have, or has not been provided with referrals of, qualified eligible individuals who have agreed to perform such labor or services on the terms and conditions of a job offer which meets the requirements of the Secretary and who are otherwise available, except that the terms of such labor certification shall remain effective only if the employer continues to accept for employment, until the date the aliens depart for work with the employer, qualified eligible individuals who apply to the employer or are referred to the employer; and

(iii) the petition, or the application for a certification, may be filed by an association representing agricultural producers who use agricultural labor or services. The filing of such a petition or application on a member's behalf does not relieve the member of any liability for representations made in such petition or application unless the association is the sole employer of all alien agricultural labor or services, in which case only the association shall be liable for representations made in such petition or application.

(B) The Secretary of Labor shall provide for an expedited procedure for the review of a denial of certification under paragraph (2) in the case of a nonimmigrant described in section 101(a)(15)(H)(ii)(a), or at the applicant's request, a de novo administrative hearing.

(C) The Secretary of Labor shall expeditiously make a new determination on the request for certification in the case of a nonimmigrant described in section 101(a)(15)(H)(ii)(a) if qualified eligible individuals are not actually available at the time such labor or services are required and a certification was denied in whole or in part because of the availability of qualified eligible individuals. If the employer asserts that any eligible individuals who have been referred are not qualified, the burden of proof is on the employer to establish that the individuals referred are not qualified because of employment-related reasons.

(D) For purposes of this paragraph, the term "eligible individual" means, with respect to employment, an individual who is not an unauthorized alien (as defined in section 274A(a)(4)) with respect to that employment.

(4) The Secretary of Labor, in consultation with the Attorney General and the Secretary of Agriculture, shall annually report to the Congress on the certifications provided under this subsection, the impact of aliens admitted pursuant to such certifications on labor conditions in the United States, and on compliance of employers and nonimmigrants with the terms and conditions of such nonimmigrants' admission to the United States.

(5) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1984, $10,000,000 for the purposes (A) of recruiting domestic workers for temporary labor and services which might otherwise be performed by nonimmigrants described in section 101(a)(15)(H)(ii), and (B) of monitoring terms and conditions under which such nonimmigrants (and domestic workers employed by the same employers) are employed in the United States. The Secretary of Labor is authorized to take such actions, including imposing appropriate penalties and seeking appropriate injunctive relief and specific performance of contractual obligations, as may be nec-

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essary to assure employer compliance with terms and conditions of employment under this subsection.

(d) A visa shall not be issued under the provisions of section 101(a)(15)(K) until the consular officer has received a petition filed in the United States by the fiancée or fiancé of the applying alien and approved by the Attorney General. The petition shall be in such form and contain such information as the Attorney General shall, by regulation, prescribe. It shall be approved only after satisfactory evidence is submitted by the petitioner to establish that the parties have a bona fide intention to marry and are legally able and actually willing to conclude a valid marriage in the United States within a period of ninety days after the alien's arrival. In the event the marriage with the petitioner does not occur within three months after the entry of the said alien and minor children, they shall be required to depart from the United States and upon failure to do so shall be deported in accordance with sections 242 and 243. In the event the marriage between the said alien and the petitioner shall occur within three months after the entry and they are found otherwise admissible, the Attorney General shall record the lawful admission for permanent residence of the alien and minor children as of the date of the payment of the required visa fees.

(e) The provisions of subsections (a) and (c) of this section preempt any State or local law regulating the admissibility of nonimmigrant workers.

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CHAPTER 3—ISSUANCE OF ENTRY DOCUMENTS

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APPLICATIONS FOR VISAS

SEC. 222. * * *

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(f)*(1)* The records of the Department of State and of diplomatic and consular offices of the United States pertaining to the issuance or refusal of visas or permits to enter the United States shall be considered confidential and shall be used only for the formulation, amendment, administration, or enforcement of the immigration, nationality, and other laws of the United States, except that in the discretion of the Secretary of State certified copies of such records may be made available to a court which certifies that the information contained in such records is needed by the court in the interest of the ends of justice in a case pending before the court.

(2) The records or any document of the Department of Justice, The Department of State, or any other Government agency, or foreign government, pertaining to the issuance or denial of any application for asylum, refugee status, withholding of deportation under sections 207, 208, and 243(h) of this Act, or any other application arising under a claim of persecution on account of race, religion, political opinion, nationality, or membership in a particular social group, shall be confidential and exempt from disclosure and shall be used only for the formulation, amendment, administration, or enforce-

ment of the immigration, nationality, and other laws of the United States. In the discretion of the Attorney General or the Secretary of State, as the case may be, certified copies of such records may be made available to a court which certifies that the information contained in such records is needed by the court in the interests of the ends of justice in a case pending before the court.

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CHAPTER 4—PROVISIONS RELATING TO ENTRY AND EXCLUSION

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PHYSICAL AND MENTAL EXAMINATION

SEC. 234. The physical and mental examination of arriving aliens (including alien crewmen) shall be made by medical officers of the United States Public Health Service, who shall conduct all medical examinations and shall certify, for the information of the immigration officers and the [special inquiry officers] *immigration judges,* any physical and mental defect or disease observed by such medical officers in any such alien. If medical officers of the United States Public Health Service are not available, civil surgeons of not less than four years' professional experience may be employed for such service upon such terms as may be prescribed by the Attorney General. Aliens (including alien crewmen) arriving at ports of the United States shall be examined by at least one such medical officer or civil surgeon under such administrative regulations as the Attorney General may prescribe, and under medical regulations prepared by the Surgeon General of the United States Public Health Service. Medical officers of the United States Public Health Service who have had special training in the diagnosis of insanity and mental defects shall be detailed for duty or employed at such ports of entry as the Attorney General may designate, and such medical officers shall be provided with suitable facilities for the detention and examination of all arriving aliens who it is suspected may be excludable under paragraphs (1), (2), (3), (4), or (5) of section 212(a), and the services of interpreters shall be provided for such examination. Any alien certified under paragraphs (1), (2), (3), (4), or (5) of section 212(a) may appeal to a board of medical officers of the United States Public Health Service, which shall be convened by the Surgeon General of the United States Public Health Service, and any such alien may introduce before such board one expert medical witness at his own cost and expense.

INSPECTION BY IMMIGRATION OFFICERS

SEC. 235. (a) The inspection, other than the physical and mental examination, of aliens (including alien crewmen) seeking admission or readmission to, or the privilege of passing through the United States shall be conducted by immigration officers, except as otherwise provided in regard to [special inquiry officers] *immigration judges.* All aliens [arriving] *entering* at ports *or at the land borders* of the United States shall be examined by one or more immigration officers at the discretion of the Attorney General and under such regulations as he may prescribe. Immigration officers

are hereby authorized and empowered to board and search any vessel, aircraft, railway car, or other conveyance, or vehicle in which they believe aliens are being brought into the United States. The Attorney General and any immigration officers[, including special inquiry officers,] *and any immigration judge* shall have power to administer oaths and to take and consider evidence of or from any person touching the privilege of any alien or person he believes or suspects to be an alien to enter, reenter, pass through, or reside in the United States or concerning any matter which is material and relevant to the enforcement of this Act and the administration of the Service, and, where such action may be necessary, to make a written record of such evidence. Any person coming into the United States may be required to state under oath the purpose or purposes for which he comes, the length of time he intends to remain in the United States, whether or not he intends to remain in the United States permanently and, if an alien, whether he intends to become a citizen thereof, and such other items of information as will aid the immigration officer in determining whether he is a national of the United States or an alien and, if the latter, whether he belongs to any of the excluded classes enumerated in section 212. The Attorney General and any immigration officer [, including special inquiry officers,] shall have power to require by subpena the attendance and testimony of witnesses before immigration officers and [special inquiry officers] *immigration judges* and the production of books, papers, and documents relating to the privilege of any person to enter, reenter, reside in, or pass through the United States or concerning any matter which is material and relevant to the enforcement of this Act and the administration of the Service, and to that end may invoke the aid of any court of the United States. Any United States district court within the jurisdiction of which investigations or inquiries are being conducted by an immigration officer or [special inquiry officer] *immigration judge* may, in the event of neglect or refusal to respond to a subpena issued under this subsection or refusal to testify before an immigration officer or [special inquiry officer] *immigration judge* issue an order requiring such persons to appear before an immigration officer or [special inquiry officer] *immigration judge* produce books, papers, and documents if demanded, and testify, and any failure to obey such order of the court may be punished by the court as a contempt thereof.

[(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 immigration 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.]

(b)(1) If an examining immigration officer at the port of arrival determines that an alien does not have the documentation required to obtain entry into the United States, does not have any reasonable basis for legal entry into the United States, and has not applied for asylum under section 208, such alien shall not be admissible and shall be excluded from entry into the United States without further inquiry or hearing.

(2) If an examining immigration officer at a port of entry or land border of the United States determines that an alien (other than an alien crewman and except as otherwise provided in subsection (c) of this section and in section 273(d)) is otherwise not clearly and beyond a doubt entitled to land, such alien shall be detained for a hearing on exclusion of the alien to be held before an immigration judge.

(3) 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 unquiry officer for further inquiry] *an immigration judge for an exclusion hearing.*

(4) The Attorney General shall establish procedures, after consultation with the Judiciary Committees of the Congress, which assure that aliens are not excluded under paragraph (1) without an inquiry into their reasons for unlawfully seeking entry into the United States.

(5) In the case of an alien who would be excluded from entry under paragraph (1) but for an application for asylum under section 208, the exclusion hearing with respect to such entry shall be limited to the issues raised by the asylum application.

(c) Any alien (including an alien crewmen) who may appear to the examining immigration officer [or to the special inquiry officer during the examination before either of such officers] *during the examination or an immigration judge during an exclusion hearing* to be excludable under paragraph (27), (28), or (29) of section 212(a) shall be temporarily excluded, and no further [inquiry by a special inquiry officer] *examination or exclusion hearing* shall be conducted until after the case is reported to the Attorney General together with any such written statement and accompanying information, if any, as the alien or his representative may desire to submit in connection herewith and such an [inquiry or further inquiry] *examination or hearing* is directed by the Attorney General. If the Attorney General is satisfied that the alien is excludable under any of such paragraphs on the basis of information of a confidential nature, the disclosure of which the Attorney General, in the exercise of his discretion, and after consultation with the appropriate security agencies of the Government, concludes would be prejudicial to the public interest, safety, or security, he may in his descretion order such alien to be excluded and deported without any [inquiry or further inquiry by a special inquiry officer] *any examination or hearing. Nothing in this subsection shall be regarded as requiring an [inquiry before a special inquiry officer] exclusion hearing before an immigration judge* in the case of an alien crewman.

EXCLUSIONS OF ALIENS

SEC. 236. (a) [A special inquiry officer] *An immigration judge* shall conduct proceedings under this section[, administer oaths, present and receive evidence, and interrogate, examine, and cross-examine the alien or witnesses]. He shall have authority in any case to determine whether an arriving alien who has been detained

for [further inquiry] *an exclusion hearing* under section 235 shall be allowed to enter or shall be excluded and deported. The determination of such [special inquiry officer] *immigration judge* shall be based only on the evidence produced at the [inquiry.] *hearing.* [No special inquiry officer shall conduct a proceeding in any case under this section in which he shall have participated in investigative functions or in which he shall have participated (except as provided in this subsection) in prosecuting functions.] Proceedings before [a special inquiry officer] *an immigration law judge* under this section shall be conducted in accordance with this section, the applicable provisions of sections 235 and 287(b), and such [regulations as the Attorney General shall prescribe] *rules as the Chairman of the United States Immigration Board shall establish,* and shall be the sole and exclusive procedure for determining admissibility of a person to the United States under the provisions of this section. At such [inquiry,] *hearing,* which shall be kept separate and apart from the public, the alien may have one friend or relative present, under such conditions as may be prescribed by the Attorney General. A complete record of the proceedings and of all testimony and evidence produced at such [inquiry] hearing, shall be kept.

(b) [From a decision of a special inquiry officer excluding an alien, such alien may take a timely appeal to the Attorney General] *Within fifteen days after the date of a decision of an immigration judge excluding or admitting an alien, the alien or the immigration officer in charge at the port where the hearing is held, respectively, may file an appeal of the decision with the United States Immigration Board in accordance with rules established by the Chairman of the Board,* and any such alien shall be advised of his right to take such appeal. No appeal may be taken from a temporary exclusion under section 235(c). [From a decision of the special inquiry officer to admit an alien, the immigration officer in charge at the port where the inquiry is held may take a timely appeal to the Attorney General.] An appeal by the alien, or such officer in charge, shall operate to stay any final action with respect to any alien whose case is so appealed until the final decision of the [Attorney General] *United States Immigration Board* is made. Except as provided in section 235(c) such decision shall be rendered solely upon the evidence adduced before the [special inquiry officer] *immigration judge.*

(c) Except as provided in subsection (b) or (d), in every case where an alien is excluded from admission into the United States, under this Act or any other law or treaty now existing or hereafter made, the decision of [a special inquiry officer] *an immigration judge* shall be final unless reversed on appeal [to the Attorney General].

