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NEWS FROM CONGRESSMAN XAVIER BECERRA

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REP. BECERRA WITHDRAWS SPONSORSHIP OF IMMIGRATION REORGANIZATION AND REFORM ACT OF 1999

Rep. Becerra submitted the following statement for the *Congressional Record*:

Mr. BECERRA. Mr. Speaker, today I withdraw my co-sponsorship of H.R. 2528. I was an original co-sponsor of H.R. 2528, the Immigration Reorganization and Improvement Act of 1999, because I support any effort to jump-start -- or better put, restart -- the Immigration and Naturalization Service (INS). Chairman Harold Rogers, Chairman Lamar Smith and Rep. Silvestre Reyes have worked diligently to fashion a restructuring bill and are doing what they believe best moves us toward that end. I had concerns about the bill when I first signed on. But I felt it was important to support efforts to restructure the INS. I had hoped H.R. 2528 would move in a direction addressing my concerns. However, at this stage I find that the current status of the bill falls short of meeting the elements necessary to make it a meaningful reform that will place the INS on solid footing to effectively address its obligations.

--continued--

History has shown that the INS does not receive the resources necessary to carry out its duties in the area of services and adjudication. This is why the backlog of pending naturalization applications grew to approximately 2.0 million and currently stands at approximately 1.4 million. Far too many of those backlogged applicants waited or have been waiting over two years for their cases to be adjudicated. The backlog and delay in other adjudication areas -- adjustments of status and the green card replacement program, for instance -- are as bad if not worse than for naturalization. As such, my primary concern pertains to the financing mechanisms within the INS for the services and adjudication functions of the agency. Current law and its implementation fail to meet this challenge. And H.R. 2528 falls far short as well. So long as we continue to require fees collected from immigrants for a particular service to pay for non-fee activities, we will always run into budgetary problems and services will suffer. H.R. 2528 authorizes no funds whatsoever for backlog reduction or asylum and refugee processing. This additional strain on already stretched resources, with no additional funding, will only exacerbate the backlogs as well as undermine the United States' ability to meet the protection needs of refugees and asylum seekers.

I am also seriously concerned that HR 2528 does not go the necessary mile to ensure that these newly independent agencies of the Department of Justice's immigration unit function properly under the oversight and direction of a principal executive. While autonomy for the enforcement and service agencies will allow them to perfect and "specialize" in their areas of responsibility, too much distance between them could foil the ability of the Department of Justice to direct, coordinate and integrate the overlap in enforcement and service functions. The latest version of H.R. 2528 improves upon the original bill by adding an Assistant Attorney General as that principal in charge. However, it maintains three separate legal and policy offices which will lead to multiple interpretations of immigration, refugee and asylum law. This structure will bear three bureaucracies instead of one and cultivate confusion among the three arms of the agency.

I am committed to continuing to work with the authors of H.R. 2528 along with the Immigration Subcommittee members and the Clinton Administration to strengthen the structure of the INS so that it can finally, rightfully handle all duties under its charge. The people of America who must turn to the INS for services -- and who happen to pay the taxes and fees to fund this and all other government operations -- deserve no less.

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STATEMENT OF CONGRESSWOMAN SHEILA JACKSON LEE SUBCOMMITTEE ON IMMIGRATION AND CLAIMS MARK-UP OF: H.R. 2528, the "IMMIGRATION REORGANIZATION AND IMPROVEMENT ACT OF 1999" November 4, 1999

Good Morning Mr. Chairman. I come to this hearing this morning with mixed feelings. On the one hand, I, like most of my colleagues, both Republican and Democrat, come to reform, and prepared to reorganize, and eager to restructure the Immigration and Naturalization Service. I think we all agree that the INS desperately needs restructuring, and that the operations, functions, and the way the services are administered need much improvement.

However, before I get into the substance of this bill, I must speak briefly about process. Webster's Collegiate Dictionary defines the word process as "to subject or handle through an established

routine set of procedures." In the House of Representatives, there is a "process" or an established set of procedures that allow for Members of Congress to consult and work together with the Members on that committee when drafting major legislation. It is not required, nor is it mandated, but goes along with the established set of procedures... the process. I believe that this "process" has been grossly violated as we approach this mark-up.

Shortly after the July 29 hearing on the bill that we are about to mark up today, my staff, Mr. Berman's staff and the staff of Mr. Conyers, our Ranking Member, met with the staff of Chairman Smith and Congressman Reyes to negotiate a deal that would please both sides of this restructuring debate. However, after a couple of meetings those negotiations were ended by the Majority and a couple of weeks later we received a notice of this mark-up exactly 48 hours before it was to take place. That goes against the established rules of procedures, and it is a violation of our process. It is one

thing to act within the letter of the law, it is another to act within the spirit of the law.

Now, about the substance of the Rogers-Smith-Reyes bill, H.R. 2528, the "Immigration Reorganization and Improvement Act of 1999. While we thought we were getting a better bill with this substitute, we did not. This substitute is only an evil kissing cousin of the original bill. It still does not have the support of one subcommittee Democrat, it still does not have the support of any of the Immigration advocacy groups, and in spite of all the meetings and negotiations, this bill still does not have support of the White House. It still comes up short of offering real reform. In fact Mr. Chairman, I have a letter from the Administration which points out their many concerns and gives the reasons why they can not support this substitute at this time.

First, this substitute states that the Associate Attorney General will "oversee", "supervise", and "coordinate" work of the bureaus.

This is not strong enough to ensure that the Associate Attorney General will have the authority necessary to manage the two bureaus.

Secondly, this substitute continues to put the inspections program into the Bureau of Immigration Enforcement. This is not right. Inspectors spend most of their time deciding whether people are admissible to the United States. That is an adjudications function, not an enforcement function. The inspectors should be in the adjudications branch, not the Enforcement bureau.

Third, there was a time when the immigration judges were moved away from INS and placed with the Board of Immigration Appeals to form the Executive Office of Immigration Review. This was done to ensure that the Immigration Judges would be independent from INS influence. We absolutely need impartial review of INS enforcement and benefits operations to ensure that they are performed fairly and with due process. The

Smith-Rogers-Reyes substitute is a big step backwards in this regard. It not only returns the Immigration Judges to the authority of the person running the INS, it does the same thing to the Board of Immigration Appeals as well.

This substitute states that it is the Sense of Congress that "both Bureaus should be adequately funded." This language does not go nearly far enough. It is merely discretionary, not mandatory language. Therefore, it is meaningless. Moreover, why shouldn't they be equally funded?

The appropriations authorization requires the establishment of separate accounts for appropriated funds and other deposits. This sounds good until you read the end of the provision which makes these accounts available to "the Bureau of Immigration Services or the Bureau of Immigration Enforcement." What is the point Mr. Chairman of separate accounts if the accounts are available to either bureau?

