

AMENDMENTS TO H.R. 5005

ADOPTED BY THE COMMITTEE ON THE JUDICIARY

(July 10, 2002)

(Page & line nos. refer to the text of the introduced bill)

Strike “emergency response providers” each place it appears in the bill and insert “emergency responders”.

Page 4, strike lines 2 and 3 and insert the following:

1 For purposes of this Act:

Page 4, strike lines 13 through 17 and insert the following:

2 (4) The term “emergency responder”—

3 (A) means those organizations that rep-
4 resent or support the first arriving agent or
5 unit capable of moderating an emergency condi-
6 tion or administering to the needs created by an
7 emergency event; and

8 (B) includes Federal, State, and local law
9 enforcement, emergency medical services, emer-
10 gency management, fire, hazardous materials
11 response, public works, public safety commu-
12 nications personnel; public health and medical
13 care personnel; and chief executive govern-
14 mental officials.



Page 5, strike lines 3 through 6 and insert the following:

1 (7) The term “local government” means—

2 (A) a county, municipality, city, town,
3 township, local public authority, school district,
4 special district, intrastate district, council of
5 governments (regardless of whether the council
6 of governments is incorporated as a non-profit
7 corporation under state law), or regional or
8 interstate government.

9 (B) an Indian tribe or authorized tribal or-
10 ganization, or an Alaska Native village or orga-
11 nization; and

12 (C) a rural community, unincorporated
13 town or village, or other public entity.

Page 5, strike lines 7 through 10.

Page 5, strike lines 15 through 21 and insert the following:

14 (11) The term “United States”, when used in
15 a geographic sense, means any State of the United
16 States, the District of Columbia, Puerto Rico, the
17 Virgin Islands, Guam, American Samoa, and the
18 Commonwealth of the Northern Mariana Islands,



1 any possession of the United States, and any waters
2 within the jurisdiction of the United States.

Page 5, after line 21, insert the following:

3 (12)(A) The term “crisis management”—

4 (i) means a function that is predominantly
5 a law enforcement function;

6 (ii) includes measures to identify, acquire,
7 and plan the use of resources needed to antici-
8 pate, prevent, or resolve a threat or act of ter-
9 rorism.

10 (B) With respect to a terrorist incident, the
11 term—

12 (i) includes traditional law enforcement
13 missions, such as intelligence, surveillance, tac-
14 tical operations, negotiations, forensics, and in-
15 vestigations, as well as technical support mis-
16 sions, such as agent identification, search,
17 render safe procedures, transfer and disposal,
18 and limited decontamination;

19 (ii) in addition to the traditional law en-
20 forcement missions, also includes assurance of
21 public health and safety.

22 (13) The term “consequence management”
23 means a function that is predominantly emergency
24 management and includes measures to protect public



1 health and safety, restore essential government serv-
2 ices, and provide emergency relief to governments,
3 businesses, and individuals affected by the con-
4 sequences of terrorism.

5 (14)(A) The term “terrorism” includes inter-
6 national terrorism or domestic terrorism.

7 (B) In this paragraph the term “international
8 terrorism” means activities that occur primarily out-
9 side the territorial jurisdiction of the United States,
10 or transcend national boundaries in terms of the
11 means by which they are accomplished, the persons
12 they appear intended to intimidate or coerce, or the
13 locale in which their perpetrators operate or seek
14 asylum, and—

15 (i) involve violent acts or acts dangerous to
16 human life that are a violation of the criminal
17 laws of the United States or of any State, or
18 that would be a criminal violation if committed
19 within the jurisdiction of the United States or
20 of any State; or

21 (ii) appear to be intended—

22 (I) to intimidate or coerce a civilian
23 population;

24 (II) to influence the policy of a gov-
25 ernment by intimidation or coercion;



1 (III) to affect the conduct of a gov-
2 ernment by mass destruction, assassination
3 or kidnapping; or

4 (IV) to retaliate against a government
5 or its civilian population.

6 (C) In this paragraph the term “domestic ter-
7 rorism” means activities that occur primarily within
8 the territorial jurisdiction United States, and—

9 (i) involve violent acts or acts dangerous to
10 human life that are a violation of the criminal
11 laws of the United States or of any State, or
12 that would be a criminal violation if committed
13 within the jurisdiction of the United States or
14 of any State; or

15 (ii) appear to be intended—

16 (I) to intimidate or coerce a civilian
17 population;

18 (II) to influence the policy of a gov-
19 ernment by intimidation or coercion;

20 (III) to affect the conduct of a gov-
21 ernment by mass destruction, assassination
22 or kidnapping; or

23 (IV) to retaliate against a government
24 or its civilian population.



1 (15) The term “critical infrastructure” means
 2 physical and cyber-based public and private systems
 3 essential to the minimum operations of the economy
 4 and government, including information and tele-
 5 communications, energy, banking and finance, trans-
 6 portation, and water systems and emergency serv-
 7 ices.

Page 7, strike lines 1 through 3 and insert the fol-
 lowing:

8 (C) coordinate Federal, State, and local
 9 government personnel, agencies, and authorities
 10 with each other and with the private sector to
 11 prevent, prepare, and disrupt terrorist activi-
 12 ties.”

Page 7, strike line 11 and insert the following:

13 (C) enforcement and security; and

Page 7, strike line 12 and insert the following:

14 (D) crisis and consequence training and coordi-
 15 nation.

Page 7, strike lines 13 through 17.

Page 8, strike line 18 and insert the following:



1 (a) DEPUTY SECRETARY; UNDER SECRETARIES;
2 GENERAL COUNSEL.—

Page 9, strike lines 7 through 8 and insert the following:

3 (4) An Under Secretary for Enforcement and
4 Security.

Page 9, strike lines 9 through 10.

Page 9, after line 12, insert the following:

5 (8) A General Counsel, who shall be the chief
6 legal officer of the Department.

Page 10, strike lines 1 and 2 (and redesignate provisions accordingly).

Page 10, strike line 4 (and redesignate provisions accordingly).

Page 12, line 4, after “countermeasures” insert “related to the warnings”.

Page 12, strike “and” at line 5, strike the period at line 12 and insert “; and”, and after line 12 insert the following:

7 (8) securing the people, infrastructures, prop-
8 erty, resources, and systems in the United States
9 from acts of terrorism involving chemical, biological,



1 radiological, or nuclear weapons or other emerging
2 threats.

Page 13, line 17, strike “The” and insert “(a) IN
GENERAL.—The”.

Page 13, line 17, strike “reports, assessments, and
analytical”.

Page 14, line 16, strike “reports, assessments, and
analytical”.

Page 15, after line 18, insert the following:

3 (b) INFORMATION SHARING.—The Secretary shall
4 make regulations to provide that information required to
5 be made available to the Secretary under subsection (a)
6 is shared with Federal, State, and local agencies and em-
7 ployees as necessary to guard against threats to homeland
8 security.

Page 15, after line 24 insert the following (and re-
designate provisions and amend the table of contents ac-
cordingly):

9 **SEC. 205. PROCEDURES FOR SHARING INFORMATION.**

10 The Secretary shall establish procedures on the use
11 of information shared under this title that—

12 (1) limit the redissemination of such information to
13 ensure that it is not used for an unauthorized purpose;



1 (2) ensure the security and confidentiality of such in-
2 formation;

3 (3) protect the constitutional and statutory rights of
4 any individuals who are subjects of such information; and

5 (4) provide data integrity through the timely removal
6 and destruction of obsolete or erroneous names and infor-
7 mation.

8 **SEC. 206. PRIVACY OFFICER.**

9 The Secretary shall appoint a senior official in the
10 Department to assume primary responsibility for privacy
11 policy, including-

12 (1) assuring that the use of new technologies
13 sustain, and do not erode, the protections provided
14 in all statues relating to the use, collection, and dis-
15 closure of personal information;

16 (2) assuring that personal information con-
17 tained in Privacy Act systems of records is handled
18 in full compliance with fair information practices as
19 set out in the Privacy Act of 1974 and section 552a
20 of title 5, United States Code;

21 (3) evaluating legislative and regulatory pro-
22 posals involving collection, use, and disclosure of
23 personal information by the Federal government for
24 consistency with the Privacy Act of 1974 and section
25 552a of title 5, United States Code;



1 (4) conducting a privacy impact assessment of
 2 proposed rules when the Secretary deems such as-
 3 sessment appropriate; and

4 (5) preparing a report to the Congress on an
 5 annual basis that identifies any complaints received
 6 from the public as to privacy violations and how the
 7 Department addressed such complaints as well as in-
 8 ternal controls implemented to improve privacy pro-
 9 tections.

Page 16, strike lines 11 through 15.

Page 16, line 16, strike “(2)” and insert “(1)”.

Page 16, line 25, insert “and” after the semicolon.

Page 17, line 1, strike “(3)” and insert “(2)”.

Page 17, line 9, strike “; and” and insert a period.

Page 17, strike lines 10 through 14.

Page 21, after line 2, insert the following (and re-
designate provisions and amend the table of contents ac-
cordingly):

10 **SEC. 305. COMPELLING NEED FOR SCIENCE AND TECH-**
 11 **NOLOGY RESEARCH AND DEVELOPMENT.**

12 It is the sense of the Committee on the Judiciary of
 13 the House of Representatives that there is a compelling



1 need for the Department of Homeland Security to carry
2 out science and technology research and development in
3 a robust and effective manner to prevent and detect ter-
4 rorist attacks, including weapons of mass destruction and
5 cyber security attacks.

Page 21, strike lines 3 through 4 and insert the following (and amend the table of contents accordingly):

6 **TITLE IV—ENFORCEMENT AND**
7 **SECURITY**
8 **Subtitle A—Assignment of Respon-**
9 **sibilities for Enforcement and**
10 **Security**

Page 21, strike lines 5 through 6, and insert the following:

11 **SEC. 401. UNDER SECRETARY FOR ENFORCEMENT AND SE-**
12 **CURITY.**

Page 21, beginning at line 9, strike “Border and Transportation” and insert with “Enforcement and”.

Page 21, strike lines 18 through 24 and insert the following (and redesignate provisions accordingly):

13 (3) carrying out the immigration enforcement
14 functions vested by statute in, or performed by, the
15 Commissioner of Immigration and Naturalization (or



1 any officer, employee, or component of the Immigra-
2 tion and Naturalization Service) immediately before
3 the date on which the transfer of functions specified
4 under section 411 takes effect;

5 (4) establishing and administering rules, in ac-
6 cordance with section 403, governing the granting of
7 visas or other forms of permission, including parole,
8 to enter the United States to individuals who are not
9 a citizen or an alien lawfully admitted for permanent
10 residence in the United States;

Page 22, line 2, strike “and”.

Page 22, line 5, strike the period and insert a semi-
colon.

Page 22, after line 5, insert the following:

11 (7) developing a national program to enhance
12 the capacity of State and local agencies in crisis and
13 consequence management to prepare for and re-
14 spond to incident of terrorism and other emer-
15 gencies, through coordinated training, equipment ac-
16 quisition, technical assistance, and support for Fed-
17 eral, State, and local exercises;

18 (8) with respect to the Nuclear Incident Re-
19 sponse Team (regardless of whether it is operating



1 as an organizational unit of the Department pursu-
2 ant to this title)—

3 (A) establishing standards and certifying
4 when those standards have been met;

5 (B) conducting joint and other exercises
6 and training and evaluating performance; and

7 (C) providing funds to the Department of
8 Energy and the Environmental Protection
9 Agency, as appropriate, for homeland security
10 planning, exercises and training, and equip-
11 ment;

12 (9) coordinating other Federal response re-
13 sources in the event of a terrorist attack and other
14 emergencies;

15 (10) aiding the recovery from terrorist attacks
16 and other emergencies;

17 (11) building a comprehensive national incident
18 management system with Federal, State, and local
19 government personnel, agencies, and authorities, to
20 respond to such attacks and other emergencies;

21 (12) consolidating existing Federal Government
22 emergency response plans into a single, coordinated
23 national response plan; and

24 (13) developing comprehensive programs for de-
25 veloping interoperative communications technology,



1 and helping to ensure that emergency response pro-
2 viders acquire such technology.

