

Public Law 99-603
99th Congress

An Act

To amend the Immigration and Nationality Act to revise and reform the immigration laws, and for other purposes.

Nov. 6, 1986

[S. 1200]

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

SECTION 1. SHORT TITLE; REFERENCES IN ACT.

(a) SHORT TITLE.—This Act may be cited as the “Immigration Reform and Control Act of 1986”.

(b) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided in this Act, whenever in this Act an amendment or repeal is expressed as an amendment to, or repeal of, a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

Immigration
Reform and
Control Act of
1986.
8 USC 1101 note.

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TITLE I—CONTROL OF ILLEGAL IMMIGRATION

PART A—EMPLOYMENT

SEC. 101. CONTROL OF UNLAWFUL EMPLOYMENT OF ALIENS.

(a) IN GENERAL.—

(1) **NEW PROVISION.**—Chapter 8 of title II is amended by inserting after section 274 (8 U.S.C. 1324) the following new section:

“UNLAWFUL EMPLOYMENT OF ALIENS

8 USC 1324a.

“SEC. 274A. (a) MAKING EMPLOYMENT OF UNAUTHORIZED ALIENS UNLAWFUL.—

“(1) IN GENERAL.—It is unlawful for a person or other entity to hire, or to recruit or refer for a fee, for employment in the United States—

“(A) an alien knowing the alien is an unauthorized alien (as defined in subsection (h)(3)) with respect to such employment, or

“(B) an individual without complying with the requirements of subsection (b).

“(2) CONTINUING EMPLOYMENT.—It is unlawful for a person or other entity, after hiring an alien for employment in accordance with paragraph (1), to continue to employ the alien in the United States knowing the alien is (or has become) an unauthorized alien with respect to such employment.

“(3) DEFENSE.—A person or entity that establishes that it has complied in good faith with the requirements of subsection (b)

with respect to the hiring, recruiting, or referral for employment of an alien in the United States has established an affirmative defense that the person or entity has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral.

“(4) **USE OF LABOR THROUGH CONTRACT.**—For purposes of this section, a person or other entity who uses a contract, subcontract, or exchange, entered into, renegotiated, or extended after the date of the enactment of this section, to obtain the labor of an alien in the United States knowing that the alien is an unauthorized alien (as defined in subsection (h)(3)) with respect to performing such labor, shall be considered to have hired the alien for employment in the United States in violation of paragraph (1)(A).

“(5) **USE OF STATE EMPLOYMENT AGENCY DOCUMENTATION.**—For purposes of paragraphs (1)(B) and (3), a person or entity shall be deemed to have complied with the requirements of subsection (b) with respect to the hiring of an individual who was referred for such employment by a State employment agency (as defined by the Attorney General), if the person or entity has and retains (for the period and in the manner described in subsection (b)(3)) appropriate documentation of such referral by that agency, which documentation certifies that the agency has complied with the procedures specified in subsection (b) with respect to the individual's referral.

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

“(1) **ATTESTATION AFTER EXAMINATION OF DOCUMENTATION.**—

“(A) **IN GENERAL.**—The person or entity must attest, under penalty of perjury and on a form designated or established by the Attorney General by regulation, that it has verified that the individual is not an unauthorized alien by examining—

“(i) a document described in subparagraph (B), or

“(ii) a document described in subparagraph (C) and a document described in subparagraph (D).

A person or entity has complied with the requirement of this paragraph with respect to examination of a document if the document reasonably appears on its face to be genuine. If an individual provides a document or combination of documents that reasonably appears on its face to be genuine and that is sufficient to meet the requirements of such sentence, nothing in this paragraph shall be construed as requiring the person or entity to solicit the production of any other document or as requiring the individual to produce such a document.

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

“(i) United States passport;

“(ii) certificate of United States citizenship;

“(iii) certificate of naturalization;

“(iv) unexpired foreign passport, if the passport has an appropriate, unexpired endorsement of the Attorney

General authorizing the individual's employment in the United States; or

"(v) resident alien card or other alien registration card, if the card—

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

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

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

"(i) social security account number card (other than such a card which specifies on the face that the issuance of the card does not authorize employment in the United States);

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

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

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

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

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

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

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

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

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

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

“(ii) one year after the date the individual’s employment is terminated,

whichever is later.

“(4) COPYING OF DOCUMENTATION PERMITTED.—Notwithstanding any other provision of law, the person or entity may copy a document presented by an individual pursuant to this subsection and may retain the copy, but only (except as otherwise permitted under law) for the purpose of complying with the requirements of this subsection.

