

106TH CONGRESS
1ST SESSION

H. R. 2528

To establish the Bureau of Immigration Services and the Bureau of
Immigration Enforcement within the Department of Justice.

IN THE HOUSE OF REPRESENTATIVES

JULY 15, 1999

Mr. ROGERS (for himself, Mr. SMITH of Texas, Mr. REYES, Mr. BARR of Georgia, Mr. BARRETT of Nebraska, Mr. BECERRA, Mr. BENTSEN, Mr. BILBRAY, Mr. BONILLA, Mrs. BONO, Mr. BOSWELL, Mr. BOYD, Mr. BRADY of Texas, Mr. CALLAHAN, Mr. CANADY of Florida, Mr. CANNON, Mrs. CAPPS, Mr. CHAMBLISS, Mr. CLEMENT, Mr. COLLINS, Mr. CONDIT, Mr. COSTELLO, Mr. CUNNINGHAM, Mr. DAVIS of Illinois, Mr. DEAL of Georgia, Mr. DOOLEY of California, Mr. DUNCAN, Mr. EDWARDS, Mr. FARR of California, Mr. FILNER, Mr. FORD, Mrs. FOWLER, Mr. GALLEGLY, Mr. GONZALEZ, Mr. GOODLATTE, Ms. GRANGER, Mr. GREEN of Texas, Mr. HINOJOSA, Mr. HOBSON, Mr. HUNTER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KINGSTON, Mr. KOLBE, Mr. LATHAM, Mr. LEWIS of California, Mr. LEWIS of Kentucky, Mr. MARTINEZ, Mr. METCALF, Mr. MILLER of Florida, Mr. MINGE, Mrs. NAPOLITANO, Mr. ORTIZ, Mr. PACKARD, Mr. PASTOR, Mr. ROHRABACHER, Mr. ROMERO-BARCELÓ, Mr. ROTHMAN, Mr. ROYCE, Mr. SENSENBRENNER, Mr. SHERMAN, Mr. SKEEN, Mr. SNYDER, Mr. SPRATT, Mr. STUMP, Mr. SUNUNU, Mr. TRAFICANT, Mr. TURNER, Mr. UNDERWOOD, Mr. WAMP, Mr. WELDON of Pennsylvania, and Mr. WHITFIELD) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To establish the Bureau of Immigration Services and the
Bureau of Immigration Enforcement within the Depart-
ment of Justice.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
 5 “Immigration Reorganization and Improvement Act of
 6 1999”.

7 (b) **TABLE OF CONTENTS.**—The table of contents of
 8 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Establishment of Bureau of Immigration Services.
- Sec. 3. Establishment of Bureau of Immigration Enforcement.
- Sec. 4. Exercise of authorities.
- Sec. 5. Savings provisions.
- Sec. 6. Transfer and allocation of appropriations and personnel.
- Sec. 7. Statutory construction.
- Sec. 8. Reports and implementation plans.
- Sec. 9. Definitions.
- Sec. 10. Effective date; transition.

9 **SEC. 2. ESTABLISHMENT OF BUREAU OF IMMIGRATION**
 10 **SERVICES.**

11 (a) **ESTABLISHMENT OF BUREAU.**—

12 (1) **IN GENERAL.**—There is established in the
 13 Department of Justice a bureau to be known as the
 14 Bureau of Immigration Services (in this section re-
 15 ferred to as the “Service Bureau”).

16 (2) **DIRECTOR.**—The head of the Service Bu-
 17 reau shall be the Director of the Bureau of Immi-
 18 gration Services who—

19 (A) shall be appointed by the President, by
 20 and with the advice and consent of the Senate;

1 (B) shall report directly to the Attorney
2 General or her delegate; and

3 (C) shall have a minimum of 10 years ex-
4 perience in providing services or processing ap-
5 plications for benefits, or both, with at least 5
6 of those years in management, or shall have
7 comparable management experience.

8 (3) COMPENSATION.—Such Director shall be
9 paid at the rate of basic pay payable for level IV of
10 the Executive Schedule (as listed in section 5315 of
11 title 5, United States Code).