Page 22, strike lines 13 through 15 (and redesignate provisions accordingly).

Page 23, line 5, strike “and”.

Page 23, line 9, strike the period and insert a semi-colon.

Page 23, after line 9, insert the following:

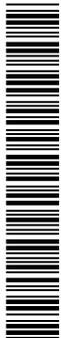
3 (7) the Office of National Preparedness of the
4 Federal Emergency Management Agency, including
5 the functions of the Director of the Federal Emer-
6 gency Management Agency relating thereto;

7 (8) the Office for Domestic Preparedness of the
8 Office of Justice Programs, including the functions
9 of the Attorney General relating thereto;

10 (9) the National Domestic Preparedness Office
11 of the Federal Bureau of Investigation, including the
12 functions of the Attorney General relating thereto;

13 (10) the Domestic Emergency Support Teams
14 of the Department of Justice, including the func-
15 tions of the Attorney General relating thereto;

16 (11) the Office of the Assistant Secretary for
17 Public Health Emergency Preparedness (including
18 the Office of Emergency Preparedness, the National



1 Disaster Medical System, and the Metropolitan Med-
2 ical Response System) of the Department of Health
3 and Human Services, including the functions of the
4 Secretary of Health and Human Services relating
5 thereto; and

6 (12) the Strategic National Stockpile of the De-
7 partment of Health and Human Services, including
8 the functions of the Secretary of Health and Human
9 Services relating thereto.

Beginning on page 23, strike line 10 through page
24, line 6, and insert the following:

10 **SEC. 403. VISA ISSUANCE.**

11 (a) IN GENERAL.—Notwithstanding section 104(a)
12 of the Immigration and Nationality Act (8 U.S.C.
13 1104(a)) or any other provision of law, and except as pro-
14 vided in subsection (b) of this section, the Secretary—

15 (1) shall be vested exclusively with all authori-
16 ties to issue regulations with respect to, administer,
17 and enforce the provisions of such Act, and of all
18 other immigration and nationality laws, relating to
19 the functions of consular officers of the United
20 States in connection with the granting or refusal of
21 visas, which authorities shall be exercised through
22 the Secretary of State, except that the Secretary
23 shall not have authority to alter or reverse the deci-



1 sion of a consular officer to refuse a visa to an alien;
2 and

3 (2) shall have authority to confer or impose
4 upon any officer or employee of the United States,
5 with the consent of the head of the executive agency
6 under whose jurisdiction such officer or employee is
7 serving, any of the functions specified in paragraph
8 (1).

9 (b) AUTHORITY OF THE SECRETARY OF STATE.—

10 (1) FOREIGN POLICY OR SECURITY INTERESTS
11 OF THE UNITED STATES.—The Secretary of State
12 may direct a consular officer to refuse a visa to an
13 alien if the Secretary of State considers such refusal
14 necessary or advisable in the foreign policy or secu-
15 rity interests of the United States.

16 (2) CONSTRUCTION.—Nothing in this section
17 shall be construed as affecting the authorities of the
18 Secretary of State under the following provisions of
19 law:

20 (A) Section 101(a)(15)(A) of the Immigra-
21 tion and Nationality Act (8 U.S.C.
22 1101(a)(15)(A)).

23 (B) Section 212(a)(3)(C) of the Immigra-
24 tion and Nationality Act (8 U.S.C.
25 1182(a)(3)(C)).



1 (C) Section 212(f) of the Immigration and
2 Nationality Act (8 U.S.C. 1182(f)).

3 (D) Section 237(a)(4)(C) of the Immigra-
4 tion and Nationality Act (8 U.S.C.
5 1227(a)(4)(C)).

6 (E) Section 401 of the Cuban Liberty and
7 Democratic Solidarity (LIBERTAD) Act of
8 1996 (22 U.S.C. 6034).

9 (F) Section 613 of the Departments of
10 Commerce, Justice, and State, the Judiciary,
11 and Related Agencies Appropriations Act, 1999
12 (as contained in section 101(b) of division A of
13 Public Law 105-277 (Omnibus Consolidated
14 and Emergency Supplemental Appropriations
15 Act, 1999; 112 Stat. 2681; H.R. 4328; (Orig-
16 nally H.R. 4276) as amended by section 617 of
17 Public Law 106-553.

18 (G) Section 801 of H.R. 3427, the Admiral
19 James W. Nance and Meg Donovan Foreign
20 Relations Authorization Act, Fiscal Years 2000
21 and 2001, as enacted by reference in Public
22 Law 106-113.

23 (H) Section 568 of the Foreign Oper-
24 ations, Export Financing, and Related Pro-



1 grams Appropriations Act, 2002 (Public Law
2 107–115).

3 (c) ASSIGNMENT OF HOMELAND SECURITY EMPLOY-
4 EES TO DIPLOMATIC AND CONSULAR POSTS.—

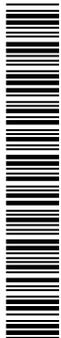
5 (1) IN GENERAL.—The Secretary is authorized
6 to assign employees of the Department of Homeland
7 Security to diplomatic and consular posts abroad to
8 perform the following functions:

9 (A) Provide expert advice to consular offi-
10 cers regarding specific security threats relating
11 to the adjudication of individual visa applica-
12 tions or classes of applications.

13 (B) Review any such applications, either
14 on the initiative of the employee of the Depart-
15 ment of Homeland Security or upon request by
16 a consular officer or other person charged with
17 adjudicating such applications.

18 (C) Conduct investigations with respect to
19 matters under the jurisdiction of the Secretary.

20 (2) PERMANENT ASSIGNMENT; PARTICIPATION
21 IN TERRORIST LOOKOUT COMMITTEE.—When appro-
22 priate, employees of the Department of Homeland
23 Security assigned to perform functions described in
24 paragraph (1) may be assigned permanently to over-
25 seas diplomatic or consular posts with country-spe-



1 cific or regional responsibility. If the Secretary so di-
2 rects, any such employee, when present at an over-
3 seas post, shall participate in the terrorist lookout
4 committee established under section 304 of the En-
5 hanced Border Security and Visa Entry Reform Act
6 of 2002 (8 U.S.C. 1733).

7 (3) TRAINING AND HIRING.—

8 (A) IN GENERAL.—The Secretary shall en-
9 sure that any employees of the Department of
10 Homeland Security assigned to perform func-
11 tions described in paragraph (1) and, as appro-
12 priate, consular officers, shall be provided all
13 necessary training to enable them to carry out
14 such functions, including training in foreign
15 languages, interview techniques, fraud detection
16 techniques, and other skills required by such
17 employees, in conditions in the particular coun-
18 try where each employee is assigned, and in
19 other appropriate areas of study.

20 (B) FOREIGN LANGUAGE PROFICIENCY.—

21 Prior to assigning employees of the Department
22 to perform the functions described in paragraph
23 (1), the Secretary shall promulgate regulations
24 establishing foreign language proficiency re-
25 quirements for employees of the Department



1 performing the functions described in para-
2 graph (1) and providing that preference shall be
3 given to individuals who meet such require-
4 ments in hiring employees for the performance
5 of such functions.

6 (C) USE OF NATIONAL FOREIGN AFFAIRS
7 TRAINING CENTER.—The Secretary is author-
8 ized to use the National Foreign Affairs Train-
9 ing Center, on a reimbursable basis, to obtain
10 the training described in subparagraph (A).

11 (d) NO CREATION OF PRIVATE RIGHT OF ACTION.—
12 Nothing in this section shall be construed to create or au-
13 thorize a private right of action to challenge a decision
14 of a consular officer or other United States official or em-
15 ployee to grant or deny a visa.

16 (e) STUDY REGARDING USE OF FOREIGN NATION-
17 ALS.—

18 (1) IN GENERAL.—The Secretary of Homeland
19 Security shall conduct a study of the role of foreign
20 nationals in the granting or refusal of visas and
21 other documents authorizing entry of aliens into the
22 United States. The study shall address the following:

23 (A) The proper role, if any, of foreign na-
24 tionals in the process of rendering decisions on
25 such grants and refusals.



1 (B) Any security concerns involving the
2 employment of foreign nationals.

3 (C) Whether there are cost-effective alter-
4 natives to the use of foreign nationals.

5 (2) REPORT.—Not later than 2 years after the
6 date of the enactment of this Act, the Secretary
7 shall submit a report containing the findings of the
8 study conducted under paragraph (1) to the Com-
9 mittee on the Judiciary, the Committee on Inter-
10 national Relations, and the Committee on Govern-
11 ment Reform of the House of Representatives, and
12 the Committee on the Judiciary, the Committee on
13 Foreign Relations, and the Committee on Govern-
14 mental Affairs of the Senate.

Page 24, after line 6, insert the following (and
amend the table of contents accordingly):

15 **Subtitle B—Immigration and**
16 **Nationality Functions**
17 **CHAPTER 1—IMMIGRATION**
18 **ENFORCEMENT**

19 **SEC. 411. TRANSFER OF FUNCTIONS TO UNDER SECRETARY**
20 **FOR ENFORCEMENT AND SECURITY.**

21 In accordance with title VIII, there shall be trans-
22 ferred from the Commissioner of Immigration and Natu-
23 ralization to the Under Secretary for Enforcement and Se-



1 curity all functions performed under the following pro-
2 grams, and all personnel, assets, and liabilities pertaining
3 to such programs, immediately before such transfer oc-
4 curs:

- 5 (1) The Border Patrol program.
- 6 (2) The detention and removal program.
- 7 (3) The intelligence program.
- 8 (4) The investigations program.
- 9 (5) The inspections program.

10 **SEC. 412. ESTABLISHMENT OF BUREAU OF IMMIGRATION**
11 **ENFORCEMENT.**

12 (a) ESTABLISHMENT OF BUREAU.—

13 (1) IN GENERAL.—There is established in the
14 Department of Homeland Security a bureau to be
15 known as the “Bureau of Immigration Enforce-
16 ment”.

17 (2) DIRECTOR.—The head of the Bureau of Im-
18 migration Enforcement shall be the Director of the
19 Bureau of Immigration Enforcement, who—

20 (A) shall report directly to the Under Sec-
21 retary for Enforcement and Security; and

22 (B) shall have a minimum of 10 years pro-
23 fessional experience in law enforcement, at least
24 5 of which shall have been years of service in
25 a managerial capacity.



1 (3) FUNCTIONS.—The Director of the Bureau
2 of Immigration Enforcement—

3 (A) shall establish the policies for per-
4 forming such functions as are—

5 (i) transferred to the Under Secretary
6 for Enforcement and Security by section
7 411 and delegated to the Director by the
8 Under Secretary for Enforcement and Se-
9 curity; or

10 (ii) otherwise vested in the Director
11 by law;

12 (B) shall oversee the administration of
13 such policies; and

14 (C) shall advise the Under Secretary for
15 Enforcement and Security with respect to any
16 policy or operation of the Bureau of Immigra-
17 tion Enforcement that may affect the Bureau of
18 Citizenship and Immigration Services of the
19 Department of Justice established under chap-
20 ter 2, including potentially conflicting policies
21 or operations.

22 (4) PROGRAM TO COLLECT INFORMATION RE-
23 LATING TO FOREIGN STUDENTS.—The Director of
24 the Bureau of Immigration Enforcement shall be re-
25 sponsible for administering the program to collect



1 information relating to nonimmigrant foreign stu-
2 dents and other exchange program participants de-
3 scribed in section 641 of the Illegal Immigration Re-
4 form and Immigrant Responsibility Act of 1996 (8
5 U.S.C. 1372), including the Student and Exchange
6 Visitor Information System established under that
7 section, and shall use such information to carry out
8 the enforcement functions of the Bureau.