“(5) LIMITATION ON USE OF ATTESTATION FORM.—A form designated or established by the Attorney General under this subsection and any information contained in or appended to such form, may not be used for purposes other than for enforcement of this Act and sections 1001, 1028, 1546, and 1621 of title 18, United States Code.

“(c) NO AUTHORIZATION OF NATIONAL IDENTIFICATION CARDS.—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

“(d) EVALUATION AND CHANGES IN EMPLOYMENT VERIFICATION SYSTEM.—

“(1) PRESIDENTIAL MONITORING AND IMPROVEMENTS IN SYSTEM.—

“(A) MONITORING.—The President shall provide for the monitoring and evaluation of the degree to which the employment verification system established under subsection (b) provides a secure system to determine employment eligibility in the United States and shall examine the suitability of existing Federal and State identification systems for use for this purpose.

“(B) IMPROVEMENTS TO ESTABLISH SECURE SYSTEM.—To the extent that the system established under subsection (b) is found not to be a secure system to determine employment eligibility in the United States, the President shall, subject to paragraph (3) and taking into account the results of any demonstration projects conducted under paragraph (4), implement such changes in (including additions to) the requirements of subsection (b) as may be necessary to establish a secure system to determine employment eligibility in the United States. Such changes in the system may be implemented only if the changes conform to the requirements of paragraph (2).

“(2) RESTRICTIONS ON CHANGES IN SYSTEM.—Any change the President proposes to implement under paragraph (1) in the verification system must be designed in a manner so the verification system, as so changed, meets the following requirements:

“(A) RELIABLE DETERMINATION OF IDENTITY.—The system must be capable of reliably determining whether—

“(i) a person with the identity claimed by an employee or prospective employee is eligible to work, and

“(ii) the employee or prospective employee is claiming the identity of another individual.

“(B) USING OF COUNTERFEIT-RESISTANT DOCUMENTS.—If the system requires that a document be presented to or examined by an employer, the document must be in a form which is resistant to counterfeiting and tampering.

“(C) LIMITED USE OF SYSTEM.—Any personal information utilized by the system may not be made available to Government agencies, employers, and other persons except to the extent necessary to verify that an individual is not an unauthorized alien.

“(D) PRIVACY OF INFORMATION.—The system must protect the privacy and security of personal information and identifiers utilized in the system.

“(E) LIMITED DENIAL OF VERIFICATION.—A verification that an employee or prospective employee is eligible to be employed in the United States may not be withheld or revoked under the system for any reason other than that the employee or prospective employee is an unauthorized alien.

“(F) LIMITED USE FOR LAW ENFORCEMENT PURPOSES.—The system may not be used for law enforcement purposes, other than for enforcement of this Act or sections 1001, 1028, 1546, and 1621 of title 18, United States Code.

“(G) RESTRICTION ON USE OF NEW DOCUMENTS.—If the system requires individuals to present a new card or other document (designed specifically for use for this purpose) at the time of hiring, recruitment, or referral, then such document may not be required to be presented for any purpose other than under this Act (or enforcement of sections 1001, 1028, 1546, and 1621 of title 18, United States Code) nor to be carried on one's person.

“(3) NOTICE TO CONGRESS BEFORE IMPLEMENTING CHANGES.—

“(A) IN GENERAL.—The President may not implement any change under paragraph (1) unless at least—

“(i) 60 days,

“(ii) one year, in the case of a major change described in subparagraph (D)(iii), or

“(iii) two years, in the case of a major change described in clause (i) or (ii) of subparagraph (D),

before the date of implementation of the change, the President has prepared and transmitted to the Committee on the Judiciary of the House of Representatives and to the Committee on the Judiciary of the Senate a written report setting forth the proposed change. If the President proposes to make any change regarding social security account number cards, the President shall transmit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a written report setting forth the proposed change. The President promptly shall cause to have printed in the Federal Register the substance of any major change (described in subparagraph (D)) proposed and reported to Congress.

“(B) CONTENTS OF REPORT.—In any report under subparagraph (A) the President shall include recommendations for the establishment of civil and criminal sanctions for un-

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Reports.

Federal
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information.

authorized use or disclosure of the information or identifiers contained in such system.

