S. Congress,
Congressional Budget Office,
Washington, DC, March 18, 1996.

Hon. PAT ROBERTS,
Chairman, Committee on Agriculture,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN.

The Congressional Budget Office has prepared the enclosed intergovernmental mandates cost estimate for the amendment of the Committee on Agriculture to H.R. 2202, the Temporary Agricultural Worker Amendments of 1996.

This bill would impose intergovernmental mandates, as defined in Public Law 104-4, but would impose no private sector mandates.

The bill would affect revenues and direct spending of the federal government, and estimates of those effects have previously been provided to the committee.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL, DIRECTOR.

CONGRESSIONAL BUDGET OFFICE ESTIMATED COST OF INTERGOVERNMENTAL MANDATES

1. Bill number: Amendment of the Committee on Agriculture to H.R. 2202

2. Bill title: Temporary Agricultural Worker Amendments of 1996

3. Bill status: As ordered reported by the House Committee on Agriculture on March 8, 1996.

4. Bill purpose: The Temporary Agricultural Worker Amendments of 1996 would create a temporary agricultural worker classification designated H-2B (in reference to its subsection designation in title 8) and establish requirements for employers who wish to hire aliens under that provision.

5. Intergovernmental mandates contained in bill: The amendments would require state employment security agencies (SESAs) to review affidavits filed by the prospective employers, maintain files of those documents for a limited period of time, and provide employers with proof of filing.

6. Estimated direct costs to State, local, and tribal governments: (a) Is the $50 Million Threshold Exceeded? No. (b) Total Direct Costs of Mandates: CBO estimates that these mandates would impose minimal direct cost on state, local, and tribal governments. (c) Estimate of Necessary Budget Authority: Not applicable.

7. Basis of estimate: This estimate is based on information provided by state employment security officials in the states likely to be significantly affected by this legislation. CBO anticipates that between 25,000 and 100,000 workers would participate in the H-2B program each year.

   We expect that most affidavits filed by employers would cover more than one alien employee and that the average cost of processing and filing each affidavit would be between $15 and $20. We therefore estimate that the direct costs of implementing these requirements would total less than $500,000 annually. Furthermore, because SESAs currently review and file similar documents under other alien worker classification provisions, existing procedures could be used to fulfill the requirements of this amendment, thereby minimizing additional costs.

   Finally, the costs of SESAs are financed with federal funds through the Department of Labor. Therefore, we expect that any additional responsibilities would ultimately be funded by the federal government.

8. Appropriation or other federal financial assistance provided in bill to cover mandate costs: None.

9. Other impacts on State, local, and tribal governments: None.

10. Previous CBO estimate: None.

11. Estimate prepared by: Leo Lex.

12. Estimate approved by:

Robert A. Sunshine
(For Paul N. Van deWater,
Assistant Director for Budget Analysis).

U.S. Congress,
Congressional Budget Office,
Washington, DC, March 21, 1996.

Hon. PAT ROBERTS,
Chairman, Committee on Agriculture,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN.

The Congressional Budget Office has reviewed H.R. 2202, the Immigration in the National Interest Act of 1995, as reported by the House Committee on Agriculture on March 8, 1996. The Agriculture Committee added to title VIII of the bill a subtitle B, which would establish a new nonimmigrant category for temporary agricultural workers. This new program, called the H-2B program, would be authorized through 1999 and would be limited to no more than 250,000 workers in the first year and smaller numbers in subsequent years.

Attached is a table summarizing the estimated spending and revenue effects of the Agriculture Committee's version of H.R. 2202. The Agriculture Committee's amendment would affect the federal budget in three ways:

(1) The government would receive additional revenues totaling about $94 million over the 1997-2000 period because employers of H-2B aliens would have to pay an amount equivalent to the federal tax that employers are obligated to pay under the Federal Unemployment Tax Act (FUTA) and the Federal Insurance Contributions Act (FICA). These payments would total 8.45 percent of taxable earnings.

(2) The government would spend about $67 million on administrative expenses to operate the H-2B program and on emergency medical services provided to H-2B aliens.

(3) The government would lose about $117 million in revenues over the 1997-2000 period because the H-2B aliens would displace illegal aliens whose wages would be subject to FUTA and FICA taxes. About $90 million of the loss applies to Social Security taxes that are recorded as off-budget receipts.

In aggregate, therefore, CBO estimates that creating the new nonimmigrant category would result in a loss of revenue of $23 million and an increase in direct spending of $67 million over the 1996-2000 period.

CBO prepared an intergovernmental mandate statement for this legislation on March 18, 1996. The bill would impose no private sector mandates as defined in Public Law 104-4.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Mark Grabowicz, and, for revenues, Peter Ricov.

Sincerely,

JUNE E. O'NEILL, DIRECTOR.

ESTIMATED FEDERAL BUDGETARY IMPACT OF H.R. 2202, AS AMENDED BY THE HOUSE COMMITTEE ON AGRICULTURE

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
SPENDING SUBJECT TO APPROPRIATIONS ACTION							
Authorizations:							
Estimated Authorizations Level	129	699	774	856	960	978	996
Estimated Outlays	0	532	637	940	994	956	976
MANDATORY SPENDING AND RECEIPTS							
Revenues:							
New Criminal Fines and Forfeiture	0	(1)	(1)	(1)	(1)	(1)	(1)
Temporary Agricultural Workers (Off-Budget)	0	-10	-22	-48	-10	0	0
Temporary Agricultural Workers (On-Budget)	0	9	16	33	9	0	0
Earned Income Tax Credit	0	14	13	12	13	13	13
Change in Revenues	0	13	7	-3	12	13	13
(Off-Budget)	0	-10	-22	-48	-10	0	0
(On-Budget)	29	45	22	13	13	0	0
Direct Spending:							
New Criminal Fines and Forfeiture	0	(/1/)	(/1/)	(/1/)	(/1/)	(/1/)	(/1/)
Immigration Enforcement Account	0	(/1/)	(/1/)	(/1/)	(/1/)	(/1/)	(/1/)
Supplemental Security Income	0	-10	-80	-160	-260	-370	-670
Food Stamps	0	0	-15	-45	-100	-170	-250
Family Support	0	-1	-13	-23	-48	-63	-78
Medicaid	0	-5	-110	-240	-390	-570	-830
Federal Employee Retirement	0	2	4	2	0	0	0
Temporary Agricultural Workers	0	10	19	36	2	0	0
Earned Income Tax Credit	0	-216	-214	-218	-222	-224	-229
Change in Direct Spending Outlays	0	-220	-409	-648	-1,018	-1,397	-2,057

/1/ Less than $500,000.

ESTIMATED FEDERAL BUDGETARY IMPACT OF H.R. 2202, AS AMENDED BY THE HOUSE COMMITTEE ON AGRICULTURE

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
SPENDING SUBJECT TO APPROPRIATIONS ACTION							
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MANDATORY SPENDING AND RECEIPTS							
Revenues:							
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Temporary Agricultural Workers (On-Budget)	0	9	16	33	9	0	0
Earned Income Tax Credit	0	14	13	12	13	13	13
Change in Revenues		0	13	7	-3	12	13
(Off-Budget)	0	-10	-22	-48	-10	0	0
(On-Budget)	29	45	22	13	13	0	0
Direct Spending:							
New Criminal Fines and Forfeiture	0	(/1/)	(/1/)	(/1/)	(/1/)	(/1/)	(/1/)
Immigration Enforcement Account	0	(/1/)	(/1/)	(/1/)	(/1/)	(/1/)	(/1/)
Supplemental Security Income	0	-10	-80	-160	-260	-370	-670
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Family Support	0	-1	-13	-23	-48	-63	-78
Medicaid	0	-5	-110	-240	-390	-570	-830
Federal Employee Retirement	0	2	4	2	0	0	0
Temporary Agricultural Workers	0	10	19	36	2	0	0
Earned Income Tax Credit	0	-216	-214	-218	-222	-224	-229
Change in Direct Spending Outlays	0	-220	-409	-648	-1,018	-1,397	-2,057

/1/ Less than $500,000.

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 hard-working 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 anti-terrorism 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.

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.

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:

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

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.

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 propided 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.".

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 VIII—MISCELLANEOUS PROVISIONS

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.

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 careworker, 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.

□ 2045

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.

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. 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.

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.

□ 2130

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.

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.

IMMIGRATION IN THE NATIONAL INTEREST ACT OF 1995

The 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 further consideration of the bill, H.R. 2202.

□ 1142

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 further 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. When the Committee of the Whole rose on Tuesday, March 19, 1996, amendment No. 5, printed in part 2 of House Report 104-483, offered by the gentleman from Washington [Mr. TATE], had been disposed of.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to the rule, proceedings will now resume on those amendments on which further proceedings were postponed in the following order:

Amendment No. 3 offered by the gentleman from California [Mr. BEILENSON]; amendment No. 4 offered by the gentleman from Florida [Mr. MCCOLLUM].

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. BEILENSON

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from California [Mr. BEILENSON], on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 120, noes 291, not voting 20, as follows:

[Roll No. 71]

AYES—120

Abercrombie	Gejdenson	Neal
Ackerman	Gephardt	Oberstar
Barrett (WI)	Gibbons	Ortiz
Becerra	Gonzalez	Owens
Bellenson	Green	Pastor
Bentsen	Gutierrez	Payne (NJ)
Berman	Hall (OH)	Payne (VA)
Bevill	Hastings (FL)	Pelosi
Bonior	Hilliard	Rahall
Borski	Hinchey	Rangel
Brown (CA)	Houghton	Reed
Brown (OH)	Hoyer	Richardson
Bryant (TX)	Jackson (IL)	Rivers
Cardin	Jackson-Lee (TX)	Ros-Lehtinen
Clay	Jefferson	Roybal-Allard
Clayton	Johnson (SD)	Sabo
Clyburn	Johnson, E. B.	Sawyer
Coleman	Kanjorski	Schroeder
Collins (MI)	Kennedy (RI)	Scott
Conyers	Kildee	Serrano
de la Garza	Kolbe	Skaggs
DeLauro	LaFalce	Slaughter
Dellums	Lantos	Stark
Diaz-Balart	Levin	Stupak
Dicks	Lewis (GA)	Tejeda
Dixon	Lofgren	Thompson
Dooley	Lowey	Thornton
Edwards	Luther	Torres
Engel	Manton	Towns
Eshoo	Markey	Velazquez
Evans	Martinez	Vento
Farr	Matsui	Visclosky
Fattah	McCarthy	Watt (NC)
Fazio	McKinney	Waxman
Fields (LA)	McNulty	Williams
Filner	Miller (CA)	Wise
Flake	Mink	Woolsey
Foglietta	Mollohan	Wynn
Ford	Moran	Yates
Frank (MA)	Nadler	
Furse		

NOES—291

Allard	Coburn	Gilchrest
Andrews	Collins (GA)	Gillmor
Archer	Combest	Gilman
Armey	Condit	Goodlatte
Bachus	Cooley	Goodling
Baesler	Costello	Gordon
Baker (CA)	Cox	Goss
Baker (LA)	Coyne	Graham
Baldacci	Cramer	Greenwood
Ballenger	Crane	Gunderson
Barcia	Crapo	Gutknecht
Barr	Cremeans	Hall (TX)
Barrett (NE)	Cubin	Hamilton
Bartlett	Cunningham	Hancock
Barton	Danner	Hansen
Bass	Davis	Harman
Bateman	Deal	Hastert
Bereuter	DeFazio	Hastings (WA)
Bilbray	DeLay	Hayworth
Bilirakis	Deutsch	Hefley
Bishop	Dickey	Hefner
Bliley	Dingell	Heineman
Blute	Doggett	Herger
Boehlert	Doolittle	Hilleary
Boehner	Dornan	Hobson
Bonilla	Doyle	Hoekstra
Bono	Dreier	Hoke
Boucher	Duncan	Holden
Brewster	Dunn	Horn
Browder	Ehlers	Hunter
Brown (FL)	Ehrlich	Hutchinson
Brownback	Emerson	Hyde
Bryant (TN)	English	Inglis
Bunn	Ensign	Istook
Bunning	Everett	Jacobs
Burr	Ewing	Johnson (CT)
Burton	Fawell	Johnson, Sam
Buyer	Fields (TX)	Jones
Callahan	Flanagan	Kaptur
Calvert	Foley	Kelly
Camp	Forbes	Kennelly
Campbell	Fowler	Kim
Canady	Fox	King
Castle	Franks (CT)	Kingston
Chabot	Franks (NJ)	Kleczka
Chambliss	Frelinghuysen	Klink
Chapman	Frisa	Klug
Chenoweth	Frost	Knollenberg
Christensen	Funderburk	LaHood
Chrysler	Gallegly	Largent
Clement	Ganske	Latham
Clinger	Gekas	LaTourette
Coble	Geren	Laughlin
Lazio	Orton	Smith (MI)
Leach	Oxley	Smith (TX)
Lewis (CA)	Packard	Smith (WA)
Lewis (KY)	Pallone	Solomon
Lightfoot	Parker	Souder
Lincoln	Paxon	Spence
Linder	Peterson (FL)	Spratt
Lipinski	Peterson (MN)	Stearns
Livingston	Petri	Stenholm
LoBiondo	Pickett	Stockman
Longley	Pombo	Stump
Lucas	Pomeroy	Talent
Maloney	Portman	Tanner
Manzullo	Poshard	Tate
Martini	Quillen	Tauzin
Mascara	Quinn	Taylor (MS)
McCollum	Ramstad	Taylor (NC)
McCrery	Regula	Thomas
McDade	Riggs	Thornberry
McDermott	Roberts	Thurman
McHale	Roemer	Tiahrt
McHugh	Rogers	Torkildsen
McInnis	Rohrabacher	Torricelli
McIntosh	Rose	Traficant
McKeon	Roth	Upton
Meek	Roukema	Volkmer
Menendez	Royce	Vucanovich
Metcalf	Salmon	Waldholtz
Meyers	Sanders	Walsh
Mica	Sanford	Wamp
Miller (FL)	Saxton	Ward
Molinari	Scarborough	Watts (OK)
Montgomery	Schaefer	Weldon (FL)
Moorhead	Schiff	Weldon (PA)
Morella	Schumer	Weller
Murtha	Seastrand	White
Myers	Sensenbrenner	Whitfield
Myrick	Shadegg	Wicker
Nethercutt	Shaw	Wilson
Neumann	Shays	Wolf
Ney	Shuster	Young (AK)
Norwood	Sisisky	Young (FL)
Nussle	Skeen	Zeliff
Obey	Skelton	Zimmer

NOT VOTING—20

Collins (IL)	Meehan	Rush
Durbin	Minge	Smith (NJ)
Hayes	Moakley	Stokes
Hostettler	Olver	Studds
Johnston	Porter	Walker
Kasich	Pryce	Waters
Kennedy (MA)	Radanovich	

□ 1203

Messrs. BONO, THORNBERRY, BARR of Georgia, and HOLDEN, Mrs. MALONEY, and Messrs. BALDACCI, WARD, and LATHAM changed their vote from "aye" to "no."

Ms. PELOSI, Ms. EDDIE BERNICE JOHNSON of Texas, and Messrs. FLAKE, NEAL of Massachusetts, GENE GREEN of Texas, and KENNEDY of Rhode Island changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to the rule, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT OFFERED BY MR. MCCOLLUM

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Florida [Mr. MCCOLLUM] on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 191, noes 221, not voting 19, as follows:

[Roll No. 72]

AYES—191

Ackerman	Frost	Mink
Andrews	Gallegly	Molinari
Baker (CA)	Ganske	Mollohan
Baker (LA)	Gejdenson	Montgomery
Baldacci	Gekas	Moorhead
Barr	Gephardt	Moran
Barton	Geren	Murtha
Bass	Gibbons	Myrick
Bateman	Gilchrest	Nadler
Bellenson	Gillmor	Neal
Bereuter	Gilman	Norwood
Berman	Goodlatte	Obey
Bilbray	Goss	Orton
Billrakis	Graham	Packard
Bishop	Greenwood	Pallone
Bliley	Gutknecht	Pelosi
Blute	Hall (TX)	Peterson (FL)
Boehlert	Harman	Peterson (MN)
Boehner	Hastings (WA)	Pomeroy
Bono	Hefner	Quillen
Boucher	Hobson	Rahall
Browder	Hoekstra	Rangel
Brown (CA)	Holden	Reed
Bryant (TN)	Horn	Riggs
Bryant (TX)	Hunter	Rogers
Burr	Hyde	Rohrabacher
Calvert	Istook	Roth
Campbell	Jackson-Lee (TX)	Roukema
Canady	Johnson (SD)	Royce
Castle	Johnson, E. B.	Sabo
Clayton	Kanjorski	Salmon
Clement	Kaptur	Saxton
Clinger	Kelly	Schiff
Clyburn	Kildee	Schroeder
Coble	Kim	Schumer
Condit	Klink	Seastrand
Cramer	Kolbe	Shays
Cunningham	Lantos	Sisisky
Danner	Largent	Skelton
Deal	Latham	Smith (NJ)
DeFazio	LaTourette	Smith (TX)
DeLauro	Leach	Stenholm
Deutsch	Levin	Tanner
Dicks	Lightfoot	Tauzin
Dixon	Lincoln	Taylor (MS)
Doggett	LoBiondo	Thurman
Doyle	Lowey	Torkildsen
Dreier	Maloney	Torricelli
Duncan	Manton	Traficant
Edwards	Markey	Upton
Ehlers	Martinez	Vento
Ehrlich	Martini	Volkmer
Eshoo	Mascara	Waldholtz
Ewing	Matsui	Walsh
Farr	McCollum	Ward
Fawell	McHale	Waxman
Fields (LA)	McHugh	Weldon (PA)
Foley	McKeon	Weller
Fowler	McKinney	Wicker
Fox	McNulty	Wilson
Frank (MA)	Meyers	Wolf
Franks (CT)	Mica	Young (AK)
Franks (NJ)	Miller (CA)	Zeliff
Frelinghuysen		Zimmer

NOES—221

Abercrombie	Brown (FL)	Coleman
Allard	Brown (OH)	Collins (GA)
Archer	Brownback	Collins (MI)
Armey	Bunn	Combest
Bachus	Bunning	Conyers
Baesler	Burton	Cooley
Ballenger	Buyer	Costello
Barcia	Callahan	Cox
Barrett (NE)	Camp	Coyne
Barrett (WI)	Cardin	Crane
Bartlett	Chabot	Crapo
Becerra	Chambliss	Cremeans
Bentsen	Chapman	Cubin
Bevill	Chenoweth	Davis
Bonilla	Christensen	de la Garza
Bonior	Chrysler	DeLay
Borski	Clay	Dellums
Brewster	Coburn	Diaz-Balart
Dickey	King	Roemer
Dingell	Kingston	Ros-Lehtinen
Dooley	Kleczka	Roybal-Allard
Doolittle	Klug	Sanders
Dornan	Knollenberg	Sanford
Dunn	LaFalce	Sawyer
Emerson	LaHood	Scarborough
Engel	Laughlin	Schaefer
English	Lazio	Scott
Ensign	Lewis (CA)	Sensenbrenner
Evans	Lewis (GA)	Serrano
Everett	Lewis (KY)	Shadegg
Fattah	Linder	Shaw
Fazio	Lipinski	Shuster
Fields (TX)	Livingston	Skaggs
Filner	Lofgren	Skeen
Flake	Longley	Slaughter
Flanagan	Lucas	Smith (MI)
Foglietta	Luther	Smith (WA)
Forbes	Manzullo	Solomon
Ford	McCarthy	Souder
Frisa	McCrery	Spence
Funderburk	McDade	Spratt
Furse	McDermott	Stark
Gonzalez	McInnis	Stearns
Goodling	McIntosh	Stockman
Gordon	Meek	Stump
Green	Menendez	Stupak
Gunderson	Metcalf	Talent
Gutierrez	Miller (FL)	Tate
Hall (OH)	Morella	Taylor (NC)
Hamilton	Myers	Tejeda
Hancock	Nethercutt	Thomas
Hansen	Neumann	Thompson
Hastert	Ney	Thornberry
Hastings (FL)	Nussle	Thornton
Hayworth	Oberstar	Tiahrt
Hefley	Ortiz	Torres
Heineman	Owens	Towns
Herger	Oxley	Velazquez
Hilleary	Parker	Visclosky
Hilliard	Pastor	Vucanovich
Hinchey	Paxon	Walker
Hoke	Payne (NJ)	Wamp
Houghton	Payne (VA)	Watt (NC)
Hoyer	Petri	Watts (OK)
Hutchinson	Pickett	Weldon (FL)
Inglis	Pombo	White
Jackson (IL)	Portman	Whitfield
Jacobs	Poshard	Williams
Jefferson	Quinn	Wise
Johnson (CT)	Ramstad	Woolsey
Johnson, Sam	Regula	Wynn
Jones	Richardson	Yates
Kennedy (RI)	Rivers	Young (FL)
Kennelly	Roberts	

NOT VOTING—19

Collins (IL)	Meehan	Rose
Durbin	Minge	Rush
Hayes	Moakley	Stokes
Hostettler	Olver	Studds
Johnston	Porter	Waters
Kasich	Pryce	
Kennedy (MA)	Radanovich	

□ 1215

The Clerk announced the following pair:

On this vote:

Mr. RADANOVICH for, with Mr. PORTER against.

Messrs. NETHERCUTT, JEFFERSON, CHRYSLER, GONZALEZ, and TOWNS changed their vote from "aye" to "no."

Mr. FOX of Pennsylvania, Ms. McKINNEY, and Mr. NADLER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 6.

Amendment No. 6 will not be offered.

It is now in order to consider amendment No. 7 printed in part 2 of House Report 104-483.

AMENDMENT NO. 7 OFFERED BY MR. LATHAM

Mr. LATHAM. Mr. Chairman, I offer an amendment made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. LATHAM: At the end of subtitle D of title III insert the following new section:

SEC. 365. AUTHORITY FOR STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE IN DEPORTATION.

The question is on the amendment offered by the gentleman from Iowa [Mr. LATHAM].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 8 printed in part 2 of House Report 104–483.

AMENDMENT OFFERED BY MR. BRYANT OF TENNESSEE

Mr. BRYANT of Tennessee. 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. BRYANT of Tennessee: At the end of section 604(b), add the following: "Such procedures shall include, in the case of such an individual who is 18 years of age or older and not lawfully present in the United States, the hospital or facility promptly providing the Service with the individual's name, address, and name of employer and other identifying information that the hospital or facility may have that may assist the Service in its efforts to locate the individual.".

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee [Mr. BRYANT]

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. BACERRA. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from Tennessee [Mr. BRYANT] will be postponed.

It is now in order to consider amendment No. 9 printed in part 2 of House Report 104–483.

AMENDMENT OFFERED BY MS. VELÁZQUEZ

Ms. VELÁZQUEZ. 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 Ms. VELÁZQUEZ:
Strike section 607 and redesignate the succeeding sections accordingly.

The CHAIRMAN. Pursuant to the rule, the gentlewoman from New York [Ms. VELÁZQUEZ] and a Member opposed, the gentleman from California [Mr. GALLEGLY], each will control 10 minutes.

The Chair recognizes the gentlewoman from New York [Ms. VELÁZQUEZ].

Ms. VELÁZQUEZ. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, today every Member of this body has a chance to show their support for our children, not just immigrant children but U.S.-born children who are U.S. citizens. In a rush to show our constituents that this Congress can be tough on illegal immigration, something much worse has been achieved. This body is about to prove how harsh it can be, not on illegal immigration, but on American children.

These antichild provisions are contained in section 607, whose supposed purpose is to bar illegal immigrants from receiving benefits. I would like to remind my colleagues that illegal immigrants are already barred from receiving benefits by current law. The

only law this provision can claim to change is the 14th amendment of the Constitution.

The actual effect of section 607 would be to keep over 100,000 U.S.-born children from having full access to public aid programs. And as Republican Mayor Rudolph Giuliani of New York has stated, this section is "punitive and will result in enormous costs to State and local governments."

Mr. Chairman, our amendment fixes this problem by striking these provisions from the bill and allowing all U.S.-born children full access to benefits. If Members care about our children and about their constitutional rights, then vote "yes" on this amendment.

This section of the bill makes it virtually impossible for many American children to receive public benefits. It creates a two-tier caste system where U.S.-born children of immigrants are treated differently from the children of U.S. citizens. This ignores the premise of equal protection, a blatant violation of these children's constitutional rights.

This provision affects far more than just the children of undocumented parents. It also affects the U.S.-born children of legal permanent residents. These are American children of parents who work hard and pay taxes, who start businesses and create jobs. Under these provisions, they too would be unable to file for benefits on behalf of their U.S. citizen children.

If these provisions are not removed, Congress will create a costly and overburdened administrative system. Our children will be forced to choose between a bureaucratic nightmare or relying on the kindness of strangers. This surely is a recipe for disaster.

I am sure that everyone will agree that our No. 1 priority should be keeping children healthy and safe. But by preventing parents from filing for assistance on behalf of their U.S.-born children, we will be victimizing the most vulnerable members of society, our kids. By doing so, we will be devastating the future of our Nation.

Let us fix one of the worst problems of this legislation. Vote "yes" for the Velázquez/Roybal-Allard amendment and show that this Congress truly cares about protecting the constitutional rights and welfare of our children.

Mr. Chairman, I yield 5 minutes to my good friend, the gentlewoman from California [Ms. ROYBAL-ALLARD], the cosponsor of this amendment.

Ms. ROYBAL-ALLARD. Mr. Chairman, I rise in strong support of the Velázquez/Roybal-Allard amendment.

My colleague, Ms. VELÁZQUEZ, has ably highlighted the injustices to American children that will result from section 607.

I would therefore like to focus on an additional three compelling reasons to strike this section.

First, section 607 will create an administrative nightmare.

Under the equal protection clause of the U.S. Constitution, local governments will be required to provide services to American children whose parents have been deemed ineligible.

The result will be a tremendous administrative burden on local governments, who will be forced to create a huge bureaucracy to manage and allocate benefits for these citizen children.

Most likely this will be accomplished by instituting a costly guardianship system.

Local government agencies will be required to locate, screen, and appoint a guardian for these American children.

Furthermore, they will have to provide continued oversight to prevent fraud by these third-party guardians.

Second, it is important to note that there is no funding authorization provided under this bill for reimbursement to local governments.

Therefore, section 607 would impose a costly unfunded mandate at a time when States and local governments are already struggling with limited resources and expanded demands for services.

The Congressional Budget Office has estimated the cost of establishing the guardianship system to be approximately $250 for each individual case.

Localities with large numbers of affected American children, such as Los Angeles County, will be forced to maintain thousands of guardianship caseloads.

And third, section 607 abandons Congress' earlier commitment to relieve States and local governments of Federal unfunded mandates.

If section 607 is not deleted, States and local governments will be forced to deny needy American children the benefits they are guaranteed as citizens under Federal statute and the U.S. Constitution or to divert already scarce social dollars from programs critical to the well-being of local communities.

Simply put, section 607 is a costly and an unworkable, unnecessary, unfunded mandate that serves absolutely no legitimate national interest.

We must not punish innocent American citizen children.

I urge my colleagues to vote for the Velázquez/Roybal-Allard amendment.

□ 1330

Simply put, section 607 is a costly and an unworkable, unnecessary, unfunded mandate that serves absolutely no legitimate national interest.

We must not punish innocent American citizen children. I urge my colleagues to vote for the Velázquez-Roybal-Allard amendment.

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

Mr. Chairman, I rise in strong opposition to this amendment, which seeks to overturn a provision I sponsored during the Committee on the Judiciary markup of H.R. 2202. The basic idea behind my original amendment was that the Federal Government should, under no circumstances, make benefit payments directly to those who we know are in this country illegally.

This is precisely what is happening today. When an illegal alien present in this country gives birth to a child who, under the 14th amendment, becomes an instant American citizen, the American citizen is eligible for a whole range of social benefits. Today these benefits are awarded directly to the illegal immigrant with the intention that she pass them on to her child.

While I believe that only a small portion of these Federal funds find their way to the desired recipient, I have a deeper problem with the status quo. I simply do not believe that the Federal Government should, under any circumstances, cut checks to those who have qualified for the aid by violating the laws of our Nation.

Approving the amendment before us today will do nothing but preserve the status quo and perpetuate the message we have issued all too often to those who violate our laws by coming here illegally. That message is clear. It is illegal for you to violate our borders, but if you somehow can successfully do so, then you can have whatever you want. It is illegal for you to break into a candy store, but if somehow you find a way to smash the door down and get inside, then by all means, clear the shelves with impunity.

I for one think this is wrong. I do not believe that we should reward those who break our laws and then remain here illegally with generous welfare checks. My feeling is that if we can find illegal immigrants to send them a check, we should find a way to provide bus service to return them to their homeland.

Supporters of this amendment say that we should not punish the children for acts of the parents, that isolating illegal immigrants from benefits many improperly receive will somehow separate families.

My response is that we are not trying to separate families under any circumstances. What we are trying to do is reunite the families and allow them to celebrate their status as legal residents of their respective countries and see that they be returned to their country of origin.

Mr. Chairman, I urge my colleagues to defeat this amendment.

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

Ms. VELAZQUEZ. Mr. Chairman, I yield myself 15 seconds to respond to some of the gentleman's remarks.

My amendment is not about letting undocumented immigrants receive benefits. It is about keeping the U.S. Congress from creating a two-tier system that puts U.S.-born children of immigrant parents in another category and children born to U.S. citizens in another category.

Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. CAMPBELL].

Mr. CAMPBELL. Mr. Chairman, our duty as Members of the House of Representatives is to uphold and defend

the Constitution of the United States. Sometimes this is not popular. If it were popular, we would not have to take an oath to uphold and defend the Constitution of the United States, but we do occasionally what we must, even when it is not popular.

It is not popular to stand up and say anything good in favor of the children of those who have come here illegally. But it matters as an issue of law and our Constitution that such children born here are American citizens. There is no debate on this issue. There is no dispute on this between both sides. Both sides have agreed these are American citizens.

Now, what do you do with the child who is an American citizen? The child cannot receive benefits except through the parent. There is no other way. You do not give benefits directly to children.

Accordingly, the bill as presently presented and without the amendment of the gentlewoman from New York would constitute a violation of the 14th amendment. It would deny to some citizens, on the basis of nothing they have done wrong, benefits to which other citizens are entitled.

Mr. Chairman, it is unconstitutional; we must vote against this policy and for this amendment.

Mr. GALLEGLY. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. SMITH], the chairman of our subcommittee.

(Mr. SMITH of Texas asked and was given permission to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to the amendment.

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

Mr. BILBRAY. Mr. Chairman, I would ask, as I listened to my colleague from California, that my colleagues from all over the country recognize that for those of us that operated public assistance programs locally, this law, this amendment, is an amendment to mandate welfare fraud. You do not understand this. Let me correct you.

The fact here is if this mandate passes, you have somebody who is illegally in the country, who will be getting a public assistance payment only for their child; and the Federal law says that it is illegal for that person to work, it is illegal for that person to be in the country, and it is illegal for the parent to use the welfare check to support themselves.

This is what we run into in southern California many times. You have parents of legal citizens who are taking checks. It is illegal for them to work, it is illegal to support themselves with the check, and that, Mr. Chairman, is why in one study we found 75 percent fraud in this category, and the rest of it basically is obviously fraud because it is a catch-22.

So you are in a situation that when you say you are going to give illegal aliens public assistance funds for their children, you are de facto either giving them money to support themselves in violation of the welfare law, or you are condoning the fact that they are working in violation of the law. They are not declaring income, which is a violation of their welfare status for their child. So what we have is a catch-22 in an absurd situation.

I know theoretically for the lawyers and the rest of them this thing should be handled a certain way. But I am telling you in practical application, common sense says that we should not have a Federal law that mandates fraud, and this amendment would encourage us to go back to a system that mandates welfare fraud.

Mr. Chairman, I ask that the amendment be defeated.

Mr. GALLEGLY. Mr. Chairman, I yield 1½ minutes to the gentleman from San Diego, CA, Mr. CUNNINGHAM.

Mr. CUNNINGHAM. Mr. Chairman, I would say to my friend from California, this is a system that is working backwards. We spend millions and millions of dollars in border patrol and INS and signs at the border saying "Do not come across." It is illegal to cross into this country illegally. It is illegal. But yet once they get here, we say once you have run that gauntlet, we are going to give you all kinds of services. That is an oxymoron in itself.

The American public is saying that we want a priority, we want a priority on American citizens for limited dollars, and our deficits are going up. We want priority on those that are legally immigrating into this country, that those services are being taken away from. We want priority for our chronologically gifted people, because they are taken away from Medicaid dollars and they are taken away from welfare dollars we are trying to get down to help those people.

It is working backward, and we are saying that has got to come to a stop. Illegals, if we can identify who they are, then we ought to give them a ticket out of here, out of this country. We ought to stop them at the border. If they are illegal in this country, I do not care if they are from China or Ireland, my national heritage, or whatever country, they ought to go back. The only thing they deserve is a ticket out of here.

Ms. VELÁZQUEZ. Mr. Chairman, I yield myself 10 seconds.

Mr. Chairman, this is not about undocumented aliens, this is about children. How do we value American children?

Mr. Chairman, I yield 1 minute to the gentleman from California, Mr. BERMAN.

Mr. BERMAN. Mr. Chairman, I thank the gentlewoman for yielding me time.

Mr. Chairman, I would just like to follow up on the points made by the two gentlemen from San Diego. First of all, as to the comments by the gentleman from California [Mr. BILBRAY], in theory there is a great deal of validity to what the gentleman says. But the notion that undocumented aliens, illegal aliens, are not here in this country working, is a fiction, because employer sanctions in their present state without verification is a fiction. So the notion that everyone who is here undocumented has children on AFDC is nonsense, pure nonsense. The GAO reported back in 1992 that 2 percent of the funds are going to the children of undocumented aliens, two percent of the funds. That puts it in perspective.

Remember what the gentleman from California [Mr. CAMPBELL] said. If you want to get to this issue, propose a constitutional amendment to change the 14th amendment. Do not create a big government, cumbersome, guardian process to deny U.S. citizens their rights. Change the Constitution which makes them citizens. I will fight it with every ounce of my energy, but that is the honest way to go.

Mr. GALLEGLY. Mr. Chairman, I yield myself 15 seconds to respond to the remarks of the gentlewoman from New York, when she said this was not about illegal aliens, it was about children. That could be the furthest thing from the truth. This provision does one thing and one thing only: It denies anyone illegally in this country from being paid directly a check from the Federal Government. It says nothing about children; only that an illegal alien cannot receive a check.

Ms. VELAZQUEZ. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Chairman, I thank the gentlewoman for yielding me time.

Mr. Chairman, to my good friend from California I would say again, I know we have talked about these issues many times, and I know he is very sincere and has legitimate concerns. But I must go along with what my colleague from California [Mr. CAMPBELL] said earlier, and again reiterate: There is a Constitution in this country, and thank God for it, because over the years we have found that it has held us in good stead. As much as there is a concern in having someone as an adult who is not legally in this country going in to receive a benefit for a child who is a U.S. citizen, I must say to you that ultimately the Constitution says if you have a citizen, there is an entitlement to a particular benefit, a particular protection, and we should not start attacking the Constitution.

If we are going to attack the Constitution, let us remember why we are attacking it. In this case we are attacking it because we are attacking children. In this Congress, when we get to the stage where we are going after kids and penalizing them for the sins of adults, I believe that we have not only sinned against the Constitution, but, quite honestly, we have forgotten what our task is as Members representing this country.

□ 1345

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

Mr. GALLEGLY. Mr. Chairman, I yield 1 minute to the gentleman from Georgia [Mr. DEAL].

Mr. DEAL of Georgia. Mr. Chairman, I think this debate highlights the fact that we have a serious problem in this country in terms of those who come into the country, give birth to children and citizenship being granted upon that birth and, obviously, it will require apparently a constitutional amendment. I think this highlights the necessity for that.

I think we have all seen situations in which we have heard the traditional description of bootstrapping your way into a benefit. This is booty-strapping. This is a situation in which, by virtue of the act of illegal entry on the part of a parent, the birth of the child gives the right to benefits from the taxpayers' coffers.

I rise in opposition to this amendment, and I think that it does highlight the fact that we have a situation of rewarding those who would violate our immigration laws.

I thank the gentleman for yielding time to me.

Mr. GALLEGLY. Mr. Chairman, I yield 30 second to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I must oppose the Velázquez amendment. This is under the category of if only the American people understood. With budget costs out of control, with so many American citizens not getting the benefits for which they logically and rightfully qualify, we have no alternative but to cut off these welfare payments. Besides, the law is the law. We define legal and illegal, then we should apply the law.

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

Mr. GALLEGLY. I yield 1 minute to the gentleman from California [Mr. CALVERT].

Mr. CALVERT. Mr. Chairman, I agree with my colleague, the gentleman from California [Mr. BERMAN]. We do need a verification for employers, and we will be voting on that later today. But in the meantime, we make decisions here to cut spending both nationally and locally on programs that are important to all American citizens in this country. Now we have an amendment to pay tax dollars to people who have entered this country illegally. All I can say, Mr. Chairman, that is wrong, and we should oppose this amendment as it comes forward.

Ms. VELAZQUEZ. Mr. Chairman, I yield myself the balance of my time.

We have heard the opposition claim that section 607 of the bill will keep illegal immigrants from receiving benefits. But current law already does that. The only thing that this section can claim to do is violate the Constitution and hurt children.

If what Members want to do is to deny benefits to kids, then amend the Constitution, then say that. If we here in Congress are concerned about our children and committed to protecting family values, then vote yes on this amendment and protect the right of American children.

Mr. GALLEGLY. Mr. Chairman, I yield myself the balance of my time.

In closing, I would just like to say there have been a lot of things said here in the past few minutes, but, very simply put, this issue is very straightforward. The issue simply put is that we, as U.S. taxpayers, should not be using our Federal dollars to reward those that have illegally come to this country, broken the laws, and reward them with a welfare check.

Mr. Chairman, I ask my colleagues to join me in strongly opposing this amendment that would provide welfare benefits to those that have broken the law and illegally come to this country. Please vote no on this amendment and put sanity back into the bill where it was passed out of the full committee.

Ms. PELOSI. Mr. Chairman, I rise in support of the amendment by Representatives VELÁZQUEZ and ROYBAL-ALLARD, which would strike provisions in this bill prohibiting legal immigrant and citizens children from obtaining Government assistance through their parents if their parents are ineligible for benefits.

This provision is mean-spirited, unnecessary, and does nothing to advance immigration enforcement efforts. It also violate constitutional rights. Children born in the United States are entitled to equal protection under the law. Preventing U.S. citizens from obtaining benefits because their parents are ineligible violates equal protection laws.

This provision would necessitate State and local governments implementing a complex guardian system for children who already have capable, competent, and loving parents. This provision would not save money or improve enforcement efforts. The only purpose it would serve is a political one—making needy and hungry children an example because of the immigration status of their parents.

Children should not be held responsible in this debate. I urge my colleague to vote for the Velázquez/Roybal-Allard amendment and strike this provision from the bill.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentlewoman from New York [Ms. VELÁZQUEZ].

The question was taken; and the Chairman announced that the noes appeared to have it.

Ms. VELAZQUEZ. Mr. Chairman, I demand a recorded vote and, pending that, I make a point of order that a quorum is not present.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentlewoman from New York [Ms. VELÁZQUEZ], will be postponed.

The point of order of no quorum is considered withdrawn.

It is now in order to consider amendment No. 10 printed in part 2 of House Report 104-483.

AMENDMENT OFFERED BY MR. GALLEGLY

Mr. GALLEGLY. 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. GALLEGLY: At the end of subtitle A of title VI insert the following new part:

PART 3—PUBLIC EDUCATION BENEFITS

SEC. 615. AUTHORIZING STATES TO DENY PUBLIC EDUCATION BENEFITS TO ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by adding at the end the following new title:

"TITLE VI—DISQUALIFICATION OF ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES FROM CERTAIN PROGRAM

"CONGRESSIONAL POLICY REGARDING INELIGIBILITY OF ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES FOR PUBLIC EDUCATION BENEFITS

"SEC. 601. (a) Because Congress views that the right to a free public education for aliens who are not lawfully present in the United States promotes violations of the immigration laws and because such a free public education for such aliens creates a significant burden on States' economies and depletes States' limited educational resources, Congress declares it to be the policy of the United States that—

"(1) aliens who are not lawfully present in the United States not be entitled to public education benefits in the same manner as United States citizens and lawful resident aliens; and

"(2) States should not be obligated to provide public education benefits to aliens who are not lawfully present in the United States.

"(b) Nothing in this section shall be construed as expressing any statement of Federal policy with regard to—

"(1) aliens who are lawfully present in the United States, or

"(2) benefits other than public education benefits provided under State law.

"AUTHORITY OF STATES

"SEC. 602. (a) In order to carry out the policies described in section 601, each State may provide that an alien who is not lawfully present in the United States is not eligible for public education benefits in the State or, at the option of the State, may be treated as a non-resident of the State for purposes of provision of such benefits.

"(b) For purposes of subsection (a), an individual shall be considered to be not lawfully present in the United States unless the individual (or, in the case of an individual who is a child, another on the child's behalf)—

"(1) declares in writing under penalty of perjury that the individual (or child) is a citizen or national of United States and (if required by a State) presents evidence of United States citizenship or nationality; or

"(2)(A) declares in writing under penalty of perjury that the individual (or child) is not a citizen or national of the United States but is lawfully present in the United States, and

"(B) presents either—

"(i) alien registration documentation or other proof of immigration registration from the Service, or

"(ii) such other documents as the State determines constitutes reasonable evidence indicating that the individual (or child) is lawfully present in the United States.

If the documentation described in paragraph (2)(B)(i) is presented, the State may (at its option) verify with the Service the alien's immigration status through a system described in section 1137(d)(3) of the Social Security Act (42 U.S.C. 1320b-7(d)(3)).

"(c) If a State denies public education benefits under this section with respect to an

alien, the State shall provide the alien with an opportunity for a fair hearing to establish that the alien is lawfully present in the United States, consistent with subsection (b) and Federal immigration law.".

(b) CLERICAL AMENDMENT.—The table of contents of such Act is amended by adding at the end the following new items:

"TITLE VI—DISQUALIFICATION OF ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES FROM CERTAIN PROGRAM

"Sec. 601. Congressional policy regarding ineligibility of aliens not lawfully present in the United States for public education benefits.

"Sec. 602. Authority of States.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of the date of the enactment of this Act.

The CHAIRMAN. Pursuant to the rule, the gentleman from California, [Mr. GALLEGLY], and a Member opposed, each will be recognized for 15 minutes.

The Chair recognizes the gentleman from California [Mr. GALLEGLY].

Mr. BECERRA. Mr. Chairman, I ask unanimous consent that we add an additional 20 minutes total time to the debate on this particular amendment, 10 minutes split evenly between those in support and those in opposition to the amendment. I do so in recognition of the fact that we have numerous speakers, too many to be accommodated with only the 10 minutes that are available.

The CHAIRMAN. The gentleman's unanimous-consent request is to extend the debate by 20 minutes to be split evenly by each side, therefore making debate time on each side 25 minutes; is that correct?

Mr. BECERRA. That is correct, Mr. Chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. GALLEGLY. Reserving the right to object, Mr. Chairman, I am not sure what the policy is, and I would ask for a parliamentary ruling. Is a unanimous-consent request in order for the purpose of extending the time period?

The CHAIRMAN. A unanimous-consent request is in order as long as the time would apply equally to each side.

Mr. GALLEGLY. Understanding that, Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The gentleman from California [Mr. GALLEGLY], and a Member opposed, each will be recognized for 25 minutes.

The Chair recognizes the gentleman from California [Mr. GALLEGLY].

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

Mr. Chairman, I believe that most of my colleagues here share my view that the Nation's education system is in crisis. Classrooms are overcrowded. Teachers are in many cases overburdened and resources are in short supply. Experts in the field agree that we are barely able to provide a basic education to American students today.

We know that there is a problem, but the body has historically refused to acknowledge the devastating effect of illegal immigration on our education system. This amendment would change that by giving States the option of denying free taxpayer-funded education to those with no legal right to be in this country. Last year, more than 40,000 Pell grants worth a combined $70 million were awarded to illegal immigrants. It is estimated that California alone spends more than $2 billion each year to educate illegal immigrants at the primary, secondary, and post-secondary level. New York spends $634 million; Florida, $424 million; Texas, $419 million.

Mr. Chairman, the list goes on and on, but the dollars and cents are only part of the story. Equally important is the fact that illegal immigrants in our classrooms are having an extremely detrimental effect on the quality of education we are able to provide to the legal residents. When illegal immigrants sit down in public school classrooms, the desk, textbooks, blackboards in effect become stolen property, stolen from the students rightfully entitled to those resources.

I want to be very clear here. This amendment does not apply to the children of illegal immigrant who were born in this country and instantly became citizens under the 14th amendment to our Constitution. My amendment applies only to those who have themselves illegally entered this country or who have entered legally and then remained beyond the valid terms of their visa. In its 1982 decision in the case of Plyeler versus Doe, the Supreme Court ruled by 5 to 4 that States were required to provide a free education to all students, regardless of their legal status under the equal protection clause to the Constitution.

Many of my friends who oppose this amendment will invoke this constitutional mandate as justification for their opposition. But something that the defenders of the status quo ignore is that in the 1982 decision the court also ruled that Congress had failed to do its job. In the court's majority opinion, Justice William Brennan said Congress shared some responsibility for illegal immigrants occupying public schools. He wrote:

> Faced with an equal protection challenge respecting the treatment of aliens, we agree that the courts must be attentive to the congressional policy. The exercise of congressional power might well affect the States' prerogatives to afford differential treatment to a particular class of alien.

Today the House takes up Justice Brennan on this invitation and exercises that power. Some will argue that we have a responsibility to educate illegal immigrants simply by virtue of the fact that they have successfully broken into our country. My feeling is that an act of geography is not the same as an act of jurisprudence. Just because someone has busted through the front door, that does not entitle them to the contents of your home.

The promise of free education is only one of the magnets we hold up to those who would break our laws by violating our borders. It is clear to me that any solution to our immigration crisis must include an elimination of such incentives. Allowing our States to make their own decision on this education serves this purpose.

Mr. Chairman, this amendment has received strong endorsement of the Republican Governors Association, National Taxpayers Union and many others.

Mr. Chairman, illegal immigrants belong back in their countries of origin, and we should do everything possible to encourage them to embrace that simple truth. I encourage my colleagues to support this amendment.

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. BRYANT of Texas asked and was given permission to revise and extend his remarks.)

Mr. BRYANT of Texas. Mr. Chairman, as stated earlier when we debated the Bryant of Tennessee amendment, there have been two areas which we have always excepted from our hardline approach to trying to deal with the question of illegal immigrants. Those have been emergency room care and education of children. We have always done that.

It would be a tragedy if the Gallegly amendment were added to this immigration bill. We have tried to write a bill that deals constructively with the problems facing the country, that leaves off the extremes of the right or the left. This is one of the extremes of the right. This is a proposition 187 type proposal. It is not in the interest of the American people. It is not in the interest of our future as a country. It is absolutely illegal.

Mr. Chairman, the fact of the matter is that for good reasons the Supreme Court ruled a long time ago that we will not visit the sins of the father and the mother upon the children when it comes to the question of education. This bill should not contain a provision that does this even if it were constitutional, but it is not constitutional. It will not save anybody any money.

Bear in mind that, in order to implement the Gallegly proposal to let States deny education to little children who have no responsibility for their status at all, would mean that the schools would have to document the immigration status of every student in order to know which of those are in an undocumented status. The school systems do not have the money or the time to do this. The obvious impact on them is one that they do not welcome and do not need, and it is not in our interest.

Why would we want a population of children to be in this country not in school? What will they be doing if they were not in school? Well, certainly nothing that we want them to be doing.

This promotion of ignorance on the part of any category of immigrants is an outrage. These are children. We have exempted them from the efforts that we have made over the years to try to deal with illegal immigration, starting back in 1986. We should continue to do so.

Mr. Chairman, I want a tough illegal immigration bill. I am the cosponsor of this bill. But do not add these kinds of amendments that are unreasonable, illegal and not in the interest of the public.

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

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Mr. GALLEGLY. Mr. Chairman, 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 rise in strong support of the Gallegly amendment giving States the option of denying public education to illegal aliens.

As many of you know, in 1982 the Supreme Court ruled in Plyler versus Doe that, based on the 14th amendment to the Constitution which makes anyone born in the United States a citizen, illegal alien children are entitled to a public and secondary education. This has proved to be a powerful magnet or open invitation, if my colleagues will, to break the laws of this country.

However, last November, in ruling against California's proposition 187 which allowed California to deny public benefits to illegal aliens, a Federal judge said that the authority to regulate immigration belongs exclusively to the Federal Government. In other words, in the absence of Federal action, the State must provide public benefits, including education, to illegal aliens.

This amendment is entirely consistent with this decision. Through congressional action, each State would be able to decide whether or not it wants to divert resources away from educating the children of its hard-working taxpayers.

In the case of New Jersey, if the State chose this option this would mean having an additional $150 million available to improve public education for the State's children of taxpaying citizens. These are the people who are paying taxes to fund State and local education services. Unfortunately, the additional $150 million that could be going toward improvement in school programs and infrastructure to better our children's education is instead being spent on the children of illegal aliens. This is just plain wrong. Add to this the fact that New Jersey is straining to provide a change in funding that is putting in direct competition urban, suburban, and rural school systems. We can not further strain our resources and community support by demanding that the children of illegals are being educated.

And, if a State is found to be in violation of the Constitution by denying public education to these children, then I would suggest that it might be time to explore a constitutional remedy to correct this problem.

Again, this comes under the category that If only the American public knew they would opt for this choice.

The Supreme Court made the wrong decision 14 years ago. The bottomline is that we are talking about illegal aliens, and they are not entitled to hard-working American taxpayer money when there is not even enough money to go around for the taxpayer.

Give States the option. Support the Gallegly amendment.

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

Mr. BEILENSON. Mr. Chairman, I thank my friend for yielding this time to me.

I rise in opposition to the amendment offered by the gentleman from California [Mr. GALLEGLY].

With respect to illegal immigration, if I may say so, there are very few areas where the gentleman from California [Mr. GALLEGLY] and I disagree. We have worked together for several years on many of the issues that are addressed in this bill, but denying public education to the children of illegal immigrants would, in my opinion, be an ineffective and overly punitive way to try to stem the flow of illegal immigrants into this country.

Let me make two brief points about the amendment. First, the provisions of the bill itself, if enacted, will go a long way toward stopping illegal immigration at the border, and, even more importantly, reducing the lure of job opportunities. The denial of access of education for children here illegally, children who have not chosen themselves to break our laws, will not act as a further disincentive for illegal immigration. People cross our borders illegally in search of employment. The fact that they bring their children along is usually incidental.

Furthermore, supporters of this proposal often mention the cost to our school systems, and, of course, they, are substantial. But the societal costs, Mr. Chairman, of allowing States to deny public education to children are even greater. Such a policy would contribute to crime, to illiteracy, to ignorance, to discrimination. It would clearly run counter to the long-term interests of American communities and American society. Denying an education to any child, I think, is unwise and inhumane.

A second point is about this bill in general. Our colleagues from Texas, Mr. SMITH and Mr. BRYANT, have done an outstanding job in managing a fragile bipartisan coalition in support of H.R. 2202. In addition, there are many of us on both sides of the aisle who have worked long and hard for legislation that deals thoughtfully with the problem of illegal immigration. It also makes meaningful reforms in our legal immigration system.

However, adoption of this amendment would make it very difficult for Members on both sides of the aisle who would otherwise do so to support this bill and, therefore, I think would seriously jeopardize our goal of passing substantial immigration reform legislation this year.

Mr. Chairman, for those reasons I ask our colleagues to oppose this amendment.

Mr. GALLEGLY. Mr. Chairman, may I inquire as to the remaining time on both sides?

The CHAIRMAN. The gentleman from California [Mr. GALLEGLY] has 19 minutes remaining, and the gentleman from Texas [Mr. BRYANT] has 21 minutes remaining.

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

Mr. ROHRABACHER. Mr. Chairman, we are talking about the United States, the people of the United States, spending $2 billion to educate illegal aliens just in California, $634 million just in New York, $424 million in Florida, and $419 million in Texas. We are talking about $70 million worth of Pell grants being given to illegal alien children.

Whose children do we care about? Why are we here? Who are we representing? We are supposed to care about the people of the United States of America. All of these children are wonderful children who have been brought here by illegal aliens. We care about them. But we have to care about our own kids first.

That is what this debate is all about. That is why we could never get through any illegal immigration legislation when the Democrats were in control of this body. We care about our children first, and we have no apologies about it. If we keep educating everybody in the world who can sneak across our border and bring their families, anybody who cares about their children throughout the entire planet will do everything they can possibly do to get their kids into our country, and who can blame them?

Mr. Chairman, they are wonderful people, they care about their children. We cannot afford to spend all of these billions of dollars, when our own education system is going broke, on educating the children of other people who are not citizens of the United States and have come here illegally. It makes no sense.

This amendment that the gentleman from California [Mr. GALLEGLY] is offering, is a salvation to Americans who want their kids educated, and know that their local communities are lacking the dollars to do so.

What makes sense; to keep subsidizing this education of illegal alien children and having more and more and more children come from all over the world? That makes no sense at all. Let us protect the people of the United States of America. Let us protect our own families and our own children. Let us educate those kids. Let us not spend all of our money on illegal aliens' children and then attract more and more here until our system totally breaks down.

Mr. Chairman, I support the amendment offered by the gentleman from California [Mr. GALLEGLY] wholeheartedly.

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

Mr. CAMPBELL. Mr. Chairman, if we have illegal children and illegal families in this country, it is our duty to deport the family and deport those who came here illegally. If we do not do that because we have not devoted enough resources to immigration and naturalization, then at the very least we should not impose the cost upon our States. It is a Federal failure that has led to this influx, and the Federal Government owes the States its support. But if both of these have not occurred, and that is the case today, we are left with children in this country.

Now in that world it is far better that those children be educated and be in school than that they be on a street corner or in a gang. The first best preferred outcome is, of course, that those who came here illegally be returned to the country of their origin with their children, and that would be constitutional to do because the children are under the custody of the parent. But we do not have the resources to do that. This bill does not give us the resources to do that. We are not hiring INS agents to expel every illegal family that is here.

So, Mr. Chairman, I put to my colleagues the essential tradeoff. Is it better to have such children in school, or kept out of school at the risk that their parents would be turned in to the Immigration and Naturalization Service? Are there gangs in Los Angeles waiting to recruit such children? Are there gangs in San Jose willing to recruit such children? Are there gangs in San Francisco and every major city of my State of California? Of course there are. If these children are here, we must educate them rather than have them be recruited, if those are our options.

Finally, I want to compliment the author of this bill, the gentleman from Texas [Mr. SMITH]. In the structure and fabric of his bill he exempted Head Start and school lunch programs. I surely appreciate his doing so, and he did it because he realized the importance of not having the termination of Federal programs that apply to education.

Mr. Chairman, it is inconsistent with the fabric of this bill to adopt the Gallegly amendment. With reluctance, because of my high regard for the author, I urge a "no" vote on the Gallegly amendment.

Mr. GALLEGLY. Mr. Chairman, I yield myself 15 brief seconds to respond to a couple comments of the gentleman from California [Mr. CAMPBELL].

Mr. Chairman, the gentleman from California said far better to have the children in school than out in the streets and gangs. I could not agree with him more. He says that we do not have the resources, the financial resources, to incarcerate or deport these children. I would say, if we have the resources to educate, we should have the resources to deport.

Mr. Chairman, I yield 1 minute to the gentleman from San Diego [Mr. BILBRAY].

Mr. BILBRAY. Mr. Chairman, I would like to comment to my colleague from California, too. We will hear the business community say that if the illegals are here, it is better if they have a job than to just be hanging around unemployed, and so there are always excuses for encouraging the violation of immigration law.

Mr. Chairman, my high school, Mara Vista, had many people coming to it that lived in Mexico, crossed the border and came to our high school. That was against the law, and it is against the law. But the absurdity of the Federal system, if we do not approve this amendment, is that it will be illegal to come into the country legally and go to a public school, but it will be legal to enter the country illegally, and then they have a guaranteed right to go to public education, and this is a $1.5 billion price tag to the people of California.

Let me remind our colleagues, Mr. Chairman, this is not an issue that affects the rich, white people of this country. This is an issue that hits the school districts of the working class in this country. It is something that disproportionately is being placed on the working class school districts, and the Federal Government wants to put this mandate on and pay for the mandate totally. Do not ask the working class of this country to bear this responsibility.

Mr. BRYANT of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Missouri [Mr. CLAY].

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

Mr. CLAY. Mr. Chairman, I rise to oppose this amendment because it is unconstitutional, runs counter to our Nation's commitment to the value of education, and is morally repugnant.

First, it violates the equal protection clause by granting States the option of denying undocumented children the same rights to a public education extended to other children residing in their States history documents the idiocy of challenging the constitutional and moral right of children to a free public education?

Second, 2 years ago, when the Congress reauthorized the elementary and secondary education act, we inserted the following statement of principle into that law:

That a high-quality education for all individuals and a fair and equitable opportunity to obtain that education are a societal good, are a moral imperative, and improve the life of every individual, because the quality of our individual lives ultimately depends on the quality of the lives of others.

We did not qualify that principled position. We did not say that it applied to some children, and not to others; we did not say that it did not apply to undocumented children. We applied that statement to all individuals.

Finally, Mr. Chairman there is no moral currency in denying undocumented children an education. We have no right to use education as a tool to enforce our immigration laws. All we will succeed in doing is punishing innocent children for the transgressions of their parents. We have no right to impose responsibility for enforcement of our immigration laws on our schools. All we will succeed in doing is turning our teachers into de facto INS agents. We have to no right to point fingers at children and block their entrance to the schoolhouse. All we will succeed in doing is stigmatizing children and encouraging negative behavior.

In defense of our Constitution and our values, and for the sake of humanity and compassion, I urge my colleagues to oppose the Gallegly amendment.

Mr. GALLEGLY. Mr. Chairman, I yield 2 minutes to the gentleman from San Diego, California [Mr. CUNNINGHAM], the distinguished chairman of the Subcommittee on Education that deals with our elementary education K through 12, who has been long-time committed to education.

Mr. CUNNINGHAM. Mr. Chairman, the teachers in San Diego County just recently went through a strike, and I think up in Santa Barbara they are going through a strike also. We have times when our State Colleges have to increase their tuition costs, and we look at less than 12 percent of the schools in this Nation have got a single phone jack, whey we are trying to proceed into the 21st century and do what the President says, which I support, is getting the fiber optics and the computers and high-technology education into the system.

But quite often, when they argue for higher pay or classroom upgrades or even bond elections to extend taxes, they do not look and see why they do not have the dollars available. There are, just in the State of California, 800,000, 800,000 illegal children in our school system K through 12.

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Take just half of that, just half, 400,000. At $5,000 each to educate a child, and of course in New York it is much higher than that, that is $2 billion a year. Take 5 years, that is $10

billion with which we could upgrade all of our schools in California, we could pay teachers, we could hold down the cost of tuition. The school meals program, take two meals, not three. That is $1 million a day for illegals.

Mr. Chairman, the vote, the very famous ruling by the Supreme Court, was based on a decision because Congress did not have a position on illegal immigration. What we are saying is that as of today, when this bill passes, we will have the congressional response for that court decision, and we prioritize American citizens and those that are coming into this country legally, and I think that ought to be the priority, not illegals.

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

Mr. Chairman, I would simply like to ask, we do not accept the figures offered by the gentleman from California [Mr. CUNNINGHAM], and I dispute them, but assuming that they were true, what would those kids be doing if they were not in school? Would they be on the streets, joining up in gangs, just withering away? How is that in the interests of the country?

Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida [Ms. ROS-LEHTINEN].

Ms. ROS-LEHTINEN. Mr. Chairman, I thank the gentleman for yielding time to me, and I thank the chairman of the committee.

Mr. Chairman, as all of us know, a free public education is a hallmark of our American society. It is, indeed, an essential ingredient in the foundation of our diverse, and, yes, inclusive democracy. The Gallegly amendment would seek to deny a number of our children the opportunity to go to a free public education system. Why? Because their parents made a choice on behalf of their children. But the children did not choose to be in the United States illegally. They do not deserve, therefore, to be punished for the actions of their parents.

The assumption here, Mr. Chairman, is that there is a financial burden to the schools for having illegals in our system, but I would counter that the cost to us as a nation would be far greater by excluding these children from our schools. Schools would then assume a law enforcement burden that is both costly and counterproductive.

These children will not leave the United States simply because they are not in school. They will be, as all of our speakers pointed out, on the streets, joining gangs, left at home alone, for there is a price to be paid in terms of community health and community well-being, not to mention the harm to the children themselves.

Mr. Chairman, I urge my colleagues to reject this mean-spirited attempt that will hold children responsible for their parents' actions. They are the innocent ones in this battle. Let us not punish them for something they cannot control.

Mr. GALLEGLY. Mr. Chairman, I yield myself 30 seconds to respond to a couple of comments that the gentlewoman made.

First of all, the gentlewoman is a friend of mine, and I take some personal dissatisfaction with a comment made, "mean-spirited." As a parent of four and as someone who is a product of the city school system in Los Angeles, I am a strong supporter of public education.

But one of the comments that she made was that these people were not participants in the decisionmaking process. I would submit to her that there were 40,000 adults that came to this country last year, illegally to this country, and received Pell grants that cost this country $70 billion. That was a decision they made, not their parents.

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

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

Mr. GENE GREEN of Texas. Mr. Chairman, I thank my colleague, the gentleman from Texas, for yielding time to me.

Mr. Chairman, the concern I have about this amendment is the way it is drawn and the actual application when it is out in the schools. This amendment, I think, could create a violation of the Constitution, specifically the 5th and 14th amendments, and the equal protection. I think it sets up a good equal protection argument, that it gives the States the ability to decide, whether it is in Texas or California, New Mexico or Arizona. It think we would see that come back to the Supreme Court, and they would probably rule the same way they did on an earlier Texas case. The amendment would give the power of Congress to the States to decide whether they could deny that education to the children of illegals.

Mr. Chairman, the other concern I have is the procedure in the amendment. Again, I am trying to bring what we do on the floor down into what is going to happen into the Houston Independent School District, or the Alvin District, or any of the districts in the country.

A child may be a citizen, but their parents may be illegal. What is the procedure in this amendment to the affidavit that is going to be signed? Are the parents going to sign? That that child is entitled to an education because that child is a citizen, even though the parents may not be here legally. I think there are so many questions about this amendment that cause us concern. It would place an enormous burden on our educational system.

Mr. Chairman, we want teachers to be teaching. We want to take away some of the paperwork that is being required, not just by Federal law, but by State and local rules, and we want teachers to be teaching. What this amendment sets up is that our teachers would be doing more administrative work than they should be. We want them to be teaching those children, because those are the problems we have with public education. The education is done in the classroom, and that is where it should be. We do not punish our small children by taking away their ability to get education.

Mr. Chairman, I thank my colleague for yielding time to me.

Mr. GALLEGLY. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. DREIER].

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

Mr. DREIER. Mr. Chairman, I rise in strong support of the Gallegly amendment. I want to congratulate him for his hard work as chairman of the Speaker's task force on illegal immigration.

Mr. Chairman, there are many arguments that have been made very eloquently by a number of my colleagues in opposition to this. One of the points that has been made consistently by those who would oppose this amendment out in California is that as we look at people who have come into this country illegally, we have a choice of having them on the streets committing crime or in the classrooms; which would we rather have? Well, of course we do not want to have people on the streets committing crime. One of the major reasons that we are dealing with this legislation is to comprehensively reform, reform our law as it relates to illegal immigration.

We have amendments that I am pleased to say have passed and will go a long way toward dealing with that, but quite frankly, we need to recognize that this is not a mean-spirited amendment. This is an amendment that simply follows down the road that we have been pursuing over the past 15 months; that is, trying to allow State and local governments to have the opportunity to make decisions for themselves.

Clearly, the Plyler decision that was made in 1982 was a bad decision. I believe that as we look at this question, the cost that has been imposed by way of this unfunded Federal mandate on States has been overwhelming. The Urban Institute did a study for this administration. They found in looking at only seven States that the cost was over $3 billion.

We obviously want to have the best educated people. I suspect there will be more than a few States who, when this amendment passes and becomes law, will make the decision that they want to continue to provide education to those who have come into this country illegally, but we should not be forcing them, through an unfunded Federal mandate, to do that. Unfortunately, that is what the Plyler decision has done. Fortunately, the gentleman from California [Mr. GALLEGLY], has been courageous enough to step forward and say that we need to make some kind of modification.

If we look at where we are headed, we are trying to decrease the magnet which draws people illegally into this country. There are a wide range of reasons they come in. Seeking family members, I remember the President of Mexico told me at one point, was the No. 1 reason; job opportunities, obviously, another very important reason. But the tremendous flow of government services is obviously another magnet which draws people illegally into this country.

We need to do what we can to encourage economic improvement, following President Kennedy's great line that a rising tide lifts all ships. We need to improve the economies of countries throughout this hemisphere, not through foreign aid but by engaging with them more through trade and other opportunities, so their economies will improve and people will not be encouraged to come across the border illegally. But if we continue to provide this magnet of more and more government service, we will be in a position where they will continue to flow.

Strongly, strongly support the Gallegly amendment. I hope my colleagues will jointly, in a bipartisan way, do it.

Mr. BRYANT of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I cannot believe what I just heard from the previous speaker. He referred to the problem of unfunded mandates. If he is so concerned about those unfunded mandates, why did he oppose my amendment in the Committee on Rules that would have required that for all refugees who come into this country, that the Federal Government assume the full cost of educating and training those refugees, rather than dumping those very same costs onto the local units of government?

I would also like to know why they refused to support the idea that we ought to have the Federal Government provide for the education costs, rather than dumping those costs, as we do now for legal refugees, onto the backs of local school districts. I know I am talking about legal refugees, as opposed to illegal immigrants, but the fact is every time a refugee is allowed into this country, that is a foreign policy decision made by the national Government. Why should local governments be stuck with meeting the costs of those foreign policy decisions?

Mr. GALLEGLY. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. GOODLATTE].

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

Mr. GOODLATTE. Mr. Chairman, I thank the gentleman from California for yielding me this time.

Mr. Chairman, one would think that we would not need an amendment like this in this bill. One would think that the law would already provide that if somebody is illegally in this country, they would not be entitled to receive Government benefits; that they would, instead, once known, be required to depart from the country.

Unfortunately, we have a court decision that makes it necessary to enact this amendment to make very clear the will of the Congress that when someone is unlawfully in the United States, they are not entitled to Government benefits except under certain emergency circumstances that this bill provides for; for example, with regard to emergency medical care.

Mr. Chairman, this is a situation where we have already put into this bill a very fine amendment offered by the gentleman from California [Mr. COX] that enables local law enforcement authorities to be designated by the Attorney General of the United States to assist in the apprehension and the deportation process of removing people who have entered this country illegally, or have entered this country legally and have overstayed their legal admission period, and therefore are not entitled to be in the country any longer.

That authority, giving to local governments the ability to remove people who are in the country improperly, would contradict an amendment that says that nonetheless, if they are here illegally, they would be entitled to free public education.

We need to have local government working hand in hand with the Federal Government, and we need to make sure that we do not have magnets that draw people to this country, and free public education, free health care, other welfare benefits, are exactly the kinds of things that attract people to the country and cause them to violate our laws in entering the country. So I strongly support the position offered by the gentleman from California [Mr. GALLEGLY], regarding this issue, and I thank him for his efforts.

Mr. BRYANT of Texas. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. LOFGREN].

Ms. LOFGREN. Mr. Chairman, putting aside the fact that this amendment appears to be unconstitutional, and also putting aside—for discussion purposes—whether it is good for our country to have an entire class of people who are likely to live here their whole lives who are uneducated, I would just like to mention those in my county that opposed this provision when we had this discussion in California a few years back: our Republican sheriff opposed it, our Republican district attorney opposed it, the police chief opposed it, and the Chamber of Commerce opposed it.

We know that most juvenile crime occurs between the hours of 3 p.m. and 6 p.m., when kids are out of school and their parents are still at work.

□ 1430

If we think we have trouble with juvenile crime now, try throwing several thousand kids out of school to hang around all day long and get into nothing but trouble. That is why our police chief opposes this. I urge Members to consider that aspect of this very ill-advised and, I would say, mean-spirited amendment.

Mr. GALLEGLY. Mr. Chairman, I yield 30 seconds to the gentleman from San Diego, California [Mr. BILBRAY].

Mr. BILBRAY. Mr. Chairman, in the San Diego Union there was an article a few months ago that really pointed out the problem here. That is, there was a woman from the interior of Mexico who had actually taken the time to write three letters to the school district to make sure that her children could get a public education in the United States even if they were illegal. She could not believe it, so she waited three times to get an answer back that says, "If I bring my children here, from Mexico, do I have to show they're legally here?" And they said, "No, you have no problem at all getting them educated in this country." I think that is the message we must stop sending.

Mr. BRYANT of Texas. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE].

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, I think it is important as we look at this particular amendment to really ask where the impact will be felt.

First of all, I am very proud of the leadership in the State of Texas that has chosen not to make a whipping boy out of the children of immigrants, legal or illegal. In essence, this amendment does that. It ignores the Plyler versus Doe decision of the Supreme Court that says making access to education dependent on immigration status is a violation of the equal protection clause. It clearly makes armed guards out of principals and teachers.

It also says that rather than investing in children who are here, this in some way is going to prevent illegal immigration. That is not correct. What it simply does is create an unfunded mandate by requiring local jurisdictions now to scratch their heads and ask the question, what do we do with these children who need education? Ban them?

This is a bad amendment. It is bad for the future of America, it is bad for those who believe in education, and it certainly is bad for those who have to provide education to children in their communities.

Mr. Chairman, I rise in opposition to the Gallegly amendment which would allow States the option of denying education benefits to undocumented children. This amendment is unconstitutional. It is a direct attack on Plyer versus Doe, the Supreme Court decision which said that making access to education dependent on immigration status is a violation of the equal protection clause.

This amendment runs counter to the goals of American public education. Any State that

makes access to education dependent on immigration status would remove school employees from their traditional role as educators and turn them into quasi-INS agents. Financially strapped schools would be forced to shift scarce resources from teachers, books, and infrastructure to the training of school personnel and enforcement costs.

The Gallegly amendment unfairly punishes undocumented children for the actions of their parents. Denying children access to education will create an underclass of illiterate, uneducated individuals, at a moment when America needs a skilled work force to compete in the global economy. Ultimately, it makes more sense to have children in the classroom rather than on the streets.

The goal of American public education is to impart the values of democracy such as equal opportunity and justice for all people, and a respect for your neighbor, no matter what his or her ethnicity, race, or religion. Public education prepares our young people to become productive citizens and mature adults.

As a nation, we must turn our attentions to strengthening our public education system and making it work better for our children. Instead, we are debating an amendment which seeks to restrict the access to education for children who are already in this country.

The Gallegly amendment would create an atmosphere of suspicion and hostility in our schools. Our schools are intended to have a climate conducive to open minds and learning. This amendment however, promotes an atmosphere of animosity toward children who look or sound foreign.

I urge my colleagues to vote against this amendment, which does nothing to control undocumented immigration. The Gallegly amendment is unconstitutional, but we must not allow it to pass and wait for the Supreme Court to strike it down as such. We cannot, in good conscience, deny young people the opportunity to learn. I believe that we all know in our hearts that this amendment is unfair and that it violates our sense of justice. Thank you, Mr. Speaker, and I reserve the balance of my time.

Mr. GALLEGLY. Mr. Chairman, I yield myself 15 seconds for a clarification.

The point that needs to be made, that has not been made so far, is that this amendment does not deny educational benefits to anyone. It does not require schools to do anything. It simply gives the State the discretion to decide whether it wants to continue to provide illegal aliens with a free public education at taxpayers' expense. Nothing less, nothing more.

Mr. Chairman, I yield 2 minutes to the gentleman from San Diego, CA [Mr. PACKARD].

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

Mr. PACKARD. Mr. Chairman, several points have been brought up that I think need to be addressed.

One, it is better that the children of illegals not go to gangs, better to have them in the classroom. The last thing that illegal children want to do is to be picked up and arrested, because they will be sent home and they do not want that. The vast majority of the gangs in this country are made up of citizen youth, not illegals.

Second, we ought to educate them so that they will be qualified to get a job. Illegals cannot legally work in this country. If we educate them, they still cannot work legally here in this country.

We have school buses going to the border in San Diego to pick up children that walk across the border and get on the buses to fill the classrooms. We already have classrooms that are overcrowded, oversized. We cannot get new textbooks. We cannot build new classrooms for those that are here legally.

Gov. Pete Wilson points out that the largest single fiscal burden to the California taxpayers is the mandate that States provide a public education to illegal children. Over 355,000 of them are educated in our schools at a cost of almost $2 billion. If we could put that into lowering classroom sizes and buying better and more modern textbooks and building facilities for our citizen children, then we would have less gangs from citizen children and we would not have to worry about the illegals.

I strongly support the Gallegly amendment and urge my colleagues to vote for it.

Mr. BRYANT of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. DIAZ-BALART].

Mr. DIAZ-BALART. Mr. Chairman, one of the most admirable characteristics about the United States is that our Nation distinguishes between the conduct of parents and their children. So many times I have seen in, for example, European countries, the children of immigrants in the streets because in those nations there is no distinguishing between the illegal conduct of their parents and the children.

We do not blame the children for the conduct of their parents. That, among other reasons, is why we are the moral leader of the world. I truly believe, Mr. Chairman, that we would be making a very grave mistake by adopting this amendment today, and that is why I have risen in opposition to it.

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

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

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

Mr. RICHARDSON. Mr. Chairman, this amendment would create more problems than it will ever solve.

At a time when juvenile violence is on the rise, this amendment would deprive a large group of children in our communities of the only thing that can keep them out of trouble, and that is an education.

This amendment will not save States money but it will pose a significant community health and safety hazard. Children thrown into the streets by this amendment will not simply disappear. They will be left with nothing to do during school hours, tempting them to pursue a host of noneducational activities. One can only imagine the possibilities.

In addition, depriving children of their fundamental human right to learn how to read and write will wreak havoc on their life. These future men and women will be incapable of performing the most basic public responsibilities and will be unable to contribute to the society at large.

Let us not fool ourselves. The money this amendment is trying to save by depriving kids of an education will have to be spent on more law enforcement, more incarceration and more rehabilitation. With this amendment, we are doing nothing more than just trading schools for prison, a policy wrought with problems.

Mr. Chairman, the author of this amendment is a very good Member of this body. But this is not the right approach. This is an amendment that does not strike at the core of the basic decency of our country. These are kids. They do not have lobbyists. They do not have those protecting them. This is not the right thing to do. We should reject this amendment.

Let us retain at least this basic element of education. This is what will teach these young men and women to be productive citizens, maybe not in this country but in the country that they came from.

Mr. Chairman, this is not a good amendment and it should be defeated.

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

Mr. GALLEGLY. Mr. Chairman, I have only one speaker remaining before closing. I do believe I have the right to chose; is that correct?

The CHAIRMAN. The gentleman from Texas [Mr. BYRANT] has the right to chose.

Mr. GALLEGLY. That being the case, Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. RIGGS].

PARLIAMENTARY INQUIRY

Mr. RIGGS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. RIGGS. Mr. Chairman, I would just like to confirm that the gentleman from California [Mr. GALLEGLY] as the offeror of the amendment has the right to close and is reserving the right to close.

The CHAIRMAN. The minority manager in this case is supporting the committee's position on the amendment and, therefore, has the right to close.

Mr. RIGGS. Mr. Chairman, I strongly support the Gallegly amendment which would reverse the Supreme Court Plyler versus Doe decision and permit the States to decide for themselves whether to provide a free public education to illegal aliens.

Those in this country without the knowledge or permission of our Federal, State and local governments take advantage of our public assistance programs. They do not pay into the tax base, and they actually defraud our

own taxpaying citizens of critical education, health and welfare assistance. I would simply point out that providing a free public education to illegal aliens cost California taxpayers $1.7 billion last year.

I strongly urge support of the Gallegly amendment. I would authorize States to put the needs of their own citizens above those of illegal aliens, and it is good, sound public policy.

Mr. Chairman, as we begin the debate on the Immigration in the National Interest Act, I want to bring to your attention an amendment that my colleague from California, [Mr. GALLEGLY] will be offering. Other members of the California delegation and I strongly support this amendment.

Our amendment is fashioned after California's widely supported proposition 187, which received 59 percent of the vote on November 7, 1994. It will allow States the option of not providing illegal aliens with a free public education in much the same way that they are currently not obligated to do so for residents of other States. This will remove a substantial incentive for illegal aliens to come to this country. Most importantly, it will allow the States to spend very limited educational dollars on its own citizens and legal residents.

The widespread support for proposition 187 is only one manifestation of a new social climate across the Nation. This new attitude demands accountability from Federal, State, and local governments. It recognizes the inability of government to pay for many public services. Illegal immigrants have been identified as major contributors to the demands placed on these public programs, and thus to the budget deficits facing several States and localities.

In the 1982 court case of, Plyler versus Doe, the Supreme Court ruled against the State of Texas, saying that there was nothing in Federal law authorizing denial of educational benefits to illegal immigrants.

The Gallegly amendment would overturn this Supreme Court decision and permit States to mirror Federal law, denying illegal aliens a free public education. It would eliminate one of the more egregious of border magnets: free public education.

The issue, Mr. Chairman, is whether States have the right to decide for themselves whether or not to provide a free public education to illegal aliens.

Those in this country without the knowledge of or permission from our Federal, State of local governments, take advantage of our public assistance programs. Illegal immigrants defraud our own taxpaying citizens of critical education, health and welfare assistance.

Our amendment would provide Federal affirmation of the States' right to deny a free public education. It would authorize States to put the needs of its own citizens above those of illegal aliens.

We must end the free lunch for illegal immigrants. Unlike citizens or legal aliens, they do not pay into the tax base and, therefore, have no right to claim any public education benefits.

States which are already struggling with tight budgets, are forced, by Federal mandate, to spend billions of dollars each year educating illegal aliens while basic services for U.S. citizens and legal immigrants are being reduced or eliminated. It is time that this Federal Government removes this huge unfunded mandate on the States.

In the seven States most heavily impacted, education benefits for illegal immigrants are costing taxpayers over $3.5 billion annually—not including the cost of higher education or adult education.

California alone is home to 1.7 million illegal immigrants—43 percent of the Nation's total. It will cost California over $2.9 billion to provide federally mandated services to these illegal immigrants: including $563 million for incarceration costs, $395 million for health cost, and $1.8 billion for fiscal year 1996 for education. Imagine the cost to our taxpayers by the year 2000.

To illustrate my point, let's look at what we, in the State of California, could do for our own students with $2.9 billion.

We could hire 80,555 more teachers at an average annual salary of $36,000. We could significantly reduce class sizes, and we could infuse our public education system with more text books, computers and desperately needed classroom supplies.

By removing this mandate, we are ending a long-standing policy that encourages illegal immigration, bankrupts States and results in a less than quality education for our own children.

Let's remember, every dollar spent on educating illegal aliens is a dollar we don't spend on our own children. Every teaching hour spent on instruction for illegal immigrants is an hour lost to our own students.

A child must have access to a comprehensive basic education to give children a fighting chance at life. We must guarantee that right for our own children. The only way to ensure that right is to enable the States to make the most prudent fiscal decisions possible. Aliens who are in the United States illegally should not be entitled to receive any of the privileges or benefits of membership in American society. It is simply unfair to our citizens and legal residents. Poll after poll shows that American people are tired of footing the bill for those who are in the country illegally. The passage or proposition 187 in California, and other similar movements in Florida and Arizona are evidence of this.

The availability of public education benefits is one of the most powerful magnets for illegal aliens. As a matter of immigration policy, Congress must remove all of the incentives that lure illegal aliens to the United States—that means giving the States the right to deny public education benefits.

I urge this House to carefully consider the Gallegly amendment and vote in favor of it.

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

Mr. WILLIAMS. Mr. Chairman, not coming from a State that has a serious immigration problem, I have tried to listen and learn about this issue. I have been particularly intrigued by this amendment because I was a teacher before I came to Congress, will be a teacher after I leave, and have served on the Education Committee while I have been here.

It seems to me it is inherently wrong and the majority of the American people would not want to kick any kid out of school, including the child of parents who have illegally come to this country. But let us all understand something. The question here is not whether people can come to this country, be here illegally and then just stay, put their child in school, get all kinds of services from the government, from the taxpayer, and stay in this country. That is not at issue here. Families who are found to be here illegally are sent back. They are deported.

The question is, while we are finding them and while the deportation process is going forward, should their children be on the streets unsupervised or in the schools? I think the vast majority of American people would say, "well, they should be in the schools. They should not be out running loose as gangs unsupervised on the streets." That is all this amendment is about. It does not have to do with the parents being here illegally. It has to do with unsupervised children.

□ 1445

So I would encourage my colleagues to support a bill that is tough on enforcement, that is tough on finding the parents who are here illegally, but let us not be tough in a way that is going to cut off society's nose to spite its face. Let us not say that while we are looking for these parents, we are going to assure that their children run loose on the streets. At least let us provide this general use of American education to try to contain, and, yes, improve those children, remembering that their parents are here illegally, and, when found, are sent back.

Nobody has a right to be here illegally, to receive all of these services, and stay here, even after they are found. Once the are found, they are deported. The only question is what shall we do with their children in the meantime.

The Republican answer is to put them on the street, leave them out there unsupervised, and create these gangs, I suppose. We Democrats are saying that the children should be in school. I agree with the position of the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT of Texas. Mr. Chairman, I yield 1 minute to the gentleman from California, [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I rise in opposition to my friend's amendment. Except for possibly emergency medical services, the only other public benefit that I think it is wrong to deal with on this basis is public education, for all the reasons the gentleman from Montana just eloquently stated.

But the real question I have for the gentleman is why do you think, if your amendment passes and becomes law, why do you think that there is any chance in the world this will be more seriously enforced, more effective in doing what the gentleman wants to do, even though I think what you want to do is wrong, than employer sanctions are?

Without an adequate verification system in place, this is all a game. Proposition 187 was a game because it sent a message, but it had nothing to do with

verification. And until you do something here on verification, you have already collapsed a mandatory verification system; you have an amendment in a minute to wipe out any verification system; and then you are going to say we were tough. We got them out of the schools. You are not going to get anybody out of the schools without verification. That is why this amendment standing alone is really empty.

Mr. GALLEGLY. Mr. Chairman, I yield the balance of my time to the gentleman from Georgia, [Mr. GINGRICH] the Honorable Speaker of the House.

The CHAIRMAN. The gentleman from Georgia [Mr. GINGRICH] is recognized for 3½ minutes.

Mr. GINGRICH. Mr. Chairman, I thank my friend from California for yielding me time.

Mr. Chairman, I want to start by, at least in part I think, answering the very good question of the gentleman from California [Mr. BERMAN]. The gentleman and I, I think, agree that we want to strengthen and support legal immigration to the United States, that this is a Nation of legal immigrants, and that we in no way want to send any signal to legal immigrants who are willing to obey the law.

But I think there are five questions you have to answer before you decide to vote "no" on the Gallegly amendment. The first one is very simple, and it keeps getting asked rhetorically, and I cannot quite believe the answers the liberal friends give themselves.

Does offering money and services attract people? This used to be the land of opportunity. It is now the land of welfare. Do we believe people in some countries might say "I would like to go to America and get free goods from the American taxpayer?"

Now, if you believe people are totally coming to America with no knowledge of the free, tax-paid goods they are going to get, then I think you are living in a fantasy land. I think there is no question that offering free, tax-paid goods to illegals has increased the number of illegals. That is question No. 1.

Question No. 2: Is it the United States Federal Government's responsibility to close and protect the borders? This is not California's failure, this is not Florida's failure; this is a Federal failure.

If it is a Federal failure, then question number three is, should we impose an unfunded mandate? Last year the House voted 394 to 28 against unfunded mandates. By 394 to 28 we said the U.S. Congress should not impose on State and local governments those things the U.S. Congress refuses to pay for.

Well, guess what this is? This is a Federal unfunded mandate, which, by my calculation, for four States alone, is $3.2 billion a year. It is the U.S. Congress saying "You will spend your taxpayers' money." I want to come back in a second.

Fourth, are we really prepared to overrule the citizens of California? Sixty-four percent of the citizens of California said they are fed up with their State becoming a welfare capital for illegal immigrants, and 64 percent of the people of California, after a long and open campaign, voted for proposition 187. The fact is that they voted to say they are tired of their tax money paying for illegals. But we are now being told we should overrule the voters of California, we should impose an unfunded mandate.

So here is my proposition. If this amendment goes down, I move that we take the money out of the rest of the budget and we absorb federally the cost of these children. I am going to tell you, you start going out there in a tight budget when we are trying to get to a balanced budget and you start telling your citizens, "I want to take care of illegal immigrants so much that I am going to give up my grant, I am going to give up money coming to my schools, I am going to give up money coming to my colleges, so I can send it."

But it is totally unfair. The State of California spends a minimum of $1.7 billion a year, the State of New York spends a minimum of $634 million a year, the State of Florida spends $424 million, and the State of Texas spends $419 million.

Now, if they want to spend it, that is fine. Texas said they want to spend it. That is their right, to voluntarily in their State legislature decide do tax themselves. But for this Congress to say we are going to impose on you this mandate, we are going to require you to tax your citizens for a Federal Government failure, is absurd.

It is the Federal Government that has failed. I think it is wrong for us to be the welfare capital of the world. I think it is wrong for us to degrade immigration, from the pursuit of opportunity to the pursuit of tax-paid welfare.

I think that this is a totally legitimate request by the people of California, and I hope that every Member will vote yes for Gallegly, because this is the right thing to do, to send the right signal around the world. Come to America for opportunity; do not come to America to live off the law abiding American taxpayer.

The CHAIRMAN. The gentleman from Texas [Mr. BRYANT] is recognized for 4¾ minutes.

(Mr. BRYANT of Texas asked and was given permission to revise and extend his remarks.)

Mr. BRYANT of Texas. Mr. Chairman, every American, every American, should despair of our ability as a Congress to act in any significant way in a bipartisan fashion after that speech by Mr. GINGRICH, the Speaker of the House. We have tried to bring a bill out here that would address the problem of legal and illegal immigration in a bipartisan fashion, Mr. SMITH and I did, and we worked very hard on it. We have Members of both parties trying to make it pass.

There are about three things that will kill this bipartisan consensus, one of which is this pernicious proposal, which is also unconstitutional, to provide that States can deny education to kids they think happen to be the children of illegal immigrants. Mr. GINGRICH knew that when he came to the floor. He asked a question. He said, Should the States have to pay the costs of what is the result of the failure of a Federal responsibility?

I agree with the answer. No, they should not. But, Mr. GINGRICH, if you really believe what you said, and you do not, if you really believe what you said, you would not have instructed your Committee on Rules to forbid the offering of an amendment that would do exactly that.

It is an outrage that the Speaker of this House would come down and seize upon this bill to make partisan gain. We have tried to put together a bill that is in the interests of all the people and that can pass. And of all people in this body to come forward and try to seize upon it to try to draw a line between us, it should not be the Speaker of the House. For what he just said, I say shame on you, Mr. Speaker.

The fact of the matter is that we have made two major exceptions to the entire question of illegal immigration from the very beginning, and that has been emergency medical care and little kids who show up at the schoolhouse. And for the Republican majority now to come forward, I might say except a few brave ones over here who have been reasonable and courageous and stood up today, but for the Speaker of this side to come forward and say we ought to abandon that and jeopardize the ability to pass this bill, smacks of nothing more than raw political opportunism. It is an outrage.

I hope that this House will vote resoundingly against the Gallegly amendment, not only to repudiate a very bad policy that is not in the interest of the public, but to repudiate a total failure of leadership by the Speaker of the House himself.

Mr. Speaker, with that, I yield back the balance of my time.

PARLIAMENTARY INQUIRY

Mr. RIGGS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. RIGGS. Mr. Chairman, in response to the last speaker's comments, I would point out the Speaker of the House certainly did not personalize his comments. But I am wondering, given the fact that the last speaker attempted to impugn the integrity of the Speaker, whether it would be appropriate to take that gentleman's words down if he were to repeat those same remarks, or whether those remarks constitute a violation of the House rules?

The CHAIRMAN. The Chairman of the Committee of the Whole cannot respond to the parliamentary inquiry. A demand by the gentleman was not made at the appropriate time.

Ms. PELOSI. Mr. Chairman, I rise in opposition to the Gallegly amendment, which would deny a public education to undocumented immigrant children.

This amendment is cruel, does not save money, and does nothing to advance immigration control. Once more, we see innocent children being made the scapegoat in the immigration policy debate. The plan seems to be to use any means to punish the children of undocumented immigrants.

To deny anyone the opportunity to be educated is short-sighted and inhumane. If undocumented children cannot be educated, they will have nowhere to go but the streets. These children will not just go away if we continue to deny them benefits. They will be sent reeling into the cycle of poverty that we are seeking to end.

Moreover, this particular provision will be a nightmare for already overburdened school districts to enforce. It will take an enormous investment of funds and time to document the status of every child enrolled in public schools.

Schools should be a safe place of learning and opportunity for young people. The doors should not be shut to innocent children in order to punish their parents. Children should not grow up learning that only some of them are fit or qualified to receive an education. I urge my colleagues to defeat the Gallegly amendment.

Mr. RADANOVICH. Mr. Chairman, I support the Gallegly amendment to allow a State to exercise the right to refuse illegal immigrants admission to public schools.

Public schools are supported by taxpayers. The children of these men and women properly derive the benefit of education in public schools.

By telling illegal immigrants that the attraction of free education for their children no longer exists, we send a powerful message. It says those who are lawfully present in the United States are welcome to participate in its privileges. But, those who have broken the law to enter our country or to remain here after their lawful entry expired deserve no benefit from the taxpayer.

Illegal immigration is a threat to our national security. By adopting this amendment, we can enlist the States—and I assure my colleagues that California will move on it immediately—in a concerted and comprehensive campaign to end this menace.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. GALLEGLY].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. BRYANT of Texas. 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. GALLEGLY], will be postponed.

It is now in order to consider amendment No. 12 printed in part 2 of House report 104-483, as modified by the order of the House of March 19, 1996.

AMENDMENT NO. 12, AS MODIFIED, OFFERED BY MR. CHABOT

Mr. CHABOT. Mr. Chairman, I offer an amendment, as modified.

The CHAIRMAN. The Clerk will designate the amendment, as modified.

The text of the amendment, as modified, is as follows:

Amendment, as modified, offered by Mr. CHABOT: Modify the amendment to read as follows: Strike section 401.

The CHAIRMAN. Pursuant to the rule, the gentleman from Ohio [Mr. CHABOT], will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

Mr. CHABOT. Mr. Chairman, I yield one-half of the time in support of the amendment to the gentleman from Michigan [Mr. CONYERS], and I ask unanimous consent that he be permitted to yield blocks of time to other Members.

The CHAIRMAN. Is there objection to request of the gentleman from Ohio?

There was no objection.

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to the amendment and claim the 30 minutes. I yield 10 minutes of my time to the gentleman from Texas [Mr. BRYANT] and I ask unanimous consent that he may be allowed to yield blocks of time to other Members.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio [Mr. CHABOT].

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

Mr. Chairman, I am pleased to offer this amendment with the extremely distinguished ranking member of the Committee on the Judiciary, the gentleman from Michigan [Mr. CONYERS]. It is a real honor for me to be associated with the gentleman in this bipartisan effort.

Despite all the tactical shifts, Mr. Chairman, there really are only two sides to this debate. There are some people, some very well-intentioned people, who believe that we need a national computerized system through which the Federal Government would specifically approve or disapprove every hiring decision that is made in this country. Then there are those of us, myself and the gentleman from Michigan included, who do not believe that such a system is appropriate.

That is the issue. The Chabot-Conyers amendment would strike from the bill that section which asserts the Federal Government's power to sign off on new employment decisions as they are made.

Now, because of massive opposition to this scheme, its proponents have decided to get a foot in the door by starting with an initial so-called voluntary pilot project. But the system that it establishes is neither really voluntary nor a simple pilot. I will expand upon that point in a minute.

More importantly, we know where this program is designed to lead. The end goal is and always has been a national mandatory system by which the Federal Government would assert the power to sign off on the employment of every U.S. citizen. That was what was in the bill to start with, and that is what its proponents have said they want. In fact, some of them cannot even wait beyond today to ratchet up a level of coercion. The very next amendment with its very explicit employer mandate clearly shows where all this is headed.

As former Senator Malcolm Wallop has written, he calls this "One of the most intrusive government programs America has ever seen." The Wall Street Journal calls it odious. The Washington Times asks in editorializing against the system and for our amendment, "Since when did Americans have to ask the government's permission to go to work?"

Now, even if the Government always worked perfectly, we would have huge philosophical objections to this procedure. But, as Senator Wallop says, "Americans can spend eight months just trying to prove to the Social Security Administration that they are not dead."

□ 1500

Mr. Chairman, here, remember, we are talking about citizen's ability to work, about their very livelihood. And no one has argued that errors will not be made, causing heartache for those citizens who lose their jobs.

The L.A. Times reported just last month that anonymous sources within Social Security fear that; quote, 20 percent of legal workers might be turned down by the system when it is first implemented. Over time, that 270 percent error rate would fall to around 57 percent, officials estimate. Officially, Social Security now says that it, and I quote again, cannot predict the verification results for a pilot project. The Social Security Administration further states that in addition to attempted fraud, quote, nonmatches can occur for many reasons, including keying errors, missing information, erroneous information and failure of the individual to notify Social Security of legal name changes, et cetera.

Indeed, a constituent of mine was in my office just yesterday on another issue and told me that he and his new bride have been trying for 4 months now to get Social Security to record her married name, and they still have not got it straightened out, although we are trying.

The bill in fact explicitly contemplates errors that deprive American citizens of their jobs. Its answer? More litigation. Victims could sue the Government under the Federal Tort Claims Act. That prospect should be cold comfort, either to somebody who has lost a long-sought job because of this program or to the taxpayers who will have to foot the bill. Well, at least this new Government program is voluntary, we are told. Not for the employees, it is not.

Let me repeat. Employees, American citizens, have absolutely no choice

whatsoever about whether they are covered under this section, nor is it truly voluntary for employers. To quote Senator Wallop again, the strong-arm incentive for the business owners to join the system is that they will be targeted for additional Federal enforcement if they choose not to participate.

The Small Business Survival Committee says the system would create unprecedented employer liability. They oppose it, as do, for example, the Associated General Contractors, the National Retail Federation, and many, many others.

As for this being a pilot, well, as Stuart Anderson notes, the covered States have a population in excess of 90 million Americans, about one-third of this country. Together, these so-called pilot States would be the 11th largest nation in the entire world.

Mr. Chairman, this system is to be added on top of the burdensome I–9 document review requirements that started us down the road, down the path of making employers into basically Federal agents. Congress was assured in 1986 that that program would, quote, terminate the problem. Well, it has not. Remarkably, that program's very failure is advanced as a justification for proceeding further down that path. So this addition is proposed.

Do my colleagues know what? It will not work, either. We will hear shortly from the gentleman from California [Mr. GALLEGLY], and others that it cannot work unless it is explicitly made mandatory on employers. Even then employers who knowingly hire illegals simply call the 800 number. Moreover, others in this body argued that without a national ID, anyone could buy fake documents with corresponding numbers and cheat the system. So we know what is coming next, a national ID card in all likelihood.

The bottom-line question, though, Mr. Chairman, is whether this Government of ours should be in the business of saying yea or nay whenever an American citizen takes a new job. I say no. So do the Catholic Conference, the ACLU, the National Center for Home Education, Americans for Tax Reform, Citizens for a Sound Economy, the Cato Institute, Concerned Women for America, the Eagle Forum, the Christian Coalition, and virtually all the legal experts who have taken a look at this, including the American Bar Association.

All these groups and others that I will try to mention later support the Chabot-Conyers amendment.

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

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

Mr. Chairman, this amendment would totally undermine our efforts to stop illegal immigration. A vote for this amendment is a vote for continued illegal immigration. A vote for this amendment is a vote against protecting jobs for American citizens. In order to cut illegal immigration, controls at the border are not enough.

Almost half of all illegal aliens come into this country legally and stay after their jobs, after their visas have expired. Why? Jobs. Jobs are the No. 1 attraction for illegal aliens coming to this country. If we can reduce the attraction of this magnet, we can save taxpayers untold millions of dollars and improve the prospects of vulnerable American workers now competing with illegal aliens for jobs.

For the past decade, employers have checked the identity and work eligibility documents of new employees. Unfortunately, the easy availability of counterfeit documents has made a mockery of the law. Fake documents are produced in mass quantities in southern California. Just from 1989 to 1992, there were 2.5 million bogus documents seized. This amendment would strike the quick check system in the bill that allows employers to verify the identity and work eligibility of new hires.

The bill proposes only that we have a pilot program to be set up for 3 years in five States and then it expires. The amendment would deny employers the opportunity to choose to do what is in their own interest. It says that Congress knows better than businesses what is best for them. Now talk about big brother. American workers will benefit from the quick check system. It will ensure that they will not be competing for jobs with illegal aliens.

Confirmation systems like that in the bill have been tested. Since 1992, the INS has tested a telephone verification system with over 200 employers. Every single employer who has tried this system tried the INS pilot program, was pleased with the results. In fact they recommended that the pilot program be implemented on a permanent basis.

Mr. Chairman, electronic confirmation requires no national ID card, no new data base, and it ends in 3 years. This is not a first step toward anything. That is also why the National Federation of Independent Business, the National Rifle Association, and the Traditional Values Coalition do not oppose the voluntary quick check system.

Now let me set the record straight on one other matter, and that is the alleged error rates that we have been hearing about. These percentages are not error rates. There is no such error rate. These refer to a secondary verification. Secondary verification is understandably ordered whenever employees provide information that is not accurate. They have to double check on the inaccurate information.

Secondary verification does not necessarily mean inaccurate data. It more often means that it is the fault of employees mistakenly providing erroneous information or, quite frankly, being caught providing fraudulent information. In short, the ultimate big brother is Congress saying they know better than employers how to run their businesses. Let us trust business owners to decide what is best for them. The quick check system is a convenience many want, and that is why the National Federation of Independent Business does not oppose this quick check verification system.

Let us follow the lead of the U.S. Commission on Immigration Reform which recommended a verification system very similar to the one we have in this bill. The commission found that such a system would reduce the use of fraudulent documents, would protect American jobs and would reduce discrimination. That is exactly what this volunteer pilot program that expires in 3 years will do, and I urge my colleagues to vote very strongly against this amendment.

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

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

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

OK, this is the famous camel's nose under the tent amendment. This is the one where it starts off real nice. Not to worry, folks. It is OK. Trust us. We will make it a pilot project. Will that make it OK? We will make it a temporary project. We will make it voluntary. We will do it just like we did the Japanese internment program when we said we are going to find out who the Japanese are that need to be rounded up. And how did they do that so quickly? They used the census data. Government trusters, that is where that came from. So congratulations, voluntary, temporary program for employment verification.

Mr. Chairman, I think the gentleman from Ohio [Mr. CHABOT] and others on this side should be congratulated, because there is a simple problem here. The basic flaw in the verification scheme in this bill is an assumption that we have got to impinge upon the privacy of law-abiding citizens in hiring illegal aliens. The problem is the few unscrupulous employers who evade the law today will continue to do it tomorrow, even if we pass this verification scheme in whatever form. How? Because they can simply continue to hire illegals underground and off the record as they do today. That is how we get illegals in, not that all the people that are busy breaking the law are now going to come forward and call the U.S. Government to determine whether one is an illegal or not and they should hire them. They are going to continue it in the underground economy.

Is that difficult, complex? No. But this is the beginning of the progress of the system that will maybe ID everybody in the country. Now maybe it will not. But I am not here to take a chance today. This is not my job, to bank on what the future is going to do when we let these lousy programs get started. I think it is unnecessary.

Why, oh why did the gentleman from Texas [Mr. SMITH] omit the tester program? Was there something wrong with that? The tester program would at least keep us honest, because that would allow people that were supposed to look foreign looking, whatever that is, to go in and see if they are really being treated the same way. But in the manager's amendment, carefully the gentleman took that out.

Should I be alarmed? Oh, not to worry. Hey, what is the problem? You are getting a little sensitive. Let us just go ahead with the ID program and we will make it pilot program. We will make it temporary. We make it voluntary. We will make it anything, but get the nose under the tent today.

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

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

Mr. FRANK of Massachusetts. Mr. Chairman, as much as I admire my friend the ranking member, his talking about the camel's nose under the tent reinforces my view that, if we were to restrict free speech at all, we should make it illegal to use metaphors in the discussion of public policy. We are not talking about camels, noses and tents. We are talking about whether or not we have a rational approach to enforcing the laws against illegal immigration.

I have to say that, of all the things in my life that puzzle me, why so many of my liberal friends have such an aversion to this simple measure is the greatest. As a matter of fact, if we do not use an identification system, let us be very clear, we are not talking about a card anybody has to carry anywhere. What we are saying is what would seem to be the very noncontroversial principle, if one were applying for a job, one of the things one should be asked to do is to verify that one is legally eligible to take the job and is in this country legally.

During the great period of time in life when one is not applying for a job, which for most of us is most of the time, then one will not be bothered with this. It only applies when applying for a job.

Now, Mr. Chairman, what are the alternatives? If we do not do this, what are the alternatives? The alternatives are much more interference with liberty. If in fact we do not try to break the economic nexus that has people hired illegally and the only way we can do that is by simply requiring that people identify, that they are here legally, then we get into much more repressive efforts. We get into much more interference with liberty.

A free society like ours with enormous numbers of people coming and going, with enormous amounts of goods flowing in and out cannot physically bar entry. We understand that most people who come here come here to work. What this says is all we are going to say is that if you in fact come here to get a job, one of the things you will have to do when you give all this information—by the way, the notion that you are now allowed to apply for a job in perfect anonymity seems puzzling. This is an invasion of privacy. What the invasion of privacy? When going and applying for a job, one has to prove that one is here legally.

□ 1515

Now, I think they have to prove maybe what their education is, maybe they have to prove their age, maybe they have to prove a lot of things. How can it be logically argued that it is an invasion of privacy to add to all the information they already have to give, their social security number, and et cetera; and, oh, by the way, can we please establish that they are here legally? It does not make any sense. I have friends on the left who react; I do not understand why.

Mr. Chairman, the gentleman talked about the Japanese roundup, one of the worst periods in American history and wholly irrelevant to this. It has absolutely nothing in common, absolutely nothing in common at all. Locking people up because of their ancestry has nothing in common with saying, by the way, in addition to social security, educational qualifications and everything else, we want to make sure that they are here legally.

That puzzles me. As a matter of fact, the only way to prevent discrimination based on national origin, or to minimize it; we can never prevent anything; but the way to minimize it is to, in fact, have a better system of identification. The better the system of identification, the less likely we are to have this discrimination.

So I do not understand. Yes, people are afraid of forms of national identification. That is not what we are talking about. And on the other side we have the conservative trend that has grown up that we saw in the terrorism bill, and apparently on the right wing we now have this increasing view that the American Government is the enemy and is to be prevented from enforcing any of its laws.

Now, I do not believe that a purely voluntary system makes sense. If, in fact, we cannot go beyond this to adopt an amendment that makes this a binding thing, we are talking about simple rhetoric. But this is obviously the first step in that war. And let us be clear what we are talking about. We are requiring that when one applies for a job or applies for a benefit, where being legally in this country is a prerequisite under the law, they have to prove it. To turn this into some act of oppression makes no sense whatsoever, and, as a matter of fact, the opposite is the case. If we do not allow ourselves to use this simple, straightforward system of requiring verification when one applies, we will be inviting a great deal more in the way of repression.

Unless my colleagues are prepared to say that all the laws on the books about illegal immigration can be flattened at will because, without this kind of verification, that is what happens, then my colleagues are to vote against this amendment and vote later for an amendment that will begin to make this a requirement.

Mr. CHABOT. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. SENSENBRENNER] a member of the Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Chairman, I rise today in support of the Chabot amendment to strike the telephone verification system for prospective new employees. I am a strong supporter of turning off the economic magnet that draws illegal workers into our country. However, we cannot turn off this magnet with a system that is flawed. If we do, we are asking for trouble.

An error rate in the data base on even the smallest percent means thousands of people will be denied the ability to earn a living: With 65 million hiring decisions made each year, an error rate of only 1 percent would deny 650,000 American citizens their jobs. The Social Security Administration says it cannot predict what the error rate might be. However, in 1994 there was a 2½-percent nonmatch rate with social security.

We all employ case workers in our offices, and we all know firsthand how difficult and time-consuming it can be to correct an error in an official government record. Try convincing the Internal Revenue Service that they have made a mistake, for example. Yet the employee has only 10 days to correct any errors made by Social Security before being fired.

While the employer can hire someone else, what happens to the person who needs a job and is denied it because Social Security has made a mistake?

Some have said no new data bases are created by phone-in verification. But that is not correct. Employers must keep a permanent record of each approval code they obtain from the government. In order to know which approval matches which employee, there must be a new data base. To avoid further liability, employers also need to keep records of any negative responses they receive.

Whether we like it or not, this is an unfunded mandate, an increased paperwork burden on American business. Phone-in verification is an addition to the I–9, not a substitute. Employers must keep this additional information in order to prove they obey the law.

Even though the bill calls for a voluntary pilot program, it also calls for additional inspectors for enforcement to check the records of employers who choose not to participate in the program. That is not what I call voluntary. And I urge the approval of this amendment.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BECERRA] a member of the Committee on the Judiciary.

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

Mr. Chairman, this is an amendment that we must pass, because if we do not, we set in motion some omnious measures that will not only affect our privacy, but our job security.

Let me first say that we have to remember that there are 66 million job transactions that occur in this country every single year. In other words, someone is either hired or somebody changes jobs and gets a new job 66 million times every year in this country.

Are there errors that occur in the systems that we have in place with the Social Security Administration and with the INS' own data base? I must answer the chairman's, the gentleman from Texas [Mr. SMITH], own statement that there are no errors and say, Mr. Chairman, there are. We know it.

The Social Security Administration itself has said that they cannot guarantee anything better than probably a 20-percent error rate in the first couple of years. And they are hoping they are lucky enough get it down to a 5-percent error rate in providing information. Why? Because the Social Security number was never meant to be an identifying number, but that is what we are using it for.

The INS admits that in its own worker verification pilot programs 9 percent of the time the people that they say were authorized to work were, in fact, not authorized to work.

In addition, in the INS's own pilot program, they tell us that 28 percent of the time they could not give the accurate information or information whatsoever to be able to make a hiring decision, and they had to go through a second, more complicated, more consuming step.

Then we have the whole issue of, well, verification is going to be. OK. The gentleman from Massachusetts, [Mr. FRANK] is arguing that this is not going to harm anyone. Well, let me tell my colleagues something. If it is not going to harm anyone, what would be the harm of leaving in, as the gentleman from Michigan [Mr. CONYERS], said, the tester program that allows us to send a decoy in who acts like a prospective applicant for the job and check to see that employers are abiding by the law? No, that was taken out of the bill even though in committee, with the chairman's support, it was put in. In the dead of night, behind closed doors, it was taken out.

Mr. Chairman, this is something my colleagues better be concerned about because it leads us along the lines of big brother telling us, "Show me your ID before not only I give you a job, but anything else in this country."

Vote for the Chabot amendment. Vote against any worker identification program.

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

I just wanted to respond to one point the gentleman from California just made, and that is the Social Security Administration testified before the subcommittee that they would guarantee 99.5 percent accuracy if all we were asking was the person's name and number, not address, nothing else like that. All we are asking for in this pilot program, 99.5 percent accuracy.

Mr. Chairman, I yield 1 minute to the gentleman from Tennessee, [Mr. BRYANT].

Mr. BRYANT of Tennessee. Mr. Chairman, it is my pleasure to rise and speak in opposition to this amendment. Even though I am a colleague of the gentleman from Ohio [Mr. CHABOT], who is a sponsor of it, I disagree with him on this one.

I have concern about some of the arguments that have been made about the Government approval, and how they are going to make mistakes, and how we are asking employers to do all these things. In reality, we all know that the I-9 process already exists out there that the employers must use with potential employees. But right now we put these employers in a catch box. As my colleagues know, if they ask too many questions of a potential applicant for a job, they question the documents as to whether they are counterfeit, they can be sued by these applicants. But on the other hand, if they do not ask enough questions and they hire an illegal, then the INS can come in and fine them.

So we are putting these employers in difficult situations, which this process, by use of the 1-800 number on a voluntary basis, will help alleviate. It will be a defense to those employers, and again it is a voluntary situation, using existing data, the Social Security number, which is used on income tax forms already by the Government in so many ways.

I think it is a reasonable provision within the bill, and I hope this amendment goes to defeat. I urge my colleagues to vote against it.

Mr. BRYANT of Texas. I yield myself 3 minutes.

Mr. Chairman, we have a pilot program working in this area already. The result is that employers who have been in the pilot program like it, and the other result is that there have been no claims of discrimination come out of the pilot program. So the fears raised both on the part of prospective employers that might be placed under this provision and the fears raised by potential discrimination simply do not have any basis in our experience, having operated pilot programs elsewhere already.

The fact of the matter is that employer sanctions now in the law; that is to say, the law that says it is against the law for an employer to hire someone who is not legally present in the United States, those sanctions are not working any longer. They used to work, but they do not work any longer because job applicants have discovered how to counterfeit any one of or all of the 29 documents which can be presented to prove one's legal status.

Without verification in this bill, we really have no way to make this most significant improvement, and that is how to get around document fraud that completely undermines the law that prohibits employers from hiring somebody who is not a legally present individual.

It is a simple system. The Social Security number is looked at, and a check is made to see if a number is valid and if it belongs to the name on the card. That is all there is to it. It is not an intrusion on civil liberties. It is not a threat to anybody's employability. It is certainly not an inconvenience to employers. If anything, it is a convenience to them and a protection to them against getting involved in some type of a dispute over whether or not they hired someone knowing that their documents were not valid.

Mr. Chairman, I think that if we are serious, we have to keep this provision in the bill, and I urge Members to vote against this Chabot amendment. If the Chabot amendment succeeds, we are right back to the status quo, we are right back to where we started about 16 months ago. Illegal workers will still be working, and they will still be working and taking American jobs.

This is a simple procedure. It is one that has worked in the pilot programs that have tested it. It has worked for the benefit of those applying for the jobs as well as for the benefit of those doing the hiring.

I urge Members to vote against the Chabot amendment and maintain the Smith language that is in the bill.

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

Mr. CHABOT. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. FLANAGAN], a very distinguished member of the Committee on the Judiciary.

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

Mr. FLANAGAN. Mr. Chairman, I rise in support of the Chabot amendment.

At a time when our Government is trying to get smaller, get out of people's lives, at a time when big brother is finally moving away from the direction it has gone, when it is trying to be less intrusive, I think that this is not the direction we need to be going.

The gentleman from Wisconsin [Mr. SENSENBRENNER] gave us some very excellent practical arguments against this system. Mr. BRYANT gave us the alternative argument, which is very good as well. It says, if we are going to have a rule that is going to make employers be required to be INS agents or have some of those functions, at least let us make it easy for them. Mr. BRYANT on this side then went on further still and said let us make it a convenience for that employer to be able to do that better so they are not held up by the system.

I say to my colleagues that this is not the direction we need to go to

make it easier for private citizens to have to do the job of Government, to be able to stand up and say, no, we are not going to require citizens of the United States to get permission from the Federal Government to work. And that is what this pilot program, if it becomes a total program, would do.

To have the Federal Government of the United States be a last word on whether someone works today or whether someone does not is particularly odious. It is anathema to the reason most of us came here. To have the Federal Government of the United States say, "You may work today because we have decided that you're here legally, and we're going to trust that all the records are right, that we're going to go ahead and say that there's no glitch in it," and all in an effort to make the I–9 form, odious by itself, work better is wrong-headed as well as being merely wrong.

□ 1530

We should go the step in the other direction, to provide positive incentives for employers to help us solve the problem of illegal immigrants working. We should go in the direction of bringing the employers enlisted into the battle against illegal workers, rather than impressing them into the battle and making it as harmful as possible to the people who work for them, but as harmless to them as possible. We are not going in the right direction. We must reject this portion of the bill. I urge a vote for the Chabot amendment.

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

Mr. Chairman, I tried the metaphor, but when the gentleman from Massachusetts does not use it himself, it should be outlawed. I will try another one, the Ponzi scheme. That is that whatever amendment is on the floor, if we do not pass this, we will never stop illegals from coming in.

Remember the McCollum amendment that would put your picture on an ID card, on a Social Security card and make it tamper-proof? Have we forgotten that one already? That was the one we had to have or we would never stop illegals. We moved that one on. Now we have the nose under the tent, and if we do not get this one in, we will never stop illegals.

Forget the fact that all the fraudulent employers that want to use illegals are never going to report them through the proper methods anyway. They will all be violating not only this amendment, but all the other immigration laws. So the underground economy is laughing as we finally put the nail on illegal immigrants by a foolproof ID card.

Mr. Chairman, what does the Japanese internment program have to do with this? Some say nothing, and some say it has something to do. Where did they find out who the Japanese were and where they were to go get them? They found out through the census program, which was not started out for that, I would say to the gentleman from Massachusetts [Mr. FRANK]. The census system was not started off for that purpose. It got to be used that way.

Social Security was not started off to be ID. It was for Social Security. Now it is ID. It is on your driver's license. Now we have deteriorated a little bit more and a little bit more, and then someone says, "This is not the nose under the tent, the camel's nose under the tent, this is innocent, freestanding, vital to the immigration bill; we have to get it or we will never stop illegal immigrants."

I say hogwash. Support Chabot.

Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, I would just say to my friend that apparently we have now found out that the serious threat to civil liberties is the census. I would say in that case it is too late to worry. I do not myself regard the census as a threat, but if it is a threat, it is already there, so if people were going to manipulate things like the census, they would already have it and they would not need anything else.

Mr. CONYERS. Mr. Chairman, I will throw up my hands, then. It is all over; we have had it.

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

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

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

Mr. BILBRAY. Mr. Chairman, let us be up front about this. There are those who do not want us to be able to enforce our immigration law and want to remove every reasonable tool. They want to find excuses for that. There are those that say that somehow it is terrible to the employer.

Mr. Chairman, let me give a letter from Virginia, who works for G.T. Bicycles. She said that the telephone verification program has given her peace of mind with the knowledge that G.T. Bicycles is complying with the law regarding employment, because if you are an employer, you have no way of knowing that the law requires you to get a Social Security number and to fill out an I–9 form, but you do not know if that number belongs to the person.

There are those that are going to try to find excuses to strike this system and eliminate any reasonable point of enforcement of our immigration laws. So please do not say you are against illegal immigration, do not say you are against illegals getting public assistance, do not say you are against illegals taking jobs from people, but then say, Oh, but I am against having a reasonable enforcement vehicle. It is a cop-out. Let us be up front about it. Let us say, I really do not think illegal immigration is a real problem. I think these people ought to be allowed to come into our borders.

But this system is a system that is the most nonobtrusive approach we can possibly do, in a system where we require reporting so we can raise taxes, so we can get money for the Federal Government.

Mr. Chairman, when it comes time for us to participate in the securing of our national frontiers, of our national sovereignty, the Federal Government's number one obligation and responsibility, when it comes to that responsibility, Members are willing to walk away and find excuses to cop out. All I have to say is, if it is good enough and it is reasonable enough for us to move forward with some programs so we can enhance our coffers, then doggone it, it is time that we do the reasonable thing to control illegal immigration. But let us not sit there and vote for this amendment and then say, I really am against illegal immigration. This amendment will decide which way you stand, and the American people will know it.

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

Mr. BERMAN. Mr. Chairman, I rise in opposition to this Chabot amendment. What I would love to see, Mr. Chairman, is to get the rollcall of the Chabot amendment and the people who voted in favor of striking the verification system, and then the people who vote for the Gallegly amendment to knock all the children of illegal immigrants out of the public schools, and the Bryant amendment, to report all the names of illegal immigrants to the INS, and all these other Prop 187 amendments, and match the two, because there will be a lot of people who vote "yes" on Chabot and then "yes" on Gallegly on the public education and "yes" on Bryant, and then we will know how rhetorical the discussion on doing something on illegal immigration is; because they will have sat there and gone back to their districts and said, "We did something about public services, employment, and illegal aliens. We just knocked out any way of ever enforcing it," the Chabot amendment.

I have great respect for the gentleman, I have listened to him both in committee and on the floor, and I know he feels this passionately, but it is intellectually flawed, because there should be one additional provision. It should repeal employer sanctions. If we do not have verification, we have no meaning in employer sanctions. We have the present situation.

Mr. Chairman, I cannot think of what creates a more cynical public than the notion that the Government saying, as we said in 1986, "We are doing something about this," and then denying the mechanisms to try and do anything about it. That will only intensify the hostility between the public and their elected officials.

If employer sanctions are going to mean anything, Mr. Chairman, verification is at the heart of what we are supposed to do. The problem with the amendment of my friend, the gentleman from Texas, is that ideally I think we have to do some pilot projects before we can implement a full 800-telephone verification system. But the problem with the amendment of the gentleman from Texas, which CHABOT seeks to strike, and which GALLEGLY seeks to strengthen in a subsequent amendment, is that it has none of the protections that we put in. And as the gentleman from Ohio [Mr. CHABOT] pointed out, it may be voluntary for employers, but it is mandatory for employees.

There are no protections on privacy, there are no protections on errors, there is no enforcement of discrimination in that particular program. A mandatory system at the point where it is feasible and implemented, if done right, will stop discrimination which now exists, because the person who wants to comply with the law is not going to accept the documents coming in under the I-9 requirements, is going to assume that person is illegal and is going to discriminate, not because that person is racist, but because that person does not want to run afoul of employer sanctions and does not understand that employer sanctions have no meaning under the present situation.

It can protect against privacy innovations, just like we did in 1986 with the legalization program, where we had INS legalize 1.8 million people and never once give the names of the people that came forward to the enforcement wing. You can protect against all of those kinds of things.

The amendment in front of us is bad because it, without repealing employer sanctions, renders employer sanctions totally meaningless. The base language is bad because it has none of the protections we need. That is why the Gallegly amendment, I am forced to conclude, is the only feasible fashion for dealing meaningfully with this whole subject.

Mr. Chairman, I urge a "no" vote on the Chabot amendment.

Mr. CHABOT. Mr. Chairman, I yield 1 minute to the very distinguished gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. Mr. Chairman, I rise in support of the Chabot-Conyers amendment. I found it very interesting that the good gentleman from Texas [Mr. BRYANT] indicated there were no examples of abuse by the Government in the present system.

Whereas I agree that illegal immigration is a very serious problem, there has also been a very serious problem in the enforcement of the existing rules and regulations, and as currently stated in the bill, the employment verification system will add to and not replace the current I-9 verification.

Mr. Chairman, in my district there is a fruit farmer, Mr. Stanley Robison, who has been in business for 60 years. Whereas the INS requires all kinds of verifications, Mr. Robison set about acquiring those verifications. They were all in a separate file, according to the laborer or the worker. When the Department of Labor came in and audited his files, they found that he had asked for too much verification, and that had consisted of employer and worker harassment. This man was fined $72,000 before he ever had a day in court.

Mr. Chairman, this kind of abuse cannot go on. Please support the Chabot-Conyers amendment.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. TORRES].

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

Mr. Chairman, I stand in strong support of the Chabot-Conyers amendment to strike the so-called voluntary employment verification system. I ask my colleagues here today to listen and to listen closely as I relate a personal story about the dark side of employment verification, because no matter how well-intentioned this system appears, the consequences can be ominous.

I raised my kids in France for a few years while I served as the U.S. Ambassador to UNESCO in Paris. One day my son was coming home from school alone. He was apprehended by the French police and asked to produce his national identity card. He did not have it with him. He was detained, arrested, and taken to jail. I had to go take him out, simply because he did not have a card. He did not look French.

Are we ready, as a bastion of freedom and democracy, to subject the citizens of this country to the same type of insidious mistakes? If we do not pass the Chabot-Conyers amendment to strike, I think we will be doing that. Do we want to impose a so-called voluntary system on employers that has no protection for employees? From my own family's experience in Paris, I can assure the Members that individuals that appear foreign will be unfairly treated. In this so-called era of less government, why would we want to impose costly regulations upon the engine of our economy and our Nation's job creators?

Mr. Chairman, do not be deluded. This employment verification is only the first step. As the gentleman from Michigan [Mr. CONYERS] has said, this is the nose under the tent towards a national identification card, a first step towards the loss of our freedom. Remember this, only a small percentage of employers knowingly hire undocumented workers.

We have laws on the books that require reporting for every new hire, the I-9, but we do not spend any money on enforcement. We have a law that requires that employers pay minimum wage and withhold Social Security, the Fair Labor Standards Act, but we do not spend any money on enforcement. These employers are violating the law now, and nothing in this bill will force them to comply with a new verification law.

Mr. Chairman, I urge my colleagues here today to vote yes on the Chabot-Conyers amendment to strike.

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

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

□ 1545

Mr. GALLEGLY. Mr. Chairman, I rise in very strong opposition to this amendment offered by my good friend the gentleman from Ohio. The author may be well meaning but he is simply wrong on this issue of verification, and his amendment will only serve to protect those special interest businesses who currently violate U.S. immigration laws.

Mr. Chairman, this amendment is truly a litmus test of our seriousness to curtail illegal immigration, protect jobs for Americans, and stifle low wages.

Mr. Chairman, preventing illegal entry is a key to prevention and deterrence, but Congress can ill afford to ignore the 4 to 6 million illegal immigrants already residing and working in this country.

This is where the gentleman from Ohio is misinformed. He completely ignores the fact that the illegal immigration problem must also be addressed in the Nation's interior, well away from the border.

I agree that enhanced border enforcement is important. This bill addresses that. I also agree that stiff fines and employer sanctions are very helpful. These measures are fine, but simply not enough.

Like it or not, Mr. Chairman, there are businesses in this country who knowingly break U.S. law and hire illegal immigrants. Short of more random checks and unannounced raids, alternatives that I am sure the gentleman from Ohio would oppose, a verification system is direly needed, and a 1-800 number is by far the easiest way to do this.

The gentleman in his remarks makes inaccurate, misleading, unsubstantiated and maybe even ridiculous arguments against verification. A system of verification does not establish a data base. It does not create a Federal hiring approval process.

The gentleman's amendment would wipe out any type of verification and, in effect, would only serve to protect those unscrupulous businesses which break U.S. law. His amendment would perpetuate a system which replaces American workers with low-wage employees. I urge sound defeat of this amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Georgia [Mr. DEAL].

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

Mr. Chairman, there is a truism that I think applies in life as it does in legislation, that one excuse is just as good as another if we do not want to do anything. We have heard a lot of excuses today. I am afraid that this amendment, as well intentioned as it may be, is just another excuse. If we really do not want to do anything about the immigration problem and the employment of those who are not legally in our country, then this excuse is just as good as another.

I cannot refute all of the excuses that have been offered as a support for this amendment, but let me take one, the idea that there is an error rate in the Social Security office and that somebody may be denied the opportunity to work because there has been some mixup in their Social Security number.

I want to suggest that if we put in place this bill without this amendment, we will do two things. First of all, let an American citizen who is legally in this country and legally entitled to be employed be denied an opportunity because somebody has made an error in his Social Security rate, two things are going to happen. First of all, they are going to correct his Social Security records, which ought to have been done in the first place, and second, he is going to get the job.

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

Mr. CALVERT. Mr. Chairman, the Chabot amendment takes the teeth out of this bill. Illegal immigrants come to this country for one reason, jobs.

The immigration bill of 1986 tried to move in the right direction, but it failed to maintain an adequate workplace enforcement provision. What it did was create a system where employers are forced to be pseudo INS agents. With the fear of fines, employers must decide which documents are fake and which are real.

This is an unfair, unrealistic burden. 1-800 is not big brother. It simply gives employers an easy, cost-effective way to make sure they are following Federal law.

As a former small businessman who ran several restaurants in southern California, I saw my share of suspicious documents over the years. 1-800 would give me peace of mind as a small employer.

When I first proposed a toll-free workplace verification system back in 1994, I had no idea it would attract such attention. I am glad that it has, but like many hot issues, certain untruths have cropped up.

1-800 is not big brother; it is not an intrusion into small business; it is not discriminatory; it is not an ID number or system. It is, however, cost-effective, nondiscriminatory, business-friendly and, most importantly, the most effective tool we have at stopping illegal immigration once and for all.

It may come as a surprise, but many employers knowingly hire illegal immigrants in this country. These employers hide behind the current law. The I-9 form, which I have used on thousands of occasions as an employer, is cover. Get your fake documents, xerox them on the back of the I-9 form and when the INS comes in, you are OK.

That is wrong. We need to have a verification system that employers can rely on. If you vote for Chabot, you are voting for the status quo. I urge Members to vote to support tough action against illegal immigration and oppose the Chabot amendment.

Mr. BRYANT of Texas. Mr. Chairman, I yield myself the balance of my time.

I would like to associate myself with the remarks of the last gentleman. They were points well made.

I want to also respond briefly to a comment made early by the gentlewoman from Idaho [Mrs. CHENOWETH]. I think she misheard me. I said that the pilot program now working to test this system that the Chabot amendment would eliminate has not yielded any complaints from employers and not yielded any instances of discrimination against potential employees.

The example the gentlewoman gave a moment ago is exactly the example we are trying to avoid. I do not know the specifics of her hypothetical situation, but we want employers to be able to rely upon this check to know that they do not have to worry about whether or not they have somehow violated the current laws with regard to all these documents.

We want them to be able to do what the provision says and that simply is, check the number and see if it is a valid number, and, second, see if it belongs to the name on the card. That is all this does. It is an effort to protect the employer and to protect the employee, as well, and to make the system simple.

We are left with the situation that if this is taken out of the bill by virtue of adoption of the Chabot amendment, we simply cannot enforce employer sanctions, and employer sanctions, which once worked before document counterfeiting became so widespread, are not working now. Please vote against the Chabot amendment. Let us keep some meaning in this bill with regard to employer sanctions.

Mr. CHABOT. Mr. Chairman, I yield 1 minute to my good friend, the gentleman from Kansas [Mr. BROWNBACK].

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

Mr. BROWNBACK. Mr. Chairman, I want to rise in support of the Chabot amendment, and also in recognition of the fine job that the gentleman from Texas [Mr. SMITH] and others have done in working on this overall issue of illegal immigration. I think they have done an outstanding job. However, on this issue I have a dispute and a disagreement with them on it.

I think the Members in looking at this amendment should consider and ask themselves three questions in being up-front about what is going on. First, where are we headed with this? If there is a legitimate thought in your mind that where we are headed with this is a potential of a national identification card system, and you disagree with that, you should vote for the Chabot amendment.

Second is, what precedent are we setting in putting forward this provision? If you are questioning the precedent that we are setting is something that we are going to go toward a national ID system, again you should vote for the Chabot amendment.

Finally I would ask Members, the question is how competent is the Government to do this? If you have a question about the competency, call the IRS right now with a tax question. I think that might answer some questions about how competent is the Government to get this right when we have got a huge nation of so many people.

For those reasons and for the reason of which I think I was sent here to Congress, which is to get the Federal Government off of people's backs and out of their pockets, I am supporting the Chabot amendment.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

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

Mr. RICHARDSON. Mr. Chairman, this is an issue of civil liberties and personal privacy. We do not need big brother to keep track of our citizens, and this is what we are doing with a national ID system. If you are blond and fair-skinned, you are not going to be asked to provide an identity. But if you are a member of the congressional Hispanic or Black or Asian Caucus, you probably are.

This is the nub of this argument. People whose accent, appearance, or family background make them look like foreigners would be screened out of jobs as employers attempt to avoid the inevitable problems which this verification process would cause. Why would an employer bother to hire somebody that, quote, looks foreign?

What makes everybody think that this system is going to work? I have heard Members on both sides rail about the inefficiency of Government, the IRS, IRS computers and verification system, that we are creating a gigantic bureaucracy. Yet for some reason many on that side and on our side think that it is going to work. This is a case of personal privacy. This is a case of civil liberties.

All Americans recognize that illegal immigration is a problem, but a solution to this problem is not the creation of a database of unprecedented scope that invades the privacy of all our citizens and requires employers to ask the Government's permission before they make hiring decisions. Business people should not be bureaucrats and INS officers. This is what we are doing.

The establishment of a massive and costly verification system to access information from existing Government databases, such as the INS and the Social Security Administration, is not going to solve the problem but just create new ones.

Once again, this is a violation of the privacy of all Americans. It is a good, bipartisan, left, right, center amendment that should be adopted.

Mr. CHABOT. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Michigan [Mr. CHRYSLER].

Mr. CHRYSLER. Mr. Chairman, I rise today in support of the Chabot-Conyers amendment. As a business owner, I find it quite disturbing that the Federal Government would want to be involved in every hiring decision that I make. While I understand the bill now calls for a voluntary verification system, I believe this program is intentioned to become yet another big government mandate on businesses across America.

The cost of this new Government program will be unavoidably passed on to consumers through higher prices. I believe we were sent here to reduce the size and scope of the Federal Government and that this big government proposal simply goes in the opposite direction. To have to call a 1-800 number and ask permission of the Federal Government each and every time we hire an employee is simply wrong. A 1-800 big brother is not good for business, it is not good for employees, it is not good for the direction we should be taking America.

I strongly urge a "yes" vote on the Chabot amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DREIER], a member of the Committee on Rules.

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

Mr. DREIER. Mr. Chairman, I thank my very dear friend from Texas for yielding me this time. I would like to again extend hearty congratulations to him for a job well done. He has been working 12 hours a day on this issue for many, many months. We are all grateful to finally see this issue coming forward.

Let me address the question that we have right now. Clearly the system that we have today has a very simple and basic message. It says, "Please go buy false identification papers before you get a job." That is what we have that exists today.

What we are proposing is clearly the least intrusive way to deal with this. Many arguments have been made that this is going to create a problem for business. Quite frankly, this will be very helpful to the business community. Why? Because they will not have any liability once they have utilized this 1-800 number to make the call and make the determination as to whether or not the verification is true and has taken place.

I think that as we look at this question, it is key for us to do everything that we possibly can to step up to the plate and encourage people to determine whether or not someone is, in fact, qualified for employment.

□ 1600

This is a pilot program and it is based on a very successful test that has been utilized in my State of California. Participating employers actually liked it. They found that it was helpful because it eases government regulation, and workers liked it because it eliminated possible discrimination and it allowed quick and very easy hiring.

So this is a very, very responsible move, the committee's position. I hope that we can move ahead at least with this, and I urge opposition to the amendment that is before us.

Mr. SMITH of Texas. Mr. Chairman, I yield 2 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 me time.

Mr. Chairman, I rise to oppose the Chabot amendment. I would just like to make the observation to anybody who is paying attention to this debate, any of our colleagues, that if you oppose illegal immigration, you must oppose the Chabot amendment. There is no way to control illegal immigration unless we can cut the magnet of jobs and stop the incentive of people coming here, and that means making employer sanctions work; making the law we have and have had for 10 years on the books that says it is illegal to knowingly hire an illegal, make it work.

I can put every person in the United States military across our Southwest border, I can seal it with a wall, and I cannot stop the people who are going to come here illegally, because they are going to come for jobs one way or another. Over half who are here illegally today, and there are four million present and 300,000 to 500,000 a year coming here to stay here permanently, are here because they have come on legal visas and overstayed. And the incentive for all of this is to get a job.

Employer sanctions is not working. The only way it can be made to work is to get some of the fraud out of the business. I suggested enhancing the Social Security card earlier. On a very close vote, it lost.

The only other option left to us in this bill is the 1-800 number, which is no new data base, no new information. Just simply have a pilot program to let us test to see if it will not work to make it easier for employers and effective law enforcement to have, when somebody comes to seek a job, have the employer, when they see the Social Security number that they are going to see, they have that law right now, to call the telephone number that they have, for free, and find out if the number matches the name being given to them. It is as simple as that.

If it does not match, then why should they not reject the employment of that person? Because they have been presented obviously a fraudulent document, which is the way they are getting employed.

It is a very simple process. It is not complicated. It is not big brother. There are places and roles that government must play. This is a simple one, and it is one of them.

Immigration is a Federal responsibility. Nobody believes in reducing the size and scope of the Federal Government any more than I do. But I must tell Members, there are times and places, including national defense and immigration, where the Federal Government has a role. I urge a vote against the Chabot amendment so we can control illegal immigration. If we do not vote against it, we can never control illegal immigration.

Mr. CONYERS. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, this is the same gentleman from Florida [Mr. MCCOLLUM] who just told us on an earlier amendment that if we did not pass the photo ID amendment, that immigration would collapse and we would be overrun. That did not succeed, so now he is here on the telephone verification, and now once again the world will go down in smoke if we do not pass this amendment.

Please, let us fact the facts: If people come in on student visas and overstay, a telephone verification system is not going to stop them. If people come in here as visitors and do not go back, telephone verification will not do a thing in the world about it.

I love everyone advising our business friends how helpful this will be to them. They happen to oppose it through an organization. By the way, the American Bar Association, which is for strong immigration rules, is 100 percent for the Chabot-Conyers amendment.

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

Mr. Chairman, what was designed as a coercive mandatory and permanent program now is being sold as voluntary and temporary. The principal argument in its favor apparently is it is not as bad as it could be. Well, we all know that government programs do not stay voluntary or temporary very long. This one is not voluntary to begin with, and as Grover Norquist of Americans for Tax Reform pointed out yesterday, income tax withholding was introduced as a temporary funding mechanism in World War II. The concept of American citizens having to obtain government working papers, or in the language of the bill, a confirmation code, in order to work, is antithetical to the principles I was sent here to support.

But I ask my colleagues to think ahead 5 or 10 or 15 years from now and decide whether you want to look back and say yeah, I did vote to put that system into place, or no, I did the right thing. I voted to stop it when it could

have been stopped. Please join me and the gentleman from Michigan [Mr. CONYERS] in supporting this amendment, along with everyone from the Christian Coalition to the ACLU, to the ABA, and every business group that has taken a stand.

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

Mr. Chairman, I just want to remind my colleagues that the NFIB in fact supports this bill and in fact they do not oppose the very voluntary system that we have in the bill for a pilot program for verification. I urge my colleagues to vote no on this amendment.

Mr. Chairman, I yield the balance of my time to the gentleman from Virginia [Mr. GOODLATTE].

The CHAIRMAN. The gentleman from Virginia, Mr. GOODLATTE, is recognized for 2 minutes and 15 seconds.

Mr. GOODLATTE. Mr. Chairman, I thank the gentleman from Texas for yielding me this time.

Mr. Chairman, I rise in strong opposition to the Chabot amendment and in favor of the employer verification system. In fact, I support making the system mandatory and will be supporting the amendment of the gentleman from California [Mr. GALLEGLY] later on.

But it is important to make it very clear that this is simply a voluntary system that everybody can participate in if they choose to. Those who have chosen to participate in this system thus far in the pilot program in Los Angeles have found it to be an excellent system; 220 employers participated, and they found a 99.9 percent accuracy rate on the employment verification checks that were done under that system.

Why do we need this system? Because the current system, the bureaucratic I-9 system, which would hope this would be the first step toward evolving a system that would work very effectively and efficiently and get employers away from the intrusive bureaucratic ineffective I-9 system, does not work.

We have a magnet that draws people to this country, jobs. Who can blame anybody for wanting to come to this country for that opportunity? But we have already taken the step of making it illegal to employ people. Now we have got to give employers the means to effectively screen those people out.

Fraudulent documents are a massive problem: Just a few days ago in Los Angeles, a major raid on a factory manufacturing illegal green cards, Social Security cards, birth certificates, driver's licenses, all manner of fraudulent documents that cannot be properly screened out by employers. All we do here is say match the Social Security number that they bridge in with the Social Security number in the file. No new data base, no ID card. Simply give the opportunity for employers to get a real verification. Employees ought to love it, too. If you go in and you get a job and they have the wrong Social Security number for you and that money that your employer and you pay in in taxes to the Social Security System does not get credited to your account, you have lost out in your retirement days. So you are going to know right when you go in that your Social Security number is matched up with the one that is on file with the Social Security Administration.

This is a system that is simple, it is a simple system that is fair, it is a system that will work, it is a system that is voluntary, and I urge every Member of this body to support a voluntary employer verification system.

The CHAIRMAN. The gentleman from Michigan [Mr. CONYERS] has 1 minute and 15 seconds remaining.

Mr. CONYERS. Mr. Chairman, I yield 1 minute and 15 seconds to the distinguished gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the ranking member for his direction in this issue, and I thank my colleague, the gentleman from Texas [Mr. SMITH], for his continued persistence on a very important issue.

I think, Mr. Chairman, the question should be asked, who we are trying to help today? I rise in support of a perfectly legal system, the I-9 system, that required us in this Government to verify employment eligibility. It was a system that had a fingerprint, coded information, and a picture. The question is whether or not that system has fully worked or there are problems, and whether or not we can reform that system.

It seems that if we would add this big brother system, however, that there would be a number of industries in my community; for example, the Houston grocery store owners and the food industry, which have indicated this labor intensive industry would be severely burdened, employing some 3 million people cross the Nation and experiencing high turnover.

Some stores hire 50 to 150 new employees each week during the Christmas season. Telephoning the Government would amount to an impossible burden on store managers. Around 65 million hirings take place every year. The phone system and the bureaucracy would be totally unbearable and unnecessary.

Could you prevent fraud? I think not. To have someone provide you with a Social Security number and name, it could possibly be verified that they were that person. I believe I have the strong support of civil rights, Mr. Chairman. This is not the right direction. I support the Conyers-Chabot amendment and believe we should move toward helping our employers and helping our workers.

Mr. CLAY. Mr. Chairman, I rise to support the Chabot-Conyers amendment. While I commend the sponsors of the bill for removing the horrendous mandatory employment verification system included in the bill reported by the Judiciary Committee, this voluntary employment verification system has major flaws. The prospect that millions of people would lose or be denied jobs because of unreliable data or employment discrimination is too great a risk to take in a free society.

We already know from an INS telephone verification pilot project currently underway in southern California that there are major flaws in a system that tries to merge INS data with Social Security Administration data. And, who suffers most when a verification system makes errors or is too slow? The job seeker is the one most harmed.

It is unfortunate that proponents of this voluntary system chose to delete critical civil rights protections that were included in the Judiciary Committee text, particularly provisions that provided for testers to identify discriminatory employer behavior that would likely result from the verification system. This technique has been effective in identifying other types of discrimination, including housing discrimination. Such civil rights protections must be part of any fair employment verification system, voluntary of mandatory.

I share the concern that we begin to go down a very dangerous path by establishing an employment verification system that will require every employee in the United States to get permission to work from the Federal Government through a national computer registry. This response to legitimate concerns about illegal employment is way out of proportion to the actual problem. The INS estimates that undocumented persons represent less than 1 percent of the U.S. population; and yet under this voluntary system approximately 20 million employees could face the very real threat of being denied employment or victimized by employment discrimination.

Mr. Chairman, I urge my colleagues to support the Chabot-Conyers amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise today in strong support of the Chabot-Conyers amendment to strike the establishment of a new and additional employment eligibility confirmation process. I oppose the worker verification system, which is really a 1–800 big brother system, because it is an onerous imposition on businesses in my district and in my State of Texas.

I have spoken with Houston grocery store owners and those in the food industry in Houston, and they have voiced to me their concerns about the call-in verification system. A call-in system will not prevent fraud because verifying a new hire's name and Social Security number does not prevent the fraud of an illegal alien using the name and Social Security number of someone else who is eligible to work. The grocery industry is labor intensive, employing more than 3 million people, and experiences high turnover. Some stores hire 50 to 150 new employees each week during the Christmas season. Telephoning the Government would amount to an impossible burden on store managers. Around 65 million hirings take place every year. The phone system and the bureaucracy necessary to handle this volume efficiently and accurately would be staggering in size and cost.

Verification systems would rely on highly flawed Government data. The INS database slated for use has missing or incorrect information 28 percent of the time, while Social Security Administration data has faulty data 17 percent of the time. Even a low 3-percent

error rate could cost nearly 2 million Americans to be wrongly denied or delayed in starting work each year.

Furthermore, I am a strong supporter of civil rights, and this system would represent a major assault on the privacy rights of all Americans. The verification would lead to an intrusive national ID card. Just as we have seen the uses for Social Security cards being expanded beyond its original purpose, there are already calls being raised to use a national verification system to give police broader access to personal information and to retrieve medical records.

In committee, I also voted for an amendment to strike the provisions for an employment verification system, and I urge my colleagues to join me today in voting "yes" on the Chabot-Conyers amendment and voting "no" on the Gallegly-Bilbray-Seastrand-Stenholm amendment.

The CHAIRMAN. All time has expired on this amendment.

The question is on the amendment offered by the gentleman from Ohio [Mr. CHABOT], as modified.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. CHABOT. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from Ohio [Mr. CHABOT], will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to the rule, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order:

Amendment No. 8 offered by Mr. BRYANT of Tennessee; amendment No. 9 offered by Ms. VELÁZQUEZ of New York; amendment No. 10 offered by Mr. GALLEGLY of California; and amendment No. 12 offered by Mr. CHABOT of Ohio.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series, except the electronic vote, if ordered, of amendment No. 10, which will be a 15-minute vote.

AMENDMENT OFFERED BY MR. BRYANT OF TENNESSEE

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Tennessee [Mr. BRYANT] on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 170, noes 250, not voting 11, as follows:

[Roll No. 73]

AYES—170

Andrews
Archer
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Boehner
Bono
Brown (OH)
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Christensen
Clement
Coble
Collins (GA)
Combest
Cooley
Cox
Crane
Cremeans
Cubin
Cunningham
Deal
DeLay
Dickey
Dornan
Dreier
Duncan
Ehrlich
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Franks (CT)
Franks (NJ)
Funderburk
Gallegly
Gillmor
Goodlatte
Goodling
Gordon
Graham
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Hilleary
Hoekstra
Hoke
Horn
Houghton
Hunter
Hutchinson
Istook
Jones
Kasich
Kim
Kingston
Knollenberg
Kolbe
LaHood
Largent
LaTourette
Laughlin
Lewis (KY)
Lincoln
Linder
Livingston
LoBiondo
Manzullo
Martini
McCollum
McCrery
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Packard
Parker
Paxon
Petri
Pombo
Portman
Pryce
Quillen
Ramstad
Regula
Riggs
Rogers
Rohrabacher
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Smith (TX)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thornberry
Tiahrt
Torricelli
Traficant
Upton
Vucanovich
Waldholtz
Wamp
Watts (OK)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Young (AK)
Young (FL)
Zimmer

NOES—250

Abercrombie
Ackerman
Allard
Armey
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Blute
Boehlert
Bonilla
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brownback
Bryant (TX)
Bunn
Campbell
Cardin
Chapman
Chenoweth
Chrysler
Clay
Clayton
Clinger
Clyburn
Coburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Crapo
Danner
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dunn
Durbin
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Forbes
Ford
Fox
Frank (MA)
Frelinghuysen
Frisa
Frost
Furse
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Gonzalez
Goss
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Herger
Hilliard
Hinchey
Hobson
Holden
Hoyer
Hyde
Inglis
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kleczka
Klink
Klug
LaFalce
Lantos
Latham
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDade
McDermott
McHale
McHugh
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Miller (FL)
Minge
Mink
Molinari
Mollohan
Montgomery
Moran
Morella
Murtha
Neal
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Quinn
Rahall
Rangel
Reed
Richardson
Rivers
Roberts
Roemer
Ros-Lehtinen
Rose
Roybal-Allard
Sabo
Sanders
Sawyer
Schiff
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Spratt
Stenholm
Studds
Stupak
Talent
Tanner
Tejeda
Thomas
Thompson
Thornton
Thurman
Torkildsen
Torres
Towns
Velazquez
Vento
Visclosky
Volkmer
Walker
Walsh
Ward
Watt (NC)
Waxman
Weldon (FL)
White
Williams
Wise
Wolf
Woolsey
Wynn
Yates
Zeliff

NOT VOTING—11

Collins (IL)
Hostettler
Johnston
Moakley
Nadler
Porter
Radanovich
Rush
Stark
Stokes
Waters

□ 1634

Messrs. HYDE, ZELIFF, FOX of Pennsylvania, EMERSON, LIGHTFOOT, DIXON, HOBSON, LONGLEY, and DOOLITTLE changed their vote from "aye" to "no."

Messrs. WELLER, PACKARD, LAUGHLIN, BATEMAN, HEFLEY, BOEHNER, PAXON, RAMSTAD, SOLOMON, and Mrs. MEYERS of Kansas changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to the rule, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings, except the vote by electronic device, if ordered, on amendment No. 10, which will be a 15-minute vote.

AMENDMENT OFFERED BY MS. VELÁZQUEZ

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from New York [Ms. VELÁZQUEZ] on which further proceedings were postponed and on which the "noes" prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 151, noes 269, not voting 11, as follows:

[Roll No. 74]

AYES—151

Abercrombie
Ackerman
Andrews
Baldacci
Ballenger
Barrett (WI)
Becerra
Beilenson
Berman
Bishop
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Campbell
Canady
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Conyers
Davis
de la Garza
DeFazio
DeLauro
Dellums
Diaz-Balart
Dingell
Dixon
Dooley
Durbin
Edwards
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Flanagan
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Gonzalez
Green
Gutierrez
Hastings (FL)
Hefner
Hilliard
Hinchey
Horn
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
LaFalce
Lantos
Lazio
Leach
Levin
Lewis (GA)
Lofgren
Lowey
Maloney
Manton
Markey
Martinez
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Mink
Mollohan
Morella
Neal
Oberstar
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pombo
Pomeroy
Quinn
Rahall
Rangel
Reed
Richardson
Rivers
Ros-Lehtinen
Rose
Roybal-Allard
Sabo
Sanders
Schiff
Schroeder
Scott
Serrano
Skaggs
Slaughter
Souder
Studds
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Towns
Velazquez
Ward
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn
Yates
Young (FL)

NOES—269

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Deal
DeLay
Deutsch
Dickey
Dicks
Doggett
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Moran
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Portman
Poshard
Pryce
Quillen
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Roth
Roukema
Royce
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torricelli
Traficant
Upton
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Zeliff
Zimmer

NOT VOTING—11

Collins (IL)
Hostettler
Johnston
Moakley
Nadler
Porter
Radanovich
Rush
Stark
Stokes
Waters

□ 1644

Mr. SMITH of Michigan and Mr. SAWYER changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. GALLEGLY

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from California [Mr. GALLEGLY] on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 257, noes 163, not voting 12, as follows:

[Roll No. 75]

AYES—257

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Deutsch
Dickey
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kim
King
Kingston
Klink
Klug
Knollenberg
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Montgomery
Moorhead
Moran
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pickett
Pombo
Portman
Poshard
Pryce
Quillen
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Visclosky
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—163

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Barton
Becerra
Beilenson
Bentsen
Berman

Bishop
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunn
Campbell
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Conyers
Coyne
de la Garza
DeFazio
DeLauro
Dellums
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Gonzalez
Green
Gunderson
Gutierrez
Harman
Hastings (FL)
Hilliard
Hinchey
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Kolbe
LaFalce
Lantos
Leach
Levin
Lewis (GA)
Lincoln
Lofgren
Longley
Lowey
Luther
Maloney
Manton
Markey
Martinez
Matsui
McCarthy
McDermott
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Mink
Molinari
Mollohan
Morella
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Pomeroy
Quinn
Rahall
Rangel
Reed
Richardson
Rivers
Ros-Lehtinen
Rose
Roybal-Allard
Sabo
Sanders
Sanford
Sawyer
Schiff
Schroeder
Schumer
Scott
Serrano
Skaggs
Skelton
Slaughter
Studds
Tejeda
Thompson
Thornton
Thurman
Torres
Towns
Velazquez
Vento
Volkmer
Waldholtz
Ward
Watt (NC)
Waxman
Weller
White
Williams
Wise
Woolsey
Wynn
Yates

NOT VOTING—12

Collins (IL)
Hostettler
Johnston
Moakley
Nadler
Peterson (FL)
Porter
Radanovich
Rush
Stark
Stokes
Waters

□ 1702

Mr. VOLKMER changed his vote from "aye" to "no."

Mrs. KELLY changed her vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT, AS MODIFIED, OFFERED BY MR. CHABOT

The CHAIRMAN pro tempore: (Mr. RIGGS). The pending business is the demand for a recorded vote on the amendment, as modified, offered by the gentleman from Ohio [Mr. CHABOT] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 159, noes 260, not voting 12, as follows:

[Roll No. 76]

AYES—159

Abercrombie
Andrews
Baesler
Barcia
Bartlett
Becerra
Boehner
Bonior
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bunn
Bunning
Buyer
Camp
Chabot
Chapman
Chenoweth
Chrysler
Clay
Clayton
Clyburn
Coburn
Coleman
Collins (GA)
Collins (MI)
Conyers
Cooley
Crane
Crapo
Cubin
DeLay
Dellums
Diaz-Balart
Doolittle
Doyle
Durbin
Edwards
Ehlers
Engel
English
Ensign
Evans
Ewing
Fields (LA)
Filner
Flake
Flanagan
Fox
Funderburk
Gibbons
Gillmor
Green
Hall (OH)
Hastings (FL)
Hastings (WA)
Hayworth
Hefner
Hilleary
Hilliard
Hinchey
Hoekstra
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson, E. B.
Johnson, Sam
Jones
King
Kingston
Klug
LaHood
Lewis (GA)
Lewis (KY)
Linder
Longley
Lucas
Manzullo
Martinez
Matsui
McDade
McDermott
McHugh
McIntosh
McNulty
Meek
Menendez
Mica
Miller (FL)
Mink
Mollohan
Murtha
Myers
Myrick
Nethercutt
Ney
Norwood
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pastor
Paxon
Payne (NJ)
Pelosi
Petri
Pombo
Portman
Poshard
Quillen
Rahall
Ramstad
Rangel
Reed
Richardson
Roemer
Ros-Lehtinen
Rose
Roybal-Allard
Salmon
Sanders
Sanford
Scarborough
Schroeder
Sensenbrenner
Serrano
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Souder
Stockman
Stupak
Tate
Taylor (NC)
Tejeda
Thompson
Tiahrt
Torkildsen
Torres
Towns
Upton
Velazquez
Vento
Waldholtz
Walsh
Ward
Watt (NC)
Weldon (PA)
White
Woolsey
Wynn
Yates
Young (AK)

NOES—260

Ackerman
Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Barton
Bass
Bateman
Bellenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Bonilla
Bono
Borski
Brewster
Browder
Bryant (TN)
Bryant (TX)
Burr
Burton
Callahan
Calvert
Campbell
Canady
Cardin
Castle
Chambliss
Christensen
Clement
Clinger
Coble
Combest
Condit
Costello
Cox
Coyne
Cramer
Cremeans
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
Deutsch
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Dornan
Dreier
Duncan
Dunn
Ehrlich
Emerson
Eshoo
Everett
Farr
Fattah
Fawell
Fazio
Fields (TX)
Foglietta
Foley
Forbes
Ford
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Heineman
Herger
Hobson
Hoke
Holden
Horn
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kleczka
Klink
Knollenberg
Kolbe
LaFalce
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lightfoot
Lincoln
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martini
Mascara
McCarthy
McCollum
McCrery
McHale
McInnis
McKeon
McKinney
Meehan
Metcalf
Meyers
Miller (CA)
Minge
Molinari
Montgomery
Moorhead
Moran
Morella
Neal
Neumann
Nussle
Orton
Packard
Pallone
Parker
Payne (VA)
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Pryce
Quinn
Regula
Riggs
Rivers
Roberts
Rogers
Rohrabacher
Roth
Roukema
Royce
Sabo
Sawyer
Saxton
Schaefer
Schiff
Schumer
Scott
Seastrand
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (TX)
Spence
Spratt
Stearns
Stenholm
Studds
Stump
Talent
Tanner
Tauzin
Taylor (MS)
Thomas
Thornberry
Thornton
Thurman
Torricelli
Traficant
Visclosky
Volkmer
Vucanovich
Walker
Wamp
Watts (OK)
Waxman
Weldon (FL)
Weller
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Young (FL)
Zeliff
Zimmer

NOT VOTING—12

Collins (IL)
Hostettler
Johnston
Moakley
Nadler
Porter
Radanovich
Rush
Solomon
Stark
Stokes
Waters

□ 1317

The Clerk announced the following pair:

On this vote:

Mr. Hostettler for, with Mr. Radanovich against.

Mr. GEKAS and Mr. LAUGHLIN changed their vote from "aye" to "no."

Mr. NORWOOD and Mr. PAXON changed their vote from "no" to "aye."

So the amendment, as modified, was rejected.

The result of the vote was announced as above recorded.

□ 1715

The CHAIRMAN. It is now in order to consider Amendment No. 13 printed in part 2 of House Report 104-483, as modified by the order of the House of March 19, 1996.

AMENDMENT, AS MODIFIED, OFFERED BY MR. GALLEGLY

Mr. GALLEGLY. Mr. Chairman, I offer an amendment, as modified, made in order by the rule.

The CHAIRMAN. The Clerk will designate the amendment, as modified.

The text of the amendment, as modified, is as follows:

Amendment, as modified, offered by Mr. GALLEGLY:

Amend section 401 to read as follows (and conform the table of contents accordingly):

SEC. 401. EMPLOYMENT ELIGIBILITY CONFIRMATION PROCESS.

Section 274A (8 U.S.C. 1324a) is amended—

(1) in subsection (a)(3), by inserting "(A)" after "DEFENSE.—", and by adding at the end the following:

"(B) FAILURE TO SEEK AND OBTAIN CONFIRMATION.—Subject to subsection (b)(7), in the case of a hiring of an individual for employment in the United States by a person or entity that employs more than 3 employees, the following rules apply:

"(i) FAILURE TO SEEK CONFIRMATION.—

"(I) IN GENERAL.—If the person or entity has not made an inquiry, under the mechanism established under subsection (b)(6), seeking confirmation of the identity, social security number, and work eligibility of the individual, by not later than the end of 3 working days (as specified by the Attorney General) after the date of the hiring, the defense under subparagraph (A) shall not be considered to apply with respect to any employment after such 3 working days, except as provided in subclause (II).

"(II) SPECIAL RULE FOR FAILURE OF CONFIRMATION MECHANISM.—If such a person or entity in good faith attempts to make an inquiry during such 3 working days in order to qualify for the defense under subparagraph (A) and the confirmation mechanism has registered that not all inquiries were responded to during such time, the person or entity can make an inquiry in the first subsequent working day in which the confirmation mechanism registers no nonresponses and qualify for the defense.

"(ii) FAILURE TO OBTAIN CONFIRMATION.—If the person or entity has made the inquiry described in clause (i)(I) but has not received an appropriate confirmation of such identity, number, and work eligibility under such mechanism within the time period specified under subsection (b)(6)(D)(iii) after the time the confirmation inquiry was received, the defense under subparagraph (A) shall not be considered to apply with respect to any employment after the end of such time period.";

(2) by amending paragraph (3) of subsection (b) to read as follows:

"(3) RETENTION OF VERIFICATION FORM AND CONFIRMATION.—After completion of such form in accordance with paragraphs (1) and (2), the person or entity must—

"(A) if the person employs not more than 3 employees, retain the form and make it available for inspection by officers of the Service, the Special Counsel for Immigration-Related Unfair Employment Practices, or the Department of Labor during a period beginning on the date of the hiring, recruiting, or referral of the individual and ending—

"(i) in the case of the recruiting or referral for a fee (without hiring) of an individual, three years after the date of the recruiting or referral, and

"(ii) in the case of the hiring of an individual—

"(I) three years after the date of such hiring, or

"(II) one year after the date the individual's employment is terminated, whichever is later; and

"(B) subject to paragraph (7), if the person employs more than 3 employees, seek to have (within 3 working days of the date of hiring) and have (within the time period specified under paragraph (6)(D)(iii)) the identity, social security number, and work eligibility of the individual confirmed in accordance with the procedures established under paragraph (6), except that if the person or entity in good faith attempts to make an inquiry in accordance with the procedures established under paragraph (6) during such 3 working days in order to fulfill the requirements under this subparagraph, and the confirmation mechanism has registered that not all inquiries were responded to during such time, the person or entity shall make an inquiry in the first subsequent working day in which the confirmation mechanism registers no nonresponses."; and

(3) by adding at the end of subsection (b) the following new paragraphs:

"(6) EMPLOYMENT ELIGIBILITY CONFIRMATION PROCESS.—

"(A) IN GENERAL.—Subject to paragraph (7), the Attorney General shall establish a confirmation mechanism through which the Attorney General (or a designee of the Attorney General which may include a nongovernmental entity)—

"(i) responds to inquiries by employers, made through a toll-free telephone line, other electronic media, or toll-free facsimile number in the form of an appropriate confirmation code or otherwise, on whether an individual is authorized to be employed by that employer, and

"(ii) maintains a record that such an inquiry was made and the confirmation provided (or not provided).

"(B) EXPEDITED PROCEDURE IN CASE OF NO CONFIRMATION.—In connection with subparagraph (A), the Attorney General shall establish, in consultation with the Commissioner of Social Security and the Commissioner of the Service, expedited procedures that shall be used under the confirmation mechanism in cases in which the confirmation is sought but is not provided through confirmation mechanism.

"(C) DESIGN AND OPERATION OF MECHANISM.—The confirmation mechanism shall be designed and operated—

"(i) to maximize the reliability of the confirmation process, and the ease of use by employers, recruiters, and referrers, consistent with insulating and protecting the privacy and security of the underlying information, and

"(ii) to respond to all inquiries made by employers on whether individuals are authorized to be employed by those employers, recruiters, or referrers registering all times when such response is not possible.