Lastly, this bill fails to provide "fire walls" to ensure that money will be used for its intended purpose. This is a major problem. This is something that Congressman Berman has been passionate about, as well as Congressman Becerra, who although not a member of this subcommittee, is an original co-sponsor of this bill. This is a problem because fees for naturalization must be used in the fiscal year in which they are received. But there has been a backlog well in excess of a year for naturalization applications. The result is that the money received from naturalization fees has been used for other purposes. We now have a staggering number of unprocessed naturalization applications for which there is no longer any funding. Any serious attempt to deal with service operations must include fire walls to prevent this sort of thing from happening. That is why Mr. Chairman I can not in good conscience support H.R. 2528 at this time.

However, I am prepared along with my good friend Congressman Berman to offer one perfecting substitute amendment to H.R. 2528 at the appropriate time. I want to get rid of the backlogs at the INS, the inefficiency, and the mismanagement. I am not for maintaining the status quo.

We need improvement... we need restructuring...we need real reform. With that Mr. Chairman I yield back the balance of my time and will wait to introduce my amendment at the appropriate time.

**Opening Statement of Chairman Lamar Smith
At the Mark Up on H.R. 2528
Immigration Reorganization and Improvement Act of
1999
November 4, 1999**

More than four million hardworking immigrants are waiting months or years for citizenship, green cards and other benefits they are already qualified to receive.

Criminal aliens who should have been deported walk our streets where they are likely to strike again.

A computer system developed by the INS at a cost of tens of millions of dollars allowed Angel Maturino Resendez to escape from the INS' hands numerous times. He is accused of committing eight murders since his last mistaken release.

This mismanagement in Washington contrasts with the INS employees on the front lines. Every Border Patrol agent and INS employee I've met has been professional, dedicated and hardworking. I want the INS to reflect what I see in the field, not in Washington.

Today we will mark up an amendment in the nature of a substitute to H.R. 2528, the "Immigration Reorganization and Improvement Act of 1999."

This is a bipartisan bill with 90 cosponsors. It responds to the recommendations first made by the Commission on Immigration Reform to separate immigration service from immigration enforcement. This eliminates the mission conflict and overload of the current INS.

The two other original cosponsors are true experts on this issue. Representative Rogers, the Chairman of the Appropriations Subcommittee which funds the INS, has helped the INS' budget grow from \$1.4 billion in Fiscal Year 1992 to \$3.9 billion in FY 1999. Representative Reyes worked for the INS for 26 years as a Border Patrol agent and Sector Chief and has firsthand knowledge of how the agency should be reformed.

Our immigration system suffers from inertia due in part to the magnitude of the problem on both the service and enforcement sides. There is a backlog of over 4 million applications for benefits, including 1.4 for naturalization and almost a million for permanent residence. There are at least 5 million illegal aliens in the U.S. The agency appears to be moving from one crisis to the next, with no coherent strategy on how to accomplish both missions successfully.

Testimony at our July 29 hearing highlighted the ineffectiveness of the current INS. Individual alien applicants and Congressional caseworkers testified about backlogs, inaccurate information, and rude treatment from the INS.

This is not just a problem in one place. We are hearing from every part of the country that the INS has now edged out the IRS for the agency Americans most want reformed.

If any member of Congress doubts the need for this legislation, just ask the immigration case worker in your district office.

This amendment in the nature of a substitute contains many changes based on discussions with the Administration and others:

- We add an Associate Attorney General for Immigration Affairs to coordinate national immigration policy.

- We add a Chief Legal Advisor, a Chief Policy Advisor and an Office of Shared Services under the Associate Attorney General to assist with coordination and to resolve conflicts.
- We allow a transition period so that the Associate Attorney General can opt to perform certain functions for both Bureaus for an 18-month transition period: General Counsel; Policy and Strategy; and Congressional, Intergovernmental, and Public Affairs.
- We establish separate accounts for both Bureaus and add a “firewall” so that fees for services cannot be used for enforcement.
- We add subjects that the implementation plan must address, including the processing and handling of removal proceedings, and expedited removal and relief from removal.
- We add a study on improving immigration services and immigration enforcement.
- We clarify that the detention plan should include a classification system for different levels of detention, including alternatives to detention.
- We require a report on shared services to make sure both Bureaus use resources efficiently.
- We require status reports from the General Accounting Office on the transfer of functions.
- We require a GAO report after 4 years on whether management and operations have been improved.

It is clear that we have gone much more than half-way to address the concerns of those who wanted changes to the bill.

I don't want to mislead anyone. Many of these changes were made with the expectation that the Administration would support this bill. If that does not occur, there is no certainty the changes will remain in the bill.

One final point: while we agreed to add the position of Associate Attorney General, we did not want to create a "super INS" in the Department of Justice.

We do not want the Associate Attorney General to make all enforcement and all service decisions, as the current INS Commissioner does.

So we clarified what the Associate Attorney General should do versus what the Bureau Directors should do.

- Each Bureau Director will be responsible for making policies that affect only their Bureau. When another Bureau could be affected, the Director must inform the Associate Attorney General.
- Each Bureau Director will have a Policy Office, a General Counsel, and a Congressional and Public Affairs Office.

It makes sense to leave the daily operations to the Bureau Directors. But the Associate Attorney General would become involved in resolving conflicts or in making decisions on issues that affect more than one Bureau.

This amendment in the nature of a substitute will improve our immigration system. The enforcement bureau will be a true law enforcement agency that will remove illegal and criminal aliens, not release them into our communities. The service bureau will process applications quickly and thoroughly and will provide information in a courteous and timely manner.

Restructuring the INS is overdue. The frustration level of citizens, immigrants, and members of Congress is high. Today we begin our effort to reform the INS.

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CONGRESSMAN
Hal Rogers



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FOR IMMEDIATE RELEASE:
Thursday, November 4, 1999

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Immigration Reform "Gaining Unprecedented Momentum in Congress"

House subcommittee approves bill to reorganize and improve immigration services and enforcement

WASHINGTON, D.C.—U.S. Representative Harold "Hal" Rogers (R-KY) says the movement to reorganize and improve our nation's broken immigration system gained "unprecedented momentum" today. H.R. 2528, the Immigration Reorganization and Improvement Act of 1999, was approved today by the House Judiciary Subcommittee on Immigration and Claims. Congressman Hal Rogers, Immigration Subcommittee chairman Rep. Lamar Smith (R-TX) and Rep. Silvestre Reyes (D-TX) introduced the measure in July of this year.

The bipartisan bill would eliminate the Immigration and Naturalization Service (INS) and create two separate bureaus within the U.S. Department of Justice to manage and improve both enforcement and immigration services and policy. The two bureaus would function under separate professional managers and with separate budget authority. Changes to the bill adopted by the subcommittee would create a new Associate Attorney General within the Justice Department to coordinate issues as needed between the two bureaus. Representatives Rogers, Smith and Reyes proposed the change.