(d) If a medical officer or civil surgeon or board of medical officers has certified under section 234 that an alien is afflicted with a disease specified in section 212(a)(6), or with any mental disease, defect, or disability which would bring such alien within any of the classes excluded from admission to the United States under paragraphs (1), (2), (3), (4), or (5) of section 212(a), the decision of the [special inquiry officer] *immigration judge* shall be based solely upon such certification. No alien shall have a right to appeal from

such an excluding decision of [a special inquiry officer.] *an immigration judge.* If an alien is excluded by [a special inquiry officer] *an immigration judge* because of the existence of a physical disease, defect, or disability, other than one specified in section 212(a)(6), the alien may appeal from the excluding decision in accordance with subsection (b) of this section, and the provisions of section 213 may be invoked.

IMMEDIATE DEPORTATION OF ALIENS EXCLUDED FROM ADMISSION OR ENTERING IN VIOLATION OF LAW

SEC. 237. (a)(1) Any alien (other than an alien crewman) arriving in the United States who is excluded under this Act, shall be immediately deported, in accommodations of the same class in which he arrived, unless the Attorney General, in an individual case, in his discretion, concludes that immediate deportation is not practicable or proper. Deportation shall be to the country in which the alien boarded the vessel or aircraft on which he [arrived in] *entered* the United States, unless the alien boarded such vessel or aircraft in foreign territory contiguous to the United States or in any island adjacent thereto or adjacent to the United States and the alien is not a native, citizen, subject, or national of, or does not have a residence in, such foreign contiguous territory or adjacent island, in which case the deportation shall instead be to the country in which is located the port at which the island. The cost of the maintenance including detention expenses and expenses incident to detention of any such alien while he is being detained shall be borne by the owner or owners of the vessel or aircraft on which he [arrived] *entered the United States*, except that the cost of maintenance (including detention expenses and expenses incident to detention while the alien is being detained prior to the time he is offered for deportation to the transportation line which brought him to the United States) shall not be assessed against the owner or owners of such vessel or aircraft if (A) the alien was in possession of a valid, unexpired immigrant visa, or (B) the alien (other than an alien crewman) was in possession of a valid, unexpired nonimmigrant visa or other document authorizing such alien to apply for temporary admission to the United States or an unexpired reentry permit issued to him, and (i) such application was made within one hundred and twenty days of the date of issuance of the visa or other document, or in the case of an alien in possession of a reentry permit, within one hundred and twenty days of the date on which the alien was last examined and admitted by the Service, or (ii) in the event the application was made later than one hundred and twenty days of the date of issuance of the visa or other document or such examination and admission, if the owner or owners of such vessel or aircraft established to the satisfaction of the Attorney General that the ground of exclusion could not have been ascertained by the exercise of due diligence prior to the alien's embarkation, or (C) the person claimed United States nationality or citizenship and was in possession of an unexpired United States passport issued to him by competent authority.

(2) If the government of the country designated in paragraph (1) will not accept the alien into its territory, the alien's deportation

shall be directed by the Attorney General, in his discretion and without necessarily giving any priority or preference because of their order as herein set forth, either to—

(A) the country of which the alien is a subject, citizen, or national;

(B) the country in which he was born;

(C) the country in which he has a residence; or

(D) any country which is willing to accept the alien into its territory, if deportation to any of the foregoing countries is impracticable, inadvisable, or impossible.

(b) It shall be unlawful for any master, commanding officer, purser, person in charge, agent, owner, or consignee of any vessel or aircraft (1) to refuse to receive any alien (other than an alien crewman), ordered deported under this section back on board such vessel or aircraft or another vessel or aircraft owned or operated by the same interests; (2) to fail to detain any alien (other than an alien crewman) on board any such vessel or at the [airport of arrival] *port of entry* of the aircraft when required by this Act or if so ordered by an immigration officer, or to fail or refuse to deliver him for medical or other inspection, or for further medical or other inspection, as and when so ordered by such officer; (3) to refuse or fail to remove him from the United States to the country to which his deportation has been directed; (4) to fail to pay the cost of his maintenance while being detained as required by this section or section 233 of this title; (5) to take any fee, deposit, or consideration on a contingent basis to be kept or returned in case the alien is landed or excluded; or (6) knowingly to bring to the United States any alien (other than an alien crewman) excluded or arrested and deported under any provision of law until such alien may be lawfully entitled to reapply for admission to the United States. If it shall appear to the satisfaction of the Attorney General that any such master, commanding officer, purser, person in charge, agent, owner, or consignee of any vessel or aircraft has violated any of the provisions of this section or of section 233 of this title, such master, commanding officer, purser, person in charge, agent, owner, or consignee shall pay to the district director of customs of the district in which port of [arrival] *entry* is situated or in which any vessel or aircraft of the line may be found, the sum of $300 for each violation. No such vessel or aircraft shall have clearance from any port of the United States while any such fine is unpaid or while the question of liability to pay any such fine is being determined, nor shall any such fine be remitted or refunded, except that clearance may be granted prior to the determination of such question upon the deposit with the district director of customs of a bond or undertaking approved by the Attorney General or a sum sufficient to cover such fine.

(c) An alien shall be deported on a vessel or aircraft owned by the same person who owns the vessel or aircraft on which the alien [arrived in] *entered* the United States, unless it is impracticable to so deport the alien within a reasonable time. The transportation expense of the alien's deportation shall be borne by the owner or owners of the vessel or aircraft on which the alien arrived. If the deportation is effected on a vessel or aircraft not owned by such owner or owners, the transportation expense of the alien's deporta-

tion may be paid from the appropriation for the enforcement of this Act and recovered by civil suit from any owner, agent, or consignee of the vessel or aircraft on which the alien arrived.

(d) The Attorney General, under such conditions as are by regulations prescribed, may stay the deportation of any alien deportable under this section, if in his judgment the testimony of such alien is necessary on behalf of the United States in the prosecution of offenders against any provision of this Act or other laws of the United States. The cost of maintenance of any person so detained resulting from a stay of deportation under this subsection and a witness fee in the sum of $1 per day for each day such person is so detained may be paid from the appropriation for the enforcement of this title. Such alien may be released under bond in the penalty of not less than $500 with security approved by the Attorney General on condition that such alien shall be produced when required as a witness and for deportation, and on such other conditions as the Attorney General may prescribe.

(e) Upon the certificate of an examining medical officer to the effect that an alien ordered to be excluded and deported under this section is helpless from sickness or mental and physical disability, or infancy, if such alien is accompanied by another alien whose protection or guardianship is required by the alien ordered excluded and deported, such accompanying alien may also be excluded and deported, and the master, commanding officer, agent, owner, or consignee of the vessel or aircraft in which such alien and accompanying alien [arrived in] *entered* the United States shall be required to return the accompanying alien in the same manner as other aliens denied admission and ordered deported under this section.

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CHAPTER 5—DEPORTATION; ADJUSTMENT OF STATUS

GENERAL CLASSES OF DEPORTABLE ALIENS

SEC. 241. (a) Any alien in the United States (including an alien crewman) shall, upon the order of the Attorney General, be deported who—

(1) * * *

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(9)(*A*) was admitted as a nonimmigrant and failed to maintain the nonimmigrant status in which he was admitted or to which it was changed pursuant to section 248, or to comply with the conditions of any such status[;] , *or*

(B) was admitted as an independent immigrant described in paragraph (3) of section 203(b) and by the end of the one-year period following the date of entry failed to invest substantial capital in an enterprise in the United States as required in such paragraph or, having made such investment, has failed without good cause to maintain such an investment for a period of at least one year after the date of such entry or after the date such substantial investment was made, whichever date was later;

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APPREHENSION AND DEPORTATION OF ALIENS

SEC. 242. (a) * * *

(b) [A special inquiry officer] *An immigration judge* shall conduct proceedings under this section to determine the deportability of any alien, and [shall administer oaths, present and receive evidence, interrogate, examine, and cross-examine the alien or witnesses, and as authorized by the Attorney General,] shall make determinations, including orders of deportation. Determination of deportability in any case shall be made only upon a record made in a proceeding before [a special inquiry officer] *an immigration judge,* at which the alien shall have reasonable opportunity to be present, unless by reason of the alien's mental incompetency it is impracticable for him to be present, in which case the [Attorney General shall precribe] *Chairman of the United States Immigration Board shall establish* necessary and proper safeguards for the rights and privileges of such alien. If any alien has been given a reasonable opportunity to be present at a proceeding under this section, and without reasonable cause fails or refuses to attend or remain in attendance at such proceeding, the [special inquiry officer] *immigration judge* may proceed to a determination in like manner as if the alien were present. [In any case or class of cases in which the Attorney General believes that such procedure would be of aid in making a determination, he may require specifically or by regulation that an additional immigration officer] *An immigration officer* shall be assigned to present the evidence on behalf of the United States and [in such case such additional immigration officer] shall have authority to present evidence, and to interrogate, examine and cross-examine the alien or other witnesses in the proceedings. [Nothing in the preceeding sentence shall be construed to diminish the authority conferred upon the special inquiry officer conducting such proceedings. No special inquiry officer shall conduct a proceeding in any case under this section in which he shall have participated in investigative functions or in which he shall have participated (except as provided in this subsection) in prosecuting functions.] Proceedings before [a special inquiry officer] *an immigration judge* acting under the provisions of this section shall be in accordance with [such regulations, not inconsistent with this Act, as the Attorney General shall prescribe] *rules as are established by the Chairman of the United States Immigration Board.* Such [regulations] *rules* shall include requirements that—

(1) the alien shall be given notice, reasonable under all the circumstances, of the nature of the charges against him and of the time and place at which the proceedings will be held;

(2) the alien shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose;

(3) the alien shall have a reasonable opportunity to examine the evidence against him, to present evidence in his own behalf, and to cross-examine witnesses presented by the Government; and

(4) no decision of deportability shall be valid unless it is based upon [reasonable, substantial, and probative] *substantial* evidence.

The procedure so prescribed shall be the sole and exclusive procedure for determining the deportability of an alien under this section. In any case in which an alien is ordered deported from the United States under the provisions of this Act, or of any other law or treaty, the decision of the [Attorney General shall be final] *immigration judge shall be final unless reversed on appeal.* In the discretion of the Attorney General, and under such regulations as he may prescribe, deportation proceedings, including issuance of a warrant of arrest, and a finding of deportability under this section need not be required in the case of any alien who admits to belonging to a class of aliens who are deportable under section 241 if such alien voluntarily departs from the United States at his own expense, or is removed at Government expense as hereinafter authorized, unless the Attorney General has reason to believe that such alien is deportable under paragraph (4), (5) (6), (11), (12), (14), (15), (16), (17), (18), or (19) of section 241(a). If any alien who is authorized to depart voluntarily under the preceding sentence is financially unable to depart at his own expense and the Attorney General deems his removal to be in the best interest of the United States, the expense of such removal may be paid from the appropriation for the enforcement of this Act.

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(i) Except as otherwise provided in section 291, in any deportation proceeding under this Act the burden of proof shall be upon the Attorney General to establish deportability by a preponderance of the evidence.

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COUNTRIES TO WHICH ALIENS SHALL BE DEPORTED; COST OF DEPORTATION

SEC. 243 (a) * * *

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(h)(1) The Attorney General shall not deport or return any alien (other than an alien described in section 241(a)(19)) to a country if the Attorney General determines that such alien's life or freedom would be threatened in such country on account of race, religion, nationality, membership in a particular social group, or political opinion.

(2) Paragraph (1) shall not apply to any alien if the Attorney General determines that—

(A) the alien ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

(B) the alien, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the United States;

(C) there are serious reasons for considering that the alien has committed a serious nonpolitical crime outside the United States prior to the arrival of the alien in the United States; or

(D) there are reasonable grounds for regarding the alien as a danger to the security of the United States.

(3) An application for relief under this subsection shall be considered to be an application for asylum under section 208 and shall be considered in accordance with the procedures set forth in that section.