9 (5) MANAGERIAL ROTATION PROGRAM.—

10 (A) IN GENERAL.—Not later than 1 year
11 after the date on which the transfer of func-
12 tions specified under section 411 takes effect,
13 the Director of the Bureau of Immigration En-
14 forcement shall design and implement a mana-
15 gerial rotation program under which employees
16 of such bureau holding positions involving su-
17 pervisory or managerial responsibility and clas-
18 sified, in accordance with chapter 51 of title 5,
19 United States Code, as a GS-14 or above, shall,
20 as a condition on further promotion—

21 (i) gain some experience in all the
22 major functions performed by such bureau;
23 and

24 (ii) work in at least one local office of
25 such bureau.



1 (B) REPORT.—Not later than 2 years after
2 the date on which the transfer of functions
3 specified under section 411 takes effect, the
4 Secretary shall submit a report to the Congress
5 on the implementation of such program.

6 (b) CHIEF OF POLICY AND STRATEGY.—

7 (1) IN GENERAL.—There shall be a position of
8 Chief of Policy and Strategy for the Bureau of Im-
9 migration Enforcement.

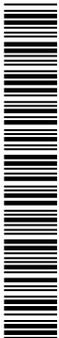
10 (2) FUNCTIONS.—In consultation with Bureau
11 of Immigration Enforcement personnel in local of-
12 fices, the Chief of Policy and Strategy shall be re-
13 sponsible for—

14 (A) establishing national immigration en-
15 forcement policies and priorities;

16 (B) performing policy research and anal-
17 ysis on immigration enforcement issues; and

18 (C) coordinating immigration policy issues
19 with the Chief of Policy and Strategy for the
20 Bureau of Citizenship and Immigration Services
21 of the Department of Justice (established under
22 chapter 2), and the Assistant Attorney General
23 for Citizenship and Immigration Services, as
24 appropriate.

25 (c) GENERAL COUNSEL.—



1 (1) IN GENERAL.—There shall be a position of
2 General Counsel for the Bureau of Immigration En-
3 forcement.

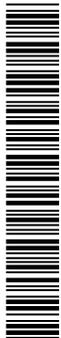
4 (2) FUNCTIONS.—The General Counsel shall
5 serve as the principal legal advisor to the Director
6 of the Bureau of Immigration Enforcement. The
7 General Counsel shall be responsible for—

8 (A) providing specialized legal advice, opin-
9 ions, determinations, regulations, and any other
10 assistance to the Director of the Bureau of Im-
11 migration Enforcement with respect to legal
12 matters affecting the Bureau of Immigration
13 Enforcement; and

14 (B) representing the Bureau of Immigra-
15 tion Enforcement in all exclusion, deportation,
16 or removal proceedings before the Executive Of-
17 fice for Immigration Review, including in pro-
18 ceedings to adjudicate relief from exclusion, de-
19 portation, or removal, and in other legal or ad-
20 ministrative proceedings involving immigration
21 enforcement issues.

22 (d) CHIEF BUDGET OFFICER.—

23 (1) IN GENERAL.—There shall be a position of
24 Chief Budget Officer for the Bureau of Immigration
25 Enforcement.



1 (2) FUNCTIONS.—

2 (A) IN GENERAL.—The Chief Budget Offi-
3 cer shall be responsible for—

4 (i) formulating and executing the
5 budget of the Bureau of Immigration En-
6 forcement;

7 (ii) financial management of the Bu-
8 reau of Immigration Enforcement; and

9 (iii) collecting all payments, fines, and
10 other debts for the Bureau of Immigration
11 Enforcement.

12 (3) AUTHORITY AND FUNCTIONS OF AGENCY
13 CHIEF FINANCIAL OFFICERS.—The Chief Budget
14 Officer for the Bureau of Immigration Enforcement
15 shall have the authorities and functions described in
16 section 902 of title 31, United States Code, in rela-
17 tion to financial activities of such bureau.

18 (e) CHIEF OF CONGRESSIONAL, INTERGOVERN-
19 MENTAL, AND PUBLIC AFFAIRS.—

20 (1) IN GENERAL.—There shall be a position of
21 Chief of Congressional, Intergovernmental, and Pub-
22 lic Affairs for the Bureau of Immigration Enforce-
23 ment.



1 (2) FUNCTIONS.—The Chief of Congressional,
2 Intergovernmental, and Public Affairs shall be re-
3 sponsible for—

4 (A) providing information relating to immi-
5 gration enforcement to the Congress, including
6 information on specific cases relating to immi-
7 gration enforcement;

8 (B) serving as a liaison with other Federal
9 agencies on immigration enforcement issues;
10 and

11 (C) responding to inquiries from the media
12 and the general public on immigration enforce-
13 ment issues.

14 (f) CITIZENSHIP AND IMMIGRATION SERVICES LIAI-
15 SON.—

16 (1) IN GENERAL.—There shall be a position of
17 Citizenship and Immigration Services Liaison for the
18 Bureau of Immigration Enforcement.

19 (2) FUNCTIONS.—The Citizenship and Immi-
20 gration Services Liaison shall be responsible for the
21 appropriate allocation and coordination of resources
22 involved in supporting shared support functions for
23 the Bureau of Citizenship and Immigration Services
24 of the Department of Justice (established under



1 chapter 2) and the Bureau of Immigration Enforce-
2 ment, including—

3 (A) information resources management, in-
4 cluding computer databases and information
5 technology;

6 (B) records and file management; and

7 (C) forms management.

8 **SEC. 413. PROFESSIONAL RESPONSIBILITY AND QUALITY**
9 **REVIEW.**

10 (a) IN GENERAL.—The Under Secretary for Enforce-
11 ment and Security shall be responsible for—

12 (1) conducting investigations of noncriminal al-
13 legations of misconduct, corruption, and fraud in-
14 volving any employee of the Bureau of Immigration
15 Enforcement that are not subject to investigation by
16 the Inspector General for the Department;

17 (2) inspecting the operations of the Bureau of
18 Immigration Enforcement and providing assess-
19 ments of the quality of the operations of such bu-
20 reau as a whole and each of its components; and

21 (3) providing an analysis of the management of
22 the Bureau of Immigration Enforcement.

23 (b) SPECIAL CONSIDERATIONS.—In providing assess-
24 ments in accordance with subsection (a)(2) with respect



1 to a decision of the Bureau of Immigration Enforcement,
2 or any of its components, consideration shall be given to—

3 (1) the accuracy of the findings of fact and con-
4 clusions of law used in rendering the decision;

5 (2) any fraud or misrepresentation associated
6 with the decision; and

7 (3) the efficiency with which the decision was
8 rendered.

9 **SEC. 414. EMPLOYEE DISCIPLINE.**

10 The Under Secretary for Enforcement and Security
11 may, notwithstanding any other provision of law, impose
12 disciplinary action, including termination of employment,
13 pursuant to policies and procedures applicable to employ-
14 ees of the Federal Bureau of Investigation, on any em-
15 ployee of the Bureau of Immigration Enforcement who
16 willfully deceives the Congress or agency leadership on any
17 matter.

18 **SEC. 415. REPORT ON IMPROVING ENFORCEMENT FUNC-**
19 **TIONS.**

20 (a) IN GENERAL.—The Secretary, not later than 1
21 year after the effective date of this Act, shall submit to
22 the Committees on Appropriations and the Judiciary of
23 the United States House of Representatives and of the
24 Senate a report with a plan detailing how the Bureau of
25 Immigration Enforcement, after the transfer of functions



1 specified under section 411 takes effect, will enforce com-
2 prehensively, effectively, and fairly all the enforcement
3 provisions of the Immigration and Nationality Act (8
4 U.S.C. 1101 et seq.) relating to such functions.

5 (b) CONSULTATION.—In carrying out subsection (a),
6 the Secretary of Homeland Security shall consult with the
7 Attorney General, the Secretary of State, the Assistant
8 Attorney General for Citizenship and Immigration Serv-
9 ices, the Director of the Federal Bureau of Investigation,
10 the Secretary of the Treasury, the Secretary of Labor, the
11 Commissioner of Social Security, the Director of the Exec-
12 utive Office for Immigration Review, and the heads of
13 State and local law enforcement agencies to determine how
14 to most effectively conduct enforcement operations.

15 **SEC. 416. REPORT ON INTERIOR CHECKPOINTS.**

16 Not later than 6 months after the date of the enact-
17 ment of this Act, the Attorney General shall submit to
18 the Congress a report on whether all permanent interior
19 checkpoints operated by the Immigration and Naturaliza-
20 tion Service ought to be closed, and the funds that other-
21 wise would be expended for the operation of such check-
22 points ought to be reallocated for protecting and maintain-
23 ing the integrity of the borders of the United States and
24 increasing enforcement at other points of entry into the
25 United States.



1 **CHAPTER 2—CITIZENSHIP AND**
 2 **IMMIGRATION SERVICES**
 3 **Subchapter A—Transfers of Functions**
 4 **SEC. 421. ESTABLISHMENT OF BUREAU OF CITIZENSHIP**
 5 **AND IMMIGRATION SERVICES.**

6 (a) ESTABLISHMENT OF BUREAU.—

7 (1) IN GENERAL.—There is established in the
 8 Department of Justice a bureau to be known as the
 9 “Bureau of Citizenship and Immigration Services”.

10 (2) ASSISTANT ATTORNEY GENERAL.—The
 11 head of the Bureau of Citizenship and Immigration
 12 Services shall be the Assistant Attorney General for
 13 Citizenship and Immigration Services, who—

14 (A) shall report directly to the Deputy At-
 15 torney General; and

16 (B) shall have a minimum of 10 years pro-
 17 fessional experience in the rendering of adju-
 18 dications on the provision of government bene-
 19 fits or services, at least 5 of which shall have
 20 been years of service in a managerial capacity
 21 or in a position affording comparable manage-
 22 ment experience.

23 (3) FUNCTIONS.—The Assistant Attorney Gen-
 24 eral for Citizenship and Immigration Services—



1 (A) shall establish the policies for per-
2 forming such functions as are transferred to the
3 Assistant Attorney General by this section or
4 this Act or otherwise vested in the Assistant At-
5 torney General by law;

6 (B) shall oversee the administration of
7 such policies;

8 (C) shall advise the Deputy Attorney Gen-
9 eral with respect to any policy or operation of
10 the Bureau of Citizenship and Immigration
11 Services that may affect the Bureau of Immi-
12 gration Enforcement of the Department of
13 Homeland Security, including potentially con-
14 flicting policies or operations;

15 (D) shall meet regularly with the Ombuds-
16 man described in section 422 to correct serious
17 service problems identified by the Ombudsman;
18 and

19 (E) shall establish procedures requiring a
20 formal response to any recommendations sub-
21 mitted in the Ombudsman's annual report to
22 the Congress within 3 months after its submis-
23 sion to the Congress.

24 (4) MANAGERIAL ROTATION PROGRAM.—



1 (A) IN GENERAL.—Not later than 1 year
2 after the effective date specified in section 427,
3 the Assistant Attorney General for Citizenship
4 and Immigration Services shall design and im-
5 plement a managerial rotation program under
6 which employees of such bureau holding posi-
7 tions involving supervisory or managerial re-
8 sponsibility and classified, in accordance with
9 chapter 51 of title 5, United States Code, as a
10 GS–14 or above, shall, as a condition on further
11 promotion—

12 (i) gain some experience in all the
13 major functions performed by such bureau;
14 and

15 (ii) work in at least one field office
16 and one service center of such bureau.

17 (B) REPORT.—Not later than 2 years after
18 the effective date specified in section 427, the
19 Attorney General shall submit a report to the
20 Congress on the implementation of such pro-
21 gram.

22 (5) PILOT INITIATIVES FOR BACKLOG ELIMI-
23 NATION.—The Assistant Attorney General for Citi-
24 zenship and Immigration Services is authorized to
25 implement innovative pilot initiatives to eliminate



1 any remaining backlog in the processing of immigra-
2 tion benefit applications, and to prevent any backlog
3 in the processing of such applications from recur-
4 ring, in accordance with section 204(a) of the Immi-
5 gration Services and Infrastructure Improvements
6 Act of 2000 (8 U.S.C. 1573(a)). Such initiatives
7 may include measures such as increasing personnel,
8 transferring personnel to focus on areas with the
9 largest potential for backlog, and streamlining pa-
10 perwork.