Rogers, the chairman of the House Appropriations Subcommittee on Commerce, Justice, State and the Judiciary, says today's subcommittee markup of H.R. 2528 moves us one step closer to vastly improving the processing of immigration benefits and strengthening the enforcement of laws designed to prevent illegal immigration:

"Despite a doubling of its budget since 1995, the INS has unfortunately failed at its dual roles of enforcing laws to stop illegal presence in the U.S. and providing immigrant benefits in a fair and timely manner," Rogers said today. "Those conflicting and confusing missions are to blame. No single agency can effectively function when it is constantly in conflict and turmoil. Today's action demonstrates that the call for immigration reform is gaining unprecedented momentum in the Congress."

"Our bill establishes two separate agencies within the Justice Department, ending the conflicts, establishing clear chains of command, and requiring professional management," Rogers said.

The **Bureau of Immigration Services** would focus solely on processing legal benefits and would be led by a director, appointed by the Attorney General, with at least 10 years experience in processing benefit applications.

The **Bureau of Enforcement** would enforce U.S. immigration laws. That agency's director, also an appointee of the Attorney General, would be required to have at least 10 years law enforcement experience.

Rogers praised Representatives Smith and Reyes for their work and support for the legislation.

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Congresswoman

— Sheila Jackson Lee

18th District — Texas

FOR IMMEDIATE RELEASE
November 4, 1999

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**CONGRESSWOMAN SHEILA JACKSON LEE INTRODUCES
AMENDMENT TO PROVIDE ORGANIZATION AND REAL REFORM
TO THE INS**

Washington, DC – As the Ranking Member of the Subcommittee on Immigration and Claims, Congresswoman Sheila Jackson Lee (D-Houston) will participate in a subcommittee markup on the restructuring and improving of the Immigration and Nationalization Service (INS). “It is high time that this country restructured the INS so it can handle the myriad of functions that the Service must now perform. America grows richer in cultural identity each day as immigrants embrace our shores. We should not penalize our new citizens with an outdated and convoluted system that fails to advocate their needs,” the Congresswoman opined prior to the markup.

A Rogers-Smith-Reyes substitute bill, the Immigration Reorganization and Improvement Act of 1999 (H.R. 2528), will be introduced in the markup to remedy this problem, but the Congresswoman will object to this legislation on procedural and substantive grounds. The Congresswoman stated, “We received a notice of this mark-up exactly 48 hours before it was to take place. That goes against the established rules of procedures, and it is a violation of our process. It is one thing to act within the letter of the law, it is another to act within the spirit of the law. Furthermore, this bill would eliminate the INS in its current form and create two new immigration bureaus in its place. One bureau would handle adjudicatory duties and the other would handle enforcement concerns. Unfortunately, this measure fails to give proper authority to the Attorney General over these two bureaus. The measure also errs by placing inspectors in the enforcement bureau, not the adjudication bureau. Finally, the measure inappropriately places the immigration judges in a position where the INS could influence this otherwise neutral party.”

“Today, I will propose an amendment, the “Immigration Restructuring and Accountability Act of 1999,” that will add a single voice on immigration policy, who will coordinate policy matters and interpret complex laws in both enforcement and adjudications, so as to ensure accountability and effective implementation. With this amendment, an Office of Immigration Adjudications will be established which will be headed by a Director. The amendment will also establish a separate Office of Immigration Enforcement, headed by a Director, who will oversee Border Patrol and removal operations, and an office of Pre-hearing services that will oversee detention, access to representation, and alternatives to detention. The language in this amendment ensures that directly appropriated funds are used first before asylum and refugee adjudications are paid for out of fees paid by naturalization and other service adjudication applicants; prohibit the transfer of fees to the Enforcement account or any other agency, and specifically authorize funds for asylum and refugee adjudications. This amendment also requires an annual report to Congress on the nature of any backlogs in processing adjudications and applications for various INS services,” the Congresswoman added.

The Congresswoman concluded, “This amendment would provide effective and practical restructuring and reform to our Nation’s immigration policies.”

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**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2528
OFFERED BY MS. JACKSON-LEE OF TEXAS AND
MR. BERMAN OF CALIFORNIA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the "Immigration Restruc-
3 turing and Accountability Act of 1999".

**4 TITLE I—OFFICE OF ADMINIS-
5 TRATOR OF IMMIGRATION
6 AFFAIRS**

**7 SEC. 101. ESTABLISHMENT OF OFFICE OF ADMINISTRATOR
8 OF IMMIGRATION AFFAIRS.**

**9 (a) OFFICE OF ADMINISTRATOR OF IMMIGRATION
10 AFFAIRS.—**

11 (1) IN GENERAL.—There is established in the
12 Department of Justice an office to be known as the
13 Office of the Administrator of Immigration Affairs.

14 (2) HEAD.—The head of the Office shall be the
15 Administrator of Immigration Affairs, who—

16 (A) shall be a citizen of the United States;

1 (B) shall be appointed by the President, by
2 and with the advice and consent of the Senate;
3 and

4 (C) shall report directly to the Attorney
5 General or the Attorney General's delegate.

6 (3) COMPENSATION.—The Administrator of Im-
7 migration Affairs shall be paid at the rate of basic
8 pay payable for level IV of the Executive Schedule
9 (as listed in section 5315 of title 5, United States
10 Code).

11 (4) FUNCTIONS.—The Administrator of Immi-
12 gration Affairs—

13 (A) shall be charged with any and all re-
14 sponsibilities and authority in the administra-
15 tion of the Office of the Administrator of Immi-
16 gration Affairs and of the Immigration and Na-
17 tionality Act which are conferred upon the At-
18 torney General as may be delegated to the Ad-
19 ministrator by the Attorney General or which
20 may be prescribed by the Attorney General; and

21 (B) shall perform such functions as are
22 transferred to the Administrator of Immigra-
23 tion Affairs by this section or this Act or other-
24 wise vested in the Administrator of Immigration
25 Affairs by law.

1 (b) DIRECTOR FOR COMMUNITY LIAISON.—Within
2 the Office of the Administrator of Immigration Affairs,
3 there shall be a Director for Community Liaison. The Di-
4 rector shall be charged with any and all responsibilities
5 and authority which are conferred upon the Administrator
6 of Immigration Affairs as may be delegated to him or her
7 by the Administrator of Immigration Affairs, or which
8 may be prescribed by the Administrator of Immigration
9 Affairs, relating to the following:

10 (1) Accountability of the Office of the Adminis-
11 trator of Immigration Affairs to the communities it
12 serves.

13 (2) Communication between the Administrator
14 of Immigration Affairs and such communities.

15 (3) Resolution of issues and concerns that can-
16 not be resolved at a local level or through ordinary
17 administrative channels.

18 (c) TRANSFER OF FUNCTIONS.—There are trans-
19 ferred from the Commissioner of the Immigration and
20 Naturalization Service to the Administrator of Immigra-
21 tion Affairs all functions performed by the Commissioner,
22 and all personnel, infrastructure, and funding provided to
23 the Commissioner, immediately before the effective date
24 of this section.