“(C) CONGRESSIONAL REVIEW OF MAJOR CHANGES.—

“(i) HEARINGS AND REVIEW.—The Committees on the Judiciary of the House of Representatives and of the Senate shall cause to have printed in the Congressional Record the substance of any major change described in subparagraph (D), shall hold hearings respecting the feasibility and desirability of implementing such a change, and, within the two year period before implementation, shall report to their respective Houses findings on whether or not such a change should be implemented.

“(ii) CONGRESSIONAL ACTION.—No major change may be implemented unless the Congress specifically provides, in an appropriations or other Act, for funds for implementation of the change.

“(D) MAJOR CHANGES REQUIRING TWO YEARS NOTICE AND CONGRESSIONAL REVIEW.—As used in this paragraph, the term ‘major change’ means a change which would—

“(i) require an individual to present a new card or other document (designed specifically for use for this purpose) at the time of hiring, recruitment, or referral,

“(ii) provide for a telephone verification system under which an employer, recruiter, or referrer must transmit to a Federal official information concerning the immigration status of prospective employees and the official transmits to the person, and the person must record, a verification code, or

“(iii) require any change in any card used for accounting purposes under the Social Security Act, including any change requiring that the only social security account number cards which may be presented in order to comply with subsection (b)(1)(C)(i) are such cards as are in a counterfeit-resistant form consistent with the second sentence of section 205(c)(2)(D) of the Social Security Act.

42 USC 301 note.

42 USC 405.

“(E) GENERAL REVENUE FUNDING OF SOCIAL SECURITY CARD CHANGES.—Any costs incurred in developing and implementing any change described in subparagraph (D)(iii) for purposes of this subsection shall not be paid for out of any trust fund established under the Social Security Act.

“(4) DEMONSTRATION PROJECTS.—

“(A) AUTHORITY.—The President may undertake demonstration projects (consistent with paragraph (2)) of different changes in the requirements of subsection (b). No such project may extend over a period of longer than three years.

President of U.S.

“(B) REPORTS ON PROJECTS.—The President shall report to the Congress on the results of demonstration projects conducted under this paragraph.

“(e) COMPLIANCE.—

“(1) COMPLAINTS AND INVESTIGATIONS.—The Attorney General shall establish procedures—

“(A) for individuals and entities to file written, signed complaints respecting potential violations of subsection (a),

“(B) for the investigation of those complaints which, on their face, have a substantial probability of validity,

“(C) for the investigation of such other violations of subsection (a) as the Attorney General determines to be appropriate, and

“(D) for the designation in the Service of a unit which has, as its primary duty, the prosecution of cases of violations of subsection (a) under this subsection.

“(2) **AUTHORITY IN INVESTIGATIONS.**—In conducting investigations and hearings under this subsection—

“(A) immigration officers and administrative law judges shall have reasonable access to examine evidence of any person or entity being investigated, and

“(B) administrative law judges may, if necessary, compel by subpoena the attendance of witnesses and the production of evidence at any designated place or hearing.

In case of contumacy or refusal to obey a subpoena lawfully issued under this paragraph and upon application of the Attorney General, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as a contempt thereof.

“(3) **HEARING.**—

“(A) **IN GENERAL.**—Before imposing an order described in paragraph (4) or (5) against a person or entity under this subsection for a violation of subsection (a), the Attorney General shall provide the person or entity with notice and, upon request made within a reasonable time (of not less than 30 days, as established by the Attorney General) of the date of the notice, a hearing respecting the violation.

“(B) **CONDUCT OF HEARING.**—Any hearing so requested shall be conducted before an administrative law judge. The hearing shall be conducted in accordance with the requirements of section 554 of title 5, United States Code. The hearing shall be held at the nearest practicable place to the place where the person or entity resides or of the place where the alleged violation occurred. If no hearing is so requested, the Attorney General's imposition of the order shall constitute a final and unappealable order.

“(C) **ISSUANCE OF ORDERS.**—If the administrative law judge determines, upon the preponderance of the evidence received, that a person or entity named in the complaint has violated subsection (a), the administrative law judge shall state his findings of fact and issue and cause to be served on such person or entity an order described in paragraph (4) or (5).