11 (b) TRANSFER OF FUNCTIONS FROM COMMIS-
12 SIONER.—There are transferred from the Commissioner
13 of Immigration and Naturalization to the Assistant Attor-
14 ney General for Citizenship and Immigration Services the
15 following functions, and all personnel, infrastructure, and
16 funding provided to the Commissioner in support of such
17 functions immediately before the effective date specified
18 in section 427:

- 19 (1) Adjudications of immigrant visa petitions.
20 (2) Adjudications of naturalization petitions.
21 (3) Adjudications of asylum and refugee appli-
22 cations.
23 (4) Adjudications performed at service centers.



1 (5) All other adjudications performed by the
2 Immigration and Naturalization Service immediately
3 before the effective date specified in section 427.

4 (c) CHIEF OF POLICY AND STRATEGY.—

5 (1) IN GENERAL.—There shall be a position of
6 Chief of Policy and Strategy for the Bureau of Citi-
7 zenship and Immigration Services.

8 (2) FUNCTIONS.—In consultation with Bureau
9 of Citizenship and Immigration Services personnel in
10 field offices, the Chief of Policy and Strategy shall
11 be responsible for—

12 (A) establishing national immigration serv-
13 ices policies and priorities;

14 (B) performing policy research and anal-
15 ysis on immigration services issues; and

16 (C) coordinating immigration policy issues
17 with the Chief of Policy and Strategy for the
18 Bureau of Immigration Enforcement of the De-
19 partment of Homeland Security.

20 (d) GENERAL COUNSEL.—

21 (1) IN GENERAL.—There shall be a position of
22 General Counsel for the Bureau of Citizenship and
23 Immigration Services.

24 (2) FUNCTIONS.—The General Counsel shall
25 serve as the principal legal advisor to the Assistant



1 Attorney General for Citizenship and Immigration
2 Services. The General Counsel shall be responsible
3 for—

4 (A) providing specialized legal advice, opin-
5 ions, determinations, regulations, and any other
6 assistance to the Assistant Attorney General for
7 Citizenship and Immigration Services with re-
8 spect to legal matters affecting the Bureau of
9 Citizenship and Immigration Services; and

10 (B) representing the Bureau of Citizenship
11 and Immigration Services in visa petition ap-
12 peal proceedings before the Executive Office for
13 Immigration Review and in other legal or ad-
14 ministrative proceedings involving immigration
15 services issues.

16 (e) CHIEF BUDGET OFFICER.—

17 (1) IN GENERAL.—There shall be a position of
18 Chief Budget Officer for the Bureau of Citizenship
19 and Immigration Services.

20 (2) FUNCTIONS.—

21 (A) IN GENERAL.—The Chief Budget Offi-
22 cer shall be responsible for—

23 (i) formulating and executing the
24 budget of the Bureau of Citizenship and
25 Immigration Services;



1 (ii) financial management of the Bu-
 2 reau of Citizenship and Immigration Serv-
 3 ices; and

4 (iii) collecting all payments, fines, and
 5 other debts for the Bureau of Citizenship
 6 and Immigration Services.

7 (3) AUTHORITY AND FUNCTIONS OF AGENCY
 8 CHIEF FINANCIAL OFFICERS.—The Chief Budget
 9 Officer for the Bureau of Citizenship and Immigra-
 10 tion Services shall have the authorities and functions
 11 described in section 902 of title 31, United States
 12 Code, in relation to financial activities of such bu-
 13 reau.

14 (f) CHIEF OF CONGRESSIONAL, INTERGOVERN-
 15 MENTAL, AND PUBLIC AFFAIRS.—

16 (1) IN GENERAL.—There shall be a position of
 17 Chief of Congressional, Intergovernmental, and Pub-
 18 lic Affairs for the Bureau of Citizenship and Immi-
 19 gration Services.

20 (2) FUNCTIONS.—The Chief of Congressional,
 21 Intergovernmental, and Public Affairs shall be re-
 22 sponsible for—

23 (A) providing information relating to immi-
 24 gration services to the Congress, including in-



1 formation on specific cases relating to immigra-
2 tion services issues;

3 (B) serving as a liaison with other Federal
4 agencies on immigration services issues; and

5 (C) responding to inquiries from the media
6 and the general public on immigration services
7 issues.

8 (g) IMMIGRATION ENFORCEMENT LIAISON.—

9 (1) IN GENERAL.—There shall be a position of
10 Immigration Enforcement Liaison for the Bureau of
11 Citizenship and Immigration Services.

12 (2) FUNCTIONS.—The Immigration Enforce-
13 ment Liaison shall be responsible for the appropriate
14 allocation and coordination of resources involved in
15 supporting shared support functions for the Bureau
16 of Immigration Enforcement of the Department of
17 Homeland Security and the Bureau of Citizenship
18 and Immigration Services, including—

19 (A) information resources management, in-
20 cluding computer databases and information
21 technology;

22 (B) records and file management; and

23 (C) forms management.

24 (h) CHIEF OF OFFICE OF CITIZENSHIP.—



1 (1) IN GENERAL.—There shall be a position of
2 Chief of the Office of Citizenship for the Bureau of
3 Citizenship and Immigration Services.

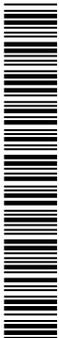
4 (2) FUNCTIONS.—The Chief of the Office of
5 Citizenship for the Bureau of Citizenship and Immi-
6 gration Services shall be responsible for promoting
7 instruction and training on citizenship responsibil-
8 ities for aliens interested in becoming naturalized
9 citizens of the United States, including the develop-
10 ment of educational materials.

11 **SEC. 422. CITIZENSHIP AND IMMIGRATION SERVICES OM-**
12 **BUDSMAN.**

13 (a) IN GENERAL.—Within the Department of Jus-
14 tice, there shall be a position of Citizenship and Immigra-
15 tion Services Ombudsman (in this section referred to as
16 the “Ombudsman”). The Ombudsman shall report directly
17 to the Deputy Attorney General. The Ombudsman shall
18 have a background in customer service as well as immigra-
19 tion law.

20 (b) FUNCTIONS.—It shall be the function of the
21 Ombudsman—

22 (1) to assist individuals and employers in re-
23 solving problems with the Bureau of Citizenship and
24 Immigration Services;



1 (2) to identify areas in which individuals and
2 employers have problems in dealing with the Bureau
3 of Citizenship and Immigration Services;

4 (3) to the extent possible, to propose changes in
5 the administrative practices of the Bureau of Citi-
6 zenship and Immigration Services to mitigate prob-
7 lems identified under paragraph (2); and

8 (4) to identify potential legislative changes that
9 may be appropriate to mitigate such problems.

10 (c) ANNUAL REPORTS.—

11 (1) OBJECTIVES.—Not later than June 30 of
12 each calendar year, the Ombudsman shall report to
13 the Committee on the Judiciary of the United States
14 House of Representatives and the Senate on the ob-
15 jectives of the Office of the Ombudsman for the fis-
16 cal year beginning in such calendar year. Any such
17 report shall contain full and substantive analysis, in
18 addition to statistical information, and—

19 (A) shall identify the initiatives the Office
20 of the Ombudsman has taken on improving
21 services and responsiveness of the Bureau of
22 Citizenship and Immigration Services;

23 (B) shall contain a summary of the most
24 pervasive and serious problems encountered by



1 individuals and employers, including a descrip-
2 tion of the nature of such problems;

3 (C) shall contain an inventory of the items
4 described in subparagraphs (A) and (B) for
5 which action has been taken and the result of
6 such action;

7 (D) shall contain an inventory of the items
8 described in subparagraphs (A) and (B) for
9 which action remains to be completed and the
10 period during which each item has remained on
11 such inventory;

12 (E) shall contain an inventory of the items
13 described in subparagraphs (A) and (B) for
14 which no action has been taken, the period dur-
15 ing which each item has remained on such in-
16 ventory, the reasons for the inaction, and shall
17 identify any official of the Bureau of Citizen-
18 ship and Immigration Services who is respon-
19 sible for such inaction;

20 (F) shall contain recommendations for
21 such administrative and legislative action as
22 may be appropriate to resolve problems encoun-
23 tered by individuals and employers, including
24 problems created by excessive backlogs in the



1 adjudication and processing of immigration ben-
2 efit petitions and applications; and

3 (G) shall include such other information as
4 the Ombudsman may deem advisable.

5 (2) REPORT TO BE SUBMITTED DIRECTLY.—

6 Each report required under this subsection shall be
7 provided directly to the committees described in
8 paragraph (1) without any prior review or comment
9 from the Attorney General, Deputy Attorney Gen-
10 eral, Assistant Attorney General for Citizenship and
11 Immigration Services, or any other officer or em-
12 ployee of the Department of Justice or the Office of
13 Management and Budget.

14 (d) OTHER RESPONSIBILITIES.—The Ombudsman—

15 (1) shall monitor the coverage and geographic
16 allocation of local offices of the Ombudsman;

17 (2) shall develop guidance to be distributed to
18 all officers and employees of the Bureau of Citizen-
19 ship and Immigration Services outlining the criteria
20 for referral of inquiries to local offices of the Om-
21 budsman;

22 (3) shall ensure that the local telephone number
23 for each local office of the Ombudsman is published
24 and available to individuals and employers served by
25 the office; and



1 (4) shall meet regularly with the Assistant At-
2 torney General for Citizenship and Immigration
3 Services to identify serious service problems and to
4 present recommendations for such administrative ac-
5 tion as may be appropriate to resolve problems en-
6 countered by individuals and employers.

7 (e) PERSONNEL ACTIONS.—

8 (1) IN GENERAL.—The Ombudsman shall have
9 the responsibility and authority—

10 (A) to appoint local ombudsmen and make
11 available at least 1 such ombudsman for each
12 State; and

13 (B) to evaluate and take personnel actions
14 (including dismissal) with respect to any em-
15 ployee of any local office of the Ombudsman.

16 (2) CONSULTATION.—The Ombudsman may
17 consult with the appropriate supervisory personnel of
18 the Bureau of Citizenship and Immigration Services
19 in carrying out the Ombudsman's responsibilities
20 under this subsection.

21 (f) RESPONSIBILITIES OF BUREAU OF CITIZENSHIP
22 AND IMMIGRATION SERVICES.—The Assistant Attorney
23 General for Citizenship and Immigration Services shall es-
24 tablish procedures requiring a formal response to all rec-
25 ommendations submitted to such Assistant Attorney Gen-



1 eral by the Ombudsman within 3 months after submission
2 to such director.

3 (g) OPERATION OF LOCAL OFFICES.—

4 (1) IN GENERAL.—Each local ombudsman—

5 (A) shall report to the Ombudsman or the
6 delegate thereof;

7 (B) may consult with the appropriate su-
8 pervisory personnel of the Bureau of Citizen-
9 ship and Immigration Services regarding the
10 daily operation of the local office of such om-
11 budsman;

12 (C) shall, at the initial meeting with any
13 individual or employer seeking the assistance of
14 such local office, notify such individual or em-
15 ployer that the local offices of the Ombudsman
16 operate independently of any other component
17 of the Department of Justice and report di-
18 rectly to the Congress through the Ombudsman;
19 and

20 (D) at the local ombudsman’s discretion,
21 may determine not to disclose to the Bureau of
22 Citizenship and Immigration Services contact
23 with, or information provided by, such indi-
24 vidual or employer.



1 (2) MAINTENANCE OF INDEPENDENT COMMU-
2 NICATIONS.—Each local office of the Ombudsman
3 shall maintain a phone, facsimile, and other means
4 of electronic communication access, and a post office
5 address, that is separate from those maintained by
6 the Bureau of Citizenship and Immigration Services,
7 or any component of the Bureau of Citizenship and
8 Immigration Services.