(d) REFERENCES.—With respect to any function transferred from the Commissioner of the Immigration and Naturalization Service by this section or Act to, and exercised on or after the effective date of this section by, the Office of the Administrator of Immigration Affairs, reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to an office from which a function is so transferred—

(1) to the head of such office is deemed to refer to the Administrator of Immigration Affairs; or

(2) to such office is deemed to refer to the Office of the Administrator of Immigration Affairs.

SEC. 102. OFFICES WITHIN OFFICE OF ADMINISTRATOR OF IMMIGRATION AFFAIRS.

(a) IN GENERAL.—Within the Office of the Administrator of Immigration Affairs there shall be the following offices, each office to be headed by a director:

(1) The Office of Immigration Adjudications.

(2) The Office of Immigration Enforcement.

(3) The Office of Prehearing Services.

(4) The Office of Shared Services.

(b) OFFICE OF IMMIGRATION ADJUDICATIONS.—

(1) IN GENERAL.—The Director for Immigration Adjudications shall be charged with any and all

1 responsibilities and authority which are conferred
2 upon the Administrator of Immigration Affairs as
3 may be delegated to the Director by the Adminis-
4 trator of Immigration Affairs, or which may be pre-
5 scribed by the Administrator of Immigration Affairs,
6 relating to any of the functions described in para-
7 graphs (3) through (5).

8 (2) DIVISIONS.—Within the Office of Immigra-
9 tion Adjudications there shall be the following divi-
10 sions, each division to be headed by a division chief:

11 (A) The Division of Adjudications.

12 (B) The Division of Refugees, Asylum, Pa-
13 role, and Humanitarian Affairs.

14 (C) The Division of Community Relations.

15 (3) DIVISION OF ADJUDICATIONS.—The Divi-
16 sion Chief of the Division of Adjudications shall be
17 charged with any and all responsibilities and author-
18 ity which are conferred upon the Director for Immi-
19 gration Adjudications as may be delegated to the Di-
20 vision Chief by the Director, or which may be pre-
21 scribed by the Director, relating to the following
22 functions:

23 (A) Adjudication of petitions for immi-
24 grant or nonimmigrant status.

1 (B) Adjudication of applications for natu-
2 ralization.

3 (C) Inspections, and adjudications of appli-
4 cations for admission, at a port of entry.

5 (D) All other adjudications under the Im-
6 migration and Nationality Act performed by the
7 Immigration and Naturalization Service as of
8 the effective date in section 401(a).

9 (4) DIVISION OF REFUGEES, ASYLUM, PAROLE,
10 AND HUMANITARIAN AFFAIRS.—The Division Chief
11 of the Division of Refugees, Asylum, Parole, and
12 Humanitarian Affairs shall be charged with any and
13 all responsibilities and authority which are conferred
14 upon the Director for Immigration Adjudications as
15 may be delegated to the Division Chief by the Direc-
16 tor, or which may be prescribed by the Director, re-
17 lating to the following functions:

18 (A) Adjudication of petitions and applica-
19 tions for admission as a refugee, asylum, or pa-
20 role into the United States.

21 (B) Liaison with international organiza-
22 tions concerned with the protection of refugees
23 and asylum seekers.

24 (5) DIVISION OF COMMUNITY RELATIONS.—The
25 Division Chief of the Division of Community Rela-

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1 tions shall be charged with any and all responsibil-
2 ities and authority which are conferred upon the Di-
3 rector for Immigration Adjudications as may be del-
4 egated to the Division Chief by the Director, or
5 which may be prescribed by the Director, relating to
6 community relations.

7 (c) OFFICE OF IMMIGRATION ENFORCEMENT.—

8 (1) IN GENERAL.—The Director for Immigra-
9 tion Enforcement shall be charged with any and all
10 responsibilities and authority which are conferred
11 upon the Administrator of Immigration Affairs as
12 may be delegated to the Director by the Adminis-
13 trator of Immigration Affairs, or which may be pre-
14 scribed by the Administrator of Immigration Affairs,
15 relating to any of the functions described in para-
16 graphs (3) through (6).

17 (2) DIVISIONS.—Within the Office of Immigra-
18 tion Enforcement there shall be the following divi-
19 sions, each division to be headed by a division chief:

20 (A) The Border Patrol Division.

21 (B) The Division of Removal.

22 (C) The Division of Intelligence and Inves-
23 tigations.

24 (D) The Division of Community Relations.

1 (3) BORDER PATROL DIVISION.—The Division
2 Chief of the Border Patrol Division shall be charged
3 with any and all responsibilities and authority which
4 are conferred upon the Director for Immigration En-
5 forcement as may be delegated to the Division Chief
6 by the Director, or which may be prescribed by the
7 Director, relating to the following functions:

8 (A) Border control and enforcement (ex-
9 cluding inspections or adjudications at ports of
10 entry).

11 (B) All other functions performed by the
12 United States Border Patrol as of the effective
13 date in section 401(a).

14 (4) DIVISION OF REMOVAL.—The Division
15 Chief of the Division of Removal shall be charged
16 with any and all responsibilities and authority which
17 are conferred upon the Director for Immigration En-
18 forcement as may be delegated to the Division Chief
19 by the Director, or which may be prescribed by the
20 Director, relating to implementing the removal of
21 deportable and inadmissible aliens from the United
22 States (excluding inspections or adjudications relat-
23 ing to such removals).

24 (5) DIVISION OF INTELLIGENCE AND INVES-
25 TIGATIONS.—The Division Chief of the Division of

1 Intelligence and Investigations shall be charged with
2 any and all responsibilities and authority which are
3 conferred upon the Director for Immigration En-
4 forcement as may be delegated to the Division Chief
5 by the Director, or which may be prescribed by the
6 Director, relating to intelligence and investigations
7 (including fraud detection and investigation).

8 (6) DIVISION OF COMMUNITY RELATIONS.—The
9 Division Chief of the Division of Community Rela-
10 tions shall be charged with any and all responsibil-
11 ities and authority which are conferred upon the Di-
12 rector for Immigration Enforcement as may be dele-
13 gated to the Division Chief by the Director, or which
14 may be prescribed by the Director, relating to com-
15 munity relations.

16 (d) OFFICE OF PREHEARING SERVICES.—

17 (1) IN GENERAL.—The Director for Prehearing
18 Services shall be charged with any and all respon-
19 sibilities and authority which are conferred upon the
20 Administrator of Immigration Affairs as may be del-
21 egated to the Director by the Administrator of Im-
22 migration Affairs, or which may be prescribed by the
23 Administrator of Immigration Affairs, relating to
24 any of the functions described in paragraphs (3)
25 through (6).

1 (2) DIVISIONS.—Within the Office of Pre-
2 hearing Services there shall be the following divi-
3 sions, each division to be headed by a division chief:

4 (A) The Division of Detention.

5 (B) The Division of Alternatives to Deten-
6 tion.

7 (C) The Division of Prehearing Services.

8 (D) The Division of Community Relations.