"(D) CONFIRMATION PROCESS.—(i) As part of the confirmation mechanism, the Commissioner of Social Security shall establish a reliable, secure method, which within the time period specified under clause (iii), compares the name and social security account number provided against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided and whether the individual has presented a social security account number that is not valid for employment. The Commissioner shall not disclose or release social security information.

"(ii) As part of the confirmation mechanism, the Commissioner of the Service shall establish a reliable, secure method, which, within the time period specified under clause (iii), compares the name and alien identification number (if any) provided against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided and whether the alien is authorized to be employed in the United States.

"(iii) For purposes of this section, the Attorney General (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. In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Service, an expedited time period not to exceed 10 working days within which final confirmation or denial must be provided through the confirmation mechanism in accordance with the procedures under subparagraph (B).

"(iv) The Commissioners shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information.

"(E) PROTECTIONS.—(i) In no case shall an individual be denied employment because of inaccurate or inaccessible data under the confirmation mechanism.

"(ii) The Attorney General shall assure that there is a timely and accessible process to challenge nonconfirmations made through the mechanism.

"(iii) 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.

"(F) TESTER PROGRAM.—As part of the confirmation mechanism, the Attorney General shall implement a program of testers and investigative activities (similar to testing and other investigative activities assisted under the fair housing initiatives program under section 561 of the Housing and Community Development Act of 1987 to enforce rights under the Fair Housing Act) in order to monitor and prevent unlawful discrimination under the mechanism.

"(G) 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 for any action taken in good faith reliance on information provided through the employment eligibility confirmation mechanism established under this paragraph (including any pilot program established under paragraph (7)).

"(7) APPLICATION OF CONFIRMATION MECHANISM THROUGH PILOT PROJECTS.—

"(A) IN GENERAL.—Subsection (a)(3)(B) and paragraph (3) shall only apply to individuals hired if they are covered under a pilot project established under this paragraph.

"(B) UNDERTAKING PILOT PROJECTS.—For purposes of this paragraph, the Attorney General shall undertake pilot projects for all employers in at least 5 of the 7 States with the highest estimated population of unauthorized aliens, in order to test and assure that the confirmation mechanism described in paragraph (6) is reliable and easy to use. Such projects shall be initiated not later than 6 months after the date of the enactment of this paragraph. The Attorney General, however, shall not establish such mechanism in other States unless Congress so provides by law. The pilot projects shall terminate on such dates, not later than October 1, 1999, as the Attorney General determines. At least one such pilot project shall be carried out through a nongovernmental entity as the confirmation mechanism.

"(C) REPORT.—The Attorney General shall submit to the Congress annual reports in 1997, 1998, and 1999 on the development and implementation of the confirmation mechanism under this paragraph. Such reports may include an analysis of whether the mechanism implemented—

"(i) is reliable and easy to use;

"(ii) limits job losses due to inaccurate or unavailable data to less than 1 percent;

"(iii) increase or decreases discrimination;

"(iv) protects individual privacy with appropriate policy and technological mechanisms; and

"(v) burdens individual employers with costs or additional administrative requirements.".

The CHAIRMAN. Pursuant to the rule, the gentleman from California [Mr. GALLEGLY] and a Member opposed will each control 30 minutes.

Mr. GALLEGLY. Mr. Chairman, the modification of the amendment made

in order by a previous order of the House is at the desk, and I ask unanimous consent that it be considered as read.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. CONYERS. Mr. Chairman, I seek time in opposition to the amendment. I would also like permission to yield half of my time to the gentleman from Ohio [Mr. CHABOT] and ask unanimous consent that he be allowed to control said time.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from California [Mr. GALLEGLY].

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

Mr. Chairman, I offer this amendment along with several of my colleagues from both sides of the aisle. We have been debating this bill for several hours now, and we have more to come. But I am here to tell you that this is the watershed moment in immigration reform. This is the litmus test for sincerity. This is where Members will decide to either get serious about ending illegal immigration, or to just keep talking about it.

The simple truth is we not fight illegal immigration without a reliable, reasonable way of determining who is here legally and who is not. We have to start right there. We need a system, a mandatory system, to ensure that illegal immigrants are separated from the jobs that motivate them to come here in the first place.

The voluntary verification system now in this bill will not cut it. I have often said that a voluntary system will have about as much effect as a voluntary speed limit, a very little, if any at all. Today the documents are supposed to provide definitive proof of who is here legally and illegally. We have got green cards, we have pink cards, Social Security cards, birth certificates, and a myriad of others.

Unfortunately, the range of documents has only widened the range of options to counterfeiters. In many areas of this country you can buy a fake Social Security card good enough to defraud any law abiding employer for about $30. Just think about it: A $30 investment buys a lifetime of illegal employment in America. It sounds like a pretty good deal to me.

That is the beauty of the telephone verification system. This amendment, which I call 1-800-end fraud, makes counterfeit documents obsolete because it renders them irrelevant.

Mr. Chairman, there has been an incredible amount of misleading information spread about this issue in recent weeks. Believe me when I tell you that Pinocchio has nothing on those who have opposed this critical effort. I know this because I have personally received calls from my constituents urging me to vote against my own amendment. When I asked them what they think we are talking about here, what exactly, well, first, they pause because responding to questions is not part of the script that they have been given, and then they say, "This is a national I.D. card. This is a dangerous tracking provision that is going to follow me into my own home and put all my personal private information into a government computer."

It is just absolutely incredible. I thought our discussions on Medicare had established a new low for this body in terms of misinformation and scare tactics. But that is nothing compared to what we have been dealing with on this issue.

In the name of truth and reason, I would like to take a second to review how this pilot program will work. Specifically, within 3 days of hiring someone an employer would make a simple toll-free telephone call to ensure that the Social Security number presented by the worker was valid; that that number matched the name and it was not being used by 40 other people working in 40 other places. That is all there is to it.

This program has been strongly endorsed by the California Chamber of Commerce, the largest State chamber in the Nation, because it provides safe harbor for employers and gives them a clear and easy way to comply with the law.

For too long we have tried to turn employers into junior INS agents. This amendment shifts the responsibility back where it belongs, to the Federal Government. Just a few of the facts: This system does not create any new data base, period. This system does not collect any information that can later be misused by the Government, period. This system does not do anything other than verify the people employed in this country are eligible to work in this country.

Nowhere in this system is there an ability for the Government to know whether you have got a gun, whether you home school your kids, or whether you prefer Cheerios or Wheaties at the breakfast table. The critics of this amendment know all this, but they have taken great lengths to make sure that the people they claim to represent do not.

A familiar refrain is that we would not need this system if we just focused more on the border. Well, this bill already does focus on the border. But it, frankly, is beyond me to know how the border enforcement can deal with those 4 to 6 million illegal immigrants already working in this country, or how any provision can provide determining who they are or who they are not.

I have consistently supported increased border enforcement, but increased border enforcement will not solve all our problems, and it certainly will not solve this one. This system puts the teeth into immigration reform. This system makes immigration reform work. Without it, we are left with a watered down bill that sounds great, but has only a limited effect.

Mr. Chairman, I urge my colleagues to support this amendment.

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

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

Mr. Chairman, well, forget that we just passed an amendment dealing with this very same subject, the employment-verification system. As a matter of fact, the name of that amendment, I would say to the gentleman from California [Mr. GALLEGLY], was the voluntary worker verification system.

Fast forward. A year later we come to the floor and make it permanent. Well, why wait for a year? Let us vote a temporary system, and then come right back and vote a permanent system, the same system.

So, to quote my good friend from California, an imminently qualified member of the Committee on the Judiciary, who said in the name of truth and reason, [Mr. GALLEGLY] in the name of truth and reason, why are you offering this amendment, when we just passed the employment verification system minutes ago?

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

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

Mr. GALLEGLY. Mr. Chairman, I appreciate the gentleman yielding.

I think it is very simple. If we have a voluntary system, there is no compliance.

Mr. CONYERS. No, Mr. Chairman, reclaiming my time, tell me why? No lectures.

Mr. GALLEGLY. Mr. Chairman, the reason why, the people that are violating the law today are not going to participate in the voluntary system. They are not the ones we are looking for. The ones we are looking for are the ones that intentionally violate the law.

Mr. CONYERS. I understand. Now, why did the gentleman not offer this amendment in the first place, instead of taking us through the voluntary charade?

Mr. GALLEGLY. Mr. Chairman, if the gentleman will continue to yield, I am sure the gentleman knows the answer to that: Because it was in the bill that passed out of the committee, the full committee that we both serve on, by a vote of 23 to 10, but was changed by leadership prior to coming to the floor.

Mr. CONYERS. Reclaiming my time, Mr. Chairman, just a moment. I am a senior Member of Congress, but the gentleman says, changed by the leadership just before it came to the floor.

Now, in the name of truth and reason, first of all, I want to congratulate my colleague for his candor and his truthfulness and his honesty. The gentleman can sit down now, because I am not going to yield anymore.

Let us analyze this legislation. We pass out millions of books about "How our laws are made" in Congress. Before this measure came to the floor, it was changed by the leadership.

Question. Is that leadership a person whose initials are N.G.? I did not ask the gentleman that question, Mr. Chairman. He can sit down. It is a rhetorical question.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I think it may have been someone whose initials are N.G.

Mr. CONYERS. Mr. Chairman, reclaiming my time, I do not wish to pursue this matter, nor is it appropriate to belabor the processes, the internal processes by which legislation is created in the House of Representatives. Suffice it to say that if we had come back after a little while of fooling around with a temporary verification system, and somebody said it did not work, and there were a lot of people coming in, fine. But amendments back-to-back, do not be offended.

That is the way the system works around here these days in the 104th Congress. You vote verification; it does not come up in the committee of jurisdiction, but it takes a little detour through the Speaker's office on the way to Rules, and, whammo, here we are, strongly supporting the Gallegly amendment because the leadership said so.

Well, now, we follow the leadership too on our side. The only thing is we do not have to park our brains at the door. Our leadership does not operate like that. Relax, sir, please. Our leadership does not order all of us to be in lockstep, as you are routinely.

I notice it is getting to be a little stressful on the other side, but this takes the absolute cake. Let us now move from the voluntary to the permanent, one amendment back-to-back. Hey, this is what we really needed all the time.

Now, do not think this is 1-800-Big Brother. Please, do not think that. This is not about Big Brother. This is not about the camel's nose under the tent. I know that part. This is a perfectly wonderful system, at which the underground economy is laughing as we debate whether it is permanent or whether it is temporary. What difference does it make? They are not going to abide by any of it. Besides, you have not put any enforcement provisions in the existing I-9 law to begin with.

So I am sure this is going to impress some amount of someone's constituents somewhere, but, please, it is not a good day for those of us who would like to have a strong bill on immigration, without violating anyone's civil liberties.

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

Mr. GALLEGLY. Mr. Chairman, I yield myself 15 seconds to respond to my good friend from Michigan, and he is my good friend, and I have great respect for him. In fact, I truly admire his wit. I found his presentation extremely entertaining.

Mr. Chairman, the only thing that I would say to the gentleman from Michigan [Mr. CONYERS] is the initials in opposition were not N.G. As a matter of fact, the initials N.G. has said they are very supportive of the mandatory 1-800 number.

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

Mr. Chairman, this amendment originally, as we know in the Committee on the Judiciary we offered an amendment to strike out what I called 1-800 Big Brother. We were unsuccessful there, but it was very close. It was 17 to 15. It had bipartisan support. We had 8 Democrat votes and 7 Republican votes. The fact of the matter is, there was so much opposition to making this mandatory that the proponent of this bill, I think, knew that were it mandatory, it would have lost.

□ 1730

Now, I had concerns myself, as did the gentleman from Michigan. We did not even want what was a so-called voluntary system because we knew where this was going to lead. We knew that within a few years then it would be mandatory, and we knew within a few years, rather than being in just five States, it would be all across the country. So it would be nationwide and it would be mandatory.

Mr. Chairman, the fact is that is exactly the way it was originally in the bill in Committee on the Judiciary. This was going to be not voluntary, not in just five States, but this was going to be mandatory for every single hiring decision anywhere in the entire country, all 50 States. That is where they wanted to go originally.

Now, we defeated that and this is what we got sort of as a compromise. But let us not be misled where the proponents of this want to go, in order to make it truly effective, is mandatory, nationwide. The gentleman from Florida [Mr. MCCOLLUM], has stated very clearly in committee that even that will not really work unless we have a national ID card, which is the ultimate step here. Every American citizen at the end of this road will have to carry a national ID card around with their picture, perhaps retina scans, and God knows what is going to be on this card. But that is where we are headed.

Mr. Chairman, to me that is big brother, and that is the reason I fought this in the committee. That is the reason, along with the gentleman from Michigan [Mr. CONYERS], we have been fighting this on the floor today. Voluntary, it, in my opinion, was an unprecedented assertion of Federal power. To make it mandatory, which is what this amendment would do, clearly is unprecedented. From now on in those five States, every employment decision is going to have to be confirmed, affirmed by the Federal Government. That goes too far.

I think it is just the opposite of why we were sent here. Many of us feel that we were sent here to reduce the scope and the power of the Federal Government. We do not all agree. Some people do not mind bigger government, some of us do. I happen to mind it very much.

Another thing that I have heard this sold as, I have had several folks from California mention, well, the business people in California want this, to have a 1-800 number so that they can protect themselves in case there has been some foulup on the I-9 forms or some of the other Federal requirements. Let us look at what that basically means.

Mr. Chairman, we have big government with the I-9 forms and all the rest. Since that did not work, then we are going to go to the next level, which is additional big government. The I-9's and that system did not work, so we are going to the next stage. This does not replace the I-9 forms. It does not replace that at all. It is an additional requirement that people will have.

The gentleman from California just said before, he said the voluntary system, which we just passed, the so-called voluntary system, the previous amendment that we just passed, he said it was not going to work. The bad guys, the people who are hiring illegal aliens off the books, paying them cash right now, they are not going to call this 1-800 number. They are going to continue to keep hiring these illegal aliens and paying them under the table.

Mr. Chairman, who is going to be affected? The law-abiding citizens, as usual. Those are going to be the people that would have the additional level of bureaucracy, the additional Federal requirements to call the Federal Government and get their OK before we can hire somebody. That is wrong. There are clearly going to be errors in this system.

There was an L.A. Times article, and this was previously mentioned, that estimated the Social Security department had estimated that there would be 20-percent error rates. Then they said that would be early on. Then it would likely back off to, say, 5 percent. The Social Security Administration has indicated they really do not know what the error rate would be at this point. Even if it is 1 percent, we are talking about hundreds of thousands of American citizens that are going to get caught up in this system. They have to verify that, yes, indeed, they are employable, who could conceivably lose their jobs and have their lives put on hold if there are mistakes.

I know in our office we have dealt many times with people in my community that have problems with the IRS where they have made mistakes, with the Social Security that has made mistakes, with Veterans that has made mistakes. In this debate, the previous debate, I have heard my name pronounced Cabot, Chabot, Chaboy, just

about every name one can think of. I am dead meat in this system, you know, if it were pronunciation and the spellings. We have got the gentlewoman from Florida [Ms. ROS-LEHTINEN], we have the gentleman from California [Mr. RADANOVICH]; there is the spellings. All you have to do is have one letter that is thrown off, and you are caught up in the system. It is going to be a nightmare for these people.

Mr. Chairman, I would like to read from something here that we got from the NFIB. This is what the NFIB sent out on this. It says:

On behalf of the more than 600,000 members of the National Federation of Independent Business, the NFIB, I urge you to oppose the Gallegly amendment which would mandate that employers in at least five of the seven States with the highest illegal immigrant population call a 1-800 number to verify every new hire's work eligibility. This amendment will be offered, et cetera.

Small businesses across this country have sent a strong message time and time again that they do not want any more government one-size-fits-all mandates coming from Washington. In fact, a recent survey found that 62 percent of NFIB members oppose being required to call a 1-800 number for every new hire.

Please let small business owners know we hear their pleas for less government requirement and that it is not Washington as usual. Vote no on the Gallegly amendment.

Again, we lost on the so-called voluntary, but this is not voluntary anymore. This is clearly mandatory and it is clearly wrong, and for that reason, we strongly oppose this.

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

Mr. GALLEGLY. Mr. Chairman, as Members will see as the debate goes on, there is strong bipartisan support as evidenced by our next speaker.

Mr. Chairman, I yield 3 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 Gallegly amendment. I want to answer the question why. The question we simply have to ask over and over is, do we have an illegal immigration problem or do we not? If Members answer as I do, we do, then this amendment makes sense.

Mr. Chairman, our amendment would create a pilot program in five of the seven States with the highest populations of illegal aliens to test a mandatory worker verification system. The system is simple: An employer makes an inquiry through a toll-free 1-800 number, a toll-free facsimile number, or other electronic media to confirm whether an individual is authorized to be employed in the United States.

This system will protect employers from civil and criminal liability for any action taken in good faith reliance on information provided through the worker verification system.

For those who believe this amendment is antibusiness, I could not disagree more. While much has been made about this being a mandate on employers, it will actually protect business men and women from harsh employer sanctions. Currently, hardworking, honest business people can do everything they are supposed to and still be held liable for unknowingly hiring an illegal alien. In addition, it will reduce the current burden on employers to be INS experts on fraudulent documents.

Currently, there are a list of 29 documents that can be used for employment verification. Fortunately, H.R. 2202 reduces this number to six. However, counterfeiters have proven quite adept at tampering with or reproducing most of our identification documents. We cannot expect the business men and women in this country to be INS investigators or experts on fraudulent documents. We must provide them with the manageable and affordable tools necessary to comply with the law. It would be irresponsible of us not to provide American employers with this type of support.

Under current law, an employer is required to see two forms of identification and fill out the I-9 form. An employer can comply with this and still unknowingly hire an illegal alien who presented fraudulent documentation. This employer can face thousands of dollars in fines from employer sanctions even though they followed the correct procedure for verifying eligibility. Their only mistake is not being able to detect counterfeit identification.

The unfortunate consequence of this uncertainty under our current system, is that an employer may not want to take a chance on hiring an individual with a foreign sounding name or appearance for fear of hiring an illegal alien. Because this amendment requires the employer to verify eligibility for every employee, it removes the incentive for employers to treat applicants differently because of their appearance or surname.

While I do not believe this is the perfect fix to our illegal immigration problem, I do believe that it takes a big step in the right direction. A pilot project, try it, test it, experiment with it, see what works, see what does not work. Junk that does not work, but try it before we mandate it nationwide, but a voluntary system, as has been said, will not work. I also believe that we are going to have to address the counterfeiting of breeder documents, such as birth certificates, to insure that an employee is eligible to work.

Without a worker verification system in place with adequate resources, we will not be able to put a dent in our illegal immigration problem. I urge my colleagues to support employers and oppose illegal immigration by voting for the Gallegly-Bilbray-Seastrand-Stenholm-Beilenson-Frank amendment.

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

Mr. Chairman, it is interesting to find out how many Members of Congress understand what business wants and needs and what they know is best for business. Yet when we get the reports and the letters and the calls from business organizations, they are saying just the opposite. They say they do not want it.

They do not want it. They do not want it even if we think they want it. They do not want it if we think they need it. They do not want it if we think that it is good for them, even if they do not know that they would be better off for it. The do not want it.

Do my colleagues get it? The business community has spoken on this pretty clearly, and yet Member after Member, in support of the Gallegly amendment, explains to us how much better off business will be and how they will learn to love this as soon as they try it and let us give it a chance.

By the way, forget voluntary. Let us go to mandatory right now. The next amendment that might be up, if it could be made in order, is to make it nationwide. I mean, why wait for a few months? Let us do it tonight, tonight, tomorrow.

Mr. Chairman, we know what business needs. We know, whether they like it or not, it is going to be good for them. The problem has been revealed by the previous speaker, the gentleman from Texas. It is that they are forging all the documents on which we are going to base the phone call a mile a minute. That is why the phone call is going to be no more worth the document than it was based upon. That document may likely well be fraudulent.

Do we not see, mandatory programs like this are not going to work. Stepping on people's rights and trying to make class distinctions within our society is not a good way to go.

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

Mr. GALLEGLY. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I want to compliment Members on both sides of this issue. We have remained on the issues and people have spoken, no matter how strongly they feel, and remained on the issues. Most of this debate has dwelt on those issues. Even though those feelings are strong in many cases, they have remained that, and I think that is where we want this floor to remain most of the time. I would say all the time.

That working environment was degraded when the gentleman from Texas [Mr. BRYANT] personally attacked the Speaker of the House. The Speaker, like the gentleman from Texas [Mr. STENHOLM], went point by point by point on his issues and spoke only to the issues of the Gallegly amendment. Then when the gentleman from Texas [Mr. BRYANT], attacked the Speaker, got into personal references, I think that was wrong. I would say to my friend that it is uncharacteristic of

him and I know him as a friend, and I say this because myself, I have lost my temper on the House floor and I have done very similar things. But I think when we chastise the position of the Speaker, which this Gallegly amendment was overwhelmingly passed, we chastise the motive of the rest of us. When over 60 percent of my voters in California support that position, I think that was wrong.

Mr. Chairman, I say that with the intention that I have done the same thing, and I think in this particular case it does disservice to what we are trying to do, and I just think it was wrong.

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

Mr. Chairman, I just wanted to quote from the Employers for Responsible Immigration Reform, and what they state in their correspondence to us is that fully one-third of the Nation would be required to participate in the creation of a huge new Federal bureaucracy. Furthermore, there is no evidence to suggest that this system will work. They oppose the Federal mandate under the Gallegly-Stenholm-Seastrand-Bilbray-Stenholm amendment.

I would just like to list a number of these business groups, because it has been stated in here that business wants this particular amendment.

□ 1745

Those who oppose this amendment, among them are the American Association of Nurserymen, the American Hotel and Motel Association, the American Meat Institute, the Associated Landscape Contractors of America, Associated Builders and Contractors, Associated General Contractors, the College and University Personnel Association, the Food Marketing Institute, the International Association of Amusement Parks and Attractions, the International Foodservice Distributors Association, the National-American Wholesalers Grocers' Association, the National Association of Beverage Retailers, National Association of Convenience Stores, the National Federation of Independent Business, who in the last particular amendment took essentially a neutral position, not opposing nor endorsing the amendment that we took up before, but they oppose this amendment; the National Retail Federation, the Society for Human Resource Management, the National Retail Federation, the Christian Coalition, the Citizens for Sound Economy, Small Business Survival Committee, the American Civil Liberties Union, Concerned Women for America, National Center for Home Education, the American Bar Association, Eagle Forum, U.S. Catholic Conference, and on, and on, and on, and there are other groups that I did not have time to read.

But this is a bad amendment. For that reason we oppose it.

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

Mr. GALLEGLY. Mr. Chairman, I yield 2½ minutes to the gentleman from California [Mr. BILBRAY].

Mr. BILBRAY. Mr. Chairman, I think really what I hear here is a different perception of the immigration issue, and to try to sensitize this institution to the fact of the level of concern we should have about this immigration issue, let me just show my colleagues the different perspective.

All over America, when people drive down a highway, this is what they see, and I am sure many of my colleagues, that is what they see in their neighborhoods. But let me show my colleagues what the people of California see and people around the border see, and this is 70–80 miles north of the border. This is the kind of thing that we are confronted with, with absurdity. CalTrans from California was kind enough to send this sign to try to sensitize my colleagues to the fact that Washington must wake up and address this absurd, immoral situation.

Mr. Chairman, people are being slaughtered on our freeways because Washington needs to address this issue and has been ignoring it. Mr. Chairman, this amendment makes it possible for us to try to address the reason why people are coming here: Jobs. Jobs are what are drawing them across our freeways and being killed and slaughtered. The fact is this amendment will finally address the issue in the least intrusive way of addressing the issue of trying to keep people from hiring people who are not qualified.

Mr. Chairman, there may be those who think that this is a bad idea, but ask those who know that are affected. The Chamber of Commerce of California supports this amendment because they know. They have the reality of today of illegal immigration. They are not sitting in some insulated place, way off away from the problem. They know the problem, and they want this amendment.

I would ask my colleagues to recognize that those who are against the national ID system should support this amendment. It is the least intrusive alternative to a national ID card.

And those of my colleagues who say that they support the concepts of business, small business, more than any other segment of our society, uses telephonic, and listen to this. Of any part of society, small business is using telephonic verification now and has developed a dependency on it for business more than anyone else.

All we are saying is let us learn from business, and Government should learn to use technology for the benefit of our society, just as the private sector is, and we should use technology for the benefit of protecting our citizens and noncitizens, and their freedoms and liberties.

So support this amendment. It is the best nonintrusive, efficient way to be able to get the job done.

Mr. CONYERS. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BRYANT] for defensive remarks.

(Mr. BRYANT of Texas asked and was given permission to revise and extend his remarks.)

Mr. BRYANT of Texas. Mr. Chairman, I regret that the gentleman from California [Mr. CUNNINGHAM], made remarks which apparently the Speaker sent him in here to make, and then he left. I do not see him anywhere. I also regret that they would bother to take time in the debate to come and make remarks like that. That is patently absurd.

I will say this. I will just reiterate what I said before. This reminds me a little bit of the lobby bill in 1994. We worked for a 2-year period trying to put that bill together. It was a totally bipartisan effort until the last minute when the Speaker, now Speaker, sensed the possibility of political advantage and came in at the last minute, blind sided us, and opposed it and tried to kill it. Mr. Chairman, we overcame it.

Today, once again we worked for two, virtually a year and a half now, trying to put together an immigration bill everybody can be for. There are two dealbreakers in it; one is this on education, and one is the deal on hospitals. And then the Speaker of the House, unable to resist political opportunity, comes to the floor, the Speaker of the House comes to the floor and makes a speech about this one amendment and talks about liberals this and about how we have these evil illegal aliens that are taking away our children's education and so forth.

It was, in my view, a performance beneath the rank of the Speaker. It was, in my view, a performance designed to make this into a political opportunity instead of a bipartisan bill, and he may have succeeded. It is a shame.

Mr. Chairman, I think that passionate objection to his action was clearly warranted. I regret very much the mischaracterizations by the gentleman from California [Mr. CUNNINGHAM], no doubt probably calculated by some speech writer in the Speaker's office of anybody out here losing their temper. I have not seen anybody lose their temper today, but I have been willing to stand apart and say, "You know, Mr. SMITH and I worked a long time to put this bill together to make it work, and along comes the Speaker of the House and basically tries to bring us down to the lowest common denominator."

Do my colleagues know why what I am saying is true? Because these guys over here whipped that amendment, they whipped it hard to make sure that they would win, to make sure they would have a political issue, not a bill, not a new policy for the public, but an issue, and with that kind of leadership on their side and with that guy in charge of the House of Representatives, I submit to my colleagues I think the public is not long going to be on their side. I regret it.

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

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

Mr. GALLEGLY. Mr. Chairman, as the gentleman knows, I have great personal respect for our relationship. We have worked hand in hand on the issue of illegal immigration for many years.

But I think the gentleman would be the first to yield to the fact that this is an issue that I have worked very hard for a long, long time without any partisan involvement at all. It is a philosophical issue that I have a tremendous passion for, that I think affects all Americans. I think that is one of the reasons that we saw a fairly significant number of Democrats that voted for that as well.

Mr. BRYANT of Texas. Reclaiming my time, I agree with everything the gentleman said, except I want to make very clear to him that it was made clear in the very beginning there were a couple of issues along the way that would derail this bill and get it vetoed and cause a bunch of us to feel like we could not continue to support it. And those two were brought up today, and one failed and one passed. The gentleman's passed. The gentleman has been consistent from the very beginning.

The fact that the Speaker of the House came down here and made the kind of speech that he did, in my view, brought a bill that really was bipartisan down to a very partisan level and was not, in my view, fitting of the office of the Speaker of the House, and I——

Mr. GALLEGLY. If the gentleman would further yield, I would hope that he would still consider strongly supporting the bill, in the final analysis, that he has worked so hard on, like so many others of us have.

Mr. BRYANT of Texas. I would like to. I just hope my colleagues do not make it any worse.

Mr. GALLEGLY. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Mrs. SEASTRAND].

Mrs. SEASTRAND. Mr. Chairman, I thank the gentleman from California for yielding me this time.

Today we are offering this amendment that would call, and I want to underline this, for a 3-year mandatory pilot program in 5 of 7 States: California, Arizona, Texas, Florida, New York, Illinois, and New Jersey. And these States are most impacted by illegal immigration.

As is pointed out, this amendment simply is going to put back into the bill the original language that was passed by the House Committee on the Judiciary.

Now, I want to stress that the requirement that illegal aliens be verified for work eligibility is crucial to true immigration reform. I want to repeat that this does not establish a national ID card or even a system by which a worker can be tracked throughout their career.

This amendment does none of the following: It does not require any new data to be supplied by the employee. It does not require any new personal information on the employee. It does not create a new Government data base. It is a pilot program that cannot be expanded into a national program without a specific vote by this House.

I think anyone who has watched my voting record would agree that I am opposed to any Government intrusion, and this is a simple way to keep American jobs by people that come here legally.

Mr. CHABOT. Mr. Chairman, I yield myself such time as I might consume.

If a citizen is not approved to work, and that is really what this is all about here, is what the committee report says happens. And I would like to read from the committee's own report. If he or she wishes to contest this finding, secondary verification will be undertaken. Secondary verification is an expedited procedure set up to confirm the validity of information contained in the Government data bases. Under this process, the new hire will typically contact or visit the Social Security Administration and/or the INS. The employee has 10 days to reconcile the discrepancy. If the discrepancy is not reconciled by the end of this period, the employer must then dismiss the new hire as being ineligible to work in the United States. I find that to be very objectionable; in fact, outrageous.

It is the individual employee, the individual American, that is the person who is really going to be hurt in this. The individual innocent American employee gets caught up in the mess because perhaps they used a maiden name or perhaps there was a typo or one of the numbers was typed in wrong or whatever.

As I mentioned earlier today, we had a situation in my district where for 4 months they still have not been able to clear up the Social Security, the fact that they are married and ought to have a married name on there.

What we also heard earlier referred to today is that it took 8 months to prove to Social Security that one particular woman was not dead. That is the proof she was not dead 8 months, and they still have not cleared it up. So that is the type of problem we got with this, and this particular person could be an American citizen, perfectly legal, has 10 days to clear it up, or they are out of work. And that is not the way it should be in this country.

Mr. Chairman, I yield 1½ minutes to the gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in opposition to this amendment. Mr. Chairman, there are a number of groups who oppose this amendment. Among them are Americans for Tax Reform, the ACLU, the Small Business Survival Committee, the National Retail Federation, Empower America, Citizens for a Sound Economy, NFIB, and the Food Marketing Institute.

Mr. Chairman, I wholeheartedly agree with Grover Norquist, who is the president of Americans for Tax Reform, when he said, whether voluntary or mandatory, employment verification represents an enormous intrusion by the Federal Government into the rights of individuals.

The debate should not be over what type of employment verification systems we have but whether we really have an employment verification system at all. I realize, living in Idaho, that we have problems with illegal immigration, but let us not reach so far that we violate our own civil rights.

Mr. GALLEGLY. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. BEILENSON], who is from the San Fernando Valley and parts of Ventura County.

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

□ 1800

Mr. BEILENSON. Mr. Chairman, I am not a member of any of those fine groups that either the gentleman from Ohio [Mr. CHABOT], or the gentlewoman from Idaho [Mrs. CHENOWETH], mentioned, so I am free, apparently, to rise in strong support of this amendment.

If we are serious about stopping illegal immigration, then we must provide a sound method for employers to find out if prospective employees are legally authorized to work in the United States. Otherwise, it would be virtually impossible to enforce the existing law against hiring.

The telephone verification system included in the bill, provides a very promising way for employers to easily determine whether a prospective employee is legally authorized to work. It was, as Members know, one of the key recommendations of the Jordan Commission, which did an extremely thorough and creditable job of producing very reasonable recommendations for regaining control over our Nation's immigration system.

But for the telephone verification system to work, it has to be mandatory rather than voluntary in the States where it would be tried on an experimental basis. If it is not, those employers who intend to flout the law will obviously not participate in the system, and the INS will have no way of determining whether the system is actually working.

The Committee on the Judiciary, as Members again were reminded, recognizes the importance of making this system mandatory. Unfortunately, the Committee on Rules changed the system to a voluntary one, to some of us who serve on that committee in what was an egregious example of overreaching by our own committee, in disregard for the deliberative process of the committee of jurisdiction.

This portion of the bill should now be restored to the form it was in when it was approved by the Committee on the Judiciary. Employers should welcome

this telephone verification system, since it would give them a simple, reliable way of determining who is legally authorized to work here and who is not. Right now they do not have a sound and dependable way to do that because we failed to provide any such method when Congress enacted employer sanctions as part of the Immigration Reform Control Act of 1986.

Mr. Chairman, much is being said about the potential for governmental intrusiveness in hiring practices that would result from this new system. Nothing could be further from the truth. All this verification system does is to provide a way for us to finally enforce the existing 10-year-old law against hiring illegal immigrants and for employers to be able to confirm that they are in fact obeying the law.

The only people who will experience any negative effects are the people who should feel those effects, employers who are breaking the law by deliberately hiring illegal immigrants, and immigrants who are breaking the law by trying to get a job here when it is illegal for them to do so.

Mr. Chairman, I urge our colleagues to support this very important amendment.

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

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

Mr. Chairman, illegal immigrants are from all over the world. They are not just from South America, they are from Asia, they are from Europe, they are from Russia. One thing they all have in common, they mostly want a job.

As an employer, you have certain responsibilities in this country. One of those responsibilities is to fill out an I-9 form. That has given employers a cover, because once you have that I-9 form in the personnel jacket, along with two pieces of identification, along with that Social Security card, in every case, if the INS comes into your establishment and you have met that criteria, even though you have a great number of illegals working in that business, you are not held accountable for that, because there is no way for you to verify whether or not a Social Security card is a fraudulent document.

This is all that does. It gives an opportunity for an employer to call a number and check a name to a number. This is a system that we must have, and quite frankly, if it is a voluntary system, those people that are not very good employers and who are knowingly hiring illegals are going to continue to do so.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentleman from California, Mr. ESTEBAN TORRES, who has a great deal of experience in this matter.

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

Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from California. The amendment would take a Federal employer verification system to new Orwellian heights. For the past hour we have debated the merits of a voluntary employer verification system. The amendment before us would require every employer, in at least five States, to call a toll-free number to verify the name and Social Security number of every new hire.

You can be sure that these States won't be Rhode Island, Delaware, Montana, Alaska, and North Dakota.

No, the States will likely include New York, California, Texas, and Florida—or nearly half the population of this country.

From a small business standpoint, this amendment piles on more bureaucratic redtape and more costly reporting requirements. The INS estimates that the compliance cost per employer will be at least $5,000.

If this amendment is enacted there is no guarantee that the Federal Government could handle even a small percentage of those employers mandated to use the Big Brother system. Not only would we have problems with compliance, there is no guarantee that the system would approach any level of useful accuracy.

The current database upon which the system would be based is grossly unreliable and would cause citizens and legal residents to be denied employment. Experts estimate that 20 out of every 100 legal job applicants would be denied jobs under this flawed system.

And the price tag for this gargantuan Big Brother computer verification system would sink us even deeper in red ink.

We can't even afford to pay the INS to keep up with its current workload, much less pay for a giant new system. And in the end, even if all these problems could be resolved, nothing, I repeat, nothing in this Big Brother verification system will prevent the black market from selling stolen Social Security numbers. Nor will it prevent a situation like the sweatshop owner in El Monte, CA, who deliberately broke the law and hired undocumented workers.

The Big Brother approach will serve only to impose new requirements on businesses that are already complying with the law and do nothing to punish those that are not.

Let us not forget the basic principle that makes this country great: Freedom. Let us not be tempted to rule our citizens through an identification card. This is a terrible amendment and I ask you to vote no.

Mr. GALLEGLY. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, I will begin by stipulating that I do not purport to represent business here. I understand that a lot of businesses do not like this amendment. A lot of businesses, unfortunately, like to hire people who are here illegally. They find them easily exploitable. That is why there was, for many in the business community, opposition to what is really the central point here, whether or not we have employer sanctions.

In fact, during this debate people have been blaming a verification system, when in most cases they should have been complaining about sanctions. It is logical to say we should not have employer sanctions. Understand that that is a decision we made in 1986. We said, and by the way, people should understand, there is a universal recognition here in this debate that people come to this country, whether legally or illegally, to get jobs. We recognize that. That is the magnet. It is not illegal welfare, and so forth, it is jobs.

We have said that when people come here illegally and get jobs, they jeopardize our ability to maintain rules and laws that maintain occupational safety and health, minimum wages, et cetera. When you are here illegally, you cannot claim your rights.

In 1986, this is when business got the mandate. In 1986 Ronald Reagan signed the law that said, "You cannot hire people who are here illegally." It set up the verification system. That was set up in 1986. The difference now is that we believe we have a more rational verification system. The current system gives a whole bunch of documents that can be used. That is where you get counterfeiting. That is where you get inconsistency in who is asked and who is not.

What we are saying is that given we have sanctions, and nobody has moved to repeal them, given that the employer is responsible for verification, and nobody has moved to repeal that, then the only question is what is a more efficient way to do it. We are saying that the most efficient way, the fairest way, is to say, not that you single out anybody, that is just a nonsensical argument, but this in fact says everybody who comes in must be verified. We have a 10-day period to catch up.

No, I do not believe 20 percent of the American people are unfairly identified as illegal aliens. That is an exaggerated figure. We also have in here 10 days in which you can straighten it out. I believe my office can help people prove that they are here legally.

Then we are told, "But it is going to interfere with privacy." We have had a lot of inconsistencies here today. My favorite are the people who think that asking people to prove that they are here legally is an invasion of their privacy, but checking their urine is not, because we have people who have been for drug testing, mandatory drug testing, and they have imposed that on people, but no, we cannot ask people whether or not they are here legally.

Now we have the question, "Well, would the government abuse it?" I understand some of my friends on the left who, I think, are unduly suspicious here, because I think it is in the interests of working people to have a good

verification system. On the right, I guess we are dealing in part with the Republican wing that we were told on the floor of the House trusts Hamas more than the American Government. Maybe we can pick up a couple of votes if we subcontracted this out to Hamas, but I do not think they are here legally, so they could not work for us, fortunately.

What we are talking about is efficiency. We have on the books the sanction system. If Members do not like it, they should be moving to repeal sanctions. We have on the books a requirement that we verify that you are here, but with a lot of documents in an inconsistent way. This is the most logical way to carry out the existing legal requirements.

Mr. GALLEGLY. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. SMITH], chairman of the subcommittee.

(Mr. SMITH of Texas asked and was given permission to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from California [Mr. GALLEGLY], and appreciate his leadership on this issue.

Mr. GALLEGLY. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DREIER].

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

Mr. DREIER. Mr. Chairman, I appreciate the gentleman yielding time to me.

Mr. Chairman, I rise in strong support of this amendment, because it is a pro-small-business amendment. If we look at our State of California, California's Chamber of Commerce has come out in support of this. Many of the people who are opposing this amendment claim that they understand the small business sector of our economy. The author of the amendment, the gentleman from California [Mr. GALLEGLY], has been, throughout his entire lifetime, adult lifetime, a small-business man, up until he joined this distinguished body a decade ago.

Mr. Chairman, I have been involved in businesses myself before I came here, and I still am. Quite frankly, I believe if we look at the issue of employer sanctions, which my friend, the gentleman from Massachusetts was just discussing, there were many of us who opposed the employer sanctions provision, believing that we should not force those employers to be responsible for what clearly is a Federal issue. They should welcome the prospect of having this process of verification, which is easier than going and expending $10 at a K-Mart store.

Quite frankly, Mr. Chairman, we should join in a bipartisan way supporting the Gallegly amendment. I urge my colleagues to do that.

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

Mr. Chairman, I would only close our debate on this amendment in opposition to it by pointing out that we have gone from voluntary to mandatory. Maybe next month we will hit nationwide. We are up to 3 years and counting. But do not worry about it. The wonderful patronizing statements of my colleagues, who are my friends, that tell us that employees should welcome this telephone verification system, one Member went as far as to suggest that one reason they might not welcome it is because they themselves support illegal immigration. I do not think that is a fair canard. I do not think it is the thing we should be saying about these business associations.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. CONYERS] has expired.

Mr. GALLEGLY. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. DEAL].

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

Mr. Chairman, we have heard some very interesting debates here today. I support this amendment because I think it is a common-sense amendment. I would like to tell the Members why I think it is good common sense. On the one hand, we have a system in which we as taxpayers spend millions of dollars, hire tens of thousands of employees, to maintain a Social Security system that is designed to have records that relate to employment and records that relate to your contributions as an employee into the system. We also have tens of thousands of people and spend millions of dollars trying to put in place a system that will verify those who are legally in our country, and we have purposes in doing so.

On the other hand, we have hundreds of thousands of people who are illegally in our country who are likewise spending, probably, millions of dollars trying to duplicate and reproduce the same kinds of documents that those that are employed by the taxpayers are also doing. Then we have the employer in the middle, and the employer, because of the way our system operates, is faced with an individual standing in front of him, presenting him with documents. He does not know whether they are produced by the legal system or by the illegal system.

Yet the employer says, "Well, if I am a taxpayer paying for the legal system to be in place, whey can I not just ask that system to tell me if these are true or forged documents?" And the system does not allow him to do so. That, to me, makes no common sense at all. If we are going to make the employer the enforcer, we ought not to put him in a position of simply saying, "We are going to send the INS into your office, and if you did not have the right documents there, then gotcha."

We all know, "Don't ask, don't tell." I say that this is a system of "Do ask, do tell." We ought to ask, as an employer, and as the Government, we ought to tell whether or not these are in the one category of legal documents, or in the other category of illegal documents. Mr. Chairman, I urge support of the amendment.

□ 1815

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

Mr. Chairman, I first of all want to make very clear that those of us that oppose this amendment do very much want to crack down on illegal immigration.

There are many things which I support. I supported the Tate amendment which basically stated that if, for example, somebody does try to come into this country illegally, they will then not be able to come into this country legally at some later time, so do not even bother to try to come in again. One-strike-and-you're-out. I think that is good policy. Harsh, tough, but I think it is good.

I also very strongly support eliminating welfare as a magnet. We have got too many American citizens, I believe, on welfare in this country right now. I think we ought to completely overhaul the welfare system. We have got far too many people that ought to be supporting themselves and their own kids that are American citizens right now. But unfortunately we have got people coming into this country because welfare is too often a magnet. I do not think welfare ought to be given to illegal aliens.

There are many things. We ought to beef up the patrols on our borders to keep illegal aliens out. But to have one more requirement on American businesses to call the government before they hire somebody or right after they hire somebody and clear everything up within 10 days, I think that is the wrong way to go.

Malcolm Wallop, for example, a former Senator from Wyoming for whom I have a tremendous amount of respect said, "This is one of the most intrusive government programs that America has ever seen."

The Wall Street Journal called this system odious. The Washington Times asked, "Since when did Americans have to ask the government's permission to work?"

The National Retail Federation said, "It's yet another Federal Government mandate on business and we're trying to get rid of government mandates." This is a government mandate in essence that would require every American to get the government's OK to work in this country. It should not be that way.

Many of us believe very strongly that we were sent here to lessen the intrusiveness of the Federal Government in their lives. This goes in just the opposite direction. It runs against the grain of many of us who are trying to reduce Federal involvement in our life.

That is the reason I oppose this amendment. Also, it is not going to work. As I stated before, the bad guys that are hiring illegal aliens now, they are not going to call the number. So it is not going to work. It is just more government. We ought to oppose it.

Mr. GALLEGLY. Mr. Chairman, I yield 30 seconds to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, the previous remarks highlight the disconnect between reality and what the opponents are saying. There is now on the books such a mandate. The gentleman acts as if this amendment would create it.

The law now says, and has for 10 years, that you must show to the employer that you are legally entitled to work in the United States. Employers are legally at risk. If they fail to ask and it turns out they have hired someone who is not legally entitled to work, they are at risk.

I do not understand this argument. If you want to abolish sanctions, okay, but you cannot argue that this amendment creates an obligation which we have had for 10 years. I would point out, by the way, that it is so onerous an obligation that most people apparently do not even realize we have it.

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

Mr. BERMAN. Mr. Chairman, I support the Gallegly amendment, although in a conference committee I want to make sure, if this bill reaches a conference committee, that what he is proposing here is truly feasible. But I would like to just go construct my notions of why I think this is important.

No one in this House, as far as I know it, is in favor of illegal immigration. There are some people who believe in open borders, but I have not heard anyone in this House ever articulate that.

Now the issue is, are we going to stop with border enforcement, or are we going to have some interior enforcement? I am sorry to say that my friends in the majority do not seem to want to put a lot of resources into investigating industries that historically recruit undocumented workers, but now we have the question of the employment. As the gentleman from Massachusetts [Mr. FRANK] has just mentioned, employer sanctions were established to make it illegal to hire someone who is not here legally.

The voluntary program now in the bill has none of the privacy protections, none of the discrimination protections, none of the protections against mistakes that the Gallegly amendment has. The Gallegly amendment says if this system wrongfully terminates a person from a job, they have a remedy to recover their lost compensation. The Gallegly amendment provides for testers which can go out and make sure that any employer is doing this across the board as to all of his employees, not just the ones who might have a foreign accent.

It has the protections, it deals with the issue of making sanctions enforceable, and the only question now for me which I hope to learn about in the months ahead as we deal with this legislation is, is it feasible? I am not sure it is, but I think we should give this approach a boost because it is the right approach, at least in concept.

I urge an "aye" vote.

Mr. GALLEGLY. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, I am rising here today to support the Gallegly amendment. If things are going to be made illegal, we have to provide the means of enforcing that decision. Otherwise we are just philosophizing. Our voters did not send us here to sit down and talk together about ideas. They wanted us to change the way things are in the United States.

It is not enough to say you are against illegal immigrants flooding into our country. You have got to be able to do something about it, or that is not what your public life is all about. We are not here to philosophize with one another. We are here to try to solve a problem.

In California and elsewhere, we have a mammoth tide, a wave of illegal immigration, sweeping across our country. We should give the people the tools to make sure that those illegal immigrants when they come here are not the recipients of workers' comp, unemployment insurance, Social Security, and all the other government benefits that go with being employed in this country.

The fact is that we have made it illegal for an employer to hire these people. Otherwise, let us just take off that ban. If you want to take off that ban, that is fine. Or, if you want to say it is legal for illegal immigrants to get government benefits, fine, make that your position.

But do not tell the American people you are against illegal immigration if you are trying to undercut every single attempt that is being made to try to enforce that decision. We are here not to just philosophize, we are here to solve problems and get things done. Please take your heads out of the clouds and make sure your feet are on the ground.

Mr. GALLEGLY. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia [Mr. GOODLATTE].

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

Mr. GOODLATTE. Mr. Chairman, I rise in support of the Gallegly amendment.

Mr. GALLEGLY. Mr. Chairman, I yield such time as she may consume 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 amendment. I would like to thank the three sponsors from California for their commitment to seeing that we put this mandatory pilot program back into the bill—a commitment which they know I strongly share.

I strongly believe that we cannot accurately claim that these are effective and efficient reforms without this amendment. And, above all, I urge that the business community recognize its responsibilities and that they become part of the solution and not part of the problem.

As we all know, the original bill, as passed by the Judiciary Committee, contained this mandatory pilot program. Its purpose is to make it easier for employers who continue to struggle understanding the enforcement and eligibility 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 worker 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.

Unfortunately, between the proliferation of fraudulent documents, and the overconcern of INS with sanctioning employers for paperwork violations, such as incorrectly completing I–9 forms, little has been done to catch unauthorized/illegal workers.

Mr. Chairman, opponents of the pilot program claim that it will become a big brother program giving the Federal Government the sole power to decide who will work for an employer. This is just not true. It seems to me that this argument is being used more and more liberally every time it is perceived by some that the Federal Government is overstepping its powers when it clearly isn't.

Furthermore, opponents claim to fear that mistakes made by the computer data base 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. Well, come on my colleagues. This is a weak argument that no one would deny, and an easy one to use as justification for opposing the pilot program.

Even without computer verification, these same problems still persist because of paperwork/administrative mistakes. With increasing uses of computer technology in all public and private sectors, this is a real problem that we deal with every day and will continue to deal with every day in the future. The bottom line is that there are always going to be computer errors and data entry mistakes. Should we therefore pass a blanket prohibition on computers in the workplace? I think not.

In fact, Mr. Chairman, under this program an employer is provided with a good faith defense similar to that provided under IRCA, 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 an informational error which cannot be resolved within a 10-day period, then he is entitled to compensation under existing Federal law.

The success of phone verification has been proven in southern California which 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.

Mr. Chairman, the purpose of the mandatory pilot program is to make it easier for employers to verify the work eligibility of prospective

employees. It will help to prevent confusion over documents and alleviate concerns about hiring/not hiring someone who looks like he is illegal. It is in the direct benefit and interest of all employers because it will help to eradicate all of the fears, uncertainties, and arbitrary sanctions that employers have complained about for the past 10 years.

At the same time, just as we require legal and illegal aliens to comply with the law, so too must employers. This program will also hold employers accountable for their hiring decisions. By this I mean that unscrupulous employers could no longer get away with knowingly employing illegal aliens because they would have to verify their work eligibility.

And, my friends, 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.

Reducing the number of allowable documents from 29 to 6 and increasing by 500 the number of INS employment inspectors, which this bill does, is a strong step in the right direction. But, it is not enough.

This is another commonsense amendment, and one that should be supported by everyone, including the business community.

Therefore, I urge all of my colleagues to show their support for a simpler yet more complete employer verification system by voting for this amendment.

Mr. GALLEGLY. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. PACKARD].

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

Mr. PACKARD. Mr. Chairman, the claim that this amendment intrudes on our civil rights is a bogus argument. We see people in the grocery lines, at the cash register, and we never hear them complain about having to have calls made to verify their checks before they can take their groceries home. We cannot tighten up the enforcement of employer sanctions, which we are requiring and asking to be done, and then not give the employers a chance to be assured that they are hiring legally.

Most of my employers, which really employ a good deal of the alien labor pool, both legal and illegal, are begging for a chance to verify their legality. They want to be legal. It would be a shame not to allow them a system that would give them the verification that they are hiring appropriately and legally. I strongly urge a "yes" vote on the Gallegly amendment.

I rise in support of the Gallegly-Bilbray-Seastrand-Stenholm amendment which would make the employer verification pilot program mandatory.

Since I first became a Member of Congress, I have worked to put an end to the illegal immigration problem that has plagued my district, my State of California and now the Nation. Quite frankly, I have found that there are two compelling reasons that pull illegal immigrants to our country. One is the wide range of Federal benefits our country has to offer. This is being taken care of by this bill.

The second is the lure of jobs. Requiring all employers in a pilot project State to make a simple call to verify the eligibility of a new hire will put an end to the lure of jobs for illegals. A voluntary system is simply inadequate. A voluntary system allows likely illegal immigrants to believe that a job waits for them on the other side of the border. Perhaps their employer will not check. We send illegal immigrants a far stronger message if they know all employers will be checking their status. No job waits for you on the other side.

Our current system of determining whether a person applying for work is legal or illegal is lacking. In fact, it is so unbelievably easy to obtain false documentation in California, that employers are at a high risk of hiring illegals without even knowing it. A mandatory employer verification system will protect innocent employers from hiring illegals with false documentation.

Mr. Chairman, this amendment will protect employers and destroy the job magnet that brings illegal immigrants into our country. It is a pilot project that will be tested for only 3 years. If it does not work, Congress will have the ability to revamp it or cancel it completely. However, only by making it mandatory, will we be able to ensure that the employer verification pilot program will work as it is intended.

I urge my colleagues to vote for this amendment.

Mr. GALLEGLY. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. HORN].

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

Mr. HORN. Mr. Chairman, the American people need to support this amendment. We need to support it. It is shameful that we would bend to the special interests and not vote for the Gallegly amendment. I fully support it.

Mr. Chairman, the American people elected a Republican majority in 1994 to end politics as usual and accomplish real reform. Without the Gallegly mandatory verification amendment, this bill is another example of do-nothing, special-interest business as usual in Washington.

Illegal immigrants come here for jobs. If we are serious about stopping illegal immigration, we need to make it impossible for illegal aliens to get jobs. Only a mandatory system in States most affected by illegal immigration would achieve that. Not enough employers would verify their employees' eligibility without one.

Stand up to the special interests. Vote for the Gallegly mandatory verification amendment.

Mr. GALLEGLY. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. FOLEY].

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

Mr. FOLEY. Mr. Chairman, I strongly support the Gallegly-Bilbray amendment to create a mandatory pilot program. We need a driver's license to board an airplane. We need identification with a credit card or a check.

This is not big brother. This is enforcing laws. Some of our own legal residents have found there are errors in their Social Security numbers. They have found payments being made to other people's accounts after 5 years.

This system will not only deter illegal immigration but will help perfect our own domestic work force. It is not onerous. It is not burdensome. Employers universally will call past employers to find out about backgrounds, past landlords to find out about the worthiness of the employee. We are asking a simple step.

How many people in this audience use the 1-800 number to find out about their check balances, the last five checks cashed, the last five deposits? It takes 15 to 20 seconds. It is not a difficult process. Anyone can do it. It is not complicated. It will ensure that we are not hiring illegal employees.

Mr. GALLEGLY. Mr. Chairman, I yield myself the balance of my time.

In closing, I would like to say that I have spent the overwhelming majority of my adult life as a small business person. This is the reason right here that we need a verification system. This is a counterfeit document that will meet the employer sanction requirements that a person can pick up on almost any street corner in any major city for about $30.

Let us bring some sanity to this debate. Let us stop the flow of illegal immigrants coming into this country for easy access to jobs, protect American workers, and protect this country from more illegal immigration. I would ask the strong support of the Gallegly amendment for mandatory verification.

Mr. RADANOVICH. Mr. Chairman, my vote for the Gallegly-Bilbray-Seastrand amendment will be cast for three reasons:

First, it should not be the employer's burden to decide whether work permission documents are real or phony.

Second, the guest worker program for agriculture, which I shall support when it is brought up later in this debate, will work better with 800 number verification.

Third, finally—and most importantly—I am committed to immigration reform, especially putting a stop to illegal immigration.

U.S. borders are breached by those looking for work here.

American employers should be able to pick up the phone and quickly and accurately determine whether an applicant is legally entitled to work. Those who aren't won't be hired. They'll have little reason to stay, and there'll be reduced incentive for others to follow the same wrong route.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from California [Mr. GALLEGLY].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 86, noes, 331, not voting 14, as follows:

[Roll No. 77]

AYES—86

Baker (CA)
Barton
Bateman
Bellenson
Bereuter
Berman
Bilbray
Bilirakis
Bono
Borski
Bryant (TX)
Burton
Calvert
Campbell
Canady
Cardin
Castle
Condit
Cunningham
Deal
DeFazio
DeLauro
Dreier
Duncan
Eshoo
Farr
Foglietta
Foley
Frank (MA)
Furse
Gallegly
Gejdenson
Geren
Gilchrest
Goodlatte
Goss
Holden
Horn
Hunter
Jacobs
Johnson (SD)
Kennedy (MA)
Kennedy (RI)
Kim
LaFalce
Leach
Levin
Lewis (CA)
Lowey
Manton
Markey
Martinez
McCollum
McKeon
McKinney
Meehan
Metcalf
Meyers
Miller (CA)
Moorhead
Neal
Obey
Packard
Pallone
Payne (VA)
Rohrabacher
Roth
Roukema
Royce
Sabo
Schumer
Seastrand
Shays
Smith (NJ)
Smith (TX)
Stenholm
Torricelli
Traficant
Vento
Visclosky
Vucanovich
Waxman
Wilson
Wynn
Young (AK)
Young (FL)

NOES—331

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Becerra
Bentsen
Bevill
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Buyer
Callahan
Camp
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Combest
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Danner
Davis
de la Garza
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Evans
Everett
Ewing
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Ganske
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Goodling
Gordon
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Houghton
Hoyer
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennelly
Kildee
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lucas
Luther
Maloney
Manzullo
Martini
Mascara
Matsui
McCarthy
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McNulty
Meek
Menendez
Mica
Miller (FL)
Minge
Mink
Molinari
Mollohan
Montgomery
Moran
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Olver
Ortiz
Orton
Owens
Oxley
Parker
Pastor
Paxon
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Ros-Lehtinen
Roybal-Allard
Rush
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Scott
Sensenbrenner
Serrano
Shadegg
Shaw
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stockman
Stump
Stupak
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Towns
Upton
Velazquez
Volkmer
Waldholtz
Walker
Walsh
Wamp
Ward
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wise
Wolf
Woolsey
Yates
Zeliff
Zimmer

NOT VOTING—14

Collins (IL)
Hayes
Hostettler
Johnson (CT)
Johnston
Moakley
Nadler
Radanovich
Rose
Stark
Stokes
Studds
Tate
Waters

□ 1847

Messrs. BISHOP, PORTER, HOBSON, GRAHAM, SAXTON, McDERMOTT, EMERSON, and RIGGS changed their vote from "aye" to "no."

Mr. SABO, and Ms. McKINNEY changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 14 printed in part 2 of House Report 104–483.

AMENDMENT OFFERED BY MR. GUTIERREZ

Mr. GUTIERREZ. 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. GUTIERREZ: Amend section 505 to read as follows (and conform the table of contents accordingly):

SEC. 505. REQUIRING CONGRESSIONAL REVIEW OF WORLDWIDE LEVELS EVERY 5 YEARS.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. GUTIERREZ].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 15 printed in part 2 of House Report 104–483.

AMENDMENT OFFERED BY MR. KIM

Mr. KIM. 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. KIM: In section 512(a), in the matter proposed to be inserted—

(1) in paragraph (1), strike "and (3)" and insert "through (4)",

(2) in paragraph (3), strike the closing quotation marks and period that follows at the end of Subparagraph (D)(iv), and

(3) add at the end the following:

"(4) OTHER SONS AND DAUGHTERS OF CITIZENS.—Immigrants who are the sons or daughters (other than qualifying adult sons or daughters described in paragraph (3)(C)) of citizens of the United States, who had classification petitions filed on their behalf under Section 203(a) as a son or daughter of a citizen before March 13, 1996, and who at any time was not unlawfully present in the United States shall be allocated visas in a number not to exceed the number of visas not required for the classes specified in paragraphs (1) through (3), plus a number equal to the number by which the maximum number of visas that may be made available for the fiscal year under subsection (b) exceeds the number of visas that will be allotted under such subsection for such year.

"(5) BROTHERS AND SISTERS OF CITIZENS.—Immigrants who are the brothers or sisters of citizens of the United States, if such citizens are at least 21 years of age, who had classification petitions filed on their behalf under section 203(a) as a brother or sister of such a citizen before March 13, 1996, and who at any time was not unlawfully present in the United States shall be allocated visas in a number not to exceed the number of visas not required for the classes specified in paragraphs (1) through (4), plus a number equal to—

"(A) the number by which the maximum number of visas that may be made available for the fiscal year under subsection (b) exceeds the number of visas that will be allotted under such subsection for such year, reduced by

"(B) any portion of such excess that was used for visas under paragraph (4) for the fiscal year.

Amend section 519(b)(1)(A) to read as follows:

(A) in subsection (a)(1)(A)(i), by striking "paragraph (1), (3), or (4)" and inserting "paragraph (2), (3), (4), or (5)";

Strike section 555 (and conform the table of contents accordingly).

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from California [Mr. KIM].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 16 printed in part 2 of the House Report 104-483.

AMENDMENT OFFERED BY MR. CANADY OF FLORIDA

Mr. CANADY of Florida. 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. CANADY of Florida: Amend subsection (c) of section 514 to read as follows:

(c) ESTABLISHING JOB OFFER AND ENGLISH LANGUAGE PROFICIENCY REQUIREMENTS.—Paragraph (2) of section 203(c) (8 U.S.C. 1153(c)) is amended to read as follows:

"(2) REQUIREMENTS OF JOB OFFER AND EDUCATION OR SKILLED WORKER AND ENGLISH LANGUAGE PROFICIENCY.—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;

"(C) has at least 2 years of work experience in an occupation which requires at least 2 years of training; and

"(D) demonstrates the ability to speak and to read the English language at an appropriate level specified under subsection (i).".

Redesignate section 519 as section 520 and insert after section 518 the following new section (and conform the table of contents, and cross-references to section 519, accordingly):

SEC. 519. STANDARDS FOR ENGLISH LANGUAGE PROFICIENCY FOR MOST IMMIGRANTS.

Section 203 (8 U.S.C. 1153), as amended by section 524(a), is amended by adding at the end the following new subsection:

"(i) ENGLISH LANGUAGE PROFICIENCY STANDARDS.—(1) For purposes of this section, the levels of English language speaking and reading ability specified in this subsection are as follows:

"(A) The ability to speak English at a level required, without a dictionary, to meet routine social demands and to engage in a generally effective manner in casual conversation about topics of general interest, such as current events, work, family, and personal history, and to have a basic understanding of most conversations on nontechnical subjects, as shown by an appropriate score on the standardized test of English-speaking ability most commonly used by private firms doing business in the United States.

"(B) The ability to read English at a level required to understand simple prose in a form equivalent to typescript or printing on subjects familiar to most general readers, and, with a dictionary, the general sense of routine business letters, and articles in newspapers and magazines directed to the general reader.

"(2) The levels of ability described in paragraph (1) shall be shown by an appropriate score on the standardized test of English-speaking ability most commonly used by private firms doing business in the United States. Determinations of the tests required and the computing of the appropriate score on each such test are within the sole discretion of the Secretary of Education, and are not subject to further administrative or judicial review.

"(3) The level of English language speaking and reading ability specified under this subsection shall not apply to family members accompanying, or following to join, an immigrant under subsection (e).".

Amend paragraph (3) of section 513(a) to read as follows:

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

"(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.

"(9) ENGLISH LANGUAGE PROFICIENCY REQUIREMENT.—An alien is not eligible for an immigrant visa number under this subsection unless the alien demonstrates the ability to speak and to read the English language at an appropriate level specified under subsection (i).".

In section 553(b)—

(1) in paragraph (1), strike "paragraph (2)" and insert "paragraphs (2) and (3)", and

(2) redesignate paragraph (3) and paragraph (4), and

(3) insert after paragraph (2) the following new paragraph:

(3) In determining the order of issuance of visa numbers under this section, if an immigrant demonstrates the ability to speak and to read the English language at appropriate levels specified under section 203(i) of the Immigration and Nationality Act (as added by section 519), the immigrant's priority date shall be advanced to 180 days before the priority date otherwise established.

The CHAIRMAN. Pursuant to the rule, the gentleman from Florida [Mr. CANADY] and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from Florida [Mr. CANADY].

Mr. CANADY of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment would establish an English language proficiency requirement for immigrants arriving in the United States under the Diversity Immigrant Program and the Employment-Based Classification. Under the amendment, proficiency in English would be determined by a standardized test established by the Secretary of Education.

The amendment would also establish a preference for backlogged spouses and children of lawful permanent resident aliens who demonstrate English language proficiency. Such immigrants would have their priority date advanced by 180 days.

This amendment would be an important addition to the underlying legislation. It is our common language that brings us together as a nation. As de Toqueville said, "The tie of language is perhaps the strongest and most durable that can unite mankind."

There is a substantial body of empirical evidence to support the proposition that there is a direct correlation between an individual's ability to speak English in America and that person's economic fortunes.

The 1990 census found that nearly 14 million Americans did not have a high level of proficiency in the English language, more than two-thirds of them immigrants.

A study conducted by Richard Vedder and Lowell Gallaway of Ohio University concludes that if immigrant knowledge of English were raised to that of the native born population, their income levels would have increased by over $63 billion a year.

In April of 1994, the Texas Office of Immigration and Refugee Affairs published a study of Southeast Asian refugees in Texas which demonstrated that among that population, individuals proficient in English earned over 20 times the annual income of those who did not speak English.

Another study which focused on Hispanic men concluded that those men who did not have English proficiency suffered up to a 20 percent loss of earnings compared with those who were English proficient.

In addition, Mr. Chairman, there are substantial costs incurred by government at all levels in providing services in languages other than English. For example, the Office of Legislative Research of the Connecticut General Assembly was able to identify over $3 million of State funds spent on providing services in a language other than English—and this amount does not include expenditures for bilingual instruction in schools.

My amendment is targeted at bringing in legal immigrants to our society who will arrive with the most important skill necessary to succeed in America—command of the English language. By focusing on the Diversity Immigrant Program and Employment-Based Classification visas, the amendment would require that immigrants fully capable of becoming proficient in English do so before coming to the United States.

The amendment also will provide an incentive to those backlogged spouses and children of lawful permanent resident aliens who demonstrate English language proficiency. We should encourage all immigrants who come to America to speak English. With my amendment, we will provide a tangible benefit to potential immigrants who can speak English—and who sometimes wait up to 10 years to enter this country—by modestly advancing them on the waiting list.

Support for an amendment of this kind cuts across the ideological spectrum of the immigration debate. Ben J. Wattenberg, a Democrat and a distinguished demographer and commentor, has written and spoke extensively in support of increasing the levels of legal immigration to the United States. In a February 1, 1993 article in National

Review, Mr. Wattenberg wrote that, "We would do well to add English language proficiency * * *" to our immigration laws.

Similarly, Peter Brimelow, author of the well-known book on U.S. immigration policy Alien Nation and a strong proponent of decreasing legal immigration, makes the point that an English language requirement for potential immigrants would make Americanization easier.

I suggest that when Ben Wattenberg and Peter Brimelow agree on anything having to do with immigration policy, we should pay attention. My amendment takes the important contributions to the immigration debate of these two experts and incorporates them into a fair and workable provision that will enhance our immigration laws.

Critics of requiring English language proficiency for certain immigrants or giving any advantage for English language skills argue that we might pass over the best and the brightest the world has to offer simply because they lack English skills.

In my view, it does little good for a person to be the best and the brightest if it is impossible for that person to impart knowledge in our society because of inability to communicate in our society. It is virtually impossible to think of a situation where a highly skilled immigrant, for which the employment-based classification is designed, would not have English skills or be capable of acquiring them before coming to the United States.

Mr. Chairman, we all know intuitively that to succeed in the United States, one must have a command of the English language. Our immigration policy should support this goal. Unfortunately, current immigration laws do not take this into account.

By establishing an English language proficiency requirement for immigrants who are fully capable of learning the language and providing an incentive to learn English for people waiting to be admitted, we will help ensure that immigrants are better equipped to succeed in America.

Mr. Chairman, although this amendment does not address this problem across-the-board, I believe that the amendment makes a big step in moving us in the right direction.

Mr. Chairman, I know we all share the goal of speeding the success of immigrants in our society. My amendment is an important contribution to that goal, and I urge Members to support the amendment.

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

Mr. BECERRA. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from California [Mr. BECERRA] is recognized for 15 minutes.

Mr. BECERRA. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK of Hawaii. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, this is an important issue. It really is connected to a debate that we have been having in various other committees having to do with the establishment of English as the official language. I think this amendment probably is an attendant idea connected to that proposition.

The amendment to add an English-speaking requirement to the existing requirements for the diversity immigrant program and the employment-based program I believe is diametrically opposite to the original intent of these programs. It serves no real purpose except to pander to this wave of antiimmigrant foreigners coming to the United States, and one of the criteria that this amendment is seeking to attach to this kind of notion is if the person is not fluent in the English language.

Mr. Chairman, let me tell the Members that the specific intent of the diversity immigrant program is to expand the ability of people in underrepresented countries of origin to have the opportunity to come to the United States, not only English-speaking people but everyone throughout the world. Those that are not represented in sufficient categories coming to the United States have special opportunities through this lottery system to apply and to have the opportunity to qualify for admission.

Mr. Chairman, each year 55,000 of these persons are selected through the lottery system. They have to meet educational criteria in order to qualify. When they come in, they may also be accompanied by spouse and minor children. Mr. Chairman, the intent is to diversify the people that are coming into this country, both under the work employment classification category and also in the diversity category.

When we impose upon this idea of opening up opportunities to people of other countries than those that have applications and visas, to increase the diversity of our visa admittees to other places in Asia, other places in Latin America and Africa and so forth. When we impose this English-speaking requirement, we are eliminating wide sectors of individuals who would otherwise qualify, and render a nullity the basic concepts of diversity.

Diversity by definition means that you do not set exclusionary criteria. You want a diverse group of people coming to the United States that are sufficiently educated so they can come in, find jobs, and be well integrated, but no necessarily fluent in English as indicated in this amendment.

Mr. Chairman, to the same extent that the English-speaking requirement will impinge upon the diversity program, it also will have a very detrimental effect on the employment-based classification, extremely counterproductive to what was intended: to bring in people who are uniquely qualified in the medical, scientific, technological categories.

There are people that have come and testified and sent letters to us suggesting that this is a terrible amendment, because the kinds of people who have particular technological skills or have special competencies, may not meet the English-speaking requirement.

Mr. Chairman, I would hope that Members think seriously about the rationale of adding this kind of burdensome requirement to this special category of diversity and employment based admissions and I hope that we will defeat this amendment.

If the concern is the ability of these people to become readily integrated and become a major part of the communities, we have all sorts of ways in which this highly educated group of people can become competent once they get here, learn English, and participate as citizens in our society. Therefore, Mr. Chairman, I would hope that under all of these considerations, that this amendment will be defeated.

Mr. CANADY of Florida. Mr. Chairman, I yield 3 minutes to my colleague, the gentleman from Arkansas [Mr. HUTCHINSON].

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

Mr. Chairman, I rise in strong support of this amendment that would establish an English-language proficiency requirement for immigrants arriving in the United States under the diversity immigrant program and under the employment-based classification.

These are people who are coming here with the stated purpose of working here, living here, being permanent residents here, and hopefully, eventually becoming citizens of the United States of America. There are a whole host of other immigration programs in which people come in on a different basis and which this amendment would not involve at all, but these are people who live here permanently.

Mr. Chairman, I believe that it is our common language, English, that unites us and brings us together as a nation. Proficiency in English is the civic responsibility of all U.S. citizens, as well as those individuals residing in this country while seeking citizenship. Being proficient in English is an indispensable part of educational, social, and professional assimilation into our society and into our culture.

□ 1930

It is clear that we have an increasing number of immigrants entering our country, entering our society, who are not proficient in the English language. In my district in northwest Arkansas, in one school district, the Rogers school district, in the last 4 years the English as a second language program has increased from 80 students in the 1991–92 school year to 760 students this year. That is a ninefold increase in 4 years. That is just one evidence, and I think that story can be repeated over and over again across our country and throughout our society, that we have this great increase of those coming

into our country not proficient in the English language.

The Canady amendment does not solve all of those problems, but it is a start. It is narrow, it is targeted, it is modest, but it is a step, and it addresses the issue of speeding the success of immigrants in our society, a goal, I believe, that we all share.

By requiring immigrants arriving in the United States under certain programs to demonstrate a firm command of the English language, we recognize English, our common language, as part of the glue, as a component of the bond that brings us together as a people, as a society, and as a culture.

I believe that anyone who truly desires that we have immigrants in our society who are better equipped to assimilate and thrive in America, those Members of this body who want to speed the success of those coming into our society, making contributions to it, will support the Canady amendment.

Mr. BECERRA. Mr. Chairman, I yield 3 minutes to the gentleman from Guam [Mr. UNDERWOOD].

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

Mr. Chairman, I rise in strong opposition to the Canady amendment, which would give preference to those immigrants who have proficiency in English, in effect the English-only immigrant. There is no disguising the fact that this is connected to a number of issues relating to language and language policy in this country.

I was particularly struck in that context by the remarks of the previous speaker that this amendment is circumscribed in its application and that it is a start. That is the dangerous part. If we are going to start having this kind of a policy for a very limited group, but we frame it in the discussion of language policy for the country and we talk about it as just being the start, well, one wonders what is remaining.

This amendment is a prime example of all the contradictions in this immigration reform bill. Earlier we were told that this bill would make it easier for spouses and children to be reunited even though the number of visas are going to be slashed by 240,000. Then in the Kim amendment we are told that adult children and siblings of legal immigrants may be eligible for unused visas in other categories, such as employment-based visas, even though very few could qualify under the strict employment-based criteria. It was an amendment meant to go nowhere.

Now we are told that every child, or even if a child or sibling could do all that, we find in the Canady amendment a new hurdle, one that is weighted clearly in favor of European immigrants at the expense of Latin American countries, Asian countries, African countries, where there are other vibrant and equally intelligent languages at work. We all know what the practical effect of this amendment will be on the diversity program.

When the last major attempt at immigration reform in the 1920's moved away from ethnically and racially based immigration reform, we were all happy and we all endorsed that. However, this particular amendment is in effect a backdoor attempt that introduces an ethnic element into the discussion of immigration policy.

We all know what the underlying motive is for English requirement proposals, and it clearly is not economic. You want immigrants that sound like you because chances are they are going to look like you, too. If you want to separate families, let us have a straight-up vote on that. If you want to favor certain European countries, let us have a straight-up vote on that. But let us stop claiming to be pro-family and nondiscriminatory in these proposals.

Mr. CANADY of Florida. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. I thank the gentleman for yielding me the time.

Mr. Chairman, this issue of the English language has become more and more pronounced in our country in the last number of years, but basically it has always been an issue ever since the founding of this country. The wonderful blessing that we have had is that we Americans are people from every corner of the globe, every religious, every ethnic, every linguistic background, but we are one Nation and one people. Why? Because we have had a wonderful commonality, a common glue. What? It is called the English language.

We are losing that today to a large degree. One out of every seven Americans does not speak English. Basically, as I interpret this amendment, what this amendment is saying is this: That we are giving immigrants an incentive to learn the English language. That is not only helping our country keep it one Nation, one people, but it is also helping the immigrants that are coming to our shores.

How can a person climb the ladder of opportunity in America today, in the United States if they do not have a good foundation in the English language? All the want ads, the CONGRESSIONAL RECORD, newspapers, everything is in English.

I think by giving people an incentive to learn English when they come here, it is really helping the immigrant. It is not only helping our Nation as a whole but it is also helping the immigrant.

For 200 years when people came to these shores, they adopted English as the language. Even in our own household, in our own State, people may have spoken one language at home but when they worked with the government, when the youngsters went to schools, it was all done in English. It has been a historical tradition here in America.

Thanks be to God that it has been because we have been able to keep this Nation one country and one people. Take a look all over the world what has happened. Take a look, for example, at Quebec in our neighboring country of Canada.

Mr. Chairman, I have been involved in this because I am concerned about what is happening to America. I think that America is splitting up into groups. I do not want to see that happen. I want to keep this one Nation, one people. Woodrow Wilson in 1918 said that as long as you consider yourself a part of a group, you are not really American, because America is not a nation of groups. America is a nation of individuals.

So we want people, immigrants and others, of course, to assimilate, to become part of this country. The way we do that, one of the wonderful melting ingredients in the melting pot is the English language.

I think that this is a good amendment. It not only helps the individual but also helps our country.

I am sure that everyone in the Chamber has read "One Nation, One Language?" recently in U.S. News. It is becoming more and more of an issue. It talks about the people who have not assimilated, who have not adopted English, and the tough time they are having.

I think that the gentleman's amendment is a praiseworthy amendment and one that I hope the Chamber will vote for.

Mr. BECERRA. Mr. Chairman, I yield myself 1½ minutes.

It is unfortunate that more Members of this body were not able to attend or chose not to attend a recent citizenship swearing-in ceremony that was held here in the Capitol. I believe that was the first time in the history of this Nation that we had a citizenship swearing-in ceremony held here in the Capitol of this country. I am surprised to learn that, but I think that is in fact the case.

We had over 100 people from over 40 or 50 countries come to this Capitol and take the oath saying that they are committing themselves as U.S. citizens, they are relinquishing their previous citizenship, and they are binding themselves to this country. I must tell the Members that a number of those people probably still cannot communicate extremely well in English but, by God, I must tell you, you look at the faces of each and every one of those people and not a one of them would have said to you that there was a prouder American in this country at that time.

To believe that there are people in this country who are saying, "I wish to legally emigrate and become a lawful permanent resident of this country," in essence saying, "I want to permanently reside here," and believe that these are folks that are saying they do not wish to learn English I think is myopic. I do not believe that we can really claim that we are interested in what the Statue of Liberty has always stood for if we take that type of position.

Even more to the point, this amendment deals with those immigrants who are coming in based on employment offers from a firm in this country or those who are coming in from countries where we see smaller numbers of people emigrating, so we want to make sure that there is diversity in the pool of people that come into this country. To believe that someone who wishes to get employment and has an offer of employment is not interested in learning English, to me really seems very contradictory to what the initiative of that individual is. The diversity requirement, we want to make sure we get folks from everywhere. This amendment makes it almost impossible.

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

Mr. CANADY of Florida. Mr. Chairman, I yield myself 2 minutes.

Let me read some of the language from the bill which makes very clear that this requirement is not an onerous requirement. Here we are talking about demonstrating the ability to speak English at a level required, without a dictionary, to meet routine social demands and to engage in a generally effective manner in casual conversation about topics of general interest, and to have a basic understanding of most conversations on nontechnical subjects. Also, the ability to read English at a level required to understand simple prose in a form equivalent to typescript or printing on subjects familiar to most general readers.

This is not an onerous requirement. Also, I think it is important for us to understand that this applies only to those individuals coming in the employment-based classification and under the diversity program who will be permanent residents here. These are people who are coming to live in this country and to stay.

There are a variety of classifications under which nonimmigrant visas can be issued to people for business reasons. We have temporary visitors for business; registered nurses; alien in a special occupation; representatives of foreign information media; intracompany transferees of an international firm; aliens with extraordinary ability in sciences, art, education, business or athletics; artist or entertainer in a reciprocal exchange program; artist or entertainer in a culturally unique program; and a variety of other nonimmigrant visa categories that allow people to come in for a limited period of time for a particular purpose.

We are focusing here on people that are going to be coming to this country to stay. Furthermore, with respect to the employment-based classification, we are talking about people who start a process that in most cases is going to take a couple of years before they are ever going to get the visa to get in. I believe that from the outset of that process, if they are on notice that they need to be proficient in English, they have an opportunity before they come here to develop that skill so they can come here and become part of our society and make a contribution from the very start.

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

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

Mr. BRYANT of Texas. Mr. Chairman, I want to pose a question to the gentleman from Florida.

Is there some report or some evidence or some indication that we have a problem with immigrants in these categories coming over here and refusing to learn to speak English? Because you describe them as people who are coming here to stay. If they are coming here to stay, they better become a citizen and they cannot become a citizen unless they learn to speak English.

So what is the origin of your concern?

Mr. CANADY of Florida. Mr. Chairman, will the gentleman yield?

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

Mr. CANADY of Florida. The evidence that we have is not broken down by specific categories, but we know that there are 14 million Americans who do not have a high level of proficiency in English.

Mr. BRYANT of Texas. Are these immigrants?

Mr. CANADY of Florida. Two-thirds of those are immigrants. That is based on the 1990 census.

□ 1745

Two-thirds of those without the high level of proficiency in English are immigrants. Not all of them, but two-thirds.

Mr. BRYANT of Texas. Mr. Chairman, reclaiming my time, they presumably are on a track toward citizenship, and you cannot become a citizen unless you learn to speak English. My point is we have historically required of everyone who becomes a citizen English proficiency. This is the first time I have ever heard about a proposal that says you cannot come in the door unless you already speak English in these categories. There is no evidence, nobody has come forward and said this is a problem. We have had no hearings that indicated this is a problem. This is sort of out of the blue.

Mr. CANADY of Florida. If the gentleman will yield further, it is a demonstrated problem. We have 14 million people in the country, two-thirds of which are immigrants, who cannot speak the English language. We have heard evidence of school districts where the number is going up among children who need instruction in English as a second language. There is an increasing problem. Now, I do not suggest this is going to solve the whole problem, but I believe it is a step in the right direction.

Mr. BRYANT of Texas. Mr. Chairman, reclaiming my time, I would just point out of these people, these figures you are using of these people, they are not going to be in this category that your amendment applies to anyway, No. 1.

No. 2, the fact is, we have got no evidence indicating that there is a problem with regard to this category of immigrant. They come into the country and they immediately start trying to learn how to speak English. You probably heard the figures a moment ago, but the Department of Education reports there are 1.8 million people in this country in English as a second language classes. In New York City, 35 community colleges, 14 CBO's, community based organizations, are offering English as a second language, and there is a waiting list of 18 months. It is the same with Los Angeles, and I know it is the same situation in my own city of Dallas. It is not like the people are refusing to learn to speak the language.

I just say to the gentleman that you are just continuing to invent these things, to bring them up, and really I think this is for this purpose of raising an issue everybody is concerned about, and that is English in the country, as opposed to addressing the practical concern, because there is just no evidence that people in these categories are coming here and refusing to speak English.

They are described by the gentleman from Florida [Mr. CANADY] as the category of immigrant that comes here and plans to stay. That is true. You cannot stay unless you learn to speak English. So what is the point in making them learn to speak English before they get here?

Mr. CANADY of Florida. Mr. Chairman, if the gentleman will yield further, obviously they can stay without learning to speak English. We have many people who do not become citizens. That is the problem.

Mr. BRYANT of Texas. Mr. Chairman, reclaiming my time, the gentleman described these people himself as people that are going to stay here if they come, because that is the nature of the immigration category. If that is the case, they have to learn to speak English.

Mr. CANADY of Florida. Mr. Chairman, if the gentleman will continue to yield, that is not true, because they do not have to become citizens. We have many people who are coming and staying, not learning English, and not becoming citizens. I do not think that is good for them or good for our country. We should be moving people into citizenship as quickly as possible.

Mr. BECERRA. If the gentleman will yield, we have to remember, we are talking about a category of immigrants, especially those under the employment-based category, that are coming here to secure jobs. These are jobs that have been offered to them by employers here in the United States. What are the chances that these are individuals who wish to never learn English, knowing that they are coming

here because a job has been offered to them? My goodness.

Mr. CANADY of Florida. Mr. Chairman, I yield 30 seconds to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Chairman, to address the question my friend from Texas raised, the question I think can be asked, what harm would this amendment cause? The amendment would cause no harm. I think that we do have a problem. We do have a problem today with English. We do have a problem that our country is breaking up into linguistic groups.

I was on a call-in show in Canada, and one of the people called in and said, "Don't you Americans realize how fortunate you are to have this one language, this commonality? Look what is happening here in Canada, where they are tearing the heart out of our country. Yet in America, you have hundreds of little Quebecs." I think that is clear.

Mr. BECERRA. Mr. Chairman, I yield 30 seconds to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT of Texas. Mr. Chairman, the gentleman said what harm would the amendment cause? That is not the right standard. The question is, Do we have some reason to indicate we need this?

The harm is simply this. The diversity program, in my opinion, is a bad program anyway, because it is really a scheme to let a lot of white folks into the country, because some folks do not like it if there are a lot of people coming in from Asia and the Hispanic areas of the world.

Now, that is not your amendment, that is not your fault. That was put in the bill in 1991, and the law in this bill carries it forward. This amendment that the gentleman is putting in here is going to guarantee that nobody comes in under that category, except the very nondiverse group, and that is principally folks from Ireland, folks from England, and so forth like that. I suggest to you it does not solve the problem at all. These people are going to learn to speak English as soon as they get here.

Mr. CANADY of Florida. Mr. Chairman, I yield myself 30 seconds.

The points that the gentleman has been making I believe support the position we are taking. The people that are going to be affected by this in the business classification, the employment-based classification, are the very people that will have the easiest time complying with this requirement.

The fact of the matter is, most of these people wait for a couple of years before they enter the country, and all we are saying is they should take advantage of that opportunity during that period of time that they are waiting to become proficient in the English language, to prepare them better for becoming full participants in our society from the day they arrive in this country.

Mr. Chairman, I yield the balance of my time to the gentleman from Georgia [Mr. GINGRICH], the distinguished Speaker of the House.

Mr. GINGRICH. Mr. Chairman, let me just say to my colleagues, I think the gentleman from Florida [Mr. CANADY] has offered the sort of perfect minimum amendment. Here is what it basically says: It says that there ought to be an incentive to learn English by moving up the priority for people who learn English. It says that English is a language American citizens should know.

Now, I would suggest to you that America is a unique country held together in part by its culture. This is not like France or Germany or Japan. You are not born American in some genetic sense. You are not born American in some racist sense. This is an acquired pattern. English is a key part of this.

I read recently you can now take the citizenship test in a foreign language administered by a private company, so you never actually have to acquire any of the abilities to function in American civilization, and as long as you can memorize just enough to get through the test in your native language, you can then arrive. It seems to me that is exactly wrong.

The fact is we have to begin the process. Look at Quebec. Look at Belgium. Look at the Balkans in Bosnia. We are held together by our common civilization and our common culture. English is a key part of that. This is the narrowest, smallest step of saying to be an American you should at least know enough English to be able to take the test in English to be a citizen.

I would simply say to all of my colleagues, this is the first step in what is going to be a very, very important debate over the next few months. I would urge every one of my colleagues to look at the Canady amendment with the greatest of favor, because it takes the right first step and says we want you to be legal citizens. We are eager for you to come to America. We are eager for you to have your citizenship. But learn English so you can get a job and you can function in American society, and you can truly be part of the American way of life.

Mr. Chairman, I just commend the gentleman for having the courage to take this and offer it. I urge all of my colleagues to vote "yes" on the Canady amendment.

Mr. BECERRA. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from California [Mr. BECERRA] is recognized for 1 minute.

Mr. BECERRA. Mr. Chairman, if I can just say to the Members who are here and to the Speaker, who just finished with his remarks, all you have to do is go to the community colleges, the night schools for adults, the community-based organizations that are doing this at their own cost, and you will see that every night the rooms are filled with people trying to learn English. They are turning people away. There are 18-month wait lists. There are 50,000 people being told you will have to come back at a later time, because they are trying to learn English.

It so happens that this Congress chose to cut funds for English as a second language for those who are trying to learn English. Make sense out of that.

What we see is that for the first time in this Nation since 1924, we have an amendment on immigration that would give a preference to a certain group of people, and what we are doing is we are limiting, we are crunching, we are narrowing those who can come into this country. With this amendment what we are saying is we really only want those who sound like us, who can speak like us, and it is unfortunate, because for the longest time and through this diversity program that is being attacked, we are trying to make sure that we give folks from every part of the world a chance.

Unfortunately, this amendment will make it difficult. This amendment will deny the employers an opportunity to hire somebody they definitely need because of the high skill level that person brings with them, and it is unfortunate. What we see is we are turning this all around. People are starving, yearning to learn English, and here we see a Congress saying "Yeah, you may be, but we don't believe you. We are going to stop you from ever coming into these doors to prove it."

That I think is the wrong message to send those yearning to come to this country to provide us with their skills, their benefits, and make this a better country. That is not the history of this country. We should reject this amendment for that reason.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise today in opposition to the Canady amendment to require English proficiency for immigrants arriving under the diversity immigrant program and under the employment-based classification. Never before has English proficiency been required of immigrants, and it is not necessary now. Immigrants who come to this country are strongly motivated to learn English, because they know that their economic livelihood depends upon it. Immigrant parents instill in their children a pride in their native culture but they also encourage their children to learn English because as parents they know too well that their children's educational and employment opportunities will hinge on their ability to master the English language.

We have seen that there is an enormous demand for English classes. Nationwide, English-as-a-second-language classes serve 1.8 million people each year. In fact, immigrants are very motivated to learn English as they even wait on waiting lists for ESL classes.

I worry that this amendment will have a discriminatory effect as a back-door way of excluding certain groups of immigrants such as those from Spanish-speaking countries, as well as from Africa and Asian countries where the native language is not English. In 1990, Congress rejected a similar proposal that would have given preference to English-speaking immigrants in the diversity lottery because of concerns that the amendment was

designed to favor immigrants from certain parts of the world over others.

Furthermore, I believe that this amendment is not favorable to the interests of business in this country. Employment-based immigration is designed to allow businesses to bring in limited numbers of highly skilled workers. If the employer believes that a future employee has the skills to do the job, the Government should not impose additional requirements.

Ms. PELOSI. Mr. Chairman, I rise in opposition to the Canady amendment, which would require English proficiency for certain immigrants.

Americans all share a common set of ideas and values. It is the common belief that common goals rather than a common language bond us together.

To insist that a common language be a prerequisite for entry into our country is unnecessary. Immigrants realize that learning English is imperative and are not reluctant to do so. In Los Angeles, the demand for English as a second language class is so great that some schools run 24 hours a day. Current generations of immigrants are learning English more quickly than those of previous generations.

This amendment sets up a system to exclude certain groups of immigrants. It contributes to an atmosphere of intolerance for diversity. I urge my colleagues to oppose the Canady amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Florida [Mr. CANADY].

The question was taken; and the Chairman announced that they ayes appeared to have it.

Mr. BECERRA. 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. CANADY] will be postponed.

The CHAIRMAN. It is now in order to consider amendment No. 17 printed in part 2 of House Report 104–483.

AMENDMENT OFFERED BY MR. SMITH OF NEW JERSEY

Mr. SMITH of New Jersey. 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 New Jersey: In section 521 (relating to changes in refugee annual admissions), strike subsection (a), and in subsection (c) strike "subsections (a) and (b)" and insert "this section."

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. SMITH].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 18 printed in part 2 of House Report 104–483.

AMENDMENT OFFERED BY MR. DREIER

Mr. DREIER. 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. DREIER: After section 810, insert the following:

SEC. 811. COMPUTATION OF TARGETED ASSISTANCE.

Section 412(c)(2) (8 U.S.C. 1522(c)(2)) is amended by adding at the end the following new subparagraph:

"(C) Except for the Targeted Assistance Ten Percent Discretionary Program, all grants made available under this paragraph for a fiscal year shall be allocated by the Office of Resettlement in a manner that ensures that each qualifying county shall receive the same amount of assistance for each refugee and entrant residing in the county as of the beginning of the fiscal year who arrived in the United States not more than 60 months prior to such fiscal year.".

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from California [Mr. DREIER].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. DREIER. 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. DREIER] will be postponed.

SEQUENTIAL VOTES POSTPONED IN THE COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to the rule, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment No. 16 offered by the gentleman from Florida [Mr. CANADY], and amendment No. 18 offered by the gentleman from California [Mr. DREIER].

The Chair will reduce to 5 minutes the time for the second electronic vote.

AMENDMENT OFFERED BY MR. CANADY OF FLORIDA.

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Florida [Mr. CANADY] on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered

The vote was taken by electronic device, and there were—ayes 210, noes 207, not voting 15, as follows:

[Roll No 78]

AYES—210

Allard	Emerson	Leach
Archer	English	Lewis (CA)
Armey	Everett	Lewis (KY)
Bachus	Ewing	Lightfoot
Baker (CA)	Fawell	Lincoln
Baker (LA)	Fields (TX)	Linder
Ballenger	Foley	Livingston
Barr	Forbes	Lucas
Barrett (NE)	Fowler	Luther
Bartlett	Franks (CT)	Manzullo
Barton	Franks (NJ)	McCollum
Bass	Frelinghuysen	McCrery
Bateman	Frisa	McHugh
Bereuter	Funderburk	McIntosh
Bevill	Gallegly	McKeon
Bilbray	Ganske	Metcalf
Boehner	Gekas	Meyers
Bono	Gilchrest	Mica
Browder	Gillmor	Miller (FL)
Bryant (TN)	Gingrich	Minge
Bunning	Goodlatte	Molinari
Burr	Gordon	Montgomery
Burton	Goss	Moorhead
Buyer	Graham	Moran
Callahan	Gutknecht	Myers
Calvert	Hall (TX)	Myrick
Camp	Hamilton	Nethercutt
Campbell	Hancock	Neumann
Canady	Hansen	Ney
Chabot	Harman	Norwood
Chambliss	Hastert	Nussle
Chenoweth	Hastings (WA)	Oxley
Christensen	Hayes	Packard
Clement	Hayworth	Parker
Clinger	Hefley	Paxon
Coble	Heineman	Payne (VA)
Coburn	Herger	Peterson (MN)
Collins (GA)	Hilleary	Pickett
Combest	Hobson	Pombo
Condit	Hoekstra	Porter
Cooley	Horn	Quillen
Cox	Hunter	Rahall
Cramer	Hutchinson	Regula
Crane	Hyde	Riggs
Crapo	Inglis	Roberts
Cremeans	Istook	Roemer
Cubin	Johnson, Sam	Rogers
Cunningham	Jones	Rohrabacher
Danner	Kasich	Roth
Deal	Kelly	Roukema
DeFazio	Kim	Royce
DeLay	Kingston	Saxton
Dickey	Knollenberg	Schaefer
Doolittle	LaHood	Seastrand
Dornan	Largent	Sensenbrenner
Dreier	Latham	Shadegg
Duncan	LaTourette	Shays
Ehrlich	Laughlin	Shuster

Sisisky, Skeen, Skelton, Smith (NJ), Smith (TX), Smith (WA), Solomon, Souder, Spence, Stearns, Stenholm, Stockman, Stump, Talent, Tanner, Tate, Tauzin, Taylor (MS), Taylor (NC), Thornberry, Tiahrt, Traficant, Upton, Volkmer, Vucanovich, Walker, Wamp, Weldon (FL), Weldon (PA), Weller, Whitfield, Wicker, Wolf, Young (AK), Young (FL), Zeliff

NOES—207

Abercrombie, Ackerman, Andrews, Baesler, Baldacci, Barcia, Barrett (WI), Becerra, Bellenson, Bentsen, Berman, Bilirakis, Bishop, Blute, Boehlert, Bonilla, Bonior, Borski, Boucher, Brown (CA), Brown (FL), Brown (OH), Brownback, Bryant (TX), Bunn, Cardin, Castle, Chapman, Clay, Clayton, Clyburn, Coleman, Collins (MI), Conyers, Costello, Coyne, Davis, de la Garza, DeLauro, Dellums, Deutsch, Diaz-Balart, Dicks, Dingell, Dixon, Doggett, Dooley, Doyle, Dunn, Durbin, Edwards, Ehlers, Engel, Ensign, Eshoo, Evans, Farr, Fattah, Fazio, Fields (LA), Filner, Flake, Flanagan, Foglietta, Fox, Frank (MA), Frost, Furse, Gejdenson, Gephardt, Geren, Gibbons, Gilman, Gonzalez, Goodling, Green, Greenwood, Gunderson, Gutierrez, Hall (OH), Hastings (FL), Hefner, Hilliard, Hinchey, Hoke, Holden, Houghton, Hoyer, Jackson (IL), Jackson-Lee (TX), Jacobs, Jefferson, Johnson (CT), Johnson (SD), Johnson, E. B., Kanjorski, Kaptur, Kennedy (MA), Kennedy (RI), Kennelly, Kildee, King, Kleczka, Klink, Klug, Kolbe, LaFalce, Lantos, Lazio, Levin, Lewis (GA), Lipinski, LoBiondo, Lofgren, Longley, Lowey, Maloney, Manton, Markey, Martinez, Martini, Mascara, Matsui, McCarthy, McDade, McDermott, McHale, McInnis, McKinney, McNulty, Meehan, Meek, Menendez, Miller (CA), Mink, Mollohan, Morella, Murtha, Nadler, Neal, Oberstar, Olver, Ortiz, Orton, Owens, Pallone, Pastor, Payne (NJ), Pelosi, Peterson (FL), Petri, Pomeroy, Portman, Poshard, Pryce, Quinn, Ramstad, Rangel, Reed, Richardson, Rivers, Ros-Lehtinen, Rose, Roybal-Allard, Rush, Sabo, Salmon, Sanders, Sanford, Sawyer, Scarborough, Schiff, Schroeder, Schumer, Scott, Serrano, Shaw, Skaggs, Slaughter, Smith (MI), Spratt, Stupak, Tejeda, Thomas, Thompson, Thornton, Thurman, Torkildsen, Torres, Torricelli, Towns, Velazquez, Vento, Visclosky, Waldholtz, Walsh, Ward, Watt (NC), Watts (OK), Waxman, White, Williams, Wise, Woolsey, Wynn, Yates, Zimmer

NOT VOTING—15

Bilbray, Brewster, Chrysler, Collins (IL), Ford, Hostettler, Johnston, Moakley, Obey, Radanovich, Stark, Stokes, Studds, Waters, Wilson

□ 2102

Messrs. PORTMAN, DAVIS, McDADE, and JOHNSON of South Dakota, and Ms. DUNN of Washington changed their vote for "aye" to "no."

Mr. BASS and Mr. PORTER changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. NADLER. Mr. Chairman, earlier today I was unavoidably away from the Chamber and missed a number of recorded votes. On rollcall No. 73, the Bryant of Tennessee amendment, I would have voted "no"; on rollcall No. 74, the Velázquez amendment, I would have voted "yes"; on rollcall No. 75, the Gallegly amendment, I would have voted "no"; on rollcall No. 76, the Chabot amendment, I would have voted "yes"; and on rollcall No. 77, the Gallegly amendment, I would have voted "no".

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to the rule, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on the second amendment on which the Chair has postponed further proceedings.

AMENDMENT NO. 18 OFFERED BY MR. DREIER

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from California [Mr. DREIER] on which further proceedings were postponed and on which the noes prevailed by a voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 359, noes 59, not voting 13, as follows:

[Roll No. 79]

AYES—359

Abercrombie, Ackerman, Allard, Archer, Armey, Bachus, Baesler, Baker (CA), Baker (LA), Baldacci, Ballenger, Barcia, Barr, Barrett (NE), Barrett (WI), Bartlett, Barton, Bass, Bateman, Becerra, Bentsen, Bereuter, Berman, Bevill, Bilbray, Bilirakis, Blute, Boehlert, Boehner, Bonilla, Bono, Borski, Boucher, Browder, Brown (CA), Brown (OH), Brownback, Bryant (TN), Bryant (TX), Bunn, Bunning, Burr, Burton, Buyer, Callahan, Calvert, Camp, Campbell, Cardin, Castle, Chabot, Chambliss, Chapman, Chenoweth, Christensen, Chrysler, Clement, Clinger, Coble, Coburn, Coleman, Collins (GA), Combest, Condit, Cooley, Costello, Cox, Coyne, Cramer, Crane, Crapo, Cremeans, Cubin, Cunningham, Danner, Davis, de la Garza, Deal, DeFazio, DeLauro, DeLay, Dickey, Dicks, Dingell, Dixon, Doggett, Dooley, Doolittle, Dornan, Doyle, Dreier, Duncan, Dunn, Durbin, Edwards, Ehlers, Ehrlich, Emerson, Engel, English, Ensign, Eshoo, Evans, Everett, Ewing, Farr, Fattah, Fawell, Fazio, Fields (TX), Filner, Flake, Flanagan, Forbes, Ford, Fox, Frank (MA), Franks (CT), Franks (NJ), Frelinghuysen, Frisa, Frost, Funderburk, Furse, Gallegly, Ganske, Gejdenson, Gekas, Geren, Gilchrest, Gillmor, Gilman, Gonzalez, Goodlatte, Goodling, Gordon, Graham, Green, Greenwood, Gunderson, Gutierrez, Gutknecht, Hall (TX), Hamilton, Hancock, Hansen, Harman, Hastert, Hastings (WA), Hayes, Hayworth, Hefley, Heineman, Herger, Hilleary, Hinchey, Hobson, Hoekstra, Hoke, Holden, Horn, Houghton, Hoyer, Hunter, Hutchinson, Hyde, Inglis, Istook, Jackson-Lee (TX), Jacobs, Johnson (CT), Johnson (SD), Johnson, E. B., Johnson, Sam, Jones, Kanjorski, Kaptur, Kasich, Kelly, Kennedy (MA), Kennelly, Kildee, Kim, King, Kingston, Kleczka, Klink, Klug, Knollenberg, Kolbe, LaFalce, LaHood, Lantos, Largent, Latham, LaTourette, Laughlin, Lazio, Leach, Levin, Lewis (CA), Lewis (KY), Lightfoot, Lincoln, Linder, Lipinski, LoBiondo, Lofgren, Longley, Lowey, Lucas, Luther, Maloney, Manton, Manzullo, Markey, Martini, Mascara, Matsui, McCarthy, McCrery, McDade, McHale, McHugh, McInnis, McIntosh, McKeon, McKinney, McNulty, Meehan, Menendez, Metcalf, Meyers, Miller (CA), Minge, Mink, Molinari, Mollohan, Montgomery, Moorhead, Moran, Morella, Murtha, Myers, Myrick, Nadler, Neal, Nethercutt, Neumann, Ney, Norwood, Nussle, Oberstar, Obey, Olver, Ortiz, Orton, Oxley, Packard, Pallone, Parker, Paxon, Payne (VA), Pelosi, Petri, Pickett, Pombo, Pomeroy, Porter, Portman, Poshard, Pryce, Quinn, Rahall, Ramstad, Reed, Regula, Richardson, Riggs, Rivers, Roberts, Roemer, Rogers, Rohrabacher, Roth, Roukema, Roybal-Allard, Royce, Sabo, Salmon, Sanders, Sanford, Sawyer, Saxton, Schaefer, Schiff, Schroeder, Schumer, Scott, Seastrand, Sensenbrenner, Serrano, Shadegg, Shays, Shuster, Skaggs, Skeen, Slaughter, Smith (MI), Smith (NJ), Smith (TX), Smith (WA), Solomon, Souder, Spence, Stenholm, Stockman, Stump, Stupak, Talent, Tanner, Tate, Tauzin, Taylor (MS), Taylor (NC), Tejeda, Thomas, Thornberry, Thornton, Tiahrt, Torkildsen, Torres, Towns, Traficant, Upton, Velazquez, Vento, Visclosky, Volkmer, Vucanovich, Waldholtz, Walker, Walsh, Wamp, Ward, Watts (OK), Waxman, Weldon (FL), Weldon (PA), Weller, White, Whitfield, Wicker, Wolf, Woolsey, Yates, Young (AK), Zeliff, Zimmer

NOES—59

Andrews, Bellenson, Bilirakis, Bonior, Brown (FL), Canady, Clay, Clayton, Clyburn, Collins (MI), Conyers, Dellums, Deutsch, Diaz-Balart, Fields (LA), Foglietta, Foley, Fowler, Gephardt, Gibbons, Goss, Hall (OH), Hastings (FL), Hefner

Hilliard	Pastor	Skelton
Jackson (IL)	Payne (NJ)	Spratt
Jefferson	Peterson (FL)	Stearns
Kennedy (RI)	Peterson (MN)	Thompson
Lewis (GA)	Quillen	Thurman
Martinez	Rangel	Torricelli
McCollum	Ros-Lehtinen	Watt (NC)
McDermott	Rose	Williams
Meek	Rush	Wise
Mica	Scarborough	Wynn
Miller (FL)	Shaw	Young (FL)
Owens	Sisisky	

NOT VOTING—13

Bishop	Livingston	Studds
Brewster	Moakley	Waters
Collins (IL)	Radanovich	Wilson
Hostettler	Stark	
Johnston	Stokes	

□ 2111

Mr. RUSH changed his vote from "aye" to "no."

Mr. BROWN of California and Mr. ENGEL changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. OWENS. Mr. Chairman, I rise in opposition to the Immigration in the National Interest Act, H.R. 2202. This bill is a misnomer, for it denounces a historical tradition of the United States—to welcome different cultures that add to the richness of this diverse land. On the contrary, H.R. 2202 is not in the national interest of the United States. It further reinforces the modern conservative tactic for solving the Nation's current economic and social woes: Blame the poor, our children, African-Americans, women, and immigrants.

H.R. 2202 is an underhanded assault on the foreign-born, in general. This bill would punish those who illegally exploit America's generosity, along with those who legitimately seek an opportunity in America. By unifying the illegal and legal immigration problem, H.R. 2202 makes the mistake of lumping everyone together, whether they commit a crime or not. The bill reflects a number of misconceptions that have infiltrated the policy debate on immigration.

Unconscionably, H.R. 2202 would reduce the number of legal immigrants by 30 percent. This reduction unreasonably implies that the United States is plagued by an illegal and legal immigration invasion. The number of foreign-born that enters this country each year is 1 million. Of that number, 700,000 are legal immigrants. Currently, the foreign-born represent only 8 percent of the total population as opposed to the period between 1870 and 1920 when nearly 15 percent, or 1 out of every 7 individuals was foreign born.

H.R. 2202 would limit the immigration of people under the Immigration and Naturalization Service's [INS] family sponsored category. This bill would restrict entry for parents, adult children, and siblings. In effect, this new policy would impose America's definition of a family onto the culture of immigrants. Excluding more than 100,000 children, parents, and brothers and sisters from reuniting with family members in this country is not a pro-family policy.

It is distressing that the term immigrant has been smeared to connote a terrible meaning. My Republican colleagues have resorted to ignoring the contributions that immigrants have made to this country.

Immigrants do not come to America just to hop on the public dole. In fact, according to the Urban Institute, immigrants generate an estimated $25 billion in surplus revenues over what they receive in social services.

Furthermore, immigrants create more jobs than they fill by starting new businesses and buying U.S. goods and services. No conclusive data have proven that even illegal immigrants have an adverse effect on job opportunities for native workers. Ironically, the person most likely to be displaced in a job by an illegal immigrant is another illegal immigrant who has resided in this country for some time.

Clearly, the United States must address the dangers of illegal immigration; but, in the interim, legal immigrants should not have to defend their rights, integrity, and culture. In light of the imminent rollback on affirmative action, possible abolishment of the welfare and Medicaid entitlement, and this current unfair immigration reform proposal, I challenge my colleagues to stop this Congress from going down in history as the most vicious and regressive Congress since reconstruction.

We must not forget the 1987 Hudson Institute's pioneer study, Workforce 2000; in the next century, America's workforce will be more female and more ethnically diverse with native-born white males comprising only 15 percent of the new labor market. It is time to accept this fact and addresses the real problem. I urge a "no" vote on H.R. 2202.

Mrs. MINK of Hawaii. Mr. Chairman, the immigration bill, H.R. 2202, that we are debating this week in the U.S. House of Representatives exploits the deep hostilities felt across this land, that the problem of illegal immigrants has grown out of control needing drastic measures to curb, and seizes upon this issue to justify other changes in current law which drastically change the family reunification principle which has governed how we decide to grant visas for new entrants.

This merger of the issue of illegal immigration with changes in the family preference categories currently allowed is unwarranted. These two matters should be separated. H.R. 220 should be confined to a debate on how to deal effectively with the problems of illegal immigration. There is no disagreement that this is a matter of concern which must be dealt with on the national level.

But to be asked to vote for changes in family preference categories because you support proposals to curb illegal immigration is unfair to families who have waited for years for their numbers to be called up so that they could call for their adult children to join them in America.

H.R. 2202 repeals family preferences which currently allow reunification of family members including adult children, and siblings. For a Nation concerned about family, it is unjustifiably cruel to cut off this long-awaited hope that the family could be reunited. Legal immigrants deserve to be treated better.

Even more punitive is the provision in H.R. 2202 which although allowing parents to be included in the definition of family allowed entry, requires that before they are issued visas they must have prepaid health care insurance.

H.R. 2202 reduces the number of immigrants allowed in next year under the family preference category from the current 500,000 to 330,000. This number would be reduced each year until it reached only 110,000.

H.R. 2202 limits the number of adult children admitted to those who are financially dependent on their parents, are not married and are between the ages of 21 and 25 years. An exception is provided for adult children who are permanently physically or mentally impaired.

Employment-based visas will be issued each year to 135,000 immigrants. Refugee visas will be limited to 50,000 per year.

These measures dealing with changes to legal immigration should be separated out and dealt with under a separate bill. There is no justification for repealing the family categories and denying adult children and brothers and sisters from ever being reunited.

All sections of the bill that deal with legal immigrants should be eliminated from H.R. 2202.

The 1990 Immigration Act established a worldwide annual immigration limit of 675,000, not including refugees and other categories. Within this limit, 480,000 are family-related immigrants, with 226,000 set aside for: unmarried adult sons and daughters of U.S. citizens—23,400; spouses and children of permanent resident aliens—114,200; married sons and daughters of U.S. citizens—23,400; and brothers and sisters of adult U.S. citizens—65,000.

The 1986 amnesty provisions of the immigration law increased the number admitted to a high which occurred in 1991 of 1,827,167. But this was due to amnesty and not because of the family reunification policy.

There are currently 1.1 million spouses and minor children of lawful permanent legal residents on the waiting list.

The backlog should be cured by allowing all spouses and minor children to be admitted irrespective of country limits.

The committee bill argues that the need to allocate numbers to other family members prevents spouses and minor children from being admitted. This is the reason they state that they are repealing the other preference categories.

The family unit for most Asian families includes all children. It does not arbitrarily exclude adult children. It does not arbitrarily exclude siblings. Any family reunification policy must allow for these members of the family unit to be admitted. No matter how long the wait, these family members deserve the hope and expectation that U.S. immigration policy does not cut them off without any hope of reunification.

The Committee Report states that the State Department records indicate the following wait listings: First, unmarried adult sons and daughters of U.S. citizens: 63,409—annual admissions allowed is 23,400; second, unmarried adult sons and daughters of permanent resident aliens: 450,579—annual admissions allowed is 36,266; third, married adult sons and daughters of U.S. citizens: 257,110—23,400 annual allowed admissions; and fourth, brothers and sisters of U.S. citizens: 1,643,463—65,000 annual admissions allowed.

Because of this backlog of 2.4 million persons eligible for admission but denied due to category or country limits, the Committee report concludes that this large backlog undermines the integrity of the immigration policy and therefore repeals them.

To rescind these categories undermines our national integrity. These persons, heretofore found eligible for admission being forever barred is a cruelty beyond description. Destroying their hope they have clung to 10 or 15 years that someday they would be reunited with their families is without justification.

I urge the separation of all provisions dealing with immigration policy from this bill. Let's today deal with the issue of illegal immigrants, and leave to another time the matter of what changes are needed regarding the family preference system.

I urge this House to support the Chrysler-Berman-Brownback amendment which deletes title V from this bill.

Mr. RADANOVICH. Mr. Chairman, earlier in this debate I signaled my support for the guest worker program involving American agriculture.

This can be a potent solution to two pressing needs: assuring an adequate labor supply for the farm fields of our country and delivering a body blow to illegal immigration.

We of California's San Joaquin Valley recognize the critical requirement for farm labor during certain seasons. Allowing those from abroad to fill the gap from shortages of American workers makes good sense—economically, agriculturally, and socially.

Noteworthy, I believe, is the strong stance of the Nisei Farmers League. Its president, Manuel Cunha, has told me, "this is the ideal program to meet the seasonal employment needs of agriculture."

This amendment is good on all sides. It has safeguards that protect domestic employees, that provide payment of prevailing wages, and to see workers return when the work is over. I support it and urge my colleagues to join me.

Mr. CRANE. Mr. Chairman, I commend Chairman SMITH for his hard work on the illegal immigration provisions in H.R. 2202, the Immigration in the National Interest Act of 1995. I would like to draw attention to the role played by the U.S. Customs Service on our borders in the processing and interdiction of illegal passengers, conveyances, and cargo. While H.R. 2202 calls for additional Immigration and Naturalization Service [INS] inspectors and certain infrastructural improvements along borders, it should not be forgotten that primary responsibility for policing our borders falls on the Customs Service. Customs inspectors and agents protect American citizens from the entry or importation of illegal goods. In fact, the Customs Service seizes more illegal drugs than all other Federal agencies combined. A lesser known fact is that in addition to their own obligations along the southwest border, Customs has a cross-designated responsibility with the INS to identify and detain illegal immigrants. Customs holds the line on our borders, and INS plays it role, too.

In considering H.R. 2202, I ask my colleagues to remember these facts. First, unlike the INS, Customs deploys its personnel along the border according to changing threats, not the absolute numbers of passengers in any given period. Customs has targeted inspections based on intelligence from its agents, some of whom operate beyond our borders to protect vital national interests. Second, decisions by the INS to build commuter lanes, open new ports, or establish additional preinspection facilities must be made in consultation with the Secretary of Treasury and the Commissioner of Customs. Third, INS infrastructural needs at the border are much smaller than those of Customs, which must process people, vehicles, and cargo. Appropriations for the INS for changes in infrastructure or personnel at our borders must take into account any new demands placed on Customs by these changes. I am confident that the Attorney General and the Secretary of the Treasury will consult with each other to ensure the continued coordination of interdiction efforts along our borders.

Mr. SERRANO. Mr. Chairman, I rise in strong opposition to H.R. 2202, the Immigration in the National Interest Act of 1995. This bill is badly flawed in numerous ways.

H.R. 2202, for the first time, would combine two entirely different issues in one bill. Combining efforts to secure our borders with reforms to our system of legal immigration serves only to confuse the debate. It plays on the public's understandable concern over illegal immigration but twists that concern into the misguided notion that all immigration is harmful and all immigrants are undocumented, sneaking into our country by night. Neither notion, of course, is true, but dealing with both illegal and legal immigration in one bill serve to fuel hostility and even prejudice toward all immigrants.

The sponsors of this legislation appear to hope that the always-popular issue of fighting illegal immigration will be a strong enough engine to pull unnecessary and unwise changes in our process of admitting legal immigrants to the United States through the legislative process.

I would not argue against reasonable improvements in enforcing our national borders; indeed, border enforcement is one of the principal obligations of a sovereign nation. But I cannot support such micromanagement as mandating a particular type of fence—and one that the Border Patrol considers dangerous for its officers.

Nor can I support that bill's system to enable employers to confirm that newly hired workers are eligible to work in the United States. Voluntary or mandatory, such a system ultimately can't work without databases that are far more accurate than those we have, as well as a national ID card to tie a person to the name and number he or she present to a potential employer.

Moreover, such a system is likely to lead to discrimination, especially now that the tester program has been taken out. After all, if I'm an employer, and I've gone through the entire hiring process—interviews, testing, reference checks, and all—and I've hired my top candidate only to learn that he or she is not authorized to work and that I must begin the process all over again, why should I include anyone who might turn out to be ineligle in my next candidate pool? Why should I risk wasting time considering anyone with an accent, or a foreign-sounding surname? No, I will support the chabot amendment to strike this system.

Another major national obligation is to screen would-be immigrants and admit those whose relationships to American citizens or legal permanent residents the Nation wants to foster or whose skills the Nation needs to prosper, as well as refugees fleeing their homelands for valid reasons. Immigrants, despite faulty statistics that have been used during this debate, are a net plus for this country, working, creating jobs, paying taxes, becoming Americans. H.R. 2202 turns its back on this tradition by sharply reducing the numbers—and even the kinds—of legal immigrants permitted to enter the United States each year.

Particularly with family-based immigration, when did children and siblings cease to be parts of the nuclear family? Why should we deny American citizens and legal permanent residents the opportunity to bring these close relatives together? H.R. 2202 would also increase the income a family must have to bring a family member into a level that would deny 40 percent of Americans the change to reunite with loved ones.

H.R. 2202 would also cut the number of refugees admitted each year by almost one-half from the 1995 level and change our system of determining eligibility for asylum that would make it impossible for most bona fide refugees to qualify. This is both in conflict with international law and immoral.

H.R. 2202 would also unfairly deny public assistance to legal immigrants—in some cases, legal immigrants would be denied assistance that undocumented immigrants would remain eligible for, because Congress has recognized the benefits to the public health and safety when everyone living here is served.

Mr. Chairman, in closing, I must assert that this bill is most definitely not in the national interest. The list of its defects goes on and on, and, worst of all, the Rules Committee and the Republican leadership have denied this House the opportunity even to debate changes in important areas of the bill—especially the public assistance provisions of title VI.

I urge my colleagues, at a minimum, to vote to remove the provisions reducing the number and categories of legal immigrants and to the employment eligibility verification system. But the better response is simply to reject this misguided bill. Vote no in the national interest.

Ms. PELOSI. Mr. Chairman, I rise today in strong opposition to this immigration reform bill, H.R. 2202.

I agree with my colleagues that we have a legitimate national interest in ensuring that people come to our country through legal means. There is ample need for a reasoned and balanced debate about reform of our immigration system. However, the provision in this legislation fall far short of achieving the goal of effective immigration reform in a responsible, fair, and humane manner.

I have many areas of concern in this bill. H.R. 2202 goes too far in placing extreme restrictions on legal immigration, decreasing by 30 percent total annual number of the legal immigrants admitted into this country.

Legal immigration has been of central importance to our development as a nation. We began as a nation of immigrants, and our country continues to reap untold benefits from the energy, ideas, talents, and contributions of those who arrive in this country seeking the opportunity to prove themselves and to contribute to the greatest Nation on Earth.

H.R. 2202 sanctions discrimination against the families of legal U.S. residents who have paid their taxes, served in the Armed Forces, and contributed to the growth of the Nation's economy and to the cultural diversity of our society.

In a Congress which heralds family values as its prevailing theme, this bill is extreme antifamily legislation. Restrictions to family reunification in this bill ensure that American families may be forever separated from their loved ones. Under this legislation, virtually no Americans would be able to sponsor their parents, adult children, or siblings for immigration. Not all Americans subscribe to the restrictive definition of family imposed in the bill—nor should they.

The bill will cut annual refugee admissions in half. Can we be so cold as to tell these victims of persecution to go away, our doors are

shut, our country is full? This extreme cap would severely limit the flexibility of the U.S. refugee system to respond to unpredictable humanitarian crises.

The proposal for summary exclusion included in the bill would eliminate many of the procedural protections to ensure that legitimate asylum seekers receive full consideration of their asylum claims. Nervous, frightened, exhausted victims are charged with one chance to prove their claims of persecution. If an error is made, they face immediate deportation. A victim of rape, torture, or gender persecution may have difficulty effectively discussing his or her case under restrictive procedures.

The severe restriction of benefits to immigrants is yet another point of great concern in this legislation. Only 3.9 percent of immigrants who come to the United States to join their families or to work, rely on public assistance, compared to 4.2 percent of native-born citizens. Yet, the myth persists that welfare benefits are the primary purpose for immigration to the United States.

This bill does not achieve the goals of real and rational immigration reform. It hurts families, it hurts children, it hurts hard-working Americans. For the reasons just mentioned and for many more, this legislation is not good for our country. I urge my colleagues to oppose this harmful legislation.

Mr. PACKARD. Mr. Chairman, illegal immigration hits my district harder than just about any other in the country. It is estimated that more than 43 percent of all illegal immigrants reside in California—and there may be many more.

Today we face a major crisis. California public hospitals must deal with an overwhelming number of births to illegal aliens—almost 40 percent of their deliveries. Incredibly, illegal immigrants cross our borders at a rate which could populate a city the size of San Francisco in less than 3 years. Half of the 5 million illegal aliens in the United States use fraudulent documents to obtain jobs and welfare benefits.

We have finally found the resolve to make the much-needed overhaul of the Nation's immigration laws. Chairman SMITH and I have worked very hard to ensure the bill contains provisions crucial in securing our borders. The first of these provisions increases the border patrol to 10,000 agents. The second initiative cuts off all Federal benefits—except emergency medical care—to illegal aliens. By eliminating benefits to illegal aliens, we eliminate the incentive for them to cross our borders.

Mr. Chairman, my Republican colleagues and I have worked with unprecedented resolve to clamp down on illegal immigration. I urge all of my colleagues to do what is right for California and the Nation—support H.R. 2202.

Mr. FLANAGAN. Mr. Chairman, I rise in strong support of the Lipinski amendment to H.R. 2202, the Immigration in the National Interest Act, and commend Congressman LIPINSKI for his leadership on this issue. This amendment will rectify a problem that should have been resolved long ago. In late 1989, some 800 or so Polish and Hungarian citizens were paroled into the United States by our Attorney General. They have been stuck in this status, which gives them the right to reside here indefinitely, ever since.

As parolees this small group of people cannot obtain citizenship or even obtain permanent residency status. These people have lived in this country for over 6 years, established homes, and become productive members of American society. Yet without action by Congress these Polish and Hungarian parolees can never obtain legal immigration status.

These 800 or so parolees did not come here illegally. Our Attorney General saw fit to grant them parolee status and they have been here ever since.

Although these people have the right to live here for as long as they like, it is time for this group of people to have the ability to obtain residency status. The Lipinski amendment does that, it provides residency status for these Polish and Hungarian parolees.

There is precedent for such action. In 1990 Congress changed the status of Indochinese and Soviet parolees. This amendment will allow us do the same for these Polish and Hungarian parolees who have been in a state of limbo since their arrival in the United States. It is not fair to these individuals to have to continue living their lives in our country not knowing if they will ever have the opportunity to become legal permanent residents of a country they dearly love, the United States of America.

I urge my colleagues to support the Lipinski amendment to provide legal residency status for this small group of Polish and Hungarian parolees.

Mr. PACKARD. Mr. Chairman, I rise in support of H.R. 2202, the Immigration in the National Interest Act of 1996. This act is one of the most important pieces of legislation this Congress will consider this year.

Illegal immigration impacts my State of California more than any other State in the union. In fact, it is estimated that 1.7 million or 43 percent of all illegal immigrants reside in California. That is why the voters of California overwhelmingly supported proposition 187 which denies State-funded benefits to illegal immigrants.

I have been involved in combating the illegal immigration problem since I first became a Member of Congress. On the opening day of the 104th Congress, I introduced a legislative package aimed at solving the illegal immigration crisis. I am pleased that Chairman SMITH has chosen to incorporate some of my ideas into this legislation.

First, this bill before us will increase the size of the border patrol to 10,000 agents. I wholeheartedly support this effort to effectively control our borders. For too long, the Immigration and Naturalization Service has been unable to stop illegal immigration at our borders. By increasing the resources at the border, by increasing the number of border patrol agents who must patrol our borders every day, we can begin to stem the rising tide of illegal immigrants who cross our vast border unchecked.

Second, this bill will help put an end to one of the greatest lures our country provides to immigrants who would attempt to cross illegally—and this is our Federal social safety net. It is no secret that in California, illegal immigrants pose a serious burden on both State and Federal benefits programs. Immigrants as a whole account for over 20 percent of all households in California but they account for 40 percent of all benefit dollars distributed.

By ending this incentive and allowing Federal agencies to take reasonable steps to determine the alien status of those seeking benefits, we will be making great strides toward stopping illegal immigration. No longer will American taxpayers have to support people who are in this country illegally.

Again, I want to thank Chairman SMITH and his capable staff for their dedication and hard work in crafting such a fine bill. In addition, I want to mention ELTON GALLEGLY and the immigration Task Force which provided another avenue for Members to present ideas to help solve the illegal immigration problem. Let there be no mistake, illegal immigration is a national problem. This is landmark legislation will go a long way toward ending it. I urge my colleagues to support this bill.

Mr. HASTINGS of Washington. I rise in strong support of the Tate-Hastings-Roukema amendment—an amendment which will finally bring force to our Nation's immigration laws. The United States has always been a beacon of hope for millions of people worldwide. And although immigration laws may not be popular, they are nevertheless vital to America's efforts to control our Nation's borders and protect our national interest for all citizens. Unfortunately, every year, millions of illegal aliens intentionally break these laws.

According to the U.S. Border Patrol, the estimated number of illegal aliens in our State of Washington has jumped from 40,000 to 100,000 in the past decade, and many of these illegal immigrants have settled in my agricultural district. In addition, many aliens not only enter the United States illegally, they thumb their nose at the system by forging documents and falsifying Social Security numbers to obtain employment and social welfare benefits. Yet, even when these individuals are apprehended and returned to their native country, many return again and again without additional penalty.

As a result, additional burdens are placed on our local law enforcement officials, jails, and local and State governments. Illegal immigrants cost taxpayers more than $13.4 billion in 1992—draining the budgets of State and local governments. What's more, illegal immigrants make up more than 25 percent of the Federal prison population, and over 450,000 aliens are criminals on probation or parole. Breaking the law also undermines the incentive of all immigrants to enter the United States legally.

This amendment is fair, and is simply common sense. Our immigration policies were enacted for a reason, and must be enforced. If individuals want to risk breaking our immigration laws, then they ought to face the consequences if they are caught. It is no longer enough to give illegal aliens a free trip back to their homeland with the hope that they will not return. We must also send potential illegal aliens a clear warning: "one strike, and you're out." In other words, if you break the law, you forfeit the privilege that millions of Americans have struggled to achieve.

I strongly urge the passage of this important, commonsense amendment.

Mr. INGLIS of South Carolina. 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. SMITH of Michigan) 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.

IMMIGRATION IN THE NATIONAL INTEREST ACT OF 1995

The 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 further consideration of the bill, H.R. 2202.

□ 1420

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 further 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. When the Committee of the Whole rose on Wednesday, March 20, 1996, amendment No. 18 printed in part 2 of House Report 104-483, offered by the gentleman from California [Mr. DREIER] had been disposed of.

It is now in order to consider amendment No. 19 printed in part 2 of House Report 104-483, as modified by the order of the House of March 19, 1996.

AMENDMENT, AS MODIFIED, OFFERED BY MR. CHRYSLER

Mr. CHRYSLER. Mr. Chairman, I offer an amendment, as modified, made in order by the rule.

The CHAIRMAN. The Clerk will designate the amendment, as modified.

The text of the amendment, as modified, is as follows:

Amendment, as modified, offered by Mr. CHRYSLER: Strike from title V all except section 522 and subtitle D.

The CHAIRMAN. All time has expired on this amendment.

The question is on the amendment, as modified, offered by the gentleman from Michigan [Mr. CHRYSLER].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SMITH of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 238, noes 183, not voting 10, as follows:

[Roll No. 84]

AYES—238

Abercrombie	Brown (FL)	Danner
Ackerman	Brown (OH)	Davis
Allard	Brownback	de la Garza
Andrews	Bunn	DeLauro
Armey	Camp	Dellums
Baesler	Campbell	Deutsch
Baldacci	Cardin	Diaz-Balart
Barcia	Chabot	Dicks
Barrett (WI)	Chapman	Dingell
Becerra	Christensen	Dixon
Bentsen	Chrysler	Doggett
Berman	Clay	Dooley
Bishop	Clayton	Doyle
Bilbray	Clyburn	Dunn
Boehlert	Collins (MI)	Durbin
Bonilla	Condit	Edwards
Bonior	Conyers	Engel
Borski	Costello	English
Boucher	Coyne	Ensign
Browder	Cramer	
Brown (CA)	Crane	

Farr	LaHood	Quinn
Fattah	Lantos	Rahall
Fazio	LaTourette	Rangel
Fields (LA)	Lazio	Reed
Filner	Levin	Regula
Flake	Lewis (CA)	Richardson
Flanagan	Lewis (GA)	Rivers
Foglietta	Linder	Roemer
Forbes	Livingston	Ros-Lehtinen
Ford	LoBiondo	Roybal-Allard
Fox	Lofgren	Rush
Frank (MA)	Lowey	Sabo
Franks (NJ)	Luther	Sanders
Frisa	Maloney	Sanford
Frost	Manton	Sawyer
Furse	Manzullo	Schiff
Gejdenson	Markey	Schroeder
Gephardt	Martinez	Schumer
Gilman	Mascara	Scott
Gonzalez	Matsui	Serrano
Goodling	McCarthy	Skelton
Gordon	McDermott	Slaughter
Green	McHale	Smith (MI)
Gunderson	McHugh	Smith (NJ)
Gutierrez	McInnis	Souder
Hall (OH)	McIntosh	Spratt
Hamilton	McKinney	Studds
Hansen	McNulty	Stupak
Harman	Meehan	Tejeda
Hastings (FL)	Meek	Thomas
Hayworth	Menendez	Thompson
Hefner	Mica	Thornton
Hilliard	Miller (CA)	Thurman
Hoekstra	Miller (FL)	Tiahrt
Holden	Mink	Torkildsen
Houghton	Mollohan	Torres
Hoyer	Moran	Torricelli
Jackson (IL)	Morella	Towns
Jackson-Lee (TX)	Murtha	Upton
	Myrick	Velazquez
Jacobs	Nadler	Vento
Jefferson	Neal	Visclosky
Johnson (CT)	Oberstar	Volkmer
Johnson (SD)	Olver	Waldholtz
Johnson, E. B.	Ortiz	Walker
Kanjorski	Orton	Walsh
Kaptur	Owens	Ward
Kelly	Pallone	Watt (NC)
Kennedy (MA)	Pastor	Waxman
Kennedy (RI)	Paxon	Weldon (FL)
Kennelly	Payne (NJ)	Weldon (PA)
Kildee	Payne (VA)	White
Kim	Pelosi	Williams
King	Peterson (FL)	Woolsey
Kleczka	Peterson (MN)	Wynn
Klink	Porter	Yates
Klug	Portman	Young (FL)
Knollenberg	Poshard	Zimmer
LaFalce	Pryce	

NOES—183

Archer	Combest	Gutknecht
Bachus	Cooley	Hall (TX)
Baker (CA)	Cox	Hancock
Baker (LA)	Crapo	Hastert
Ballenger	Cremeans	Hastings (WA)
Barr	Cubin	Hayes
Barrett (NE)	Cunningham	Hefley
Bartlett	Deal	Heineman
Barton	DeFazio	Herger
Bass	DeLay	Hilleary
Bateman	Dickey	Hinchey
Beilenson	Doolittle	Hobson
Bereuter	Dornan	Hoke
Bevill	Dreier	Horn
Bilbray	Duncan	Hostettler
Bilirakis	Ehlers	Hunter
Bliley	Ehrlich	Hutchinson
Boehner	Emerson	Hyde
Bono	Everett	Inglis
Brewster	Ewing	Istook
Bryant (TN)	Fawell	Johnson, Sam
Bryant (TX)	Fields (TX)	Jones
Bunning	Foley	Kasich
Burr	Fowler	Kingston
Burton	Franks (CT)	Kolbe
Buyer	Frelinghuysen	Largent
Callahan	Funderburk	Latham
Calvert	Gallegly	Laughlin
Canady	Ganske	Leach
Castle	Gekas	Lewis (KY)
Chambliss	Geren	Lightfoot
Chenoweth	Gibbons	Lincoln
Clement	Gilchrest	Lipinski
Clinger	Gillmor	Longley
Coble	Goodlatte	Lucas
Coburn	Goss	Martini
Coleman	Graham	McCollum
Collins (GA)	Greenwood	McCrery
McDade	Ramstad	Solomon
McKeon	Riggs	Spence
Metcalf	Roberts	Stearns
Meyers	Rogers	Stenholm
Minge	Rohrabacher	Stump
Molinari	Roth	Talent
Montgomery	Roukema	Tanner
Moorhead	Royce	Tate
Myers	Salmon	Tauzin
Nethercutt	Saxton	Taylor (MS)
Neumann	Scarborough	Taylor (NC)
Ney	Schaefer	Thornberry
Norwood	Seastrand	Traficant
Nussle	Sensenbrenner	Upton
Obey	Shadegg	Vucanovich
Orley	Shaw	Wamp
Packard	Shays	Watts (OK)
Parker	Shuster	Weller
Petri	Sisisky	Whitfield
Pickett	Skaggs	Wicker
Pombo	Skeen	Wilson
Pomeroy	Smith (TX)	Wolf
Quillen	Smith (WA)	Young (AK)

NOT VOTING—10

Collins (IL)	Rose	Waters
Johnston	Stark	Wise
Moakley	Stockman	
Radanovich	Stokes	

□ 1600

Mr. LUCAS, Mrs. CHENOWETH, and Mr. KASICH changed their vote from "aye" to "no."

Messrs. DE LA GARZA, MCINTOSH, and WELDON of Florida changed their vote from "no" to "aye."

So the amendment, as modified, was agreed to.

The result of the vote was announced as above recorded.

Mr. CHAIRMAN. It is now in order to consider amendment No. 20 printed in part 2 of House Report 104-483.

Does the gentleman from Texas [Mr. BRYANT] wish to offer this amendment?

Mr. BRYANT of Texas. Mr. Chairman, the preceding amendment having been adopted, the Bryant amendment as listed is rendered moot. I do not wish to offer it at this time.

The CHAIRMAN. It is now in order to consider amendment No. 21 printed in part 2 of House Report 104-483.

AMENDMENT OFFERED BY MR. ROHRABACHER

Mr. ROHRABACHER. 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. ROHRABACHER: Amend section 808 of the bill to read as follows:

SEC. 808. LIMITATION ON ADJUSTMENT OF STATUS OF INDIVIDUALS NOT LAWFULLY PRESENT IN THE UNITED STATES.

(a) IN GENERAL.—Section 245(i) (8 U.S.C. 1255), as added by section 506(b) of the Department of State and Related Agencies Appropriations Act, 1995 (Public Law 103-317, 108 Stat. 1765), is amended—

(1) in paragraph (1), by inserting "pursuant to section 301 of the Immigration Act of 1990 is not required to depart from the United States and who" after "who" the first place it appears; and

(2) by adding at the end of paragraph (2) the following: "For purposes of subparagraph (A), the ground of inadmissibility described in section 212(a)(9) shall not apply.".

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a)(1) shall apply to applications for adjustment of status filed after September 30, 1996.

(2) The amendment made by subsection (a)(2) shall take effect on the title III-A effective date (as defined in section 309(a)).

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. ROHRABACHER].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 22 printed in part 2 of House Report 104-483.

AMENDMENT OFFERED BY MR. POMBO

Mr. POMBO. 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. POMBO:

Subtitle B—Guest Worker Visitation Program

SEC. 821. SHORT TITLE.

This subtitle may be cited as the "Temporary Agricultural Worker Amendments of 1996".

SEC. 822. NEW NONIMMIGRANT [illegible] FOR T[illegible] WORKE[illegible]

The CHAIRMAN. All time on this amendment has expired.

The question is on the amendment offered by the gentleman from California [Mr. POMBO], as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. POMBO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 180, noes 242, not voting 9, as follows:

[Roll No. 85]

AYES—180

Armey	Fawell	Metcalf
Baker (CA)	Fazio	Mica
Baker (LA)	Fields (TX)	Miller (FL)
Ballenger	Forbes	Montgomery
Barr	Fox	Moorhead
Barrett (NE)	Funderburk	Morella
Bartlett	Gallegly	Myers
Bass	Gekas	Myrick
Bevill	Gillmor	Nethercutt
Bilirakis	Gilman	Neumann
Bishop	Goodling	Norwood
Bliley	Gordon	Nussle
Boehner	Graham	Packard
Bonilla	Greenwood	Parker
Bono	Gunderson	Paxon
Boucher	Gutknecht	Payne (VA)
Brewster	Hamilton	Peterson (FL)
Browder	Hancock	Pickett
Brownback	Hansen	Pombo
Bryant (TN)	Hastert	Pryce
Bunn	Hastings (WA)	Quillen
Bunning	Hayworth	Riggs
Burr	Hefner	Roberts
Callahan	Heineman	Rose
Calvert	Herger	Salmon
Camp	Hilleary	Sanford
Campbell	Hobson	Saxton
Canady	Hoekstra	Schaefer
Chambliss	Houghton	Seastrand
Chenoweth	Hutchinson	Shadegg
Christensen	Inglis	Shuster
Chrysler	Johnson (CT)	Sisisky
Clinger	Jones	Skelton
Coble	Kelly	Smith (MI)
Coburn	Kim	Smith (WA)
Collins (GA)	Kingston	Solomon
Combest	Knollenberg	Souder
Condit	Kolbe	Spence
Cooley	LaHood	Spratt
Cox	Latham	Stearns
Cramer	LaTourette	Stump
Crane	Laughlin	Tanner
Crapo	Lazio	Tauzin
Cremeans	Lewis (CA)	Taylor (NC)
Cubin	Lewis (KY)	Thomas
Cunningham	Lightfoot	Thornberry
Deal	Lincoln	Tiahrt
DeLay	Linder	Upton
Deutsch	Livingston	Vucanovich
Dickey	LoBiondo	Walker
Dooley	Longley	Walsh
Doolittle	Lucas	Watts (OK)
Dreier	Manzullo	Weller
Dunn	McCollum	White
Ehlers	McCrery	Whitfield
Emerson	McDade	Wicker
English	McHugh	Wolf
Ensign	McInnis	Young (AK)
Everett	McIntosh	Young (FL)
Ewing	McKeon	Zeliff

NOES—242

Abercrombie	Clyburn	Ford
Ackerman	Coleman	Fowler
Allard	Collins (MI)	Frank (MA)
Andrews	Conyers	Franks (CT)
Archer	Costello	Franks (NJ)
Bachus	Coyne	Frelinghuysen
Baesler	Danner	Frisa
Baldacci	Davis	Frost
Barcia	de la Garza	Furse
Barrett (WI)	DeFazio	Ganske
Barton	DeLauro	Gejdenson
Bateman	Dellums	Gephardt
Becerra	Diaz-Balart	Geren
Beilenson	Dicks	Gibbons
Bentsen	Dingell	Gilchrest
Bereuter	Dixon	Gonzalez
Berman	Doggett	Goodlatte
Bilbray	Dornan	Goss
Blute	Doyle	Green
Boehlert	Duncan	Gutierrez
Bonior	Durbin	Hall (OH)
Borski	Edwards	Hall (TX)
Brown (CA)	Ehrlich	Harman
Brown (FL)	Engel	Hastings (FL)
Brown (OH)	Eshoo	Hefley
Bryant (TX)	Evans	Hilliard
Burton	Farr	Hinchey
Buyer	Fattah	Hoke
Cardin	Fields (LA)	Holden
Castle	Filner	Horn
Chabot	Flake	Hostettler
Chapman	Flanagan	Hoyer
Clayton	Foglietta	Hunter
Clement	Foley	Hyde
Istook	Minge	Schiff
Jackson (IL)	Mink	Schroeder
Jackson-Lee (TX)	Molinari	Schumer
Jacobs	Mollohan	Scott
Jefferson	Moran	Sensenbrenner
Johnson (SD)	Murtha	Serrano
Johnson, E. B.	Nadler	Shaw
Johnson, Sam	Neal	Shays
Kanjorski	Ney	Skaggs
Kaptur	Oberstar	Skeen
Kasich	Obey	Slaughter
Kennedy (MA)	Olver	Smith (NJ)
Kennedy (RI)	Ortiz	Smith (TX)
Kennelly	Orton	Stenholm
Kildee	Owens	Stockman
King	Oxley	Studds
Kleczka	Pallone	Stupak
Klink	Pastor	Talent
Klug	Payne (NJ)	Tate
LaFalce	Pelosi	Taylor (MS)
Lantos	Peterson (MN)	Tejeda
Largent	Petri	Thompson
Leach	Pomeroy	Thornton
Levin	Porter	Thurman
Lewis (GA)	Portman	Torkildsen
Lipinski	Poshard	Torres
Lofgren	Quinn	Torricelli
Lowey	Rahall	Towns
Luther	Ramstad	Traficant
Maloney	Rangel	Velazquez
Manton	Reed	Vento
Markey	Regula	Visclosky
Martinez	Richardson	Volkmer
Martini	Rivers	Waldholtz
Mascara	Roemer	Wamp
Matsui	Rogers	Ward
McCarthy	Rohrabacher	Watt (NC)
McDermott	Ros-Lehtinen	Waxman
McHale	Roth	Weldon (FL)
McKinney	Roukema	Weldon (PA)
McNulty	Roybal-Allard	Williams
Meehan	Royce	Wilson
Meek	Rush	Wise
Menendez	Sabo	Woolsey
Meyers	Sanders	Wynn
Miller (CA)	Sawyer	Yates
	Scarborough	Zimmer

NOT VOTING—9

Clay	Johnston	Stark
Collins (IL)	Moakley	Stokes
Hayes	Radanovich	Waters

□ 1808

Messrs. PARKER, HEFNER, PICKETT, LAZIO of New York, and EWING changed their vote from "no" to "aye."

So the amendment, as amended, was rejected.

The result of the vote was announced as recorded.

The CHAIRMAN. It is now in order to consider amendment No. 24, printed in part 2 of House Report 104–483.

AMENDMENT OFFERED BY MR. GOODLATTE

Mr. GOODLATTE. Mr. Chairman, I offer an amendment.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GOODLATTE: After section 810, insert the following new section (and conform the table of contents accordingly):

SEC. 811. CHANGES IN THE H–2A PROGRAM.

(a) PLACING RESPONSIBILITY FOR CERTIFICATION WITHIN THE INS.—Section 218 (8 U.S.C. 1188) is amended—

(1) by striking "Secretary of Labor" and "Secretary" each place either appears (other than in subsections (b)(2)(A), (c)(4), and (g)(2)) and inserting "Attorney General"; and

(2) by amending paragraph (3) of subsection (g) to read as follows:

"(3) There are authorized to be appropriated for each fiscal year such sums as may be necessary for the purpose of enabling the Attorney General and the Secretary of Labor to make determinations and certifications under this section and of enabling

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. GOODLATTE].

The question was taken; and the chairman announced that the noes appeared to have it.

Mr. GOODLATTE. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from Virginia Mr. GOODLATTE will be postponed.

The CHAIRMAN. It is now in order to consider amendment No. 28 printed in part 2 of House Report 104-483.

AMENDMENT OFFERED BY MR BURR

Mr. BURR. 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. BURR: At the end of subtitle B of title VIII insert the following new section:

SEC. 837. EXTENSION OF H-1A VISA PROGRAM FOR NON-IMMIGRANT NURSES.

Effective as if included in the enactment of the Immigration Nursing Relief Act of 1989 (Public Law 101-238), section 3(d) of such Act (103 Stat. 2103) is amended—

(1) by striking "TO 5-YEAR PERIOD",

(2) by striking "5-year", and

(3) by inserting "and ending at the end of the 6-month period beginning on the date of the enactment of the Immigration in the National Interest Act of 1995" after "Act".

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina [Mr. BURR].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. CONYERS Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from North Carolina [Mr. BURR] will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to the rule, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 24 offered by the gentleman from Virginia [Mr. GOODLATTE]; and amendment No. 28 offered by the gentleman from North Carolina [Mr. BURR].

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. GOODLATTE

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia [Mr. GOODLATTE] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 59, noes 357, not voting 15, as follows:

[Roll No. 86]

AYES—59

Allard	Bilirakis	Combest
Andrews	Bliley	Davis
Archer	Boucher	Ehrlich
Bartlett	Brownback	Ensign
Barton	Bryant (TN)	Fields (TX)
Bateman	Campbell	Foley
Bilbray	Clinger	Fowler
Frelinghuysen	Linder	Schaefer
Gekas	McCollum	Shaw
Geren	Moran	Smith (MI)
Goodlatte	Myers	Smith (TX)
Gunderson	Myrick	Stearns
Gutknecht	Ney	Stenholm
Hefley	Oxley	Tauzin
Hostettler	Parker	Taylor (NC)
Houghton	Quillen	Thomas
Hutchinson	Ramstad	Wicker
Johnson, Sam	Rogers	Young (AK)
Kingston	Roukema	Young (FL)
Latham	Saxton	

NOES—357

Abercrombie	Doyle	Jones
Ackerman	Dreier	Kanjorski
Armey	Duncan	Kaptur
Bachus	Dunn	Kasich
Baesler	Durbin	Kelly
Baker (CA)	Edwards	Kennedy (MA)
Baker (LA)	Ehlers	Kennedy (RI)
Baldacci	Emerson	Kennelly
Ballenger	Engel	Kildee
Barcia	English	Kim
Barrett (NE)	Eshoo	King
Barrett (WI)	Evans	Kleczka
Bass	Everett	Klink
Becerra	Ewing	Klug
Bellenson	Farr	Knollenberg
Bentsen	Fattah	Kolbe
Bereuter	Fawell	LaFalce
Berman	Fazio	LaHood
Bevill	Fields (LA)	Lantos
Bishop	Filner	Largent
Blute	Flake	LaTourette
Boehlert	Flanagan	Laughlin
Boehner	Foglietta	Lazio
Bonilla	Forbes	Leach
Bonior	Ford	Levin
Bono	Fox	Lewis (CA)
Borski	Frank (MA)	Lewis (GA)
Brewster	Franks (CT)	Lewis (KY)
Browder	Franks (NJ)	Lightfoot
Brown (CA)	Frisa	Lincoln
Brown (FL)	Frost	Lipinski
Brown (OH)	Funderburk	Livingston
Bryant (TX)	Furse	LoBiondo
Bunning	Gallegly	Lofgren
Burr	Ganske	Longley
Burton	Gejdenson	Lowey
Buyer	Gephardt	Lucas
Callahan	Gibbons	Luther
Calvert	Gilchrest	Maloney
Camp	Gillmor	Manton
Canady	Gilman	Manzullo
Cardin	Gonzalez	Markey
Castle	Goodling	Martinez
Chabot	Gordon	Martini
Chambliss	Goss	Mascara
Chapman	Graham	Matsui
Chenoweth	Green	McCarthy
Christensen	Greenwood	McCrery
Chrysler	Gutierrez	McDade
Clayton	Hall (OH)	McDermott
Clement	Hall (TX)	McHale
Clyburn	Hamilton	McHugh
Coble	Hancock	McInnis
Coburn	Hansen	McIntosh
Coleman	Harman	McKeon
Collins (GA)	Hastert	McKinney
Collins (MI)	Hastings (FL)	McNulty
Condit	Hastings (WA)	Meehan
Conyers	Hayes	Meek
Cooley	Hayworth	Menendez
Costello	Hefner	Metcalf
Cox	Heineman	Meyers
Coyne	Herger	Mica
Cramer	Hilleary	Miller (CA)
Crane	Hilliard	Miller (FL)
Crapo	Hinchey	Minge
Cremeans	Hobson	Mink
Cubin	Hoekstra	Molinari
Cunningham	Hoke	Mollohan
Danner	Holden	Montgomery
de la Garza	Horn	Moorhead
Deal	Hoyer	Morella
DeFazio	Hunter	Murtha
DeLauro	Hyde	Nadler
Dellums	Inglis	Neal
Deutsch	Istook	Nethercutt
Diaz-Balart	Jackson (IL)	Neumann
Dickey	Jackson-Lee (TX)	Norwood
Dingell	Jacobs	Nussle
Dixon	Jefferson	Oberstar
Doggett	Johnson (CT)	Obey
Dooley	Johnson (SD)	Olver
Doolittle	Johnson, E.B.	Ortiz
Dornan		Orton
Owens	Sanders	Thurman
Packard	Sanford	Tiahrt
Pallone	Sawyer	Torkildsen
Pastor	Scarborough	Torres
Paxon	Schiff	Torricelli
Payne (NJ)	Schroeder	Towns
Payne (VA)	Schumer	Traficant
Pelosi	Scott	Upton
Peterson (FL)	Seastrand	Velazquez
Peterson (MN)	Sensenbrenner	Vento
Petri	Serrano	Visclosky
Pickett	Shadegg	Volkmer
Pombo	Shays	Vucanovich
Pomeroy	Shuster	Waldholtz
Porter	Sisisky	Walker
Portman	Skaggs	Walsh
Poshard	Skeen	Wamp
Pryce	Skelton	Ward
Quinn	Slaughter	Watt (NC)
Rahall	Smith (NJ)	Watts (OK)
Rangel	Smith (WA)	Waxman
Reed	Solomon	Weldon (FL)
Regula	Souder	Weldon (PA)
Richardson	Spence	Weller
Riggs	Spratt	White
Rivers	Stockman	Whitfield
Roberts	Stump	Williams
Roemer	Stupak	Wise
Rohrabacher	Talent	Wolf
Ros-Lehtinen	Tanner	Woolsey
Roth	Tate	Wynn
Roybal-Allard	Taylor (MS)	Yates
Royce	Tejeda	Zeliff
Rush	Thompson	Zimmer
Sabo	Thornberry	
Salmon	Thornton	

NOT VOTING—15

Barr	Dicks	Stark
Bunn	Johnston	Stokes
Clay	Moakley	Studds
Collins (IL)	Radanovich	Waters
DeLay	Rose	Wilson

□ 1926

Messrs. WYNN, MOORHEAD, PACKARD, SHADEGG, WAMP, and DUNCAN changed their vote from "aye" to "no."

Mr. CAMPBELL changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. DELAY. Mr. Chairman, on rollcall No. 86, I was unavoidably detained due to my attendance at the funeral of a close friend. Had I been present, I would have voted "no."

AMENDMENT OFFERED BY MR. BURR

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from North Carolina [Mr. BURR] on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 154, noes 262, not voting 15, as follows:

[Roll No. 87]

AYES—154

Abercrombie	Ballenger	Bilbray
Allard	Barr	Bliley
Archer	Barrett (NE)	Boehner
Armey	Bartlett	Boucher
Baker (CA)	Barton	Brewster
Baker (LA)	Bevill	Brownback

Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Camp
Campbell
Canady
Chambliss
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Crane
Crapo
Cremeans
Cubin
de la Garza
Deal
Dickey
Doolittle
Dornan
Dreier
Durbin
Ewing
Fawell
Fields (TX)
Foley
Fowler
Funderburk
Gekas
Geren
Gilchrest
Goodlatte
Goss
Graham
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hoekstra
Hoke
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Jones
Kaptur
Kelly
Kim
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
Laughlin
Lewis (CA)
Lewis (KY)
Lincoln
Linder
Livingston
Lucas
McCollum
McCrery
McInnis
McIntosh
McKeon
Mica
Miller (FL)
Mink
Moorhead
Myers
Myrick
Nethercutt
Norwood
Nussle
Ortiz
Oxley
Packard
Parker
Payne (VA)
Pickett
Pombo
Portman
Quillen
Riggs
Roberts
Rogers
Rush
Salmon
Sanford
Schaefer
Schiff
Seastrand
Shadegg
Shuster
Skeen
Smith (MI)
Smith (TX)
Solomon
Souder
Stenholm
Stockman
Stump
Tanner
Tauzin
Taylor (NC)
Tejeda
Thornberry
Torkildsen
Upton
Vucanovich
Walker
Wamp
Weldon (FL)
White
Wicker
Young (AK)
Zeliff

NOES—262

Ackerman
Andrews
Bachus
Baesler
Baldacci
Barcia
Barrett (WI)
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Bilirakis
Bishop
Blute
Boehlert
Bonilla
Bonior
Bono
Borski
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Callahan
Calvert
Cardin
Castle
Chabot
Chapman
Chenoweth
Clayton
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Cunningham
Danner
Davis
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Flanagan
Foglietta
Forbes
Ford
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Furse
Gallegly
Ganske
Gejdenson
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Goodling
Gordon
Green
Greenwood
Gutierrez
Hamilton
Harman
Hastings (FL)
Hefner
Heineman
Hilliard
Hinchey
Hobson
Holden
Houghton
Hoyer
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kasich
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kingston
Kleczka
Klink
LaFalce
Lantos
LaTourette
Lazio
Leach
Levin
Lewis (GA)
Lightfoot
Lipinski
LoBiondo
Lofgren
Longley
Lowey
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McDade
McDermott
McHale
McHugh
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Miller (CA)
Minge
Molinari
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Neal
Neumann
Ney
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Paxon
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pomeroy
Porter
Poshard
Pryce
Quinn
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Rivers
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Roybal-Allard
Royce
Sabo
Sanders
Sawyer
Saxton
Scarborough
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Shaw
Shays
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Spratt
Stearns
Stupak
Talent
Tate
Taylor (MS)
Thomas
Thompson
Thornton
Thurman
Tiahrt
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Waldholtz
Walsh
Ward
Watt (NC)
Watts (OK)
Waxman
Weldon (PA)
Weller
Whitfield
Williams
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)
Zimmer

NOT VOTING—15

Beilenson
Clay
Collins (IL)
DeLay
Johnson (SD)
Johnston
Moakley
Radanovich
Rose
Spence
Stark
Stokes
Studds
Waters
Wilson

☐ 1935

The Clerk announced the following pair:

On this vote:

Mr. DeLay for, with Mr. Radanovich against.

Mrs. ROUKEMA and Messrs. PETERSON of Minnesota, COOLEY, HOBSON, SAXTON, LONGLEY, SHAW, and Ms. PRYCE changed their vote from "aye" to "no."

Mr. LAHOOD and Mr. PICKETT changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mrs. MORELLA. Mr. Chairman, I rise in opposition to H.R. 2202.

In fairness, this bill is more acceptable now than it was when it first came to the floor on Tuesday. Several of my principal concerns have been addressed. In particular, adoption of the Chrysler-Berman amendment deleting unneeded reforms to our system of legal immigration has put this bill back on track to addressing the primary immigration problem which our constituents have identified—illegal immigration. In addition, the change under the manager's amendment allowing for the filing of asylum petitions within 180 days instead of the 30 days in the original bill recognizes the concern which I and others had expressed regarding the impossibility for most people of filing a complete claim in 30 days. Finally, adoption of the Schiff-Smith amendment removing caps on annual refugee admissions restores the humaneness of U.S. refugee policy and assures necessary flexibility to respond to global events.

I regret that the same humaneness and compassion is not reflected in the provisions in this bill dealing with children. To allow States the option to deny an illegal alien child, who cannot be held responsible for his or her presence in this country, the right to an education is not only unconstitutional, but also cruel to the child and counterproductive for our communities. What is the point of the Constitution if we are to decide that States may opt out of assuring its guarantees? The same can be said for the bill's provisions denying Medicaid, AFDC, and food stamps to U.S. citizen children whose parents are illegal aliens. Failure of the House to adopt the Velázquez amendment relegates these Americans to second class status. I hope these provisions will be removed in conference.

Mr. STOKES. Mr. Chairman, I rise in strong opposition to H.R. 2202, the Immigration in the National Interest Act. Let me state from the beginning that I strongly object to this legislation's failure to distinguish between legal and illegal immigration. Exploiting concerns about illegal immigration, H.R. 2202 unreasonably limits the number of immigrants who can be legally admitted to the United States. This restriction clearly violates the basic tenets of fairness and justice upon which our Nation, a nation of immigrants, was founded. I believe that America must honor its pledge of being a nation that will reunite families, provide asylum to a reasonable number of refugees, and protect the legitimate rights of both American workers and legal immigrants.

The Immigration in the National Interest Act would cut the number of immigrants who can be legally admitted to the United States annually by more than 200,000 persons. This draconian attack on America's immigrant population would be accomplished by dramatically limiting the number of family immigration visas, and by cutting in half the number of people granted asylum. Slashing legal immigration by 30 percent and refugee admission by 50 percent is unconscionable.

Mr. Speaker, it is also important to emphasize that most of the legal immigrants entering the United States are allowed for the purpose of family reunification. Our current policy requires that they are coming to this country to join an immediate relative who has been granted permanent residency status. It is incomprehensible that provisions in H.R. 2202 would attack our national policy of family reunification. This bill's drastic reductions in the number of legal family reunification through numerical caps and earnings tests will have only one result, families will be divided.

In addition to hurting American families, H.R. 2202 recklessly cuts the U.S. participation in humanitarian efforts by limiting the number of refugees who can enter the United States by 50 percent. This heartless exclusion of persons fleeing oppression and war is not only contrary to the interest of refugees, it also damages America's role as a world power. It would be an abdication of the U.S. humanitarian leadership worldwide to support this provision of H.R. 2202.

Another harmful element of this legislation is its requirement that both the sponsoring individual or family and the immigrant have an income of 200 percent of the poverty level. These unreasonably high family-sponsor caps will ultimately result in the disproportionate exclusion of the families of poor and minority immigrants. Such unreasonable and blatant discriminatory immigration policies should be actively resisted.

There are numerous other harmful provisions in this measure—including making illegal

immigrants ineligible for most Federal benefits and establishing a telephone verification of citizenship policy—that compel me to oppose it. The unjustified hostility to legal immigration this bill fosters is simply un-American.

It is important to recognize that the history of the United States is largely one of immigration, and that this nation is rich because of its blend of cultures and ethnic backgrounds. America is a nation of immigrants that—without their creativity, intelligence, and vitality—would not have achieved the greatness with which it is recognized. This shortsighted legislation will impose an unbalanced and unfair set of priorities that will hurt America much more than it would help.

Mr. Speaker, the truth about H.R. 2202 is that it fails to not only distinguish between legal and illegal immigration, but that it reflects some of my colleagues' desires to sacrifice the interests and obligations of the American people in exchange for isolationism. I urge my colleagues to vote against this bill.

Mr. DIXON. Mr. Chairman, few areas of the Nation confront the challenges and suffer the impacts of illegal immigration as much as southern California. I strongly support provisions of H.R. 2202 which seek to control this problem through enhancements in our borders, increases in the numbers of border control agents, and increases in penalties for smuggling and document fraud. I will vote for passage of H.R. 2202, as amended, and continue to support the substantial increases in funding for the Immigration and Naturalization Service to stem the tide of illegal immigration.

However, I have reservations about several of the provisions of this legislation, and will carefully scrutinize the conference agreement on this legislation prior to giving that bill my support. I want to specifically highlight my strong objections to inclusion of the amendment which grants States the option to deny all public education to illegal aliens.

The amendment may be good politics. Clearly, it is appealing to many who are concerned about tight education budgets and the need to spend what moneys are available on American children, rather than educating those illegally in the country. However, the amendment is harsh in its treatment of children; is highly questionable as a disincentive to illegal immigration; and will create far more problems for schools and communities impacted by illegal immigration than it seeks to rectify.

I fail to understand how proponents of this measure believe that creating a situation where school officials will be forced to determine a student's legal immigration status will be beneficial to our educational systems. The costs of educating these children will merely be shifted to the administrative burden of determining immigrant status.

We will not be controlling illegal immigration by keeping some young people out of school. What we will be doing is putting those same young people on our streets, unattended and unsupervised. This is hardly the result that many in our communities are seeking as they look to Congress to address illegal immigration. Moreover, stigmatizing certain school children in this manner, can only lead to potential discrimination against those children who may merely look different.

Claiming the provision as a disincentive to illegal immigration is questionable, at best. I do not believe that a free education for their children is a primary incentive among individuals seeking to enter the United States illegally.

Yes, we have a problem with illegal immigration. But punishing children not legally in this country through no fault of their own, while placing the burdens of defining who is and who is not legal on our public educational system, is a misguided attempt at solving that problem.

With these reservations in mind, I support the legislation before us as we continue to enhance federal efforts to control our borders and ease the burdens of illegal immigration on our communities, cities, and States.

Mr. MARTIN. I rise today in support of the Immigration in the National Interest Act, H.R. 2202.

I am pleased that we are finally addressing one of the most important problems facing America today, I am of course referring to the issue of Immigration reform.

As I have traveled around my District over the last few weeks from senior centers to Main Street the one issue about which people have repeatedly expressed concern is our failed immigration policy. These visits with my constituents reinforce my belief that we must institute common sense immigration reforms.