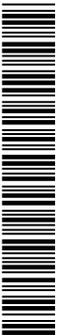
9 **SEC. 423. PROFESSIONAL RESPONSIBILITY AND QUALITY**
10 **REVIEW.**

11 (a) IN GENERAL.—The Assistant Attorney General
12 for Citizenship and Immigration Services shall be respon-
13 sible for—

14 (1) conducting investigations of noncriminal al-
15 legations of misconduct, corruption, and fraud in-
16 volving any employee of the Bureau of Citizenship
17 and Immigration Services that are not subject to in-
18 vestigation by the Department of Justice Office of
19 the Inspector General;

20 (2) inspecting the operations of the Bureau of
21 Citizenship and Immigration Services and providing
22 assessments of the quality of the operations of such
23 bureau as a whole and each of its components; and

24 (3) providing an analysis of the management of
25 the Bureau of Citizenship and Immigration Services.



1 (b) SPECIAL CONSIDERATIONS.—In providing assess-
2 ments in accordance with subsection (a)(2) with respect
3 to a decision of the Bureau of Citizenship and Immigra-
4 tion Services, or any of its components, consideration shall
5 be given to—

6 (1) the accuracy of the findings of fact and con-
7 clusions of law used in rendering the decision;

8 (2) any fraud or misrepresentation associated
9 with the decision; and

10 (3) the efficiency with which the decision was
11 rendered.

12 **SEC. 424. EMPLOYEE DISCIPLINE.**

13 The Assistant Attorney General for Citizenship and
14 Immigration Enforcement may, notwithstanding any other
15 provision of law, impose disciplinary action, including ter-
16 mination of employment, pursuant to policies and proce-
17 dures applicable to employees of the Federal Bureau of
18 Investigation, on any employee of the Bureau of Citizen-
19 ship and Immigration Services who willfully deceives the
20 Congress or agency leadership on any matter.

21 **SEC. 425. OFFICE OF IMMIGRATION STATISTICS WITHIN BU-**
22 **REAU OF JUSTICE STATISTICS.**

23 (a) IN GENERAL.—Part C of title I of the Omnibus
24 Crime Control and Safe Streets Act of 1968 (42 U.S.C.



1 3731 et seq.) is amended by adding at the end the fol-
2 lowing:

3 “OFFICE OF IMMIGRATION STATISTICS

4 “SEC. 305. (a) There is established within the Bu-
5 reau of Justice Statistics of the Department of Justice
6 an Office of Immigration Statistics (in this section re-
7 ferred to as the ‘Office’), which shall be headed by a Direc-
8 tor who shall be appointed by the Attorney General and
9 who shall report to the Director of Justice Statistics.

10 “(b) The Director of the Office shall be responsible
11 for the following:

12 “(1) Maintenance of all immigration statistical
13 information of the Bureau of Citizenship and Immi-
14 gration Services and the Executive Office for Immi-
15 gration Review. Such statistical information shall in-
16 clude information and statistics of the type con-
17 tained in the publication entitled ‘Statistical Year-
18 book of the Immigration and Naturalization Service’
19 prepared by the Immigration and Naturalization
20 Service (as in effect on the day prior to the effective
21 date specified in section 427 of the Homeland Secu-
22 rity Act of 2002), including region-by-region statis-
23 tics on the aggregate number of applications and pe-
24 titions filed by an alien (or filed on behalf of an
25 alien) and denied by such offices and bureaus, and



1 the reasons for such denials, disaggregated by cat-
2 egory of denial and application or petition type.

3 “(2) Establishment of standards of reliability
4 and validity for immigration statistics collected by
5 the Bureau of Citizenship and Immigration Services
6 and the Executive Office for Immigration Review.

7 “(c) The Bureau of Citizenship and Immigration
8 Services and the Executive Office for Immigration Review
9 shall provide statistical information to the Office of Immi-
10 gration Statistics from the operational data systems con-
11 trolled by the Bureau of Citizenship and Immigration
12 Services and the Executive Office for Immigration Review,
13 respectively, for the purpose of meeting the responsibilities
14 of the Director.”.

15 (b) TRANSFER OF FUNCTIONS.—There are trans-
16 ferred to the Office of Immigration Statistics established
17 under section 305 of the Omnibus Crime Control and Safe
18 Streets Act of 1968, as added by subsection (a), the func-
19 tions performed immediately before such transfer occurs
20 by the Statistics Branch of the Office of Policy and Plan-
21 ning of the Immigration and Naturalization Service with
22 respect to the following:

- 23 (1) Adjudications of immigrant visa petitions.
24 (2) Adjudications of naturalization petitions.



1 (3) Adjudications of asylum and refugee appli-
2 cations.

3 (4) Adjudications performed at service centers.

4 (5) All other adjudications performed by the
5 Immigration and Naturalization Service.

6 (c) CONFORMING AMENDMENTS.—Section 302(c) of
7 the Omnibus Crime Control and Safe Streets Act of 1968
8 (42 U.S.C. 3732(c)) is amended—

9 (1) by striking “and” at the end of paragraph
10 (22);

11 (2) by striking the period at the end of para-
12 graph (23) and inserting “; and”; and

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

14 “(24) collect, maintain, compile, analyze, pub-
15 lish, and disseminate information and statistics in-
16 volving the functions of the Bureau of Citizenship
17 and Immigration Services and the Executive Office
18 for Immigration Review.”.

19 **SEC. 426. PRESERVATION OF ATTORNEY GENERAL’S AU-**
20 **THORITY.**

21 (a) IN GENERAL.—Any function for which this sub-
22 chapter vests responsibility in an official other than the
23 Attorney General, or which is transferred by this sub-
24 chapter to such an official, may, notwithstanding any pro-
25 vision of this subchapter, be performed by the Attorney



1 General, or the Attorney General's delegate, in lieu of such
2 official.

3 (b) REFERENCES.—In a case in which the Attorney
4 General performs a function described in subsection (a),
5 any reference in any other Federal law, Executive order,
6 rule, regulation, document, or delegation of authority to
7 the official otherwise responsible for the function is
8 deemed to refer to the Attorney General.

9 **SEC. 427. EFFECTIVE DATE.**

10 Notwithstanding section 4, this subchapter, and the
11 amendments made by this subchapter, shall take effect on
12 the date on which the transfer of functions specified under
13 section 411 takes effect.

14 **SEC. 428. TRANSITION.**

15 (a) REFERENCES.—With respect to any function
16 transferred by this subchapter to, and exercised on or
17 after the effective date specified in section 427 by, the As-
18 sistant Attorney General for Citizenship and Immigration
19 Services, any reference in any other Federal law, Execu-
20 tive order, rule, regulation, or delegation of authority, or
21 any document of or pertaining to a component of govern-
22 ment from which such function is transferred—

23 (1) to the head of such component is deemed to
24 refer to the Assistant Attorney General for Citizen-
25 ship and Immigration Services; or



1 (2) to such component is deemed to refer to the
2 Bureau of Citizenship and Immigration Services.

3 (b) OTHER TRANSITION ISSUES.—

4 (1) EXERCISE OF AUTHORITIES.—Except as
5 otherwise provided by law, a Federal official to
6 whom a function is transferred by this subchapter
7 may, for purposes of performing the function, exer-
8 cise all authorities under any other provision of law
9 that were available with respect to the performance
10 of that function to the official responsible for the
11 performance of the function immediately before the
12 effective date specified in section 427.

13 (2) SAVINGS PROVISIONS.—Subsections (a), (b),
14 and (c) of section 804 shall apply to a transfer of
15 functions under this subchapter in the same manner
16 as such provisions apply to a transfer of functions
17 under this Act to the Department of Homeland Se-
18 curity.

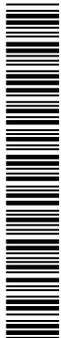
19 (3) TRANSFER AND ALLOCATION OF APPRO-
20 PRIATIONS AND PERSONNEL.—The personnel of the
21 Department of Justice employed in connection with
22 the functions transferred by this subchapter (and
23 functions that the Attorney General determines are
24 properly related to the functions of the Bureau of
25 Citizenship and Immigration Services), and the as-



1 sets, liabilities, contracts, property, records, and un-
2 expended balance of appropriations, authorizations,
3 allocations, and other funds employed, held, used,
4 arising from, available to, or to be made available to,
5 the Immigration and Naturalization Service in con-
6 nection with the functions transferred by this sub-
7 chapter, subject to section 202 of the Budget and
8 Accounting Procedures Act of 1950, shall be trans-
9 ferred to the Assistant Attorney General for Citizen-
10 ship and Immigration Services for allocation to the
11 appropriate component of the Department of Jus-
12 tice. Unexpended funds transferred pursuant to this
13 paragraph shall be used only for the purposes for
14 which the funds were originally authorized and ap-
15 propriated. The Attorney General shall have the
16 right to adjust or realign transfers of funds and per-
17 sonnel effected pursuant to this subchapter for a pe-
18 riod of 2 years after the effective date specified in
19 section 427.

20 (4) AUTHORITIES OF ATTORNEY GENERAL.—

21 The Attorney General (or a delegate of the Attorney
22 General), at such time or times as the Attorney Gen-
23 eral (or the delegate) shall provide, may make such
24 determinations as may be necessary with regard to
25 the functions transferred by this subchapter, and



1 may make such additional incidental dispositions of
2 personnel, assets, liabilities, grants, contracts, prop-
3 erty, records, and unexpended balances of appropria-
4 tions, authorizations, allocations, and other funds
5 held, used, arising from, available to, or to be made
6 available in connection with such functions, as may
7 be necessary to carry out the provisions of this sub-
8 chapter. The Attorney General shall provide for such
9 further measures and dispositions as may be nec-
10 essary to effectuate the purposes of this subchapter.

11 **Subchapter B—Other Provisions**

12 **SEC. 431. FUNDING FOR CITIZENSHIP AND IMMIGRATION**
13 **SERVICES.**

14 (a) ESTABLISHMENT OF FEES FOR ADJUDICATION
15 AND NATURALIZATION SERVICES.—Section 286(m) of the
16 Immigration and Nationality Act (8 U.S.C. 1356(m)) is
17 amended by striking “services, including the costs of simi-
18 lar services provided without charge to asylum applicants
19 or other immigrants.” and inserting “services.”.

20 (b) AUTHORIZATION OF APPROPRIATIONS FOR REF-
21 UGEE AND ASYLUM ADJUDICATIONS.—There are author-
22 ized to be appropriated such sums as may be necessary
23 to carry out the provisions of sections 207 through 209
24 of the Immigration and Nationality Act (8 U.S.C. 1157–
25 1159). All funds appropriated under this subsection shall



1 be deposited into the Immigration Examinations Fee Ac-
2 count established under section 286(m) of the Immigra-
3 tion and Nationality Act (8 U.S.C. 1356(m)) and shall
4 remain available until expended.

5 **SEC. 432. BACKLOG ELIMINATION.**

6 Section 204(a) of the Immigration Services and In-
7 frastructure Improvements Act of 2000 (8 U.S.C.
8 1573(a)) is amended by striking “October 17, 2000;” and
9 inserting “1 year after the date of the enactment of the
10 Homeland Security Act of 2002;”.

11 **SEC. 433. REPORT ON IMPROVING IMMIGRATION SERVICES.**

12 (a) IN GENERAL.—The Attorney General, not later
13 than 1 year after the effective date of this Act, shall sub-
14 mit to the Committees on the Judiciary and Appropria-
15 tions of the United States House of Representatives and
16 of the Senate a report with a plan detailing how the Bu-
17 reau of Citizenship and Immigration Services, after the
18 transfer of functions specified in subchapter 1 takes effect,
19 will complete efficiently, fairly, and within a reasonable
20 time, the adjudications described in paragraphs (1)
21 through (5) of section 421(b).