“(4) **CEASE AND DESIST ORDER WITH CIVIL MONEY PENALTY FOR HIRING, RECRUITING, AND REFERRAL VIOLATIONS.**—With respect to a violation of subsection (a)(1)(A) or (a)(2), the order under this subsection—

“(A) shall require the person or entity to cease and desist from such violations and to pay a civil penalty in an amount of—

“(i) not less than \$250 and not more than \$2,000 for each unauthorized alien with respect to whom a violation of either such subsection occurred,

“(ii) not less than \$2,000 and not more than \$5,000 for each such alien in the case of a person or entity previously subject to one order under this subparagraph, or

“(iii) not less than \$3,000 and not more than \$10,000 for each such alien in the case of a person or entity previously subject to more than one order under this subparagraph; and

“(B) may require the person or entity—

“(i) to comply with the requirements of subsection (b) (or subsection (d) if applicable) with respect to individuals hired (or recruited or referred for employment for a fee) during a period of up to three years, and

“(ii) to take such other remedial action as is appropriate.

In applying this subsection in the case of a person or entity composed of distinct, physically separate subdivisions each of which provides separately for the hiring, recruiting, or referring for employment, without reference to the practices of, and not under the control of or common control with, another subdivision, each such subdivision shall be considered a separate person or entity.

“(5) ORDER FOR CIVIL MONEY PENALTY FOR PAPERWORK VIOLATIONS.—With respect to a violation of subsection (a)(1)(B), the order under this subsection shall require the person or entity to pay a civil penalty in an amount of not less than \$100 and not more than \$1,000 for each individual with respect to whom such violation occurred. In determining the amount of the penalty, due consideration shall be given to the size of the business of the employer being charged, the good faith of the employer, the seriousness of the violation, whether or not the individual was an unauthorized alien, and the history of previous violations.

“(6) ADMINISTRATIVE APPELLATE REVIEW.—The decision and order of an administrative law judge shall become the final agency decision and order of the Attorney General unless, within 30 days, the Attorney General modifies or vacates the decision and order, in which case the decision and order of the Attorney General shall become a final order under this subsection. The Attorney General may not delegate the Attorney General's authority under this paragraph to any entity which has review authority over immigration-related matters.

“(7) JUDICIAL REVIEW.—A person or entity adversely affected by a final order respecting an assessment may, within 45 days after the date the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

“(8) ENFORCEMENT OF ORDERS.—If a person or entity fails to comply with a final order issued under this subsection against the person or entity, the Attorney General shall file a suit to seek compliance with the order in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final order shall not be subject to review.

“(f) CRIMINAL PENALTIES AND INJUNCTIONS FOR PATTERN OR PRACTICE VIOLATIONS.—

“(1) CRIMINAL PENALTY.—Any person or entity which engages in a pattern or practice of violations of subsection (a)(1)(A) or (a)(2) shall be fined not more than \$3,000 for each unauthorized

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alien with respect to whom such a violation occurs, imprisoned for not more than six months for the entire pattern or practice, or both, notwithstanding the provisions of any other Federal law relating to fine levels.

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

“(g) PROHIBITION OF INDEMNITY BONDS.—

“(1) PROHIBITION.—It is unlawful for a person or other entity, in the hiring, recruiting, or referring for employment of any individual, to require the individual to post a bond or security, to pay or agree to pay an amount, or otherwise to provide a financial guarantee or indemnity, against any potential liability arising under this section relating to such hiring, recruiting, or referring of the individual.

“(2) CIVIL PENALTY.—Any person or entity which is determined, after notice and opportunity for an administrative hearing, to have violated paragraph (1) shall be subject to a civil penalty of \$1,000 for each violation and to an administrative order requiring the return of any amounts received in violation of such paragraph to the employee or, if the employee cannot be located, to the general fund of the Treasury.

“(h) MISCELLANEOUS PROVISIONS.—

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

“(2) PREEMPTION.—The provisions of this section preempt any State or local law imposing civil or criminal sanctions (other than through licensing and similar laws) upon those who employ, or recruit or refer for a fee for employment, unauthorized aliens.

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

“(i) EFFECTIVE DATES.—

“(1) 6-MONTH PUBLIC INFORMATION PERIOD.—During the six-month period beginning on the first day of the first month after the date of the enactment of this section—

“(A) the Attorney General, in cooperation with the Secretaries of Agriculture, Commerce, Health and Human Services, Labor, and the Treasury and the Administrator of the Small Business Administration, shall disseminate forms and information to employers, employment agencies, and organizations representing employees and provide for

State and local
governments.

public education respecting the requirements of this section, and

“(B) the Attorney General shall not conduct any proceeding, nor issue any order, under this section on the basis of any violation alleged to have occurred during the period.