The United States of America has always been known as a land of immigrants—the melting pot or in today's climate of political correctness, "the tossed salad" of the world.

Over the last 200 years, millions of families have traveled thousands of miles to embrace opportunities found only in America. In fact, my grandparents traveled from Italy to settle in North Jersey where they built a successful business, raised four children and truly fulfilled the American dream.

Unfortunately, we have gotten away from the brand of immigration represented by my grandparents and others of that proud generation. Today, illegal immigration and fraudulent legal immigration runs rampant through our system.

Mr. Speaker, nearly 20 percent of the legal immigrants in this country are on welfare. Furthermore, one-quarter of all federal prisoners are illegal aliens. Does this sound like an immigration policy that is operating at 100 percent efficiency, Mr. Speaker? I think not.

Neither did the bipartisan Commission on Immigration Reform headed by the late Barbara Jordan. The Commission concluded, "The United States must have a more credible immigration policy that deters unlawful immigration while supporting our national interest in immigration."

As a member of the Congressional Task Force on Immigration, I strongly support the commission's findings.

H.R. 2202 is a strong, but fair bill, Mr. Speaker. It establishes a positive framework to prevent illegal aliens from feeding at the public trough. I do not believe it is extreme to stop the flow of federal taxpayer dollars to illegal immigrants.

Mr. Speaker, enactment of H.R. 2202 would reduce illegal immigration by 50 percent over the next 5 years. By stemming the tide of illegal immigration now, we will preserve American jobs for Americans. In fact, this legislation may be the most pro-job and pro-family bill we consider in the 104th Congress.

Some of my colleagues in this body would like to separate legal immigration reform from illegal immigration reform. I, on the other hand, do not believe that we can address one problem without fixing the other.

H.R. 2202 is a family friendly bill that does not attempt to deprive members of the immediate family of legal residents from relocating to the United States. This legislation recognizes the importance and strength of family relationships by providing no annual limitation to the immigration of immediate family members to citizens of the United States.

In fact, H.R. 2202 will allow more legal immigrants into the United States on an annual basis than we have admitted 60 of the last 65 years.

In short, Mr. Speaker, H.R. 2202 places more emphasis on proactive measures that eliminate the incentives to illegally enter the country, while still providing ample room for immigrants who truly desire to pursue the American dream.

In closing, I urge my colleagues to support this much needed immigration reform.

Mr. YOUNG of Florida. Mr. Chairman, the problem of illegal immigration has reached historic proportions. Past attempts by Congress to reform immigration laws have provided nothing more than greater incentives and promised benefits for illegal aliens. The result is the present system which actually encourages immigrants to come to America illegally.

Today, I am proud to support an historic change in our Nation's immigration policy. Today, we are going to pass a reform bill with real teeth in it. A bill that cracks down on illegal immigrants already here, and one that secures our borders against future immigrants who would seek to enter illegally. Past legislation this House has considered, which I strongly opposed, did nothing to alleviate the problems of illegal immigration. At long last, I look forward to supporting a bill which acknowledges these problems and takes action to address them.

While past legislation sent the message you could come to the U.S. illegally and expect to receive welfare benefits, food stamps and free health care, this legislation finally puts an end to this outrage. As a Member from the State of Florida, I have seen first-hand the financial burden these ill-gotten attempts at reform have placed on States forced to bear the brunt of this failed immigration policy. Past Congresses refused to stop the excessive flow of illegal immigrants and to eliminate the enormous costs associated with this broken system. Today, we own-up to our responsibilities with a hard-nosed approach that substantially increases border control, provides the Immigration and Naturalization Service with the tools necessary to find and deport illegal aliens, and pays for the Federal Government's financial obligations to the States.

Mr. Chairman, my State of Florida has long been overburdened by the flood of illegal immigration. Since the Mariel boatlift in 1980, we have been the destination of a disproportionate number of immigrants, making us the third-largest recipient of immigrants among our 50 States. Although immigration policy is the sole jurisdiction of the United States Government, history has proven that States like Florida are typically left with the cost and responsibility of providing expensive social services to illegal aliens.

With the enactment of H.R. 2202, we have an opportunity to minimize the enormous expenses that we force upon our States by denying most public benefits to illegal aliens, removing public charges, and holding sponsors personally responsible for the financial well-

being of an immigrant they bring into our country. Most importantly, this bill requires the Federal Government to reimburse States and localities for any expenses incurred from providing federally mandated services to illegal immigrants. Based upon various formulas, it is estimated that the State of Florida has spent an average of $651 million per year from 1989–1993, or a total of $3.25 billion for services provided to illegal immigrants. If the costs to local governments are included, the total burden rises to $15 billion for that same 5-year period.

Unlike past immigration reform bills, H.R. 2202 will actually discourage the illegal entry of immigrants by increasing our border control agents by 5,000 personnel, improving physical barriers along our borders, including a triple-layer fence, authorizing advanced border equipment to be used by the Immigration and Naturalization Service, and instituting an effective removal process to discharge illegal immigrants with no documentation. This bill provides the Department of Justice with 25 new U.S. Attorneys General and authorizes 350 new INS inspectors to investigate and prosecute aliens and alien smugglers.

This bill also strongly supports the American worker by cracking down on the use of fraudulent documents that illegal immigrants use to get American jobs and by enforcing strict penalties for employers who knowingly violate these laws. The Department of Labor is authorized 150 new investigators to enforce the bill's labor provisions barring the employment of illegal aliens.

Mr. Chairman, the American people demand that Congress take action to secure our borders against illegal immigrants. With the explosion in the amount of drugs and criminals coming across our borders, and with the flood of illegal immigrants, many of whom settle in Florida, it is eminently important that we do all we can to protect our national borders.

While past Congresses refused to address this national crisis, today we deliver, with a much needed and long overdue first step in this renewed effort. Today we will approve legislation with unprecedented prevention and enforcement mechanisms. The message to illegal aliens is no longer one of indifference. The new message is simple—try to enter the United States illegally and we will stop you, should you get in, we will find and deport you, and should you remain in hiding, don't expect much in the way of support.

Mr. GALLEGLY. Mr. Chairman, after having a conversation with Mr. GOODLING, the chairman of the opportunities committee, I wish to clarify, for the record, section 606 of H.R. 2202.

The Department of Education recently signed a computer matching agreement with the Social Security Administration which is to go into effect for the 1996–1997 school year.

The purpose of the matching program is to ensure that the requirements of section 484(a) of the Higher Education Act of 1965 are met.

This matching program will enable the Department of Education to confirm that the social security number and the citizenship status of applicants for financial assistance under Title IV of the Higher Education Act are valid at the time of application.

I would further note that the details of the matching arrangement can be found in the Federal Register publications of March 23, 1995, September 21, 1995, and December 1, 1995.

The matching agreement addresses my concerns about the verification of a student's status and eligibility for student aid.

However, we all know that statutory language is a much better source of authority than regulations. So, I just want to make sure that the verification takes place, that's all. That's why I have included the statutory language. If the Attorney General and the Secretary of Education agree that the matching agreement adequately meets the verification requirements of section 606 of the bill, then that is fine with me.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. RIGGS) 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, pursuant to House Resolution 384, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. BRYANT OF TEXAS

Mr. BRYANT of Texas. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. BRYANT of Texas. In its present form, I am, Mr. Speaker.

The SPEAKER pro temore. The Clerk will report the motion to recommit.

The Clerk read the motion, as follows:

Mr. BRYANT of Texas moves to recommit the bill, H.R. 2202, back to the Committee on the Judiciary with instructions to report the bill back forthwith with the following amendment:

Amend section 806 to read as follows:

SEC. 806. CHANGES RELATING TO H-1B NONIMMIGRANTS.

(a) ATTESTATIONS.—

(1) COMPENSATION LEVEL.—Section 212(n)(1)(A)(i) (8 U.S.C. 1182(n)(1)(A)(i)) is amended—

(A) in subclause (I), by inserting "100 percent of" before "the actual wage level",

(B) in subclause (II), by inserting "100 percent of" before "the prevailing wage level", and

(C) by adding at the end the following: "is offering and will offer during such period the same benefits and additional compensation provided to similarly-employed workers by the employer, and".

(2) DISPLACEMENT OF UNITED STATES WORKERS.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)) is amended by inserting after subparagraph (D) the following new subparagraph:

"(E)(i) The employer—

"(I) has not, within the six-month period prior to the filing of the application, laid off or otherwise displaced any United States worker (as defined in clause (ii)), including

any worker obtained by contract, employee leasing, temporary help agreement, or other similar basis, in the occupational classification which is the subject of the application and in which the nonimmigrant is intended to be (or is) employed; and

"(II) within 90 days following the application, and within 90 days before and after the filing of a petition for any H-1B worker pursuant to that application, will not lay off or otherwise displace any United States worker in the occupational classification which is the subject of the application and in which the nonimmigrant is intended to be (or is) employed.

"(ii) For purposes of this subparagraph, the term 'United States worker' means—

"(I) a citizen or national of the United States;

"(II) an alien lawfully admitted to the United States for permanent residence; and

"(III) an alien authorized to be so employed by this Act or by the Attorney General.

"(iii) For purposes of this subparagraph, the term 'laid off', with respect to an employee, means the employee's loss of employment, other than a discharge for cause or a voluntary departure or voluntary retirement.".

(3) RECRUITMENT OF UNITED STATES WORKERS.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)), as amended by paragraph (2), is further amended by inserting after subparagraph (E) the following new subparagraph:

"(F) The employer, prior to filing the application, attempted unsuccessfully and in good faith to recruit a United States worker for the employment that will be done by the alien whose services are being sought, using recruitment procedures that meet industry-wide standards and offering wages that are at least—

"(i) 100 percent of the actual wage level paid by the employer to other individuals with similar experience and qualifications for the specific employment in question, or

"(ii) 100 percent of the prevailing wage level for individuals in such employment in the area of employment,

whichever is greater, based on the best information available as of the date of filing the application, and offering the same benefits and additional compensation provided to similarly-employed workers by the employer.".

(4) DEPENDENCE ON H-1B WORKERS.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)), as amended by paragraphs (2) and (3), is further amended by inserting after subparagraph (F) the following new subparagraph:

"(G)(i) Whether the employer is dependent on H-1B workers, as defined in clause (ii) and in such regulations as the Secretary of Labor may develop and promulgate in accordance with this paragraph.

"(ii) For purposes of clause (i), an employer is 'dependent on H-1B workers' if the employer—

"(I) has fewer than 41 full-time equivalent employees who are employed in the United States and employs four or more nonimmigrants under section 101(a)(15)(H)(i)(b); or

"(II) has at least 41 full-time equivalent employees who are employed in the United States, and employs nonimmigrants described in section 101(a)(15)(H)(i)(b) in a number that is equal to at least ten percent of the number of such full-time equivalent employees.

"(iii) In applying this subparagraph, any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as a single employer under this subparagraph. Aliens with respect to whom the employer has filed such an application shall be treated as employees, and counted as nonimmigrants under section 101(a)(15)(H)(i)(b), under this paragraph.".

(5) JOB CONTRACTORS.—(A) Section 212(n)(1) (8 U.S.C. 1182(n)(1)), as amended by paragraphs (2) through (4), is further amended by inserting after subparagraph (G) the following new subparagraph:

"(H) In the case of an employer that is a job contractor (within the meaning of regulations promulgated by the Secretary of Labor to carry out this subsection), the contractor will not place any H-1B employee with another employer unless such other employer has executed an attestation that the employer is complying and will continue to comply with the requirements of this paragraph in the same manner as they apply to the job contractor.".

(B) Section 212(n)(2) (8 U.S.C. 1182(n)(2)) is amended by adding at the end the following new subparagraph:

"(E) The provisions of this paragraph shall apply to complaints respecting a failure of another employer to comply with an attestation described in paragraph (1), that has been made as the result of the requirement imposed on job contractors under paragraph (1)(H), in the same manner that they apply to complaints of a petitioner with respect to a failure to comply with a condition described in paragraph (1) by employers generally.".

(b) SPECIAL RULES FOR EMPLOYERS DEPENDENT ON H-1B WORKERS.—Section 212(n) (8 U.S.C. 1182(n)) is amended by adding at the end the following new paragraph:

"(3)(A) No alien may be admitted or provided status as a nonimmigrant described in section 101(a)(15)(H)(i)(b) if the employer who is seeking the services of such alien has attested under paragraph (1)(G) that the employer is dependent on H-1B workers unless the following conditions are met:

"(i) The Secretary of Labor has determined and certified to the Secretary of State and the Attorney General that the employer who is seeking the services of such alien is taking steps described in subparagraph (C) (including having taken the step described in subparagraph (D)).

"(ii) The alien has demonstrated to the satisfaction of the Secretary of State and the Attorney General that the alien has a residence abroad which he has no intention of abandoning.

"(B)(i) It is unlawful for a petitioning employer to require, as a condition of employment by such employer, or otherwise, that the fee described in subparagraph (A)(i), or any part of it, be paid directly or indirectly by the alien whose services are being sought.

"(ii) Any person or entity which is determined, after notice and opportunity for an administrative hearing, to have violated clause (i) shall be subject to a civil penalty of $5,000 for each violation, to an administrative order requiring the payment of the fee described in subparagraph (A)(i), and to disqualification for 1 year from petitioning under section 204 or 214(c).

"(iii) Any amount determined to have been paid, directly or indirectly, to the fund by the alien whose services were sought, shall be repaid from the fund or by the employer, as appropriate, to such alien.

"(C)(i) An employer who attests under paragraph (1)(G) to dependence on H-1B workers shall take timely, significant, and effective steps (including the step described in subparagraph (D)) to recruit and retain sufficient United States workers in order to remove as quickly as reasonably possible the dependence of the employer on H-1B workers.

"(ii) For purposes of clause (i), steps under clause (i) (in addition to the step described in subparagraph (D)) may include the following:

"(I) Operating a program of training existing employees who are United States workers in the skills needed by the employer, or financing (or otherwise providing for) such employees' participation in such a training program elsewhere.

"(II) Providing career development programs and other methods of facilitating United States workers in related fields to acquire the skills needed by the employer.

"(III) Paying to employees who are United States workers compensation that is equal in value to more than 105 percent of what is paid to persons similarly employed in the geographic area.

The steps described in this clause shall not be considered to be an exhaustive list of the significant steps that may be taken to meet the requirements of clause (i).

"(iii) The steps described in clause (i) shall not be considered effective if the employer has failed to decrease by at least 10 percent in each of two consecutive years the percentage of the employer's total number of employees in the specific employment in which the H-1B workers are employed which is represented by the number of H-1B workers.

"(iv) The Attorney General shall not approve petitions filed under section 204 or 214(c) with respect to an employer that has not, in the prior two years, complied with the requirements of this subparagraph (including subparagraph (D)).

"(D)(i) The step described in this subparagraph is payment of an amount consistent with clause (ii) by the petitioning employer into a private fund which is certified by the Secretary of Labor as dedicated to reducing the dependence of employers in the industry of which the petitioning employer is a part on new foreign workers and which expends amounts received under this subclause consistent with clause (iii).

"(ii) An amount is consistent with this clause if it is a percent of the value of the annual compensation (including wages, benefits, and all other compensation) to be paid to the alien whose services are being sought, equal to 5 percent in the first year, 7.5 percent in the second year, and 10 percent in the third year.

"(iii) Amounts are expended consistent with this clause if they are expended as follows:

"(I) One-half of the aggregate amounts are expended for awarding scholarships and fellowships to students at colleges and universities in the United States who are citizens or lawful permanent residents of the United States majoring in, or engaging in graduate study of, subjects of direct relevance to the employers in the same industry as the petitioning employer.

"(II) One-half of the aggregate amounts are expended for enabling United States workers in the United States to obtain training in occupations required by employers in the same industry as the petitioning employer.

(c) INCREASED PENALTIES FOR MISREPRESENTATION.—Section 212(n)(2)(C) (8 U.S.C. 1182(n)(2)(C)) is amended—

(1) in subparagraph (C) in the matter before clause (i), by striking "(1)(C) or (1)(D)" and inserting "(1)(C), (1)(D), (1)(E), or (1)(F) or to fulfill obligations imposed under subsection (b) for employers defined in subsection (a)(4)";

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

(3) 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 an additional civil monetary penalty on the employer in an amount equalling twice the amount of backpay.".

(d) LIMITATION ON PERIOD OF AUTHORIZED ADMISSION.—Section 214(g)(4) (8 U.S.C. 1184(g)(4)) is amended—

(1) by inserting "or section 101(a)(15)(H)(ii)(b)" after "section 101(a)(15)(H)(i)(b)"; and

(2) by striking "6 years" and inserting in lieu thereof "3 years".

(e) REQUIREMENT FOR RESIDENCE ABROAD.—Section 101(a)(15)(H)(i)(b) (8 U.S.C. 1101(a)(15)(H)(i)(b)) is amended by inserting "who has a residence in a foreign country which he has no intention of abandoning," after "212(j)(2),".

(f) EFFECTIVE DATES.—

(1) Except as provided in paragraph (2), the amendments made by this section shall take effect 60 days after the date of the enactment of this Act.

(2) The amendments made by subsection (d) shall apply with respect to offenses occurring on or after the date of enactment of this Act.

Mr. BRYANT of Texas (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. BRYANT] is recognized for 5 minutes in support of his motion to recommit.

Mr. BRYANT of Texas. Mr. Speaker, the motion to recommit incorporates an amendment which the Committee on Rules would not allow us to offer in the course of the debate on the immigration bill which would change the current law in a way that is beneficial and positive for American workers.

The current law allows people to enter this country on temporary work visas, up to 65,000 a year, and to be put to work in companies where often they take the jobs of American workers.

The fact of the matter is, that between 1992 and 1995 we had 234,000 foreign temporary workers enter the country and take the jobs of American workers. Mr. Speaker, the H-1B program that was created in 1990 was designed to alleviate some short-term needs with some temporary worker visas. It has now turned into a program in which companies have replaced, in some cases, entire departments with imported workers coming in on temporary visas, and they are allowed to stay as long as 6 years.

This motion to recommit would change that program, and would say that, U.S. workers can not be laid off and replaced with H-1B foreign workers, that the temporary visa will only be good for 3 years not 6. It would require that employers dependent on H-1B workers would have to take timely, significant, and effective steps to recruit and retain sufficient U.S. workers to remove that dependency.

It is an outrage that we have had situations in this country where companies have brought in large numbers of temporary H-1B workers. They have asked their domestic work force to train the imported workers. Then they have fired the domestic workers and put to work the newly trained foreign workers that were brought in under the H-1B program. It should not be permitted. This motion to recommit would forbid it forever in the future.

Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. CONYERS.].

Mr. CONYERS. Mr. Speaker, first of all, I congratulate my colleague on the Committee on the Judiciary, the gentleman from Texas, [Mr. BRYANT], for an incredibly diligent job.

The motion here to recommit with the amendment may be the most important vote we may consider this year from the perspective of the American worker, because it puts before us the identical immigration reform bill, with just one exception, and here it is: that American companies should attempt to recruit American workers for skilled jobs before trying to recruit foreign workers for these jobs.

□ 1945

That is what it is about, that is all it is about. The administration has produced a record of 8 million new jobs. Some of the Republican candidates, by contrast, or one in particular is still figuring out that jobs is a major issue with Americans. It translates here into the GOP leadership.

The Rules Committee blocked this amendment and so we are bringing it up now in a motion to recommit. Please support this motion to recommit whether you are a Republican or a Democrat.

Mr. BRYANT of Texas. I thank the gentleman for his comments.

Mr. Speaker, I would point out that under this motion to recommit employers who are dependent on H-1B orders would have to take effective steps to recruit and retain U.S. workers to remove that dependency, and that U.S. workers could not be laid off and replaced with H-1B workers.

Mr. Speaker, I yield to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. I thank the gentleman for yielding. I strongly support his amendment. This amendment should have been allowed in the rules. We should have been able to debate this on the floor.

I just want to take 15 seconds of my time to indicate that in this bill, which is coming up for final passage, is what I believe to be an unconstitutional and just horrible on public policy amendment with respect to children and public schools. I am going to support this bill because it is so much better than it was through this House. If this amendment does not come out in conference committee, I will oppose the bill on the floor when it comes back from conference with every ounce of my energy.

Mr. BRYANT of Texas. Mr. Speaker, I would simply conclude by saying that this motion to recommit would put into the immigration bill a provision that ensures that U.S. workers cannot be laid off and replaced with foreign temporary workers. Every Member of this House ought to vote in the interest of the American work force for the motion to recommit.

Mr. SMITH of Texas. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore (Mr. RIGGS). The gentleman from Texas is recognized for 5 minutes.

Mr. SMITH of Texas. Mr. Speaker, the gentleman from Texas [Mr. BRYANT] and I have been through a lot on a year-long journey to implement immigration reform legislation. I feel like we are a little like the two characters in Lonesome Dove, Woodrow and Gus. While we may sometimes disagree, I am not going to take any shots at my partner in this endeavor. Instead, I do want to tell my colleagues why this is such a good bill and why it puts the interest of American families, workers, and taxpayers first.

This legislation will reduce illegal immigration and reform legal immigration. It will help secure our borders, reduce crime, and protect jobs for American citizens. It will encourage legal immigrants to be productive members of our communities and ease the burden on the hardworking taxpayers.

For only the fourth time this century, Congress now considers comprehensive immigration reform. I thank my colleagues for their patience, for their interest, and for their support. I urge my colleagues to vote "no" on the motion to recommit and "yes" on final passage.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. BRYANT of Texas. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage of the bill.

The vote was taken by electronic device, and there were—ayes 188, noes 231, not voting 12, as follows:

[Roll No. 88]

AYES—188

Abercrombie	Gordon	Olver
Ackerman	Green	Ortiz
Andrews	Gutierrez	Owens
Baesler	Hall (OH)	Pallone
Baldacci	Hamilton	Pastor
Barcia	Harman	Payne (NJ)
Barrett (WI)	Hastings (FL)	Payne (VA)
Becerra	Hefner	Pelosi
Beilenson	Hilliard	Peterson (FL)
Bentsen	Hinchey	Peterson (MN)
Berman	Holden	Pickett
Bishop	Hoyer	Pomeroy
Boehlert	Jackson (IL)	Poshard
Bonior	Jackson-Lee (TX)	Rahall
Borski	Jacobs	Rangel
Boucher	Jefferson	Reed
Browder	Johnson (SD)	Regula
Brown (CA)	Johnson, E. B.	Richardson
Brown (FL)	Kanjorski	Rivers
Brown (OH)	Kaptur	Roemer
Bryant (TX)	Kennedy (MA)	Roukema
Cardin	Kennedy (RI)	Roybal-Allard
Chapman	Kennelly	Royce
Clayton	Kildee	Rush
Clyburn	Kleczka	Sabo
Coleman	Klink	Sanders
Collins (MI)	LaFalce	Sawyer
Condit	Lantos	Schroeder
Conyers	Levin	Schumer
Costello	Lewis (GA)	Scott
Coyne	Lincoln	Serrano
Danner	Lipinski	Sisisky
de la Garza	LoBiondo	Skaggs
DeFazio	Lowey	Skelton
DeLauro	Luther	Slaughter
Dellums	Maloney	Smith (NJ)
Deutsch	Manton	Spratt
Dicks	Markey	Stockman
Dingell	Martinez	Stupak
Dixon	Mascara	Tanner
Doggett	Matsui	Taylor (MS)
Doyle	McCarthy	Tejeda
Durbin	McDermott	Thompson
Edwards	McHale	Thornton
Engel	McKinney	Thurman
Ensign	McNulty	Torkildsen
Evans	Meehan	Torres
Farr	Meek	Torricelli
Fattah	Menendez	Towns
Fazio	Metcalf	Traficant
Fields (LA)	Meyers	Velázquez
Filner	Miller (CA)	Vento
Flake	Minge	Visclosky
Foglietta	Mink	Volkmer
Ford	Mollohan	Ward
Frank (MA)	Moran	Watt (NC)
Frelinghuysen	Murtha	Waxman
Frost	Nadler	Williams
Furse	Neal	Wise
Gejdenson	Ney	Woolsey
Gephardt	Oberstar	Wynn
Gibbons	Obey	Yates
Gonzalez	Olver	Zimmer

NOES—231

Allard	Calvert	Dreier
Archer	Camp	Duncan
Armey	Campbell	Dunn
Bachus	Canady	Ehlers
Baker (CA)	Castle	Ehrlich
Baker (LA)	Chabot	Emerson
Ballenger	Chambliss	English
Barr	Chenoweth	Eshoo
Barrett (NE)	Christensen	Everett
Bartlett	Chrysler	Ewing
Barton	Clement	Fawell
Bass	Clinger	Fields (TX)
Bateman	Coble	Flanagan
Bereuter	Coburn	Foley
Bevill	Collins (GA)	Forbes
Bilbray	Combest	Fowler
Bilirakis	Cooley	Fox
Bliley	Cox	Franks (CT)
Blute	Cramer	Franks (NJ)
Boehner	Crane	Frisa
Bonilla	Crapo	Funderburk
Bono	Cremeans	Gallegly
Brewster	Cubin	Ganske
Brownback	Cunningham	Gekas
Bryant (TN)	Davis	Geren
Bunn	Deal	Gilchrest
Bunning	Diaz-Balart	Gillmor
Burr	Dickey	Gilman
Burton	Dooley	Goodlatte
Buyer	Doolittle	Goodling
Callahan	Dornan	Goss
Graham	Lightfoot	Salmon
Greenwood	Linder	Sanford
Gunderson	Livingston	Sarton
Gutknecht	Lofgren	Scarborough
Hall (TX)	Longley	Schaefer
Hancock	Lucas	Schiff
Hansen	Manzullo	Seastrand
Hastert	Martini	Sensenbrenner
Hastings (WA)	McCollum	Shadegg
Hayes	McCrery	Shaw
Hayworth	McDade	Shays
Hefley	McHugh	Shuster
Heineman	McInnis	Skeen
Herger	McIntosh	Smith (MI)
Hilleary	McKeon	Smith (TX)
Hobson	Mica	Smith (WA)
Hoekstra	Miller (FL)	Solomon
Hoke	Molinari	Souder
Horn	Montgomery	Spence
Hostettler	Moorhead	Stearns
Houghton	Morella	Stenholm
Hunter	Myers	Stump
Hutchinson	Myrick	Talent
Hyde	Nethercutt	Tate
Inglis	Neumann	Tauzin
Istook	Norwood	Taylor (NC)
Johnson (CT)	Nussle	Thomas
Johnson, Sam	Orton	Thornberry
Jones	Oxley	Tiahrt
Kasich	Packard	Upton
Kelly	Parker	Vucanovich
Kim	Paxon	Waldholtz
King	Petri	Walker
Kingston	Pombo	Walsh
Klug	Porter	Wamp
Knollenberg	Portman	Watts (OK)
Kolbe	Pryce	Weldon (FL)
LaHood	Quillen	Weldon (PA)
Largent	Quinn	Weller
Latham	Ramstad	White
LaTourette	Riggs	Whitfield
Laughlin	Roberts	Wicker
Lazio	Rogers	Wolf
Leach	Rohrabacher	Young (AK)
Lewis (CA)	Ros-Lehtinen	Young (FL)
Lewis (KY)	Roth	Zeliff

NOT VOTING—12

Clay	Moakley	Stokes
Collins (IL)	Radanovich	Studds
DeLay	Rose	Waters
Johnston	Stark	Wilson

□ 2005

The Clerk announced the following pair:

On this vote:

Mr. Stokes for, with Mr. Radanovich against.

Mr. STOCKMAN changed his vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER (Mr. RIGGS). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 333, noes 87, not voting 12, as follows:

[Roll No. 89]

AYES—333

Ackerman	Baldacci	Bateman
Allard	Ballenger	Bentsen
Andrews	Barcia	Bereuter
Archer	Barr	Berman
Armey	Barrett (NE)	Bevill
Bachus	Barrett (WI)	Bilbray
Baesler	Bartlett	Bilirakis
Baker (CA)	Barton	Bishop
Baker (LA)	Bass	Bliley
Blute	Goss	Myrick
Boehlert	Graham	Nethercutt
Boehner	Greenwood	Neumann
Bonilla	Gunderson	Ney
Bono	Gutknecht	Norwood
Borski	Hall (TX)	Nussle
Boucher	Hamilton	Obey
Brewster	Hancock	Orton
Browder	Hansen	Oxley
Brown (CA)	Harman	Packard
Brownback	Hastert	Pallone
Bryant (TN)	Hastings (WA)	Parker
Bunning	Hayes	Paxon
Burr	Hayworth	Payne (VA)
Burton	Hefley	Peterson (FL)
Buyer	Hefner	Peterson (MN)
Callahan	Heineman	Petri
Calvert	Herger	Pickett
Camp	Hilleary	Pombo
Canady	Hobson	Pomeroy
Cardin	Hoekstra	Porter
Castle	Hoke	Portman
Chabot	Holden	Poshard
Chambliss	Horn	Pryce
Chapman	Hostettler	Quillen
Chenoweth	Houghton	Quinn
Christensen	Hoyer	Ramstad
Chrysler	Hunter	Reed
Clement	Hutchinson	Regula
Clinger	Hyde	Riggs
Coble	Inglis	Rivers
Coburn	Istook	Roberts
Collins (GA)	Jacobs	Roemer
Combest	Johnson (CT)	Rogers
Condit	Johnson (SD)	Rohrabacher
Cooley	Johnson, Sam	Roth
Costello	Jones	Roukema
Cox	Kanjorski	Royce
Cramer	Kaptur	Salmon
Crane	Kasich	Sanford
Crapo	Kelly	Sawyer
Cremeans	Kennelly	Saxton
Cubin	Kildee	Scarborough
Cunningham	Kim	Schaefer
Danner	Kingston	Schiff
Davis	Kleczka	Schumer
Deal	Klink	Seastrand
DeFazio	Klug	Sensenbrenner
DeLauro	Knollenberg	Shadegg
DeLay	Kolbe	Shaw
Deutsch	LaHood	Shays
Dickey	Lantos	Shuster
Dixon	Largent	Sisisky
Dooley	Latham	Skeen
Doolittle	LaTourette	Skelton
Doyle	Laughlin	Slaughter
Dreier	Lazio	Smith (MI)
Duncan	Leach	Smith (NJ)
Dunn	Levin	Smith (TX)
Durbin	Lewis (CA)	Smith (WA)
Edwards	Lewis (KY)	Solomon
Ehlers	Lightfoot	Souder
Ehrlich	Lincoln	Spence
Emerson	Linder	Spratt
English	Lipinski	Stearns
Ensign	Livingston	Stenholm
Eshoo	LoBiondo	Stockman
Everett	Longley	Stump
Ewing	Lowey	Stupak
Farr	Lucas	Talent
Fawell	Luther	Tanner
Fazio	Maloney	Tate
Fields (TX)	Manton	Tauzin
Flanagan	Manzullo	Taylor (MS)
Foley	Martini	Taylor (NC)
Forbes	Mascara	Tejeda
Ford	McCarthy	Thomas
Fowler	McCollum	Thornberry
Fox	McCrery	Thornton
Franks (CT)	McDade	Thurman
Franks (NJ)	McHale	Tiahrt
Frelinghuysen	McHugh	Torkildsen
Frisa	McInnis	Torricelli
Frost	McIntosh	Traficant
Funderburk	McKeon	Upton
Furse	McNulty	Vento
Gallegly	Menendez	Visclosky
Ganske	Metcalf	Volkmer
Gejdenson	Meyers	Vucanovich
Gekas	Mica	Waldholtz
Gephardt	Miller (CA)	Walker
Geren	Miller (FL)	Walsh
Gilchrest	Minge	Wamp
Gillmor	Molinari	Watts (OK)
Gilman	Montgomery	Waxman
Gingrich	Moorhead	Weldon (FL)
Goodlatte	Moran	Weldon (PA)
Goodling	Murtha	Weller
Gordon	Myers	White

Whitfield	Wise	Young (FL)
Wicker	Wolf	Zeliff
Williams	Young (AK)	Zimmer

NOES—87

Abercrombie	Gonzalez	Oberstar
Becerra	Green	Olver
Bellenson	Gutierrez	Ortiz
Bonior	Hall (OH)	Owens
Brown (FL)	Hastings (FL)	Pastor
Brown (OH)	Hilliard	Payne (NJ)
Bryant (TX)	Hinchey	Pelosi
Bunn	Jackson (IL)	Rahall
Campbell	Jackson-Lee	Rangel
Clayton	(TX)	Richardson
Clyburn	Jefferson	Ros-Lehtinen
Coleman	Johnson, E. B.	Roybal-Allard
Collins (MI)	Kennedy (MA)	Rush
Conyers	Kennedy (RI)	Sabo
Coyne	King	Sanders
de la Garza	LaFalce	Schroeder
Dellums	Lewis (GA)	Scott
Diaz-Balart	Lofgren	Serrano
Dicks	Markey	Skaggs
Dingell	Martinez	Thompson
Doggett	Matsui	Torres
Engel	McDermott	Towns
Evans	McKinney	Velazquez
Fattah	Meehan	Ward
Fields (LA)	Meek	Watt (NC)
Filner	Mink	Woolsey
Flake	Mollohan	Wynn
Foglietta	Morella	Yates
Frank (MA)	Nadler	
Gibbons	Neal	

NOT VOTING—12

Clay	Moakley	Stokes
Collins (IL)	Radanovich	Studds
Dornan	Rose	Waters
Johnston	Stark	Wilson

□ 2013

The Clerk announced the following pair:

On this vote:

Mr. Radanovich for, with Mr. Stokes against.

Ms. ESHOO changed her vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. INGLIS of South Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mr. HEFLEY). Is there objection to the request of the gentleman from South Carolina?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2202, IMMIGRATION IN THE NATIONAL INTEREST ACT OF 1995

Mr. INGLIS of South Carolina. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill, H.R. 2202, the Clerk be authorized to correct section numbers, cross-references, the table of contents, and punctuation, and to make such stylistic, clerical, technical, conforming, and other changes as may be necessary to reflect the actions of the House in amending the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Calendar No. 364

104TH CONGRESS
2D SESSION

H. R. 2202

IN THE SENATE OF THE UNITED STATES

APRIL 15, 1996

Received; read twice and placed on the calendar

AN ACT

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

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

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 1996".

(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:

Subtitle C—Technical Corrections

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

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); or

"(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.

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 sub-

ject 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 re-

tained 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 pur-

poses 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.

(C) 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 pro-

gram 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.

(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.

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.".

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) 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.

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 (and include any successor to such a program as identified by the Attorney General in consultation with other appropriate officials):

(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, li-

censes, 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

of symptoms of communicable diseases, whether or not such symptoms are actually caused by a communicable disease.

(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 (and any successor to such a program as identified by the Attorney General in consultation with other appropriate officials).

(6) CHILD NUTRITION ACT.—Programs of assistance under the Child Nutrition Act of 1966 (and any successor to such a program as identified by the Attorney General in consultation with other appropriate officials).

(7) HEAD START PROGRAM.—Benefits under the Head Start Act.

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.

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, and an affidavit of support described in section 213A, make it unlikely that the alien will become a public charge (as determined under section 241(a)(5)(B)) is inadmissible.

"(B) 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 1996. 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 supple-

mentary 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.—

(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.

(b) PERIOD OF ATTRIBUTION.—

(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 201(b)(2) of the Immigration and Nationality Act, or as the son or daughter of a citizen or lawful permanent resident under paragraph (1) or (3) of section 203(a) of such Act, 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 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.

(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 201(b)(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 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.

"(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 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, (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 is a United States citizen and 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.—

"(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.".

(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 VIII—MISCELLANEOUS PROVISIONS

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.

Calendar No. 361

104TH CONGRESS
2D SESSION

S. 1664

[Report No. 104–249]

To amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 10, 1996

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

APRIL 10, 1996

Reported by Mr. HATCH, without amendment

A BILL

To amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation

law and procedures; to reduce the use of welfare by aliens; and for other purposes.

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

SECTION 1. SHORT TITLE; REFERENCES IN ACT.

(a) SHORT TITLE.—This Act may be cited as the "Immigration Control and Financial Responsibility Act of 1996".

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

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

PART 2—VERIFICATION OF ELIGIBILITY TO WORK AND TO RECEIVE PUBLIC ASSISTANCE

Subpart A—Development of New Verification System

SEC. 111. ESTABLISHMENT OF NEW SYSTEM.

(a) IN GENERAL.—(1) Not later than three years after the date of enactment of this Act or, within one year after the end of the last renewed or additional demonstration project (if any) conducted pursuant to the exception in section 112(a)(4), whichever is later, the President shall—

(A) develop and recommend to the Congress a plan for the establishment of a data system or alter-

native system (in this part referred to as the "system"), subject to subsections (b) and (c), to verify eligibility for employment in the United States, and immigration status in the United States for purposes of eligibility for benefits under public assistance programs (as defined in section 201(f)(3) or government benefits described in section 201(f)(4));

(B) submit to the Congress a report setting forth—

(i) a description of such recommended plan;

(ii) data on and analyses of the alternatives considered in developing the plan described in subparagraph (A), including analyses of data from the demonstration projects conducted pursuant to section 112; and

(iii) data on and analysis of the system described in subparagraph (A), including estimates of—

(I) the proposed use of the system, on an industry-sector by industry-sector basis;

(II) the public assistance programs and government benefits for which use of the system is cost-effective and otherwise appropriate;

(III) the cost of the system;

(IV) the financial and administrative cost to employers;

(V) the reduction of undocumented workers in the United States labor force resulting from the system;

(VI) any unlawful discrimination caused by or facilitated by use of the system;

(VII) any privacy intrusions caused by misuse or abuse of system;

(VIII) the accuracy rate of the system; and

(IX) the overall costs and benefits that would result from implementation of the system.

(2) The plan described in paragraph (1) shall take effect on the date of enactment of a bill or joint resolution approving the plan.

(b) OBJECTIVES.—The plan described in subsection (a)(1) shall have the following objectives:

(1) To substantially reduce illegal immigration and unauthorized employment of aliens.

(2) To increase employer compliance, especially in industry sectors known to employ undocumented workers, with laws governing employment of aliens.

(3) To protect individuals from national origin or citizenship-based unlawful discrimination and from loss of privacy caused by use, misuse, or abuse of personal information.

(4) To minimize the burden on business of verification of eligibility for employment in the United States, including the cost of the system to employers.

(5) To ensure that those who are ineligible for public assistance or other government benefits are denied or terminated, and that those eligible for public assistance or other government benefits shall—

(A) be provided a reasonable opportunity to submit evidence indicating a satisfactory immigration status; and

(B) not have eligibility for public assistance or other government benefits denied, reduced, terminated, or unreasonably delayed on the basis of the individual's immigration status until such a reasonable opportunity has been provided.

(c) SYSTEM REQUIREMENTS.—(1) A verification system may not be implemented under this section unless the system meets the following requirements:

(A) The system must be capable of reliably determining with respect to an individual whether—

(i) the person with the identity claimed by the individual is authorized to work in the United States or has the immigration status being claimed; and

(ii) the individual is claiming the identity of another person.

(B) Any document (other than a document used under section 274A of the Immigration and Nationality Act) required by the system must be presented to or examined by either an employer or an administrator of public assistance or other government benefits, as the case may be, and—

(i) must be in a form that is resistant to counterfeiting and to tampering; and

(ii) must not be required by any Government entity or agency as a national identification card or to be carried or presented except—

(I) to verify eligibility for employment in the United States or immigration status in the United States for purposes of eligi-

bility for benefits under public assistance programs (as defined in section 201(f)(3) or government benefits described in section 201(f)(4));

(II) to enforce the Immigration and Nationality Act or sections 911, 1001, 1028, 1542, 1546, or 1621 of title 18, United States Code; or

(III) if the document was designed for another purposes (such as a license to drive a motor vehicle, a certificate of birth, or a social security account number card issued by the Administration), as required under law for such other purpose.

(C) The system must not be used for law enforcement purposes other than the purposes described in subparagraph (B).

(D) The system must ensure that information is complete, accurate, verifiable, and timely. Corrections or additions to the system records of an individual provided by the individual, the Administration, or the Service, or other relevant Federal agency, must be checked for accuracy, processed, and entered into the system within 10 business days after

the agency's acquisition of the correction or additional information.

(E)(i) Any personal information obtained in connection with a demonstration project under section 112 must not be made available to Government agencies, employers, or other persons except to the extent necessary—

(I) to verify, by an individual who is authorized to conduct the employment verification process, that an employee is not an unauthorized alien (as defined in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3));

(II) to take other action required to carry out section 112;

(III) to enforce the Immigration and Nationality Act or section 911, 1001, 1028, 1542, 1546, or 1621 of title 18, United States Code; or

(IV) to verify the individual's immigration status for purposes of determining eligibility for Federal benefits under public assistance programs (defined in section 201(f)(3) or government benefits described in section 201(f)(4)).

(ii) In order to ensure the integrity, confidentiality, and security of system information, the system and those who use the system must maintain appropriate administrative, technical, and physical safeguards, such as—

(I) safeguards to prevent unauthorized disclosure of personal information, including passwords, cryptography, and other technologies;

(II) audit trails to monitor system use; or

(III) procedures giving an individual the right to request records containing personal information about the individual held by agencies and used in the system, for the purpose of examination, copying, correction, or amendment, and a method that ensures notice to individuals of these procedures.

(F) A verification that a person is eligible for employment in the United States may not be withheld or revoked under the system for any reasons other than a determination pursuant to section 274A of the Immigration and Nationality Act.

(G) The system must be capable of accurately verifying electronically within 5 business days, whether a person has the required immigration status in the United States and is legally authorized for

employment in the United States in a substantial percentage of cases (with the objective of not less than 99 percent).

(H) There must be reasonable safeguards against the system's resulting in unlawful discriminatory practices based on national origin or citizenship status, including—

(i) the selective or unauthorized use of the system to verify eligibility;

(ii) the use of the system prior to an offer of employment;

(iii) the exclusion of certain individuals from consideration for employment as a result of a perceived likelihood that additional verification will be required, beyond what is required for most job applicants; or

(iv) denial reduction, termination, or unreasonable delay of public assistance to an individual as a result of the perceived likelihood that such additional verification will be required.

(2) As used in this subsection, the term "business day" means any day other than Saturday, Sunday, or any day on which the appropriate Federal agency is closed.

(d) REMEDIES AND PENALTIES FOR UNLAWFUL DISCLOSURE.—

(1) CIVIL REMEDIES.—

(A) RIGHT OF INFORMATIONAL PRIVACY.—The Congress declares that any person who provides to an employer the information required by this section or section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) has a privacy expectation that the information will only be used for compliance with this Act or other applicable Federal, State, or local law.

(B) CIVIL ACTIONS.—A employer, or other person or entity, who knowingly and willfully discloses the information that an employee is required to provide by this section or section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) for any purpose not authorized by this Act or other applicable Federal, State, or local law shall be liable to the employee for actual damages. An action may be brought in any Federal, State, or local court having jurisdiction over the matter.

(2) CRIMINAL PENALTIES.—Any employer, or other person or entity, who willfully and knowingly

obtains, uses, or discloses information required pursuant to this section or section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) for any purpose not authorized by this Act or other applicable Federal, State, or local law shall be found guilty of a misdemeanor and fined not more than $5,000.

(3) PRIVACY ACT.—

(A) IN GENERAL.—Any person who is a United States citizen, United States national, lawful permanent resident, or other employment-authorized alien, and who is subject to verification of work authorization or lawful presence in the United States for purposes of benefits eligibility under this section or section 112, shall be considered an individual under section 552(a)(2) of title 5, United States Code, with respect to records covered by this section.

(B) DEFINITION.—For purposes of this paragraph, the term "record" means an item, collection, or grouping of information about an individual which—

(i) is created, maintained, or used by a Federal agency for the purpose of determining—

(I) the individual's authorization to work; or

(II) immigration status in the United States for purposes of eligibility to receive Federal, State or local benefits in the United States; and

(ii) contains the individuals's name or identifying number, symbol, or any other identifier assigned to the individual.

(e) EMPLOYER SAFEGUARDS.—An employer shall not be liable for any penalty under section 274A of the Immigration and Nationality Act for employing an unauthorized alien, if—

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

(2) the employer followed all procedures required in the system; and

(3)(A) the alien was verified under the system as eligible for the employment; or

(B) the employer discharged the alien within a reasonable period after receiving notice that the final verification procedure had failed to verify that the alien was eligible for the employment.

(f) RESTRICTION ON USE OF DOCUMENTS.—If the Attorney General determines that any document described in section 274A(b)(1) of the Immigration and Nationality Act as establishing employment authorization or identity does not reliably establish such authorization or identity or, to an unacceptable degree, is being used fraudulently or is being requested for purposes not authorized by this Act, the Attorney General may, by regulation, prohibit or place conditions on the use of the document for purposes of the system or the verification system established in section 274A(b) of the Immigration and Nationality Act.

(g) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION PROVIDED BY THE VERIFICATION SYSTEM.—No person shall be civilly or criminally liable under section 274A of the Immigration and Nationality Act for any action adverse to an individual if such action was taken in good faith reliance on information relating to such individual provided through the system (including any demonstration project conducted under section 112).

(h) STATUTORY CONSTRUCTION.—The provisions of this section supersede the provisions of section 274A of the Immigration and Nationality Act to the extent of any inconsistency therewith.

SEC. 112. DEMONSTRATION PROJECTS.

(a) AUTHORITY.—

(1) IN GENERAL.—(A)(i) Subject to clause (ii), the President, acting through the Attorney General, shall begin conducting several local and regional projects, and a project in the legislative branch of the Federal Government, to demonstrate the feasibility of alternative systems for verifying eligibility for employment in the United States, and immigration status in the United States for purposes of eligibility for benefits under public assistance programs (as defined in section 201(f)(3) and government benefits described in section 201(f)(4)).

(ii) Each project under this section shall be consistent with the objectives of section 111(b) and this section and shall be conducted in accordance with an agreement entered into with the State, locality, employer, other entity, or the legislative branch of the Federal Government, as the case may be.

(iii) In determining which State(s), localities, employers, or other entities shall be designated for such projects, the Attorney General shall take into account the estimated number of excludable aliens and deportable aliens in each State or locality.

(B) For purposes of this paragraph, the term "legislative branch of the Federal Government" in-

cludes all offices described in section 101(9) of the Congressional Accountability Act of 1995 (2 U.S.C. 1301(9)) and all agencies of the legislative branch of Government.

(2) DESCRIPTION OF PROJECTS.—Demonstration projects conducted under this subsection may include, but are not limited to—

(A) a system which allows employers to verify the eligibility for employment of new employees using Administration records and, if necessary, to conduct a cross-check using Service records;

(B) a simulated linkage of the electronic records of the Service and the Administration to test the technical feasibility of establishing a linkage between the actual electronic records of the Service and the Administration;

(C) improvements and additions to the electronic records of the Service and the Administration for the purpose of using such records for verification of employment eligibility;

(D) a system which allows employers to verify the continued eligibility for employment of employees with temporary work authorization;

(E) a system that requires employers to verify the validity of employee social security account numbers through a telephone call, and to verify employee identity through a United States passport, a State driver's license or identification document, or a document issued by the Service for purposes of this clause;

(F) a system which is based on State-issued driver's licenses and identification cards that include a machine readable social security account number and are resistant to tampering and counterfeiting; and

(G) a system that requires employers to verify with the Service the immigration status of every employee except one who has attested that he or she is a United States citizen or national.

(3) COMMENCEMENT DATE.—The first demonstration project under this section shall commence not later than six months after the date of the enactment of this Act.

(4) TERMINATION DATE.—The authority of paragraph (1) shall cease to be effective four years after the date of enactment of this Act, except that, if the President determines that any one or more of

the projects conducted pursuant to paragraph (2) should be renewed, or one or more additional projects should be conducted before a plan is recommended under section 111(a)(1)(A), the President may conduct such project or projects for up to an additional three-year period, without regard to section 274A(d)(4)(A) of the Immigration and Nationality Act.

(b) OBJECTIVES.—The objectives of the demonstration projects conducted under this section are—

(1) to assist the Attorney General in measuring the benefits and costs of systems for verifying eligibility for employment in the United States, and immigration status in the United States for purposes of eligibility for benefits under public assistance programs defined in section 201(f)(3) and for government benefits described in section 201(f)(4);

(2) to assist the Service and the Administration in determining the accuracy of Service and Administration data that may be used in such systems; and

(3) to provide the Attorney General with information necessary to make determinations regarding the likely effects of the tested systems on employers, employees, and other individuals, including information on—

(A) losses of employment to individuals as a result of inaccurate information in the system;

(B) unlawful discrimination;

(C) privacy violations;

(D) cost to individual employers, including the cost per employee and the total cost as a percentage of the employers payroll; and

(E) timeliness of initial and final verification determinations.

(c) CONGRESSIONAL CONSULTATION.—(1) Not later than 12 months after the date of the enactment of this Act, and annually thereafter, the Attorney General or the Attorney General's representatives shall consult with the Committees on the Judiciary of the House of Representatives and the Senate regarding the demonstration projects being conducted under this section.

(2) The Attorney General or her representative, in fulfilling the obligations described in paragraph (1), shall submit to the Congress the estimated cost to employers of each demonstration project, including the system's indirect and administrative costs to employers.

(d) IMPLEMENTATION.—In carrying out the projects described in subsection (a), the Attorney General shall—

(1) support and, to the extent possible, facilitate the efforts of Federal and State government agencies in developing—

(A) tamper- and counterfeit-resistant documents that may be used in a new verification system, including drivers' licenses or similar documents issued by a State for the purpose of identification, the social security account number card issued by the Administration, and certificates of birth in the United States or establishing United States nationality at birth; and

(B) recordkeeping systems that would reduce the fraudulent obtaining of such documents, including a nationwide system to match birth and death records;

(2) require appropriate notice to prospective employees concerning employers' participation in a demonstration project, which notice shall contain information on filing complaints regarding misuse of information or unlawful discrimination by employers participating in the demonstration; and

(3) require employers to establish procedures developed by the Attorney General—

(A) to safeguard all personal information from unauthorized disclosure and to condition

release of such information to any person or entity upon the person's or entity's agreement to safeguard such information; and

(B) to provide notice to all new employees and applicants for employment of the right to request an agency to review, correct, or amend the employee's or applicant's record and the steps to follow to make such a request.

(e) REPORT OF ATTORNEY GENERAL.—Not later than 60 days before the expiration of the authority for subsection (a)(1), the Attorney General shall submit to the Congress a report containing an evaluation of each of the demonstration projects conducted under this section, including the findings made by the Comptroller General under section 113.

(f) SYSTEM REQUIREMENTS.—

(1) IN GENERAL.—Demonstration projects conducted under this section shall substantially meet the criteria in section 111(c)(1), except that with respect to the criteria in subparagraphs (D) and (G) of section 111(c)(1), such projects are required only to be likely to substantially meet the criteria, as determined by the Attorney General.

(2) SUPERSEDING EFFECT.—If the Attorney General determines that any demonstration project

conducted under this section substantially meets the criteria in section 111(c)(1), other than the criteria in subparagraphs (D) and (G) of that section, and meets the criteria in such subparagraphs (D) and (G) to a sufficient degree, the requirements for participants in such project shall apply during the remaining period of its operation in lieu of the procedures required under section 274A(b) of the Immigration and Nationality Act. Section 274B of such Act shall remain fully applicable to the participants in the project.

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

(h) STATUTORY CONSTRUCTION.—The provisions of this section supersede the provisions of section 274A of the Immigration and Nationality Act to the extent of any inconsistency therewith.

SEC. 113. COMPTROLLER GENERAL MONITORING AND REPORTS.

(a) IN GENERAL.—The Comptroller General of the United States shall track, monitor, and evaluate the compliance of each demonstration project with the objectives of sections 111 and 112, and shall verify the results of the demonstration projects.

(b) RESPONSIBILITIES.—

(1) COLLECTION OF INFORMATION.—The Comptroller General of the United States shall collect and consider information on each requirement described in section 111(a)(1)(C).

(2) TRACKING AND RECORDING OF PRACTICES.—The Comptroller General shall track and record unlawful discriminatory employment practices, if any, resulting from the use or disclosure of information pursuant to a demonstration project or implementation of the system, using such methods as—

(A) the collection and analysis of data;

(B) the use of hiring audits; and

(C) use of computer audits, including the comparison of such audits with hiring records.

(3) MAINTENANCE OF DATA.—The Comptroller General shall also maintain data on unlawful discriminatory practices occurring among a representative sample of employers who are not participants in any project under this section to serve as a baseline for comparison with similar data obtained from employers who are participants in projects under this section.

(c) REPORTS.—

(1) DEMONSTRATION PROJECTS.—Beginning 12 months after the date of the enactment of this Act, and annually thereafter, the Comptroller General of the United States shall submit a report to the Committees on the Judiciary of the House of Representatives and the Senate setting forth evaluations of—

(A) the extent to which each demonstration project is meeting each of the requirements of section 111(c); and

(B) the Comptroller General's preliminary findings made under this section.

(2) VERIFICATION SYSTEM.—Not later than 60 days after the submission to the Congress of the plan under section 111(a)(2), the Comptroller General of the United States shall submit a report to the Congress setting forth an evaluation of—

(A) the extent to which the proposed system, if any, meets each of the requirements of section 111(c); and

(B) the Comptroller General's findings made under this section.

SEC. 114. GENERAL NONPREEMPTION OF EXISTING RIGHTS AND REMEDIES.

Nothing in this subpart may be construed to deny, impair, or otherwise adversely affect any right or remedy available under Federal, State, or local law to any person on or after the date of the enactment of this Act except to the extent the right or remedy is inconsistent with any provision of this part.

SEC. 115. DEFINITIONS.

For purposes of this subpart—

(1) ADMINISTRATION.— The term "Administration" means the Social Security Administration.

(2) EMPLOYMENT AUTHORIZED ALIEN.—The term "employment authorized alien" means an alien who has been provided with an "employment authorized" endorsement by the Attorney General or other appropriate work permit in accordance with the Immigration and Nationality Act.

(3) SERVICE.—The term "Service" means the Immigration and Naturalization Service.

Subpart B—Strengthening Existing Verification Procedures

SEC. 116. CHANGES IN LIST OF ACCEPTABLE EMPLOYMENT-VERIFICATION DOCUMENTS.

(a) AUTHORITY TO REQUIRE SOCIAL SECURITY ACCOUNT NUMBERS.—Section 274A (8 U.S.C. 1324a) is

amended by adding at the end of subsection (b)(2) the following new sentence: "The Attorney General is authorized to require an individual to provide on the form described in paragraph (1)(A) the individual's social security account number for purposes of complying with this section.".

(b) CHANGES IN ACCEPTABLE DOCUMENTATION FOR EMPLOYMENT AUTHORIZATION AND IDENTITY.—

(1) REDUCTION IN NUMBER OF ACCEPTABLE EMPLOYMENT-VERIFICATION DOCUMENTS.—Section 274A(b)(1) (8 U.S.C. 1324a(b)(1)) is amended—

(A) in subparagraph (B)—

(i) by striking clauses (ii), (iii), and (iv);

(ii) by redesignating clause (v) as clause (ii);

(iii) in clause (i), by adding at the end "or";

(iv) in clause (ii) (as redesignated), by amending the text preceding subclause (I) to read as follows:

"(ii) resident alien card, alien registration card, or other document designated by regulation by the Attorney General, if the document—"; and

(v) in clause (ii) (as redesignated)—

(I) by striking "and" at the end of subclause (I);

(II) by striking the period at the end of subclause (II) and inserting ", and"; and

(III) by adding at the end the following new subclause:

"(III) contains appropriate security features."; and

(B) in subparagraph (C)—

(i) by inserting "or" after the "semicolon" at the end of clause (i);

(ii) by striking clause (ii); and

(iii) by redesignating clause (iii) as clause (ii).

(2) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—If the Attorney General finds, by regulation, that any document described in section 274A(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)(1)) as establishing employment authorization or identity does not reliably establish such authorization or identity or is being used fraudulently to an unacceptable degree, the Attorney General may prohibit or place conditions on its use for

purposes of the verification system established in section 274A(b) of the Immigration and Nationality Act under section 111 of this Act.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b)(1) shall apply with respect to hiring (or recruiting or referring) occurring on or after such date as the Attorney General shall designate (but not later than 180 days after the date of the enactment of this Act).

SEC. 117. TREATMENT OF CERTAIN DOCUMENTARY PRACTICES AS UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES

Section 274B(a)(6) (8 U.S.C. 1324b(a)(6)) is amended—

(1) by striking "For purposes of paragraph (1), a" and inserting "A"; and

(2) by striking "relating to the hiring of individuals" and inserting the following: "if made for the purpose or with the intent of discriminating against an individual in violation of paragraph (1)".

SEC. 118. IMPROVEMENTS IN IDENTIFICATION-RELATED DOCUMENTS.

(a) BIRTH CERTIFICATES.—

(1) LIMITATION ON ACCEPTANCE.—(A) No Federal agency, including but not limited to the Social Security Administration and the Department of

State, and no State agency that issues driver's licenses or identification documents, may accept for any official purpose a copy of a birth certificate, as defined in paragraph (5), unless it is issued by a State or local government registrar and it conforms to standards described in subparagraph (B).

(B) The standards described in this subparagraph are those set forth in regulations promulgated by the Secretary of Health and Human Services, after consultation with the Association for Public Health Statistics and Information Systems (APHSIS), and shall include but not be limited to—

(i) certification by the agency issuing the birth certificate, and

(ii) use of safety paper, the seal of the issuing agency, and other features designed to limit tampering, counterfeiting, and use by impostors.

(2) LIMITATION ON ISSUANCE.—(A) If one or more of the conditions described in subparagraph (B) is present, no State or local government agency may issue an official copy of a birth certificate pertaining to an individual unless the copy prominently notes that such individual is deceased.

(B) The conditions described in this subparagraph include—

(i) the presence on the original birth certificate of a notation that the individual is deceased, or

(ii) actual knowledge by the issuing agency that the individual is deceased obtained through information provided by the Social Security Administration, by an interstate system of birth-death matching, or otherwise.

(3) GRANTS TO STATES.—(A)(i) The Secretary of Health and Human Services shall establish a fund, administered through the National Center for Health Statistics, to provide grants to the States to encourage them to develop the capability to match birth and death records, within each State and among the States, and to note the fact of death on the birth certificates of deceased persons. In developing the capability described in the preceding sentence, States shall focus first on persons who were born after 1950.

(ii) Such grants shall be provided in proportion to population and in an amount needed to provide a substantial incentive for the States to develop such capability.

(B) The Secretary of Health and Human Services shall establish a fund, administered through the National Center for Health Statistics, to provide grants to the States for a project in each of 5 States to demonstrate the feasibility of a system by which each such State's office of vital statistics would be provided, within 24 hours, sufficient information to establish the fact of death of every individual dying in such State.

(C) There are authorized to be appropriated to the Department of Health and Human Services such amounts as may be necessary to provide the grants described in subparagraphs (A) and (B).

(4) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to the Congress on ways to reduce the fraudulent obtaining and the fraudulent use of birth certificates, including any such use to obtain a social security account number or a State or Federal document related to identification or immigration.

(5) CERTIFICATE OF BIRTH.—As used in this section, the term "birth certificate" means a certificate of birth registered in the United States.

(6) EFFECTIVE DATE.—This subsection shall take effect on October 1, 1997.

(b) STATE-ISSUED DRIVERS LICENSES.—

(1) SOCIAL SECURITY ACCOUNT NUMBER.—Each State-issued driver's license and identification document shall contain a social security account number, except that this paragraph shall not apply if the document is issued by a State that requires, pursuant to a statute enacted prior to the date of enactment of this Act, or pursuant to a regulation issued thereunder or an administrative policy, that—

(A) every applicant for such license or document submit the number, and

(B) an agency of such State verify with the Social Security Administration that the number is valid and is not a number assigned for use by persons without authority to work in the United States.

(2) APPLICATION PROCESS.—The application process for a State driver's license or identification document shall include the presentation of such evidence of identity as is required by regulations promulgated by the Secretary of Transportation, after consultation with the American Association of Motor Vehicle Administrators.

(3) FORM OF LICENSE AND IDENTIFICATION DOCUMENT.—Each State driver's license and identification document shall be in a form consistent with requirements set forth in regulations promulgated by the Secretary of Transportation, after consultation with the American Association of Motor Vehicle Administrators. Such form shall contain security features designed to limit tampering, counterfeiting, and use by impostors.

(4) LIMITATION ON ACCEPTANCE OF LICENSE AND IDENTIFICATION DOCUMENT.—Neither the Social Security Administration or the Passport Office or any other Federal agency or any State or local government agency may accept for any evidentiary purpose a State driver's license or identification document in a form other than the form described in paragraph (3).

(5) EFFECTIVE DATE.—This subsection shall take effect on October 1, 1997.

TITLE II—FINANCIAL RESPONSIBILITY

Subtitle A—Receipt of Certain Government Benefits

SEC. 201. INELIGIBILITY OF EXCLUDABLE, DEPORTABLE, AND NONIMMIGRANT ALIENS.

(a) PUBLIC ASSISTANCE AND BENEFITS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, an ineligible alien (as defined in subsection (f)(2)) shall not be eligible to receive—

(A) any benefits under a public assistance program (as defined in subsection (f)(3)), except—

(i) emergency medical services under title XIX of the Social Security Act,

(ii) subject to paragraph (4), prenatal and postpartum services under title XIX of the Social Security Act,

(iii) short-term emergency disaster relief,

(iv) assistance or benefits under the National School Lunch Act,

(v) assistance or benefits under the Child Nutrition Act of 1966,

(vi) public health assistance for immunizations and, if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of a serious communicable disease, for testing and treatment for such diseases, and

(vii) such other service or assistance (such as soup kitchens, crisis counseling, intervention (including intervention for domestic violence), and short-term shelter) as the Attorney General specifies, in the Attorney General's sole and unreviewable discretion, after consultation with the heads of appropriate Federal agencies, if—

(I) such service or assistance is delivered at the community level, in-

cluding through public or private non-profit agencies;

(II) such service or assistance is necessary for the protection of life, safety, or public health; and

(III) such service or assistance or the amount or cost of such service or assistance is not conditioned on the recipient's income or resources; or

(B) any grant, contract, loan, professional license, or commercial license provided or funded by any agency of the United States or any State or local government entity, except, with respect to a nonimmigrant authorized to work in the United States, any professional or commercial license required to engage in such work, if the nonimmigrant is otherwise qualified for such license.

(2) BENEFITS OF RESIDENCE.—Notwithstanding any other provision of law, no State or local government entity shall consider any ineligible alien as a resident when to do so would place such alien in a more favorable position, regarding access to, or the cost of, any benefit or government service, than

a United States citizen who is not regarded as such a resident.

(3) NOTIFICATION OF ALIENS.—

(A) IN GENERAL.—The agency administering a program referred to in paragraph (1)(A) or providing benefits referred to in paragraph (1)(B) shall, directly or, in the case of a Federal agency, through the States, notify individually or by public notice, all ineligible aliens who are receiving benefits under a program referred to in paragraph (1)(A), or are receiving benefits referred to in paragraph (1)(B), as the case may be, immediately prior to the date of the enactment of this Act and whose eligibility for the program is terminated by reason of this subsection.

(B) FAILURE TO GIVE NOTICE.—Nothing in subparagraph (A) shall be construed to require or authorize continuation of such eligibility if the notice required by such paragraph is not given.

(4) LIMITATION ON PREGNANCY SERVICES FOR UNDOCUMENTED ALIENS.—

(A) 3-YEAR CONTINUOUS RESIDENCE.—An ineligible alien may not receive the services de-

scribed in paragraph (1)(A)(ii) unless such alien can establish proof of continuous residence in the United States for not less than 3 years, as determined in accordance with section 245a.2(d)(3) of title 8, Code of Federal Regulations as in effect on the day before the date of the enactment of this Act.

(B) LIMITATION ON EXPENDITURES.—Not more than $120,000,000 in outlays may be expended under title XIX of the Social Security Act for reimbursement of services described in paragraph (1)(A)(ii) that are provided to individuals described in subparagraph (A).

(C) CONTINUED SERVICES BY CURRENT STATES.—States that have provided services described in paragraph (1)(A)(ii) for a period of 3 years before the date of the enactment of this Act shall continue to provide such services and shall be reimbursed by the Federal Government for the costs incurred in providing such services. States that have not provided such services before the date of the enactment of this Act, but elect to provide such services after such date, shall be reimbursed for the costs incurred in providing such services. In no case shall

States be required to provide services in excess of the amounts provided in subparagraph (B).

(b) UNEMPLOYMENT BENEFITS.—Notwithstanding any other provision of law, only eligible aliens who have been granted employment authorization pursuant to Federal law, and United States citizens or nationals, may receive unemployment benefits payable out of Federal funds, and such eligible aliens may receive only the portion of such benefits which is attributable to the authorized employment.

(c) SOCIAL SECURITY BENEFITS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, only eligible aliens who have been granted employment authorization pursuant to Federal law and United States citizen or nationals may receive any benefit under title II of the Social Security Act, and such eligible aliens may receive only the portion of such benefits which is attributable to the authorized employment.

(2) NO REFUND OR REIMBURSEMENT.—Notwithstanding any other provision of law, no tax or other contribution required pursuant to the Social Security Act (other than by an eligible alien who has been granted employment authorization pursuant to

Federal law, or by an employer of such alien) shall be refunded or reimbursed, in whole or in part.

(d) 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 Committee on the Judiciary and the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on the Judiciary and the Committee on Banking and Financial Services of the House of Representatives, describing the manner in which the Secretary is enforcing section 214 of the Housing and Community Development Act of 1980 (Public Law 96–399; 94 Stat. 1637) and containing statistics with respect to the number of individuals denied financial assistance under such section.

(e) NONPROFIT, CHARITABLE ORGANIZATIONS.—

(1) IN GENERAL.—Nothing in this Act shall be construed as requiring a nonprofit charitable organization operating any program of assistance provided or funded, in whole or in part, by the Federal Government to—

(A) determine, verify, or otherwise require proof of the eligibility, as determined under this title, of any applicant for benefits or assistance under such program; or

(B) deem that the income or assets of any applicant for benefits or assistance under such program include the income or assets described in section 204(b).

(2) NO EFFECT ON FEDERAL AUTHORITY TO DETERMINE COMPLIANCE.—Nothing in this subsection shall be construed as prohibiting the Federal Government from determining the eligibility, under this section or section 204, of any individual for benefits under a public assistance program (as defined in subsection (f)(3)) or for government benefits (as defined in subsection (f)(4)).

(f) DEFINITIONS.—For the purposes of this section—

(1) ELIGIBLE ALIEN.—The term "eligible alien" means an individual who is—

(A) an alien lawfully admitted for permanent residence under the Immigration and Nationality Act,

(B) an alien granted asylum under section 208 of such Act,

(C) a refugee admitted under section 207 of such Act,

(D) an alien whose deportation has been withheld under section 243(h) of such Act, or

(E) an alien paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year.

(2) INELIGIBLE ALIEN.—The term "ineligible alien" means an individual who is not—

(A) a United States citizen or national; or

(B) an eligible alien.

(3) PUBLIC ASSISTANCE PROGRAM.—The term "public assistance program" means any program of assistance provided or funded, in whole or in part, by the Federal Government or any State or local government entity, for which eligibility for benefits is based on need.

(4) GOVERNMENT BENEFITS.—The term "government benefits" includes—

(A) any grant, contract, loan, professional license, or commercial license provided or funded by any agency of the United States or any State or local government entity, except, with respect to a nonimmigrant authorized to work in the United States, any professional or commercial license required to engage in such work, if the nonimmigrant is otherwise qualified for such license;

(B) unemployment benefits payable out of Federal funds;

(C) benefits under title II of the Social Security Act;

(D) financial assistance for purposes of section 214(a) of the Housing and Community Development Act of 1980 (Public Law 96–399; 94 Stat. 1637); and

(E) benefits based on residence that are prohibited by subsection (a)(2).

SEC. 202. DEFINITION OF "PUBLIC CHARGE" FOR PURPOSES OF DEPORTATION.

(a) IN GENERAL.—Section 241(a)(5) (8 U.S.C. 1251(a)(5)) is amended to read as follows:

"(5) PUBLIC CHARGE.—

"(A) IN GENERAL.—Any alien who during the public charge period becomes a public charge, regardless of when the cause for becoming a public charge arises, is deportable.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply if the alien is a refugee or has been granted asylum, or if the cause of the alien's becoming a public charge—

"(i) arose after entry (in the case of an alien who entered as an immigrant) or

after adjustment to lawful permanent resident status (in the case of an alien who entered as a nonimmigrant), and

"(ii) was a physical illness, or physical injury, so serious the alien could not work at any job, or a mental disability that required continuous hospitalization.

"(C) DEFINITIONS.—

"(i) PUBLIC CHARGE PERIOD.—For purposes of subparagraph (A), the term 'public charge period' means the period beginning on the date the alien entered the United States and ending—

"(I) for an alien who entered the United States as an immigrant, 5 years after entry, or

"(II) for an alien who entered the United States as a nonimmigrant, 5 years after the alien adjusted to permanent resident status.

"(ii) PUBLIC CHARGE.—For purposes of subparagraph (A), the term 'public charge' includes any alien who receives benefits under any program described in

subparagraph (D) for an aggregate period of more than 12 months.

"(D) PROGRAMS DESCRIBED.—The programs described in this subparagraph are the following:

"(i) The aid to families with dependent children program under title IV of the Social Security Act.

"(ii) The medicaid program under title XIX of the Social Security Act.

"(iii) The food stamp program under the Food Stamp Act of 1977.

"(iv) The supplemental security income program under title XVI of the Social Security Act.

"(v) Any State general assistance program.

"(vi) Any other program of assistance funded, in whole or in part, by the Federal Government or any State or local government entity, for which eligibility for benefits is based on need, except the programs listed as exceptions in clauses (i) through (vi) of section 201(a)(1)(A) of the Immigration Reform Act of 1996.".

(b) CONSTRUCTION.—Nothing in subparagraph (B), (C), or (D) of section 241(a)(5) of the Immigration and Nationality Act, as amended by subsection (a), may be construed to affect or apply to any determination of an alien as a public charge made before the date of the enactment of this Act.

(c) REVIEW OF STATUS.—

(1) IN GENERAL.—In reviewing any application by an alien for benefits under section 216, section 245, or chapter 2 of title III of the Immigration and Nationality Act, the Attorney General shall determine whether or not the applicant is described in section 241(a)(5)(A) of such Act, as so amended.

(2) GROUNDS FOR DENIAL.—If the Attorney General determines that an alien is described in section 241(a)(5)(A) of the Immigration and Nationality Act, the Attorney General shall deny such application and shall institute deportation proceedings with respect to such alien, unless the Attorney General exercises discretion to withhold or suspend deportation pursuant to any other section of such Act.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to aliens who enter the United States on or after the date of the enactment of this Act and to aliens who entered as nonimmigrants

before such date but adjust or apply to adjust their status after such date.

SEC. 203. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

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

(1) which is legally enforceable against the sponsor by the sponsored individual, or by the Federal Government or any State, district, territory, or possession of the United States (or any subdivision of such State, district, territory, or possession of the United States) that provides any benefit described in section 241(a)(5)(D), as amended by section 202(a) of this Act, but not later than 10 years after the sponsored individual last receives any such benefit;

(2) in which the sponsor agrees to financially support the sponsored individual, so that he or she will not become a public charge, until the sponsored individual has worked in the United States for 40 qualifying quarters or has become a United States citizen, whichever occurs first; and

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

(b) FORMS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State, the Attorney General, and the Secretary of Health and Human Services shall jointly formulate the affidavit of support described in this section.

(c) NOTIFICATION OF CHANGE OF ADDRESS.—

(1) GENERAL REQUIREMENT.—The sponsor shall notify the Attorney General and the State, district, territory, or possession in which the sponsored individual is currently a resident within 30 days of any change of address of the sponsor during the period specified in subsection (a)(1).

(2) PENALTY.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall, after notice and opportunity to be heard, 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 individual has received any benefit described in section 241(a)(5)(D) of the

Immigration and Nationality Act, as amended by section 202(a) of this Act, not less than $2,000 or more than $5,000.

(d) REIMBURSEMENT OF GOVERNMENT EXPENSES.—

(1) IN GENERAL.—

(A) REQUEST FOR REIMBURSEMENT.—Upon notification that a sponsored individual has received any benefit described in section 241(a)(5)(D) of the Immigration and Nationality Act, as amended by section 202(a) of this Act, the appropriate Federal, State, or local official shall request reimbursement from the sponsor for the amount of such assistance.

(B) REGULATIONS.—The Commissioner of Social Security shall prescribe such regulations as may be necessary to carry out subparagraph (A). Such regulations shall provide that notification be sent to the sponsor's last known address by certified mail.

(2) ACTION AGAINST SPONSOR.—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 make payments, an action may be

brought against the sponsor pursuant to the affidavit of support.

(3) FAILURE TO MEET REPAYMENT TERMS.—If the sponsor agrees to make payments, but fails to abide by the repayment terms established by the agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.

(e) JURISDICTION.—

(1) IN GENERAL.—An action to enforce an affidavit of support executed under subsection (a) may be brought against the sponsor in any Federal or State court—

(A) by a sponsored individual, with respect to financial support; or

(B) by a Federal, State, or local agency, with respect to reimbursement.

(2) COURT MAY NOT DECLINE TO HEAR CASE.—For purposes of this section, no Federal or State court shall decline for lack of subject matter or personal jurisdiction to hear any action brought against a sponsor under paragraph (1) if—

(A) the sponsored individual is a resident of the State in which the court is located, or re-

ceived public assistance while residing in the State; and

(B) such sponsor has received service of process in accordance with applicable law.

(f) DEFINITIONS.—For purposes of this section—

(1) SPONSOR.—The term "sponsor" means an individual who—

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

(B) is at least 18 years of age;

(C) is domiciled in any of the several States of the United States, the District of Columbia, or any territory or possession of the United States; and

(D) demonstrates the means to maintain an annual income equal to at least 125 percent of the Federal poverty line for the individual and the individual's family (including the sponsored alien and any other alien sponsored by the individual), through evidence that includes a copy of the individual's Federal income tax return for the 3 most recent taxable years (which returns need show such level of annual income only in the most recent taxable year)

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 true copies of such returns. In the case of an individual who is on active duty (other than active duty for training) in the Armed Forces of the United States, subparagraph (D) shall be applied by substituting "100 percent" for "125 percent".

(2) FEDERAL POVERTY LINE.—The term "Federal poverty line" means the level of income equal to the official poverty line (as defined by the Director of the Office of Management and Budget, as revised annually by the Secretary of Health and Human Services, in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902)) that is applicable to a family of the size involved.

(3) QUALIFYING QUARTER.—The term "qualifying quarter" means a three-month period in which the sponsored individual has—

(A) earned at least the minimum necessary for the period to count as one of the 40 quarters required to qualify for social security retirement benefits;

(B) not received need-based public assistance; and

(C) had income tax liability for the tax year of which the period was part.

SEC. 204. ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO FAMILY-SPONSORED IMMIGRANTS.

(a) DEEMING REQUIREMENT FOR FEDERAL AND FEDERALLY FUNDED PROGRAMS.—Subject to subsection (d), for purposes of determining the eligibility of an alien for benefits, and the amount of benefits, under any public assistance program (as defined in section 201(f)(3)), the income and resources described in subsection (b) shall, notwithstanding any other provision of law, be deemed to be the income and resources of such alien.

(b) DEEMED INCOME AND RESOURCES.—The income and resources described in this subsection include the income and resources of—

(1) any person who, as a sponsor of an alien's entry into the United States, or in order to enable an alien lawfully to remain in the United States, executed an affidavit of support or similar agreement with respect to such alien, and

(2) the sponsor's spouse.

(c) LENGTH OF DEEMING PERIOD.—The requirement of subsection (a) shall apply for the period for which the sponsor has agreed, in such affidavit or agreement, to provide support for such alien, or for a period of 5 years beginning on the day such alien was first lawfully in the United States after the execution of such affidavit or agreement, whichever period is longer.

(d) EXCEPTIONS.—

(1) INDIGENCE.—

(A) IN GENERAL.—If a determination described in subparagraph (B) is made, the amount of income and resources of the sponsor or the sponsor's spouse which shall be attributed to the sponsored alien shall not exceed the amount actually provided for a period—

(i) beginning on the date of such determination and ending 12 months after such date, or

(ii) if the address of the sponsor is unknown to the sponsored alien, beginning on the date of such determination and ending on the date that is 12 months after the address of the sponsor becomes known to the sponsored alien or to the agency (which

shall inform such alien of the address within 7 days).

(B) DETERMINATION DESCRIBED.—A determination described in this subparagraph is a determination by an agency that a sponsored alien would, in the absence of the assistance provided by the agency, be unable to obtain food and shelter, taking into account the alien's own income, plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor.

(2) EDUCATION ASSISTANCE.—

(A) IN GENERAL.—The requirements of subsection (a) shall not apply with respect to sponsored aliens who have received, or have been approved to receive, student assistance under title IV, V, IX, or X of the Higher Education Act of 1965 in an academic year which ends or begins in the calendar year in which this Act is enacted.

(B) DURATION.—The exception described in subparagraph (A) shall apply only for the period normally required to complete the course of study for which the sponsored alien receives assistance described in that subparagraph.

(3) CERTAIN SERVICES AND ASSISTANCE.—The requirements of subsection (a) shall not apply to any service or assistance described in section 201(a)(1)(A)(vii).

(e) DEEMING AUTHORITY TO STATE AND LOCAL AGENCIES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, but subject to exceptions equivalent to the exceptions described in subsection (d), the State or local government may, for purposes of determining the eligibility of an alien for benefits, and the amount of benefits, under any State or local program of assistance for which eligibility is based on need, or any need-based program of assistance administered by a State or local government (other than a program of assistance provided or funded, in whole or in part, by the Federal Government), require that the income and resources described in subsection (b) be deemed to be the income and resources of such alien.

(2) LENGTH OF DEEMING PERIOD.—Subject to exceptions equivalent to the exceptions described in subsection (d), a State or local government may impose the requirement described in paragraph (1) for the period for which the sponsor has agreed, in such

affidavit or agreement, to provide support for such alien, or for a period of 5 years beginning on the day such alien was first lawfully in the United States after the execution of such affidavit or agreement, whichever period is longer.

SEC. 205. VERIFICATION OF STUDENT ELIGIBILITY FOR POSTSECONDARY FEDERAL STUDENT FINANCIAL ASSISTANCE.

(a) REPORT REQUIREMENT.—Not later than one year after the date of the enactment of this Act, the Secretary of Education and the Commissioner of Social Security shall jointly submit to the Congress a report on the computer matching program of the Department of Education under section 484(p) of the Higher Education Act of 1965.

(b) REPORT ELEMENTS.—The report shall include the following:

(1) An assessment by the Secretary and the Commissioner of the effectiveness of the computer matching program, and a justification for such assessment.

(2) The ratio of inaccurate matches under the program to successful matches.

(3) Such other information as the Secretary and the Commissioner jointly consider appropriate.

SEC. 206. AUTHORITY OF STATES AND LOCALITIES TO LIMIT ASSISTANCE TO ALIENS AND TO DISTINGUISH AMONG CLASSES OF ALIENS IN PROVIDING GENERAL PUBLIC ASSISTANCE.

(a) IN GENERAL.—Subject to subsection (b) and notwithstanding any other provision of law, a State or local government may prohibit or otherwise limit or restrict the eligibility of aliens or classes of aliens for programs of general cash public assistance furnished under the law of the State or a political subdivision of a State.

(b) LIMITATION.—The authority provided for under subsection (a) may be exercised only to the extent that any prohibitions, limitations, or restrictions imposed by a State or local government are not more restrictive than the prohibitions, limitations, or restrictions imposed under comparable Federal programs. For purposes of this section, attribution to an alien of a sponsor's income and resources (as described in section 204(b)) for purposes of determining eligibility for, and the amount of, benefits shall be considered less restrictive than a prohibition of eligibility for such benefits.

SEC. 207. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS NOT CITIZENS OR LAWFUL PERMANENT RESIDENTS.

(a) IN GENERAL.—

(1) LIMITATION.—Notwithstanding any other provision of law, an individual may not receive an earned income tax credit for any year in which such individual was not, for the entire year, either a United States citizen or national or a lawful permanent resident.

(2) IDENTIFICATION NUMBER REQUIRED.—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 is amended by adding at the end the following new subsection:

"(k) IDENTIFICATION NUMBERS.—Solely 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—

(1) by striking "and" at the end of subparagraph (D),

(2) by striking the period at the end of subparagraph (E) and inserting ", and", and

(3) by inserting after subparagraph (E) the following new subparagraph:

"(F) an unintended omission of a correct taxpayer identification number required under 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.

SEC. 208. INCREASED MAXIMUM CRIMINAL PENALTIES FOR FORGING OR COUNTERFEITING SEAL OF A FEDERAL DEPARTMENT OR AGENCY TO FACILITATE BENEFIT FRAUD BY AN UNLAWFUL ALIEN.

Section 506 of title 18, United States Code, is amended to read as follows:

"§ 506. Seals of departments or agencies

"(a) Whoever—

"(1) falsely makes, forges, counterfeits, mutilates, or alters the seal of any department or agency of the United States, or any facsimile thereof;

"(2) knowingly uses, affixes, or impresses any such fraudulently made, forged, counterfeited, mutilated, or altered seal or facsimile thereof to or upon any certificate, instrument, commission, document, or paper of any description; or

"(3) with fraudulent intent, possesses, sells, offers for sale, furnishes, offers to furnish, gives away, offers to give away, transports, offers to transport, imports, or offers to import any such seal or facsimile thereof, knowing the same to have been so

falsely made, forged, counterfeited, mutilated, or altered,

shall be fined under this title, or imprisoned not more than 5 years, or both.

"(b) Notwithstanding subsection (a) or any other provision of law, if a forged, counterfeited, mutilated, or altered seal of a department or agency of the United States, or any facsimile thereof, is—

"(1) so forged, counterfeited, mutilated, or altered;

"(2) used, affixed, or impressed to or upon any certificate, instrument, commission, document, or paper of any description; or

"(3) with fraudulent intent, possessed, sold, offered for sale, furnished, offered to furnish, given away, offered to give away, transported, offered to transport, imported, or offered to import,

with the intent or effect of facilitating an unlawful alien's application for, or receipt of, a Federal benefit, the penalties which may be imposed for each offense under subsection (a) shall be two times the maximum fine, and 3 times the maximum term of imprisonment, or both, that would otherwise be imposed for an offense under subsection (a).

"(c) For purposes of this section—

"(1) the term 'Federal benefit' means—

"(A) the issuance of any grant, contract, loan, professional license, or commercial license provided by any agency of the United States or by appropriated funds of the United States; and

"(B) any retirement, welfare, Social Security, health (including treatment of an emergency medical condition in accordance with section 1903(v) of the Social Security Act (19 U.S.C. 1396b(v))), disability, veterans, public housing, education, food stamps, or unemployment benefit, or any similar benefit for which payments or assistance are provided by an agency of the United States or by appropriated funds of the United States;

"(2) the term 'unlawful alien' means an individual who is not—

"(A) a United States citizen or national;

"(B) an alien lawfully admitted for permanent residence under the Immigration and Nationality Act;

"(C) an alien granted asylum under section 208 of such Act;

"(D) a refugee admitted under section 207 of such Act;

"(E) an alien whose deportation has been withheld under section 243(h) of such Act; or

"(F) an alien paroled into the United States under section 215(d)(5) of such Act for a period of at least 1 year; and

"(3) each instance of forgery, counterfeiting, mutilation, or alteration shall constitute a separate offense under this section.".

Subtitle C—Effective Dates

SEC. 221. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b) or as otherwise provided in this title, this title and

the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) BENEFITS.—The provisions of section 201 and 204 shall apply to benefits and to applications for benefits received on or after the date of the enactment of this Act.

Calendar No. 361

104TH CONGRESS
2D SESSION

S. 1664

[Report No. 104–249]

A BILL

To amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes.

APRIL 10, 1996

Reported without amendment

Calendar No. 361

104TH CONGRESS
2d Session

SENATE

REPORT
104–249

IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

APRIL 10, 1996.—Ordered to be printed

Reported under authority of the order of the Senate of March 29, 1996

Mr. HATCH, from the Committee on the Judiciary, submitted the following

REPORT

together with

ADDITIONAL AND MINORITY VIEWS

[To accompany S. 1664]

The Committee on the Judiciary reports an original bill (S. 1664) to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel, and detention facilities; improving the system used by employers to verify citizenship or work-authorized alien status; increasing penalties for alien smuggling and document fraud; reforming asylum, exclusion, and deportation law and procedures; and to reduce the use of welfare by aliens; and for other purposes; and recommends that the bill do pass.

CONTENTS

29–010

I. Purpose and Summary

The committee bill is intended, first, to increase control over immigration to the United States—decreasing the number of persons becoming part of the U.S. population in violation of this country's immigration law (through visa overstay as well as illegal entry); expediting the removal of excludable and deportable aliens, especially criminal aliens; and reducing the abuse of parole and asylum provisions. It is also intended to reduce aliens' use of welfare and certain other government benefits.

Title I proposes a number of law enforcement and other control measures. Law enforcement measures include: (1) Providing additional enforcement personnel and detention facilities; (2) Authorizing a series of pilot projects on systems to verify eligibility to be employed in the United States (and eligibility to receive public assistance or certain other government benefits), and also requiring improvements in birth certificates and driver's licenses to reduce their vulnerability to fraudulent acquisition and use; (3) Providing additional investigative authority and heavier penalties for document fraud and alien smuggling; (4) Streamlining exclusion and deportation procedures, and increasing the disincentives for repeated illegal entry or visa overstay; (5) Establishing special procedures to expedite the removal of criminal aliens; and (6) Miscellaneous other enforcement-related provisions.

Other control measures in title I include: (1) Tightening the Attorney General's parole authority (which authorizes the entry into the U.S. of otherwise excludable aliens); (2) Amending the procedures used to consider asylum applications, to reduce the likelihood that fraudulent or frivolous applications will enable deportable or excludable aliens to remain in the U.S. for substantial periods; and (3) Repealing the Cuban Adjustment Act (which allows any Cuban national to obtain permanent resident status outside normal immigration and refugee channels), with certain exceptions.

Title II of the committee bill contains several sections relating to financial responsibility: (1) Provisions to reduce the likelihood aliens will become a burden on the taxpayers of this country—including a prohibition on use by illegal aliens of welfare and certain other government benefits; a modification of current law on the deportation of aliens if they become a "public charge"; a requirement that sponsor affidavits of support be legally enforceable; a requirement that when welfare agencies calculate financial need, they "deem" that the income and assets of a sponsored alien include that of his or her sponsor; and (2) Provisions to reimburse States for providing Federally mandated emergency medical services to illegal aliens.

II. NEED FOR CURRENT LEGISLATION

The committee bill is needed to address the high current levels of illegal immigration; the abuse of humanitarian provisions such as asylum and parole; and the substantial burden imposed on the taxpayers of this country as the result of aliens' use of welfare and other government benefits.

No matter how successful Congress might be in crafting a set of immigration laws that would—in theory—lead to the most long-term benefits to the American people, such benefits will not actually occur if those laws cannot be enforced. Unfortunately, U.S. immigration law is violated on a massive scale.

Just one indication is the number of foreign nationals apprehended while in violation of U.S. immigration law. Apprehensions rose dramatically in the 1970's, reaching a total of 8.3 million for the decade. The increase continued in the 1980's, reaching a high of 1.8 million in fiscal year 1986. Following passage of the Immigration Reform and Control Act of 1986, apprehensions declined sharply in 1987, returning to the levels of 1983–84. By 1989, total apprehensions fell below one million for the first time since 1982. However, apprehensions began to rise again in 1990 and have been above one million every year since.

The committee bill proposes numerous measures to reduce illegal entry and visa overstays; to reduce alien smuggling and document fraud; and to expedite exclusion and deportation, especially of criminal aliens. These are described in the section-by-section analysis for sec. 101–108 (Additional Enforcement Personnel); sec. 111–120E (Verification of Eligibility to Work and to Receive Public Assistance); sec. 121–133 (Alien Smuggling; Document Fraud); sec. 141–159 (Exclusion and Deportation); sec. 161–170E (Criminal Aliens); and sec. 171–184 (Miscellaneous).

The bill's proposals to reform several humanitarian provisions of current law are described in the section-by-section analysis for sec. 191–192 (Parole Authority); sec. 193–196 (Asylum); and sec. 197 (Cuban Adjustment Act).

Measures related to financial responsibility, including provisions to reduce use by aliens of welfare—and, with respect to illegal aliens, certain other government benefits—and provisions to reimburse the States for certain Federally mandated emergency medical services, are described in the section-by-section analysis of sec. 201–210 (Receipt of Certain Government Benefits) and sec. 211–212 (Miscellaneous Provisions).

Two issues deserve some comment and analysis in addition to what is contained in the section-by-section analysis. These are: (1) to "Employer sanctions" (i.e., the penalties against knowingly employing illegal aliens) and verification systems, and (2) Alien' use of welfare, including the subjects of sponsor liability and "deeming" (the requirement that when calculating the financial need of sponsored aliens, for purposes of eligibility and benefit amount, welfare agencies attribute the income and assets of a sponsor to the alien).

Employer sanctions and verification systems

It has been recognized for many years that the primary magnet for most illegal immigrants is the availability of jobs—jobs that pay much better than what is available in their home countries.

It is also widely recognized that satisfactory prevention of illegal border entry is unlikely to be achieved solely by patrolling the very long U.S. border. Our border is over 7,000 miles on land and 12,000 miles along what is technically called "coastline." Furthermore, the real sea border consists of over 80,000 miles of what the experts call "shoreline," including the shoreline of the outer coast, offshore islands, sounds, bays, and other major inlets.

And, patrol of the border is, of course, inadequate to deal with foreign nationals who enter the U.S. *legally*—for example, as tourists or students—and then choose to violate the terms of their entry, by not leaving when their period of authorized stay expires or by working at jobs for which they are not authorized. The committee strongly believes in increased investigation and punishment of visa overstayers. However, this is not by itself likely to solve the problem. As is well known by experts—and evident through common sense—the *certainty* of punishment is often at least as important as its *severity*. Unfortunately, the probability that a visa overstayer will face punishment is now quite small and is likely to remain so. These individuals are not, by and large, engaged in illicit behavior that may occasionally be observed. There need not be anything in the way they behave to show their immigration status. Indeed, with the proper set of fraudulent documents, a visa overstayer can appear just like anyone else, especially in an area with many immigrants. He or she can even pose as a U.S. citizen.

Most authoritative analyses of the problem of illegal immigration—illegal entry as well as visa overstay—have recommended a provision such as that in the 1986 Immigration Reform law making it unlawful to employ illegal aliens. These studies include that of 10 years ago by the Select Commission on Immigration and Refugee Policy and the current work being done by the U.S. Commission on Immigration Reform.

Such studies also recognize that an employer sanctions law cannot be effective without a reliable and easy-to-use method for employers to verify work authorization. Accordingly, the 1986 law instituted an interim verification system. This system requires the presentation of one or two documents (depending on whether the document is an identification document as well as a document showing work authorization) from a list of 29. Most of these are not resistant to tampering or counterfeiting. Further, it is surprisingly easy to obtain *genuine* documents, including a birth certificate. Thus, it was believed by Congress and the President that the system would most likely need to be significantly improved. In fact the law called for studies of telephone verification systems and counterfeit-resistant social security cards.

Unfortunately, the interim system is still in place today, 10 years later. This is true even though—as was feared—there is widespread fraud in its use. While most employers try to comply with the law, it is impossible for honest employers to distinguish genuine documents from high-quality (but inexpensive) counterfeit ones.

As a result, the employer sanctions law has not been as effective in deterring illegal immigration as it could be—and should be. That is why apprehensions have continued to be so high.

The committee believes that an improved system to verify eligibility to work in this country must be developed—in order that the enforcement tool with the greatest potential to deter illegal entry and visa abuse will actually have that effect. Effective enforcement requires effective employer sanctions, and effective employer sanctions requires an effective verification system. It is just that simple.

Accordingly, the committee bill directs the President to conduct, over a period of three to six years, local or regional pilot projects (and one in the legislative branch) on improved verification systems. The committee anticipates that the cost to employers of participating in any pilot project in which participation is mandatory would not be significantly greater than the cost under current law.

The bill also directs the President to recommend a system that should be implemented on a nationwide basis. The recommended system could not be implemented until a statute or joint resolution had been passed authorizing it. The bill explicitly states that the system could not require a "national I.D. card" and could not be used except to verify eligibility to work or to receive certain government benefits, or to enforce criminal statues related to document fraud. The bill also provides protections for the privacy and security of any personal information obtained for or utilized by the system. (See the section-by-section analysis for sec. 111 through 114.)

In addition, the committee bill proposes a number of provisions to improve the effectiveness of the current verification system. These include provisions to reduce the list of documents that may be accepted by employers; to require improvements in the birth certificate and driver's license; and to modify the current law providing that under certain circumstances an employer's request for more or different documents than the law requires is an unlawful "unfair immigration-related employment practice" (the committee bill would require a purpose or intent to unlawfully discriminate). (See the section-by-section analysis for sec. 116 through 118.)

Aliens' use of welfare

The committee believes that aliens in this country should be self-sufficient. There is a controversy whether immigrants as a whole—or illegal aliens as a whole—pay more in taxes than they receive in welfare (noncash plus cash), public education, and other government services. The committee believes that at least with respect to immigrant *households* (i.e., a household consisting of immigrant parents, *plus their U.S.-citizen children,* who are in this country because of the immigration of their parents), there is considerable evidence that there is a net cost to taxpayers. See, e.g., George J. Borjas, Immigration and Welfare, 1970–1990, p. 23 (Nat'l Bur. Econ. Res. Working Paper No. 4872, Sept 1994). However, the committee believes that the most relevant question is whether any *particular* immigrant is a burden, not immigrants as a whole.

An immigrant may be admitted to the United States only if the immigrant provides adequate assurance to the consular officer and immigration inspector that he or she is not "likely at any time to

become a public charge." Similar provisions have been part of our law since the 19th century and part of the law of some of the 13 colonies even before Independence. In effect, immigrants make a promise to the American people that they will not become a financial burden.

The committee believes that there is a compelling Federal interest in enacting new rules on alien welfare eligibility and on the financial liability of the U.S. sponsors of immigrants—in order to increase the likelihood that aliens will be self-sufficient, in accordance with the nation's longstanding policy, and to reduce any additional incentive for illegal immigration provided by easy availability of welfare and other taxpayer-funded benefits.

The committee bill provides that if an alien, within 5 years of entry, does become a "public charge"—which the bill defines as someone receiving an aggregate of 12 months of welfare—he or she is deportable. It is even more important in this era that there be such a law, since the welfare state has changed the pattern of immigration and emigration that existed earlier in our history. Before the welfare state, if an immigrant could not succeed in the U.S., he or she often returned to "the old country." This happens less often today, because of the welfare "safety net."

The changes proposed by the bill clarify when the use of welfare would lead to deportability. These changes are likely to lead to less use of welfare by recent immigrants or more deportations of immigrants who do become a burden on the taxpayers.

One of the ways immigrants are permitted to show that they are not likely to become a public charge is by providing an affidavit of support by a sponsor, who is often the U.S. relative petitioning for their entry under an immigrant classification for family reunification. Under current law, sponsors agree to provide support only for three years. Furthermore, the agreement is not legally enforceable.

The committee believes that the sponsor affidavit should be legally enforceable and should be in effect until the sponsored alien (a) has worked for a reasonable period in this country, paying taxes and making a positive economic contribution, or (b) becomes a citizen, whichever occurs first. The committee believes that a reasonable maximum period for the sponsor's liability is 40 "Social Security quarters" (about 10 years), the period it takes any citizen to qualify for benefits under Social Security retirement and certain Medicare programs.

The committee believes that "deeming" of the sponsor's income and assets to the sponsored alien should be required in nearly all welfare programs and for as long as the sponsor is legally liable for support, or 5 years (the period in which an alien can be deported as a public charge), whichever is longer.

It is not unreasonable of the taxpayers of this country to require recently arrived immigrants to depend on their sponsors for at least the first 5 years, regardless of the specific terms in the affidavit of support signed by their sponsors. It was only on the basis of the assurance of the immigrant and the sponsor that the immigrant would not *at any time* become a public charge that the immigrant was allowed in this country.

It should be made clear to immigrants that the taxpayers of this country expect them to be able to make it in this country on their own and with the help of their sponsors.

At this point, there is a fundamental committee intent that should be clearly expressed—an intent that should be taken into account in the interpretation of every provision of this bill. The committee intends that aliens within the jurisdiction of this country be required to fully obey all State and Federal laws—including the immigration laws.

Some Americans appear to be ambivalent about the enforcement of the Immigration and Nationality Act. This includes a number of judges, perhaps reflecting a tension they feel between their duty to apply the law and their inclination to be humane toward those seeking a better life in this country, in accordance with our immigrant heritage. For example, while the U.S. Supreme Court has recognized that the making of immigration policy is reserved to the political branches under our constitutional system and should be largely immune from judicial control (*Fiallo* v. *Bell,* 430 U.S. 787, 792, 796 (1977)), and that relief from deportation may be left to the unfettered discretion of the Attorney General (*Jay* v. *Boyd,* 351 U.S. 345, 357-58 (1956)), the Court on other occasions has characterized deportation as a grave penalty (*Bridges* v. *Wixon,* 326 U.S. 135, 147 (1945)) and suggested that statutory ambiguities should be resolved in favor of the alien (*INS* v. *Cardoza-Fonseca,* 480 U.S. 421, 449 (1987)).

If the United States is to have an immigration policy that is both fair and effective, the law and the commitment of those with the duty to apply or enforce it must be clear. There should be no confusion about the intent of Congress that U.S. immigration law be fully binding on all persons at or within the borders of this country. This is a nation governed by law, and the law includes the immigration statutes and the regulations promulgated thereunder.

Aliens who violate U.S. immigration law should be removed from this country as soon as possible. Exceptions should be provided only in extraordinary cases specified in the statute and approved by the Attorney General. Aliens who are required by law or the judgment of our courts to leave the United States are not thereby subjected to a penalty. The opportunity that U.S. immigration law extends to aliens to enter and remain in this county is a privilege, not an entitlement.

The committee also wishes to note once more the frequently stated reality that the attitude of the American people toward *legal* immigrants and the resources which they willingly devote to immigrants is affected by the level of *illegal* immigration that burdens the society. Aliens who enter or remain in the United States in violation of our law are effectively taking immigration opportunities that might otherwise be extended to others, potential legal immigrants whose presence would be more consistent with the judgment of the elected government of this country about what is in the national interest. Those who are reluctant to enforce the immigration laws should keep this reality in mind.

III. History of Current Legislation

S. 269, the "Immigrant Control and Financial Responsibility Act of 1995," was introduced on January 24 (legislative day January 10), 1995, by Senator Robert J. Dole on behalf of Senator Alan K. Simpson. This legislation was referred to the Committee on the Judiciary, Subcommittee on Immigration, which ordered it favorably reported with amendments on June 14, 1995. The Committee on the Judiciary ordered it favorably reported with amendments on March 21, 1996.

The legislation has its roots in legislation introduced in the 103d Congress, S. 1884, the "Comprehensive Immigration and Asylum Reform Act of 1994," introduced by Senator Alan Simpson on March 2, 1994. Other major immigration bills in the Senate during the 103d Congress included S. 1333, introduced by Senator Edward M. Kennedy on July 30, 1993 (on behalf of the Clinton Administration) and S. 1571, introduced by Senator Dianne Feinstein on October 20, 1993.

The legislation was also influenced by the recommendations of the U.S. Commission on Immigration Reform, chaired by the late Hon. Barbara Jordan. This commission, which was established by Congress in 1990, issued a series of recommendations in the area of illegal immigration in its September 1994 report to Congress, "U.S. Immigration Policy: Restoring Credibility."

IV. Section-by-Section Analysis

PART 2—VERIFICATION OF ELIGIBILITY TO WORK AND TO RECEIVE PUBLIC ASSISTANCE

Subpart A—Development of New Verification System

Sec. 111—Establishment of new system.

Requires the President to develop and recommend to Congress a plan for a system to enable employers to verify that an employee is authorized to work and welfare administrators to verify that an applicant is authorized to receive welfare. The recommendation must be submitted to Congress within 3 or 6 years (depending on the duration of the demonstration projects that are conducted pursuant to sec. 112). Implementation of the recommended system could occur only through subsequent legislation by Congress.

The President must report to Congress on: (1) The proposed system and any alternatives considered; (2) Whether the system reduces the number of illegal immigrants in the workplace; (3) Data on the costs (to the government and to employers), privacy protections, and the accuracy rate of the system; and (4) Whether the system causes new employment discrimination.

The recommended plan would have the following objectives: (1) To reduce the employment of illegal immigrants; (2) To assist employers in complying with the laws against knowingly employing illegal aliens; (3) To prevent unlawful discrimination and privacy violations; (4) To minimize the burden on business; and (5) To ensure that illegal aliens do not receive public assistance or certain other government benefits.

The system would be required to reliably determine whether the person with the identity claimed by an individual is eligible to work and to apply for public assistance, and whether such individual is an imposter, fraudulently claiming another person's identity. The President may not test or recommend a "national I.D. card."

Any documents which are used in such a verification system must be resistant to tampering and counterfeiting, and may not be used for any purpose other than enforcing the immigration laws or laws related to document fraud (or for their original purpose; e.g., as a license to drive a motor vehicle). The bill provides extensive protections against and remedies for violations of privacy.

Sec. 112—Verification system demonstration projects

Directs the President, through the Attorney General, to conduct several local or regional pilot projects (including one in the legislative branch of the Federal Government), during the 3 years following enactment, to test the feasibility of proposed verification systems, and requires regular consultations with Congress. Additional or renewed projects are possible, and a final evaluation and recommendation is required after completion of the projects. The pilot projects would also be subject to the rules applicable to the permanent system, with the exception that the standards of accuracy are not expected to be immediately met in such projects.

The committee intends that the projects be truly local or regional. During consideration of the bill, some concern was expressed that a broader pilot program, such as one covering several high-immigration States, could be tantamount to a national program. The committee believes that a pilot program of such magnitude would violate the provisions of sec. 111 requiring that a statute or joint resolution approve a new system before it could be implemented nationwide.

If the Attorney General determines that a pilot project is sufficiently accurate, then employers who participate need not also follow the verification procedures of current law, including the completion of the "I–9" form.

Sec. 113—Comptroller General monitoring and reports

Requires the General Accounting Office to monitor the pilot programs required under sec. 112 and to provide Congress with an evaluation of the final verification system proposed by the President.

Sec. 114—General nonpreemption of existing rights and remedies

Provides that nothing in sections 111–113 may be construed to impair any rights or remedies available under Federal, State or local law after enactment, except to the extent inconsistent with a provision in one or more of such sections.

Sec. 115—Definitions

Defines "Administration," "Employment Authorized Alien," and "Service."

Subpart B—Strengthening Existing Verification Procedures

Sec. 116—Changes in list of acceptable employment-verification documents

Reduces the number of acceptable employment-verification documents to the U.S. passport, resident alien card (old), alien registration card (new), social security card, and other documents des-

ignated by the Attorney General. Authorizes the Attorney General to require social security account numbers on the verification form.

Sec. 117—Treatment of certain documentary practices as unfair immigration-related employment practices

Provides that a request for documents beyond those required for employment verification shall be treated as an unfair immigration-related employment practice only if made with discriminatory purpose or intent.

Sec. 118—Improvements in identification-related documents

Establishes Federal standards for birth certificates and State-issued drivers licenses (developed in consultation with the States). The section also establishes grants for States to facilitate the matching of birth and death records (to reduce the likelihood that copies of the birth certificate of a deceased person will be provided to other individuals).

TITLE II—FINANCIAL RESPONSIBILITY

Subtitle A—Receipt of Certain Government Benefits

Sec. 201—Ineligibility of excludable, deportable, and nonimmigrant aliens

Prohibits receipt of any Federal, State or local government benefit by an "ineligible alien," which is defined as any alien who is not (1) a lawful permanent resident, (2) a refugee, (3) an asylee, or (4) an alien who has been in the U.S. in parole status for at least one year. Ineligible aliens *may* receive emergency medical services, prenatal and postpartum pregnancy services under Title XIX of the Social Security Act, short-term emergency disaster relief, benefits under the National School Lunch Act, the Child Nutrition Act, and public health assistance for immunizations and (if approved by the Secretary of HHS) testing and treatment for communicable diseases.

State or local governments may not treat an ineligible alien as a resident, if such action would treat the alien more favorably than a non-resident U.S. citizen. Only citizens and work-authorized aliens may receive unemployment benefits or Social Security benefits—and benefits may be based only on periods of authorized work. The Secretary of Housing and Urban Development must report on the implementation of current law barring the provision of housing assistance to ineligible aliens. Nonprofit charitable organizations are exempt from the requirements under this title.

Sec. 202—Definition of "public charge" for purposes of deportation

Clarifies that aliens who receive welfare benefits for more than 12 months during the first 5 years after entry (or adjustment to legal permanent resident status, if the immigrant entered first as a nonimmigrant) are deportable. Exceptions are provided for noncitizens who entered prior to enactment, refugees, asylees, and immigrants who, after entry, suffer (1) a physical disability so severe the alien cannot take any job, or (2) a mental disability which requires continuous hospitalization.

Sec. 203—Requirements for sponsor's affidavit of support

Requires that future affidavits of support (in which a sponsor promises to support the immigrant) must be legally enforceable against the sponsor by the sponsored immigrant, and the Federal, State or local governments. An affidavit will be legally enforceable until the immigrant has worked 40 "qualifying quarters" in the United States or until the immigrant naturalizes (whichever is earlier). A qualifying quarter is a 3-month period, during which the immigrant (1) earned enough for the period to count as a quarter for Social Security coverage; (2) did not use welfare; and (3) which occurs in a year in which the immigrant paid Federal income taxes.

A sponsor must be a citizen or lawful permanent resident domiciled in the U.S. or its possessions; 18 or older; who demonstrates the ability to support the sponsor's family and the immigrant by showing an annual income of at least 125 percent of the poverty line (except that for active-duty members of the U.S. armed forces, the required minimum income is 100 percent of the poverty line).

Sec. 204—Attribution of sponsor's income and resources to family-sponsored immigrants

Provides that, when determining a sponsored immigrant's eligibility for any needs-based Federal program, the applicant's income shall be deemed to include the income of the sponsor and sponsor's spouse for the "deeming period." The deeming period is 5 years after entry (for those currently in the U.S.) or the length of time that the affidavit is legally enforceable (see sec. 203). Students who have been approved for Pell grants or other higher education assistance for the academic year in which this act is passed are exempted from deeming for such educational assistance for the remainder of their course of study. States have the option to deem sponsor income when determining eligibility for State or local government-assistance programs.

Sec. 205—Verification of student eligibility for postsecondary Federal student financial assistance

Provides that within one year of enactment, the Secretary of Education must submit a report to Congress which details the operation of the Department's "computer matching program" to ensure ineligible aliens do not receive higher educational assistance by providing fraudulent Social Security numbers on their financial aid applications.

Sec. 206—Authority to States and localities to limit assistance to aliens and to distinguish among classes of aliens in providing general public assistance

Authorizes States to limit the eligibility of any alien for needs-based assistance, provided the State restrictions based upon alienage are not more restrictive than those imposed by the Federal government.

Sec. 207. Earned income tax credit denied to individuals not authorized to be employed in the United States

Denies earned income tax credit to anyone who has not been a citizen or lawful permanent resident for the entire tax year.

Sec. 208—Increased maximum criminal penalties for forging or counterfeiting seal of a Federal department or agency to facilitate benefit fraud by an unlawful alien

Increases from $250,000 to $500,000 the maximum criminal fine, and increases from 5 years to 15 years the maximum sentence, that may be imposed for the unauthorized or fraudulent use, or the possession or transfer of a facsimile or counterfeit, of an official government stamp, seal or other similar instrument of authorization when the crime is intended to facilitate (or has facilitated) an unlawful alien's fraudulent application for (or receipt of) a Federal benefit.

Subtitle C—Effective Dates

Sec. 221—Effective dates

This title shall be effective upon enactment of this act, except where otherwise * * *.

* * * * * * *.

V. COMMITTEE ACTION

The committee met on 6 separate days (February 29, March 6, 13, 14, 20, and 21, 1996) to mark up the subject legislation, and on March 21, 1996, with a quorum present, by a vote of yeas to nays, the committee ordered an original bill containing provisions from S. 269, "The Immigration Control and Responsibility Act of 1995" offered by Senator Simpson, to be favorably reported, as amended. A number of amendments were agreed to by unanimous consent, voice vote, and rollcall votes. Other amendments were rejected. Following is a list of the amendments considered by the committee:

RECORDED VOTES

1. The Simpson amendment to strike sections 127 (civil penalties for bringing inadmissible aliens from contiguous territories) and 177 (transportation line responsibility for aliens transmitting without visa); to require a study of automated data collection systems; and to revise section 151, the definition of "stowaway" was agreed to by a roll call vote of 11 yeas to 6 nays.

YEAS	NAYS
Hatch	Grassley
Thurmond (by proxy)	Thompson
Simpson	Simon
Specter	Kohl
Brown	Feinstein
Kyl	Feingold
DeWine	
Abraham	
Kennedy	
Leahy	
Heflin	

2. The first part of an Abraham amendment which was divided into two parts by motion, to strike sections 111–113 and section 116 failed by a roll call vote of 9 yeas to 9 nays. The second part,

to insert "Penalties against visa-overstayers and authorization for 300 visa-overstayer investigators was agreed to by voice vote.

YEAS	NAYS
Hatch	Simpson
Thurmond (by proxy)	Grassley
Specter (by proxy)	Brown
Thompson	Kyl
DeWine	Biden (by proxy)
Abraham	Kennedy
Leahy (by proxy)	Simon
Heflin (by proxy)	Kohl (by proxy)
Feingold	Feinstein

3. The Kennedy Amendment to strike sections 111–113 and insert the following, "Part 2—System to Verify Eligibility to Work and to Receive Public Assistance" was agreed to by a rollcall vote of 11 yeas to 5 nays.

YEAS	NAYS
Hatch	Specter (by proxy)
Thurmond (by proxy)	Thompson
Simpson	DeWine
Grassley	Abraham
Brown	Feingold
Kyl	
Biden (by proxy)	
Kennedy	
Simon	
Kohl (by proxy)	
Feinstein	

4. The Hatch amendment to delete provisions increasing civil and criminal penalties for violations of the employer sanctions provisions was agreed to by a vote of 10 yeas to 8 nays.

YEAS	NAYS
Hatch	Simpson
Thurmond	Grassley
Specter (by proxy)	Biden (by proxy)
Brown (by proxy)	Kennedy
Thompson (by proxy)	Leahy
Kyl	Simon
DeWine	Kohl
Abraham	Feinstein
Heflin (by proxy)	
Feingold	

5. Kennedy's amendment to strike Section 115, Intentional Discrimination was defeated by a roll call vote of 7 yeas to 9 nays.

YEAS	NAYS
Thompson	Hatch
Biden	Thurmond
Kennedy	Simpson
Leahy	Grassley (by proxy)
Simon	Brown

Kohl (by proxy)	Kyl
Feingold	DeWine
	Abraham
	Feinstein

6. Simon's amendment to strike Section Criminalizing Voting by Legal Aliens was passed by a vote of 9 yeas to 7 nays.

YEAS	NAYS
Thompson	Hatch
DeWine (by proxy)	Thurmond
Abraham	Simpson
Biden	Grassley (by proxy)
Kennedy	Brown (by proxy)
Leahy (by proxy)	Kyl
Simon	Feinstein
Kohl	
Feingold	

7. Simon's amendment to strike Death Penalty Provisions was defeated by a roll call vote of 5 yeas to 11 nays.

YEAS	NAYS
Kennedy	Hatch
Leahy	Thurmond
Simon	Simpson
Kohl	Grassley
Feingold	Brown
	Thompson
	Kyl
	DeWine
	Abraham
	Biden
	Feinstein

8. Abraham's amendment to define serious crimes committed by aliens as crimes for which the sentence of imprisonment imposed is at least one year for purposes of exclusion or deportation by a vote of 12 yeas to 5 nays.

YEAS	NAYS
Hatch	Biden (by proxy)
Thurmond (by proxy)	Kennedy
Simpson	Leahy (by proxy)
Grassley (by proxy)	Simon (by proxy)
Brown	Feingold
Thompson	
Kyl	
DeWine	
Abraham	
Heflin (by proxy)	
Kohl	
Feinstein	

9. Abraham's amendment to eliminate additional judicial review of orders of exclusion or deportation for aliens who have been convicted of felonies by a vote of 12 yeas to 6 nays.

YEAS	NAYS
Hatch	Specter (by proxy)
Thurmond	Biden (by proxy)
Simpson	Kennedy
Grassley	Leahy
Brown	Simon
Thompson	Feingold
Kyl	
DeWine	
Abraham	
Heflin (by proxy)	
Kohl	
Feinstein	

10. Abraham's amendment to prevent criminal aliens from being released from custody prior to deportation by a vote of 13 yeas to 4 nays.

YEAS	NAYS
Hatch	Kennedy
Thurmond (by proxy)	Leahy
Simpson	Simon
Grassley (by proxy)	Feingold
Brown	
Thompson	
Kyl	
DeWine	
Abraham	
Heflin (by proxy)	
Kohl (by proxy)	
Feinstein	

11. Abraham's amendment to increase adminstrative efficiency by authorizing State Court's to make findings of fact regarding the deportability of criminal aliens during the criminal sentencing by a vote of 11 yeas to 5 nays.

YEAS	NAYS
Hatch	Kennedy
Thurmond (by proxy)	Leahy
Simpson	Simon
Grassley	Kohl (by proxy)
Brown	Feingold
Thompson	
Kyl	
DeWine	
Abraham	
Heflin (by proxy)	
Feinstein	

12. Leahy's amendment to strike restrictions against withholding of deportation and asylum applications by a vote of 8 yeas to 8 nays.

YEAS	NAYS
DeWine	Hatch
Abraham	Thurmond

Biden (by proxy)
Kennedy
Leahy
Simon
Kohl
Feingold
Simpson
Grassley
Brown
Thompson
Kyl
Feinstein

13. Simpson's amendment to revise the bill's requirements for improvements in birth certificates to by a vote of 9 yeas to 7 nays.

YEAS	NAYS
Simpson	Hatch
Grassley	Thurmond (by proxy)
Brown	Thompson
Kyl	DeWine
Kennedy	Abraham
Heflin (by proxy)	Leahy (by proxy)
Simon	Feingold
Kohl	
Feinstein	

14. Abraham's Motion to divide the bill into two separate bills, one addressing illegal immigration and one addressing legal immigration by a vote of 12 yeas to 6 nays.

YEAS	NAYS
Hatch	Simpson
Thurmond (by proxy)	Grassley
Specter (by proxy)	Brown
Thompson	Kyl
DeWine	Heflin
Abraham	Feinstein
Biden (by proxy)	
Kennedy	
Leahy (by proxy)	
Simon	
Kohl (by proxy)	
Feingold	

15. Simon second degree amendment to Senator Specter's amendment to make technical changes to Section 155 of the bill.

YEAS	NAYS
Simon	Hatch
Kohl (by proxy)	Thurmond (by proxy)
Feingold	Simpson
	Grassley
	Specter (by proxy)
	Brown
	Kyl
	DeWine
	Abraham
	Kennedy
	Leahy (by proxy)
	Feinstein

16. Senator DeWine's amendment to strike section 194: Time limitation on asylum claims, was agreed to by a roll call vote of 16 yeas to 1 nay.

YEAS	NAYS
Hatch	Simpson
Thurmond (by proxy)	
Grassley	
Specter	
Brown (by proxy)	
Thompson	
Kyl	
DeWine	
Abraham	
Kennedy	
Leahy (by proxy)	
Heflin (by proxy)	
Simon	
Kohl (by proxy)	
Feinstein	
Feingold	

17. Senator DeWine's amendment to strike section 172: Open-Field searches was agreed to by a roll call vote of 12 yeas to 5 nays.

YEAS	NAYS
Hatch	Thurmond (by proxy)
Specter (by proxy)	Simpson
Brown	Grassley
Kyl	Thompson
DeWine	Feinstein
Abraham	
Biden (by proxy)	
Kennedy	
Leahy (by proxy)	
Simon (by proxy)	
Kohl (by proxy)	
Feingold	

18. Senator Kyl's amendment to authorize funding for a three-tier fence in the San Diego Area. The amendment provides for construction along 14 miles near San Diego, of second and third fences, in addition to the existing reinforce fences, and for roads in between the fences was agreed to by a roll call vote of 12 yeas to 4 nays.

YEAS	NAYS
Hatch	Kennedy
Thurmond (by proxy)	Leahy (by proxy)
Simpson	Simon
Grassley	Feingold
Specter (by proxy)	
Brown	
Thompson (by proxy)	
Kyl	
DeWine	

Abraham
Kohl
Feinstein

19. Senator Simpson's amendment to require sponsors to submit most recent 3 years of income tax returns, in order to show that the sponsor would be able to fulfill his or her contractual obligation to provide assistance when the sponsored person is in financial need was agreed by a roll call vote of 13 yeas to 2 nays.

YEAS	NAYS
Hatch	DeWine
Thurmond (by proxy)	Simon
Simpson	
Grassley (by proxy)	
Brown	
Thompson	
Kyl	
Abraham	
Kennedy	
Leahy (by proxy)	
Kohl	
Feinstein	
Feingold	

20. Senator Kennedy's amendment to limit public assistance safety net restriction for legal immigrants to programs of cash assistance was defeated by a roll call vote of 4 yeas to 12 nays.

YEAS	NAYS
Specter (by proxy)	Hatch
Kennedy	Thurmond (by proxy)
Leahy (by proxy)	Simpson
Simon	Grassley (by proxy)
	Brown
	Thompson
	Kyl
	DeWine
	Abraham
	Kohl
	Feinstein
	Feingold

21. Senator Simon's amendment to strike of Retroactive Deeming Requirements was defeated by a roll call vote of 7 yeas to 9 nays.

YEAS	NAYS
Hatch	Thurmond (by proxy)
Specter (by proxy)	Simpson
DeWine	Grassley
Kennedy	Brown
Leahy (by proxy)	Thompson
Simon	Kyl
Feinstein	Abraham
	Kohl (by proxy)
	Feingold

22. Senator Kennedy's amendment to provide exceptions to sponsor deeming for legal immigrants when public health is at stake, for school lunches, for child nutrition programs, and for other purposes was defeated by a roll call vote of 7 yeas to 8 nays.

YEAS	NAYS
Specter (by proxy)	Hatch
DeWine	Thurmond (by proxy)
Kennedy	Simpson
Leahy (by proxy)	Grassley
Simon	Brown
Feinstein	Thompson
Feingold	Kyl
	Abraham

23. Senator Kennedy's amendment to exempt legal immigrants from restrictions on educational assistance for aliens was defeated by a roll call vote of 7 yeas to 9 nays.

YEAS	NAYS
Specter (by proxy)	Hatch
DeWine	Thurmond (by proxy)
Kennedy	Simpson
Leahy (by proxy)	Grassley
Simon	Brown
Kohl (by proxy)	Kyl
Feingold	Thompson
	Abraham
	Feinstein

24. Senator Kyl's amendment offered by Senator Leahy to strike sections 212, the Border Crossing Fee was agreed to by a roll call vote of 13 yeas to 4 nays.

YEAS	NAYS
Hatch	Thurmond (by proxy)
Specter (by proxy)	Simpson
Brown (by proxy)	Grassley
Thompson	Feinstein
Kyl	
DeWine	
Abraham	
Kennedy	
Leahy	
Heflin (by proxy)	
Simon	
Kohl (by proxy)	
Feingold	

25. Senator Kennedy's amendment to limit pregnancy services for undocumented aliens was agreed to by a roll call vote of 8 yeas to 7 nays.

YEAS	NAYS
Hatch	Thurmond (by proxy)
Specter (by proxy)	Simpson
DeWine (by proxy)	Grassley

Kennedy	Brown
Leahy (by proxy)	Thompson
Simon	Kyl
Feinstein	Abraham
Feingold	

26. Senator Brown's amendment to strike section 213, Cruise Line Fees by a roll call vote of 9 yeas to 7 nays.

YEAS	NAYS
Hatch	Thurmond (by proxy)
Specter (by proxy)	Simpson
Brown	Grassley
Thompson	Kennedy (by proxy)
Kyl	Simon
DeWine	Feinstein
Abraham	Feingold
Leahy	
Heflin	

27. Senator Feinstein's amendment to end deeming at citizenship (Strike lines 14–18, Title II–9, and insert the following) was agreed to by a roll call vote of 11 yeas to 5 nays.

YEAS	NAYS
Hatch	Thurmond (by proxy)
Specter (by proxy)	Simpson
Thompson	Grassley
DeWine	Brown
Abraham	Kyl
Kennedy	
Leahy (by proxy)	
Simon	
Kohl (by proxy)	
Feinstein	
Feingold	

28. Senator Feingold's amendment to Strike Section 209, Limitation on the Award of Costs and Fees was agreed to by a vote of 10 yeas to 5 nays.

YEAS	NAYS
Hatch	Thurmond (by proxy)
Specter (by proxy)	Simpson
Thompson	Grassley
DeWine	Brown
Abraham	Kyl
Kennedy	
Leahy (by proxy)	
Simon	
Kohl (by proxy)	
Feingold	

29. To report the bill favorably as an original bill:

YEAS	NAYS
Hatch	Kennedy
Thurmond (by proxy)	Leahy (by proxy)

Simpson	Simon
Grassley	Feingold
Specter (by proxy)	
Brown	
Thompson	
Kyl	
DeWine	
Abraham	
Heflin (by proxy)	
Kohl (by proxy)	
Feinstein	

The following amendments were agreed to by unanimous consent:

1. Simpson Amendment to require report by the Attorney General on need for detention space.
2. Simpson technical amendment to prevent double counting of long-term parolees.
3. Simpson amendment to provide that a stay of deportation or exclusion is not automatic when an alien seeks judicial review [bill would allow appeals to be pursued from abroad].
4. Simpson amendment with respect to motions to reopen in absentia deportation orders, provides that automatic stay of deportation applies only until judge decides on the motion (thereafter, stay ends unless there are "individually compelling circumstances").
5. Simpson amendment regarding new cancellation of exclusion and deportation provision [which replaces suspension of deportation under 212(c) and 244(a)], restore two provisions from current law which provide more generous treatment for battered spouses and less generous treatment for criminal aliens.
6. Simpson amendment to bar to re-entry after exclusion is increased to 5 years [currently 1 year].
7. Simpson amendment to require fingerprinting of illegal aliens apprehended anywhere in the U.S.
8. Simpson amendment to add conspiracy to the offenses listed in bill sec. 125 (expanded forfeiture) and 126 (criminal forfeiture) and 126 (criminal forfeiture)
9. Simpson amendment to add 18 U.S.C. 1541 (passport issuance without authority) to bill sec. 128 (increased criminal penalties for fraudulent use of government-issued documents)
10. Simpson amendment to add coverage of 18 U.S.C. 1541 to sentencing guidelines for various offenses relating to document fraud.
11. Simpson amendment that for purposes of the terrorism ground of exclusion, to expand definition of "engage in terrorist activity" to include providing false documentation.
12. Grassley amendment designating Congress as one of the five verification system demonstration projects.
13. Kyl amendment to limit liability of employers complying with any verification system or pilot project verification system.
14. Kyl amendment to require that any alien who has overstayed a visa return to his or her home country to obtain an-

other visa from the consular office there. It was agreed that Senators would work to modify the amendment further.

15. Kennedy's Omnibus Amendment to Improve Criminal Provisions.

16. Feinstein's amendment to increase personnel levels for the Labor Department was accepted after being modified by a Simon amendment to add a section on Preference for bilingual wage and hour inspectors.

17. Kyl's amendment to expand detention facilities to at least 9,000 beds by fiscal year 1997.

18. Kyl's amendment to advise the President to add a component to the prison transfer treaty language that states that if a transferred prisoner returns to the United States prior to the completion of his original U.S. sentence, the U.S. sentence is not discharged.

19. Kyl's amendment to Judicial Review Provisions of Section 142.

20. Senator Grassley's amendment, with a modification made by Senator Kennedy, regarding acceptance of state services to carry out immigration enforcement.

21. Senator Specter's amendment to make technical changes to Section 155 of the bill.

22. Senator Feingold's amendment to build some accountability into the process of hiring all of the new agents authorized by the bill.

23. Senator Kyl's amendment to increase the number of Border Patrol agents by 1,000 per year over the next five years, with a modification.

24. Senator Brown's amendment to provide similar treatment to employment agencies that refer for a fee and State employment agencies.

25. Senator Brown's amendment to deny asylum for those who file for the first time in deportation proceedings which began more than 1 year after entry into the United States with some exceptions, was agreed to with a commitment to further modify the language.

26. Senator Kennedy's amendment to ensure compliance with treaty obligations pertaining to refugees, with a modification.

27. Senator Kyl's amendment to add a new section XXX Immigration Judges and Compensation.

28. Senator Brown's modified amendment to deny asylum for those who file for the first time in deportation proceedings which began more than 1 year after entry into the United States with some exceptions.

29. Senator Brown's modified amendment to provide for an exception to the strict liability for record keeping requirements in cases of disaster, acts of God, and other events beyond the control of the person or entity.

30. Senator Simpson's amendment to provide exception from deeming requirement if sponsored individual is in hardship.

31. Senator Kyl's amendment to require the states and localities be reimbursed for transporting illegal aliens injured while attempting to cross the U.S. border.

32. Senator Kyl's amendment to require the federal government to reimburse states and localities for the costs associated with providing emergency services to illegal aliens; that all hospitals and facilities that are contracted out by local and state governments would be eligible for reimbursement; that the non-profit and for-profit hospitals that service a disproportionate share of low income patients, as defined by Medicare provision in the Social Security Act, are eligible for reimbursement.

33. Senator Kyl's amendment to require the Department of Education together with the Social Security Administrator to report within one year on the effectiveness of their program to verify the status of all applicants applying for higher education benefits.

34. Senator Kyl's modified amendment to strike section 120A: Office for the enforcement of employer sanctions.

35. Senator Kyl's modified amendment to section 111(b), to limit the amount employers will have to spend complying with the verification system.

36. Senator Kyl's modified amendment to require that any alien who has overstayed a visa return to his or her home country to obtain another visa from the consular office there.

37. Senator Grassley's amendment to create an exemption from deeming for nonprofits, with an understanding that the parties would continue to work out language if necessary.

38. Senator Kennedy's amendment to preclude immigration checks by community-based service organizations for certain assistance programs, as determined by the Attorney General.

39. Simpson amendment, as modified, to require the State Department to deny visas to nationals of countries that refuse to accept nationals (waiver if denial would be inconsistent with a treaty or executive agreement).

The following amendments were agreed to by voice vote:

1. Kyl amendment to strike section 118: Retention of fines for purposes of law enforcement.

2. Kyl amendment to strike the asset forfeiture provisions regarding unlawful employment of aliens.

3. Feinstein's amendment to establish a Demonstration Project for Identification of Illegal Aliens in Incarceration Facility of Anaheim, CA.

4. Brown's amendment to exclude aliens that incite violence or terrorist acts against the U.S. Government, citizens, or officials.

The following amendment was rejected by voice vote:

Simon amendment to Judicial Review Provisions of section 142.

VI. Cost Estimate

The Congressional Budget Office estimate of the costs of this measure and compliance with the requirements of the Unfunded Mandates Reform Act has been requested but had not been received at the time the report was filed. When the report is available, the chairman will request that it be printed in the Congressional Record for the advice of the Senate.

VII. Regulatory Impact Statement

In compliance with Rule 26.11b of the Standing Rules of the Senate, the committee hereby states that the committee bill's only significant regulatory impacts will result from the following provisions: sec. 111 and 112 direct the President to conduct pilot projects on systems to verify eligibility to work and eligibility to receive welfare benefits, and to recommend such a system to Congress for implementation; sec. 116(b) provides for a reduction in the number of acceptable documents for purposes of the law against knowing employment of unauthorized aliens and authorizes the Attorney General to prohibit use of additional documents; Sec. 118 provides for regulations of the Secretary of Health and Human Services to set standards for U.S. birth certificates, and for regulations of the Secretary of Transportation to set standards for State-issued drivers licenses and identification documents; and Sec. 151(c) provides that the Attorney General may by regulation take immediate custody of any stowaway and charge the owner, charterer, agent, consignee, agent, commanding officer, or master of the vessel or aircraft on which the stowaway has arrived the costs of detaining the stowaway.

VIII. ADDITIONAL VIEWS OF SENATOR HATCH

I am gratified that the committee supported my amendment to strike increases in civil and criminal penalties against employers for violations of the sanctions provisions under current law. I am similarly gratified that the committee adopted several Kyl/Hatch amendments. These amendments struck civil and criminal asset forfeiture penalties for employer sanctions violations; rejected the notion of a revolving fund for fines assessed against employers going back to the INS; and dedicated more funds to educating employers in lieu of a separate Office of Sanctions Enforcement.

About 10 years ago, Congress enacted what was described as a key component of a program to control illegal immigration, making it illegal for employers to hire knowingly persons unauthorized to work in the United States.

This employer sanctions regime is well-intentioned. In my view, however, the employer sanctions regime is mistaken. While I have in the past supported an outright repeal, the intent of my amendment and those amendments offered by Senator Kyl was simply to ensure that this bill did not make the current situation worse.

First, I do not believe we should, in effect, convert our nation's employers into guardians of our borders—that is a job for the Border Patrol and the INS. We should beef up our effort to control illegal immigration at the border and to track visa overstayers, and I am pleased that the bill reported by this committee does exactly that. Our employers, however, have enough to do competing in the global marketplace while complying with hundreds of other federal rules and regulations.

Second, employer sanctions do not work. If they did, we would not be debating a verification system. If sanctions worked, we would not have the level of concern we presently have about the very issue of illegal immigration. We would not have seen so much television footage of persons illegally crossing our borders by running against traffic on highways in order to defeat vehicular pursuit. We would not have seen a ship grounded off of our New Jersey shore a few years ago loaded with aliens to be smuggled into our country. We would not be reading about illegal aliens loaded onto box cars which are then sealed south of our border on their way north.

Third, employer sanctions have had serious adverse consequences. These are unintended, but still very real. A cottage industry of phony documents used to beat to system has been further spurred by employer sanctions. Moreover, employer sanctions are an unintended, but inevitable, incentive to employers to discriminate against persons who look and sound foreign. And while such discrimination is forbidden by the 1986 Immigration Reform and Control Act, not all such discrimination can be uncovered and remedied.

The problem with employer sanctions is not in the details, it is in the very concept. We should resist the notion that they need to be "tightened up" or "made tougher." All we will achieve is placing more burdens on business.

Finally, the bill retains significant increases for personnel directed to investigate and prosecute employers for sanctions violations. I remain concerned about those increases. These new investigators and prosecutors, in my view, should be dedicated to going after smugglers and document fraud, not American employers.

ORRIN HATCH.

IX. ADDITIONAL VIEWS OF SENATOR ABRAHAM

I would like to express my support for the final illegal immigration reform bill (S. 269) worked out by this committee. It is, in my view, much improved over the original. This final version of the bill makes needed, substantive reforms because it now focuses on the real problem of illegal immigration without punishing law-abiding employers and immigrants who play by the rules. It now concentrates on better enforcement, both at the border and in dealings with visa overstayers and criminal aliens. It restricts welfare use by immigrants. It no longer includes a harmful border tax. And, while progress in my view remains to be made in this area, it no longer institutes a mandatory identification system that would needlessly harm workers, employers and law-abiding citizens. These are changes I believed were called for in the original bill. Indeed, I introduced my own immigration reform bill, S. 1535, in part as an effort to put on the table a number of changes that I am happy to say ended up as amendments incorporated in the final bill.

First let me say that I am gratified that the committee voted overwhelmingly, 12 to 6, for my amendment to split the bill back into its original two parts—one dealing with illegal and the other with legal immigration. I argued throughout that this presented a threshold issue, which would determine whether we would place sufficient emphasis on stemming the tide of illegal immigrants without endangering the rights and well-being of Americans and law-abiding immigrants. It is my firm intention to seek to maintain the separation of illegal and legal immigration reform when these matters reach the Senate floor, and throughout the legislative process.

By splitting the bill, we allowed ourselves to focus on immigrants who flout our laws. Thus, the committee adopted the Kyl-Abraham amendment to increase by 300 the number of extra border patrol agents the bill would add each year, to a total of 1,000 per year. Further, recognizing that roughly one half of all illegal aliens enter this country legally, then overstay their visas, the committee adopted my amendment to apply real sanctions to those who overstay their allotted time. My amendment imposes a forced waiting period of at least three years before any visa overstayer can be considered for another visa.

As important, we made real progress toward ridding our nation of the 450,000 criminal aliens in our jails and on our streets. A package of four amendments that I sponsored was adopted. This package will: (1) Prohibit the Attorney General from releasing convicted criminal aliens from custody; (2) End judicial review for orders of deportation entered against these criminal aliens—while maintaining the right to administrative review and the right to review the underlying conviction; (3) Require the Attorney General to

deport criminal aliens within thirty days of the conclusion of the alien's prison sentence—with exceptions made only for national security reasons or on account of the criminal alien's cooperation with law enforcement officials; and (4) Permit state criminal courts to enter conclusive findings of fact, during sentencing, that an alien has been convicted of a deportable offence. These provisions will aim our efforts toward the real problem of criminal activity, and away from measures that do more to hurt Americans and others who play by the rules than the law-flouters we are after.

The committee also approved the Kyl-Leahy-Abraham amendment to strike the border tax that would have hurt our burgeoning trade with both Canada and Mexico. Canada alone purchased $115 billion of U.S. goods last year. The increased congestion at border crossings, the increased expense and the increased delay for truckload shipping could only hurt this trade, and the many workers engaged in it.

Finally, Mr. Chairman, I would like to mention one area in which I believe we did not go far enough in changing the original illegal immigration reform bill. I am pleased that we did away with the original mandatory employee verification system. The costs would have been staggering, the system horribly inefficient and the burden on workers misidentified by mistake-riddled government records appalling. Unfortunately, the bill now contains a provision, authored by Senator Kennedy, that provides for "local and regional" pilot programs in states with high numbers of illegal aliens.

I oppose this provision, Mr. Chairman, and intend to offer an amendment with Senators Feingold and DeWine to strike it from the bill when it reaches the floor. Why do we oppose it? Because the new system would be inefficient and, before long, both national and mandatory. That the scope of the provision will expand seems clear. Only the "regional" language imposes any limit. There is no bar to the creation of a comprehensive national database. And projects, while "regional" could be of unlimited number. What is more, this provision sets up the bureaucracy, imposes employer mandates, and imposes new liabilities on employers which would make transition to a national system almost automatic. Indeed, the provision calls for the President to present Congress with a plan for a nationwide system after just four years. It is my firm belief that we should stick with reforms in the existing identification structure without imposing this new burden on workers and employers.

So overall, Mr. Chairman, I am satisfied that this bill now includes the prudent law enforcement measures needed to get illegal immigration under control. I remain concerned, however, that the Kennedy provision will produce a costly, intrusive, and ineffective national employee verification system, and I intend to fight the provision on the floor.

Senator DeWine joins in these views.

SAM ABRAHAM.

X. ADDITIONAL VIEWS OF SENATORS DE WINE, ABRAHAM, AND FEINGOLD

We wish to note our strong opposition to the provision that relates to identification-related documents.

The committee amended the bill as it pertains to national standards for birth certificates and drivers licenses. Section 118 no longer, by its terms, requires that such identification documents include fingerprints or other biometrics data; it nevertheless charges the Secretary of Health and Human Services with developing federal standards to make these documents less susceptible to counterfeiting. The committee also removed the requirement that states develop methods for matching death certificates and birth certificates. This requirement was replaced by a section that would encourage states to establish pilot programs that would implement certificate matching systems.

Notwithstanding these changes, we remain strongly opposed to section 118.

First, since this provision dictates to state agencies the type of documents they may accept and the form of documents they must issue, even for solely state purposes, we believe it raises serious concerns regarding federalism. States should be free to determine the standards of their own documents of record.

Second, the burdens imposed on the states by the requirements regarding document safety features appears to be a substantial unfunded mandate. Additionally, proponents have failed to provide any estimate as to what these mandates would cost.

Likewise, the federal costs associated with this section are also unspecified. Neither the federal document issuance costs nor the cost of pilot programs has been estimated. To commit to the funding of a federally-mandated program without any notion of the likely cost of that mandate is ill-advised.

Finally, leaving decisions regarding what features these documents should contain to federal bureaucrats is unwise and potentially dangerous. Under the current language, HHS could develop standards even more intrusive and costly than those articulated in the original legislation. We do not believe that the setting of such standards should be left to the federal bureaucracy with nothing more than a requirement that they consult with the states who will be burdened by those standards. The bill does not provide for any congressional review of the standards, nor does it impose any limit on what HHS can mandate. The provision is ill-conceived, and contrary to any reasonable concern for civil liberties.

MIKE DEWINE.
SPENCER ABRAHAM.
RUSS FEINGOLD.

XI. ADDITIONAL VIEWS OF SENATORS DEWINE, KENNEDY, AND FEINGOLD

We wish to note our serious reservations regarding Section 194, the provision dealing with a time limitation on asylum claims.

As originally written, that section would have required aliens seeking asylum to file for such asylum within thirty days of arriving in the United States. Along with Senators Abraham and Feingold, we introduced an amendment to strike this time limit. We noted that, since INS had imposed new asylum application regulations in late 1994, the flagrant abuses of the asylum process had been substantially reduced. Further, we and other amendment sponsors noted that the persons most deserving of asylum status—those under threat of retaliation, those suffering physical or mental disability, especially when abuse resulting from torture—would most be hurt by the imposition of any filing deadline, and particularly so, if the deadline was thirty days. We are pleased that the committee, by a 16 to 1 vote, agreed, and struck the thirty day time limit.

The committee then passed an amendment to section 194 offered by Senator Brown, which imposed a one year filing deadline, but permitted persons to file later than one year if they can show good cause for not filing sooner. While this language is far better than the original thirty day time limit, we remain concerned that any limit creates unnecessary hardship on those who are deserving of asylum, but who may find it difficult to show good cause under the standard of amended section 194.

Our concern is borne out by report language, which states that "[g]ood cause" *could include* circumstances that changed after the applicant entered the U.S. and that are relevant to the applicant's eligibility for asylum; physical or mental disability; threats of retribution against the applicant's relatives abroad; or other extenuating circumstances, as determined by the Attorney General." (Emphasis added.) By a 16-to-1 vote, the committee agreed that 30 days was insufficient time to allow persons to file for asylum. The discussion on this section also illustrated clearly that the types of circumstances indicated in the report language were not only things that "good cause" could include, but were things that "good cause" *did* include. Unfortunately, the report, as written, would allow the issuance of federal regulations that might exclude the very types of applicants that the committee specifically intended to include. As a result, we wish to express my continuing concern with the imposition of any time limits on asylum seekers. In the alternative, we urge that "good cause" be broadly defined to include all reasonable circumstances that could prevent a deserving asylum seeker from applying for asylum. This action is completely consistent with the historical precedents that have long made the United

States a haven for those persecuted for their political and religious beliefs.

MIKE DEWINE,
TED KENNEDY,
RUSS FEINGOLD.

XII. MINORITY VIEWS OF SENATORS KENNEDY, SIMON, AND LEAHY

Any serious legislative effort to better control illegal immigration not only must enhance border enforcement, but also must deny the magnet of jobs to those in the United States unlawfully. This bill represents major progress in addressing both these facets of the illegal immigration problem by increasing border patrol agents, immigration inspectors, and Labor Department inspectors, and, as discussed in greater detail below, by imposing stiff new penalties for alien smuggling, document fraud, and operation of sweatshops. While we may disagree on the merits of the bill's employment eligibility verification proposals, we can agree that there is much to be said for the bill's efforts in the area of illegal immigration.

However, at the same time it accomplishes the worthy goal of deterring and preventing *illegal* immigration, the bill also proceeds at the expense of *legal* immigrants, refugees, and American citizens. It jeopardizes our tradition of providing haven to those fleeing political persecution. It denies a safety net to legal immigrant families who are here legally, playing by the rules, and contributing to our communities—but who may fall on hard times through no fault of their own—and in so doing, places the public health and safety at risk. Finally, it fosters discrimination against American citizens and legal immigrants by limiting the available remedies against employers who treat foreign-looking or foreign-sounding American job applicants different from the rest of Americans.

I. Bad News: Denial of Safety Net to Legal Immigrants

While the bill ostensibly focuses on illegal immigration, title II mainly contains limitations on *legal immigrants'* access to a wide array of public programs. Many of these individuals, who have played by the rules while other aliens have chosen to flout them, will under this bill find themselves effectively barred from receiving virtually any means-tested government assistance for at least 5 years, including:

- Assistance that this bill, in the public interest, makes freely available to *illegal* immigrants, such as emergency medical care, emergency disaster relief, and immunization assistance.
- Child Nutrition programs, Head Start, and school lunches.
- Higher education and job training assistance—the very tools that would enable immigrants to escape welfare dependence in the future.

The committee's decision to disaggregate the legal and illegal immigration proposals approved by the subcommittee arose from the belief that the two subjects are distinct, and that the national furor over illegal immigration should not be allowed to poison our view of immigrants who have come to the United States legally, paid taxes, served in our military, and been productive members of our

communities. Yet the bill's treatment of legal immigrants in the welfare reform context reflects exactly what we sought to avoid in separating illegal from legal immigration legislation.

The bill's welfare reform provisions are premised on the twin notions that: (1) As a matter of fact, many immigrants come to, or stay in, this country not to work hard and earn a living, but to feed from the public trough at taxpayer expense;[1] and (2) As a matter of policy, immigrants' sponsors, not the United States government, should assume responsibility for immigrants' welfare until the immigrant has sufficiently paid into the system.[2] Because of these concerns, the bill:

- Renders deportable any immigrant who has received almost any means-tested state or federal benefits for an aggregate of 12 months within his first five years in the United States;
- Requires an immigrant sponsor to undertake a binding contractual obligation to support the immigrant until he has worked 40 "qualifying quarters" or has naturalized; and
- Requires an immigrant sponsor's income to be "deemed" to the immigrant for the duration of the sponsor's contract of support when determining the immigrant's eligibility for *any* means-tested federal benefit.

While we are sensitive to some of the concerns motivating these provisions, and in fact agree with many of the underlying principles of sponsor responsibility that they embody, these proposals betray a fundamental misconception about immigrants' utilization of government assistance. Moreover, they are simply too inflexible and harsh in their restrictions on immigrants' access to an overly broad array of government assistance programs.

The bill's benefits provisions have a variety of other, unintended consequences that furnish additional justification for our opposition to this bill. First, with the bill's removal of the federal safety net for immigrants, state and local assistance providers will face an unexpected and substantial cost-shift as immigrants who are barred from federal assistance look elsewhere for aid. This cost shift is incompatible with the federal government's plenary power over immigration, and likely an unlawful unfunded mandate. Second, these provisions will create innumerable bureaucratic problems for federal, state, local, and private service providers, who will now be saddled with the administrative burdens of determining which immigrant applicants for assistance are entitled to benefits, which have sponsors, and what their sponsors' income is. While the worst of these problems were solved by amendments offered successfully by Senators Kennedy and Grassley to exclude non-profits and certain community-based organizations from having to conduct immigration inspections, the administrative problems caused by these rules persist with a variety of other providers, and threaten not only immigrants' access to benefits but the ability of *native-born Americans* to access these services in an efficient manner.

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[1] See Committee Report at ("Before the welfare state, if an immigrant could not succeed in the U.S., he or she often returned to the 'old country.' This happens less often today, because of the welfare 'safety net.'")

[2] *Id.* at ("It should be made clear to immigrants that the taxpayers of this country expect them to be able to make it in this country on their own and with the help of their sponsors.")

THE FACTS

Despite concerns about immigrants' use, or abuse, of government benefits, the facts are that:

- The overwhelming majority of legal immigrants (over 93 percent) do not use "welfare" as conventionally defined—i.e., Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), or General Assistance.[3]
- While immigrants have slightly higher welfare use rates than native-born Americans, (6.6 percent of immigrants access welfare versus 4.9 percent of the native-born population),[4] welfare use among immigrants is concentrated among refugees and elderly immigrants receiving SSI. These two subpopulations make up 21 percent of the immigrant population, but comprise 40 percent of immigrant welfare users.[5] Refugees—who are not sponsored into the United States, and to whom we owe distinct obligations as a matter of international law—are not subject to most of the restrictions in the bill.
- Poor immigrants are less likely than poor native-born Americans to use welfare. 16 percent of poor immigrants used welfare versus 25 percent of poor native-born Americans.[6]
- There is real evidence of immigrants' disproportionate use of SSI. In 1993, elderly immigrants comprised 28 percent of SSI users, but only 9 percent of the total elderly population.[7] However, there is *no* evidence of immigrant abuse with respect to other government assistance programs.[8]
- Welfare use among non-refugee immigrants of working age is about the same as that for natives, 5.1 percent versus 5.3 percent.[9]

Clearly, claims of widespread immigrant abuse of government assistance programs are unfounded. Like their predecessors, from whom most of us are descended, today's legal immigrants work hard, contribute to our coffers more than they take,[10] and shun dependence on government assistance whenever possible. This is not to say that no areas of abuse exist, or that all immigrants fit into this mold, but rather that any reforms of immigrant eligibility for government benefits must be carefully crafted to provide assistance to those who deserve and need it, and to reserve the most severe restrictions for those programs that have been prone to some abuse. The bill falls short of achieving this careful balance, and instead takes a cookie-cutter approach that treats all government as-

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[3] See Fix, Passel, and Zimmerman, "The Use of SSI and Other Welfare Programs by Immigrants," Written Testimony of the Urban Institute Before the Senate Subcommittee on Immigration and Refugee Affairs, February 6, 1996 ("Urban Institute Testimony"), at 2.

[4] *Ibid.* See also March 1994 Current Population Survey (CPS).

[5] Fix, Zimmerman, "When Should Immigrants Receive Public Benefits," *The Urban Institute, Immigrant Policy Program,* May 1995, at 4–5. See also March 1994 CPS.

[6] *Id.* at 6.

[7] *Id.* at 5. See also Scott and Ponce, "Aliens Who Receive SSI Benefits," Office of Supplemental Security Income, Social Security Administration, March 1994.

[8] "It would appear that the disproportionate use of benefit programs by immigrants is confined largely to the Supplemental Security Income program for the aged, blind, and disabled." Written Testimony of Susan Forbes Martin, Executive Director, U.S. Commission on Immigration Reform, before the Senate Subcommittee on Immigration and Refugee Affairs, February 6, 1996 ("Commission Testimony"), at 2.

[9] Urban Institute Testimony at 5. See also March 1994 CPS.

[10] The Urban Institute has estimated that post-1970 legal immigrants have generated a net surplus of $25 billion in government revenues. See Fix and Passel, *Immigration and Immigrants: Setting the Record Straight,* The Urban Institute, May 1994, at 60.

sistance as identical and fungible, at the expense of sensible, far-sighted policy making.

THE BENEFITS PROVISIONS OF THE LEGISLATION

A. *Public Charge*—As noted, section 202 renders deportable as a "public charge" an immigrant who receives virtually any means-tested federal or state benefit for an aggregate of 12 months during his first 5 years in the United States. Notwithstanding the majority's claims that section 202 simply clarifies existing law, which denies entry to any immigrant who is likely to become a "public charge" in his first 5 years in the United States, section 202's *definition* of who constitutes a "public charge" is new, and of such an overwhelming sweep as to be at odds with fundamental fairness.

First, and most important, section 202 includes absolutely no limitations period cabining the Attorney General's ability to deport a "public charge." Thus, an individual who received 12 months worth of public assistance between 1997 and 2002 could still be deported as a public charge in 2025, or 2045, or 2065, after she got settled, found steady work, raised a family, and became a productive member of society.[11] Fairness and predictability require that the Attorney General not be given authority in perpetuity to deport an immigrant for conduct occurring during the immigrant's first five years here.

Second, even if some suitable limitations period were added to the public charge provisions, section 202 sweeps far too broadly. The array of government programs that serve as predicates for deportation under these provisions is astounding. It includes, in addition to cash programs traditionally defined as welfare: Head Start; Pensions for veterans; rural housing loans; student loans; low income energy assistance; job training programs; and many, many other non-cash programs. Thus, for example, an immigrant who arrives in 1996 and receives a one-year Pell Grant in 1998 to complete his education is deportable because of that transgression. While there is merit to the notion that immigrants should not arrive in the United States and immediately fall into reliance on government assistance, the list of programs giving rise to deportability under section 202 includes assistance that falls outside our traditional notions of welfare, that should be available to all individuals in the public interest, and that will ultimately enable legal immigrants from escaping the kind of welfare dependency that the majority frowns on. The House Immigration Bill, H.R. 2202, chose precisely this route, limiting the public charge predicate programs to six: AFDC, Food Stamps, SSI, Medicaid, Housing Assistance, and State general assistance.

We will be offering amendments on the floor to address our concerns with this section.

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[11] The lack of a limitations period is particularly problematic given that "[a]verage household incomes of legal * * * immigrant households rise with time in the United States and surpass those of natives after ten years in this country." See Fix and Passel, *Immigration and Immigrants: Setting the Record Straight*, at 69. Thus, while an immigrant may at an early point in her tenure in this country rely on government benefits, it is likely that at a later point, she will become a contributing member of society, and may in fact have the wherewithal to reimburse the government for services rendered in the past. Nothing in the bill's public charge provisions accounts for this likelihood.

B. *Binding Affidavits of Support*—Under current law, the affidavit of support signed by an immigrant sponsor as a condition of an immigrant's entry into the United States has no legal effect, and imposes no enforceable obligation on the part of the sponsor to support the immigrant once he enters *the* United States. Section 203 of the bill requires anyone sponsoring an immigrant after the bill's enactment to sign a new, legally enforceable document imposing on the sponsor a contractual obligation to support the immigrant until he works 40 "qualifying quarters" or naturalizes. This obligation is enforceable by government agencies that have provided services to the immigrant, or by the immigrant himself, if she has been denied government benefits on the basis of the deeming rules contained in section 204.

We support the committee's decision to give the affidavit of support binding effect. Doing so disciplines sponsors, protects immigrants, and safeguards taxpayers.[12] We also support the committee's decision to pass an amendment offered by Senators Feinstein, Simon, and Kennedy to end the affidavit of support's effect—as well as the bill's deeming provisions—at the moment the immigrant naturalizes. While this approach arguably creates the incentive to naturalize for the purpose of obtaining benefits, this is a cynical view of immigrants' behavior that is not consistent with the facts.[13] More important, extending the affidavit of support and the deeming provisions to naturalized citizens creates serious constitutional problems, given the Supreme Court's holding that under the equal protection component of the fifth amendment, "the rights of citizenship of the native born and of the naturalized person are of the same dignity and coextensive." *Schneider* v. *Rusk,* 377 U.S. 163, 165 (1964). Conditioning the ability of naturalized citizens—but not native-born citizens—to receive government assistance surely flies in the face of this holding, and creates a second-class citizenry.

However, we oppose the affidavit of support as found in section 203. First, this section imposes an indefinite obligation on the part of the sponsor to support an immigrant; while this obligation may terminate in 5 years (when the immigrant could naturalize) or in 10 years (after the immigrant has worked for 40 qualifying quarters), it could also extend indefinitely if neither of these events occur. Certainly, in the case of children, who may not naturalize until adulthood and who would not likely work 40 qualifying quarters until well over the age of majority, section 203 could impose an obligation on sponsors for 30–40 years. While there is merit to making sponsors primarily responsible for immigrants, designating a specific duration for the affidavit of support promotes certainty and fairness. The Commission on Immigration Reform, the Administration, and outside commentators have all endorsed this approach.[14]

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[12] This proposal has the strong support of the Commission on Immigration Reform. See Commission on Immigration Reform, *U.S. Immigration Policy: Restoring Credibility*, September 1994, at 170.

[13] See "Immigrant Citizens Reshape New York Politics", New York Times, March 10, 1996, pp. 1, 28 (noting the "Idealistic Fervor Of the New Citizen.")

[14] See February 14, 1996 Letter from Deputy Attorney General Jamie Gorelick to Chairman Hatch, p. 54; Commission Testimony at 5; and Fix, Zimmerman, "When Should Immigrants Re-

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In addition, section 203's requirement that sponsors demonstrate an annual income equal to 125 percent of the poverty line in order to bring in an immigrant is nothing less than a back-door way of reducing legal immigration, and threatens to turn our immigration system into the province of the well-to-do. Its impact on certain sectors of our population cannot be overstated; for example, requiring immigrant sponsors to demonstrate an income that is 125 percent of the poverty level would preclude approximately *40 percent of all Latinos and 18 percent of Asians* from sponsoring an immigrant into the United States.[15] Given the affidavit of support, public charge, and deeming provisions that are already in the bill, this requirement simply "piles on," in a manner designed not to protect immigrants or taxpayers, but to deny outright family reunification, one of the cornerstones of our immigration policy.

We will also offer amendments to section 203 to address these concerns.

C. *Deeming*—In addition to the bill's public charge and sponsor responsibility provisions, section 204 of the bill requires that 100 percent of the immigrant sponsor's income be attributed to the immigrant in determining the immigrant's eligibility for *any* federal means-tested benefit—including those freely available to illegal immigrants—until the immigrant has worked 40 qualifying quarters or naturalized. Section 204 also provides that any immigrant already in the United States is subject to deeming requirements for the first 5 years of his time here.

It is these deeming provisions, above all, that cause us to oppose the bill. While we applaud the committee's decision not to expressly bar legal immigrants from any government programs, as did the Welfare Reform Conference Report, the bill's deeming provisions will have the similar effect of excluding legal individuals—who, it must be said again, pay taxes, serve in our military, and contribute in myriad ways to society—from virtually all means-tested government services for a minimum of 5 years, and maybe longer.[16] Unlike the public charge provisions or the affidavit of support section, the deeming rules in the bill will *deny* many legal immigrants any government assistance, pure and simple.

The effects of the bill's deeming rules flow largely from the fact that they require the *full* income of the immigrant sponsor to be deemed to the immigrant for purposes of determining immigrant eligibility for assistance. Clearly, some of this income must go to the sponsor's—and his family's—own needs; thus, in reality, the sponsor will not have the full amount of his income to devote to the immigrant, and the income deemed to the immigrant for purposes of determining immigrant benefits eligibility will be in excess of that actually available to the immigrant.[17]

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ceive Public Benefits," *The Urban Institute, Immigrant Policy Program*, May 1995, at 15–16 (proposing 5-year sponsorship period).

[15] See March 1994 CPS.

[16] We note that H.R. 2202, the House Immigration bill, placed finite limits on many deeming requirements—e.g., spouses are subject to deeming for 7 years, or until naturalization, whichever comes first; and children are subject to deeming until they reach age 21 or naturalize, whichever comes first.

[17] See March 12, 1996 Testimony of David A. Martin, General Counsel, Immigration and Naturalization Service, before the Senate Budget Committee, at 4, noting that "[a]ttributing 100 percent of a sponsor's income and resources to the sponsored immigrant does not take into account the needs of the sponsor or the sponsor's family and is inconsistent with current practice in the major entitlement programs."

In the end, this approach denies government assistance to the immigrant though neither the immigrant or the sponsor can provide that assistance, and forces immigrant sponsors to internalize for an indefinite period costs that they simply cannot absorb. Under the bill, these include the costs of educational assistance, nutritional assistance for children, medical assistance, job training, housing assistance, energy assistance, pensions for veterans, and others. While increased sponsor and immigrant responsibility may be the laudable goal of proponents of these rules, the end result will be that poor immigrants with poor sponsors will not receive assistance that should be available as a matter of public health, or that will enable them to avoid welfare dependency in the future. This makes no sense as a matter of public policy.

Consider the following hypothetical. An immigrant with an income under the poverty line seeks a student loan. The immigrant's spouse and sponsor, who was laid off after sponsoring her husband into the United States and who has three children with the immigrant, also has an income under the poverty line. With 100 percent of the sponsor's income attributed to the immigrant under the new rules, however, the immigrant is deemed to have an income that makes him ineligible for the loan. Because neither the immigrant nor the sponsor—nor the two jointly—can pay the necessary tuition in light of their other responsibilities, the immigrant receives no assistance, and is denied the means to develop into a productive member of society.

For another example, consider a legal immigrant, with three siblings, who is in need of emergency surgery, and whose parents and sponsors, while making enough money to render them ineligible under the deeming rules, simply cannot afford the substantial costs associated with the surgery, given their own needs and the needs of their other children. While the bill makes such services available to *illegal* immigrants, on the grounds that denial of such services would be incompatible with the public health, the new deeming rules would serve to deny the legal immigrant such assistance.

Such situations could become all too common under section 204, and demand some flexibility in the deeming rules that bill simply does not provide. We intend to offer amendments to this section on the floor in an effort to add some balance and common sense to this section.

D. *Illegal Immigrants*—Section 201 of the bill provides that "ineligible" aliens—defined to include illegal immigrants as well as a variety of immigrants with legal status—while ineligible for the vast majority of benefits, are eligible for certain types of assistance, on the grounds that universal access to such services is essential in order to preserve the public health and safety. One such program—prenatal services for undocumented mothers—was added to this list by the Committee pursuant to an amendment offered by Senator Kennedy. The children of these mothers are American citizens at birth and should be assured a healthy start on life like any other American child. We applaud the Committee's recognition that certain programs should be universally available, and wish that the same understanding had resulted in making these services available to legal immigrants as well.