22 (b) CONTENTS.—For each type of adjudication to be
23 undertaken by the Assistant Attorney General for Citizen-
24 ship and Immigration Services, the report shall include the
25 following:



1 specified in subchapter 1 takes effect, the Bureau of Citi-
2 zenship and Immigration Services, to ensure a prompt and
3 timely response to emergent, unforeseen, or impending
4 changes in the number of applications for immigration
5 benefits, and otherwise to ensure the accommodation of
6 changing immigration service needs.

7 **SEC. 435. APPLICATION OF INTERNET-BASED TECH-**
8 **NOLOGIES.**

9 (a) **ESTABLISHMENT OF TRACKING SYSTEM.**—The
10 Attorney General, not later than 1 year after the effective
11 date of this Act, in consultation with the Technology Advi-
12 sory Committee established under subsection (c), shall es-
13 tablish an Internet-based system, that will permit a per-
14 son, employer, immigrant, or nonimmigrant who has fil-
15 ings with the Attorney General for any benefit under the
16 Immigration and Nationality Act (8 U.S.C. 1101 et seq.),
17 access to online information about the processing status
18 of the filing involved.

19 (b) **FEASIBILITY STUDY FOR ONLINE FILING AND**
20 **IMPROVED PROCESSING.**—

21 (1) **ONLINE FILING.**—The Attorney General, in
22 consultation with the Technology Advisory Com-
23 mittee established under subsection (c), shall con-
24 duct a feasibility study on the online filing of the fil-
25 ings described in subsection (a). The study shall in-



1 clude a review of computerization and technology of
2 the Immigration and Naturalization Service relating
3 to the immigration services and processing of filings
4 related to immigrant services. The study shall also
5 include an estimate of the timeframe and cost and
6 shall consider other factors in implementing such a
7 filing system, including the feasibility of fee payment
8 online.

9 (2) REPORT.—A report on the study under this
10 subsection shall be submitted to the Committees on
11 the Judiciary of the United States House of Rep-
12 resentatives and the Senate not later than 1 year
13 after the effective date of this Act.

14 (c) TECHNOLOGY ADVISORY COMMITTEE.—

15 (1) ESTABLISHMENT.—The Attorney General
16 shall establish, not later than 60 days after the ef-
17 fective date of this Act, an advisory committee (in
18 this section referred to as the “Technology Advisory
19 Committee”) to assist the Attorney General in—

20 (A) establishing the tracking system under
21 subsection (a); and

22 (B) conducting the study under subsection
23 (b).

24 The Technology Advisory Committee shall be estab-
25 lished after consultation with the Committees on the



1 Judiciary of the United States House of Representa-
2 tives and the Senate.

3 (2) COMPOSITION.—The Technology Advisory
4 Committee shall be composed of representatives
5 from high technology companies capable of estab-
6 lishing and implementing the system in an expedi-
7 tious manner, and representatives of persons who
8 may use the tracking system described in subsection
9 (a) and the online filing system described in sub-
10 section (b)(1).

11 **SEC. 436. CHILDREN'S AFFAIRS.**

12 (a) TRANSFER OF FUNCTIONS.—There are trans-
13 ferred to the Director of the Office of Refugee Resettle-
14 ment of the Department of Health and Human Services
15 functions under the immigration laws of the United States
16 with respect to the care of unaccompanied alien children
17 that were vested by statute in, or performed by, the Com-
18 missioner of Immigration and Naturalization (or any offi-
19 cer, employee, or component of the Immigration and Nat-
20 uralization Service) immediately before the effective date
21 specified in subsection (d).

22 (b) FUNCTIONS.—

23 (1) IN GENERAL.—Pursuant to the transfer
24 made by subsection (a), the Director of the Office of
25 Refugee Resettlement shall be responsible for—



1 (A) coordinating and implementing the
2 care and placement of unaccompanied alien
3 children who are in Federal custody by reason
4 of their immigration status, including devel-
5 oping a plan to be submitted to the Congress
6 on how to ensure that qualified and inde-
7 pendent legal counsel is timely appointed to
8 represent the interests of each such child;

9 (B) ensuring that the interests of the child
10 are considered in decisions and actions relating
11 to the care and custody of an unaccompanied
12 alien child;

13 (C) making placement determinations for
14 all unaccompanied alien children who are in
15 Federal custody by reason of their immigration
16 status;

17 (D) implementing the placement deter-
18 minations;

19 (E) implementing policies with respect to
20 the care and placement of unaccompanied alien
21 children;

22 (F) identifying a sufficient number of
23 qualified individuals, entities, and facilities to
24 house unaccompanied alien children;



1 (G) overseeing the infrastructure and per-
2 sonnel of facilities in which unaccompanied
3 alien children reside;

4 (H) reuniting unaccompanied alien chil-
5 dren with a parent abroad in appropriate cases;

6 (I) compiling, updating, and publishing at
7 least annually a state-by-state list of profes-
8 sionals or other entities qualified to provide
9 guardian and attorney representation services
10 for unaccompanied alien children;

11 (J) maintaining statistical information and
12 other data on unaccompanied alien children for
13 whose care and placement the Director is re-
14 sponsible, which shall include—

15 (i) biographical information, such as a
16 child's name, gender, date of birth, country
17 of birth, and country of habitual residence;

18 (ii) the date on which the child came
19 into Federal custody by reason of his or
20 her immigration status;

21 (iii) information relating to the child's
22 placement, removal, or release from each
23 facility in which the child has resided;

24 (iv) in any case in which the child is
25 placed in detention or released, an expla-



1 nation relating to the detention or release;

2 and

3 (v) the disposition of any actions in

4 which the child is the subject;

5 (K) collecting and compiling statistical in-

6 formation from the Department of Justice, the

7 Department of Homeland Security, and the De-

8 partment of State on each department's actions

9 relating to unaccompanied alien children; and

10 (L) conducting investigations and inspec-

11 tions of facilities and other entities in which un-

12 accompanied alien children reside.

13 (2) COORDINATION WITH OTHER ENTITIES; NO

14 RELEASE ON OWN RECOGNIZANCE.—In making de-

15 terminations described in paragraph (1)(C), the Di-

16 rector of the Office of Refugee Resettlement—

17 (A) shall consult with appropriate juvenile

18 justice professionals, the Director of the Bureau

19 of Citizenship and Immigration Services of the

20 Department of Justice, and the Director of the

21 Bureau of Immigration Enforcement of the De-

22 partment of Homeland Security to ensure that

23 such determinations ensure that unaccompanied

24 alien children described in such subparagraph—



1 (i) are likely to appear for all hearings
2 or proceedings in which they are involved;

3 (ii) are protected from smugglers,
4 traffickers, or others who might seek to
5 victimize or otherwise engage them in
6 criminal, harmful, or exploitive activity;
7 and

8 (iii) are placed in a setting in which
9 they not likely to pose a danger to them-
10 selves or others; and

11 (B) shall not release such children upon
12 their own recognizance.

13 (3) DUTIES WITH RESPECT TO FOSTER CARE.—

14 In carrying out the duties described in paragraph
15 (1)(G), the Director of the Office of Refugee Reset-
16 tlement is encouraged to use the refugee children
17 foster care system established pursuant to section
18 412(d) of the Immigration and Nationality Act (8
19 U.S.C. 1522(d)) for the placement of unaccom-
20 panied alien children.

21 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
22 tion may be construed to transfer the responsibility for
23 adjudicating benefit determinations under the Immigra-
24 tion and Nationality Act (8 U.S.C. 1101 et seq.) from the
25 authority of any official of the Department of Justice, the



1 Department of Homeland Security, or the Department of
2 State.

3 (d) EFFECTIVE DATE.—Notwithstanding section 4,
4 this section shall take effect on the date on which the
5 transfer of functions specified under section 411 takes ef-
6 fect.

7 (e) REFERENCES.—With respect to any function
8 transferred by this section, any reference in any other
9 Federal law, Executive order, rule, regulation, or delega-
10 tion of authority, or any document of or pertaining to a
11 component of government from which such function is
12 transferred—

13 (1) to the head of such component is deemed to
14 refer to the Director of the Office of Refugee Reset-
15 tlement; or

16 (2) to such component is deemed to refer to the
17 Office of Refugee Resettlement of the Department of
18 Health and Human Services.

19 (f) OTHER TRANSITION ISSUES.—

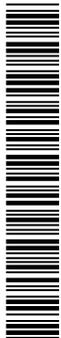
20 (1) EXERCISE OF AUTHORITIES.—Except as
21 otherwise provided by law, a Federal official to
22 whom a function is transferred by this section may,
23 for purposes of performing the function, exercise all
24 authorities under any other provision of law that
25 were available with respect to the performance of



1 that function to the official responsible for the per-
2 formance of the function immediately before the ef-
3 fective date specified in subsection (d).

4 (2) SAVINGS PROVISIONS.—Subsections (a), (b),
5 and (c) of section 804 shall apply to a transfer of
6 functions under this section in the same manner as
7 such provisions apply to a transfer of functions
8 under this Act to the Department of Homeland Se-
9 curity.

10 (3) TRANSFER AND ALLOCATION OF APPRO-
11 PRIATIONS AND PERSONNEL.—The personnel of the
12 Department of Justice employed in connection with
13 the functions transferred by this section, and the as-
14 sets, liabilities, contracts, property, records, and un-
15 expended balance of appropriations, authorizations,
16 allocations, and other funds employed, held, used,
17 arising from, available to, or to be made available to,
18 the Immigration and Naturalization Service in con-
19 nection with the functions transferred by this sec-
20 tion, subject to section 202 of the Budget and Ac-
21 counting Procedures Act of 1950, shall be trans-
22 ferred to the Director of the Office of Refugee Re-
23 settlement for allocation to the appropriate compo-
24 nent of the Department of Health and Human Serv-
25 ices. Unexpended funds transferred pursuant to this



1 paragraph shall be used only for the purposes for
2 which the funds were originally authorized and ap-
3 propriated.

4 (g) DEFINITIONS.—As used in this section—

5 (1) the term “placement” means the placement
6 of an unaccompanied alien child in either a deten-
7 tion facility or an alternative to such a facility; and

8 (2) the term “unaccompanied alien child”
9 means a child who—

10 (A) has no lawful immigration status in
11 the United States;

12 (B) has not attained 18 years of age; and

13 (C) with respect to whom—

14 (i) there is no parent or legal guard-
15 ian in the United States; or

16 (ii) no parent or legal guardian in the
17 United States is available to provide care
18 and physical custody.

19 **CHAPTER 3—GENERAL PROVISIONS**

20 **SEC. 441. ABOLISHMENT OF INS.**

21 The Immigration and Naturalization Service of the
22 Department of Justice is abolished.

23 **SEC. 442. VOLUNTARY SEPARATION INCENTIVE PAYMENTS.**

24 (a) DEFINITIONS.—For purposes of this section—



1 (1) the term “employee” means an employee
2 (as defined by section 2105 of title 5, United States
3 Code) who—

4 (A) has completed at least 3 years of cur-
5 rent continuous service with 1 or more covered
6 entities; and

7 (B) is serving under an appointment with-
8 out time limitation;

9 but does not include any person under subpara-
10 graphs (A)–(G) of section 663(a)(2) of Public Law
11 104–208 (5 U.S.C. 5597 note);

12 (2) the term “covered entity” means—

13 (A) the Immigration and Naturalization
14 Service;

15 (B) the Bureau of Immigration Enforce-
16 ment of the Department of Homeland Security;
17 and

18 (C) the Bureau of Citizenship and Immi-
19 gration Services of the Department of Justice;
20 and

21 (3) the term “transfer date” means the date on
22 which the transfer of functions specified under sec-
23 tion 411 takes effect.

24 (b) STRATEGIC RESTRUCTURING PLAN.—Before the
25 Attorney General or the Secretary obligates any resources



1 for voluntary separation incentive payments under this
2 section, such official shall submit to the appropriate com-
3 mittees of Congress a strategic restructuring plan, which
4 shall include—

5 (1) an organizational chart depicting the cov-
6 ered entities after their restructuring pursuant to
7 this Act;

8 (2) a summary description of how the authority
9 under this section will be used to help carry out that
10 restructuring; and

11 (3) the information specified in section
12 663(b)(2) of Public Law 104–208 (5 U.S.C. 5597
13 note).