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ADJUSTMENT OF STATUS OF NONIMMIGRANT TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE

SEC. 245. (a) The status of an alien who was inspected and admitted or paroled into the United States may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if (1) the alien makes an application for such adjustment, (2) the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence, and (3) an immigrant visa is immediately available to him at the time his application is filed.

(b) Upon the approval of an application for adjustment made under subsection (a), the Attorney General shall record the alien's lawful admission for permanent residence as of the date the order of the Attorney General approving the application for the adjustment of status is made, and the Secretary of State shall reduce by one the number of the preference or nonpreference visas authorized to be issued under sections [202(e) or] 203(a) within the class to which the alien is chargeable for the fiscal year then current.

(c) The provisions of this section shall not be applicable to (1) an alien crewman; (2) an alien (other than an immediate relative as defined in section 201(b) "or a special immigrant described in section 101(a)(27)(H)) who [hereafter continues in or accepts unauthorized employment prior to filing an application for adjustment of status] *has failed to maintain continuously a legal status since entry into the United States;* [or] (3) any alien admitted in transit without visa under section 212(d)(4)(C); *or (4) an alien (other than an immediate relative specified in section 201(b) or an alien who has received a waiver of the two-year foreign residence requirement of section 212(e) or, with respect to aliens admitted under section 101(a)(15)(F) before the date of enactment of this Act, who has satisfied the degree and other requirements as would be necessary before such alien would be qualified to apply for such a waiver if the two-year foreign residence requirement were in effect for him) who entered the United States classified as a nonimmigrant under subparagraph (F) or (M) of section 101(a)(15) or who was admitted as a nonimmigrant visitor without a visa under section 212(l).*

ADJUSTMENT OF STATUS OF CERTAIN ENTRANTS BEFORE JANUARY 1, 1980, TO THAT OF PERSON ADMITTED FOR TEMPORARY OR PERMANENT RESIDENCE

SEC. 245A. (a) The Attorney General may, in his discretion and under such regulations as he shall prescribe, adjust the status of an

alien to that of an alien lawfully admitted for permanent residence if—

(1) the alien applies for such adjustment during the twelve-month period beginning on a date 90 days after the date of enactment of this section, or, in the case of an alien who is the subject of an order to show cause issued under section 242, not later than 30 days after the date of issuance of such order,

(2)(A) the alien (other than an alien who entered as a nonimmigrant) establishes that he entered the United States prior to January 1, 1977, and has resided continuously in the United States in an unlawful status from January 1, 1977, through the date of enactment of the Immigration Reform and Control Act of 1983, or

(B) the alien entered the United States as a nonimmigrant before January 1, 1977, the alien's period of authorized stay as a nonimmigrant expired before January 1, 1977, through the passage of time or the alien's unlawful status was known to the Government as of January 1, 1977, and the alien has resided continuously in the United States in an unlawful status from January 1, 1977, through the date of enactment of the Immigration Reform and Control Act of 1983, and

(C) if the alien was at any time a nonimmigrant exchange alien (as defined in section 101(a)(15)(J)), the alien was not subject to the two-year foreign residence requirement of section 212(e) or has fulfilled that requirement or received a waiver thereof;

(3) the alien was physically present in the United States since the date of enactment of the Immigration Reform and Control Act of 1983; and

(4) the alien—

(A) is admissible to the United States as an immigrant, except as otherwise provided under subsection (c)(2),

(B) has not been convicted of any felony or of three or more misdemeanors committed in the United States, and

(C) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion.

(b)(1) The Attorney General may, in his discretion and under such regulations as he shall prescribe, adjust the status of an alien to that of an alien lawfully admitted for temporary residence if—

(A) the alien applies for such adjustment during the twelve-month period beginning on a date 90 days after the date of enactment of this section, or, in the case of an alien who is the subject of an order to show cause issued under section 242, not later than 30 days after the date of issuance of such order;

(B)(i)(I) the alien (other than an alien who entered as a nonimmigrant) establishes that he entered the United States prior to January 1, 1980, and has resided continuously in the United States in an unlawful status from January 1, 1980, through the date of enactment of the Immigration Reform and Control Act of 1983; or

(II) the alien entered the United States as a nonimmigrant before January 1, 1980, the alien's period of authorized stay as a nonimmigrant expired before January 1, 1980, through the

passage of time or the alien's unlawful status was known to the Government as of January 1, 1980, and the alien has resided continuously in the United States in an unlawful status from January 1, 1980, through the date of enactment of the Immigration Reform and Control Act of 1983; and

(III) if the alien was at any time a nonimmigrant exchange alien (as defined in section 101(a)(15)(J)), the alien was not subject to the two-year foreign residence requirement of section 212(e) or has fulfilled that requirement or received a waiver thereof; or

(ii) the alien is—

(I) a national of Cuba who arrived in the United States and presented himself for inspection after April 20, 1980, and before January 1, 1981, and who is still physically present in the United States;

(II) a national of Haiti who on December 31, 1980, was the subject of exclusion or deportation proceedings under section 236 or section 242 of the Immigration and Nationality Act, including a national of Haiti who on that date was under an order of exclusion and deportation or under an order of deportation which had not yet been executed;

(III) a national of Haiti who was paroled into the United States under section 212(d)(5) of such Act or was granted voluntary departure before December 31, 1980, and was physically present in the United States on that date; or

(IV) a national of Cuba or Haiti who on December 31, 1980, had an application for asylum pending with the Immigration and Naturalization Service;

(C) the alien was physically present in the United States since the date of enactment of the Immigration Reform and Control Act of 1983; and

(D) the alien—

(i) is admissible to the United States as an immigrant, except as otherwise provided under subsection (c)(2),

(ii) has not been convicted of any felony or three or more misdemeanors committed in the United States, and

(iii) has not assisted in the presecution of any person or persons on account of race, religion nationality, membership in a particular social group, or political opinion.

(2) During the period an alien is in the lawful temporary resident status granted under paragraph (1)—

(A) the Attorney General shall permit the alien to return to the United States after such brief and casual trips abroad, in accordance with subsection (d)(3), as reflect an intention on the part of the alien to adjust to lawful permanent resident status under paragraph (3), and

(B) the Attorney General shall grant the alien authorization to engage in employment in the United States and provide to that alien an "employment authorized" endorsement or other appropriate work permit.

(3) The Attorney General, in his discretion and under such regulations as he may prescribe, may adjust the status of any alien provided lawful temporary resident status under paragraph (1) to that of an alien lawfully admitted for permanent residence if the alien—

(A) applies for such adjustment during the six-month period beginning with the first day of the thirty-seventh month that begins after the date the alien was granted such temporary resident status;

(B) establishes that he has continuously resided in the United States since the date the alien was granted such temporary resident status;

(C)(i) is admissible to the United States as an immigrant, except as otherwise provided under subsection (c)(2), and

(ii) has not been convicted of any felony or three or more misdemeanors committed in the United States; and

(D) can demonstrate that he either (i) meets the requirement of paragraph (1) of section 312 (relating to minimal understanding of ordinary English), or (ii) is satisfactorily pursuing a course of study (recognized by the Attorney General) to achieve such an understanding of English.

(4) The Attorney General shall provide for termination of temporary resident status granted an alien under this subsection—

(A) if the alien commits an act that (i) makes the alien inadmissible to the United States as an immigrant, except as otherwise provided under subsection (c)(2), or (ii) is convicted of any felony or three or more misdemeanors committed in the United States, or

(B) at the end of the forty-second month beginning after the date the alien is granted such status, unless the alien has filed an application for adjustment of such status pursuant to paragraph (3) and such application has not been denied.

(c)(1) The Attorney General shall provide that applications for adjustment of status under subsection (a) and subsection (b)(1) may be filed with the Attorney General or with any qualified organization or State or local government which the Attorney General may designate if such organization or government agrees to transmit any such application to him. No qualified organization or such government may make a determination required by this section to be made by the Attorney General.

(2) The provisions of paragraphs (14), (20), (21), (25), and (32), of section 212(a) shall not be applicable in the determination of an alien's admissibility under subsections (a)(3)(A), (b)(1)(C)(i), (b)(3)(C)(i), and (b)(4)(A)(i), and the Attorney General, in making such determination with respect to a particular alien, may waive any other provision of such section other than paragraph (9), (10), (23) (except for so much of such paragraph as related to a single offense of simple possession of thirty grams or less of marihuana), (27), (28), (29), or (33), for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

(3) During the six-month period beginning on the date of the enactment of this section, the Attorney General, in cooperation with qualified organizations and governments designated under paragraph (1) and the Secretary of Labor, shall broadly disseminate information respecting the benefits which aliens may receive under this section and the requirements to obtain such benefits.

(4) The Attorney General shall prescribe a fee of $100 or more to be paid by each alien who files an application for adjustment of status under subsection (a) or subsection (b)(1). The Attorney General

shall deposit payments received under the preceding sentence in a separate account and amounts in such account shall be available, without fiscal year limitation, only to cover administrative expenses incurred in connection with the review of applications filed under this section.

(d)(1) For purposes of subsection (a), an alien shall be considered to have resided continuously in the United States, if, during the period between January 1, 1977, and the date of enactment of the Immigration Reform and Control Act of 1983, such alien—

(A) had not been outside the United States for any one period of time in excess of 30 days;

(B) had not been outside the United States for an aggregate period of time in excess of 180 days; and

(C) meets the requirements of paragraph (4).

(2) For purposes of subsection (b)(1), an alien shall be considered to have resided continuously in the United States, if, during the period between January 1, 1980 (or in the case of an alien described by subparagraph (B)(ii) of such subsection, January 1, 1981), and the date of enactment of the Immigration Reform and Control Act of 1983, such alien—

(A) had not been outside the United States for any one period of time in excess of 30 days;

(B) had not been outside the United States for an aggregate period of time—

(i) in the case of an alien described by subsection (b)(1)(B)(i), in excess of 90 days; or

(ii) in the case of an alien described by subsection (b)(1)(B)(ii), in excess of 60 days; and

(C) meets the requirements of paragraph (4).

(3) For purposes of subsection (b)(3), an alien shall be considered to have resided continuously in the United States, if, during the period between the date of adjustment to temporary resident status and the date of filing an application under paragraph (3) of such subsection, such alien—

(A) had not been outside the United States for any one period of time in excess of 30 days;

(B) had not been outside the United States for any aggregate period of time in excess of 90 days; and

(C) meets the requirements of paragraph (4).

(4)(A) For purposes of subsection (a), (b)(1), or (b)(3), an alien shall not be considered to have resided continuously in the United States, if, during the period of time referred to in paragraph (1), (2), or (3) of this subsection, whichever is applicable, such alien was outside the United States as a result of a departure under an order of deportation.

(B) Any period of time during which an alien is outside the United States pursuant to the advance parole procedures of the Service shall not be considered as part of the period of time during which an alien is outside the United States for purposes of this subsection.

(5)(A) Each individual who applies for adjustment of status under subsection (a), (b)(1), or (b)(3) shall submit with his application such documents as are necessary to establish that such alien has employment in the United States, together with independent corroboration

of the information contained in such documents, except that if the Attorney General determines that such proof of employment is inapplicable, the Attorney General may accept other documents which support the individual's application for adjustment of status, together with independent corroboration of the information contained in such documents.

(B) Any document of Federal, State, or local government submitted pursuant to subparagraph (A) shall be in the form of a certified copy.

(e)(1) During the period an alien is in lawful temporary resident status granted under subsection (b)(1) and during the three-year period beginning on the date an alien is granted lawful permanent resident status under subsection (a) or (b)(3), and notwithstanding any other provision of law—

(A) except as provided in paragraph (2), the alien is not eligible for—

(i) any program of financial assistance furnished under Federal law (whether through grant, loan, guarantee, or otherwise) on the basis of financial need, as such programs are identified by the Attorney General in consultation with other appropriate heads of the various departments and agencies of Government,

(ii) medical assistance under a State plan approved under title XIX of the Social Security Act, and

(iii) assistance under the Food Stamp Act of 1977, and

(B) a State or political subdivision therein may provide that the alien is not eligible for the programs of financial or medical assistance furnished under the law of that State or political subdivision.

(2)(A) Paragraph (1) shall not apply to an alien described in subsection (b)(1)(B)(ii) (relating to certain Cuban and Haitian entrants).

(B) For the purpose of section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96–122), assistance shall be continued under such section with respect to an alien without regard to the alien's adjustment of status under this section.

(f) The Attorney General, after consultation with the Committees on the Judiciary of the House of Representatives and the Senate and with qualified organizations and governments designated pursuant to subsection (c)(1), shall prescribe regulations as may be necessary to carry out the provisions of this section. Such regulations may be prescribed to take effect on an interim basis if the Attorney General determines that this is necessary in order to implement this section in a timely manner.