12 (4) FUNCTIONS.—Such Director shall perform
13 such functions as are transferred to the Director by
14 this section or this Act or otherwise vested in the
15 Director by law.

16 (b) TRANSFER OF FUNCTIONS.—There are trans-
17 ferred from the Commissioner of the Immigration and
18 Naturalization Service to the Director of the Bureau of
19 Immigration Services all functions performed under the
20 following programs, and all personnel, infrastructure, and
21 funding provided to the Commissioner in support of such
22 programs immediately before the effective date of this sec-
23 tion:

24 (1) Adjudications of nonimmigrant and immi-
25 grant visa petitions.

1 (2) Adjudications of naturalization petitions.

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

4 (4) Adjudications performed at Service centers.

5 (5) All other adjudications under the Immigra-
6 tion and Nationality Act performed by the Immigra-
7 tion and Naturalization Service as of the date of the
8 enactment of this Act.

9 (c) CHIEF FINANCIAL OFFICER FOR THE BUREAU OF
10 IMMIGRATION SERVICES.—There shall be a position of
11 Chief Financial Officer for the Bureau of Immigration
12 Services and this position shall be a career reserved posi-
13 tion within the Senior Executive Service and shall have
14 the authorities and functions described in section 902 of
15 title 31, United States Code, in relation to financial activi-
16 ties of the Service Bureau. The provisions of section 903
17 of such title (relating to Deputy Chief Financial Officers)
18 shall also apply to such Bureau in the same manner as
19 the previous sentence applies to such Bureau.

20 (d) REFERENCES.—With respect to any function
21 transferred from the Commissioner of the Immigration
22 and Naturalization Service by this section or Act to, and
23 exercised on or after the effective date of this section by,
24 the Services Bureau, reference in any other Federal law,
25 Executive order, rule, regulation, or delegation of author-

1 ity, or any document of or pertaining to an office from
2 which a function is so transferred—

3 (1) to the head of such office is deemed to refer
4 to the Director of the Bureau of Immigration Serv-
5 ices; or

6 (2) to such office is deemed to refer to the
7 Services Bureau.

8 **SEC. 3. ESTABLISHMENT OF BUREAU OF IMMIGRATION EN-**
9 **FORCEMENT.**

10 (a) ESTABLISHMENT OF BUREAU.—

11 (1) IN GENERAL.—There is established in the
12 Department of Justice a bureau to be known as the
13 Bureau of Immigration Enforcement (in this section
14 referred to as the “Enforcement Bureau”).

15 (2) DIRECTOR.—The head of the Enforcement
16 Bureau shall be the Director of the Bureau of Immi-
17 gration Enforcement who—

18 (A) shall be appointed by the President, by
19 and with the advice and consent of the Senate;

20 (B) shall report directly to the Attorney
21 General or her delegate; and

22 (C) shall have a minimum of 10 years ex-
23 perience in law enforcement, with at least 5 of
24 those years in management, or shall have com-
25 parable management experience.

1 (3) COMPENSATION.—Such Director shall be
2 paid at the rate of basic pay payable for level IV of
3 the Executive Schedule (as listed in section 5315 of
4 title 5, United States Code).

5 (4) FUNCTIONS.—Such Director shall perform
6 such functions as are transferred to the Director by
7 this section or Act or otherwise vested in the Direc-
8 tor by law.

9 (b) TRANSFER OF FUNCTIONS.—There are trans-
10 ferred from the Commissioner of the Immigration and
11 Naturalization Service to the Director of the Bureau of
12 Immigration Enforcement all functions performed under
13 the following programs, and all personnel, infrastructure,
14 and funding provided to the Commissioner in support of
15 such programs immediately before the effective date of
16 this section:

17 (1) The Border Patrol program.

18 (2) The detention and deportation program.

19 (3) The intelligence program.

20 (4) The investigations program.

21 (5) The inspections program.