14 As used in the preceding sentence, the “appropriate com-
15 mittees of Congress” are the Committees on Appropria-
16 tions, Government Reform, and the Judiciary of the
17 House of Representatives, and the Committees on Appro-
18 priations, Governmental Affairs, and the Judiciary of the
19 Senate.

20 (c) AUTHORITY.—The Attorney General and the Sec-
21 retary may, to the extent necessary to help carry out their
22 respective strategic restructuring plan described in sub-
23 section (b), make voluntary separation incentive payments
24 to employees. Any such payment—



1 (1) shall be paid to the employee, in a lump
2 sum, after the employee has separated from service;

3 (2) shall be paid from appropriations or funds
4 available for the payment of basic pay of the em-
5 ployee;

6 (3) shall be equal to the lesser of—

7 (A) the amount the employee would be en-
8 titled to receive under section 5595(e) of title 5,
9 United States Code; or

10 (B) an amount not to exceed \$25,000, as
11 determined by the Attorney General or the Sec-
12 retary;

13 (4) may not be made except in the case of any
14 qualifying employee who voluntarily separates
15 (whether by retirement or resignation) before the
16 end of—

17 (A) the 3-month period beginning on the
18 date on which such payment is offered or made
19 available to such employee; or

20 (B) the 3-year period beginning on the
21 date of the enactment of this Act,

22 whichever occurs first;

23 (5) shall not be a basis for payment, and shall
24 not be included in the computation, of any other
25 type of Government benefit; and



1 (6) shall not be taken into account in deter-
2 mining the amount of any severance pay to which
3 the employee may be entitled under section 5595 of
4 title 5, United States Code, based on any other sepa-
5 ration.

6 (d) ADDITIONAL AGENCY CONTRIBUTIONS TO THE
7 RETIREMENT FUND.—

8 (1) IN GENERAL.—In addition to any payments
9 which it is otherwise required to make, the Depart-
10 ment of Justice and the Department of Homeland
11 Security shall, for each fiscal year with respect to
12 which it makes any voluntary separation incentive
13 payments under this section, remit to the Office of
14 Personnel Management for deposit in the Treasury
15 of the United States to the credit of the Civil Service
16 Retirement and Disability Fund the amount re-
17 quired under paragraph (2).

18 (2) AMOUNT REQUIRED.—The amount required
19 under this paragraph shall, for any fiscal year, be
20 the amount under subparagraph (A) or (B), which-
21 ever is greater.

22 (A) FIRST METHOD.—The amount under
23 this subparagraph shall, for any fiscal year, be
24 equal to the minimum amount necessary to off-
25 set the additional costs to the retirement sys-



1 tems under title 5, United States Code (payable
2 out of the Civil Service Retirement and Dis-
3 ability Fund) resulting from the voluntary sepa-
4 ration of the employees described in paragraph
5 (3), as determined under regulations of the Of-
6 fice of Personnel Management.

7 (B) SECOND METHOD.—The amount
8 under this subparagraph shall, for any fiscal
9 year, be equal to 45 percent of the sum total
10 of the final basic pay of the employees described
11 in paragraph (3).

12 (3) COMPUTATIONS TO BE BASED ON SEPARA-
13 TIONS OCCURRING IN THE FISCAL YEAR IN-
14 VOLVED.—The employees described in this para-
15 graph are those employees who receive a voluntary
16 separation incentive payment under this section
17 based on their separating from service during the
18 fiscal year with respect to which the payment under
19 this subsection relates.

20 (4) FINAL BASIC PAY DEFINED.—In this sub-
21 section, the term “final basic pay” means, with re-
22 spect to an employee, the total amount of basic pay
23 which would be payable for a year of service by such
24 employee, computed using the employee’s final rate
25 of basic pay, and, if last serving on other than a



1 full-time basis, with appropriate adjustment there-
2 for.

3 (e) EFFECT OF SUBSEQUENT EMPLOYMENT WITH
4 THE GOVERNMENT.—An individual who receives a vol-
5 untary separation incentive payment under this section
6 and who, within 5 years after the date of the separation
7 on which the payment is based, accepts any compensated
8 employment with the Government or works for any agency
9 of the Government through a personal services contract,
10 shall be required to pay, prior to the individual's first day
11 of employment, the entire amount of the incentive pay-
12 ment. Such payment shall be made to the covered entity
13 from which the individual separated or, if made on or after
14 the transfer date, to the Deputy Attorney General (for
15 transfer to the appropriate component of the Department
16 of Justice, if necessary) or the Under Secretary for En-
17 forcement and Security (for transfer to the appropriate
18 component of the Department of Homeland Security, if
19 necessary).

20 (f) EFFECT ON EMPLOYMENT LEVELS.—

21 (1) INTENDED EFFECT.—Voluntary separations
22 under this section are not intended to necessarily re-
23 duce the total number of full-time equivalent posi-
24 tions in any covered entity.



1 (2) USE OF VOLUNTARY SEPARATIONS.—A cov-
 2 ered entity may redeploy or use the full-time equiva-
 3 lent positions vacated by voluntary separations
 4 under this section to make other positions available
 5 to more critical locations or more critical occupa-
 6 tions.

7 **SEC. 443. AUTHORITY TO CONDUCT A DEMONSTRATION**
 8 **PROJECT RELATING TO DISCIPLINARY AC-**
 9 **TION.**

10 (a) IN GENERAL.—The Attorney General and the
 11 Secretary may each, during a period ending not later than
 12 5 years after the date of the enactment of this Act, con-
 13 duct a demonstration project for the purpose of deter-
 14 mining whether one or more changes in the policies or pro-
 15 cedures relating to methods for disciplining employees
 16 would result in improved personnel management.

17 (b) SCOPE.—A demonstration project under this
 18 section—

19 (1) may not cover any employees apart from
 20 those employed in or under a covered entity; and

21 (2) shall not be limited by any provision of
 22 chapter 43, 75, or 77 of title 5, United States Code.

23 (c) PROCEDURES.—Under the demonstration
 24 project—



1 (1) the use of alternative means of dispute reso-
2 lution (as defined in section 571 of title 5, United
3 States Code) shall be encouraged, whenever appro-
4 priate; and

5 (2) each covered entity under the jurisdiction of
6 the official conducting the project shall be required
7 to provide for the expeditious, fair, and independent
8 review of any action to which section 4303 or sub-
9 chapter II of chapter 75 of such title 5 would other-
10 wise apply (except an action described in section
11 7512(5) thereof).

12 (d) ACTIONS INVOLVING DISCRIMINATION.—Not-
13 withstanding any other provision of this section, if, in the
14 case of any matter described in section 7702(a)(1)(B) of
15 title 5, United States Code, there is no judicially review-
16 able action under the demonstration project within 120
17 days after the filing of an appeal or other formal request
18 for review (referred to in subsection (c)(2)), an employee
19 shall be entitled to file a civil action to the same extent
20 and in the same manner as provided in section 7702(e)(1)
21 of such title 5 (in the matter following subparagraph (C)
22 thereof).

23 (e) CERTAIN EMPLOYEES.—Employees shall not be
24 included within any project under this section if such em-
25 ployees are—



1 (1) neither managers nor supervisors; and

2 (2) within a unit with respect to which a labor
3 organization is accorded exclusive recognition under
4 chapter 71 of title 5, United States Code.

5 Notwithstanding the preceding sentence, an aggrieved em-
6 ployee within a unit (referred to in paragraph (2)) may
7 elect to participate in a complaint procedure developed
8 under the demonstration project in lieu of any negotiated
9 grievance procedure and any statutory procedure (as such
10 term is used in section 7121 of such title 5).

11 (f) REPORTS.—The General Accounting Office shall
12 prepare and submit to the Committees on Government Re-
13 form and the Judiciary of the House of Representatives
14 and the Committees on Governmental Affairs and the Ju-
15 diciary of the Senate periodic reports on any demonstra-
16 tion project conducted under this section, such reports to
17 be submitted after the second and fourth years of its oper-
18 ation. Upon request, the Attorney General or the Sec-
19 retary shall furnish such information as the General Ac-
20 counting Office may require to carry out this subsection.

21 (g) DEFINITION.—In this section, the term “covered
22 entity” has the meaning given such term in section
23 442(a)(2).

24 **SEC. 444. SENSE OF CONGRESS.**

25 It is the sense of the Congress that—



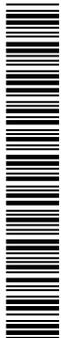
1 (1) the missions of the Bureau of Immigration
2 Enforcement of the Department of Homeland Secu-
3 rity and the Bureau of Citizenship and Immigration
4 Services of the Department of Justice are equally
5 important and, accordingly, they each should be ade-
6 quately funded; and

7 (2) the functions transferred under this subtitle
8 should not, after such transfers take effect, operate
9 at levels below those in effect prior to the enactment
10 of this Act.

11 **SEC. 445. REPORTS AND IMPLEMENTATION PLANS.**

12 (a) DIVISION OF FUNDS.—The Attorney General and
13 the Secretary, not later than 120 days after the effective
14 date of this Act, shall each submit to the Committees on
15 Appropriations and the Judiciary of the United States
16 House of Representatives and of the Senate a report on
17 the proposed division and transfer of funds, including un-
18 expended funds, appropriations, and fees, between the Bu-
19 reau of Citizenship and Immigration Services and the Bu-
20 reau of Immigration Enforcement.

21 (b) DIVISION OF PERSONNEL.—The Attorney Gen-
22 eral and the Secretary, not later than 120 days after the
23 effective date of this Act, shall each submit to the Commit-
24 tees on Appropriations and the Judiciary of the United
25 States House of Representatives and of the Senate a re-



1 port on the proposed division of personnel between the Bu-
2 reau of Citizenship and Immigration Services and the Bu-
3 reau of Immigration Enforcement.

4 (c) IMPLEMENTATION PLAN.—

5 (1) IN GENERAL.—The Attorney General and
6 the Secretary, not later than 120 days after the ef-
7 fective date of this Act, and every 6 months there-
8 after until the termination of fiscal year 2005, shall
9 each submit to the Committees on Appropriations
10 and the Judiciary of the United States House of
11 Representatives and of the Senate an implementa-
12 tion plan to carry out this Act.

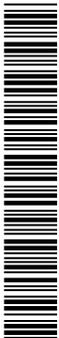
13 (2) CONTENTS.—The implementation plan
14 should include details concerning the separation of
15 the Bureau of Citizenship and Immigration Services
16 and the Bureau of Immigration Enforcement, in-
17 cluding the following:

18 (A) Organizational structure, including the
19 field structure.

20 (B) Chain of command.

21 (C) Procedures for interaction among such
22 bureaus.

23 (D) Fraud detection and investigation.



1 (E) The processing and handling of re-
2 moval proceedings, including expedited removal
3 and applications for relief from removal.

4 (F) Recommendations for conforming
5 amendments to the Immigration and Nation-
6 ality Act (8 U.S.C. 1101 et seq.).

7 (G) Establishment of a transition team.

8 (H) Methods to phase in the costs of sepa-
9 rating the administrative support systems of
10 the Immigration and Naturalization Service in
11 order to provide for separate administrative
12 support systems for the Bureau of Citizenship
13 and Immigration Services and the Bureau of
14 Immigration Enforcement.

15 (d) COMPTROLLER GENERAL STUDIES AND RE-
16 PORTS.—

17 (1) STATUS REPORTS ON TRANSITION.—Not
18 later than 18 months after the date on which the
19 transfer of functions specified under section 411
20 takes effect, and every 6 months thereafter, until
21 full implementation of this subtitle has been com-
22 pleted, the Comptroller General of the United States
23 shall submit to the Committees on Appropriations
24 and on the Judiciary of the United States House of



1 Representatives and the Senate a report containing
2 the following:

3 (A) A determination of whether the trans-
4 fers of functions made by chapters 1 and 2
5 have been completed, and if a transfer of func-
6 tions has not taken place, identifying the rea-
7 sons why the transfer has not taken place.