(g)(1) No decision or determination made by the Attorney General under this section may be reviewed by any court of the United States or of any State.

(2) No alien denied adjustment of status under this section may raise a claim to such adjustment in any proceeding of the United States or any State involving the status of such alien, including any proceeding of deportation or exclusion under this Act.

(3) No denial of adjustment of status under subsection (a) or subsection (b) based on a late filing of an application for such adjustment may be reviewed by a court of the United States or of any

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State or reviewed in any administrative proceeding of the United States Government.

(h) Notwithstanding any other provision of law, the retired or retainer pay of a member or former member of the Armed Forces of the United States or the annuity of a retired employee of the Federal Government shall not be reduced while such individual is temporarily employed by the Service for a period of not to exceed fifteen months to perform duties in connection with the adjustment of status of aliens under this section.

* * * * * * *

CHANGE OF NONIMMIGRANT CLASSIFICATION

SEC. 248. The Attorney General may, under such conditions as he may prescribe, authorize a change from any nonimmigrant classification to any other nonimmigrant classification in the case of any alien lawfully admitted to the United States as a nonimmigrant who is continuing to maintain that status, except in the case of—

(1) an alien classified as a nonimmigrant under subparagraph (C), (D), or (K) of section 101(a)(15),

(2) an alien classified as a nonimmigrant under subparagraph (J) of section 101(a)(15) who came to the United States or acquired such classification in order to receive graduate medical education or training, [and]

(3) an alien (other than an alien described in paragraph (2)) classified as a nonimmigrant under subparagraph (J) of section 101(a)(15) who is subject to the two-year foreign residence requirement of section 212(e) and has not received a waiver thereof, unless such alien applies to have the alien's classification changed from classification under subparagraph (J) of section 101(a)(15) to a classification under subparagraph (A) or (G) of such section[.] , *and*

(4) an alien admitted as a nonimmigrant visitor without a visa under section 212(l).

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CHAPTER 8—GENERAL PENALTY PROVISIONS

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UNLAWFUL BRINGING OF ALIENS INTO UNITED STATES

SEC. 273. (a) * * *

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(d) The owner, charterer, agent, consignee, commanding officer, or master of any vessel or aircraft arriving at the United States from any place outside thereof who fails 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, or who fails to detain such stowaway on board or at such other designated place after inspection if ordered to do so by an immigration officer, or who fails to deport such stowaway on the vessel or aircraft on which he arrived or on another vessel or aircraft at the expense of the vessel or aircraft on which he ar-

rived when required to do so by an immigration officer, shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $1,000 for each alien stowaway, in respect of whom any such failure occurs. 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 collector of customs. The provisions of section 235 for detention of aliens for examination before [special inquiry officers] *immigration judges* and the right of appeal provided for in section 236 shall not apply to aliens who arrive as stowaways and no such alien 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 ultimate departure or removal or deportation of such alien from the United States.

BRINGING IN AND HARBORING CERTAIN ALIENS

SEC. 274. (a) Any person including the owner, operator, pilot, master, commanding officer, agent or consignee of any means of transportation who—

(1) brings into or lands in the United States, by any means of transportation or otherwise, or attempts, by himself or through another, to bring into or land in the United States, by any means of transportation or otherwise;

(2) knowing that he is in the United States in violation of law, and knowing or having reasonable grounds to believe that his last entry into the United States occurred less than three years prior thereto, transports, or moves, or attempts to transport or move, within the United States by means of transportation or otherwise, in furtherance of such violation of law;

(3) willfully or knowingly conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, in any place, including any building or any means of transportation; or

(4) willfully or knowingly encourages or induces, or attempts to encourage or induce, either directly or indirectly, the entry into the United States of—

any alien, including an alien crewman, not duly admitted by an immigration officer or not lawfully entitled to enter or reside within the United States under the terms of this Act or any other law relating to the immigration or expulsion of aliens, shall be guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding $2,000 or by imprisonment for a term not exceeding five years, or both, for each alien in respect to whom any violation of this subsection occurs[: *Provided, however,* That for the purposes of this section, employment (including the usual and normal practices incident to employment) shall not be deemed to constitute harboring].

(b)(1) Any conveyance, including any vessel, vehicle, or aircraft, which is used in the commission of a violation of subsection (a) *or subsection (c)* shall be subject to seizure and forfeiture, except that—

(A) no conveyance 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 conveyance was a consenting party or privy to the illegal act; and

(B) no conveyance shall be forfeited under the provisions of 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 conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States or of any State.

* * * * * * *

(c) Any person who, knowing or in reckless disregard of the fact that an alien has not received prior official authorization to come to, enter, or reside in the United States, brings to or attempts to bring to the United States such alien by himself or through another in any manner whatsoever, regardless of whether or not fraudulent, evasive, or surreptitious means are used and regardless of any official action which may later be taken with respect to such alien, shall, for each transaction constituting a violation of this subsection (regardless of the number of aliens involved)—

(1) be fined an amount equal to $2,500, the imposition of which may not be suspended by the court, plus, in the court's discretion, an additional amount not to exceed $2,500 for each such alien in respect to whom a violation of this subsection occurred, or be imprisioned not to exceed one year, or both, or

(2) in the case of a second or subsequent offense, an offense done for the purpose of commercial advantage or private gain, an offense in which the alien is not upon arrival immediately brought and presented to an appropriate immigration officer, or an offense during which either the offender or the alien with the knowledge of the offender makes any false or misleading statement or engages in any act or conduct intended to mislead any officer, agent, or employee of the United States, be fined $2,500, the imposition of which may not be suspended by the court, plus, in the court's discretion, an additional amount not to exceed $7,500 for each such alien in respect to whom a violation of this subsection occurred, or be imprisoned not to exceed five years, or both.

[(c)](*d*) No officer or person shall have authority to make any arrest for a violation of any provision of this section except officers any employees of the Service designated by the Attorney General, either individually or as a member of a class, and all other officers whose duty it is to enforce criminal laws.

UNLAWFUL EMPLOYMENT OF ALIENS

SEC. 274A. (a)(1) It is unlawful for a person or other entity after the date of the enactment of this section—

(A) to hire, or for consideration to recruit or refer, for employment in the United States an alien knowing the alien is an unauthorized alien (as defined in paragraph (4)) with respect to such employment, or

(B) to hire for employment in the United States an individual without complying with the requirements of subsection (b).

Subparagraph (B) shall not apply to a person or entity which employs three or fewer employees.

(2) It is unlawful for a person or other entity who, after hiring an alien for employment subsequent to the date of the enactment of this Act and in accordance with paragraph (1), continues to employ the alien in the United States knowing the alien is (or has become) an unauthorized alien with respect to such employment.

(3) 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.

(4) As used in this section, the term "unauthorized alien" means, with respect to the employment of an alien at a particular time, that the alien is not at that time either (A) an alien lawfully admitted for permanent residence, or (B) authorized to be so employed by this Act or by the Attorney General.

(b) Except as provided in subsection (c), 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, that—

(1) the person or entity must attest, under penalty of perjury and on a form established by the Attorney General by regulation, that he has verified that the individual is eligible to be employed (or recruited or referred for employment) in accordance with subsection (a)(1)(A) by examining the individual's—

(A) United States passport, or

(B)(i) social security account number card (issued by the Social Security Administration under section 205(c)(2)(B) of the Social Security Act and in such secure form, if any, as the Administrator of Social Security has made available) or certificate of birth in the United States or United States consular report of birth or, in the case of an individual without a social security card or a certificate of birth in the United States or a United States consular report of birth, a passport of a foreign country or registration for classification as a refugee or, in the case of an applicant for asylum who does not have documentation referred to in this subclause, any other identification acceptable to the Attorney General, and

(ii)(I) alien documentation, identification, and telecommunication card, or similar fraud-resistant card issued by the Attorney General to aliens, or other identification issued by the Attorney General to aliens who establish eligibility for employment,

(II) 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 sufficient for purposes of this section, or

(III) in the case of individuals under sixteen 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 subclause (II), documentation of personal identity of such other type as the Attorney General finds, by regulation, provides a reliable means of identification;

(2) the individual must attest, under penalty of perjury and on the form established by the Attorney General for puposes 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

(3) 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 inspeciton by officers of the Service or of the Department of Labor during a period beginning on the date of the hiring, recruiting, or referral of the individual and ending on the later of five years after such date or, in the case of the hiring of the individual, one year after the date the individual's employment is terminated.

A person or entity has complied with paragraph (1) with respect to examination of a document if the document reasonably appears on its face to be genuine. 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.

(c)(1) Within three years after the date of the enactment of this section, the President shall implement such changes in or additions to the requirements of subsection (b) as may be necessary to establish a secure system to determine employment eligibility in the United States, which system shall conform to the requirements of paragraph (2).

(2) Such system shall be designed in a manner so that—

(A) the system will reliably determine that a person with the identity claimed by an employee or prospective employee is eligible to work, and that the employee or prospective employee is not claiming the identity of another individual;

(B) if the system requires an examination by an employer of any document, such document must be in a form which is resistant to counterfeiting and tampering;

(C) personal information utilized by the system is available to Government agencies, employers, and other persons only to the extent necessary for the purpose of verifying that the individual is not an unauthorized alien;

(D) the system will protect the privacy and security of personal information and identifiers utilized in the system including recommendations to the Congress for the establishment of civil and criminal sanctions for unauthorized use or disclosure of the information or identifiers contained in such system;

(E) a verification that an employee or prospective employee is eligible to be employed in the United States may not be with-

held for any reason other than that the employee or prospective employee is an unauthorized alien;

(F) the system shall not be used for law enforcement purposes (other than for enforcement of this section or section 1546 of title 18, United States Code);

(G) if the system requires individuals to present a card or other document (designed specifically for use for this purpose) at the time of hiring, recruitment, or referral, then such document may not be required to be presented for any purpose other than under this section (or enforcement of section 1546 of title 18, United States Code) nor to be carried on one's person; and

(H) the President shall examine existing Federal and State identification systems, or the systems referred to in subsection (b) of this section, to determine suitability for use with the permanent system authorized to be developed by this section.

(d)(1)(A) In the case of a person or entity which violates paragraph (1)(A) or (2) of subsection (a) and which—

(i) has not previously been determined (after opportunity for a hearing under paragraph (4)(A)) to have violated either such paragraph, the person or entity shall be subject to a civil penalty of $1,000 for each unauthorized alien with respect to which the violation occurred, or

(ii) has previously been determined (after opportunity for a hearing under paragraph (4)(A)) to have violated either such paragraph, the person or entity shall be subject to a civil penalty of $2,000 for each unauthorized alien with respect to which the violation occurred.

In counting the number of previous determinations of violations for purposes of determining whether clause (i) or (ii) applies, determinations of more than one violation in the course of a single proceeding or adjudication shall be considered as a single determination. In the case of a person or entity composed of distinct, physically separate subdivisions each of whcih provides separately for its own hiring, recruiting, or referral for employment, each such subdivision shall be considered a separate person or entity if such hiring, recruiting, or referral for employment is not under the direct control of another subdivision or any entity or office exercising final management authority over such subdivisions.

(B) In the case of a person or entity which has engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the person or entity shall be fined not more than $1,000, imprisoned not more than six months, or both, for each violation.

(2) Whenever the Attorney General has reasonable cause to believe that a person or entity is engaged in a patterm or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the Attorney General may bring a civil action in the appropriate district court of the United States requesting such relief, including a permanent or temporary injunction, restraining order, or other order against the person or entity, as the Attorney General deems necessary.

(3) A person or entity which violates subsection (a)(1)(B) shall be subject to a civil penalty of $500 for each individual with respect to which such violation occurred.

(4)(A) Before assessing a civil penalty under this subsection against a person or entity, the Attorney General shall provide the person or entity with notice and the opportunity to request a hearing respecting the violation. Any hearing so requested shall be conducted before an immigration officer designated by the Attorney General.

(B) If the person or entity against whom a civil penalty is assessed fails to pay the penalty within the time prescribed in such order, the Attorney General shall file a suit to collect the amount in any appropriate district court of the United States. In any such suit or in any other suit seeking to review the Attorney General's determination, the suit shall be determined solely upon the administrative record upon which the civil penalty was assessed and the Attorney General's findings of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

(e) In providing documentation or endorsement of authorization of aliens (other than aliens lawfully admitted for permanent residence) to be employed in the United States, the Attorney General shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement.