22 (c) CHIEF FINANCIAL OFFICER FOR THE BUREAU OF
23 IMMIGRATION ENFORCEMENT.—There shall be a position
24 of Chief Financial Officer for the Bureau of Immigration
25 Enforcement and this position shall be a career reserved

1 position within the Senior Executive Service and shall
2 have the authorities and functions described in section 902
3 of title 31, United States Code, in relation to financial
4 activities of the Enforcement Bureau. The provisions of
5 section 903 of such title (relating to Deputy Chief Finan-
6 cial Officers) shall also apply to such Bureau in the same
7 manner as the previous sentence applies to such Bureau.

8 (d) REFERENCES.—With respect to any function
9 transferred from the Commissioner of the Immigration
10 and Naturalization Service by this section or Act to, and
11 exercised on or after the effective date of this section by,
12 the Director of the Bureau of Immigration Enforcement,
13 any reference in any other Federal law, Executive order,
14 rule, regulation, or delegation of authority, or any docu-
15 ment of or pertaining to an office from which a function
16 is so transferred—

17 (1) to the head of such office is deemed to refer
18 to the Director of the Bureau of Immigration En-
19 forcement; or

20 (2) to such office is deemed to refer to the En-
21 forcement Bureau.

22 **SEC. 4. EXERCISE OF AUTHORITIES.**

23 Except as otherwise provided by law, a Federal offi-
24 cial to whom a function is transferred by this Act may,
25 for purposes of performing the function, exercise all au-

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

6 **SEC. 5. SAVINGS PROVISIONS.**

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

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

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

21 shall continue in effect according to their terms until
22 modified, terminated, superseded, set aside, or revoked in
23 accordance with law by the President, any other author-
24 ized official, a court of competent jurisdiction, or operation
25 of law.

1 (b) PROCEEDINGS.—Sections 2 and 3 and this sec-
2 tion shall not affect any proceedings or any application
3 for any benefits, service, license, permit, certificate, or fi-
4 nancial assistance pending on the effective date specified
5 in section 10 before an office whose functions are trans-
6 ferred by this Act, but such proceedings and applications
7 shall be continued. Orders shall be issued in such pro-
8 ceedings, appeals shall be taken therefrom, and payments
9 shall be made pursuant to such orders, as if this Act had
10 not been enacted, and orders issued in any such pro-
11 ceeding shall continue in effect until modified, terminated,
12 superseded, or revoked by a duly authorized official, by
13 a court of competent jurisdiction, or by operation of law.
14 Nothing in this section shall be considered to prohibit the
15 discontinuance or modification of any such proceeding
16 under the same terms and conditions and to the same ex-
17 tent that such proceeding could have been discontinued
18 or modified if this section had not been enacted.

19 (c) SUITS.—This Act shall not affect suits com-
20 menced before the effective date specified in section 10,
21 and in all such suits, proceeding shall be had, appeals
22 taken, and judgments rendered in the same manner and
23 with the same effect as if this Act had not been enacted.

24 (d) NONABATEMENT OF ACTIONS.—No suit, action,
25 or other proceeding commenced by or against the Depart-

1 ment of Justice or the Immigration and Naturalization
2 Service, or by or against any individual in the official ca-
3 pacity of such individual as an officer or employee in con-
4 nection with a function transferred by this section, shall
5 abate by reason of the enactment of this Act.

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

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

21 **SEC. 6. TRANSFER AND ALLOCATION OF APPROPRIATIONS**
22 **AND PERSONNEL.**

23 (a) IN GENERAL.—The personnel of the Department
24 of Justice employed in connection with the functions
25 transferred by this section (and functions that the Attor-

1 ney General determines are properly related to the func-
2 tions of the Bureau of Immigration Services or Bureau
3 of Immigration Enforcement would, if so transferred, fur-
4 ther the purposes of the respective Bureau), and the as-
5 sets, liabilities, contracts, property, records, and unex-
6 pended balance of appropriations, authorizations, alloca-
7 tions, and other funds employed, held, used, arising from,
8 available to, or to be made available to the Immigration
9 and Naturalization Service in connection with the func-
10 tions transferred by this Act, subject to section 202 of the
11 Budget and Accounting Procedures Act of 1950, shall be
12 transferred to the Bureau for appropriate allocation by the
13 Director of the Bureau of Immigration Services and Di-
14 rector of the Bureau of Immigration Enforcement, respec-
15 tively. Unexpended funds transferred pursuant to this sub-
16 section shall be used only for the purposes for which the
17 funds were originally authorized and appropriated. The
18 Attorney General shall retain the right to adjust or realign
19 transfers of funds and personnel effected pursuant to this
20 Act for a period of 2 years after the date of the establish-
21 ment of the Bureaus.