One issue the Committee wisely did not address in this area was public education for undocumented aliens. The Supreme Court in *Plyler* v. *Doe,* 457 U.S. 202 (1982), held that States could not deny illegal immigrant children a free public education. While this holding was premised in part on the federal government's plenary power over immigration and on equal protection principles, the Court also relied heavily on the policy implications of such a denial, noting "the significant social costs borne by our Nation when select groups are denied the means to absorb the values and skills upon which our social order rests." 457 U.S. at 221. Even Chief Justice Burger, while dissenting from the Court's *constitutional* holding, remarked that:

> Were it [the Court's] business to set the Nation's social policy, I would agree without hesitation that it is senseless for an enlightened society to deprive any children—including illegal aliens—of an elementary education. I would agree that it would be folly—and wrong—to tolerate creation of a segment of society made up of illiterate persons, many having a limited or no command of our language.

457 U.S. at 242 (Burger, C.J., dissenting).

While it may not be the Court's business to set national policy in this area, it certainly is *Congress'* business to do so, and any effort to deprive children—*any* children—of public elementary and secondary education would be, in Chief Justice Burger's words, "foolish." The House immigration bill provides States with the option of depriving illegal alien children of a public education, and we urge our colleagues to combat any effort in the Senate to do the same.

II. More Bad News: The Danger of Increased Employment Discrimination

In addition to denying legal immigrants an adequate safety net, the bill also adds onerous new proof requirements which will make it impossible for American citizens and legal immigrants who are victims of discrimination to obtain redress. There is widespread agreement that the employer sanctions provisions of the 1986 act resulted in discrimination against foreign looking and foreign sounding job applicants. A 1989 GAO Report, a 1990 Bush Administration Task Force on IRCA related discrimination, as well as recent reports from the Justice Department's Office of the Special Counsel for Immigration-Related Unfair Employment Practices have all documented this pervasive problem.

In response, Congress in 1990 enacted a provision which created a balance between the legitimate needs of employers to verify eligibility of prospective employees, and the rights of foreign looking and foreign sounding American citizens and legal immigrants to be free from discrimination. Under current law, there is a list of government approved documents that are clearly displayed on the back of the employment verification form. Once an applicant produces a document from this list, and the document appears authentic, the employer is off the hook, plain and simple, and cannot be sued for employer sanctions violations.

Once the applicant or employee produces this document, and it appears authentic, it is illegal under current law for the employer to request additional or different documents from the person. The purpose of this provision is to prevent employers from harassing foreign looking and foreign sounding American citizens and legal immigrants by requesting additional or different documents as a condition of employment.

Unfortunately, employers have continued to discriminate against foreign looking and foreign sounding people. For example, the Justice Department has pursued a number of cases against employers who have refused to hire applicants of Puerto Rican descent unless they produced a green card. A naturalized citizen of Middle Eastern descent who spoke with an accent was fired for not complying with his employer's demand that he produce a green card. When he explained that he was a United States citizen, and produced a driver's license, social security card and voter registration card, the employer refused to accept them.

The motives of those who discriminate against foreign-looking or foreign-sounding job applicants are often mixed. Many claim that they do so purely out of a fear of employer sanctions, and not because they intend to treat certain Americans different from others. Whether these accounts are true, the bottom line is that it is virtually impossible to separate out the proper and improper motivations behind employers' discriminatory action. The bill ignores this reality and adds language in section 117 that would require a person filing a discrimination claim to demonstrate that the employer intended to discriminate on the basis of national origin or citizenship. This provision would impose a burden that is impossible to meet, and would exacerbate the already serious problem of discrimination. Under this provision, for example, employers who demand green cards from Puerto Ricans or naturalized Americans can escape liability for their actions.

There is also widespread agreement that the problems of discrimination are a function of employer concerns about the widespread availability of fraudulent documents. The bill addresses this problem in a number of constructive ways. For example, section 116 reduces the number of acceptable documents for establishing employment eligibility from 29 to six, and there are other provisions to prevent the production of fraudulent documents. It is unwise to attack discrimination by giving employers license to discriminate further.

It is important to keep in mind whom the victims are. They are American citizens and legal immigrants—law abiding people who have been playing by the rules and are simply attempting to make ends meet. In an era when we are attempting to promote economic self-sufficiency, it is unwise to erect new barriers to self-sufficiency.

III. Even More Bad News: Abandoning Our Tradition of Asylum for Political Refugees

In addition to its other flaws, the bill imposes unnecessary and harmful new bars to an individual's ability to seek political asylum in the United States, and is contrary to our most cherished traditions of providing safe haven to those fleeing persecution.

Under current law, an individual claiming asylum may prove his entitlement to this status before an immigration judge. This bill instead requires individuals seeking to enter the United States with false documents to establish a "credible fear of persecution" before an asylum officer—in reality, a low-level bureaucrat—before being eligible to apply for asylum. In addition, before even being eligible to apply for asylum, the person claiming asylum must prove that he used the false documents to flee directly from a country where, if returned, a significant danger of persecution remains. Failure to meet these tests results in the exclusion of the individual from the United States, and in many instances in his return to the country of persecution.

These new provisions are both unreasonable and unnecessary.

First, the notion that a person fleeing persecution with the aid of false documents should be subjected to a barrage of new procedural requirements before being able even to apply for that status ignores the fact that those fleeing from persecution often need false documents to escape the country that persecutes them. Indeed, America has consistently honored the memory of Raoul Wallenberg, who saved countless lives during the Holocaust by issuing unofficial travel documents to individuals fleeing persecution. Under this bill, each of the people helped by Wallenberg would, at the moment of entry into the United States, after a long journey from persecution, without counsel or other assistance, before a non-judicial or quasi-judicial official, have to demonstrate that she (1) had a "credible fear of persecution" that caused her to leave; (2) took a direct route to the United States in escaping persecution; [18] (3) used her false documents to get away; and (4), if she were sent back, would face a "significant" danger of further persecution. This approach represents a 180-degree turn from our past.

The bill's draconian approach to asylum seekers is also unnecessary, and is a vestige of a time when the Immigration and Naturalization Service was struggling to assert control over a system run rampant. Less than two years ago, an individual could arrive in the United States without proper documentation, claim asylum, receive work authorization, disappear into the interior, and avoid ever having the asylum claim adjudicated. Needless to say, the rules in place at this time encouraged and resulted in fraudulent applications, and drove calls for the kind of measures included in this bill.

To its great credit, however, INS published regulations in March 1995 that altered the asylum landscape. These regulations denied work authorization to individuals claiming asylum, and placed all asylum cases on a fast-track review that enables a newly-expanded corps of immigration judges to adjudicate virtually all claims within 180 days. With the elimination of automatic work authorization and the guarantee of an expeditious determination of asylum has come a *57 percent reduction in asylum claims over the past year.* Clearly, our asylum system today creates little inducement for

[18] This "direct departure" requirement is particularly problematic given that a number of countries—including many in Asia or Africa—do not have direct carrier routes to the United States, and that a person seeking asylum in the United States may first have to stop off in a country that does not have asylum laws or is equally hostile to the escapee as his native country.

fraudulent claims. In approving the asylum provisions in this bill, however, the Committee has ignored recent developments and taken steps that are wholly obsolete today.

The Department of Justice has not asked for these new asylum provisions, and in fact opposes them on the grounds that "absent smuggling or an extraordinary migration situation, [it] can handle asylum applications for excludable aliens under our regular procedures."[19] Moreover, the United Nations High Commissioner for Refugees (UNHCR) has expressed serious concerns that the new provisions also are inconsistent with U.S. obligations under international law since the bill lacks the minimal procedural safeguards to prevent the mistaken return of a genuine refugee to certain persecution. In short, UNHCR "fear[s] that many bona fide refugees will be returned to countries where their lives or freedom will be threatened" if the new bars to asylum become law.[20] It is UNHCR's further concern that any action taken by the United States—long a leader in providing relief to victims of persecution—to restrict asylum will be taken as a signal by other countries seeking to do the same. The Committee has failed to consider this important ripple effect of its action.

In conclusion, we note that, in addition to the bars on people who travel without valid documents, the bill restricts the ability to obtain asylum in a number of other ways. For example:

- Section 141 precludes a person from applying for asylum—and renders him excludable from the United States—if he cannot prove a "credible fear of persecution," and (1) has lived in the United States for less than 2 years without ever being formally "admitted" into the United States; (2) has been interdicted at sea; or (3) has fled to the United States as a result of an "extraordinary migration situation."
- Section 142 broadly restricts judicial review of exclusion orders based on the individual's ability to demonstrate a credible fear of persecution or any of the other criteria required of an asylee, thereby eliminating most judicial oversight over the process and denying the federal judiciary its historic function of reviewing the implementation and execution of immigration laws.

As the Administration notes, these and the other provisions of the bill relating to asylum are simply not consistent "with a fair and humanitarian immigration policy."[21]

IV: Good News: Cracking Down on Alien Smuggling, Sweatshops, and Other Criminal Acts

While we have focused thus far on the flaws in this bill—flaws which were considerable enough to cause us to oppose it—there is much in the legislation to recommend it as well. In particular, we are gratified that the bill undertakes long-needed reform of the criminal enforcement scheme for immigration-related crimes.

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[19] See February 14, 1996 Letter from Deputy Attorney General Jamie Gorelick to Chairman Hatch, p. 46.

[20] Letter from Anne Willem Bijleveld, Representative of UNHCR, to Chairman Hatch, March 6, 1996, at 1.

[21] See February 14, 1996 Letter from Deputy Attorney General Jamie Gorelick to Chairman Hatch, p. 22.

There is unanimous agreement that under current law, the penalties for all types of immigration offenses—alien smuggling, document fraud, and sweatshop offenses—are simply too weak, and do not adequately deter or punish these offenses. As a result, the bill establishes a tough, carefully calibrated sentencing scheme for these offenses. This system establishes tougher sentences, ensures longer sentences for the most violent or flagrant offenders, provides additional sentencing enhancements for repeat offenders, and provides limited but much needed flexibility for prosecutors and courts in certain cases to effectively perform their jobs of dispensing justice.

The sentencing structure established in this bill is the product of careful consultation with various experts—career prosecutors at the Department of Justice and United States Attorney's offices nationwide, Republicans and Democrats alike, people who are in the trenches every day prosecuting alien smugglers, sweatshop operators and manufacturers of false passports, and sentencing experts at the non-partisan Sentencing Commission. As a result of the bipartisan involvement of various groups, these criminal provisions were adopted by unanimous consent of the committee.

In the alien smuggling context, the bill, in addition to raising the statutory penalties substantially, provides a series of specific directives to the Sentencing Commission that will ensure that the defendant in the typical alien smuggling case receives a sentence that is at least 3–4 times longer than the current sentence. In addition, there are provisions which guarantee that alien smugglers who use a firearm or otherwise injure or endanger the lives of others, as well as those who are repeat offenders, receive substantial additional sentencing enhancements. There are also provisions that ensure that the smuggler who transports 100 undocumented people across the country for profit is treated substantially differently—and much harsher—than the person who smuggles his mother or father into the country to unify his family.

Alien smuggling and involuntary servitude frequently go hand in hand, as aliens are smuggled into the country and then put to work in sweatshop conditions at slave wages in order to pay off the massive debt. This exploitation of aliens by unscrupulous sweatshop operators is on the rise, as tragic cases have documented in New York City and Los Angeles. The bill recognizes this sad reality, and doubles the statutory penalties for sweatshop operators. The bill also provides directives to the Sentencing Commission that will ensure that the most egregious offenders receive the stiffest sentences.

The bill establishes a sentencing structure in document fraud offenses which is similar to alien smuggling offenses. In addition to raising the statutory maximum penalties substantially, the bill contains specific provisions that guarantee that the most serious and repeat offenders receive the largest sentencing enhancements and the longest sentences. Moreover, the sentences for document fraud violations were already raised substantially in 1995. When combined with the additional enhancements of this bill, the net result is that prosecutors will now have tough, effective tools in their battle against document fraud.

Criminal alien tracking center

Another way that criminal matters can receive greater attention in immigration law enforcement is the Criminal Alien Tracking Center (Law Enforcement Support Center) established by the INS Commissioner under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)) to assist Federal, State and local law enforcement agencies in identifying and locating aliens arrested or convicted of serious criminal offenses. We encourage the center, located in South Burlington, VT, to continue a close and cooperative working relationship with Federal, State and local law enforcement agencies in identifying and locating aliens who may be subject to deportation by reason of their criminal records.

To improve the coordination of tracking criminal aliens, we recommend that the Center be designated as the national repository for all INS fingerprint records relating to criminal aliens. Information from the fingerprints would be most accessible if the center stored this information in an AFIS/IDENT database with a link to FBI databases. The Center should also serve as the repository for INS "A-files" (the INS alien registration number assigned to cases) relating to aggravated felons and aliens listed in the NCIC Deported Felon File. Locating these files at the Tracking Center will improve their accessibility to INS agents and U.S. Attorney offices throughout the United States.

PAUL SIMON.
TED KENNEDY.
PATRICK LEAHY.

XIII. MINORITY VIEWS OF SENATORS KENNEDY AND SIMON

While the minority views joined by ourselves and Senator Leahy reflect most of our positions on this bill, we also write separately to express our position on an issue that has divided both supporters and opponents of this legislation: the issue of verification of employment eligibility. The majority report fails to emphasize adequately the importance of developing a reliable means in the future for determining who is and is not eligible to work in the United States.

We strongly believe that notwithstanding claims that many immigrants come to the United States illegally in order to receive government assistance, the main incentive for illegal immigrants is jobs, pure and simple.

Over the past 15 years, Congress created two blue-ribbon commissions to provide recommendations for controlling illegal immigration. In both instances—with the Select Commission on Immigration and Refugee Policy in 1981 (chaired by Father Ted Hesburgh) and the current Commission on Immigration Reform (chaired by the late Representative Barbara Jordan)—the Commissions concluded that the United States must eliminate the job magnet for illegal immigrants by making it illegal for employers to hire them.

In 1986, Congress took this step in the Immigration Reform and Control Act of 1986. For the first time in our history, it was made illegal for an employer knowingly to hire illegal immigrants, and employer sanctions were established to penalize those employers who violated this new law.

The Immigration Reform and Control Act of 1986 also provided protections against employment discrimination in response to concerns that employers would respond to employer sanctions by engaging in discriminatory employment practices. According to the U.S. General Accounting Office and several other independent studies, discriminatory practices resulting from employer sanctions include: employers avoiding job applicants whose surnames, appearance, or speech accents suggest that they might be immigrants; employers selectively checking the documents only of "foreign looking" employees or job applicants; employers establishing "U.S. citizens only" policies, thereby discriminating against legal residents; and employers requiring that employees present specific documents, such as requiring that any Latino or Asian employee present a "green card" or other INS document.

The 1986 act required employers to check the documents of all persons hired after its enactment in order to verify their eligibility. In response to the Act's requirements, the Immigration and Naturalization Service established a list of 29 different documents which employers were required to accept from job applicants to prove their identity and eligibility to work in the United States. This list

was included as part of a new form—the "I–9"—which every employer is required to complete for each new hire. As long as the new hire produces the required document or documents listed on the I–9, and each document provided "reasonably appears on its face to be genuine," the employer is absolved of any liability if the individual turns out to be an unauthorized worker.[22]

THE PROBLEM: DOCUMENT FRAUD

While there was a decline in levels of illegal immigration immediately after passage of the 1986 reforms, illegal immigration is on the rise once again. It is far too easy for illegal immigrants to get jobs illegally by providing employers with false documents.

The Jordan Commission observed that "reducing the employment magnet is the linchpin of a comprehensive strategy to reduce illegal immigration." The Commission went on to state:

> The ineffectiveness of employer sanctions, prevalence of fraudulent documents, and continued high numbers of unauthorized workers, combined with confusion for employers and reported discrimination against employees, have challenged the credibility of current worksite enforcement efforts.[23]

While the illegal immigrant population is still lower today than it was before passage of immigration reforms in 1986, the population is growing once again. INS estimates that in 1992, there were 3.3 million illegal immigrants in the country compared with 4.7 million when the Immigration Reform and Control Act was enacted in 1986. The illegal immigrant population had dropped to just over 2 million following passage of the 1986 Act due in large part to the legalization of hundreds of thousands of formerly undocumented immigrants. While over one million illegal immigrants are estimated to enter the United States each year, an estimated 300,000 end up remaining permanently as illegal immigrants, according to INS.[24]

THE RESPONSE: PILOT PROGRAMS UNDER CONGRESSIONAL SCRUTINY

The Committee agreed that something must be done to help employers determine reliably who can and cannot work in the United States. The committee voted 11 to 5 in favor of a Kennedy-Simpson amendment (sections 111 through 113) to require the Justice Department to conduct "several" pilot programs over the next three years to test new and better ways of verifying employment eligibility. The amendment set clear standards for these pilot programs related to privacy, minimal impact on business, prevention of discrimination, accuracy and other criteria. Because of concerns that the pilot programs could become so large as to be tantamount to implementing a national program, the Kennedy-Simpson amendment required the pilots to be tested only locally or regionally.

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[22] See section 274A(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1324a).

[23] Commission on Immigration Reform, *U.S. Immigration Policy: Restoring Credibility*, September 1994, p. xii.

[24] Robert Warren, *Estimates of the Unauthorized Immigrant Population Residing in the United States, By Country of Origin and State of Residence: October 1992*, Immigration and Naturalization Service, April 29, 1994.

As a key safeguard, an important element of the Kennedy-Simpson amendment was that the President would be required to seek congressional approval before implementing any new or permanent approach beyond the authorized 3-year pilot programs.

It was also our intention, as supporters of the amendment, that any new approach that is developed be accurate and reliable. We intend that it reliably verify employment authorization within five business days in 99 percent of all inquiries. It must also provide an accessible and reliable process for authorized workers to examine the contents of their records and correct errors within ten business days.

Any new approach also must contain safeguards against unlawful discrimination. These include, for example, advising all employees that they are being verified by computer and providing a list of resources available to them in the event that discrimination occurs; and monitoring employer behaviors (for informational purposes, and not for enforcement) in a manner which provides policymakers and others with information about how the system will be used.

In short, while we opposed the bill's initial proposal giving the President blanket authority in eight years to implement a nationwide verification system, we believe that pilot programs, measured against a series of strict criteria and subject to Congressional review prior to implementation of a nationwide system, provides the proper balance between elimination of the jobs magnet, on one hand, and protection of the values we as Americans all share, on the other.

PAUL SIMON.
TED KENNEDY.

XIV. MINORITY VIEWS OF SENATOR LEAHY

This bill was improved by amendment during the Judiciary Committee's deliberations, but much still needs to be done. I join in the minority views and add these additional comments.

BORDER FEES

I am delighted that the committee voted overwhelmingly to strike border crossing fees from this bill. I worked closely with Senators Kyl and Abraham on this issue and commend them on their efforts.

Border crossing fees are a bad idea. They are bad for residents of border States, for visitors to border States and bad for business.

They are not a "user" fee. Instead, they would burden residents, tourists, business and commerce in certain States in order to benefit the rest of the country. That is the wrong approach to our national immigration problem. The cost of these efforts ought to be born by the nation as a whole and not fall disproportionately on border States.

As I explained during our committee debate, calling border crossing fees "user" fees is like saying that the driver whose vehicle speed was tested by radar and found to be in accordance with the speed limit ought to pay the State Police a $1 fee for the "use" of the radar gun.

The problem of illegal immigration along our Nation's southern border has led to significantly increased enforcement and inspection efforts over the past 3 years. If we need more inspection services and more border patrol agents, let us authorize and pay for them as a nation. The Violent Crime Control and Law Enforcement Act of 1994 added extraordinary resources to this effort. This bill augments them further.

If a State tried to impose a border crossing fee, it would likely be declared unconstitutional as an unreasonable burden on interstate commerce and an infringement on the right to travel. Similarly, we in the Federal Government should not venture down this road. If the proposal were to impose border crossing fees *between* States to pay for INS and other obligations of the Federal Government, there would be a national uproar.

Border crossing fees should be understood to be equally offensive when limited to States with international borders.

None of us should want to impose this burden on the economy. Legal visitors from Canada and Mexico spend nearly $10 billion a year in the United States. If we tax these visits, there will be fewer dollars spent in the U.S. and might be fewer visits. There will be further delay and congestion at the borders and travel to the United States will be made more difficult.

Vermont businesses warn me that a border crossing fee could cut off a portion of the $120 million a year spent in the Green Moun-

tain State by Canadian visitors. Vermont ships $2.4 billion in goods and services to Canada annually, which accounts for 75 percent of the State's exports. There is no reason to think that Canada would tolerate our imposition of border crossing fees without responding by imposing its own fees. It makes little sense to have worked so hard to remove trade barriers only to reinvent them as border fees.

I hope that the action by the Judiciary Committee on this ill-conceived idea will put an end, once and for all, to the notion of border crossing fees as a way to finance INS activities.

CRIMINAL ALIEN TRACKING CENTER

I commend my colleagues for their recognition of the contribution that is being made to immigration law enforcement by the Law Enforcement Support Center in South Burlington, Vermont ("LESC'). This is among the most significant capacities being developed to assist Federal, State and local law enforcement to deal more effectively with criminal aliens. Improving the identification and expediting the deportation of criminal aliens responsible for violent crimes are goals on which there is universal agreement.

The Violent Crime Control and Law Enforcement Act of 1994 authorized the Law Enforcement Support Center. Last September, I had a colloquy on the Senate floor with the Senate Appropriations Subcommittee Chairman clarifying that the Senate-passed appropriations bill allowed the LESC to continue to receive its authorized funding.

This is the only on-line national database available to identify criminal aliens. It is a valuable and essential asset for improving our national immigration enforcement effort. The LESC provides local, State and Federal law enforcement agencies with 24-hour access to data on criminal aliens. By assisting in the identification of these aliens, the LESC allows law enforcement agencies to expedite deportation proceedings against them.

In its first year of operation, the LESC identified over 10,000 criminal aliens as aggravated felons. After starting up with a link to law enforcement agencies in one county in Arizona, the LESC expanded its coverage to that entire state. The LESC is expected to be on-line with California, Florida, Illinois, Iowa, Massachusetts, New Jersey, Texas and Washington, as well as Arizona this year.

The Law Enforcement Support Center deserves our full support.

NATIONAL EMPLOYMENT IDENTIFICATION VERIFICATION

I remain concerned that the national employment verification system included in the bill, while improved, still extends too far, is too invasive and contains too few privacy protections. Senator Kennedy is to be commended for the effort he is making in this regard and for the progress being achieved. The Kennedy-Simpson amendment is an improvement over the provisions included in the bill presented to the Committee. I hope that we can do better.

None of us want to see a national ID card. None of us want the Federal Government imposing costly burdens on our State and local authorities without providing the funding and other assistance necessary to comply with the federal mandate. None of us want the Government creating vast data banks that are not secure. We need to be sure that protections at least as strong as those con-

tained in the Privacy Act apply to records on individuals held by the Government. I want to be sure that violations of privacy and misuse of personal information are effectively deterred and that any violations of privacy rights that might occur are detected and remedied.

PUBLIC ASSISTANCE

As indicated in the minority views, I am not satisfied with the bill's provisions regarding public assistance. For example, the attribution of a sponsor's resources to legal immigrants for purposes of nutrition, education and health programs will yield results too harsh and short-sighted to be acceptable. Senators Kennedy and Simon have made a number of suggestions to improve these provisions in which I join.

The WIC program, for example, ought to be available to children. For every dollar spent on WIC, three dollars are saved in future medical costs. Regardless of citizenship status of their mothers, children born in this country will be American citizens. Further, school budgets and school administrators are already stretched to the limit without imposing upon them the administrative burden of additional paperwork to ascertain immigrant status of tens of millions of school children before they can participate in child nutrition programs. Sponsor "deeming" may be sensible with bureaucracies able to handle the added complexity, but these additional requirements have no place in nutrition programs.

While the bill would correctly allow nutrition program benefits to be received by the children of illegal immigrants, it would deny them through "deeming" to the children of legal immigrants. Even the previous Senate-passed welfare bill and the welfare conference report exempted child nutrition and WIC from their onerous "deeming" provisions. Let us not punish immigrants' children and create a class of undernourished and poorly nourished infants and children.

In addition, I remain concerned with the provisions of the bill that would create a rigid rule on so-called "public charges." The bill provides no mechanism by which an immigrant could ever terminate the status of public charge. The bill would penalize legal immigrants who are not wealthy and begin their lives in this country as members of the working poor. It is too quick to label people as public charges for utilizing the same public assistance that many Americans need to get on their feet. The bill treats each situation as static, irretrievable and irredeemable.

Unlike the bill, I believe that people can work hard and become contributing citizens. Under the bill, even if an immigrant becomes successful, pays taxes, invents something, or starts a company that employs hundreds of other Americans and becomes a shining realization of the American Dream, there is no way to terminate the status of public charge.

Because people can succeed—even people who may need a little help at some time or another due to illness, or the need for additional education—I believe that our law ought to encourage and recognize that possibility. Thus, I suggest that the law provide that people who achieve self-sufficiency no longer be labeled public charges.

In addition, I am disturbed that the definition of public charge goes too far in including a vast array of programs none of us think of as welfare. I understand the desire to prevent immigrants from coming to this country in order to become perpetual welfare recipients. I do not believe that is why people do come and struggle and work to make a better life for their families, but I recognize that this perception exists. If we want to make the acceptance of cash payment over an extended period of time under SSI, AFDC or State general assistance programs—what most people mean when they refer to welfare—a basis for imposing the remedy of deportation, let the Congress carefully construct such provisions, not the overreaching bill approved by the Committee.

The bill would affect the working poor who are striving against difficult odds to become self-sufficient. The bill includes the receipt of medical services and nutritional programs as bases for disqualification. It includes a catch-all for programs that are means tested but which the bill has not identified. Do the supporters of this bill really mean to include Headstart, child care, student loans, Stafford loans, Pell grants, and job training as public assistance that can accumulate to label immigrants public charges? Do they mean to include federally subsidized programs as well as those administered by the Federal Government? Do they mean to include tax credits for the working poor? The bill is unnecessarily uncertain and will yield harsh and idiosyncratic results that no one should intend. It needs to be fixed before it deserves our support.

ASYLUM

We also need to reconsider the restrictions on applications for political asylum proposed in this bill. During the committee's deliberations I offered an amendment to strike provisions that would alter our asylum process, but failed on a tie vote.

The bill is extreme and fails to reflect the unfortunate reality of oppression in other parts of the world. The bill goes too far and sends the signal that "direct" travel to the United States is an essential element for an asylum claim. To require a refugee to travel directly from his or her country to ours in order to be allowed even to apply for asylum ignores the reality that many refugees must escape to a neighboring country before they can travel to American.

There is the recent example of Fidel Castro's daughter, who defected with a phony passport and disguised as a Spanish tourist to arrive here after traveling through Spain. For every well-known refugee, there are tens of less famous but deserving refugees from oppressive regimes.

Raoul Wallenberg received international recognition for rescuing tens of thousands from Nazi persecution by issuing Swedish identity papers and arranging transport to Sweden. Oskar Schindler saved many lives by securing false documents and identities. As many as 10,000 Jews fled the Holocaust through Asia with the noble assistance of Chiune Sugihara, a Japanese diplomat who disobeyed his government and issued them visas. Do we really mean to prohibit the claims of those who, like the beneficiaries of the courageous work of Oskar Schindler, Raoul Wallenberg and Chiune Sugihara during World War II, needed false documents to survive? I hope not.

I am confident that consideration of asylum claims can take false documents into account without making them a barrier to full review. The asylum provisions in the bill would place undue burdens on unsophisticated refugees who are truly in need of sanctuary but may not be able to explain their situation to an overworked asylum officer.

The bill would establish summary exclusion procedures and invest low-level immigration officers with unprecedented authority to deport refugees without allowing them a fair opportunity to establish a valid claim to asylum. Even before being permitted to apply for asylum, refugees who flee persecution without valid documents, would be met with a series of procedural hurdles virtually impossible to understand or overcome.

This is a radical departure from current procedures that afford an asylum hearing before an immigration judge during which an applicant may be represented by counsel, may cross-examine and present witnesses, and after which review is available by the Board of Immigration Appeals. Such hearings have been vitally important to refugees who may face torture, imprisonment or death as a result of an initial, erroneous decision by an INS official.

Indeed, human rights organizations have documented a number of cases of people who were ultimately granted political asylum by immigration judges after the INS denied their release from INS detention for not meeting a "credible fear" standard. Under the summary screening proposed in the bill, these refugees would have been sent back to their persecutors without any opportunity for a hearing.

Under international law, an individual may be denied an opportunity to prove an asylum claim only if the claim is "manifestly unfounded." This bill would establish a summary screening mechanism that utilizes a "credible fear" standard without meaning or precedent in international law. These summary exclusion provisions have been criticized by international human rights organizations and the United Nations High Commissioner for Refugees.

Furthermore, the proposed legislation would deny the Federal courts their historic role in overseeing the implementation of our immigration laws and review of individual administrative decisions. The bill would allow no judicial review whether a person is actually excludable and would create unjustified exceptions to rulemaking procedural protections under the Administrative Procedure Act. These proposals thereby portent a fundamental change in the role of our coordinate branches of Government and a dangerous precedent.

Besides being fundamentally unfair to a traumatized and fatigued refugee, who would be allowed no assistance and no interpreter, the proposed summary screening process would impose a burdensome and costly diversion of INS resources. In 1995 for example, only 3,287 asylum seekers arrived without valid documents—hardly the tens of thousands purported to justify these changes. The bill would require that a phalanx of specially-trained asylum officers be created and posted at airports, sea ports and other ports of entry across the country to be available to conduct summary screenings at the border. There is simply no need to di-

vert these resources in this way when the asylum process has already been brought under control.

In fact, the President reformed the asylum process in 1994. Since then, annual applications have greatly decreased, from approximately 125,000 a year to 54,000 and they are being processed in a timely fashion. Only approximately 20 percent are being granted. There are no exigent circumstances that require this nation to turn its back on its traditional role as a refuge from oppression and to resort to summary exclusion processes. Neither the Department of Justice nor the INS support these provisions or believe them necessary.

PATRICK LEAHY.

XV. MINORITY VIEWS OF SENATOR FEINGOLD

The bill reported by the Senate Judiciary Committee made substantial improvements over the measure originally brought before the Committee. Nevertheless, it contains some fundamental flaws that compelled me to cast my vote against this legislation.

First and foremost, however, I want to note the importance of a key decision of the Judiciary Committee to adopt by a 12-to-6 vote the bipartisan motion offered by Senators Abraham, Simon, DeWine, Specter and myself to split the proposed immigration reform legislation into two separate measures, one dealing with questions relating to legal immigration and the other dealing with illegal immigration. The House of Representatives took similar action when it voted 238 to 183 to strike provisions relating to legal immigration from its immigration reform legislation.

As originally presented to the Judiciary Committee, legal and illegal immigration reform proposals were treated as if they dealt with the same problems. That is simply not true.

Much of the historical growth and development of our great Nation can be attributed to immigration policies which have allowed individuals from many backgrounds to come to America, to seek to build better futures for themselves and their families. This melting pot of cultures, traditions and backgrounds has contributed to the strength of our nation and it has long represented a source of great pride for Americans. I oppose efforts to close these doors to legal immigrants.

At the same time, however, illegal immigration is a serious problem and a paramount issue in some areas of the country. Congress has the responsibility to strengthen our border security and augment other efforts to prevent undocumented persons from unlawfully entering our country or remaining without legal authority.

There was broad agreement within the Judiciary Committee about the need to increase border enforcement efforts and to impose swift and strong penalties against those who attempt to enter the United States by unlawful means. S. 269 authorizes the hiring over 4,500 new Border Patrol agents over the course of the next five years. This massive increase in personnel will nearly double the existing number of Border Patrol agents under the jurisdiction of the INS. I was therefore pleased that an amendment I offered was adopted by the committee which provides that these new personnel will be hired and trained pursuant to appropriate standards of law enforcement. The men and women hired to fill these positions should receive appropriate training to confront the enormous challenges of controlling this nation's borders. My amendment was drafted with the cooperation of the Department of Justice and INS, and will help ensure a professionally trained expansion of the Border Patrol.

In addition to increasing the strength of the Border Patrol, S. 269 provides additional enforcement tools to the Department of Labor and the U.S. Customs Service to assist in the efforts of these agencies in stemming the tide of illegal immigration. In regard to criminal sanctions, S. 269 contains language, offered by Senator Kennedy, to enhance the penalties for virtually all forms of alien smuggling and document fraud as well as related offenses. Additionally, the language provides stiff penalties for those individuals who operate sweatshops which force people, many in this country illegally, to work in often inhumane conditions for minimal compensation. I am pleased that this important amendment has been included in this legislation.

Unfortunately, while this legislation contains provisions that I support to strengthen our efforts at preventing illegal entry into our country, it also calls for the development of what is intended to lead to a massive "national worker verification" system that would require millions of U.S. citizens to have their identities verified by the Federal Government every time they apply for a new job or government assistance. This proposal is opposed by a broad coalition of groups, ranging from the National Federation of Independent Business, the National Association of Manufacturers to the National Council of La Raza and the American Civil Liberties Union.

Recognizing that the proper way to combat illegal immigration is to target those who break our laws and not impose burdens upon law-abiding citizens and businesses, Senator Abraham and I offered a bipartisan amendment to strike the worker verification proposal and replace it with stronger enforcement and penalties for those who overstay their legal visas.

The Abraham-Feingold approach was aimed at targeting the 2 percent of the population here illegally—not the other 98 percent of the population. It seems both unnecessary and inappropriate to turn our Nation's employers into a quasi-internal border patrol, charged with the responsibility of rooting illegal immigrants out of an enormous American workforce. We should not be promoting a system that would require every employer to go through a burdensome, onerous and potentially expensive process of dealing with a Federal bureaucrat every time they consider a job application. Nor should average Americans be forced to have their identity verified by a government bureaucrat in Washington, DC, every time they apply for a job or seek a student loan.

While employers are currently required to ask potential employees for documentation to establish their identity, the new verification system envisioned under this legislation would create a massive, new system to be established and navigated by employers, job seekers and virtually every American who applies for some form of government assistance.

Although the committee bill was modified to create a pilot program, it is clearly intended to lead to a national worker verification system—a step which I think is unwise. Although the committee accepted the provisions of the Abraham-Feingold amendment which focused upon strengthening enforcement efforts against those who overstay their visas, the committee unfortunately deadlocked, 9 to 9, on the portions of the Abraham-Feingold amendment

which would have deleted the worker verification provisions entirely.

Moreover, I am also deeply concerned by provisions in S. 269 which require the development of uniform Federal birth certificates. Again, although the original provisions were changed by the committee to eliminate the requirement that individuals personalize their birth certificates and driver's licenses with a fingerprint or "other biometric data", I am concerned that the bill continues to represent a tremendous unfunded mandate for local and state agencies responsible for issuance of birth certificates and driver's licenses.

Finally, while many of the law enforcement and criminal sanction provisions of this bill are reasonable, targeted responses to legitimate problems, I am unable to support others. In particular, I oppose the expansion of the death penalty as included in the bill. I also am troubled by aspects of "anti-terrorism" provisions particularly those which allow aliens to be excluded for a category of speech which includes "racial vilification". Current law (8 U.S.C. 1182(a)(3)(B)) provides the Attorney General with the authority to exclude aliens who have engaged in terrorist activity, or where reasonable grounds exist to believe that an alien is likely to engage in terrorist activity after entry into the United States. The existing standard is based upon the conduct of the alien and provides the Attorney General with the powers to protect against terrorist threats. Expansion of this authority into new areas poses issues of constitutional concern that should not be ignored.

In conclusion, while I am unable to support the bill reported by the committee, I do support many provisions in the bill and I am hopeful that when the full Senate considers this legislation, improvements will be made that will transform the legislation into a sensible, targeted approach focused upon those who break our laws, not those who abide by them.

RUSS FEINGOLD.

XVI. CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 605, as reported, are shown as follows: existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

UNITED STATES CODE

* * * * * * *

TITLE 18—CRIMES AND CRIMINAL PROCEDURE

* * * * * * *

CHAPTER 25—COUNTERFEITING AND FORGERY

[§ 506. Seals of departments or agencies

[Whoever falsely makes, forges, counterfeits, mutilates, or alters the seal of any department or agency of the United States; or

[Whoever knowingly uses, affixes, or impresses any such fraudulently made, forged, counterfeited, mutilated, or altered seal to or upon any certificate, instrument, commission, document, or paper, of any description; or

[Whoever, with fraudulent intent, possesses any such seal, knowing the same to have been so falsely made, forged, counterfeited, mutilated, or altered—

[Shall be fined not more than $5,000 or imprisoned not more than five years, or both.]

(a) Whoever—

(1) falsely makes, forges, counterfeits, mutilates, or alters the seal of any department or agency of the United States, or any facsimile thereof;

(2) knowingly uses, affixes, or impresses any such fraudulently made, forged, counterfeited, mutilated, or altered seal or

facsimile thereof to or upon any certificate, instrument, commission, document, or paper of any description; or

(3) with fraudulent intent, possesses, sells, offers for sale, furnishes, offers to furnish, gives away, offers to give away, transports, offers to transport, imports, or offers to import any such seal or facsimile thereof, knowing the same to have been so falsely made, forged, counterfeited, mutilated, or altered,

shall be fined under this title, or imprisoned not more than 5 years, or both.

(b) Notwithstanding subsection (a) or any other provision of law, if a forged, counterfeited, mutilated, or altered seal of a department or agency of the United States, or any facsimile thereof, is—

(1) so forged, counterfeited, mutilated, or altered;

(2) used, affixed, or impressed to or upon any certificate, instrument, commission, document, or paper of any description; or

(3) with fraudulent intent, possessed, sold, offered for sale, furnished, offered to furnish, given away, offered to give away, transported, offered to transport, imported, or offered to import,

with the intent or effect of facilitating an unlawful alien's application for, or receipt of, a Federal benefit, the penalties which may be imposed for each offense under subsection (a) shall be two times the maximum fine, and 3 times the maximum term of imprisonment, or both, that would otherwise be imposed for an offense under subsection (a).

(c) For purposes of this section—

(1) the term "Federal benefit" means—

(A) the issuance of any grant, contract, loan, professional license, or commercial license provided by any agency of the United States or by appropriated funds of the United States; and

(B) any retirement, welfare, Social Security, health (including treatment of an emergency medical condition in accordance with section 1903(v) of the Social Security Act (19 U.S.C. 1396b(v))), disability, veterans, public housing, education, food stamps, or unemployment benefit, or any similar benefit for which payments or assistance are provided by an agency of the United States or by appropriated funds of the United States;

(2) the term "unlawful alien" means an individual who is not—

(A) a United States citizen or national;

(B) an alien lawfully admitted for permanent residence under the Immigration and Nationality Act;

(C) an alien granted asylum under section 208 of such Act;

(D) a refugee admitted under section 207 of such Act;

(E) an alien whose deportation has been withheld under section 243(h) of the Immigration and Nationality Act; or

(F) an alien paroled into the United States under section 215(d)(5) of such Act for a period of at least 1 year, and

(3) each instance of forgery, counterfeiting, mutilation, or alternation shall constitute a separate offense under this section.

* * * * * * *

CHAPTER 47—FRAUD AND FALSE STATEMENTS

* * * * * * *

§ 1028. Fraud and related activity in connection with identification documents

(a) Whoever, in a circumstance described in subsection (c) of this section—

* * * * * * *

[(b) The punishment for an offense under subsection (a) of this section is—

[(1) a fine of not more than $25,000 or imprisonment for not more than five years, or both, if the offense is—

[(A) the production or transfer of an identification document or false identification document that is or appears to be—

[(i) an identification document issued by or under the authority of the United States; or

[(ii) a birth certificate, or a driver's license or personal identification card;

[(B) the production or transfer of more than five identification documents or false identification documents; or

[(C) an offense under paragraph (5) of such subsection;

[(2) a fine of not more than $15,000 or imprisonment for not more than three years, or both, if the offense is—

[(A) any other production or transfer of an identification document or false identification document; or

[(B) an offense under paragraph (3) of such subsection; and

[(3) a fine of not more than $5,000 or imprisonment for not more than one-year, of both, in any other case.]

(b)(1)(A) An offense under subsection (a) that is—

(i) the production or transfer of an identification document or false identification document that is or appears to be—

(I) an identification document issued by or under the authority of the United States; or

(II) a birth certificate, or a driver's license or personal identification card;

(ii) the production or transfer of more than five identification documents or false identification documents; or

(iii) an offense under paragraph (5) of such subsection (a);

shall be punishable under subparagraph (B).

(B) Except as provided in paragraph (4), a person who violates an offense described in subparagraph (A) shall be punishable by—

(i) a fine under this title, imprisonment for not more than 10 years, or both, for a first or second offense; or

(ii) a fine under this title, imprisonment for not more than 15 years, or both, for a third or subsequent offense.

(2) A person convicted of an offense under subsection (a) that is—

(A) any other production or transfer of an identification document or false identification document; or

(B) an offense under paragraph (3) of such subsection;

shall be punishable by a fine under this title, imprisonment for not more than three years, or both.

(3) A person convicted of an offense under subsection (a), other than an offense described in paragraph (1) or (2), shall be punishable by a fine under this title, imprisonment for not more than one year, or both.

(4) Notwithstanding any other provision of this section, the maximum term of imprisonment that may be imposed for an offense described in paragraph (1)(A) shall be—

(A) if committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title), 15 years; and

(B) if committed to facilitate an act of international terrorism (as defined in section 2331 of this title), 20 years.

* * * * * * *

AMENDMENTS SUBMITTED

THE IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

DORGAN (AND OTHERS) AMENDMENT NO. 3667

Mr. DORGAN (for himself, Mr. DASCHLE, Mr. REID, Mr. HOLLINGS, Mr. FORD, Mr. CONRAD, and Mr. FEINGOLD) proposed an amendment to the bill (S. 1664) to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes: as follows:

At the appropriate place, add the following new section:

SEC. . SENSE OF THE SENATE ON A BALANCED BUDGET CONSTITUTIONAL AMENDMENT.

It is the sense of the Senate that because Section 13301 of the Budget Enforcement Act prohibits the use of the Social Security trust fund surplus to offset the budget deficit, any proposal for a constitutional amendment to balance the budget should contain a provision creating a firewall between the receipts and outlays of the Social Security trust funds and the rest of the federal budget, and that the constitutional amendment should explicitly forbid using the Social Security trust funds to balance the federal budget.

ABRAHAM (AND OTHERS) AMENDMENT NO. 3668

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself, Mr. FEINGOLD, Mr. DEWINE, Mr. SIMON, Mr. SPECTER, Mr. SANTORUM, Mr. WARNER, Mr. GRAMS, Mr. THURMOND, Mr. LEVIN, and Mr. BOND) submitted an amendment intended to be proposed by them to the bill S. 1664, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . SENSE OF SENATE REGARDING SEPARATE CONSIDERATION OF ISSUES RELATING TO LEGAL IMMIGRATION AND ILLEGAL IMMIGRATION.

(a) FINDINGS.—The Senate makes the following findings:

(1) One of the first responsibilities of any government is to protect its borders.

(2) The Federal Government has failed in this responsibility, both by permitting large numbers of individuals to enter into the United States illegally and by failing to take effective actions against individuals who overstay their visas.

(3) It is urgent that the Congress address the problem of illegal immigration promptly and expeditiously.

(4) The Committee on the Judiciary of the Senate has ordered reported to the Senate a bill, S. 269, intended to address illegal entry into the United States by improving the patrol of United States borders and to address the overstay of visas by keeping track of and punishing individuals who overstay their visas.

(5) Congress has historically considered issues relating to illegal immigration separately from issues relating to legal immigration.

(6) The Committee on the Judiciary, after deliberating carefully about the consideration of legislation between the 104th Congress on legal immigration and illegal immigration, decided that the Senate should consider issues relating to legal immigration separately from issues relating to illegal immigration and ordered reported to the Senate separate bills to address such issues, S. 269 and S. 1394.

(7) The House of Representatives has expressed its agreement with the proposal to consider issues relating to legal immigration separately from issues relating to illegal immigration by adopting an amendment to the bill on immigration being considered by the House of Representatives, H.R. 2202, which struck all provisions of that bill relating to family immigration.

(b) SENSE OF SENATE.—It is the sense of the Senate that the issues addressed in S. 269, a bill to control illegal immigration into the United States, should be considered by the Senate separately from the issues addressed in S. 1394, a bill to reform legal immigration into the United States.

SIMPSON AMENDMENT NO. 3669

Mr. SIMPSON proposed an amendment to the bill S. 1664, supra; as follows:

(1) After sec. 213 of the bill, add the following new section:

"SEC. 214. USE OF PUBLIC SCHOOLS BY NONIMMIGRANT FOREIGN STUDENTS.

"(a) PERSONS ELIGIBLE FOR STUDENT VISAS.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—

"(1) in clause (i) by striking 'academic high school, elementary school, or other academic institution or in a language training program' and inserting in lieu thereof 'public elementary or public secondary school (if the alien shows to the satisfaction of the consular officer at the time of application for a visa, or of the Attorney General at the time of application for admission or adjustment of status, that (I) the alien will in fact reimburse such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), private elementary or private secondary school, or postsecondary academic institution, or in a language-training program'; and

"(2) by inserting before the semicolon at the end of clause (ii) the following: ': *Provided*, That nothing in this paragraph shall be construed to prevent a child who is present in the United States in a nonimmigrant status other than that conferred by paragraph (B), (C), (F)(i), or (M)(i), from seeking admission to a public elementary school or public secondary school for which such child may otherwise be qualified.'.

"(b) EXCLUSION OF STUDENT VISA ABUSERS.—Section 212(a) (8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

'(9) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is excludable.'.

"(c) DEPORTATION OF STUDENT VISA ABUSERS.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is deportable.'.".

SIMPSON AMENDMENT NO. 3670

Mr. SIMPSON proposed an amendment to the bill S. 1664, supra; as follows:

SEC. . PILOT PROGRAM TO COLLECT INFORMATION RELATING TO NONIMMIGRANT FOREIGN STUDENTS.

(a) IN GENERAL.—(1) The Attorney General and the Secretary of State shall jointly develop and conduct a pilot program to collect electronically from approved colleges and universities in the United States the information described in subsection (c) with respect to aliens who—

(A) have the status, or are applying for the status, of nonimmigrants under section 101(a)(15) (F), (J), or (M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) (F), (J), or (M)); and

(B) are nationals of the countries designated under subsection (b).

(2) The pilot program shall commence not later than January 1, 1998.

(b) COVERED COUNTRIES.—The Attorney General and the Secretary of State shall jointly designate countries for purposes of subsection (a)(1)(B). The Attorney General and the Secretary shall initially designate not less than five countries and may designate additional countries at any time while the pilot program is being conducted.

(c) INFORMATION TO BE COLLECTED.—

(1) IN GENERAL.—The information for collection under subsection (a) consists of—

(A) the identify and current address in the United States of the alien;

(B) the nonimmigrant classification of the alien and the date on which a visa under the classification was issued or extended or the date on which a change to such classification was approved by the Attorney General; and

(C) the academic standing of the alien, including any disciplinary action taken by the college or university against the alien as a result of the alien's being convicted of a crime.

(2) FERPA.—The Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g) shall not apply to aliens described in subsection (a) to the extent that the Attorney General and the Secretary of State determine necessary to carry out the pilot program.

(d) PARTICIPATION BY COLLEGES AND UNIVERSITIES.—(1) The information specified in subsection (c) shall be provided by approved colleges and universities as a condition of—

(A) the continued approval of the colleges and universities under section 101(a)(15) (F) or (M) of the Immigration and Nationality Act, or

(B) the issuance of visas to aliens for purposes of studying, or otherwise participating, at such colleges and universities in program under section 101(a)(15)(J) of such Act.

(2) If an approved college or university fails to provide the specified information, such approvals and such issuance of visas shall be revoked or denied.

(e) FUNDING.—(1) The Attorney General and the Secretary shall use funds collected under section 281(b) of the Immigration and Nationality Act, as added by this subsection, to pay for the costs of carrying out this section.

(2) Section 281 of the Immigration and Nationality Act (8 U.S.C. 1351) is amended—

(A) by inserting "(a)" after "SEC. 281."; and

(B) by adding at the end the following:

"(b)(1) In addition to fees that are prescribed under subsection (a), the Secretary of State shall improve and collect a fee on all visas issued under the provisions of section 101(a)(15) (F), (J), or (M) of the Immigration and Nationality Act. With respect to visas issued under the provisions of section 101(a)(15)(J), this subsection shall not apply to those "J" visa holders whose presence in the United States is sponsored by the United States government."

"(2) The Attorney General shall impose and collect a fee on all changes of nonimmigrant status under section 248 to such classifications. This subsection shall not apply to those "J" visa holders whose presence in the United States is sponsored by the United States government."

"(3) Except as provided in section 205(g)(2) of the Immigration Reform Act of 1996, the amount of the fees imposed and collected under paragraphs (1) and (2) shall be the amount which the Attorney General and the Secretary jointly determine is necessary to recover the costs of conducting the information-collection program described in subsection (a), but may not exceed $100.

"(4) Funds collected under paragraph (1) shall be available to the Attorney General and the Secretary, without regard to appropriation Acts and without fiscal year limitation, to supplement funds otherwise available to the Department of Justice and the Department of State, respectively."

(3) The amendments made by paragraphs (1) and (2) shall become effective April 1, 1997.

(f) JOINT REPORT.—Not later than five year after the commencement of the pilot program established under subsection (a), the Attorney General and the Secretary of State shall jointly submit to the Committees on the Judiciary of the United States Senate and House of Representatives on the operations of the pilot program and the feasibility of expanding the program to cover the nationals of all countries.

(g) WORLDWIDE APPLICABILITY OF THE PROGRAM.—(1)(A) Not later than six months after the submission of the report required by subsection (f), the Secretary of State and the Attorney General shall jointly commence expansion of the pilot program to cover the nationals of all countries.

(B) Such expansion shall be completed not later than one year after the date of the submission of the report referred to in subsection (f).

(2) After the program has been expanded, as provided in paragraph (1), the Attorney General and the Secretary of State may, on a periodic basis, jointly revise the amount of the fee imposed and collected under section 281(b) of the Immigration and Nationality Act in order to take into account changes in the cost of carrying out the program.

(h) DEFINITION.—As used in this section, the phrase "approved colleges and universities" means colleges and universities approved by the Attorney General, in consultation with the Secretary of Education, under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)).

SIMPSON AMENDMENT NO. 3671

Mr. SIMPSON proposed an amendment to the bill S. 1664, supra; as follows:

After section 115 of the bill, add the following new section:

"SEC. 115A. FALSE CLAIMS OF U.S. CITIZENSHIP.

"(a) EXCLUSION OF ALIENS WHO HAVE FALSELY CLAIMED U.S. CITIZENSHIP.—Section 212(a)(9) (8 U.S.C. 1182(a)(9)) is amended by adding at the end the following new subparagraph:

'(D) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is excludable.'; and

"(b) DEPORTATION OF ALIENS WHO HAVE FALSELY CLAIMED U.S. CITIZENSHIP.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is deportable.'.".

SIMPSON AMENDMENT NO. 3672

Mr. SIMPSON proposed an amendment to amendment No. 3667 proposed by Mr. DORGAN to the bill S. 1664, supra; as follows:

Strike all after the word "sec." and insert the following:

(1) social security is supported by taxes deducted from workers' earnings and matching deductions from their employers that are deposited into independent trust funds;

(2) over 42,000,000 Americans, including over 3,000,000 children and 5,000,000 disabled workers and their families, receive social security benefits;

(3) social security is the only pension program for 60 percent of older Americans;

(4) almost 60 percent of older beneficiaries depend on social security for at least half of their income and 25 percent depend on social security for at least 90 percent of their income;

(5) 138,000,000 American workers pay taxes into the social security system;

(6) social security is currently a self-financed program that is not contributing to the Federal budget deficit; in fact, the social security trust funds now have over $400,000,000,000 in reserves and that surplus will increase during fiscal year 1995 alone by an additional $70,000,000,000;

(7) these current reserves will be necessary to pay monthly benefits for current and future beneficiaries when the annual surpluses turn to deficits after 2018;

(8) recognizing that social security is currently a self-financed program, Congress in 1990 established a "firewall" to prevent a raid on the social security trust funds;

(9) raiding the social security trust funds would further undermine confidence in the system among younger workers;

(10) the American people overwhelmingly reject arbitrary cuts in social security benefits; and

(11) social security beneficiaries throughout the nation deserve to be reassured that their benefits will not be subject to cuts and their social security payroll taxes will not be increased as a result of legislation to implement a balanced budget amendment to the United States Constitution.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that any legislation required to implement a balanced budget amendment to the United States Constitution shall specifically prevent social security benefits from being reduced or social security taxes from being increased to meet the balanced budget requirement.

THE IMMIGRATION AND NATIONALITY ACT AMENDMENT ACT OF 1996

ABRAHAM (AND OTHERS) AMENDMENT NO. 3721

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself, Mr. FEINGOLD, Mr. DEWINE, Mr. INHOFE, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by them to the bill (S. 1664) to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes; as follows:

Strike sections 111–115.

AMENDMENTS SUBMITTED

THE IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

SIMPSON AMENDMENT NO. 3722

Mr. SIMPSON proposed an amendment to amendment No. 3669 proposed by him to the bill (S. 1664) to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes; as follows:

Strike all after the first word and insert:

214. USE OF PUBLIC SCHOOLS BY NONIMMIGRANT FOREIGN STUDENTS.

"(a) PERSONS ELIGIBLE FOR STUDENT VISAS.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—

"(1) in clause (i) by striking 'academic high school, elementary school, or other academic institution or in a language training program' and inserting in lieu thereof 'public elementary or public secondary school (if the alien shows to the satisfaction of the consular officer at the time of application for a visa, or of the Attorney General at the time of application for admission or adjustment of status, that (I) the alien will in fact reimburse such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), private elementary or private secondary school, or postsecondary academic institution, or in a language-training program'; and

"(2) by inserting before the semicolon at the end of clause (ii) the following:": *Provided*, That nothing in this paragraph shall be construed to prevent a child who is present in the United States in a nonimmigrant status other than that conferred by paragraph (B), (C), (F)(i), or (M)(i), from seeking admission to a public elementary school or public secondary school for which such child may otherwise be qualified.';

"(b) EXCLUSION OF STUDENT VISA ABUSERS.—Section 212(a) (8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

'(9) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is excludable.', and

"(c) DEPORTATION OF STUDENT VISA ABUSERS.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is deportable.'.".

This section shall become effective 1 da after the date of enactment.

SIMPSON AMENDMENT NO. 3723

Mr. SIMPSON proposed an amendment to amendment No. 3670 proposed by him to the bill S. 1664, supra; as follows:

Strike all after the first word and insert:

PILOT PROGRAM TO COLLECT INFORMATION RELATING TO NONIMMIGRANT FOREIGN STUDENTS.

(a) IN GENERAL.—(1) The Attorney General and the Secretary of State shall jointly develop and conduct a pilot program to collect electronically from approved colleges and universities in the United States the information described in subsection (c) with respect to aliens who—

(A) have the status, or are applying for the status, of nonimmigrants under section 101(a)(15)(F), (J), or (M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F), (J), or (M)); and

(B) are nationals of the countries designated under subsection (b).

(2) The pilot program shall commence not later than January 1, 1998.

(b) COVERED COUNTRIES.—The Attorney General and the Secretary of State shall jointly designate countries for purposes of subsection (a)(1)(B). The Attorney General and the Secretary shall initially designate not less than five countries and may designate additional countries at any time while the pilot program is being conducted.

(c) INFORMATION TO BE COLLECTED.—

(1) IN GENERAL.—The information for collection under subsection (a) consists of—

(A) the identity and current address in the United States of the alien;

(B) the nonimmigrant classification of the alien and the date on which a visa under the classification was issued or extended or the date on which a change to such classification was approved by the Attorney General; and

(C) the academic standing of the alien, including any disciplinary action taken by the college or university against the alien as a result of the alien's being convicted of a crime.

(2) FERPA.—The Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g) shall not apply to aliens described in subsection (a) to the extent that the Attorney General and the Secretary of State determine necessary to carry out the pilot program.

(d) PARTICIPATION BY COLLEGES AND UNIVERSITIES.—(1) The information specified in subsection (c) shall be provided by approved colleges and universities as a condition of—

(A) the continued approval of the colleges and universities under section 101(a)(15)(F) or (M) of the Immigration and Nationality Act, or

(B) the issuance of visas to aliens for purposes of studying, or otherwise participating, at such colleges and universities in a program under section 101(a)(15)(J) of such Act.

(2) If an approved college or university fails to provide the specified information, such approvals and such issuance of visas shall be revoked or denied.

(e) FUNDING.—(1) The Attorney General and the Secretary shall use funds collected under section 281(b) of the Immigration and Nationality Act, as added by this subsection, to pay for the costs of carrying out this section.

(2) Section 281 of the Immigration and Nationality Act (8 U.S.C. 1351) is amended—

(A) by inserting "(a)" after "SEC. 281."; and

(B) by adding at the end the following:

"(b)(1) In addition to fees that are prescribed under subsection (a), the Secretary of State shall impose and collect a fee on all visas issued under the provisions of section 101(a)(15)(F), (J), or (M) of the Immigration and Nationality Act. With respect to visas issued under the provisions of section 101(a)(15)(J), this subsection shall not apply to those "J" visa holders whose presence in the United States is sponsored by the United States Government."

"(2) The Attorney General shall impose and collect a fee on all changes of nonimmigrant status under section 248 to such classifications. This subsection shall not apply to those "J" visa holders whose presence in the United States is sponsored by the United States Government."

"(3) Except as provided in section 205(g)(2) of the Immigration Reform Act of 1996, the amount of the fees imposed and collected under paragraphs (1) and (2) shall be the amount which the Attorney General and the Secretary jointly determine is necessary to recover the costs of conducting the information-collection program described in subsection (a), but may not exceed $100."

"(4) Funds collected under paragraph (1) shall be available to the Attorney General and the Secretary, without regard to appropriation Acts and without fiscal year limitation, to supplement funds otherwise available to the Department of Justice and the Department of State, respectively."

(3) The amendments made by paragraphs (1) and (2) shall become effective April 1, 1997.

(f) JOINT REPORT.—Not later than five years after the commencement of the pilot program established under subsection (a), the Attorney General and the Secretary of State shall jointly submit to the Committees on the Judiciary of the United States Senate and House of Representatives on the operations of the pilot program and the feasibility of expanding the program to cover the nationals of all countries.

(g) WORLDWIDE APPLICABILITY OF THE PROGRAM.—(1)(A) Not later than six months after the submission of the report required by subsection (f), the Secretary of State and the Attorney General shall jointly commence expansion of the pilot program to cover the nationals of all countries.

(B) Such expansion shall be completed not later than one year after the date of the submission of the report referred to in subsection (f).

(2) After the program has been expanded, as provided in paragraph (1), the Attorney General and the Secretary of State may, on a periodic basis, jointly revise the amount of the fee imposed and collected under section 281(b) of the Immigration and Nationality Act in order to take into account changes in the cost of carrying out the program.

(h) DEFINITION.—As used in this section, the phrase "approved colleges and universities" means colleges and universities approved by the Attorney General, in consultation with the Secretary of Education, under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 110(a)(15)).

This section shall become effective 1 day after the date of enactment.

SIMPSON AMENDMENT NO. 3724

Mr. SIMPSON proposed an amendment to amendment No. 3671 proposed by him to the bill S. 1664, supra; as follows:

Strike all after the first word and insert:

115A. FALSE CLAIMS OF U.S. CITIZENSHIP.

"(a) EXCLUSION OF ALIENS WHO HAVE FALSELY CLAIMED U.S. CITIZENSHIP.—Section 212(a)(9)(8 U.S.C. 1182(a)(9)) is amended by adding at the end the following new subparagraph:

'(D) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is excludable.'; and

"(b) DEPORTATION OF ALIENS WHO HAVE FALSELY CLAIMED U.S. CITIZENSHIP.—Section 241(a)(8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is deportable.'.".

This section shall become effective 1 day after the date of enactment.

SIMPSON AMENDMENT NO. 3725

Mr. SIMPSON proposed an amendment to the motion to recommit proposed by him to the bill S. 1664, supra; as follows:

Add at the end of the instructions the following: "that the following amendment be reported back forthwith.

(1) After sec. 213 of the bill, add the following new section:

"SEC. 214. USE OF PUBLIC SCHOOLS BY NONIMMIGRANT FOREIGN STUDENTS.

"(a) PERSONS ELIGIBLE FOR STUDENT VISAS.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—

"(1) in clause (i) by striking 'academic high school, elementary school, or other academic institution or in a language training program' and inserting in lieu thereof 'public elementary or public secondary school (if the alien shows to the satisfaction of the consular officer at the time of application for a visa, or of the Attorney General at the time of application for admission or adjustment of status, that (I) the alien will in fact reimburse such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), private elementary or private secondary school, or postsecondary academic institution, or in a language-training program'; and

"(2) by inserting before the semicolon at the end of clause (ii) the following: ': *Provided*, That nothing in this paragraph shall be construed to prevent a child who is present in the United States in a nonimmigrant status other than that conferred by paragraph (B), (C), (F)(i), or (M)(i), from seeking admission to a public elementary school or public secondary school for which such child may otherwise be qualified.';

"(b) EXCLUSION OF STUDENT VISA ABUSERS.—Section 212(a) (8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

'(9) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if(I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is excludable.'; and

"(c) DEPORTATION OF STUDENT VISA ABUSERS.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if(I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is deportable.'.".

SIMPSON AMENDMENT NO. 3726

Mr. SIMPSON proposed an amendment to amendment No. 3725 proposed by him to the bill S. 1664, supra; as follows:

At the end of the amendment to this instructions to the motion to recommit, insert the following new section:

SEC. PILOT PROGRAM TO COLLECT INFORMATION RELATING TO NONIMMIGRANT FOREIGN STUDENTS.

(a) IN GENERAL.—(1) The Attorney General and the Secretary of State shall jointly develop and conduct a pilot program to collect electronically from approved colleges and universities in the United States the information described in subsection (c) with respect to aliens who—

(A) have the status, or are applying for the status, of nonimmigrants under section 101(a)(15(F), (J), or (M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F), (J), or (M)); and

(B) are nationals of the countries designated under subsection (b).

(2) The pilot program shall commence not later than January 1, 1998.

(b) COVERED COUNTRIES.—The Attorney General and the Secretary of State shall jointly designate countries for purposes of subsection (a)(1)(B). the Attorney General and the Secretary shall initially designate not less than five countries and may designate additional countries at any time while the pilot program is being conducted.

(c) INFORMATION TO BE COLLECTED.—

(1) IN GENERAL.—The information for collection under subsection (a) consists of—

(A) the identity and current address in the United States of the alien;

(B) the nonimmigrant classification of the alien and the date on which a visa under the classification was issued or extended or the date on which a change to such classification was approved by the Attorney General; and

(C) the academic standing of the alien, including any disciplinary action taken by the college or university against the alien as a result of the alien's being convicted of a crime.

(2) FERPA.—The Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g) shall not apply to aliens described in subsection (a) to the extent that the Attorney general and the Secretary of State determine necessary to carry out the pilot program.

(d) PARTICIAPTION BY COLLEGES AND UNIVERSITIES.—(1) The information specified in subsection (c) shall be provided by approved colleges and universities as a condition of—

(A) the continued approval of the colleges and universities under section 101(a)(15)(F) or (M) of the Immigration and Nationality Act, or

(B) the issuance of visas to aliens for purposes of studying, or otherwise participating, at such colleges and universities in a program under section 101(a)(15)(J) of such Act.

(2) If an approved college or university fails to provide the specified information, such approvals and such issuance of visas shall be revoked or denied.

(e) FUNDING.—(1) the Attorney General and the Secretary shall use funds collected under section 281(b) of the Immigration and Nationality Act, as added by this subsection, to pay for the costs of carrying out this section.

(2) Section 281 of the Immigration and Nationality Act (8 U.S.C. 1351) is amended—

(A) by inserting "(a)" after "SEC. 281."; and

(B) by adding at the end the following:

"(b)(1) In addition to fees that are prescribed under subsection (a), the Secretary of State shall impose and collect a fee on all visas issued under the provisions of section 101(a)(15)(F), (J), or (M) of the Immigration and Nationality Act. With respect to visas issued under the provisions of section 101(a)(15)(J), this subsection shall not apply to those "J" visa holders whose presence in the United States is sponsored by the United States government."

"(2) The Attorney General shall impose and collect a fee on all changes of nonimmigrant status under section 248 to such classifications. This subsection shall not apply to those "J" visa holders whose presence in the United States is sponsored by the United States government."

"(3) Except as provided in section 205(g)(2) of the Immigration Reform Act of 1996, the amount of the fees imposed and collected under paragraphs (1) and (2) shall be the amount which the Attorney General and the Secretary jointly determine is necessary to recover the costs of conducting the information-collection program described in subsection (a), but may not exceed $100.

"(4) Funds collected under paragraph (1) shall be available to the Attorney General and the Secretary, without regard to appropriation Acts and without fiscal year limitation, to supplement funds otherwise available to the Department of Justice and the department of State, respectively."

(3) The amendments made by paragraphs (1) and (2) shall become effective April 1, 1997.

(f) JOINT REPORT.—Not later than five years after the commencement of the pilot program established under subsection (a), the Attorney General and the Secretary of State shall jointly submit to the Committees on the Judiciary of the United States Senate and House of Representatives on the operations of the pilot program and the feasibility of expanding the program to cover the nationals of all countries.

(g) WORLDWIDE APPLICABILITY OF THE PROGRAM.—(1)(A) Not later than six months after the submission of the report required by subsection (f), the Secretary of State and the Attorney General shall jointly commence expansion of the pilot program to cover the nationals of all countries.

(B) Such expansion shall be completed not later than one year after the date of the submission of the report referred to in subsection (f).

(2) After the program has been expanded, as provided in paragraph (1), the Attorney General and the Secretary of State may, on a periodic basis, jointly revise the amount of the fee imposed and collected under section 281(b) of the Immigration and Nationality Act in order to take into account changes in the cost of carrying out the program.

(h) DEFINITION.—As used in this section, the phrase "approved colleges and universities" means colleges and universities approved by the Attorney General, in consultation with the Secretary of Education, under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)).

SIMPSON AMENDMENT NO. 3727

Mr. SIMPSON proposed an amendment to amendment No. 3725 proposed by him to the bill S. 1664, supra; as follows:

Strike the last word in the pending amendment and insert: "Act (8 U.S.C. 110(a)(15)).

"SEC. : FALSE CLAIMS OF U.S. CITIZENSHIP.

"(a) EXCLUSION OF ALIENS WHO HAVE FALSELY CLAIMED U.S. CITIZENSHIP.—Section 212(a)(9) (8 U.S.C. 1182(a)(9)) is amended by adding at the end the following new subparagraph:

'(D) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is excludable.'; and

"(b) DEPORTATION OF ALIENS WHO HAVE FALSELY CLAIMED U.S. CITIZENSHIP.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is deportable.'.".

SIMPSON AMENDMENT NO. 3728

Mr. SIMPSON proposed an amendment to amendment No. 3725 proposed by him to the bill S. 1664, supra; as follows:

Strike all after the last word in the amendment and insert: "deportable.

"SEC. . VOTING BY ALIENS.

"(a) CRIMINAL PENALTY FOR VOTING BY ALIENS IN FEDERAL ELECTION.—Title 18, United States Code, is amended by adding the following new section:

'§611. Voting by aliens

'(a) It shall be unlawful for any alien to vote in any election held solely or in part for the purpose of electing a candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, unless—

'(1) the election is held partly for some other purpose;

'(2) aliens are authorized to vote for such other purpose under a State constitution or statute or a local ordinance; and

'(3) voting for such other purpose is conducted independently of voting for a candidate for such Federal offices, in such a manner that an alien has the opportunity to vote for such other purpose, but not an opportunity to vote for a candidate for any one or more of such Federal offices.'

"(b) Any person who violates this section shall be fined not more than $5,000 or imprisoned not more than one year or both.';

"(b) EXCLUSION OF ALIENS WHO HAVE UNLAWFULLY VOTED.—Section 212(a) (8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

'(9) UNLAWFUL VOTERS.—Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is excludable.'; and

"(c) DEPORTATION OF ALIENS WHO HAVE UNLAWFULLY VOTED.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) UNLAWFUL VOTERS.—Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is deportable.'.".

SIMPSON AMENDMENT NO. 3729

Mr. SIMPSON proposed an amendment to amendment No. 3725 proposed by him to the bill S. 1664, supra; as follows:

Strike all after the last word and insert the following "deportable.

"USE OF PUBLIC SCHOOLS BY NONIMMIGRANT FOREIGN STUDENTS.

"(a) PERSONS ELIGIBLE FOR STUDENT VISAS.—Section 101(a)(15)(F)(8 U.S.C. 1101(a)(15)(F)) is amended—

"(1) in clause (i) by striking 'academic high school, elementary school, or other academic institution or in a language training program' and inserting in lieu thereof 'public elementary or public secondary school (if the alien shows to the satisfaction of the consular officer at the time of application for a visa, or of the Attorney General at the time of application for admission or adjustment of status, that (I) the alien will in fact reimburse such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), private elementary or private secondary school, or postsecondary academic institution, or in a language-training program'; and

"(2) by inserting before the semicolon at the end of clause (ii) the following: ': *Provided*, That nothing in this paragraph shall be construed to prevent a child who is present in the United States in a nonimmigrant status other than that conferred by paragraph (B), (C), (F)(i), or (M)(i), from seeking admission to a public elementary school or public secondary school for which such child may otherwise be qualified.';

"(b) EXCLUSION OF STUDENT VISA ABUSERS.—Section 212(a) (8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

'(9) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is excludable.', and

"(c) DEPORTTION OF STUDENT VISA ABUSERS.—Section 241(a)(8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

'(6) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is deportable.'.".

This section shall become effective 1 day after the date of enactment.

SIMPSON AMENDMENT NO. 3730

Mr. SIMPSON proposed an amendment to amendment No. 3725 proposed by him to the bill S. 1664, supra; as follows:

Strike all after the last word in the amendment and insert: "enactment.

"SEC. .OPEN-FIELD SEARCHES.

(a) REPEAL.—Section 116 of Public Law 99-603 and section 287(e) of the Immigration and Nationality Act (8 U.S.C. 1357(e)) are repealed.

"(b) REDESIGNATION OF PROVISION.—Subsection (f) of section 287 of that Act is redesignated as subsection (e) of that section."

ROBB (AND WARNER) AMENDMENT NO. 3731

(Ordered to lie on the table.)

Mr. ROBB (for himself and Mr. WARNER) submitted an amendment intended to be proposed by them to the bill S. 1664, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . CHANGES IN SPECIAL IMMIGRANT STATUS.

(a) REPEAL OF 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 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 at the North Atlantic 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 OR 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))" and "(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(k)(3) (8 U.S.C. 1184(1)(3)), (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) IN GENERAL.—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) TRANSITION.—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.

SHELBY (AND OTHERS) AMENDMENT NO. 3732

(Ordered to lie on the table.)

Mr. SHELBY (for himself, Mr. COCHRAN, Mr. COVERDELL, Mr. FAIRCLOTH, Mr. HELMS, Mr. INHOFE, Mr. THOMAS, Mr. BYRD, Mr. COATS, Mr. GRAMS, Mr. LOTT, Mr. THURMOND, Mr. WARNER, and Mr. PRESSLER) submitted an amendment intended to be proposed by them to the bill S. 1664, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . LANGUAGE OF GOVERNMENT ACT OF 1996.

(a) SHORT TITLE.—This section may be cited as the "Language of Government Act of 1996".

(b) FINDINGS AND CONSTRUCTION.—

(1) FINDINGS.—The Congress finds and declares that—

(A) the United States is comprised of individuals and groups from diverse ethnic, cultural, and linguistic backgrounds;

(B) the United States has benefited and continues to benefit from this rich diversity;

(C) throughout the history of the Nation, the common thread binding those of differing backgrounds has been a common language;

(D) in order to preserve unity in diversity, and to prevent division along linguistic lines, the United States should maintain a language common to all people;

(E) English has historically been the common language and the language of opportunity in the United States;

(F) Native American languages have a unique status because they exist nowhere else in the world, and in creating a language policy for the United States Government, due consideration must be given to Native American languages and the policies and laws assisting their survival, revitalization, study, and use;

(G) a purpose of this Act is to help immigrants better assimilate and take full advantage of economic and occupational opportunities in the United States;

(H) by learning the English language, immigrants will be empowered with the language skills and literacy necessary to become responsible citizens and productive workers in the United States;

(I) the use of a single common language in the conduct of the Federal Government's official business will promote efficiency and fairness to all people;

(J) English should be recognized in law as the language of official business of the Federal Government; and

(K) any monetary savings derived by the Federal Government from the enactment of this Act should be used for the teaching of non-English speaking immigrants the English language.

(2) CONSTRUCTION.—The amendments made by subsection (c)—

(A) are not intended in any way to discriminate against or restrict the rights of any individual in the United States;

(B) are not intended to discourage or prevent the use of languages other than English in any nonofficial capacity; and

(C) except where an existing law of the United States directly contravenes the amendments made by subsection (c) (such as by requiring the use of a language other than English for official business of the Government of the United States), are not intended to repeal existing laws of the United States.

(c) ENGLISH AS THE OFFICIAL LANGUAGE OF GOVERNMENT.—

(1) IN GENERAL.—Title 4, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 6—LANGUAGE OF THE GOVERNMENT

"Sec.
"161. Declaration of official language of Government.
"162. Preserving and enhancing the role of the official language.
"163. Official Government activities in English.
"164. Standing.
"165. Definitions.

"§ 161. Declaration of official language of Government

"The official language of the Government of the United States is English.

"§ 162. Preserving and enhancing the role of the official language

"The Government shall have an affirmative obligation to preserve and enhance the role of English as the official language of the United States Government. Such obligation shall include encouraging greater opportunities for individuals to learn the English language.

"§ 163. Official Government activities in English

"(a) CONDUCT OF BUSINESS.—The Government shall conduct its official business in English.

"(b) DENIAL OF SERVICES.—No person shall be denied services, assistance, or facilities, directly or indirectly provided by the Government solely because the person communicates in English.

"(c) ENTITLEMENT.—Every person in the United States is entitled to—

"(1) communicate with the Government in English;

"(2) receive information from or contribute information to the Government in English; and

"(3) be informed of or be subject to official orders in English.

"§ 164. Standing

"Any person alleging injury arising from a violation of this chapter shall have standing to sue in the courts of the United States under sections 2201 and 2202 of title 28, United States Code, and for such other relief as may be considered appropriate by the courts.

"§ 165. Definitions

"For purposes of this chapter:

"(1) GOVERNMENT.—The term 'Government' means all branches of the Government of the United States and all employees and officials of the Government of the United States while performing official businesses.

"(2) OFFICIAL BUSINESS.—the term 'official business' means those governmental actions, documents, or policies which are enforceable with the full weight and authority of the Government, but does not include—

"(A) use of indigenous languages or Native American languages, or the teaching of foreign languages in educational settings;

"(B) actions, documents, or policies that are not enforceable in the United States;

"(C) actions, documents, or policies necessary for international relations, trade, or commerce;

"(D) actions or documents that protect the public health or the environment;

"(E) actions that protect the rights of victims of crimes or criminal defendants;

"(F) documents that utilize terms of art or phrases from languages other than English;

"(G) bilingual education, bilingual ballots, or activities pursuant to the Native American Languages Act (25 U.S.C. 2901 *et seq.*); and

"(H) elected officials, who possess a proficiency in a language other than English, using that language to provide information orally to their constituents.".

(2) CONFORMING AMENDMENT.—The table of chapters for title 4, United States Code, is amended by adding at the end the following new item:

"6. Language of the Government ..... 161".

(d) PREEMPTION.—This section (and the amendments made by this section) shall not preempt any law of any State.

(e) EFFECTIVE DATE.—The amendments made by subsection (c) shall take effect upon the date of enactment of this Act, except that no suit may be commenced to enforce or determine rights under the amendments until January 1, 1997.

FAIRCLOTH AMENDMENT NO. 3733

(Ordered to lie on the table.)

Mr. FAIRCLOTH submitted an amendment intended to be proposed by him to the bill S. 1664, supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . REVIEW OF CONTRACTS WITH ENGLISH AND CIVICS TEST ENTITIES.

(a) IN GENERAL.—The Attorney General of the United States shall investigate and submit a report to the Congress regarding the practices of test entities authorized to administer the English and civics tests pursuant to section 312.3(a) of title 8, Code of Federal Regulations. The report shall include any findings of fraudulent practices by the testing entities.

(b) PRELIMINARY AND FINAL REPORTS.—Not later than 90 days after the date of the enactment of this Act, the Attorney General shall submit to the Congress a preliminary report of the findings of the investigation conducted pursuant to subsection (a) and shall submit to the Congress a final report within 275 days after the submission of the preliminary report.

KENNEDY AMENDMENT NO. 3734

Mr. KENNEDY proposed an amendment to amendment No. 3725 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

At the appropriate place add the following:

SEC. INCREASE IN THE MINIMUM WAGE RATE.

Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $4.25 an hour during the period ending July 4, 1996, not less than $4.70 an hour during the year beginning July 5, 1996, and not less than $5.15 an hour after July 4, 1997;".

KYL AMENDMENT NO. 3735

Mr. KYL proposed an amendment to amendment No. 3725 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

At the end of the amendment add the following: Notwithstanding any other provision in this Act, section 154 shall read as follows:

SEC. 154. PHYSICAL AND MENTAL EXAMINATIONS.

Section 234 (8 U.S.C. 1224) is amended to read as follows:

"PHYSICAL AND MENTAL EXAMINATIONS

"SEC. 234. (a) ALIENS COVERED.—Each alien within any of the following classes of aliens who is seeking entry into the United States shall undergo a physical and mental examination in accordance with this section:

"(1) Aliens applying for visas for admission to the United States for permanent residence.

"(2) Aliens seeking admission to the United States for permanent residence for whom examinations were not made under paragraph (1).

"(3) Aliens within the United States seeking adjustment of status under section 245 to that of aliens lawfully admitted to the United States for permanent residence.

"(4) Alien crewmen entering or in transit across the United States.

"(b) DESCRIPTION OF EXAMINATION.—(1) Each examination required by subsection (a) shall include—

"(A) an examination of the alien for any physical or mental defect or disease and a certification of medical findings made in accordance with subsection (d); and

"(B) an assessment of the vaccination record of the alien in accordance with subsection (e).

"(2) The Secretary of Health and Human Services shall prescribe such regulations as may be necessary to carry out the medical examinations required by subsection (a).

"(c) MEDICAL EXAMINERS.—

"(1) MEDICAL OFFICERS.—(A) Except as provided in paragraphs (2) and (3), examinations under this section shall be conducted by medical officers of the United States Public Health Services.

"(B) Medical officers of the United States Public Health Service who have had specialized training in the diagnosis of insanity and mental defects shall be detailed for duty or employed at such ports of entry as the Secretary may designate, in consultation with the Attorney General.

"(2) CIVIL SURGEONS.—(A) Whenever medical officers of the United States Public Health Service are not available to perform examinations under this section, the Attorney General, in consultation with the Secretary, shall designate civil surgeons to perform the examinations.

"(B) Each civil surgeon designated under subparagraph (A) shall—

"(i) have at least 4 years of professional experience unless the Secretary determines that special or extenuating circumstances justify the designation of an individual having a lesser amount of professional experience; and

"(ii) satisfy such other eligibility requirements as the Secretary may prescribe.

"(3) PANEL PHYSICIANS.—In the case of examinations under this section abroad, the medical examiner shall be a panel physician designated by the Secretary of State, in consultation with the Secretary.

"(d) CERTIFICATION OF MEDICAL FINDINGS.—The medical examiners shall certify for the information of immigration officers and special inquiry officers, or consular officers, as the case may be, any physical or mental defect or disease observed by such examiners in any such alien.

"(e) VACCINATION ASSESSMENT.—(1) The assessment referred to in subsection (b)(1)(B) is an assessment of the alien's record of required vaccines for preventable diseases, including mumps, measles, rubella, polio, tetanus, diphtheria toxoids, pertussis, hemophilus-influenza type B, hepatitis type B, as well as any other diseases specified as vaccine-preventable by the Advisory Committee on Immunization Practices.

"(2) Medical examiners shall educate aliens on the importance of immunizations and shall create an immunization record for the alien at the time of examination.

"(3)(A) Each alien who has not been vaccinated against measles, and each alien under the age of 5 years who has not been vaccinated against polio, must receive such vaccination, unless waived by the Secretary, and must receive any other vaccination determined necessary by the Secretary prior to arrival in the United States.

"(B) Aliens who have not received the entire series of vaccinations prescribed in paragraph (1) (other than measles) shall return to a designated civil surgeon within 30 days of arrival in the United States, or within 30 days of adjustment of status, for the remainder of the vaccinations.

"(f) APPEAL OF MEDICAL EXAMINATION FINDINGS.—Any alien determined to have a health-related grounds of exclusion under paragraph (1) of section 212(a) may appeal that determination to a board of medical officers of the Public Health Service, which shall be convened by the Secretary. The alien may introduce at least one expert medical witness before the board at his or her own cost and expense.

"(g) FUNDING.—(1)(A) The Attorney General shall impose a fee upon any person applying for adjustment of status to that of an alien lawfully admitted to permanent residence under section 209, 210, 245,or 245A, and the Secretary of State shall impose a fee upon any person applying for a visa at a United States consulate abroad who is required to have a medical examination in accordance with subsection (a).

"(B) The amounts of the fees required by subparagraph (A) shall be established by the Secretary, in consultation with the Attorney General and the Secretary of State, as the case may be, and shall be set at such amounts as may be necessary to recover the full costs of establishing and administering the civil surgeon and panel physician programs, including the costs to the Service, the Department of State, and the Department of Health and Human Services for any additional expenditures associated with the administration of the fees collected.

"(2)(A) The fees imposed under paragraph (1) may be collected as separate fees or as surcharges to any other fees that may be collected in connection with an application for adjustment of status under section 209, 210, 245, or 245A, for a visa, or for a waiver of excludability under paragraph (1) or (2) of section 212(g), as the case may be.

"(B) The provisions of the Act of August 18, 1856 (Revised Statutes 1726-28, 22 U.S.C. 4212-14), concerning accounting for consular fees, shall not apply to fees collected by the Secretary of State under this section.

"(3)(A) There is established on the books of the Treasury of the United States a separate account which shall be known as the 'Medical Examinations Fee Account'.

"(B) There shall be deposited as offsetting receipts into the Medical Examinations Fee Account all fees collected under paragraph (1), to remain available until expended.

"(C) Amounts in the Medical Examinations Fee Account shall be available only to reimburse any appropriation currently available for the programs established by this section.

"(h) DEFINITIONS.—As used in this section—

"(1) the term 'medical examiner' refers to a medical officer, civil surgeon, or panel physician, as described in subsection (c); and

"(2) the term 'Secretary' means the Secretary of Health and Human Services.".

BROWN AMENDMENT NO. 3736

(Ordered to lie on the table.)

Mr. BROWN submitted an amendment intended to proposed by him to the bill S. 1664, supra; as follows:

At the appropriate place in title II of the bill, insert the following new section:

SEC. . Pilot programs to permit bonding.

(a) IN GENERAL.—The Attorney General of the United States shall establish a pilot program in 5 States (at least 2 of which are in States selected for a demonstration project under section 112 of this Act) to permit aliens to post a bond in lieu of the affidavit requirements in section 203 of the Immigration Control and Financial Responsibility Act of 1996 and the deeming requirements in section 204 of such Act. Any pilot program established pursuant to this subsection shall require an alien to post a bond in an amount sufficient to cover the cost of benefits for the alien and the alien's family under the programs described in section 241(a)(5)(D) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(5(D)) and shall remain in effect until the alien and all members of the alien's family permanently depart from the United States, are naturalized, or die.

(b) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall issue regulations for establishing the pilot programs, including

(1) criteria and procedures for—

(A) certifying bonding companies for participation in the program, and

(B) debarment of any such company that fails to pay a bond, and

(2) criteria for setting the amount of the bond to assure that the bond is in an amount that is not less than the cost of providing benefits under the programs described in section 241(a)(5)(D) for the alien and the alien's family for 6 months.

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

DOLE (AND COVERDELL) AMENDMENT NO. 3737

Mr. COVERDELL (for Mr. DOLE, for himself and Mr. COVERDELL) proposed an amendment to amendment No. 3725 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

At the end of the amendment, insert the following:

SEC. —. EXCLUSION GROUNDS FOR OFFENSES OF DOMESTIC VIOLENCE, STALKING, CRIMES AGAINST CHILDREN, AND CRIMES OF SEXUAL VIOLENCE.

(a) IN GENERAL.—Section 241(a)(2) (8 U.S.C. 1251(a)(2)) is amended by adding at the end the following:

"(E) DOMESTIC VIOLENCE, VIOLATION OF PROTECTION ORDER, CRIMES AGAINST CHILDREN AND STALKING.—(i) Any alien who at any time after entry is convicted of a crime of domestic violence is deportable.

"(ii) Any alien who at any time after entry engages in conduct that violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued is deportable.

"(iii) Any alien who at any time after entry is convicted of a crime of stalking is deportable.

"(iv) Any alien who at any time after entry is convicted of a crime of child abuse, child sexual abuse, child neglect, or child abandonment is deportable.

"(F) CRIMES OF SEXUAL VIOLENCE.—Any alien who at any time after entry is convicted of a crime of rape, aggravated sodomy, aggravated sexual abuse, sexual abuse, abusive sexual contact, or other crime of sexual violence is deportable.".

(b) DEFINITIONS—Section 101(a) (8) U.S.C. 1101(a)) is amended by adding at the end the following new paragraphs:

"(47) The term 'crime of domestic violence' means any felony or misdemeanor crime of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction where the offense occurs, or by any other adult person against a victim who is protected from that person's acts under the domestic or family violence laws of the United States or any State, Indian tribal government, or unit of local government.

"(48) The term 'protection order' means any injunction issued for the purpose of preventing violent or threatening acts of domestic violence, including temporary or final orders issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding.".

(c) This section will become effective one day after the date of enactment of the Act

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AMENDMENTS SUBMITTED

THE IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

ABRAHAM (AND DEWINE) AMENDMENT NO. 3738

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by them to the bill (S. 1664) to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes; as follows:

At the appropriate place insert the following four new sections:

SEC. . ELIMINATION OF REPETITIVE REVIEW OF DEPORTATION ORDERS ENTERED AGAINST CRIMINAL ALIENS.

Section 242b (8 U.S.C. 125b) is amended by—

(a) redesignating subsection (f) as subsection (g); and

(b) adding the following new subsection (f) to read as follows—

"(f) CRIMINAL ALIENS.—No alien convicted of any criminal offense covered in Section 1251(a)(2)(A)(i) or (iii) or (B)–(D), shall be granted more than one administrative hearing and one appeal to the Board of Immigration Appeals concerning or relating to such alien's deportation. Any claims for relief from deportation for which the criminal alien may be eligible must be raised at that time. Under no circumstances may such a criminal alien request or be granted a reopening of the order of deportation or any other form of relief under the law, including but not limited to claims of ineffective assistance of counsel, after the earlier of:

"(i) a determination by the Board of Immigration Appeals affirming such order; or

"(ii) the expiration of the period in which the alien is permitted to seek review of such order by the Board of Immigration Appeals."

SEC. . ELIMINATION OF MOTIONS OF REOPEN ORDERS OF EXCLUSION ENTERED — AGAINST CRIMINAL ALIENS.

Section 236, 8 U.S.C. 1226, is amended by adding the following sentence to the end of subsection (a): "There shall be no judicial review of any order of exclusion, or any issue related to an order of exclusion, entered against an alien found by the Attorney General or the Attorney General's designee to be an alien described in Section 212(a)(2) (8 U.S.C. 1182(a)(2)) or of any administrative ruling related to such an order."

SEC. . EXPANSION OF THE BOARD OF IMMIGRATION APPEALS; NUMBER OF SPECIAL INQUIRY OFFICERS; ATTORNEY SUPPORT STAFF.

(a) IN GENERAL.—Nothwithstanding any other provision of law, effective October 1, 1996, there are authorized to be employed within the Department of Justice a total of—

(1) 24 Board Members of the Board of Immigration Appeals;

(2) 334 special inquiry officers; and

(3) a number of attorneys to support the Board and the special inquiry officers which is twice the number so employed as of the date of enactment of this Act.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice such sums as may be necessary to pay the salaries of the personnel employed under subsection (a) who are additional to such personnel employed as of the end of fiscal year 1996.

SEC. . PROHIBITION UPON THE NATURALIZATION OF CERTAIN CRIMINAL ALIENS.

Section 4 (a) (8 U.S.C. 1424) is amended by—

(a) inserting "or who have been convicted of certain crimes" after "or who favor totalitarian forms of government".

(b) in subsection (a)—

(1) replacing "of this subsection" with "of this subsection; or" in paragraph (6)

(2) adding new paragraph (7) to read as follows—

"(7) who has been convicted of any criminal offense covered in Section 1251(a)(2)(A)(i) or (iii) or (B)–(D)."

SIMPSON (AND SHELBY) AMENDMENT NO. 3739

Mr. SIMPSON (for himself and Mr. SHELBY) proposed an amendment to amendment No. 3725 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

At the end of the amendment add the following:

SEC. . TEMPORARY WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRATION, ALLOCATION OF FAMILY-SPONSORED IMMIGRANT VISAS, AND PER-COUNTRY LIMIT

(a) TEMPORARY WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRATION.—Notwithstanding any other provision of law, the following provisions shall temporarily supersede the specified subsections of section 201 of the Immigration and Nationality Act during the

first fiscal year beginning after the enactment of this Act, and during the four subsequent fiscal years:

(1) Section 201(b) of the Immigration and Nationality Act shall be temporarily superseded by the following provision:

"ALIENS NOT SUBJECT TO DIRECT NUMERICAL LIMITATIONS.—Aliens described in this subsection, who are not subject to the worldwide levels or numerical limitations of subsection (a), are as follows:

"(1) Special immigrants described in subparagraph (A) or (B) of section 101(a)(27).

"(2) Aliens who are admitted under section 207 or whose status is adjusted under section 209.

"(3) Aliens born to an alien lawfully admitted for permanent residence during a temporary visit abroad."

(2) Section 201(c) of the Immigration and Nationality Act shall be temporarily superseded by the following provision:

"WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.—The worldwide level of family-sponsored immigrants under this subsection for a fiscal year is equal to 480,000."

(b) TEMPORARY ALLOCATION OF FAMILY-SPONSORED IMMIGRANT VISAS.—Notwithstanding any other provision of law, the following provision shall temporarily supersede section 203(a) of the Immigration and Nationality Act during the first fiscal year beginning after the enactment of this Act, and during the four subsequent fiscal years:

"PRIORITIES FOR FAMILY-SPONSORED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(c) for family-sponsored immigrants shall be allotted visas as follows:

"(2) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—Qualified immigrants who are the spouses or children of an alien lawfully admitted for permanent residence shall be allocated visas in a number not to exceed the worldwide level of family-sponsored immigrants specified in section 201(c) minus the visas required for the class specified in paragraph (1).

"(3) UNMARRIED SONS AND UNMARRIED DAUGHTERS OF CITIZENS.—Qualified immigrants who are the unmarried sons or daughters (but are not the children) of citizens of the United States shall be allocated visas in a number not to exceed the worldwide level of family-sponsored immigrants specified in section 201(c) minus the visas required for the classes specified in paragraphs (1) and (2).

"(4) MARRIED SONS AND MARRIED DAUGHTERS OF CITIZENS.—Qualified immigrants who are the married sons or married daughters of citizens of the United States shall be allocated visas in a number not to exceed the worldwide level of family-sponsored immigrants specified in section 201(c) minus the visas not required for the classes specified in paragraphs (1) through (3).

"(5) UNMARRIED SONS AND UNMARRIED DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Qualified immigrants who are the unmarried sons or unmarried daughters (but are not the children) of a alien lawfully admitted for permanent residence, shall be allocated visas in a number not to exceed the worldwide level of family-sponsored immigrants specified in section 201(c) minus the visas required for the classes specified in paragraph (1) through (4).

"(6) BROTHERS AND SISTERS OF CITIZENS.—Qualified immigrants who are the brothers or sisters of citizens of the United States, if such citizens are at least 21 years of age, shall be allocated visas in a number not to exceed the worldwide level of family-sponsored immigrants specified in section 201(c) minus the visas not required for the classes specified in paragraphs (1) through (5)."

(c) DEFINITION OF IMMEDIATE RELATIVES.—For purposes of subsection (b)(1), the term "immediate relatives" means the children, spouses, and parents of a citizen of the United States, except that, in the case of parents, such citizens shall be at least 21 years of age. In the case of an alien who was the spouse of a citizen of the United States for at least 2 years at the time of the citizen's death and was not legally separated from the citizen at the time of the citizen's death, the alien (and each child of the alien) shall be considered, for purposes of this subsection, to remain an immediate relative after the date of the citizen's death but only if the spouse files a petition under section 204(a)(1)(A)(ii) within 2 years after such date and only until the date the spouse remarries.

(d) TEMPORARY PER-COUNTRY LIMIT.—Notwithstanding any other provision of law, the following provision shall temporarily supersede paragraphs (2) through (4) of section 202(a) of the Immigration and Nationality Act during the first fiscal year beginning after the enactment of this Act, and during the four subsequent fiscal years:

"PER-COUNTRY LEVELS FOR FAMILY-SPONSORED AND EMPLOYMENT-BASED IMMIGRANTS.—(A) The total number of immigrant visas made available in any fiscal year to natives of any single foreign state or dependent area under section 203(a), except aliens described in section 203(a)(1), and under section 203(b) may not exceed the difference (if any) between—

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

"(ii) the amount specified in subparagraph (B).

"(B) The amount specified in this subparagraph is the amount by which the total of the number of aliens described in section 203(a)(1) admitted in the prior year who are natives of such state or dependent area exceeded 20,000 in the case of any foreign state (or 5,000 in the case of a dependent area) not contiguous to the United States, or 40,000 in the case of any foreign state contiguous to the United States."

(e) TEMPORARY RULE FOR COUNTRIES AT CEILING.—Notwithstanding any other provision of law, the following provision shall temporarily supersede, during the first fiscal year beginning after the enactment of this Act and during the four subsequent fiscal years, the language of section 202(e) of the Immigration and Nationality Act which appears after "in a manner so that":

"visa numbers are made available first under sections 203(a)(2), next under section 203(a)(3), next under section 203(a)(4), next under section 203(a)(5), next under section 203(a)(6), next under section 203(b)(1), next under section 203(b)(2), next under section 203(b)(3), next under section 203(b)(4), and next under section 203(b)(5)."

(f) TEMPORARY TREATMENT OF NEW APPLICATIONS.—Notwithstanding any other provision of law, the Attorney General may not, in any fiscal year beginning within five years of the enactment of this Act, accept any petition claiming that an alien is entitled to classification under paragraph (1), (2), (3), (4), (5), or (6) of Section 203(a), as in effect pursuant to subsection (b) of this Act, if the number of visas provided for the class specified in such paragraph was less than 10,000 in the prior fiscal year.

FEINSTEIN (AND BOXER) AMENDMENT NO. 3740

Mrs. FEINSTEIN (for herself and Mrs. BOXER) proposed an amendment to amendment No. 3725 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

At the appropriate place, insert the following new section:

SEC. —. ABSOLUTE NUMERICAL LIMITATION ON ADMISSION OF FAMILY-SPONSORED IMMIGRANTS; REALLOCATION OF PREFERENCE SYSTEM.

(a) ABSOLUTE NUMERICAL LIMITATION ON FAMILY-SPONSORED IMMIGRATION.—(1) Section 201(c) (8 U.S.C. 1151(c)) is amended to read as follows:

"(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.—The worldwide level of family-sponsored immigrants under this subsection for a fiscal year is 480,000.".

(2) Section 201(a) (8 U.S.C. 1151(a)) is amended by striking "Exclusive of aliens described in subsection (b)," and inserting "Exclusive of aliens described in paragraph (1), paragraph (2)(A)(ii), and paragraph (2)(B) of subsection (b),".

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

"SEC. 203. (a) PREFERENCE ALLOCATION FOR FAMILY-SPONSORED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(c) for family-sponsored immigrants shall be allotted visas as follows:

"(1) SPOUSES AND MINOR CHILDREN OF CITIZENS.—Qualified immigrants who are the spouses or minor children of citizens of the United States shall be allocated visas in a number not to exceed 480,000.

"(2) PARENTS OF CITIZENS.—Qualified immigrants who are the parent of citizens of the United States who are 21 years of age or older shall be allocated visas in a number—

"(A) not to exceed 35,000, if the number of visas not required for the class specified in paragraph (1) is less than 100,000;

"(B) not to exceed 35,000, if the number of visas not required for the class specified in paragraph (1) is 75,000 or more, but less than 150,000; and

"(C) not to exceed 45,000, if the number of visas not required for the class specified in paragraph (1) is 100,000 or more.

"(3) SPOUSES AND MINOR CHILDREN OF PERMANENT RESIDENT ALIENS.—Qualified immigrants who are the spouses and minor children of an alien lawfully admitted for permanent residence shall be allocated visas in a number—

"(A) not to exceed 50,000, if the number of visas not required for the classes specified in paragraphs (1) and (2) is equal to or less than 75,000;

"(C) not to exceed 75,000, if the number of visas not required for the classes specified in paragraphs (1) and (2) is more than 75,000.

"(4) ADULT UNMARRIED SONS AND ADULT UNMARRIED DAUGHTERS OF CITIZENS.—Qualified immigrants who are the adult unmarried sons or adult unmarried daughters of citizens of the United States shall be allocated visas in a number—

"(A) not to exceed 15,000, if the number of visas not required for the classes specified in paragraphs (1) and (2) is equal to or less than 25,000;

"(C) not to exceed 25,000, if the number of visas not required for the classes specified in paragraphs (1) and (2) is more than 25,000.

"(5) ADULT MARRIED SONS AND ADULT MARRIED DAUGHTERS OF CITIZENS.—Qualified immigrants who are the adult married sons or adult married daughters of citizens of the United States shall be allocated visas in a number—

"(A) not to exceed 10,000, if the number of visas not required for the classes specified in paragraphs (1) and (2) is equal to or less than 10,000;

"(C) not to exceed 25,000, if the number of visas not required for the classes specified in paragraphs (1) and (2) is more than 10,000.

"(6) BROTHERS AND SISTERS OF UNITED STATES CITIZENS.—Qualified immigrants who are the brothers and sisters of citizens of the

United States and adult children of permanent residents shall be allocated visas, except that no such visas shall be allocated in fiscal years 1997 through 2001.

"(7) BACKLOGGED SPOUSES AND MINOR CHILDREN OF LAWFUL PERMANENT RESIDENTS.—(A) Qualified immigrants who are the spouses or children of an alien lawfully admitted for permanent residence, and who had a petition approved for classification under section 203(a)(2)(A) of the Immigration and Nationality Act (as in effect immediately prior to the date of enactment of this Act), and who remain qualified for classification under that section as if such section remained in effect, shall be allotted visas in a number which is 75 percent of the number of visas not required for the classes specified in paragraphs (1) through (6).

"(B) The additional visa numbers provided under this paragraph shall not be subject to the numerical limitations of section 202(a) of the Immigration and Nationality Act.

"(8) BACKLOGGED BROTHERS AND SISTERS OF CITIZENS.—(A) Qualified immigrants who are the brothers and sisters of citizens of the United States, and who had a petition approved for classification under section 203(a)(2)(A) of the Immigration and Nationality Act (as in effect immediately prior to the date of enactment of this Act), and who remain qualified for classification under that section as if such section remained in effect, shall be allotted visas in a number which is 25 percent of the number of visas not required for the classes specified in paragraphs (1) through (6).

"(B) The additional visa numbers provided under this paragraph shall not be subject to the numerical limitations of section 202(a) of the Immigration and Nationality Act.".

(c) PER COUNTRY LIMITATION.—Section 202(a)(2) (8 U.S.C. 1152(a)(2)) is amended to read as follows:

"(2) PER COUNTRY LEVELS FOR FAMILY-SPONSORED AND EMPLOYMENT-BASED IMMIGRANTS.—Subject to paragraphs (3) and (4), the number of immigrant visas made available to natives of any single foreign state or dependent area in any fiscal year—

"(A) under subsection (a) of section 203 may not exceed 7 percent (in the case of a single foreign state) or 2 percent (in the case of a dependent area) of the number of visas made available under that subsection in that fiscal year; and

"(B) under subsection (b) of section 203 may not exceed 7 percent (in the case of a single foreign state) or 2 percent (in the case of a dependent area) of the number of visas made available under that subsection in that fiscal year.".

(d) TRANSITION.—

(1) IN GENERAL.—Any petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1996 for preference status under section 203(a)(1), section 203(a)(2)(A), section 203(a)(3) (insofar as the alien is an adult), or section 203(a)(4) of such Act (as in effect before such date) for qualified immigrants shall be deemed, as of such date, to be a petition filed under such section for preference status under section 203(a)(4), section 203(a)(3), section 203(a)(5), or section 203(a)(6), respectively, of such Act (as amended by this Act).

"2. 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.

(e) REFERENCES.—References in the Immigration and Nationality Act before the effective date of this section to sections 203(a)(1), 203(a)(2)(A), 203(a)(3) (insofar as it relates to adult aliens), and 203(a)(4) shall be deemed on or after such date to be references to sections 203(a)(4), 203(a)(3), 203(a)(5), and 203(a)(6), respectively.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1996.

WYDEN (AND OTHERS) AMENDMENT NO. 3741

(Ordered to lie on the table.)

Mr. WYDEN (for himself, Mr. LEAHY, Mr. KYL, Mr. CRAIG, Mrs. FEINSTEIN, Mr. LOTT, Mr. COCHRAN, and Mr. LUGAR) submitted an amendment intended to be proposed by them to the bill S. 1664, supra; as follows:

At the appropriate place in S. 1664, the Immigration Control and Financial Responsibility Act of 1996, insert the following:

SEC. . REVIEW AND REPORT ON H-2A NONIMMIGRANT WORKERS PROGRAM.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that passage of legislation to reform the nation's immigration laws may impact on the future availability of an adequate work force for the producers of our nation's labor intensive agricultural commodities and livestock. Therefore, the United States Comptroller General shall review the existing H-2A nonimmigrant worker program to ensure that the program provides a workable safety valve in the event of future shortages of domestic workers after passage of immigration reform legislation. The United States Comptroller General shall report the findings of this review to the Congress.

(b) REVIEW.—The United States Comptroller General shall review the effectiveness of the program for the admission of nonimmigrant aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act to ensure that the program provides a workable safety valve in the event of future shortages of domestic workers after the enactment of this Act. Among other things, the United States Comptroller General shall review the program to determine—

(1) that it ensures that an adequate supply of qualified United States workers is available at the time and place needed for employers seeking such workers after the enactment of this Act; and

(2) that there is timely approval of the applications for temporary foreign workers under section 101(a)(15)(H)(ii)(a) of such Act in the event of shortages of United States workers after the enactment of this Act; and

(3) that implementation of the program is not displacing United States agricultural workers; and

(4) if and to what extent implementation of the program is contributing to the problem of illegal immigration.

(c) REPORT.—On or before December 31, 1996, or three months after the date of enactment of this Act, whichever is sooner, the United States Comptroller General shall submit a report to Congress setting forth the findings of the review conducted under subsection (b).

KYL AMENDMENT NO. 3742

(Ordered to lie on the table.)

Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1664, supra; as follows:

At the end of the amendment, insert the following:

SEC. . LIMITATION ON ADJUSTMENT OF STATUS OF INDIVIDUALS NOT LAWFULLY PRESENT IN THE UNITED STATES.

(a) IN GENERAL.—Section 245(i) (8 U.S.C. 1255), as added by section 506(b) of the Department of State and Related Agencies Appropriations Act, 1995 (Public Law 103-317, 108 Stat. 1765), is amended in paragraph (1), by inserting "pursuant to section 301 of the Immigration Act of 1990 is not required to depart from the United States and who" after "who" the first place it appears.

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a)(1) shall apply to applications for adjustment of status filed after September 30, 1996.

SIMPSON AMENDMENT NO. 3743

Mr. DOLE (for Mr. SIMPSON) proposed an amendment to the bill S. 1664, supra; as follows:

Strike all after the word "SECTION" and insert the following:

1. SHORT TITLE; REFERENCES IN ACT.

(a) SHORT TITLE.—This Act may be cited as the "Immigration Control and Financial Responsibility Act of 1996".

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

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Subtitle A—Law Enforcement

PART 1—ADDITIONAL ENFORCEMENT PERSONNEL AND FACILITIES

SEC. 101. BORDER PATROL AGENTS.

(a) BORDER PATROL AGENTS.—The Attorney General, in fiscal year 1996 shall increase by no less than 700, and in each of fiscal years 1997, 1998, 1999, and 2000, shall increase by no less than 1,000, the number of positions for full-time, active-duty Border Patrol agents within the Immigration and Naturalization Service above the number of such positions for which funds were allotted for the preceding fiscal year.

(b) BORDER PATROL SUPPORT PERSONNEL.—The Attorney General, in each of fiscal years 1996, 1997, 1998, 1999, and 2000, may increase by not more than 300 the number of positions for personnel in support of Border Patrol agents above the number of such positions for which funds were allotted for the preceding fiscal year.

SEC. 102. INVESTIGATORS.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Department of Justice such funds as may be necessary to enable the Commissioner of the Immigration and Naturalization Service to increase the number of investigators and support personnel to investigate potential violations of sections 274 and 274A of the Immigration and Nationality Act (8 U.S.C. 1324 and 1324a) by a number equivalent to 300 full-time active-duty investigators in each of fiscal years 1996, 1997, and 1998.

(b) LIMITATION ON OVERTIME.—None of the funds made available to the Immigration and Naturalization Service under this section

shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000 for any fiscal year.

SEC. 103. LAND BORDER INSPECTORS.

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 the Secretary of the Treasury shall increase, by approximately equal numbers in each of 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 currently in use, under construction, or whose construction has been authorized by Congress, except such low-use lanes as the Attorney General may designate.

SEC. 104. INVESTIGATORS OF VISA OVERSTAYERS.

There are authorized to be appropriated to the Department of Justice such funds as may be necessary to enable the Commissioner of the Immigration and Naturalization Service to increase the number of investigators and support personnel to investigate visa overstayers by a number equivalent to 300 full-time active-duty investigators in fiscal year 1996.

SEC. 105. INCREASED PERSONNEL LEVELS FOR THE LABOR DEPARTMENT.

(a) INVESTIGATORS.—The Secretary of Labor, in consultation with the Attorney General, is authorized to hire in the Wage and Hour Division of the Department of Labor for fiscal years 1996 and 1997 not more than 350 investigators and staff to enforce existing legal sanctions against employers who violate current Federal wage and hour laws.

(b) ASSIGNMENT OF ADDITIONAL PERSONNEL.—Individuals employed to fill the additional positions described in subsection (a) shall be assigned to investigate violations of wage and hour laws in areas where the Attorney General has notified the Secretary of Labor that there are high concentrations of aliens present in the United States in violation of law.

(c) PREFERENCE FOR BILINGUAL WAGE AND HOUR INSPECTORS.—In hiring new wage and our inspectors pursuant to this section, the Secretary of Labor shall give priority to the employment of multilingual candidates who are proficient in both English and such other language or languages as may be spoken in the region in which such inspectors are likely to be deployed.

SEC. 106. 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 before the end of fiscal year 1997.

SEC. 107. HIRING AND TRAINING STANDARDS.

(a) REVIEW OF HIRING STANDARDS.—Within 60 days of the enactment of this title, the Attorney General shall review all prescreening and hiring standards to be utilized by the Immigration and Naturalization Service to increase personnel pursuant to this title and, where necessary, revise those standards to ensure that they are consistent with relevant standards of professionalism.

(b) CERTIFICATION.—At the conclusion of each of the fiscal years 1996, 1997, 1998, 1999, and 2000, the Attorney General shall certify in writing to the Congress that all personnel hired pursuant to this title for the previous fiscal year were hired pursuant to the appropriate standards.

(c) REVIEW OF TRAINING STANDARDS.—(1) Within 180 days of the date of the enactment of this Act, the Attorney General shall review the sufficiency of all training standards to be utilized by the Immigration and Naturalization Service in training all personnel hired pursuant to this title.

(2)(A) The Attorney General shall submit a report to the Congress on the results of the review conducted under paragraph (1), including—

(i) a description of the status of ongoing efforts to update and improve training throughout the Immigration and Naturalization Service, and

(ii) a statement of a timeframe for the completion of those efforts.

(B) In addition, the report shall disclose those areas of training that the Attorney General determines require additional or ongoing review in the future.

SEC. 108. CONSTRUCTION OF FENCING AND ROAD IMPROVEMENTS IN THE BORDER AREA NEAR SAN DIEGO, CALIFORNIA.

(a) IN GENERAL.—The Attorney General shall provide for the construction along the 14 miles of the international land border between the United States and Mexico, 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.

(b) 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).

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

PART 2—VERIFICATION OF ELIGIBILITY TO WORK AND TO RECEIVE PUBLIC ASSISTANCE

Subpart A—Development of New Verification System

SEC. 111. ESTABLISHMENT OF NEW SYSTEM.

(a) IN GENERAL.—(1) Not later than three years after the date of enactment of this Act or, within one year after the end of the last renewed or additional demonstration project (if any) conducted pursuant to the exception in section 112(a)(4), whichever is later, the President shall—

(A) develop and recommend to the Congress a plan for the establishment of a data system or alternative system (in this part referred to as the "system"), subject to subsections (b) and (c), to verify eligibility for employment in the United States, and immigration status in the United States for purposes of eligibility for benefits under public assistance programs (as defined in section 201(f)(3) or government benefits described in section 201(f)(4));

(B) submit to the Congress a report setting forth—

(i) a description of such recommended plan;

(ii) data on and analyses of the alternatives considered in developing the plan described in subparagraph (A), including analyses of data from the demonstration projects conducted pursuant to section 112; and

(iii) data on and analysis of the system described in subparagraph (A), including estimates of—

(I) the proposed use of the system, on an industry-sector by industry-sector basis;

(II) the public assistance programs and government benefits for which use of the system is cost-effective and otherwise appropriate;

(III) the cost of the system;

(IV) the financial and administrative cost to employers;

(V) the reduction of undocumented workers in the United States labor force resulting from the system;

(VI) any unlawful discrimination caused by or facilitated by use of the system;

(VII) any privacy intrusions caused by misuse or abuse of system;

(VIII) the accuracy rate of the system; and

(IX) the overall costs and benefits that would result from implementation of the system.

(2) The plan described in paragraph (1) shall take effect on the date of enactment of a bill or joint resolution approving the plan.

(b) OBJECTIVES.—The plan described in subsection (a)(1) shall have the following objectives:

(1) To substantially reduce illegal immigration and unauthorized employment of aliens.

(2) To increase employer compliance, especially in industry sectors known to employ undocumented workers, with laws governing employment of aliens.

(3) To protect individuals from national origin or citizenship-based unlawful discrimination and from loss of privacy caused by use, misuse, or abuse of personal information.

(4) To minimize the burden on business of verification of eligibility for employment in the United States, including the cost of the system to employers.

(5) To ensure that those who are ineligible for public assistance or other government benefits are denied or terminated, and that those eligible for public assistance or other government benefits shall—

(A) be provided a reasonable opportunity to submit evidence indicating a satisfactory immigration status; and

(B) not have eligibility for public assistance or other government benefits denied, reduced, terminated, or unreasonably delayed on the basis of the individual's immigration status until such a reasonable opportunity has been provided.

(c) SYSTEM REQUIREMENTS.—(1) A verification system may not be implemented under this section unless the system meets the following requirements:

(A) The system must be capable of reliably determining with respect to an individual whether—

(i) the person with the identity claimed by the individual is authorized to work in the United States or has the immigration status being claimed; and

(ii) the individual is claiming the identity of another person.

(B) Any document (other than a document used under section 274A of the Immigration and Nationality Act) required by the system must be presented to or examined by either an employer or an administrator of public assistance or other government benefits, as the case may be, and—

(i) must be in a form that is resistant to counterfeiting and to tampering; and

(ii) must not be required by any Government entity or agency as a national identification card or to be carried or presented except—

(I) to verify eligibility for employment in the United States or immigration status in the United States for purposes of eligibility for benefits under public assistance programs (as defined in section 201(f)(3) or government benefits described in section 201(f)(4));

(II) to enforce the Immigration and Nationality Act or sections 911, 1001, 1028, 1542, 1546, or 1621 of title 18, United States Code; or

(III) if the document was designed for another purposes (such as a license to drive a

motor vehicle, a certificate of birth, or a social security account number card issued by the Administration), as required under law for such other purpose.

(C) The system must not be used for law enforcement purposes other than the purposes described in subparagraph (B).

(D) The system must ensure that information is complete, accurate, verifiable, and timely. Corrections or additions to the system records of an individual provided by the individual, the Administration, or the Service, or other relevant Federal agency, must be checked for accuracy, processed, and entered into the system within 10 business days after the agency's acquisition of the correction or additional information.

(E)(i) Any personal information obtained in connection with a demonstration project under section 112 must not be made available to Government agencies, employers, or other persons except to the extent necessary—

(I) to verify, by an individual who is authorized to conduct the employment verification process, that an employee is not an unauthorized alien (as defined in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3));

(II) to take other action required to carry out section 112;

(III) to enforce the Immigration and Nationality Act or section 911, 1001, 1028, 1542, 1546, or 1621 of title 18, United States Code; or

(IV) to verify the individual's immigration status for purposes of determining eligibility for Federal benefits under public assistance programs (defined in section 201(f)(3) or government benefits described in section 201(f)(4)).

(ii) In order to ensure the integrity, confidentiality, and security of system information, the system and those who use the system must maintain appropriate administrative, technical, and physical safeguards, such as—

(I) safeguards to prevent unauthorized disclosure of personal information, including passwords, cryptography, and other technologies;

(II) audit trails to monitor system use; or

(III) procedures giving an individual the right to request records containing personal information about the individual held by agencies and used in the system, for the purpose of examination, copying, correction, or amendment, and a method that ensures notice to individuals of these procedures.

(F) A verification that a person is eligible for employment in the United States may not be withheld or revoked under the system for any reasons other than a determination pursuant to section 274A of the Immigration and Nationality Act.

(G) The system must be capable of accurately verifying electronically within 5 business days, whether a person has the required immigration status in the United States and is legally authorized for employment in the United States in a substantial percentage of cases (with the objective of not less than 99 percent).

(H) There must be reasonable safeguards against the system's resulting in unlawful discriminatory practices based on national origin or citizenship status, including—

(i) the selective or unauthorized use of the system to verify eligibility;

(ii) the use of the system prior to an offer of employment;

(iii) the exclusion of certain individuals from consideration for employment as a result of a perceived likelihood that additional verification will be required, beyond what is required for most job applicants; or

(iv) denial reduction, termination, or unreasonable delay of public assistance to an individual as a result of the perceived likelihood that such additional verification will be required.

(2) As used in this subsection, the term "business day" means any day other than Saturday, Sunday, or any day on which the appropriate Federal agency is closed.

(d) REMEDIES AND PENALTIES FOR UNLAWFUL DISCLOSURE.—

(1) CIVIL REMEDIES.—

(A) RIGHT OF INFORMATIONAL PRIVACY.—The Congress declares that any person who provides to an employer the information required by this section or section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) has a privacy expectation that the information will only be used for compliance with this Act or other applicable Federal, State, or local law.

(B) CIVIL ACTIONS.—A employer, or other person or entity, who knowingly and willfully discloses the information that an employee is required to provide by this section or section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) for any purpose not authorized by this Act or other applicable Federal, State, or local law shall be liable to the employee for actual damages. An action may be brought in any Federal, State, or local court having jurisdiction over the matter.

(2) CRIMINAL PENALTIES.—Any employer, or other person or entity, who willfully and knowingly obtains, uses, or discloses information required pursuant to this section or section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) for any purpose not authorized by this Act or other applicable Federal, State, or local law shall be found guilty of a misdemeanor and fined not more than $5,000.

(3) PRIVACY ACT.—

(A) IN GENERAL.—Any person who is a United States citizen, United States national, lawful permanent resident, or other employment-authorized alien, and who is subject to verification of work authorization or lawful presence in the United States for purposes of benefits eligibility under this section or section 112, shall be considered an individual under section 552(a)(2) of title 5, United States Code, with respect to records covered by this section.

(B) DEFINITION.—For purposes of this paragraph, the term "record" means an item, collection, or grouping of information about an individual which—

(i) is created, maintained, or used by a Federal agency for the purpose of determining—

(I) the individual's authorization to work; or

(II) immigration status in the United States for purposes of eligibility to receive Federal, State or local benefits in the United States; and

(ii) contains the individuals's name or identifying number, symbol, or any other identifier assigned to the individual.

(e) EMPLOYER SAFEGUARDS.—An employer shall not be liable for any penalty under section 274A of the Immigration and Nationality Act for employing an unauthorized alien, if—

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

(2) the employer followed all procedures required in the system; and

(3)(A) the alien was verified under the system as eligible for the employment; or

(B) the employer discharged the alien within a reasonable period after receiving notice that the final verification procedure had failed to verify that the alien was eligible for the employment.

(f) RESTRICTION ON USE OF DOCUMENTS.—If the Attorney General determines that any document described in section 274A(b)(1) of the Immigration and Nationality Act as establishing employment authorization or identity does not reliably establish such authorization or identity or, to an unacceptable degree, is being used fraudulently or is being requested for purposes not authorized by this Act, the Attorney General may, by regulation, prohibit or place conditions on the use of the document for purposes of the system or the verification system established in section 274A(b) of the Immigration and Nationality Act.

(g) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION PROVIDED BY THE VERIFICATION SYSTEM.—No person shall be civilly or criminally liable under section 274A of the Immigration and Nationality Act for any action adverse to an individual if such action was taken in good faith reliance on information relating to such individual provided through the system (including any demonstration project conducted under section 112).

(h) STATUTORY CONSTRUCTION.—The provisions of this section supersede the provisions of section 274A of the Immigration and Nationality Act to the extent of any inconsistency therewith.

SEC. 112. DEMONSTRATION PROJECTS.

(a) AUTHORITY.—

(1) IN GENERAL.—(A)(i) Subject to clause (ii), the President, acting through the Attorney General, shall begin conducting several local and regional projects, and a project in the legislative branch of the Federal Government, to demonstrate the feasibility of alternative systems for verifying eligibility for employment in the United States, and immigration status in the United States for purposes of eligibility for benefits under public assistance programs (as defined in section 201(f)(3) and government benefits described in section 201(f)(4)).

(ii) Each project under this section shall be consistent with the objectives of section 111(b) and this section and shall be conducted in accordance with an agreement entered into with the State, locality, employer, other entity, or the legislative branch of the Federal Government, as the case may be.

(iii) In determining which State(s), localities, employers, or other entities shall be designated for such projects, the Attorney General shall take into account the estimated number of excludable aliens and deportable aliens in each State or locality.

(B) For purposes of this paragraph, the term "legislative branch of the Federal Government" includes all offices described in section 101(9) of the Congressional Accountability Act of 1995 (2 U.S.C. 1301(9)) and all agencies of the legislative branch of Government.

(2) DESCRIPTION OF PROJECTS.—Demonstration projects conducted under this subsection may include, but are not limited to—

(A) a system which allows employers to verify the eligibility for employment of new employees using Administration records and, if necessary, to conduct a cross-check using Service records;

(B) a simulated linkage of the electronic records of the Service and the Administration to test the technical feasibility of establishing a linkage between the actual electronic records of the Service and the Administration;

(C) improvements and additions to the electronic records of the Service and the Administration for the purpose of using such records for verification of employment eligibility;

(D) a system which allows employers to verify the continued eligibility for employment of employees with temporary work authorization;

(E) a system that requires employers to verify the validity of employee social security account numbers through a telephone call, and to verify employee identity through a United States passport, a State driver's license or identification document, or a document issued by the Service for purposes of this clause;

(F) a system which is based on State-issued driver's licenses and identification cards that include a machine readable social security account number and are resistant to tampering and counterfeiting; and

(G) a system that requires employers to verify with the Service the immigration status of every employee except one who has attested that he or she is a United States citizen or national.

(3) COMMENCEMENT DATE.—The first demonstration project under this section shall commence not later than six months after the date of the enactment of this Act.

(4) TERMINATION DATE.—The authority of paragraph (1) shall cease to be effective four years after the date of enactment of this Act, except that, if the President determines that any one or more of the projects conducted pursuant to paragraph (2) should be renewed, or one or more additional projects should be conducted before a plan is recommended under section 111(a)(1)(A), the President may conduct such project or projects for up to an additional three-year period, without regard to section 274A(d)(4)(A) of the Immigration and Nationality Act.

(b) OBJECTIVES.—The objectives of the demonstration projects conducted under this section are—

(1) to assist the Attorney General in measuring the benefits and costs of systems for verifying eligibility for employment in the United States, and immigration status in the United States for purposes of eligibility for benefits under public assistance programs defined in section 201(f)(3) and for government benefits described in section 201(f)(4);

(2) to assist the Service and the Administration in determining the accuracy of Service and Administration data that may be used in such systems; and

(3) to provide the Attorney General with information necessary to make determinations regarding the likely effects of the tested systems on employers, employees, and other individuals, including information on—

(A) losses of employment to individuals as a result of inaccurate information in the system;

(B) unlawful discrimination;

(C) privacy violations;

(D) cost to individual employers, including the cost per employee and the total cost as a percentage of the employers payroll; and

(E) timeliness of initial and final verification determinations.

(c) CONGRESSIONAL CONSULTATION.—(1) Not later than 12 months after the date of the enactment of this Act, and annually thereafter, the Attorney General or the Attorney General's representatives shall consult with the Committees on the Judiciary of the House of Representatives and the Senate regarding the demonstration projects being conducted under this section.

(2) The Attorney General or her representative, in fulfilling the obligations described in paragraph (1), shall submit to the Congress the estimated cost to employers of each demonstration project, including the system's indirect and administrative costs to employers.

(d) IMPLEMENTATION.—In carrying out the projects described in subsection (a), the Attorney General shall—

(1) support and, to the extent possible, facilitate the efforts of Federal and State government agencies in developing—

(A) tamper- and counterfeit-resistant documents that may be used in a new verification system, including drivers' licenses or similar documents issued by a State for the purpose of identification, the social security account number card issued by the Administration, and certificates of birth in the United States or establishing United States nationality at birth; and

(B) recordkeeping systems that would reduce the fraudulent obtaining of such documents, including a nationwide system to match birth and death records;

(2) require appropriate notice to prospective employees concerning employers' participation in a demonstration project, which notice shall contain information on filing complaints regarding misuse of information or unlawful discrimination by employers participating in the demonstration; and

(3) require employers to establish procedures developed by the Attorney General—

(A) to safeguard all personal information from unauthorized disclosure and to condition release of such information to any person or entity upon the person's or entity's agreement to safeguard such information; and

(B) to provide notice to all new employees and applicants for employment of the right to request an agency to review, correct, or amend the employee's or applicant's record and the steps to follow to make such a request.

(e) REPORT OF ATTORNEY GENERAL.—Not later than 60 days before the expiration of the authority for subsection (a)(1), the Attorney General shall submit to the Congress a report containing an evaluation of each of the demonstration projects conducted under this section, including the findings made by the Comptroller General under section 113.

(f) SYSTEM REQUIREMENTS.—

(1) IN GENERAL.—Demonstration projects conducted under this section shall substantially meet the criteria in section 111(c)(1), except that with respect to the criteria in subparagraphs (D) and (G) of section 111(c)(1), such projects are required only to be likely to substantially meet the criteria, as determined by the Attorney General.

(2) SUPERSEDING EFFECT.—If the Attorney General determines that any demonstration project conducted under this section substantially meets the criteria in section 111(c)(1), other than the criteria in subparagraphs (D) and (G) of that section, and meets the criteria in such subparagraphs (D) and (G) to a sufficient degree, the requirements for participants in such project shall apply during the remaining period of its operation in lieu of the procedures required under section 274A(b) of the Immigration and Nationality Act. Section 274B of such Act shall remain fully applicable to the participants in the project.

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

(h) STATUTORY CONSTRUCTION.—The provisions of this section supersede the provisions of section 274A of the Immigration and Nationality Act to the extent of any inconsistency therewith.

SEC. 113. COMPTROLLER GENERAL MONITORING AND REPORTS.

(a) IN GENERAL.—The Comptroller General of the United States shall track, monitor, and evaluate the compliance of each demonstration project with the objectives of sections 111 and 112, and shall verify the results of the demonstration projects.

(b) RESPONSIBILITIES.—

(1) COLLECTION OF INFORMATION.—The Comptroller General of the United States shall collect and consider information on each requirement described in section 111(a)(1)(C).

(2) TRACKING AND RECORDING OF PRACTICES.—The Comptroller General shall track and record unlawful discriminatory employment practices, if any, resulting from the use or disclosure of information pursuant to a demonstration project or implementation of the system, using such methods as—

(A) the collection and analysis of data;

(B) the use of hiring audits; and

(C) use of computer audits, including the comparison of such audits with hiring records.

(3) MAINTENANCE OF DATA.—The Comptroller General shall also maintain data on unlawful discriminatory practices occurring among a representative sample of employers who are not participants in any project under this section to serve as a baseline for comparison with similar data obtained from employers who are participants in projects under this section.

(c) REPORTS.—

(1) DEMONSTRATION PROJECTS.—Beginning 12 months after the date of the enactment of this Act, and annually thereafter, the Comptroller General of the United States shall submit a report to the Committees on the Judiciary of the House of Representatives and the Senate setting forth evaluations of—

(A) the extent to which each demonstration project is meeting each of the requirements of section 111(c); and

(B) the Comptroller General's preliminary findings made under this section.

(2) VERIFICATION SYSTEM.—Not later than 60 days after the submission to the Congress of the plan under section 111(a)(2), the Comptroller General of the United States shall submit a report to the Congress setting forth an evaluation of—

(A) the extent to which the proposed system, if any, meets each of the requirements of section 111(c); and

(B) the Comptroller General's findings made under this section.

SEC. 114. GENERAL NONPREEMPTION OF EXISTING RIGHTS AND REMEDIES.

Nothing in this subpart may be construed to deny, impair, or otherwise adversely affect any right or remedy available under Federal, State, or local law to any person on or after the date of the enactment of this Act except to the extent the right or remedy is inconsistent with any provision of this part.

SEC. 115. DEFINITIONS.

For purposes of this subpart—

(1) ADMINISTRATION.— The term "Administration" means the Social Security Administration.

(2) EMPLOYMENT AUTHORIZED ALIEN.—The term "employment authorized alien" means an alien who has been provided with an "employment authorized" endorsement by the Attorney General or other appropriate work permit in accordance with the Immigration and Nationality Act.

(3) SERVICE.—The term "Service" means the Immigration and Naturalization Service.

Subpart B—Strengthening Existing Verification Procedures

SEC. 116. CHANGES IN LIST OF ACCEPTABLE EMPLOYMENT-VERIFICATION DOCUMENTS.

(a) AUTHORITY TO REQUIRE SOCIAL SECURITY ACCOUNT NUMBERS.—Section 274A (8 U.S.C. 1324a) is amended by adding at the end of subsection (b)(2) the following new sentence: "The Attorney General is authorized to require an individual to provide on the form described in paragraph (1)(A) the individual's social security account number for purposes of complying with this section.".

(b) CHANGES IN ACCEPTABLE DOCUMENTATION FOR EMPLOYMENT AUTHORIZATION AND IDENTITY.—

(1) REDUCTION IN NUMBER OF ACCEPTABLE EMPLOYMENT-VERIFICATION DOCUMENTS.—Section 274A(b)(1) (8 U.S.C. 1324a(b)(1)) is amended—

(A) in subparagraph (B)—

(i) by striking clauses (ii), (iii), and (iv);

(ii) by redesignating clause (v) as clause (ii);

(iii) in clause (i), by adding at the end "or";

(iv) in clause (ii) (as redesignated), by amending the text preceding subclause (I) to read as follows:

"(ii) resident alien card, alien registration card, or other document designated by regulation by the Attorney General, if the document—"; and

(v) in clause (ii) (as redesignated)—

(I) by striking "and" at the end of subclause (I);

(II) by striking the period at the end of subclause (II) and inserting ", and"; and

(III) by adding at the end the following new subclause:

"(III) contains appropriate security features."; and

(B) in subparagraph (C)—

(i) by inserting "or" after the "semicolon" at the end of clause (i);

(ii) by striking clause (ii); and

(iii) by redesignating clause (iii) as clause (ii).

(2) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—If the Attorney General finds, by regulation, that any document described in section 274A(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)(1)) as establishing employment authorization or identity does not reliably establish such authorization or identity or is being used fraudulently to an unacceptable degree, the Attorney General may prohibit or place conditions on its use for purposes of the verification system established in section 274A(b) of the Immigration and Nationality Act under section 111 of this Act.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b)(1) shall apply with respect to hiring (or recruiting or referring) occurring on or after such date as the Attorney General shall designate (but not later than 180 days after the date of the enactment of this Act).

SEC. 117. TREATMENT OF CERTAIN DOCUMENTARY PRACTICES AS UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES

Section 274B(a)(6) (8 U.S.C. 1324b(a)(6)) is amended—

(1) by striking "For purposes of paragraph (1), a" and inserting "A"; and

(2) by striking "relating to the hiring of individuals" and inserting the following: "if made for the purpose or with the intent of discriminating against an individual in violation of paragraph (1)".

SEC. 118. IMPROVEMENTS IN IDENTIFICATION-RELATED DOCUMENTS.

(a) BIRTH CERTIFICATES.—

(1) LIMITATION ON ACCEPTANCE.—(A) No Federal agency, including but not limited to the Social Security Administration and the Department of State, and no State agency that issues driver's licenses or identification documents, may accept for any official purpose a copy of a birth certificate, as defined in paragraph (5), unless it is issued by a State or local government registrar and it conforms to standards described in subparagraph (B).

(B) The standards described in this subparagraph are those set forth in regulations promulgated by the Secretary of Health and Human Services, after consultation with the Association for Public Health Statistics and Information Systems (APHSIS), and shall include but not be limited to—

(i) certification by the agency issuing the birth certificate, and

(ii) use of safety paper, the seal of the issuing agency, and other features designed to limit tampering, counterfeiting, and use by impostors.

(2) LIMITATION ON ISSUANCE.—(A) If one or more of the conditions described in subparagraph (B) is present, no State or local government agency may issue an official copy of a birth certificate pertaining to an individual unless the copy prominently notes that such individual is deceased.

(B) The conditions described in this subparagraph include—

(i) the presence on the original birth certificate of a notation that the individual is deceased, or

(ii) actual knowledge by the issuing agency that the individual is deceased obtained through information provided by the Social Security Administration, by an interstate system of birth-death matching, or otherwise.

(3) GRANTS TO STATES.—(A)(i) The Secretary of Health and Human Services shall establish a fund, administered through the National Center for Health Statistics, to provide grants to the States to encourage them to develop the capability to match birth and death records, within each State and among the States, and to note the fact of death on the birth certificates of deceased persons. In developing the capability described in the preceding sentence, States shall focus first on persons who were born after 1950.

(ii) Such grants shall be provided in proportion to population and in an amount needed to provide a substantial incentive for the States to develop such capability.

(B) The Secretary of Health and Human Services shall establish a fund, administered through the National Center for Health Statistics, to provide grants to the States for a project in each of 5 States to demonstrate the feasibility of a system by which each such State's office of vital statistics would be provided, within 24 hours, sufficient information to establish the fact of death of every individual dying in such State.

(C) There are authorized to be appropriated to the Department of Health and Human Services such amounts as may be necessary to provide the grants described in subparagraphs (A) and (B).

(4) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to the Congress on ways to reduce the fraudulent obtaining and the fraudulent use of birth certificates, including any such use to obtain a social security account number or a State or Federal document related to identification or immigration.

(5) CERTIFICATE OF BIRTH.—As used in this section, the term "birth certificate" means a certificate of birth registered in the United States.

(6) EFFECTIVE DATE.—This subsection shall take effect on October 1, 1997.

(b) STATE-ISSUED DRIVERS LICENSES.—

(1) SOCIAL SECURITY ACCOUNT NUMBER.—Each State-issued driver's license and identification document shall contain a social security account number, except that this paragraph shall not apply if the document is issued by a State that requires, pursuant to a statute enacted prior to the date of enactment of this Act, or pursuant to a regulation issued thereunder or an administrative policy, that—

(A) every applicant for such license or document submit the number, and

(B) an agency of such State verify with the Social Security Administration that the number is valid and is not a number assigned for use by persons without authority to work in the United States.

(2) APPLICATION PROCESS.—The application process for a State driver's license or identification document shall include the presentation of such evidence of identity as is required by regulations promulgated by the Secretary of Transportation, after consultation with the American Association of Motor Vehicle Administrators.

(3) FORM OF LICENSE AND IDENTIFICATION DOCUMENT.—Each State driver's license and identification document shall be in a form consistent with requirements set forth in regulations promulgated by the Secretary of Transportation, after consultation with the American Association of Motor Vehicle Administrators. Such form shall contain security features designed to limit tampering, counterfeiting, and use by impostors.

(4) LIMITATION ON ACCEPTANCE OF LICENSE AND IDENTIFICATION DOCUMENT.—Neither the Social Security Administration or the Passport Office or any other Federal agency or any State or local government agency may accept for any evidentiary purpose a State driver's license or identification document in a form other than the form described in paragraph (3).

(5) EFFECTIVE DATE.—This subsection shall take effect on October 1, 1997.

SEC. 119. ENHANCED CIVIL PENALTIES IF LABOR STANDARDS VIOLATIONS ARE PRESENT.

(a) IN GENERAL.—Section 274A(e) (8 U.S.C. 1324a(e)) is amended by adding at the end the following:

"(10)(A) The administrative law judge shall have the authority to require payment of a civil money penalty in an amount up to two times the amount of the penalty prescribed by this subsection in any case in which the employer has been found to have committed a willful violation or repeated violations of any of the following statutes:

"(i) The Fair Labor Standards Act (29 U.S.C. 201 et seq.) pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

"(ii) The Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.) pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

"(iii) The Family and Medical Leave Act (29 U.S.C. 2601 et seq.) pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

"(B) The Secretary of Labor and the Attorney General shall consult regarding the administration of this paragraph.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 120. INCREASED NUMBER OF ASSISTANT UNITED STATES ATTORNEYS TO PROSECUTE CASES OF UNLAWFUL EMPLOYMENT OF ALIENS OR DOCUMENT FRAUD.

The Attorney General is authorized to hire for fiscal years 1996 and 1997 such additional Assistant United States Attorneys as may be necessary for the prosecution of actions brought under sections 274A and 274C of the Immigration and Nationality Act and sections 911, 1001, 1015 through 1018, 1028, 1030, 1541 through 1544, 1546, and 1621 of title 18, United States Code. Each such additional attorney shall be used primarily for such prosecutions.

SEC. 120A. SUBPOENA AUTHORITY FOR CASES OF UNLAWFUL EMPLOYMENT OF ALIENS OR DOCUMENT FRAUD.

(a) IMMIGRATION OFFICER AUTHORITY.—

(1) UNLAWFUL EMPLOYMENT.—Section 274A(e)(2) (8 U.S.C. 1324a(e)(1)) is amended—

(A) by striking "and" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting ", and"; and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) immigration officers designated by the Commissioner may compel by subpoena the attendance of witnesses and the production of evidence at any designated place prior to the filing of a complaint in a case under paragraph (2).".

(2) DOCUMENT FRAUD.—Section 274C(d)(1) (8 U.S.C. 1324c(d)(1)) is amended—

(A) by striking "and" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting ", and"; and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) immigration officers designated by the Commissioner may compel by subpoena the attendance of witnesses and the production of evidence at any designated place prior to the filing of a complaint in a case under paragraph (2).".

(b) SECRETARY OF LABOR SUBPOENA AUTHORITY.—

(1) IN GENERAL.—Chapter 9 of title II of the Immigration and Nationality Act is amended by adding at the end the following new section:

"SECRETARY OF LABOR SUBPOENA AUTHORITY

"SEC. 294. The Secretary of Labor may issue subpoenas requiring the attendance and testimony of witnesses or the production of any records, books, papers, or documents in connection with any investigation or hearing conducted in the enforcement of any immigration program for which the Secretary of Labor has been delegated enforcement authority under the Act. In such hearing, the Secretary of Labor may administer oaths, examine witnesses, and receive evidence. For the purpose of any such hearing or investigation, the authority contained in sections 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49, 50), relating to the attendance of witnesses and the production of books, papers, and documents, shall be available to the Secretary of Labor.".

(2) CONFORMING AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 293 the following new item:

"Sec. 294. Secretary of Labor subpoena authority.".

SEC. 120B. TASK FORCE TO IMPROVE PUBLIC EDUCATION REGARDING UNLAWFUL EMPLOYMENT OF ALIENS AND UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES.

(a) ESTABLISHMENT.—The Attorney General shall establish a task force within the Department of Justice charged with the responsibility of—

(1) providing advice and guidance to employers and employees relating to unlawful employment of aliens under section 274A of the Immigration and Nationality Act and unfair immigration-related employment practices under 274B of such Act; and

(2) assisting employers in complying with those laws.

(b) COMPOSITION.—The members of the task force shall be designated by the Attorney General from among officers or employees of the Immigration and Naturalization Service or other components of the Department of Justice.

(c) ANNUAL REPORT.—The task force shall report annually to the Attorney General on its operations.

SEC. 120C. NATIONWIDE FINGERPRINTING OF APPREHENDED ALIENS.

There are authorized to be appropriated such additional sums as may be necessary to ensure that the program "IDENT", operated by the Immigration and Naturalization Service pursuant to section 130007 of Public Law 103-322, shall be expanded into a nationwide program.

SEC. 120D. APPLICATION OF VERIFICATION PROCEDURES TO STATE AGENCY REFERRALS OF EMPLOYMENT.

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

"(6) STATE AGENCY REFERRALS.—A State employment agency that refers any individual for employment shall comply with the procedures specified in subsection (b). For purposes of the attestation requirement in subsection (b)(1), the agency employee who is primarily involved in the referral of the individual shall make the attestation on behalf of the agency.".

SEC. 120E. RETENTION OF VERIFICATION FORM.

Section 274A(b)(3) (8 U.S.C. 1324a(b)(3)) is amended by inserting after "must retain the form" the following: "(except in any case of disaster, act of God, or other event beyond the control of the person or entity)".

PART 3—ALIEN SMUGGLING; DOCUMENT FRAUD

SEC. 121. WIRETAP AUTHORITY FOR INVESTIGATIONS OF ALIEN SMUGGLING OR DOCUMENT FRAUD.

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

(1) in paragraph (c), by striking "or section 1992 (relating to wrecking trains)" and inserting "section 1992 (relating to wrecking trains), a felony violation of section 1028 (relating to production of false identification documentation), section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), 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 passports), section 1544 (relating to misuse of passports), or section 1546 (relating to fraud and misuse of visas, permits, and other documents)";

(2) by striking "or" at the end of paragraph (*l*);

(3) by redesignating paragraphs (m), (n), and (*o*) as paragraphs (n), (*o*), and (p), respectively; and

(4) by inserting after paragraph (*l*) the following new paragraph:

"(m) a violation of section 274, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324, 1327, or 1328) (relating to the smuggling of aliens);".

SEC. 122. ADDITIONAL COVERAGE IN RICO FOR OFFENSES RELATING TO ALIEN SMUGGLING AND DOCUMENT FRAUD.

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

(1) by striking "or" after "law of the United States,";

(2) by inserting "or" at the end of clause (E); and

(3) by adding at the end the following: "(F) any act, or conspiracy to commit any act, in violation of—

"(i) section 1028 (relating to production of false identification documentation), section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), 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 passports), or section 1544 (relating to misuse of passports) of this title, or, for personal financial gain, section 1546 (relating to fraud and misuse of visas, permits, and other documents) of this title; or

"(ii) section 274, 277, or 278 of the Immigration and Nationality Act.".

SEC. 123. INCREASED CRIMINAL PENALTIES FOR ALIEN SMUGGLING.

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

(1) in paragraph (1)(A)—

(A) by striking "or" at the end of clause (iii);

(B) by striking the comma at the end of clause (iv) and inserting "; or"; and

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

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

"(II) aids or abets the commission of any of the preceding acts,";

(2) in paragraph (1)(B)—

(A) in clause (i), by inserting "or (v)(I)" after "(A)(i)";

(B) in clause (ii), by striking "or (iv)" and inserting "(iv), or (v)(II)";

(C) in clause (iii), by striking "or (iv)" and inserting "(iv), or (v)"; and

(D) in clause (iv), by striking "or (iv)" and inserting "(iv), or (v)";

(3) in paragraph (2)—

(A) in the matter preceding subparagraph (A), 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"; and

(B) in the matter following subparagraph (B)(iii), by striking "be fined" and all that follows through the period and inserting the following: "be fined under title 18, United States Code, and shall be imprisoned for a first or second offense, not more than 10 years, and for a third or subsequent offense, not more than 15 years."; and

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

"(3) Any person who hires for employment an alien—

"(A) knowing that such alien is an unauthorized alien (as defined in section 274A(h)(3)), and

"(B) knowing that such alien has been brought into the United States in violation of this subsection,

shall be fined under title 18, United States Code, and shall be imprisoned for not more than 5 years.".

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

(1) by striking "or" at the end of clause (ii);

(2) by redesignating clause (iii) as clause (iv); and

(3) by inserting after clause (ii) the following new clause:

"(iii) an offense committed with the intent, or with substantial 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; or".

(c) SENTENCING GUIDELINES.—

(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines for offenders convicted of offenses related to smuggling, transporting, harboring, or inducing aliens in violation of section 274(a)(1)(A) or (2)(B) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)(A), (2)(B)) in accordance with this subsection.

(2) REQUIREMENTS.—In carrying out this subsection, the Commission shall, with respect to the offenses described in paragraph (1)—

(A) increase the base offense level for such offenses at least 3 offense levels above the applicable level in effect on the date of the enactment of this Act;

(B) review the sentencing enhancement for the number of aliens involved (U.S.S.G. 2L1.1(b)(2)), and increase the sentencing enhancement by at least 50 percent above the applicable enhancement in effect on the date of the enactment of this Act;

(C) impose an appropriate sentencing enhancement upon an offender with 1 prior felony conviction arising out of a separate and prior prosecution for an offense that involved the same or similar underlying conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category;

(D) impose an additional appropriate sentencing enhancement upon an offender with 2 or more prior felony convictions arising out of separate and prior prosecutions for offenses that involved the same or similar underling conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category;

(E) impose an appropriate sentencing enhancement on a defendant who, in the course of committing an offense described in this subsection—

(i) murders or otherwise causes death, bodily injury, or serious bodily injury to an individual;

(ii) uses or brandishes a firearm or other dangerous weapon; or

(iii) engages in conduct that consciously or recklessly places another in serious danger of death or serious bodily injury;

(F) consider whether a downward adjustment is appropriate if the offense conduct involves fewer than 6 aliens or the defendant committed the offense other than for profit; and

(G) consider whether any other aggravating or mitigating circumstances warrant upward or downward sentencing adjustments.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 124. ADMISSIBILITY OF VIDEOTAPED WITNESS TESTIMONY.

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

"(d) Notwithstanding any provision of the Federal Rules of Evidence, the videotaped (or otherwise audiovisually preserved) deposition of a witness to a violation of subsection (a) who has been deported or otherwise expelled from the United States, or is otherwise unable to testify, may be admitted into evidence in an action brought for that violation if the witness was available for cross examination and the deposition otherwise complies with the Federal Rules of Evidence.".

SEC. 125. EXPANDED FORFEITURE FOR ALIEN SMUGGLING AND DOCUMENT FRAUD.

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

(1) by amending paragraph (1) to read as follows:

"(1) Any property, real or personal, which facilitates or is intended to facilitate, or has been or is being used in or is intended to be used in the commission of, a violation of, or conspiracy to violate, subsection (a) or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of title 18, United States Code, or which constitutes, or is derived from or traceable to, the proceeds obtained directly or indirectly from a commission of a violation of, or conspiracy to violate, subsection (a) or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of title 18, United States Code, shall be subject to seizure and forfeiture, except that—

"(A) no property used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this section unless it shall appear that the owner or other person in charge of such property was a consenting party or privy to the unlawful act;

"(B) no property shall be forfeited under this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such property was unlawfully in the possession of a person other than the owner in violation of, or in conspiracy to violate, the criminal laws of the United States or of any State; and

"(C) no property shall be forfeited under this paragraph to the extent of an interest of any owner, by reason of any act or omission established by such owner to have been committed or omitted without the knowledge or consent of such owner, unless such act or omission was committed by an employee or agent of such owner, and facilitated or was intended to facilitate, the commission of a violation of, or a conspiracy to violate, subsection (a) or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of title 18, United States Code, or was intended to further the business interests of the owner, or to confer any other benefit upon the owner.";

(2) in paragraph (2)—

(A) by striking "conveyance" both places it appears and inserting "property"; and

(B) by striking "is being used in" and inserting "is being used in, is facilitating, has facilitated, or was intended to facilitate";

(3) in paragraph (3)—

(A) by inserting "(A)" immediately after "(3)", and

(B) by adding at the end the following:

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

(4) in paragraphs (4) and (5), by striking "a conveyance" and "conveyance" each place such phrase or word appears and inserting "property"; and

(5) in paragraph (4)—

(A) by striking "or" at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph (D) and inserting "; or"; and

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

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

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 126. CRIMINAL FORFEITURE FOR ALIEN SMUGGLING, UNLAWFUL EMPLOYMENT OF ALIENS, OR DOCUMENT FRAUD.

Section 274 (8 U.S.C. 1324(b)) is amended by redesignating subsections (c) and (d) as subsections (d) and (e) and inserting after subsection (b) the following:

"(c) CRIMINAL FORFEITURE.—(1) Any person convicted of a violation of, or a conspiracy to violate, subsection (a) or section 274A(a) (1) or (2) of this Act, or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of title 18, United States Code, shall forfeit to the United States, regardless of any provision of State law—

"(A) any conveyance, including any vessel, vehicle, or aircraft used in the commission of a violation of, or a conspiracy to violate, subsection (a); and

"(B) any property real or personal—

"(i) that constitutes, or is derived from or is traceable to the proceeds obtained directly or indirectly from the commission of a violation of, or a conspiracy to violate, subsection (a), section 274A(a) (1) or (2) of this Act, or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of title 18, United States Code; or

"(ii) that is used to facilitate, or is intended to be used to facilitate, the commission of a violation of, or a conspiracy to violate, subsection (a), section 274A(a) (1) or (2) of this Act, or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of title 18, United States Code.

The court, in imposing sentence on such person, shall order that the person forfeit to the United States all property described in this subsection.

"(2) The criminal forfeiture of property under this subsection, including any seizure and disposition of the property and any related administrative or judicial proceeding, shall be governed by the provisions of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsections (a) and (d) of such section 413.".

SEC. 127. INCREASED CRIMINAL PENALTIES FOR FRAUDULENT USE OF GOVERNMENT-ISSUED DOCUMENTS.

(a) PENALTIES FOR FRAUD AND MISUSE OF GOVERNMENT-ISSUED IDENTIFICATION DOCUMENTS.—(1) Section 1028(b) of title 18, United States Code, is amended to read as follows:

"(b)(1)(A) An offense under subsection (a) that is—

"(i) the production or transfer of an identification document or false identification document that is or appears to be—

"(I) an identification document issued by or under the authority of the United States; or

"(II) a birth certificate, or a driver's license or personal identification card;

"(ii) the production or transfer of more than five identification documents or false identification documents; or

"(iii) an offense under paragraph (5) of such subsection (a);

shall be punishable under subparagraph (B).

"(B) Except as provided in paragraph (4), a person who violates an offense described in subparagraph (A) shall be punishable by—

"(i) a fine under this title, imprisonment for not more than 10 years, or both, for a first or second offense; or

"(ii) a fine under this title, imprisonment for not more than 15 years, or both, for a third or subsequent offense.

"(2) A person convicted of an offense under subsection (a) that is—

"(A) any other production or transfer of an identification document or false identification document; or

"(B) an offense under paragraph (3) of such subsection;

shall be punishable by a fine under this title, imprisonment for not more than three years, or both.

"(3) A person convicted of an offense under subsection (a), other than an offense described in paragraph (1) or (2), shall be punishable by a fine under this title, imprisonment for not more than one year, or both.

"(4) Notwithstanding any other provision of this section, the maximum term of imprisonment that may be imposed for an offense described in paragraph (1)(A) shall be—

"(A) if committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title), 15 years; and

"(B) if committed to facilitate an act of international terrorism (as defined in section 2331 of this title), 20 years.".

(2) Sections 1541 through 1544 of title 18, United States Code, are amended by striking be fined under this title, imprisoned not more than 10 years, or both." each place it appears and inserting the following:

", except as otherwise provided in this section, be—

"(1) fined under this title, imprisoned for not more than 10 years, or both, for a first or second offense; or

"(2) fined under this title, imprisoned for not more than 15 years, or both, for a third or subsequent offense.

"Notwithstanding any other provision of this section, the maximum term of imprisonment that may be imposed for an offense under this section—

"(1) if committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title), is 15 years; and

"(2) if committed to facilitate an act of international terrorism (as defined in section 2331 of this title), is 20 years.".

(3) Section 1546(a) of title 18, United States Code, is amended by striking "be fined under this title, imprisoned not more than 10 years, or both." and inserting the following:

", except as otherwise provided in this subsection, be—

"(1) fined under this title, imprisoned for not more than 10 years, or both, for a first or second offense; or

"(2) fined under this title, imprisoned for not more than 15 years, or both, for a third or subsequent offense.

"Notwithstanding any other provision of this subsection, the maximum term of imprisonment that may be imposed for an offense under this subsection—

"(1) if committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title), is 15 years; and

"(2) if committed to facilitate an act of international terrorism (as defined in section 2331 of this title), is 20 years.".

(4) Sections 1425 through 1427 of title 18, United States Code, are amended by striking "be fined not more than $5,000 or imprisoned not more than five years, or both" each place it appears and inserting ", except as otherwise provided in this section, be—

"(1) fined under this title, imprisoned for not more than 10 years, or both, for a first or second offense; or

"(2) fined under this title, imprisoned for not more than 15 years, or both, for a third or subsequent offense.

"Notwithstanding any other provision of this section, the maximum term of imprisonment that may be imposed for an offense under this section—

"(1) if committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title), is 15 years; and

"(2) if committed to facilitate an act of international terrorism (as defined in section 2331 of this title), is 20 years.".

(b) CHANGES TO THE SENTENCING LEVELS.—

(1) IN GENERAL.—Pursuant to the Commission's authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines for offenders convicted of violating, or conspiring to violate, sections 1023(b)(1), 1425 through 1427, 1541 through 1544, and 1546(a) of title 18, United States Code, in accordance with this subsection.

(2) REQUIREMENTS.—In carrying out this subsection, the Commission shall, with respect to the offenses referred to in paragraph (1)—

(A) increase the base offense level for such offenses at least 2 offense levels above the level in effect on the date of the enactment of this Act;

(B) review the sentencing enhancement for number of documents or passports involved (U.S.S.G. 2L2.1(b)(2)), and increase the upward adjustment by at least 50 percent above the applicable enhancement in effect on the date of the enactment of this Act;

(C) impose an appropriate sentencing enhancement upon an offender with 1 prior felony conviction arising out of a separate and prior prosecution for an offense that involved the same or similar underlying conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category;

(D) impose an additional appropriate sentencing enhancement upon an offender with 2 or more prior felony convictions arising out of separate and prior prosecutions for offenses that involved the same or similar underling conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category;

(E) consider whether a downward adjustment is appropriate if the offense conduct involves fewer than 6 documents, or the defendant committed the offense other than for profit and the offense was not committed to facilitate an act of international terrorism; and

(F) consider whether any other aggravating or mitigating circumstances warrant upward or downward sentencing adjustments.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 128. CRIMINAL PENALTY FOR FALSE STATEMENT IN A DOCUMENT REQUIRED UNDER THE IMMIGRATION LAWS OR KNOWINGLY PRESENTING DOCUMENT WHICH FAILS TO CONTAIN REASONABLE BASIS IN LAW OR FACT.

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

"Whoever knowingly makes under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document which contains any such false statement or which fails to contain any reasonable basis in law or fact—".

SEC. 129. NEW CRIMINAL PENALTIES FOR FAILURE TO DISCLOSE ROLE AS PREPARER OF FALSE APPLICATION FOR ASYLUM OR 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) Whoever, in any matter within the jurisdiction of the Service under section 208 of this Act, knowingly and willfully fails to disclose, conceals, or covers up the fact that they have, on behalf of any person and for a fee or other remuneration, prepared or assisted in preparing an application which was falsely made (as defined in subsection (f)) for immigration benefits pursuant to section 208 of this Act, or the regulations promulgated thereunder, shall be guilty of a felony and shall be fined in accordance with title 18, United States Code, imprisoned for not more than 5 years, or both, and prohibited from preparing or assisting in preparing, whether or not for a fee or other remuneration, any other such application.

"(2) Whoever, having been convicted of a violation of paragraph (1), knowingly and willfully prepares or assists in preparing an application for immigration benefits pursuant to this Act, or the regulations promulgated thereunder, whether or not for a fee or other remuneration and regardless of whether in any matter within the jurisdiction of the Service under section 208, shall be guilty of a felony and shall be fined in accordance with title 18, United States Code, imprisoned for not more than 15 years, or both, and prohibited from preparing or assisting in preparing any other such application.".

SEC. 130. NEW DOCUMENT FRAUD OFFENSES; NEW CIVIL PENALTIES FOR DOCUMENT FRAUD.

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

(1) in paragraph (1), by inserting before the comma at the end the following: "or to obtain a benefit under this Act";

(2) in paragraph (2), by inserting before the comma at the end the following: "or to obtain a benefit under this Act";

(3) in paragraph (3)—

(A) by inserting "or with respect to" after "issued to";

(B) by adding before the comma at the end the following: "or obtaining a benefit under this Act"; and

(C) by striking "or" at the end;

(4) in paragraph (4)—

(A) by inserting "or with respect to" after "issued to";

(B) by adding before the period at the end the following: "or obtaining a benefit under this Act"; and

(C) by striking the period at the end and inserting ", or"; and

(5) by adding at the end the following new paragraphs:

"(5) to prepare, file, or assist another in preparing or filing, any application for benefits under this Act, or any document required under this Act, or any document submitted in connection with such application or document, with knowledge or in reckless disregard of the fact that such application or document was falsely made or, in whole or in part, does not relate to the person on whose behalf it was or is being submitted; or

"(6) to (A) 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 (B) fail to present such document to an immigration officer upon arrival at a United States port of entry.".

(b) DEFINITION OF FALSELY MAKE.—Section 274C (8 U.S.C. 1324c), as amended by section 129 of this Act, is further amended by adding at the end the following new subsection:

"(f) FALSELY MAKE.—For purposes of this section, the term 'falsely make' means to prepare or provide an application or document, with knowledge or in reckless disregard of the fact that the application or 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 fact which is material to the purpose for which it was submitted.".

(c) CONFORMING AMENDMENT.—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" each place it appears and inserting "each document that is the subject of a violation under subsection (a)".

(d) ENHANCED CIVIL PENALTIES FOR DOCUMENT FRAUD IF LABOR STANDARDS VIOLATIONS ARE PRESENT.—Section 274C(d) (8

U.S.C. 1324c(d)) is amended by adding at the end the following new paragraph:

"(7) CIVIL PENALTY.—(A) The administrative law judge shall have the authority to require payment of a civil money penalty in an amount up to two times the level of the penalty prescribed by this subsection in any case where the employer has been found to have committed willful or repeated violations of any of the following statutes:

"(i) The Fair Labor Standards Act (29 U.S.C. 201 et seq.) pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

"(ii) The Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.) pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

"(iii) The Family and Medical Leave Act (29 U.S.C. 2601 et seq.) pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

"(B) The Secretary of Labor and the Attorney General shall consult regarding the administration of this paragraph.".

(e) WAIVER BY ATTORNEY GENERAL.—Section 274C(d) (8 U.S.C. 1324c(d)), as amended by subsection (d), is further amended by adding at the end the following new paragraph:

"(8) WAIVER BY ATTORNEY GENERAL.—The Attorney General may waive the penalties imposed by 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).".

(f) EFFECTIVE DATE.—

(1) DEFINITION OF FALSELY MAKE.—Section 274C(f) of the Immigration and Nationality Act, as added by subsection (b), applies to the preparation of applications before, on, or after the date of the enactment of this Act.

(2) ENHANCED CIVIL PENALTIES.—The amendments made by subsection (d) apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 131. NEW EXCLUSION FOR DOCUMENT FRAUD OR FOR FAILURE TO PRESENT DOCUMENTS.

Section 212(a)(6)(C) (8 U.S.C. 1182(a)(6)(C)) is amended—

(1) by striking "(C) Misrepresentation" and inserting the following:

"(C) Fraud, misrepresentation, and failure to present documents"; and

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

"(iii) FRAUD, MISREPRESENTATION, AND FAILURE TO PRESENT DOCUMENTS.—

"(I) Any alien who, in seeking entry to the United States or boarding a common carrier for the purpose of coming to the United States, presents any document which, in the determination of the immigration officer, is forged, counterfeit, altered, falsely made, stolen, or inapplicable to the person presenting the document, or otherwise contains a misrepresentation of a material fact, is excludable.

"(II) Any alien who is required to present a document relating to the alien's eligibility to enter the United States prior to boarding a common carrier for the purpose of coming to the United States and who fails to present such document to an immigration officer upon arrival at a port of entry into the United States is excludable.".

SEC. 132. LIMITATION ON WITHHOLDING OF DEPORTATION AND OTHER BENEFITS FOR ALIENS EXCLUDABLE FOR DOCUMENT FRAUD OR FAILING TO PRESENT DOCUMENTS, OR EXCLUDABLE ALIENS APPREHENDED AT SEA.