8 (B) If the transfers of functions made by
9 chapters 1 and 2 have been completed, an iden-
10 tification of any issues that have arisen due to
11 the completed transfers.

12 (C) An identification of any issues that
13 may arise due to any future transfer of func-
14 tions.

15 (2) REPORT ON MANAGEMENT.—Not later than
16 4 years after the date on which the transfer of func-
17 tions specified under section 411 takes effect, the
18 Comptroller General of the United States shall sub-
19 mit to the Committees on Appropriations and on the
20 Judiciary of the United States House of Representa-
21 tives and the Senate a report, following a study, con-
22 taining the following:

23 (A) Determinations of whether the transfer
24 of functions from the Immigration and Natu-
25 ralization Service to the Bureau of Citizenship



1 and Immigration Services and the Bureau of
2 Immigration Enforcement have improved, with
3 respect to each function transferred, the fol-
4 lowing:

5 (i) Operations.

6 (ii) Management, including account-
7 ability and communication.

8 (iii) Financial administration.

9 (iv) Recordkeeping, including informa-
10 tion management and technology.

11 (B) A statement of the reasons for the de-
12 terminations under subparagraph (A).

13 (C) Any recommendations for further im-
14 provements to the Bureau of Citizenship and
15 Immigration Services and the Bureau of Immi-
16 gration Enforcement.

17 (3) REPORT ON FEES.—Not later than 1 year
18 after the date of the enactment of this Act, the
19 Comptroller General of the United States shall sub-
20 mit to the Committees on the Judiciary of the
21 House of Representatives and of the Senate a report
22 examining whether the Bureau of Citizenship and
23 Immigration Services is likely to derive sufficient
24 funds from fees to carry out its functions in the ab-
25 sence of appropriated funds.



Page 24, strike line 7 and all that follows through page 27, line 15.

Page 27, line 16, strike “**503**” and insert “**404**”.

Page 28, line 10, strike “**504**”; and insert “**405**”.

Page 29, line 1, strike “**505**” and insert “**406**”.

Page 30, line 12, before “In” insert “(a) IN GENERAL.—

Page 31, after line 6, insert the following:

1 (b) IMMIGRATION ENFORCEMENT.—

2 (1) IN GENERAL.—In addition to the respon-
3 sibilities described in subsection (a), the Under Sec-
4 retary for Management shall be responsible for the
5 following:

6 (A) Maintenance of all immigration statis-
7 tical information of the Bureau of Immigration
8 Enforcement. Such statistical information shall
9 include information and statistics of the type
10 contained in the publication entitled “Statistical
11 Yearbook of the Immigration and Naturaliza-
12 tion Service” prepared by the Immigration and
13 Naturalization Service (as in effect immediately
14 before the date on which the transfer of func-
15 tions specified under section 411 takes effect),



1 including region-by-region statistics on the ag-
2 gregate number of applications and petitions
3 filed by an alien (or filed on behalf of an alien)
4 and denied by such bureau, and the reasons for
5 such denials, disaggregated by category of de-
6 nial and application or petition type.

7 (B) Establishment of standards of reli-
8 ability and validity for immigration statistics
9 collected by the Bureau of Immigration En-
10 forcement.

11 (2) TRANSFER OF FUNCTIONS.—In accordance with
12 title VIII, there shall be transferred to the Under Sec-
13 retary for Management all functions performed imme-
14 diately before such transfer occurs by the Statistics
15 Branch of the Office of Policy and Planning of the Immi-
16 gration and Naturalization Service with respect to the fol-
17 lowing programs:

18 (A) The Border Patrol program.

19 (B) The detention and removal program.

20 (C) The intelligence program.

21 (D) The investigations program.

22 (E) The inspections program.

Page 31, strike lines 15 through 19 and insert the
following:



1 **TITLE VII—INSPECTOR GEN-**
2 **ERAL; GENERAL PROVISIONS**

Page 31, strike line 20 and all that follows through page 32, line 19.

Page 32, line 20, strike “**Subtitle B**” and insert “**Subtitle A**”.

Page 33, line 2, insert “sensitive” before “information”.

Page 34, strike lines 7 through 10 and insert the following:

3 (c) NOTIFICATION REQUIRED.—If the Secretary ex-
4 ercises any power under subsection (a) or (b), the Sec-
5 retary shall notify the Inspector General of the Depart-
6 ment in writing stating the reasons for such exercise.
7 Within 30 days after receipt of any such notice, the In-
8 spector General shall transmit a copy of such notice and
9 a written response thereto that includes (1) a statement
10 as to whether the Inspector General agrees or disagrees
11 with such exercise and (2) the reasons for any disagree-
12 ment, to the President of the Senate and the Speaker of
13 the House of Representatives and to appropriate commit-
14 tees and subcommittees of the Congress.



1 (d) APPOINTMENT OF DEPUTY INSPECTOR GENERAL
2 FOR CIVIL RIGHTS AND CIVIL LIBERTIES.—The Inspector
3 General of the Department of Homeland Security shall ap-
4 point a Deputy Inspector General for Civil Rights and
5 Civil Liberties (hereinafter in this subsection referred to
6 as the “Deputy”).

7 (e) CIVIL RIGHTS AND CIVIL LIBERTIES REVIEW.—
8 The Deputy shall—

9 (1) review information alleging abuses of civil
10 rights, civil liberties, and racial and ethnic profiling
11 by employees and officials of the Department of
12 Homeland Security;

13 (2) make public through the Internet, radio, tel-
14 evision, or newspaper advertisements information on
15 the responsibilities and functions of, and how to con-
16 tact, the Deputy; and

17 (3) submit to the President of the Senate, the
18 Speaker of the House of Representatives, and the
19 appropriate committees and subcommittees of the
20 Congress on a semiannual basis a report on the im-
21 plementation of this subsection and detailing any
22 abuses described in paragraph (1), including the use
23 of funds appropriated to carry out this subsection.

Page 34, beginning at line 11, strike subtitle C of
title VII (and redesignate provisions accordingly)



Page 34, line 20, strike “**Subtitle D**” and insert “**Subtitle B**”.

Page 35, line 5, insert “(a)” before “Notwithstanding”.

Page 35, line 13, strike “; and”, and after line 13 insert the following:

1 “(b) Notwithstanding any other provision of this title,
2 the Secretary shall, in consultation with the Director of
3 the Office of Personnel Management, review the pay and
4 benefit plans of each agency whose functions are trans-
5 ferred under this title to the Department and, within 90
6 days after the date of enactment, submit a plan to the
7 President of the Senate and the Speaker of the House of
8 Representatives and the appropriate committees and sub-
9 committees of the Congress, for ensuring, to the maximum
10 extent practicable, the elimination of disparities in pay
11 and benefits throughout the Department, especially among
12 law enforcement personnel, that are inconsistent with
13 merit system principles set forth in section 2301 of title
14 5, United States Code.”; and

Page 41, after line 6, insert the following (and redesignate provisions and amend the table of contents accordingly):



1 **SEC. 735. CONTINUING PROTECTION OF WHISTLEBLOWER**
2 **PROTECTION ACT.**

3 It is the sense of the Committee on the Judiciary of
4 the House of Representatives that employees transferred
5 to the Department who, on the date of the enactment of
6 this Act, are covered by section 2302(b)(8) of title 5,
7 United States Code (popularly known as the Whistle-
8 blower Protection Act), should continue to receive that
9 protection. However, recognizing that personnel in the De-
10 partment will have access to substantial law enforcement
11 information and intelligence, the Committee believes that
12 such whistleblower protections should not compromise in-
13 formation or intelligence that would be protected if it re-
14 mained in other agencies.

15 **SEC. 736. ESTABLISHMENT OF INTERNET SITE FOR RE-**
16 **PORTING SUSPICIOUS ACTIVITIES.**

17 It is the sense of the Committee on the Judiciary of
18 the House of Representatives that the Secretary of Home-
19 land Security shall establish a site on the Internet, the
20 purpose of which shall be to provide a single location at
21 which may be found a direct connection to all other Inter-
22 net sites established by Federal agencies for reporting sus-
23 picious activities. The Committee recommends that the
24 Secretary take such action as is necessary to ensure that
25 the domain name for the site is www.911.gov, or an equal-
26 ly identifiable domain name.



Page 44, after line 10 insert the following:

1 (f) TASK FORCE ON ADMINISTRATIVE PROCE-
2 DURE.—The Secretary shall appoint a task force to resolve
3 conflicts among and harmonize the various administrative
4 procedures of the agencies transferred to the Department.
5 The task force should be composed of legal officers (or
6 similarly qualified persons) made available for this pur-
7 pose by the head of the executive agency from which the
8 transferred agency came.

9 (g) ADMINISTRATIVE LAW JUDGES.—The Office of
10 Personnel Management shall ensure that there are suffi-
11 cient qualified administrative law judge resources available
12 to the Department to conduct matters required to be con-
13 ducted by administrative law judges in agencies trans-
14 ferred to the Department.

Page 45, line 1, strike “Subject” and insert “(1)
Subject”.

Page 45, line 3, strike “(1)” and insert “(A)”.

Page 45, line 12, strike “(2)” and insert “(B)”.

Page 45, after line 20, insert the following:

15 (2)(A) The Secretary’s authority under paragraph
16 (1) does not extend to a pending proceeding in or an order



1 issued by an agency that has not yet been transferred to
2 the Department.

3 (B) Unless the Secretary makes a determination in
4 writing stating the reason it should not do so—

5 (i) a pending proceeding before an agency
6 transferred to the Department shall continue to be
7 pending;

8 (ii) an order issued by an agency transferred to
9 the Department shall continue in force; and

10 (iii) the procedure applicable before the transfer
11 shall continue to apply to such proceeding or order.

Page 47, after line 19, insert the following:

12 **SEC. 807. AUTHORIZATIONS.**

13 Nothing in this Act shall be construed to authorize
14 the development of a national identification system or
15 card.

Page 48, line 8, before “Title” insert “(a) IN GEN-
ERAL.—”.

Page 48, line 24, strike the period at the end and
insert “; and”.

Page 48, after line 24, insert the following:

16 (5) in section 5315, by striking “Commissioner
17 of Immigration and Naturalization, Department of
18 Justice.”.



1 (b) SPECIAL EFFECTIVE DATE.—Notwithstanding
2 section 4, the amendment made by subsection (a)(5) shall
3 take effect on the date on which the transfer of functions
4 specified under section 411 takes effect.

Page 49, line 4, strike “of the Treasury” and insert
“Secretary of the Treasury”.

Page 49, line 5, strike “of Homeland Security” and
insert “Attorney General”.

At the end of the bill add the following:

5 **TITLE —TRANSFERS TO THE**
6 **DEPARTMENT OF JUSTICE**

7 **SEC. ___01. TRANSFER OF THE FEDERAL LAW ENFORCE-**
8 **MENT TRAINING CENTER.**

9 There shall be transferred to the Attorney General
10 the functions, personnel, assets, and liabilities of the Fed-
11 eral Law Enforcement Training Center, including any
12 functions of the Secretary of the Treasury relating there-
13 to.

14 **SEC. ___02. TRANSFER OF THE UNITED STATES SECRET**
15 **SERVICE.**

16 There shall be transferred to the Attorney General
17 the functions, personnel, assets, and liabilities of the
18 United States Secret Service, including any functions of
19 the Secretary of the Treasury relating thereto.



1 **SEC. ____03. STUDY.**

2 Not later than 90 days after the effective date of this
3 Act, the Attorney General shall submit a plan to the Com-
4 mittee on the Judiciary of the House of Representatives
5 and the Committee on the Judiciary of the Senate regard-
6 ing the integration of the United States Secret Service and
7 the Federal Law Enforcement Training Center into the
8 Department of Justice.