“(2) 12-MONTH FIRST CITATION PERIOD.—In the case of a person or entity, in the first instance in which the Attorney General has reason to believe that the person or entity may have violated subsection (a) during the subsequent 12-month period, the Attorney General shall provide a citation to the person or entity indicating that such a violation or violations may have occurred and shall not conduct any proceeding, nor issue any order, under this section on the basis of such alleged violation or violations.

“(3) DEFERRAL OF ENFORCEMENT WITH RESPECT TO SEASONAL AGRICULTURAL SERVICES.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), before the end of the application period (as defined in subparagraph (C)(i)), the Attorney General shall not conduct any proceeding, nor impose any penalty, under this section on the basis of any violation alleged to have occurred with respect to employment of an individual in seasonal agricultural services.

“(B) PROHIBITION OF RECRUITMENT OUTSIDE THE UNITED STATES.—

“(i) IN GENERAL.—During the application period, it is unlawful for a person or entity (including a farm labor contractor) or an agent of such a person or entity, to recruit an unauthorized alien (other than an alien described in clause (ii)) who is outside the United States to enter the United States to perform seasonal agricultural services.

“(ii) EXCEPTION.—Clause (i) shall not apply to an alien who the person or entity reasonably believes meets the requirements of section 210(a)(2) of this Act (relating to performance of seasonal agricultural services).

“(iii) PENALTY FOR VIOLATION.—A person, entity, or agent that violates clause (i) shall be deemed to be subject to a order under this section in the same manner as if it had violated paragraph (1)(A), without regard to paragraph (2) of this subsection.

“(C) DEFINITIONS.—In this paragraph:

“(i) APPLICATION PERIOD.—The term ‘application period’ means the period described in section 210(a)(1).

“(ii) SEASONAL AGRICULTURAL SERVICES.—The term ‘seasonal agricultural services’ has the meaning given such term in section 210(h).

“(j) GENERAL ACCOUNTING OFFICE REPORTS.—

“(1) IN GENERAL.—Beginning one year after the date of enactment of this Act, and at intervals of one year thereafter for a period of three years after such date, the Comptroller General of the United States shall prepare and transmit to the Congress and to the taskforce established under subsection (k) a report describing the results of a review of the implementation and enforcement of this section during the preceding twelve-month period, for the purpose of determining if—

“(A) such provisions have been carried out satisfactorily;

“(B) a pattern of discrimination has resulted against citizens or nationals of the United States or against eligible workers seeking employment; and

“(C) an unnecessary regulatory burden has been created for employers hiring such workers.

“(2) DETERMINATION ON DISCRIMINATION.—In each report, the Comptroller General shall make a specific determination as to whether the implementation of that section has resulted in a pattern of discrimination in employment (against other than unauthorized aliens) on the basis of national origin.

“(3) RECOMMENDATIONS.—If the Comptroller General has determined that such a pattern of discrimination has resulted, the report—

“(A) shall include a description of the scope of that discrimination, and

“(B) may include recommendations for such legislation as may be appropriate to deter or remedy such discrimination.

“(k) REVIEW BY TASKFORCE.—

“(1) ESTABLISHMENT OF JOINT TASKFORCE.—The Attorney General, jointly with the Chairman of the Commission on Civil Rights and the Chairman of the Equal Employment Opportunity Commission, shall establish a taskforce to review each report of the Comptroller General transmitted under subsection (j)(1).

“(2) RECOMMENDATIONS TO CONGRESS.—If the report transmitted includes a determination that the implementation of this section has resulted in a pattern of discrimination in employment (against other than unauthorized aliens) on the basis of national origin, the taskforce shall, taking into consideration any recommendations in the report, report to Congress recommendations for such legislation as may be appropriate to deter or remedy such discrimination.

“(3) CONGRESSIONAL HEARINGS.—The Committees on the Judiciary of the House of Representatives and of the Senate shall hold hearings respecting any report of the taskforce under paragraph (2) within 60 days after the date of receipt of the report.

“(l) TERMINATION DATE FOR EMPLOYER SANCTIONS.—

“(1) IF REPORT OF WIDESPREAD DISCRIMINATION AND CONGRESSIONAL APPROVAL.—The provisions of this section shall terminate 30 calendar days after receipt of the last report required to be transmitted under subsection (j), if—

“(A) the Comptroller General determines, and so reports in such report, that a widespread pattern of discrimination has resulted against citizens or nationals of the United States or against eligible workers seeking employment solely from the implementation of this section; and

“(B) there is enacted, within such period of 30 calendar days, a joint resolution stating in substance that the Congress approves the findings of the Comptroller General contained in such report.