(a) INELIGIBILITY.—Section 235 (8 U.S.C. 1225) is amended by adding at the end the following new subsection:

"(d)(1) Subject to paragraph (2), any alien who has not been admitted to the United States, and who is excludable under section 212(a)(6)(C)(iii) or who is an alien described in paragraph (3), is ineligible for withholding of deportation pursuant to section 243(h), and may not apply therefor or for any other relief under this Act, except that an alien found to have a credible fear of persecution or of return to persecution in accordance with section 208(e) shall be taken before a special inquiry officer for exclusion proceedings in accordance with section 236 and may apply for asylum, withholding of deportation, or both, in the course of such proceedings.

"(2) An alien described in paragraph (1) who has been found ineligible to apply for asylum under section 208(e) may be returned under the provisions of this section only to a country in which (or from which) he or she has no credible fear of persecution (or of return to persecution). If there is no country to which the alien can be returned in accordance with the provisions of this paragraph, the alien shall be taken before a special inquiry officer for exclusion proceedings in accordance with section 236 and may apply for asylum, withholding of deportation, or both, in the course of such proceedings.

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

"(A) into the United States, having been on board a vessel encountered seaward of the territorial sea by officers of the United States; or

"(B) to a port of entry, having been on board a vessel encountered within the territorial sea or internal waters of the United States;

shall either be detained on board the vessel on which such person arrived or in such facilities as are designated by the Attorney General or paroled in the discretion of the Attorney General pursuant to section 212(d)(5) pending accomplishment of the purpose for which the person was brought or escorted into the United States or to the port of entry, except that no alien shall be detained on board a public vessel of the United States without the concurrence of the head of the department under whose authority the vessel is operating.".

(b) CONFORMING AMENDMENTS.—Section 237(a) (8 U.S.C. 1227(a)) is amended—

(1) in the second sentence of paragraph (1), by striking "Deportation" and inserting "Subject to section 235(d)(2), deportation"; and

(2) in the first sentence of paragraph (2), by striking "If" and inserting "Subject to section 235(d)(2), if".

SEC. 133. PENALTIES FOR INVOLUNTARY SERVITUDE.

(a) AMENDMENTS TO TITLE 18.—Sections 1581, 1583, 1584, and 1588 of title 18, United States Code, are amended by striking "five" each place it appears and inserting "10".

(b) REVIEW OF SENTENCING GUIDELINES.—The United States Sentencing Commission shall ascertain whether there exists an unwarranted disparity—

(1) between the sentences for peonage, involuntary servitude, and slave trade offenses, and the sentences for kidnapping offenses in effect on the date of the enactment of this Act; and

(2) between the sentences for peonage, involuntary servitude, and slave trade offenses, and the sentences for alien smuggling offenses in effect on the date of the enactment of this Act and after the amendment made by subsection (a).

(c) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review its guidelines on sentencing for peonage, involuntary servitude, and slave trade offenses under sections 1581 through 1588 of title 18, United States Code, and shall amend such guidelines as necessary to—

(1) reduce or eliminate any unwarranted disparity found under subsection (b) that exists between the sentences for peonage, involuntary servitude, and slave trade offenses, and the sentences for kidnapping offenses and alien smuggling offenses;

(2) ensure that the applicable guidelines for defendants convicted of peonage, involuntary servitude, and slave trade offenses are sufficiently stringent to deter such offenses and adequately reflect the heinous nature of such offenses; and

(3) ensure that the guidelines reflect the general appropriateness of enhanced sentences for defendants whose peonage, involuntary servitude, or slave trade offenses involve—

(A) a large number of victims;

(B) the use or threatened use of a dangerous weapon; or

(C) a prolonged period of peonage or involuntary servitude.

SEC. 134. EXCLUSION RELATING TO MATERIAL SUPPORT TO TERRORISTS.

Section 212(a)(3)(B)(iii)(III) (8 U.S.C. 1182(a)(3)(B)(iii)(III)) is amended by inserting "documentation or" before "identification".

PART 4—EXCLUSION AND DEPORTATION

SEC. 141. SPECIAL EXCLUSION PROCEDURE.

(a) ARRIVALS FROM CONTIGUOUS FOREIGN TERRITORY.—Section 235 (8 U.S.C. 1225) is amended—

(1) by redesignating subsection (b) as subsection (b)(1); and

(2) by adding at the end of subsection (b)(1), as redesignated, the following new paragraph:

"(2) If an alien subject to such further inquiry has arrived from a foreign territory contiguous to the United States, either at a land port of entry or on the land of the United States other than at a designated port of entry, the alien may be returned to that territory pending the inquiry.".

(b) SPECIAL ORDERS OF EXCLUSION AND DEPORTATION.—Section 235 (8 U.S.C. 1225), as amended by section 132 of this Act, is further amended by adding at the end the following:

"(e)(1) Notwithstanding the provisions of subsection (b) of this section and section 236, the Attorney General may, without referral to a special inquiry officer or after such a referral, order the exclusion and deportation of any alien if—

"(A) the alien appears to an examining immigration officer, or to a special inquiry officer if such referral is made, to be an alien who—

"(i) has entered the United States without having been inspected and admitted by an immigration officer pursuant to this section, unless such alien affirmatively demonstrates to the satisfaction of such immigration officer or special inquiry officer that he has been physically present in the United States for an uninterrupted period of at least two years since such entry without inspection;

"(ii) is excludable under section 212(a)(6)(C)(iii);

"(iii) is brought or escorted under the authority of the United States into the United States, having been on board a vessel encountered outside of the territorial waters of the United States by officers of the United States;

"(iv) is brought or escorted under the authority of the United States to a port of entry, having been on board a vessel encountered within the territorial sea or internal waters of the United States; or

"(v) has arrived on a vessel transporting aliens to the United States without such alien having received prior official authorization to come to, enter, or reside in the United States; or

"(B) the Attorney General has determined that the numbers or circumstances of aliens en route to or arriving in the United States, by land, sea, or air, present an extraordinary migration situation.

"(2) As used in this section, the phrase 'extraordinary migration situation' means the arrival or imminent arrival in the United States or its territorial waters of aliens who by their numbers or circumstances substantially exceed the capacity for the inspection and examination of such aliens.

"(3)(A) Subject to subparagraph (B), the determination of whether there exists an extraordinary migration situation or whether to invoke the provisions of paragraph (1) (A) or (B) is committed to the sole and exclusive discretion of the Attorney General.

"(B) The provisions of this subsection may be invoked under paragraph (1)(B) for a period not to exceed 90 days, unless, within such 90-day period or an extension thereof authorized by this subparagraph, the Attorney General determines, after consultation with the Committees on the Judiciary of the Senate and the House of Representatives, that an extraordinary migration situation continues to warrant such procedures remaining in effect for an additional 90-day period.

"(4) When the Attorney General invokes the provisions of clause (iii), (iv), or (v) of paragraph (1)(A) or paragraph (1)(B), the Attorney General may, pursuant to this section and sections 235(e) and 106(f), suspend, in whole or in part, the operation of immigration regulations regarding the inspection and exclusion of aliens.

"(5) No alien may be ordered specially excluded under paragraph (1) if—

"(A) such alien is eligible to seek, and seeks, asylum under section 208; and

"(B) the Attorney General determines, in the procedure described in section 208(e), that such alien has a credible fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, in the country of such person's nationality, or in the case of a person having no nationality, the country in which such person last habitually resided.

An alien may be returned to a country in which the alien does not have a credible fear of persecution and from which the alien does not have a credible fear of return to persecution.

"(6) A special exclusion order entered in accordance with the provisions of this subsection is not subject to administrative review, except that the Attorney General shall provide by regulation for prompt review of such an order against an applicant 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 be, and appears to be, lawfully admitted for permanent residence.

"(7) A special exclusion order entered in accordance with the provisions of this subsection shall have the same effect as if the alien had been ordered excluded and deported pursuant to section 236, except that judicial review of such an order shall be available only under section 106(f).

"(8) Nothing in this subsection may be construed as requiring an inquiry before a special inquiry officer in the case of an alien crewman.".

SEC. 142. STREAMLINING JUDICIAL REVIEW OF ORDERS OF EXCLUSION OR DEPORTATION.

(a) IN GENERAL.—Section 106 (8 U.S.C. 1105a) is amended to read as follows:

"JUDICIAL REVIEW OF ORDERS OF DEPORTATION, EXCLUSION, AND SPECIAL EXCLUSION

"SEC. 106. (a) APPLICABLE PROVISIONS.—Except as provided in subsection (b), judicial review of a final order of exclusion or deportation is governed only by chapter 158 of title 28 of the United States Code, but in no such review may a court order the taking of additional evidence pursuant to section 2347(c) of title 28, United States Code.

"(b) REQUIREMENTS.—(1)(A) A petition for judicial review must be filed not later than 30 days after the date of the final order of exclusion or deportation, except that in the case of any specially deportable criminal alien (as defined in section 242(k)), there shall be no judicial review of any final order of deportation.

"(B) The alien shall serve and file a brief in connection with a petition for judicial review not later than 40 days after the date on which the administrative record is available, and may serve and file a reply brief not later than 14 days after service of the brief of the Attorney General, and the court may not extend these deadlines except upon motion for good cause shown.

"(C) If an alien fails to file a brief in connection with a petition for judicial review within the time provided in this paragraph, the Attorney General may move to dismiss the appeal, and the court shall grant such motion unless a manifest injustice would result.

"(2) A petition for judicial review shall be filed with the court of appeals for the judicial circuit in which the special inquiry officer completed the proceedings.

"(3) The respondent of a petition for judicial review shall be the Attorney General. The petition shall be served on the Attorney General and on the officer or employee of the Immigration and Naturalization Service in charge of the Service district in which the final order of exclusion or deportation was entered. Service of the petition on the officer or employee does not stay the deportation of an alien pending the court's decision on the petition, unless the court orders otherwise.

"(4)(A) Except as provided in paragraph (5)(B), the court of appeals shall decide the petition only on the administrative record on which the order of exclusion or deportation is based and the Attorney General's findings of fact shall be conclusive unless a reasonable adjudicator would be compelled to conclude to the contrary.

"(B) The Attorney General's discretionary judgment whether to grant relief under section 212 (c) or (i), 244 (a) or (d), or 245 shall be conclusive and shall not be subject to review.

"(C) The Attorney General's discretionary judgment whether to grant relief under section 208(a) shall be conclusive unless manifestly contrary to law and an abuse of discretion.

"(5)(A) 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) 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) The petitioner may have the nationality claim decided only as provided in this section.

"(6)(A) If the validity of an order of deportation has not been judicially decided, a defendant in a criminal proceeding charged with violating subsection (d) or (e) of section 242 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) If the defendant claims in the motion to be a national of the United States and the district court finds that 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 deportation order is based. The administrative findings of fact are conclusive if supported by reasonable, substantial, and probative evidence on the record considered as a whole.

"(C) If the defendant claims in the motion to be a national of the United States and the district court finds that 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.

"(D) If the district court rules that the deportation order is invalid, the court shall dismiss the indictment. The United States Government may appeal the dismissal to the court of appeals for the appropriate circuit within 30 days. The defendant may not file a petition for review under this section during the criminal proceeding. The defendant may have the nationality claim decided only as provided in this section.

"(7) This subsection—

"(A) does not prevent the Attorney General, after a final order of deportation has been issued, from detaining the alien under section 242(c);

"(B) does not relieve the alien from complying with subsection (d) or (e) of section 242; and

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

"(8) 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.

"(c) REQUIREMENTS FOR PETITION.—A petition for review of an order of exclusion or deportation 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.—

"(1) A court may review a final order of exclusion or deportation only if—

"(A) the alien has exhausted all administrative remedies available to the alien as a matter of right; and

"(B) another court has not decided the validity of the order, unless, subject to paragraph (2), 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.

"(2) Nothing in paragraph (1)(B) may be construed as creating a right of review if such review would be inconsistent with subsection (e), (f), or (g), or any other provision of this section.

"(e) NO JUDICIAL REVIEW FOR ORDERS OF DEPORTATION OR EXCLUSION ENTERED AGAINST CERTAIN CRIMINAL ALIENS.—Notwithstanding any other provision of law, any order of exclusion or deportation against an alien who is excludable or deportable by reason of having committed any criminal offense described in subparagraph (A)(iii), (B),

(C), or (D) of section 241(a)(2), or two or more offenses described in section 241(a)(2)(A)(ii), at least two of which resulted in a sentence or confinement described in section 241(a)(2)(A)(i)(II), is not subject to review by any court.

"(f) LIMITED REVIEW FOR SPECIAL EXCLUSION AND DOCUMENT FRAUD.—(1) Notwithstanding any other provision of law, except as provided in this subsection, no court shall have jurisdiction to review any individual determination or to hear any other cause of action or claim arising from or relating to the implementation or operation of sections 208(e), 212(a)(6)(iii), 235(d), and 235(e).

"(2)(A) Except as provided in this subsection, there shall be no judicial review of—

"(i) a decision by the Attorney General to invoke the provisions of section 235(e);

"(ii) the application of section 235(e) to individual aliens, including the determination made under paragraph (5); or

"(iii) procedures and policies adopted by the Attorney General to implement the provisions of section 235(e).

"(B) Without regard to the nature of the action or claim, or 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) Judicial review of any cause, claim, or individual determination made or arising under or relating to section 208(e), 212(a)(6)(iii), 235(d), or 235(e) shall only be available in a habeas corpus proceeding, and shall be limited to determinations of—

"(A) whether the petitioner is an alien;

"(B) whether the petitioner was ordered specially excluded; and

"(C) whether the petitioner can prove by a preponderance of the evidence that he or she is an alien lawfully admitted for permanent residence and is entitled to such further inquiry as is prescribed by the Attorney General pursuant to section 235(e)(6).

"(4)(A) In any case where the court determines that the petitioner—

"(i) is an alien who was not ordered specially excluded under section 235(e), or

"(ii) has demonstrated by a preponderance of the evidence that he or she 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 236 or a determination in accordance with section 235(c) or 273(d).

"(B) Any alien who is provided a hearing under section 236 pursuant to these provisions may thereafter obtain judicial review of any resulting final order of exclusion pursuant to this section.

"(5) In determining whether an alien has been ordered specially excluded under section 235(e), 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 excludable or entitled to any relief from exclusion.

"(g) NO COLLATERAL ATTACK.—In any action brought for the assessment of penalties for improper entry or reentry of an alien under section 275 or 276, no court shall have jurisdiction to hear claims attacking the validity of orders of exclusion, special exclusion, or deportation entered under section 235, 236, or 242.".

(b) RESCISSION OF ORDER.—Section 242B(c)(3) (8 U.S.C. 1252b(c)(3)) is amended by striking the period at the end and inserting "by the special inquiry officer. but there shall be no stay pending further administrative or judicial review, unless ordered because of individually compelling circumstances.".

(c) CLERICAL AMENDMENT.—The table of contents of the Act is amended by amending the item relating to section 106 to read as follows:

"Sec. 106. Judicial review of orders of deportation, exclusion, and special exclusion.".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to all final orders of exclusion or deportation entered, and motions to reopen filed, on or after the date of the enactment of this Act.

SEC. 143. CIVIL PENALTIES AND VISA INELIGIBILITY, FOR FAILURE TO DEPART.

(a) ALIENS SUBJECT TO AN ORDER OF EXCLUSION OR DEPORTATION.—The Immigration and Nationality Act is amended by inserting after section 274C (8 U.S.C. 1324c) the following new section:

"CIVIL PENALTIES FOR FAILURE TO DEPART

"SEC. 274D. (a) Any alien subject to a final order of exclusion and deportation or deportation who—

"(1) willfully fails or refuses to—

"(A) depart on time 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 himself or herself for deportation 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) The Commissioner shall deposit amounts received under subsection (a) as offsetting collections in the appropriate appropriations account of the Service.

"(c) 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 242(e) or any other section of this Act.".

(b) VISA OVERSTAYER.—The Immigration and Nationality Act is amended in section 212 (8 U.S.C. 1182) by inserting the following new subsection:

"(p)(1) Any lawfully admitted nonimmigrant who remains in the United States for more than 60 days beyond the period authorized by the Attorney General shall be ineligible for additional nonimmigrant or immigrant visas (other than visas available for spouses of United States citizens or aliens lawfully admitted for permanent residence) until the date that is—

"(A) 3 years after the date the nonimmigrant departs the United States in the case of a nonimmigrant not described in paragraph (2); or

"(B) 5 years after the date the nonimmigrant departs the United States in the case of a nonimmigrant who without reasonable cause fails or refuses to attend or remain in attendance at a proceeding to determine the nonimmigrant's deportability.

"(2)(A) Paragraph (1) shall not apply to any lawfully admitted nonimmigrant who is described in paragraph (1)(A) and who demonstrates good cause for remaining in the United States for the entirety of the period (other than the first 60 days) during which the nonimmigrant remained in the United States without the authorization of the Attorney General.

"(B) A final order of deportation shall not be stayed on the basis of a claim of good cause made under this subsection.

"(3) The Attorney General shall by regulation establish procedures necessary to implement this section.".

(c) EFFECTIVE DATE.—Subsection (b) shall take effect on the date of implementation of the automated entry-exit control system described in section 201, or on the date that is 2 years after the date of enactment of this Act, whichever is earlier.

(d) AMENDMENTS TO TABLE OF CONTENTS.—The table of contents of the Act is amended by inserting after the item relating to section 274C the following:

"Sec. 274D. Civil penalties for failure to depart.".

SEC. 144. CONDUCT OF PROCEEDINGS BY ELECTRONIC MEANS.

Section 242(b) (8 U.S.C. 1252(b)) is amended by inserting at the end the following new sentences: "Nothing in this subsection precludes the Attorney General from authorizing proceedings by video electronic media, by telephone, or, where a requirement for the alien's appearance is waived or the alien's absence is agreed to by the parties, in the absence of the alien. Contested full evidentiary hearings on the merits may be conducted by telephone only with the consent of the alien.".

SEC. 145. SUBPOENA AUTHORITY.

(a) EXCLUSION PROCEEDINGS.—Section 236(a) (8 U.S.C. 1226(a)) is amended in the first sentence by inserting "issue subpoenas," after "evidence,".

(b) DEPORTATION PROCEEDINGS.—Section 242(b) (8 U.S.C. 1252(b)) is amended in the first sentence by inserting "issue subpoenas," after "evidence,".

SEC. 146. LANGUAGE OF DEPORTATION NOTICE; RIGHT TO COUNSEL.

(a) LANGUAGE OF NOTICE.—Section 242B (8 U.S.C. 1252b) is amended in subsection (a)(3) by striking "under this subsection" and all that follows through "(B)" and inserting "under this subsection".

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

(2) The parenthetical phrase in section 292 (8 U.S.C. 1362) is amended to read as follows: "(at no expense to the Government or unreasonable delay to the proceedings)".

(3) Section 242B(b) (8 U.S.C. 1252b(b)) is further amended by inserting at the end the following new paragraph:

"(3) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to prevent the Attorney General from proceeding against an alien pursuant to section 242 if the time period described in paragraph (1) has elapsed and the alien has failed to secure counsel.".

SEC. 147. ADDITION OF NONIMMIGRANT VISAS TO TYPES OF VISA DENIED FOR COUNTRIES REFUSING TO ACCEPT DEPORTED ALIENS.

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

"(g)(1) If the Attorney General determines that any country upon request denies or unduly delays acceptance of the return of any alien who is a national, citizen, subject, or resident thereof, the Attorney General shall notify the Secretary of such fact, and thereafter, subject to paragraph (2), neither the Secretary of State nor any consular officer shall issue an immigrant or nonimmigrant visa to any national, citizen, subject, or resident of such country.

"(2) The Secretary of State may waive the application of paragraph (1) if the Secretary determines that such a waiver is necessary to comply with the terms of a treaty or international agreement or is in the national interest of the United States.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to countries for which the Secretary of State gives

instructions to United States consular officers on or after the date of the enactment of this Act.

SEC. 148. AUTHORIZATION OF SPECIAL FUND FOR COSTS OF DEPORTATION.

In addition to any other funds otherwise available in any fiscal year for such purpose, there are authorized to be appropriated to the Immigration and Naturalization Service $10,000,000 for use without fiscal year limitation for the purpose of—

(1) executing final orders of deportation pursuant to sections 242 and 242A of the Immigration and Nationality Act (8 U.S.C. 1252 and 1252a); and

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

SEC. 149. PILOT PROGRAM TO INCREASE EFFICIENCY IN REMOVAL OF DETAINED ALIENS.

(a) AUTHORITY.—The Attorney General shall conduct one or more pilot programs to study methods for increasing the efficiency of deportation and exclusion proceedings against detained aliens by increasing the availability of pro bono counseling and representation for such aliens. Any such pilot program may provide for administrative grants to not-for-profit organizations involved in the counseling and representation of aliens in immigration proceedings. An evaluation component shall be included in any such pilot program to test the efficiency and cost-effectiveness of the services provided and the replicability of such programs at other locations.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice such sums as may be necessary to carry out the program or programs described in subsection (a).

(c) STATUTORY CONSTRUCTION.—Nothing in this section may be construed as creating a right for any alien to be represented in any exclusion or deportation proceeding at the expense of the Government.

SEC. 150. LIMITATIONS ON RELIEF FROM EXCLUSION AND DEPORTATION.

(a) LIMITATION.—Section 212(c) (8 U.S.C. 1182(c)) is amended to read as follows:

"(c)(1) Subject to paragraphs (2) through (5), an alien who is and has been lawfully admitted for permanent residence for at least 5 years, who has resided in the United States continuously for 7 years after having been lawfully admitted, and who is returning to such residence after having temporarily proceeded abroad voluntarily and not under an order of deportation, may be admitted in the discretion of the Attorney General without regard to the provisions of subsection (a) (other than paragraphs (3) and (9)(C)).

"(2) For purposes of this subsection, any period of continuous residence shall be deemed to end when the alien is placed in proceedings to exclude or deport the alien from the United States.

"(3) Nothing contained in this subsection shall limit the authority of the Attorney General to exercise the discretion authorized under section 211(b).

"(4) Paragraph (1) shall not apply to an alien who has been convicted of one or more aggravated felonies and has been sentenced for such felony or felonies to a term or terms of imprisonment totalling, in the aggregate, at least 5 years.

"(5) This subsection shall apply only to an alien in proceedings under section 236.".

(b) CANCELLATION OF DEPORTATION.—Section 244 (8 U.S.C. 1254) is amended to read as follows:

"CANCELLATION OF DEPORTATION; ADJUSTMENT OF STATUS; VOLUNTARY DEPARTURE

"SEC. 244. (a) CANCELLATION OF DEPORTATION.—(1) The Attorney General may, in the Attorney General's discretion, cancel deportation in the case of an alien who is deportable from the United States and—

"(A) is, and has been for at least 5 years, a lawful permanent resident; has resided in the United States continuously for not less than 7 years after being lawfully admitted; and has not been convicted of an aggravated felony or felonies for which the alien has been sentenced to a term or terms of imprisonment totaling, in the aggregate, at least 5 years;

"(B) has been physically present in the United States for a continuous period of not less than 7 years since entering the United States; has been a person of good moral character during such period; and establishes that deportation would result in extreme hardship to the alien or the alien's spouse, parent, or child, who is a citizen or national of the United States or an alien lawfully admitted for permanent residence;

"(C) has been physically present in the United States for a continuous period of not less than three years since entering the United States; 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 who is 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); has been a person of good moral character during all of such period in the United States; and establishes that deportation would result in extreme hardship to the alien or the alien's parent or child; or

"(D) is deportable under paragraph (2) (A), (B), or (D), or paragraph (3) of section 241(a); has been physically present in the United States for a continuous period of not less than 10 years immediately following the commission of an act, or the assumption of a status, constituting a ground for deportation, and proves that during all of such period he has been a person of good moral character; and is a person whose deportation would, in the opinion of the Attorney General, result in exceptional and extremely unusual hardship to the alien or to his spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence.

"(2)(A) For purposes of paragraph (1), any period of continuous residence or continuous physical presence in the United States shall be deemed to end when the alien is served an order to show cause pursuant to section 242 or 242B.

"(B) An alien shall be considered to have failed to maintain continuous physical presence in the United States under paragraph (1) (B), (C), or (D) if the alien was absent from the United States for any single period of more than 90 days or an aggregate period of more than 180 days.

"(C) A person who is deportable under section 241(a)(2)(C) or 241(a)(4) shall not be eligible for relief under this section.

"(D) A person who is deportable under section 241(a)(2) (A), (B), or (D) or section 241(a)(3) shall not be eligible for relief under paragraph (1) (A), (B), or (C).

"(E) A person who has been convicted of an aggravated felony shall not be eligible for relief under paragraph (1) (B), or (C), (D).

"(F) A person who is deportable under section 241(a)(1)(G) shall not be eligible for relief under paragraph (1)(C).

"(b) CONTINUOUS PHYSICAL PRESENCE 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 specified in subsection (a)(1) (A) and (B) shall not be applicable to an alien who—

"(1) 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

"(2) at the time of his or her enlistment or induction, was in the United States.

"(c) ADJUSTMENT OF STATUS.—The Attorney General may cancel deportation and adjust to the status of an alien lawfully admitted for permanent residence any alien who the Attorney General determines meets the requirements of subsection (a)(1) (B), (C), or (D). The Attorney General shall record the alien's lawful admission for permanent residence as of the date the Attorney General decides to cancel such alien's removal.

"(d) ALIEN CREWMEN; NONIMMIGRANT EXCHANGE ALIENS ADMITTED TO RECEIVE GRADUATE MEDICAL EDUCATION OR TRAINING; OTHER.—The provisions of subsection (a) shall not apply to an alien who—

"(1) entered the United States as a crewman after June 30, 1964;

"(2) was admitted to the United States as a nonimmigrant alien described in section 101(a)(15)(J), or has acquired the status of such a nonimmigrant alien after admission, in order to receive graduate medical education or training, without regard to whether or not the alien is subject to or has fulfilled the two-year foreign residence requirement of section 212(e); or

"(3)(A) was admitted to the United States as a nonimmigrant alien described in section 101(a)(15)(J), or has acquired the status of such a nonimmigrant 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, or, in the case of a foreign medical graduate who has received a waiver pursuant to section 220 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416), has not fulfilled the requirements of section 214(k).

"(e) VOLUNTARY DEPARTURE.—(1)(A) The Attorney General may permit an alien voluntarily to depart the United States at the alien's own expense—

"(i) in lieu of being subject to deportation proceedings under section 242 or prior to the completion of such proceedings, if the alien is not a person deportable under section 241(a)(2)(A)(iii) or section 241(a)(4); or

"(ii) after the completion of deportation proceedings under section 242, only if a special inquiry officer determines that—

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

"(II) the alien is not deportable under section 241(a)(2)(A)(iii) or section 241(a)(4); and

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

"(B)(i) In the case of departure pursuant to subparagraph (A)(i), the Attorney General may require the alien to post a voluntary departure bond, to be surrendered upon proof that the alien has departed the United States within the time specified.

"(ii) If any alien who is authorized to depart voluntarily under this paragraph is financially unable to depart at the alien's own expense and the Attorney General deems the alien's removal to be in the best interest of the United States, the expense of such removal may be paid from the appropriation for enforcement of this Act.

"(C) In the case of departure pursuant to subparagraph (A)(ii), the alien 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.

"(2) If the alien fails voluntarily to depart the United States within the time period specified in accordance with paragraph (1), the alien shall be subject to a civil penalty of not more than $500 per day and shall be ineligible for any further relief under this subsection or subsection (a).

"(3)(A) The Attorney General may by regulation limit eligibility for voluntary departure for any class or classes of aliens.

"(B) No court may review any regulation issued under subparagraph (A).

"(4) No court shall have jurisdiction over an appeal from denial of a request for an order of voluntary departure under paragraph (1), nor shall any court order a stay of an alien's removal pending consideration of any claim with respect to voluntary departure.".

(c) CONFORMING AMENDMENTS.—(1) Section 242(b) (8 U.S.C. 1252(b)) is amended by striking the last two sentences.

(2) Section 242B (8 U.S.C. 1252b) is amended—

(A) in subsection (e)(2), by striking "section 244(e)(1)" and inserting "section 244(e)"; and

(B) in subsection (e)(5)—

(i) by striking "suspension of deportation" and inserting "cancellation of deportation"; and

(ii) by inserting "244," before "245".

(d) AMENDMENT TO THE TABLE OF CONTENTS.—The table of contents of the Act is amended by amending the item relating to section 244 to read as follows:

"Sec. 244. Cancellation of deportation; adjustment of status; voluntary departure.".

(e) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply to all applications for relief under section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)), except that, for purposes of determining the period of continuous residence, the amendments made by subsection (a) shall apply to all aliens against whom proceedings are commenced on or after the date of the enactment of this Act.

(2) The amendments made by subsection (b) shall take effect on the date of the enactment of this Act, and shall apply to all applications for relief under section 244 of the Immigration and Nationality Act (8 U.S.C. 1254), except that, for purposes of determining the periods of continuous residence or continuous physical presence, the amendments made by subsection (b) shall apply to all aliens upon whom an order to show cause is served on or after the date of the enactment of this Act.

(3) The amendments made by subsection (c) shall take effect on the date of the enactment of this Act.

SEC. 151. ALIEN STOWAWAYS.

(a) DEFINITION.—Section 101(a) (8 U.S.C. 1101) 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) EXCLUDABILITY.—Section 237 (8 U.S.C. 1227) is amended—

(1) in subsection (a)(1), before the period at the end of the first sentence, by inserting the following: ", or unless the alien is an excluded stowaway who has applied for asylum or withholding of deportation and whose application has not been adjudicated or whose application has been denied but who has not exhausted every appeal right"; and

(2) by inserting after the first sentence in subsection (a)(1) the following new sentences: "Any alien stowaway inspected upon arrival in the United States is an alien who is excluded within the meaning of this section. For purposes of this section, the term 'alien' includes an excluded stowaway. The provisions of this section concerning the deportation of an excluded alien shall apply to the deportation of a stowaway under section 273(d).".

(c) CARRIER LIABILITY FOR COSTS OF DETENTION.—Section 273(d) (8 U.S.C. 1323(d)) is amended to read as follows:

"(d)(1) It shall be the duty of the owner, charterer, agent, consignee, commanding officer, or master of any vessel or aircraft arriving at the United States from any place outside the United States to detain on board or at such other place as may be designated by an immigration officer any alien stowaway until such stowaway has been inspected by an immigration officer.

"(2) Upon inspection of an alien stowaway by an immigration officer, the Attorney General may by regulation take immediate custody of any stowaway and shall charge the owner, charterer, agent, consignee, commanding officer, or master of the vessel or aircraft on which the stowaway has arrived the costs of detaining the stowaway.

"(3) It shall be the duty of the owner, charterer, agent, consignee, commanding officer, or master of any vessel or aircraft arriving at the United States from any place outside the United States to deport any alien stowaway on the vessel or aircraft on which such stowaway arrived or on another vessel or aircraft at the expense of the vessel or aircraft on which such stowaway arrived when required to do so by an immigration officer.

"(4) Any person who fails to comply with paragraph (1) or (3), shall be subject to a fine of $5,000 for each alien for each failure to comply, payable to the Commissioner. The Commissioner shall deposit amounts received under this paragraph as offsetting collections to the applicable appropriations account of the Service. Pending final determination of liability for such fine, no such vessel or aircraft shall be granted clearance, except that clearance may be granted upon the deposit of a sum sufficient to cover such fine, or of a bond with sufficient surety to secure the payment thereof approved by the Commissioner.

"(5) An alien stowaway inspected upon arrival shall be considered an excluded alien under this Act.

"(6) The provisions of section 235 for detention of aliens for examination before a special inquiry officer and the right of appeal provided for in section 236 shall not apply to aliens who arrive as stowaways, and no such aliens shall be permitted to land in the United States, except temporarily for medical treatment, or pursuant to such regulations as the Attorney General may prescribe for the departure, removal, or deportation of such alien from the United States.

"(7) A stowaway may apply for asylum under section 208 or withholding of deportation under section 243(h), pursuant to such regulations as the Attorney General may establish.".

SEC. 152. PILOT PROGRAM ON INTERIOR REPATRIATION AND OTHER METHODS TO DETER MULTIPLE UNLAWFUL ENTRIES.

(a) ESTABLISHMENT.—Not later than 180 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 two years which provides for methods to deter multiple unlawful entries by aliens into the United States. The pilot program may include the development and use of interior repatriation, third country repatriation, and other disincentives for multiple unlawful entries into the United States.

(b) REPORT.—Not later than 35 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. 153. PILOT PROGRAM ON USE OF CLOSED MILITARY BASES FOR THE DETENTION OF EXCLUDABLE OR DEPORTABLE ALIENS.

(a) ESTABLISHMENT.—The Attorney General and the Secretary of Defense shall jointly establish a pilot program for up to two years to determine the feasibility of the use of military bases available through the defense base realignment and closure process as detention centers for the Immigration and Naturalization Service.

(b) REPORT.—Not later than 35 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, the Committee on National Security of the House of Representatives, and the Committee on Armed Services of the Senate, on the feasibility of using military bases closed through the defense base realignment and closure process as detention centers by the Immigration and Naturalization Service.

SEC. 154. PHYSICAL AND MENTAL EXAMINATIONS.

Section 234 (8 U.S.C. 1224) is amended to read as follows:

"PHYSICAL AND MENTAL EXAMINATIONS

"SEC. 234. (a) ALIENS COVERED.—Each alien within any of the following classes of aliens who is seeking entry into the United States shall undergo a physical and mental examination in accordance with this section:

"(1) Aliens applying for visas for admission to the United States for permanent residence.

"(2) Aliens seeking admission to the United States for permanent residence for whom examinations were not made under paragraph (1).

"(3) Aliens within the United States seeking adjustment of status under section 245 to that of aliens lawfully admitted to the United States for permanent residence.

"(4) Alien crewmen entering or in transit across the United States.

"(b) DESCRIPTION OF EXAMINATION.—(1) Each examination required by subsection (a) shall include—

"(A) an examination of the alien for any physical or mental defect or disease and a certification of medical findings made in accordance with subsection (d); and

"(B) an assessment of the vaccination record of the alien in accordance with subsection (e).

"(2) The Secretary of Health and Human Services shall prescribe such regulations as may be necessary to carry out the medical examinations required by subsection (a).

"(c) MEDICAL EXAMINERS.—

"(1) MEDICAL OFFICERS.—(A) Except as provided in paragraphs (2) and (3), examinations under this section shall be conducted by medical officers of the United States Public Health Services.

"(B) Medical officers of the United States Public Health Service who have had specialized training in the diagnosis of insanity and

mental defects shall be detailed for duty or employed at such ports of entry as the Secretary may designate, in consultation with the Attorney General.

"(2) CIVIL SURGEONS.—(A) Whenever medical officers of the United States Public Health Service are not available to perform examinations under this section, the Attorney General, in consultation with the Secretary, shall designate civil surgeons to perform the examinations.

"(B) Each civil surgeon designated under subparagraph (A) shall—

"(i) have at least 4 years of professional experience unless the Secretary determines that special or extenuating circumstances justify the designation of an individual having a lesser amount of professional experience; and

"(ii) satisfy such other eligibility requirements as the Secretary may prescribe.

"(3) PANEL PHYSICIANS.—In the case of examinations under this section abroad, the medical examiner shall be a panel physician designated by the Secretary of State, in consultation with the Secretary.

"(d) CERTIFICATION OF MEDICAL FINDINGS.—The medical examiners shall certify for the information of immigration officers and special inquiry officers, or consular officers, as the case may be, any physical or mental defect or disease observed by such examiners in any such alien.

"(e) VACCINATION ASSESSMENT.—(1) The assessment referred to in subsection (b)(1)(B) is an assessment of the alien's record of required vaccines for preventable diseases, including mumps, measles, rubella, polio, tetanus, diphtheria toxoids, pertussis, hemophilus-influenza type B, hepatitis type B, as well as any other diseases specified as vaccine-preventable by the Advisory Committee on Immunization Practices.

"(2) Medical examiners shall educate aliens on the importance of immunizations and shall create an immunization record for the alien at the time of examination.

"(3)(A) Each alien who has not been vaccinated against measles, and each alien under the age of 5 years who has not been vaccinated against polio, must receive such vaccination, unless waived by the Secretary, and must receive any other vaccination determined necessary by the Secretary prior to arrival in the United States.

"(B) Aliens who have not received the entire series of vaccinations prescribed in paragraph (1) (other than measles) shall return to a designated civil surgeon within 30 days of arrival in the United States, or within 30 days of adjustment of status, for the remainder of the vaccinations.

"(f) APPEAL OF MEDICAL EXAMINATION FINDINGS.—Any alien determined to have a health-related grounds of exclusion under paragraph (1) of section 212(a) may appeal that determination to a board of medical officers of the Public Health Service, which shall be convened by the Secretary. The alien may introduce at least one expert medical witness before the board at his or her own cost and expense.

"(g) FUNDING.—(1)(A) The Attorney General shall impose a fee upon any person applying for adjustment of status to that of an alien lawfully admitted to permanent residence under section 209, 210, 245, or 245A, and the Secretary of State shall impose a fee upon any person applying for a visa at a United States consulate abroad who is required to have a medical examination in accordance with subsection (a).

"(B) The amounts of the fees required by subparagraph (A) shall be established by the Secretary, in consultation with the Attorney General and the Secretary of State, as the case may be, and shall be set at such amounts as may be necessary to recover the full costs of establishing and administering the civil surgeon and panel physician programs, including the costs to the Service, the Department of State, and the Department of Health and Human Services for any additional expenditures associated with the administration of the fees collected.

"(2)(A) The fees imposed under paragraph (1) may be collected as separate fees or as surcharges to any other fees that may be collected in connection with an application for adjustment of status under section 209, 210, 245, or 245A, for a visa, or for a waiver of excludability under paragraph (1) or (2) of section 212(g), as the case may be.

"(B) The provisions of the Act of August 18, 1856 (Revised Statutes 1726–28, 22 U.S.C. 4212–14), concerning accounting for consular fees, shall not apply to fees collected by the Secretary of State under this section.

"(3)(A) There is established on the books of the Treasury of the United States a separate account which shall be known as the 'Medical Examinations Fee Account'.

"(B) There shall be deposited as offsetting receipts into the Medical Examinations Fee Account all fees collected under paragraph (1), to remain available until expended.

"(C) Amounts in the Medical Examinations Fee Account shall be available only to reimburse any appropriation currently available for the programs established by this section.

"(h) DEFINITIONS.—As used in this section—

"(1) the term 'medical examiner' refers to a medical officer, civil surgeon, or panel physician, as described in subsection (c); and

"(2) the term 'Secretary' means the Secretary of Health and Human Services.".

SEC. 155. CERTIFICATION REQUIREMENTS FOR FOREIGN HEALTH-CARE WORKERS.

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

(1) by redesignating paragraph (9) as paragraph (10); and

(2) by inserting after paragraph (8) the following new paragraph:

"(9) UNCERTIFIED FOREIGN HEALTH-CARE WORKERS.—(A) 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 excludable unless the alien presents to the consular officer, or, in the case of an adjustment of status, the Attorney General, a certificate from the Commission on Graduates of Foreign Nursing Schools, or a certificate from an equivalent independent credentialing organization approved by the Attorney General in consultation with the Secretary of Health and Human Services, verifying that—

"(i) the alien's education, training, license, and experience—

"(I) meet all applicable statutory and regulatory requirements for entry into the United States under the classification specified in the application;

"(II) are comparable with that required for an American health-care worker of the same type; and

"(III) are authentic and, in the case of a license, unencumbered;

"(ii) the alien has the level of competence in oral and written English considered by the Secretary of Health and Human Services, in consultation with the Secretary of Education, to be appropriate for health care work of the kind in which the alien will be engaged, as shown by an appropriate score on one or more nationally recognized, commercially available, standardized assessments of the applicant's ability to speak and write; and

"(iii) if a majority of States licensing the profession in which the alien intends to work recognize a test predicting the success on the profession's licensing and certification examination, the alien has passed such a test.

"(B) For purposes of subparagraph (A)(ii), determination of the standardized tests required and of the minimum scores that are appropriate are within the sole discretion of the Secretary of Health and Human Services and are not subject to further administrative or judicial review.".

(b) CONFORMING AMENDMENTS.—

(1) Section 101(f)(3) is amended by striking "(9)(A) of section 212(a)" and inserting "(10)(A) of section 212(a)".

(2) Section 212(c) is amended by striking "(9)(C)" and inserting "(10)(C)".

SEC. 156. INCREASED BAR TO REENTRY FOR ALIENS PREVIOUSLY REMOVED.

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

(1) in subparagraph (A)—

(A) by striking "one year" and inserting "five years"; and

(B) by inserting ", or within 20 years of the date of any second or subsequent deportation," after "deportation";

(2) in subparagraph (B)—

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

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

"(ii) has departed the United States while an order of deportation is outstanding,";

(C) by striking "or" after "removal,"; and

(D) by inserting "or (c) who seeks admission within 20 years of a second or subsequent deportation or removal," after "felony,".

(b) REENTRY OF DEPORTED ALIEN.—Section 276(a)(1) (8 U.S.C. 1326(a)(1)) is amended to read as follows:

"(1) has been arrested and deported, has been excluded and deported, or has departed the United States while an order of exclusion or deportation is outstanding, and thereafter".

SEC. 157. ELIMINATION OF CONSULATE SHOPPING FOR VISA OVERSTAYS.

(a) IN GENERAL.—Section 222 (8 U.S.C. 1202) is amended by adding at the end the following new subsection:

"(g)(1) In the case of an alien who has entered and remained in the United States beyond the authorized period of stay, the alien's nonimmigrant visa shall thereafter be invalid for reentry into the United States.

"(2) An alien described in paragraph (1) shall be ineligible to be readmitted to the United States as a nonimmigrant subsequent to the expiration of the alien's authorized period of stay, except—

"(A) on the basis of a visa issued in a consular office located in the country of the alien's nationality (or, if there is no office in such country, in such other consular office as the Secretary of State shall specify); or

"(B) where extraordinary circumstances are found by the Secretary of State to exist.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to visas issued before, on, or after the date of the enactment of this Act.

SEC. 158. INCITEMENT AS A BASIS FOR EXCLUSION FROM THE UNITED STATES.

Section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)), is amended—

(1) by striking "or" at the end of clause (i)(I);

(2) in clause (i)(II), by inserting "or" at the end; and

(3) by inserting after clause (i)(II) the following new subclause:

"(III) has, under circumstances indicating an intention to cause death or serious bodily harm, incited terrorism, engaged in targeted racial vilification, or advocated the overthrow of the United States Government or death or serious bodily harm to any United

States citizen or United States Government official,".

SEC. 159. CONFORMING AMENDMENT TO WITHHOLDING OF DEPORTATION.

Section 243(h) (8 U.S.C. 1253(h)) is amended by adding at the end the following new paragraph:

"(3) The Attorney General may refrain from deporting any alien if the Attorney General determines that—

"(A) such alien's life or freedom would be threatened, in the country to which such alien would be deported or returned, on account of race, religion, nationality, membership in a particular social group, or political opinion, and

"(B) deporting such alien would violate the 1967 United Nations Protocol relating to the Status of Refugees.".

PART 5—CRIMINAL ALIENS

SEC. 161. AMENDED DEFINITION OF AGGRAVATED FELONY.

(a) IN GENERAL.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended—

(1) in subparagraph (D), by striking "$100,000" and inserting "$10,000";

(2) in subparagraphs (F), (G), and (O), by striking "is at least 5 years" each place it appears and inserting "at least one year";

(3) in subparagraph (J)—

(A) by striking "sentence of 5 years' imprisonment" and inserting "sentence of one year imprisonment"; and

(B) by striking "offense described" and inserting "offense described in section 1084 of title 18 (if it is a second or subsequent offense), section 1955 of such title (relating to gambling offenses), or";

(4) in subparagraph (K)—

(A) by striking "or" at the end of clause (i);

(B) by adding "or" at the end of clause (ii); and

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

"(iii) is described in section 2421, 2422, or 2423 of title 18, United States Code (relating to transportation for the purpose of prostitution), if committed for commercial advantage.";

(5) in subparagraph (L)—

(A) by striking "or" at the end of clause (i);

(B) by inserting "or" at the end of clause (ii); and

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

"(iii) section 601 of the National Security Act of 1947 (relating to protecting the identity of undercover agents)";

(6) in subparagraph (M), by striking "$200,000" each place it appears and inserting "$10,000";

(7) in subparagraph (N)—

(A) by striking "of title 18, United States Code"; and

(B) by striking "for the purpose of commercial advantage" and inserting the following: ", except, for a first offense, if the alien has affirmatively shown that the alien committed the offense for the purpose of assisting, abetting, or aiding only the alien's spouse, child, or parent (and no other individual) to violate a provision of this Act";

(8) in subparagraph (O), by striking "which constitutes" and all that follows up to the semicolon at the end and inserting the following: ", except, for a first offense, if the alien has affirmatively shown that the alien committed the offense for the purpose of assisting, abetting, or aiding only the alien's spouse, child, or parent (and no other individual) to violate a provision of this Act";

(9) by redesignating subparagraphs (P) and (Q) as subparagraphs (R) and (S), respectively;

(10) by inserting after subparagraph (O) the following new subparagraphs:

"(P) any offense relating to commercial bribery, counterfeiting, forgery, or trafficking in vehicles whose identification numbers have been altered for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least one year;

"(Q) any offense relating to perjury or subornation of perjury for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least one year;" and

(11) in subparagraph (R) (as redesignated), by striking "15" and inserting "5".

(b) EFFECTIVE DATE OF DEFINITION.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended by adding at the end the following new sentence: "Notwithstanding any other provision of law, the term applies regardless of whether the conviction was entered before, on, or after the date of enactment of this paragraph, except that, for purposes of section 242(f)(2), the term has the same meaning as was in effect under this paragraph on the date the offense was committed.".

(c) APPLICATION TO WITHHOLDING OF DEPORTATION.—Section 243(h) (8 U.S.C. 1253(h)), as amended by section 159 of this Act, is further amended in paragraph (2) by striking the last sentence and inserting the following: "For purposes of subparagraph (B), an alien shall be considered to have committed a particularly serious crime if such alien has been convicted of one or more of the following:

"(1) An aggravated felony, or attempt or conspiracy to commit an aggravated felony, for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least one year.

"(2) An offense described in subparagraph (A), (B), (C), (E), (H), (I), (J), (L), or subparagraph (K)(ii), of section 101(a)(43), or an attempt or conspiracy to commit an offense described in one or more of such subparagraphs.".

SEC. 162. INELIGIBILITY OF AGGRAVATED FELONS FOR ADJUSTMENT OF STATUS.

Section 244(c) (8 U.S.C. 1254(c)), as amended by section 150 of this Act, is further amended by adding at the end the following new sentence: "No person who has been convicted of an aggravated felony shall be eligible for relief under this subsection.".

SEC. 163. EXPEDITIOUS DEPORTATION CREATES NO ENFORCEABLE RIGHT FOR AGGRAVATED FELONS.

Section 225 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416) is amended by striking "section 242(i) of the Immigration and Nationality Act (8 U.S.C. 1252(i))" and inserting "sections 242(1) or 242A of the Immigration and Nationality Act (8 U.S.C. 1252(i) or 1252a)".

SEC. 164. CUSTODY OF ALIENS CONVICTED OF AGGRAVATED FELONIES.

(a) EXCLUSION AND DEPORTATION.—Section 236 (8 U.S.C. 1226) is amended in subsection (e)(2) by inserting after "unless" the following: "(A) the Attorney General determines, pursuant to section 3521 of title 18, United States Code, that release 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, and that after such release the alien would not be a threat to the community, or (B)".

(b) CUSTODY UPON RELEASE FROM INCARCERATION.—Section 242(a)(2) (8 U.S.C. 1252(a)(2)) is amended to read as follows:

"(2)(A) The Attorney General shall take into custody any specially deportable criminal alien upon release of the alien from incarceration and shall deport the alien as expeditiously as possible. Notwithstanding any other provision of law, the Attorney General shall not release such felon from custody.

"(B) The Attorney General shall have sole and unreviewable discretion to waive subparagraph (A) for aliens who are cooperating with law enforcement authorities or for purposes of national security.".

(c) PERIOD IN WHICH TO EFFECT ALIEN'S DEPARTURE.—Section 242(c) is amended—

(1) in the first sentence—

(A) by striking "(c)" and inserting "(c)(1)"; and

(B) by inserting "(other than an alien described in paragraph (2))"; and

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

"(2)(A) When a final order of deportation is made against any specially deportable criminal alien, the Attorney General shall have a period of 30 days from the later of—

"(i) the date of such order, or

"(ii) the alien's release from incarceration, within which to effect the alien's departure from the United States.

"(B) The Attorney General shall have sole and unreviewable discretion to waive subparagraph (A) for aliens who are cooperating with law enforcement authorities or for purposes of national security.

"(3) Nothing in this subsection shall be construed as providing a right enforceable by or on behalf of any alien to be released from custody or to challenge the alien's deportation.".

(d) CRIMINAL PENALTY FOR UNLAWFUL REENTRY.—Section 242(f) of the Immigration and Nationality Act (8 U.S.C. 1252(f)) is amended—

(1) by inserting "(1)" immediately after "(f)"; and

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

"(2) Any alien who has unlawfully reentered or is found in the United States after having previously been deported subsequent to a conviction for any criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or two or more offenses described in clause (ii) of section 241(a)(2)(A), at least two of which resulted in a sentence or confinement described in section 241(a)(2)(A)(i)(II), shall, in addition to the punishment provided for any other crime, be punished by imprisonment of not less than 15 years.".

(e) DEFINITION.—Section 242 (8 U.S.C. 1252) is amended by adding at the end the following new subsection:

"(k) For purposes of this section, the term 'specially deportable criminal alien' means any alien convicted of an offense described in subparagraph (A)(iii), (B), (C), or (D) of section 241(a)(2), or two or more offenses described in section 241(a)(2)(A)(ii), at least two of which resulted in a sentence or confinement described in section 241(a)(2)(A)(i)(II).".

SEC. 165. JUDICIAL DEPORTATION.

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

(1) by redesignating subsection (d) as subsection (c); and

(2) in subsection (c), as redesignated—

(A) by striking paragraph (1) and inserting the following:

"(1) AUTHORITY.—Notwithstanding any other provision of this Act, a United States district court shall have jurisdiction to enter a judicial order of deportation at the time of sentencing against an alien—

"(A) whose criminal conviction causes such alien to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony);

"(B) who has at any time been convicted of a violation of section 276 (a) or (b) (relating to reentry of a deported alien);

"(C) who has at any time been convicted of a violation of section 275 (relating to entry

of an alien at an improper time or place and to misrepresentation and concealment of facts); or

"(D) who is otherwise deportable pursuant to any of the paragraphs (1) through (5) of section 241(a).

A United States Magistrate shall have jurisdiction to enter a judicial order of deportation at the time of sentencing where the alien has been convicted of a misdemeanor offense and the alien is deportable under this Act."; and

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

"(5) STATE COURT FINDING OF DEPORTABILITY.—(A) On motion of the prosecution or on the court's own motion, any State court with jurisdiction to enter judgments in criminal cases is authorized to make a finding that the defendant is deportable as a specially deportable criminal alien (as defined in section 242(k)).

"(B) The finding of deportability under subparagraph (A), when incorporated in a final judgment of conviction, shall for all purposes be conclusive on the alien and may not be reexamined by any agency or court, whether by habeas corpus or otherwise. The court shall notify the Attorney General of any finding of deportability.

"(6) STIPULATED JUDICIAL ORDER OF DEPORTATION.—The United States Attorney, with the concurrence of the Commissioner, may, pursuant to Federal Rule of Criminal Procedure 11, enter into a plea agreement which calls for the alien, who is deportable under this Act, to waive the right to notice and a hearing under this section, and stipulate to the entry of a judicial order of deportation from the United States as a condition of the plea agreement or as a condition of probation or supervised release, or both. The United States District Court, in both felony and misdemeanor cases, and the United States Magistrate Court in misdemeanors cases, may accept such a stipulation and shall have jurisdiction to enter a judicial order of deportation pursuant to the terms of such stipulation.".

(b) CONFORMING AMENDMENTS.—(1) Section 512 of the Immigration Act of 1990 is amended by striking "242A(d)" and inserting "242A(c)".

(2) Section 130007(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322) is amended by striking "242A(d)" and inserting "242A(c)".

SEC. 166. STIPULATED EXCLUSION OR DEPORTATION.

(a) EXCLUSION AND DEPORTATION.—Section 236 (8 U.S.C. 1226) is amended by adding at the end the following new subsection:

"(f) The Attorney General shall provide by regulation for the entry by a special inquiry officer of an order of exclusion and deportation stipulated to by the alien and the Service. Such an order may be entered without a personal appearance by the alien before the special inquiry officer. A stipulated order shall constitute a conclusive determination of the alien's excludability and deportability from the United States.".

(b) APPREHENSION AND DEPORTATION.—Section 242 (8 U.S.C. 1252) is amended in subsection (b)—

(1) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(2) by inserting "(1)" immediately after "(b)";

(3) by striking the sentence beginning with "Except as provided in section 242A(d)" and inserting the following:

"(2) The Attorney General shall further provide by regulation for the entry by a special inquiry officer of an order of deportation stipulated to by the alien and the Service. Such an order may be entered without a personal appearance by the alien before the special inquiry officer. A stipulated order shall constitute a conclusive determination of the alien's deportability from the United States.

"(3) The procedures prescribed in this subsection and in section 242A(c) shall be the sole and exclusive procedures for determining the deportability of an alien."; and

(4) by redesignating the tenth sentence as paragraph (4); and

(5) by redesignating the eleventh and twelfth sentences as paragraph (5).

(c) CONFORMING AMENDMENTS.—(1) Section 106(a) is amended by striking "section 242(b)" and inserting "section 242(b)(1)".

(2) Section 212(a)(6)(B)(iv) is amended by striking "section 242(b)" and inserting "section 242(b)(1)".

(3) Section 242(a)(1) is amended by striking "subsection (b)" and inserting "subsection (b)(1)".

(4) Section 242A(b)(1) is amended by striking "section 242(b)" and inserting "section 242(b)(1)".

(5) Section 242A(c)(2)(D)(ii), as redesignated by section 165 of this Act, is amended by striking "section 242(b)" and inserting "section 242(b)(1)".

(6) Section 4113(a) of title 18, United States Code, is amended by striking "section 1252(b)" and inserting "section 1252(b)(1)".

(7) Section 1821(e) of title 28, United States Code, is amended by striking "section 242(b) of such Act (8 U.S.C. 1252(b))" and inserting "section 242(b)(1) of such Act (8 U.S.C. 1252(b)(1))".

(8) Section 242B(c)(1) is amended by striking "section 242(b)(1)" and inserting "section 242(b)(4)".

(9) Section 242B(e)(2)(A) is amended by striking "section 242(b)(1)" and inserting "section 242(b)(4)".

(10) Section 242B(e)(5)(A) is amended by striking "section 242(b)(1)" and inserting "section 242(b)(4)".

SEC. 167. DEPORTATION AS A CONDITION OF PROBATION.

Section 3563(b) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (21);

(2) by striking the period at the end of paragraph (22) and inserting "; or"; and

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

"(23) be ordered deported by a United States District Court, or United States Magistrate Court, pursuant to a stipulation entered into by the defendant and the United States under section 242A(c) of the Immigration and Nationality Act (8 U.S.C. 1252a(c)), except that, in the absence of a stipulation, the United States District Court or the United States Magistrate Court, may order deportation as a condition of probation, if, after notice and hearing pursuant to section 242A(c) of the Immigration and Nationality Act, the Attorney General demonstrates by clear and convincing evidence that the alien is deportable.".

SEC. 168. ANNUAL REPORT ON CRIMINAL ALIENS.

Not later than 12 months after the date of the enactment of this Act, and annually thereafter, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report detailing—

(1) the number of illegal aliens incarcerated in Federal and State prisons for having committed felonies, stating the number incarcerated for each type of offense;

(2) the number of illegal aliens convicted for felonies in any Federal or State court, but not sentenced to incarceration, in the year before the report was submitted, stating the number convicted for each type of offense;

(3) programs and plans underway in the Department of Justice to ensure the prompt removal from the United States of criminal aliens subject to exclusion or deportation; and

(4) methods for identifying and preventing the unlawful reentry of aliens who have been convicted of criminal offenses in the United States and removed from the United States.

SEC. 169. UNDERCOVER INVESTIGATION AUTHORITY.

(a) AUTHORITIES.—(1) In order to conduct any undercover investigative operation of the Immigration and Naturalization Service which is necessary for the detection and prosecution of crimes against the United States, the Service is authorized—

(A) to lease space within the United States, the District of Columbia, and the territories and possessions of the United States without regard to section 3679(a) of the Revised Statutes (31 U.S.C. 1341), section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3648 of the Revised Statutes (31 U.S.C. 3324), section 3741 of the Revised Statutes (41 U.S.C. 22), and 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));

(B) 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);

(C) to deposit funds, including the proceeds from such undercover operation, in banks or other financial institutions without regard to the provisions of section 648 of title 18 of the United States Code, and section 3639 of the Revised Statutes (31 U.S.C. 3302); and

(D) to use the proceeds from such undercover operations to offset necessary and reasonable expenses incurred in such operations without regard to the provisions of section 3617 of the Revised Statutes (31 U.S.C. 3302).

(2) The authorization set forth in paragraph (1) may be exercised only upon written certification of the Commissioner of the Immigration and Naturalization Service, in consultation with the Deputy Attorney General, that any action authorized by paragraph (1) (A), (B), (C), or (D) is necessary for the conduct of such undercover operation.

(b) UNUSED FUNDS.—As soon as practicable after the proceeds from an undercover investigative operation, carried out under paragraph (1) (C) or (D) of subsection (a), are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

(c) REPORT.—If a corporation or business entity established or acquired as part of an undercover operation under subsection (a)(1)(B) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Immigration and Naturalization Service, as much in advance as the Commissioner or his or her designee determine practicable, shall report the circumstances to the Attorney General, the Director of the Office of Management and Budget, and the Comptroller General of the United States. 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) AUDITS.—The Immigration and Naturalization 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.

SEC. 170. PRISONER TRANSFER TREATIES.

(a) NEGOTIATIONS WITH OTHER COUNTRIES.—(1) Congress advises the President to begin to negotiate and renegotiate, not later than 90 days after the date of enactment of this Act, bilateral prisoner transfer treaties, providing for the incarceration, in the country of the alien's nationality, of any alien who—

(A) is a national of a country that is party to such a treaty; and

(B) has been convicted of a criminal offense under Federal or State law and who—

(i) is not in lawful immigration status in the United States, or

(ii) on the basis of conviction for a criminal offense under Federal or State law, or on any other basis, is subject to deportation under the Immigration and Nationality Act, for the duration of the prison term to which the alien was sentenced for the offense referred to in subparagraph (B). Any such agreement may provide for the release of such alien pursuant to parole procedures of that country.

(2) In entering into negotiations under paragraph (1), the President may consider providing for appropriate compensation, subject to the availability of appropriations, 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) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the focus of negotiations for such agreements should be—

(A) to expedite the transfer of aliens unlawfully in the United States who are (or are about to be) incarcerated in United States prisons,

(B) to ensure that a transferred prisoner serves the balance of the sentence imposed by the United States courts,

(C) to eliminate any requirement of prisoner consent to such a transfer, and

(D) 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 prisons sentences;

(2) the Secretary of State should give priority to concluding an agreement with any country for which the President determines that the number of aliens described in subsection (a) who are nationals of that country in the United States represents a significant percentage of all such aliens in the United States; and

(3) no new treaty providing for the transfer of aliens from Federal, State, or local incarceration facilities to a foreign incarceration facility should permit the alien to refuse the transfer.

(c) PRISONER CONSENT.—Notwithstanding any other provision of law, except as required by treaty, the transfer of an alien from a Federal, State, or local incarceration facility under an agreement of the type referred to in subsection (a) shall not require consent of the alien.

(d) ANNUAL REPORT.—Not later than 90 days after the date of the enactment of this Act, and annually thereafter, the Attorney General shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate stating whether each prisoner transfer treaty to which the United States is a party has been effective in the preceding 12 months in bringing about the return of deportable incarcerated aliens to the country of which they are nationals and in ensuring that they serve the balance of their sentences.

(e) TRAINING FOREIGN LAW ENFORCEMENT PERSONNEL.—(1) Subject to paragraph (2), the President shall direct the Border Patrol Academy and the Customs Service Academy to enroll for training an appropriate number of foreign law enforcement personnel, and shall make appointments of foreign law enforcement personnel to such academies, as necessary to further the following United States law enforcement goals:

(A) prevention of drug smuggling and other cross-border criminal activity;

(B) preventing illegal immigration; and

(C) preventing the illegal entry of goods into the United States (including goods the sale of which is illegal in the United States, the entry of which would cause a quota to be exceeded, or which have not paid the appropriate duty or tariff).

(2) The appointments described in paragraph (1) shall be made only to the extent there is capacity in such academies beyond what is required to train United States citizens needed in the Border Patrol and Customs Service, and only of personnel from a country with which the prisoner transfer treaty has been stated to be effective in the most recent report referred to in subsection (d).

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

SEC. 170A. PRISONER TRANSFER TREATIES STUDY.

(a) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State and the Attorney General shall submit to the Congress a report that describes the use and effectiveness of the prisoner transfer treaties with the three countries with the greatest number of their nationals incarcerated in the United States in removing from the United States such incarcerated nationals.

(b) USE OF TREATY.—The report under subsection (a) shall include—

(1) the number of aliens convicted of a criminal offense in the United States since November 30, 1977, who would have been or are eligible for transfer pursuant to the treaties;

(2) the number of aliens described in paragraph (1) who have been transferred pursuant to the treaties;

(3) the number of aliens described in paragraph (2) who have been incarcerated in full compliance with the treaties;

(4) the number of aliens who are incarcerated in a penal institution in the United States who are eligible for transfer pursuant to the treaties; and

(5) the number of aliens described in paragraph (4) who are incarcerated in Federal, State, and local penal institutions in the United States.

(c) RECOMMENDATIONS.—The report under subsection (a) shall include the recommendations of the Secretary of State and the Attorney General to increase the effectiveness and use of, and full compliance with, the treaties. In considering the recommendations under this subsection, the Secretary and the Attorney General shall consult with such State and local officials in areas disproportionately impacted by aliens convicted of criminal offenses as the Secretary and the Attorney General consider appropriate. Such recommendations shall address—

(1) changes in Federal laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed criminal offenses in the United States;

(2) changes in State and local laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States;

(3) changes in the treaties that may be necessary to increase the number of aliens convicted of criminal offenses who may be transferred pursuant to the treaties;

(4) methods for preventing the unlawful reentry into the United States of aliens who have been convicted of criminal offenses in the United States and transferred pursuant to the treaties;

(5) any recommendations by appropriate officials of the appropriate government agencies of such countries regarding programs to achieve the goals of, and ensure full compliance with, the treaties;

(6) whether the recommendations under this subsection require the renegotiation of the treaties; and

(7) the additional funds required to implement each recommendation under this subsection.

SEC. 170B. USING ALIEN FOR IMMORAL PURPOSES, FILING REQUIREMENT.

Section 2424 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph of subsection (a)—

(A) by striking "alien" each place it appears;

(B) by inserting after "individual" the first place it appears the following: ", knowing or in reckless disregard of the fact that the individual is an alien"; and

(C) by striking "within three years after that individual has entered the United States from any country, party to the arrangement adopted July 25, 1902, for the suppression of the white-slave traffic";

(2) in the second undesignated paragraph of subsection (a)—

(A) by striking "thirty" and inserting "five business"; and

(B) by striking "within three years after that individual has entered the United States from any country, party to the said arrangement for the suppression of the white-slave traffic,";

(3) in the text following the third undesignated paragraph of subsection (a), by striking "two" and inserting "10"; and

(4) in subsection (b), before the period at the end of the second sentence, by inserting ", or for enforcement of the provisions of section 274A of the Immigration and Nationality Act".

SEC. 170C. TECHNICAL CORRECTIONS TO VIOLENT CRIME CONTROL ACT AND TECHNICAL CORRECTIONS ACT.

(a) IN GENERAL.—The second subsection (i) of section 245 (as added by section 130003(c)(1) of the Violent Crime Control and Law Enforcement Act of 1994; Public Law 103-322) is redesignated as subsection (j) of such section.

(b) CONFORMING AMENDMENT.—Section 241(a)(2)(A)(i)(I) (8 U.S.C. 1251(a)(2)(A)(i)(I)) is amended by striking "section 245(i)" and inserting "section 245(j)".

(c) DENIAL OF JUDICIAL ORDER.—(1) Section 242A(c)(4), as redesignated by section 165 of this Act, is amended by striking "without a decision on the merits".

(2) The amendment made by this subsection shall be effective as if originally included in section 223 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416).

SEC. 170D. DEMONSTRATION PROJECT FOR IDENTIFICATION OF ILLEGAL ALIENS IN INCARCERATION FACILITY OF ANAHEIM, CALIFORNIA.

(a) AUTHORITY.—The Attorney General is authorized to conduct a project demonstrating the feasibility of identifying illegal

aliens among those individuals who are incarcerated in local governmental prison facilities prior to arraignment on criminal charges.

(b) DESCRIPTION OF PROJECT.—The project authorized by subsection (a) shall include the detail to the city of Anaheim, California, of an employee of the Immigration and Naturalization Service having expertise in the identification of illegal aliens for the purpose of training local officials in the identification of such aliens.

(c) TERMINATION.—The authority of this section shall cease to be effective 6 months after the date of the enactment of this Act.

(d) DEFINITION.—As used in this section, the term "illegal alien" means an alien in the United States who is not within any of the following classes of aliens:

(1) Aliens lawfully admitted for permanent residence.

(2) Nonimmigrant aliens described in section 101(a)(15) of the Immigration and Nationality Act.

(3) Refugees.

(4) Asylees.

(5) Parolees.

(6) Aliens having deportation withheld under section 243(h) of the Immigration and Nationality Act.

(7) Aliens having temporary residence status.

PART 6—MISCELLANEOUS

SEC. 171. IMMIGRATION EMERGENCY PROVISIONS.

(a) REIMBURSEMENT OF FEDERAL AGENCIES FROM IMMIGRATION EMERGENCY FUND.—Section 404(b) (8 U.S.C. 1101 note) is amended—

(1) in paragraph (1)—

(A) after "paragraph (2)" by striking "and" and inserting a comma,

(B) by striking "State" and inserting "other Federal agencies and States",

(C) by inserting ", and for the costs associated with repatriation of aliens attempting to enter the United States illegally, whether apprehended within or outside the territorial sea of the United States" before "except", and

(D) by adding at the end the following new sentence: "The fund may be used for the costs of such repatriations without the requirement for a determination by the President that an immigration emergency exists."; and

(2) in paragraph (2)(A)—

(A) by inserting "to Federal agencies providing support to the Department of Justice or" after "available"; and

(B) by inserting a comma before "whenever".

(b) VESSEL MOVEMENT CONTROLS.—Section 1 of the Act of June 15, 1917 (50 U.S.C. 191) is amended in the first sentence by inserting "or whenever the Attorney General determines that an actual or anticipated mass migration of aliens en route to or arriving off the coast of the United States presents urgent circumstances requiring an immediate Federal response," after "United States," the first place it appears.

(c) DELEGATION OF IMMIGRATION ENFORCEMENT AUTHORITY.—Section 103 (8 U.S.C. 1103) is amended by adding at the end of subsection (a) the following new sentence: "In the event the Attorney General determines that an actual or imminent mass influx of aliens arriving off the coast of the United States, or near a land border, presents urgent circumstances requiring an immediate Federal response, the Attorney General may authorize any specially designated State or local law enforcement officer, with the consent of the head of the department, agency, or establishment under whose jurisdiction the individual is serving, to perform or exercise any of the powers, privileges, or duties conferred or imposed by this Act or regulations issued thereunder upon officers or employees of the Service.".

SEC. 172. AUTHORITY TO DETERMINE VISA PROCESSING PROCEDURES.

Section 202(a)(1) (8 U.S.C. 1152(a)(1)) is amended—

(1) by inserting "(A)" after "NON-DISCRIMINATION.—"; and

(2) by adding at the end the following:

"(B) Nothing in this paragraph 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.".

SEC. 173. JOINT STUDY OF AUTOMATED DATA COLLECTION.

(a) STUDY.—The Attorney General, together with the Secretary of State, the Secretary of Agriculture, the Secretary of the Treasury, and appropriate representatives of the air transport industry, shall jointly undertake a study to develop a plan for making the transition to automated data collection at ports of entry.

(b) REPORT.—Nine months after the date of enactment of this Act, the Attorney General shall submit a report to the Committees on the Judiciary of the Senate and the House of Representatives on the outcome of this joint initiative, noting specific areas of agreement and disagreement, and recommending further steps to be taken, including any suggestions for legislation.

SEC. 174. AUTOMATED ENTRY-EXIT CONTROL SYSTEM.

Not later than 2 years after the date of the enactment of this Act, the Attorney General shall develop an automated entry and exit control system that will enable the Attorney General to identify, through on-line searching procedures, lawfully admitted nonimmigrants who remain in the United States beyond the period authorized by the Attorney General.

SEC. 175. USE OF LEGALIZATION AND SPECIAL AGRICULTURAL WORKER INFORMATION.

(a) CONFIDENTIALITY OF INFORMATION.—Section 245A(c)(5) (8 U.S.C. 1255a(c)(5)) is amended by striking "except that the Attorney General" and inserting the following: "except that the Attorney General shall provide information furnished under this section to a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, when such information is requested in writing by such entity, or to an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime) and".

(b) SPECIAL AGRICULTURAL WORKERS.—Section 210(b)(6)(C) (8 U.S.C. 1160(b)(6)(C)) is amended—

(1) by striking the period at the end of subparagraph (C) and inserting a comma; and

(2) by adding in full measure margin after subparagraph (C) the following:

"except that the Attorney General shall provide information furnished under this section to a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, when such information is requested in writing by such entity, or to an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).".

SEC. 176. RESCISSION OF LAWFUL PERMANENT RESIDENT STATUS.

Section 246(a) (8 U.S.C. 1256(a)) is amended—

(1) by inserting "(1)" immediately after "(a)"; and

(2) by adding at the end the following new sentence: "Nothing in this subsection requires the Attorney General to rescind the alien's status prior to commencement of procedures to deport the alien under section 242 or 242A, and an order of deportation issued by a special inquiry officer shall be sufficient to rescind the alien's status.".

SEC. 177. COMMUNICATION BETWEEN FEDERAL, STATE, AND LOCAL GOVERNMENT AGENCIES, AND THE IMMIGRATION AND NATURALIZATION SERVICE.

Notwithstanding any other provision of Federal, State, or local law, no Federal, 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 any person.

SEC. 178. AUTHORITY TO USE VOLUNTEERS.

(a) ACCEPTANCE OF DONATED SERVICES.—Notwithstanding any other provision of law, but subject to subsection (b), the Attorney General may accept, administer, and utilize gifts of services from any person for the purpose of providing administrative assistance to the Immigration and Naturalization Service in administering programs relating to naturalization, adjudications at ports of entry, and removal of criminal aliens. Nothing in this section requires the Attorney General to accept the services of any person.

(b) LIMITATION.—Such person may not administer or score tests and may not adjudicate.

SEC. 179. AUTHORITY TO ACQUIRE FEDERAL EQUIPMENT FOR BORDER.

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

SEC. 180. LIMITATION ON LEGALIZATION LITIGATION.

(a) LIMITATION ON COURT JURISDICTION.—Section 245A(f)(4) is amended by adding at the end the following new subparagraph:

"(C) JURISDICTION OF COURTS.—Notwithstanding any other provision of law, no court shall have jurisdiction of any cause of action or claim by or on behalf of any person asserting an interest under this section unless such person in fact filed an application under this section within the period specified by subsection (a)(1), or attempted to file a complete application and application fee with an authorized legalization officer of the Immigration and Naturalization Service but had the application and fee refused by that officer.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective as if originally included in section 201 of the Immigration Control and Financial Responsibility Act of 1986.

SEC. 181. LIMITATION ON ADJUSTMENT OF STATUS.

Section 245(c) (8 U.S.C. 1255(c)) is amended—

(1) by striking "or (5)" and inserting "(5)"; and

(2) by inserting before the period at the end the following: "; (6) any alien who seeks adjustment of status as an employment-based immigrant and is not in a lawful nonimmigrant status; or (7) any alien who was employed while the alien was an unauthorized alien, as defined in section 274A(h)(3), or

who has otherwise violated the terms of a nonimmigrant visa".

SEC. 182. REPORT ON DETENTION SPACE.

(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Attorney General shall submit a report to the Congress estimating the amount of detention space that would be required on the date of enactment of this Act, in 5 years, and in 10 years, under various policies on the detention of aliens, including but not limited to—

(1) detaining all excludable or deportable aliens who may lawfully be detained;

(2) detaining all excludable or deportable aliens who previously have been excluded, been deported, departed while an order of exclusion or deportation was outstanding, voluntarily departed under section 244, or voluntarily returned after being apprehended while violating an immigration law of the United States; and

(3) the current policy.

(b) ESTIMATE OF NUMBER OF ALIENS RELEASED INTO THE COMMUNITY.—Such report shall also estimate the number of excludable or deportable aliens who have been released into the community in each of the 3 years prior to the date of enactment of this Act under circumstances that the Attorney General believes justified detention (for example, a significant probability that the released alien would not appear, as agreed, at subsequent exclusion or deportation proceedings), but a lack of detention facilities required release.

SEC. 183. COMPENSATION OF IMMIGRATION JUDGES.

(a) COMPENSATION.—

(1) IN GENERAL.—There shall be four levels of pay for special inquiry officers of the Department of Justice (in this section referred to as "immigration judges") under the Immigration Judge Schedule (designated as IJ-1, IJ-2, IJ-3, and IJ-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 percent of the next to highest rate of basic pay for the Senior Executive Service.
IJ-2	80 percent of the next to highest rate of basic pay for the Senior Executive Service.
IJ-3	90 percent of the next to highest rate of basic pay for the Senior Executive Service.
IJ-4	92-percent 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 of this subsection 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.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect 90 days after the date of the enactment of this Act.

SEC. 184. ACCEPTANCE OF STATE SERVICES TO CARRY OUT IMMIGRATION ENFORCEMENT.

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 in relation to the arrest or detention of aliens in the United States, 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, and shall contain a written certification that the officers or employees performing the function under the agreement have received adequate training regarding the enforcement of relevant Federal immigration laws.

"(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 agency 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 knowledge 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.".

SEC. 185. ALIEN WITNESS COOPERATION.

Section 214(j)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(j)(1)) (relating to numerical limitations on the number of aliens that may be provided visas as nonimmigrants under section 101(a)(15)(5)(ii) of such Act) is amended—

(1) by striking "100" and inserting "200"; and

(2) by striking "25" and inserting "50".

Subtitle B—Other Control Measures

PART 1—PAROLE AUTHORITY

SEC. 191. USABLE ONLY ON A CASE-BY-CASE BASIS FOR HUMANITARIAN REASONS OR SIGNIFICANT PUBLIC BENEFIT.

Section 212(d)(5)(A) (8 U.S.C. 1182(d)(5)) is amended by striking "for emergent reasons or for reasons deemed strictly in the public interest" and inserting "on a case-by-case basis for urgent humanitarian reasons or significant public benefit".

SEC. 192. INCLUSION IN WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.

(a) IN GENERAL.—Section 201(c) (8 U.S.C. 1151(c)) is amended—

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

"(ii) the sum of the number computed under paragraph (2) and the number computed under paragraph (4), plus"; and

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

"(4) The number computed under this paragraph for a fiscal year is the number of aliens who were paroled into the United States under section 212(d)(5) in the second preceding fiscal year and who did not depart from the United States within 365 days.

"(5) If any alien described in paragraph (4) is subsequently admitted as an alien lawfully admitted for permanent residence, such alien shall not again be considered for purposes of paragraph (1).".

(b) INCLUSION OF PAROLED ALIENS.—Section 202 (8 U.S.C. 1152) is amended by adding at the end the following new subsection:

"(f)(1) For purposes of subsection (a)(2), an immigrant visa shall be considered to have been made available in a fiscal year to any alien who is not an alien lawfully admitted for permanent residence but who was paroled into the United States under section 212(d)(5) in the second preceding fiscal year and who did not depart from the United States within 365 days.

"(2) If any alien described in paragraph (1) is subsequently admitted as an alien lawfully admitted for permanent residence, an immigrant visa shall not again be considered to have been made available for purposes of subsection (a)(2).".

PART 2—ASYLUM

SEC. 193. LIMITATIONS ON ASYLUM APPLICATIONS BY ALIENS USING DOCUMENTS FRAUDULENTLY OR BY EXCLUDABLE ALIENS APPREHENDED AT SEA; USE OF SPECIAL EXCLUSION PROCEDURES.

Section 208 (8 U.S.C. 1158) is amended by striking subsection (e) and inserting the following:

"(e)(1) Notwithstanding subsection (a), any alien who, in seeking entry to the United States or boarding a common carrier for the

purpose of coming to the United States, presents any document which, in the determination of the immigration officer, is fraudulent, forged, stolen, or inapplicable to the person presenting the document, or otherwise contains a misrepresentation of a material fact, may not apply for or be granted asylum, unless presentation of the document was necessary to depart from a country in which the alien has a credible fear of persecution, or from which the alien has a credible fear of return to persecution, and the alien traveled from such country directly to the United States.

"(2) Notwithstanding subsection (a), an alien who boards a common carrier for the purpose of coming to the United States through the presentation of any document which relates or purports to relate to the alien's eligibility to enter the United States, and who fails to present such document to an immigration officer upon arrival at a port of entry into the United States, may not apply for or be granted asylum, unless presentation of such document was necessary to depart from a country in which the alien has a credible fear of persecution, or from which the alien has a credible fear of return to persecution, and the alien traveled from such country directly to the United States.

"(3) Notwithstanding subsection (a), an alien described in section 235(d)(3) may not apply for or be granted asylum, unless the alien traveled directly from a country in which the alien has a credible fear of persecution, or from which the alien has a credible fear of return to persecution.

"(4) Notwithstanding paragraph (1), (2), or (3), the Attorney General may, under extraordinary circumstances, permit an alien described in any such paragraph to apply for asylum.

"(5)(A) When an immigration officer has determined that an alien has sought entry under either of the circumstances described in paragraph (1) or (2), or is an alien described in section 235(d)(3), or is otherwise an alien subject to the special exclusion procedure of section 235(e), and the alien has indicated a desire to apply for asylum or for withholding of deportation under section 243(h), the immigration officer shall refer the matter to an asylum officer.

"(B) Such asylum officer shall interview the alien, in person or by video conference, to determine whether the alien has a credible fear of persecution (or of return to persecution) in or from—

"(i) the country of such alien's nationality or, in the case of a person having no nationality, the country in which such alien last habitually resided, and

"(ii) in the case of an alien seeking asylum who has sought entry under either of the circumstances described in paragraph (1) or (2), or who is described in section 235(d)(3), the country in which the alien was last present prior to attempting entry into the United States.

"(C) If the officer determines that the alien does not have a credible fear of persecution in (or of return to persecution from) the country or countries referred to in subparagraph (B), the alien may be specially excluded and deported in accordance with section 235(e).

"(D) The Attorney General shall provide by regulation for the prompt supervisory review of a determination under subparagraph (C) that an alien physically present in the United States does not have a credible fear of persecution in (or of return to persecution from) the country or countries referred to in subparagraph (B).

"(E) The Attorney General shall provide information concerning the procedure described in this paragraph to persons who may be eligible. An alien who is eligible for such procedure pursuant to subparagraph (A) may consult with a person or persons of the alien's choosing prior to the procedure or any review thereof, in accordance with regulations prescribed by the Attorney General. Such consultation shall be at no expense to the Government and shall not delay the process.

"(6) An alien who has been determined under the procedure described in paragraph (5) to have a credible fear of persecution shall be taken before a special inquiry officer for a hearing in accordance with section 236.

"(7) As used in this subsection, the term 'asylum officer' means an immigration officer who—

"(A) has had professional training in country conditions, asylum law, and interview techniques; and

"(B) is supervised by an officer who meets the condition in subparagraph (A).

"(8) As used in this section, the term 'credible fear of persecution' means that—

"(A) there is a substantial likelihood that the statements made by the alien in support of the alien's claim are true; and

"(B) there is a significant possibility, in light of such statements and of country conditions, that the alien could establish eligibility as a refugee within the meaning of section 101(a)(42)(A).".

SEC. 194. TIME LIMITATION ON ASYLUM CLAIMS.

Section 208(a) (8 U.S.C. 1158(a)) is amended—

(1) by striking "The" and inserting the following: "(1) Except as provided in paragraph (2), the"; and

(2) by adding at the end the following:

"(2)(A) An application for asylum filed for the first time during an exclusion or deportation proceeding shall not be considered if the proceeding was commenced more than one year after the alien's entry or admission into the United States.

"(B) An application for asylum may be considered, notwithstanding subparagraph (A), if the applicant shows good cause for not having filed within the specified period of time.".

SEC. 195. LIMITATION ON WORK AUTHORIZATION FOR ASYLUM APPLICANTS.

Section 208 (8 U.S.C. 1158), as amended by this Act, is further amended by adding at the end the following new subsection:

"(f)(1) An applicant for asylum may not engage in employment in the United States unless such applicant has submitted an application for employment authorization to the Attorney General and, subject to paragraph (2), the Attorney General has granted such authorization.

"(2) The Attorney General may deny any application for, or suspend or place conditions on any grant of, authorization for any applicant for asylum to engage in employment in the United States.".

SEC. 196. INCREASED RESOURCES FOR REDUCING ASYLUM APPLICATION BACKLOGS.

(a) PURPOSE AND PERIOD OF AUTHORIZATION.—For the purpose of reducing the number of applications pending under sections 208 and 243(h) of the Immigration and Nationality Act (8 U.S.C. 1158 and 1253) as of the date of the enactment of this Act, the Attorney General shall have the authority described in subsections (b) and (c) for a period of two years, beginning 90 days after the date of the enactment of this Act.

(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).

(c) USE OF FEDERAL RETIREES.—(1) In order to carry out the purpose described in subsection (a), the Attorney General may employ temporarily not more than 300 persons who, by reason of retirement on or before January 1, 1993, 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) In the case of a person retired under the provisions of subchapter III of chapter 83 of title 5, United States Code—

(A) no amounts may be deducted from the person's pay,

(B) the annuity of such person may not be terminated,

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

(D) the annuity of such person may not be recomputed, under section 8344 of such title, by reason of the temporary employment authorized in paragraph (1).

(3) In the case of a person retired under the provisions of chapter 84 of title 5, United States Code—

(A) no amounts may be deducted from the person's pay,

(B) contributions to the Civil Service Retirement and Disability Fund may not be made, and

(C) the annuity of such person may not be recomputed, under section 8468 of such title, by reason of the temporary employment authorized in paragraph (1).

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

(5) The President shall apply the provisions of paragraphs (2) and (3) to persons receiving annuities described in paragraph (1)(B) in the same manner and to the same extent as such provisions apply to persons receiving annuities described in paragraph (1)(A).

PART 3—CUBAN ADJUSTMENT ACT

SEC. 197. REPEAL AND EXCEPTION.

(a) REPEAL.—Subject to subsection (b), Public Law 89-732, as amended, is hereby repealed.

(b) SAVINGS PROVISIONS.—(1) The provisions of such Act shall continue to apply on a case-by-case basis with respect to individuals paroled into the United States pursuant to the Cuban Migration Agreement of 1995.

(2) The individuals obtaining lawful permanent resident status under such provisions in a fiscal year shall be treated as if they were family-sponsored immigrants acquiring the status of aliens lawfully admitted to the United States in such fiscal year for purposes of the world-wide and per-country levels of immigration described in sections 201 and 202 of the Immigration and Nationality Act, except that any individual who previously was included in the number computed under section 201(c)(4) of the Immigration and Nationality Act, as added by section 192 of this Act, or had been counted for purposes of section 202 of the Immigration and Nationality Act, as amended by section 192 of this Act, shall not be so treated.

Subtitle C—Effective Dates

SEC. 198. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this title and subject to subsection

(b), this title, and the amendments made by this title, shall take effect on the date of the enactment of this Act.

(b) OTHER EFFECTIVE DATES.—

(1) EFFECTIVE DATES FOR PROVISIONS DEALING WITH DOCUMENT FRAUD; REGULATIONS TO IMPLEMENT.—

(A) IN GENERAL.—The amendments made by sections 131, 132, 141, and 195 shall be effective upon the date of the enactment of this Act and shall apply to aliens who arrive in or seek admission to the United States on or after such date.

(B) REGULATIONS.—Notwithstanding any other provision of law, the Attorney General may issue interim final regulations to implement the provisions of the amendments listed in subparagraph (A) at any time on or after the date of the enactment of this Act, which regulations may become effective upon publication without prior notice or opportunity for public comment.

(2) ALIEN SMUGGLING, EXCLUSION, AND DEPORTATION.—The amendments made by sections 122, 126, 128, 129, 143, and 150(b) shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

TITLE II—FINANCIAL RESPONSIBILITY

Subtitle A—Receipt of Certain Government Benefits

SEC. 201. INELIGIBILITY OF EXCLUDABLE, DEPORTABLE, AND NONIMMIGRANT ALIENS.

(a) PUBLIC ASSISTANCE AND BENEFITS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, an ineligible alien (as defined in subsection (f)(2)) shall not be eligible to receive—

(A) any benefits under a public assistance program (as defined in subsection (f)(3)), except—

(i) emergency medical services under title XIX of the Social Security Act,

(ii) subject to paragraph (4), prenatal and postpartum services under title XIX of the Social Security Act,

(iii) short-term emergency disaster relief,

(iv) assistance or benefits under the National School Lunch Act,

(v) assistance or benefits under the Child Nutrition Act of 1966,

(vi) public health assistance for immunizations and, if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of a serious communicable disease, for testing and treatment for such diseases, and

(vii) such other service or assistance (such as soup kitchens, crisis counseling, intervention (including intervention for domestic violence), and short-term shelter) as the Attorney General specifies, in the Attorney General's sole and unreviewable discretion, after consultation with the heads of appropriate Federal agencies, if—

(I) such service or assistance is delivered at the community level, including through public or private nonprofit agencies;

(II) such service or assistance is necessary for the protection of life, safety, or public health; and

(III) such service or assistance or the amount or cost of such service or assistance is not conditioned on the recipient's income or resources; or

(B) any grant, contract, loan, professional license, or commercial license provided or funded by any agency of the United States or any State or local government entity, except, with respect to a nonimmigrant authorized to work in the United States, any professional or commercial license required to engage in such work, if the nonimmigrant is otherwise qualified for such license.

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

(3) NOTIFICATION OF ALIENS.—

(A) IN GENERAL.—The agency administering a program referred to in paragraph (1)(A) or providing benefits referred to in paragraph (1)(B) shall, directly or, in the case of a Federal agency, through the States, notify individually or by public notice, all ineligible aliens who are receiving benefits under a program referred to in paragraph (1)(A), or are receiving benefits referred to in paragraph (1)(B), as the case may be, immediately prior to the date of the enactment of this Act and whose eligibility for the program is terminated by reason of this subsection.

(B) FAILURE TO GIVE NOTICE.—Nothing in subparagraph (A) shall be construed to require or authorize continuation of such eligibility if the notice required by such paragraph is not given.

(4) LIMITATION ON PREGNANCY SERVICES FOR UNDOCUMENTED ALIENS.—

(A) 3-YEAR CONTINUOUS RESIDENCE.—An ineligible alien may not receive the services described in paragraph (1)(A)(ii) unless such alien can establish proof of continuous residence in the United States for not less than 3 years, as determined in accordance with section 245a.2(d)(3) of title 8, Code of Federal Regulations as in effect on the day before the date of the enactment of this Act.

(B) LIMITATION ON EXPENDITURES.—Not more than $120,000,000 in outlays may be expended under title XIX of the Social Security Act for reimbursement of services described in paragraph (1)(A)(ii) that are provided to individuals described in subparagraph (A).

(C) CONTINUED SERVICES BY CURRENT STATES.—States that have provided services described in paragraph (1)(A)(ii) for a period of 3 years before the date of the enactment of this Act shall continue to provide such services and shall be reimbursed by the Federal Government for the costs incurred in providing such services. States that have not provided such services before the date of the enactment of this Act, but elect to provide such services after such date, shall be reimbursed for the costs incurred in providing such services. In no case shall States be required to provide services in excess of the amounts provided in subparagraph (B).

(b) UNEMPLOYMENT BENEFITS.—Notwithstanding any other provision of law, only eligible aliens who have been granted employment authorization pursuant to Federal law, and United States citizens or nationals, may receive unemployment benefits payable out of Federal funds, and such eligible aliens may receive only the portion of such benefits which is attributable to the authorized employment.

(c) SOCIAL SECURITY BENEFITS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, only eligible aliens who have been granted employment authorization pursuant to Federal law and United States citizen or nationals may receive any benefit under title II of the Social Security Act, and such eligible aliens may receive only the portion of such benefits which is attributable to the authorized employment.

(2) NO REFUND OR REIMBURSEMENT.—Notwithstanding any other provision of law, no tax or other contribution required pursuant to the Social Security Act (other than by an eligible alien who has been granted employment authorization pursuant to Federal law, or by an employer of such alien) shall be refunded or reimbursed, in whole or in part.

(d) 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 Committee on the Judiciary and the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on the Judiciary and the Committee on Banking and Financial Services of the House of Representatives, describing the manner in which the Secretary is enforcing section 214 of the Housing and Community Development Act of 1980 (Public Law 96-399; 94 Stat. 1637) and containing statistics with respect to the number of individuals denied financial assistance under such section.

(e) NONPROFIT, CHARITABLE ORGANIZATIONS.—

(1) IN GENERAL.—Nothing in this Act shall be construed as requiring a nonprofit charitable organization operating any program of assistance provided or funded, in whole or in part, by the Federal Government to—

(A) determine, verify, or otherwise require proof of the eligibility, as determined under this title, of any applicant for benefits or assistance under such program; or

(B) deem that the income or assets of any applicant for benefits or assistance under such program include the income or assets described in section 204(b).

(2) NO EFFECT ON FEDERAL AUTHORITY TO DETERMINE COMPLIANCE.—Nothing in this subsection shall be construed as prohibiting the Federal Government from determining the eligibility, under this section or section 204, of any individual for benefits under a public assistance program (as defined in subsection (f)(3)) or for government benefits (as defined in subsection (f)(4)).

(f) DEFINITIONS.—For the purposes of this section—

(1) ELIGIBLE ALIEN.—The term "eligible alien" means an individual who is—

(A) an alien lawfully admitted for permanent residence under the Immigration and Nationality Act,

(B) an alien granted asylum under section 208 of such Act,

(C) a refugee admitted under section 207 of such Act,

(D) an alien whose deportation has been withheld under section 243(h) of such Act, or

(E) an alien paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year.

(2) INELIGIBLE ALIEN.—The term "ineligible alien" means an individual who is not—

(A) a United States citizen or national; or

(B) an eligible alien.

(3) PUBLIC ASSISTANCE PROGRAM.—The term "public assistance program" means any program of assistance provided or funded, in whole or in part, by the Federal Government or any State or local government entity, for which eligibility for benefits is based on need.

(4) GOVERNMENT BENEFITS.—The term "government benefits" includes—

(A) any grant, contract, loan, professional license, or commercial license provided or funded by any agency of the United States or any State or local government entity, except, with respect to a nonimmigrant authorized to work in the United States, any professional or commercial license required to engage in such work, if the nonimmigrant is otherwise qualified for such license;

(B) unemployment benefits payable out of Federal funds;

(C) benefits under title II of the Social Security Act;

(D) financial assistance for purposes of section 214(a) of the Housing and Community Development Act of 1980 (Public Law 96-399; 94 Stat. 1637); and

(E) benefits based on residence that are prohibited by subsection (a)(2).

SEC. 202. DEFINITION OF "PUBLIC CHARGE" FOR PURPOSES OF DEPORTATION.

(a) IN GENERAL.—Section 241(a)(5) (8 U.S.C. 1251(a)(5)) is amended to read as follows:

"(5) PUBLIC CHARGE.—

"(A) IN GENERAL.—Any alien who during the public charge period becomes a public charge, regardless of when the cause for becoming a public charge arises, is deportable.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply if the alien is a refugee or has been granted asylum, or if the cause of the alien's becoming a public charge—

"(i) arose after entry (in the case of an alien who entered as an immigrant) or after adjustment to lawful permanent resident status (in the case of an alien who entered as a nonimmigrant), and

"(ii) was a physical illness, or physical injury, so serious the alien could not work at any job, or a mental disability that required continuous hospitalization.

"(C) DEFINITIONS.—

"(i) PUBLIC CHARGE PERIOD.—For purposes of subparagraph (A), the term 'public charge period' means the period beginning on the date the alien entered the United States and ending—

"(I) for an alien who entered the United States as an immigrant, 5 years after entry, or

"(II) for an alien who entered the United States as a nonimmigrant, 5 years after the alien adjusted to permanent resident status.

"(ii) PUBLIC CHARGE.—For purposes of subparagraph (A), the term 'public charge' includes any alien who receives benefits under any program described in subparagraph (D) for an aggregate period of more than 12 months.

"(D) PROGRAMS DESCRIBED.—The programs described in this subparagraph are the following:

"(i) The aid to families with dependent children program under title IV of the Social Security Act.

"(ii) The medicaid program under title XIX of the Social Security Act.

"(iii) The food stamp program under the Food Stamp Act of 1977.

"(iv) The supplemental security income program under title XVI of the Social Security Act.

"(v) Any State general assistance program.

"(vi) Any other program of assistance funded, in whole or in part, by the Federal Government or any State or local government entity, for which eligibility for benefits is based on need, except the programs listed as exceptions in clauses (i) through (vi) of section 201(a)(1)(A) of the Immigration Reform Act of 1996.".

(b) CONSTRUCTION.—Nothing in subparagraph (B), (C), or (D) of section 241(a)(5) of the Immigration and Nationality Act, as amended by subsection (a), may be construed to affect or apply to any determination of an alien as a public charge made before the date of the enactment of this Act.

(c) REVIEW OF STATUS.—

(1) IN GENERAL.—In reviewing any application by an alien for benefits under section 216, section 245, or chapter 2 of title III of the Immigration and Nationality Act, the Attorney General shall determine whether or not the applicant is described in section 241(a)(5)(A) of such Act, as so amended.

(2) GROUNDS FOR DENIAL.—If the Attorney General determines that an alien is described in section 241(a)(5)(A) of the Immigration and Nationality Act, the Attorney General shall deny such application and shall institute deportation proceedings with respect to such alien, unless the Attorney General exercises discretion to withhold or suspend deportation pursuant to any other section of such Act.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to aliens who enter the United States on or after the date of the enactment of this Act and to aliens who entered as nonimmigrants before such date but adjust or apply to adjust their status after such date.

SEC. 203. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

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

(1) which is legally enforceable against the sponsor by the sponsored individual, or by the Federal Government or any State, district, territory, or possession of the United States (or any subdivision of such State, district, territory, or possession of the United States) that provides any benefit described in section 241(a)(5)(D), as amended by section 202(a) of this Act, but not later than 10 years after the sponsored individual last receives any such benefit;

(2) in which the sponsor agrees to financially support the sponsored individual, so that he or she will not become a public charge, until the sponsored individual has worked in the United States for 40 qualifying quarters or has become a United States citizen, whichever occurs first; and

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

(b) FORMS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State, the Attorney General, and the Secretary of Health and Human Services shall jointly formulate the affidavit of support described in this section.

(c) NOTIFICATION OF CHANGE OF ADDRESS.—

(1) GENERAL REQUIREMENT.—The sponsor shall notify the Attorney General and the State, district, territory, or possession in which the sponsored individual is currently a resident within 30 days of any change of address of the sponsor during the period specified in subsection (a)(1).

(2) PENALTY.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall, after notice and opportunity to be heard, 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 individual has received any benefit described in section 241(a)(5)(D) of the Immigration and Nationality Act, as amended by section 202(a) of this Act, not less than $2,000 or more than $5,000.

(d) REIMBURSEMENT OF GOVERNMENT EXPENSES.—

(1) IN GENERAL.—

(A) REQUEST FOR REIMBURSEMENT.—Upon notification that a sponsored individual has received any benefit described in section 241(a)(5)(D) of the Immigration and Nationality Act, as amended by section 202(a) of this Act, the appropriate Federal, State, or local official shall request reimbursement from the sponsor for the amount of such assistance.

(B) REGULATIONS.—The Commissioner of Social Security shall prescribe such regulations as may be necessary to carry out subparagraph (A). Such regulations shall provide that notification be sent to the sponsor's last known address by certified mail.

(2) ACTION AGAINST SPONSOR.—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 make payments, an action may be brought against the sponsor pursuant to the affidavit of support.

(3) FAILURE TO MEET REPAYMENT TERMS.—If the sponsor agrees to make payments, but fails to abide by the repayment terms established by the agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.

(e) JURISDICTION.—

(1) IN GENERAL.—An action to enforce an affidavit of support executed under subsection (a) may be brought against the sponsor in any Federal or State court—

(A) by a sponsored individual, with respect to financial support; or

(B) by a Federal, State, or local agency, with respect to reimbursement.

(2) COURT MAY NOT DECLINE TO HEAR CASE.—For purposes of this section, no Federal or State court shall decline for lack of subject matter or personal jurisdiction to hear any action brought against a sponsor under paragraph (1) if—

(A) the sponsored individual is a resident of the State in which the court is located, or received public assistance while residing in the State; and

(B) such sponsor has received service of process in accordance with applicable law.

(f) DEFINITIONS.—For purposes of this section—

(1) SPONSOR.—The term "sponsor" means an individual who—

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

(B) is at least 18 years of age;

(C) is domiciled in any of the several States of the United States, the District of Columbia, or any territory or possession of the United States; and

(D) demonstrates the means to maintain an annual income equal to at least 125 percent of the Federal poverty line for the individual and the individual's family (including the sponsored alien and any other alien sponsored by the individual), through evidence that includes a copy of the individual's Federal income tax return for the 3 most recent taxable years (which returns need show such level of annual income only in the most recent taxable year) 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 true copies of such returns.

In the case of an individual who is on active duty (other than active duty for training) in the Armed Forces of the United States, subparagraph (D) shall be applied by substituting "100 percent" for "125 percent".

(2) FEDERAL POVERTY LINE.—The term "Federal poverty line" means the level of income equal to the official poverty line (as defined by the Director of the Office of Management and Budget, as revised annually by the Secretary of Health and Human Services, in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902)) that is applicable to a family of the size involved.

(3) QUALIFYING QUARTER.—The term "qualifying quarter" means a three-month period in which the sponsored individual has—

(A) earned at least the minimum necessary for the period to count as one of the 40 quarters required to qualify for social security retirement benefits;

(B) not received need-based public assistance; and

(C) had income tax liability for the tax year of which the period was part.

SEC. 204. ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO FAMILY-SPONSORED IMMIGRANTS.

(a) DEEMING REQUIREMENT FOR FEDERAL AND FEDERALLY FUNDED PROGRAMS.—Subject

to subsection (d), for purposes of determining the eligibility of an alien for benefits, and the amount of benefits, under any public assistance program (as defined in section 201(f)(3)), the income and resources described in subsection (b) shall, notwithstanding any other provision of law, be deemed to be the income and resources of such alien.

(b) DEEMED INCOME AND RESOURCES.—The income and resources described in this subsection include the income and resources of—

(1) any person who, as a sponsor of an alien's entry into the United States, or in order to enable an alien lawfully to remain in the United States, executed an affidavit of support or similar agreement with respect to such alien, and

(2) the sponsor's spouse.

(c) LENGTH OF DEEMING PERIOD.—The requirement of subsection (a) shall apply for the period for which the sponsor has agreed, in such affidavit or agreement, to provide support for such alien, or for a period of 5 years beginning on the day such alien was first lawfully in the United States after the execution of such affidavit or agreement, whichever period is longer.

(d) EXCEPTIONS.—

(1) INDIGENCE.—

(A) IN GENERAL.—If a determination described in subparagraph (B) is made, the amount of income and resources of the sponsor or the sponsor's spouse which shall be attributed to the sponsored alien shall not exceed the amount actually provided for a period—

(i) beginning on the date of such determination and ending 12 months after such date, or

(ii) if the address of the sponsor is unknown to the sponsored alien, beginning on the date of such determination and ending on the date that is 12 months after the address of the sponsor becomes known to the sponsored alien or to the agency (which shall inform such alien of the address within 7 days).

(B) DETERMINATION DESCRIBED.—A determination described in this subparagraph is a determination by an agency that a sponsored alien would, in the absence of the assistance provided by the agency, be unable to obtain food and shelter, taking into account the alien's own income, plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor.

(2) EDUCATION ASSISTANCE.—

(A) IN GENERAL.—The requirements of subsection (a) shall not apply with respect to sponsored aliens who have received, or have been approved to receive, student assistance under title IV, V, IX, or X of the Higher Education Act of 1965 in an academic year which ends or begins in the calendar year in which this Act is enacted.

(B) DURATION.—The exception described in subparagraph (A) shall apply only for the period normally required to complete the course of study for which the sponsored alien receives assistance described in that subparagraph.

(3) CERTAIN SERVICES AND ASSISTANCE.—The requirements of subsection (a) shall not apply to any service or assistance described in section 201(a)(1)(A)(vii).

(e) DEEMING AUTHORITY TO STATE AND LOCAL AGENCIES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, but subject to exceptions equivalent to the exceptions described in subsection (d), the State or local government may, for purposes of determining the eligibility of an alien for benefits, and the amount of benefits, under any State or local program of assistance for which eligibility is based on need, or any need-based program of assistance administered by a State or local government (other than a program of assistance provided or funded, in whole or in part, by the Federal Government), require that the income and resources described in subsection (b) be deemed to be the income and resources of such alien.

(2) LENGTH OF DEEMING PERIOD.—Subject to exceptions equivalent to the exceptions described in subsection (d), a State or local government may impose the requirement described in paragraph (1) for the period for which the sponsor has agreed, in such affidavit or agreement, to provide support for such alien, or for a period of 5 years beginning on the day such alien was first lawfully in the United States after the execution of such affidavit or agreement, whichever period is longer.

SEC. 205. VERIFICATION OF STUDENT ELIGIBILITY FOR POSTSECONDARY FEDERAL STUDENT FINANCIAL ASSISTANCE.

(a) REPORT REQUIREMENT.—Not later than one year after the date of the enactment of this Act, the Secretary of Education and the Commissioner of Social Security shall jointly submit to the Congress a report on the computer matching program of the Department of Education under section 484(p) of the Higher Education Act of 1965.

(b) REPORT ELEMENTS.—The report shall include the following:

(1) An assessment by the Secretary and the Commissioner of the effectiveness of the computer matching program, and a justification for such assessment.

(2) The ratio of inaccurate matches under the program to successful matches.

(3) Such other information as the Secretary and the Commissioner jointly consider appropriate.

SEC. 206. AUTHORITY OF STATES AND LOCALITIES TO LIMIT ASSISTANCE TO ALIENS AND TO DISTINGUISH AMONG CLASSES OF ALIENS IN PROVIDING GENERAL PUBLIC ASSISTANCE.

(a) IN GENERAL.—Subject to subsection (b) and notwithstanding any other provision of law, a State or local government may prohibit or otherwise limit or restrict the eligibility of aliens or classes of aliens for programs of general cash public assistance furnished under the law of the State or a political subdivision of a State.

(b) LIMITATION.—The authority provided for under subsection (a) may be exercised only to the extent that any prohibitions, limitations, or restrictions imposed by a State or local government are not more restrictive than the prohibitions, limitations, or restrictions imposed under comparable Federal programs. For purposes of this section, attribution to an alien of a sponsor's income and resources (as described in section 204(b)) for purposes of determining eligibility for, and the amount of, benefits shall be considered less restrictive than a prohibition of eligibility for such benefits.

SEC. 207. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS NOT CITIZENS OR LAWFUL PERMANENT RESIDENTS.

(a) IN GENERAL.—

(1) LIMITATION.—Notwithstanding any other provision of law, an individual may not receive an earned income tax credit for any year in which such individual was not, for the entire year, either a United States citizen or national or a lawful permanent resident.

(2) IDENTIFICATION NUMBER REQUIRED.—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 is amended by adding at the end the following new subsection:

"(k) IDENTIFICATION NUMBERS.—Solely 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—

(1) by striking "and" at the end of subparagraph (D),

(2) by striking the period at the end of subparagraph (E) and inserting ", and", and

(3) by inserting after subparagraph (E) the following new subparagraph:

"(F) an unintended omission of a correct taxpayer identification number required under 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.

SEC. 208. INCREASED MAXIMUM CRIMINAL PENALTIES FOR FORGING OR COUNTERFEITING SEAL OF A FEDERAL DEPARTMENT OR AGENCY TO FACILITATE BENEFIT FRAUD BY AN UNLAWFUL ALIEN.

Section 506 of title 18, United States Code, is amended to read as follows:

"§ 506. Seals of departments or agencies

"(a) Whoever—

"(1) falsely makes, forges, counterfeits, mutilates, or alters the seal of any department or agency of the United States, or any facsimile thereof;

"(2) knowingly uses, affixes, or impresses any such fraudulently made, forged, counterfeited, mutilated, or altered seal or facsimile thereof to or upon any certificate, instrument, commission, document, or paper of any description; or

"(3) with fraudulent intent, possesses, sells, offers for sale, furnishes, offers to furnish, gives away, offers to give away, transports, offers to transport, imports, or offers to import any such seal or facsimile thereof, knowing the same to have been so falsely made, forged, counterfeited, mutilated, or altered,

shall be fined under this title, or imprisoned not more than 5 years, or both.

"(b) Notwithstanding subsection (a) or any other provision of law, if a forged, counterfeited, mutilated, or altered seal of a department or agency of the United States, or any facsimile thereof, is—

"(1) so forged, counterfeited, mutilated, or altered;

"(2) used, affixed, or impressed to or upon any certificate, instrument, commission, document, or paper of any description; or

"(3) with fraudulent intent, possessed, sold, offered for sale, furnished, offered to furnish, given away, offered to give away, transported, offered to transport, imported, or offered to import,

with the intent or effect of facilitating an unlawful alien's application for, or receipt of, a Federal benefit, the penalties which may be imposed for each offense under subsection (a) shall be two times the maximum fine, and 3 times the maximum term of imprisonment, or both, that would otherwise be imposed for an offense under subsection (a).

"(c) For purposes of this section—

"(1) the term 'Federal benefit' means—

"(A) the issuance of any grant, contract, loan, professional license, or commercial license provided by any agency of the United States or by appropriated funds of the United States; and

"(B) any retirement, welfare, Social Security, health (including treatment of an emergency medical condition in accordance with section 1903(v) of the Social Security Act (19 U.S.C. 1396b(v))), disability, veterans, public housing, education, food stamps, or unemployment benefit, or any similar benefit for which payments or assistance are provided by an agency of the United States or by appropriated funds of the United States;

"(2) the term 'unlawful alien' means an individual who is not—

"(A) a United States citizen or national;

"(B) an alien lawfully admitted for permanent residence under the Immigration and Nationality Act;

"(C) an alien granted asylum under section 208 of such Act;

"(D) a refugee admitted under section 207 of such Act;

"(E) an alien whose deportation has been withheld under section 243(h) of such Act; or

"(F) an alien paroled into the United States under section 215(d)(5) of such Act for a period of at least 1 year; and

"(3) each instance of forgery, counterfeiting, mutilation, or alteration shall constitute a separate offense under this section.".

SEC. 209. STATE OPTION UNDER THE MEDICAID PROGRAM TO PLACE ANTI-FRAUD INVESTIGATORS IN HOSPITALS.

(a) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (61);

(2) by striking the period at the end of paragraph (62) and inserting "; and"; and

(3) by adding after paragraph (62) the following new paragraph:

"(63) in the case of a State that is certified by the Attorney General as a high illegal immigration State (as determined by the Attorney General), at the election of the State, establish and operate a program for the placement of anti-fraud investigators in State, county, and private hospitals located in the State to verify the immigration status and income eligibility of applicants for medical assistance under the State plan prior to the furnishing of medical assistance.".

(b) PAYMENT.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended—

(1) by striking "plus" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; plus"; and

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

"(8) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b)) of the total amount expended during such quarter which is attributable to operating a program under section 1902(a)(63).".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the first day of the first calendar quarter beginning after the date of the enactment of this Act.

SEC. 210. COMPUTATION OF TARGETED ASSISTANCE.

Section 412(c)(2) (8 U.S.C. 1522(c)(2)) is amended by adding at the end the following new subparagraph:

"(C) Except for the Targeted Assistance Ten Percent Discretionary Program, all grants made available under this paragraph for a fiscal year shall be allocated by the Office of Refugee Resettlement in a manner that ensures that each qualifying county receives the same amount of assistance for each refugee and entrant residing in the county as of the beginning of the fiscal year who arrived in the United States not earlier than 60 months before the beginning of such fiscal year.".

Subtitle B—Miscellaneous Provisions

SEC. 211. REIMBURSEMENT OF STATES AND LOCALITIES FOR EMERGENCY MEDICAL ASSISTANCE FOR CERTAIN ILLEGAL ALIENS.

(a) REIMBURSEMENT.—The Attorney General shall, subject to the availability of appropriations, fully reimburse the States and political subdivisions of the States for costs incurred by the States and political subdivisions for emergency ambulance service provided to any alien who—

(1) entered the United States without inspection or at any time or place other than as designated by the Attorney General;

(2) is under the custody of a State or a political subdivision of a State as a result of transfer or other action by Federal authorities; and

(3) is being treated for an injury suffered while crossing the international border between the United States and Mexico or between the United States and Canada.

(b) STATUTORY CONSTRUCTION.—Nothing in this section requires that the alien be arrested by Federal authorities before entering into the custody of the State or political subdivision.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General such sums as may be necessary to carry out the provisions of this section.

(2) STATUTORY CONSTRUCTION.—Nothing in this Act may be construed to prevent the Attorney General from seeking reimbursement from an alien described in subsection (a) for the costs of the emergency medical services provided to the alien.

SEC. 212. 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 through a public hospital, other public facility, or other facility (including a hospital that is eligible for an additional payment adjustment under section 1886(d)(5)(F) or section 1923 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 for its costs of providing such services, but only to the extent that the costs of the State or local government are not fully reimbursed through any other Federal program and cannot be recovered from the alien or other entity.

(b) CONFIRMATION OF IMMIGRATION STATUS.—No payment shall be made under this section with respect to services furnished to aliens described in subsection (a) unless the State or local government establishes that it has provided services to such aliens in accordance with procedures established by the Secretary of Health and Human Services, after consultation with the Attorney General and State and local officials.

(c) ADMINISTRATION.—This section shall be administered by the Attorney General, in consultation with the Secretary of Health and Human Services.

(d) EFFECTIVE DATE.—This section shall not apply to emergency medical services furnished before October 1, 1995.

SEC. 213. PILOT PROGRAMS.

(a) ADDITIONAL COMMUTER BORDER CROSSING FEES PILOT PROJECTS.—In addition to the land border fee pilot projects extended by the fourth proviso under the heading " Immigration and Naturalization Service, Salaries and Expenses" of Public Law 103-121, the Attorney General may establish another such pilot project on the northern land border and another such pilot project on the southern land border of the United States.

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

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

(2) the use of designated ports of entry after working hours through the use of card reading machines or other appropriate technology.

SEC. 214. USE OF PUBLIC SCHOOLS BY NONIMMIGRANT FOREIGN STUDENTS.

(a) PERSONS ELIGIBLE FOR STUDENT VISAS.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—

(1) in clause (i) by striking "academic high school, elementary school, or other academic institution or in a language training program" and inserting in lieu thereof "public elementary or public secondary school (if the alien shows to the satisfaction of the consular officer at the time of application for a visa, or of the Attorney General at the time of application for admission or adjustment of status, that (I) the alien will in fact reimburse such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), private elementary or private secondary school, or postsecondary academic institution, or in a language-training program"; and

(2) by inserting before the semicolon at the end of clause (ii) the following: ": *Provided*, That nothing in this paragraph shall be construed to prevent a child who is present in the United States in a nonimmigrant status other than that conferred by paragraph (B), (C), (F)(i), or (M)(i), from seeking admission to a public elementary school or public secondary school for which such child may otherwise be qualified.";

(b) EXCLUSION OF STUDENT VISA ABUSERS.—Section 212(a) (8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

"(9) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement) is excludable"; and

(c) DEPORTATION OF STUDENT VISA ABUSERS.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

"(6) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is deportable".

This section shall become effective 1 day after the date of enactment.

SEC. 215. PILOT PROGRAM TO COLLECT INFORMATION RELATION TO NONIMMIGRANT FOREIGN STUDENTS.

(a) IN GENERAL.—(1) The Attorney General and the Secretary of State shall jointly develop and conduct a pilot program to collect electronically from approved colleges and universities in the United States the information described in subsection (c) with respect to aliens who—

(A) have the status, or are applying for the status, of nonimmigrants under section 101(a)(15)(F), (J), or (M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F), (J), or (M); and

(B) are nationals of the countries designated under subsection (b).

(2) The pilot program shall commence not later than January 1, 1998.

(b) COVERED COUNTRIES.—The Attorney General and the Secretary of State shall jointly designate countries for purposes of subsection (a)(1)(B). The Attorney General and the Secretary shall initially designate not less than five countries and may designate additional countries at any time while the pilot program is being conducted.

(C) INFORMATION TO BE COLLECTED.—

(1) IN GENERAL.—The information for collection under subsection (a) consists of—

(A) the identity and current address in the United States of the alien;

(B) the nonimmigrant classification of the alien and the date on which a visa under the classification was issued or extended or the date on which a change to such classification was approved by the Attorney General; and

(C) the academic standing of the alien, including any disciplinary action taken by the college or university against the alien as a result of the alien's convicted of a crime.

(2) FERPA.—The Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g) shall not apply to aliens described in subsection (a) to the extent that the Attorney General and the Secretary of State determine necessary to carry out the pilot program.

(d) PARTICIPATION BY COLLEGES AND UNIVERSITIES.—(1) The information specified in subsection (c) shall be provided by approved colleges and universities as a conditon of—

(A) the continued approval of the colleges and universities under section 101(a)(15)(F) or (M) of the Immigration and Nationality Act, or

(B) the issuance of visas to aliens for purposes of studying, or otherwise participating, at such colleges and universities in a program under section 101(a)(15)(J) of such Act.

(2) If an approved college or university fails to provide the specified information, such approvals and such issuance of visas shall be revoked or denied.

(e) FUNDING.—(1) The Attorney General and the Secretary shall use funds collected under section 281(b) of the Immigration and Nationality Act, as added by this subsection, to pay for the costs of carrying out this section.

(2) Section 281 of the Immigration and Nationality Act (8 U.S.C. 1351) is amended—

(A) by inserting "(a)" after "SEC. 281."; and

(B) by adding at the end the following:

"(b)(1) In addition to fees that are prescribed under subsection (a), the Secretary of State shall impose and collect a fee on all visas issued under the provisions of section 101(a)(15)(F), (J), or (M) of the Immigration and Nationality Act. With respect to visas issued under the provisions of section 101(a)(15)(J), this subsection shall not apply to those "J" visa holders whose presence in the United States is sponsored by the United States government."

"(2) The Attorney General shall impose and collect a fee on all changes of nonimmigrant status under section 248 to such classifications. This subsection shall not apply to those "J" visa holders whose presence in the United States is sponsored by the United States government.

"(3) Except as provided in section 205(g)(2) of the Immigration Reform Act of 1996, the amount of the fees imposed and collected under paragraphs (1) and (2) shall be the amount which the Attorney General and the Secretary jointly determine is necessary to recover the costs of conducting the information-collection program described in subsection (a), but may not exceed $100.

"(4) Funds collected under paragraph (1) shall be available to the Attorney General and the Secretary, without regard to appropriation Acts and without fiscal year limitation, to supplement funds otherwise available to the Department of Justice and the Department of State, respectively."

(3) The amendments made by paragraphs (1) and (2) shall become effective April 1, 1997.

(f) JOINT REPORT.—Not later than five years after the commencement of the pilot program established under subsection (a), the Attorney General and the Secretary of State shall jointly submit to the Committees on the Judiciary of the United States Senate and House of Representatives on the operations of the pilot program and the feasibility of expanding the program to cover the nationals of all countries.

(g) WORLDWIDE APPLICABILITY OF THE PROGRAM.—(1)(A) Not later than six months after the submission of the report required by subsection (f), the Secretary of State and the Attorney General shall jointly commence expansion of the pilot program to cover the nationals of all countries.

(B) Such expansion shall be completed not later than one year after the date of the submission of the report referred to in subsection (f).

(2) After the program has been expanded, as provided in paragraph (1), the Attorney General and the Secretary of State may, on a periodic basis, jointly revise the amount of the fee imposed and collected under section 281(b) of the Immigration and Nationality Act in order to take into account changes in the cost of carrying out the program.

(h) DEFINITION.—As used in this section, the phrase "approved colleges and universities" means colleges and universities approved by the Attorney General, in consultation with the Secretary of Education, under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)).

SEC. 216. FALSE CLAIMS OF U.S. CITIZENSHIP.

(a) EXCLUSION OF ALIENS WHO HAVE FALSELY CLAIMED U.S. CITIZENSHIP.—Section 212(a)(9) (8 U.S.C. 1182(a)(9)) is amended by adding at the end the following new subparagraph:

"(D) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is excludable."

(b) DEPORTATION OF ALIENS WHO HAVE FALSELY CLAIMED U.S. CITIZENSHIP.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

"(6) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is deportable".

"SEC. 217. VOTING BY ALIENS.

(a) CRIMINAL PENALTY FOR VOTING BY ALIENS IN FEDERAL ELECTION.—Title 18, United States Code, is amended by adding the following new section:

"§ 611. Voting by aliens

"(a) It shall be unlawful for any alien to vote in any election held solely or in part for the purpose of electing a candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, unless—

"(1) the election is held partly for some other purpose;

"(2) aliens are authorized to vote for such other purpose under a State constitution or statute or a local ordinance; and

"(3) voting for such other purpose is conducted independently of voting for a candidate for such Federal offices, in such a manner that an alien has the opportunity to vote for such other purpose, but not an opportunity to vote for a candidate for any one or more of such Federal offices."

"(b) Any person who violates this section shall be fined not more than $5,000 or imprisoned not more than one year or both";

(b) EXCLUSION OF ALIENS WHO HAVE UNLAWFULLY VOTED.—Section 212(a)(8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

"(9) UNLAWFUL VOTERS.—Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is excludable."

(c) DEPORTATION OF ALIENS WHO HAVE UNLAWFULLY VOTED.—Section 241(a)(8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

"(6) UNLAWFUL VOTERS.—Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is deportable".

SEC. 218 EXCLUSION GROUNDS FOR OFFENSES OF DOMESTIC VIOLENCE, STALKING, CRIMES AGAINST CHILDREN, AND CRIMES OF SEXUAL VIOLENCE.

(a) IN GENERAL.—Section 241(a)(2) (8 U.S.C. 1251(a)(2)) is amended by adding at the end the following:

"(E) DOMESTIC VIOLENCE, VIOLATION OF PROTECTION ORDER, CRIMES AGAINST CHILDREN AND STALKING.—(i) Any alien who at any time after entry is convicted of a crime of domestic violence is deportable.

"(ii) Any alien who at any time after entry engages in conduct that violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued is deportable.

"(iii) Any alien who at any time after entry is convicted of a crime of stalking is deportable.

"(iv) Any alien who at any time after entry is convicted of a crime of child abuse, child sexual abuse, child neglect, or child abandonment is deportable.

"(F) CRIMES OF SEXUAL VIOLENCE.—Any alien who at any time after entry is convicted of a crime of rape, aggravated sodomy, aggravated sexual abuse, sexual abuse, abusive sexual contact, or other crime of sexual violence is deportable.".

(b) DEFINITIONS.—Section 101(a) (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraphs:

"(47) The term 'crime of domestic violence' means any felony or misdemeanor crime of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction where the offense occurs, or by any other adult person against a victim who is protected from that person's acts under the domestic or family violence laws of the United States or any State, Indian tribal government, or unit of local government.

"(48) The term 'protection order' means any injunction issued for the purpose of preventing violent or threatening acts of domestic violence, including temporary or final orders issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding.".

(c) This section will become effective one day after the date of enactment of the act.

Subtitle C—Effective Dates

SEC. 221. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b) or as otherwise provided in this title, this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) BENEFITS.—The provisions of section 201 and 204 shall apply to benefits and to applications for benefits received on or after the date of the enactment of this Act.

SIMPSON AMENDMENT NO. 3744

Mr. DOLE (for Mr. SIMPSON) proposed an amendment to amendment No. 3744 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

In pending amendment strike all after the word "SECTION 1." and insert the following:

SHORT TITLE; REFERENCES IN ACT.

(a) SHORT TITLE.—This Act may be cited as the "Immigration Control and Financial Responsibility Act of 1996".

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

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Subtitle A—Law Enforcement

PART 1—ADDITIONAL ENFORCEMENT PERSONNEL AND FACILITIES

SEC. 101. BORDER PATROL AGENTS.

(a) BORDER PATROL AGENTS.—The Attorney General, in fiscal year 1996 shall increase by no less than 700, and in each of fiscal years 1997, 1998, 1999, and 2000, shall increase by no less than 1,000, the number of positions for full-time, active-duty Border Patrol agents within the Immigration and Naturalization Service above the number of such positions for which funds were allotted for the preceding fiscal year.

(b) BORDER PATROL SUPPORT PERSONNEL.—The Attorney General, in each of fiscal years 1996, 1997, 1998, 1999, and 2000, may increase by not more than 300 the number of positions for personnel in support of Border Patrol agents above the number of such positions for which funds were allotted for the preceding fiscal year.

SEC. 102. INVESTIGATORS.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Department of Justice such funds as may be necessary to enable the Commissioner of the Immigration and Naturalization Service to increase the number of investigators and support personnel to investigate potential violations of sections 274 and 274A of the Immigration and Nationality Act (8 U.S.C. 1324 and 1324a) by a number equivalent to 300 full-time active-duty investigators in each of fiscal years 1996, 1997, and 1998.

(b) LIMITATION ON OVERTIME.—None of the funds made available to the Immigration and Naturalization Service under this section shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000 for any fiscal year.

SEC. 103. LAND BORDER INSPECTORS.

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 the Secretary of the Treasury shall increase, by approximately equal numbers in each of 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 currently in use, under construction, or whose construction has been authorized by Congress, except such low-use lanes as the Attorney General may designate.

SEC. 104. INVESTIGATORS OF VISA OVERSTAYERS.

There are authorized to be appropriated to the Department of Justice such funds as may be necessary to enable the Commissioner of the Immigration and Naturalization Service to increase the number of investigators and support personnel to investigate visa overstayers by a number equivalent to 300 full-time active-duty investigators in fiscal year 1996.

SEC. 105. INCREASED PERSONNEL LEVELS FOR THE LABOR DEPARTMENT.

(a) INVESTIGATORS.—The Secretary of Labor, in consultation with the Attorney General, is authorized to hire in the Wage and Hour Division of the Department of Labor for fiscal years 1996 and 1997 not more than 350 investigators and staff to enforce existing legal sanctions against employers who violate current Federal wage and hour laws.

(b) ASSIGNMENT OF ADDITIONAL PERSONNEL.—Individuals employed to fill the additional positions described in subsection (a) shall be assigned to investigate violations of wage and hour laws in areas where the Attorney General has notified the Secretary of Labor that there are high concentrations of aliens present in the United States in violation of law.

(c) PREFERENCE FOR BILINGUAL WAGE AND HOUR INSPECTORS.—In hiring new wage and hour inspectors pursuant to this section, the Secretary of Labor shall give priority to the employment of multilingual candidates who are proficient in both English and such other language or languages as may be spoken in the region in which such inspectors are likely to be deployed.

SEC. 106. 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 before the end of fiscal year 1997.

SEC. 107. HIRING AND TRAINING STANDARDS.

(a) REVIEW OF HIRING STANDARDS.—Within 60 days of the enactment of this title, the Attorney General shall review all prescreening and hiring standards to be utilized by the Immigration and Naturalization Service to increase personnel pursuant to this title and, where necessary, revise those standards to ensure that they are consistent with relevant standards of professionalism.

(b) CERTIFICATION.—At the conclusion of each of the fiscal years 1996, 1997, 1998, 1999, and 2000, the Attorney General shall certify in writing to the Congress that all personnel hired pursuant to this title for the previous fiscal year were hired pursuant to the appropriate standards.

(c) REVIEW OF TRAINING STANDARDS.—(1) Within 180 days of the date of the enactment of this Act, the Attorney General shall review the sufficiency of all training standards to be utilized by the Immigration and Naturalization Service in training all personnel hired pursuant to this title.

(2)(A) The Attorney General shall submit a report to the Congress on the results of the review conducted under paragraph (1), including—

(i) a description of the status of ongoing efforts to update and improve training throughout the Immigration and Naturalization Service, and

(ii) a statement of a timeframe for the completion of those efforts.

(B) In addition, the report shall disclose those areas of training that the Attorney General determines require additional or ongoing review in the future.

SEC. 108. CONSTRUCTION OF FENCING AND ROAD IMPROVEMENTS IN THE BORDER AREA NEAR SAN DIEGO, CALIFORNIA.

(a) IN GENERAL.—The Attorney General shall provide for the construction along the 14 miles of the international land border between the United States and Mexico, 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.

(b) 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).

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

PART 2—VERIFICATION OF ELIGIBILITY TO WORK AND TO RECEIVE PUBLIC ASSISTANCE

Subpart A—Development of New Verification System

SEC. 111. ESTABLISHMENT OF NEW SYSTEM.

(a) IN GENERAL.—(1) Not later than three years after the date of enactment of this Act or, within one year after the end of the last renewed or additional demonstration project

(if any) conducted pursuant to the exception in section 112(a)(4), whichever is later, the President shall—

(A) develop and recommend to the Congress a plan for the establishment of a data system or alternative system (in this part referred to as the "system"), subject to subsections (b) and (c), to verify eligibility for employment in the United States, and immigration status in the United States for purposes of eligibility for benefits under public assistance programs (as defined in section 201(f)(3) or government benefits described in section 201(f)(4));

(B) submit to the Congress a report setting forth—

(i) a description of such recommended plan;

(ii) data on and analyses of the alternatives considered in developing the plan described in subparagraph (A), including analyses of data from the demonstration projects conducted pursuant to section 112; and

(iii) data on and analysis of the system described in subparagraph (A), including estimates of—

(I) the proposed use of the system, on an industry-sector by industry-sector basis;

(II) the public assistance programs and government benefits for which use of the system is cost-effective and otherwise appropriate;

(III) the cost of the system;

(IV) the financial and administrative cost to employers;

(V) the reduction of undocumented workers in the United States labor force resulting from the system;

(VI) any unlawful discrimination caused by or facilitated by use of the system;

(VII) any privacy intrusions caused by misuse or abuse of system;

(VIII) the accuracy rate of the system; and

(IX) the overall costs and benefits that would result from implementation of the system.

(2) The plan described in paragraph (1) shall take effect on the date of enactment of a bill or joint resolution approving the plan.

(b) OBJECTIVES.—The plan described in subsection (a)(1) shall have the following objectives:

(1) To substantially reduce illegal immigration and unauthorized employment of aliens.

(2) To increase employer compliance, especially in industry sectors known to employ undocumented workers, with laws governing employment of aliens.

(3) To protect individuals from national origin or citizenship-based unlawful discrimination and from loss of privacy caused by use, misuse, or abuse of personal information.

(4) To minimize the burden on business of verification of eligibility for employment in the United States, including the cost of the system to employers.

(5) To ensure that those who are ineligible for public assistance or other government benefits are denied or terminated, and that those eligible for public assistance or other government benefits shall—

(A) be provided a reasonable opportunity to submit evidence indicating a satisfactory immigration status; and

(B) not have eligibility for public assistance or other government benefits denied, reduced, terminated, or unreasonably delayed on the basis of the individual's immigration status until such a reasonable opportunity has been provided.

(c) SYSTEM REQUIREMENTS.—(1) A verification system may not be implemented under this section unless the system meets the following requirements:

(A) The system must be capable of reliably determining with respect to an individual whether—

(i) the person with the identity claimed by the individual is authorized to work in the United States or has the immigration status being claimed; and

(ii) the individual is claiming the identity of another person.

(B) Any document (other than a document used under section 274A of the Immigration and Nationality Act) required by the system must be presented to or examined by either an employer or an administrator of public assistance or other government benefits, as the case may be, and—

(i) must be in a form that is resistant to counterfeiting and to tampering; and

(ii) must not be required by any Government entity or agency as a national identification card or to be carried or presented except—

(I) to verify eligibility for employment in the United States or immigration status in the United States for purposes of eligibility for benefits under public assistance programs (as defined in section 201(f)(3) or government benefits described in section 201(f)(4));

(II) to enforce the Immigration and Nationality Act or sections 911, 1001, 1028, 1542, 1546, or 1621 of title 18, United States Code; or

(III) if the document was designed for another purposes (such as a license to drive a motor vehicle, a certificate of birth, or a social security account number card issued by the Administration), as required under law for such other purpose.

(C) The system must not be used for law enforcement purposes other than the purposes described in subparagraph (B).

(D) The system must ensure that information is complete, accurate, verifiable, and timely. Corrections or additions to the system records of an individual provided by the individual, the Administration, or the Service, or other relevant Federal agency, must be checked for accuracy, processed, and entered into the system within 10 business days after the agency's acquisition of the correction or additional information.

(E)(i) Any personal information obtained in connection with a demonstration project under section 112 must not be made available to Government agencies, employers, or other persons except to the extent necessary—

(I) to verify, by an individual who is authorized to conduct the employment verification process, that an employee is not an unauthorized alien (as defined in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3));

(II) to take other action required to carry out section 112;

(III) to enforce the Immigration and Nationality Act or section 911, 1001, 1028, 1542, 1546, or 1621 of title 18, United States Code; or

(IV) to verify the individual's immigration status for purposes of determining eligibility for Federal benefits under public assistance programs (defined in section 201(f)(3) or government benefits described in section 201(f)(4)).

(ii) In order to ensure the integrity, confidentiality, and security of system information, the system and those who use the system must maintain appropriate administrative, technical, and physical safeguards, such as—

(I) safeguards to prevent unauthorized disclosure of personal information, including passwords, cryptography, and other technologies;

(II) audit trails to monitor system use; or

(III) procedures giving an individual the right to request records containing personal information about the individual held by agencies and used in the system, for the purpose of examination, copying, correction, or amendment, and a method that ensures notice to individuals of these procedures.

(F) A verification that a person is eligible for employment in the United States may not be withheld or revoked under the system for any reasons other than a determination pursuant to section 274A of the Immigration and Nationality Act.

(G) The system must be capable of accurately verifying electronically within 5 business days, whether a person has the required immigration status in the United States and is legally authorized for employment in the United States in a substantial percentage of cases (with the objective of not less than 99 percent).

(H) There must be reasonable safeguards against the system's resulting in unlawful discriminatory practices based on national origin or citizenship status, including—

(i) the selective or unauthorized use of the system to verify eligibility;

(ii) the use of the system prior to an offer of employment;

(iii) the exclusion of certain individuals from consideration for employment as a result of a perceived likelihood that additional verification will be required, beyond what is required for most job applicants; or

(iv) denial reduction, termination, or unreasonable delay of public assistance to an individual as a result of the perceived likelihood that such additional verification will be required.

(2) As used in this subsection, the term "business day" means any day other than Saturday, Sunday, or any day on which the appropriate Federal agency is closed.

(d) REMEDIES AND PENALTIES FOR UNLAWFUL DISCLOSURE.—

(1) CIVIL REMEDIES.—

(A) RIGHT OF INFORMATIONAL PRIVACY.—The Congress declares that any person who provides to an employer the information required by this section or section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) has a privacy expectation that the information will only be used for compliance with this Act or other applicable Federal, State, or local law.

(B) CIVIL ACTIONS.—A employer, or other person or entity, who knowingly and willfully discloses the information that an employee is required to provide by this section or section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) for any purpose not authorized by this Act or other applicable Federal, State, or local law shall be liable to the employee for actual damages. An action may be brought in any Federal, State, or local court having jurisdiction over the matter.

(2) CRIMINAL PENALTIES.—Any employer, or other person or entity, who willfully and knowingly obtains, uses, or discloses information required pursuant to this section or section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) for any purpose not authorized by this Act or other applicable Federal, State, or local law shall be found guilty of a misdemeanor and fined not more than $5,000.

(3) PRIVACY ACT.—

(A) IN GENERAL.—Any person who is a United States citizen, United States national, lawful permanent resident, or other employment-authorized alien, and who is subject to verification of work authorization or lawful presence in the United States for purposes of benefits eligibility under this section or section 112, shall be considered an individual under section 552(a)(2) of title 5, United States Code, with respect to records covered by this section.

(B) DEFINITION.—For purposes of this paragraph, the term "record" means an item,

collection, or grouping of information about an individual which—

(i) is created, maintained, or used by a Federal agency for the purpose of determining—

(I) the individual's authorization to work; or

(II) immigration status in the United States for purposes of eligibility to receive Federal, State or local benefits in the United States; and

(ii) contains the individuals's name or identifying number, symbol, or any other identifier assigned to the individual.

(e) EMPLOYER SAFEGUARDS.—An employer shall not be liable for any penalty under section 274A of the Immigration and Nationality Act for employing an unauthorized alien, if—

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

(2) the employer followed all procedures required in the system; and

(3)(A) the alien was verified under the system as eligible for the employment; or

(B) the employer discharged the alien within a reasonable period after receiving notice that the final verification procedure had failed to verify that the alien was eligible for the employment.

(f) RESTRICTION ON USE OF DOCUMENTS.—If the Attorney General determines that any document described in section 274A(b)(1) of the Immigration and Nationality Act as establishing employment authorization or identity does not reliably establish such authorization or identity or, to an unacceptable degree, is being used fraudulently or is being requested for purposes not authorized by this Act, the Attorney General may, by regulation, prohibit or place conditions on the use of the document for purposes of the system or the verification system established in section 274A(b) of the Immigration and Nationality Act.

(g) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION PROVIDED BY THE VERIFICATION SYSTEM.—No person shall be civilly or criminally liable under section 274A of the Immigration and Nationality Act for any action adverse to an individual if such action was taken in good faith reliance on information relating to such individual provided through the system (including any demonstration project conducted under section 112).

(h) STATUTORY CONSTRUCTION.—The provisions of this section supersede the provisions of section 274A of the Immigration and Nationality Act to the extent of any inconsistency therewith.

SEC. 112. DEMONSTRATION PROJECTS.

(a) AUTHORITY.—

(1) IN GENERAL.—(A)(i) Subject to clause (ii), the President, acting through the Attorney General, shall begin conducting several local and regional projects, and a project in the legislative branch of the Federal Government, to demonstrate the feasibility of alternative systems for verifying eligibility for employment in the United States, and immigration status in the United States for purposes of eligibility for benefits under public assistance programs (as defined in section 201(f)(3) and government benefits described in section 201(f)(4)).

(ii) Each project under this section shall be consistent with the objectives of section 111(b) and this section and shall be conducted in accordance with an agreement entered into with the State, locality, employer, other entity, or the legislative branch of the Federal Government, as the case may be.

(iii) In determining which State(s), localities, employers, or other entities shall be designated for such projects, the Attorney General shall take into account the estimated number of excludable aliens and deportable aliens in each State or locality.

(B) For purposes of this paragraph, the term "legislative branch of the Federal Government" includes all offices described in section 101(9) of the Congressional Accountability Act of 1995 (2 U.S.C. 1301(9)) and all agencies of the legislative branch of Government.

(2) DESCRIPTION OF PROJECTS.—Demonstration projects conducted under this subsection may include, but are not limited to—

(A) a system which allows employers to verify the eligibility for employment of new employees using Administration records and, if necessary, to conduct a cross-check using Service records;

(B) a simulated linkage of the electronic records of the Service and the Administration to test the technical feasibility of establishing a linkage between the actual electronic records of the Service and the Administration;

(C) improvements and additions to the electronic records of the Service and the Administration for the purpose of using such records for verification of employment eligibility;

(D) a system which allows employers to verify the continued eligibility for employment of employees with temporary work authorization;

(E) a system that requires employers to verify the validity of employee social security account numbers through a telephone call, and to verify employee identity through a United States passport, a State driver's license or identification document, or a document issued by the Service for purposes of this clause;

(F) a system which is based on State-issued driver's licenses and identification cards that include a machine readable social security account number and are resistant to tampering and counterfeiting; and

(G) a system that requires employers to verify with the Service the immigration status of every employee except one who has attested that he or she is a United States citizen or national.

(3) COMMENCEMENT DATE.—The first demonstration project under this section shall commence not later than six months after the date of the enactment of this Act.

(4) TERMINATION DATE.—The authority of paragraph (1) shall cease to be effective four years after the date of enactment of this Act, except that, if the President determines that any one or more of the projects conducted pursuant to paragraph (2) should be renewed, or one or more additional projects should be conducted before a plan is recommended under section 111(a)(1)(A), the President may conduct such project or projects for up to an additional three-year period, without regard to section 274A(d)(4)(A) of the Immigration and Nationality Act.

(b) OBJECTIVES.—The objectives of the demonstration projects conducted under this section are—

(1) to assist the Attorney General in measuring the benefits and costs of systems for verifying eligibility for employment in the United States, and immigration status in the United States for purposes of eligibility for benefits under public assistance programs defined in section 201(f)(3) and for government benefits described in section 201(f)(4);

(2) to assist the Service and the Administration in determining the accuracy of Service and Administration data that may be used in such systems; and

(3) to provide the Attorney General with information necessary to make determinations regarding the likely effects of the tested systems on employers, employees, and other individuals, including information on—

(A) losses of employment to individuals as a result of inaccurate information in the system;

(B) unlawful discrimination;

(C) privacy violations;

(D) cost to individual employers, including the cost per employee and the total cost as a percentage of the employers payroll; and

(E) timeliness of initial and final verification determinations.

(c) CONGRESSIONAL CONSULTATION.—(1) Not later than 12 months after the date of the enactment of this Act, and annually thereafter, the Attorney General or the Attorney General's representatives shall consult with the Committees on the Judiciary of the House of Representatives and the Senate regarding the demonstration projects being conducted under this section.

(2) The Attorney General or her representative, in fulfilling the obligations described in paragraph (1), shall submit to the Congress the estimated cost to employers of each demonstration project, including the system's indirect and administrative costs to employers.

(d) IMPLEMENTATION.—In carrying out the projects described in subsection (a), the Attorney General shall—

(1) support and, to the extent possible, facilitate the efforts of Federal and State government agencies in developing—

(A) tamper- and counterfeit-resistant documents that may be used in a new verification system, including drivers' licenses or similar documents issued by a State for the purpose of identification, the social security account number card issued by the Administration, and certificates of birth in the United States or establishing United States nationality at birth; and

(B) recordkeeping systems that would reduce the fraudulent obtaining of such documents, including a nationwide system to match birth and death records;

(2) require appropriate notice to prospective employees concerning employers' participation in a demonstration project, which notice shall contain information on filing complaints regarding misuse of information or unlawful discrimination by employers participating in the demonstration; and

(3) require employers to establish procedures developed by the Attorney General—

(A) to safeguard all personal information from unauthorized disclosure and to condition release of such information to any person or entity upon the person's or entity's agreement to safeguard such information; and

(B) to provide notice to all new employees and applicants for employment of the right to request an agency to review, correct, or amend the employee's or applicant's record and the steps to follow to make such a request.

(e) REPORT OF ATTORNEY GENERAL.—Not later than 60 days before the expiration of the authority for subsection (a)(1), the Attorney General shall submit to the Congress a report containing an evaluation of each of the demonstration projects conducted under this section, including the findings made by the Comptroller General under section 113.

(f) SYSTEM REQUIREMENTS.—

(1) IN GENERAL.—Demonstration projects conducted under this section shall substantially meet the criteria in section 111(c)(1), except that with respect to the criteria in subparagraphs (D) and (G) of section 111(c)(1), such projects are required only to be likely to substantially meet the criteria, as determined by the Attorney General.

(2) SUPERSEDING EFFECT.—If the Attorney General determines that any demonstration project conducted under this section substantially meets the criteria in section

111(c)(1), other than the criteria in subparagraphs (D) and (G) of that section, and meets the criteria in such subparagraphs (D) and (G) to a sufficient degree, the requirements for participants in such project shall apply during the remaining period of its operation in lieu of the procedures required under section 274A(b) of the Immigration and Nationality Act. Section 274B of such Act shall remain fully applicable to the participants in the project.

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

(h) STATUTORY CONSTRUCTION.—The provisions of this section supersede the provisions of section 274A of the Immigration and Nationality Act to the extent of any inconsistency therewith.

SEC. 113. COMPTROLLER GENERAL MONITORING AND REPORTS.

(a) IN GENERAL.—The Comptroller General of the United States shall track, monitor, and evaluate the compliance of each demonstration project with the objectives of sections 111 and 112, and shall verify the results of the demonstration projects.

(b) RESPONSIBILITIES.—

(1) COLLECTION OF INFORMATION.—The Comptroller General of the United States shall collect and consider information on each requirement described in section 111(a)(1)(C).

(2) TRACKING AND RECORDING OF PRACTICES.—The Comptroller General shall track and record unlawful discriminatory employment practices, if any, resulting from the use or disclosure of information pursuant to a demonstration project or implementation of the system, using such methods as—

(A) the collection and analysis of data;

(B) the use of hiring audits; and

(C) use of computer audits, including the comparison of such audits with hiring records.

(3) MAINTENANCE OF DATA.—The Comptroller General shall also maintain data on unlawful discriminatory practices occurring among a representative sample of employers who are not participants in any project under this section to serve as a baseline for comparison with similar data obtained from employers who are participants in projects under this section.

(c) REPORTS.—

(1) DEMONSTRATION PROJECTS.—Beginning 12 months after the date of the enactment of this Act, and annually thereafter, the Comptroller General of the United States shall submit a report to the Committees on the Judiciary of the House of Representatives and the Senate setting forth evaluations of—

(A) the extent to which each demonstration project is meeting each of the requirements of section 111(c); and

(B) the Comptroller General's preliminary findings made under this section.

(2) VERIFICATION SYSTEM.—Not later than 60 days after the submission to the Congress of the plan under section 111(a)(2), the Comptroller General of the United States shall submit a report to the Congress setting forth an evaluation of—

(A) the extent to which the proposed system, if any, meets each of the requirements of section 111(c); and

(B) the Comptroller General's findings made under this section.

SEC. 114. GENERAL NONPREEMPTION OF EXISTING RIGHTS AND REMEDIES.

Nothing in this subpart may be construed to deny, impair, or otherwise adversely affect any right or remedy available under Federal, State, or local law to any person on or after the date of the enactment of this Act except to the extent the right or remedy is inconsistent with any provision of this part.

SEC. 115. DEFINITIONS.

For purposes of this subpart—

(1) ADMINISTRATION.— The term "Administration" means the Social Security Administration.

(2) EMPLOYMENT AUTHORIZED ALIEN.—The term "employment authorized alien" means an alien who has been provided with an "employment authorized" endorsement by the Attorney General or other appropriate work permit in accordance with the Immigration and Nationality Act.

(3) SERVICE.—The term "Service" means the Immigration and Naturalization Service.

Subpart B—Strengthening Existing Verification Procedures

SEC. 116. CHANGES IN LIST OF ACCEPTABLE EMPLOYMENT-VERIFICATION DOCUMENTS.

(a) AUTHORITY TO REQUIRE SOCIAL SECURITY ACCOUNT NUMBERS.—Section 274A (8 U.S.C. 1324a) is amended by adding at the end of subsection (b)(2) the following new sentence: "The Attorney General is authorized to require an individual to provide on the form described in paragraph (1)(A) the individual's social security account number for purposes of complying with this section.".

(b) CHANGES IN ACCEPTABLE DOCUMENTATION FOR EMPLOYMENT AUTHORIZATION AND IDENTITY.—

(1) REDUCTION IN NUMBER OF ACCEPTABLE EMPLOYMENT-VERIFICATION DOCUMENTS.—Section 274A(b)(1) (8 U.S.C. 1324a(b)(1)) is amended—

(A) in subparagraph (B)—

(i) by striking clauses (ii), (iii), and (iv);

(ii) by redesignating clause (v) as clause (ii);

(iii) in clause (i), by adding at the end "or";

(iv) in clause (ii) (as redesignated), by amending the text preceding subclause (I) to read as follows:

"(ii) resident alien card, alien registration card, or other document designated by regulation by the Attorney General, if the document—"; and

(v) in clause (ii) (as redesignated)—

(I) by striking "and" at the end of subclause (I);

(II) by striking the period at the end of subclause (II) and inserting ", and"; and

(III) by adding at the end the following new subclause:

"(III) contains appropriate security features."; and

(B) in subparagraph (C)—

(i) by inserting "or" after the "semicolon" at the end of clause (i);

(ii) by striking clause (ii); and

(iii) by redesignating clause (iii) as clause (ii).

(2) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—If the Attorney General finds, by regulation, that any document described in section 274A(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)(1)) as establishing employment authorization or identity does not reliably establish such authorization or identity or is being used fraudulently to an unacceptable degree, the Attorney General may prohibit or place conditions on its use for purposes of the verification system established in section 274A(b) of the Immigration and Nationality Act under section 111 of this Act.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b)(1) shall apply with respect to hiring (or recruiting or referring) occurring on or after such date as the Attorney General shall designate (but not later than 180 days after the date of the enactment of this Act).

SEC. 117. TREATMENT OF CERTAIN DOCUMENTARY PRACTICES AS UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES

Section 274B(a)(6) (8 U.S.C. 1324b(a)(6)) is amended—

(1) by striking "For purposes of paragraph (1), a" and inserting "A"; and

(2) by striking "relating to the hiring of individuals" and inserting the following: "if made for the purpose or with the intent of discriminating against an individual in violation of paragraph (1)".

SEC. 118. IMPROVEMENTS IN IDENTIFICATION-RELATED DOCUMENTS.

(a) BIRTH CERTIFICATES.—

(1) LIMITATION ON ACCEPTANCE.—(A) No Federal agency, including but not limited to the Social Security Administration and the Department of State, and no State agency that issues driver's licenses or identification documents, may accept for any official purpose a copy of a birth certificate, as defined in paragraph (5), unless it is issued by a State or local government registrar and it conforms to standards described in subparagraph (B).

(B) The standards described in this subparagraph are those set forth in regulations promulgated by the Secretary of Health and Human Services, after consultation with the Association for Public Health Statistics and Information Systems (APHSIS), and shall include but not be limited to—

(i) certification by the agency issuing the birth certificate, and

(ii) use of safety paper, the seal of the issuing agency, and other features designed to limit tampering, counterfeiting, and use by impostors.

(2) LIMITATION ON ISSUANCE.—(A) If one or more of the conditions described in subparagraph (B) is present, no State or local government agency may issue an official copy of a birth certificate pertaining to an individual unless the copy prominently notes that such individual is deceased.

(B) The conditions described in this subparagraph include—

(i) the presence on the original birth certificate of a notation that the individual is deceased, or

(ii) actual knowledge by the issuing agency that the individual is deceased obtained through information provided by the Social Security Administration, by an interstate system of birth-death matching, or otherwise.

(3) GRANTS TO STATES.—(A)(i) The Secretary of Health and Human Services shall establish a fund, administered through the National Center for Health Statistics, to provide grants to the States to encourage them to develop the capability to match birth and death records, within each State and among the States, and to note the fact of death on the birth certificates of deceased persons. In developing the capability described in the preceding sentence, States shall focus first on persons who were born after 1950.

(ii) Such grants shall be provided in proportion to population and in an amount needed to provide a substantial incentive for the States to develop such capability.

(B) The Secretary of Health and Human Services shall establish a fund, administered through the National Center for Health Statistics, to provide grants to the States for a project in each of 5 States to demonstrate the feasibility of a system by which each such State's office of vital statistics would be provided, within 24 hours, sufficient information to establish the fact of death of every individual dying in such State.

(C) There are authorized to be appropriated to the Department of Health and Human Services such amounts as may be necessary

to provide the grants described in subparagraphs (A) and (B).

(4) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to the Congress on ways to reduce the fraudulent obtaining and the fraudulent use of birth certificates, including any such use to obtain a social security account number or a State or Federal document related to identification or immigration.

(5) CERTIFICATE OF BIRTH.—As used in this section, the term "birth certificate" means a certificate of birth registered in the United States.

(6) EFFECTIVE DATE.—This subsection shall take effect on October 1, 1997.

(b) STATE-ISSUED DRIVERS LICENSES.—

(1) SOCIAL SECURITY ACCOUNT NUMBER.—Each State-issued driver's license and identification document shall contain a social security account number, except that this paragraph shall not apply if the document is issued by a State that requires, pursuant to a statute enacted prior to the date of enactment of this Act, or pursuant to a regulation issued thereunder or an administrative policy, that—

(A) every applicant for such license or document submit the number, and

(B) an agency of such State verify with the Social Security Administration that the number is valid and is not a number assigned for use by persons without authority to work in the United States.

(2) APPLICATION PROCESS.—The application process for a State driver's license or identification document shall include the presentation of such evidence of identity as is required by regulations promulgated by the Secretary of Transportation, after consultation with the American Association of Motor Vehicle Administrators.

(3) FORM OF LICENSE AND IDENTIFICATION DOCUMENT.—Each State driver's license and identification document shall be in a form consistent with requirements set forth in regulations promulgated by the Secretary of Transportation, after consultation with the American Association of Motor Vehicle Administrators. Such form shall contain security features designed to limit tampering, counterfeiting, and use by impostors.

(4) LIMITATION ON ACCEPTANCE OF LICENSE AND IDENTIFICATION DOCUMENT.—Neither the Social Security Administration or the Passport Office or any other Federal agency or any State or local government agency may accept for any evidentiary purpose a State driver's license or identification document in a form other than the form described in paragraph (3).

(5) EFFECTIVE DATE.—This subsection shall take effect on October 1, 1997.

SEC. 119. ENHANCED CIVIL PENALTIES IF LABOR STANDARDS VIOLATIONS ARE PRESENT.

(a) IN GENERAL.—Section 274A(e) (8 U.S.C. 1324a(e)) is amended by adding at the end the following:

"(10)(A) The administrative law judge shall have the authority to require payment of a civil money penalty in an amount up to two times the amount of the penalty prescribed by this subsection in any case in which the employer has been found to have committed a willful violation or repeated violations of any of the following statutes:

"(i) The Fair Labor Standards Act (29 U.S.C. 201 et seq.) pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

"(ii) The Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.) pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

"(iii) The Family and Medical Leave Act (29 U.S.C. 2601 et seq.) pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

"(B) The Secretary of Labor and the Attorney General shall consult regarding the administration of this paragraph.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 120. INCREASED NUMBER OF ASSISTANT UNITED STATES ATTORNEYS TO PROSECUTE CASES OF UNLAWFUL EMPLOYMENT OF ALIENS OR DOCUMENT FRAUD.

The Attorney General is authorized to hire for fiscal years 1996 and 1997 such additional Assistant United States Attorneys as may be necessary for the prosecution of actions brought under sections 274A and 274C of the Immigration and Nationality Act and sections 911, 1001, 1015 through 1018, 1028, 1030, 1541 through 1544, 1546, and 1621 of title 18, United States Code. Each such additional attorney shall be used primarily for such prosecutions.

SEC. 120A. SUBPOENA AUTHORITY FOR CASES OF UNLAWFUL EMPLOYMENT OF ALIENS OR DOCUMENT FRAUD.

(a) IMMIGRATION OFFICER AUTHORITY.—

(1) UNLAWFUL EMPLOYMENT.—Section 274A(e)(2) (8 U.S.C. 1324a(e)(1)) is amended—

(A) by striking "and" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting ", and"; and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) immigration officers designated by the Commissioner may compel by subpoena the attendance of witnesses and the production of evidence at any designated place prior to the filing of a complaint in a case under paragraph (2).".

(2) DOCUMENT FRAUD.—Section 274C(d)(1) (8 U.S.C. 1324c(d)(1)) is amended—

(A) by striking "and" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting ", and"; and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) immigration officers designated by the Commissioner may compel by subpoena the attendance of witnesses and the production of evidence at any designated place prior to the filing of a complaint in a case under paragraph (2).".

(b) SECRETARY OF LABOR SUBPOENA AUTHORITY.—

(1) IN GENERAL.—Chapter 9 of title II of the Immigration and Nationality Act is amended by adding at the end the following new section:

"SECRETARY OF LABOR SUBPOENA AUTHORITY

"SEC. 294. The Secretary of Labor may issue subpoenas requiring the attendance and testimony of witnesses or the production of any records, books, papers, or documents in connection with any investigation or hearing conducted in the enforcement of any immigration program for which the Secretary of Labor has been delegated enforcement authority under the Act. In such hearing, the Secretary of Labor may administer oaths, examine witnesses, and receive evidence. For the purpose of any such hearing or investigation, the authority contained in sections 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49, 50), relating to the attendance of witnesses and the production of books, papers, and documents, shall be available to the Secretary of Labor.".

(2) CONFORMING AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 293 the following new item:

"Sec. 294. Secretary of Labor subpoena authority.".

SEC. 120B. TASK FORCE TO IMPROVE PUBLIC EDUCATION REGARDING UNLAWFUL EMPLOYMENT OF ALIENS AND UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES.

(a) ESTABLISHMENT.—The Attorney General shall establish a task force within the Department of Justice charged with the responsibility of—

(1) providing advice and guidance to employers and employees relating to unlawful employment of aliens under section 274A of the Immigration and Nationality Act and unfair immigration-related employment practices under 274B of such Act; and

(2) assisting employers in complying with those laws.

(b) COMPOSITION.—The members of the task force shall be designated by the Attorney General from among officers or employees of the Immigration and Naturalization Service or other components of the Department of Justice.

(c) ANNUAL REPORT.—The task force shall report annually to the Attorney General on its operations.

SEC. 120C. NATIONWIDE FINGERPRINTING OF APPREHENDED ALIENS.

There are authorized to be appropriated such additional sums as may be necessary to ensure that the program "IDENT", operated by the Immigration and Naturalization Service pursuant to section 130007 of Public Law 103-322, shall be expanded into a nationwide program.

SEC. 120D. APPLICATION OF VERIFICATION PROCEDURES TO STATE AGENCY REFERRALS OF EMPLOYMENT.

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

"(6) STATE AGENCY REFERRALS.—A State employment agency that refers any individual for employment shall comply with the procedures specified in subsection (b). For purposes of the attestation requirement in subsection (b)(1), the agency employee who is primarily involved in the referral of the individual shall make the attestation on behalf of the agency.".

SEC. 120E. RETENTION OF VERIFICATION FORM.

Section 274A(b)(3) (8 U.S.C. 1324a(b)(3)) is amended by inserting after "must retain the form" the following: "(except in any case of disaster, act of God, or other event beyond the control of the person or entity)".

PART 3—ALIEN SMUGGLING; DOCUMENT FRAUD

SEC. 121. WIRETAP AUTHORITY FOR INVESTIGATIONS OF ALIEN SMUGGLING OR DOCUMENT FRAUD.

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

(1) in paragraph (c), by striking "or section 1992 (relating to wrecking trains)" and inserting "section 1992 (relating to wrecking trains), a felony violation of section 1028 (relating to production of false identification documentation), section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), 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 passports), section 1544 (relating to misuse of passports), or section 1546 (relating to fraud and misuse of visas, permits, and other documents)";

(2) by striking "or" at the end of paragraph (*l*);

(3) by redesignating paragraphs (m), (n), and (o) as paragraphs (n), (o), and (p), respectively; and

(4) by inserting after paragraph (l) the following new paragraph:

"(m) a violation of section 274, 277, or 278 of the Immigration and Nationality Act. (8 U.S.C. 1324, 1327, or 1328) (relating to the smuggling of aliens);".

SEC. 122. ADDITIONAL COVERAGE IN RICO FOR OFFENSES RELATING TO ALIEN SMUGGLING AND DOCUMENT FRAUD.

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

(1) by striking "or" after "law of the United States,";

(2) by inserting "or" at the end of clause (E); and

(3) by adding at the end the following: "(F) any act, or conspiracy to commit any act, in violation of—

"(i) section 1028 (relating to production of false identification documentation), section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), 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 passports), or section 1544 (relating to misuse of passports) of this title, or, for personal financial gain, section 1546 (relating to fraud and misuse of visas, permits, and other documents) of this title; or

"(ii) section 274, 277, or 278 of the Immigration and Nationality Act.".

SEC. 123. INCREASED CRIMINAL PENALTIES FOR ALIEN SMUGGLING.

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

(1) in paragraph (1)(A)—

(A) by striking "or" at the end of clause (iii);

(B) by striking the comma at the end of clause (iv) and inserting "; or"; and

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

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

"(II) aids or abets the commission of any of the preceding acts,";

(2) in paragraph (1)(B)—

(A) in clause (i), by inserting "or (v)(I)" after "(A)(i)";

(B) in clause (ii), by striking "or (iv)" and inserting "(iv), or (v)(II)";

(C) in clause (iii), by striking "or (iv)" and inserting "(iv), or (v)"; and

(D) in clause (iv), by striking "or (iv)" and inserting "(iv), or (v)";

(3) in paragraph (2)—

(A) in the matter preceding subparagraph (A), 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"; and

(B) in the matter following subparagraph (B)(iii), by striking "be fined" and all that follows through the period and inserting the following: "be fined under title 18, United States Code, and shall be imprisoned for a first or second offense, not more than 10 years, and for a third or subsequent offense, not more than 15 years."; and

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

"(3) Any person who hires for employment an alien—

"(A) knowing that such alien is an unauthorized alien (as defined in section 274A(h)(3)), and

"(B) knowing that such alien has been brought into the United States in violation of this subsection,

shall be fined under title 18, United States Code, and shall be imprisoned for not more than 5 years.".