(f) The provisions of this section preempt any State or local law imposing civil or criminal sanctions upon those who employ, or refer or recruit for employment, unauthorized aliens.

(g) The President shall monitor the implementation of this section (including the effectiveness of the verification system described in subsection (b) and the status of the development and implementation of the secure verification system described in subsection (c)) and the impact of this section on employment in the United States of aliens and of citizens and nationals of the United States, on the illegal entry of aliens into the United States, and on the failure of aliens who have legally entered the United States to remain in legal status.

ENTRY OF ALIEN AT IMPROPER TIME OR PLACE; MISREPRESENTATION AND CONCEALMENT OF FACTS

SEC. 275. Alien who (1) enters *or attempts to enter* the United States at any time or place other than as designated by immigration officers, or (2) eludes examination or inspection by immigration officers, or (3) obtains entry to the United States by a willfully false or misleading representation or the willful concealment of a material fact, shall, for the first commission of any such offenses, be guilty of a misdemeanor and upon conviction thereof be punished by imprisonment for not more than six months, or by a fine of not more than $500, or by both, and for a subsequent commission of any such offenses shall be guilty of a felony and upon conviction thereof shall be punished by imprisonment for not more than two years, or by a fine of not more than $1,000, or both.

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JURISDICTION OF DISTRICT COURTS

SEC. 279. (a) [The] *Except as otherwise provided under section 106, the* district courts of the United States shall have jurisdiction of all causes, civil and criminal, arising under any of the provisions of this title. It shall be the duty of the United States attorney of the proper district to prosecute every such suit when brought by the United States. Notwithstanding any other law, such prosecutions or suits may be instituted at any place in the United States at which the violation may occur or at which the person charged with a violation under section 275 or 276 may be apprehended. No suit or proceeding for a violation of any of the provisions of this title shall be settled, compromised, or discontinued without the consent of the court in which it is pending and any such settlement, compromise, or discontinuance shall be entered of record with the reason therefor.

(b) An action for judicial review of any administrative action arising under this Act, or regulations issued pursuant to this Act, other than a final order of deportation as provided in section 106(a) of this Act, may not be filed later than thirty days after the day of the final administrative action or from the effective date of this section, whichever is later.

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CHAPTER 9—MISCELLANEOUS

NONIMMIGRANT VISA FEES AND BORDER FACILITY FEES

SEC. 281. (a) The fees for the furnishing and verification of applications for visas by nonimmigrants of each foreign country and for the issuance of visas to nonimmigrants of each foreign country shall be prescribed by the Secretary of State, if practicable, in amounts corresponding to the total of all visa, entry, residence, or other similar fees, taxes, or charges assessed or levied against nationals of the United States by the foreign countries of which such nonimmigrants are nationals or stateless residents: *Provided,* That nonimmigrant visas issued to aliens coming to the United States in transit to and from the headquarters district of the United Nations in accordance with the provisions of the Headquarters Agreement shall be gratis.

(b) The Attorney General, after consultation with the Secretary of State, shall impose fees for an alien's use of boarder facilities or services of the Service in an amount necessary to make the total of such fees substantially equal to the cost of maintaining and operating such facilities and services.

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BURDEN OF PROOF

SEC. 291. Whenever any person makes application for a visa or any other document required for entry, or makes application for admission, or otherwise attempts to enter the United States, the burden of proof shall be upon such person to establish that he is eligible to receive such visa or such document, or is not subject to

exclusion under any provision of this Act, and if an alien, that he is entitled to the nonimmigrant, immigrant, special immigrant, immediate relative, or refugee status claimed, as the case may be. If such person fails to establish to the satisfaction of the consular officer that he is eligible to receive a visa or other document required for entry, no visa or other document required for entry shall be issued to such person, nor shall such person be admitted to the United States unless he establishes to the satisfaction of the Attorney General that he is not subject to exclusion under any provision of this Act. In any deportation proceeding under chapter 5 against any person, the burden of proof shall be upon such person *to identify himself correctly by name and nationality and* to show the time, place, and manner of his entry into the United States, but in presenting such proof he shall be entitled to the production of his visa or other entry document, if any, and of any other documents and records, not considered by the Attorney General to be confidential, pertaining to such entry in the custody of the Service. If such burden of proof is not sustained, such person shall be presumed to be in the United States in violation of law.

RIGHT TO COUNSEL

SEC. 292. [In any exclusion or deportation proceeding before a special inquiry officer and in any appeal proceeding before the Attorney General from any such exclusion or deportation proceedings,] *In any proceeding or hearing before an immigration law judge and in any appeal before the United States immigration Board or the Attorney General from any such proceeding,* the person concerned shall have the privilege of being represented (at no expense to the Government *and at no unreasonable delay*) by such counsel, authorized to practice in such proceedings, as he shall choose.

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TITLE III—NATIONALITY AND NATURALIZATION

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CHAPTER 4—MISCELLANEOUS

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PROCEEDINGS FOR DECLARATION OF UNITED STATES NATIONALITY IN THE EVENT OF DENIAL OF RIGHTS AND PRIVILEGES AS NATIONAL

SEC. 360. [8 U.S.C. 1503] (a) If any person who is within the United States claims a right or privilege as a national of the United States and is denied such right or privilege by any department or independent agency, or official thereof, upon the ground that he is not a national of the United States, such person may institute an action under the provisions of section 2201 of title 28, United States Code, against the head of such department or independent agency for a judgment declaring him to be a national of the United States, except that no such action may be instituted in any case if the issue of such person's status as a national of the

United States (1) arose by reason of or in connection with any exclusion proceeding under the provisions of this or any other act, or (2) is in issue in any such exclusion proceeding. An action under this subsection may be instituted only within five years after the final administrative denial of such right or privilege and shall be filed in the district court of the United States for the district in which such person resides or claims a residence, and jurisdiction over such officials in such cases is hereby conferred upon those courts.

(b) If any person who is not within the United States claims a right or privilege as a national of the United States and is denied such right or privilege by any department or independent agency, or official thereof, upon the ground that he is not a national of the United States, such person may make application to a diplomatic or consular officer of the United States in the foreign country in which he is residing for a certificate of identity for the purpose of traveling to a port of entry in the United States and applying for admission. Upon proof to the satisfaction of such diplomatic or consular officer that such application is made in good faith and has a substantial basis, he shall issue to such person a certificate of identity. From any denial of an application for such certificate the applicant shall be entitled to an appeal to the Secretary of State, who, if he approves the denial, shall state in writing his reasons for his decision. The Secretary of State shall prescribe rules and regulations for the issuance of certificates of identity as above provided. The provisions of this subsection shall be applicable only to a person who at some time prior to his application for the certificate of identity has been physically present in the United States, or to a person under sixteen years of age who was born abroad of a United States citizen parent.

(c) A person who has been issued a certificate of identity under the provisions of subsection (b), and while in possession thereof, may apply for admission to the United States at any port of entry, and shall be subject to all the provisions of this Act relating to the conduct of proceedings *(and appeals thereof)* involving aliens seeking admission to the United States. [A final determination by the Attorney General that any such person is not entitled to admission to the United States shall be subject to review by any court of competent jurisdiction in habeas corpus proceedings and not otherwise.] Any person described in this section who is finally excluded from admission to the United States shall be subject to all the provisions of this Act relating to aliens seeking admission to the United States.

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TITLE IV—MISCELLANEOUS AND REFUGEE ASSISTANCE

CHAPTER 1—MISCELLANEOUS

[JOINT CONGRESSIONAL COMMITTEE]

[SEC. 401. Repealed.]

AMENDMENTS TO OTHER LAWS

SEC. 402. [omitted as executed.]

LAWS REPEALED

SEC. 403. [omitted as executed.]

AUTHORIZATION OF APPROPRIATIONS

SEC. 404. (a) There are authorized to be appropriated [such sums as may be necessary to carry out the provisions of this Act other than] *for the fiscal year 1984, $200,000,000 to carry out the provisions of this Act other than section 214(c)(5) of* chapter 2 of title IV.

(b) There are authorized to be appropriated, in addition to such sums as may be available for such purposes, such sums as may be necessary to the Department of Labor for enforcement activities of the Wage and Hour Division and the Office of Federal Contract Compliance Programs within the Employment Standards Administration of the Department and to the Equal Employment Opportunity Commission for its enforcement activities in connection with the enforcement of section 274A of the Immigration and Nationality Act.

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MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT

(Public Law 97-470)

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TABLE OF CONTENTS

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TITLE I—FARM LABOR CONTRACTORS

* * * * * * *

[Sec. 106. Prohibition against employing illegal aliens.]

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DEFINITIONS

SEC. 3. As used in this Act—

(1) * * *

* * * * * * *

(8)(A) Except as provided in subparagraph (B), the term "migrant agricultural worker" means an individual who is employed in agricultural employment of a seasonal or other temporary nature, and who is required to be absent overnight from his permanent place of residence.

(B) The term "migrant agricultural worker" does not include—

(i) any immediate family member of an agricultural employer or a farm labor contractor; or

(ii) any temporary nonimmigrant alien who is authorized to work in agricultural employment in the United

States under sections 101(a)(15)(H)(ii)*(a)* and 214(c) of the Immigration and Nationality Act.

(9) The term "person" means any individual, partnership, association, joint stock company, trust, cooperative, or corporation.

(10)(A) Except as provided in subparagraph (B), the term "seasonal agricultural worker" means an individual who is employed in agricultural employment of a seasonal or other temporary nature and is not required to be absent overnight from his permanent place of residence—

(i) when employed on a farm or ranch performing field work related to planting, cultivating, or harvesting operations; or

(ii) when employed in canning, packing, ginning, seed conditioning or related research, or processing operations, and transported, or caused to be transported, to or from the place of employment by means of a day-haul operation.

(B) The term "seasonal agricultural worker" does not include—

(i) any migrant agricultural worker;

(ii) any immediate family member of an agricultural employer or a farm labor contractor; or

(iii) any temporary nonimmigrant alien who is authorized to work in agricultural employment in the United States under sections 101(a)(15)(H)(ii)*(a)* and 214(c) of the Immigration and Nationality Act.

(11) The term "Secretary" means the Secretary of Labor or the Secretary's authorized representative.

(12) The term "State" means any of the States of the United States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, and Guam.

* * * * * * *

REGISTRATION DETERMINATIONS

SEC. 103. (a) In accordance with regulations, the Secretary may refuse to issue or renew, or may suspend or revoke, a certificate of registration (including a certificate of registration as an employee of a farm labor contractor) if the applicant or holder—

(1) has knowingly made any misrepresentation in the application for such certificate;

(2) is not the real party in interest in the application or certificate of registration and the real party in interest is a person who has been refused issuance or renewal of a certificate, has had a certificate suspended or revoked, or does not qualify under this section for a certificate;

(3) has failed to comply with this Act or any regulation under this Act;

(4) has failed—

(A) to pay any court judgment obtained by the Secretary or any other person under this act or any regulation under this Act or under the Farm Labor Contractor Registration Act of 1963 or any regulation under such Act, or

(B) to comply with any final order issued by the Secretary as a result of a violation of this Act or any regulation under this Act or a violation of the Farm Labor Contractor Registration Act of 1963 or any regulation under such Act; [or]

(5) has been convicted within the preceding five years—

(A) of any crime under State or Federal law relating to gambling, or to the sale, distribution or possession of alcoholic beverages, in connection with or incident to any farm labor contracting activities; or

(B) of any felony under State or Federal law involving robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, prostitution, peonage, or smuggling or harboring individuals who have entered the United States illegally[.] *; or*

(6) has been found to have violated paragraph (1) or (2) of section 274A(a) of the Immigration and Nationality Act.

* * * * * * *

[PROHIBITION AGAINST EMPLOYING ILLEGAL ALIENS

[SEC. 106. (a) No farm labor contractor shall recruit, hire, employ, or use, with knowledge, the services of any individual who is an alien not lawfully admitted for permanent residence or who has not been authorized by the Attorney General to accept employment.

[(b) A farm labor contractor shall be considered to have complied with the farm labor contractor relied in good faith on documentation prescribed by the Secretary, and the farm labor contractor had no reason to believe the individual was an alien referred to in subsection (a).]

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TITLE V—GENERAL PROVISIONS

PART A—ENFORCEMENT PROVISIONS

CRIMINAL SANCTIONS

SEC. 501. (a) Any person who willfully and knowingly violates this Act or any regulation under this Act shall be fined not more than $1,000 or sentenced to prison for a term not to exceed one year, or both. Upon conviction for any subsequent violation of this Act or any regulation under this Act, the defendant shall be fined not more than $10,000 or sentenced to prison for a term not to exceed three years, or both.