22 (b) EFFECT ON PERSONNEL.—

23 (1) EFFECT ON INDIVIDUAL EMPLOYEES.—The
24 transfer under this Act of full-time personnel (except
25 special Government employees) and part-time per-

1 sonnel holding permanent positions shall not cause
2 any such employee to be separated or reduced in
3 grade or compensation for 1 year after the date of
4 transfer to the Bureau involved.

5 (2) COMPENSATION LEVELS.—All transfers of
6 personnel under this Act shall be consistent with em-
7 ployee pay and grade retention entitlement under
8 subchapter VI of chapter 53 of title 5, United States
9 Code, and shall not be reduced for any individual in
10 a career position in the civil service, as of the date
11 of the enactment of this Act.

12 (3) SENIOR EXECUTIVE SERVICE.—A person
13 who, on the day preceding the effective date in sec-
14 tion 10, holds a career Senior Executive Service po-
15 sition in the Immigration and Naturalization Service
16 shall be appointed, without a break in service, to a
17 similar or like position in the Bureau of Immigration
18 Services or the Bureau of Immigration Enforcement
19 if the person meets the minimum qualifications of
20 such position.

21 (c) NUMBER OF AUTHORIZED PERSONNEL.—Noth-
22 ing in this Act shall be interpreted to decrease the number
23 of authorized positions within each program as it exists
24 on the date of the enactment of this Act in the Immigra-
25 tion and Naturalization Service.

1 (d) DELEGATION AND ASSIGNMENT.—Except as oth-
2 erwise expressly prohibited by law or otherwise provided
3 in this Act, the Director of the Bureau of Immigration
4 Services and the Director of the Bureau of Immigration
5 Enforcement to whom functions are transferred under this
6 Act may delegate any of the functions so transferred to
7 such officers and employees of the Bureau of Immigration
8 Services and the Bureau of Immigration Enforcement, re-
9 spectively, as such Director may designate, and may au-
10 thorize successive redelegations of such functions as may
11 be necessary or appropriate. No delegation of functions
12 under this subsection or under any other provision of this
13 Act shall relieve the official to whom a function is trans-
14 ferred under this Act of responsibility for the administra-
15 tion of the function.

16 (e) AUTHORITIES OF ATTORNEY GENERAL.—

17 (1) INCIDENTAL TRANSFERS.—The Attorney
18 General (or a delegate of the Attorney General), at
19 such time or times as the Attorney General (or the
20 delegate) shall provide, may make such determina-
21 tions as may be necessary with regard to the func-
22 tions transferred by this Act, and to make such ad-
23 ditional incidental dispositions of personnel, assets,
24 liabilities, grants, contracts, property, records, and
25 unexpended balances of appropriations, authoriza-

1 tions, allocations, and other funds held, used, arising
2 from, available to, or to be made available in connec-
3 tion with such functions, as may be necessary to
4 carry out the provisions of this Act. The Attorney
5 General shall provide for such further measures and
6 dispositions as may be necessary to effectuate the
7 purposes of this Act.

8 (2) TREATMENT OF SHARED RESOURCES.—The
9 Attorney General is authorized to provide for an ap-
10 propriate allocation, or coordination, or both, of re-
11 sources involved in supporting shared support func-
12 tions for the Bureau of Immigration Services, the
13 Bureau of Immigration Enforcement, and offices
14 within the Department of Justice. Such shared sup-
15 port functions may include information resources
16 management, human resources and training, secu-
17 rity, records and forms management, equal oppor-
18 tunity activities, and facilities and procurement ad-
19 ministration. The Attorney General, through the
20 Justice Management Division, shall maintain over-
21 sight and control over the shared computer data-
22 bases and systems and records management.