“(2) SENATE PROCEDURES FOR CONSIDERATION.—Any joint resolution referred to in clause (B) of paragraph (1) shall be considered in the Senate in accordance with subsection (n).

“(m) EXPEDITED PROCEDURES IN THE HOUSE OF REPRESENTATIVES.—For the purpose of expediting the consideration and adoption of joint

Discrimination,
prohibition.

resolutions under subsection (1), a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

“(n) EXPEDITED PROCEDURES IN THE SENATE.—

“(1) CONTINUITY OF SESSION.—For purposes of subsection (1), the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period indicated.

“(2) RULEMAKING POWER.—Paragraphs (3) and (4) of this subsection are enacted—

“(A) as an exercise of the rulemaking power of the Senate and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of joint resolutions referred to in subsection (1), and supersede other rules of the Senate only to the extent that such paragraphs are inconsistent therewith; and

“(B) with full recognition of the constitutional right of the Senate to change such rules at any time, in the same manner as in the case of any other rule of the Senate.

“(3) COMMITTEE CONSIDERATION.—

“(A) MOTION TO DISCHARGE.—If the committee of the Senate to which has been referred a joint resolution relating to the report described in subsection (1) has not reported such joint resolution at the end of ten calendar days after its introduction, not counting any day which is excluded under paragraph (1) of this subsection, it is in order to move either to discharge the committee from further consideration of the joint resolution or to discharge the committee from further consideration of any other joint resolution introduced with respect to the same report which has been referred to the committee, except that no motion to discharge shall be in order after the committee has reported a joint resolution with respect to the same report.

“(B) CONSIDERATION OF MOTION.—A motion to discharge under subparagraph (A) of this paragraph may be made only by a Senator favoring the joint resolution, is privileged, and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the joint resolution, the time to be divided equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

“(4) MOTION TO PROCEED TO CONSIDERATION.—

“(A) IN GENERAL.—A motion in the Senate to proceed to the consideration of a joint resolution shall be privileged. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

“(B) DEBATE ON RESOLUTION.—Debate in the Senate on a joint resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 10

hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

“(C) **DEBATE ON MOTION.**—Debate in the Senate on any debatable motion or appeal in connection with a joint resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the joint resolution, except that in the event the manager of the joint resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a joint resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

“(D) **MOTIONS TO LIMIT DEBATE.**—A motion in the Senate to further limit debate on a joint resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommit, a joint resolution is in order in the Senate.”

8 USC 1324a
note.

(2) **INTERIM REGULATIONS.**—The Attorney General shall, not later than the first day of the seventh month beginning after the date of the enactment of this Act, first issue, on an interim or other basis, such regulations as may be necessary in order to implement this section.

8 USC 1324a
note.
Ante, p. 3360.

(3) **GRANDFATHER FOR CURRENT EMPLOYEES.**—(A) Section 274A(a)(1) of the Immigration and Nationality Act shall not apply to the hiring, or recruiting or referring of an individual for employment which has occurred before the date of the enactment of this Act.

8 USC 1324a
note.

(B) Section 274A(a)(2) of the Immigration and Nationality Act shall not apply to continuing employment of an alien who was hired before the date of the enactment of this Act.

(b) **CONFORMING AMENDMENTS TO MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT.**—(1) The Migrant and Seasonal Agricultural Worker Protection Act (Public Law 97-470) is amended—

29 USC 1801
note.

(A) by striking out “101(a)(15)(H)(ii)” in paragraphs (8)(B) and (10)(B) of section 3 (29 U.S.C. 1802) and inserting in lieu thereof “101(a)(15)(H)(ii)(a)”;

Post, p. 3411.

(B) in section 103(a) (29 U.S.C. 1813(a))—

(i) by striking out “or” at the end of paragraph (4),

(ii) by striking out the period at the end of paragraph (5)

and inserting in lieu thereof “; or”, and

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

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

Ante, p. 3360.

(C) by striking out section 106 (29 U.S.C. 1816) and the corresponding item in the table of contents; and

(D) by striking out “section 106” in section 501(b) (29 U.S.C. 1851(b)) and by inserting in lieu thereof “paragraph (1) or (2) of section 274A(a) of the Immigration and Nationality Act”.

29 USC 1802
note.

(2) The amendments made by paragraph (1) shall apply to the employment, recruitment, referral, or utilization of the services of an individual occurring on or after the first day of the seventh month beginning after the date of the enactment of this Act.