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

(1) by striking "or" at the end of clause (ii);

(2) by redesignating clause (iii) as clause (iv); and

(3) by inserting after clause (ii) the following new clause:

"(iii) an offense committed with the intent, or with substantial 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; or".

(c) SENTENCING GUIDELINES.—

(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines for offenders convicted of offenses related to smuggling, transporting, harboring, or inducing aliens in violation of section 274(a)(1)(A) or (2)(B) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)(A), (2)(B)) in accordance with this subsection.

(2) REQUIREMENTS.—In carrying out this subsection, the Commission shall, with respect to the offenses described in paragraph (1)—

(A) increase the base offense level for such offenses at least 3 offense levels above the applicable level in effect on the date of the enactment of this Act;

(B) review the sentencing enhancement for the number of aliens involved (U.S.S.G. 2L1.1(b)(2)), and increase the sentencing enhancement by at least 50 percent above the applicable enhancement in effect on the date of the enactment of this Act;

(C) impose an appropriate sentencing enhancement upon an offender with 1 prior felony conviction arising out of a separate and prior prosecution for an offense that involved the same or similar underlying conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category;

(D) impose an additional appropriate sentencing enhancement upon an offender with 2 or more prior felony convictions arising out of separate and prior prosecutions for offenses that involved the same or similar underling conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category;

(E) impose an appropriate sentencing enhancement on a defendant who, in the course of committing an offense described in this subsection—

(i) murders or otherwise causes death, bodily injury, or serious bodily injury to an individual;

(ii) uses or brandishes a firearm or other dangerous weapon; or

(iii) engages in conduct that consciously or recklessly places another in serious danger of death or serious bodily injury;

(F) consider whether a downward adjustment is appropriate if the offense conduct involves fewer than 6 aliens or the defendant committed the offense other than for profit; and

(G) consider whether any other aggravating or mitigating circumstances warrant upward or downward sentencing adjustments.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 124. ADMISSIBILITY OF VIDEOTAPED WITNESS TESTIMONY.

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

"(d) Notwithstanding any provision of the Federal Rules of Evidence, the videotaped (or otherwise audiovisually preserved) deposition of a witness to a violation of subsection (a) who has been deported or otherwise expelled from the United States, or is otherwise unable to testify, may be admitted into evidence in an action brought for that violation if the witness was available for cross examination and the deposition otherwise complies with the Federal Rules of Evidence.".

SEC. 125. EXPANDED FORFEITURE FOR ALIEN SMUGGLING AND DOCUMENT FRAUD.

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

(1) by amending paragraph (1) to read as follows:

"(1) Any property, real or personal, which facilitates or is intended to facilitate, or has been or is being used in or is intended to be used in the commission of, a violation of, or conspiracy to violate, subsection (a) or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of title 18, United States Code, or which constitutes, or is derived from or traceable to, the proceeds obtained directly or indirectly from a commission of a violation of, or conspiracy to violate, subsection (a) or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of title 18, United States Code, shall be subject to seizure and forfeiture, except that—

"(A) no property used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this section unless it shall appear that the owner or other person in charge of such property was a consenting party or privy to the unlawful act;

"(B) no property shall be forfeited under this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such property was unlawfully in the possession of a person other than the owner in violation of, or in conspiracy to violate, the criminal laws of the United States or of any State; and

"(C) no property shall be forfeited under this paragraph to the extent of an interest of any owner, by reason of any act or omission established by such owner to have been committed or omitted without the knowledge or consent of such owner, unless such act or omission was committed by an employee or agent of such owner, and facilitated or was intended to facilitate, the commission of a violation of, or a conspiracy to violate, subsection (a) or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of title 18, United States Code, or was intended to further the business interests of the owner, or to confer any other benefit upon the owner.";

(2) in paragraph (2)—

(A) by striking "conveyance" both places it appears and inserting "property"; and

(B) by striking "is being used in" and inserting "is being used in, is facilitating, has facilitated, or was intended to facilitate";

(3) in paragraph (3)—

(A) by inserting "(A)" immediately after "(3)", and

(B) by adding at the end the following:

"(B) Before the seizure of any real property pursuant to this section, the Attorney General shall provide notice and an opportunity

to be heard to the owner of the property. The Attorney General shall prescribe such regulations as may be necessary to carry out this subparagraph.";

(4) in paragraphs (4) and (5), by striking "a conveyance" and "conveyance" each place such phrase or word appears and inserting "property"; and

(5) in paragraph (4)—

(A) by striking "or" at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph (D) and inserting "; or"; and

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

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

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 126. CRIMINAL FORFEITURE FOR ALIEN SMUGGLING, UNLAWFUL EMPLOYMENT OF ALIENS, OR DOCUMENT FRAUD.

Section 274 (8 U.S.C. 1324(b)) is amended by redesignating subsections (c) and (d) as subsections (d) and (e) and inserting after subsection (b) the following:

"(c) CRIMINAL FORFEITURE.—(1) Any person convicted of a violation of, or a conspiracy to violate, subsection (a) or section 274A(a)(1) or (2) of this Act, or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of title 18, United States Code, shall forfeit to the United States, regardless of any provision of State law—

"(A) any conveyance, including any vessel, vehicle, or aircraft used in the commission of a violation of, or a conspiracy to violate, subsection (a); and

"(B) any property real or personal—

"(i) that constitutes, or is derived from or is traceable to the proceeds obtained directly or indirectly from the commission of a violation of, or a conspiracy to violate, subsection (a), section 274A(a)(1) or (2) of this Act, or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of title 18, United States Code; or

"(ii) that is used to facilitate, or is intended to be used to facilitate, the commission of a violation of, or a conspiracy to violate, subsection (a), section 274A(a)(1) or (2) of this Act, or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of title 18, United States Code.

The court, in imposing sentence on such person, shall order that the person forfeit to the United States all property described in this subsection.

"(2) The criminal forfeiture of property under this subsection, including any seizure and disposition of the property and any related administrative or judicial proceeding, shall be governed by the provisions of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsections (a) and (d) of such section 413.".

SEC. 127. INCREASED CRIMINAL PENALTIES FOR FRAUDULENT USE OF GOVERNMENT-ISSUED DOCUMENTS.

(a) PENALTIES FOR FRAUD AND MISUSE OF GOVERNMENT-ISSUED IDENTIFICATION DOCUMENTS.—(1) Section 1028(b) of title 18, United States Code, is amended to read as follows:

"(b)(1)(A) An offense under subsection (a) that is—

"(i) the production or transfer of an identification document or false identification document that is or appears to be—

"(I) an identification document issued by or under the authority of the United States; or

"(II) a birth certificate, or a driver's license or personal identification card;

"(ii) the production or transfer of more than five identification documents or false identification documents; or

"(iii) an offense under paragraph (5) of such subsection (a);

shall be punishable under subparagraph (B).

"(B) Except as provided in paragraph (4), a person who violates an offense described in subparagraph (A) shall be punishable by—

"(i) a fine under this title, imprisonment for not more than 10 years, or both, for a first or second offense; or

"(ii) a fine under this title, imprisonment for not more than 15 years, or both, for a third or subsequent offense.

"(2) A person convicted of an offense under subsection (a) that is—

"(A) any other production or transfer of an identification document or false identification document; or

"(B) an offense under paragraph (3) of such subsection;

shall be punishable by a fine under this title, imprisonment for not more than three years, or both.

"(3) A person convicted of an offense under subsection (a), other than an offense described in paragraph (1) or (2), shall be punishable by a fine under this title, imprisonment for not more than one year, or both.

"(4) Notwithstanding any other provision of this section, the maximum term of imprisonment that may be imposed for an offense described in paragraph (1)(A) shall be—

"(A) if committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title), 15 years; and

"(B) if committed to facilitate an act of international terrorism (as defined in section 2331 of this title), 20 years.".

(2) Sections 1541 through 1544 of title 18, United States Code, are amended by striking be fined under this title, imprisoned not more than 10 years, or both." each place it appears and inserting the following:

", except as otherwise provided in this section, be—

"(1) fined under this title, imprisoned for not more than 10 years, or both, for a first or second offense; or

"(2) fined under this title, imprisoned for not more than 15 years, or both, for a third or subsequent offense.

"Notwithstanding any other provision of this section, the maximum term of imprisonment that may be imposed for an offense under this section—

"(1) if committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title), is 15 years; and

"(2) if committed to facilitate an act of international terrorism (as defined in section 2331 of this title), is 20 years.".

(3) Section 1546(a) of title 18, United States Code, is amended by striking "be fined under this title, imprisoned not more than 10 years, or both." and inserting the following:

", except as otherwise provided in this subsection, be—

"(1) fined under this title, imprisoned for not more than 10 years, or both, for a first or second offense; or

"(2) fined under this title, imprisoned for not more than 15 years, or both, for a third or subsequent offense.

"Notwithstanding any other provision of this subsection, the maximum term of imprisonment that may be imposed for an offense under this subsection—

"(1) if committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title), is 15 years; and

"(2) if committed to facilitate an act of international terrorism (as defined in section 2331 of this title), is 20 years.".

(4) Sections 1425 through 1427 of title 18, United States Code, are amended by striking "be fined not more than $5,000 or imprisoned not more than five years, or both" each place it appears and inserting ", except as otherwise provided in this section, be—

"(1) fined under this title, imprisoned for not more than 10 years, or both, for a first or second offense; or

"(2) fined under this title, imprisoned for not more than 15 years, or both, for a third or subsequent offense.

"Notwithstanding any other provision of this section, the maximum term of imprisonment that may be imposed for an offense under this section—

"(1) if committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title), is 15 years; and

"(2) if committed to facilitate an act of international terrorism (as defined in section 2331 of this title), is 20 years.".

(b) CHANGES TO THE SENTENCING LEVELS.—(1) IN GENERAL.—Pursuant to the Commission's authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines for offenders convicted of violating, or conspiring to violate, sections 1028(b)(1), 1425 through 1427, 1541 through 1544, and 1546(a) of title 18, United States Code, in accordance with this subsection.

(2) REQUIREMENTS.—In carrying out this subsection, the Commission shall, with respect to the offenses referred to in paragraph (1)—

(A) increase the base offense level for such offenses at least 2 offense levels above the level in effect on the date of the enactment of this Act;

(B) review the sentencing enhancement for number of documents or passports involved (U.S.S.G. 2L2.1(b)(2)), and increase the upward adjustment by at least 50 percent above the applicable enhancement in effect on the date of the enactment of this Act;

(C) impose an appropriate sentencing enhancement upon an offender with 1 prior felony conviction arising out of a separate and prior prosecution for an offense that involved the same or similar underlying conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category;

(D) impose an additional appropriate sentencing enhancement upon an offender with 2 or more prior felony convictions arising out of separate and prior prosecutions for offenses that involved the same or similar underling conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category;

(E) consider whether a downward adjustment is appropriate if the offense conduct involves fewer than 6 documents, or the defendant committed the offense other than for profit and the offense was not committed to facilitate an act of international terrorism; and

(F) consider whether any other aggravating or mitigating circumstances warrant upward or downward sentencing adjustments.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 128. CRIMINAL PENALTY FOR FALSE STATEMENT IN A DOCUMENT REQUIRED UNDER THE IMMIGRATION LAWS OR KNOWINGLY PRESENTING DOCUMENT WHICH FAILS TO CONTAIN REASONABLE BASIS IN LAW OR FACT.

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

"Whoever knowingly makes under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document which contains any such false statement or which fails to contain any reasonable basis in law or fact—".

SEC. 129. NEW CRIMINAL PENALTIES FOR FAILURE TO DISCLOSE ROLE AS PREPARER OF FALSE APPLICATION FOR ASYLUM OR 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) Whoever, in any matter within the jurisdiction of the Service under section 208 of this Act, knowingly and willfully fails to disclose, conceals, or covers up the fact that they have, on behalf of any person and for a fee or other remuneration, prepared or assisted in preparing an application which was falsely made (as defined in subsection (f)) for immigration benefits pursuant to section 208 of this Act, or the regulations promulgated thereunder, shall be guilty of a felony and shall be fined in accordance with title 18, United States Code, imprisoned for not more than 5 years, or both, and prohibited from preparing or assisting in preparing, whether or not for a fee or other remuneration, any other such application.

"(2) Whoever, having been convicted of a violation of paragraph (1), knowingly and willfully prepares or assists in preparing an application for immigration benefits pursuant to this Act, or the regulations promulgated thereunder, whether or not for a fee or other remuneration and regardless of whether in any matter within the jurisdiction of the Service under section 208, shall be guilty of a felony and shall be fined in accordance with title 18, United States Code, imprisoned for not more than 15 years, or both, and prohibited from preparing or assisting in preparing any other such application.".

SEC. 130. NEW DOCUMENT FRAUD OFFENSES; NEW CIVIL PENALTIES FOR DOCUMENT FRAUD.

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

(1) in paragraph (1), by inserting before the comma at the end the following: "or to obtain a benefit under this Act";

(2) in paragraph (2), by inserting before the comma at the end the following: "or to obtain a benefit under this Act";

(3) in paragraph (3)—

(A) by inserting "or with respect to" after "issued to";

(B) by adding before the comma at the end the following: "or obtaining a benefit under this Act"; and

(C) by striking "or" at the end;

(4) in paragraph (4)—

(A) by inserting "or with respect to" after "issued to";

(B) by adding before the period at the end the following: "or obtaining a benefit under this Act"; and

(C) by striking the period at the end and inserting ", or"; and

(5) by adding at the end the following new paragraphs:

"(5) to prepare, file, or assist another in preparing or filing, any application for benefits under this Act, or any document required under this Act, or any document submitted in connection with such application or document, with knowledge or in reckless disregard of the fact that such application or document was falsely made or, in whole or in part, does not relate to the person on whose behalf it was or is being submitted; or

"(6) to (A) 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 (B) fail to present such document to an immigration officer upon arrival at a United States port of entry.".

(b) DEFINITION OF FALSELY MAKE.—Section 274C (8 U.S.C. 1324c), as amended by section 129 of this Act, is further amended by adding at the end the following new subsection:

"(f) FALSELY MAKE.—For purposes of this section, the term 'falsely make' means to prepare or provide an application or document, with knowledge or in reckless disregard of the fact that the application or 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 fact which is material to the purpose for which it was submitted.".

(c) CONFORMING AMENDMENT.—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" each place it appears and inserting "each document that is the subject of a violation under subsection (a)".

(d) ENHANCED CIVIL PENALTIES FOR DOCUMENT FRAUD IF LABOR STANDARDS VIOLATIONS ARE PRESENT.—Section 274C(d) (8 U.S.C. 1324c(d)) is amended by adding at the end the following new paragraph:

"(7) CIVIL PENALTY.—(A) The administrative law judge shall have the authority to require payment of a civil money penalty in an amount up to two times the level of the penalty prescribed by this subsection in any case where the employer has been found to have committed willful or repeated violations of any of the following statutes:

"(i) The Fair Labor Standards Act (29 U.S.C. 201 et seq.) pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

"(ii) The Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.) pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

"(iii) The Family and Medical Leave Act (29 U.S.C. 2601 et seq.) pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

"(B) The Secretary of Labor and the Attorney General shall consult regarding the administration of this paragraph.".

(e) WAIVER BY ATTORNEY GENERAL.—Section 274C(d) (8 U.S.C. 1324c(d)), as amended by subsection (d), is further amended by adding at the end the following new paragraph:

"(8) WAIVER BY ATTORNEY GENERAL.—The Attorney General may waive the penalties imposed by 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).".

(f) EFFECTIVE DATE.—

(1) DEFINITION OF FALSELY MAKE.—Section 274C(f) of the Immigration and Nationality Act, as added by subsection (b), applies to the preparation of applications before, on, or after the date of the enactment of this Act.

(2) ENHANCED CIVIL PENALTIES.—The amendments made by subsection (d) apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 131. NEW EXCLUSION FOR DOCUMENT FRAUD OR FOR FAILURE TO PRESENT DOCUMENTS.

Section 212(a)(6)(C) (8 U.S.C. 1182(a)(6)(C)) is amended—

(1) by striking "(C) Misrepresentation" and inserting the following:

"(C) Fraud, misrepresentation, and failure to present documents"; and

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

"(iii) FRAUD, MISREPRESENTATION, AND FAILURE TO PRESENT DOCUMENTS.—

"(I) Any alien who, in seeking entry to the United States or boarding a common carrier for the purpose of coming to the United States, presents any document which, in the determination of the immigration officer, is forged, counterfeit, altered, falsely made, stolen, or inapplicable to the person presenting the document, or otherwise contains a misrepresentation of a material fact, is excludable.

"(II) Any alien who is required to present a document relating to the alien's eligibility to enter the United States prior to boarding a common carrier for the purpose of coming to the United States and who fails to present such document to an immigration officer upon arrival at a port of entry into the United States is excludable.".

SEC. 132. LIMITATION ON WITHHOLDING OF DEPORTATION AND OTHER BENEFITS FOR ALIENS EXCLUDABLE FOR DOCUMENT FRAUD OR FAILING TO PRESENT DOCUMENTS, OR EXCLUDABLE ALIENS APPREHENDED AT SEA.

(a) INELIGIBILITY.—Section 235 (8 U.S.C. 1225) is amended by adding at the end the following new subsection:

"(d)(1) Subject to paragraph (2), any alien who has not been admitted to the United States, and who is excludable under section 212(a)(6)(C)(iii) or who is an alien described in paragraph (3), is ineligible for withholding of deportation pursuant to section 243(h), and may not apply therefor or for any other relief under this Act, except that an alien found to have a credible fear of persecution or of return to persecution in accordance with section 208(e) shall be taken before a special inquiry officer for exclusion proceedings in accordance with section 236 and may apply for asylum, withholding of deportation, or both, in the course of such proceedings.

"(2) An alien described in paragraph (1) who has been found ineligible to apply for asylum under section 208(e) may be returned under the provisions of this section only to a country in which (or from which) he or she has no credible fear of persecution (or of return to persecution). If there is no country to which the alien can be returned in accordance with the provisions of this paragraph, the alien shall be taken before a special inquiry officer for exclusion proceedings in accordance with section 236 and may apply for asylum, withholding of deportation, or both, in the course of such proceedings.

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

"(A) into the United States, having been on board a vessel encountered seaward of the territorial sea by officers of the United States; or

"(B) to a port of entry, having been on board a vessel encountered within the territorial sea or internal waters of the United States;

shall either be detained on board the vessel on which such person arrived or in such facilities as are designated by the Attorney General or paroled in the discretion of the Attorney General pursuant to section 212(d)(5) pending accomplishment of the purpose for which the person was brought or escorted into the United States or to the port of entry, except that no alien shall be detained on board a public vessel of the United States without the concurrence of the head of the department under whose authority the vessel is operating.".

(b) CONFORMING AMENDMENTS.—Section 237(a) (8 U.S.C. 1227(a)) is amended—

(1) in the second sentence of paragraph (1), by striking "Deportation" and inserting "Subject to section 235(d)(2), deportation"; and

(2) in the first sentence of paragraph (2), by striking "If" and inserting "Subject to section 235(d)(2), if".

SEC. 133. PENALTIES FOR INVOLUNTARY SERVITUDE.

(a) AMENDMENTS TO TITLE 18.—Sections 1581, 1583, 1584, and 1588 of title 18, United States Code, are amended by striking "five" each place it appears and inserting "10".

(b) REVIEW OF SENTENCING GUIDELINES.—The United States Sentencing Commission shall ascertain whether there exists an unwarranted disparity—

(1) between the sentences for peonage, involuntary servitude, and slave trade offenses, and the sentences for kidnapping offenses in effect on the date of the enactment of this Act; and

(2) between the sentences for peonage, involuntary servitude, and slave trade offenses, and the sentences for alien smuggling offenses in effect on the date of the enactment of this Act and after the amendment made by subsection (a).

(c) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review its guidelines on sentencing for peonage, involuntary servitude, and slave trade offenses under sections 1581 through 1588 of title 18, United States Code, and shall amend such guidelines as necessary to—

(1) reduce or eliminate any unwarranted disparity found under subsection (b) that exists between the sentences for peonage, involuntary servitude, and slave trade offenses, and the sentences for kidnapping offenses and alien smuggling offenses;

(2) ensure that the applicable guidelines for defendants convicted of peonage, involuntary servitude, and slave trade offenses are sufficiently stringent to deter such offenses and adequately reflect the heinous nature of such offenses; and

(3) ensure that the guidelines reflect the general appropriateness of enhanced sentences for defendants whose peonage, involuntary servitude, or slave trade offenses involve—

(A) a large number of victims;

(B) the use or threatened use of a dangerous weapon; or

(C) a prolonged period of peonage or involuntary servitude.

SEC. 134. EXCLUSION RELATING TO MATERIAL SUPPORT TO TERRORISTS.

Section 212(a)(3)(B)(iii)(III) (8 U.S.C. 1182(a)(3)(B)(iii)(III)) is amended by inserting "documentation or" before "identification".

PART 4—EXCLUSION AND DEPORTATION

SEC. 141. SPECIAL EXCLUSION PROCEDURE.

(a) ARRIVALS FROM CONTIGUOUS FOREIGN TERRITORY.—Section 235 (8 U.S.C. 1225) is amended—

(1) by redesignating subsection (b) as subsection (b)(1); and

(2) by adding at the end of subsection (b)(1), as redesignated, the following new paragraph:

"(2) If an alien subject to such further inquiry has arrived from a foreign territory contiguous to the United States, either at a land port of entry or on the land of the United States other than at a designated port of entry, the alien may be returned to that territory pending the inquiry.".

(b) SPECIAL ORDERS OF EXCLUSION AND DEPORTATION.—Section 235 (8 U.S.C. 1225), as amended by section 132 of this Act, is further amended by adding at the end the following:

"(e)(1) Notwithstanding the provisions of subsection (b) of this section and section 236, the Attorney General may, without referral to a special inquiry officer or after such a referral, order the exclusion and deportation of any alien if—

"(A) the alien appears to an examining immigration officer, or to a special inquiry officer if such referral is made, to be an alien who—

"(i) has entered the United States without having been inspected and admitted by an immigration officer pursuant to this section, unless such alien affirmatively demonstrates to the satisfaction of such immigration officer or special inquiry officer that he has been physically present in the United States for an uninterrupted period of at least two years since such entry without inspection;

"(ii) is excludable under section 212(a)(6)(C)(iii);

"(iii) is brought or escorted under the authority of the United States into the United States, having been on board a vessel encountered outside of the territorial waters of the United States by officers of the United States;

"(iv) is brought or escorted under the authority of the United States to a port of entry, having been on board a vessel encountered within the territorial sea or internal waters of the United States; or

"(v) has arrived on a vessel transporting aliens to the United States without such alien having received prior official authorization to come to, enter, or reside in the United States; or

"(B) the Attorney General has determined that the numbers or circumstances of aliens en route to or arriving in the United States, by land, sea, or air, present an extraordinary migration situation.

"(2) As used in this section, the phrase 'extraordinary migration situation' means the arrival or imminent arrival in the United States or its territorial waters of aliens who by their numbers or circumstances substantially exceed the capacity for the inspection and examination of such aliens.

"(3)(A) Subject to subparagraph (B), the determination of whether there exists an extraordinary migration situation or whether to invoke the provisions of paragraph (1) (A) or (B) is committed to the sole and exclusive discretion of the Attorney General.

"(B) The provisions of this subsection may be invoked under paragraph (1)(B) for a period not to exceed 90 days, unless, within such 90-day period or an extension thereof authorized by this subparagraph, the Attorney General determines, after consultation with the Committees on the Judiciary of the Senate and the House of Representatives, that an extraordinary migration situation continues to warrant such procedures remaining in effect for an additional 90-day period.

"(4) When the Attorney General invokes the provisions of clause (iii), (iv), or (v) of paragraph (1)(A) or paragraph (1)(B), the Attorney General may, pursuant to this section and sections 235(e) and 106(f), suspend, in whole or in part, the operation of immigration regulations regarding the inspection and exclusion of aliens.

"(5) No alien may be ordered specially excluded under paragraph (1) if—

"(A) such alien is eligible to seek, and seeks, asylum under section 208; and

"(B) the Attorney General determines, in the procedure described in section 208(e), that such alien has a credible fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, in the country of such person's nationality, or in the case of a person having no nationality, the country in which such person last habitually resided.

An alien may be returned to a country in which the alien does not have a credible fear of persecution and from which the alien does not have a credible fear of return to persecution.

"(6) A special exclusion order entered in accordance with the provisions of this subsection is not subject to administrative review, except that the Attorney General shall provide by regulation for prompt review of such an order against an applicant 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 be, and appears to be, lawfully admitted for permanent residence.

"(7) A special exclusion order entered in accordance with the provisions of this subsection shall have the same effect as if the alien had been ordered excluded and deported pursuant to section 236, except that judicial review of such an order shall be available only under section 106(f).

"(8) Nothing in this subsection may be construed as requiring an inquiry before a special inquiry officer in the case of an alien crewman.".

SEC. 142. STREAMLINING JUDICIAL REVIEW OF ORDERS OF EXCLUSION OR DEPORTATION.

(a) IN GENERAL.—Section 106 (8 U.S.C. 1105a) is amended to read as follows:

"JUDICIAL REVIEW OF ORDERS OF DEPORTATION, EXCLUSION, AND SPECIAL EXCLUSION

"SEC. 106. (a) APPLICABLE PROVISIONS.—Except as provided in subsection (b), judicial review of a final order of exclusion or deportation is governed only by chapter 158 of title 28 of the United States Code, but in no such review may a court order the taking of additional evidence pursuant to section 2347(c) of title 28, United States Code.

"(b) REQUIREMENTS.—(1)(A) A petition for judicial review must be filed not later than 30 days after the date of the final order of exclusion or deportation, except that in the case of any specially deportable criminal alien (as defined in section 242(k)), there shall be no judicial review of any final order of deportation.

"(B) The alien shall serve and file a brief in connection with a petition for judicial review not later than 40 days after the date on which the administrative record is available, and may serve and file a reply brief not later than 14 days after service of the brief of the Attorney General, and the court may not extend these deadlines except upon motion for good cause shown.

"(C) If an alien fails to file a brief in connection with a petition for judicial review within the time provided in this paragraph, the Attorney General may move to dismiss the appeal, and the court shall grant such motion unless a manifest injustice would result.

"(2) A petition for judicial review shall be filed with the court of appeals for the judicial circuit in which the special inquiry officer completed the proceedings.

"(3) The respondent of a petition for judicial review shall be the Attorney General. The petition shall be served on the Attorney General and on the officer or employee of the Immigration and Naturalization Service in charge of the Service district in which the final order of exclusion or deportation was entered. Service of the petition on the officer or employee does not stay the deportation of an alien pending the court's decision on the petition, unless the court orders otherwise.

"(4)(A) Except as provided in paragraph (5)(B), the court of appeals shall decide the petition only on the administrative record on which the order of exclusion or deportation is based and the Attorney General's

findings of fact shall be conclusive unless a reasonable adjudicator would be compelled to conclude to the contrary.

"(B) The Attorney General's discretionary judgment whether to grant relief under section 212 (c) or (i), 244 (a) or (d), or 245 shall be conclusive and shall not be subject to review.

"(C) The Attorney General's discretionary judgment whether to grant relief under section 208(a) shall be conclusive unless manifestly contrary to law and an abuse of discretion.

"(5)(A) 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) 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) The petitioner may have the nationality claim decided only as provided in this section.

"(6)(A) If the validity of an order of deportation has not been judicially decided, a defendant in a criminal proceeding charged with violating subsection (d) or (e) of section 242 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) If the defendant claims in the motion to be a national of the United States and the district court finds that 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 deportation order is based. The administrative findings of fact are conclusive if supported by reasonable, substantial, and probative evidence on the record considered as a whole.

"(C) If the defendant claims in the motion to be a national of the United States and the district court finds that 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.

"(D) If the district court rules that the deportation order is invalid, the court shall dismiss the indictment. The United States Government may appeal the dismissal to the court of appeals for the appropriate circuit within 30 days. The defendant may not file a petition for review under this section during the criminal proceeding. The defendant may have the nationality claim decided only as provided in this section.

"(7) This subsection—

"(A) does not prevent the Attorney General, after a final order of deportation has been issued, from detaining the alien under section 242(c);

"(B) does not relieve the alien from complying with subsection (d) or (e) of section 242; and

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

"(8) 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.

"(c) REQUIREMENTS FOR PETITION.—A petition for review of an order of exclusion or deportation 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.—

"(1) A court may review a final order of exclusion or deportation only if—

"(A) the alien has exhausted all administrative remedies available to the alien as a matter of right; and

"(B) another court has not decided the validity of the order, unless, subject to paragraph (2), 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.

"(2) Nothing in paragraph (1)(B) may be construed as creating a right of review if such review would be inconsistent with subsection (e), (f), or (g), or any other provision of this section.

"(e) NO JUDICIAL REVIEW FOR ORDERS OF DEPORTATION OR EXCLUSION ENTERED AGAINST CERTAIN CRIMINAL ALIENS.—Notwithstanding any other provision of law, any order of exclusion or deportation against an alien who is excludable or deportable by reason of having committed any criminal offense described in subparagraph (A)(iii), (B), (C), or (D) of section 241(a)(2), or two or more offenses described in section 241(a)(2)(A)(ii), at least two of which resulted in a sentence or confinement described in section 241(a)(2)(A)(i)(II), is not subject to review by any court.

"(f) LIMITED REVIEW FOR SPECIAL EXCLUSION AND DOCUMENT FRAUD.—(1) Notwithstanding any other provision of law, except as provided in this subsection, no court shall have jurisdiction to review any individual determination or to hear any other cause of action or claim arising from or relating to the implementation or operation of sections 208(e), 212(a)(6)(iii), 235(d), and 235(e).

"(2)(A) Except as provided in this subsection, there shall be no judicial review of—

"(i) a decision by the Attorney General to invoke the provisions of section 235(e);

"(ii) the application of section 235(e) to individual aliens, including the determination made under paragraph (5); or

"(iii) procedures and policies adopted by the Attorney General to implement the provisions of section 235(e).

"(B) Without regard to the nature of the action or claim, or 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) Judicial review of any cause, claim, or individual determination made or arising under or relating to section 208(e), 212(a)(6)(iii), 235(d), or 235(e) shall only be available in a habeas corpus proceeding, and shall be limited to determinations of—

"(A) whether the petitioner is an alien;

"(B) whether the petitioner was ordered specially excluded; and

"(C) whether the petitioner can prove by a preponderance of the evidence that he or she is an alien lawfully admitted for permanent residence and is entitled to such further inquiry as is prescribed by the Attorney General pursuant to section 235(e)(6).

"(4)(A) In any case where the court determines that the petitioner—

"(i) is an alien who was not ordered specially excluded under section 235(e), or

"(ii) has demonstrated by a preponderance of the evidence that he or she 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 236 or a determination in accordance with section 235(c) or 273(d).

"(B) Any alien who is provided a hearing under section 236 pursuant to these provisions may thereafter obtain judicial review of any resulting final order of exclusion pursuant to this section.

"(5) In determining whether an alien has been ordered specially excluded under section 235(e), 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 excludable or entitled to any relief from exclusion.

"(g) NO COLLATERAL ATTACK.—In any action brought for the assessment of penalties for improper entry or reentry of an alien under section 275 or 276, no court shall have jurisdiction to hear claims attacking the validity of orders of exclusion, special exclusion, or deportation entered under section 235, 236, or 242.".

(b) RESCISSION OF ORDER.—Section 242B(c)(3) (8 U.S.C. 1252b(c)(3)) is amended by striking the period at the end and inserting "by the special inquiry officer, but there shall be no stay pending further administrative or judicial review, unless ordered because of individually compelling circumstances.".

(c) CLERICAL AMENDMENT.—The table of contents of the Act is amended by amending the item relating to section 106 to read as follows:

"Sec. 106. Judicial review of orders of deportation, exclusion, and special exclusion.".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to all final orders of exclusion or deportation entered, and motions to reopen filed, on or after the date of the enactment of this Act.

SEC. 143. CIVIL PENALTIES AND VISA INELIGIBILITY, FOR FAILURE TO DEPART.

(a) ALIENS SUBJECT TO AN ORDER OF EXCLUSION OR DEPORTATION.—The Immigration and Nationality Act is amended by inserting after section 274C (8 U.S.C. 1324c) the following new section:

"CIVIL PENALTIES FOR FAILURE TO DEPART

"SEC. 274D. (a) Any alien subject to a final order of exclusion and deportation or deportation who—

"(1) willfully fails or refuses to—

"(A) depart on time 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 himself or herself for deportation 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) The Commissioner shall deposit amounts received under subsection (a) as offsetting collections in the appropriate appropriations account of the Service.

"(c) 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 242(e) or any other section of this Act.".

(b) VISA OVERSTAYER.—The Immigration and Nationality Act is amended in section 212 (8 U.S.C. 1182) by inserting the following new subsection:

"(p)(1) Any lawfully admitted nonimmigrant who remains in the United States

for more than 60 days beyond the period authorized by the Attorney General shall be ineligible for additional nonimmigrant or immigrant visas (other than visas available for spouses of United States citizens or aliens lawfully admitted for permanent residence) until the date that is—

"(A) 3 years after the date the nonimmigrant departs the United States in the case of a nonimmigrant not described in paragraph (2); or

"(B) 5 years after the date the nonimmigrant departs the United States in the case of a nonimmigrant who without reasonable cause fails or refuses to attend or remain in attendance at a proceeding to determine the nonimmigrant's deportability.

"(2)(A) Paragraph (1) shall not apply to any lawfully admitted nonimmigrant who is described in paragraph (1)(A) and who demonstrates good cause for remaining in the United States for the entirety of the period (other than the first 60 days) during which the nonimmigrant remained in the United States without the authorization of the Attorney General.

"(B) A final order of deportation shall not be stayed on the basis of a claim of good cause made under this subsection.

"(3) The Attorney General shall by regulation establish procedures necessary to implement this section.".

(c) EFFECTIVE DATE.—Subsection (b) shall take effect on the date of implementation of the automated entry-exit control system described in section 201, or on the date that is 2 years after the date of enactment of this Act, whichever is earlier.

(d) AMENDMENTS TO TABLE OF CONTENTS.—The table of contents of the Act is amended by inserting after the item relating to section 274C the following:

"Sec. 274D. Civil penalties for failure to depart.".

SEC. 144. CONDUCT OF PROCEEDINGS BY ELECTRONIC MEANS.

Section 242(b) (8 U.S.C. 1252(b)) is amended by inserting at the end the following new sentences: "Nothing in this subsection precludes the Attorney General from authorizing proceedings by video electronic media, by telephone, or, where a requirement for the alien's appearance is waived or the alien's absence is agreed to by the parties, in the absence of the alien. Contested full evidentiary hearings on the merits may be conducted by telephone only with the consent of the alien.".

SEC. 145. SUBPOENA AUTHORITY.

(a) EXCLUSION PROCEEDINGS.—Section 236(a) (8 U.S.C. 1226(a)) is amended in the first sentence by inserting "issue subpoenas," after "evidence,".

(b) DEPORTATION PROCEEDINGS.—Section 242(b) (8 U.S.C. 1252(b)) is amended in the first sentence by inserting "issue subpoenas," after "evidence,".

SEC. 146. LANGUAGE OF DEPORTATION NOTICE; RIGHT TO COUNSEL.

(a) LANGUAGE OF NOTICE.—Section 242B (8 U.S.C. 1252b) is amended in subsection (a)(3) by striking "under this subsection" and all that follows through "(B)" and inserting "under this subsection".

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

(2) The parenthetical phrase in section 292 (8 U.S.C. 1362) is amended to read as follows: "(at no expense to the Government or unreasonable delay to the proceedings)".

(3) Section 242B(b) (8 U.S.C. 1252b(b)) is further amended by inserting at the end the following new paragraph:

"(3) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to prevent the Attorney General from proceeding against an alien pursuant to section 242 if the time period described in paragraph (1) has elapsed and the alien has failed to secure counsel.".

SEC. 147. ADDITION OF NONIMMIGRANT VISAS TO TYPES OF VISA DENIED FOR COUNTRIES REFUSING TO ACCEPT DEPORTED ALIENS.

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

"(g)(1) If the Attorney General determines that any country upon request denies or unduly delays acceptance of the return of any alien who is a national, citizen, subject, or resident thereof, the Attorney General shall notify the Secretary of such fact, and thereafter, subject to paragraph (2), neither the Secretary of State nor any consular officer shall issue an immigrant or nonimmigrant visa to any national, citizen, subject, or resident of such country.

"(2) The Secretary of State may waive the application of paragraph (1) if the Secretary determines that such a waiver is necessary to comply with the terms of a treaty or international agreement or is in the national interest of the United States.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to countries for which the Secretary of State gives instructions to United States consular officers on or after the date of the enactment of this Act.

SEC. 148. AUTHORIZATION OF SPECIAL FUND FOR COSTS OF DEPORTATION.

In addition to any other funds otherwise available in any fiscal year for such purpose, there are authorized to be appropriated to the Immigration and Naturalization Service $10,000,000 for use without fiscal year limitation for the purpose of—

(1) executing final orders of deportation pursuant to sections 242 and 242A of the Immigration and Nationality Act (8 U.S.C. 1252 and 1252a); and

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

SEC. 149. PILOT PROGRAM TO INCREASE EFFICIENCY IN REMOVAL OF DETAINED ALIENS.

(a) AUTHORITY.—The Attorney General shall conduct one or more pilot programs to study methods for increasing the efficiency of deportation and exclusion proceedings against detained aliens by increasing the availability of pro bono counseling and representation for such aliens. Any such pilot program may provide for administrative grants to not-for-profit organizations involved in the counseling and representation of aliens in immigration proceedings. An evaluation component shall be included in any such pilot program to test the efficiency and cost-effectiveness of the services provided and the replicability of such programs at other locations.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice such sums as may be necessary to carry out the program or programs described in subsection (a).

(c) STATUTORY CONSTRUCTION.—Nothing in this section may be construed as creating a right for any alien to be represented in any exclusion or deportation proceeding at the expense of the Government.

SEC. 150. LIMITATIONS ON RELIEF FROM EXCLUSION AND DEPORTATION.

(a) LIMITATION.—Section 212(c) (8 U.S.C. 1182(c)) is amended to read as follows:

"(c)(1) Subject to paragraphs (2) through (5), an alien who is and has been lawfully admitted for permanent residence for at least 5 years, who has resided in the United States continuously for 7 years after having been lawfully admitted, and who is returning to such residence after having temporarily proceeded abroad voluntarily and not under an order of deportation, may be admitted in the discretion of the Attorney General without regard to the provisions of subsection (a) (other than paragraphs (3) and (9)(C)).

"(2) For purposes of this subsection, any period of continuous residence shall be deemed to end when the alien is placed in proceedings to exclude or deport the alien from the United States.

"(3) Nothing contained in this subsection shall limit the authority of the Attorney General to exercise the discretion authorized under section 211(b).

"(4) Paragraph (1) shall not apply to an alien who has been convicted of one or more aggravated felonies and has been sentenced for such felony or felonies to a term or terms of imprisonment totalling, in the aggregate, at least 5 years.

"(5) This subsection shall apply only to an alien in proceedings under section 236.".

(b) CANCELLATION OF DEPORTATION.—Section 244 (8 U.S.C. 1254) is amended to read as follows:

"CANCELLATION OF DEPORTATION; ADJUSTMENT OF STATUS; VOLUNTARY DEPARTURE

"SEC. 244. (a) CANCELLATION OF DEPORTATION.—(1) The Attorney General may, in the Attorney General's discretion, cancel deportation in the case of an alien who is deportable from the United States and—

"(A) is, and has been for at least 5 years, a lawful permanent resident; has resided in the United States continuously for not less than 7 years after being lawfully admitted; and has not been convicted of an aggravated felony or felonies for which the alien has been sentenced to a term or terms of imprisonment totaling, in the aggregate, at least 5 years;

"(B) has been physically present in the United States for a continuous period of not less than 7 years since entering the United States; has been a person of good moral character during such period; and establishes that deportation would result in extreme hardship to the alien or the alien's spouse, parent, or child, who is a citizen or national of the United States or an alien lawfully admitted for permanent residence;

"(C) has been physically present in the United States for a continuous period of not less than three years since entering the United States; 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 who is 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); has been a person of good moral character during all of such period in the United States; and establishes that deportation would result in extreme hardship to the alien or the alien's parent or child; or

"(D) is deportable under paragraph (2) (A), (B), or (D), or paragraph (3) of section 241(a); has been physically present in the United States for a continuous period of not less than 10 years immediately following the commission of an act, or the assumption of a status, constituting a ground for deportation, and proves that during all of such period he has been a person of good moral character; and is a person whose deportation would, in the opinion of the Attorney General, result in exceptional and extremely unusual hardship to the alien or to his spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence.

"(2)(A) For purposes of paragraph (1), any period of continuous residence or continuous physical presence in the United States shall be deemed to end when the alien is served an order to show cause pursuant to section 242 or 242B.

"(B) An alien shall be considered to have failed to maintain continuous physical presence in the United States under paragraph (1) (B), (C), or (D) if the alien was absent from the United States for any single period of more than 90 days or an aggregate period of more than 180 days.

"(C) A person who is deportable under section 241(a)(2)(C) or 241(a)(4) shall not be eligible for relief under this section.

"(D) A person who is deportable under section 241(a)(2) (A), (B), or (D) or section 241(a)(3) shall not be eligible for relief under paragraph (1) (A), (B), or (C).

"(E) A person who has been convicted of an aggravated felony shall not be eligible for relief under paragraph (1) (B), or (C), (D).

"(F) A person who is deportable under section 241(a)(1)(G) shall not be eligible for relief under paragraph (1)(C).

"(b) CONTINUOUS PHYSICAL PRESENCE 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 specified in subsection (a)(1) (A) and (B) shall not be applicable to an alien who—

"(1) 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

"(2) at the time of his or her enlistment or induction, was in the United States.

"(c) ADJUSTMENT OF STATUS.—The Attorney General may cancel deportation and adjust to the status of an alien lawfully admitted for permanent residence any alien who the Attorney General determines meets the requirements of subsection (a)(1) (B), (C), or (D). The Attorney General shall record the alien's lawful admission for permanent residence as of the date the Attorney General decides to cancel such alien's removal.

"(d) ALIEN CREWMEN; NONIMMIGRANT EXCHANGE ALIENS ADMITTED TO RECEIVE GRADUATE MEDICAL EDUCATION OR TRAINING; OTHER.—The provisions of subsection (a) shall not apply to an alien who—

"(1) entered the United States as a crewman after June 30, 1964;

"(2) was admitted to the United States as a nonimmigrant alien described in section 101(a)(15)(J), or has acquired the status of such a nonimmigrant alien after admission, in order to receive graduate medical education or training, without regard to whether or not the alien is subject to or has fulfilled the two-year foreign residence requirement of section 212(e); or

"(3)(A) was admitted to the United States as a nonimmigrant alien described in section 101(a)(15)(J), or has acquired the status of such a nonimmigrant 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, or, in the case of a foreign medical graduate who has received a waiver pursuant to section 220 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416), has not fulfilled the requirements of section 214(k).

"(e) VOLUNTARY DEPARTURE.—(1)(A) The Attorney General may permit an alien voluntarily to depart the United States at the alien's own expense—

"(i) in lieu of being subject to deportation proceedings under section 242 or prior to the completion of such proceedings, if the alien is not a person deportable under section 241(a)(2)(A)(iii) or section 241(a)(4); or

"(ii) after the completion of deportation proceedings under section 242, only if a special inquiry officer determines that—

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

"(II) the alien is not deportable under section 241(a)(2)(A)(iii) or section 241(a)(4); and

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

"(B)(i) In the case of departure pursuant to subparagraph (A)(i), the Attorney General may require the alien to post a voluntary departure bond, to be surrendered upon proof that the alien has departed the United States within the time specified.

"(ii) If any alien who is authorized to depart voluntarily under this paragraph is financially unable to depart at the alien's own expense and the Attorney General deems the alien's removal to be in the best interest of the United States, the expense of such removal may be paid from the appropriation for enforcement of this Act.

"(C) In the case of departure pursuant to subparagraph (A)(ii), the alien 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.

"(2) If the alien fails voluntarily to depart the United States within the time period specified in accordance with paragraph (1), the alien shall be subject to a civil penalty of not more than $500 per day and shall be ineligible for any further relief under this subsection or subsection (a).

"(3)(A) The Attorney General may by regulation limit eligibility for voluntary departure for any class or classes of aliens.

"(B) No court may review any regulation issued under subparagraph (A).

"(4) No court shall have jurisdiction over an appeal from denial of a request for an order of voluntary departure under paragraph (1), nor shall any court order a stay of an alien's removal pending consideration of any claim with respect to voluntary departure.".

(c) CONFORMING AMENDMENTS.—(1) Section 242(b) (8 U.S.C. 1252(b)) is amended by striking the last two sentences.

(2) Section 242B (8 U.S.C. 1252b) is amended—

(A) in subsection (e)(2), by striking "section 244(e)(1)" and inserting "section 244(e)"; and

(B) in subsection (e)(5)—

(i) by striking "suspension of deportation" and inserting "cancellation of deportation"; and

(ii) by inserting "244," before "245".

(d) AMENDMENT TO THE TABLE OF CONTENTS.—The table of contents of the Act is amended by amending the item relating to section 244 to read as follows:

"Sec. 244. Cancellation of deportation; adjustment of status; voluntary departure.".

(e) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply to all applications for relief under section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)), except that, for purposes of determining the period of continuous residence, the amendments made by subsection (a) shall apply to all aliens against whom proceedings are commenced on or after the date of the enactment of this Act.

(2) The amendments made by subsection (b) shall take effect on the date of the enactment of this Act, and shall apply to all applications for relief under section 244 of the Immigration and Nationality Act (8 U.S.C. 1254), except that, for purposes of determining the periods of continuous residence or continuous physical presence, the amendments made by subsection (b) shall apply to all aliens upon whom an order to show cause is served on or after the date of the enactment of this Act.

(3) The amendments made by subsection (c) shall take effect on the date of the enactment of this Act.

SEC. 151. ALIEN STOWAWAYS.

(a) DEFINITION.—Section 101(a) (8 U.S.C. 1101) 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) EXCLUDABILITY.—Section 237 (8 U.S.C. 1227) is amended—

(1) in subsection (a)(1), before the period at the end of the first sentence, by inserting the following: ", or unless the alien is an excluded stowaway who has applied for asylum or withholding of deportation and whose application has not been adjudicated or whose application has been denied but who has not exhausted every appeal right"; and

(2) by inserting after the first sentence in subsection (a)(1) the following new sentences: "Any alien stowaway inspected upon arrival in the United States is an alien who is excluded within the meaning of this section. For purposes of this section, the term 'alien' includes an excluded stowaway. The provisions of this section concerning the deportation of an excluded alien shall apply to the deportation of a stowaway under section 273(d).".

(c) CARRIER LIABILITY FOR COSTS OF DETENTION.—Section 273(d) (8 U.S.C. 1323(d)) is amended to read as follows:

"(d)(1) It shall be the duty of the owner, charterer, agent, consignee, commanding officer, or master of any vessel or aircraft arriving at the United States from any place outside the United States to detain on board or at such other place as may be designated by an immigration officer any alien stowaway until such stowaway has been inspected by an immigration officer.

"(2) Upon inspection of an alien stowaway by an immigration officer, the Attorney General may by regulation take immediate custody of any stowaway and shall charge the owner, charterer, agent, consignee, commanding officer, or master of the vessel or aircraft on which the stowaway has arrived the costs of detaining the stowaway.

"(3) It shall be the duty of the owner, charterer, agent, consignee, commanding officer, or master of any vessel or aircraft arriving at the United States from any place outside the United States to deport any alien stowaway on the vessel or aircraft on which such stowaway arrived or on another vessel or aircraft at the expense of the vessel or aircraft on which such stowaway arrived when required to do so by an immigration officer.

"(4) Any person who fails to comply with paragraph (1) or (3), shall be subject to a fine of $5,000 for each alien for each failure to comply, payable to the Commissioner. The Commissioner shall deposit amounts received under this paragraph as offsetting collections to the applicable appropriations account of the Service. Pending final determination of liability for such fine, no such vessel or aircraft shall be granted clearance,

except that clearance may be granted upon the deposit of a sum sufficient to cover such fine, or of a bond with sufficient surety to secure the payment thereof approved by the Commissioner.

"(5) An alien stowaway inspected upon arrival shall be considered an excluded alien under this Act.

"(6) The provisions of section 235 for detention of aliens for examination before a special inquiry officer and the right of appeal provided for in section 236 shall not apply to aliens who arrive as stowaways, and no such aliens shall be permitted to land in the United States, except temporarily for medical treatment, or pursuant to such regulations as the Attorney General may prescribe for the departure, removal, or deportation of such alien from the United States.

"(7) A stowaway may apply for asylum under section 208 or withholding of deportation under section 243(h), pursuant to such regulations as the Attorney General may establish.".

SEC. 152. PILOT PROGRAM ON INTERIOR REPATRIATION AND OTHER METHODS TO DETER MULTIPLE UNLAWFUL ENTRIES.

(a) ESTABLISHMENT.—Not later than 180 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 two years which provides for methods to deter multiple unlawful entries by aliens into the United States. The pilot program may include the development and use of interior repatriation, third country repatriation, and other disincentives for multiple unlawful entries into the United States.

(b) REPORT.—Not later than 35 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. 153. PILOT PROGRAM ON USE OF CLOSED MILITARY BASES FOR THE DETENTION OF EXCLUDABLE OR DEPORTABLE ALIENS.

(a) ESTABLISHMENT.—The Attorney General and the Secretary of Defense shall jointly establish a pilot program for up to two years to determine the feasibility of the use of military bases available through the defense base realignment and closure process as detention centers for the Immigration and Naturalization Service.

(b) REPORT.—Not later than 35 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, the Committee on National Security of the House of Representatives, and the Committee on Armed Services of the Senate, on the feasibility of using military bases closed through the defense base realignment and closure process as detention centers by the Immigration and Naturalization Service.

SEC. 154. PHYSICAL AND MENTAL EXAMINATIONS.

Section 234 (8 U.S.C. 1224) is amended to read as follows:

"PHYSICAL AND MENTAL EXAMINATIONS

"SEC. 234. (a) ALIENS COVERED.—Each alien within any of the following classes of aliens who is seeking entry into the United States shall undergo a physical and mental examination in accordance with this section:

"(1) Aliens applying for visas for admission to the United States for permanent residence.

"(2) Aliens seeking admission to the United States for permanent residence for whom examinations were not made under paragraph (1).

"(3) Aliens within the United States seeking adjustment of status under section 245 to that of aliens lawfully admitted to the United States for permanent residence.

"(4) Alien crewmen entering or in transit across the United States.

"(b) DESCRIPTION OF EXAMINATION.—(1) Each examination required by subsection (a) shall include—

"(A) an examination of the alien for any physical or mental defect or disease and a certification of medical findings made in accordance with subsection (d); and

"(B) an assessment of the vaccination record of the alien in accordance with subsection (e).

"(2) The Secretary of Health and Human Services shall prescribe such regulations as may be necessary to carry out the medical examinations required by subsection (a).

"(c) MEDICAL EXAMINERS.—

"(1) MEDICAL OFFICERS.—(A) Except as provided in paragraphs (2) and (3), examinations under this section shall be conducted by medical officers of the United States Public Health Services.

"(B) Medical officers of the United States Public Health Service who have had specialized training in the diagnosis of insanity and mental defects shall be detailed for duty or employed at such ports of entry as the Secretary may designate, in consultation with the Attorney General.

"(2) CIVIL SURGEONS.—(A) Whenever medical officers of the United States Public Health Service are not available to perform examinations under this section, the Attorney General, in consultation with the Secretary, shall designate civil surgeons to perform the examinations.

"(B) Each civil surgeon designated under subparagraph (A) shall—

"(i) have at least 4 years of professional experience unless the Secretary determines that special or extenuating circumstances justify the designation of an individual having a lesser amount of professional experience; and

"(ii) satisfy such other eligibility requirements as the Secretary may prescribe.

"(3) PANEL PHYSICIANS.—In the case of examinations under this section abroad, the medical examiner shall be a panel physician designated by the Secretary of State, in consultation with the Secretary.

"(d) CERTIFICATION OF MEDICAL FINDINGS.—The medical examiners shall certify for the information of immigration officers and special inquiry officers, or consular officers, as the case may be, any physical or mental defect or disease observed by such examiners in any such alien.

"(e) VACCINATION ASSESSMENT.—(1) The assessment referred to in subsection (b)(1)(B) is an assessment of the alien's record of required vaccines for preventable diseases, including mumps, measles, rubella, polio, tetanus, diphtheria toxoids, pertussis, hemophilus-influenza type B, hepatitis type B, as well as any other diseases specified as vaccine-preventable by the Advisory Committee on Immunization Practices.

"(2) Medical examiners shall educate aliens on the importance of immunizations and shall create an immunization record for the alien at the time of examination.

"(3)(A) Each alien who has not been vaccinated against measles, and each alien under the age of 5 years who has not been vaccinated against polio, must receive such vaccination, unless waived by the Secretary, and must receive any other vaccination determined necessary by the Secretary prior to arrival in the United States.

"(B) Aliens who have not received the entire series of vaccinations prescribed in paragraph (1) (other than measles) shall return to a designated civil surgeon within 30 days of arrival in the United States, or within 30 days of adjustment of status, for the remainder of the vaccinations.

"(f) APPEAL OF MEDICAL EXAMINATION FINDINGS.—Any alien determined to have a health-related grounds of exclusion under paragraph (1) of section 212(a) may appeal that determination to a board of medical officers of the Public Health Service, which shall be convened by the Secretary. The alien may introduce at least one expert medical witness before the board at his or her own cost and expense.

"(g) FUNDING.—(1)(A) The Attorney General shall impose a fee upon any person applying for adjustment of status to that of an alien lawfully admitted to permanent residence under section 209, 210, 245, or 245A, and the Secretary of State shall impose a fee upon any person applying for a visa at a United States consulate abroad who is required to have a medical examination in accordance with subsection (a).

"(B) The amounts of the fees required by subparagraph (A) shall be established by the Secretary, in consultation with the Attorney General and the Secretary of State, as the case may be, and shall be set at such amounts as may be necessary to recover the full costs of establishing and administering the civil surgeon and panel physician programs, including the costs to the Service, the Department of State, and the Department of Health and Human Services for any additional expenditures associated with the administration of the fees collected.

"(2)(A) The fees imposed under paragraph (1) may be collected as separate fees or as surcharges to any other fees that may be collected in connection with an application for adjustment of status under section 209, 210, 245, or 245A, for a visa, or for a waiver of excludability under paragraph (1) or (2) of section 212(g), as the case may be.

"(B) The provisions of the Act of August 18, 1856 (Revised Statutes 1726–28, 22 U.S.C. 4212–14), concerning accounting for consular fees, shall not apply to fees collected by the Secretary of State under this section.

"(3)(A) There is established on the books of the Treasury of the United States a separate account which shall be known as the 'Medical Examinations Fee Account'.

"(B) There shall be deposited as offsetting receipts into the Medical Examinations Fee Account all fees collected under paragraph (1), to remain available until expended.

"(C) Amounts in the Medical Examinations Fee Account shall be available only to reimburse any appropriation currently available for the programs established by this section.

"(h) DEFINITIONS.—As used in this section—

"(1) the term 'medical examiner' refers to a medical officer, civil surgeon, or panel physician, as described in subsection (c); and

"(2) the term 'Secretary' means the Secretary of Health and Human Services.".

SEC. 155. CERTIFICATION REQUIREMENTS FOR FOREIGN HEALTH-CARE WORKERS.

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

(1) by redesignating paragraph (9) as paragraph (10); and

(2) by inserting after paragraph (8) the following new paragraph:

"(9) UNCERTIFIED FOREIGN HEALTH-CARE WORKERS.—(A) 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 excludable unless the alien presents to the consular officer, or, in the case of an adjustment of status, the Attorney General, a certificate from the Commission on Graduates of Foreign Nursing

Schools, or a certificate from an equivalent independent credentialing organization approved by the Attorney General in consultation with the Secretary of Health and Human Services, verifying that—

"(i) the alien's education, training, license, and experience—

"(I) meet all applicable statutory and regulatory requirements for entry into the United States under the classification specified in the application;

"(II) are comparable with that required for an American health-care worker of the same type; and

"(III) are authentic and, in the case of a license, unencumbered;

"(ii) the alien has the level of competence in oral and written English considered by the Secretary of Health and Human Services, in consultation with the Secretary of Education, to be appropriate for health care work of the kind in which the alien will be engaged, as shown by an appropriate score on one or more nationally recognized, commercially available, standardized assessments of the applicant's ability to speak and write; and

"(iii) if a majority of States licensing the profession in which the alien intends to work recognize a test predicting the success on the profession's licensing and certification examination, the alien has passed such a test.

"(B) For purposes of subparagraph (A)(ii), determination of the standardized tests required and of the minimum scores that are appropriate are within the sole discretion of the Secretary of Health and Human Services and are not subject to further administrative or judicial review.".

(b) CONFORMING AMENDMENTS.—

(1) Section 101(f)(3) is amended by striking "(9)(A) of section 212(a)" and inserting "(10)(A) of section 212(a)".

(2) Section 212(c) is amended by striking "(9)(C)" and inserting "(10)(C)".

SEC. 156. INCREASED BAR TO REENTRY FOR ALIENS PREVIOUSLY REMOVED.

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

(1) in subparagraph (A)—

(A) by striking "one year" and inserting "five years"; and

(B) by inserting ", or within 20 years of the date of any second or subsequent deportation," after "deportation";

(2) in subparagraph (B)—

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

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

"(ii) has departed the United States while an order of deportation is outstanding,";

(C) by striking "or" after "removal,"; and

(D) by inserting "or (c) who seeks admission within 20 years of a second or subsequent deportation or removal," after "felony,".

(b) REENTRY OF DEPORTED ALIEN.—Section 276(a)(1) (8 U.S.C. 1326(a)(1)) is amended to read as follows:

"(1) has been arrested and deported, has been excluded and deported, or has departed the United States while an order of exclusion or deportation is outstanding, and thereafter".

SEC. 157. ELIMINATION OF CONSULATE SHOPPING FOR VISA OVERSTAYS.

(a) IN GENERAL.—Section 222 (8 U.S.C. 1202) is amended by adding at the end the following new subsection:

"(g)(1) In the case of an alien who has entered and remained in the United States beyond the authorized period of stay, the alien's nonimmigrant visa shall thereafter be invalid for reentry into the United States.

"(2) An alien described in paragraph (1) shall be ineligible to be readmitted to the United States as a nonimmigrant subsequent to the expiration of the alien's authorized period of stay, except—

"(A) on the basis of a visa issued in a consular office located in the country of the alien's nationality (or, if there is no office in such country, in such other consular office as the Secretary of State shall specify); or

"(B) where extraordinary circumstances are found by the Secretary of State to exist.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to visas issued before, on, or after the date of the enactment of this Act.

SEC. 158. INCITEMENT AS A BASIS FOR EXCLUSION FROM THE UNITED STATES.

Section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)), is amended—

(1) by striking "or" at the end of clause (i)(I);

(2) in clause (i)(II), by inserting "or" at the end; and

(3) by inserting after clause (i)(II) the following new subclause:

"(III) has, under circumstances indicating an intention to cause death or serious bodily harm, incited terrorism, engaged in targeted racial vilification, or advocated the overthrow of the United States Government or death or serious bodily harm to any United States citizen or United States Government official,".

SEC. 159. CONFORMING AMENDMENT TO WITHHOLDING OF DEPORTATION.

Section 243(h) (8 U.S.C. 1253(h)) is amended by adding at the end the following new paragraph:

"(3) The Attorney General may refrain from deporting any alien if the Attorney General determines that—

"(A) such alien's life or freedom would be threatened, in the country to which such alien would be deported or returned, on account of race, religion, nationality, membership in a particular social group, or political opinion, and

"(B) deporting such alien would violate the 1967 United Nations Protocol relating to the Status of Refugees.".

PART 5—CRIMINAL ALIENS

SEC. 161. AMENDED DEFINITION OF AGGRAVATED FELONY.

(a) IN GENERAL.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended—

(1) in subparagraph (D), by striking "$100,000" and inserting "$10,000";

(2) in subparagraphs (F), (G), and (O), by striking "is at least 5 years" each place it appears and inserting "at least one year";

(3) in subparagraph (J)—

(A) by striking "sentence of 5 years' imprisonment" and inserting "sentence of one year imprisonment"; and

(B) by striking "offense described" and inserting "offense described in section 1084 of title 18 (if it is a second or subsequent offense), section 1955 of such title (relating to gambling offenses), or";

(4) in subparagraph (K)—

(A) by striking "or" at the end of clause (i);

(B) by adding "or" at the end of clause (ii); and

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

"(iii) is described in section 2421, 2422, or 2423 of title 18, United States Code (relating to transportation for the purpose of prostitution), if committed for commercial advantage.";

(5) in subparagraph (L)—

(A) by striking "or" at the end of clause (i);

(B) by inserting "or" at the end of clause (ii); and

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

"(iii) section 601 of the National Security Act of 1947 (relating to protecting the identity of undercover agents)";

(6) in subparagraph (M), by striking "$200,000" each place it appears and inserting "$10,000";

(7) in subparagraph (N)—

(A) by striking "of title 18, United States Code"; and

(B) by striking "for the purpose of commercial advantage" and inserting the following: ", except, for a first offense, if the alien has affirmatively shown that the alien committed the offense for the purpose of assisting, abetting, or aiding only the alien's spouse, child, or parent (and no other individual) to violate a provision of this Act";

(8) in subparagraph (O), by striking "which constitutes" and all that follows up to the semicolon at the end and inserting the following: ", except, for a first offense, if the alien has affirmatively shown that the alien committed the offense for the purpose of assisting, abetting, or aiding only the alien's spouse, child, or parent (and no other individual) to violate a provision of this Act";

(9) by redesignating subparagraphs (P) and (Q) as subparagraphs (R) and (S), respectively;

(10) by inserting after subparagraph (O) the following new subparagraphs:

"(P) any offense relating to commercial bribery, counterfeiting, forgery, or trafficking in vehicles whose identification numbers have been altered for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least one year;

"(Q) any offense relating to perjury or subornation of perjury for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least one year;" and

(11) in subparagraph (R) (as redesignated), by striking "15" and inserting "5".

(b) EFFECTIVE DATE OF DEFINITION.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended by adding at the end the following new sentence: "Notwithstanding any other provision of law, the term applies regardless of whether the conviction was entered before, on, or after the date of enactment of this paragraph, except that, for purposes of section 242(f)(2), the term has the same meaning as was in effect under this paragraph on the date the offense was committed.".

(c) APPLICATION TO WITHHOLDING OF DEPORTATION.—Section 243(h) (8 U.S.C. 1253(h)), as amended by section 159 of this Act, is further amended in paragraph (2) by striking the last sentence and inserting the following: "For purposes of subparagraph (B), an alien shall be considered to have committed a particularly serious crime if such alien has been convicted of one or more of the following:

"(1) An aggravated felony, or attempt or conspiracy to commit an aggravated felony, for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least one year.

"(2) An offense described in subparagraph (A), (B), (C), (E), (H), (I), (J), (L), or subparagraph (K)(ii), of section 101(a)(43), or an attempt or conspiracy to commit an offense described in one or more of such subparagraphs.".

SEC. 162. INELIGIBILITY OF AGGRAVATED FELONS FOR ADJUSTMENT OF STATUS.

Section 244(c) (8 U.S.C. 1254(c)), as amended by section 150 of this Act, is further amended by adding at the end the following new sentence: "No person who has been convicted of an aggravated felony shall be eligible for relief under this subsection.".

SEC. 163. EXPEDITIOUS DEPORTATION CREATES NO ENFORCEABLE RIGHT FOR AGGRAVATED FELONS.

Section 225 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416) is amended by striking "section 242(i) of the Immigration and Nationality Act (8 U.S.C. 1252(i))" and inserting "sections 242(i) or 242A of the Immigration and Nationality Act (8 U.S.C. 1252(i) or 1252a)".

SEC. 164. CUSTODY OF ALIENS CONVICTED OF AGGRAVATED FELONIES.

(a) EXCLUSION AND DEPORTATION.—Section 236 (8 U.S.C. 1226) is amended in subsection (e)(2) by inserting after "unless" the following: "(A) the Attorney General determines, pursuant to section 3521 of title 18, United States Code, that release 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, and that after such release the alien would not be a threat to the community, or (B)".

(b) CUSTODY UPON RELEASE FROM INCARCERATION.—Section 242(a)(2) (8 U.S.C. 1252(a)(2)) is amended to read as follows:

"(2)(A) The Attorney General shall take into custody any specially deportable criminal alien upon release of the alien from incarceration and shall deport the alien as expeditiously as possible. Notwithstanding any other provision of law, the Attorney General shall not release such felon from custody.

"(B) The Attorney General shall have sole and unreviewable discretion to waive subparagraph (A) for aliens who are cooperating with law enforcement authorities or for purposes of national security.".

(c) PERIOD IN WHICH TO EFFECT ALIEN'S DEPARTURE.—Section 242(c) is amended—

(1) in the first sentence—

(A) by striking "(c)" and inserting "(c)(1)"; and

(B) by inserting "(other than an alien described in paragraph (2))"; and

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

"(2)(A) When a final order of deportation is made against any specially deportable criminal alien, the Attorney General shall have a period of 30 days from the later of—

"(i) the date of such order, or

"(ii) the alien's release from incarceration, within which to effect the alien's departure from the United States.

"(B) The Attorney General shall have sole and unreviewable discretion to waive subparagraph (A) for aliens who are cooperating with law enforcement authorities or for purposes of national security.

"(3) Nothing in this subsection shall be construed as providing a right enforceable by or on behalf of any alien to be released from custody or to challenge the alien's deportation.".

(d) CRIMINAL PENALTY FOR UNLAWFUL REENTRY.—Section 242(f) of the Immigration and Nationality Act (8 U.S.C. 1252(f)) is amended—

(1) by inserting "(1)" immediately after "(f)"; and

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

"(2) Any alien who has unlawfully reentered or is found in the United States after having previously been deported subsequent to a conviction for any criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or two or more offenses described in clause (ii) of section 241(a)(2)(A), at least two of which resulted in a sentence or confinement described in section 241(a)(2)(A)(i)(II), shall, in addition to the punishment provided for any other crime, be punished by imprisonment of not less than 15 years.".

(e) DEFINITION.—Section 242 (8 U.S.C. 1252) is amended by adding at the end the following new subsection:

"(k) For purposes of this section, the term 'specially deportable criminal alien' means any alien convicted of an offense described in subparagraph (A)(iii), (B), (C), or (D) of section 241(a)(2), or two or more offenses described in section 241(a)(2)(A)(ii), at least two of which resulted in a sentence or confinement described in section 241(a)(2)(A)(i)(II).".

SEC. 165. JUDICIAL DEPORTATION.

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

(1) by redesignating subsection (d) as subsection (c); and

(2) in subsection (c), as redesignated—

(A) by striking paragraph (1) and inserting the following:

"(1) AUTHORITY.—Notwithstanding any other provision of this Act, a United States district court shall have jurisdiction to enter a judicial order of deportation at the time of sentencing against an alien—

"(A) whose criminal conviction causes such alien to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony);

"(B) who has at any time been convicted of a violation of section 276 (a) or (b) (relating to reentry of a deported alien);

"(C) who has at any time been convicted of a violation of section 275 (relating to entry of an alien at an improper time or place and to misrepresentation and concealment of facts); or

"(D) who is otherwise deportable pursuant to any of the paragraphs (1) through (5) of section 241(a).

A United States Magistrate shall have jurisdiction to enter a judicial order of deportation at the time of sentencing where the alien has been convicted of a misdemeanor offense and the alien is deportable under this Act."; and

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

"(5) STATE COURT FINDING OF DEPORTABILITY.—(A) On motion of the prosecution or on the court's own motion, any State court with jurisdiction to enter judgments in criminal cases is authorized to make a finding that the defendant is deportable as a specially deportable criminal alien (as defined in section 242(k)).

"(B) The finding of deportability under subparagraph (A), when incorporated in a final judgment of conviction, shall for all purposes be conclusive on the alien and may not be reexamined by any agency or court, whether by habeas corpus or otherwise. The court shall notify the Attorney General of any finding of deportability.

"(6) STIPULATED JUDICIAL ORDER OF DEPORTATION.—The United States Attorney, with the concurrence of the Commissioner, may, pursuant to Federal Rule of Criminal Procedure 11, enter into a plea agreement which calls for the alien, who is deportable under this Act, to waive the right to notice and a hearing under this section, and stipulate to the entry of a judicial order of deportation from the United States as a condition of the plea agreement or as a condition of probation or supervised release, or both. The United States District Court, in both felony and misdemeanor cases, and the United States Magistrate Court in misdemeanors cases, may accept such a stipulation and shall have jurisdiction to enter a judicial order of deportation pursuant to the terms of such stipulation.".

(b) CONFORMING AMENDMENTS.—(1) Section 512 of the Immigration Act of 1990 is amended by striking "242A(d)" and inserting "242A(c)".

(2) Section 130007(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322) is amended by striking "242A(d)" and inserting "242A(c)".

SEC. 166. STIPULATED EXCLUSION OR DEPORTATION.

(a) EXCLUSION AND DEPORTATION.—Section 236 (8 U.S.C. 1226) is amended by adding at the end the following new subsection:

"(f) The Attorney General shall provide by regulation for the entry by a special inquiry officer of an order of exclusion and deportation stipulated to by the alien and the Service. Such an order may be entered without a personal appearance by the alien before the special inquiry officer. A stipulated order shall constitute a conclusive determination of the alien's excludability and deportability from the United States.".

(b) APPREHENSION AND DEPORTATION.—Section 242 (8 U.S.C. 1252) is amended in subsection (b)—

(1) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(2) by inserting "(1)" immediately after "(b)";

(3) by striking the sentence beginning with "Except as provided in section 242A(d)" and inserting the following:

"(2) The Attorney General shall further provide by regulation for the entry by a special inquiry officer of an order of deportation stipulated to by the alien and the Service. Such an order may be entered without a personal appearance by the alien before the special inquiry officer. A stipulated order shall constitute a conclusive determination of the alien's deportability from the United States.

"(3) The procedures prescribed in this subsection and in section 242A(c) shall be the sole and exclusive procedures for determining the deportability of an alien."; and

(4) by redesignating the tenth sentence as paragraph (4); and

(5) by redesignating the eleventh and twelfth sentences as paragraph (5).

(c) CONFORMING AMENDMENTS.—(1) Section 106(a) is amended by striking "section 242(b)" and inserting "section 242(b)(1)".

(2) Section 212(a)(6)(B)(iv) is amended by striking "section 242(b)" and inserting "section 242(b)(1)".

(3) Section 242(a)(1) is amended by striking "subsection (b)" and inserting "subsection (b)(1)".

(4) Section 242A(b)(1) is amended by striking "section 242(b)" and inserting "section 242(b)(1)".

(5) Section 242A(c)(2)(D)(ii), as redesignated by section 165 of this Act, is amended by striking "section 242(b)" and inserting "section 242(b)(1)".

(6) Section 4113(a) of title 18, United States Code, is amended by striking "section 1252(b)" and inserting "section 1252(b)(1)".

(7) Section 1821(e) of title 28, United States Code, is amended by striking "section 242(b) of such Act (8 U.S.C. 1252(b))" and inserting "section 242(b)(1) of such Act (8 U.S.C. 1252(b)(1))".

(8) Section 242B(c)(1) is amended by striking "section 242(b)(1)" and inserting "section 242(b)(4)".

(9) Section 242B(e)(2)(A) is amended by striking "section 242(b)(1)" and inserting "section 242(b)(4)".

(10) Section 242B(e)(5)(A) is amended by striking "section 242(b)(1)" and inserting "section 242(b)(4)".

SEC. 167. DEPORTATION AS A CONDITION OF PROBATION.

Section 3563(b) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (21);

(2) by striking the period at the end of paragraph (22) and inserting "; or"; and

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

"(23) be ordered deported by a United States District Court, or United States Magistrate Court, pursuant to a stipulation entered into by the defendant and the United States under section 242A(c) of the Immigration and Nationality Act (8 U.S.C. 1252a(c)), except that, in the absence of a stipulation, the United States District Court or the United States Magistrate Court, may order deportation as a condition of probation, if, after notice and hearing pursuant to section 242A(c) of the Immigration and Nationality Act, the Attorney General demonstrates by clear and convincing evidence that the alien is deportable.".

SEC. 168. ANNUAL REPORT ON CRIMINAL ALIENS.

Not later than 12 months after the date of the enactment of this Act, and annually thereafter, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report detailing—

(1) the number of illegal aliens incarcerated in Federal and State prisons for having committed felonies, stating the number incarcerated for each type of offense;

(2) the number of illegal aliens convicted for felonies in any Federal or State court, but not sentenced to incarceration, in the year before the report was submitted, stating the number convicted for each type of offense;

(3) programs and plans underway in the Department of Justice to ensure the prompt removal from the United States of criminal aliens subject to exclusion or deportation; and

(4) methods for identifying and preventing the unlawful reentry of aliens who have been convicted of criminal offenses in the United States and removed from the United States.

SEC. 169. UNDERCOVER INVESTIGATION AUTHORITY.

(a) AUTHORITIES.—(1) In order to conduct any undercover investigative operation of the Immigration and Naturalization Service which is necessary for the detection and prosecution of crimes against the United States, the Service is authorized—

(A) to lease space within the United States, the District of Columbia, and the territories and possessions of the United States without regard to section 3679(a) of the Revised Statutes (31 U.S.C. 1341), section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3648 of the Revised Statutes (31 U.S.C. 3324), section 3741 of the Revised Statutes (41 U.S.C. 22), and 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));

(B) 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);

(C) to deposit funds, including the proceeds from such undercover operation, in banks or other financial institutions without regard to the provisions of section 648 of title 18 of the United States Code, and section 3639 of the Revised Statutes (31 U.S.C. 3302); and

(D) to use the proceeds from such undercover operations to offset necessary and reasonable expenses incurred in such operations without regard to the provisions of section 3617 of the Revised Statutes (31 U.S.C. 3302).

(2) The authorization set forth in paragraph (1) may be exercised only upon written certification of the Commissioner of the Immigration and Naturalization Service, in consultation with the Deputy Attorney General, that any action authorized by paragraph (1) (A), (B), (C), or (D) is necessary for the conduct of such undercover operation.

(b) UNUSED FUNDS.—As soon as practicable after the proceeds from an undercover investigative operation, carried out under paragraph (1) (C) or (D) of subsection (a), are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

(c) REPORT.—If a corporation or business entity established or acquired as part of an undercover operation under subsection (a)(1)(B) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Immigration and Naturalization Service, as much in advance as the Commissioner or his or her designee determine practicable, shall report the circumstances to the Attorney General, the Director of the Office of Management and Budget, and the Comptroller General of the United States. 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) AUDITS.—The Immigration and Naturalization 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.

SEC. 170. PRISONER TRANSFER TREATIES.

(a) NEGOTIATIONS WITH OTHER COUNTRIES.—(1) Congress advises the President to begin to negotiate and renegotiate, not later than 90 days after the date of enactment of this Act, bilateral prisoner transfer treaties, providing for the incarceration, in the country of the alien's nationality, of any alien who—

(A) is a national of a country that is party to such a treaty; and

(B) has been convicted of a criminal offense under Federal or State law and who—

(i) is not in lawful immigration status in the United States, or

(ii) on the basis of conviction for a criminal offense under Federal or State law, or on any other basis, is subject to deportation under the Immigration and Nationality Act, for the duration of the prison term to which the alien was sentenced for the offense referred to in subparagraph (B). Any such agreement may provide for the release of such alien pursuant to parole procedures of that country.

(2) In entering into negotiations under paragraph (1), the President may consider providing for appropriate compensation, subject to the availability of appropriations, 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) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the focus of negotiations for such agreements should be—

(A) to expedite the transfer of aliens unlawfully in the United States who are (or are about to be) incarcerated in United States prisons,

(B) to ensure that a transferred prisoner serves the balance of the sentence imposed by the United States courts,

(C) to eliminate any requirement of prisoner consent to such a transfer, and

(D) 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 prisons sentences;

(2) the Secretary of State should give priority to concluding an agreement with any country for which the President determines that the number of aliens described in subsection (a) who are nationals of that country in the United States represents a significant percentage of all such aliens in the United States; and

(3) no new treaty providing for the transfer of aliens from Federal, State, or local incarceration facilities to a foreign incarceration facility should permit the alien to refuse the transfer.

(c) PRISONER CONSENT.—Notwithstanding any other provision of law, except as required by treaty, the transfer of an alien from a Federal, State, or local incarceration facility under an agreement of the type referred to in subsection (a) shall not require consent of the alien.

(d) ANNUAL REPORT.—Not later than 90 days after the date of the enactment of this Act, and annually thereafter, the Attorney General shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate stating whether each prisoner transfer treaty to which the United States is a party has been effective in the preceding 12 months in bringing about the return of deportable incarcerated aliens to the country of which they are nationals and in ensuring that they serve the balance of their sentences.

(e) TRAINING FOREIGN LAW ENFORCEMENT PERSONNEL.—(1) Subject to paragraph (2), the President shall direct the Border Patrol Academy and the Customs Service Academy to enroll for training an appropriate number of foreign law enforcement personnel, and shall make appointments of foreign law enforcement personnel to such academies, as necessary to further the following United States law enforcement goals:

(A) prevention of drug smuggling and other cross-border criminal activity;

(B) preventing illegal immigration; and

(C) preventing the illegal entry of goods into the United States (including goods the sale of which is illegal in the United States, the entry of which would cause a quota to be exceeded, or which have not paid the appropriate duty or tariff).

(2) The appointments described in paragraph (1) shall be made only to the extent there is capacity in such academies beyond what is required to train United States citizens needed in the Border Patrol and Customs Service, and only of personnel from a country with which the prisoner transfer treaty has been stated to be effective in the most recent report referred to in subsection (d).

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

SEC. 170A. PRISONER TRANSFER TREATIES STUDY.

(a) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State and the Attorney General shall submit to the Congress a report that describes the use and effectiveness of the prisoner transfer treaties with the three countries with the greatest number of their nationals incarcerated in the United States in removing from the United States such incarcerated nationals.

(b) USE OF TREATY.—The report under subsection (a) shall include—

(1) the number of aliens convicted of a criminal offense in the United States since November 30, 1977, who would have been or are eligible for transfer pursuant to the treaties;

(2) the number of aliens described in paragraph (1) who have been transferred pursuant to the treaties;

(3) the number of aliens described in paragraph (2) who have been incarcerated in full compliance with the treaties;

(4) the number of aliens who are incarcerated in a penal institution in the United States who are eligible for transfer pursuant to the treaties; and

(5) the number of aliens described in paragraph (4) who are incarcerated in Federal, State, and local penal institutions in the United States.

(c) RECOMMENDATIONS.—The report under subsection (a) shall include the recommendations of the Secretary of State and the Attorney General to increase the effectiveness and use of, and full compliance with, the treaties. In considering the recommendations under this subsection, the Secretary and the Attorney General shall consult with such State and local officials in areas disproportionately impacted by aliens convicted of criminal offenses as the Secretary and the Attorney General consider appropriate. Such recommendations shall address—

(1) changes in Federal laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed criminal offenses in the United States;

(2) changes in State and local laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States;

(3) changes in the treaties that may be necessary to increase the number of aliens convicted of criminal offenses who may be transferred pursuant to the treaties;

(4) methods for preventing the unlawful reentry into the United States of aliens who have been convicted of criminal offenses in the United States and transferred pursuant to the treaties;

(5) any recommendations by appropriate officials of the appropriate government agencies of such countries regarding programs to achieve the goals of, and ensure full compliance with, the treaties;

(6) whether the recommendations under this subsection require the renegotiation of the treaties; and

(7) the additional funds required to implement each recommendation under this subsection.

SEC. 170B. USING ALIEN FOR IMMORAL PURPOSES, FILING REQUIREMENT.

Section 2424 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph of subsection (a)—

(A) by striking "alien" each place it appears;

(B) by inserting after "individual" the first place it appears the following: ", knowing or in reckless disregard of the fact that the individual is an alien"; and

(C) by striking "within three years after that individual has entered the United States from any country, party to the arrangement adopted July 25, 1902, for the suppression of the white-slave traffic";

(2) in the second undesignated paragraph of subsection (a)—

(A) by striking "thirty" and inserting "five business"; and

(B) by striking "within three years after that individual has entered the United States from any country, party to the said arrangement for the suppression of the white-slave traffic,";

(3) in the text following the third undesignated paragraph of subsection (a), by striking "two" and inserting "10"; and

(4) in subsection (b), before the period at the end of the second sentence, by inserting ", or for enforcement of the provisions of section 274A of the Immigration and Nationality Act".

SEC. 170C. TECHNICAL CORRECTIONS TO VIOLENT CRIME CONTROL ACT AND TECHNICAL CORRECTIONS ACT.

(a) IN GENERAL.—The second subsection (i) of section 245 (as added by section 130003(c)(1) of the Violent Crime Control and Law Enforcement Act of 1994; Public Law 103-322) is redesignated as subsection (j) of such section.

(b) CONFORMING AMENDMENT.—Section 241(a)(2)(A)(i)(I) (8 U.S.C. 1251(a)(2)(A)(i)(I)) is amended by striking "section 245(i)" and inserting "section 245(j)".

(c) DENIAL OF JUDICIAL ORDER.—(1) Section 242A(c)(4), as redesignated by section 165 of this Act, is amended by striking "without a decision on the merits".

(2) The amendment made by this subsection shall be effective as if originally included in section 223 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416).

SEC. 170D. DEMONSTRATION PROJECT FOR IDENTIFICATION OF ILLEGAL ALIENS IN INCARCERATION FACILITY OF ANAHEIM, CALIFORNIA.

(a) AUTHORITY.—The Attorney General is authorized to conduct a project demonstrating the feasibility of identifying illegal aliens among those individuals who are incarcerated in local governmental prison facilities prior to arraignment on criminal charges.

(b) DESCRIPTION OF PROJECT.—The project authorized by subsection (a) shall include the detail to the city of Anaheim, California, of an employee of the Immigration and Naturalization Service having expertise in the identification of illegal aliens for the purpose of training local officials in the identification of such aliens.

(c) TERMINATION.—The authority of this section shall cease to be effective 6 months after the date of the enactment of this Act.

(d) DEFINITION.—As used in this section, the term "illegal alien" means an alien in the United States who is not within any of the following classes of aliens:

(1) Aliens lawfully admitted for permanent residence.

(2) Nonimmigrant aliens described in section 101(a)(15) of the Immigration and Nationality Act.

(3) Refugees.

(4) Asylees.

(5) Parolees.

(6) Aliens having deportation withheld under section 243(h) of the Immigration and Nationality Act.

(7) Aliens having temporary residence status.

PART 6—MISCELLANEOUS

SEC. 171. IMMIGRATION EMERGENCY PROVISIONS.

(a) REIMBURSEMENT OF FEDERAL AGENCIES FROM IMMIGRATION EMERGENCY FUND.—Section 404(b) (8 U.S.C. 1101 note) is amended—

(1) in paragraph (1)—

(A) after "paragraph (2)" by striking "and" and inserting a comma,

(B) by striking "State" and inserting "other Federal agencies and States",

(C) by inserting ", and for the costs associated with repatriation of aliens attempting to enter the United States illegally, whether apprehended within or outside the territorial sea of the United States" before "except", and

(D) by adding at the end the following new sentence: "The fund may be used for the costs of such repatriations without the requirement for a determination by the President that an immigration emergency exists."; and

(2) in paragraph (2)(A)—

(A) by inserting "to Federal agencies providing support to the Department of Justice or" after "available"; and

(B) by inserting a comma before "whenever".

(b) VESSEL MOVEMENT CONTROLS.—Section 1 of the Act of June 15, 1917 (50 U.S.C. 191) is amended in the first sentence by inserting "or whenever the Attorney General determines that an actual or anticipated mass migration of aliens en route to or arriving off the coast of the United States presents urgent circumstances requiring an immediate Federal response," after "United States," the first place it appears.

(c) DELEGATION OF IMMIGRATION ENFORCEMENT AUTHORITY.—Section 103 (8 U.S.C. 1103) is amended by adding at the end of subsection (a) the following new sentence: "In the event the Attorney General determines that an actual or imminent mass influx of aliens arriving off the coast of the United States, or near a land border, presents urgent circumstances requiring an immediate Federal response, the Attorney General may authorize any specially designated State or local law enforcement officer, with the consent of the head of the department, agency, or establishment under whose jurisdiction the individual is serving, to perform or exercise any of the powers, privileges, or duties conferred or imposed by this Act or regulations issued thereunder upon officers or employees of the Service.".

SEC. 172. AUTHORITY TO DETERMINE VISA PROCESSING PROCEDURES.

Section 202(a)(1) (8 U.S.C. 1152(a)(1)) is amended—

(1) by inserting "(A)" after "NONDISCRIMINATION.—"; and

(2) by adding at the end the following:

"(B) Nothing in this paragraph 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.".

SEC. 173. JOINT STUDY OF AUTOMATED DATA COLLECTION.

(a) STUDY.—The Attorney General, together with the Secretary of State, the Secretary of Agriculture, the Secretary of the Treasury, and appropriate representatives of the air transport industry, shall jointly undertake a study to develop a plan for making the transition to automated data collection at ports of entry.

(b) REPORT.—Nine months after the date of enactment of this Act, the Attorney General shall submit a report to the Committees on the Judiciary of the Senate and the House of Representatives on the outcome of this joint initiative, noting specific areas of agreement and disagreement, and recommending further steps to be taken, including any suggestions for legislation.

SEC. 174. AUTOMATED ENTRY-EXIT CONTROL SYSTEM.

Not later than 2 years after the date of the enactment of this Act, the Attorney General shall develop an automated entry and exit control system that will enable the Attorney General to identify, through on-line searching procedures, lawfully admitted nonimmigrants who remain in the United States beyond the period authorized by the Attorney General.

SEC. 175. USE OF LEGALIZATION AND SPECIAL AGRICULTURAL WORKER INFORMATION.

(a) CONFIDENTIALITY OF INFORMATION.—Section 245A(c)(5) (8 U.S.C. 1255a(c)(5)) is amended by striking "except that the Attorney General" and inserting the following: "except that the Attorney General shall provide

information furnished under this section to a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, when such information is requested in writing by such entity, or to an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime) and".

(b) SPECIAL AGRICULTURAL WORKERS.—Section 210(b)(6)(C) (8 U.S.C. 1160(b)(6)(C)) is amended—

(1) by striking the period at the end of subparagraph (C) and inserting a comma; and

(2) by adding in full measure margin after subparagraph (C) the following:

"except that the Attorney General shall provide information furnished under this section to a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, when such information is requested in writing by such entity, or to an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).".

SEC. 176. RESCISSION OF LAWFUL PERMANENT RESIDENT STATUS.

Section 246(a) (8 U.S.C. 1256(a)) is amended—

(1) by inserting "(1)" immediately after "(a)"; and

(2) by adding at the end the following new sentence: "Nothing in this subsection requires the Attorney General to rescind the alien's status prior to commencement of procedures to deport the alien under section 242 or 242A, and an order of deportation issued by a special inquiry officer shall be sufficient to rescind the alien's status.".

SEC. 177. COMMUNICATION BETWEEN FEDERAL, STATE, AND LOCAL GOVERNMENT AGENCIES, AND THE IMMIGRATION AND NATURALIZATION SERVICE.

Notwithstanding any other provision of Federal, State, or local law, no Federal, 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 any person.

SEC. 178. AUTHORITY TO USE VOLUNTEERS.

(a) ACCEPTANCE OF DONATED SERVICES.—Notwithstanding any other provision of law, but subject to subsection (b), the Attorney General may accept, administer, and utilize gifts of services from any person for the purpose of providing administrative assistance to the Immigration and Naturalization Service in administering programs relating to naturalization, adjudications at ports of entry, and removal of criminal aliens. Nothing in this section requires the Attorney General to accept the services of any person.

(b) LIMITATION.—Such person may not administer or score tests and may not adjudicate.

SEC. 179. AUTHORITY TO ACQUIRE FEDERAL EQUIPMENT FOR BORDER.

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

SEC. 180. LIMITATION ON LEGALIZATION LITIGATION.

(a) LIMITATION ON COURT JURISDICTION.—Section 245A(f)(4) is amended by adding at the end the following new subparagraph:

"(C) JURISDICTION OF COURTS.—Notwithstanding any other provision of law, no court shall have jurisdiction of any cause of action or claim by or on behalf of any person asserting an interest under this section unless such person in fact filed an application under this section within the period specified by subsection (a)(1), or attempted to file a complete application and application fee with an authorized legalization officer of the Immigration and Naturalization Service but had the application and fee refused by that officer.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective as if originally included in section 201 of the Immigration Control and Financial Responsibility Act of 1986.

SEC. 181. LIMITATION ON ADJUSTMENT OF STATUS.

Section 245(c) (8 U.S.C. 1255(c)) is amended—

(1) by striking "or (5)" and inserting "(5)"; and

(2) by inserting before the period at the end the following: "; (6) any alien who seeks adjustment of status as an employment-based immigrant and is not in a lawful nonimmigrant status; or (7) any alien who was employed while the alien was an unauthorized alien, as defined in section 274A(h)(3), or who has otherwise violated the terms of a nonimmigrant visa".

SEC. 182. REPORT ON DETENTION SPACE.

(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Attorney General shall submit a report to the Congress estimating the amount of detention space that would be required on the date of enactment of this Act, in 5 years, and in 10 years, under various policies on the detention of aliens, including but not limited to—

(1) detaining all excludable or deportable aliens who may lawfully be detained;

(2) detaining all excludable or deportable aliens who previously have been excluded, been deported, departed while an order of exclusion or deportation was outstanding, voluntarily departed under section 244, or voluntarily returned after being apprehended while violating an immigration law of the United States; and

(3) the current policy.

(b) ESTIMATE OF NUMBER OF ALIENS RELEASED INTO THE COMMUNITY.—Such report shall also estimate the number of excludable or deportable aliens who have been released into the community in each of the 3 years prior to the date of enactment of this Act under circumstances that the Attorney General believes justified detention (for example, a significant probability that the released alien would not appear, as agreed, at subsequent exclusion or deportation proceedings), but a lack of detention facilities required release.

SEC. 183. COMPENSATION OF IMMIGRATION JUDGES.

(a) COMPENSATION.—

(1) IN GENERAL.—There shall be four levels of pay for special inquiry officers of the Department of Justice (in this section referred to as "immigration judges") under the Immigration Judge Schedule (designated as IJ-1, IJ-2, IJ-3, and IJ-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 percent of the next to highest rate of basic pay for the Senior Executive Service.
IJ-2	80 percent of the next to highest rate of basic pay for the Senior Executive Service.
IJ-3	90 percent of the next to highest rate of basic pay for the Senior Executive Service.
IJ-4	92 percent 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 of this subsection 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.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect 90 days after the date of the enactment of this Act.

SEC. 184. ACCEPTANCE OF STATE SERVICES TO CARRY OUT IMMIGRATION ENFORCEMENT.

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 in relation to the arrest or detention of aliens in the United States, 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, and shall contain a written certification that the officers or employees performing the function under the agreement have received adequate training regarding the enforcement of relevant Federal immigration laws.

"(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 agency 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 knowledge 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.".

SEC. 185. ALIEN WITNESS COOPERATION.

Section 214(j)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(j)(1)) (relating to numerical limitations on the number of aliens that may be provided visas as nonimmigrants under section 101(a)(15)(5)(ii) of such Act) is amended—

(1) by striking "100" and inserting "200"; and

(2) by striking "25" and inserting "50".

Subtitle B—Other Control Measures

PART 1—PAROLE AUTHORITY

SEC. 191. USABLE ONLY ON A CASE-BY-CASE BASIS FOR HUMANITARIAN REASONS OR SIGNIFICANT PUBLIC BENEFIT.

Section 212(d)(5)(A) (8 U.S.C. 1182(d)(5)) is amended by striking "for emergent reasons or for reasons deemed strictly in the public interest" and inserting "on a case-by-case basis for urgent humanitarian reasons or significant public benefit".

SEC. 192. INCLUSION IN WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.

(a) IN GENERAL.—Section 201(c) (8 U.S.C. 1151(c)) is amended—

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

"(ii) the sum of the number computed under paragraph (2) and the number computed under paragraph (4), plus"; and

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

"(4) The number computed under this paragraph for a fiscal year is the number of aliens who were paroled into the United States under section 212(d)(5) in the second preceding fiscal year and who did not depart from the United States within 365 days.

"(5) If any alien described in paragraph (4) is subsequently admitted as an alien lawfully admitted for permanent residence, such alien shall not again be considered for purposes of paragraph (1).".

(b) INCLUSION OF PAROLED ALIENS.—Section 202 (8 U.S.C. 1152) is amended by adding at the end the following new subsection:

"(f)(1) For purposes of subsection (a)(2), an immigrant visa shall be considered to have been made available in a fiscal year to any alien who is not an alien lawfully admitted for permanent residence but who was paroled into the United States under section 212(d)(5) in the second preceding fiscal year and who did not depart from the United States within 365 days.

"(2) If any alien described in paragraph (1) is subsequently admitted as an alien lawfully admitted for permanent residence, an immigrant visa shall not again be considered to have been made available for purposes of subsection (a)(2).".

PART 2—ASYLUM

SEC. 193. LIMITATIONS ON ASYLUM APPLICATIONS BY ALIENS USING DOCUMENTS FRAUDULENTLY OR BY EXCLUDABLE ALIENS APPREHENDED AT SEA; USE OF SPECIAL EXCLUSION PROCEDURES.

Section 208 (8 U.S.C. 1158) is amended by striking subsection (e) and inserting the following:

"(e)(1) Notwithstanding subsection (a), any alien who, in seeking entry to the United States or boarding a common carrier for the purpose of coming to the United States, presents any document which, in the determination of the immigration officer, is fraudulent, forged, stolen, or inapplicable to the person presenting the document, or otherwise contains a misrepresentation of a material fact, may not apply for or be granted asylum, unless presentation of the document was necessary to depart from a country in which the alien has a credible fear of persecution, or from which the alien has a credible fear of return to persecution, and the alien traveled from such country directly to the United States.

"(2) Notwithstanding subsection (a), an alien who boards a common carrier for the purpose of coming to the United States through the presentation of any document which relates or purports to relate to the alien's eligibility to enter the United States, and who fails to present such document to an immigration officer upon arrival at a port of entry into the United States, may not apply for or be granted asylum, unless presentation of such document was necessary to depart from a country in which the alien has a credible fear of persecution, or from which the alien has a credible fear of return to persecution, and the alien traveled from such country directly to the United States.

"(3) Notwithstanding subsection (a), an alien described in section 235(d)(3) may not apply for or be granted asylum, unless the alien traveled directly from a country in which the alien has a credible fear of persecution, or from which the alien has a credible fear of return to persecution.

"(4) Notwithstanding paragraph (1), (2), or (3), the Attorney General may, under extraordinary circumstances, permit an alien described in any such paragraph to apply for asylum.

"(5)(A) When an immigration officer has determined that an alien has sought entry under either of the circumstances described in paragraph (1) or (2), or is an alien described in section 235(d)(3), or is otherwise an alien subject to the special exclusion procedure of section 235(e), and the alien has indicated a desire to apply for asylum or for withholding of deportation under section 243(h), the immigration officer shall refer the matter to an asylum officer.

"(B) Such asylum officer shall interview the alien, in person or by video conference, to determine whether the alien has a credible fear of persecution (or of return to persecution) in or from—

"(i) the country of such alien's nationality or, in the case of a person having no nationality, the country in which such alien last habitually resided, and

"(ii) in the case of an alien seeking asylum who has sought entry under either of the circumstances described in paragraph (1) or (2), or who is described in section 235(d)(3), the country in which the alien was last present prior to attempting entry into the United States.

"(C) If the officer determines that the alien does not have a credible fear of persecution in (or of return to persecution from) the country or countries referred to in subparagraph (B), the alien may be specially excluded and deported in accordance with section 235(e).

"(D) The Attorney General shall provide by regulation for the prompt supervisory review of a determination under subparagraph (C) that an alien physically present in the United States does not have a credible fear of persecution in (or of return to persecution from) the country or countries referred to in subparagraph (B).

"(E) The Attorney General shall provide information concerning the procedure described in this paragraph to persons who may be eligible. An alien who is eligible for such procedure pursuant to subparagraph (A) may consult with a person or persons of the alien's choosing prior to the procedure or any review thereof, in accordance with regulations prescribed by the Attorney General. Such consultation shall be at no expense to the Government and shall not delay the process.

"(6) An alien who has been determined under the procedure described in paragraph (5) to have a credible fear of persecution shall be taken before a special inquiry officer for a hearing in accordance with section 236.

"(7) As used in this subsection, the term 'asylum officer' means an immigration officer who—

"(A) has had professional training in country conditions, asylum law, and interview techniques; and

"(B) is supervised by an officer who meets the condition in subparagraph (A).

"(8) As used in this section, the term 'credible fear of persecution' means that—

"(A) there is a substantial likelihood that the statements made by the alien in support of the alien's claim are true; and

"(B) there is a significant possibility, in light of such statements and of country conditions, that the alien could establish eligibility as a refugee within the meaning of section 101(a)(42)(A).".

SEC. 194. TIME LIMITATION ON ASYLUM CLAIMS.

Section 208(a) (8 U.S.C. 1158(a)) is amended—

(1) by striking "The" and inserting the following: "(1) Except as provided in paragraph (2), the"; and

(2) by adding at the end the following:

"(2)(A) An application for asylum filed for the first time during an exclusion or deportation proceeding shall not be considered if the proceeding was commenced more than one year after the alien's entry or admission into the United States.

"(B) An application for asylum may be considered, notwithstanding subparagraph (A), if the applicant shows good cause for not having filed within the specified period of time.".

SEC. 195. LIMITATION ON WORK AUTHORIZATION FOR ASYLUM APPLICANTS.

Section 208 (8 U.S.C. 1158), as amended by this Act, is further amended by adding at the end the following new subsection:

"(f)(1) An applicant for asylum may not engage in employment in the United States unless such applicant has submitted an application for employment authorization to the Attorney General and, subject to paragraph (2), the Attorney General has granted such authorization.

"(2) The Attorney General may deny any application for, or suspend or place conditions on any grant of, authorization for any applicant for asylum to engage in employment in the United States.".

SEC. 196. INCREASED RESOURCES FOR REDUCING ASYLUM APPLICATION BACKLOGS.

(a) PURPOSE AND PERIOD OF AUTHORIZATION.—For the purpose of reducing the number of applications pending under sections 208 and 243(h) of the Immigration and Nationality Act (8 U.S.C. 1158 and 1253) as of the date of the enactment of this Act, the Attorney General shall have the authority described in subsections (b) and (c) for a period of two years, beginning 90 days after the date of the enactment of this Act.

(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).

(c) USE OF FEDERAL RETIREES.—(1) In order to carry out the purpose described in subsection (a), the Attorney General may employ temporarily not more than 300 persons who, by reason of retirement on or before January 1, 1993, 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) In the case of a person retired under the provisions of subchapter III of chapter 83 of title 5, United States Code—

(A) no amounts may be deducted from the person's pay,

(B) the annuity of such person may not be terminated,

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

(D) the annuity of such person may not be recomputed, under section 8344 of such title, by reason of the temporary employment authorized in paragraph (1).

(3) In the case of a person retired under the provisions of chapter 84 of title 5, United States Code—

(A) no amounts may be deducted from the person's pay,

(B) contributions to the Civil Service Retirement and Disability Fund may not be made, and

(C) the annuity of such person may not be recomputed, under section 8468 of such title, by reason of the temporary employment authorized in paragraph (1).

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

(5) The President shall apply the provisions of paragraphs (2) and (3) to persons receiving annuities described in paragraph (1)(B) in the same manner and to the same extent as such provisions apply to persons receiving annuities described in paragraph (1)(A).

PART 3—CUBAN ADJUSTMENT ACT

SEC. 197. REPEAL AND EXCEPTION.

(a) REPEAL.—Subject to subsection (b), Public Law 89-732, as amended, is hereby repealed.

(b) SAVINGS PROVISIONS.—(1) The provisions of such Act shall continue to apply on a case-by-case basis with respect to individuals paroled into the United States pursuant to the Cuban Migration Agreement of 1995.

(2) The individuals obtaining lawful permanent resident status under such provisions in a fiscal year shall be treated as if they were family-sponsored immigrants acquiring the status of aliens lawfully admitted to the United States in such fiscal year for purposes of the world-wide and per-country levels of immigration described in sections 201 and 202 of the Immigration and Nationality Act, except that any individual who previously was included in the number computed under section 201(c)(4) of the Immigration and Nationality Act, as added by section 192 of this Act, or had been counted for purposes of section 202 of the Immigration and Nationality Act, as amended by section 192 of this Act, shall not be so treated.

Subtitle C—Effective Dates

SEC. 198. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this title and subject to subsection (b), this title, and the amendments made by this title, shall take effect on the date of the enactment of this Act.

(b) OTHER EFFECTIVE DATES.—

(1) EFFECTIVE DATES FOR PROVISIONS DEALING WITH DOCUMENT FRAUD; REGULATIONS TO IMPLEMENT.—

(A) IN GENERAL.—The amendments made by sections 131, 132, 141, and 195 shall be effective upon the date of the enactment of this Act and shall apply to aliens who arrive in or seek admission to the United States on or after such date.

(B) REGULATIONS.—Notwithstanding any other provision of law, the Attorney General may issue interim final regulations to implement the provisions of the amendments listed in subparagraph (A) at any time on or after the date of the enactment of this Act, which regulations may become effective upon publication without prior notice or opportunity for public comment.

(2) ALIEN SMUGGLING, EXCLUSION, AND DEPORTATION.—The amendments made by sections 122, 126, 128, 129, 143, and 150(b) shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

TITLE II—FINANCIAL RESPONSIBILITY

Subtitle A—Receipt of Certain Government Benefits

SEC. 201. INELIGIBILITY OF EXCLUDABLE, DEPORTABLE, AND NONIMMIGRANT ALIENS.

(a) PUBLIC ASSISTANCE AND BENEFITS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, an ineligible alien (as defined in subsection (f)(2)) shall not be eligible to receive—

(A) any benefits under a public assistance program (as defined in subsection (f)(3)), except—

(i) emergency medical services under title XIX of the Social Security Act,

(ii) subject to paragraph (4), prenatal and postpartum services under title XIX of the Social Security Act,

(iii) short-term emergency disaster relief,

(iv) assistance or benefits under the National School Lunch Act,

(v) assistance or benefits under the Child Nutrition Act of 1966,

(vi) public health assistance for immunizations and, if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of a serious communicable disease, for testing and treatment for such diseases, and

(vii) such other service or assistance (such as soup kitchens, crisis counseling, intervention (including intervention for domestic violence), and short-term shelter) as the Attorney General specifies, in the Attorney General's sole and unreviewable discretion, after consultation with the heads of appropriate Federal agencies, if—

(I) such service or assistance is delivered at the community level, including through public or private nonprofit agencies;

(II) such service or assistance is necessary for the protection of life, safety, or public health; and

(III) such service or assistance or the amount or cost of such service or assistance is not conditioned on the recipient's income or resources; or

(B) any grant, contract, loan, professional license, or commercial license provided or funded by any agency of the United States or any State or local government entity, except, with respect to a nonimmigrant authorized to work in the United States, any professional or commercial license required to engage in such work, if the nonimmigrant is otherwise qualified for such license.

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

(3) NOTIFICATION OF ALIENS.—

(A) IN GENERAL.—The agency administering a program referred to in paragraph (1)(A) or providing benefits referred to in paragraph (1)(B) shall, directly or, in the case of a Federal agency, through the States, notify individually or by public notice, all ineligible aliens who are receiving benefits under a program referred to in paragraph (1)(A), or are receiving benefits referred to in paragraph (1)(B), as the case may be, immediately prior to the date of the enactment of this Act and whose eligibility for the program is terminated by reason of this subsection.

(B) FAILURE TO GIVE NOTICE.—Nothing in subparagraph (A) shall be construed to require or authorize continuation of such eligibility if the notice required by such paragraph is not given.

(4) LIMITATION ON PREGNANCY SERVICES FOR UNDOCUMENTED ALIENS.—

(A) 3-YEAR CONTINUOUS RESIDENCE.—An ineligible alien may not receive the services described in paragraph (1)(A)(ii) unless such alien can establish proof of continuous residence in the United States for not less than 3 years, as determined in accordance with section 245a.2(d)(3) of title 8, Code of Federal Regulations as in effect on the day before the date of the enactment of this Act.

(B) LIMITATION ON EXPENDITURES.—Not more than $120,000,000 in outlays may be expended under title XIX of the Social Security Act for reimbursement of services described in paragraph (1)(A)(ii) that are provided to individuals described in subparagraph (A).

(C) CONTINUED SERVICES BY CURRENT STATES.—States that have provided services described in paragraph (1)(A)(ii) for a period of 3 years before the date of the enactment of this Act shall continue to provide such services and shall be reimbursed by the Federal Government for the costs incurred in providing such services. States that have not provided such services before the date of the enactment of this Act, but elect to provide

such services after such date, shall be reimbursed for the costs incurred in providing such services. In no case shall States be required to provide services in excess of the amounts provided in subparagraph (B).

(b) UNEMPLOYMENT BENEFITS.—Notwithstanding any other provision of law, only eligible aliens who have been granted employment authorization pursuant to Federal law, and United States citizens or nationals, may receive unemployment benefits payable out of Federal funds, and such eligible aliens may receive only the portion of such benefits which is attributable to the authorized employment.

(c) SOCIAL SECURITY BENEFITS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, only eligible aliens who have been granted employment authorization pursuant to Federal law and United States citizen or nationals may receive any benefit under title II of the Social Security Act, and such eligible aliens may receive only the portion of such benefits which is attributable to the authorized employment.

(2) NO REFUND OR REIMBURSEMENT.—Notwithstanding any other provision of law, no tax or other contribution required pursuant to the Social Security Act (other than by an eligible alien who has been granted employment authorization pursuant to Federal law, or by an employer of such alien) shall be refunded or reimbursed, in whole or in part.

(d) 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 Committee on the Judiciary and the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on the Judiciary and the Committee on Banking and Financial Services of the House of Representatives, describing the manner in which the Secretary is enforcing section 214 of the Housing and Community Development Act of 1980 (Public Law 96-399; 94 Stat. 1637) and containing statistics with respect to the number of individuals denied financial assistance under such section.

(e) NONPROFIT, CHARITABLE ORGANIZATIONS.—

(1) IN GENERAL.—Nothing in this Act shall be construed as requiring a nonprofit charitable organization operating any program of assistance provided or funded, in whole or in part, by the Federal Government to—

(A) determine, verify, or otherwise require proof of the eligibility, as determined under this title, of any applicant for benefits or assistance under such program; or

(B) deem that the income or assets of any applicant for benefits or assistance under such program include the income or assets described in section 204(b).

(2) NO EFFECT ON FEDERAL AUTHORITY TO DETERMINE COMPLIANCE.—Nothing in this subsection shall be construed as prohibiting the Federal Government from determining the eligibility, under this section or section 204, of any individual for benefits under a public assistance program (as defined in subsection (f)(3)) or for government benefits (as defined in subsection (f)(4)).

(f) DEFINITIONS.—For the purposes of this section—

(1) ELIGIBLE ALIEN.—The term "eligible alien" means an individual who is—

(A) an alien lawfully admitted for permanent residence under the Immigration and Nationality Act,

(B) an alien granted asylum under section 208 of such Act,

(C) a refugee admitted under section 207 of such Act,

(D) an alien whose deportation has been withheld under section 243(h) of such Act, or

(E) an alien paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year.

(2) INELIGIBLE ALIEN.—The term "ineligible alien" means an individual who is not—

(A) a United States citizen or national; or

(B) an eligible alien.

(3) PUBLIC ASSISTANCE PROGRAM.—The term "public assistance program" means any program of assistance provided or funded, in whole or in part, by the Federal Government or any State or local government entity, for which eligibility for benefits is based on need.

(4) GOVERNMENT BENEFITS.—The term "government benefits" includes—

(A) any grant, contract, loan, professional license, or commercial license provided or funded by any agency of the United States or any State or local government entity, except, with respect to a nonimmigrant authorized to work in the United States, any professional or commercial license required to engage in such work, if the nonimmigrant is otherwise qualified for such license;

(B) unemployment benefits payable out of Federal funds;

(C) benefits under title II of the Social Security Act;

(D) financial assistance for purposes of section 214(a) of the Housing and Community Development Act of 1980 (Public Law 96-399; 94 Stat. 1637); and

(E) benefits based on residence that are prohibited by subsection (a)(2).

SEC. 202. DEFINITION OF "PUBLIC CHARGE" FOR PURPOSES OF DEPORTATION.

(a) IN GENERAL.—Section 241(a)(5) (8 U.S.C. 1251(a)(5)) is amended to read as follows:

"(5) PUBLIC CHARGE.—

"(A) IN GENERAL.—Any alien who during the public charge period becomes a public charge, regardless of when the cause for becoming a public charge arises, is deportable.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply if the alien is a refugee or has been granted asylum, or if the cause of the alien's becoming a public charge—

"(i) arose after entry (in the case of an alien who entered as an immigrant) or after adjustment to lawful permanent resident status (in the case of an alien who entered as a nonimmigrant), and

"(ii) was a physical illness, or physical injury, so serious the alien could not work at any job, or a mental disability that required continuous hospitalization.

"(C) DEFINITIONS.—

"(i) PUBLIC CHARGE PERIOD.—For purposes of subparagraph (A), the term 'public charge period' means the period beginning on the date the alien entered the United States and ending—

"(I) for an alien who entered the United States as an immigrant, 5 years after entry, or

"(II) for an alien who entered the United States as a nonimmigrant, 5 years after the alien adjusted to permanent resident status.

"(ii) PUBLIC CHARGE.—For purposes of subparagraph (A), the term 'public charge' includes any alien who receives benefits under any program described in subparagraph (D) for an aggregate period of more than 12 months.

"(D) PROGRAMS DESCRIBED.—The programs described in this subparagraph are the following:

"(i) The aid to families with dependent children program under title IV of the Social Security Act.

"(ii) The medicaid program under title XIX of the Social Security Act.

"(iii) The food stamp program under the Food Stamp Act of 1977.

"(iv) The supplemental security income program under title XVI of the Social Security Act.

"(v) Any State general assistance program.

"(vi) Any other program of assistance funded, in whole or in part, by the Federal Government or any State or local government entity, for which eligibility for benefits is based on need, except the programs listed as exceptions in clauses (i) through (vi) of section 201(a)(1)(A) of the Immigration Reform Act of 1996.".

(b) CONSTRUCTION.—Nothing in subparagraph (B), (C), or (D) of section 241(a)(5) of the Immigration and Nationality Act, as amended by subsection (a), may be construed to affect or apply to any determination of an alien as a public charge made before the date of the enactment of this Act.

(c) REVIEW OF STATUS.—

(1) IN GENERAL.—In reviewing any application by an alien for benefits under section 216, section 245, or chapter 2 of title III of the Immigration and Nationality Act, the Attorney General shall determine whether or not the applicant is described in section 241(a)(5)(A) of such Act, as so amended.

(2) GROUNDS FOR DENIAL.—If the Attorney General determines that an alien is described in section 241(a)(5)(A) of the Immigration and Nationality Act, the Attorney General shall deny such application and shall institute deportation proceedings with respect to such alien, unless the Attorney General exercises discretion to withhold or suspend deportation pursuant to any other section of such Act.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to aliens who enter the United States on or after the date of the enactment of this Act and to aliens who entered as nonimmigrants before such date but adjust or apply to adjust their status after such date.

SEC. 203. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

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

(1) which is legally enforceable against the sponsor by the sponsored individual, or by the Federal Government or any State, district, territory, or possession of the United States (or any subdivision of such State, district, territory, or possession of the United States) that provides any benefit described in section 241(a)(5)(D), as amended by section 202(a) of this Act, but not later than 10 years after the sponsored individual last receives any such benefit;

(2) in which the sponsor agrees to financially support the sponsored individual, so that he or she will not become a public charge, until the sponsored individual has worked in the United States for 40 qualifying quarters or has become a United States citizen, whichever occurs first; and

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

(b) FORMS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State, the Attorney General, and the Secretary of Health and Human Services shall jointly formulate the affidavit of support described in this section.

(c) NOTIFICATION OF CHANGE OF ADDRESS.—

(1) GENERAL REQUIREMENT.—The sponsor shall notify the Attorney General and the State, district, territory, or possession in which the sponsored individual is currently a resident within 30 days of any change of address of the sponsor during the period specified in subsection (a)(1).

(2) PENALTY.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall, after notice and opportunity to be heard, 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 individual has received any benefit described in section 241(a)(5)(D) of the Immigration and Nationality Act, as amended by section 202(a) of this Act, not less than $2,000 or more than $5,000.

(d) REIMBURSEMENT OF GOVERNMENT EXPENSES.—

(1) IN GENERAL.—

(A) REQUEST FOR REIMBURSEMENT.—Upon notification that a sponsored individual has received any benefit described in section 241(a)(5)(D) of the Immigration and Nationality Act, as amended by section 202(a) of this Act, the appropriate Federal, State, or local official shall request reimbursement from the sponsor for the amount of such assistance.

(B) REGULATIONS.—The Commissioner of Social Security shall prescribe such regulations as may be necessary to carry out subparagraph (A). Such regulations shall provide that notification be sent to the sponsor's last known address by certified mail.

(2) ACTION AGAINST SPONSOR.—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 make payments, an action may be brought against the sponsor pursuant to the affidavit of support.

(3) FAILURE TO MEET REPAYMENT TERMS.—If the sponsor agrees to make payments, but fails to abide by the repayment terms established by the agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.

(e) JURISDICTION.—

(1) IN GENERAL.—An action to enforce an affidavit of support executed under subsection (a) may be brought against the sponsor in any Federal or State court—

(A) by a sponsored individual, with respect to financial support; or

(B) by a Federal, State, or local agency, with respect to reimbursement.

(2) COURT MAY NOT DECLINE TO HEAR CASE.—For purposes of this section, no Federal or State court shall decline for lack of subject matter or personal jurisdiction to hear any action brought against a sponsor under paragraph (1) if—

(A) the sponsored individual is a resident of the State in which the court is located, or received public assistance while residing in the State; and

(B) such sponsor has received service of process in accordance with applicable law.

(f) DEFINITIONS.—For purposes of this section—

(1) SPONSOR.—The term "sponsor" means an individual who—

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

(B) is at least 18 years of age;

(C) is domiciled in any of the several States of the United States, the District of Columbia, or any territory or possession of the United States; and

(D) demonstrates the means to maintain an annual income equal to at least 125 percent of the Federal poverty line for the individual and the individual's family (including the sponsored alien and any other alien sponsored by the individual), through evidence that includes a copy of the individual's Federal income tax return for the 3 most recent taxable years (which returns need show such level of annual income only in the most recent taxable year) 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 true copies of such returns.

In the case of an individual who is on active duty (other than active duty for training) in the Armed Forces of the United States, subparagraph (D) shall be applied by substituting "100 percent" for "125 percent".

(2) FEDERAL POVERTY LINE.—The term "Federal poverty line" means the level of income equal to the official poverty line (as defined by the Director of the Office of Management and Budget, as revised annually by the Secretary of Health and Human Services, in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902)) that is applicable to a family of the size involved.

(3) QUALIFYING QUARTER.—The term "qualifying quarter" means a three-month period in which the sponsored individual has—

(A) earned at least the minimum necessary for the period to count as one of the 40 quarters required to qualify for social security retirement benefits;

(B) not received need-based public assistance; and

(C) had income tax liability for the tax year of which the period was part.

SEC. 204. ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO FAMILY-SPONSORED IMMIGRANTS.

(a) DEEMING REQUIREMENT FOR FEDERAL AND FEDERALLY FUNDED PROGRAMS.—Subject to subsection (d), for purposes of determining the eligibility of an alien for benefits, and the amount of benefits, under any public assistance program (as defined in section 201(f)(3)), the income and resources described in subsection (b) shall, notwithstanding any other provision of law, be deemed to be the income and resources of such alien.

(b) DEEMED INCOME AND RESOURCES.—The income and resources described in this subsection include the income and resources of—

(1) any person who, as a sponsor of an alien's entry into the United States, or in order to enable an alien lawfully to remain in the United States, executed an affidavit of support or similar agreement with respect to such alien, and

(2) the sponsor's spouse.

(c) LENGTH OF DEEMING PERIOD.—The requirement of subsection (a) shall apply for the period for which the sponsor has agreed, in such affidavit or agreement, to provide support for such alien, or for a period of 5 years beginning on the day such alien was first lawfully in the United States after the execution of such affidavit or agreement, whichever period is longer.

(d) EXCEPTIONS.—

(1) INDIGENCE.—

(A) IN GENERAL.—If a determination described in subparagraph (B) is made, the amount of income and resources of the sponsor or the sponsor's spouse which shall be attributed to the sponsored alien shall not exceed the amount actually provided for a period—

(i) beginning on the date of such determination and ending 12 months after such date, or

(ii) if the address of the sponsor is unknown to the sponsored alien, beginning on the date of such determination and ending on the date that is 12 months after the address of the sponsor becomes known to the sponsored alien or to the agency (which shall inform such alien of the address within 7 days).

(B) DETERMINATION DESCRIBED.—A determination described in this subparagraph is a determination by an agency that a sponsored alien would, in the absence of the assistance provided by the agency, be unable to obtain food and shelter, taking into account the alien's own income, plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor.

(2) EDUCATION ASSISTANCE.—

(A) IN GENERAL.—The requirements of subsection (a) shall not apply with respect to sponsored aliens who have received, or have been approved to receive, student assistance under title IV, V, IX, or X of the Higher Education Act of 1965 in an academic year which ends or begins in the calendar year in which this Act is enacted.

(B) DURATION.—The exception described in subparagraph (A) shall apply only for the period normally required to complete the course of study for which the sponsored alien receives assistance described in that subparagraph.

(3) CERTAIN SERVICES AND ASSISTANCE.—The requirements of subsection (a) shall not apply to any service or assistance described in section 201(a)(1)(A)(vii).

(e) DEEMING AUTHORITY TO STATE AND LOCAL AGENCIES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, but subject to exceptions equivalent to the exceptions described in subsection (d), the State or local government may, for purposes of determining the eligibility of an alien for benefits, and the amount of benefits, under any State or local program of assistance for which eligibility is based on need, or any need-based program of assistance administered by a State or local government (other than a program of assistance provided or funded, in whole or in part, by the Federal Government), require that the income and resources described in subsection (b) be deemed to be the income and resources of such alien.

(2) LENGTH OF DEEMING PERIOD.—Subject to exceptions equivalent to the exceptions described in subsection (d), a State or local government may impose the requirement described in paragraph (1) for the period for which the sponsor has agreed, in such affidavit or agreement, to provide support for such alien, or for a period of 5 years beginning on the day such alien was first lawfully in the United States after the execution of such affidavit or agreement, whichever period is longer.

SEC. 205. VERIFICATION OF STUDENT ELIGIBILITY FOR POSTSECONDARY FEDERAL STUDENT FINANCIAL ASSISTANCE.

(a) REPORT REQUIREMENT.—Not later than one year after the date of the enactment of this Act, the Secretary of Education and the Commissioner of Social Security shall jointly submit to the Congress a report on the computer matching program of the Department of Education under section 484(p) of the Higher Education Act of 1965.

(b) REPORT ELEMENTS.—The report shall include the following:

(1) An assessment by the Secretary and the Commissioner of the effectiveness of the computer matching program, and a justification for such assessment.

(2) The ratio of inaccurate matches under the program to successful matches.

(3) Such other information as the Secretary and the Commissioner jointly consider appropriate.

SEC. 206. AUTHORITY OF STATES AND LOCALITIES TO LIMIT ASSISTANCE TO ALIENS AND TO DISTINGUISH AMONG CLASSES OF ALIENS IN PROVIDING GENERAL PUBLIC ASSISTANCE.

(a) IN GENERAL.—Subject to subsection (b) and notwithstanding any other provision of law, a State or local government may prohibit or otherwise limit or restrict the eligibility of aliens or classes of aliens for programs of general cash public assistance furnished under the law of the State or a political subdivision of a State.

(b) LIMITATION.—The authority provided for under subsection (a) may be exercised

only to the extent that any prohibitions, limitations, or restrictions imposed by a State or local government are not more restrictive than the prohibitions, limitations, or restrictions imposed under comparable Federal programs. For purposes of this section, attribution to an alien of a sponsor's income and resources (as described in section 204(b)) for purposes of determining eligibility for, and the amount of, benefits shall be considered less restrictive than a prohibition of eligibility for such benefits.

SEC. 207. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS NOT CITIZENS OR LAWFUL PERMANENT RESIDENTS.

(a) IN GENERAL.—

(1) LIMITATION.—Notwithstanding any other provision of law, an individual may not receive an earned income tax credit for any year in which such individual was not, for the entire year, either a United States citizen or national or a lawful permanent resident.

(2) IDENTIFICATION NUMBER REQUIRED.—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 is amended by adding at the end the following new subsection:

"(k) IDENTIFICATION NUMBERS.—Solely 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—

(1) by striking "and" at the end of subparagraph (D),

(2) by striking the period at the end of subparagraph (E) and inserting ", and", and

(3) by inserting after subparagraph (E) the following new subparagraph:

"(F) an unintended omission of a correct taxpayer identification number required under 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.

SEC. 208. INCREASED MAXIMUM CRIMINAL PENALTIES FOR FORGING OR COUNTERFEITING SEAL OF A FEDERAL DEPARTMENT OR AGENCY TO FACILITATE BENEFIT FRAUD BY AN UNLAWFUL ALIEN.

Section 506 of title 18, United States Code, is amended to read as follows:

"§ 506. Seals of departments or agencies

"(a) Whoever—

"(1) falsely makes, forges, counterfeits, mutilates, or alters the seal of any department or agency of the United States, or any facsimile thereof;

"(2) knowingly uses, affixes, or impresses any such fraudulently made, forged, counterfeited, mutilated, or altered seal or facsimile thereof to or upon any certificate, instrument, commission, document, or paper of any description; or

"(3) with fraudulent intent, possesses, sells, offers for sale, furnishes, offers to furnish, gives away, offers to give away, transports, offers to transport, imports, or offers to import any such seal or facsimile thereof, knowing the same to have been so falsely made, forged, counterfeited, mutilated, or altered,

shall be fined under this title, or imprisoned not more than 5 years, or both.

"(b) Notwithstanding subsection (a) or any other provision of law, if a forged, counterfeited, mutilated, or altered seal of a department or agency of the United States, or any facsimile thereof, is—

"(1) so forged, counterfeited, mutilated, or altered;

"(2) used, affixed, or impressed to or upon any certificate, instrument, commission, document, or paper of any description; or

"(3) with fraudulent intent, possessed, sold, offered for sale, furnished, offered to furnish, given away, offered to give away, transported, offered to transport, imported, or offered to import,

with the intent or effect of facilitating an unlawful alien's application for, or receipt of, a Federal benefit, the penalties which may be imposed for each offense under subsection (a) shall be two times the maximum fine, and 3 times the maximum term of imprisonment, or both, that would otherwise be imposed for an offense under subsection (a).

"(c) For purposes of this section—

"(1) the term 'Federal benefit' means—

"(A) the issuance of any grant, contract, loan, professional license, or commercial license provided by any agency of the United States or by appropriated funds of the United States; and

"(B) any retirement, welfare, Social Security, health (including treatment of an emergency medical condition in accordance with section 1903(v) of the Social Security Act (19 U.S.C. 1396b(v))), disability, veterans, public housing, education, food stamps, or unemployment benefit, or any similar benefit for which payments or assistance are provided by an agency of the United States or by appropriated funds of the United States;

"(2) the term 'unlawful alien' means an individual who is not—

"(A) a United States citizen or national;

"(B) an alien lawfully admitted for permanent residence under the Immigration and Nationality Act;

"(C) an alien granted asylum under section 208 of such Act;

"(D) a refugee admitted under section 207 of such Act;

"(E) an alien whose deportation has been withheld under section 243(h) of such Act; or

"(F) an alien paroled into the United States under section 215(d)(5) of such Act for a period of at least 1 year; and

"(3) each instance of forgery, counterfeiting, mutilation, or alteration shall constitute a separate offense under this section.".

SEC. 209. STATE OPTION UNDER THE MEDICAID PROGRAM TO PLACE ANTI-FRAUD INVESTIGATORS IN HOSPITALS.

(a) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (61);

(2) by striking the period at the end of paragraph (62) and inserting "; and"; and

(3) by adding after paragraph (62) the following new paragraph:

"(63) in the case of a State that is certified by the Attorney General as a high illegal immigration State (as determined by the Attorney General), at the election of the State, establish and operate a program for the placement of anti-fraud investigators in State, county, and private hospitals located in the State to verify the immigration status and income eligibility of applicants for medical assistance under the State plan prior to the furnishing of medical assistance.".

(b) PAYMENT.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended—

(1) by striking "plus" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; plus"; and

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

"(8) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b)) of the total amount expended during such quarter which is attributable to operating a program under section 1902(a)(63).".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the first day of the first calendar quarter beginning after the date of the enactment of this Act.

SEC. 210. COMPUTATION OF TARGETED ASSISTANCE.

Section 412(c)(2) (8 U.S.C. 1522(c)(2)) is amended by adding at the end the following new subparagraph:

"(C) Except for the Targeted Assistance Ten Percent Discretionary Program, all grants made available under this paragraph for a fiscal year shall be allocated by the Office of Refugee Resettlement in a manner that ensures that each qualifying county receives the same amount of assistance for each refugee and entrant residing in the county as of the beginning of the fiscal year who arrived in the United States not earlier than 60 months before the beginning of such fiscal year.".

Subtitle B—Miscellaneous Provisions

SEC. 211. REIMBURSEMENT OF STATES AND LOCALITIES FOR EMERGENCY MEDICAL ASSISTANCE FOR CERTAIN ILLEGAL ALIENS.

(a) REIMBURSEMENT.—The Attorney General shall, subject to the availability of appropriations, fully reimburse the States and political subdivisions of the States for costs incurred by the States and political subdivisions for emergency ambulance service provided to any alien who—

(1) entered the United States without inspection or at any time or place other than as designated by the Attorney General;

(2) is under the custody of a State or a political subdivision of a State as a result of transfer or other action by Federal authorities; and

(3) is being treated for an injury suffered while crossing the international border between the United States and Mexico or between the United States and Canada.

(b) STATUTORY CONSTRUCTION.—Nothing in this section requires that the alien be arrested by Federal authorities before entering into the custody of the State or political subdivision.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General such sums as may be necessary to carry out the provisions of this section.

(2) STATUTORY CONSTRUCTION.—Nothing in this Act may be construed to prevent the Attorney General from seeking reimbursement from an alien described in subsection (a) for the costs of the emergency medical services provided to the alien.

SEC. 212. 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 through a public hospital, other public facility, or other facility (including a hospital that is eligible for an additional payment adjustment under section 1886(d)(5)(F) or section 1923 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 for its costs of providing such services, but only to the extent that the costs of the State or local government are not fully reimbursed through any other Federal program and cannot be recovered from the alien or other entity.

(b) CONFIRMATION OF IMMIGRATION STATUS.—No payment shall be made under this section with respect to services furnished to aliens described in subsection (a) unless the State or local government establishes that it has provided services to such aliens in accordance with procedures established by the Secretary of Health and Human Services, after consultation with the Attorney General and State and local officials.

(c) ADMINISTRATION.—This section shall be administered by the Attorney General, in consultation with the Secretary of Health and Human Services.

(d) EFFECTIVE DATE.—This section shall not apply to emergency medical services furnished before October 1, 1995.

SEC. 213. PILOT PROGRAMS.

(a) ADDITIONAL COMMUTER BORDER CROSSING FEES PILOT PROJECTS.—In addition to the land border fee pilot projects extended by the fourth proviso under the heading " Immigration and Naturalization Service. Salaries and Expenses" of Public Law 103–121, the Attorney General may establish another such pilot project on the northern land border and another such pilot project on the southern land border of the United States.

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

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

(2) the use of designated ports of entry after working hours through the use of card reading machines or other appropriate technology.

SEC. 214. USE OF PUBLIC SCHOOLS BY NONIMMIGRANT FOREIGN STUDENTS.

(a) PERSONS ELIGIBLE FOR STUDENT VISAS.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—

(1) in clause (i) by striking "academic high school, elementary school, or other academic institution or in a language training program" and inserting in lieu thereof "public elementary or public secondary school (if the alien shows to the satisfaction of the consular officer at the time of application for a visa, or of the Attorney General at the time of application for admission or adjustment of status, that (I) the alien will in fact reimburse such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), private elementary or private secondary school, or postsecondary academic institution, or in a language-training program"; and

(2) by inserting before the semicolon at the end of clause (ii) the following: ": *Provided*, That nothing in this paragraph shall be construed to prevent a child who is present in the United States in a nonimmigrant status other than that conferred by paragraph (B), (C), (F)(i), or (M)(i), from seeking admission to a public elementary school or public secondary school for which such child may otherwise be qualified.";

(b) EXCLUSION OF STUDENT VISA ABUSERS.—Section 212(a) (8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

"(9) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement) is excludable"; and

(c) DEPORTATION OF STUDENT VISA ABUSERS.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

"(6) STUDENT VISA ABUSERS.—Any alien described in section 101(a)(15)(F) who is admitted as a student for study at a private elementary school or private secondary school and who does not remain enrolled, throughout the duration of his or her elementary or secondary school education in the United States, at either (A) such a private school, or (B) a public elementary or public secondary school (if (I) the alien is in fact reimbursing such public elementary or public secondary school for the full, unsubsidized per-capita cost of providing education at such school to an individual pursuing such a course of study, or (II) the school waives such reimbursement), is deportable".

This section shall become effective 1 day after the date of enactment.

SEC. 215. PILOT PROGRAM TO COLLECT INFORMATION RELATION TO NONIMMIGRANT FOREIGN STUDENTS.

(a) IN GENERAL.—(1) The Attorney General and the Secretary of State shall jointly develop and conduct a pilot program to collect electronically from approved colleges and universities in the United States the information described in subsection (c) with respect to aliens who—

(A) have the status, or are applying for the status, of nonimmigrants under section 101(a)(15)(F), (J), or (M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F), (J), or (M)); and

(B) are nationals of the countries designated under subsection (b).

(2) The pilot program shall commence not later than January 1, 1998.

(b) COVERED COUNTRIES.—The Attorney General and the Secretary of State shall jointly designate countries for purposes of subsection (a)(1)(B). The Attorney General and the Secretary shall initially designate not less than five countries and may designate additional countries at any time while the pilot program is being conducted.

(C) INFORMATION TO BE COLLECTED.—

(1) IN GENERAL.—The information for collection under subsection (a) consists of—

(A) the identity and current address in the United States of the alien;

(B) the nonimmigrant classification of the alien and the date on which a visa under the classification was issued or extended or the date on which a change to such classification was approved by the Attorney General; and

(C) the academic standing of the alien, including any disciplinary action taken by the college or university against the alien as a result of the alien's being convicted of a crime.

(2) FERPA.—The Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g) shall not apply to aliens described in subsection (a) to the extent that the Attorney General and the Secretary of State determine necessary to carry out the pilot program.

(d) PARTICIPATION BY COLLEGES AND UNIVERSITIES.—(1) The information specified in subsection (c) shall be provided by approved colleges and universities as a condition of—

(A) the continued approval of the colleges and universities under section 101(a)(15)(F) or (M) of the Immigration and Nationality Act, or

(B) the issuance of visas to aliens for purposes of studying, or otherwise participating, at such colleges and universities in a program under section 101(a)(15)(J) of such Act.

(2) If an approved college or university fails to provide the specified information, such approvals and such issuance of visas shall be revoked or denied.

(e) FUNDING.—(1) The Attorney General and the Secretary shall use funds collected under section 281(b) of the Immigration and Nationality Act, as added by this subsection, to pay for the costs of carrying out this section.

(2) Section 281 of the Immigration and Nationality Act (8 U.S.C. 1351) is amended—

(A) by inserting "(a)" after "SEC. 281."; and

(B) by adding at the end the following:

"(b)(1) In addition to fees that are prescribed under subsection (a), the Secretary of State shall impose and collect a fee on all visas issued under the provisions of section 101(a)(15)(F), (J), or (M) of the Immigration and Nationality Act. With respect to visas issued under the provisions of section 101(a)(15)(J), this subsection shall not apply to those "J" visa holders whose presence in the United States is sponsored by the United States government."

"(2) The Attorney General shall impose and collect a fee on all changes of nonimmigrant status under section 248 to such classifications. This subsection shall not apply to those "J" visa holders whose presence in the United States is sponsored by the United States government."

"(3) Except as provided in section 205(g)(2) of the Immigration Reform Act of 1996, the amount of the fees imposed and collected under paragraphs (1) and (2) shall be the amount which the Attorney General and the Secretary jointly determine is necessary to recover the costs of conducting the information-collection program described in subsection (a), but may not exceed $100.

"(4) Funds collected under paragraph (1) shall be available to the Attorney General and the Secretary, without regard to appropriation Acts and without fiscal year limitation, to supplement funds otherwise available to the Department of Justice and the Department of State, respectively."

(3) The amendments made by paragraphs (1) and (2) shall become effective April 1, 1997.

(f) JOINT REPORT.—Not later than five years after the commencement of the pilot program established under subsection (a), the Attorney General and the Secretary of State shall jointly submit to the Committees on the Judiciary of the United States Senate and House of Representatives on the operations of the pilot program and the feasibility of expanding the program to cover the nationals of all countries.

(g) WORLDWIDE APPLICABILITY OF THE PROGRAM.—(1)(A) Not later than six months after the submission of the report required by subsection (f), the Secretary of State and the Attorney General shall jointly commence expansion of the pilot program to cover the nationals of all countries.

(B) Such expansion shall be completed not later than one year after the date of the submission of the report referred to in subsection (f).

(2) After the program has been expanded, as provided in paragraph (1), the Attorney General and the Secretary of State may, on a periodic basis, jointly revise the amount of the fee imposed and collected under section 281(b) of the Immigration and Nationality Act in order to take into account changes in the cost of carrying out the program.

(h) DEFINITION.—As used in this section, the phrase "approved colleges and universities" means colleges and universities approved by the Attorney General, in consultation with the Secretary of Education, under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)).

SEC. 216. FALSE CLAIMS OF U.S. CITIZENSHIP.

(a) EXCLUSION OF ALIENS WHO HAVE FALSELY CLAIMED U.S. CITIZENSHIP.—Section 212(a)(9) (8 U.S.C. 1182(a)(9)) is amended by adding at the end the following new subparagraph:

"(D) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is excludable."

(b) DEPORTATION OF ALIENS WHO HAVE FALSELY CLAIMED U.S. CITIZENSHIP.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

"(6) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States is deportable".

"SEC. 217. VOTING BY ALIENS.

(a) CRIMINAL PENALTY FOR VOTING BY ALIENS IN FEDERAL ELECTION.—Title 18, United States Code, is amended by adding the following new section:

"§611. Voting by aliens

"(a) It shall be unlawful for any alien to vote in any election held solely or in part for the purpose of electing a candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, unless—

"(1) the election is held partly for some other purpose;

"(2) aliens are authorized to vote for such other purpose under a State constitution or statute or a local ordinance; and

"(3) voting for such other purpose is conducted independently of voting for a candidate for such Federal offices, in such a manner that an alien has the opportunity to vote for such other purpose, but not an opportunity to vote for a candidate for any one or more of such Federal offices."

"(b) Any person who violates this section shall be fined not more than $5,000 or imprisoned not more than one year or both";

(b) EXCLUSION OF ALIENS WHO HAVE UNLAWFULLY VOTED.—Section 212(a)(8 U.S.C. 1182(a)) is amended by adding at the end the following new paragraph:

"(9) UNLAWFUL VOTERS.—Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is excludable."

(c) DEPORTATION OF ALIENS WHO HAVE UNLAWFULLY VOTED.—Section 241(a) (8 U.S.C. 1251(a)) is amended by adding at the end the following new paragraph:

"(6) UNLAWFUL VOTERS.—Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is deportable".

SEC. 218 EXCLUSION GROUNDS FOR OFFENSES OF DOMESTIC VIOLENCE, STALKING, CRIMES AGAINST CHILDREN, AND CRIMES OF SEXUAL VIOLENCE.

(a) IN GENERAL.—Section 241(a)(2) (8 U.S.C. 1251(a)(2)) is amended by adding at the end the following:

"(E) DOMESTIC VIOLENCE, VIOLATION OF PROTECTION ORDER, CRIMES AGAINST CHILDREN AND STALKING.—(i) Any alien who at any time after entry is convicted of a crime of domestic violence is deportable.

"(ii) Any alien who at any time after entry engages in conduct that violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued is deportable.

"(iii) Any alien who at any time after entry is convicted of a crime of stalking is deportable.

"(iv) Any alien who at any time after entry is convicted of a crime of child abuse, child sexual abuse, child neglect, or child abandonment is deportable.

"(F) CRIMES OF SEXUAL VIOLENCE.—Any alien who at any time after entry is convicted of a crime of rape, aggravated sodomy, aggravated sexual abuse, sexual abuse, abusive sexual contact, or other crime of sexual violence is deportable.".

(b) DEFINITIONS.—Section 101(a) (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraphs:

"(47) The term 'crime of domestic violence' means any felony or misdemeanor crime of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction where the offense occurs, or by any other adult person against a victim who is protected from that person's acts under the domestic or family violence laws of the United States or any State, Indian tribal government, or unit of local government.

"(48) The term 'protection order' means any injunction issued for the purpose of preventing violent or threatening acts of domestic violence, including temporary or final orders issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding.".

(c) This section will become effective one day after the date of enactment of the act.

Subtitle C—Effective Dates

SEC. 221. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b) or as otherwise provided in this title, this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) BENEFITS.—The provisions of section 201 and 204 shall apply to benefits and to applications for benefits received on or after 1 day after the date of the enactment of this Act.

LOTT AMENDMENT NO. 3745

Mr. LOTT proposed an amendment to the motion to recommit proposed by Mr. DOLE to the bill S. 1664, supra; as follows:

Add at the end of the instructions the following: "that the following amendment be reported back forthwith".

Add the following new subsection to section 182 of the bill:

(c) STATEMENT OF AMOUNT OF DETENTION SPACE IN PRIOR YEARS.—Such report shall also state the amount of detention space available in each of the 10 years prior to the enactment of this Act.

DOLE AMENDMENT NO. 3746

Mr. DOLE proposed an amendment to amendment No. 3745 proposed by Mr. LOTT to the bill S. 1664, supra; as follows:

At the end of the amendment add the following:

Section 178 of the bill is amended by adding the following new subsection:

(c) EFFECTIVE DATE.—This section shall take effect 30 days after the effective date of this Act.

AMENDMENTS SUBMITTED

THE IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

SNOWE AMENDMENTS NOS. 3747–3748

(Ordered to lie on the table.)

Ms. SNOWE submitted two amendments intended to be proposed by her to amendment No. 3743 proposed by Mr. SIMPSON to the bill (S. 1664) to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing border patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes; as follows:

AMENDMENT No. 3747

At the end of the matter proposed to be inserted by the amendment, insert the following:

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. REPORT ON ALLEGATIONS OF HARASSMENT BY CANADIAN CUSTOMS AGENTS.

(a) STUDY AND REVIEW.—

(1) Not later than 30 days after the enactment of this Act, the Commissioner of the United States Customs Service shall initiate a study of allegations of harassment by Canadian Customs agents for the purpose of deterring cross-border commercial activity along the United States-New Brunswick border. Such study shall include a review of the possible connection between any incidents of harassment with the discriminatory imposition of the New Brunswick Provincial Sales Tax (PST) tax on goods purchased in the United States by New Brunswick residents, and with any other activities taken by the Canadian provincial and federal governments to deter cross-border commercial activities.

(2) In conducting the study in subparagraph (1), the Commissioner shall consult with representatives of the State of Maine, local governments, local businesses, and any other knowledgeable persons that the Commissioner deems important to the completion of the study.

(b) REPORT.—Not later than 120 days after enactment of this Act, the Commissioner of the United States Customs Service shall submit to Congress a report of the study and review detailed in subsection (a). The report shall also include recommendations for steps that the U.S. government can take to help end harassment by Canadian Customs agents found to have occurred.

AMENDMENT No. 3748

At the end of the matter proposed to be inserted by the amendment, insert the following:

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. SENSE OF CONGRESS ON THE DISCRIMINATORY APPLICATION OF THE NEW BRUNSWICK PROVINCIAL SALES TAX.

(a) FINDINGS.—The Congress finds that—

(1) in July 1993, Canadian Customs officers began collecting an 11% New Brunswick Provincial Sales Tax (PST) tax on goods purchased in the United States by New Brunswick residents, an action that has caused severe economic harm to U.S. businesses located in proximity to the border with New Brunswick;

(2) this impediment to cross-border trade compounds the damage already done from the Canadian government's imposition of a 7% tax on all goods bought by Canadians in the United States;

(3) collection of the New Brunswick Provincial Sales Tax on goods purchased outside of New Brunswick is collected only along the U.S.-Canadian border—not along New Brunswick's borders with other Canadian provinces—thus being administered by Canadian authorities in a manner uniquely discriminatory to Canadians shopping in the United States;

(4) in February 1994, the U.S. Trade Representative (USTR) publicly stated an intention to seek redress from the discriminatory application of the PST under the dispute resolution process in Chapter 20 of the North American Free Trade Agreement (NAFTA), but the United States Government has still not made such a claim under NAFTA procedures; and

(5) initially, the USTR argued that filing a PST claim was delayed only because the dispute mechanism under NAFTA had not yet been finalized, but more than a year after such mechanism has been put in place, the PST claim has still not been put forward by the USTR.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Provincial Sales Tax levied by the Canadian Province of New Brunswick on Canadian citizens of that province who purchase goods in the United States violates the North American Free Trade Agreement in its discriminatory application to cross-border trade with the United States and damages good relations between the United States and Canada; and

(2) the United States Trade Representative should move forward without further delay in seeking redress under the dispute resolution process in Chapter 20 of the North American Free Trade Agreement for the discriminatory application of the New Brunswick Provincial Sales Tax on U.S.-Canada cross-border trade.

ABRAHAM (AND OTHERS) AMENDMENTS NOS. 3749–3750

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself, Mr. FEINGOLD, and Mr. DEWINE) submitted two amendments intended to be proposed by them to amendment No. 3743 proposed by Mr. SIMPSON to the bill S. 1644, supra; as follows:

AMENDMENT No. 3749

In section 112, after subparagraph (a)(1)(ii), insert the following:

"(iv) Demonstration projects under this section shall not be conducted in any State that has not enacted legislation authorizing the Attorney General to conduct such projects within its jurisdiction."

AMENDMENT No. 3750

In section 112, after subparagraph (a)(1)(ii), insert the following:

"(iv) Demonstration projects under this section shall not be conducted in any State that has not enacted legislation declaring such projects shall not be conducted within its jurisdiction."

ABRAHAM (AND OTHERS) AMENDMENTS NOS. 3751–3752

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself, Mr. FEINGOLD, Mr. DEWINE, Mr. INHOFE, Mr. MACK, Mr. LOTT, and Mr. LIEBERMAN) submitted two amendments intended to be proposed by them to amendment No. 3743 proposed by Mr. SIMPSON to the bill S. 1644, supra; as follows:

AMENDMENT No. 3751

Strike sections 111–115.

AMENDMENT No. 3752

Strike sections 111–115 and 118.

GRAHAM AMENDMENTS NOS. 3753–3759

(Ordered to lie on the table.)

Mr. GRAHAM submitted seven amendments intended to be proposed by him to amendment No. 3743 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

AMENDMENT No. 3753

On page 177 in the matter proposed to be inserted, beginning on line 9 strike all that follows through line 4 on page 178.

AMENDMENT No. 3754

Beginning on page 188, strike line 11 and all that follows through line 2 on page 192.

AMENDMENT No. 3755

Beginning on page 192, strike line 3 and all that follows through line 4 on page 198.

AMENDMENT No. 3756

Beginning on page 198, strike line 5 and all that follows through line 5 on page 202.

AMENDMENT No. 3757

Beginning on page 210, strike line 22 and all that follows through line 9 on page 211.

AMENDMENT No. 3758

Beginning on page 177, line 9, strike all through page 211, line 9, and insert the following:

Subtitle C—Effective Dates

SEC. 197. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this title and subject to subsection (b), this title, and the amendments made by this title, shall take effect on the date of the enactment of this Act.

(b) OTHER EFFECTIVE DATES.—

(1) Effective dates for provisions dealing with document fraud; regulations to implement.—

(A) IN GENERAL.—The amendments made by sections 131, 132, 141, and 195 shall be effective upon the date of the enactment of this Act and shall apply to aliens who arrive in or seek admission to the United States on or after such date.

(B) REGULATIONS.—Notwithstanding any other provision of law, the Attorney General may issue interim final regulations to implement the provisions of the amendments listed in subparagraph (A) at any time on or after the date of the enactment of this Act, which regulations may become effective upon publication without prior notice or opportunity for public comment.

(2) ALIEN SMUGGLING, EXCLUSION, AND DEPORTATION.—The amendments made by sections 122, 126, 128, 129, 143, and 150(b) shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

TITLE II—FINANCIAL RESPONSIBILITY

Subtitle A—Receipt of Certain Government Benefits

SEC. 201. INELIGIBILITY OF EXCLUDABLE, DEPORTABLE, AND NONIMMIGRANT ALIENS.

(a) PUBLIC ASSISTANCE AND BENEFITS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, an ineligible alien (as defined in subsection (f)(2)) shall not be eligible to receive—

(A) any benefits under a public assistance program (as defined in subsection (f)(3)), except—

(i) emergency medical services under title XIX of the Social Security Act,

(ii) subject to paragraph (4), prenatal and postpartum services under title XIX of the Social Security Act,

(iii) short-term emergency disaster relief,

(iv) assistance or benefits under the National School Lunch Act,

(v) assistance or benefits under the Child Nutrition Act of 1966,

(vi) public health assistance for immunizations and, if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of a serious communicable disease, for testing and treatment for such diseases, and

(vii) such other service or assistance (such as soup kitchens, crisis counseling, intervention (including intervention for domestic violence), and short-term shelter) as the Attorney General specifies, in the Attorney General's sole and unreviewable discretion, after consultation with the heads of appropriate Federal agencies, if—

(I) such service or assistance is delivered at the community level, including through public or private nonprofit agencies;

(II) such service or assistance is necessary for the protection of life, safety, or public health; and

(III) such service or assistance or the amount or cost of such service or assistance is not conditioned on the recipient's income or resources; or

(B) any grant, contract, loan, professional license, or commercial license provided or funded by any agency of the United States or any State or local government entity, except, with respect to a nonimmigrant authorized to work in the United States, any professional or commercial license required to engage in such work, if the nonimmigrant is otherwise qualified for such license.

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

(3) NOTIFICATION OF ALIENS.—

(A) IN GENERAL.—The agency administering a program referred to in paragraph (1)(A) or providing benefits referred to in paragraph (1)(B) shall, directly or, in the case of a Federal agency, through the States, notify individually or by public notice, all ineligible aliens who are receiving benefits under a program referred to in paragraph (1)(A), or are receiving benefits referred to in paragraph (1)(B), as the case may be, immediately prior to the date of the enactment of this Act and whose eligibility for the program is terminated by reason of this subsection.

(B) FAILURE TO GIVE NOTICE.—Nothing in subparagraph (A) shall be construed to require or authorize continuation of such eligibility if the notice required by such paragraph is not given.

(4) LIMITATION ON PREGNANCY SERVICES FOR UNDOCUMENTED ALIENS.—

(A) 3-YEAR CONTINUOUS RESIDENCE.—An ineligible alien may not receive the services described in paragraph (1)(A)(ii) unless such alien can establish proof of continuous residence in the United States for not less than 3 years, as determined in accordance with section 245a.2(d)(3) of title 8, Code of Federal Regulations as in effect on the day before the date of the enactment of this Act.

(B) LIMITATION ON EXPENDITURES.—Not more than $120,000,000 in outlays may be expended under title XIX of the Social Security Act for reimbursement of services described in paragraph (1)(A)(ii) that are provided to individuals described in subparagraph (A).

(C) CONTINUED SERVICES BY CURRENT STATE.—States that have provided services described in paragraph (1)(A)(ii) for a period of 3 years before the date of the enactment of this Act shall continue to provide such services and shall be reimbursed by the Federal Government for the costs incurred in providing such services. States that have not provided such services before the date of the enactment of this Act, but elect to provide such services after such date, shall be reimbursed for the costs incurred in providing such services. In no case shall States be required to provide services in excess of the amounts provided in subparagraph (B).

(b) UNEMPLOYMENT BENEFITS.—Notwithstanding any other provision of law, only eligible aliens who have been granted employment authorization pursuant to Federal law, and United States citizens or nationals, may receive unemployment benefits payable out of Federal funds, and such eligible aliens may receive only the portion of such benefits which is attributable to the authorized employment.

(c) SOCIAL SECURITY BENEFITS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, only eligible aliens who have been granted employment authorization pursuant to Federal law and United States citizens or nationals may receive any benefit under title II of the Social Security Act, and such eligible aliens may receive only the portion of such benefits which is attributable to the authorized employment.

(2) NO REFUND OR REIMBURSEMENT.—Notwithstanding any other provision of law, no tax or other contribution required pursuant to the Social Security Act (other than by an eligible alien who has been granted employment authorization pursuant to Federal law, or by an employer of such alien) shall be refunded or reimbursed, in whole or in part.

(d) 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 Committee on the Judiciary and the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on the Judiciary and the Committee on Banking and Financial Services of the House of Representatives, describing the manner in which the Secretary is enforcing section 214 of the Housing and Community Development Act of 1980 (Public Law 96-399; 94 Stat. 1637) and containing statistics with respect to the number of individuals denied financial assistance under such section.

(e) NONPROFIT, CHARITABLE ORGANIZATIONS.—

(1) IN GENERAL.—Nothing in this Act shall be construed as requiring a nonprofit charitable organization operating any program of assistance provided or funded, in whole or in part, by the Federal Government to—

(A) determine, verify, or otherwise require proof of the eligibility, as determined under this title, of any applicant for benefits or assistance under such program; or

(B) deem that the income or assets of any applicant for benefits or assistance under such program include the income or assets described in section 204(b).

(2) NO EFFECT ON FEDERAL AUTHORITY TO DETERMINE COMPLIANCE.—Nothing in this subsection shall be construed as prohibiting the Federal Government from determining the eligibility, under this section or section 204, of any individual for benefits under a public assistance program (as defined in subsection (f)(3)) or for government benefits (as defined in subsection (f)(4)).

(f) DEFINITIONS.—For the purposes of this section—

(1) ELIGIBLE ALIEN.—The term "eligible alien" means an individual who is—

(A) an alien lawfully admitted for permanent residence under the Immigration and Nationality Act,

(B) an alien granted asylum under section 208 of such Act,

(C) a refugee admitted under section 207 of such Act,

(D) an alien whose deportation has been withheld under section 243(h) of such Act, or

(E) an alien paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year.

(2) INELIGIBLE ALIEN.—The term "ineligible alien" means an individual who is not—

(A) a United States citizen or national; or

(B) an eligible alien.

(3) PUBLIC ASSISTANCE PROGRAM.—The term "public assistance program" means any program of assistance provided or funded, in whole or in part, by the Federal Government or any state or local government entity, for which eligibility for benefits is based on need.

(4) GOVERNMENT BENEFITS.—The term "government benefits" includes—

(A) any grant, contract, loan, professional license, or commercial license provided or funded by any agency of the United States or any State or local government entity, except, with respect to a nonimmigrant authorized to work in the United States, any professional or commercial license required to engage in such work, if the nonimmigrant is otherwise qualified for such license;

(B) unemployment benefits payable out of Federal funds;

(C) benefits under title II of the Social Security Act;

(D) financial assistance for purposes of section 214(a) of the Housing and Community Development Act of 1980 (Public Law 96-399; 94 Stat. 1637); and

(E) benefits based on residence that are prohibited by subsection (a)(2).

SEC. 203. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

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

(1) which is legally enforceable against the sponsor by the sponsored individual, or by the Federal Government or any State, district, territory, or possession of the United States (or any subdivision of such State, district, territory, or possession of the United States) that provides any benefit as defined in section 201(f)(3) but not later than 10 years after the sponsored individual last receives any such benefit;

(2) in which the sponsor agrees to financially support the sponsored individual, so that he or she will not become a public charge, until the sponsored individual has worked in the United States for 40 qualifying quarters or has become a United States citizen, whichever occurs first; and

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

(b) FORMS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State, the Attorney General, and the Secretary of Health and Human Services shall jointly formulate the affidavit of support described in this section.

(c) NOTIFICATION OF CHANGE OF ADDRESS.—

(1) GENERAL REQUIREMENT.—The sponsor shall notify the Attorney General and the State, district, territory, or possession in which the sponsored individual is currently a resident within 30 days of any change of address of the sponsor during the period specified in subsection (a)(1).

(2) PENALTY.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall, after notice and opportunity to be heard, 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 individual has received any benefit described in section 201(f)(3) not less than $2,0000 or more than $5,000.

(d) REIMBURSEMENT OF GOVERNMENT EXPENSES.—

(1) IN GENERAL.—

(A) REQUEST FOR REIMBURSEMENT.—Upon notification that a sponsored individual has received any benefit described in section 201(f)(3) of this Act, the appropriate Federal, State, or local official shall request reimbursement from the sponsor for the amount of such assistance.

(B) REGULATIONS.—The Commissioner of Social Security shall prescribe such regulations as may be necessary to carry out subparagraph (A). Such regulations shall provide that notification be sent to the sponsor's last known address by certified mail.

(2) ACTION AGAINST SPONSOR.—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 make payments, an action may be brought against the sponsor pursuant to the affidavit of support.

(3) FAILURE TO MEET REPAYMENT TERMS.—If the sponsor agrees to make payments, but fails to abide by the repayment terms established by the agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.

(e) JURISDICTION.—

(1) IN GENERAL.—An action to enforce an affidavit of support executed under subsection (a) may be brought against the sponsor in any Federal or State court—

(A) by a sponsored individual, with respect to financial support; or

(B) by a Federal, State, or local agency, with respect to reimbursement.

(2) COURT MAY NOT DECLINE TO HEAR CASE.—For purposes of this section, no Federal or State court shall decline for lack of subject matter or personal jurisdiction to hear any action brought against a sponsor under paragraph (1) if—

(A) the sponsored individual is a resident of the State in which the court is located, or received public assistance while residing in the State; and

(B) such sponsor has received service of process in accordance with applicable law.

(f) DEFINITIONS.—For purposes of this section—

(1) SPONSOR.—The term "sponsor" means an individual who—

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

(B) is at least 18 years of age;

(C) is domiciled in any of the several States of the United States, the District of Columbia, or any territory or possession of the United States; and

(D) demonstrates the means to maintain an annual income equal to at least 125 percent of the Federal poverty line for the individual and the individual's family (including the sponsored alien and any other alien sponsored by the individual), through evidence that includes a copy of the individual's Federal income tax return for the 3 most recent taxable years (which returns need show such level of annual income only in the most recent taxable year) 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 true copies of such returns.

In the case of an individual who is on active duty (other than active duty for training) in the Armed Forces of the United States, subparagraph (D) shall be applied by substituting "100 percent" for "125 percent".

(2) FEDERAL POVERTY LINE.—The term "Federal poverty line" means the level of income equal to the official poverty line (as defined by the Director of the Office of Management and Budget, as revised annually by the Secretary of Health and Human Services, in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902)) that is applicable to a family of the size involved.

(3) QUALIFYING QUARTER.—The term "qualifying quarter" means a three-month period in which the sponsored individual has—

(A) earned at least the minimum necessary for the period to count as one of the 40 quarters required to qualify for social security retirement benefits;

(B) not received need-based public assistance; and

(C) has income tax liability for the tax year of which the period was part.

SEC. 205. VERIFICATION OF STUDENT ELIGIBILITY FOR POSTSECONDARY FEDERAL STUDENT FINANCIAL ASSISTANCE.

(a) REPORT REQUIREMENT.—Not later than one year after the date of the enactment of this Act, the Secretary of Education and the Commissioner of Social Security shall jointly submit to the Congress a report on the computer matching program of the Department of Education under section 484(p) of the Higher Education Act of 1965.

(b) REPORT ELEMENTS.—The report shall include the following:

(1) An assessment by the Secretary and the Commissioner of the effectiveness of the computer matching program, and a justification for such assessment.

(2) The ratio of inaccurate matches under the program to successful matches.

(3) Such other information as the Secretary and the Commissioner jointly consider appropriate.

SEC. 206. AUTHORITY OF STATES AND LOCALITIES TO LIMIT ASSISTANCE TO ALIENS AND TO DISTINGUISH AMONG CLASSES OF ALIENS IN PROVIDING GENERAL PUBLIC ASSISTANCE.

(a) IN GENERAL.—Subject to subsection (b) and notwithstanding any other provision of law, a State or local government may prohibit or otherwise limit or restrict the eligibility of aliens or classes of aliens for programs of general cash public assistance furnished under the law of the State or a political subdivision of a State.

(b) LIMITATION.—The authority provided for under subsection (a) may be exercised only to the extent that any prohibitions, limitations, or restrictions imposed by a State or local government are not more restrictive than the prohibitions, limitations, or restrictions imposed under comparable Federal programs. For purposes of this section, attribution to an alien of a sponsor's income and resources (as described in section 204(b)) for purposes of determining eligibility for, and the amount of, benefits shall be considered less restrictive than a prohibition of eligibility for such benefits.