(b) If a farm labor contractor who commits a violation of [section 106] *paragraph (1) or (2) of section 274A(a) of the Immigration and Nationality Act* has been refused issuance or renewal of, or has failed to obtain, a certificate of registration or is a farm labor contractor whose certificate has been suspended or revoked, the

contractor shall, upon conviction, be fined not more than $10,000 or sentenced to prison for a term not to exceed three years, or both.

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TITLE 18, UNITED STATES CODE

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CHAPTER 75—PASSPORTS AND VISAS

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§ 1546. Fraud and misuse of visas, permits, and other [entry] documents

(*a*) Whoever knowingly forges, counterfeits, alters, or falsely makes any immigrant or nonimmigrant visa, permit, [or other document required for entry into the United States] *border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States,* or utters, uses, attempts to use, possesses, obtains, accepts, or receives any such visa, permit, [or document] *border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States,* knowing it to be forged, counterfeit, altered, or falsely made, or to have been procured by means of any false claim or statement, or to have been otherwise procured by fraud or unlawfully obtained; or

Whoever, except under direction of the Attorney General or the Commissioner of the Immigration and Naturalization Service, or other proper officer, knowingly possesses any blank permit, or engraves, sells, brings into the United States, or has in his control or possession any plate in the likeness of a plate designed for the printing of permits, or makes any print, photographs, or impression in the likeness of any immigrant or nonimmigrant visa, permit or other document required for entry into the United States, or has in his possession a distinctive paper which has been adopted by the Attorney General or the Commissioner of the Immigration and Naturalization Service for the printing of such visas, permits, or documents; or

Whoever, when applying for an immigrant or nonimmigrant visa, permit, or other document required for entry into the United States, or for admission to the United States personates another, or falsely appears in the name of a deceased individual, or evades or attempts to evade the immigration laws by appearing under an assumed or fictitious name without disclosing his true identity, or sells or otherwise disposes of, or offers to sell or otherwise dispose

of, or utters, such visa, permit, or other document, to any person not authorized by law to receive such document; or

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 containing any such false statement—

Shall be fined not more than [$2,000] *$5,000* or imprisoned not more than five years, or both.

(b) Whoever without authority of the issuing agency and with unlawful intent—

(1) photographs, prints, or in any manner makes or executes any engraving, photograph, print, or impression in the likeness of—

(A) any document presented to satisfy a requirement of the Immigration and Nationality Act or regulations issued thereunder, or

(B) any document presented to obtain a required document described in subparagraph (A), including any document presented to establish eligibility for adjustment of status under subsection (a) or (b) of section 245A of the Immigration and Nationality Act;

(2) sells, transfers, distributes, presents, or uses, or possesses with the intent to sell, transfer, distribute, present, or use, an engraving, photograph, print, or impression in the likeness of a document described in subparagraph (A) of (B) of paragraph (1);

(3) alters any document described in subparagraph (A) of (B) of paragraph (1) relating to another person; or

(4) sells, transfers, distributes, presents, or uses, or possesses with the intent to sell, transfer, distribute, present, or use, any document described in subparagraph (A) of (B) of paragraph (1) relating to another person, whether or not altered,

shall be fined not to exceed $5,000 or imprisoned not more than five years, or both.

* * * * * * *

PUBLIC LAW 89-732

[AN ACT To adjust the status of Cuban refugees to that of lawful permanent residents of 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,* That, notwithstanding the provisions of section 245(c) of the Immigration and Nationality Act, the status of any alien who is a native or citizen of Cuba and who has been inspected and admitted or paroled into the United States subsequent to January 1, 1959 and has been physically present in the United States for at least two years, may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if the alien makes an application

for such adjustment, and the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence. Upon approval of such an application for adjustment of status, the Attorney General shall create a record of the alien's admission for permanent residence as of a date thirty months prior to the filing of such an application or the date of his last arrival into the United States, whichever date is later. The provisions of this Act shall be applicable to the spouse and child of any alien described in this subsection, regardless of their citizenship and place of birth, who are residing with such alien in the United States.

[SEC. 2. In the case of any alien described in section 1 of this Act who, prior to the effective date thereof, has been lawfully admitted into the United States for permanent residence, the Attorney General shall, upon application, record his admission for permanent residence as of the date the alien originally arrived in the United States as a nonimmigrant or as a parolee, or a date thirty months prior to the date of enactment of this Act, whichever date is later.

[SEC. 3. Section 13 of the Act entitled "An Act to amend the Immigration and Nationality Act, and for other purposes", approved October 3, 1965 (Public Law 89-236), is amended by adding at the end thereof the following new subsection:

["(c) Nothing contained in subsection (b) of this section shall be construed to affect the validity of any application for adjustment under section 245 filed with the Attorney General prior to December 1, 1965, which would have been valid on that date; but as to all such applications the statutes or parts of statutes repealed or amended by this Act are, unless otherwise specifically provided therein, continued in force and effect."

[SEC. 4. Except as otherwise specifically provided in this Act, the definitions contained in sections 101(a) and (b) of the Immigration and Nationality Act shall apply in the administration of this Act. Nothing contained in this Act shall be held to repeal, amend, alter, modify, affect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of the Immigration and Nationality Act or any other law relating to immigration, nationality, or naturalization.]

ADDITIONAL VIEWS OF SENATOR CHARLES E. GRASSLEY

Approximately thirty years have passed since the last major reform of United States immigration policy. The time has arrived to undergo this painful process again.

Theodore H. White described the situation in which America finds itself resulting from our current set of chaotic complicated immigration laws:

> One starts with the obvious: That the United States has lost one of the cardinal attributes of sovereignty—it no longer controls its own borders. Its immigration laws are flouted by aliens and citizens alike, as no system of laws has been flouted since prohibition. And the impending transformation of our nation, its culture, and its ethic heritage could become one of the central debates of the politics of the 1980s. see White, America in Search of Itself, p. 361 (1982).

The debate has already begun and let us hope that S. 529 is just the first step in the reformation process.

Though most Americans currently residing in the United States owe their presence here to the open door immigration policies of the past, the perpetuation of the myth that this country is one without limits can only prove harmful in the long run. Technology is one of the major reasons why today's immigration phenomenon is entirely different from the immigration waves of the past. As Mr. White continued to explain:

> . . . The earlier immigrants from Europe spent weeks trekking to ports, and then more weeks in the steerage of tramp steamers, to reach the promised land. A modern immigrant can be here in three or four hours from any airport in the Caribbean, in fifteen hours from Asia.
>
> . . . It once took years of work and savings for an honest man to buy passage for his family to join him. Now after six months a diligent immigrant can afford air passage for all the rest of his family. The result has been a stampede, almost an invasion. supra., pp. 361–362.

America currently accepts over twice as many legal immigrants as the rest of the world combined. This does not include the estimated three to six million aliens illegally in the country. Control of our borders is essential in order to protect U.S. citizens from a continued high unemployment rate and to foster a reliance on our laws by those outside our country who wish to reside here.

The Immigration Reform and Control Act is a well-conceived product which may go far in achieving our badly needed reforms. The provisions of the bill relating to employer sanctions, increased

interior and border enforcement and a secure worker eligibility identity system are necessary to regain control over our borders.

Though the concept of legalization has been one of the most hotly debated aspects of the bill, I believe that legalizaton in some form is not only in the best interests of those undocumented aliens already firmly residing here but for the citizenry of our country as well. A large undocumented population contributes to the creation and perpetuation of an exploited subclass society afraid to report crimes and illnesses which endanger the public health.

A variety of legalization programs were presented to the Select Commission on Immigration and Refugee Policy, a bipartisan group established by the Carter Administration to study solutions to our immigration problems, and the Senate Subcommittee on Immigration and Refugee Policy ranging from a massive deportation program to total amnesty for all aliens upon enactment of the bill. The Select Commission's final report stated that it was guided by two major principles in developing its legalization recommendations:

1. The legalization program should be consistent with U.S. interests and

2. The program should not encourage further undocumented migration.

The approach adopted in S. 529, as a result of a compromise worked out by Senator Simpson and myself, is consistent with these goals. This provision provides that all illegal aliens who have resided continuously in the U.S. up to January 1, 1977 are eligible for permanent residence status upon enactment of the bill. Illegal aliens who have resided continuously in the U.S. between January 1, 1977 and January 1, 1980 are eligible to apply for temporary resident status with access to permanent residency three years following enactment. In addition, temporary residents are ineligible for all federal assistance programs such as AFDC, food stamps, Medicaid and the like. Permanent residents are ineligible for federal programs for the first three years of their permanent residence.

Though my original goal was to have no legalization prior to the assurance of the development of a secure worker authorization system, I find the present bill language is acceptable. Under S. 529, the Attorney General is required to develop a counterfeit-proof identifier within three years after enactment of the bill. Temporary residents are required to remain in that status for three years. Therefore, we do not actually realize full-blown legalization until the identification system is in place.

The advantages of this proposal are apparent. Massive deportations are not only impractical but nearly impossible. The best chance of apprehending an illegal alien is at the border. The odds plunge drastically downward once that alien has reached the interior of the country. A massive deportation policy was implemented back in 1954 with alarming results. Not only was it unsuccessful in returning many illegal aliens, but the civil rights of many U.S. citizens and permanent residents were violated in the course of this program.

The only realistic remedy to deal with the current population of undocumented workers is to legitimize their status in a way which will ensure that these people continue to work and become produc-

tive and participating members of their communities. I believe legalization as embodied in S. 529 accomplishes these goals.

I did have a major concern with last year's bill in the area of the lack of cooperation between INS and state and local law enforcement agencies. I first became aware of this problem in my visit to the border area around El Paso last January. The tremendous burden placed on the Border Patrol is only obvious once one sees it firsthand. To prevent law enforcement agencies from working together in this area is an unnecessary waste of resources.

To alleviate this situation, I offered an amendment which was adopted in subcommittee but subsequently deleted in full committee which formalized cooperative agreements among these agencies.

My intention when I offered this amendment was to clarify a confused situation in which state and local law enforcement agencies were unsure as to their liability if they cooperated with Federal immigration officers. Legal authorities in several states indicated that the situation was so unclear as to preclude any cooperation, not for fear of doing wrong, but because they did not know where the limits to their actions, if any, would lie. I sought to ameliorate this chilling effect.

This situation largely developed due to a directive issued in 1978 by then-Attorney General Griffin Bell. The Bell directive established the policy of the Carter Administration that Federal-State cooperation in this area was not to be encouraged, and should not be viewed as desirable by that Justice Department leadership. In my conversations with Attorney General William French Smith and his staff at the Department of Justice during deliberations on the bill, I found a much more positive impression of cooperation between state and local and federal authorities. At that time, I was assured that Commissioner Nelson and Attorney General Smith would immediately begin a review of the Bell directive in order to correct the misimpression it had created that cooperation of any kind between federal, state, and local law enforcement authorities in the area of immigration was inappropriate and unlawful.

These assurances made my amendment unnecessary and I am pleased to report that the Department of Justice has fulfilled their promise and issued a new directive on February 10, 1983, to encourage the cooperation I envisioned. I congratulate Attorney General Smith and Commissioner Nelson for taking this very important step which will greatly assist our immigration control efforts.

This bill is a carefully crafted package which must remain largely intact in order to pass both bodies and go to the President's desk for signature. It is my hope that we can move S. 529 rapidly through the Senate, that in turn the House will act quickly, and the President will approve this bill by the end of the year. If we do not act now, it may be another thirty years before we return to the issue of immigration control.

MINORITY VIEWS OF SENATOR EAST

I cannot support this bill's mass amnesty for untold millions of illegal aliens. I am convinced that amnesty will hurt our workers and taxpayers, undercut enforcement of our laws, and contribute to future illegal immigration. Congress should not reward foreigners who have intentionally violated the criminal law of this nation.

The legalization provisions of the bill would give legal permanent resident status to illegal aliens who have continuously resided here since January 1, 1977, and legal temporary resident status to those here since January 1, 1980. Both groups of legalized aliens will be free to take any job they can obtain. These legalized aliens will be free to use our schools to acquire skills to better compete with American workers for good jobs. This bill provides for no government approval of employment of these aliens nor certification that their employment would not displace or adversely affect wages and working conditions of Americans. After 5 years as permanent residents they could apply for United States citizenship.

No matter how much sympathy we feel for the impoverished billions of the world's underdeveloped nations, our first duty as elected representatives is to protect American citizens and the future of our Nation. With millions of Americans unemployed we have no right to give jobs to foreign nationals who are illegally present in our country.