(c) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The table of contents is amended by inserting after the item relating to section 274 the following new item:

“Sec. 274A. Unlawful employment of aliens.”

(d) STUDY ON THE USE OF A TELEPHONE VERIFICATION SYSTEM FOR DETERMINING EMPLOYMENT ELIGIBILITY OF ALIENS.—(1) The Attorney General, in consultation with the Secretary of Labor and the Secretary of Health and Human Services, shall conduct a study for use by the Department of Justice in determining employment eligibility of aliens in the United States. Such study shall concentrate on those data bases that are currently available to the Federal Government which through the use of a telephone and computation capability could be used to verify instantly the employment eligibility status of job applicants who are aliens.

8 USC 1324a
note.

(2) Such study shall be conducted in conjunction with any existing Federal program which is designed for the purpose of providing information on the resident or employment status of aliens for employers. The study shall include an analysis of costs and benefits which shows the differences in costs and efficiency of having the Federal Government or a contractor perform this service. Such comparisons should include reference to such technical capabilities as processing techniques and time, verification techniques and time, backup safeguards, and audit trail performance.

(3) Such study shall also concentrate on methods of phone verification which demonstrate the best safety and service standards, the least burden for the employer, the best capability for effective enforcement, and procedures which are within the boundaries of the Privacy Act of 1974.

5 USC 552a
notes.

(4) Such study shall be conducted within twelve months of the date of enactment of this Act.

(5) The Attorney General shall prepare and transmit to the Congress a report—

Reports.

(A) not later than six months after the date of enactment of this Act, describing the status of such study; and

(B) not later than twelve months after such date, setting forth the findings of such study.

(e) FEASIBILITY STUDY OF SOCIAL SECURITY NUMBER VALIDATION SYSTEM.—The Secretary of Health and Human Services, acting through the Social Security Administration and in cooperation with the Attorney General and the Secretary of Labor, shall conduct a study of the feasibility and costs of establishing a social security number validation system to assist in carrying out the purposes of section 274A of the Immigration and Nationality Act, and of the privacy concerns that would be raised by the establishment of such a system. The Secretary shall submit to the Committees on Ways and Means and Judiciary of the House of Representatives and to the Committees on Finance and Judiciary of the Senate, within 2 years after the date of the enactment of this Act, a full and complete report on the results of the study together with such recommendations as may be appropriate.

8 USC 1324a
note.

Ante, p. 3360.

(f) COUNTERFEITING OF SOCIAL SECURITY ACCOUNT NUMBER CARDS.—(1) The Comptroller General of the United States, upon consultation with the Attorney General and the Secretary of Health and Human Services as well as private sector representatives (including representatives of the financial, banking, and manufacturing industries), shall inquire into technological alternatives for

42 USC 405 note.
Science and
technology.

producing and issuing social security account number cards that are more resistant to counterfeiting than social security account number cards being issued on the date of enactment of this Act by the Social Security Administration, including the use of encoded magnetic, optical, or active electronic media such as magnetic stripes, holograms, and integrated circuit chips. Such inquiry should focus on technologies that will help ensure the authenticity of the card, rather than the identity of the bearer.

(2) The Comptroller General of the United States shall explore additional actions that could be taken to reduce the potential for fraudulently obtaining and using social security account number cards.

Reports.

(3) Not later than one year after the date of enactment of this Act, the Comptroller General of the United States shall prepare and transmit to the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives and the Committee on the Judiciary and the Committee on Finance of the Senate a report setting forth his findings and recommendations under this subsection.

SEC. 102. UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Chapter 8 of title II is further amended by inserting after section 274A, as inserted by section 101(a), the following new section:

“UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES

8 USC 1324b.

“SEC. 274B. (a) PROHIBITION OF DISCRIMINATION BASED ON NATIONAL ORIGIN OR CITIZENSHIP STATUS.—

“(1) GENERAL RULE.—It is an unfair immigration-related employment practice for a person or other entity to discriminate against any individual (other than an unauthorized alien) with respect to the hiring, or recruitment or referral for a fee, of the individual for employment or the discharging of the individual from employment—

“(A) because of such individual’s national origin, or

“(B) in the case of a citizen or intending citizen (as defined in paragraph (3)), because of such individual’s citizenship status.