9 (3) DIVISION OF DETENTION.—The Division
10 Chief of the Division of Detention shall be charged
11 with any and all responsibilities and authority which
12 are conferred upon the Director for Prehearing
13 Services as may be delegated to the Division Chief
14 by the Director, or which may be prescribed by the
15 Director, relating to detention of aliens (including
16 criminal aliens, noncriminal aliens, and asylum seek-
17 ers) pending completion of adjudications and appeals
18 or pending removal from the United States. Such re-
19 sponsibilities and authority shall be subject to sec-
20 tion 301.

21 (4) DIVISION OF ALTERNATIVES TO DETEN-
22 TION.—The Division Chief of the Division of Alter-
23 natives to Detention shall be charged with any and
24 all responsibilities and authority which are conferred
25 upon the Director for Prehearing Services as may be

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1 delegated to the Division Chief by the Director, or
2 which may be prescribed by the Director, relating to
3 alternatives to detention of aliens pending comple-
4 tion of adjudications and appeals or pending removal
5 from the United States (such as supervised release
6 programs) and methods to ensure required appear-
7 ances by aliens with respect to adjudications. Such
8 responsibilities and authority shall be subject to sec-
9 tion 301.

10 (5) DIVISION OF PREHEARING SERVICES.—The
11 Division Chief of the Division of Prehearing Services
12 shall be charged with any and all responsibilities and
13 authority which are conferred upon the Director for
14 Prehearing Services as may be delegated to the Divi-
15 sion Chief by the Director, or which may be pre-
16 scribed by the Director, relating to the following
17 functions:

18 (A) Prehearing services for aliens.

19 (B) Access by aliens to legal representation
20 in adjudications.

21 (6) DIVISION OF COMMUNITY RELATIONS.—The
22 Division Chief of the Division of Community Rela-
23 tions shall be charged with any and all responsibil-
24 ities and authority which are conferred upon the Di-
25 rector for Prehearing Services as may be delegated

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1 to the Division Chief by the Director, or which may
2 be prescribed by the Director, relating to community
3 relations.

4 (c) OFFICE OF SHARED SERVICES.—The Director for
5 Shared Services shall be charged with any and all respon-
6 sibilities and authority which are conferred upon the Ad-
7 ministrator of Immigration Affairs as may be delegated
8 to the Director by the Administrator of Immigration Af-
9 fairs, or which may be prescribed by the Administrator
10 of Immigration Affairs, relating to providing operational
11 support to all offices of the Office of the Administrator
12 of Immigration Affairs (including coordination among
13 such offices).

14 (f) SPECIAL RULE FOR LOCAL OFFICES.—Any local
15 office established to carry out the functions of the Office
16 of Immigration Adjudications shall be separate from any
17 local office established to carry out the functions of the
18 Office of Immigration Enforcement. The preceding sen-
19 tence shall not be construed to inhibit or preclude the co-
20 ordination of functions by the Office of Immigration Adju-
21 dications and the Office of Immigration Enforcement, or
22 by any local offices.

23 **SEC. 103. EXERCISE OF AUTHORITIES.**

24 Except as otherwise provided by law, a Federal offi-
25 cial to whom a function is transferred by this Act may,

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1 for purposes of performing the function, exercise all au-
2 thorities under any other provision of law that were avail-
3 able with respect to the performance of that function to
4 the official responsible for the performance of the function
5 immediately before the effective date of the transfer of the
6 function under this Act.

7 **SEC. 104. SAVINGS PROVISIONS.**

8 (a) **LEGAL DOCUMENTS.**—All orders, determinations,
9 rules, regulations, permits, grants, loans, contracts, agree-
10 ments, certificates, licenses, and privileges—

11 (1) that have been issued, made, granted, or al-
12 lowed to become effective by the President, the At-
13 torney General, the Commissioner of the Immigra-
14 tion and Naturalization Service, their delegates, or
15 any other Government official, or by a court of com-
16 petent jurisdiction, in the performance of any func-
17 tion that is transferred by this Act; and

18 (2) that are in effect on the effective date of
19 such transfer (or become effective after such date
20 pursuant to their terms as in effect on such effective
21 date);

22 shall continue in effect according to their terms until
23 modified, terminated, superseded, set aside, or revoked in
24 accordance with law by the President, any other author-

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1 ized official, a court of competent jurisdiction, or operation
2 of law.

3 (b) PROCEEDINGS.—This Act shall not affect any
4 proceedings or any application for any benefits, service,
5 license, permit, certificate, or financial assistance pending
6 on the effective date in section 401(a) before an office
7 whose functions are transferred by this Act, but such pro-
8 ceedings and applications shall be continued. Orders shall
9 be issued in such proceedings, appeals shall be taken
10 therefrom, and payments shall be made pursuant to such
11 orders, as if this Act had not been enacted, and orders
12 issued in any such proceeding shall continue in effect until
13 modified, terminated, superseded, or revoked by a duly au-
14 thorized official, by a court of competent jurisdiction, or
15 by operation of law. Nothing in this section shall be con-
16 sidered to prohibit the discontinuance or modification of
17 any such proceeding under the same terms and conditions
18 and to the same extent that such proceeding could have
19 been discontinued or modified if this section had not been
20 enacted.

21 (c) SUITS.—This Act shall not affect suits com-
22 menced before the effective date in section 401(a), and
23 in all such suits, proceedings shall be had, appeals taken,
24 and judgments rendered in the same manner and with the
25 same effect as if this Act had not been enacted.

1 (d) NONABATEMENT OF ACTIONS.—No suit, action,
2 or other proceeding commenced by or against the Depart-
3 ment of Justice or the Immigration and Naturalization
4 Service, or by or against any individual in the official ca-
5 pacity of such individual as an officer or employee in con-
6 nection with a function transferred by this Act, shall abate
7 by reason of the enactment of this Act.

8 (c) CONTINUANCE OF SUITS.—If any Government of-
9 ficer, in the official capacity of such officer is party to
10 a suit with respect to a function of the officer, and under
11 this Act such function is transferred to any other officer
12 or office, then such suit shall be continued with the other
13 officer or the head of such other office, as applicable, sub-
14 stituted or added as a party.

15 (f) ADMINISTRATIVE PROCEDURE AND JUDICIAL RE-
16 VIEW.—Except as otherwise provided by this Act, any
17 statutory requirements relating to notice, hearings, action
18 upon the record, or administrative or judicial review that
19 apply to any function transferred by this Act shall apply
20 to the exercise of such function by the head of the office,
21 and other officers of the office, to which such function is
22 transferred by such section.

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1 SEC. 106. TRANSFER AND ALLOCATION OF APPROPRIA-
2 TIONS AND PERSONNEL.