23 **SEC. 7. STATUTORY CONSTRUCTION.**

24 Nothing in this Act may be construed to preclude or
25 limit in any way the powers, authorities, or duties of the

1 Secretary of State and special agents of the Department
2 of State and the Foreign Service under the State Depart-
3 ment Basic Authorities Act of 1956, the Immigration and
4 Nationality Act, or any other Act to investigate illegal
5 passport or visa issuance or use.

6 **SEC. 8. REPORTS AND IMPLEMENTATION PLANS.**

7 (a) DIVISION OF FUNDS.—The Attorney General, not
8 later than 120 days after the date of the enactment of
9 this Act, shall submit to the Committees on Appropria-
10 tions of the House of Representatives and of the Senate
11 a report on the proposed division and transfer of funds,
12 including unexpended funds, appropriations, and fees, be-
13 tween the Bureau of Immigration Services and the Bureau
14 of Immigration Enforcement. Not later than 60 days after
15 the date of submittal of such report, each Bureau shall
16 submit to such Committees an operating plan of resources
17 allocated, by object class and decision unit structure.

18 (b) DIVISION OF PERSONNEL.—The Attorney Gen-
19 eral, not later than 120 days after the date of the enact-
20 ment of this Act, shall submit to the Committees on Ap-
21 propriations and the Judiciary of the House of Represent-
22 atives and of the Senate a report on the proposed division
23 of personnel between such Bureaus.

24 (c) IMPLEMENTATION PLAN.—The Attorney General,
25 not later than 120 days after the date of the enactment

1 of this Act, shall submit to the Committees on Appropria-
2 tions and the Judiciary of the House of Representatives
3 and of the Senate a plan to carry out this Act. The plan
4 should include details concerning the separation of the Bu-
5 reaus and address the issues of chain of command, shared
6 services, file and data management and oversight, finan-
7 cial management systems, procedures for interaction be-
8 tween the two Bureaus, fraud detection and investigation,
9 organizational structure, and establishment of a transition
10 team. The plan should also include ways to phase in the
11 costs of separating the administration support systems of
12 the Immigration and Naturalization Service in order to
13 provide for separate administrative support systems for
14 such Bureaus where such systems are best provided for
15 separately.

16 (d) DETENTION.—The Attorney General shall, not
17 later than 180 days after the date of the enactment of
18 this Act, submit to the Committees on Appropriations of
19 the House of Representatives and of the Senate a plan
20 to transfer the detention operations of the Bureau of Im-
21 migration Enforcement (established under section 3) to
22 the Federal Prison System. The plan should specifically
23 address the detention of criminal aliens, non-criminal
24 aliens, and asylum seekers and should outline the steps

1 necessary for the transfer to occur not later than 4 years
2 after the date the plan is submitted.

3 **SEC. 9. DEFINITIONS.**

4 For purposes of this Act:

5 (1) The term “function” includes any duty, ob-
6 ligation, power, authority, responsibility, right, privi-
7 lege, activity, or program.

8 (2) The term “office” includes any office, ad-
9 ministration, agency, bureau, institute, council, unit,
10 organizational entity, or component thereof.

11 **SEC. 10. EFFECTIVE DATE; TRANSITION.**

12 The transfer of functions under this Act shall take
13 effect on the date that is 1 year after the date of the enact-
14 ment of this Act. The Bureau of Immigration Services and
15 the Bureau of Immigration Enforcement shall be estab-
16 lished, and the Directors of such Bureaus shall be ap-
17 pointed, not later than such effective date. To the extent
18 that functions to be transferred to such Directors or Bu-
19 reaus under this Act continue to be performed by the Im-
20 migration and Naturalization Service during fiscal year
21 2000, the Attorney General shall provide for an appro-
22 priate accounting of funds and an appropriate transfer of
23 funds appropriated to the Immigration and Naturalization
24 Service to such respective Bureaus.

○