SEC. 207. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS NOT CITIZENS OR LAWFUL PERMANENT RESIDENTS.

(a) IN GENERAL.—

(1) LIMITATION.—Notwithstanding any other provision of law, an individual may not receive an earned income tax credit for any year in which such individual was not, for the entire year, either a United States citizen or national or a lawful permanent resident.

(2) INDIVIDUAL NUMBER REQUIRED.—Section 21(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 is amended by adding at the end the following new subsection:

"(k) IDENTIFICATION NUMBERS.—Solely 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—

(1) by striking "and" at the end of subparagraph (D),

(2) by striking the period at the end of subparagraph (E) and inserting ", and", and

(3) by inserting after subparagraph (E) the following new subparagraph:

"(F) an unintended omission of a correct taxpayer identification number required under 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.

SEC. 208. INCREASED MAXIMUM CRIMINAL PENALTIES FOR FORGING OR COUNTERFEITING SEAL OF A FEDERAL DEPARTMENT OR AGENCY TO FACILITATE BENEFIT FRAUD BY AN UNLAWFUL ALIEN.

Section 506 of title 18, United States Code, is amended to read as follows:

"**SEC. 506. SEALS OF DEPARTMENTS OR AGENCIES.**

"(a) Whoever—

"(1) falsely makes, forges, counterfeits, mutilates, or alters the seal of any department or agency of the United States, or any facsimile thereof;

"(2) knowingly uses, affixes, or impresses any such fraudulently made, forged, counterfeited, mutilated, or altered seal or facsimile thereof to or upon any certificate, instrument, commission, document, or paper of any description; or

"(3) with fraudulent intent, possesses, sells, offers for sale, furnishes, offers to furnish, gives away, offers to give away, transports, offers to transport, imports, or offers to import any such seal or facsimile thereof, knowing the same to have been so falsely made, forged, counterfeited, mutilated, or altered,

shall be fined under this title, or imprisoned not more than 5 years, or both.

"(b) Notwithstanding subsection (a) or any other provision of law, if a forged, counterfeited, mutilated, or altered seal of a department or agency of the United States, or any facsimile thereof, is—

"(1) so forged, counterfeited, mutilated, or altered;

"(2) used, affixed, or impressed to or upon any certificate, instrument, commission, document, or paper of any description; or

"(3) with fraudulent, possessed, sold, offered for sale, furnished, offered to furnish, given away, offered to give away, transported, offered to transport, imported, or offered to import,

with the intent or effect of facilitating an unlawful alien's application for, or receipt of, a Federal benefit, the penalties which may be imposed for each offense under subsection (a) shall be two times the maximum fine, and 3 times the maximum term of imprisonment, or both, that would otherwise be imposed for an offense under subsection (a).

"(c) For purposes of this section—

"(1) the term 'Federal benefit' means—

"(A) the issuance of any grant, contract, loan, professional license, or commercial license provided by any agency of the United States or by appropriated funds of the United States; and

"(B) any retirement, welfare, Social Security, health (including treatment of an emergency medical condition in accordance with section 1903(v) of the Social Security Act (19 U.S.C. 1396b(v))), disability, veterans, public housing, education, food stamps, or unemployment benefit, or any similar benefit for which payments or assistance are provided by an agency of the United States or by appropriated funds of the United States;

"(2) the term 'unlawful alien' means an individual who is not—

"(A) a United States citizen or national;

"(B) an alien lawfully admitted for permanent residence under the Immigration and Nationality Act;

"(C) an alien granted asylum under section 208 of such Act;

"(D) a refugee admitted under section 207 of such Act;

"(E) an alien whose deportation has been withheld under section 243(h) of such Act; or

"(F) an alien paroled into the United States under section 215(d)(5) of such Act for a period of at least 1 year; and

"(3) each instance of forgery, counterfeiting, mutilation, or alternation shall constitute a separate offense under this section.".

SEC. 209. STATE OPTION UNDER THE MEDICAID PROGRAM TO PLACE ANTI-FRAUD INVESTIGATORS IN HOSPITALS.

(a) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (61);

(2) by striking the period at the end of paragraph (62) and inserting "; and "; and

(3) by adding after paragraph (62) the following new paragraph:

"(63) in the case of a State that is certified by the Attorney General as a high illegal immigration State (as determined by the Attorney General), at the election of the State, establish and operate a program for the placement of anti-fraud investigators in State, county, and private hospitals located in the State to verify the immigration status and income eligibility of applicants for medical assistance under the State plan prior to the furnishing of medical assistance.".

(b) PAYMENT.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended—

(1) by striking "plus" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; plus"; and

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

"(8) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b)) of the total amount expended during such quarter which is attributable to operating a program under section 1902(a)(63).".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the first day of the first calendar quarter beginning after the date of the enactment of this Act.

AMENDMENT NO. 3759

At the appropriate place in the matter proposed to be inserted by the amendment, insert the following new section:

SEC. . UNFUNDED FEDERAL INTERGOVERNMENTAL MANDATES.

(a) IN GENERAL.—Notwithstanding any other provision of law, not later than 90 days after the beginning of fiscal year 1997, and annually thereafter, the determinations described in subsection (b) shall be made, and if any such determination is affirmative, the requirements imposed on State and local governments under this Act relating to the affirmative determination shall be suspended.

(b) DETERMINATION DESCRIBED.—A determination described in this subsection means one of the following:

(1) A determination by the responsible Federal agency or the responsible State or local administering agency regarding whether the costs of administering a requirement imposed on State and local government under this Act exceeds the estimated net savings in benefit expenditures.

(2) A determination by the responsible Federal agency, or the responsible State or local administering agency, regarding whether Federal funding is insufficient to fully fund the costs imposed by a requirement imposed on State and local governments under this Act.

(3) A determination by the responsible Federal agency, or the responsible State or local administering agency, regarding whether application of the requirement on a State or local government would significantly delay or deny services to otherwise eligible individuals in a manner that would hinder the protection of life, safety, or public health.

GRAHAM (AND OTHERS) AMENDMENT NO. 3760

(Ordered to lie on the table.)

Mr. GRAHAM (for himself, Mr. DOLE, Mr. MACK, and Mr. ABRAHAM) proposed an to amendment No. 3743 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

Beginning on page 177, strike line 13 and all that follows through line 4 on page 178, inserting the following:

(b) Notwithstanding any other provision of this Act, the repeal of Public Law 89-732 made by this Act shall become effective only upon a determination by the President under section 203(c)(3) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 that a democratically elected government in Cuba is in power.

GRAHAM (AND MACK) AMENDMENT NO. 3761

(Ordered to lie on the table.)

Mr. GRAHAM (for himself and Mr. MACK) submitted an amendment intended to be proposed by them to amendment No. 3743 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

Strike on page 211, line 1 through line 9, and insert:

"(C) The Secretary shall conduct an assessment of immigration trends, current funding practices, and needs for assistance. Particular attention should be paid to the funds toward the counties impacted by the arrival of Cuban and Haitian individuals to determine whether there is a continued need for assistance to such counties. If the Secretary determines, after the assessment of subparagraph (C), that no compelling need exists in the counties impacted by the arrival of Cuban and Haitian entrants, all grants, except that for the Targeted Assistance Ten Percent Discretionary Program, made available under this paragraph for a fiscal year shall be allocated by the Office of Refugee Resettlement in a manner that ensures that each qualifying county receives the same amount of assistance for each refugee and entrant residing in the county as of the beginning of the fiscal year who arrived in the United States not earlier than 60 months before the beginning of such fiscal year.".

GRAHAM AMENDMENTS NOS. 3762–3775

(Ordered to lie on the table.)

Mr. GRAHAM submitted 14 amendments intended to be proposed by them to amendment No. 3743 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

AMENDMENT NO. 3762

On page 198, beginning on line 11, strike all through page 201, line 4, and insert the following: for benefits, the income and resources described in subsection (b) shall, notwithstanding any other provision of law, be deemed to be the income and resources of such alien for purposes of the following programs:

(1) Supplementary security income under title XVI of the Social Security Act;

(2) Aid to Families with Dependent Children under title IV of the Social Security Act;

(3) Food stamps under the Food Stamp Act of 1977;

(4) Section 8 low-income housing assistance under the United States Housing Act of 1937;

(5) Low-rent public housing under the United States Housing Act of 1937;

(6) Section 236 interest reduction payments under the National Housing Act;

(7) Home-owner assistance payments under the National Housing Act;

(8) Low income rent supplements under the Housing and Urban Development Act of 1965;

(9) Rural housing loans under the Housing Act of 1949;

(10) Rural rental housing loans under the Housing Act of 1949;

(11) Rural rental assistance under the Housing Act of 1949;

(12) Rural housing repair loans and grants under the Housing Act of 1949;

(13) Farm labor housing loans and grants under the Housing Act of 1949;

(14) Rural housing preservation grants under the Housing Act of 1949;

(15) Rural self-help technical assistance grants under the Housing Act of 1949;

(16) Site loans under the Housing Act of 1949; and

(17) Weatherization assistance under the Energy Conservation and Protection Act.

(b) DEEMED INCOME AND RESOURCES.—The income and resources described in this subsection include the income and resources of—

(1) any person who, as a sponsor of an alien's entry into the United States, or in

order to enable an alien lawfully to remain in the United States, executed an affidavit of support or similar agreement with respect to such alien, and

(2) the sponsor's spouse.

(c) LENGTH OF DEEMED PERIOD.—The requirement of subsection (a) shall apply for the period for which the sponsor has agreed, in such affidavit or agreement, to provide support for such alien, or for a period of 5 years beginning on the day such alien was first lawfully in the United States after the execution of such affidavit or agreement, whichever period is longer.

(d) EXCEPTION FOR INDIGENCE.—

(1) IN GENERAL.—If a determination described in paragraph (2) is made, the amount of income and resources of the sponsor or the sponsor's spouse which shall be attributed to the sponsored alien shall not exceed the amount actually provided for a period—

(A) beginning on the date of such determination and ending 12 months after such date, or

(B) if the address of the sponsor is unknown to the sponsored alien, beginning on the date of such determination and ending on the date that is 12 months after the address of the sponsor becomes known to the sponsored alien or to the agency (which shall inform such alien of the address within 7 days).

(2) DETERMINATION DESCRIBED.—A determination described in this paragraph is a determination by an agency that a sponsored alien would, in the absence of the assistance provided by the agency, be unable to obtain food or shelter, taking in to account the alien's own income, plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor.

AMENDMENT NO. 3763

On page 190, beginning on line 9, strike all through page 201, line 4, and insert the following:

(ii) The food stamp program under the Food Stamp Act of 1977.

(iii) The supplemental security income program under title XVI of the Social Security Act.

(iv) Any State general assistance program.

(v) Any other program of assistance funded, in whole or in part, by the Federal Government or any State or local government entity, for which eligibility for benefits is based on need, except the programs listed as exceptions in clauses (i) through (vi) of section 201(a)(1)(A) and the exceptions listed in section 204(d) of the Immigration Reform Act of 1996.

(b) CONSTRUCTION.—Nothing in subparagraph (B), (C), or (D) of section 241(a)(5) of the Immigration and Nationality Act, as amended by subsection (a), may be construed to affect or apply to any determination of an alien as a public charge made before the date of enactment of this Act.

(c) REVIEW OF STATUS.—

(1) IN GENERAL.—In reviewing any application by an alien for benefits under section 216, section 245, or chapter 2 of title III of the Immigration and Nationality Act, the Attorney General shall determine whether or not the applicant is described in section 241(a)(5)(A) of such Act, as so amended.

(2) GROUNDS FOR DENIAL.—If the Attorney General determines that an alien is described in section 241(a)(5)(A) of the Immigration and Nationality Act, the Attorney General shall deny such application and shall institute deportation proceedings with respect to such alien, unless the Attorney General exercises discretion to withhold or suspend deportation pursuant to any other section of such Act.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to aliens who enter the United States on or after the date of enactment of this Act and to aliens who entered as nonimmigrants before such date but adjust or apply to adjust their status after such date.

SEC. 203. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

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

(1) which is legally enforceable against the sponsor by the sponsored individual, or by the Federal Government or any State, district, territory, or possession of the United States (or any subdivision of such State, district, territory, or possession of the United States) that provides any benefit described in section 241(a)(5)(D), as amended by section 202(a) of this Act, but not later than 10 years after the sponsored individual last receives any such benefit.

(2) in which the sponsor agrees to financially support the sponsored individual, so that he or she will not become a public charge, until the sponsored individual has worked in the United States for 40 qualifying quarters or has become a United States citizen, whichever occurs first; and

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

(b) FORMS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State, the Attorney General, and the Secretary of Health and Human Services shall jointly formulate the affidavit of support described in this section.

(c) NOTIFICATION OF CHANGE OF ADDRESS.—

(1) GENERAL REQUIREMENT.—The sponsor shall notify the Attorney General and the State, district, territory, or possession in which the sponsored individual is currently a resident within 30 days of any change of address of the sponsor during the period specified in subsection (a)(1).

(2) PENALTY.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall, after notice and opportunity to be heard, be subject to a civil penalty of—

(A) not less than $250 or more than $2000, or

(B) if such failure occurs with knowledge that the sponsored individual has received any benefit described in section 241(a)(5)(D) of the Immigration and Nationality Act, as amended by section 202(a) of this Act, not less than $2000 or more than $5000.

(d) REIMBURSEMENT OF GOVERNMENT EXPENSES.—

(1) IN GENERAL.—

(A) REQUEST FOR REIMBURSEMENT.—Upon notification that a sponsored individual has received any benefit described in section 241(a)(5)(D) of the Immigration and Nationality Act, as amended by section 202(a) of this Act, the appropriate Federal, State, or local official shall request reimbursement from the sponsor for the amount of such assistance.

(B) REGULATIONS.—The Commissioner of Social Security shall prescribe such regulations as may be necessary to carry out subparagraph (A). Such regulations shall provide that notification be sent to the sponsor's last known address by certified mail.

(2) ACTION AGAINST SPONSOR.—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 make payments, an action may be brought against the sponsor pursuant to the affidavit of support.

(3) FAILURE TO MEET REPAYMENT TERMS.—If the sponsor agrees to make payments, but fails to abide by the repayment terms established by the agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.

(e) JURISDICTION.—

(1) IN GENERAL.—An action to enforce an affidavit of support executed under subsection (a) may be brought against the sponsor in any Federal or State court—

(A) by a sponsored individual, with respect to financial support; or

(B) by a Federal, State, or local agency, with respect to reimbursement.

(2) COURT MAY NOT DECLINE TO HEAR CASE.—For purposes of this section, no Federal or State court shall decline for lack of subject matter or personal jurisdiction to hear any action brought against a sponsor under paragraph (1) if—

(A) the sponsored individual is a resident of the State in which the court is located, or received public assistance while residing in the State; and

(B) such sponsor has received service of process in accordance with applicable law.

(f) DEFINITIONS.—For purposes of this section—

(1) SPONSOR.—The term "sponsor" means an individual who—

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

(B) is at least 18 years of age;

(C) is domiciled in any of the several States of the United States, the District of Columbia, or any territory or possession of the United States; and

(D) demonstrates the means to maintain an annual income equal to at least 125 percent of the Federal poverty line for the individual and the individual's family (including the sponsored alien and any other alien sponsored by the individual), through evidence that includes a copy of the individual's Federal income tax return for the 3 most recent taxable years (which returns need show such level of annual income only in the most recent taxable year) 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 true copies of such returns.

In the case of an individual who is on active duty (other than active duty for training) in the Armed Forces of the United States, subparagraph (D) shall be applied by substituting "100 percent" for "125 percent".

(2) FEDERAL POVERTY LINE.—The term "Federal poverty line" means the level of income equal to the official poverty line (as defined by the Director of the Office of Management and Budget, as revised annually by the Secretary of Health and Human Services, in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902)) that is applicable to a family of the size involved.

(3) QUALIFYING QUARTER.—The term "qualifying quarter" means a three-month period in which the sponsored individual has—

(A) earned at least the minimum necessary for the period to count as one of the 40 quarters required to qualify for social security retirement benefits;

(B) not received need-based public assistance; and

(C) had income tax liability for the tax year of which the period was part.

SEC. 204. ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO FAMILY-SPONSORED IMMIGRANTS

(a) DEEMING REQUIREMENT FOR FEDERAL AND FEDERALLY FUNDED PROGRAMS.—Subject to subsection (d), for purposes of determining the eligibility of an alien for benefits, and the amount of benefits, under any public assistance program (as defined in section

201(f)(3)), the income and resources described in subsection (b) shall, notwithstanding any other provision of law, be deemed to be the income and resources of such alien.

(b) DEEMED INCOME AND RESOURCES.—The income and resources described in this subsection include the income and resources of—

(1) any person who, as a sponsor of an alien's entry into the United States, or in order to enable an alien lawfully to remain in the United States, executed an affidavit of support or similar agreement with respect to such alien, and

(2) the sponsor's spouse.

(c) LENGTH OF DEEMING PERIOD.—The requirement of subsection (a) shall apply for the period for which the sponsor has agreed, in such affidavit or agreement, to provide support for such alien, or for a period of 5 years beginning on the day such alien was first lawfully in the United States after the execution of such affidavit or agreement, whichever period is longer.

(d) EXCEPTIONS.—

(1) INDIGENCE.—

(A) IN GENERAL.—If a determination described in subparagraph (B) is made, the amount of income and resources of the sponsor or the sponsor's spouse which shall be attribnted to the sponsored alien shall not exceed the amount actually provided for a period—

(i) beginning on the date of such determination and ending 12 months after such date, or

(ii) if the address of the sponsor is unknown to the sponsored alien, beginning on the date of such determination and ending on the date that is 12 months after the address of the sponsor becomes known to the sponsored alien or to the agency (which shall inform such alien of the address within 7 days).

(B) DETERMINATION DESCRIBED.—A determination described in this subparagraph is a determination by an agency that a sponsored alien would, in the absence of the assistance provided by the agency, be unable to obtain food or shelter, taking into account the alien's own income, plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor.

(2) EDUCATION ASSISTANCE.—

(A) IN GENERAL.—The requirements of subsection (a) shall not apply with respect to sponsored aliens who have received, or have been approved to receive, student assistance under title IV, V, IX, or X of the Higher Education Act of 1965 in an academic year which ends or begins in the calendar year in which this Act is enacted.

(B) DURATION.—The exception described in subparagraph (A) shall apply only for the period normally required to complete the course of study for which the sponsored alien receives assistance described in that subparagraph.

(3) CERTAIN SERVICES AND ASSISTANCE.—The requirements of subsection (a) shall not apply to—

(A) any services or assistance described in section 201(a)(1)(A)(vii); and

(B) in the case of an eligible alien (as described in section 201(f)(1))—

(i) any care or services provided to an alien for an emergency medical condition, as defined in section 1903(v)(3) of the Social Security Act; and

(ii) any public health assistance for immunizations and immunizable diseases, and for the testing and treatment of communicable diseases.

(4) MEDICAID SERVICES FOR LEGAL IMMIGRANTS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, for purposes of determining the eligibility for medical assistance under title XIX of the Social Security Act (other than services for which an exception is provided under paragraph (3)(B))—

(i) the requirements of subsection (a) shall not apply to an alien lawfully admitted to the United States before the date of the enactment of this Act; and

(ii) for an alien who has entered the United States on or after the date of enactment of this Act, the income and resources described in subsection (b) shall be deemed to be the income of the alien for a period of two years beginning on the day such alien was first lawfully in the United States.

AMENDMENT NO. 3764

On page 201, strike lines 1 through 4 and insert the following:

(3) CERTAIN SERVICES AND ASSISTANCE.—The requirements of subsection (a) shall not apply to—

(A) any services or assistance described in section 201(a)(1)(A)(vii); and

(B) in the case of an eligible alien (as described in section 201(f)(1))—

(i) any care or services provided to an alien for an emergency medical condition, as defined in section 1903(v)(3) of the Social Security Act; and

(ii) any public health assistance for immunizations and immunizable diseases, and for the testing and treatment of communicable diseases.

(4) MEDICAID SERVICES FOR LEGAL IMMIGRANTS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, for purposes of determining the eligibility for medical assistance under title XIX of the Social Security Act (other than services for which an exemption is provided under paragraph (3)(B))—

(i) the requirements of subsection (a) shall not apply to an alien lawfully admitted to the United States before the date of enactment of this Act; and

(ii) for an alien who has entered the United States on or after the date of enactment of this Act, the income and resources described in subsection (b) shall be deemed to be the income of the alien for a period of two years beginning on the day such alien was first lawfully in the United States.

AMENDMENT NO. 3765

On page 190, strike line 9 through line 25 and insert the following:

(ii) The food stamp program under the Food Stamp Act of 1977.

(iii) The supplemental security income program under title XVI of the Social Security Act.

(iv) Any State agency assistance program.

(v) Any other program of assistance funded, in whole or in part, by the Federal Government or any State or local government entity, for which eligibility for benefits is based on need, except the programs listed as exceptions in clauses (i) through (vi) of section 201(a)(1)(A) and the exceptions listed in section 204(d) of the Immigration Reform Act of 1996.

AMENDMENT NO. 3766

On page 186 line 24 through page 188 line 23, strike everything and insert the following after the word "been."

withheld under section 243(h) of such Act,

(E) an alien paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year, or

(F) an alien who is a Cuban or Haitian entrant (within the meaning of section 501(e) of the Refugee Education Assistance Act of 1980).

(2) INELIGIBLE ALIEN.—The term "ineligible alien" means an individual who is not—

(A) a United States citizen or national; or

(B) an eligible alien.

(3) PUBLIC ASSISTANCE PROGRAM.—The term "public assistance program" means any program of assistance provided or funded, in whole or in part, by the Federal Government or any State or local government entity, for which eligibility for benefits is based on need.

(4) GOVERNMENT BENEFITS. The term "government benefits" includes—

(A) any grant, contract, loan, professional license, or commercial license provided or funded by an agency of the United States or any State or local government entity, except, with respect to a nonimmigrant authorized to work in the United States, any professional or commercial license required to engage in such work, if the nonimmigrant is otherwise qualified for such license;

(B) unemployment benefits payable out of Federal funds;

(C) benefits under title II of the Social Security Act;

(D) financial assistance for purposes of section 214(a) of the Housing and Community Development Act of 1980 (Public Law 96-399; 94 Stat. 1637); and

(E) benefits based on residence that are prohibited by subsection (a)(2).

SEC. 202. DEFINITION OF "PUBLIC CHARGE" FOR PURPOSES OF DEPORTATION.

(a) IN GENERAL.—Section 241(a)(5) (8 U.S.C. 125(a)(5) is amended to read as follows:

"(5) PUBLIC CHARGE.—

"(A) IN GENERAL.—Any alien who during the public charge period becomes a public charge, regardless of when the cause for becoming a public charge arises, is deportable.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply if the alien is a refugee or has been granted asylum, if the alien is a Cuban or Haitian entrant (within the meaning of section 501(e) of the Refugee Education Assistance Act of 1980) or if the cause of the alien's becoming a public charge—

AMENDMENT NO. 3767

On page 181, beginning on line 19, strike all through page 182, line 2.

AMENDMENT NO. 3768

On page 201, between lines 4 and 5, insert the following:

(4) MEDICAID SERVICES FOR LEGAL IMMIGRANTS.—The requirements of subsection (a) shall not apply in the case of any service provided under title XIX of the Social Security Act to an alien lawfully admitted to the United States before the date of the enactment of this Act.

AMENDMENT NO. 3769

On page 201, line 5, insert the following:

(4) MEDICAID SERVICES FOR LEGAL IMMIGRANTS.—Notwithstanding any other provision of law, for purposes of determining the eligibility for medical assistance under title XIX of the Social Security Act, the income and resources described in subsection (b) shall be deemed to be the income of the alien for a period of two years beginning on the day such alien was first lawfully in the United States.

AMENDMENT NO. 3770

On page 201, strike lines 1 through 4, and insert the following:

(3) CERTAIN SERVICES AND ASSISTANCE.—The requirements of subsection (a) shall not apply to—

(A) any service or assistance described in section 201(a)(1)(A)(vii); or

(B) in the case of an eligible alien (as defined in section 201(f)(1))—

(i) any emergency medical service under title XIX of the Social Security Act; or

(ii) any public health assistance for immunizations and, if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of serious communicable disease, for testing and treatment of such disease.

AMENDMENT NO. 3771

On page 201, strike lines 1 through 4, and insert the following:

(3) CERTAIN SERVICES AND ASSISTANCE.—The requirements of subsection (a) shall not apply to—

(A) any service or assistance described in section 201(a)(1)(A)(vii); and

(B) medicare cost-sharing provided to a qualified medicare beneficiary (as such terms are defined under section 1905(p) of the Social Security Act.)

AMENDMENT NO. 3772

On page 201, strike lines 1 through 4, and insert the following:

(3) CERTAIN SERVICES AND ASSISTANCE.—The requirements of subsection (a) shall not apply to—

(A) any service or assistance described in section 201(a)(1)(A)(vii); and

(B) in patient hospital services provided by a disproportionable share hospital for which an adjustment in payment to a State under the medicaid program in made in accordance with section 1923 of the Social Security Act.

AMENDMENT NO. 3773

On page 201, strike lines 1 through 4, and insert the following:

(3) CERTAIN SERVICES AND ASSISTANCE.—The requirements of subsection (a) shall not apply to—

(A) any service or assistance described in section 201(a)(1)(A)(vii);

(B) medicaid services provided under title XIX of the Social Security Act;

(C) public health assistance for immunizations and testing and treatment services to prevent the spread of communicable diseases.

(D) maternal and child health services block grants under title V of the Social Security Act:

(E) services and assistance provided under titles III, VII, and VIII of the Public Health Service Act;

(F) preventive health and health services block grants under title XIX of the Public Health Service Act;

(G) migrant health center grants under the Public Health Service Act; and

(H) community health center grants under the Public Health Service Act.

AMENDMENT NO. 3774

On page 180, lines 13 and 14, strike "serious".

AMENDMENT NO. 3775

Strike page 180, line 15, through 181 line 9, and insert: "treatment for such diseases,

"(vii) such other service or assistance (such as soup kitchens, crisis counseling, intervention (including intervention for domestic violence), and short-term shelter) as the Attorney General specifies, in the Attorney General's sole and unreviewable discretion, after consultation with the heads of appropriate Federal agencies, if—

"(I) such service or assistance is delivered at the community level, including through public or private nonprofit agencies;

"(II) such service or assistance is necessary for the protection of life, safety, or public health; and

"(III) such service or assistance or the amount or cost of such service or assistance is not conditioned on the recipient's income or resources; and

"(viii) in the case of nonimmigrant, migrant workers and their dependents, Head Start programs under the Head Start Act (42 U.S.C. 9831 et. seq.) and other educational, housing and health assistance being provided to such class of aliens as of the date of enactment of this Act, or".

FEINSTEIN (AND SIMON) AMENDMENT NO. 3776

(Ordered to lie on the table.)

Mrs. FEINSTEIN (for herself and Mr. SIMON) submitted an amendment intended to be proposed by them to amendment No. 3743 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

Beginning on page 99, strike line 10 and all that follows through line 13.

FEINSTEIN (AND BOXER) AMENDMENT NO. 3777

(Ordered to lie on the table.)

Mrs. FEINSTEIN (for herself and Mrs. BOXER) submitted an amendment intended to be proposed by them to amendment No. 3743 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

Beginning on page 10, strike line 18 and all that follows through line 13 on page 11 and insert the following:

SEC. 108. CONSTRUCTION OF PHYSICAL BARRIERS, DEPLOYMENT OF TECHNOLOGY, AND IMPROVEMENTS TO ROADS IN THE BORDER AREA NEAR SAN DIEGO, CALIFORNIA.

There are authorized to be appropriated funds not to exceed $12,000,000 for the construction, expansion, improvement, or deployment of physical barriers (including multiple fencing and bollard style concrete columns as appropriate), all-weather roads, low light television systems, lighting, sensors, and other technologies along the international land border between the United States and Mexico south of San Diego, California for the purpose of detecting and deterring unlawful entry across the border. Amounts appropriated under this section are authorized to remain available until expended.

FEINSTEIN AMENDMENTS NOS. 3778–3779

(Ordered to lie on the table.)

Mrs. FEINSTEIN submitted two amendments intended to be proposed by her to amendment No. 3743 proposed by Mr. SIMPSON to be the bill S. 1664, supra; as follows:

AMENDMENT NO. 3778

On page 198, between lines 4 and 5, insert the following:

(g) SPONSOR'S SOCIAL SECURITY ACCOUNT NUMBER REQUIRED TO BE PROVIDED.—(1) Each affidavit of support shall include the social security account number of the sponsor.

(2) The Attorney General in consultation with the Secretary of State shall develop an automated system to maintain the data of social security account numbers provided under paragraph (1).

(3) The Attorney General shall submit an annual report to the Congress setting forth for the most recent fiscal year for which data are available—

(A) the number of sponsors under this section and the number of sponsors in compliance with the financial obligations of this section; and

(B) a comparison of the data set forth under subparagraph (A) with similar data for the preceding fiscal year.

AMENDMENT NO. 3779

Beginning on page 193, strike line 1 and all that follows through line 4 on page 198 and insert the following:

(3) in which the sponsor agrees to submit to the jurisdiction of any appropriate court for the purpose of actions brought under subsection (d) or (e).

(b) FORMS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State, the Attorney General, and the Secretary of Health and Human Services shall jointly formulate the affidavit of support described in this section.

(c) NOTIFICATION OF CHANGE OF ADDRESS.—(1) GENERAL REQUIREMENTS.—The sponsor shall notify the Attorney General and the State, district, territory, or possession in which the sponsored individual is currently a resident within 30 days of any change of address of the sponsor during the period specified in subsection (a)(1).

(2) PENALTY.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall, after notice and opportunity to be heard, 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 individual has received any benefit described in section 241(a)(5)(D) of the Immigration and Nationality Act, as amended by section 202(a) of this Act, not less than $2,000 or more than $5,000.

(d) REIMBURSEMENT OF GOVERNMENT EXPENSES.—

(1) IN GENERAL.—

(A) REQUEST FOR REIMBURSEMENT.—Upon notification that a sponsored individual has received any benefit described in section 241(a)(5)(D) of the Immigration and Nationality Act, as amended by section 202(a) of this Act, the appropriate Federal, State, or local official shall request reimbursement from the sponsor for the amount of such assistance.

(B) REGULATIONS.—The Commissioner of Social Security shall prescribe such regulations as may be necessary to carry out subparagraph (A). Such regulations shall provide that notification be sent to the sponsor's last known address by certified mail.

(2) ACTION AGAINST SPONSOR.—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 make payments, an action may be brought against the sponsor pursuant to the affidavit of support.

(3) FAILURE TO MEET REPAYMENT TERMS.—If the sponsor agrees to make payments, but fails to abide by the repayment terms established by the agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.

(e) JURISDICTION.—

(1) IN GENERAL.—An action to enforce an affidavit of support executed under subsection (a) may be brought against the sponsor in any appropriate court—

(A) by a sponsored individual, with respect to financial support; or

(B) by a Federal, State, or local agency, with respect to reimbursement.

(2) COURT MAY NOT DECLINE TO HEAR CASE.—For purposes of this section, no appropriate court shall decline for lack of subject matter or personal jurisdiction to hear any action brought against a sponsor under paragraph (1) if—

(A) the sponsored individual is a resident of the State in which the court is located, or

received public assistance while residing in the State; and

(B) such sponsor has received service of process in accordance with applicable law.

(f) DEFINITIONS.—For purposes of this section—

(1) SPONSOR.—The term "sponsor" means an individual who—

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

(B) is at least 18 years of age;

(C) is domiciled in any of the several States of the United States, the District of Columbia, or any territory or possession of the United States; and

(D) demonstrates the means to maintain an annual income equal to at least 125 percent of the Federal poverty line for the individual and the individual's family (including the sponsored alien and any other alien sponsored by the individual), through evidence that includes a copy of the individual's Federal income tax return for the 3 most recent taxable years (which returns need show such level of annual income only in the most recent taxable year) 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 true copies of such returns.

In the case of an individual who is on active duty (other than active duty for training) in the Armed Forces of the United States, subparagraph (D) shall be applied by substituting "100 percent" for "125 percent".

(2) FEDERAL POVERTY LINE.—The term "Federal poverty line" means the level of income equal to the official poverty line (as defined by the Director of the Office of Management and Budget, as revised annually by the Secretary of Health and Human Services, in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902)) that is applicable to a family of the size involved.

(3) QUALIFYING QUARTER.—The term "qualifying quarter" means a three-month period in which the sponsored individual has—

(A) earned at least the minimum necessary for the period to count as one of the 40 quarters required to qualify for social security retirement benefits;

(B) not received need-based public assistance; and

(C) had income tax liability for the tax year of which the period was part.

(4) APPROPRIATE COURT.—The term "appropriate court" means—

(A) a Federal court, in the case of an action for reimbursement of benefits provided or funded, in whole or in part, by the Federal Government; and

(B) a State court, in the case of an action for reimbursement of benefits provided under a State or local program of assistance.

LEAHY AMENDMENTS NOS. 3780–3787

(Ordered to lie on the table.)

Mr. LEAHY submitted eight amendments intended to be proposed by him to amendment No. 3743 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

AMENDMENT NO. 3780

Strike sections 131 and 132.

Strike section 141 and insert the following:

SEC. 141. SPECIAL EXCLUSION IN EXTRAORDINARY MIGRATION SITUATIONS.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by adding after section 236 (8 U.S.C. 1226) the following new section:

"SPECIAL EXCLUSION IN EXTRAORDINARY MIGRATION SITUATIONS

"SEC. 236A. (a) IN GENERAL.—

"(1) Notwithstanding the provisions of sections 235(b) and 236, and subject to subsection (c), if the Attorney General determines that the numbers or circumstances of aliens en route to or arriving in the United States, by land, sea, or air, present an extraordinary migration situation, the Attorney General may, without referral to a special inquiry officer, order the exclusion and deportation of any alien who is found to be excludable under section 212(a) (6)(C) or (7).

"(2) As used in this section, the term 'extraordinary migration situation' means the arrival or imminent arrival in the United States or its territorial waters of aliens who by their numbers or circumstances substantially exceed the capacity of the inspection and examination of such aliens.

"(3) Subject to paragraph (4), the determination whether there exists an extraordinary migration situation within the meaning of paragraphs (1) and (2) is committed to the sole and exclusive discretion of the Attorney General.

"(4) The provisions of this subsection may be invoked under paragraph (1) for a period not to exceed 90 days, unless within such 90-day period or extension thereof, the Attorney General determines, after consultation with the Committees on the Judiciary of the Senate and the House of Representatives, that an extraordinary migration situation continues to warrant such procedures remaining in effect for an additional 90-day period.

"(5) No alien may be ordered specially excluded under paragraph (1) if—

"(A) such alien is eligible to seek asylum under section 208; and

"(B) the Attorney General determines, in the procedure described in subsection (b), that such alien has a credible fear of persecution on account of race, religion, nationality, membership in a particular social group or political opinion in the country of such person's nationality, or in the case of a person having no nationality, the country in which such person last habitually resided.

"(6) A special exclusion order entered in accordance with the provisions of this section is not subject to administrative review other than as provided in this section, except that the Attorney General shall provide by regulation for a prompt administrative review of such an order against an applicant 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, and appears to have been, lawfully admitted for permanent residence.

"(7) A special exclusion order entered in accordance with the provisions of this section shall have the same effect as if the alien had been ordered excluded and deported pursuant to section 236.

"(8) Nothing in this subsection shall be construed as requiring an inquiry before a special inquiry officer in the case of an alien crewman.

"(b) PROCEDURE FOR USING SPECIAL EXCLUSION.—(1) When the Attorney General has determined pursuant to this section that an extraordinary migration situation exists and an alien subject to special exclusion under such section has indicated a desire to apply for asylum or withholding of deportation under section 243(h) or has indicated a fear of persecution upon return, the immigration officer shall refer the matter to an asylum officer.

"(2) Such asylum officer shall interview the alien to determine whether the alien has a credible fear of persecution (or of return to persecution) in or from the country of such alien's nationality, or in the case of a person having no nationality, the country in which such alien last habitually resided.

"(3) The Attorney General shall provide information concerning the procedures described in this section to any alien who is subject to such provisions. The alien may consult with or be represented by a person or persons of the alien's choosing according to regulations prescribed by the Attorney General. Such consultation and representation shall be at no expense to the Government and shall not unreasonably delay the process.

"(4) The application for asylum or withholding of deportation of an alien who has been determined under the procedure described in paragraph (2) to have a credible fear of persecution shall be determined in due course by a special inquiry officer during a hearing on the exclusion of such alien.

"(5) If the officer determines that the alien does not have a credible fear of persecution in (or of return to persecution from) the country or countries referred to in paragraph (2), the alien may be specially excluded and deported in accordance with this section.

"(6) The Attorney General shall provide by regulation for a single level of administrative appellate review of a special exclusion order entered in accordance with the provisions of this section.

"(7) As used in this section, the term 'asylum officer' means an immigration officer who—

"(A) has had extensive professional training in country conditions asylum law, and interview techniques;

"(B) has had at least one year of experience adjudicating affirmative asylum applications of aliens who are not in special exclusion proceedings; and

"(C) is supervised by an officer who meets the qualifications described in subparagraphs (A) and (B).

"(8) As used in this section, the term 'credible fear of persecution' means that, in light of statements and evidence produced by the alien in support of the alien's claim, and of such other facts as are known to the officer about country conditions, a claim by the alien that the alien is eligible for asylum under section 208 would not be manifestly unfounded.

"(c) ALIENS FLEEING ONGOING ARMED CONFLICT, TORTURE, SYSTEMATIC PERSECUTION, AND OTHER DEPRIVATIONS OF HUMAN RIGHTS.—Notwithstanding any other provision of this section, the Attorney General may, in the Attorney General's discretion, proceed in accordance with section 236 with regard to any alien fleeing from a country where—

"(1) the government (or a group within the country that the government is unable or unwilling to control) engages in—

"(A) torture or other cruel, inhuman, or degrading treatment or punishment;

"(B) prolonged arbitrary detention without charges or trail;

"(C) abduction, forced disappearance or clandestine detention; or

"(D) systematic persecution; or

"(2) on ongoing armed conflict or other extraordinary conditions would pose a serious threat to the alien's personal safety.".

"(b) CONFORMING AMENDMENTS.—(1)(A) Section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225b) is amended to read as follows:

"(b) Each alien (other than an alien crewman), and except as otherwise provided in subsection (c) of this section and in section 273(d), who may not appear to the examining office at the port of arrival to be clearly and beyond a doubt entitled to land shall be detained for further inquiry to be conducted by a special inquiry officer. 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 land is so challenged, before a special inquiry officer.".

"(B) Section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a) is amended—

"(i) in the second sentence of paragraph (1), by striking "Subject to section 235(b)(1), deportation" and inserting "Deportation"; and

"(ii) in the first sentence of paragraph (2), by striking "Subject to section (b)(1), if" and inserting "If".

(2)(A) Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(i) by striking subsection (e); and

(ii) by amending the section heading to read as follows: "judicial review of orders of deportation and exclusion".

(B) Section 235(d) (8 U.S.C. 1225d) is repealed.

(C) The item relating to section 106 in the table of contents of the Immigration and Nationality Act is amended to read as follows:

"106. Judicial review of orders of deportation and exclusion.".

"(3) Section 241(d) (8 U.S.C. 1251d) is repealed.

In section 142, strike the new section 106(f) of the Immigration and Nationality Act (8 U.S.C. 1105f).

Strike section 193.

On page 178, line 8, strike "and subject to subsection (b),".

Strike section 198(b).

AMENDMENT NO. 3781

Strike section 198(b).

AMENDMENT NO. 3782

Strike section 193.

AMENDMENT NO. 3783

In section 142, strike the new section 106(f) of the Immigration and Nationality Act (8 U.S.C. 1105f).

AMEMDMENT NO. 3784

Strike section 141 and insert the following:

SEC. 141. SPECIAL EXCLUSION IN EXTRAORDINARY MIGRATION SITUATIONS.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by adding after section 236 (8 U.S.C. 1226) the following new section:

"SPECIAL EXCLUSION IN EXTRAORDINARY MIGRATION SITUATIONS

"SEC. 236A. (a) IN GENERAL.—

"(1) Notwithstanding the provisions of sections 235(b) and 236, and subject to subsection (c), if the Attorney General determines that the numbers or circumstances of aliens en route to or arriving in the United States, by land, sea, or air, present an extraordinary migration situation, the Attorney General may, without referral to a special inquiry officer, order the exclusion and deportation of any alien who is found to be excludable under section 212(a)(6)(C) or (7).

"(2) As used in this section, the term 'extraordinary migration situation' means the arrival or imminent arrival in the United States or its territorial waters of aliens who by their numbers or circumstances substantially exceed the capacity of the inspection and examination of such aliens.

"(3) Subject to paragraph (4), the determination whether there exists an extraordinary migration situation within the meaning of paragraphs (1) and (2) is committed to the sole and exclusive discretion of the Attorney General.

"(4) The provisions of this subsection may be invoked under paragraph (1) for a period not to exceed 90 days, unless within such 90-day period or extension thereof, the Attorney General determines after consultation with the Committees on the Judiciary of the Senate and the House of Representatives, that an extraordinary migration situation continues to warrant such procedures remaining in effect for an additional 90-day period.

"(5) No alien may be ordered specially excluded under paragraph (1) if—

"(A) such alien is eligible to seek asylum under section 208; and

"(B) the Attorney General determines, in the procedure described in subsection (b), that such alien has a credible fear of persecution on account of race, religion, nationality, membership in a particular social group or political opinion in the country of such person's nationality, or in the case of a person having no nationality, the country in which such person last habitually resided.

"(6) A special exclusion order entered in accordance with the provisions of this section is not subject to administrative review other than as provided in this section, except that the Attorney General shall provide by regulation for a prompt administrative review of such an order against an applicant 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, and appears to have been, lawfully admitted for permanent residence.

"(7) A special exclusion order entered in accordance with the provisions of this section shall have the same effect as if the alien had been ordered excluded and deported pursuant to section 236.

"(8) Nothing in this subsection shall be construed as requiring an inquiry before a special inquiry officer in the case of an alien crewman.

"(b) PROCEDURE FOR USING SPECIAL EXCLUSION.—(1) When the Attorney General has determined pursuant to this section that an extraordinary migration situation exists and an alien subject to special exclusion under such section has indicated a desire to apply for asylum or withholding of deportation under section 243(h) or has indicated a fear of persecution upon return, the immigration officer shall refer the matter to an asylum officer.

"(2) Such asylum officer shall interview the alien to determine whether the alien has a credible fear of persecution (or of return to persecution) in or from the country of such alien's nationality, or in the case of a person having no nationality, the country in which such alien last habitually resided.

"(3) The Attorney General shall provide information concerning the procedures described in this section to any alien who is subject to such provisions. The alien may consult with or be represented by a person or persons of the alien's choosing according to regulations prescribed by the Attorney General. Such consultation and representation shall be at no expense to the Government and shall not unreasonably delay the process.

"(4) The application for asylum or withholding of deportation of an alien who has been determined under the procedure described in paragraph (2) to have a credible fear of persecution shall be determined in due course by a special inquiry officer during a hearing on the exclusion of such alien.

"(5) If the officer determines that the alien does not have a credible fear of persecution in (or of return to persecution from) the country or countries referred to in paragraph (2), the alien may be specially excluded and deported in accordance with this section.

"(6) The Attorney General shall provide by regulation for a single level of administrative appellate review of a special exclusion order entered in accordance with the provisions of this section.

"(7) As used in this section, the term 'asylum officer' means an immigration officer who—

"(A) has had extensive professional training in country conditions, asylum law, and interview techniques;

"(B) has had at least one year of experience adjudicating affirmative asylum applications of aliens who are not in special exclusion proceedings; and

"(C) is supervised by an officer who meets the qualifications described in subparagraphs (A) and (B).

"(8) As used in this section, the term 'credible fear of persecution' means that, in light of statements and evidence produced by the alien in support of the alien's claim, and of such other facts as are known to the officer about country conditions, a claim by the alien that the alien is eligible for asylum under section 208 would not be manifestly unfounded.

"(c) ALIENS FEELING ONGOING ARMED CONFLICT, TORTURE, SYSTEMATIC PERSECUTION, AND OTHER DEPRIVATIONS OF HUMAN RIGHTS.—Notwithstanding any other provision of this section, the Attorney General, in the Attorney General's discretion, proceed in accordance with section 236 with regard to any alien fleeing from a country where—

"(1) the government (or a group within the country that the government is unable or unwilling to control) engages in—

"(A) torture or other cruel, inhuman, or degrading treatment or punishment;

"(B) prolonged arbitrary detention without charges or trial;

"(C) abduction, forced disappearance or clandestine detention; or

"(D) systematic persecution; or

"(2) an ongoing armed conflict or other extraordinary conditions would pose a serious threat to the alien's personal safety.".

"(b) CONFORMING AMENDMENTS.—(1)(A) Section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225b) is amended to read as follows:

"(b) Every alien (other than an alien crewman), and except as otherwise provided in subsection (c) of this section and in section 273(d), who may not appear to the examining officer at the port of arrival to be clearly and beyond a doubt entitled to land shall be detained for further inquiry to be conducted by a special inquiry officer. The decision of the examining immigration officer, if favorable to the admission of any alien, whose privilege to land is so challenged, before a special inquiry officer.".

"(B) Section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227a) is amended—

"(i) in the second sentence of paragraph (1), by striking "Subject to section 235(b)(1), deportation" and inserting "Deportation"; and

"(ii) in the first sentence of paragraph (2), by striking "Subject to section (b)(1), if" and inserting "If".

"(A) Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

"(i) by striking subsection (e); and

"(ii) by amending the section heading to read as follows: "JUDICIAL REVIEW OF ORDERS OF DEPORTATION AND EXCLUSION".

"(B) Section 235(d) (8 U.S.C. 1225d) is repealed.

"(C) The item relating to section 106 in the table of contents of the Immigration and Nationality Act is amended to read as follows:

"106. Judicial review of orders of deportation and exclusion.".

"(3) Section 241(d) (8 U.S.C. 1251d) is repealed.

AMENDMENT NO. 3785

Strike sections 131 and 132.

AMENDMENT NO. 3786

On page 178, line 8, strike "and subject to subsection (b),".

Strike section 198(b).

AMENDMENT NO. 3787

Beginning on page 180, strike line 6 and all that follows through page 201, line 4, and insert the following:

(iv) assistance or benefits under—

(I) the National School Lunch Act (42 U.S.C. 1751 et seq.),

(II) the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.),

(III) section 4 of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–86; 7 U.S.C. 612c note),

(IV) the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note),

(V) section 110 of the Hunger Prevention Act of 1988 (Public Law 100–435; 7 U.S.C. 612c note), and

(VI) the food distribution program on Indian reservations established under section 4(b) of Public Law 88–525 (7 U.S.C. 2013(b)),

(v) public health assistance for immunizations and, if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of a serious communicable disease, for testing and treatment for such diseases, and

(vi) such other service or assistance (such as soup kitchens, crisis counseling, intervention (including intervention for domestic violence), and short-term shelter) as the Attorney General specifies, in the Attorney General's sole and unreviewable discretion, after consultation with the heads of appropriate Federal agencies, if—

(I) such service or assistance is delivered at the community level, including through public or private nonprofit agencies;

(II) such service or assistance is necessary for the protection of life, safety, or public health; and

(III) such service or assistance or the amount or cost of such service or assistance is not conditioned on the recipient's income or resources; or

(B) any grant, contract, loan, professional license, or commercial license provided or funded by any agency of the United States or any State or local government entity, except, with respect to a nonimmigrant authorized to work in the United States, any professional or commercial license required to engage in such work, if the nonimmigrant is otherwise qualified for such license.

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

(3) NOTIFICATION OF ALIENS.—

(A) IN GENERAL.—The agency administering a program referred to in paragraph (1)(A) or providing benefits referred to in paragraph (1)(B) shall, directly or, in the case of a Federal agency, through the States, notify individually or by public notice, all ineligible aliens who are receiving benefits under a program referred to in paragraph (1)(A), or are receiving benefits referred to in paragraph (1)(B), as the case may be, immediately prior to the date of the enactment of this Act and whose eligibility for the program is terminated by reason of this subsection.

(B) FAILURE TO GIVE NOTICE.—Nothing in subparagraph (A) shall be construed to require or authorize continuation of such eligibility if the notice required by such paragraph is not given.

(4) LIMITATION ON PREGNANCY SERVICES FOR UNDOCUMENTED ALIENS.—

(A) 3-YEAR CONTINUOUS RESIDENCE.—An ineligible alien may not receive the services described in paragraph (1)(A)(ii) unless such alien can establish proof of continuous residence in the United States for not less than 3 years, as determined in accordance with section 245a.2(d)(3) of title 8, Code of Federal Regulations as in effect on the day before the date of the enactment of this Act.

(B) LIMITATION ON EXPENDITURES.—Not more than $120,000,000 in outlays may be expended under title XIX of the Social Security Act for reimbursement of services described in paragraph (1)(A)(ii) that are provided to individuals described in subparagraph (A).

(C) CONTINUED SERVICES BY CURRENT STATES.—States that have provided services described in paragraph (1)(A)(ii) for a period of 3 years before the date of the enactment of this Act shall continue to provide such services and shall be reimbursed by the Federal Government for the costs incurred in providing such services. States that have not provided such services before the date of the enactment of this Act, but elect to provide such services after such date, shall be reimbursed for the costs incurred in providing such services. In no case shall States be required to provide services in excess of the amounts provided in subparagraph (B).

(b) UNEMPLOYMENT BENEFITS.—Notwithstanding any other provision of law, only eligible aliens who have been granted employment authorization pursuant to Federal law, and United States citizens or nationals, may receive unemployment benefits payable out of Federal funds, and such eligible aliens may receive only the portion of such benefits which is attributable to the authorized employment.

(c) SOCIAL SECURITY BENEFITS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, only eligible aliens who have been granted employment authorization pursuant to Federal law and United States citizen or nationals may receive any benefit under title II of the Social Security Act, and such eligible aliens may receive only the portion of such benefits which is attributable to the authorized employment.

(2) NO REFUND OR REIMBURSEMENT.—Notwithstanding any other provision of law, no tax or other contribution required pursuant to the Social Security Act (other than by an eligible alien who has been granted employment authorization pursuant to Federal law, or by an employer of such alien) shall be refunded or reimbursed, in whole or in part.

(d) 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 Committee on the Judiciary and the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on the Judiciary and the Committee on Banking and Financial Services of the House of Representatives, describing the manner in which the Secretary is enforcing section 214 of the Housing and Community Development Act of 1980 (Public Law 96-399; 94 Stat. 1637) and containing statistics with respect to the number of individuals denied financial assistance under such section.

(e) NONPROFIT, CHARITABLE ORGANIZATIONS.—

(1) IN GENERAL.—Nothing in this Act shall be construed as requiring a nonprofit charitable organization operating any program of assistance provided or funded, in whole or in part, by the Federal Government to—

(A) determine, verify, or otherwise require proof of the eligibility, as determined under this title, of any applicant for benefits or assistance under such program; or

(B) deem that the income or assets of any applicant for benefits or assistance under such program include the income or assets described in section 204(b).

(2) NO EFFECT ON FEDERAL AUTHORITY TO DETERMINE COMPLIANCE.—Nothing in this subsection shall be construed as prohibiting the Federal Government from determining the eligibility, under this section or section 204, of any individual for benefits under a public assistance program (as defined in subsection (f)(3)) or for government benefits (as defined in subsection (f)(4)).

(f) DEFINITIONS.—For the purposes of this section—

(1) ELIGIBLE ALIEN.—The term "eligible alien" means an individual who is—

(A) an alien lawfully admitted for permanent residence under the Immigration and Nationality Act,

(B) an alien granted asylum under section 208 of such Act,

(C) a refugee admitted under section 207 of such Act,

(D) an alien whose deportation has been withheld under section 243(h) of such Act, or

(E) an alien paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year.

(2) INELIGIBLE ALIEN.—The term "ineligible alien" means an individual who is not—

(A) a United States citizen or national; or

(B) an eligible alien.

(3) PUBLIC ASSISTANCE PROGRAM.—The term "public assistance program" means any program of assistance provided or funded, in whole or in part, by the Federal Government or any State or local government entity, for which eligibility for benefits is based on need.

(4) GOVERNMENT BENEFITS.—The term "government benefits" includes—

(A) any grant, contract, loan, professional license, or commercial license provided or funded by any agency of the United States or any State or local government entity, except, with respect to a nonimmigrant authorized to work in the United States, any professional or commercial license required to engage in such work, if the nonimmigrant is otherwise qualified for such license;

(B) unemployment benefits payable out of Federal funds;

(C) benefits under title II of the Social Security Act;

(D) financial assistance for purposes of section 214(a) of the Housing and Community Development Act of 1980 (Public Law 96-399; 94 Stat. 1637); and

(E) benefits based on residence that are prohibited by subsection (a)(2).

SEC. 202. DEFINITION OF "PUBLIC CHARGE" FOR PURPOSES OF DEPORTATION.

(a) IN GENERAL.—Section 241(a)(5) (8 U.S.C. 1251(a)(5)) is amended to read as follows:

"(5) PUBLIC CHARGE.—

"(A) IN GENERAL.—Any alien who during the public charge period becomes a public charge, regardless of when the cause for becoming a public charge arises, is deportable.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply if the alien is a refugee or has been granted asylum, or if the cause of the alien's becoming a public charge—

"(i) arose after entry (in the case of an alien who entered as an immigrant) or after adjustment to lawful permanent resident status (in the case of an alien who entered as a nonimmigrant), and

"(ii) was a physical illness, or physical injury, so serious the alien could not work at any job, or a mental disability that required continuous hospitalization.

"(C) DEFINITIONS.—

"(i) PUBLIC CHARGE PERIOD.—For purposes of subparagraph (A), the term 'public charge

period' means the period beginning on the date the alien entered the United States and ending—

"(I) for an alien who entered the United States as an immigrant, 5 years after entry, or

"(II) for an alien who entered the United States as a nonimmigrant, 5 years after the alien adjusted to permanent resident status.

"(ii) PUBLIC CHARGE.—For purposes of subparagraph (A), the term 'public charge' includes any alien who receives benefits under any program described in subparagraph (D) for an aggregate period of more than 12 months.

"(D) PROGRAMS DESCRIBED.—The programs described in this subparagraph are the following:

"(i) The aid to families with dependent children program under title IV of the Social Security Act.

"(ii) The medicaid program under title XIX of the Social Security Act.

"(iii) The food stamp program under the Food Stamp Act of 1977.

"(iv) The supplemental security income program under title XVI of the Social Security Act.

"(v) Any State general assistance program.

"(vi) Any other program of assistance funded, in whole or in part, by the Federal Government or any State or local government entity, for which eligibility for benefits is based on need, except the programs listed as exceptions in clauses (i) through (vi) of section 201(a)(1)(A) of the Immigration Reform Act of 1996.".

(b) CONSTRUCTION.—Nothing in subparagraph (B), (C), or (D) of section 241(a)(5) of the Immigration and Nationality Act, as amended by subsection (a), may be construed to affect or apply to any determination of an alien as a public charge made before the date of the enactment of this Act.

(c) REVIEW OF STATUS.—

(1) IN GENERAL.—In reviewing any application by an alien for benefits under section 216, section 245, or chapter 2 of title III of the Immigration and Nationality Act, the Attorney General shall determine whether or not the applicant is described in section 241(a)(5)(A) of such Act, as so amended.

(2) GROUNDS FOR DENIAL.—If the Attorney General determines that an alien is described in section 241(a)(5)(A) of the Immigration and Nationality Act, the Attorney General shall deny such application and shall institute deportation proceedings with respect to such alien, unless the Attorney General exercises discretion to withhold or suspend deportation pursuant to any other section of such Act.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to aliens who enter the United States on or after the date of the enactment of this Act and to aliens who entered as nonimmigrants before such date but adjust or apply to adjust their status after such date.

SEC. 203. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

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

(1) which is legally enforceable against the sponsor by the sponsored individual, or by the Federal Government or any State, district, territory, or possession of the United States (or any subdivision of such State, district, territory, or possession of the United States) that provides any benefit described in section 241(a)(5)(D), as amended by section 202(a) of this Act, but not later than 10 years after the sponsored individual last receives any such benefit;

(2) in which the sponsor agrees to financially support the sponsored individual, so that he or she will not become a public charge, until the sponsored individual has worked in the United States for 40 qualifying quarters or has become a United States citizen, whichever occurs first; and

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

(b) FORMS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State, the Attorney General, and the Secretary of Health and Human Services shall jointly formulate the affidavit of support described in this section.

(c) NOTIFICATION OF CHANGE OF ADDRESS.—

(1) GENERAL REQUIREMENT.—The sponsor shall notify the Attorney General and the State, district, territory, or possession in which the sponsored individual is currently a resident within 30 days of any change of address of the sponsor during the period specified in subsection (a)(1).

(2) PENALTY.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall, after notice and opportunity to be heard, 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 individual has received any benefit described in section 241(a)(5)(D) of the Immigration and Nationality Act, as amended by section 202(a) of this Act, not less than $2,000 or more than $5,000.

(d) REIMBURSEMENT OF GOVERNMENT EXPENSES.—

(1) IN GENERAL.—

(A) REQUEST FOR REIMBURSEMENT.—Upon notification that a sponsored individual has received any benefit described in section 241(a)(5)(D) of the Immigration and Nationality Act, as amended by section 202(a) of this Act, the appropriate Federal, State, or local official shall request reimbursement from the sponsor for the amount of such assistance.

(B) REGULATIONS.—The Commissioner of Social Security shall prescribe such regulations as may be necessary to carry out subparagraph (A). Such regulations shall provide that notification be sent to the sponsor's last known address by certified mail.

(2) ACTION AGAINST SPONSOR.—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 make payments, an action may be brought against the sponsor pursuant to the affidavit of support.

(3) FAILURE TO MEET REPAYMENT TERMS.—If the sponsor agrees to make payments, but fails to abide by the repayment terms established by the agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.

(e) JURISDICTION.—

(1) IN GENERAL.—An action to enforce an affidavit of support executed under subsection (a) may be brought against the sponsor in any Federal or State court—

(A) by a sponsored individual, with respect to financial support; or

(B) by a Federal, State, or local agency, with respect to reimbursement.

(2) COURT MAY NOT DECLINE TO HEAR CASE.—For purposes of this section, no Federal or State court shall decline for lack of subject matter or personal jurisdiction to hear any action brought against a sponsor under paragraph (1) if—

(A) the sponsored individual is a resident of the State in which the court is located, or received public assistance while residing in the State; and

(B) such sponsor has received service of process in accordance with applicable law.

(f) DEFINITIONS.—For purposes of this section—

(1) SPONSOR.—The term "sponsor" means an individual who—

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

(B) is at least 18 years of age;

(C) is domiciled in any of the several States of the United States, the District of Columbia, or any territory or possession of the United States; and

(D) demonstrates the means to maintain an annual income equal to at least 125 percent of the Federal poverty line for the individual and the individual's family (including the sponsored alien and any other alien sponsored by the individual), through evidence that includes a copy of the individual's Federal income tax return for the 3 most recent taxable years (which returns need show such level of annual income only in the most recent taxable year) 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 true copies of such returns.

In the case of an individual who is on active duty (other than active duty for training) in the Armed Forces of the United States, subparagraph (D) shall be applied by substituting "100 percent" for "125 percent".

(2) FEDERAL POVERTY LINE.—The term "Federal poverty line" means the level of income equal to the official poverty line (as defined by the Director of the Office of Management and Budget, as revised annually by the Secretary of Health and Human Services, in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902)) that is applicable to a family of the size involved.

(3) QUALIFYING QUARTER.—The term "qualifying quarter" means a three-month period in which the sponsored individual has—

(A) earned at least the minimum necessary for the period to count as one of the 40 quarters required to qualify for social security retirement benefits;

(B) not received need-based public assistance; and

(C) had income tax liability for the tax year of which the period was part.

SEC. 204. ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO FAMILY-SPONSORED IMMIGRANTS.

(a) DEEMING REQUIREMENT FOR FEDERAL AND FEDERALLY FUNDED PROGRAMS.—Subject to subsection (d), for purposes of determining the eligibility of an alien for benefits, and the amount of benefits, under any public assistance program (as defined in section 201(f)(3)), the income and resources described in subsection (b) shall, notwithstanding any other provision of law, be deemed to be the income and resources of such alien.

(b) DEEMED INCOME AND RESOURCES.—The income and resources described in this subsection include the income and resources of—

(1) any person who, as a sponsor of an alien's entry into the United States, or in order to enable an alien lawfully to remain in the United States, executed an affidavit of support or similar agreement with respect to such alien, and

(2) the sponsor's spouse.

(c) LENGTH OF DEEMING PERIOD.—The requirement of subsection (a) shall apply for the period for which the sponsor has agreed, in such affidavit or agreement, to provide support for such alien, or for a period of 5

years beginning on the day such alien was first lawfully in the United States after the execution of such affidavit or agreement, whichever period is longer.

(d) EXCEPTIONS.—

(1) INDIGENCE.—

(A) IN GENERAL.—If a determination described in subparagraph (B) is made, the amount of income and resources of the sponsor or the sponsor's spouse which shall be attributed to the sponsored alien shall not exceed the amount actually provided for a period—

(i) beginning on the date of such determination and ending 12 months after such date, or

(ii) if the address of the sponsor is unknown to the sponsored alien, beginning on the date of such determination and ending on the date that is 12 months after the address of the sponsor becomes known to the sponsored alien or to the agency (which shall inform such alien of the address within 7 days).

(B) DETERMINATION DESCRIBED.—A determination described in this subparagraph is a determination by an agency that a sponsored alien would, in the absence of the assistance provided by the agency, be unable to obtain food and shelter, taking into account the alien's own income, plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor.

(2) EDUCATION ASSISTANCE.—

(A) IN GENERAL.—The requirements of subsection (a) shall not apply with respect to sponsored aliens who have received, or have been approved to receive, student assistance under title IV, V, IX, or X of the Higher Education Act of 1965 in an academic year which ends or begins in the calendar year in which this Act is enacted.

(B) DURATION.—The exception described in subparagraph (A) shall apply only for the period normally required to complete the course of study for which the sponsored alien receives assistance described in that subparagraph.

(3) CERTAIN SERVICES AND ASSISTANCE.—The requirements of subsection (a) shall not apply to any service or assistance described in clause (iv) or (vi) of section 201(a)(1)(A).

HUTCHISON (AND LEAHY) AMENDMENT NO. 3788

(Ordered to lie on the table.)

Mrs. HUTCHISON (for herself and Mr. LEAHY) submitted an amendment intended to be proposed by them to amendment No. 3743 proposed by Mr. SIMPSON to the bill S. 1664, supra: as follows:

At the appropriate place in the matter proposed to be inserted, insert the following new section:

SEC. . APPROPRIATIONS FOR CRIMINAL ALIEN TRACKING CENTER.

Section 130002(b) of the Violent Crime Control and Law Enforcement Act of 1994 (8 U.S.C. 1252 note) is amended—

(1) by inserting "and" after "1996;", and

(2) by striking paragraph (2) and all that follows through the end period and inserting the following:

"(2) $5,000,000 for each of fiscal years 1997 through 2001.".

MURRAY AMENDMENT NO. 3789

Mrs. MURRAY submitted an amendment intended to be proposed by her to amendment No. 3743 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

On page 201 of the matter proposed to be inserted, between lines 4 and 5, insert the following:

(4) CHILDREN FOUND ELIGIBLE FOR FOSTER CARE, TRANSITIONAL LIVING PROGRAMS, OR ADOPTION ASSISTANCE AFTER ENTRY.—The requirements of subsection (a) shall not apply with respect to any alien lawfully admitted to the United States for permanent residence who is eligible for foster care, a transitional living program, or adoption assistance under title IV of the Social Security Act.

BRADLEY AMENDMENTS NOS. 3790–3792

(Ordered to lie on the table.)

Mr. BRADLEY submitted three amendments intended to be proposed by him to amendment No. 3743 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

AMENDMENT NO. 3790

On page 47 of the amendment, strike line 1 and all that follows through line 21 and insert the following:

SEC. . ENFORCEMENT OF EMPLOYER SANCTIONS.

(a) ESTABLISHMENT OF NEW OFFICE.—There shall be in the Immigration and Naturalization Service of the Department of Justice an Office for the Enforcement of Employer Sanctions (in this section referred to as the "Office").

(b) FUNCTIONS.—The functions of the Office established under subsection (a) shall be—

(1) to investigate and prosecute violations of section 274A(a) of the Immigration and Nationality Act (8 U.S.C. 1324a(a)); and

(2) to educate employers on the requirements of the law and in other ways as necessary to prevent employment discrimination.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General $100,000,000 to carry out the functions of the Office established under subsection (a).

AMENDMENT NO. 3791

On page 7, line 4, before the period insert the following: "of which number not less than 150 full-time active-duty investigators in each such fiscal year shall perform only the functions of investigating and prosecuting violations of section 274A(a) of the Immigration and Nationality Act (8 U.S.C. 1324a(a))."

AMENDMENT NO. 3792

On page 47, strike lines 1 through 21 and insert the following:

SEC. 120B. OFFICE FOR EMPLOYER SANCTIONS.

(a) ESTABLISHMENT; FUNCTIONS.—There is established within the Department of Justice an Office for Employer Sanctions charged with the responsibility of—

(1) providing advice and guidance to employers and employees relating to unlawful employment of aliens under section 274A of the Immigration and Nationality Act and unfair immigration-related employment practices under 274B of such Act;

(2) assisting employers in complying with those laws; and

(3) coordinating other functions related to the enforcement under this Act of employer sanctions.

(b) COMPOSITION.—The members of the Office shall be designated by the Attorney General from among officers or employees of the Immigration and Naturalization Service or other components of the Department of Justice.

(c) ANNUAL REPORT.—The Office shall report annually to the Attorney General on its operations.

WELLSTONE AMENDMENTS NOS. 3793–3795

(Ordered to lie on the table.)

Mr. WELLSTONE submitted three amendments to be proposed by him to amendment No. 3743 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

AMENDMENT NO. 3793

On page 190, after line 25, add the following:

"(E) SPECIAL RULE FOR BATTERED WOMEN AND CHILDREN.—(i) For purposes of any determination under subparagraph (A), and except as provided under clause (ii), the aggregate period shall be 48 months within the first 7 years of entry if the alien can demonstrate that (I) the alien has been battered or subjected to extreme cruelty in the United States by a spouse or a 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 subjected 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 connection to the battery or cruelty described in subclause (I) or (II).

"(ii) For the purposes of a determination under subparagraph (A), the aggregate period may exceed 48 months within the first 7 years 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 such battery or cruelty has a causal relationship to the need for the benefits received.

AMENDMENT NO. 3794

On page 202 of the amendment, between lines 5 and 6, insert the following:

(f) SPECIAL RULE FOR BATTERED WOMEN AND CHILDREN.—Notwithstanding any other provision of law, subsection (a) shall not apply.—

(1) for up to 48 months if the alien can demonstrate that (A) the alien has been battered or subjected to extreme cruelty in the United States by a spouse or a 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 to or acquiesced to such battery or cruelty, or (B) the alien's child has been battered or subjected to extreme cruelty in the United States by the spouse or parent of the alien (without the active participation of the alien in the battery or 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 or acquiesced to and the alien did not actively participate in such battery or cruelty, and the battery or cruelty described in clause (i) or (ii) has a causal relationship to the need for the public benefits applied; and

(2) for more than 48 months if the alien can demonstrate that such battery or cruelty under paragraph (1) is ongoing, has led to the issuance of an order of a judge or administrative law judge or a prior determination of the Service and that such battery or cruelty has a causal relationship to the need for the benefits received.

AMENDMENT No. 3795

On page 187 of the amendment, after line 3, insert the following:

(F) an alien who—

(i) has been battered or subjected to extreme cruelty in the United States by a spouse or a 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; and

(ii) has petitioned (or petitions within 45 days after the first application for means-tested government assistance under SSI, AFDC, social services block grants; Medicaid, food stamps, or housing assistance) for—

(I) status as a spouse or a 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 clause (ii) or (iii) of section 204(a)(1)(B) of the Act, or

(III) suspension of deportation and adjustment of status pursuant to section 244(a)(3) of such Act, or

(iii) is the beneficiary of a petition 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; or

(G) an alien whose child—

(i) has been battered or subjected to extreme cruelty in the United States by a spouse or a 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 and the spouse or parent consented or acquiesced to such battery or cruelty, and the alien did not actively participate in such battery or cruelty; and

(ii) has petitioned (or petitions within 45 days after the first application for assistance from a means-tested government assistance program) for—

(I) status as a spouse or a 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 clause (ii) or (iii) of section 204(a)(1)(B) of the Act, or

(III) suspension of deportation and adjustment of status pursuant to section 244(a)(3) of such Act, or

(iii) is the beneficiary of a petition 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)10(B) of such Act.

SHELBY (AND OTHERS) AMENDMENT NO. 3796

(Ordered to lie on the table.)

Mr. SHELBY (for himself, Mr. COCHRAN, Mr. COVERDELL, Mr. INHOFE, Mr. FAIRCLOTH, Mr. HELMS, Mr. THOMAS, Mr. WARNER, Mr. PRESSLER, Mr. BYRD, Mr. COATS, Mr. GRAMS, Mr. LOTT, Mr. THURMOND, Mr. CRAIG, Mr. SIMPSON, and Mr. MURKOWSKI) submitted an amendment intended to be proposed by them to amendment No. 3743 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . LANGUAGE OF GOVERNMENT ACT OF 1996.

(a) SHORT TITLE.—This section may be cited as the "Language of Government Act of 1996".

(b) FINDINGS AND CONSTRUCTION.—

(1) FINDINGS.—The Congress finds and declares that—

(A) the United States is comprised of individuals and groups from diverse ethnic, cultural, and linguistic backgrounds;

(B) the United States has benefited and continues to benefit from this rich diversity;

(C) throughout the history of the Nation, the common thread binding those of differing backgrounds has been a common language;

(D) in order to preserve unity in diversity, and to prevent division along linguistic lines, the United States should maintain a language common to all people;

(E) English has historically been the common language and the language of opportunity in the United States.

(F) Native American languages have a unique status because they exist nowhere else in the world, and in creating a language policy for the United States Government, due consideration must be given to Native American languages and the policies and laws assisting their survival, revitalization, study, and use;

(G) a purpose of this Act is to help immigrants better assimilate and take full advantage of economic and occupational opportunities in the United States;

(H) by learning the English language, immigrants will be empowered with the language skills and literacy necessary to become responsible citizens and productive workers in the United States.

(I) the use of a single common language in the conduct of the Federal Government's official business will promote efficiency and fairness to all people;

(J) English should be recognized in law as the language of official business of the Federal Government; and

(K) any monetary savings derived by the Federal Government from the enactment of this Act should be used for the teaching of non-English speaking immigrants the English language.

(2) CONSTRUCTION.—The amendments made by subsection (c)—

(A) are not intended in any way to discriminate or restrict the rights of any individual in the United States.

(B) are not intended to discourage or prevent the use of languages other that English in any nonofficial capacity; and

(C) except where an existing law of the United States directly contravenes the amendments made by subsection (c) (such as by requiring the use of a language other than English for official business of the Government of the United States), are not intended to repeal existing laws of the United States.

(c) ENGLISH AS THE OFFICIAL LANGUAGE OF GOVERNMENT.—

(1) IN GENERAL.—Title 4, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 6—LANGUAGE OF THE GOVERNMENT

"Sec.

"161. Declaration of official language of Government.

"162. Preserving and enhancing the role of the official language.

"163. Official Government activities in English.

"164. Standing.

"165. Definitions.

"§161. Declaration of official language of Government

"The official language of the Government of the United States is English.

"§162. Preserving and enhancing the role of the official language

"The Government shall have an affirmative obligation to preserve and enhance the role of English as the official language of the United States Government. Such obligation shall include encouraging greater opportunities for individuals to learn the English language.

"§163. Official Government activities in English

"(a) CONDUCT OF BUSINESS.—The Government shall conduct its official business in English.

"(b) DENIAL OF SERVICES.—No person shall be denied services, assistance, or facilities, directly or indirectly provided by the Government solely because the person communicates in English.

"(c) ENTITLEMENT.—Every person in the United States is entitled to—

"(1) communicate with the Government in English;

"(2) receive information from or contribute information to the Government in English; and

"(3) be informed of or be subject to official orders in English.

"§164. Standing

"Any person alleging injury arising from a violation of this chapter shall have standing to sue in the courts of the United States under sections 2201 and 2202 of title 28, United States Code, and for such other relief as may be considered appropriate by the courts.

"§165. Definitions

"For purposes of this chapter:

"(1) GOVERNMENT.—The term 'Government' means all branches of the Government of the United State and all employees and officials of the Government of the United States while performing official business.

"(2) OFFICIAL BUSINESS.—The term 'official business' means those governmental actions, documents, or policies which are enforceable with the full weight and authority of the Government, but does not include—

"(A) use of indigenous languages or Native American languages, or the teaching of foreign languages in educational settings;

"(B) actions, documents, or policies that are not enforceable in the United States;

"(C) actions, documents, or policies necessary for international relations, trade, or commerce;

"(D) actions or documents that protect the public health or the environment;

"(E) actions that protect the rights of victims of crimes or criminal defendants;

"(F) documents that utilize terms of art or phrases form languages other than English;

"(G) bilingual education, bilingual ballots, or activities pursuant to the Native American Languages Act (25 U.S.C. 2901 *et seq.*); and

"(H) elected officials, who posses a proficiency in a language other than English, using that language to provide information orally to their constituents.".

(2) CONFORMING AMENDMENT.—The table of chapters for title 4, United States Code, is amended by adding at the end the following new item:

"6. Language of the Government 161".

(d) PREEMPTION.—This section (and the amendments made by this section) shall not preempt any law of any State.

(e) EFFECTIVE DATE.—The amendments made by subsection (c) shall take effect upon the date of enactment of this Act, except that no suit may be commenced to enforce or determine rights under the amendments until January 1, 1997.

FAIRCLOTH AMENDMENT NO. 3797

(Ordered to lie on the bill.)

Mr. FAIRCLOTH submitted an amendment intended to be proposed by

him to amendment No. 3743 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

At the appropriate place in the matter proposed to be inserted, insert the following new section:

SEC. . REVIEW OF CONTRACTS WITH ENGLISH AND CIVICS TEST ENTITIES.

(a) IN GENERAL.—The Attorney General of the United States shall investigate and submit a report to the Congress regarding the practices of test entities authorized to administer the English and civics tests pursuant to section 312.3(a) of title 8, Code of Federal Regulations. The report shall include any findings of fraudulent practices by the testing entities.

(b) PRELIMINARY AND FINAL REPORTS.—Not later than 90 days after the date of the enactment of this Act, the Attorney General shall submit to the Congress a preliminary report of the findings of the investigation conducted pursuant to subsection (a) and shall submit to the Congress a final report within 275 days after the submission of the preliminary report.

CRAIG AMENDMENT NO. 3798

(Ordered to lie on the bill.)

Mr. CRAIG submitted an amendment intended to be proposed by him to amendment No. 3743 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

At the appropriate place insert the following:

SEC. ___. H-2A WORKERS.

(a) Section 218(a) (8 U.S.C. 1188(a)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

"(2) In considering an employer's petition for admission of H-2A aliens the Attorney General shall consider the certification decision of the Secretary of Labor and shall consider any countervailing evidence submitted by the employer with respect to the nonavailability of United States workers and the employer's compliance with the requirements of this section, and may consult with the Secretary of Agriculture.".

(b) Section 218(b) (8 U.S.C. 1188(b)) is amended by striking out paragraph (4) and inserting the following:

"(4) DETERMINATION BY THE SECRETARY.—The Secretary determines that the employer has not filed a job offer for the position to be filled by the alien with the appropriate local office of the State employment security agency having jurisdiction over the area of intended employment, or with the State office of such an agency if the alien will be employed in an area within the jurisdiction of more than one local office of such an agency, which meets the criteria of paragraph (5).

"(5) REQUIRED TERMS AND CONDITIONS OF EMPLOYMENT.—The Secretary determines that the employer's job offer does not meet one or more of the following criteria:

"(A) REQUIRED RATE OF PAY.—The employer has offered to pay H-2A aliens and all other workers in the occupation in the area of intended employment not less than the greater of—

"(i) the median rate of pay for similarly employed workers in the area of intended employment, or

"(ii) an Adverse Effect Wage Rate of not less than 110 percent of the minimum wage required to be paid under the Fair Labor Standards Act, but not less than $5.00 per hour.

"(B) PROVISION OF HOUSING.—

"(i) IN GENERAL.—The employer has offered to provide housing to H-2A aliens and those workers not reasonably able to return to their residence within the same day, without charge to the worker. The employer may, at the employer's option, provide housing meeting applicable Federal standards for temporary labor camps, or provide rental or public accommodation type housing which meets applicable local or state standards for such housing.

"(ii) HOUSING ALLOWANCE AS ALTERNATIVE.—In lieu of offering the housing required in clause (i), the employer may provide a reasonable housing allowance to workers not reasonably able to return to their place of residence within the same day, but only if the Secretary determines that housing is reasonably available within the approximate area of employment. An employer who offers a housing allowance pursuant to this subparagraph shall not be deemed to be a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) merely by virtue of providing such housing allowance.

"(iii) SPECIAL HOUSING STANDARDS FOR SHORT DURATION EMPLOYMENT.— The Secretary shall promulgate special regulations permitting the provision of short-term temporary housing for workers employed in occupations in which employment is expected to last 40 days or less.

"(iv) TRANSITIONAL PERIOD FOR PROVISION OF SPECIAL HOUSING STANDARDS IN OTHER EMPLOYMENT.—For a period of five years after the date of enactment of this section, the Secretary shall approve the provision of housing meeting the standards described in clause (iii) in occupations expected to last longer than 40 days in areas where available housing meeting the criteria described in subparagraph (i) is found to be insufficient.

"(iv) PRE-EMPTION OF STATE AND LOCAL STANDARDS.—The standards described in clauses (ii) and (iii) shall preempt any State and local standards governing the provision of temporary housing to agricultural workers.

"(C) REIMBURSEMENT OF TRANSPORTATION COSTS.—The employer has offered to reimburse H-2A aliens and workers recruited from beyond normal commuting distance the most economical common carrier transportation charge and reasonable subsistence from the place from which the worker comes to work for the employer, (but not more than the most economical common carrier transportation charge from the worker's normal place of residence) if the worker completes 50 percent of the anticipated period of employment. If the worker recruited from beyond normal commuting distance completes the period of employment, the employer will provide or pay for the worker's transportation and reasonable subsistence to the worker's next place of employment, or to the worker's normal place of residence, whichever is less.

"(D) GUARANTEE OF EMPLOYMENT.—The employer has offered to guarantee the worker employment for at least three-fourths of the workdays of the employer's actual period of employment in the occupation. Workers who abandon their employment or are terminated for cause shall forfeit this guarantee.

"(6) PREFERENCE FOR U.S. WORKERS.—The employer has not assured on the application that the employer will provide employment to all qualified United States workers who apply to the employer and assure that they will be available at the time and place needed until the time the employer's foreign workers depart for the employer's place of employment (but not sooner than 5 days before the date workers are needed), and will give preference in employment to United States workers who are immediately available to fill job opportunities that become available after the date work in the occupation begins.".

(c) Section 218 (8 U.S.C. 1188) is amended by striking out subsection (c) and inserting in lieu thereof the following:

"(c) The following rules shall apply to the issuance of labor certifications by the Secretary under this section:

"(1) DEADLINE FOR FILING APPLICATIONS.—The Secretary may not require that the application be filed more than 40 days before the first date the employer requires the labor or services of the H-2A worker.

"(2) NOTICE WITHIN SEVEN DAYS OF DEFICIENCIES.—

"(A) The employer shall be notified in writing within seven calendar days of the date of filing, if the application does not meet the criteria described in subsection (b) for approval.

"(B) If the application does not meet such criteria, the notice shall specify the specific deficiencies of the application and the Secretary shall provide an opportunity for the prompt resubmission of a modified application.

"(3) ISSUANCE OF CERTIFICATION.—

"(A) The Secretary shall provide to the employer, not later than 20 days before the date such labor or services are first required to be performed, the certification described in subsection (a)(1)—

"(i) with respect to paragraph (a)(1)(A) if the employer's application meets the criteria described in subsection (b), or a statement of the specific reasons why such certification can not be made, and

"(ii) with respect to subsection (a)(1)(B), to the extent that the employer does not actually have, or has not been provided with the names, addresses and Social Security numbers of workers referred to the employer who are able, willing and qualified and have indicated they will be available at the time and place needed to perform such labor or services on the terms and conditions of the job offer approved by the Secretary. For each worker referred, the Secretary shall also provide the employer with information sufficient to permit the employer to contact the referred worker for the purpose of reconfirming the worker's availability for work at the time and place needed.

"(B) If, at the time the Secretary determines that the employer's job offer meets the criteria described in subsection (b) there are already unfilled job opportunities in the occupation and area of intended employment for which the employer is seeking workers, the Secretary shall provide the certification at the same time the Secretary approves the employer's job offer.".

(d) Section 218 (8 U.S.C 1188) is amended by striking out section (e) and inserting in lieu thereof the following:

"(e) EXPEDITED APPEALS OF CERTAIN DETERMINATIONS.—The Secretary shall provide by regulation for an expedited procedure for the review of the nonapproval of an employer's job offer pursuant to subsection (c)(2) and of the denial of certification in whole or in part pursuant to subsection (c)(3) or, at the applicant's request, a de novo administrative hearing respecting the nonapproval or denial.".

(e) Section 218 is amended—

(1) by redesignating subsections (f) through (i) as subsections (g) through (j), respectively; and

(2) by adding the following after subsection (e):

"(f) The following procedures shall apply to the consideration of petitions by the Attorney General under this section:

"(1) EXPEDITED PROCESSING OF PETITIONS.—The Attorney General shall provide an expedited procedure for the adjudication of petitions filed under this section, and the notification of visa-issuing consulates where aliens seeking admission under this section will apply for visas and/or ports of entry where aliens will seek admission under this section within 15 calendar days from the date such petition is filed by the employer.

"(2) EXPEDITED AMENDMENTS TO PETITIONS.—The Attorney General shall provide an expedited procedure for the amendment of petitions to increase the number of workers on or after five days before the employers date of need for the labor or services involved in the petition to replace referred workers whose continued availability for work at the time and place needed under the terms of the approved job offer can not be confirmed and to replace referred workers who fail to report for work on the date of need and replace referred workers who abandon their employment or are terminated for cause, and for which replacement workers are not immediately available pursuant to subsection (b)(6).".

(g) Section 218(g) (8 U.S.C. 1188(g)) is amended—

(1) by redesignating paragraph (2) as paragraph (2)(A); and

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

"(B) No employer shall be subject to any liability or punishment on the basis of an employment action or practice by such employer that conforms with the terms and conditions of a job offer approved by the Secretary pursuant to this Section, unless and until the employer has been notified that such certification has been amended or invalidated by a final order of the Secretary or of a court of competent jurisdiction.".

(h) Section 218(h) is amended by adding at the end thereof the following:

"(3) No court of the United States shall have jurisdiction to issue any restraining order or temporary or permanent injunction preventing or delaying the issuance by the Secretary of a certification pursuant to this section, or the approval by the Attorney General of a petition to import an alien as an H-2A worker, or the actual importation of any such alien as an H-2A worker following such approval by the Attorney General.".

HATFIELD AMENDMENT NO. 3799

(Ordered to lie on the table.)

Mr. HATFIELD submitted an amendment intended to be proposed by him to amendment No. 3743 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

At the appropriate place, insert the following:

SEC. . AVAILABILITY OF FORMS AT INS OFFICES.

All regional and district offices of the Immigration and Naturalization Service shall have available to the public on-site, the forms necessary—

(1) to facilitate entry of persons legally admissible as immigrants, or as visitors,

(2) to obtain asylum, temporary or permanent resident status, naturalization, or employment authorization, and

(3) to obtain any other service or benefit for which the Service is responsible.

SEC. . SENSE OF THE SENATE REGARDING INS PUBLIC SERVICES.

It is the sense of the Senate that the Immigration and Naturalization Service (hereafter referred to as the "INS") should devote adequate resources to assuring that the public has access to INS services, documents, and personnel.

ROBB AMENDMENTS NOS. 3800-3802

(Ordered to lie on the table.)

Mr. ROBB submitted three amendments intended to be proposed by him to amendment No. 3743 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

AMENDMENT NO. 3800

On page 26, line 17, strike the period and insert "; and".

AMENDMENT NO. 3801

On page 26, between lines 17 and 18, insert the following:

(H)(i) A system which utilizes innovative authentication technology such as fingerprint readers or smart cards to verify eligibility for employment or other applicable Federal benefits.

(ii) For purposes of this subparagraph, the term "smart card" means a credit card-sized device containing 1 or more integrated circuits or containing technology that will facilitate individual verification.

AMENDMENT NO. 3802

On page 26, line 12, strike "and" the second place it appears.

GRAHAM (AND SPECTER) AMENDMENT NO. 3803

(Ordered to lie on the table.)

Mr. GRAHAM (for himself and Mr. SPECTER) proposed an amendment to amendment No. 3743 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

AMENDMENT NO. 3803

On page 198, beginning on line 11, strike all through page 201, line 4, and insert the following: for benefits, the income and resources described in subsection (b) shall, notwithstanding any other provision of law, be deemed to be the income and resources of such alien for purposes of the following programs:

(1) Supplementary security income under title XVI of the Social Security Act;

(2) Aid to Families with Dependent Children under title IV of the Social Security Act;

(3) Food stamps under the Food Stamp Act of 1977;

(4) Section 8 low-income housing assistance under the United States Housing Act of 1937;

(5) Low-rent public housing under the United States Housing Act of 1937;

(6) Section 236 interest reduction payments under the National Housing Act;

(7) Home-owner assistance payments under the National Housing Act;

(8) Low income rent supplements under the Housing and Urban Development Act of 1965;

(9) Rural housing loans under the Housing Act of 1949;

(10) Rural rental housing loans under the Housing Act of 1949;

(11) Rural rental assistance under the Housing Act of 1949;

(12) Rural housing repair loans and grants under the Housing Act of 1949;

(13) Farm labor housing loans and grants under the Housing Act of 1949;

(14) Rural housing preservation grants under the Housing Act of 1949;

(15) Rural self-help technical assistance grants under the Housing Act of 1949;

(16) Site loans under the Housing Act of 1949; and

(b) DEEMED INCOME AND RESOURCES.—The income and resources described in this subsection include the income and resources of—

(1) any person who, as a sponsor of an alien's entry into the United States, or in order to enable an alien lawfully to remain in the United States, executed an affidavit of support or similar agreement with respect to such alien, and

(2) the sponsor's spouse.

(c) LENGTH OF DEEMING PERIOD.—The requirement of subsection (a) shall apply for the period for which the sponsor has agreed, in such affidavit or agreement, to provide support for such alien, or for a period of 5 years beginning on the day such alien was first lawfully in the United States after the execution of such affidavit or agreement, whichever period is longer.

(d) EXCEPTION FOR INDIGENCE.—

(1) IN GENERAL.—If a determination described in paragraph (2) is made, the amount of income and resources of the sponsor or the sponsor's spouse which shall be attributed to the sponsored alien shall not exceed the amount actually provided for a period—

(A) beginning on the date of such determination and ending 12 months after such date, or

(B) if the address of the sponsor is unknown to the sponsored alien, beginning on the date of such determination and ending on the date that is 12 months after the address of the sponsor becomes known to the sponsored alien or to the agency (which shall inform such alien of the address within 7 days).

(2) DETERMINATION DESCRIBED.—A determination described in this paragraph is a determination by an agency that a sponsored alien would, in the absence of the assistance provided by the agency, be unable to obtain food or shelter, taking into account the alien's own income, plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor.

ABRAHAM (AND OTHERS) AMENDMENT NO. 3804

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself, Mr. DEWINE, and Mr. ROTH) submitted an amendment intended to be proposed by them to amendment No. 3743 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

At the appropriate place in the amendment insert the following four new sections:

SEC. . ELIMINATION OF REPETITIVE REVIEW OF DEPORTATION ORDERS ENTERED AGAINST CRIMINAL ALIENS.

Section 242b (8 U.S.C. 1252b) is amended by—

(a) redesignating subsection (f) as subsection (g); and

(b) adding the following new subsection (f) to read as follows—

(f) CRIMINAL ALIENS.—No alien convicted of any criminal offense covered in Section 1251(a)(2)(A) (i) or (iii) or (B)-(D), shall be granted more than one administrative hearing and one appeal to the Board of Immigration Appeals concerning or relating to such alien's deportation. Any claims for relief from deportation for which the criminal alien may be eligible must be raised at that time. Under no circumstances may such a criminal alien request or be granted a reopening of the order of deportation or any other form of relief under the law, including but not limited to claims of ineffective assistance of counsel, after the earlier of:

(i) a determination by the Board of Immigration Appeals affirming such order; or

(ii) the expiration of the period in which the alien is permitted to seek review of such order by the Board of Immigration Appeals.

SEC. . ELIMINATION OF MOTIONS TO REOPEN ORDERS OF EXCLUSION ENTERED AGAINST CRIMINAL ALIENS.

Section 236, 8 U.S.C. 1226, is amended by adding the following sentence to the end of subsection (a): "There shall be no judicial review of any order of exclusion, or any issue related to an order of exclusion, entered against an alien found by the Attorney General or the Attorney General's designee to be an alien described in Section 212(a)(2) (8 U.S.C. 1182(a)(2)) or of any administrative ruling related to such an order."

SEC. . EXPANSION OF THE BOARD OF IMMIGRATION APPEALS; NUMBER OF SPECIAL INQUIRY OFFICERS; ATTORNEY SUPPORT STAFF.

(a) IN GENERAL.—Notwithstanding any other provision of law, effective October 1, 1996, there are authorized to be employed within the Department of Justice a total of—

(1) 24 Board Members of the Board of Immigration Appeals;

(2) 334 special inquiry officers; and

(3) a number of attorneys to support the Board and the special inquiry officers which is twice the number so employed as of the date of enactment of this Act.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice such sums as may be necessary to pay the salaries of the personnel employed under subsection (a) who are additional to such personnel employed as of the end of fiscal year 1996.

SEC. . PROHIBITION UPON THE NATURALIZATION OF CERTAIN CRIMINAL ALIENS.

Section 40(a) (8 U.S.C. 1424) is amended by—

(a) inserting "or who have been convicted of certain crimes" after "or who favor totalitarian forms of government" and

(b) in subsection (a)—

(1) replacing "of this subsection." with "of this subsection; or" in paragraph (6)

(2) adding new paragraph (7) to read as follows—

"(7) who has been convicted of any criminal offense covered in Section 1251(a)(2)(A) (i) or (iii) or (B)–(D)."

BOXER AMENDMENTS NOS. 3805–3806

(Ordered to lie on the table.)

Mrs. BOXER submitted two amendments intended to be proposed by her to amendment No. 3743 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

AMENDMENT NO. 3805

At the appropriate place in the bill, insert the following:

SEC. . SUPPORT OF DEMONSTRATION PROJECTS.

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

(1) American democracy performs best when the maximum number of people subject to its laws participate in the political process, at all levels of government.

(2) Citizenship actively exercised will better assure that individuals both assert their rights and fulfill their responsibilities of membership within our political community, thereby benefiting all citizens and residents of the United States.

(3) A number of private and charitable organizations assist in promoting citizenship, and the Senate urges them to continue to do so.

(b) DEMONSTRATION PROJECTS.—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.

(c) 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.

(d) 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 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 Examinations Fee Account, under section 286(n) of the Immigration and Nationality Act) shall be available under this section.

(e) 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.

(f) STATE DEFINED.—For purposes of 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. 3806

At the appropriate place in the bill, insert the following new section:

SEC. . CRIMINAL PENALTIES FOR HIGH SPEED FLIGHTS FROM BORDER CHECKPOINTS.

(a) FINDINGS.—Congress makes the following findings:

(1) Border checkpoints are an important component of the national strategy to prevent illegal immigration.

(2) Individuals fleeing border checkpoints and leading law enforcement officials on high speed vehicle chases endanger law enforcement officers, innocent bystanders, and the fleeing individuals themselves.

(3) The pursuit of suspects fleeing border checkpoints is complicated by overlapping jurisdiction among Federal, State, and local law enforcement officers.

(b) HIGH SPEED FLIGHT FROM BORDER CHECKPOINTS.—Chapter 35 of title 18, United States Code, is amended by inserting the following new section:

"§ 758. High speed flight from border checkpoint

"(a) Whoever flees or evades a checkpoint operated by the Immigration and Naturalization Service, or any other Federal law enforcement agency in a motor vehicle after entering the United States and flees Federal, State, or local law enforcement agents in excess of the legal speed limit shall be imprisoned not more than five years.".

Section 1251(a)(2)(A) of title 8, United States Code, is amended by inserting the following new subsection:

"(v) High speed flight

"Any alien who is convicted of high speed flight from a checkpoint (as defined by section 758(a) of chapter 35)."

—Section 1182(a)(2)(A)(i) of title 8, United States Code, is amended by inserting the following new subsection:

"(III) A violation of section 758(a) of chapter 35."

WYDEN (AND OTHERS) AMENDMENT NO. 3807

(Ordered to lie on the table.)

Mr. WYDEN (for himself, Mr. LEAVY, Mr. KYL, Mr. CRAIG, Mrs. FEINSTEIN, Mr. LOTT, Mr. COCHRAN, Mr. LUGAR, and Mr. HELMS) submitted an amendment intended to be proposed by them to amendment No. 3743 proposed by Mr. SIMPSON to the bill, supra; as follows:

At the end of the matter proposed to be inserted by the amendment, insert the following:

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. REVIEW AND REPORT ON H-2A NONIMMIGRANT WORKERS PROGRAM.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that the enactment of this Act may impact the future availability of an adequate work force for the producers of our Nation's labor intensive agricultural commodities and livestock.

(b) REVIEW.—The Comptroller General shall review the effectiveness of the H-2A nonimmigrant worker program to ensure that the program provides a workable safety valve in the event of future shortages of domestic workers after the enactment of this Act. Among other things, the Comptroller General shall review the program to determine—

(1) that the program ensures that an adequate supply of qualified United States workers is available at the time and place needed for employers seeking such workers after the date of enactment of this Act;

(2) that the program ensures that there is timely approval of applications for temporary foreign workers under the H-2A nonimmigrant worker program in the event of shortages of United States workers after the date of enactment of this Act;

(3) that the program ensures that implementation of the H-2A nonimmigrant worker program is not displacing United States agricultural workers or diminishing the terms and conditions of employment of United States agricultural workers; and

(4) if and to what extent the H-2A nonimmigrant worker program is contributing to the problem of illegal immigration.

(c) REPORT.—Not later than December 31, 1996, or three months after the date of enactment of this Act, whichever is sooner, the Comptroller General shall submit a report to Congress setting forth the findings of the review conducted under subsection (b).

(d) DEFINITIONS.—As used in this section—

(1) the term "Comptroller General" means the Comptroller General of the United States; and

(2) the term "H-2A nonimmigrant worker program" means the program for the admission of nonimmigrant aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act.

HARKIN AMENDMENT NO. 3808

(Ordered to lie on the table.)

Mr. HARKIN submitted an amendment intended to be proposed by him to amendment No. 3743 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

At the appropriate place in the matter proposed to be inserted, following:

SEC. DEBARMENT OF FEDERAL CONTRACTORS NOT IN COMPLIANCE WITH IMMIGRATION AND NATIONALITY ACT EMPLOYMENT PROVISIONS.

(a) POLICY.—It is the policy of the United States that—

(1) the heads of executive agencies in procuring goods and services should not contract with an employer that has not complied with paragraphs (1)(A) and (2) of section 274A(a) of the Immigration and Nationality Act (8 U.S.C. 1324a(a)) (hereafter in this section referred to as the "INA employment provisions"), which prohibit unlawful employment of aliens; and

(2) the Attorney General should fully and aggressively enforce the antidiscrimination provisions of the Immigration and Nationality Act.

(b) ENFORCEMENT.—

(1) AUTHORITY.—

(A) IN GENERAL.—Using the procedures established pursuant to section 274A(e) of the Immigration and Nationality Act (8 U.S.C. 1324a(e)), the Attorney General may conduct such investigations as are necessary to determine whether a contractor or an organizational unit of the contractor is not complying with the INA employment provisions.

(B) COMPLAINTS AND HEARINGS.—The Attorney General—

(i) shall receive and may investigate any complaint by an employee of any such entity that alleges noncompliance by such entity with the INA employment provisions; and

(ii) in conducting the investigation, shall hold such hearings as are necessary to determine whether that entity is not in compliance with the INA employment provisions.

(2) ACTIONS OF DETERMINATIONS OF NONCOMPLIANCE.—

(A) ATTORNEY GENERAL.—Whenever the Attorney General determines that a contractor of an organizational unit of a contractor is not in compliance with the INA employment provisions, the Attorney General shall transmit that determination to the head of each executive agency that contracts with the contractor and the heads of other executive agencies that the Attorney General determines it appropriate to notify.

(B) HEAD OF CONTRACTING AGENCY.—Upon receipt of the determination, the head of a contracting executive agency shall consider the contractor of an organizational unit of the contractor for debarment, and shall take such other action as may be appropriate, in accordance with applicable procedures and standards set forth in the Federal Acquisition Regulation.

(C) NONREVIEWABILITY OF DETERMINATION.—The Attorney General's determination is not reviewable in debarment proceedings.

(c) DEBARMENT.

(1) AUTHORITY.—The head of an executive agency may debar a contractor or an organizational unit of a contractor on the basis of a determination of the Attorney General that it is not in compliance with the INA employment provisions.

(2) SCOPE.—The scope of the debarment generally should be limited to those organizational units of a contractor that the Attorney General determines are not in compliance with the INA employment provisions.

(3) PERIOD.—The period of a debarment under this subsection shall be one year, except that the head of the executive agency may extend the debarment for additional periods of one year each if, using the procedures established pursuant to section 274A(e) of the Immigration and Nationality Act (8 U.S.C. 1324a(e)), the Attorney General determines that the organizational unit of the contractor concerned continues not to comply with the INA employment provisions.

(4) LISTING.—The Administrator of General Services shall list each debarred contractor and each debarred organizational unit of a contractor on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs that is maintained by the Administrator. No debarred contractor and no debarred organizational unit of a contractor shall be eligible to participate in any procurement, nor in any nonprocurement activities, of the Federal Government.

(d) REGULATIONS AND ORDERS.—

(1) ATTORNEY GENERAL.—

(A) AUTHORITY.—The Attorney General may prescribe such regulations and issue such orders as the Attorney General considers necessary to carry out the responsibilities of the Attorney General under this section.

(B) CONSULTATION.—In proposing regulations or orders that affect the executive agencies, the Attorney General shall consult with the Secretary of Defense, the Secretary of Labor, the Administrator of General Services, the Administrator of the National Aeronautics and Space Administration, the Administrator for Federal Procurement Policy, and the heads of any other executive agencies that the Attorney General considers appropriate.

(2) FEDERAL ACQUISITION REGULATION.—The Federal Acquisition Regulatory Council shall amend the Federal Acquisition Regulation to the extent necessary to provide for implementation of the debarment responsibility and other related responsibilities assigned to heads of executive agencies under this section.

(e) INTERAGENCY COOPERATION.—The head of each executive agency shall cooperate with, and provide such information and assistance to, the Attorney General as is necessary for the Attorney General to perform the duties of the Attorney General under this section.

(f) DELEGATION.—The Attorney General, the Secretary of Defense, the Administrator of General Services, the Administrator of the National Aeronautics and Space Administration, and the head of any other executive agency may delegate the performance of any of the functions or duties of that official under this section to any officer or employee of the executive agency under the jurisdiction of that official.

(g) IMPLEMENTATION NOT TO BURDEN PROCUREMENT PROCESS EXCESSIVELY.—This section shall be implemented in a manner that least burdens the procurement process of the Federal Government.

(h) CONSTRUCTION.—

(1) ANTIDISCRIMINATION.—Nothing in this section relieves employers of the obligation to avoid unfair immigration-related employment practices as required by—

(A) the antidiscrimination provisions of section 274B of the Immigration and Nationality Act (8 U.S.C. 1324b), including the provisions of subsection (a)(6) of that section concerning the treatment of certain documentary practices as unfair immigration-related employment practices; and

(B) all other antidiscrimination requirements of applicable law.

(2) CONTRACT TERMS.—This section neither authorizes nor requires any additional certification provision, clause, or requirement to be included in any contract or contract solicitation.

(3) NO NEW RIGHTS AND BENEFITS.—This section may not be construed to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, including any department or agency, officer, or employee of the United States.

(4) JUDICIAL REVIEW.—This section does not preclude judicial review of a final agency decision in accordance with chapter 7 of title 5, United States Code.

(i) DEFINITIONS.—In this section:

(1) EXECUTIVE AGENCY.—The term "executive agency" has the meaning given that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

(2) CONTRACTOR.—The term "contractor" means any individual or other legal entity that—

(A) directly or indirectly (through and affiliate or otherwise), submits offers for or is awarded, or reasonably may be expected to submit offers for or be awarded, a Federal Government contract, including a contract for carriage under Federal Government or commercial bills of lading, or a subcontract under a Federal Government contract; or

(B) conducts business, or reasonably may be expected to conduct business, with the Federal Government as an agent or representative of another contractor.

SIMON AMENDMENTS NOS. 3809—3810

Mr. SIMON submitted two amendments intended to be proposed by him to amendment No. 3743 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

AMENDMENT NO. 3809

In Section 202(a), at page 190, strike line 16 and all that follows through line 25 and insert the following:

"(v) Any State general cash assistance program.

"(vi) Financial assistance as defined in section 214(b) of the Housing and Community Development Act of 1980.".

AMENDMENT NO. 3810

In Section 204, at page 201, after line 4, insert the following subparagraph (4):

(4) ALIENS DISABLED AFTER ENTRY.—The requirements of subsection (a) shall not apply with respect to any alien who has been lawfully admitted to the United States for permanent residence, and who since the date of such lawful admission, has become blind or disabled, as those terms are defined in the Social Security Act, 42 U.S.C. 1382j(f).

SIMON (AND OTHERS) AMENDMENT NOS. 3811-3813

(Ordered to lie on the table.)

Mr. SIMON (for himself, Mr. GRAHAM, Mrs. FEINSTEIN, and Mrs. MURRAY) submitted three amendments intended to be proposed by him to amendment No. 3743 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

AMENDMENT NO. 3811

In Section 204(c), at page 199, line 4, strike ", or for a period of 5 years beginning on the day such alien was first lawfully in the United States after the execution of such affidavit or agreement, whichever period is longer".

AMENDMENT NO. 3812

In Section 204(e)(2), at page 202, line 2, strike ", or for a period of 5 years beginning

on the day such alien was first lawfully in the United States after the execution of such affidavit of support or agreement, whichever period is longer".

AMENDMENT NO. 3813

Strike page 199, line 4, and all that follows through page 202, line 5, and insert the following:

"to provide support for such alien.

"(d) EXCEPTIONS.—

(1) INDIGENCE.—

(A) IN GENERAL.—If a determination described in subparagraph (B) is made, the amount of income and resources of the sponsor or the sponsor's spouse which shall be attributed to the sponsored alien shall not exceed the amount actually provided for a period—

(I) beginning on the date of such determination and ending 12 months after such date, or

(ii) if the address of the sponsor is unknown to the sponsored alien, beginning on the date of such determination and ending on the date that is 12 months after the address of the sponsor becomes known to the sponsored alien or to the agency (which shall inform such alien of the address within 7 days).

(B) DETERMINATION DESCRIBED.—A determination described in this subparagraph is a determination by an agency that a sponsored alien would, in the absence of the assistance provided by the agency, be unable to obtain food and shelter, taking into account the alien's own income, plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor.

(2) EDUCATION ASSISTANCE.—

(A) IN GENERAL.—The requirements of subsection (a) shall not apply with respect to sponsored aliens who have received, or have been approved to receive, student assistance under the title IV, V, IX, or X of the Higher Education Act of 1965 in an academic year which ends or begins in the calendar year in which the Act is enacted.

(B) DURATION.—The exception described in subparagraph (A) shall apply only for the period normally required to complete the course of study for which the sponsored alien receives assistance described in that subparagraph.

(3) CERTAIN SERVICES AND ASSISTANCE.—The requirements of subsection (a) shall not apply to any service or assistance described in section 201(a)(1)(A)(vii).

(e) DEEMING AUTHORITY TO STATE AND LOCAL AGENCIES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, but subject to exceptions equivalent to the exceptions described in subsection (d), the State or local government may, for purposes of determining the eligibility of an alien for benefits, and the amount of benefits, under any State or local program of assistance for which eligibility is based on need, or any need-based program of assistance administered by a State or local government (other than a program of assistance provided or funded, in whole or in part, by the Federal Government), require that the income and resources described in subsection (b) be deemed to be the income and resources of such alien.

(2) LENGTH OF DEEMING PERIOD.—Subject to exceptions equivalent to the exceptions described in subsection (d), a State or local government may impose the requirement described in paragraph (1) for the period for which the sponsor has agreed, in such affidavit or agreement, to provide support for such alien.

SIMON (AND DEWINE) AMENDMENT NO. 3814

(Ordered to lie on the table.)

Mr. SIMON (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by them to amendment No. 3743 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

In Section 202(a), at page 188, line 19, after "deportable", insert "for a period of five years after the immigrant becomes a public charge, as defined in subsection (c)(ii)".

SIMON AMENDMENT NO. 3815

(Ordered to lie on the table.)

Mr. SIMON proposed an amendment intended to be proposed by him to amendment No. 3743 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

On page 106, at line 15, strike "(1) (A), (B), or (C)" and insert "(1) (B) or (C)".

KENNEDY AMENDMENTS NOS. 3816–3832

(Ordered to lie on the table.)

Mr. KENNEDY submitted 17 amendments intended to be proposed by him to the bill S. 1664, supra; as follows:

AMENDMENT NO. 3816

On page 37 of the matter proposed to be inserted, beginning on line 12, strike all through line 19, and insert the following:

(a) IN GENERAL.—Paragraph (6) of section 274B(a) (8 U.S.C. 1324b(a)(6)) is amended to read as follows:

"(6) TREATMENT OF CERTAIN DOCUMENTARY PRACTICES AS EMPLOYMENT PRACTICES.—

"(A) IN GENERAL.—For purposes of paragraph (1) a person's or other entity's request, in order to satisfy the requirements of section 274A(b), for additional or different documents than are required under such section or refusal to honor documents tendered that on their face reasonably appear to be genuine shall be treated as an unfair immigration-related employment practice relating to the hiring of individuals. A person or other entity may not request a specific document from among the documents permitted by section 274A(b)(1).

"(B) REVERIFICATION.—Upon expiration of an employee's employment authorization, a person or other entity shall reverify employment eligibility by requesting a document evidencing employment authorization in order to satisfy section 274A(b)(1). However, the person or entity may not request a specific document from among the documents permitted by such section.

"(C) ABILITY TO PRESENT PERMITTED DOCUMENT.—Nothing in this paragraph shall be construed to prohibit an individual from presenting any document or combination of documents permitted by section 274A(b)(1).".

(b) LIMITATIONS ON COMPLAINTS.—Section 274B(d) (8 U.S.C. 1324b(d)) is amended by adding at the end the following new paragraph:

"(4) LIMITATIONS ON ABILITY OF OFFICE OF SPECIAL COUNSEL TO FILE COMPLAINTS IN DOCUMENT ABUSE CASES.—

"(A) IN GENERAL.—Subject to subsection (a)(6)(A) and (B), if an employer—

"(i) accepts, without specifying, documents that meet the requirements of establishing work authorization,

"(ii) maintains a copy of such documents in an official record, and

"(iii) such documents appear to be genuine,

the Office of Special Counsel shall not bring an action alleging a violation of this section. The Special Counsel shall not authorize the filing of a compliant under this section if the Service has informed the person or entity that the documents tendered by an individual are not acceptable for purposes of satisfying the requirements of section 274A(b).

"(B) ACCEPTANCE OF DOCUMENT.—Except as provided in subsection (a)(6)(A) and (B), a person or entity may not be charged with a violation of subsection (a)(6)(A) as long as the employee has produced, and the person or entity has accepted, a document or documents from the accepted list of documents, and the document reasonably appears to be genuine on its face.".

(c) GOOD FAITH DEFENSE.—Section 274A(a)(3) (8 U.S.C. 1324a(a)(3)) is amended to read as follows:

"(3) DEFENSE.—A person or entity that establishes that it has complied in good faith with the requirements of subsection (b) with respect to the hiring, recruiting, or referral for employment of an alien in the United States has established an affirmative defense that the person or entity has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral. This section shall apply, and the person or entity shall not be liable under paragraph (1)(A), if in complying with the requirements of subsection (b), the person or entity requires the alien to produce a document or documents acceptable for purposes of satisfying the requirements of section 274A(b), and the document or documents reasonably appear to be genuine on their face and to relate to the individual, unless the person or entity, at the time of hire, possesses knowledge that the individual is an unauthorized alien (as defined in subsection (h)(3)) with respect to such employment. The term "knowledge" as used in the preceding sentence, means actual knowledge by a person or entity that an individual is an unauthorized alien, or deliberate or reckless disregard of facts or circumstances which would lead a person or entity, through the exercise of reasonable care, to know about a certain condition.".

AMENDMENT NO. 3817

On page 37 of the matter proposed to be inserted, beginning on line 9, strike all through line 19.

AMENDMENT NO. 3818

On page 181, line 9, strike "or" and insert "and

"(viii) any program of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965; or".

AMENDMENT NO. 3819

On page 200, strike lines 12 through 25, and insert the following:

(2) EDUCATION ASSISTANCE.—The requirements of subsection (a) shall not apply to any assistance provided under any program of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965.

AMENDMENT NO. 3820

Beginning on page 200, line 12, strike all that follows through page 201, line 4, and insert the following:

(2) CERTAIN FEDERAL PROGRAMS.—The requirements of subsection (a) shall not apply to any of 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 of 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.

(J) Prenatal and postpartum services under title XIX of the Social Security Act.

AMENDMENT NO. 3821

Beginning on page 200, line 12, strike all that follows through page 201, line 4, and insert the following:

(2) CERTAIN FEDERAL PROGRAMS.—The requirements of subsection (a) shall not apply to any of 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 1996.

(E) Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of 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.

(J) Prenatal and postpartum services under title XIX of the Social Security Act.

AMENDMENT NO. 3822

On page 201 after line 4, insert the following:

(3) CERTAIN SERVICES AND ASSISTANCE.—The requirements of subsection (a) shall not apply to—

(A) any service or assistance described in section 201(a)(1)(A)(vii);

(B) prenatal and postpartum services provided under a State plan under title XIX of the Social Security Act.

(C) services provided under a State plan under such title of such Act to individuals who are less than 18 years of age; or

(D) services provided under a State plan under such title of such Act to an alien who is a veteran, as defined in section 101 of title 38, United State Code.

AMENDMENT NO. 3823

On page 190, after line 25, insert the following:

"(E) EXCEPTION TO DEFINITION OF PUBLIC CHARGE.—Notwithstanding any program described in subparagraph (D), for purposes of subparagraph (A), the term 'public charge' shall not include any alien who receives any benefits, services, or assistance under a program described in section 204(d).".

AMENDMENT NO. 3824

On page 190, after line 25, insert the following:

"(E) EXCEPTION TO DEFINITION OF PUBLIC CHARGE.—Notwithstanding any program described in subparagraph (D), for purposes of subparagraph (A), the term 'public charge' shall not include any alien who receives any services or assistance described in section 204(d)(3).".

AMENDMENT NO. 3825

On page 182, strike lines 22 and 23, and insert the following:

(4) LIMITATION ON PREGNANCY SERVICES FOR UNDOCUMENTED ALIENS.—Notwithstanding any other provision of law, the following subparagraphs shall apply to the provision of pregnancy services for ineligible aliens:

AMENDMENT NO. 3826

At the appropriate place in the bill, insert the following new section:

SEC. . LIMITATION ON EXPENDITURES FOR PREGNANCY-RELATED SERVICES TO UNDOCUMENTED ALIENS.

Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended by inserting after subsection (k), the following new subsection:

"(1) Notwithstanding any other provision of law, for any fiscal year, not more than $120,000,000 may be paid under this title for reimbursement of services described in section 201(a)(1)(A)(ii) of the Immigration Control and Financial Responsibility Act of 1996 that are provided to individuals described in section 201(a)(4)(A) of such Act.".

AMENDMENT NO. 3827

At the appropriate place in the amendment, insert the following new section:

SEC. . LIMITATION ON EXPENDITURES UNDER THE MEDICAID PROGRAM FOR PREGNANCY-RELATED SERVICES PROVIDED TO UNDOCUMENTED ALIENS.

Beginning with fiscal year 1997 and each fiscal year thereafter, with respect to payments for expenditures for services described in section 201(a)(1)(A)(ii) that are provided to individuals described in section 201(a)(4)(A)—

(1) the Federal Government has no obligation to provide payment with respect to such expenditures in excess of $120,000,000 during any such fiscal year and nothing in section 201(a)(1)(A)(ii), section 201(e)(4)(A), or title XIX of the Social Security Act shall be construed as providing for an entitlement, under Federal law in relation to the Federal Government, in an individual or person (including any provider) at the time of provision or receipt of such services; and

(2) a State shall provide an entitlement to any person to receive any service, payment, or other benefit to the extent that such person would, but for this section, be entitled to such service, payment, or other benefit under title XIX of the Social Security Act.

AMENDMENT NO. 3828

On page 182, line 2 of the matter proposed to be inserted, insert the following new sentence: "The preceding sentence shall not apply to any preschool, elementary, secondary, or adult educational benefit.

AMENDMENT NO. 3829

On page 8, line 17, before the period insert the following: "except that not more than 150 of the number of investigators authorized in this subparagraph shall be designated for the purpose of carrying out the responsibilities of the Secretary of Labor to conduct investigations, pursuant to a complaint or otherwise, where there is reasonable cause to believe that an employer has made a misrepresentation of a material fact on a labor certification application under section 212(a)(5) of the Immigration and Nationality Act or has failed to comply with the terms and conditions of such an application".

AMENDMENT NO. 3830

On page 56 of the matter proposed to be inserted, strike line 17 through line 20, and insert the following:

(d) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The Commission may promulgate the guidelines or amendments provided for under this section as soon as practicable in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

AMENDMENT NO. 3831

On page 69 of the matter proposed to be inserted, strike line 12 through line 15, and insert the following:

(c) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The Commission may promulgate the guidelines or amendments provided for under this section as soon as practicable in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

AMENDMENT NO 3832

On page 81 of the matter proposed to be inserted, between lines 9 and 10, insert the following:

(d) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The Commission may promulgate the guidelines or amendments provided for under this section as soon as practicable in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

DEWINE (AND OTHERS) AMENDMENT NO. 3833

(Ordered to lie on the table.)

Mr. DEWINE (for himself, Mr. ABRAHAM and Mr. FEINGOLD) submitted an amendment intended to be proposed by them to the bill S. 1664, supra; as follows:

In section 104, strike "300" and insert "600";

In section 105(a), strike "350" and insert "700".

DEWINE (AND ABRAHAM) AMENDMENTS NOS. 3834–3835

(Ordered to lie on the table.)

Mr. DEWINE (for himself and Mr. ABRAHAM) submitted two amendments intended to be proposed by them to amendment No. 3745 proposed by Mr. LOTT to the bill S. 1664, supra; as follows:

AMENDMENT NO. 3834

At the end of the amendment to the instructions to the motion to recommit, insert the following:

The language on page 155, section 172, is null, void, and of no effect.

AMENDMENT NO. 3835

At the end of the amendment to the instructions to the motion to recommit, insert the following new section:

The language on page 177, between lines 8 and 9, is deemed to have the following insertion:

"SEC. 197. PERSECUTION FOR RESISTANCE TO COERCIVE POPULATION CONTROL METHODS.

Section 101(a)(42) of the Immigration and Nationality Act (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 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 subjected to persecution for such failure, refusal, or resistance shall be deemed to have a well founded fear of persecution on account of political opinion.'"

DEWINE (AND OTHERS) AMENDMENT NO. 3836

(Ordered to lie on the table.)

Mr. DEWINE (for himself, Mr. ABRAHAM, and Mr. FEINGOLD) submitted an amendment intended to be proposed by them to amendment No. 3735 proposed by Mr. LOTT to the bill S. 1664, supra; as follows:

At the end of the amendment to the instructions to the motion to recommit, insert the following:

The language on page 37, section 118, is null, void, and of no effect.

DEWINE (AND OTHERS) AMENDMENT NO. 3837

(Ordered to lie on the table.)

Mr. DEWINE (for himself, Mr. KENNEDY, and Mr. FEINGOLD) submitted an amendment intended to be proposed by them to amendment No. 3745 proposed by Mr. LOTT to the bill S. 1664, supra; as follows:

At the end of the amendment to the instructions to the motion to recommit, insert the following:

The language on page 174 of the bill, at the end of line 4, is deemed to include the following insertion:

"(b) As used in this section, "good cause" includes, but is not limited to, circumstances that changed after the applicant entered the U.S. and that are relevant to the applicant's eligibility for asylum; physical or mental disability; threats of retribution against the applicant's relatives abroad; attempts to file affirmatively that were unsuccessful because of technical defects; efforts to seek asylum that were delayed by the temporary unavailability of professional assistance; the illness or death of the applicant's legal representative; or other extenuating circumstances as determined by the Attorney General."

BRYAN AMENDMENT NO. 3838

(Ordered to lie on the table.)

Mr. BRYAN submitted an amendment intended to be proposed by him to amendment No. 3743 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

At the appropriate place in the matter proposed to be inserted by the amendment, insert the following:

SEC. . EXCLUSION OF CERTAIN ALIENS FROM FAMILY UNITY PROGRAM.

Section 301(e) of the Immigration Act of 1990 (8 U.S.C. 1255a note) is amended to read as follows:

"(e) EXCEPTION FOR CERTAIN ALIENS.—An alien is not eligible for a new grant or extension of benefits of this section if the Attorney General finds that the alien—

"(1) has been convicted of a felony or 3 or more misdemeanors in the United States.

"(2) is described in section 243(h)(2) of the Immigration and Nationality Act, or

"(3) has committed an act of juvenile delinquency which if committed by an adult would be classified as—

"(A) a felony crime of violence that has an element the use or attempted use of physical force against the person of another; or

"(B) a felony offense that by its nature involves a substantial risk that physical force against the person of another may be used in the course of committing the offense.".

KYL AMENDMENT NO. 3839

(Ordered to lie on the table.)

Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1664, supra; as follows:

At the end of the amendments, insert the following:

SEC. . LIMITATION ON ADJUSTMENT OF STATUS OF INDIVIDUALS NOT LAWFULLY PRESENT IN THE UNITED STATES.

(a) IN GENERAL.—Section 245(i) (8 U.S.C. 1255), as added by section 506(b) of the Department of State and Related Agencies Appropriations Act, 1995 (Public Law 103-317, 108 Stat. 1765), is amended in paragraph (1), by inserting "pursuant to section 301 of the Immigration Act of 1990 is not required to depart from the United States and who" after "who" the first place it appears.

(b) AUTHORITY TO CHARGE FEE.—Notwithstanding any other provision of law, the Secretary of State is authorized to charge a supplemental fee to any immigrant visa applicant who previously entered the United States without inspection, or who was employed while living in the United States in violation of the terms and conditions of the applicant's visa status at that time. Such supplemental fee shall be no greater than the fee for an immigrant visa. No such fee shall be assessed if the applicant is under the age of seventeen, or is the spouse or child of an individual who obtained temporary or permanent status under section 210 or 245A of the Immigration and Nationality Act or section 202 of the Immigration Reform and Control Act of 1986.

(c) USE OF FEES.—Funds collected under the authority of subsection (a) as a supplemental fee shall be deposited as an offsetting collection to any Department of State appropriation only to recover the costs of consular operations. Such funds shall remain available until expended.

(d) SUPPLEMENTAL NATURE OF FEES.—Any supplemental fee imposed in accord with (b) shall be in addition to other fees imposed by the Department of State relating to adjudication, processing and issuance of immigrant visas.

(e) EFFECTIVE DATE.—(1) The amendment made by subsection (a)(1) shall apply to applications for adjustment of status filed after September 30, 1996.

WELLSTONE AMENDMENTS NOS. 3844-3847

(Ordered to lie on the table.)

Mr. WELLSTONE submitted four amendments intended to be proposed by him to amendment No. 3743 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

AMENDMENT NO. 3844

At the appropriate place in the matter proposed to be inserted by the amendment, insert the following:

SEC. . CONFIDENTIALITY PROVISION FOR CERTAIN ALIEN BATTERED SPOUSES AND CHILDREN.

(a) IN GENERAL.—With respect to information provided pursuant to section 150(b)(C) of this Act and 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 only information furnished solely by—

(A) a spouse or parent who has battered the alien or the alien's children or subjected the alien or the alien's children to extreme cruelty, or

(B) a member of the alien's spouse's or parent's family who has battered the alien or the alien's child or subjected the alien or alien's child to extreme cruelty,

unless the alien has been convicted of a crime or crimes listed in section 241(a)(2) of the Immigration and Nationality Act;

(2) make any publication whereby information furnished by any particular individual can be identified;

(3) permit anyone other than the sworn officers and employees of the Department, bureau or agency, who needs to examine such information for legitimate Department, bureau, or agency purposes, to examine any publication of any individual who files for relief as a person who has been battered or subjected to extreme cruelty.

(b) EXCEPTIONS.—(1) The Attorney General may provide for the furnishing of information furnished under this section 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 for the furnishing of information furnished under this section to law enforcement officials to be used solely for legitimate law enforcement purposes.

AMENDMENT NO. 3845

On page 106, line 9, strike the period and insert the following: "except that the Attorney General may extend the time period described in this subparagraph for aliens eligible for relief under paragraph (1)(C).".

AMENDMENT NO. 3846

At the appropriate place, insert the following:

SEC. . EXCEPTION TO DEPORTABILITY.

(a) IN GENERAL.—Section 241 of the Immigration and Nationality Act (8 U.S.C. 1251) is amended by adding at the end the following new subsection:

"(d) The provisions of subsection (d) of this section shall not apply to persons who are battered or subjected to extreme cruelty perpetrated by a United States citizen or lawful permanent resident spouse or parent who—

"(1) is eligible for status as a spouse or a 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;

"(2) is eligible for classification pursuant to clauses (ii) or (iii) of section 204(a)(1)(B) of the Act;

"(3) is eligible for suspension of deportation and adjustment of status pursuant to 244(a)(3) of the Act; or

"(4) is the beneficiary of a petition for status as a spouse or child of a United States citizen pursuant to clause (i) of section 204(a)(1)(A) of the Act, or of a petition filed for classification pursuant to clause (i) of section 204(a)(1)(B) of such Act."

(b) CANCELLATION OF DEPORTATION.—Section 244(a)(1)(C) of the Immigration and Nationality Act (8 U.S.C. 1254(a)(3)), as added by

section 150 of this Act, is further amended by inserting after "alien's parent or child" the following: ", or who meets the criteria of this subsection and is excludable under section 212(a) except for paragraphs (2), (3), (9)(A) of section 212(a)".

AMENDMENT NO. 3847

At the end of the matter proposed to be inserted by the amendment, insert the following:

SEC. . 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 naturalization 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.

(3) CONSTRUCTION.—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.

KOHL AMENDMENT NO. 3848

(Ordered to lie on the table.)

Mr. KOHL submitted an amendment intended to be proposed by him to amendment No. 3743 by Mr. SIMPSON to the bill S. 1664, supra; as follows:

On page 167, between lines 10 and 11, insert the following:

SEC. 304. MAIL-ORDER BRIDE BUSINESS.

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

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

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

(3) Although many of these mail-order marriages work out, in many other cases, anecdotal evidence suggests that mail-order brides often find themselves in abusive relationships. There is also evidence to suggest that a substantial number of mail-order marriages constitute marriage fraud under United States law.

(4) Many mail-order brides comes to the United States unaware or ignorant of United States immigration law. Mail-order brides who are battered spouses often think that if they flee an abusive marriage, they will be deported. Often the citizen spouse threatens to have them deported if they report the abuse.

(5) The Immigration and Naturalization Service estimates the rate of marriage fraud between foreign nationals and United States citizens or legal permanent residents as up to five percent. It is unclear what percent of those marriage fraud cases originated as mail-order marriages.

(b) INFORMATION DISSEMINATION.—Each international matchmaking organization doing business in the United States shall disseminate to recruits, upon recruitment, such immigration and naturalization information as the Immigration and Naturalization Service deems appropriate, in the recruit's native language, including information regarding conditional permanent residence status, permanent resident status, the battered spouse waiver of conditional permanent resident status requirement, marriage fraud penalties, immigrants' rights, the unregulated nature of the business, and the study mandated in subsection (c).

(c) STUDY.—The Attorney General, in consultation with the Commission of Immigration and Naturalization and the Violence Against Women Office of the Department of Justice, shall conduct a study to determine, among other things—

(1) the number of mail-order marriages;

(2) the extent of marriage fraud arising as a result of the services provided by international matchmaking organizations;

(3) the extent to which mail-order spouses utilize section 244(a)(3) of the Immigration and Nationality Act providing for waiver of deportation in the event of abuse, or section 204(a)(1)(A)(iii) of such Act providing for self-petitioning for permanent resident status;

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

(5) the need for continued or expanded regulation and education to implement the objectives of the Violence Against Women Act of 1994 in this area.

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

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

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

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

(1) INTERNATIONAL MATCHMAKING ORGANIZATION.—The term "international matchmaking organization" means a corporation, partnership, business, or other legal entity, whether or not organized under the laws of the United States or any State, that does business in the United States and for profit offers to United States citizens or permanent resident aliens, dating, matrimonial, or social referral services to nonresident, noncitizens, by—

(A) an exchange of names, telephone numbers, addresses, or statistics;

(B) selection of photographs; or

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

(2) RECRUIT.—The term "recruit" means a noncitizen, nonresident person, recruited by the international matchmaking organization for the purpose of providing dating, matrimonial, or social referral services to United States citizens or permanent resident aliens.

HELMS (AND OTHERS) AMENDMENT NO. 3849

(Ordered to lie on the table.)

Mr. HELMS (for himself, Mr. CRAIG, and Mr. GRAMM) submitted an amendment intended to be proposed by them to the bill S. 1664, supra; as follows:

At the appropriate place in the amendment, add the following:

SEC. . (a) Notwithstanding any other provision of law, none of the funds made available, or to be made available, to the Legal Services Corporation may be used to provide financial assistance to any person or entity that provides legal assistance for or on behalf of any alien, unless the alien is present in the United States and is—

(1) an alien lawfully admitted for permanent residence as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)); or

(2) an alien who—

(A) is married to a United States citizen or is a parent or an unmarried child under the age of 21 years of such a citizen; and

(B) has filed an application to adjust the status of the alien to the status of a lawful permanent resident under the Immigration and Nationality Act (8 U.S.C. 1101 et seq), which application has not been rejected;

(3) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) (relating to refugee admission) or who has been granted asylum by the Attorney General under such Act;

(4) an alien who is lawfully present in the United States as a result of withholding of deportation by the Attorney General pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)); or

(5) an alien who is lawfully present in the United States as a result of being granted conditional entry to the United States before April 1, 1980, pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)), as in effect on March 31, 1980, because of persecution or fear of persecution on account of race, religion, or political calamity.

HUTCHISON (AND KYL) AMENDMENTS NOS. 3850–3851

(Ordered to lie on the table.)

Mrs. HUTCHISON (for herself and Mr. KYL) submitted two amendments intended to be proposed by them to the bill S. 1664, supra; as follows:

AMENDMENT No. 3850

At the end of the appropriate place, insert the following new section:

SEC. . REDEPLOYMENT OF BORDER PATROL PERSONNEL LOCATED AT INTERIOR STATIONS.

The Immigration and Naturalization Service shall, when redeploying Border Patrol personnel from interior stations, act in conjunction with and coordinate with state and local law enforcement agencies to ensure that such redeployment does not compromise or degrade the law enforcement functions and capabilities currently performed at interior Border Patrol stations.

AMENDMENT NO. 3851

At the appropriate place insert the following new section:

SEC. . DISQUALIFICATION FROM ATTAINING NONIMMIGRANT OR PERMANENT RESIDENCE STATUS.

(a) DISAPPROVAL OF PETITIONS.—Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by adding at the end the following new subsection:

"(i) Restrictions on future entry of aliens apprehended for violating immigration laws.

"(1) The Attorney General may not approve any petition for lawful permanent residence status filed by an alien or any person on behalf of an alien (other than petitions filed by or on behalf of spouses of U.S. citizens or of aliens lawfully admitted for permanent residence) who has at any time been apprehended in the United States for (A) entry without inspection, or (B) failing to depart from the United States within one year of the expiration of any nonimmigrant visa, until the date that is ten years after the alien's departure or removal from the United States.

(b) VIOLATION OF IMMIGRATION LAW AS GROUNDS FOR EXCLUSION.—Section 212(a)(6) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)) is amended by adding at the end the following new subsection:

"(G) Aliens previously apprehended.

"Any alien who (i) has at any time been apprehended in the United States for entry without inspection, or (ii) has failed to depart from the United States within one year of the expiration date of any nonimmigrant visa, unless such alien has applied for and been granted asylum or refugee status in the United States or has a bona fide application for asylum pending, is excludable until the date that is ten years after the alien's departure or removal from the United States.".

(c) DENIAL OF ADJUSTMENT OF STATUS.—Section 245(c) of the Immigration and Nationality Act (8 U.S.C. 1255(c)) is amended—

(1) by striking "or (5)" and inserting "(5)"; and

(2) by inserting before the period the following: "or (6) any alien who (A) has at any time been apprehended in the United States for entry without inspection, or (B) has failed to depart from the United States within one year of the expiration under section 208 date of any nonimmigrant visa, unless such alien has applied for and been granted asylum or refugee status in the United States or has a bona fide application for asylum pending.".

(d) EXCEPTIONS.—Section 245 (8 U.S.C. 1254) is amended by adding at the end the following new subsection:

"(k) The following periods of time shall be excluded from the determination of periods of unauthorized stay under subsection (c)(6)(B) and section 204(i):

(1) Any period of time in which an alien is under 18 years of age.

(2) Any period of time in which an alien has a bona fide application for asylum pending under section 208.

(3) Any period of time during 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.

(4) Any period of time during which the alien is a beneficiary of family unity protection pursuant to section 301 on the Immigration Act of 1990.

(5) Any period of time for which the alien demonstrates good cause for remaining in the United States without the authorization of the Attorney General.

SNOWE AMENDMENT NO. 3852

(Ordered to lie on the table.)

Ms. SNOWE submitted an amendment intended to be proposed by her to amendment No. 3743 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

At the end of the matter proposed to be inserted by the amendment, insert the following:

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. CUSTOMS SERVICES AT CERTAIN AIRPORTS.

Section 13031(c)(2) of the Consolidated Omnibus Reconciliation Act of 1985 (19 U.S.C. 58c(c)(2)) is amended by inserting "(or an airport that is expected to receive more than 50,000 international passengers annually)" after "port of entry."

SIMPSON AMENDMENTS NO. 3853–3855

(Ordered to lie on the table.)

Mr. SIMPSON submitted three amendments intended to be proposed by him to amendment No. 3743 proposed by him to the bill S. 1664, supra; as follows:

AMENDMENT NO. 3853

Amend section 112(a)(1)(A) to read as follows:

(A)(i) Subject to clause (ii) and (iv), the President, acting through the Attorney General, shall begin conducting several local or regional projects, and a project in the legislative branch of the Federal Government, to demonstrate the feasibility of alternative systems for verifying eligibility for employment in the United States, and immigration status in the United States for purposes of eligibility for benefits under public assistance programs (as defined in section 201(f)(3) and government benefits described in section 301(f)(4)).

(ii) Each project under this section shall be consistent with the objectives of section 111(b) and this section and shall be conducted in accordance with an agreement entered into with the State, locality, employer, other entity, or the legislative branch of the Federal Government, as the case may be.

(iii) In determining which State(s), localities, employers, or other entities shall be designated for such projects, the Attorney General shall take into account the estimated number of excludable aliens and deportable aliens in each State or locality.

(iv) At a minimum, at least one project of the kind described in paragraph (2)(E), at least one project of the kind described in paragraph (2)(F), and at least one project of the kind described in paragraph (2)(G), shall be conducted.

Section 112(f) is amended to read as follows:

(f) SYSTEM REQUIREMENTS.—

(1) IN GENERAL.—Demonstration projects conducted under this section shall substantially meet the criteria in section 111(c)(1), except that with respect to the criteria in subparagraphs (D) and (G) of section 111(c)(1), such projects are required only to be likely to substantially meet the criteria, as determined by the Attorney General.

(2) SUPERSEDING EFFECT.—(A) If the Attorney General determines that any demonstration project conducted under this section substantially meets the criteria in section 111(c)(1), other than the criteria in subparagraphs (D) and (G) of that section, and meets the criteria in such subparagraphs (D) and (G) to a sufficient degree, the requirements for participants in such project shall apply during the remaining period of its operation in lieu of the procedures required under section 274A(b) of the Immigration and Nationality Act. Section 274B of such Act shall remain fully applicable to the participants in the project.

(B) If the Attorney General makes the determination referred to in subparagraph (A), the Attorney General may require other, or all, employers in the geographical area covered by such project to participate in it during the remaining period of its operation.

(C) The Attorney General may not require any employer to participate in such a project except as provided in subparagraph (B).

AMENDMENT NO. 3854

Sec. 112(a) is amended on page 31, after line 18, by adding the following new subsection:

"(i) DEFINITION OF REGIONAL PROJECT.—For purposes of this section, the term "regional project" means a project conducted in a geographical area which includes more than a single locality but which is smaller than an entire State.".

AMENDMENT NO. 3855

In sec. 112(b), on page 42, delete lines 18 through 19 and insert the following:

"(5) EFFECTIVENESS DATES.—

"(A) Except as otherwise provided in subparagraph (B) or (C), this subsection shall take effect on October 1, 2000.

"(B)(i) With respect to driver's licenses or identification documents issued by States that issue such licenses or documents for a period of validity of six years or less, paragraphs (1) and (3) shall apply beginning on October 1, 2000, but only to licenses or documents issued to an individual for the first time and to replacement or renewal licenses issued according to State law.

"(ii) With respect to driver's licenses or identification documents issued in States that issue such licenses or documents for a period of validity of more than six years, paragraphs (1) and (3) shall apply—

"(I) during the period of October 1, 2000 through September 30, 2006, only to licenses or documents issued to an individual for the first time and to replacement or renewal licenses issued according to State law, and

"(II) beginning on October 1, 2006, to all driver's licenses or identification documents issued by such States.

"(C) Paragraph (4) shall take effect on October 1, 2006."

SIMPSON AMENDMENT NO. 3856

(Ordered to lie on the table.)

Mr. SIMPSON submitted an amendment intended to be proposed by him to the bill S. 1644, supra; as follows:

At an appropriate place, insert the following new section:

SEC. . IMPROVING AND PROTECTING THE INTEGRITY OF THE SOCIAL SECURITY ACCOUNT NUMBER CARD.

(a) IMPROVEMENTS TO CARD.—

(1) IN GENERAL.—For purposes of carrying out section 174A 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 such improvements required in paragraph (1), the Commissioner shall 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.

(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 establishment of a national identification card.

(c) 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 and 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.

SIMPSON AMENDMENTS NOS. 3857–3858

(Ordered to lie on the table.)

Mr. SIMPSON submitted two amendments intended to be proposed by him to amendment No. 3743 proposed by him to the bill S. 1664, supra; as follows:

AMENDMENT No. 3857

Amend section 118(a)(3) to read as follows:

(B) The conditions described in this subparagraph include—

(i) the presence on the original birth certificate of a notation that the individual is deceased, or

(ii) actual knowledge by the issuing agency that the individual is deceased obtained through information provided by the Social Security Administration, by an interstate system of birth-death matching, or otherwise.

(3) GRANTS TO STATES.—(A)(i) The Secretary of Health and Human Services, in consultation with other agencies designated by the President, shall establish a fund, administered through the National Center for Health Statistics, to provide grants to the States to encourage them to develop the capability to match birth and death records, within each States and among the States, and to note the fact of death on the birth certificates of deceased persons. In developing the capability described in the preceding sentence, States shall focus first on persons who were born after 1950.

(ii) Such grants shall be provided in proportion to population and in an amount needed to provide a substantial incentive for the States to develop such capability.

AMENDMENT No. 3858

In section 118(a) on page 41, strike lines 1 and 2, and insert the following:

"(6) EFFECTIVE DATES.—

"(A) Except as otherwise provided in subparagraph (B) and in paragraph (4), this subsection shall take effect two years after the enactment of this Act.

"(B) Paragraph (1)(A) shall take effect two years after the submission of the report described in paragraph (4)(B)."

SIMPSON AMENDMENT NO. 3859

(Ordered to lie on the table.)

Mr. SIMPSON submitted an amendment intended to be proposed by him to the bill S. 1664, supra; as follows:

Section 118(b)(1) is amended to read as follows:

(b) STATE-ISSUED DRIVERS LICENSES.—

(1) SOCIAL SECURITY ACCOUNT NUMBER.—Each State-issued driver's license and identification document shall contain a social security account number, except that this paragraph shall not apply if the document or license is issued by a State that requires, pursuant to a statute, regulation, or administrative policy which was respectively, enacted, promulgated, or implemented, prior to the date of enactment of this Act, that—

(A) every applicant for such license or document submit the number, and

(B) an agency of such State verify with the Social Security Administration that the number is valid and is not a number assigned for use by persons without authority to work in the United States, but not that the number appear on the card.

SIMPSON AMENDMENTS NOS. 3860–3862

(Ordered to lie on the table.)

Mr. SIMPSON submitted three amendments intended to be proposed by him to amendment No. 3743 proposed by him to the bill S. 1664, supra; as follows:

AMENDMENT No. 3860

In section 118(a), on page 40, line 24, after "birth" insert: "of—

"(A) a person born in the United States, or

"(B) a person born aboroad who is a citizen or national of the United States at birth, whose birth is".

AMENDMENT No. 3861

Amend section 118(a)(4) to read as follows:

(B) The Secretary of Health and Human Services shall establish a fund, administered through the National Center for Health Statistics, to provide grants to the States for a project in each of 5 States to demonstrate the feasibility of a system by which each such State's office of vital statistics would be provided, within 24 hours, sufficient information to establish the fact of death of every individual dying in such State.

(C) There are authorized to be appropriated to the Department of Health and Human Services such amounts as may be necessary to provide the grants described in subparagraphs (A) and (B).

(4) REPORT.—(A) Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to the Congress on ways to reduce the fraudulent obtaining and the fraudulent use of birth certificates, including any such use to obtain a social security account number or a State or Federal document related to identification or immigration.

(B) Not later than one year after the date of enactment of this Act, the agency designated by the President in paragraph (1)(B) shall submit a report setting forth, and explaining, the regulations described in such paragraph.

(C) There are authorized to be appropriated to the Department of Health and Human Services such amounts as may be necessary for the preparation of the report described in subparagraph (A).

(5) CERTIFICATE OF BIRTH.—As used in this section, the term "birth certificate" means a certificate of birth registered in the United States.

AMENDMENT No. 3862

Amend section 118(a)(1) to read as follows:

(a) BIRTH CERTIFICATES.—

(1) LIMITATION ON ACCEPTANCE.—(A) No Federal agency, including but not limited to the Social Security Administration and the Department of State, and no State agency that issues driver's licenses or identification documents, may accept for any official purpose a copy of a birth certificate, as defined in paragraph (5), unless it is issued by a State or local authorized custodian of record and it conforms to standards described in subparagraph (B).

(B) The standards described in this subparagraph are those set forth in regulations promulgated by the Federal agency designated by the President after consultation with such other Federal agencies as the President shall designate and with State vital statistics offices, and shall—

(i) include but not be limited to—

(I) certification by the agency issuing the birth certificate, and

(II) use of safety paper, the seal of the issuing agency, and other features designed to limit tampering, counterfeiting, and photocopying, or otherwise duplicating, for fraudulent purposes.

(ii) not require a single design to which the official birth certificate copies issued by each State must conform; and

(iii) accommodate the differences between the States in the manner and form in which birth records are stored and in how birth certificate copies are produced from such records.

(2) LIMITATION ON ISSUANCE.—(A) If one or more of the conditions described in subparagraph (B) is present, no State or local government agency may issue an official copy of a birth certificate pertaining to an individual unless the copy prominently notes that such individual is deceased.

ROTH AMENDMENT NO. 3863

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to the bill S. 1664, supra; as follows:

Beginning on page 184, line 11, strike all through page 185, line 2, and insert the following:

(c) SOCIAL SECURITY BENEFITS.—(1) Section 202 of the Social Security Act (42 U.S.C. 402) is amended by adding at the end the following new subsection:

"(y)(1) Notwithstanding any other provision of law and except as provided in paragraph (2), no monthly benefit under this title shall be payable to any alien in the United

States for any month during which such alien is not lawfully present in the United States as determined by the Attorney General.

"(2) Paragraph (1) shall not apply in any case where entitlement to such benefit is based on an application filed before the date of the enactment of this subsection."

REID AMENDMENTS NOS. 3864–3865

(Ordered to lie on the table.)

Mr. REID submitted two amendments intended to be proposed by him to amendment No. 3743 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

AMENDMENT NO. 3864

At the appropriate place in the matter proposed to be inserted, insert the following new section:

SEC. . PASSPORTS ISSUED FOR CHILDREN UNDER 16.

(a) IN GENERAL.—Section 1 of title IX of the Act of June 15, 1917 (22 U.S.C. 213) is amended—

(1) by striking "Before" and inserting "(a) IN GENERAL.—Before", and

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

"(b) PASSPORTS ISSUED FOR CHILDREN UNDER 16.—

"(1) SIGNATURES REQUIRED.—In the case of a child under the age of 16, the written application required as a prerequisite to the issuance of a passport for such child shall be signed by—

"(A) both parents of the child if the child lives with both parents;

"(B) the parent of the child having primary custody of the child if the child does not live with both parents; or

"(C) the surviving parent (or legal guardian) of the child, if 1 or both parents are deceased.

"(2) WAIVER.—The Secretary of State may waive the requirements of paragraph (1)(A) if the Secretary determines that circumstances do not permit obtaining the signatures of both parents.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to applications for passports filed on or after the date of the enactment of this Act.

AMENDMENT NO. 3865

At the appropriate place in the matter proposed to be inserted by the amendment, insert the following:

SEC. . FEMALE GENITAL MUTILATION.

(a) CONGRESSIONAL FINDINGS.—THE CONGRESS FINDS THAT—

(1) the practice of female genital mutilation is carried out by members of certain cultural and religious groups within the United States;

(2) the practice of female genital mutilation often results in the occurrence of physical and psychological health effects that harm the women involved;

(3) such mutilation infringes upon the guarantees of rights secured by Federal and State law, both statutory and constitutional;

(4) the unique circumstances surrounding the practice of female genital mutilation place it beyond the ability of any single State or local jurisdiction to control;

(5) the practice of female genital mutilation can be prohibited without abridging the exercise of any rights guaranteed under the First Amendment to the Constitution or under any other law; and

(6) Congress has the affirmative power under section 8 of article I, the necessary and proper clause, section 5 of the Fourteenth Amendment, as well as under the treaty clause of the Constitution to enact such legislation.

(b) BASIS OF ASYLUM.—(1) Section 101(a)(42) (8 U.S.C. 1101(a)(2)) is amended—

(A)—by inserting after "political opinion" the first place it appears: "or because the person has been threatened with an act of female genital mutilation";

(B) by inserting after "political opinion" the second place it appears the following: ", or who has been threatened with an act of female genital mutilation";

(C) by inserting after "political opinion" the third place it appears the following: "or who ordered, threatened, or participated in the performance of female genital mutilation"; and

(D) by adding at the end the following new sentence: "The term 'female genital mutilation' means an action described in section 116(a) of title 18, United States Code.".

(2) Section 243(h)(1) (8 U.S.C. 1253(h)(1)) is amended by inserting after "political opinion" the following: "or would be threatened with an act of female genital mutilation".

(c) CRIMINAL CONDUCT.—

(1) IN GENERAL.—Chapter 7 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 116. Female genital mutilation

"(a) Except as provided in subsection (b), whoever knowingly circumcises, excises, or infibulates the whole or any part of the labia majora or labia minora or clitoris of another person who has not attained the age of 18 years shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) A surgical operation is not a violation of this section if the operation is—

"(1) necessary to the health of the person on whom it is performed, and is performed by a person licensed in the place of its performance as a medical practitioner; or

"(2) performed on a person in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed in the place it is performed as a medical practitioner, midwife, or person in training to become such a practitioner or midwife.

"(c) In applying subsection (b)(1), no account shall be taken of the effect on the person on whom the operation is to be performed of any belief on the part of that or any other person that the operation is required as a matter of custom or ritual.

"(d) Whoever knowingly, denies to any person medical care or services or otherwise discriminates against any person in the provision of medical care or services, because—

"(1) that person has undergone female circumcision, excision, or infibulation; or

"(2) that person has requested that female circumcision, excision, or infibulation be performed on any person;

shall be fined under this title or imprisoned not more than one year, or both.".

"(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 7 of title 18, United States Code, is amended by adding at the end the following new item:

"116. Female genital mutilation.".

(d) EFFECTIVE DATE.—Subsection (c) shall take effect on the date that is 180 days after the date of the enactment of this Act.

SIMPSON AMENDMENT NO. 3866

Mr. HATCH (for Mr. SIMPSON) proposed an amendment to amendment No. 3743 proposed by Mr. SIMPSON to the bill S. 1664, supra; as follows:

In the table of contents, in the item relating to section 152, insert "deter" after "other methods to".

On page 56, between lines 16 and 17, insert the following:

(d) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The Commission shall promulgate the guidelines or amendments provided for under this section as soon as practicable in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

On page 56, line 17, strike "(d)" and insert "(e)".

On page 69, between lines 11 and 12, insert the following:

(c) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The Commission shall promulgate the guidelines or amendments provided for under this section as soon as practicable in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

On page 69, line 12, strike "(c)" and insert "(d)".

On page 81, between lines 9 and 10, insert the following:

(d) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The Commission shall promulgate the guidelines or amendments provided for under this section as soon as practicable in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

On page 164, line 12, after "United States", insert the following: "(including the transportation of such aliens across State lines to detention centers)".

On page 175, lines 1 and 2, strike "subsections (b) and (c)" and insert in lieu thereof "subsection (b)".

Beginning on page 175, strike line 13 and all that follows through line 8 on page 177.

On page 180, strike lines 6 through 9 and insert the following:

(iv) assistance or benefits under—

(I) the National School Lunch Act (42 U.S.C. 1751 et seq.),

(II) the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.),

(III) section 4 of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–86; 7 U.S.C. 612c note),

(IV) the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note),

(V) section 110 of the Hunger Prevention Act of 1988 (Public Law 100–435; 7 U.S.C. 612c note), and

(VI) the food distribution program on Indian reservations established under section 4(b) of Public Law 88–525 (7 U.S.C. 2013(b)),

On page 180, line 10, strike "(vi)" and insert "(v)".

On page 180, line 16, strike "(vii)" and insert "(vi)".

On page 201, lines 3 and 4, strike "section 201(a)(1)(A)(vii)" and insert "clause (iv) or (vi) of section 201(a)(1)(A)".

On page 181, line 13, strike "except" and all that follows through line 18 and insert the following: "except—

"(i) if the alien is a nonimmigrant alien authorized to work in the United States—

"(I) any professional or commercial license required to engage in such work, if the nonimmigrant is otherwise qualified for such license; or

"(II) any contract provided or funded by such an agency or entity; or

"(ii) if the alien is an alien who is outside of the United States, any contract provided or funded by such an agency or entity.".

On page 187, line 19, strike "except" and all that follows through line 24 and insert the following: "except—

"(i) if the alien is a nonimmigrant alien authorized to work in the United States—

"(I) any professional or commercial license required to engage in such work, if the nonimmigrant is otherwise qualified for such license; or

"(II) any contract provided or funded by such an agency or entity; or

"(ii) if the alien is an alien who is outside of the United States, any contract provided or funded by such an agency or entity.".

On page 181, line 24, insert "except elementary or secondary education" after "government service".

Beginning on page 184, line 11, strike all through page 185, line 2, and insert the following:

(c) SOCIAL SECURITY BENEFITS.—Section 202 of the Social Security Act (42 U.S.C. 402) is amended by adding at the end the following new subsection:

"Limitation on Payments to Aliens

"(y)(1) Notwithstanding any other provision of law and except as provided in paragraph (2), no monthly benefit under this title shall be payable to any alien in the United States for any month during which such alien is not lawfully present in the United States as determined by the Attorney General.

"(2) Paragraph (1) shall not apply in any case where entitlement to such benefit is based on an application filed before the date of the enactment of this subsection.".

On page 186, line 24, strike "or".

On page 187, line 3, strike the period and insert ", or".

On page 187, after line 3, insert the following:

(F) an alien who—

(i) has been battered or subjected to extreme cruelty in the United States by a spouse or a 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; and

(ii) has petitioned (or petitions within 45 days after the first application for means-tested government assistance under SSI, AFDC, social services block grants, Medicaid, food stamps, or housing assistance) for—

(I) status as a spouse or a 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 clause (ii) or (iii) of section 204(a)(1)(B) of the Act, or

(III) suspension of deportation and adjustment of status pursuant to section 244(a)(3) of such Act, or

(iii) is the beneficiary of a petition 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; or

(G) an alien whose child—

(i) has been battered or subjected to extreme cruelty in the United States by a spouse or a 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 and the spouse or parent consented or acquiesced to such battery or cruelty, and the alien did not actively participate in such battery or cruelty; and

(ii) has petitioned (or petitions within 45 days after the first application for assistance from a means-tested government assistance program) for—

(I) status as a spouse or a 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 clause (ii) or (iii) of section 204(a)(1)(B) of the Act, or

(III) suspension of deportation and adjustment of status pursuant to section 244(a)(3) of such Act, or

(iii) is the beneficiary of a petition 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.

On page 188, line 16, strike "Any" and insert "Except as provided in subparagraphs (B) and (E), any".

On page 188, line 19, after "deportable" insert "for a period of five years after the immigrant last receives a benefit during the public charge period under any of the programs described in subparagraph (D)".

On page 190, line 25, strike the quotation marks and the period the second place it appears.

On page 190, after line 25, add the following:

"(E) SPECIAL RULE FOR BATTERED WOMEN AND CHILDREN.—(i) For purposes of any determination under subparagraph (A), and except as provided under clause (ii), the aggregate period shall be 48 months within the first 7 years of entry if the alien can demonstrate that (I) the alien has been battered or subjected to extreme cruelty in the United States by a spouse or a 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 subjected 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 connection to the battery or cruelty described in subclause (I) or (II).

"(ii) For the purposes of a determination under subparagraph (A), the aggregate period may exceed 48 months within the first 7 years 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 such battery or cruelty has a causal relationship to the need for the benefits received pursuant to clause (i) of section 204(a)(1)(B) of such Act.

On page 190, line 25, insert after "1996" the following: "or any student assistance received or approved for receipt under title IV, V, IX, or X of the Higher Education Act of 1965 in an academic year which ends or begins in the calendar year in which this Act is enacted until the matriculation of their education".

On page 191, line 12, strike "described in" and insert "deportable under".

On page 191, line 15, strike "described in" and insert "deportable under".

On page 199, line 14, after "law", insert ", except as provided in section 204(c)(2)".

On page 199, line 1, after "(c) LENGTH OF DEEMING PERIOD.—", insert "(1)".

On page 202, between lines 5 and 6, insert the following:

(f) SPECIAL RULE FOR BATTERED WOMEN AND CHILDREN.—Notwithstanding any other provision of law, subsection (a) shall not apply—

(1) for up to 48 months if the alien can demonstrate that (A) the alien has been battered or subjected to extreme cruelty in the United States by a spouse or a 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 to or acquiesced to such battery or cruelty, or (B) the alien's child has been battered or subjected to extreme cruelty in the United States by the spouse or parent of the alien (without the active participation of the alien in the battery or 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 or acquiesced to and the alien did not actively participate in such battery or cruelty, and the battery or cruelty described in clause (i) or (ii) has a causal relationship to the need for the public benefits applied; and

(2) for more than 48 months if the alien can demonstrate that such battery or cruelty under paragraph (1) is ongoing, has led to the issuance of an order of a judge or administrative law judge or a prior determination of the Service and that such battery or cruelty has a causal relationship to the need for the benefits received.

Beginning on page 203, strike line 22 and all that follows through line 3 on page 206.

On page 214, between lines 21 and 22, insert the following:

Subtitle C—Housing Assistance

SEC. 221. SHORT TITLE.

This subtitle may be cited as the "Use of Assisted Housing by Aliens Act of 1996".

SEC. 222. PRORATING OF FINANCIAL ASSISTANCE.

Section 214(b) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(b)) is amended—

(1) by inserting "(1)" after "(b)"; and

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

"(2) If the eligibility for financial assistance of at least one member of a family has been affirmatively established under the program of financial assistance and under this section, and the eligibility of one or more family members has not been affirmatively established under this section, any financial assistance made available to that family by the Secretary of Housing and Urban Development shall be prorated, based on the number of individuals in the family for whom eligibility has been affirmatively established under the program of financial assistance and under this section, as compared with the total number of individuals who are members of the family.".

SEC. 223. ACTIONS IN CASES OF TERMINATION OF FINANCIAL ASSISTANCE.

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 adding at the end the following: "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 that assistance under the program of financial assistance and under this section."; and

(3) in subparagraph (B)—

(A) by striking "6-month period" and all that follows through the end of the subparagraph and inserting "single 3-month period.";

(B) by inserting "(i)" after "(B)";

(2) Nothing in this subsection (c) shall affect any obligation or liability of any individual or employer under title 21 of subtitle C of the Internal Revenue Code.

(3) No more than eighteen months following enactment of this Act, the Comptroller

General is directed to conduct and complete a study of whether, and to what extent, individuals who are not authorized to work in the United States are qualifying for Old Age, Survivors, and Disability Insurance (OASDI) benefits based on their earnings record.

(C) by striking "Any deferral" and inserting the following:

"(ii) Except as provided in clause (iii) and subject to clause (iv), any deferral"; and

(D) by adding at the end the following new clauses:

"(iii) The time period described in clause (ii) shall not apply in the case of a refugee under section 207 of the Immigration and Nationality Act or an individual seeking asylum under section 208 of that Act.

"(iv) The time period described in clause (ii) shall be extended for a period of 1 month in the case of any individual who is provided, upon request, with a hearing under this section.".

SEC. 224. 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 adding at the end the following: "If the declaration states that the individual is not a citizen or national of the United States and that the individual is younger than 62 years of age, 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 of Housing and Urban Development may request verification of the declaration by requiring presentation of documentation that the Secretary considers appropriate, including a United States passport, resident alien card, alien registration card, social security card, 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 "on the date of enactment of the Use of Assisted Housing by Aliens Act of 1996 or applying for financial assistance on or after that date"; and

(B) by adding at the end the following:

"In the case of an individual applying for financial assistance on or after the date of enactment of the Use of Assisted Housing by Aliens Act of 1996, the Secretary may not provide any such assistance for the benefit of that individual before 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 "on the date of enactment of the Use of Assisted Housing by Aliens Act of 1996 or applying for financial assistance on or after that date";

(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:

"(ii) in the case of any individual receiving assistance on the date of enactment of the Use of Assisted Housing by Aliens Act of 1996, may not delay, deny, reduce, or terminate the eligibility of that individual for financial assistance on the basis of the immigration status of that individual until the expiration of that 30-day period; and

"(iii) in the case of any individual applying for financial assistance on or after the date of enactment of the Use of Assisted Housing by Aliens Act of 1996, may not deny the application for such assistance on the basis of the immigration status of that individual until the expiration of that 30-day period; and"; and

(C) in subparagraph (B), by striking clause (ii) and inserting the following:

"(ii) pending such verification or appeal, the Secretary may not—

"(I) in the case of any individual receiving assistance on the date of enactment of the Use of Assisted Housing by Aliens Act of 1996, delay, deny, reduce, or terminate the eligibility of that individual for financial assistance on the basis of the immigration status of that individual; and

"(II) in the case of any individual applying for financial assistance on or after the date of enactment of the Use of Assisted Housing by Aliens Act of 1996, deny the application for such assistance on the basis of the immigration status of that individual; and";

(5) in paragraph (5), by striking "status—" and all that follows through the end of the paragraph and inserting the following: "status, the Secretary shall—

"(A) deny the application of that individual for financial assistance or terminate the eligibility of that individual for financial assistance, as applicable; and

"(B) provide to the individual written notice of the determination under this paragraph and the right to a fair hearing process."; and

(6) by striking paragraph (6) and inserting the following:

"(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 reside in the public or assisted housing unit of the individual. This provision shall not apply to a family if the ineligibility of the ineligible individual at issue was considered in calculating any proration of assistance provided for the family.".

SEC. 225. PROHIBITION OF SANCTIONS AGAINST ENTITIES MAKING FINANCIAL ASSISTANCE ELIGIBILITY DETERMINATIONS.

Section 214(e) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(e)) is amended—

(1) in paragraph (2), by adding "or" at the end;

(2) in paragraph (3), by adding at the end the following: "the response from the Immigration and Naturalization Service to the appeal of that individual."; and

(3) by striking paragraph (4).

SEC. 226. ELIGIBILITY FOR PUBLIC AND ASSISTED HOUSING.

Section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a) is amended by adding at the end the following new subsection:

"(h) VERIFICATION OF ELIGIBILITY.—

"(1) IN GENERAL.—Except in the case of an election under paragraph (2)(A), no individual or family applying for financial assistance may receive such financial assistance prior to the affirmative establishment and verification of eligibility of that individual or family under this section by the Secretary or other appropriate entity.