The general public recognizes that amnesty will be granted at the expense of American workers. Paul S. Egan, representing the American Legion, testifying before the Immigration and Refugee Policy Subcommittee on October 29, 1982, said:

> To say to Americans . . . that those illegally in the country and holding jobs desired by Americans will be allowed to retain them while American workers must fend for themselves is patently unfair.

Prof. C. Barry McCarty, in testimony submitted to the subcommittee on behalf of Conservatives for Immigration Reform, stated that, because of the amnesty provision, the bill ". . . seems more concerned with protecting the alien labor supply of American employers and the employment opportunities of amnestied aliens than with opening jobs for U.S. workers."

The testimony presented to the subcommittee establishes that many illegal aliens are holding good jobs that Americans would gladly accept, and that illegal immigration contributes to our high unemployment rate and depresses wages and working conditions of many American workers. Experts such as a former INS Commissioner Leonard Chapman and former Labor Secretary Ray Marshall, despite their differences of political philosophy, agree that removing illegal aliens from the work force could open jobs for millions of unemployed Americans.

With the Federal Government in debt in excess of $1 trillion, we cannot afford to support millions of our citizens on public assistance and unemployment programs while millions of jobs are filled by illegal aliens. The Congressional Budget Office has estimated that each unemployed American costs the Federal Treasury an average of about $7,000 per year in unemployment and welfare benefits and other costs. Thus, for every million Americans displaced by illegal aliens, the Federal Treasury loses $7 billion per year.

Amnesty would also impose a substantial new welfare burden on American taxpayers, although the proponents of the measure delay much of this added expense a few years by denying federally funded public assistance to legalized aliens for three years after permanent resident status is granted. Delaying the day of fiscal reckoning may make amnesty more acceptable to some, but the bills will eventually come due. The Office of Management and Budget last year estimated that the added cost of providing welfare benefits to amnestied aliens could exceed two billion dollars annually by 1990. The INS could hire several thousand more American citizens to protect our borders and apprehend illegal aliens for a tiny fraction of the increased welfare costs of amnesty.

In addition to the burdens of unemployment and added welfare expenditures which amnesty would impose on Americans, I fear that it will encourage illegal immigration in the future. This dangerous precedent will tempt foreigners to enter illegally in the hope of benefiting from future legalizations. Foreigners facing long immigrant visa backlogs, and seeing lawbreakers rewarded with amnesty, may decide to enter illegally. It is reasonable to predict that the same groups lobbying for mass amnesty today (and against any realisitic enforcement of our immigration laws) will join the millions of aliens this bill would legalize in calls for a second amnesty a few years from now.

I predict that many amnestied illegal aliens will bring relatives in illegally once they have a secure immigration status and opportunities to obtain better jobs. Many illegal aliens are here simply to work for a few years and do not desire to become part of our society. Amnesty would make permanent settlement so attractive that many illegal aliens would decide to stay and send for parents, spouses, children, brothers and sisters, grandparents and the entire extended family of Third World cultures.

Amnesty discriminates against foreigners who obey our immigrations laws and wait patiently abroad for immigrant visas. The visa backlog is now in the hundreds of thousands and waiting periods of seven or eight years are common. Amnesty will not only be unfair to these law-abiding foreigners, it may delay their lawful immigration for years. Those amnestied aliens who receive permanent resident status (including the temporary residents who adjust status after two years) receive the right to bring in family members within the preference system, thus further delaying other prospective immigrants.

The negative impact on other future immigrants will be even more dramatic five years after the first awards of permanent resident status to illegal aliens. As hundreds of thousands of amnestied aliens become American citizens in 1989 and subsequent years,

they will begin to bring in immediate relatives subject to no numerical limitation. Under the terms of the bill the number of visas available for numerically limited family reunification immigrants would be determined by subtracting the number of immediate relatives admitted in the prior year from 350,000. While this is a needed reform to control increasing admissions, other prospective immigrants will be unfairly penalized if the bill's mass amnesty is adopted. When immediate relatives of naturalized previously legalized aliens are added to the normal flow of immediate relatives of U.S. citizens (currently running in excess of 150,000 annually and growing steadily), it becomes quite possible that there could be no family reunification visas available for several years in the 1990's. It is reasonable to predict that many frustrated visa seekers will enter illegally to join their relatives.

No one knows how many illegals are here or how many will apply for amnesty. Some experts, including former INS officers, have estimated that there may be over twelve million illegal aliens present in our nation. The Los Angeles County Board of Supervisors estimated on April 15, 1982, that there were 1.1 million illegal aliens in that one county. I can only caution that, if the numbers should prove to be in the upper ranges of the estimates, law-abiding prospective immigrants will be crowded out of the visa lines by the relatives of former illegal aliens.

The tremendous administrative burden imposed upon the INS by the amnesty program will make it even harder for the INS to combat illegal immigration. Realistic observers assume that many illegal aliens entering after the January 1, 1980 cutoff date or even arriving in the next few months will obtain amnesty using fraudulent rent receipts, false affidavits from friends, and other illicit documents. We must remember that illegal aliens live in a world where the use of fraudulent documents is common. Reports of sales of "amnesty kits" should come as no surprise. Whether the understaffed and beleaguered INS could properly screen millions of applicants for amnesty and perform its other duties is open to question.

I am not persuaded by the reasons given by my colleagues to justify amnesty. The assertion that it is impossible to find and repatriate such a large number of aliens is true only if Congress continues to deny adequate funding to the INS. Modest user fees charged foreigners at our borders, ports and airports could easily raise enough revenue to triple the law enforcement resources of the INS. The presence of millions of illegal aliens is not due to waste or misguided INS priorities; it is a result of the inadequate support Congress has given the INS. I believe we should at least try to enforce our immigration laws, using employer sanctions and increased manpower, before we grant any amnesty.

Another stated goal of amnesty is to protect the labor pool of employers who now hire illegal aliens. I am not umindful of the widespread opinion in sectors of the business community that there are not enough Americans willing to take low-paying jobs. However, amnesty will not solve such labor shortgages. Illegal aliens presently in the lowest-paying jobs will be free to obtain better jobs and educations. Our distinguished former colleague Senator Hayakawa

noted last year that "Once legalized, rural workers will migrate to cities where year-round employment is available."

The answer to American agriculture's need for temporary seasonal labor is contained, not in amnesty, but in a limited foreign worker program such as the streamlined H–2 program contained in the bill. Shortages of year-round unskilled labor could be addressed by reforming our bloated welfare state to require able-bodied citizens to work at any job available. Furthermore, because the employer sanctions apply only to persons hired in the future, there should be no sudden disruption of existing work forces.

The proponents of amnesty say they want to "eliminate an illegal subclass." I agree with this goal, but suggest we achieve it by sending illegal aliens home. Similarly, the puzzling talk of "equities" developed by illegal aliens long resident in our country is unconvincing. I believe unemployed Americans and our overburdened taxpayers have greater equities.

I also believe the specter of "mass deportations" raised by amnesty proponents is unrealistic. Even with a determined Congress and President, it would take years to locate the millions of illegal aliens who have entered during a decade of inattention by Congress and three administrations. To say that such a gradual return to proper immigration control cannot be achieved without wholesale violations of the rights of Americans of Hispanic descent is an insult to this nation and the dedicated employees of the INS, many of whom are Hispanic Americans. There is nothing inhumane in returning illegal aliens to their native lands.

Vociferous organizations which champion amnesty also have opposed employer sanctions, INS workplace raids, INS residential area control, and even replacing torn fences on our southern border. Before we give too much weight to their opinions, we should remember the views of the majority of our citizens who oppose amnesty. In order to secure needed legislation to deal with illegal immigration we should not have to offer amnesty to attempt to placate those who champion lawbreakers. Even if pressure groups fill the air with phony cries of "discrimination", we have a duty to enforce our laws.

Lest my concern with rewarding lawbreaking through amnesty and my opposition to illegal immigration be misinterpreted as hostility to immigrants or immigration, I think it sufficient to say that I favor continuation of our tradition as a home for refugees fleeing tyranny and reasonable numbers of immigrants willing to enter pursuant to our laws. But compassion and generosity have their limits. Our immigration laws limit the number of immigrants we admit each year so that we can absorb them without adversely affecting our own citizens.

The mass amnesty contained in this bill is so detrimental to enforcement of our immigration laws and the interests of the American people that I must reluctantly vote against the measure.

JOHN P. EAST.

MINORITY VIEWS OF SENATOR KENNEDY

I voted against this bill in the Committee, as I did last year, because I have serious reservations about the measure in its present form. During the Committee's consideration of the bill I offered a number of amendments to address these concerns, and I intend to do so on the Senate floor.

However, I want to acknowledge at the outset, as I did last year, that the pending bill is the product of extensive study and lengthy hearings. It represents a blending of conflicting views and has involved some very difficult compromises. Most of all, it is a reflection of the leadership and thoughtful work of our distinguished colleague from Wyoming, Senator Simpson, Chairman of the Subcommittee on Immigration and Refugee Policy.

Nevertheless, I continue to have reservations about the bill in the following areas:

International Cooperation

Athough I am concerned over specific provisions of this legislation, I am even more concerned over the larger issue of the migration pressures our country will encounter in the decades ahead. I am concerned this legislation is moving forward in a kind of vacuum, and that we will be deluding ourselves if we think this legislation will really solve the many immigration problems our country—along with many others—face today. At best this is a band-aid to a potential hemorrhage—a very tentative step in a long-term process.

Every day it becomes clearer that the complex migration problems, which are growing around the world, will require greater international action. Domestic laws and actions alone are no longer sufficient. Economic and developmental problems in neighboring countries—or even in countries far away—will have more impact upon migration to the United States than any combination of domestic laws or policies. And violence and conflict can produce a flow of people that only concerted international action can deal with.

There are no easy answers. But it is imperative that we understand that migration is an international issue, and not merely a domestic concern. It will require far greater international cooperation than we have undertaken to date.

In fact, one of the most important recommendations of the 1981 Select Commission on Immigration and Refugee Policy, was the United States should become more actively involved in efforts to achieve international cooperation on world migration and refugee problems.

I strongly endorse the Commission's recommendations that the United States should expand bilateral consultations to promote co-

operation on migration issues in the Western Hemisphere—especially with our neighbors, Mexico and Canada. These two nations deserve special consideration in our policies, and I commend Senator Simpson for his personal efforts to meet with the leaders of Mexico during the development of this legislation.

However, this bill is moving forward without adequate consultations by the Executive Branch with our neighbors. If we are to achieve genuine cooperation we must consult in advance, before changes in our immigration policies are set.

Unilateral policies, like fences, do not always make good neighbors. During our consideration of this bill we must give greater weight to this concern and the Administration must give greater evidence that it, too, is pursuing it.

Employer Sanctions

A fundamental concern I have about this bill is that it must not become a vehicle for discriminatory action against Hispanic Americans and other minority groups. Immigrants and undocumented aliens must not become scapegoats for the serious problems our country faces today. In too many quarters, migrants and undocumented aliens are being unfairly blamed for the current high levels of unemployment in the United States.

We must be extremely cautious to avoid legislative action that raises the level of intolerance and discrimination in our society. The employer sanctions provisions present this danger, and I regret that the Committee did not accept an amendment that addresses this issue.

I have in the past supported legal sanctions against employers who knowingly hire undocumented aliens. I have done so as a matter of principle; it is wrong that the sanctions under current law fall solely on the undocumented aliens, not on employers who may be exploiting them. The government needs stronger enforcement tools to deal with the serious problem of employers who engage in a pattern and practice of hiring and exploiting undocumented aliens.

However, throughout the Select Commission's work, as well as during the extensive hearings of the Subcommittee, two central objections were raised again and again: (1) that the proposed employer sanctions might result in discrimination against certain American workers, especially Hispanics and Asians; and (2) that employers would be unnecessarily burdened with paperwork in implementing the sanctions.

The history of immigration legislation in recent decades is that once an immigration law is enacted, Congress does not act again for many years. To assure that Congress will not ignore any discrimination that arises in the implementation of employer sanctions, I offered two amendments to provide the following safeguards:

> (1) To insure that a fair and impartial study of the sanctions program is available to Congress, and that public hearings will be held on them, I felt the General Accounting Office should be explicitly required in the statute to undertake an independent study of their implementation. I am pleased the Committee

accepted this amendment, as well as providing additional authorization for the work of Equal Employment Opportunity Commission, and to the Department of Labor for enforcement activities of the Wage and Hour Division and the Office of Federal Contract Compliance Programs within the Employment Standard Administration.