3 (a) IN GENERAL.—The personnel of the Department
4 of Justice employed in connection with the functions
5 transferred by this section (and functions that the Attor-
6 ney General determines are properly related to the func-
7 tions of the Office of the Administrator of Immigration
8 Affairs and would, if so transferred, further the purposes
9 of such office), and the assets, liabilities, contracts, prop-
10 erty, records, and unexpended balance of appropriations,
11 authorizations, allocations, and other funds employed,
12 held, used, arising from, available to, or to be made avail-
13 able to the Immigration and Naturalization Service in con-
14 nection with the functions transferred by this Act, subject
15 to section 202 of the Budget and Accounting Procedures
16 Act of 1950, shall be transferred to the Office of the Ad-
17 ministrator of Immigration Affairs for appropriate alloca-
18 tion by the Administrator of Immigration Affairs. Unex-
19 pended funds transferred pursuant to this subsection shall
20 be used only for the purposes for which the funds were
21 originally authorized and appropriated. The Attorney Gen-
22 eral shall retain the right to adjust or realign transfers
23 of funds and personnel effected pursuant to this Act.

24 (b) EFFECT ON PERSONNEL.—

25 (1) EFFECT ON INDIVIDUAL EMPLOYEES.—The
26 transfer under this Act of full-time personnel (except

1 date in section 401(a), with respect to the Immigra-
2 tion and Naturalization Service. Each such agree-
3 ment shall remain in effect for the 2-year period
4 commencing on such date, unless the agreement pro-
5 vides for a shorter duration or the parties agree oth-
6 erwise before such period ends.

7 (c) NUMBER OF AUTHORIZED PERSONNEL.—Noth-
8 ing in this Act shall be interpreted to decrease the number
9 of authorized positions within each program as it exists
10 on the date of the enactment of this Act in the Immigra-
11 tion and Naturalization Service.

12 (d) DELEGATION AND ASSIGNMENT.—Except as oth-
13 erwise expressly prohibited by law or otherwise provided
14 in this Act, the Administrator of Immigration Affairs may
15 delegate any of the functions so transferred to such offi-
16 cers and employees of the Office of the Administrator of
17 Immigration Affairs as the Administrator of Immigration
18 Affairs may designate, and may authorize successive re-
19 delegations of such functions as may be necessary or ap-
20 propriate. No delegation of functions under this subsection
21 or under any other provision of this Act shall relieve the
22 official to whom a function is transferred under this Act
23 of responsibility for the administration of the function.

24 (e) AUTHORITIES OF ATTORNEY GENERAL.—

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1 (1) INCIDENTAL TRANSFERS.—The Attorney
2 General (or a delegate of the Attorney General), at
3 such time or times as the Attorney General (or the
4 delegate) shall provide, may make such determina-
5 tions as may be necessary with regard to the func-
6 tions transferred by this Act, and to make such ad-
7 ditional incidental dispositions of personnel, assets,
8 liabilities, grants, contracts, property, records, and
9 unexpended balances of appropriations, authoriza-
10 tions, allocations, and other funds held, used, arising
11 from, available to, or to be made available in connec-
12 tion with such functions, as may be necessary to
13 carry out the provisions of this Act. The Attorney
14 General shall provide for such further measures and
15 dispositions as may be necessary to effectuate the
16 purposes of this Act.

17 (2) TREATMENT OF SHARED RESOURCES.—The
18 Attorney General shall provide for an appropriate al-
19 location, or coordination, or both, of resources in-
20 volved in supporting shared support functions for
21 the Office of the Administrator of Immigration Af-
22 fairs and other offices within the Department of
23 Justice. Such shared support functions may include
24 information resources management, human re-
25 sources and training, security, records and forms

1 management, equal opportunity activities, and facili-
2 ties and procurement administration. The Attorney
3 General, through the Justice Management Division,
4 shall maintain oversight and control over the shared
5 computer databases and systems and records man-
6 agement.

7 **SEC. 106. STATUTORY CONSTRUCTION.**

8 Nothing in this Act may be construed to preclude or
9 limit in any way the powers, authorities, or duties of the
10 Secretary of State and special agents of the Department
11 of State and the Foreign Service under the State Depart-
12 ment Basic Authorities Act of 1956, the Immigration and
13 Nationality Act, or any other Act to investigate illegal
14 passport or visa issuance or use.

15 **SEC. 107. IMPLEMENTATION PLAN.**

16 (a) IN GENERAL.—The Attorney General, not later
17 than one year after the date of the enactment of this Act,
18 shall submit to the Committees on the Judiciary of the
19 House of Representatives and of the Senate an implemen-
20 tation plan that details, consistent with this Act, an orga-
21 nizational structure for the Office of the Administrator of
22 Immigration Affairs at the national and local levels. Such
23 structure shall ensure accountability by, and coordination
24 among, the offices of the Office of the Administrator of
25 Immigration Affairs. The plan shall address the severe

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1 management problems within the Immigration and Natu-
2 ralization Service on the date of the enactment of this Act
3 by including provisions that will prevent these problems
4 from being perpetuated within the Office of the Adminis-
5 trator of Immigration Affairs. The plan shall also address
6 the issues of chain of command, shared services, file and
7 data management and oversight, financial management
8 systems, fraud detection and investigation, and establish-
9 ment of a transition team.

10 (b) CONSULTANT.—The Attorney General shall enter
11 into a contract with a private entity specializing in man-
12 agement consulting requiring the entity to conduct a study
13 of the management problems within the Immigration and
14 Naturalization Service and to issue a report containing
15 recommendations that will prevent these problems from
16 being perpetuated within the Office of the Administrator
17 of Immigration Affairs.

18 **SEC. 108. SPECIAL TRAINING FOR IMMIGRATION OFFICERS.**

19 Not later than 90 days after the date of the enact-
20 ment of this Act, the Attorney General shall submit to
21 the Committees on the Judiciary and Appropriations of
22 the House of Representatives and of the Senate a report
23 containing a plan annually to train immigration officers
24 on completing inspections efficiently and fairly, including

1 States a separate account, which shall be known as
2 the 'Immigration Services and Enforcement Activi-
3 ties Transition Reduction Account' (in this sub-
4 section referred to as the 'Account').

5 "(2) USE OF ACCOUNT.—There shall be depos-
6 ited into the Account funds appropriated to the At-
7 torney General for expenses necessary to effect the
8 transfer of functions from the Immigration and Nat-
9 uralization Service to the Office of the Administrator
10 of Immigration Affairs, the Office of Immigration
11 Adjudications, and the Office of Immigration En-
12 forcement. Expenditures from the Account shall be
13 used for—

14 "(A) planning for the transition from the
15 Immigration and Naturalization Service to the
16 Office of the Administrator of Immigration Af-
17 fairs, the Office of Immigration Adjudications,
18 and the Office of Immigration Enforcement, in-
19 cluding the preparation of any reports and im-
20 plementation plans necessary for such transi-
21 tion;

22 "(B) the division, acquisition, and disposi-
23 tion of—

24 "(i) buildings and facilities;

- 1 “(ii) support and infrastructure re-
2 sources; and
3 “(iii) computer hardware, software,
4 and related documentation;
5 “(C) other capital expenditures necessary
6 to effect the transfer of functions described in
7 this paragraph;
8 “(D) revision of forms, stationery, logos,
9 and signage;
10 “(E) expenses associated with the transfer
11 and training of existing personnel and hiring of
12 new personnel; and
13 “(F) such other expenses necessary to ef-
14 fect the transfers, as determined by the Attor-
15 ney General.
16 “(3) AUTHORIZATION OF APPROPRIATIONS.—
17 There are authorized to be appropriated to the At-
18 torney General from time to time such sums as may
19 be necessary for the Account to carry out subpara-
20 graphs (A) through (F) of paragraph (2) and para-
21 graph (5).
22 “(4) AVAILABILITY OF FUNDS.—Amounts de-
23 posited into the Account shall remain available until
24 expended.