"(2) RULES APPLICABLE TO PUBLIC HOUSING AGENCIES.—A public housing agency (as that term is defined in section 3 of the United States Housing Act of 1937)—

"(A) may elect not to comply with this section; and

"(B) in complying with this section—

"(i) may initiate procedures to affirmatively establish or verify the eligibility of an individual or family under this section at any time at which the public housing agency determines that such eligibility is in question, regardless of whether or not that individual or family is at or near the top of the waiting list of the public housing agency;

"(ii) may affirmatively establish or verify the eligibility of an individual or family under this section in accordance with the procedures set forth in section 274A(b)(1) of the Immigration and Nationality Act; and

"(iii) shall have access to any relevant information contained in the SAVE system (or any successor thereto) that relates to any individual or family applying for financial assistance.

"(3) ELIGIBILITY OF FAMILIES.—For purposes of this subsection, with respect to a family, the term 'eligibility' means the eligibility of each family member.".

SEC. 227. REGULATIONS.

(a) ISSUANCE.—Not later than the 60 days after the date of 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 opportunity for comment.

(b) FAILURE TO ISSUE.—If the Secretary fails to issue the regulations required under subsection (a) before the date specified in that 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 on March 20, 1995 (Vol. 60, No. 53; pp. 14824-14861), shall not apply after that date.

On page 214, line 22, strike "Subtitle C" and insert "Subtitle D".

On page 215, line 3, strike "section" and insert "sections".

At the end of the bill, add the following new title:

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. CHANGES REGARDING VISA APPLICATION PROCESS.

(a) NONIMMIGRANT APPLICATIONS.—Section 222(c) (8 U.S.C. 1202(c)) is amended—

(1) by striking all that follows after "United States;" through "marital status;"; and

(2) by adding at the end thereof the following: "At the discretion of the Secretary of State, application forms for the various classes of nonimmigrant admissions described in section 101(a)(15) may vary according to the class of visa being requested.".

(b) DISPOSITION OF APPLICATIONS.—Section 222(e) (8 U.S.C. 1202(e)) is amended—

(1) in the first sentence, by striking "required by this section" and inserting "for an immigrant visa"; and

(2) in the third sentence—

(A) by inserting "or other document" after "stamp,"; and

(B) by striking "by the consular officer".

SEC. 302. VISA WAIVER PROGRAM.

(a) EXTENSION OF PROGRAM.—Section 217(f) (8 U.S.C. 1187(f)) is amended by striking "1996" and inserting "1998".

(b) REPEAL OF PROBATIONARY PROGRAM.—(1) Section 217(g) (8 U.S.C. 1187(g)) is repealed.

(2) A country designated as a pilot program country with probationary status under section 217(g) of the Immigration and Nationality Act (as in effect prior to the date of enactment of this Act) shall be subject to paragraphs (3) and (4) of that subsection as if such paragraphs were not repealed.

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

"(g) DURATION AND TERMINATION OF DESIGNATION.—

"(1) PROGRAM COUNTRIES.—(A) Upon determination by the Attorney General that a visa waiver program country's disqualification rate is 2 percent or more, the Attorney General shall notify the Secretary of State.

"(B) If the program country's disqualification rate is greater than 2 percent but less than 3.5 percent, the Attorney General and the Secretary of State shall place the program country in probationary status for a period not to exceed 3 full fiscal years following the year in which the designation of the country as a pilot program country is made.

"(C) If the program country's disqualification rate is 3.5 percent or more, the Attorney General and the Secretary of State, acting jointly, shall terminate the country's designation effective at the beginning of the second fiscal year following the fiscal year in which the determination is made.

"(2) END OF PROBATIONARY STATUS.—(A) If the Attorney General and the Secretary of State, acting jointly, determine at the end of the probationary period described in subparagraph (B) that the program country's disqualification rate is less than 2 percent, they shall redesignate the country as a program country.

"(B) If the Attorney General and the Secretary of State, acting jointly, determine at the end of the probationary period described in subparagraph (B) that a visa waiver country has—

"(i) failed to develop a machine readable passport program as required by subparagraph (C) of subsection (c)(2), or

"(ii) has a disqualification rate of 2 percent or more,

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

"(3) DISCRETIONARY TERMINATION.—Notwithstanding any other provision of this section, the Attorney General and the Secretary of State, acting jointly, may for any reason (including national security or failure to meet any other requirement of this section), at any time, rescind any waiver under subsection (a) or terminate any designation under subsection (c), effective upon such date as they shall jointly determine.

"(4) EFFECTIVE DATE OF TERMINATION.—Nationals of a country whose eligibility for the program is terminated by the Attorney General and the Secretary of State, acting jointly, may continue to have paragraph (7)(B)(i)(II) of section 212(a) waived, as authorized by subsection (a), until the country's termination of designation becomes effective as provided in this subsection.

"(5) NONAPPLICABILITY OF CERTAIN PROVISIONS.—Paragraphs (1)(C) and (3) shall not apply unless the total number of nationals of a designated country, as described in paragraph (6)(A), is in excess of 100.

"(6) DEFINITION.—For purposes of this subsection, the term 'disqualification rate' means the ratio of—

"(A) the total number of nationals of the visa waiver program country—

"(i) who were excluded from admission or withdrew their application for admission during the most recent fiscal year for which data is available, and

"(ii) who were admitted as nonimmigrant visitors during such fiscal year and who violated the terms of such admission, to

"(B) the total number of nationals of that country who applied for admission as nonimmigrant visitors during such fiscal year.".

SEC. 303. TECHNICAL AMENDMENT.

Section 212(d)(11) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(11)) is amended by inserting a "comma" after "(4) thereof)".

SEC. 304. CRIMINAL PENALTIES FOR HIGH SPEED FLIGHTS FROM IMMIGRATION CHECKPOINTS.

(a) FINDINGS.—Congress makes the following findings:

(1) Immigration checkpoints are an important component of the national strategy to prevent illegal immigration.

(2) Individuals fleeing immigration checkpoints and leading law enforcement officials on high speed vehicle chases endanger law enforcement officers, innocent bystanders, and the fleeing individuals themselves.

(3) The pursuit of suspects fleeing immigration checkpoints is complicated by overlapping jurisdiction among Federal, State, and local law enforcement officers.

(b) HIGH SPEED FLIGET FROM BORDER CHECKPOINTS.—Chapter 35 of title 18, United States Code, is amended by inserting the following new section:

"§ 758. High speed flight from immigration checkpoint

"(a) Whoever flees or evades a checkpoint operated by the Immigration and Naturalization Service or any other Federal law enforcement agency in a motor vehicle after entering the United States and flees Federal, State, or local law enforcement agents in excess of the legal speed limit shall be imprisoned not more than five years.".

(c) GROUNDS FOR DEPORTATION.—Section 241(a)(2)(A) (8 U.S.C. 1251(a)(2)(A)) of title 8, United States Code, is amended by inserting the following new subsection:

"(v) HIGH SPEED FLIGHT.—Any alien who is convicted of high speed flight from a checkpoint (as defined by section 758(a) of chapter 35) is deportable."

SEC. 305. CHILDREN BORN ABROAD TO UNITED STATES CITIZEN MOTHERS; TRANSMISSION REQUIREMENTS.

(a) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT TECHNICAL CORRECTIONS ACT OF 1994.—Section 101(d) of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416) is amended to read as follows:

"(d) APPLICABILITY OF TRANSMISSION REQUIREMENTS.—Notwithstanding this section and the amendments made by this section, any provision of law relating to residence or physical presence in the United States for purposes of transmitting United States citizenship shall apply to any person whose claim of citizenship is based on the amendment made by subsection (a), and to any person through whom such a claim of citizenship is derived."

(b) EFFECTIVE DATE.—The amendment made by this section shall be deemed to have become effective as of the date of enactment of the Immigration and Nationality Technical Corrections Act of 1994.

SEC. 306. FEE FOR DIVERSITY IMMIGRANT LOTTERY.

The Secretary of State may establish a fee to be paid by each immigrant issued a visa under subsection (c) of section 203 of the Immigration and Nationality Act (8 U.S.C. 1153(c)). Such fee may be set at a level so as to cover the full cost to the Department of State of administering that subsection, including the cost of processing all applications thereunder. All such fees collected shall be deposited as an offsetting collection to any Department of State appropriation and shall remain available for obligation until expended. The provisions of the Act of August 18, 1856 (Rev. Stat. 1726-28; 22 U.S.C. 4212-14), concerning accounting for consular fees, shall not apply to fees collected pursuant to this section.

SEC. 308. SUPPORT OF DEMONSTRATION PROJECTS FOR NATURALIZATION CEREMONIES.

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

(1) American democracy performs best when the maximum number of people subject to its laws participate in the political process, at all levels of government.

(2) Citizenship actively exercised will better assure that individuals both assert their rights and fulfill their responsibilities of membership within our political community, thereby benefiting all citizens and residents of the United States.

(3) A number of private and charitable organizations assist in promoting citizenship, and the Senate urges them to continue to do so.

(b) DEMONSTRATION PROJECTS.—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.

(c) 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.

(d) 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 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 Examinations Fee Account, under section 286(n) of the Immigration and Nationality Act) shall be available under this section.

(e) 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.

(f) STATE DEFINED.—For purposes of 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)).

SEC. 309. REVIEW OF CONTRACTS WITH ENGLISH AND CIVICS TEST ENTITIES.

(a) IN GENERAL.—The Attorney General of the United States shall investigate and submit a report to the Congress regarding the practices of test entities authorized to administer the English and civics tests pursuant to section 312.3(a) of title 8, Code of Federal Regulations. The report shall include any findings of fraudulent practices by the testing entities.

(b) PRELIMINARY AND FINAL REPORTS.—Not later than 90 days after the date of the enactment of this Act, the Attorney General shall submit to the Congress a preliminary report of the findings of the investigation conducted pursuant to subsection (a) and shall submit to the Congress a final report within 275 days after the submission of the preliminary report.

SEC. 310. DESIGNATION OF A UNITED STATES CUSTOMS ADMINISTRATIVE BUILDING.

(a) DESIGNATION.—The United States Customs Administrative Building at the Ysleta/Zaragosa Port of Entry located at 797 South Zaragosa Road in El Paso, Texas, shall be known and designated as the "Timothy C. McCaghren Customs Administrative Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the "Timothy C. McCaghren Customs Administrative Building".

SEC. 311. WAIVER OF FOREIGN COUNTRY RESIDENCE REQUIREMENT WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.

(a) EXTENSION OF WAIVER PROGRAM.—Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking "June 1, 1996" and inserting "June 1, 2002".

(b) CONDITIONS ON FEDERALLY REQUESTED WAIVERS.—Section 212(e) of the Immigration and Nationality Act (8 U.S.C. 1184(e)) is amended by inserting after "except that in the case of a waiver requested by a State Department of Public Health or its equivalent" the following: "or in the case of a waiver requested by an interested United States Government agency on behalf of an alien described in clause (iii)".

(c) RESTRICTIONS ON FEDERALLY REQUESTED WAIVERS.—Section 214(k) (8 U.S.C. 1184(k)) is amended to read as follows:

"(k)(1) In the case of a request by an interested State agency or by an interested United States Government agency for a waiver of the two-year foreign residence requirement under section 212(e) with respect to an alien described in clause (iii) of that section, the Attorney General shall not grant such waiver unless—

"(A) in the case of an alien who is otherwise contractually obligated to return to a foreign country, the government of such country furnishes the Director of the United States Information Agency with a statement in writing that it has no objection to such waiver; and

"(B)(i) in the case of a request by an interested State agency—

"(I) the alien demonstrates a bona fide offer of full-time employment, agrees to begin employment with the health facility or organization named in the waiver application within 90 days of receiving such waiver, and agrees to work for a total of not less than three years (unless the Attorney General determines that extenuating circumstances exist, such as closure of the facility or hardship to the alien would justify a lesser period of time); and

"(II) the alien's employment continues to benefit the public interest; or

"(ii) in the case of a request by an interested United States Government agency—

"(I) the alien demonstrates a bona fide offer of full-time employment that has been found to be in the public interest, agrees to begin employment with the health facility or organization named in the waiver application within 90 days of receiving such waiver, and agrees to work for a total of not less than three years (unless the Attorney General determines that extenuating circumstances exist, such as closure of the facility or hardship to the alien would justify a lesser period of time); and

"(II) the alien's employment continues to benefit the public interest;

"(C) in the case of a request by an interested State agency, the alien agrees to practice medicine in accordance with paragraph (2) for a total of not less than three years only in the geographic area or areas which are designated by the Secretary of Health and Human Services as having a shortage of health care professionals; and

"(D) in the case of a request by an interested State agency, the grant of such a waiver would not cause the number of waivers allotted for that State for that fiscal year to exceed 20.

"(2)(A) Notwithstanding section 248(2) the Attorney General may change the status of an alien that qualifies under this subsection and section 212(e) to that of an alien described in section 101(a)(15)(H)(i)(b).

"(B) No person who has obtained a change of status under subparagraph (A) and who has failed to fulfill the terms of the contract with the health facility or organization named in the waiver application shall be eligible to apply for an immigrant visa, for permanent residence, or for any other change of nonimmigrant status until it is established that such person has resided and been physically present in the country of his nationality or his last residence for an aggregate of at least two years following departure from the United States.

"(3) Notwithstanding any other provisions of this subsection, the two-year foreign residence requirement under section 212(e) shall apply with respect to an alien in clause (iii) of that section who has not otherwise been accorded status under section 101(a)(27)(H)—

"(A) in the case of a request by an interested State agency, if at any time the alien practices medicine in an area other than an area described in paragraph (1)(C); and

"(B) in the case of a request by an interested United States Government agency, if at any time the alien engages in employment for a health facility or organization not named in the waiver application.".

SEC. 312. CONTINUED VALIDITY OF LABOR CERTIFICATIONS AND PETITIONS FOR PROFESSIONAL ATHLETES.

(a) LABOR CERTIFICATION.—Section 212(a)(5) is amended by adding at the end the following:

"(D) PROFESSIONAL ATHLETES.—The labor certification received for a professional athlete shall remain valid for that athlete after the athlete changes employer if the new employer is a team in the same sport as the team which employed the athlete when he first applied for labor certification hereunder. For purposes of this subparagraph, the term 'professional athlete' means an individual who is employed as an athlete by a team that belongs to the National Hockey League, the National Football League, the National Basketball Association, Major League Baseball, or any minor league which is affiliated with one of the forgoing leagues.".

(b) PETITIONS.—Section 204(a)(1)(D) is amended by adding at the end the following new sentences: "A petition for a professional athlete will remain valid for that athlete after the athlete changes employers provided that the new employer is a team in the same sport as the team which employed the athlete when he first applied for labor certification hereunder. For purposes of the preceding sentence, the term 'professional athlete' means an individual who is employed as an athlete by a team that belongs to the National Hockey League, the National Football League, the National Basketball Association, Major League Baseball, or any minor league which is affiliated with one of the foregoing leagues.".

SEC. 313. MAIL-ORDER BRIDE BUSINESS.

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

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

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

(3) Although many of these mail-order marriages work out, in many other cases, anecdotal evidence suggests that mail-order brides often find themselves in abusive relationships. There is also evidence to suggest that a substantial number of mail-order marriages constitute marriage fraud under United States law.

(4) Many mail-order brides come to the United States unaware or ignorant of United States immigration law. Mail-order brides who are battered spouses often think that if they flee an abusive marriage, they will be deported. Often the citizen spouse threatens to have them deported if they report the abuse.

(5) The Immigration and Naturalization Service estimates the rate of marriage fraud between foreign nationals and United States citizens or legal permanent residents as eight percent. It is unclear what percent of those marriage fraud cases originated as mail-order marriages.

(b) INFORMATION DISSEMINATION.—Each international matchmaking organization doing business in the United States shall disseminate to recruits, upon recruitment, such immigration and naturalization information as the Immigration and Naturalization Service deems appropriate, in the recruit's native language, including information regarding conditional permanent residence status, permanent resident status, the battered spouse waiver of conditional permanent resident status requirement, marriage fraud penalties, immigrants' rights, the unregulated nature of the business, and the study mandated in subsection (c).

(c) STUDY.—The Attorney General, in consultation with the Commissioner of Immigration and Naturalization and the Violence Against Women Office of the Department of Justice, shall conduct a study to determine, among other things—

(1) the number of mail-order marriages;

(2) the extent of marriage fraud arising as a result of the services provided by international matchmaking organizations;

(3) the extent to which mail-order spouses utilize section 244(a)(3) of the Immigration and Nationality Act providing for waiver of deportation in the event of abuse, or section 204(a)(1)(A)(iii) of such Act providing for self-petitioning for permanent resident status;

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

(5) the need for continued or expanded regulation and education to implement the objectives of the Violence Against Women Act of 1994 in this area.

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

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

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

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

(1) INTERNATIONAL MATCHMAKING ORGANIZATION.—The term "international matchmaking organization" means a corporation, partnership, business, or other legal entity, whether or not organized under the laws of the United States or any State, that does business in the United States and for profit offers to United States citizens or permanent resident aliens, dating, matrimonial, or social referral services to nonresident, noncitizens, by—

(A) an exchange of names, telephone numbers, addresses, or statistics;

(B) selection of photographs; or

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

(2) RECRUIT.—The term "recruit" means a noncitizen, nonresident person, recruited by the international matchmaking organization for the purpose of providing dating, matrimonial, or social referral services to United States citizens or permanent resident aliens.

SEC. ___. APPROPRIATIONS FOR CRIMINAL ALIEN TRACKING CENTER.

Section 130002(b) of the Violent Crime Control and Law Enforcement Act of 1994 (8 U.S.C. 1252 note) is amended—

(1) by inserting "and" after "1996;", and

(2) by striking paragraph (2) and all that follows through the end period and inserting the following:

"(2) $5,000,000 for each of fiscal years 1997 through 2001.".

SEC. . BORDER PATROL MUSEUM.

(a) AUTHORITY.—

Notwithstanding section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or any other provision of law, the Attorney General is authorized to transfer and convey to the Border Patrol Museum and Memorial Library Foundation, incorporated in the State of Texas such equipment, artifacts, and memorabilia held by the Immigration and Naturalization Service as the Attorney General may determine is necessary to further the purposes of the Museum and Foundation.

(b) TECHNICAL ASSISTANCE.—

The Attorney General is authorized to provide technical assistance, through the detail of personnel of the Immigration and Naturalization Service, to the Border Patrol Museum and Memorial Library Foundation for the purpose of demonstrating the use of the items transferred under section 1.

SEC. . PILOT PROGRAMS TO PERMIT BONDING.

(a) IN GENERAL.—The Attorney General of the United States shall establish a pilot program in 5 INS District Offices (at least 2 of which are in States selected for a demonstration project under section 112 of this Act) to require aliens to post a bond in lieu of the affidavit requirements in section 203 of the Immigration Control and Financial Responsibility Act of 1996 and the deeming requirements in section 204 of such Act. Any pilot program established pursuant to this subsection shall require an alien to post a bond in an amount sufficient to cover the cost of benefits for the alien and the alien's dependents under the programs described in section 241(a)(5)(D) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(5)(D)) and shall remain in effect until the alien and all members of the alien's family permanently depart from the United States, are naturalized, or die. Suit on any such bonds may be brought under the terms and conditions set forth in section 213 of the Immigration and Nationality Act.

(b) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall issue regulations for establishing the pilot programs, including—

(1) criteria and procedures for—

(A) certifying bonding companies for participation in the program, and

(B) debarment of any such company that fails to pay a bond, and

(2) criteria for setting the amount of the bond to assure that the bond is in an amount that is not less than the cost of providing benefits under the programs described in section 241(a)(5)(D) for the alien and the alien's dependents for 6 months.

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

(d) ANNUAL REPORTING REQUIREMENT.—The Attorney General shall report annually to Congress on the effectiveness of the pilot program, once within 9 months and again within 1 year and 9 months after the pilot program begins operating.

(e) SUNSET.—The pilot program shall sunset after 2 years of operation.

SEC. . TO CLARIFY THE JURISDICTION TO HEAR DISPUTES RELATING TO AFFIDAVITS OF SUPPORT.

(a) IN GENERAL. Beginning on page 193, strike line 1 and all that follows through line 4 on page 198 and insert the following:

(3) in which the sponsor agrees to submit to the jurisdiction of any appropriate court for the purpose of actions brought under subsection (d) or (e).

(b) FORMS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State, the Attorney General, and the Secretary of Health and Human Services shall jointly formulate the affidavit of support described in this section.

(c) NOTIFICATION OF CHANGE OF ADDRESS.—

(1) GENERAL REQUIREMENT.—The sponsor shall notify the Attorney General and the State, district, territory, or possession in which the sponsored individual is currently a resident within 30 days of any change of address of the sponsor during the period specified in subsection (a)(1).

(2) PENALTY.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall, after notice and opportunity to be heard, 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 individual has received any benefit described in section 241(a)(5)(D) of the Immigration and Nationality Act, as amended by section 202(a) of this Act, not less than $2,000 or more than $5,000.

(d) REIMBURSEMENT OF GOVERNMENT EXPENSES.—

(1) IN GENERAL.—

(A) REQUEST FOR REIMBURSEMENT.—Upon notification that a sponsored individual has received any benefit described in section 241(a)(5)(D) of the Immigration and Nationality Act, as amended by section 202(a) of this Act, the appropriate Federal, State, or local official shall request reimbursement from the sponsor for the amount of such assistance.

(B) REGULATIONS.—The Commissioner of Social Security shall prescribe such regulations as may be necessary to carry out subparagraph (A). Such regulations shall provide that notification be sent to the sponsor's last known address by certified mail.

(2) ACTION AGAINST SPONSOR.—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 make payments, an action may be brought against the sponsor pursuant to the affidavit of support.

(3) FAILURE TO MEET REPAYMENT TERMS.—If the sponsor agrees to make payments, but fails to abide by the repayment terms established by the agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.

(e) JURISDICTION.—

(1) IN GENERAL.—An action to enforce an affidavit of support executed under subsection (a) may be brought against the sponsor in any appropriate court—

(A) by a sponsored individual, with respect to financial support; or

(B) by a Federal, State, or local agency, with respect to reimbursement.

(2) COURT MAY NOT DECLINE TO HEAR CASE.—For purposes of this section, no appropriate court shall decline for lack of subject matter or personal jurisdiction to hear any action brought against a sponsor under paragraph (1) if—

(A) the sponsored individual is a resident of the State in which the court is located, or received public assistance while residing in the State; and

(B) such sponsor has received service of process in accordance with applicable law.

(f) DEFINITIONS.—For purposes of this section—

(1) SPONSOR.—The term "sponsor" means an individual who—

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

(B) is at least 18 years of age;

(C) is domiciled in any of the several States of the United States, the District of Columbia, or any territory or possession of the United States; and

(D) demonstrates the means to maintain an annual income equal to at least 125 percent of the Federal poverty line for the individual and the individual's family (including the sponsored alien and any other alien sponsored by the individual), through evidence that includes a copy of the individual's Federal income tax return for the 3 most recent taxable years (which returns need show such level of annual income only in the most recent taxable year) 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 true copies of such returns.

In the case of an individual who is on active duty (other than active duty for training) in the Armed Forces of the United States, subparagraph (D) shall be applied by substituting "100 percent" for "125 percent".

(2) FEDERAL POVERTY LINE.—The term "Federal poverty line" means the level of income equal to the official poverty line (as defined by the Director of the Office of Management and Budget, as revised annually by the Secretary of Health and Human Services, in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902)) that is applicable to a family of the size involved.

(3) QUALIFYING QUARTER.—The term "qualifying quarter" means a three-month period in which the sponsored individual has—

(A) earned at least the minimum necessary for the period to count as one of the 40 quarters required to qualify for social security retirement benefits;

(B) not received need-based public assistance; and

(C) had income tax liability for the tax year of which the period was part.

(4) APPROPRIATE COURT.—The term "appropriate court" means—

(A) a Federal court, in the case of an action for reimbursement of benefits provided or funded, in whole or in part, by the Federal Government; and

(B) a State court, in the case of an action for reimbursement of benefits provided under a State or local program of assistance.

SEC. . SPONSOR'S SOCIAL SECURITY ACCOUNT NUMBER.

On page 193, between lines 4 and 5, insert the following:

(g) SPONSOR'S SOCIAL SECURITY ACCOUNT NUMBER REQUIRED TO BE PROVIDED.—(1) Each affidavit of support shall include the social security account number of the sponsor.

(2) The Attorney General shall develop an automated system to maintain the data of social security account numbers provided under paragraph (1).

(3) The Attorney General shall submit an annual report to the Congress setting forth for the most recent fiscal year for which data are available—

(A) the number of sponsors under this section and the number of sponsors in compliance with the financial obligations of this section; and

(B) a comparison of the data set forth under subparagraph (A) with similar data for the preceding fiscal year.

SEC. . MINIMUM STATE INS PRESENCE.

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

"(e) The Attorney General shall ensure that no State is allocated fewer than 10 full-time active duty agents of the Immigration and Naturalization Service to carry out the enforcement, examinations, and inspections functions of the Service for the purposes of effective enforcement of the Immigration and Nationality Act.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 90 days after the date of enactment of this Act.

At the appropriate place in the bill, insert the following:

SEC. . DISQUALIFICATION FROM ATTAINING NONIMMIGRANT OR PERMANENT RESIDENCE STATUS.

(a) DISAPPROVAL OF PETITIONS.—Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by adding at the end the following new subsection:

"(i) Restrictions on future entry of aliens apprehended for violating immigration laws.

"(1) The Attorney General may not approve any petition for lawful permanent residence status filed by an alien or any person on behalf of an alien (other than petitions filed by or on behalf of spouses of U.S. citizens or of aliens lawfully admitted for permanent residence) who has at any time been apprehended in the United States for (A) entry without inspection, or (B) failing to depart from the United States within one year of the expiration of any nonimmigrant visa, until the date that is ten years after the alien's departure or removal from the United States.".

(b) VIOLATION OF IMMIGRATION LAW AS GROUNDS FOR EXCLUSION.—Section 212(a)(6) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)) is amended by adding at the end the following new subsection:

"(G) Aliens previously apprehended:

"Any alien who (i) has at any time been apprehended in the United States for entry without inspection, or (ii) has failed to depart from the United States within one year of the expiration date of any nonimmigrant visa, unless such alien has applied for and been granted asylum or refugee status in the United States or has a bona fide application for asylum pending, is excludable until the date that is ten years after the alien's departure or removal from the United States.".

(c) DENIAL OF ADJUSTMENT OF STATUS.—Section 245(c) of the Immigration and Nationality Act (8 U.S.C. 1255(c)) is amended—

(1) by striking "or (5)" and inserting "(5)"; and

(2) by inserting before the period the following: "or (6) any alien who (A) has at any time been apprehended in the United States for entry without inspection, or (B) has failed to depart from the United States within one year of the expiration under section 208 date of any nonimmigrant visa, unless such alien has applied for and been granted asylum or refugee status in the United States or has a bona fide application for asylum pending.".

(d) EXCEPTIONS.—Section 245 (8 U.S.C. 1254) is amended by adding at the end the following new subsection:

"(k) The following periods of time shall be excluded from the determination of periods of unauthorized stay under subsection (c)(6)(B) and section 204(i):

(1) Any period of time in which an alien is under 18 years of age.

(2) Any period of time in which an alien has a bona fide application for asylum pending under section 208.

(3) Any period of time during 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.

(4) Any period of time during which the alien is a beneficiary of family unity protection pursuant to section 301 on the Immigration Act of 1990.

(5) Any period of time for which the alien demonstrates good cause for remaining in the United States without the authorization of the Attorney General.

At the appropriate place insert the following new section:

SEC. . PASSPORTS ISSUED FOR CHILDREN UNDER 16.

(a) IN GENERAL.—Section 1 of title IX of the Act of June 15, 1917 (22 U.S.C. 213) is amended—

(1) by striking "Before" and inserting "(a) IN GENERAL.—Before", and

(2) by adding at the end the following new subsection.

"(b) PASSPORTS ISSUED FOR CHILDREN UNDER 16.—

"(1) SIGNATURES REQUIRED.—In the case of a child under the age of 16, the written application required as a prerequisite to the issuance of a passport for such child shall be signed by—

"(A) both parents of the child if the child lives with both parents;

"(B) the parent of the child having primary custody of the child if the child does not live with both parents; or

"(C) the surviving parent (or legal guardian) of the child, if 1 or both parents are deceased.

"(2) WAIVER.—The Secretary of State may waive the requirements of paragraph (1)(A) if the Secretary determines that circumstances do not permit obtaining the signatures of both parents.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to applications for passports filed * * *.

SEC. . EXCLUSION OF CERTAIN ALIENS FROM FAMILY UNITY PROGRAM.

SECTION 301(e) of the Immigration Act of 1990 (8 U.S.C. 1255a note) is amended to read as follows:

"(e) EXCEPTION FOR CERTAIN ALIENS.—An alien is not eligible for a new grant or extension of benefits of this section if the Attorney General finds that the alien—

"(1) has been convicted of a felony or 3 or more misdemeanors in the United States,

"(2) is described in section 243(h)(2) of the Immigration and Nationality Act, or

"(3) has committed an act of juvenile delinquency which if committed by an adult would be classified as—

"(A) a felony crime of violence that has an element the use or attempted use of physical force against the person of another; or

"(B) a felony offense that by its nature involves a substantial risk that physical force against the person of another may be used in the course of committing the offense.".

SEC. . TO ENSURE APPROPRIATELY STRINGENT PENALTIES FOR CONSPIRING WITH OR ASSISTING AN ALIEN TO COMMIT AN OFFENSE UNDER THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

(a) not later than 6 months following enactment of this Act, the United States sentencing Commission shall conduct a review of the guidelines applicable to an offender who conspires with or aids or abets, a person who is not a citizen or national of the United States in committing any offense under section 1010 of the Controlled Substance Import and Export Act (21 U.S.C. 960).

(b) following such review, pursuant 40 section 994 (p) of Title 28, United States Code, the Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines to ensure an appropriately stringent sentence for such offenders.

SEC. . TO MODIFY "40 QUARTERS" FOR STAY-AT-HOME SPOUSES AND DEPENDENT CHILDREN.

Strike section 203(a) and insert the following:

(a) ENFORCEABILITY.—(1) No affidavit of support may be relied upon by the Attorney General or by any consular officer to establish that an alien is not excludable as a public charge under section 212(a)(4) of the Immigration and Nationality Act unless such affidavit is executed as a contract—

(A) which is legally enforceable against the sponsor by the sponsored individual, by the Federal Government, and by any State, district, territory, or possession of the United States (or any subdivision of such State, district, territory, or possession of the United States) which provides any benefit described in section 241(a)(5)(D), but not later than 10 years after the sponsored individual last receives any such benefit;

(B) in which the sponsor agrees to financially support the sponsored individual, so that he or she will not become a public charge, until the sponsored individual has worked in the United States for 40 qualifying quarters; and

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

(2) In determining the number of qualifying quarters for which a sponsored individual has worked for purposes of paragraph (1)(B), an individual not meeting the requirements of subparagraphs (A) and/or (C) of subsection (f)(3) for any quarter shall be treated as meeting such requirements if—

(A) their spouse met such requirements for such quarter and they filed a joint income tax return covering such quarter: or

(B) the individual who claimed such individual as a dependent on an income tax return covering such quarter met such requirements for such quarter.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. REVIEW AND REPORT ON H-2A NONIMMIGRANT WORKERS PROGRAM.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that the enactment of this Act may impact the future availability of an adequate work force for the producers of our Nation's labor intensive agricultural commodities and livestock.

(b) REVIEW.—The Comptroller General shall review the effectiveness of the H-2A nonimmigrant worker program to ensure that the program provides a workable safety value in the event of future shortages of domestic workers after the enactment of this Act. Among other things, the Comptroller General shall review the program to determine—

(1) that the program ensures that an adequate supply of qualified United States workers is available at the time and place needed for employers seeking such workers after the date of enactment of this Act;

(2) that the program ensures that there is timely approval of applications for temporary foreign workers under the H-2A nonimmigrant worker program in the event of shortages of United States workers after the date of enactment of this Act;

(3) that the program ensures that implementation of the H-2A nonimmigrant worker program is not displacing United States agricultural workers or diminishing the terms and conditions of employment of United States agricultural workers; and

(4) if and to what extent the H-2A nonimmigrant worker program is contributing to the problem of illegal immigration.

(c) REPORT.—Not later than December 31, 1996, or three months after the date of enactment of this Act, whichever is sooner, the Comptroller General shall submit a report to Congress setting forth the findings of the review conducted under subsection (b).

(d) DEFINITIONS.—As used in this section—

(1) the term "Comptroller General" means the Comptroller General of the United States; and

(2) the term "H-2A nonimmigrant worker program" means the program for the admission of nonimmigrant aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act.

AMENDMENTS SUBMITTED

THE IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

FEINSTEIN AMENDMENT NO. 3867

(Ordered to lie on the table.)

Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill (S. 1664) to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing Border Patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming, asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes; as follows:

AMENDMENT No. 3867

Beginning on page 99, strike line 10 and all that follows through line 13.

FEINSTEIN (AND BOXER) AMENDMENT NO. 3868

(Ordered to lie on the table.)

Mrs. FEINSTEIN (for herself and Mrs. BOXER) submitted an amendment intended to be proposed by them to the bill S. 1664, supra; as follows:

AMENDMENT No. 3868

Beginning on page 10, strike line 18 and all that follows through line 13 on page 11 and insert the following:

SEC. 108 CONSTRUCTION OF PHYSICAL BARRIERS, DEPLOYMENT OF TECHNOLOGY, AND IMPROVEMENTS TO ROADS IN THE BORDER AREA NEAR SAN DIEGO, CALIFORNIA.

There are authorized to be appropriated funds not to exceed $12,000,000 for the construction, expansion, improvement, or deployment of physical barriers (including multiple fencing and bollard style concrete columns as appropriate), all-weather roads, low light television systems, lighting, sensors, and other technologies along the international land border between the United States and Mexico south of San Diego, California for the purpose of detecting and deterring unlawful entry across the border. Amounts appropriated under this section are authorized to remain available until expended.

FEINSTEIN AMENDMENTS NOS. 3869–3870

(Ordered to lie on the table.)

Mrs. FEINSTEIN submitted two amendments intended to be proposed by her to the bill S. 1664, supra; as follows:

AMENDMENT No. 3869

On page 198, between lines 4 and 5, insert the following:

(g) SPONSOR'S SOCIAL SECURITY ACCOUNT NUMBER REQUIRED TO BE PROVIDED.—(1) Each affidavit of support shall include the social security account number of the sponsor.

(2) The Attorney General, in consultation with the Secretary of State, shall develop an automated system to maintain the data of social security account numbers provided under paragraph (1).

(3) The Attorney General shall submit an annual report to the Congress setting forth for the most recent fiscal year for which data are available—

(A) the number of sponsors under this section and the number of sponsors in compliance with the financial obligations of this section; and

(B) a comparison of the data set forth under subparagraph (A) with similar data for the preceding fiscal year.

AMENDMENT No. 3870

Beginning on page 193, strike line 1 and all that follows through line 4 on page 198 and insert the following:

(3) in which the sponsor agrees to submit to the jurisdiction of any appropriate court for the purpose of actions brought under subsection (d) or (e).

(b) FORMS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State, the Attorney General, and the Secretary of Health and Human Services shall jointly formulate the affidavit of support described in this section.

(c) NOTIFICATION OF CHANGE OF ADDRESS.—(1) GENERAL REQUIREMENT.—The sponsor shall notify the Attorney General and the State, district, territory, or possession in which the sponsored individual is currently a resident within 30 days of any change of address of the sponsor during the period specified in subsection (a)(1).

(2) PENALTY.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall, after notice and opportunity to be heard, 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 individual has received any benefit described in section 241(a)(5)(D) of the Immigration and Nationality Act, as amended by section 202(a) of this Act, not less than $2,000 or more than $5,000.

(d) REIMBURSEMENT OF GOVERNMENT EXPENSES.—

(1) IN GENERAL.—

(A) REQUEST FOR REIMBURSEMENT.—Upon notification that a sponsored individual has received any benefit described in section 241(a)(5)(D) of the Immigration and Nationality Act, as amended by section 202(a) of this Act, the appropriate Federal, State, or local official shall request reimbursement from the sponsor for the amount of such assistance.

(B) REGULATIONS.—The Commissioner of Social Security shall prescribe such regulations as may be necessary to carry out subparagraph (A). Such regulations shall provide that notification be sent to the sponsor's last known address by certified mail.

(2) ACTION AGAINST SPONSOR.—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 make payments, an action may be brought against the sponsor pursuant to the affidavit of support.

(3) FAILURE TO MEET REPAYMENT TERMS.—If the sponsor agrees to make payments, but fails to abide by the repayment terms established by the agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.

(e) JURISDICTION.—

(1) IN GENERAL.—An action to enforce an affidavit of support executed under subsection (a) may be brought against the sponsor in any appropriate court—

(A) by a sponsored individual, with respect to financial support; or

(B) by a Federal, State, or local agency, with respect to reimbursement.

(2) COURT MAY NOT DECLINE TO HEAR CASE.—For purposes of this section, no appropriate court shall decline for lack of subject matter or personal jurisdiction to hear any action brought against a sponsor under paragraph (1) if—

(A) the sponsored individual is a resident of the State in which the court is located, or received public assistance while residing in the State; and

(B) such sponsor has received service of process in accordance with applicable law.

(f) DEFINITIONS.—For purposes of this section—

(1) SPONSOR.—The term "sponsor" means an individual who—

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

(B) is at least 18 years of age;

(C) is domiciled in any of the several States of the United States, the District of Columbia, or any territory or possession of the United States; and

(D) demonstrates the means to maintain an annual income equal to at least 125 percent of the Federal poverty line for the individual and the individual's family (including the sponsored alien and any other alien sponsored by the individual), through evidence that includes a copy of the individual's Federal income tax return for 3 most recent taxable years (which returns need show such level of annual income only in the most recent taxable year) 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 of such returns.

In the case of an individual who is on active duty (other than active duty for training) in the Armed Forces of the United States, subparagraph (D) shall be applied by substituting "100 percent" for "125 percent".

(2) FEDERAL POVERTY LINE.—The term "Federal poverty line" means the level of income equal to the official poverty line (as defined by the Director of the Office of Management and Budget, as revised annually by the Secretary of Health and Human Services, in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902)) that is applicable to a family of the size involved.

(3) QUALIFYING QUARTER.—The term "qualifying quarter" means a three-month in which the sponsored individual has—

(A) earned at least the minimum necessary for the period to count as one of the 40 quarters required to qualify for social security retirement benefits;

(B) not received need-based public assistance; and

(C) had income tax liability for the tax year of which the period was part.

(4) APPROPRIATE COURT.—The term "appropriate court" means—

(A) a Federal court, in the case of an action for reimbursement of benefits provided or funded, in whole or in part, by the Federal Government; and

(B) a State court, in the case of an action for reimbursement of benefits provided under a State or local program of assistance.

SIMPSON AMENDMENT NO. 3871

Mr. SIMPSON proposed an amendment to amendment No. 3743 proposed by him to the bill S. 1664, supra; as follows:

Section 204(a) is amended to read as follows:

(a) DEEMING REQUIREMENT FOR FEDERAL AND FEDERALLY FUNDED PROGRAMS.—Subject to subsection (d), for purposes of determining the eligibility of an alien for benefits, and the amount of benefits, under any Federal program of assistance, or any program of assistance funded in whole or in part by the Federal Government, for which eligibility for benefits is based on need, the income and resources described in subsection (b) shall, notwithstanding any other provision of law, be deemed to be the income and resources of such alien.

WELLSTONE AMENDMENT NO. 3872

(Ordered to lie on the table.)

Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill S. 1664, supra; as follows:

At the appropriate place, insert the following:

SEC. . 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 naturalization 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.

(3) CONSTRUCTION.—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.

SNOWE AMENDMENTS NOS. 3873–3874

(Ordered to lie on the table.)

Ms. SNOWE submitted two amendments intended to be proposed by her to the bill S. 1664, supra; as follows:

AMENDMENT No. 3873

At the appropriate place, insert the following:

SEC. . REPORT ON ALLEGATIONS OF HARASSMENT BY CANADIAN CUSTOMS AGENTS.

(a) STUDY AND REVIEW.—

(1) Not later than 30 days after the enactment of this Act, the Commissioner of the United States Customs Service shall initiate a study of allegations of harassment by Canadian Customs agents for the purpose of deterring cross-border commercial activity along the United States-New Brunswick border. Such study shall include a review of the possible connection between any incidents of harassment with the discriminatory imposition of the New Brunswick Provincial Sales Tax (PST) tax on goods purchased in the United States by New Brunswick residents, and with any other activities taken by the Canadian provincial and federal governments to deter cross-border commercial activities.

(2) In conducting the study in subparagraph (1), the Commissioner shall consult with representatives of the State of Maine, local governments, local businesses, and any other knowledgeable persons that the Commissioner deems important to the completion of the study.

(b) REPORT.—Not later than 120 days after enactment of this Act, the Commissioner of the United States Customs Service shall submit to Congress a report of the study and review detailed in subsection (a). The report shall also include recommendations for steps that the U.S. government can take to help end harassment by Canadian Customs agents found to have occurred.

AMENDMENT No. 3874

At the appropriate place, insert the following:

SEC. . SENSE OF CONGRESS ON THE DISCRIMINATORY APPLICATION OF THE NEW BRUNSWICK PROVINCIAL SALES TAX.

(a) FINDINGS.—The Congress finds that—

(1) in July 1993, Canadian Customs officers began collecting an 11% New Brunswick Provincial Sales Tax (PST) tax on goods purchased in the United States by New Brunswick residents, an action that has caused severe economic harm to U.S. businesses located in proximity to the border with New Brunswick;

(2) this impediment to cross-border trade compounds the damage already done from the Canadian government's imposition of a 7% tax on all goods bought by Canadians in the United States;

(3) collection of the New Brunswick Provincial Sales Tax on goods purchased outside of New Brunswick is collected only along the U.S.-Canadian border—not along New Brunswick's borders with other Canadian provinces—thus being administered by Canadian authorities in a manner uniquely discriminatory to Canadians shopping in the United States;

(4) in February 1994, the U.S. Trade Representative (USTR) publicly stated an attention to seek redress from the discriminatory application of the PST under the dispute resolution process in Chapter 20 of the North American Free Trade Agreement (NAFTA), but the United States Government has still not made such a claim under NAFTA procedures; and

(5) initially, the USTR argued that filing a PST claim was delayed only because the dispute mechanism under NAFTA had not yet been finalized, but more than a year after such mechanism has been put in place, the PST claim has still not been put forward by the USTR.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Provincial Sales Tax levied by the Canadian Province of New Brunswick on Canadian citizens of that province who purchase goods in the United States violates the North American Free Trade Agreement in its discriminatory application to cross-border trade with the United States and damages good relations between the United States and Canada; and

(2) the United States Trade Representative should move forward without further delay in seeking redress under the dispute resolution process in Chapter 20 of the North American Free Trade Agreement for the discriminatory application of the New Brunswick Provincial Sales Tax on U.S.-Canada cross-border trade.

GRAHAM AMENDMENTS NOS. 3875–3880

(Ordered to lie on the table.)

Mr. GRAHAM submitted six amendments intended to be proposed by him to the bill S. 1664, supra; as follows:

AMENDMENT No. 3875

Beginning on page 198, strike line 5 and all that follows through line 5 on page 202.

AMENDMENT No. 3876

On page 177 in the matter proposed to be inserted, beginning on line 9 strike all that follows through line 4 on page 178.

AMENDMENT No. 3877

Beginning on page 188, strike line 11 and all that follows through line 2 on page 192.

AMENDMENT No. 3878

Beginning on page 192, strike line 3 and all that follows through line 4 on page 198.

AMENDMENT No. 3879

Beginning on page 177, line 9 strike all through page 211 line 9 and insert the following.

SUBTITLE C—EFFECTIVE DATES

SEC. 197. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this title and subject to subsection (b), this title, and the amendments made by this title, shall take effect on the date of the enactment of this Act.

(b) OTHER EFFECTIVE DATES.—

(1) EFFECTIVE DATES FOR PROVISIONS DEALING WITH DOCUMENT FRAUD; REGULATIONS TO IMPLEMENT.—

(A) IN GENERAL.—The amendments made by sections 131, 132, 141, and 195 shall be effective upon the date of the enactment of this Act and shall apply to aliens who arrive in or seek admission to the United States on or after such date.

(B) REGULATIONS.—Notwithstanding any other provision of law, the Attorney General may issue interim final regulations to implement the provisions of the amendments listed in subparagraph (A) at any time on or after the date of the enactment of this Act, which regulations may become effective upon publication without prior notice or opportunity for public comment.

(2) ALIEN SMUGGLING, EXCLUSION, AND DEPORTATION.—The amendments made by sections 122, 126, 128, 129, 143, and 150(b) shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

TITLE II—FINANCIAL RESPONSIBILITY

SUBTITLE A—RECEIPT OF CERTAIN GOVERNMENT BENEFITS

SEC. 201. INELIGIBILITY OF EXCLUDABLE, DEPORTABLE, AND NONIMMIGRANT ALIENS.

(a) PUBLIC ASSISTANCE AND BENEFITS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, an ineligible alien (as defined in subsection (f)(2)) shall not be eligible to receive—

(A) any benefits under a public assistance program (as defined in subsection (f)(3)), except—

(i) emergency medical services under title XIX of the Social Security Act,

(ii) subject to paragraph (4), prenatal and postpartum services under title XIX of the Social Security Act,

(iii) short-term emergency disaster relief,

(iv) assistance or benefits under the National School Lunch Act,

(v) assistance or benefits under the Child Nutrition Act of 1966,

(vi) public health assistance for immunizations and, if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of a serious communicable disease, for testing and treatment for such diseases, and

(vii) such other service or assistance (such as soup kitchens, crisis, counseling, intervention (including intervention for domestic violence), and short-term shelter) as the Attorney General specifies, in the Attorney General's sole and unreviewable discretion, after consultation with the heads of appropriate Federal agencies, if—

(I) such service or assistance is delivered at the community level, including through public or private nonprofit agencies;

(II) such service or assistance is necessary for the protection of life, safety, or public health; and

(III) such service or assistance or the amount or cost of such service or assistance is not conditioned on the recipient's income or resources; or

(B) any grant, contract, loan, professional license, or commercial license provided or funded by any agency of the United States or any State or local government entity, except, with respect to a nonimmigrant authorized to work in the United States, any professional or commercial license required to engage in such work, if the nonimmigrant is otherwise qualified for such license.

(2) BENEFITS OF RESIDENCE.—Notwithstanding any other provision of law, no State or

local government entity shall consider any ineligible alien as a resident when to do so would place such alien in a more favorable position, regarding access to, or the cost of, any benefit or government service, than a United States citizen who is not regarded as such a resident.

(3) NOTIFICATION OF ALIENS.—

(A) IN GENERAL.—The agency administering a program referred to in paragraph (1)(A) or providing benefits referred to in paragraph (1)(B) shall, directly or, in the case of a Federal agency, through the States, notify individually or by public notice, all ineligible aliens who are receiving benefits under a program referred to in paragraph (1)(A), or are receiving benefits referred to in paragraph (1)(B), as the case may be, immediately prior to the date of the enactment of this Act and whose eligibility for the program is terminated by reason of this subsection.

(B) FAILURE TO GIVE NOTICE.—Nothing in subparagraph (A) shall be construed to require or authorize continuation of such eligibility if the notice required by such paragraph is not given.

(4) LIMITATION ON PREGNANCY SERVICES FOR UNDOCUMENTED ALIENS.—

(A) 3-YEAR CONTINUOUS RESIDENCE.—An ineligible alien may not receive the services described in paragraph (1)(A)(ii) unless such alien can establish proof of continuous residence in the United States for not less than 3 years, as determined in accordance with section 245a.2(d)(3) of title 8, Code of Federal Regulations as in effect on the day before the date of the enactment of this Act.

(B) LIMITATION ON EXPENDITURES.—Not more than $120,000,000 in outlays may be expended under title XIX of the Social Security Act for reimbursement of services described in paragraph (1)(A)(ii) that are provided to individuals described in subparagraph (A).

(C) CONTINUED SERVICES BY CURRENT STATES.—States that have provided services described in paragraph (1)(A)(ii) for a period of 3 years before the date of the enactment of this Act shall continue to provide such services and shall be reimbursed by the Federal Government for the costs incurred in providing such services. States that have not provided such services before the date of the enactment of this Act, but elect to provide such services after such date, shall be reimbursed for the costs incurred in providing such services. In no case shall States be required to provide services in excess of the amounts provided in subparagraph (B).

(b) UNEMPLOYMENT BENEFITS.—Notwithstanding any other provision of law, only eligible aliens who have been granted employment authorization pursuant to Federal law, and United States citizens or nationals, may receive unemployment benefits payable out of Federal funds, and such eligible aliens may receive only the portion of such benefits which is attributable to the authorized employment.

(c) SOCIAL SECURITY BENEFITS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, only eligible aliens who have been granted employment authorization pursuant to Federal law and United States citizens or nationals may receive any benefit under title II of the Social Security Act, and such eligible aliens may receive only the portion of such benefits which is attributable to the authorized employment.

(2) NO REFUND OR REIMBURSEMENT.—Notwithstanding any other provision of law, no tax or other contribution required pursuant to the Social Security Act (other than by an eligible alien who has been granted employment authorization pursuant to Federal law, or by an employer of such alien) shall be refunded or reimbursed, in whole or in part.

(d) 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 Committee on the Judiciary and the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on the Judiciary and the Committee on Banking and Financial Services of the House of Representatives, describing the manner in which the Secretary is enforcing section 214 of the Housing and Community Development Act of 1980 (Public Law 96-399; 94 Stat. 1637) and containing statistics with respect to the number of individuals denied financial assistance under such section.

(e) NONPROFIT, CHARITABLE ORGANIZATIONS.—

(1) IN GENERAL.—Nothing in this Act shall be construed as requiring a nonprofit charitable organization operating any program of assistance provided or funded, in whole or in part, by the Federal Government to—

(A) determine, verify, or otherwise require proof of the eligibility, as determined under this title, of any applicant for benefits or assistance under such program; or

(B) deem that the income or assets of any applicant for benefits or assistance under such program include the income or assets described in section 204(b).

(2) NO EFFECT ON FEDERAL AUTHORITY TO DETERMINE COMPLIANCE.—Nothing in this subsection shall be construed as prohibiting the Federal Government from determining the eligibility, under this section or section 204, of any individual for benefits under a public assistance program (as defined in subsection (f)(3)) or for government benefits (as defined in subsection (f)(4)).

(f) DEFINITIONS.—For the purposes of this section—

(1) ELIGIBLE ALIEN.—The term "eligible alien" means an individual who is—

(A) an alien lawfully admitted for permanent residence under the Immigration and Nationality Act,

(B) an alien granted asylum under section 208 of such Act,

(C) a refugee admitted under section 207 of such Act,

(D) an alien whose deportation has been withheld under section 243(h) of such Act, or

(E) an alien paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year.

(2) INELIGIBLE ALIEN.—The term "ineligible alien" means an individual who is not—

(A) a United States citizen or national; or

(B) an eligible alien.

(3) PUBLIC ASSISTANCE PROGRAM.—The term "public assistance program" means any program of assistance provided or funded, in whole or in part, by the Federal Government or any State or local government entity, for which eligibility for benefits is based on need.

(4) GOVERNMENT BENEFITS.—The term "government benefits" includes—

(A) any grant, contract, loan, professional license, or commercial license provided or funded by any agency of the United States or any State or local government entity, except, with respect to a nonimmigrant authorized to work in the United States, any professional or commercial license required to engage in such work, if the nonimmigrant is otherwise qualified for such license;

(B) unemployment benefits payable out of Federal funds;

(C) benefits under title II of the Social Security Act;

(D) financial assistance for purposes of section 214(a) of the Housing and Community Development Act of 1980 (Public Law 96-399; 94 Stat. 1637); and

(E) benefits based on residence that are prohibited by subsection (a)(2).

SEC. 203. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

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

(1) which is legally enforceable against the sponsor by the sponsored individual, or by the Federal Government or any State, district, territory, or possession of the United States (or any subdivision of such State, district, territory, or possession of the United States) that provides any benefit as defined in section 201(f)(3) but not later than 10 years after the sponsored individual last receives any such benefit;

(2) in which the sponsor agrees to financially support the sponsored individual, so that he or she will not become a public charge, until the sponsored individual has worked in the United States for 40 qualifying quarters or has become a United States citizen, whichever occurs first; and

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

(b) FORMS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State, the Attorney General, and the Secretary of Health and Human Services shall jointly formulate the affidavit of support described in this section.

(c) NOTIFICATION OF CHANGE OF ADDRESS.—

(1) GENERAL REQUIREMENT.—The sponsor shall notify the Attorney General and the State, district, territory, or possession in which the sponsored individual is currently a resident within 30 days of any change of address of the sponsor during the period specified in subsection (a)(1).

(2) PENALTY.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall, after notice and opportunity to be heard, 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 individual has received any benefit described in section *change* 201(f)(3) not less than $2,000 or more than $5,000.

(d) REIMBURSEMENT OF GOVERNMENT EXPENSES.—

(1) IN GENERAL.—

(A) REQUEST FOR REIMBURSEMENT.—Upon notification that a sponsored individual has received any benefit described in section 201(f)(3) of this Act, the appropriate Federal, State, or local official shall request reimbursement from the sponsor for the amount of such assistance.

(B) REGULATIONS.—The Commissioner of Social Security shall prescribe such regulations as may be necessary to carry out subparagraph (A). Such regulations shall provide that notification be sent to the sponsor's last known address by certified mail.

(2) ACTION AGAINST SPONSOR.—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 make payments, an action may be brought against the sponsor pursuant to the affidavit of support.

(3) FAILURE TO MEET REPAYMENT TERMS.—If the sponsor agrees to make payments, but fails to abide by the repayment terms established by the agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.

(e) JURISDICTION.—

(1) IN GENERAL.—An action to enforce an affidavit of support executed under subsection (a) may be brought against the sponsor in any Federal or State court—

(A) by a sponsored individual, with respect to financial support; or

(B) by a Federal, State, or local agency, with respect to reimbursement.

(2) COURT MAY NOT DECLINE TO HEAR CASE.—For purposes of this section, no Federal or State court shall decline for lack of subject matter or personal jurisdiction to hear any action brought against a sponsor under paragraph (1) if—

(A) the sponsored individual is a resident of the State in which the court is located, or received public assistance while residing in the State; and

(B) such sponsor has received service of process in accordance with applicable law.

(f) DEFINITIONS.—For purposes of this section—

(1) SPONSOR.—The term "sponsor" means an individual who—

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

(B) is at least 18 years of age;

(C) is domiciled in any of the several States of the United States, the District of Columbia, or any territory or possession of the United States; and

(D) demonstrates the means to maintain an annual income equal to at least 125 percent of the Federal poverty line for the individual and the individual's family (including the sponsored alien and any other alien sponsored by the individual), through evidence that includes a copy of the individual's Federal income tax return for the 3 most recent taxable years (which returns need show level of annual income only in the most recent taxable year) 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 true copies of such terms.

In the case of an individual who is an active duty (other than active duty for training) in the Armed Forces of the United States, subparagraph (D) shall be applied by substituting "100 percent" for "125 percent".

(2) FEDERAL POVERTY LINE.—The term "Federal poverty line" means the level of income equal to the official poverty line (as defined by the Director of the Office of Management and Budget, as revised annually by the Secretary of Health and Human Services, in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902)) that is applicable to a family of the size involved.

(3) QUALIFYING QUARTER.—The term "qualifying quarter" means a three-month period in which the sponsored individual has—

(A) earned at least the minimum necessary for the period to count as one of the 40 quarters required to qualify for social security retirement benefits;

(B) not received need-based public assistance; and

(C) has income tax liability for the tax year of which the period was part.

SEC. 205. VERIFICATION OF STUDENT ELIGIBILITY FOR POSTSECONDARY FEDERAL STUDENT FINANCIAL ASSISTANCE.

(a) REPORT REQUIREMENT.—Not later than one year after the date of the enactment of this Act, the Secretary of Education and the Commissioner of Social Security shall jointly submit to the Congress a report on the computer matching program of the Department of Education under section 484(p) of the Higher Education Act of 1965.

(b) REPORT ELEMENTS.—The report shall include the following:

(1) An assessment by the Secretary and the Commissioner of the effectiveness of the computer matching program, and a justification for such assessment.

(2) The ratio of inaccurate matches under the program to successful matches.

(3) Such other information as the Secretary and the Commissioner jointly consider appropriate.

SEC. 206. AUTHORITY OF STATES AND LOCALITIES TO LIMIT ASSISTANCE TO ALIENS AND TO DISTINGUISH AMONG CLASSES OF ALIENS IN PROVIDING GENERAL PUBLIC ASSISTANCE.

(a) IN GENERAL.—Subject to subsection (b) and notwithstanding any other provision of law, a State or local government may prohibit or otherwise limit or restrict the eligibility of aliens or classes of aliens for programs of general cash public assistance furnished under the law of the State or a political subdivision of a State.

(b) LIMITATION.—The authority provided for under subsection (a) may be exercised only to the extent that any prohibitions, limitations, or restrictions imposed by a State or local government are not more restrictive than the prohibitions, limitations, or restrictions imposed under comparable Federal programs. For purposes of this section, attribution to an alien of a sponsor's income and resources (as described in section 204(b)) for purposes of determining eligibility for, and the amount of, benefits shall be considered less restrictive than a prohibition of eligibility for such benefits.

SEC. 207. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS NOT CITIZENS OR LAWFUL PERMANENT RESIDENTS.

(a) IN GENERAL.—

(1) LIMITATION.—Notwithstanding any other provision of law, an individual may not receive an earned income tax credit for any year in which such individual was not, for the entire year, either a United States citizen or national or a lawful permanent resident.

(2) IDENTIFICATION NUMBER REQUIRED.—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 is amended by adding at the end the following new subsection:

"(k) IDENTIFICATION NUMBERS.—Solely 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—

(1) by striking "and" at the end of subparagraph (D),

(2) by striking the period at the end of subparagraph (E) and inserting ", and", and

(3) by inserting after subparagraph (E) the following new subparagraph:

"(F) an unintended omission of a correct taxpayer identification number required under 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.

SEC. 208. INCREASED MAXIMUM CRIMINAL PENALTIES FOR FORGING OR COUNTERFEITING SEAL OF A FEDERAL DEPARTMENT OR AGENCY TO FACILITATE BENEFIT FRAUD BY AN UNLAWFUL ALIEN.

Section 506 of title 18, United States Code, is amended to read as follows:

"Sec. 506. Seals of departments or agencies

"(a) Whoever—

"(1) falsely makes, forges, counterfeits, mutilates, or alters the seal of any department or agency of the United States, or any facsimile thereof;

"(2) knowingly uses, affixes, or impresses any such fraudulently made, forged, counterfeited, mutilated, or altered seal or facsimile thereof to or upon any certificate, instrument, commission, document, or paper of any description; or

"(3) with fraudulent intent, possesses, sells, offers for sale, furnishes, offers to furnish, gives away, offers to give away, transports, offers to transport, imports, or offers to import any such seal or facsimile thereof, knowing the same to have been so falsely made, forged, counterfeited, mutilated, or altered, shall be fined under this title, or imprisoned not more than 5 years, or both.

"(b) Notwithstanding subsection (a) or any other provision of law, if a forged, counterfeited, mutilated, or altered seal of a department or agency of the United States, or any facsimile thereof, is—

"(1) so forged, counterfeited, mutilated, or altered;

"(2) used, affixed, or impressed to or upon any certificate, instrument, commission, document, or paper of any description; or

"(3) with fraudulent intent, possessed, sold, offered for sale, furnished, offered to furnish, given away, offered to give away, transported, offered to transport, imported, or offered to import,

with the intent or effect of facilitating an unlawful alien's application for, or receipt of, a Federal benefit, the penalties which may be imposed for each offense under subsection (a) shall be two times the maximum fine, and 3 times the maximum term of imprisonment, or both, that would otherwise be imposed for an offense under subsection (a).

"(c) For purposes of this section—

"(1) the term 'Federal benefit' means—

"(A) the issuance of any grant, contract, loan, professional license, or commercial license provided by any agency of the United States or by appropriated funds of the United States; and

"(B) any retirement, welfare, Social Security, health (including treatment of an emergency medical condition in accordance with section 1903(v) of the Social Security Act (19 U.S.C. 1396b(v))), disability, veterans, public housing, education, food stamps, or unemployment benefit, or any similar benefit for which payments or assistance are provided by an agency of the United States or by appropriated funds of the United States;

"(2) the term 'unlawful alien' means an individual who is not—

"(A) a United States citizen or national;

"(B) an alien lawfully admitted for permanent residence under the Immigration and Nationality Act;

"(C) an alien granted asylum under section 208 of such Act;

"(D) a refugee admitted under section 207 of such Act;

"(E) an alien whose deportation has been withheld under section 243(h) of such Act; or

"(F) an alien paroled into the United States under section 215(d)(5) of such Act for a period of at least 1 year; and

"(3) each instance of forgery, counterfeiting, mutilation, or alteration shall constitute a separate offense under this section.".

SEC. 209. STATE OPTION UNDER THE MEDICAID PROGRAM TO PLACE ANTI-FRAUD INVESTIGATORS IN HOSPITALS.

(a) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (61);

(2) by striking the period at the end of paragraph (62) and inserting "; and"; and

(3) by adding after paragraph (62) the following new paragraph:

"(63) in the case of a State that is certified by the Attorney General as a high illegal immigration State (as determined by the Attorney General), at the election of the State, establish and operate a program for the placement of anti-fraud investigators in State, county, and private hospitals located in the State to verify the immigration status and income eligibility of applicants for medical assistance under the State plan prior to the furnishing of medical assistance.".

(b) PAYMENT.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended—

(1) by striking "plus" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; plus"; and

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

"(8) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b)) of the total amount expended during such quarter which is attributable to operating a program under section 1902(a)(63).".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the first day of the first calendar quarter beginning after the date of the enactment of this Act.

AMENDMENT No. 3880

At the appropriate place in the matter proposed to be inserted by the amendment, insert the following new section:

SEC. . UNFUNDED FEDERAL INTERGOVERNMENTAL MANDATES.

(a) IN GENERAL.—Notwithstanding any other provision of law, not later than 90 days after the beginning of fiscal year 1997, and annually thereafter, the determinations described in subsection (b) shall be made, and if any such determination is affirmative, the requirements imposed on State and local governments under this Act relating to the affirmative determination shall be suspended.

(b) DETERMINATION DESCRIBED.—A determination described in this subsection means one of the following:

(1) A determination by the responsible Federal agency or the responsible State or local administering agency regarding whether the costs of administering a requirement imposed on State and local government under this Act exceeds the estimated net savings in benefit expenditures.

(2) A determination by the responsible Federal agency, or the responsible State or local administering agency, regarding whether Federal funding is insufficient to fully fund the costs imposed by a requirement imposed on State and local governments under this Act.

(3) A determination by the responsible Federal agency, or the responsible State or local administering agency, regarding whether application of the requirement on a State or local government would significantly delay or deny services to otherwise eligible individuals in a manner that would hinder the protection of life, safety, or public health.

GRAHAM (AND OTHERS) AMENDMENT NO. 3881

(Ordered to lie on the table.)

Mr. GRAHAM (for himself, Mr. DOLE, Mr. MACK, Mr. BRADLEY, Mr. HELMS, and Mr. ABRAHAM) submitted an amendment intended to be proposed by them to the bill S. 1664, supra; as follows:

Beginning on page 177, strike line 13 and all that follows through line 4 on page 178, inserting the following:

(b) Northwithstanding any other provision of this Act, the repeal of Public Law 89-732 made by this Act shall become effective only upon a determination by the President under section 203(c)(3) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 that a democratically elected government in Cuba is in power.

GRAHAM AMENDMENT NO. 3882

(Ordered to lie on the table.)

Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill S. 1664, supra; as follows:

Strike on page 211, line 1 through line 9, and insert:

"(C) The Secretary shall conduct an assessment of immigration trends, current funding practices, and needs for assistance. Particular attention should be paid to the funds toward the counties impacted by the arrival of Cuban and Haitian individuals to determine whether there is a continued need for assistance to such counties. If the Secretary determines, after the assessment of subparagraph (C), that no compelling need exists in the counties impacted by the arrival of Cuban and Haitian entrants, all grants, except that for the Targeted Assistance Ten Percent Discretionary Program, made available under this paragraph for a fiscal year shall be allocated by the Office of Refugee Resettlement in a manner that ensures that each qualifying county receives the same amount of assistance for each refugee and entrant residing in the county as of the beginning of the fiscal year who arrived in the United States not earlier than 60 months before the beginning of such fiscal year.".

GRAHAM (AND SPECTER) AMENDMENT NO. 3883

(Ordered to lie on the table.)

Mr. GRAHAM (for himself and Mr. SPECTER) submitted an amendment intended to be proposed by them to the bill S. 1664, supra; as follows:

On page 198, beginning on line 11, strike all through page 201, line 4, and insert the following:

for benefits, the income and resources described in subsection (b) shall, notwithstanding any other provision of law, be deemed to be the income and resources of such alien for purposes of the following programs:

(1) Supplementary security income under title XVI of the Social Security Act;

(2) Aid to Families with Dependent Children under title IV of the Social Security Act;

(3) Food stamps under the Food Stamp Act of 1977;

(4) Section 8 low-income housing assistance under the United States Housing Act of 1937;

(5) Low-rent public housing under the United States Housing Act of 1937;

(6) Section 236 interest reduction payments under the National Housing Act;

(7) Home-owner assistance payments under the National Housing Act;

(8) Low income rent supplements under the Housing and Urban Development Act of 1965;

(9) Rural housing loans under the Housing Act of 1949;

(10) Rural rental housing loans under the Housing Act of 1949;

(11) Rural rental assistance under the Housing Act of 1949;

(12) Rural housing repair loans and grants under the Housing Act of 1949;

(13) Farm labor housing loans and grants under the Housing Act of 1949;

(14) Rural housing preservation grants under the Housing Act of 1949;

(15) Rural self-help; technical assistance grants under the Housing Act of 1949; and

(16) Site loans under the Housing Act of 1949;

(b) DEEMED INCOME AND RESOURCES.—The income and resources described in this subsection include the income and resources of—

(1) any person who, as a sponsor of an alien's entry into the United States, or in order to enable an alien lawfully to remain in the United States, executed an affidavit of support or similar agreement with respect to such alien, and

(2) the sponsor's spouse.

(c) LENGTH OF DEEMING PERIOD.—The requirement of subsection (a) shall apply for the period for which the sponsor has agreed, in such affidavit or agreement, to provide support for such alien, or for a period of 5 years beginning on the day such alien was first lawfully in the United States after the execution of such affidavit or agreement, whichever period is longer.

(d) EXCEPTION FOR INDIGENCE.—

(1) IN GENERAL.—If a determination described in paragraph (2) is made, the amount of income and resources of the sponsor or the sponsor's spouse which shall be attributed to the sponsored alien shall not exceed the amount actually provided for a period—

(A) beginning on the date of such determination and ending 12 months after such date, or

(B) if the address of the sponsor is unknown to the sponsored alien, beginning on the date of such determination and ending on the date that is 12 months after the address of the sponsor becomes known to the sponsored alien or to the agency (which shall inform such alien of the address within 7 days).

(2) DETERMINATION DESCRIBED.—A determination described in this paragraph is a determination by an agency that a sponsored alien would, in the absence of the assistance provided by the agency, be unable to obtain food or shelter, taking into account the alien's own income, plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor.

GRAHAM AMENDMENTS NOS. 3884-3893

(Ordered to lie on the table.)

Mr. GRAHAM submitted 10 amendments intended to be proposed by him to the bill S. 1664, supra; as follows:

AMENDMENT No. 3884

On page 190, beginning on line 9, strike all through page 201, line 4, and insert the following:

(ii) The food stamp program under the Food Stamp Act of 1977.

(iii) The supplemental security income program under title XVI of the Social Security Act.

(iv) Any State general assistance program.

(v) Any other program of assistance funded, in whole or in part, by the Federal Government or any State or local government entity, for which eligibility for benefits is based on need, except the programs listed as exceptions in clauses (i) through (vi) of section 201(a)(1)(A) and the exceptions listed in section 204(d) of the Immigration Reform Act of 1996.

(b) CONSTRUCTION.—Nothing in subparagraph (B), (C), or (D) of section 241(a)(5) of the Immigration and Nationality Act, as amended by subsection (a), may be construed to affect or apply to any determination of an alien as a public charge made before the date of enactment of this Act.

(c) REVIEW OF STATUS.—

(1) IN GENERAL.—In reviewing any application by an alien for benefits under section 216, section 245, or chapter 2 of title III of the Immigration and Nationality Act, the Attorney General shall determine whether or not the applicant is described in section 241(a)(5)(A) of such Act, as so amended.

(2) GROUNDS FOR DENIAL.—If the Attorney General determines that an alien is described in section 241(a)(5)(A) of the Immigration and Nationality Act, the Attorney General shall deny such application and shall institute deportation proceedings with respect to such alien, unless the Attorney General exercises discretion to withhold or suspend deportation pursuant to any other section of such Act.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to aliens who enter the United States on or after the date of enactment of this Act and to aliens who entered as nonimmigrants before such date but adjust or apply to adjust their status after such date.

SEC. 203. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

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

(1) which is legally enforceable against the sponsor by the sponsored individual, or by the Federal Government or any State, district, territory, or possession of the United States (or any subdivision of such State, district, territory, or possession of the United States) that provides any benefit described in section 241(a)(5)(D), as amended by section 202(a) of this Act, but not later than 10 years after the sponsored individual last receives any such benefit.

(2) in which the sponsor agrees to financially support the sponsored individual, so that he or she will not become a public charge, until the sponsored individual has worked in the United States for 40 qualifying quarters or has become a United States citizen, whichever occurs first; and

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

(b) FORMS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State, the Attorney General, and the Secretary of Health and Human Services shall jointly formulate the affidavit of support described in this section.

(c) NOTIFICATION OF CHANGE OF ADDRESS.—

(1) GENERAL REQUIREMENT.—The sponsor shall notify the Attorney General and the State, district, territory, or possession in which the sponsored individual is currently a resident within 30 days of any change of address of the sponsor during the period specified in subsection (a)(1).

(2) PENALTY.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall, after notice and opportunity to be heard, be subject to a civil penalty of—

(A) not less than $250 or more than $2000, or

(B) if such failure occurs with knowledge that the sponsored individual has received any benefit described in section 241(a)(5)(D) of the Immigration and Nationality Act, as amended by section 202(a) of this Act, not less than $2000 or more than $5000.

(d) REIMBURSEMENT OF GOVERNMENT EXPENSES.—

(1) IN GENERAL.—

(A) REQUEST FOR REIMBURSEMENT.—Upon notification that a sponsored individual has received any benefit described in section 241(a)(5)(D) of the Immigration and Nationality Act, as amended by section 202(a) of this Act, the appropriate Federal, State, or local official shall request reimbursement from the sponsor for the amount of such assistance.

(B) REGULATIONS.—The Commissioner of Social Security shall prescribe such regulations as may be necessary to carry out subparagraph (A). Such regulations shall provide that notification be sent to the sponsor's last known address by certified mail.

(2) ACTION AGAINST SPONSOR.—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 make payments, an action may be brought against the sponsor pursuant to the affidavit of support.

(3) FAILURE TO MEET REPAYMENT TERMS.—If the sponsor agrees to make payments, but fails to abide by the repayment terms established by the agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.

(e) JURISDICTION.—

(1) IN GENERAL.—An action to enforce an affidavit of support executed under subsection (a) may be brought against the sponsor in any Federal or State court—

(A) by a sponsored individual, with respect to financial support; or

(B) by a Federal, State, or local agency, with respect to reimbursement.

(2) COURT MAY NOT DECLINE TO HEAR CASE.—For purposes of this section, no Federal or State court shall decline for lack of subject matter or personal jurisdiction to hear any action brought against a sponsor under paragraph (1) if—

(A) the sponsored individual is a resident of the State in which the court is located, or received public assistance while residing in the State; and

(B) such sponsor has received service of process in accordance with applicable law.

(f) DEFINITIONS.—For purposes of this section—

(1) SPONSOR.—The term "sponsor" means an individual who—

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

(B) is at least 18 years of age;

(C) is domiciled in any of the several States of the United States, the District of Columbia, or any territory or possession of the United States; and

(D) demonstrates the means to maintain an annual income equal to at least 125 percent of the Federal poverty line for the individual and the individual's family (including the sponsored alien and any other alien sponsored by the individual), through evidence that includes a copy of the individual's Federal income tax return for the 3 most recent taxable years (which returns need show such level of annual income only in the most recent taxable year) 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 true copies of such returns.

In the case of an individual who is on active duty (other than active duty for training) in the Armed Forces of the United States, subparagraph (D) shall be applied by substituting "100 percent" for "125 percent".

(2) FEDERAL POVERTY LINE.—The term "Federal poverty line" means the level of income to the official poverty line (as defined by the Director of the Office of Management and Budget, as revised annually by the Secretary of Health and Human Services, in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902)) that is applicable to a family of the size involved.

(3) QUALIFYING QUARTER.—The term "qualifying quarter" means a three-month period in which the sponsored individual has—

(A) earned at least the minimum necessary for the period to count as one of the 40 quarters required to qualify for social security retirement benefits;

(B) not received need-based public assistance; and

(C) had income tax liability for the tax year of which the period was part.

SEC. 204. ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO FAMILY-SPONSORED IMMIGRANTS

(a) DEEMING REQUIREMENT FOR FEDERAL AND FEDERALLY FUNDED PROGRAMS.—Subject to subsection (d), for purposes of determining the eligibility of an alien for benefits, and the amount of benefits, under any public assistance program (as defined in section 201(f)(3)), the income and resources described in subsection (b) shall, notwithstanding any other provision of law, be deemed to be the income and resources of such alien.

(b) DEEMED INCOME AND RESOURCES.—The income and resources described in this subsection include the income and resources of—

(1) any person who, as a sponsor of an alien's entry into the United States, or in order to enable an alien lawfully to remain in the United States, executed an affidavit of support or similar agreement with respect to such alien, and

(2) the sponsor's spouse.

(c) LENGTH OF DEEMING PERIOD.—The requirement of subsection (a) shall apply for the period for which the sponsor has agreed, in such affidavit or agreement, to provide support for such alien, or for a period of 5 years beginning on the day such alien was first lawfully in the United States after the execution of such affidavit or agreement, whichever period is longer.

(d) EXCEPTIONS.—

(1) INDIGENCE.—

(A) IN GENERAL.—If a determination described in subparagraph (B) is made, the amount of income and resources of the sponsor or the sponsor's spouse which shall be attributed to the sponsored alien shall not exceed the amount actually provided for a period—

(i) beginning on the date of such determination and ending 12 months after such date, or

(ii) if the address of the sponsor is unknown to the sponsored alien, beginning on the date of such determination and ending on the date that is 12 months after the address of the sponsor becomes known to the sponsored alien or to the agency (which shall inform such alien of the address within 7 days).

(B) DETERMINATION DESCRIBED.—A determination described in this subparagraph is a determination by an agency that a sponsored alien would, in the absence of the assistance provided by the agency, be unable to obtain food or shelter, taking into account the

alien's own income, plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor.

(2) EDUCATION ASSISTANCE.—

(A) IN GENERAL.—The requirements of subsection (a) shall not apply with respect to sponsored aliens who have received, or have been approved to receive, student assistance under title IV, V, IX, or X of the Higher Education Act of 1965 in an academic year which ends or begins in the calendar year in which this Act is enacted.

(B) DURATION.—The exception described in subparagraph (A) shall apply only for the period normally required to complete the course of study for which the sponsored alien received assistance described in that subparagraph.

(3) CERTAIN SERVICES AND ASSISTANCE.—The requirements of subsection (a) shall not apply to—

(A) any services or assistance described in section 201(a)(1)(A)(vii); and

(B) in the case of an eligible alien (as described in section 201(f)(1))—

(i) any care or services provided to an alien for an emergency medical condition, as defined in section 1903(v)(3) of the Social Security Act; and

(ii) any public health assistance for immunizations and immunizable diseases, and for the testing and treatment of communicable diseases.

(4) MEDICAID SERVICES FOR LEGAL IMMIGRANTS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, for purposes of determining the eligibility for medical assistance under title XIX of the Social Security Act (other than services for which an exception is provided under paragraph (3)(B))—

(i) the requirements of subsection (a) shall not apply to an alien lawfully admitted to the United States before the date of the enactment of this Act; and

(ii) for an alien who has entered the United States on or after the date of enactment of this Act, the income and resources described in subsection (b) shall be deemed to be the income of the alien for a period of two years beginning on the day such alien was first lawfully in the United States.

AMENDMENT No. 3885

On page 201, strike lines 1 through 4 and insert the following:

(3) CERTAIN SERVICES AND ASSISTANCE.—The requirements of subsection (a) shall not apply to—

(A) any services or assistance described in section 201(a)(1)(A)(vii); and

(B) in the case of an eligible alien (as described in section 201(f)(1))—

(i) any care or services provided to an alien for an emergency medical condition, as defined in section 1903(v)(3) of the Social Security Act; and

(ii) any public health assistance for immunizations and immunizable diseases, and for the testing and treatment of communicable diseases.

(4) MEDICAID SERVICES FOR LEGAL IMMIGRANTS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, for purposes of determining the eligibility for medical assistance under title XIX of the Social Security Act (other than services for which an exception is provided under paragraph (3)(B))—

(i) the requirements of subsection (a) shall not apply to an alien lawfully admitted to the United States before the date of the enactment of this Act; and

(ii) for an alien who has entered the United States on or after the date of enactment of this Act, the income and resources described in subsection (b) shall be deemed to be the income of the alien for a period of two years beginning on the day such alien was first lawfully in the United States.

AMENDMENT No. 3886

On page 190, strike line 9 through line 25 and insert the following:

(ii) The food stamp program under the Food Stamp Act of 1977.

(iii) The supplemental security income program under title XVI of the Social Security Act.

(iv) Any State general assistance program.

(v) Any other program of assistance funded, in whole or in part, by the Federal Government or any State or local government entity, for which eligibility for benefits is based on need, except the programs listed as exceptions in clauses (i) through (vi) of section 201(a)(1)(A) and the exceptions listed in section 204(d) of the Immigration Reform Act of 1996.

AMENDMENT No. 3887

On page 186 line 24 through page 188 line 23, strike everything and insert the following after the word "been."

withheld under section 243 (h) of such Act.

(E) an alien paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year, or

(F) an alien who is a Cuban or Haitian entrant (within the meaning of section 501(e) of the Refugees Education Assistance Act of 1980).

(2) INELIGIBLE ALIEN.—The term "ineligible alien" means an individual who is not—

(A) a United States citizen or national; or

(B) an eligible alien.

(3) PUBLIC ASSISTANCE PROGRAM.—The term "public assistance program" means any program of assistance provided or funded, in whole or in part, by the Federal Government or any State or local government entity, for which eligibility for benefits is based on need.

(4) GOVERNMENT BENEFITS.—The term "government benefits" includes—

(A) any grant, contract, loan, professional license, or commercial license provided or funded by an agency of the United States or any State or local government entity, except, with respect to a nonimmigrant authorized to work in the United States, any professional or commercial license required to engage in such work, if the nonimmigrant is otherwise qualified for such license;

(B) unemployment benefits payable out of Federal funds;

(C) benefits under title II of the Social Security Act;

(D) financial assistance for purposes of section 214(a) of the Housing and Community Development Act of 1980 (Public Law 96-399; 94 Stat. 1637); and

(E) benefits based on residence that are prohibited by subsection (a)(2).

SEC. 202. DEFINITION OF "PUBLIC CHARGE" FOR PURPOSES OF DEPORTATION.

(a) IN GENERAL.—Section 241(a)(5) (8 U.S.C. 124(a)(5) is amended to read as follows:

"(5) PUBLIC CHARGE.—

"(A) IN GENERAL.—Any alien who during the public charge period becomes a public charge, regardless of when the cause for becoming a public charge arises, is deportable.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply if the alien is a refugee or has been granted asylum, if the alien is a Cuban or Haitian entrant (within the meaning of section 501(e) of the Refugee Education Assistance Act of 1980) or if the cause of the alien's becoming a public charge—

AMENDMENT No. 3888

On page 181, beginning on line 19, strike all through page 182, line 2.

AMENDMENT No. 3889

On page 201, between lines 4 and 5, insert the following:

(4) MEDICAID SERVICES FOR LEGAL IMMIGRANTS.—The requirements of subsection (a) shall not apply in the case of any service provided under title XIX of the Social Security Act to an alien lawfully admitted to the United States before the date of the enactment of this Act.

AMENDMENT No. 3890

On page 201, line 5, insert the following:

(4) MEDICAID SERVICES FOR LEGAL IMMIGRANTS.—Notwithstanding any other provision of law, for purposes of determining the eligibility for medical assistance under title XIX of the Social Security Act, the income and resources described in subsection (b) shall be deemed to be the income of the alien for a period of two years beginning on the day such alien was first lawfully in the United States.

AMENDMENT No. 3891

On page 201, strike lines 1 through 4, and insert the following:

(3) CERTAIN SERVICES AND ASSISTANCE.—The requirements of subsection (a) shall not apply to—

(A) any service or assistance described in section 201(a)(1)(A)(vii); or

(B) in the case of an eligible alien (as defined in section 201(f)(1))—

(i) any emergency medical service under title XIX of the Social Security Act; or

(ii) any public health assistance for immunizations and, if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of serious communicable disease, for testing and treatment of such diseases.

AMENDMENT No. 3892

On page 201, strike lines 1 through 4, and insert the following:

(3) CERTAIN SERVICES AND ASSISTANCE.—The requirements of subsection (a) shall not apply to—

(A) any service or assistance described in section 201(a)(1)(A)(vii); and

(B) in patient hospital services provided by a disproportionate share hospital for which an adjustment in payment to a State under the medicaid program is made in accordance with section 1923 of the Social Security Act.

AMENDMENT No. 3893

On page 301, strike lines 1 through 4, and insert the following:

(3) CERTAIN SERVICES AND ASSISTANCE.—The requirements of subsection (a) shall not apply to—

(A) any service or assistance described in section 201(a)(1)(A)(vii);

(B) medicaid services provided under title XIX of the Social Security Act;

(C) public health assistance for immunizations and testing and treatment services to prevent the spread of communicable diseases.

(D) material and child health services block grants under the title V of the Social Security Act;

(E) services and assistance provided under titles III, VII, and VIII of the Public Health Service Act;

(F) preventive health and health services block grants under title XIX of the Public Health Service Act;

(G) migrant health center grants under the Public Health Service Act; and

(H) community health center grants under the Public Health Service Act.

REID AMENDMENTS NOS. 3894-3895

(Ordered to lie on the table.)

Mr. REID submitted two amendments intended to be proposed by him to the bill S. 1664, supra; as follows:

AMENDMENT No. 3894

At the appropriate place insert the following new section:

SEC. . PASSPORTS ISSUED FOR CHILDREN UNDER 16.

(a) IN GENERAL.—Section 1 of title IX of the Act of June 15, 1917 (22 U.S.C. 213) is amended—

(1) by striking "Before" and inserting "(a) IN GENERAL.—Before", and

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

"(b) PASSPORTS ISSUED FOR CHILDREN UNDER 16.—

"(1) SIGNATURES REQUIRED.—In the case of a child under the age of 16, the written application required as a prerequisite to the issuance of a passport for such child shall be signed by—

"(A) both parents of the child if the child lives with both parents;

"(B) the parent of the child having primary custody of the child if the child does not live with both parents; or

"(C) the surviving parent (or legal guardian) of the child, if 1 or both parents are deceased.

"(2) WAIVER.—The Secretary of State may waive the requirements of paragraph (1)(A) if the Secretary determines that circumstances do not permit obtaining the signatures of both parents.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to applications for passports filed on or after the date of the enactment of this Act.

AMENDMENT No. 3895

At the appropriate place in the bill, insert the following:

SEC. . FEMALE GENITAL MUTILATION.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the practice of female genital mutilation is carried out by members of certain cultural and religious groups within the United States;

(2) the practice of female genital mutilation often results in the occurrence of physical and psychological health effects that harm the women involved;

(3) such mutilation infringes upon the guarantees of rights secured by Federal and State law, both statutory and constitutional;

(4) the unique circumstances surrounding the practice of female genital mutilation place it beyond the ability of any single State of local jurisdiction to control;

(5) the practice of female genital mutilation can be prohibited without abridging the exercise of any rights guaranteed under the First Amendment to the Constitution or under any other law; and

(6) Congress has the affirmative power under section 8 of article I, the necessary and proper clause, section 5 of the Fourteenth Amendment, as well as under the treaty clause of the Constitution to enact such legislation.

(b) BASIS OF ASYLUM.—(1) Section 101(a)(42) (8 U.S.C. 1101(a)(42)) is amended—

(A) by inserting after "political opinion' the first place it appears: "or because the person has been threatened with an act of female genital mutilation";

(B) by inserting after "political opinion" the second place it appears the following: ", or who has been threatened with an act of female genital mutilation";

(C) by inserting after "political opinion" the third place it appears the following: "or who ordered, threatened, or participated in the performance of female genital mutilation"; and

(D) by adding at the end the following new sentence: "The term 'female genital mutilation' means an action described in section 116(a) of title 18, United States Code.".

(2) Section 243(h)(1) (8 U.S.C. 1253(h)(1)) is amended by inserting after "political opinion" the following: "or would be threatened with an act of female genital mutilation".

(c) CRIMINAL CONDUCT.—

(1) IN GENERAL.—Chapter 7 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 116. Female genital mutilation

"(a) Except as provided in subsection (b), whoever knowingly circumcises, excises, or infibulates the whole or any part of the labia majora or labia minora or clitoris of another person who has not attained the age of 18 years shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) A surgical operation is not a violation of this section if the operation is—

"(1) necessary to the health of the person on whom it is performed, and is performed by a person licensed in the place of its performance as a medical practitioner; or

"(2) performed on a person in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed in the place it is performed as a medical practitioner, midwife, or person in training to become such a practitioner or midwife.

"(c) In applying subsection (b)(1), no account shall be taken of the effect on the person on whom the operation is to be performed of any belief on the part of that or any other person that the operation is required as a matter of custom or ritual.

"(d) Whoever knowingly denies to any person medical care or services or otherwise discriminates against any person in the provision of medical care or services, because—

"(1) that person has undergone female circumcision, excision, or infibulation; or

"(2) that person has requested that female circumcision, excision, or infibulation be performed on any person;

shall be fined under this title or imprisoned not more than one year, or both.".

(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 7 of title 18, United States Code, is amended by adding at the end the following new item:

"116. Female genital mutilation.".

(d) EFFECTIVE DATE.—Subsection (c) shall take effect on the date that is 180 days after the date of the enactment of this Act.

BRADLEY AMENDMENTS NOS. 3896–3898

(Ordered to lie on the table.)

Mr. BRADLEY submitted three amendments intended to be proposed by him to the bill S. 1664, supra; as follows:

AMENDMENT No. 3896

At the end of the bill, add the following new title:

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. ENFORCEMENT OF EMPLOYER SANCTIONS.

(a) ESTABLISHMENT OF NEW OFFICE.—There shall be in the Immigration and Naturalization Service of the Department of Justice an Office for the Enforcement of Employer Sanctions (in this section referred to as the "Office").

(b) FUNCTIONS.—The functions of the Office established under subsection (a) shall be—

(1) to investigate and prosecute violations of section 274A(a) of the Immigration and Nationality Act (8 U.S.C. 1324a(a)); and

(2) to educate employers on the requirements of the law and in other ways as necessary to prevent employment discrimination.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General $100,000,000 to carry out the functions of the Office established under subsection (a).

AMENDMENT No. 3897

At the end of the bill, add the following new title:

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. INVESTIGATORS OF UNLAWFUL EMPLOYMENT ACTIVITIES.

Of the number of investigators authorized by section 102(a) of this Act, not less than 150 full-time active-duty investigators in each such fiscal year shall perform only the functions of investigating and prosecuting violations of section 274A(a) of the Immigration and Nationality Act (8 U.S.C. 1324a(a)).

AMENDMENT No. 3898

At the end of the bill, add the following new title:

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. OFFICE FOR EMPLOYER SANCTIONS.

(a) ESTABLISHMENT; FUNCTIONS.—There is established within the Department of Justice an Office for Employer Sanctions charged with the responsibility of—

(1) providing advice and guidance to employers and employees relating to unlawful employment of aliens under section 274A of the Immigration and Nationality Act and unfair immigration-related employment practices under 274B of such Act;

(2) assisting employers in complying with those laws; and

(3) coordinating other functions related to the enforcement under this Act of employer sanctions.

(b) COMPOSITION.—The members of the Office shall be designated by the Attorney General from among officers or employees of the Immigration and Naturalization Service or other components of the Department of Justice.

(c) ANNUAL REPORT.—The Office shall report annually to the Attorney General on its operations.

GRAHAM AMENDMENTS NOS. 3899–3902

(Ordered to lie on the table.)

Mr. GRAHAM submitted four amendments intended to be proposed by him to the bill S. 1664, supra; as follows:

AMENDMENT No. 3899

Beginning on page 210, strike line 22 and all that follows through line 9 on page 211.

AMENDMENT No. 3900

On page 201, strike lines 1 through 4, and insert the following:

(3) CERTAIN SERVICES AND ASSISTANCE.—the requirements of subsection (a) shall not apply to—

(A) any service or assistance described in section 201(a)(1)(A)(vii); and

(B) medicare cost-sharing provided to a qualified medicare beneficiary (as such terms are defined under section 1905(p) of the Social Security Act).

AMENDMENT No. 3901

On page 180, lines 13 and 14, strike "serious".

AMENDMENT No. 3902

Strike page 180, line 15, through 181 line 9, and insert:

treatment for such diseases,

(vii) such other service or assistance (such as soup kitchens, crisis counseling, intervention (including intervention for domestic violence), and short-term shelter) as the Attorney General specifies, in the Attorney General's sole and unreviewable discretion, after consultation with the heads of appropriate Federal agencies, if—

(I) such service or assistance is delivered at the community level, including through public or private nonprofit agencies;

(II) such service or assistance is necessary for the protection of life, safety, or public health; and

(III) such service or assistance or the amount or cost of such service or assistance is not conditioned on the recipient's income or resources; and

(viii) in the case of nonimmigrant migrant workers and their dependents, Head Start programs under the Head Start Act (42 U.S.C. 9831 et. seq.) and other educational, housing and health assistance being provided to such class of aliens as of the date of enactment of this Act, or

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GRAMM AMENDMENTS NOS. 3903–3904

(Ordered to lie on the table.)

Mr. GRAMM submitted two amendments intended to be proposed by him to the bill S. 1664, supra; as follows:

AMENDMENT No. 3903

At the end, insert the following:

SEC. . DEVELOPMENT OF COUNTERFEIT-RESISTANT SOCIAL SECURITY CARD.

(a) DEVELOPMENT.—Not later than 1 year after the date of enactment of this Act, the Commissioner of Social Security (hereafter in this section referred to as the "Commissioner") shall, in accordance with this section, develop a counterfeit-resistant social security card. Such card shall—

(1) be made of a durable, tamper-resistant material such as plastic or polyester,

(2) employ technologies that provide security features, such as magnetic stripes, holograms, and integrated circuits, and

(3) be developed so as to provide individuals with reliable proof of citizenship or legal resident alien status.

(b) PROCEDURES FOR ISSUANCE.—The Commissioner shall make a social security card of the type described in subsection (a) available, at cost, to any individual requesting such a card to replace a card previously issued to such individual.

(c) COUNTERFEIT-RESISTANT CARD VOLUNTARY FOR INDIVIDUALS.—The Commissioner may not require any individual to obtain a social security card of the type described in subsection (a).

AMENDMENT No. 3904

At the end, insert the following:

"SEC. —. FINDINGS RELATED TO THE ROLE OF INTERIOR BORDER PATROL STATIONS.

The Congress makes the following findings:

(1) The Immigration and Naturalization Service has drafted a preliminary plan for the removal of 200 Border Patrol agents from interior stations and the transfer of these agents to the Southwest border.

(2) The INS has stated that it intends to carry out this transfer without disrupting service and support to the communities in which interior stations are located.

(3) Briefings conducted by INS personnel in communities with interior Border Patrol stations have revealed that Border Patrol agents at interior stations, particularly those located in Southwest border States, perform valuable law enforcement functions that cannot be performed by other INS personnel.

(4) The transfer of 200 Border Patrol agents from interior stations to the Southwest border, which would not increase the total number of law enforcement personnel at INS, would cost the federal government approximately $12,000,000.

(5) The cost to the federal government of hiring new criminal investigators and other personnel for interior stations is likely to be greater than the cost of retaining Border Patrol agents at interior stations.

(6) The first recommendation of the report by the National Task Force on Immigration was to increase the number of Border Patrol agents at the interior stations.

(7) Therefore, it is the sense of the Congress that—

(A) the U.S. Border Patrol plays a key role in apprehending and deporting undocumented aliens throughout the United States;

(B) interior Border Patrol stations play a unique and critical role in the agency's enforcement mission and serve as an invaluable second line of defense in controlling illegal immigration and its penetration to the interior of our country;

(C) a redeployment of Border Patrol agents at interior stations would not be cost-effective and is unnecessary in view of plans to nearly double the number of Border Patrol agents over the next five years; and

(D) the INS should hire, train and assign new staff based on a strong Border Patrol presence both on the Southwest border and in interior stations that support border enforcement.

LEAHY (AND OTHERS) AMENDMENT NO. 3905

(Ordered to lie on the table.)

Mr. LEAHY (for himself, Mr. DEWINE, and Mr. HATFIELD) submitted an amendment intended to be proposed by them to the bill S. 1664, supra; as follows:

At the end of the bill, add the following:

TITLE III—MISCELLANOUS PROVISIONS

SEC. 301. (a) Notwithstanding any other provision of this Act, sections 131, 132, 141, 193 and 198(b) shall have no force or effect.

(b) Section 106(f) of the Immigration and Nationality Act (8 U.S.C. 1105(f) is repealed.

(c) The Immigration and Nationality Act is amended by adding after section 236 (8 U.S.C. 1226) the following new section:

"SPECIAL EXCLUSION IN EXTRAORDINARY MIGRATION SITUATIONS

"SEC. 236A. (a) IN GENERAL.—

"(1) Notwithstanding the provisions of sections 235(b) and 236, and subject to subsection (c), if the Attorney General determines that the numbers or circumstances of aliens en route to or arriving in the United States, by land, sea, or air, present an extraordinary migration situation, the Attorney General may, without referral to a special inquiry officer, order the exclusion and deportation of any alien who is found to be excludable under section 212(a)(6)(C) or (7).

"(2) As used in this section, the term 'extraordinary migration situation' means the arrival or imminent arrival in the United States or its territorial waters of aliens who by their numbers or circumstances substantially exceed the capacity of the inspection and examination of such aliens.

"(3) Subject to paragraph (4), the determination whether there exists an extraordinary migration situation within the meaning of paragraphs (1) and (2) is committed to the sole and exclusive discretion of the Attorney General.

"(4) The provisions of this subsection may be invoked under paragraph (1) for a period not to exceed 90 days, unless within such 90-day period or extension thereof, the Attorney General determines, after consultation with the Committees on the Judiciary of the Senate and the House of Representatives, that an extraordinary migration situation continues to warrant such procedures remaining in effect for an additional 90-day period.

"(5) No alien may be ordered specially excluded under paragraph (1) if—

"(A) such alien is eligible to seek asylum under section 208; and

"(B) the Attorney General determines, in the procedure described in subsection (b), that such alien has a credible fear of persecution on account of race, religion, nationality, membership in a particular social group or political opinion in the country of such person's nationality, or in the case of a person having no nationality, the country in which such person last habitually resided.

"(6) A special exclusion order enter in accordance with the provisions of this section is not subject to administrative review other than as provided in this section, except that the Attorney General shall provide by regulation for a prompt administrative review of such an order against an applicant 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, and appears to have been, lawfully admitted for permanent residence.

"(7) A special exclusion order entered in accordance with the provisions of this section shall have the same effect as if the alien had been ordered excluded and deported pursuant to section 236.

"(8) Nothing in this subsection shall be construed as requiring an inquiry before a special inquiry officer in the case of an alien crewman.

"(b) PROCEDURE FOR USING SPECIAL EXCLUSION.—(1) When the Attorney General has determined pursuant to this section that an extraordinary migration situation exists and an alien subject to special exclusion under such section has indicated a desire to apply for asylum or withholding or deportation under section 243(h) or has indicated a fear of persecution upon return, the immigration officer shall refer the matter to an asylum officer.

"(2) Such asylum officer shall interview the alien to determine whether the alien has a credible fear of persecution (or of return to persecution) in or from the country of such alien's nationality, or in the case of a person having no nationality, the country in which such alien last habitually resided.

"(3) The Attorney General shall provide information concerning the procedures described in this section to any alien who is subject to such provisions. The alien may consult with or be represented by a person or persons of the alien's choosing according to regulations prescribed by the Attorney General. Such consultation and representation shall be at no expense to the Government and shall not unreasonably delay the process.

"(4) The application for asylum or withholding of deportation of an alien who has been determined under the procedure described in paragraph (2) to have a credible fear of persecution shall be determined in due course by a special inquiry officer during a hearing on the exclusion of such alien.

"(5) If the officer determines that the alien does not have a credible fear of persecution in (or of return to persecution from) the country or countries referred to in paragraph (2), the alien may be specially excluded and deported in accordance with this section.

"(6) The Attorney General shall provide by regulation for a single level of administrative appellate review of a special exclusion

order entered in accordance with the provisions of this section.

"(7) As used in this section, the term 'asylum officer' means an immigration officer who—

"(A) has had extensive professional training in country conditions, asylum law, and interview techniques;

"(B) has had at least one year of experience adjudicating affirmative asylum applications of aliens who are not in special exclusion proceedings; and

"(C) is supervised by an officer who meets the qualifications described in subparagraphs (A) and (B).

"(8) As used in this section, the term 'credible fear of persecution' means that, in light of statements and evidence produced by the alien in support of the alien's claim, and of such other facts as are known to the officer about country conditions, a claim by the alien that the alien is eligible for asylum under section 208 would not be manifestly unfounded.

"(c) ALIENS FLEEING ONGOING ARMED CONFLICT, TORTURE, SYSTEMATIC PERSECUTION, AND OTHER DEPRIVATIONS OF HUMAN RIGHTS.—Notwithstanding any other provision of this section, the Attorney General may, in the Attorney General's discretion, proceed in accordance with section 236 with regard to any alien fleeing from a country where—

"(1) the government (or a group within the country that the government is unable or unwilling to control) engages in—

"(A) torture or other cruel, inhuman, or degrading treatment or punishment;

"(B) prolonged arbitrary detention without charges or trial;

"(C) abduction, forced disappearance or clandestine detention; or

"(D) systematic persecution; or

"(2) an ongoing armed conflict or other extraordinary conditions would pose a serious threat to the alien's personal safety.".

(d) CONFORMING AMENDMENTS.—(1)(A) Section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225b) is amended to read as follows:

"(b) Every alien (other than an alien crewman), and except as otherwise provided in subsection (c) of this section and in section 273(d), who may not appear to the examining officer at the port of arrival to be clearly and beyond a doubt entitled to land shall be detained for further inquiry to be conducted by a special inquiry officer. 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 land is so challenged, before a special inquiry officer.".

(B) Section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227a) is amended—

(i) in the second sentence of paragraph (1), by striking "Subject to section 235(b)(1), deportation" and inserting "Deportation"; and

(ii) in the first sentence of paragraph (2), by striking "Subject to section (b)(1), if" and inserting "If".

(2)(A) Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(i) by striking subsection (e); and

(ii) by amending the section heading to read as follows: "JUDICIAL REVIEW OF ORDERS OF DEPORTATION AND EXCLUSION".

(B) Section 235(d) (8 U.S.C. 1225d) is repealed.

(C) the item relating to section 106 in the table of contents of the Immigration and Nationality Act is amended to read as follows:

"106. Judicial review of orders of deportation and exclusion.".

(3) Section 241(d) (8 U.S.C. 1251d) is repealed.

LEAHY AMENDMENTS NOS. 3906–3910

(Ordered to lie on the table.)

Mr. LEAHY submitted five amendments intended to be proposed by him to the bill S. 1664, supra; as follows:

AMENDMENT No. 3906

At the end of the bill, add the following:

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301(a). Notwithstanding any other provision of this Act, the Immigration and Nationality Act is amended by adding after section 236 (8 U.S.C. 1226) the following new section:

"SPECIAL EXCLUSION IN EXTRAORDINARY MIGRATION SITUATIONS

"SEC. 236A. (a) IN GENERAL.—

"(1) Notwithstanding the provisions of sections 235(b) and 236, and subject to subsection (c), if the Attorney General determines that the numbers or circumstances of aliens en route to or arriving in the United States, by land, sea, or air, present an extraordinary migration situation, the Attorney General may, without referral to a special inquiry officer, order the exclusion and deportation of any alien who is found to be excludable under section 212(a) (6)(C) or (7).

"(2) As used in this section, the term 'extraordinary migration situation' means the arrival or imminent arrival in the United States or its territorial waters of aliens who by their numbers or circumstances substantially exceed the capacity of the inspection and examination of such aliens.

"(3) Subject to paragraph (4), the determination whether there exists an extraordinary migration situation within the meaning of paragraphs (1) and (2) is committed to the sole and exclusive discretion of the Attorney General.

"(4) The provisions of this subsection may be invoked under paragraph (1) for a period not to exceed 90 days, unless within such 90-day period or extension thereof, the Attorney General determines, after consultation with the Committees on the Judiciary of the Senate and the House of Representatives, that an extraordinary migration situation continues to warrant such procedures remaining in effect for an additional 90-day period.

"(5) No alien may be ordered specially excluded under paragraph (1) if—

"(A) such alien is eligible to seek asylum under section 208; and

"(B) the Attorney General determines, in the procedure described in subsection (b), that such alien has a credible fear of persecution on account of race, religion, nationality, membership in a particular social group or political opinion in the country of such person's nationality, or in the case of a person having no nationality, the country in which such person last habitually resided.

"(6) A special exclusion order entered in accordance with the provisions of this section is not subject to administrative review other than as provided in this section, except that the Attorney General shall provide by regulation for a prompt administrative review of such an order against an applicant 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, and appears to have been, lawfully admitted for permanent residence.

"(7) A special exclusion order entered in accordance with the provisions of this section shall have the same effect as if the alien had been ordered excluded and deported pursuant to section 236.

"(8) Nothing in this subsection shall be construed as requiring an inquiry before a special inquiry officer in the case of an alien crewman.

"(b) PROCEDURE FOR USING SPECIAL EXCLUSION.—(1) When the Attorney General has determined pursuant to this section that an extraordinary migration situation exits and an alien subject to special exclusion under such section has indicated a desire to apply for asylum or withholding of deportation under section 243(h) or has indicated a fear of persecution upon return, the immigration officer shall refer the matter to an asylum officer.

"(2) Such asylum officer shall interview the alien to determine whether the alien has a credible fear of persecution (or of return to persecution) in or from the country of such alien's nationality, or in the case of a person having no nationality, the country in which such alien last habitually resided.

"(3) The Attorney General shall provide information concerning the procedures described in this section to any alien who is subject to such provisions. The alien may consult with or be represented by a person or persons of the alien's choosing according to regulations prescribed by the Attorney General. Such consultation and representation shall be at no expense to the Government and shall not unreasonably delay the process.

"(4) The application for asylum or withholding of deportation of an alien who has been determined under the procedure described in paragraph (2) to have a credible fear of persecution shall be determined in due course by a special inquiry officer during a hearing on the exclusion of such alien.

"(5) If the officer determines that the alien does not have a credible fear of persecution in (or of return to persecution from) the country or countries referred to in paragraph (2), the alien may be specially excluded and deported in accordance with this section.

"(6) The Attorney General shall provide by regulation for a single level of administrative appellate review of a special exclusion order entered in accordance with the provisions of this section.

"(7) As used in this section, the term 'asylum officer' means an immigration officer who—

"(A) has had extensive professional training in country conditions, asylum law, and interview techniques;

"(B) has had at least one year of experience adjudicating affirmative asylum applications of aliens who are not in special exclusion proceedings; and

"(C) is supervised by an officer who meets the qualifications described in subparagraphs (A) and (B).

"(8) As used in this section, the term 'credible fear of persecution' means that, in light of statements and evidence produced by the alien in support of the alien's claim, and of such other facts as are known to the officer about country conditions, a claim by the alien that the alien is eligible for asylum under section 208 would not be manifestly unfounded.

"(c) ALIENS FLEEING ONGOING ARMED CONFLICT, TORTURE, SYSTEMATIC PERSECUTION, AND OTHER DEPRIVATIONS OF HUMAN RIGHTS.—Notwithstanding any other provision of this section, the Attorney General may, in the Attorney General's discretion, proceed in accordance with section 236 with regard to any alien fleeing from a country where—

"(1) the government (or a group within the country that the government is unable or unwilling to control) engages in—

"(A) torture or other cruel, inhuman, or degrading treatment or punishment;

"(B) prolonged arbitrary detention without charges or trial;

"(C) abduction, forced disappearance or clandestine detention; or

"(D) systematic persecution; or

"(2) an ongoing armed conflict or other extraordinary conditions would pose a serious threat to the alien's personal safety.".

AMENDMENT No. 3907

At the end of the bill, add the following:

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. Notwithstanding any other provision of this Act, Sections 131, 132, 141, 193 and 198(b) shall have no force or effect.

AMENDMENT No. 3908

At the end of the bill, add the following:

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301(a). Section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225b) is amended to read as follows:

"(b) Every alien (other than an alien crewman), and except as otherwise provided in subsection (c) of this section and in section 273(d), who may not appear to the examining officer at the port of arrival to be clearly and beyond a doubt entitled to land shall be detained for further inquiry to be conducted by a special inquiry officer. 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 land is so challenged, before a special inquiry officer.".

(2) Section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227a) is amended—

(i) in the second sentence of paragraph (1), by striking "Subject to section 234(b)(1), deportation" and inserting "Deportation"; and

(ii) in the first sentence of paragraph (2), by striking "Subject to section (b)(1), if" and inserting "If".

(b)(1) Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(i) by striking subsection (e); and

(ii) by amending the section heading to read as follows: "JUDICIAL REVIEW OF ORDERS OF DEPORTATION AND EXCLUSION".

(2) Section 235(d) (8 U.S.C. 1225d) is repealed.

(3) The item relating to section 106 in the table of contents of the Immigration and Nationality Act is amended to read as follows:

"106. Judicial review of orders of deportation and exclusion.".

(c) Section 241(d)(8 U.S.C. 1251d) is repealed.

AMENDMENT No. 3909

At the end of the bill, add the following:

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301(a). Section 106(f) of the Immigration and Nationality Act (8 U.S.C. 1105f) is repealed.

AMENDMENT No. 3910

At the end of the bill add: The language on page 180, line 6 and all that follows through page 201, line 4, of the Dole amendment is deemed to read:

(iv) assistance or benefits under—

(I) the National School Lunch Act (42 U.S.C. 1751 et seq.),

(II) the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.),

(III) section 4 of the Agriculture and Consumer Protection Act of 1973 (Public Law 93-86; 7 U.S.C. 612c note),

(IV) the Emergency Food Assistance Act of 1983 (Public Law 98-8; 7 U.S.C. 612c note),

(V) section 110 of the Hunger Prevention Act of 1988 (Public Law 100-435; 7 U.S.C. 612c note), and

(VI) the food distribution program on Indian reservations established under section 4(b) of Public Law 88-525 (7 U.S.C. 2013(b)),

(v) public health assistance for immunizations and, if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of a serious communicable disease, for testing and treatment for such diseases, and

(vi) such other service or assistance (such as soup kitchens, crisis counseling, intervention (including intervention for domestic violence), and short-term shelter) as the Attorney General specifies, in the Attorney General's sole and unreviewable discretion, after consultation with the heads of appropriate Federal agencies, if—

(I) such service or assistance is delivered at the community level, including through public or private nonprofit agencies;

(II) such service or assistance is necessary for the protection of life, safety, or public health; and

(III) such service or assistance or the amount or cost of such service or assistance is not conditioned on the recipient's income or resources; or

(B) any grant, contract, loan, professional license, or commercial license provided or funded by any agency of the United States or any State or local government entity, except, with respect to a nonimmigrant authorized to work in the United States, any professional or commercial license required to engage in such work, if the nonimmigrant is otherwise qualified for such license.

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

(3) NOTIFICATION OF ALIENS.—

(A) IN GENERAL.—The agency administering a program referred to in paragraph (1)(A) or providing benefits referred to in paragraph (1)(B) shall, directly or, in the case of a Federal agency, through the States, notify individually or by public notice, all ineligible aliens who are receiving benefits under a program referred to in paragraph (1)(A), or are receiving benefits referred to in paragraph (1)(B), as the case may be, immediately prior to the date of the enactment of this Act and whose eligibility for the program is terminated by reason of this subsection.

(B) FAILURE TO GIVE NOTICE.—Nothing in subparagraph (A) shall be construed to require or authorize continuation of such eligibility if the notice required by such paragraph is not given.

(4) LIMITATION ON PREGNANCY SERVICES FOR UNDOCUMENTED ALIENS.—

(A) 3-YEAR CONTINUOUS RESIDENCE.—An ineligible alien may not receive the services described in paragraph (1)(A)(ii) unless such alien can establish proof of continuous residence in the United States for not less than 3 years, as determined in accordance with section 245a.2(d)(3) of title 8, Code of Federal Regulations as in effect on the day before the date of the enactment of this Act.

(B) LIMITATION ON EXPENDITURES.—Not more than $120,000,000 in outlays may be expended under title XIX of the Social Security Act for reimbursement of services described in paragraph (1)(A)(ii) that are provided to individuals described in subparagraph (A).

(C) CONTINUED SERVICES BY CURRENT STATES.—States that have provided services described in paragraph (1)(A)(ii) for a period of 3 years before the date of the enactment of this Act shall continue to provide such services and shall be reimbursed by the Federal Government for the costs incurred in providing such services. States that have not provided such services before the date of the enactment of this Act, but elect to provide such services after such date, shall be reimbursed for the costs incurred in providing such services. In no case shall States be required to provide services in excess of the amounts provided in subparagraph (B).

(b) UNEMPLOYMENT BENEFITS.—Notwithstanding any other provision of law, only eligible aliens who have been granted employment authorization pursuant to Federal law, and United States citizens or nationals, may receive unemployment benefits payable out of Federal funds, and such eligible aliens may receive only the portion of such benefits which is attributable to the authorized employment.

(c) SOCIAL SECURITY BENEFITS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, only eligible aliens who have been granted employment authorization pursuant to Federal law and United States citizen or nationals may receive any benefit under title II of the Social Security Act, and such eligible aliens may receive only the portion of such benefits which is attributable to the authorized employment.

(2) NO REFUND OR REIMBURSEMENT.—Notwithstanding any other provision of law, no tax or other contribution required pursuant to the Social Security Act (other than by an eligible alien who has been granted employment authorization pursuant to Federal law, or by an employer of such alien) shall be refunded or reimbursed, in whole or in part.

(d) 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 Committee on the Judiciary and the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on the Judiciary and the Committee on Banking and Financial Services of the House of Representatives, describing the manner in which the Secretary is enforcing section 214 of the Housing and Community Development Act of 1980 (Public Law 96-399; 94 Stat. 1637) and containing statistics with respect to the number of individuals denied financial assistance under such section.

(e) NONPROFIT, CHARITABLE ORGANIZATIONS.—

(1) IN GENERAL.—Nothing in this Act shall be construed as requiring a nonprofit charitable organization operating any program of assistance provided or funded, in whole or in part, by the Federal Government to—

(A) determine, verify, or otherwise require proof of the eligibility, as determined under this title, of any applicant for benefits or assistance under such program; or

(B) deem that the income or assets of any applicant for benefits or assistance under such program include the income or assets described in section 204(b).

(2) NO EFFECT ON FEDERAL AUTHORITY TO DETERMINE COMPLIANCE.—Nothing in this subsection shall be construed as prohibiting the Federal Government from determining the eligibility, under this section or section 204, of any individual for benefits under a public assistance program (as defined in subsection (f)(3)) or for government benefits (as defined in subsection (f)(4)).

(f) DEFINITIONS.—For the purposes of this section—

(1) ELIGIBLE ALIEN.—The term "eligible alien" means an individual who is—

(A) an alien lawfully admitted for permanent residence under the Immigration and Nationality Act,

(B) an alien granted asylum under section 208 of such Act,

(C) a refugee admitted under section 207 of such Act,

(D) an alien whose deportation has been withheld under section 243(h) of such Act, or

(E) an alien paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year.

(2) INELIGIBLE ALIEN.—The term "ineligible alien" means an individual who is not—

(A) a United States citizen or national; or

(B) an eligible alien.

(3) PUBLIC ASSISTANCE PROGRAM.—The term "public assistance program" means any program of assistance provided or funded, in whole or in part, by the Federal Government or any State or local government entity, for which eligibility for benefits is based on need.

(4) GOVERNMENT BENEFITS.—The term "government benefits" includes—

(A) any grant, contract, loan, professional license, or commercial license provided or funded by any agency of the United States or any State or local government entity, except, with respect to a nonimmigrant authorized to work in the United States, any professional or commercial license required to engage in such work, if the nonimmigrant is otherwise qualified for such license;

(B) unemployment benefits payable out of Federal funds;

(C) benefits under title II of the Social Security Act;

(D) financial assistance for purposes of section 214(a) of the Housing and Community Development Act of 1980 (Public Law 96-399; 94 Stat. 1637); and

(E) benefits based on residence that are prohibited by subsection (a)(2).

SEC. 202. DEFINITION OF "PUBLIC CHARGE" FOR PURPOSES OF DEPORTATION.

(a) IN GENERAL.—Section 241(a)(5) (8 U.S.C. 1251(a)(5)) is amended to read as follows:

"(5) PUBLIC CHARGE.—

"(A) IN GENERAL.—Any alien who during the public charge period becomes a public charge, regardless of when the cause for becoming a public charge arises, is deportable.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply if the alien is a refugee or has been granted asylum, or if the cause of the alien's becoming a public charge—

"(i) arose after entry (in the case of an alien who entered as an immigrant) or after adjustment to lawful permanent resident status (in the case of an alien who entered as a nonimmigrant), and

"(ii) was a physical illness, or physical injury, so serious the alien could not work at any job, or a mental disability that required continuous hospitalization.

"(C) DEFINITIONS.—

"(i) PUBLIC CHARGE PERIOD.—For purposes of subparagraph (A), the term 'public charge period' means the period beginning on the date the alien entered the United States and ending—

"(I) for an alien who entered the United States as an immigrant, 5 years after entry, or

"(II) for an alien who entered the United States as a nonimmigrant, 5 years after the alien adjusted to permanent resident status.

"(ii) PUBLIC CHARGE.—For purposes of subparagraph (A), the term 'public charge' includes any alien who receives benefits under any program described in subparagraph (D) for an aggregate period of more than 12 months.

"(D) PROGRAMS DESCRIBED.—The programs described in this subparagraph are the following:

"(i) The aid to families with dependent children program under title IV of the Social Security Act.

"(ii) The medicaid program under title XIX of the Social Security Act.

"(iii) The food stamp program under the Food Stamp Act of 1977.

"(iv) The supplemental security income program under title XVI of the Social Security Act.

"(v) Any State general assistance program.

"(vi) Any other program of assistance funded, in whole or in part, by the Federal Government or any State or local government entity, for which eligibility for benefits is based on need, except the programs listed as exceptions in clauses (i) through (vi) of section 201(a)(1)(A) of the Immigration Reform Act of 1996.".

(b) CONSTRUCTION.—Nothing in subparagraph (B), (C), or (D) of section 241(a)(5) of the Immigration and Nationality Act, as amended by subsection (a), may be construed to affect or apply to any determination of an alien as a public charge made before the date of the enactment of this Act.

(c) REVIEW OF STATUS.—

(1) IN GENERAL.—In reviewing any application by an alien for benefits under section 216, section 245, or chapter 2 of title III of the Immigration and Nationality Act, the Attorney General shall determine whether or not the applicant is described in section 241(a)(5)(A) of such Act, as so amended.

(2) GROUNDS FOR DENIAL.—If the Attorney General determines that an alien is described in section 241(a)(5)(A) of the Immigration and Nationality Act, the Attorney General shall deny such application and shall institute deportation proceedings with respect to such alien, unless the Attorney General exercises discretion to withhold or suspend deportation pursuant to any other section of such Act.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to aliens who enter the United States on or after the date of the enactment of this Act and to aliens who entered as nonimmigrants before such date but adjust or apply to adjust their status after such date.

SEC. 203. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

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

(1) which is legally enforceable against the sponsor by the sponsored individual, or by the Federal Government or any State, district, territory, or possession of the United States (or any subdivision of such State, district, territory, or possession of the United States) that provides any benefit described in section 241(a)(5)(D), as amended by section 202(a) of this Act, but not later than 10 years after the sponsored individual last receives any such benefit;

(2) in which the sponsor agrees to financially support the sponsored individual, so that he or she will not become a public charge, until the sponsored individual has worked in the United States for 40 qualifying quarters or has become a United States citizen, whichever occurs first; and

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

(b) FORMS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State, the Attorney General, and the Secretary of Health and Human Services shall jointly formulate the affidavit of support described in this section.

(c) NOTIFICATION OF CHANGE OF ADDRESS.—

(1) GENERAL REQUIREMENT.—The sponsor shall notify the Attorney General and the State, district, territory, or possession in which the sponsored individual is currently a resident within 30 days of any change of address of the sponsor during the period specified in subsection (a)(1).

(2) PENALTY.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall, after notice and opportunity to be heard, 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 individual has received any benefit described in section 241(a)(5)(D) of the Immigration and Nationality Act, as amended by section 202(a) of this Act, not less than $2,000 or more than $5,000.

(d) REIMBURSEMENT OF GOVERNMENT EXPENSES.—

(1) IN GENERAL.—

(A) REQUEST FOR REIMBURSEMENT.—Upon notification that a sponsored individual has received any benefit described in section 241(a)(5)(D) of the Immigration and Nationality Act, as amended by section 202(a) of this Act, the appropriate Federal, State, or local official shall request reimbursement from the sponsor for the amount of such assistance.

(B) REGULATIONS.—The Commissioner of Social Security shall prescribe such regulations as may be necessary to carry out subparagraph (A). Such regulations shall provide that notification be sent to the sponsor's last known address by certified mail.

(2) ACTION AGAINST SPONSOR.—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 make payments, an action may be brought against the sponsor pursuant to the affidavit of support.

(3) FAILURE TO MEET REPAYMENT TERMS.—If the sponsor agrees to make payments, but fails to abide by the repayment terms established by the agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.

(e) JURISDICTION.—

(1) IN GENERAL.—An action to enforce an affidavit of support executed under subsection (a) may be brought against the sponsor in any Federal or State court—

(A) by a sponsored individual, with respect to financial support; or

(B) by a Federal, State, or local agency, with respect to reimbursement.

(2) COURT MAY NOT DECLINE TO HEAR CASE.—For purposes of this section, no Federal or State court shall decline for lack of subject matter or personal jurisdiction to hear any action brought against a sponsor under paragraph (1) if—

(A) the sponsored individual is a resident of the State in which the court is located, or received public assistance while residing in the State; and

(B) such sponsor has received service of process in accordance with applicable law.

(f) DEFINITIONS.—For purposes of this section—

(1) SPONSOR.—The term "sponsor" means an individual who—

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

(B) is at least 18 years of age;

(C) is domiciled in any of the several States of the United States, the District of Columbia, or any territory or possession of the United States; and

(D) demonstrates the means to maintain an annual income equal to at least 125 percent of the Federal poverty line for the individual and the individual's family (including the sponsored alien and any other alien sponsored by the individual), through evidence that includes a copy of the individual's Federal income tax return for the 3 most recent taxable years (which returns need show such level of annual income only in the most recent taxable year) 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 true copies of such returns.

In the case of an individual who is on active duty (other than active duty for training) in the Armed Forces of the United States, subparagraph (D) shall be applied by substituting "100 percent" for "125 percent".

(2) FEDERAL POVERTY LINE.—The term "Federal poverty line" means the level of income equal to the official poverty line (as defined by the Director of the Office of Management and Budget, as revised annually by the Secretary of Health and Human Services, in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902)) that is applicable to a family of the size involved.

(3) QUALIFYING QUARTER.—The term "qualifying quarter" means a three-month period in which the sponsored individual has—

(A) earned at least the minimum necessary for the period to count as one of the 40 quarters required to qualify for social security retirement benefits;

(B) not received need-based public assistance; and

(C) had income tax liability for the tax year of which the period was part.

SEC. 204. ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO FAMILY-SPONSORED IMMIGRANTS.

(a) DEEMING REQUIREMENT FOR FEDERAL AND FEDERALLY FUNDED PROGRAMS.—Subject to subsection (d), for purposes of determining the eligibility of an alien for benefits, and the amount of benefits, under any public assistance program (as defined in section 201(f)(3)), the income and resources described in subsection (b) shall, notwithstanding any other provision of law, be deemed to be the income and resources of such alien.

(b) DEEMED INCOME AND RESOURCES.—The income and resources described in this subsection include the income and resources of—

(1) any person who, as a sponsor of an alien's entry into the United States, or in order to enable an alien lawfully to remain in the United States, executed an affidavit of support or similar agreement with respect to such alien, and

(2) the sponsor's spouse.

(c) LENGTH OF DEEMING PERIOD.—The requirement of subsection (a) shall apply for the period for which the sponsor has agreed, in such affidavit or agreement, to provide support for such alien, or for a period of 5 years beginning on the day such alien was first lawfully in the United States after the execution of such affidavit or agreement, whichever period is longer.

(d) EXCEPTIONS.—

(1) INDIGENCE.—

(A) IN GENERAL.—If a determination described in subparagraph (B) is made, the amount of income and resources of the sponsor or the sponsor's spouse which shall be attributed to the sponsored alien shall not exceed the amount actually provided for a period—

(i) beginning on the date of such determination and ending 12 months after such date, or

(ii) if the address of the sponsor is unknown to the sponsored alien, beginning on the date of such determination and ending on the date that is 12 months after the address of the sponsor becomes known to the sponsored alien or to the agency (which shall inform such alien of the address within 7 days).

(B) DETERMINATION DESCRIBED.—A determination described in this subparagraph is a determination by an agency that a sponsored alien would, in the absence of the assistance provided by the agency, be unable to obtain food and shelter, taking into account the alien's own income, plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor.

(2) EDUCATION ASSISTANCE.—

(A) IN GENERAL.—The requirements of subsection (a) shall not apply with respect to sponsored aliens who have received, or have been approved to receive, student assistance under title IV, V, IX, or X of the Higher Education Act of 1965 in an academic year which ends or begins in the calendar year in which this Act is enacted.

(B) DURATION.—The exception described in subparagraph (A) shall apply only for the period normally required to complete the course of study for which the sponsored alien receives assistance described in that subparagraph.

(3) CERTAIN SERVICES AND ASSISTANCE.—The requirements of subsection (a) shall not apply to any service or assistance described in clause (iv) or (vi) of section 201(a)(1)(A).

HUTCHISON (AND KENNEDY) AMENDMENT NO. 3911

(Ordered to lie on the table.)

Mrs. HUTCHISON (for herself and Mr. KENNEDY) submitted an amendment intended to be proposed by them to the bill S. 1664, supra; as follows:

On page 210, line 1, after "medical assistance" insert the following: "(other than medical assistance for an emergency medical condition as defined in section 1903(v)(3) of the Social Security Act)".

HUTCHISON AMENDMENT NO. 3912

(Ordered to lie on the table.)

Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1664, supra; as follows:

At the appropriate place, insert the following new section:

SEC. .—The Immigration and Naturalization Service shall, when redeploying Border patrol personnel from interior stations, coordinate with and act in conjunction with state and local law enforcement agencies to ensure that such redeployment does not degrade or compromise the law enforcement capabilities and functions currently performed at interior Border Patrol stations.

WELLSTONE AMENDMENTS NOS. 3913-3914

(Ordered to lie on the table.)

Mr. WELLSTONE submitted two amendments intended to be proposed by him to the bill S. 1664, supra; as follows:

AMENDMENT NO. 3913

At the end of the bill, add the following:

TITLE III: MISCELLANEOUS PROVISIONS

SEC. . 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 naturalization 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.

(3) CONSTRUCTION.—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. 3914

At the end of the bill, add the following:

SEC. . WAIVER OF APPLICATION FEES FOR ADJUSTMENT OF STATUS OF CERTAIN BATTERED ALIENS.

Notwithstanding any other provision of this Act, section 245(i)(1) remains in effect and is further amended as follows:

(1) by redesignating clauses (i), (ii), and (iii) as subclauses (I), (II), and (III), respectively;

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(3) by inserting "(A)" immediately after "(i)(1)"; and

(4) by adding at the end the following:

"(B)(i) The Attorney General may waive the sum specified in subparagraph (A) in the case of an alien who has been battered or subjected to extreme cruelty by a spouse, parent, or member of the spouse or parent's family residing in the same household as the alien (if the spouse or parent consented to or acquiesced to such battery or cruelty) when such waiver would enhance the safety of the alien or the alien's child.

"(ii) An alien shall not be excludable under section 212(a)(4) as a public charge on the grounds that the alien requested or received a waiver under this subparagraph.".

KERRY AMENDMENT NO. 3915

(Ordered to lie on the table.)

Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1664, supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . DEBARMENT OF FEDERAL CONTRACTORS NOT IN COMPLIANCE WITH IMMIGRATION AND NATIONALITY ACT EMPLOYMENT PROVISIONS.

(a) POLICY.—It is the policy of the United States that—

(1) the heads of executive agencies in procuring goods and services should not contract with an employer that has not complied with paragraphs (1)(A) and (2) of section 274A(a) of the Immigration and Nationality Act (8 U.S.C. 1324a(a)) (hereafter in this section referred to as the "INA employment provisions"), which prohibit unlawful employment of aliens; and

(2) the Attorney General should fully and aggressively enforce the antidiscrimination

provisions of the Immigration and Nationality Act.

(b) ENFORCEMENT.—

(1) AUTHORITY.—

(A) IN GENERAL.—Using the procedures established pursuant to section 274A(e) of the Immigration and Nationality Act (8 U.S.C. 1324a(e)), the Attorney General may conduct such investigations as are necessary to determine whether a contractor or an organizational unit of a contractor is not complying with the INA employment provisions.

(B) COMPLAINTS AND HEARINGS.—The Attorney General—

(i) shall receive and may investigate any complaint by an employee of any such entity that alleges noncompliance by such entity with the INA employment provisions; and

(ii) in conducting the investigation, shall hold such hearings as are necessary to determine whether that entity is not in compliance with the INA employment provisions.

(2) ACTIONS ON DETERMINATIONS OF NONCOMPLIANCE.—

(A) ATTORNEY GENERAL.—Whenever the Attorney General determines that a contractor or an organizational unit of a contractor is not in compliance with the INA employment provisions, the Attorney General shall transmit that determination to the head of each executive agency that contracts with the contractor and the heads of other executive agencies that the Attorney General determines it appropriate to notify.

(B) HEAD OF CONTRACTING AGENCY.—Upon receipt of the determination, the head of a contracting executive agency shall consider the contractor or an organizational unit of the contractor for debarment, and shall take such other action as may be appropriate, in accordance with applicable procedures and standards set forth in the Federal Acquisition Regulation.

(C) NONREVIEWABILITY OF DETERMINATION.—The Attorney General's determination is not reviewable in debarment proceedings.

(c) DEBARMENT.—

(1) AUTHORITY.—The head of an executive agency may debar a contractor or an organizational unit of a contractor on the basis of a determination of the Attorney General that is not in compliance with the INA employment provisions.

(2) SCOPE.—The scope of the debarment generally should be limited to those organizational units of a contractor that the Attorney General determines are not in compliance with the INA employment provisions.

(3) PERIOD.—The period of a debarment under this subsection shall be one year, except that the head of the executive agency may extend the debarment for additional periods of one year each if, using the procedures established pursuant to section 274A(e) of the Immigration and Nationality Act (8 U.S.C. 1324a(e)), the Attorney General determines that the organizational unit of the contractor concerned continues not to comply with the INA employment provisions.

(4) LISTING.—The Administrator of General Services shall list each debarred contractor and each debarred organizational unit of a contractor on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs that is maintained by the Administrator. No debarred contractor and no debarred organizational unit of a contractor shall be eligible to participate in any procurement, nor in any nonprocurement activities, of the Federal Government.

(d) REGULATIONS AND ORDERS.—

(1) ATTORNEY GENERAL.—

(A) AUTHORITY.—The Attorney General may prescribe such regulations and issue such orders as the Attorney General considers necessary to carry out the responsibilities of the Attorney General under this section.

(B) CONSULTATION.—In proposing regulations or orders that affect the executive agencies, the Attorney General shall consult with the Secretary of Defense, the Secretary of Labor, the Administrator of General Services, the Administrator of the National Aeronautics and Space Administration, the Administrator for Federal Procurement Policy, and the heads of any other executive agencies that the Attorney General considers appropriate.

(2) FEDERAL ACQUISITION REGULATION.—The Federal Acquisition Regulatory Council shall amend the Federal Acquisition Regulation to the extent necessary to provide for implementation of the debarment responsibility and other related responsibilities assigned to heads of executive agencies under this section.

(e) INTERAGENCY COOPERATION.—The head of each executive agency shall cooperate with, and provide such information and assistance to, the Attorney General as is necessary for the Attorney General to perform the duties of the Attorney General under this section.

(f) DELEGATION.—The Attorney General, the Secretary of Defense, the Administrator of General Services, the Administrator of the National Aeronautics and Space Administration, and the head of any other executive agency may delegate the performance of any of the functions or duties of that official under this section to any officer or employee of the executive agency under the jurisdiction of that official.

(g) IMPLEMENTATION NOT TO BURDEN PROCUREMENT PROCESS EXCESSIVELY.—This section shall be implemented in a manner that least burdens the procurement process of the Federal Government.

(h) CONSTRUCTION.—

(1) ANTIDISCRIMINATION.—Nothing in this section relieves employers of the obligation to avoid unfair immigration-related employment practices as required by—

(A) the antidiscrimination provisions of section 274B of the Immigration and Nationality Act (8 U.S.C. 1324b), including the provisions of subsection (a)(6) of that section concerning the treatment of certain documentary practices as unfair immigration-related employment practices; and

(B) all other antidiscrimination requirements of applicable law.

(2) CONTRACT TERMS.—This section neither authorizes nor requires any additional certification provision, clause, or requirement to be included in any contract or contract solicitation.

(3) NO NEW RIGHTS AND BENEFITS.—This section may not be construed to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, including any department or agency, officer, or employee of the United States.

(4) JUDICIAL REVIEW.—This section does not preclude judicial review of a final agency decision in accordance with chapter 7 of title 5, United States Code.

(i) DEFINITIONS.—In this section:

(1) EXECUTIVE AGENCY.—The term "executive agency" has the meaning given that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

(2) CONTRACTOR.—The term "contractor" means any individual or other legal entity that—

(A) directly or indirectly (through an affiliate or otherwise), submits offers for or is awarded, or reasonably may be expected to submit offers for or be awarded, a Federal Government contract, including a contract for carriage under Federal Government or commercial bills of lading, or a subcontract under a Federal Government contract; or

(B) conducts business, or reasonably may be expected to conduct business, with the Federal Government as an agent or representative of another contractor.

HUTCHISON (AND KENNEDY) AMENDMENT NO. 3916

(Ordered to lie on the table.)

Mrs. HUTCHISON (for herself and Mr. KENNEDY) submitted an amendment intended to be proposed by them to the bill S. 1664, supra; as follows:

At the end of the bill add the following:

The language on page 210, line 1, after "medical assistance" is deemed to have inserted the following: "(other than medical assistance for an emergency medical condition as defined in section 1903(v)(3) of the Social Security Act)".

KENNEDY AMENDMENTS NOS. 3917–3942

(Ordered to lie on the table.)

Mr. KENNEDY submitted 26 amendments intended to be proposed by him to the bill S. 1664, supra; as follows:

AMENDMENT No. 3917

At the end of the bill insert:

SEC.

(a) IN GENERAL.—Notwithstanding section 117 of this Act, paragraph (6) of section 274B(a) (8 U.S.C. 1324b(a)(6)) is amended to read as follows:

"(6) TREATMENT OF CERTAIN DOCUMENTARY PRACTICES AS EMPLOYMENT PRACTICES.—

"(A) IN GENERAL.—For purposes of paragraph (1), a person's or other entity's request, in order to satisfy the requirements of section 274A(b), for additional or different documents than are required under such section or refusal to honor documents tendered that on their face reasonably appear to be genuine shall be treated as an unfair immigration-related employment practice relating to the hiring of individuals. A person or other entity may not request a specific document from among the documents permitted by section 274A(b)(1).

"(B) REVERIFICATION.—Upon expiration of an employee's employment authorization, a person or other entity shall reverify employment eligibility by requesting a document evidencing employment authorization in order to satisfy section 274A(b)(1). However, the person or entity may not request a specific document from among the documents permitted by such section.

"(C) ABILITY TO PRESENT PERMITTED DOCUMENT.—Nothing in this paragraph shall be construed to prohibit an individual from presenting any document or combination of documents permitted by section 274A(b)(1).".

(b) LIMITATIONS ON COMPLAINTS.—Notwithstanding section 117 of this Act, Section 274B(d) (8) U.S.C. 1324b(d)) is amended by adding at the end the following new paragraph:

"(4) LIMITATIONS ON ABILITY OF OFFICE OF SPECIAL COUNSEL TO FILE COMPLAINTS IN DOCUMENT ABUSE CASES.—

"(A) IN GENERAL.—Subject to subsection (a)(6) (A) and (B), if an employer—

"(i) accepts, without specifying, documents that meet the requirements of establishing work authorization,

"(ii) maintains a copy of such documents in an official record, and

"(iii) such documents appear to be genuine,

the Office of Special Counsel shall not bring an action alleging a violation of this section. The Special Counsel shall not authorize the filing of a complaint under this section if the Service has informed the person or entity that the documents tendered by an individual are not acceptable for purposes of satisfying the requirements of section 274A(b).

"(B) ACCEPTANCE OF DOCUMENT.—Except as provided in subsection (a)(6) (A) and (B), a person or entity may not be charged with a violation of subsection (a)(6)(A) as long as the employee has produced, and the person or entity has accepted, a document or documents from the accepted list of documents, and the document reasonably appears to be genuine on its face.".

(c) GOOD FAITH DEFENSE.—Notwithstanding section 117 of this Act, Section 274(a)(3) (8 U.S.C. 1324a(a)(3)) is amended to read as follows:

"(3) DEFENSE.—A person or entity that establishes that it has complied in good faith with the requirements of subsection (b) with respect to the hiring, recruiting, or referral for employment of an alien in the United States has established an affirmative defense that the person or entity has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral. This section shall apply, and the person or entity shall not be liable under paragraph (1)(A), if in complying with the requirements of subsection (b), the person or entity requires the alien to produce a document or documents acceptable for purposes of satisfying the requirements of section 274A(b), and the document or documents reasonably appear to be genuine on their face and to relate to the individual, unless the person or entity, at the time of hire, possesses knowledge that the individual is an unauthorized alien (as defined in subsection (h)(3)) with respect to such employment. The term "knowledge" as used in the preceding sentence, means actual knowledge by a person or entity that an individual is an unauthorized alien, or deliberate or reckless disregard of facts or circumstances which would lead a person or entity, through the exercise of reasonable care, to know about a certain condition.".

AMENDMENT NO. 3918

On page 37 of the bill, beginning on line 12, strike all through line 19, and insert the following:

(a) IN GENERAL.—Paragraph (6) of section 274B(a) (8 U.S.C. 1324b(a)(6)) is amended to read as follows:

"(6) TREATMENT OF CERTAIN DOCUMENTARY PRACTICES AS EMPLOYMENT PRACTICES.—

"(A) IN GENERAL.—For purposes of paragraph (1), a person's or other entity's request, in order to satisfy the requirements of section 274A(b), for additional or different documents than are required under such section or refusal to honor documents tendered that on their face reasonably appear to be genuine shall be treated as an unfair immigration-related employment practice relating to the hiring of individuals. A person or other entity may not request a specific document from among the documents permitted by section 274A(b)(1).

"(B) REVERIFICATION.—Upon expiration of an employee's employment authorization, a person or other entity shall reverify employment eligibility by requesting a document evidencing employment authorization in order to satisfy section 274A(b)(1). However, the person or entity may not request a specific document from among the documents permitted by such section.

"(C) ABILITY TO PRESENT PERMITTED DOCUMENT.—Nothing in this paragraph shall be construed to prohibit an individual from presenting any document or combination of documents permitted by section 274A(b)(1).".

(b) LIMITATIONS ON COMPLAINTS.—Section 274B(d) (8 U.S.C. 1324b)(d)) is amended by adding at the end the following new paragraph.

"(4) LIMITATIONS ON ABILITY OF OFFICE OF SPECIAL COUNSEL TO FILE COMPLAINTS IN DOCUMENTS ABUSE CASES.—

"(A) IN GENERAL.—Subject to subsection (a)(6) (A) and (B), if an employer—

"(i) accepts, without specifying, documents that meet the requirements of establishing work authorization,

"(ii) maintains a copy of such documents in an official record, and

"(iii) such documents appear to be genuine, the Office of Special Counsel shall not bring an action alleging a violation of this section. The Special Counsel shall not authorize the filing of a complaint under this section if the Service has informed the person or entity that the documents tendered by an individual are not acceptable for purposes of satisfying the requirements of section 274A(b).

"(B) ACCEPTANCE OF DOCUMENT.—Except as provided in subsection (a)(6) (A) and (B), a person or entity may not be charged with a violation of subsection (a)(6)(A) as long as the employee has produced, and the person or entity has accepted, a document or documents from the accepted list of documents, and the document reasonably appears to be genuine on its face.".

(c) GOOD FAITH DEFENSE.—Section 274A(a)(3) (8 U.S.C. 1324a(a)(3)) is amended to read as follows:

"(3) DEFENSE.—A person or entity that establishes that it has complied in good faith with the requirements of subsection (b) with respect to the hiring, recruiting, or referral for employment of an alien in the United States has established an affirmative defense that the person or entity has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral. This section shall apply, and the person or entity shall not be liable under paragraph (1)(A), if in complying with the requirements of subsection (b), the person or entity requires the alien to produce a document or documents acceptable for purposes of satisfying the requirements of section 274A(b), and the document or documents reasonably appear to be genuine on their face and to relate to the individual, unless the person or entity, at the time of hire, possesses knowledge that the individual is an unauthorized alien (as defined in subsection (h)(3)) with respect to such employment. The term "knowledge" as used in the preceding sentence, means actual knowledge by a person or entity that an individual is an unauthorized alien, or deliberate or reckless disregard of facts or circumstances which would lead a person or entity, through the exercise of reasonable care, to know about a certain condition.".

AMENDMENT NO. 3919

At the end of the bill insert:

SEC. . Notwithstanding section 117 of this Act, section 274 of the Immigration and Nationalization Act shall remain in effect.

AMENDMENT NO. 3920

On page 37 of the matter proposed to be inserted, beginning on line 9, strike all through line 19.

AMENDMENT NO. 3921

At the end of the bill insert:

SEC. . Notwithstanding any provision of this Act, no program of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965, shall be subject to the deeming provisions of this Act.

AMENDMENT NO. 3922

On page 181, line 9, strike "or" and insert "and

"(vii) any program of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965; or".

AMENDMENT NO. 3923

At the end of the bill insert:

SEC. . Notwithstanding any provisions of this Act, the public charge requirements of this Act shall not apply to any assistance provided under any program of student assistance under title IV, V, IX, and X of the Higher Education Act of 1965.

AMENDMENT NO. 3924

At the end of the bill insert:

SEC. . EDUCATION ASSISTANCE.—The public charge requirements of this Act shall not apply to any assistance provided under any program of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965.

AMENDMENT NO. 3925

At the end of the bill insert:

SEC. . CERTAIN FEDERAL PROGRAMS.—Notwithstanding the provisions of this Act, the deeming requirements of this Act shall not apply to any of 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 of communicable diseases.

(F) The provisions 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.

(J) Prenatal and postpartum services under title XIX of the Social Security Act.

AMENDMENT NO. 3926

Beginning on page 200, line 12, strike all that follows through page 201, line 4, and insert the following:

(2) CERTAIN FEDERAL PROGRAMS.—The requirements of subsection (a) shall not apply to any of 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 of 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.

(J) Prenatal and postpartum services under title XIX of the Social Security Act.

AMENDMENT NO. 3927

At the end of the bill insert:

SEC. . Notwithstanding this Act, the deeming requirements of this Act shall not apply to any of 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 of 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.

(J) Prenatal and postpartum services under title XIX of the Social Security Act.

AMENDMENT No. 3928

Beginning on page 200, line 12, strike all that follows through page 201, line 4, and insert the following:

(2) CERTAIN FEDERAL PROGRAMS.—The requirements of subsection (a) shall not apply to any of 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 of 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.

(J) Prenatal and postpartum services under title XIX of the Social Security Act.

AMENDMENT No. 3929

At the end insert:

SEC. . Notwithstanding this Act, the deeming requirements of this Act shall not apply to—

(A) any service or assistance described in section 201(a)(1)(A)(vii);

(B) prenatal and postpartum services provided under a State plan under title XIX of the Social Security Act;

(C) services provided under a State plan under such title of such Act to individuals who are less than 18 years of age; or

(D) services provided under a State plan under such title of such Act to an alien who is a veteran, as defined in section 101 of title 38, United States Code.

AMENDMENT No. 3930

On page 201 after line 4, insert the following:

(3) CERTAIN SERVICES AND ASSISTANCE.—The requirements of subsection (a) shall not apply to—

(A) any service or assistance described in section 201(a)(1)(A)(vii);

(B) prenatal and postpartum services provided under a State plan under title XIX of the Social Security Act;

(C) services provided under a State plan under such title of such Act to individuals who are less than 18 years of age; or

(D) services provided under a State plan under such title of such Act to an alien who is a veteran, as defined in section 101 of title 38, United States Code.

AMENDMENT No. 3931

At the end of the bill insert:

SEC. .

(E) EXCEPTION TO DEFINITION OF PUBLIC CHARGE.—Notwithstanding this Act, for purposes of this Act, the term "public charge" shall not include any alien who receives any benefits, services, or assistance under a program described in section 204(d).

AMENDMENT No. 3932

On page 190, after line 25, insert the following:

"(E) EXCEPTION TO DEFINITION OF PUBLIC CHARGE.—Notwithstanding an program described in subparagraph (D), for purposes of subparagraph (A), the term 'public charge' shall not include any alien who receives any benefits, services, or assistance under a program described in section 204(d)."

AMENDMENT No. 3933

At the end insert:

SEC. . (E) EXCEPTION TO DEFINITION OF PUBLIC CHARGE.—Notwithstanding any program described in this Act, for purposes of this Act, the term 'public charge' shall not include any alien who receives any services or assistance described in section 204(d)(3).

AMENDMENT No. 3934

On page 190, after line 25, insert the following:

"(E) EXCEPTION TO DEFINITION OF PUBLIC CHARGE.—Notwithstanding any program described in subparagraph (D), for purposes of subperagraph (A), the term 'public charge' shall not include any alien who receives any services or assistance described in section 204(d)(3).".

AMENDMENT No. 3935

At the end of the bill insert:

SEC. . LIMITATION ON PREGNANCY SERVICES FOR UNDOCUMENTED ALIENS.—Notwithstanding any other provision of law, the subparagraphs listed in section 201 shall apply to the provision of pregnancy services for ineligible aliens:

AMENDMENT No. 3936

On page 182, strike lines 22 and 23, and insert the following:

(4) LIMITATION ON PREGNANCY SERVICES FOR UNDOCUMENTED ALIENS.—Notwithstanding any other provision of law, the following subparagraphs shall apply to the provision of pregnancy services for ineligible aliens:

AMENDMENT No. 3937

At the end of the bill, insert the following new section:

SEC. . LIMITATION ON EXPENDITURES FOR PREGNANCY-RELATED SERVICES TO UNDOCUMENTED ALIENS.

Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended by inserting after subsection (k), the following new subsection:

"(l) Notwithstanding any other provision of law, for any fiscal year, not more than $120,000,000 may be paid under this title for reimbursement of services described in section 201(a)(1)(A)(ii) of the Immigration Control and Financial Responsibility Act of 1996 that are provided to individuals described in section 201(a)(4)(A) of such Act.".

AMENDMENT No. 3938

At the end of the bill insert the following new section:

SEC. . LIMITATION ON EXPENDITURES UNDER THE MEDICAID PROGRAM FOR PREGNANCY-RELATED SERVICES PROVIDED TO UNDOCUMENTED ALIENS.

Beginning with fiscal year 1997 and each fiscal year thereafter, with respect to payments for expenditures for services described in section 201(a)(1)(A)(ii) that are provided to individuals described in section 201(a)(4)(A)—

(1) the Federal Government has no obligation to provide payment with respect to such expenditures in excess of $120,000,000 during any such fiscal year and nothing in section 201(a)(1)(A)(ii), section 201(a)(4)(A), or title XIX of the Social Security Act shall be construed as providing for an entitlement, under Federal law in relation to the Federal Government, in an individual or person (including any provider) at the time of provision or receipt of such services; and

(2) a State shall provide an entitlement to any person to receive any service, payment, or other benefit to the extent that such person would, but for this section, be entitled to such service, payment, or other benefit under title XIX of the Social Security Act.

AMENDMENT No. 3939

At the end of the bill insert:

The provision of section 201 of this Act shall not apply to any preschool, elementary, secondary, or adult educational benefit.

AMENDMENT No. 3940

On page 182, line 2 of the matter proposed to be inserted, insert the following new sentence: "The preceding sentence shall not apply to any preschool, elementary, secondary, or adult educational benefit."

AMENDMENT No. 3941

At the end of the bill insert:

"SEC. . LIMITATION.—Not more than 150 of the number of investigators authorized in section 105 of this Act shall be designated for the purpose of carrying out the responsibilities of the Secretary of Labor to conduct investigations, pursuant to a complaint or otherwise, where there is reasonable cause to believe that an employer has made a misrepresentation of a material fact on a labor certification application under section 212(a)(5) of the Immigration and Nationality Act or has failed to comply with the terms and conditions of such an application".

AMENDMENT No. 3942

On page 8, line 17, before the period insert the following: "except that not more than 150 of the number of investigators authorized in this subparagraph shall be designated for the purpose of carrying out the responsibilities of the Secretary of Labor to conduct investigations, pursuant to a complaint or otherwise, where there is reasonable cause to believe that an employer has made a misrepresentation of a material fact on a labor certification application under section 212(a)(5) of the Immigration and Nationality Act or has failed to comply with the terms and conditions of such an application".

SIMPSON AMENDMENTS NOS. 3943–3945

(Ordered to lie on the table.)

Mr. SIMPSON submitted three amendments intended to be proposed by him to the bill S. 1664, supra; as follows:

AMENDMENT No. 3943

Section 201(a)(1) is amended—
(1) by deleting paragraph (A)(ii) and renumbering the following sections accordingly.

AMENDMENT No. 3944

Section 201(a)(1) is amended—
(2) by deleting paragraph (4).

AMENDMENT No. 3945

Section 201(a)(1) is amended—
(1) by deleting paragraph (A)(ii) and renumbering the following sections accordingly; and
(2) by deleting paragraph (4).

KENNEDY AMENDMENTS NOS. 3946–3947

(Ordered to lie on the table.)

Mr. KENNEDY submitted two amendments intended to be proposed by him to the bill S. 1664, supra; as follows:

AMENDMENT No. 3946

At the appropriate place add the following:

SEC. . INCREASE IN THE MINIMUM WAGE RATE.

Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $4.25 an hour during the period ending July 4, 1996, not less than $4.70 an hour during the year beginning July 5, 1996, and not less than $5.15 an hour after July 4, 1997;".

AMENDMENT No. 3947

At the appropriate place add the following:

SEC. . INCREASE IN THE MINIMUM WAGE RATE.

Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $4.25 an hour during the period ending July 4, 1996, not less than $4.70 an hour during the year beginning July 5, 1996, and not less than $5.15 an hour after July 4, 1997;".

AMENDMENTS SUBMITTED

THE IMMIGRATION CONTROL AND FINANCIAL RESPONSIBILITY ACT OF 1996

SIMPSON AMENDMENT NO. 3951

Mr. SIMPSON proposed an amendment to amendment No. 3734 proposed by him to the bill (S. 1664) to amend the Immigration and Nationality Act to increase control over immigration to the United States by increasing Border Patrol and investigative personnel and detention facilities, improving the system used by employers to verify citizenship or work-authorized alien status, increasing penalties for alien smuggling and document fraud, and reforming asylum, exclusion, and deportation law and procedures; to reduce the use of welfare by aliens; and for other purposes; as follows:

SEC. . ADMINISTRATIVE REVIEW OF ORDERS.

Section 274A(e)(7) is amended by striking the phrase ", within 30 days,".

Section 274C(d)(4) is amended by striking the phrase ", within 30 days,".

SEC. . SOCIAL SECURITY ACT.

Section 1173(d)(4)(B)) of the Social Security Act (42 U.S.C. 1320b-7(d)(4)(B)) is amended by striking subsection (i) and inserting the following new subsection:

"(i) the State shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,".

SEC. . HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1980.

Section 214(d)(4)(B) of the Housing and Community Development Act of 1980 (42 U.S.C. 143a(d)(4)(B)) is amended by striking subsection (i) and inserting the following new subsection:

"(i) the Secretary shall transmit to the Immigration and Naturalization Service either photostat or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,".

SEC. . HIGHER EDUCATION ACT OF 1965.

Section 484(g)(B) of the Higher Education Act of 1965 (20 U.S.C. 1091(g)(4)(B)) is amended by striking subsection (i) and inserting the following new subsection:

"(i) the institution shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,".

SEC. . JUDICIAL REVIEW OF ORDERS OF EXCLUSION AND DEPORTATION.

Page 87, at the end of line 9, insert at the end of the following:

"Judicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to exclude or deport an alien from the United States under Title II of this Act shall be available only in the judicial review of final order of exclusion or deportation under this section. If a petition filed under this section raises a constitutional issue that the court of appeals finds presents a genuine issue of material fact that cannot be resolved on the basis of the administrative record, the court shall transfer the proceeding to the district court of the United States for the judicial district in which the petitioner resides or is detained for a new hearing on the constitutional claim as if the proceedings were originally initiated in district court. The procedure in these cases in the district court is governed by the Federal Rules of Civil Procedure."

SEC. . LAND ACQUISITION AUTHORITY.

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by redesignating subsections "(b)", "(c)", and "(d)" as subsections "(c)", "(d)", and "(e)" accordingly, and inserting the following new subsection "(b)":

"(b)(1) The Attorney General may contract for or buy any interest in land, including temporary use rights, adjacent to or in the vicinity of an international land border when the Attorney General deems the land essential to control and guard the boundaries and borders of the United States against any violation of this Act.

"(2) The Attorney General may contract for or buy any interest in land identified pursuant to subsection (a) as soon as the lawful owner of that interest fixes a price for it and the Attorney General considers that price to be reasonable.

"(3) When the Attorney General and the lawful owner of an interest identified pursuant to subsection (a) are unable to agree upon a reasonable price, the Attorney General may commence condemnation proceedings pursuant to 40 U.S.C. 257.

"(4) The Attorney General may accept for the United States a gift of any interest in land identified pursuant to subsection (a)."

SEC. . SERVICES TO FAMILY MEMBERS OF INS OFFICERS KILLED IN THE LINE OF DUTY.

SEC. 294. [8 U.S.C. 1364]—Transportation of the Remains of Immigration Officers and Border Patrol Agents Killed in the Line of Duty.

(a) Notwithstanding any other provision of law, the Attorney General may expend appropriated funds to pay for:

(1) the transportation of the remains of any Immigration Officer or Border Patrol Agent killed in the line of duty to a place of burial located in the United States, the Commonwealth of Puerto Rico, or the territories and possessions of the United States;

(2) the transportation of the decedent's spouse and minor children to and from the same site at rates no greater than those established for official government travel; and

(3) any other memorial service sanctioned by the Department of Justice.

(b) The Department of Justice may prepay the costs of any transportation authorized by this section.

SEC. . POWERS AND DUTIES OF THE ATTORNEY GENERAL AND THE COMMISSIONER.

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended in subsection (a) by adding the following after the last sentence of that subsection:

"The Attorney General, in support of persons in administrative detention in non-Federal institutions, is authorized to make payments from funds appropriated for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration for necessary clothing, medical care, necessary guard hire, and the housing, care, and security of persons detained by the Service pursuant to Federal law under intergovernmental service agreements with State or local units of government. The Attorney General, in support of persons in administrative detention in non-Federal institutions, is further authorized to enter into cooperative agreements with any State, territory, or political subdivision thereof, for the necessary construction, physical renovation, acquisition of equipment, supplies or materials required to establish acceptable conditions of confinement and detention services in any State or local jurisdiction which agrees to provide guaranteed bed space for persons detained by the Immigration and Naturalization Service."

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended in subsection (b) by adding the following:

"The Commissioner may enter into cooperative agreements with State and local law enforcement agencies for the purpose of assisting in the enforcement of the immigration laws of the United States."

SEC. . PRECLEARANCE AUTHORITY.

Section 103(a) of the Immigration and Nationality Act (8 U.S.C. 1103(a)) is amended by adding at the end the following:

"After consultation with the Secretary of State, the Attorney General may authorize officers of a foreign country to be stationed at preclearance facilities in the United States for the purpose of ensuring that persons traveling from or through the United States to that foreign country comply with that country's immigration and related laws. Those officers may exercise such authority and perform such duties as United States immigration officers are authorized to exercise and perform in that foreign country under reciprocal agreement, and they shall enjoy such reasonable privileges and immunities necessary for the performance of their duties as the government of their country extends to United States immigration officers."

On page 173, line 16, insert "(a)" before the word "Section".

On page 174, at the end of line 4, insert the following:

"(b) As used in this section, "good cause" may include, but is not limited to, circumstances that changed after the applicant entered the U.S. and that are relevant to the applicant's eligibility for asylum; physical or mental disability; threats of retribution against the applicant's relatives abroad; attempts to file affirmatively that were unsuccessful because of technical defects; efforts to seek asylum that were delayed by the temporary unavailability of professional assistance; the illness or death of the applicant's legal representative; or other extenuating circumstances as determined by the Attorney General."

Page 106, line 15, strike "(A), (B), or (D)" and insert "(B) or (D)".

At the appropriate place in the matter proposed to be inserted by the amendment, insert the following:

SEC. . CONFIDENTIALITY PROVISION FOR CERTAIN ALIEN BATTERED SPOUSES AND CHILDREN.

(a) IN GENERAL.—With respect to information provided pursuant to section 150(b)(C) of this Act and 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 only information furnished solely by—

(A) a spouse or parent who has battered the alien or the alien's children or subjected the alien or the alien's children to extreme cruelty, or

(B) a member of the alien's spouse's or parent's family who has battered the alien or the alien's child or subjected the alien or alien's child to extreme cruelty,

unless the alien has been convicted of a crime or crimes listed in section 241(a)(2) of the Immigration and Nationality Act;

(2) make any publication whereby information furnished by any particular individual can be identified;

(3) permit anyone other than the sworn officers and employees of the Department, bureau or agency, who needs to examine such information for legitimate Department, bureau, or agency purposes, to examine any publication of any individual who files for relief as a person who has been battered or subjected to extreme cruelty.

(b) EXCEPTIONS.—(1) The Attorney General may provide for the furnishing of information furnished under this section 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 for the furnishing of information furnished under this section to law enforcement officials to be used solely for legitimate law enforcement purposes.

SEC. . DEVELOPMENT OF PROTOTYPE OF COUNTERFEIT-RESISTANT SOCIAL SECURITY CARD REQUIRED.

(a) DEVELOPMENT.—

(1) IN GENERAL.—The Commissioner of Social Security (hereafter in this section referred to as the "Commissioner") shall in accordance with the provisions of this section develop a prototype of a counterfeit-resistant social security card. Such prototype card shall—

(A) be made of a durable, tamper-resistant material such as plastic or polyester,

(B) employ technologies that provide security features, such as magnetic stripes, holograms, and integrated circuits, and

(C) be developed so as to provide individuals with reliable proof of citizenship or legal resident alien status.

(2) ASSISTANCE BY ATTORNEY GENERAL.—The Attorney General of the United States shall provide such information and assistance as the Commissioner deems necessary to achieve the purposes of this section.

(b) STUDY AND REPORT.—

(1) IN GENERAL.—The Commissioner shall conduct a study and issue a report to Congress which examines different methods of improving the social security card application process.

(2) ELEMENTS OF STUDY.—The study shall include an evaluation of the cost and work load implications of issuing a counterfeit-resistant social security card for all individuals over a 3, 5, and 10 year period. The study shall also evaluate the feasibility and cost implications of imposing a user fee for replacement cards and cards issued to individuals who apply for such a card prior to the scheduled 3, 5, and 10 year phase-in options.

(3) DISTRIBUTION OF REPORT.—Copies of the report described in this subsection along with a facsimile of the prototype card as described in subsection (a) shall be submitted to the Committees on Ways and Means and Judiciary of the House of Representatives and the Committees on Finance and Judiciary of the Senate within 1 year of the date of the enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated and are appropriated from the Federal Old-Age and Survivors Insurance Trust Fund such sums as may be necessary to carry out the purposes of this section.

Page 15, lines 12 through 14, strike: "(other than a document used under section 274A of the Immigration and Nationality Act)"