(2) The employer sanctions should be "sunsetted" after five years, so that Congress will be obliged to face this issue of discrimination squarely, if it develops. If employer sanctions become a pretext for discrimination, then the authority for them should expire unless Congress enacts new legislations with additional protections. If no discrimination materializes, then under my amendment sanctions will be continued.

I regret the Committee did not accept this second provision. If it is adopted, I believe minorities in our society will be given a pledge that, if a serious pattern of discrimination emerges, Congress will not ignore it. Given the significant changes proposed by this legislation, this is the minimum assurance we should be willing to provide.

Legal Immigration

It is frequently heard today that immigration to the United States is, somehow, bad—that the numbers are too high, the impact is undesirable, and the consequences for the future are negative. These implications fly in the fact of American history, and I reject them, as did the Select Commission on Immigration and Refugee Policy.

Illegal immigration must be controlled. But there is no evidence that the current levels of *legal* immigration are dangerous or contrary to our national interests. In fact, the Select Commission concluded:

> Based on its research and analysis, the Commission has found the contributions of immigrants to the U.S. society to be overwhelmingly positive. It believes that an immigrant admissions policy that facilitates the entry of qualified applicants is in the U.S. national interest. Whether measured by the number of Nobel Prize winners who have come to the United States as immigrants (30 percent of all U.S. Nobel laureates), the introductions of new concepts in music, art and literature or the industries built by immigrant labor, immigration has been of enormous benefit to this country.

The Commission also rejected the notion that current immigration is destablizing or somehow threatening to our national unity. Although the admission of immigrants and refugees to the United States has increased numerically over the past decade, the proportion of foreign born citizens in the United States is dramatically lower than at any previous point in our history. In 1890, the percentage of foreign born was 14.7; in 1970, it was down to a bare 4.7.

Veiled reference is also frequently made to the more than 800,000 immigrants and refugees who entered the United States in 1980. But all who use that figure—often rounding it off to a neat

one million—do so knowing it was an extraordinarily unusual year due to the admission of large numbers of Indochinese refugees and the influx of Cubans and Haitians. The numbers before and since are much lower, and will not reach the 1980 level again in the foreseeable future.

We must avoid scare tactics and scare statistics designed to feed false fears.

PREFERENCES FOR IMMIGRATION

The bill makes a number of unfortunate and unwise changes in the existing immigration preference system. These changes will jeopardize our country's historic commitment to family reunion as the principal goal of our immigration policy.

For the first time, this bill places the admission of the immediate relatives of United States citizens—spouses, children and parents—under a rigid annual ceiling.

These changes are contrary to the recommendations of the Select Commission as well as to the views of every recent Administration—Republican or Democratic. I agree with the Reagan Administration that they compromise our traditional concern for family reunification.

Throughout our history we have never placed a ceiling on the admission of immediate relatives, and there is no valid reason for doing so now. Under the terms of the bill, immediate relatives are still given the highest priority; but if their numbers increase in the years ahead, other family reunion preferences will be cut bact.

I am gratified the Committee accepted my amendment to restore 5th preference for brothers and sisters of United States citizens, although limiting it in the future to unmarried brothers and sisters. I remained troubled, however, by the bill's restrictions on the 2nd preference and the inclusion of immediate relatives in an overall immigration ceiling.

JUDICIAL REVIEW OF ASYLUM CASES

Some very important reforms of the asylum adjudication process have been achieved in this legislation and I support them. However, I regret that the Committee limited judicial review of the asylum process without granting full independence to the new Immigration Board, as originally proposed when the bill was introduced. As a result, the Committee bill does not achieve the autonomy the asylum process needs in order to assure fair and non-politicial adjudication of asylum claims. In this situation, the elimination of judicial review is particularly objectionable, since it has been the only avenue for challenging discriminatory decisions. Habeas corpus jurisdiction is not sufficient since the bill also limits this remedy to constitutional, not statutory, habeas corpus.

I believe the provisions adopted by the House Judiciary Committee achieve these goals, and I intend to offer them as a substitute amendment on the floor.

TEMPORARY FOREIGN WORKERS

I continue to support the unanimous vote of the Select Commission and the actions of the Committee in rejecting the establishment of an expanded temporary foreign worker program. Adoption of the legalization program and implementation of the new immigration system will result in the legal admission of additional immigrants and an adjustment in the status of undocumented aliens already working here.

Until the impact of these changes is assessed, there is no valid justification for a large new temporary foreign worker program. Any such program would have serious consequences for American labor and American wages. The Committee has acted responsibly in rejecting calls for a new "bracero" program.

The existing need for temporary workers can be met by the H-2 visa program. The Committee has acted to make this program more flexible, but we must be extremely cautious not to allow these changes to undermine labor standards or to depress wages. Employers seeking H-2 workers must be required to seek American workers first, and we should plan the elimination of this program in the future, not its expansion.

FOREIGN STUDENTS

The Committee bill should be amended to permit students of exceptional merit and ability—who are participating in essential academic, professional and industrial programs—to remain in this country without leaving for two years, and not subject to an arbitary ceiling. To do otherwise is contrary to our national interests. It also ignores the current reality that exceptionally qualified students do not return to their homes in the Third World or elsewhere; they simply move to Japan or Europe and use their skills to help those nations compete against the United States. It makes no sense, when our faculties and firms are starved for scientific talent, for the United States to train engineers or computer specialists at M.I.T. or Berkeley for jobs in Tokyo or Bonn.

LEGALIZATION PROGRAM

The Select Commission voted unanimously to recommend that a flexible and generous program be established to adjust the status of undocumented aliens already leading productive lives in the United States. It did so because "the existence of a large undocumented/illega migrant population should not be tolerated"—and because "the costs to society of permitting a large group of persons to live in illegal, second-class status are enormous." The Commission recognized that mass deportations were out of the question, for both legal and humanitarian reasons; such deportations would undermine new enforcement programs and would waste available enforcement resources.

For a legalization program to work, it must be comprehensive, it must reach out to as many undocumented aliens as possible, and it must have as few exceptions as possible.

I regret, therefore, that the Committee did not this year adopt my amendment to make the legalization cut-off date more inclu-

sive—moving it forward from January 1, 1980, to December 31, 1981. Even by the estimates compiled by the Immigration and Naturalization Service this will mean that close to two-thirds of the undocumented aliens in the United States will not be eligible for the legalization program. It means that a large, subterranean, exploited class of people will be left in limbo.

Everyone who has worked on this legislation agrees that the legalization program is a critical part of the package of reforms we are considering. Yet, under the terms of the bill, legalization will not achieve its goals because the cut-off date will exclude two-thirds of those we are seeking to legalize. This makes no sense on the merits, and no political sense either. Why make a difficult political decision to legalize undocumented aliens, knowing it will not really deal with the problem?

Finally, some concern has been expressed over the impact this legalization program will have on state and local social programs. According to the research of the Select Commission and others on the characteristics of the undocumented alien population, these concerns appear to be exaggerated. Undocumented aliens are here to work, not to seek welfare; they are in many respects undocumented taxpayers contributing to the communities in which they live without the benefits of those taxes.

Nonetheless, should there develop clear evidence after the one-year legalization program that a significant financial burden has developed on state and local programs, the Federal Government should, of course, respond to any financial burdens imposed by this legislation.

Conclusion

As ranking minority member of the Subcommittee on Immigration and Refugee Policy, I have been honored to work closely with the Chairman, Senator Simpson, in a bipartisan effort to achieve genuine reforms, based upon reason, fairness, and careful study. We have attempted to review immigration policy in light of America's best interest, yet with full regard for our immigrant heritage and our humanitarian traditions. I know from many hours of hearings, and from the two-year effort of the Select Commission, how hard Senator Simpson has personally worked to achieve this difficult task.

I pledge my continued cooperation to enact a bill that reflects our shared goals. We have come a long way—but we still have some distance to go.

We have rejected—as we must continue to reject—calls for harsh and discriminatory enforcement of our immigration laws, including the deputizing of local police officers to enforce our complex immigration policies. We have rejected cruel and racist calls against immigration. We have rejected efforts to drastically reduce our annual immigration quotas and to restrict the admission of refugees.

But we must also assure minorities in our society that no new discrimination will result from any provision in this bill. If we can give this assurance in clear and unmistakable terms—and if we

can strengthen the bill in other areas—I believe it should and will become law, and will be a step toward immigration reform.

EDWARD M. KENNEDY.

ATTACHMENT—SELECTED QUOTATIONS

A. COMMENTS FROM HEARINGS ON S. 529

"I believe the Immigration Reform and Control Act represents an impressive example of balanced and humane legislative leadership. Rarely, if ever, has proposed legislation on a controversial topic received almost universal acclaim from the nation's opinion leaders of all political persuasions, from past Presidents and cabinet officers from both parties, and from over 80 percent of the United States Senate. The Congress can be justifiably proud of the leadership it has exercised in this difficult matter."—Michael Teitelbaum, Senior Associate, Carnegie Endowment for International Peace, S. 529 hearings, 2/25/83.

"We believe that employer sanctions, properly enforced, could have a far-reaching positive effect on the U.S. labor market and particulary the black force."—Althea Simmons, Director, Washington Bureau of NAACP, S. 529 hearings, 2/25/83.

"The Administration remains strongly convinced that it is in the national interest that comprehensive immigration reform legislation be enacted without further delay. In the bipartisan tradition that should continue to dominate debate on this subject, we pledge our support in achieving that goal . . .

"The cornerstone of immigration control in S. 529 is therefore a provision making it illegal knowingly to hire aliens whos are not authorized to work in the United States. Employer sanctions is the only remaining credible tool to stop the flood of illegal immigration."—Attorney General William French Smith, S. 529 hearings, 2/28/83.

"Your bill parallels most of the recommendations of the Select Commission on Immigration and Refugee Policy and recognizes the necessity for controlling illegal immigration—'closing the back door'—while at the same time permitting legal immigration at a reasonable level—'opening the front door.' . . . our Citizens' Committee of concerned Americans applauds the effective, intelligent and fair manner in which your bill addresses the issues of identifying those legally eligible to work in this nation and sanctions against employers who knowingly hire undocumented workers."—Theodore M. Hesburgh, Co-Chairman of the Citizens' Committee for Immigration Reform; Former Chairman, Select Commission on Immigration and Refugee Policy, S.529 hearings,(2/25/83).

B. EDITORIAL COMMENTS ON S. 529

"This bill is the culmination of more than 10 years' work and hearings to reach the best possible blend of compromise and effectiveness. Atty. Gen. William French Smith has congratulated the authors of the present legislation on 'how well you balanced the many competing interests.' "—U.S. News and World Report, April 18, 1983.

"Last month, at their annual meeting in Bal Harbour, Fla., the leaders of the labor organization (AFL–CIO) issued a policy statement urging Congress to act on immigration reform legislation. Congress has a responsibility to act early on this plea. Moving the Simpson-Mazzoli bill to the floor this spring is a must."—the Washington Post, March 28, 1983.

"No reform measure can be written that will satisfy everyone, but the Simpson-Mazzoli bill's blend of employer sanctions, amnesty, toughened deportation procedures and an annual immigration cap is realistically responsive to the problem."—Dallas Times Herald, March 7, 1983.

"Asked by (Senator) Simpson whether he thought the bill's employer sanctions provision would result in discrimination against Americans of foreign descent, (Attorney General) Smith said: 'I'm satisfied that the bill guards against discrimination. I expect that discrimination would be reduced rather than increased as a result of safeguards built into the bill.'"—Chicago Tribune, March 1, 1983.

"In the last Congress, a comprehensive bill to reform the nation's immigration laws made it through the Senate but died in the House. The bipartisan bill has been reintroduced by its chief sponsors—in the Senate, Sen. Alan K. Simpson (R., Wyo.) and in the House Rep. Romano L. Mazzoli (D., Ky.). The bill is not in any way racist. It is not designed to bar America's golden door. To the contrary, it would regularize the status of most illegal aliens, enabling them eventually to obtain American citizenship."—the Philadelphia Inquirer, February 23, 1983.

"For reasons of vitality, humanity and history, America wants and needs immigrants. What it does not need is such an uncontrollable flood of illegal migrants that it tries public patience and foments a backlash against all newcomers. That's the genuine danger and the Simpson-Mazzoli bill is the bipartisan remedy."—the New York Times, February 21, 1983.

"We contend that the Simpson-Mazzoli bill, while certainly not perfect, represents an important step forward from the present immigration system . . . We recommend quick passage of the Simpson-Mazzoli bill during this session of Congress as the best remedy in sight."—Dallas Times Herald, February 12, 1983.

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