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1 “(5) REPORT TO CONGRESS ON TRANSITION.—
2 Beginning not later than 90 days after the creation
3 of such Account and at the end of each year there-
4 after, the Attorney General shall submit a report to
5 Congress concerning the status of the account,
6 including—

7 “(A) any balances therein, and

8 “(B) a calculation of the amount of appro-
9 priations that would be necessary to fully fund
10 the activities described in paragraph (2).”.

11 (2) SENSE OF CONGRESS.—It is the sense of
12 the Congress that neither the immigration adjudica-
13 tion and service functions referred to in section
14 102(b) nor the immigration enforcement functions
15 referred to in section 102(c) should operate at levels
16 below that in existence immediately prior to enact-
17 ment of this Act and that all expenses associated
18 with the transition and transfer of said functions
19 from the Immigration and Naturalization Service to
20 the Office of the Administrator of Immigration Af-
21 fairs, the Office of Immigration Adjudications, and
22 the Office of Immigration Enforcement should be
23 provided for solely from directly appropriated funds
24 into the account established by paragraph (1) and

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1 not from any enforcement, detention, inspections, or
2 adjudications fee account.

3 (b) FEE NOT TRANSFERABLE.—Section 286(m) of
4 the Immigration and Nationality Act (8 U.S.C. 1356(m))
5 is amended to read as follows:

6 “(m)(1) Notwithstanding any other provision of law,
7 all adjudication fees as are designated by the Attorney
8 General in regulations shall be deposited as offsetting re-
9 cepts into a separate account entitled ‘Immigration Ex-
10 aminations Fee Account’ in the Treasury of the United
11 States (in this subsection referred to as the ‘Account’),
12 whether collected directly by the Attorney General or
13 through clerks of courts.

14 “(2)(A) All fees received by the Attorney General
15 from applicants residing in the Virgin Islands of the
16 United States and in Guam under this subsection shall
17 be paid over to the treasury of the Virgin Islands and to
18 the treasury of Guam.

19 “(B) Fees for providing adjudication and naturaliza-
20 tion services may be set at a level that—

21 “(i) will ensure recovery of the full costs of pro-
22 viding all such services, including the costs of similar
23 services provided without charge to asylum appli-
24 cants or other immigrants; and

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1 “(ii) will recover any additional costs associated
2 with the administration of the fees collected.

3 “(3) Each fee collected for the provision of an adju-
4 dication or naturalization service shall be used only to
5 fund adjudication or naturalization services or, subject to
6 the availability of funds provided pursuant to paragraph
7 (6), costs of similar services provided without charge to
8 asylum and refugee applicants.

9 “(4) No such fee may be transferred to the Office
10 of Immigration Enforcement or to any other agency or
11 department of government.

12 “(5) No such fee may be used to fund adjudication-
13 related or naturalization-related audits which are not reg-
14 ularly conducted in the normal course of operation.

15 “(6) There are authorized to be appropriated such
16 sums as may be necessary to carry out the provisions of
17 sections 207 through 209. All funds appropriated to carry
18 out this paragraph shall be deposited into the Account and
19 shall remain available until expended.”.

20 (c) SERVICE BACKLOG REDUCTION, INFRASTRUC-
21 TURE, AND PROCESS IMPROVEMENT FUND.—Section
22 286 of the Immigration and Nationality Act (8 U.S.C.
23 1356), as amended by subsection (a), is further amended
24 by adding at the end the following new subsection:

1 “(u) ESTABLISHMENT OF SERVICE BACKLOG RE-
2 DUCTION, INFRASTRUCTURE, AND PROCESS IMPROVE-
3 MENT FUND ACCOUNT.—

4 “(1) ESTABLISHMENT.—There is established in
5 the general fund of the Treasury of the United
6 States a separate account, which shall be known as
7 the ‘Immigration Services Backlog Reduction, Infra-
8 structure and Process Improvement Fund’ (in this
9 subsection referred to as the ‘Account’).

10 “(2) USE OF ACCOUNT.—There shall be depos-
11 ited into the Account funds appropriated to the At-
12 torney General for backlog reduction, infrastructure
13 improvements, process improvements, major capital
14 acquisitions, and such other service related expenses
15 and programs that the Attorney General deems are
16 not appropriately or adequately provided for out of
17 fees.

18 “(3) AUTHORIZATION OF APPROPRIATIONS.—
19 There are authorized to be appropriated to the At-
20 torney General from time to time such sums as may
21 be necessary for the Account to carry out the pur-
22 poses of this subsection, except that no amount of
23 funds may be appropriated which, when added to
24 amounts previously appropriated but not yet obli-

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1 gated, would cause such amounts to exceed
2 \$500,000,000.

3 "(4) AVAILABILITY OF FUNDS.—Amounts ap-
4 propriated pursuant to this subsection shall remain
5 available until expended.

6 "(5) REPORT TO CONGRESS ON BACKLOG RE-
7DUCTION AND PROCESSING TIMES.—Beginning 90
8 days after the creation of such Account and at the
9 end of each year thereafter, the Attorney General
10 shall submit a report to Congress concerning the
11 status of the account, including any balances there-
12 in. Such report shall also include—

13 "(A) an analysis of the nature and number
14 of the backlog, if any, in processing and adjudi-
15 cating pending—

16 "(i) applications for naturalization
17 under section 308;

18 "(ii) petitions for adjustments of sta-
19 tus under sections 245 and 209;

20 "(iii) petitions for nonimmigrant visas
21 under section 214;

22 "(iv) petitions for immigrant visas
23 under sections 222;

24 "(v) petitions for asylum under sec-
25 tion 208; and

1 “(vi) petitions for temporary protected
2 status under section 244;

3 “(B) in the case of petitions described in
4 subparagraph (A)(i), a State-by-State break-
5 down of the backlog, including the average
6 length of pendency of such petitions;

7 “(C) an analysis of the process changes
8 and additional appropriations necessary, includ-
9 ing but not limited to, additional appropriations
10 for infrastructure, support, and personnel, to
11 eliminate any backlogs described pursuant to
12 subparagraph (A) before the end of the next
13 fiscal year without increasing fees;

14 “(D) an analysis of the estimated proc-
15 essing times for adjudicating newly submitted
16 petitions described in subparagraph (A); and

17 “(E) an analysis of the appropriate proc-
18 essing times for applications described in sub-
19 paragraph (A).”.

(d) CLARIFICATION OF REPROGRAMMING AUTHORITY.—Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356), as amended by subsection (c), is further amended by adding at the end the following new subsection:

1 “(u) CLARIFICATION OF REPROGRAMMING AUTHOR-
2 ITY.—In order to assure a prompt and timely response
3 to emergent, unforeseen, or impending shifts in immigra-
4 tion flows and to assure accommodation of shifting service
5 needs, the Attorney General, the Administrator of the Of-
6 fice of Immigration Affairs, the Director of the Office of
7 Immigration Adjudications, and the Director of the Office
8 of Immigration Enforcement shall proceed forthwith with
9 the implementation of any reprogramming of previously
10 appropriated funds that—

11 “(1) has been submitted in a formal notification
12 of reprogramming to the appropriations committees
13 of both Houses of Congress;

14 “(2) complies with applicable reprogramming
15 law;

16 “(3) otherwise complies with this section; and

17 “(4) has not been formally disapproved of by ei-
18 ther the House or Senate appropriations committees
19 during the 15-day period following the notification
20 described in paragraph (1).”

1 **TITLE III—GENERAL POLICY**
2 **AGAINST DETENTION OF ASY-**
3 **LUM SEEKERS**

4 **SEC. 301. ALTERNATIVES TO DETENTION OF ASYLUM SEEK-**
5 **ERS.**

6 (a) **FINDING.**—The Congress finds that the policy of
7 the United States is generally not to detain asylum seekers
8 who have established a credible fear of persecution.

9 (b) **DEVELOPMENT OF ALTERNATIVES TO DETEN-**
10 **TION.**—In consultation with private nonprofit voluntary
11 agencies with expertise in meeting the legal, spiritual, cul-
12 tural, and psychological needs of asylum seekers, the At-
13 torney General shall develop alternatives to detention, and
14 procedures to ensure their maximum feasible use, that
15 shall at a minimum take into account specific alternatives
16 to the detention of asylum seekers, including—

17 (1) unsupervised release from detention, includ-
18 ing the Asylum Pre-Screening Officer Program, as
19 defined in the Immigration and Naturalization Serv-
20 ice Memorandum of April 20, 1992;

21 (2) for individuals not otherwise qualified for
22 release under paragraph (1), parole supervised by
23 private nonprofit voluntary agencies with expertise
24 in meeting the legal, spiritual, cultural, and psycho-
25 logical needs of asylum seekers;

1 (3) for individuals not otherwise qualified for
2 release under paragraph (1) or (2), non-secure shel-
3 ter care or group homes supervised by private non-
4 profit voluntary agencies with expertise in meeting
5 the legal, spiritual, cultural, and psychological needs
6 of asylum seekers; and

7 (4) noninstitutional settings for minors, such as
8 foster care or group homes, especially for those with
9 special needs, those age 14 and under, and those in
10 long-term custody of the Attorney General.

11 (c) PROHIBITION RELATING TO MINORS.—The pro-
12 cedures developed by the Attorney General under sub-
13 section (b) shall prohibit detention of minors in adult fa-
14 cilities or facilities housing delinquent minors (except in
15 the case of an alien who is inadmissible or deportable by
16 reason of having committed a criminal offense).

17 (d) ALTERNATIVES TO DETENTION IN CRIMINAL
18 SETTING.—In the case of an asylum seeker not otherwise
19 qualified for release under paragraph (1) or (2) of sub-
20 section (b), for whom the alternatives specified in para-
21 graphs (3) and (4) of subsection (b) are not appropriate,
22 and who is not inadmissible or deportable by reason of
23 having committed a criminal offense, the procedures devel-
24 oped by the Attorney General under subsection (b) shall
25 include alternatives to detention in detention facilities

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1 used for the incarceration of persons convicted of a crimi-
2 nal offense.

3 (c) DEFINITIONS.—In this section:

4 (1) The term “asylum seeker” means any appli-
5 cant for asylum under section 208 of the Immigra-
6 tion and Nationality Act (8 U.S.C. 1158) or any
7 alien who indicates an intention to apply for asylum
8 under that section and who has been found by an
9 asylum officer to have a credible fear of persecution.

10 (2) The term “credible fear of persecution” has
11 the meaning given the term in section
12 235(b)(1)(B)(v) of the Immigration and Nationality
13 Act (8 U.S.C. 1225(b)(1)(B)(v)).

14 TITLE IV—GENERAL 15 PROVISIONS

16 SEC. 401. EFFECTIVE DATES.

17 (a) OFFICE OF ADMINISTRATOR.—The transfer of
18 functions under title I shall take effect on the date on
19 which funds are deposited into the account established
20 under section 286(t) of the Immigration and Nationality
21 Act, as added by section 201 of this Act, equal to the
22 amount calculated by the Attorney General under para-
23 graph (5)(B) of such section 286(t). The Office of the Ad-
24 ministrator of Immigration Affairs shall be established,
25 and the Administrator of Immigration Affairs, directors,

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1 and division chiefs of such office shall be appointed, not
2 later than such effective date.

3 (b) FINANCING.—The amendments made by section
4 201 shall take effect 30 days after the date of the enact-
5 ment of this Act.

6 (c) OTHER PROVISIONS.—The remaining provisions
7 of this Act shall take effect on the date of the enactment
8 of this Act.

Amend the title so as to read: "A bill to replace the
Immigration and Naturalization Service with the Office
of the Administrator of Immigration Affairs, to separate
the immigration enforcement and adjudication functions
performed by officers and employees of that Office, to re-
structure the use of fees collected for providing adjudica-
tion and naturalization services, and for other purposes."

Lande, Jeff

From: Lande, Jeff
Sent: Monday, November 08, 1999 4:06 PM
To: 'cathy.st.denis@usdoj.gov'
Subject: Language on inspections

Here is the main option that was shared previously with some House staff. It had been the basis of discussion between Democratic and Republican staff.

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Summary - at major ports of entry, employees of the Bureau of Immigration Services shall review expedited removal orders before they are executed, and that, at smaller ports, employees of the Bureau of Immigration Services shall provide training to inspectors and evaluate orders of expedited removal issued by these inspectors.

Elaboration -

At ports of entry when there are three or more inspectors on duty at the time of inspection, an order of expedited removal shall not be executed until it has been reviewed by an immigration adjudicator who reports to the Bureau of Immigration Services, and who has been trained by the Bureau of Immigration Services in asylum law, customer service, expedited removal proceedings and due process.

When there are less than three inspectors on duty, an order of expedited removal may be issued only by an immigration inspector who has been trained, with the participation of the Bureau of Immigration Services, in customer service, expedited removal, due process, and asylum law. The Bureau of Immigration Services shall monitor removal proceedings and review removal orders issued by immigration inspectors to the extent feasible for quality assurance purposes.

In each case, the Bureau of Immigration Services shall provide feedback to the Bureau of Enforcement concerning the inspector which shall be taken into consideration during the inspector's annual performance evaluation.