“(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

“(A) a person or other entity that employs three or fewer employees,

“(B) a person’s or entity’s discrimination because of an individual’s national origin if the discrimination with respect to that person or entity and that individual is covered under section 703 of the Civil Rights Act of 1964, or

“(C) discrimination because of citizenship status which is otherwise required in order to comply with law, regulation, or executive order, or required by Federal, State, or local government contract, or which the Attorney General determines to be essential for an employer to do business with an agency or department of the Federal, State, or local government.

“(3) DEFINITION OF CITIZEN OR INTENDING CITIZEN.—As used in paragraph (1), the term ‘citizen or intending citizen’ means an individual who—

“(A) is a citizen or national of the United States, or

42 USC 2000e-2.
State and local
governments.

“(B) is an alien who—

“(i) is lawfully admitted for permanent residence, is granted the status of an alien lawfully admitted for temporary residence under section 245A(a)(1), is admitted as a refugee under section 207, or is granted asylum under section 208, and

8 USC 1255.

8 USC 1157.

8 USC 1158.

“(ii) evidences an intention to become a citizen of the United States through completing a declaration of intention to become a citizen;

but does not include (I) an alien who fails to apply for naturalization within six months of the date the alien first becomes eligible (by virtue of period of lawful permanent residence) to apply for naturalization or, if later, within six months after the date of the enactment of this section and (II) an alien who has applied on a timely basis, but has not been naturalized as a citizen within 2 years after the date of the application, unless the alien can establish that the alien is actively pursuing naturalization, except that time consumed in the Service's processing the application shall not be counted toward the 2-year period.

“(4) ADDITIONAL EXCEPTION PROVIDING RIGHT TO PREFER EQUALLY QUALIFIED CITIZENS.—Notwithstanding any other provision of this section, it is not an unfair immigration-related employment practice for a person or other entity to prefer to hire, recruit, or refer an individual who is a citizen or national of the United States over another individual who is an alien if the two individuals are equally qualified.

“(b) CHARGES OF VIOLATIONS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), any person alleging that the person is adversely affected directly by an unfair immigration-related employment practice (or a person on that person's behalf) or an officer of the Service alleging that an unfair immigration-related employment practice has occurred or is occurring may file a charge respecting such practice or violation with the Special Counsel (appointed under subsection (c)). Charges shall be in writing under oath or affirmation and shall contain such information as the Attorney General requires. The Special Counsel by certified mail shall serve a notice of the charge (including the date, place, and circumstances of the alleged unfair immigration-related employment practice) on the person or entity involved within 10 days.

“(2) NO OVERLAP WITH EEOC COMPLAINTS.—No charge may be filed respecting an unfair immigration-related employment practice described in subsection (a)(1)(A) if a charge with respect to that practice based on the same set of facts has been filed with the Equal Employment Opportunity Commission under title VII of the Civil Rights Act of 1964, unless the charge is dismissed as being outside the scope of such title. No charge respecting an employment practice may be filed with the Equal Employment Opportunity Commission under such title if a charge with respect to such practice based on the same set of facts has been filed under this subsection, unless the charge is dismissed under this section as being outside the scope of this section.

42 USC 2000e.

“(c) SPECIAL COUNSEL.—

“(1) APPOINTMENT.—The President shall appoint, by and with the advice and consent of the Senate, a Special Counsel for

President of U.S.

Immigration-Related Unfair Employment Practices (hereinafter in this section referred to as the 'Special Counsel') within the Department of Justice to serve for a term of four years. In the case of a vacancy in the office of the Special Counsel the President may designate the officer or employee who shall act as Special Counsel during such vacancy.

"(2) DUTIES.—The Special Counsel shall be responsible for investigation of charges and issuance of complaints under this section and in respect of the prosecution of all such complaints before administrative law judges and the exercise of certain functions under subsection (j)(1).

"(3) COMPENSATION.—The Special Counsel is entitled to receive compensation at a rate not to exceed the rate now or hereafter provided for grade GS-17 of the General Schedule, under section 5332 of title 5, United States Code.

"(4) REGIONAL OFFICES.—The Special Counsel, in accordance with regulations of the Attorney General, shall establish such regional offices as may be necessary to carry out his duties.

"(d) INVESTIGATION OF CHARGES.—

"(1) BY SPECIAL COUNSEL.—The Special Counsel shall investigate each charge received and, within 120 days of the date of the receipt of the charge, determine whether or not there is reasonable cause to believe that the charge is true and whether or not to bring a complaint with respect to the charge before an administrative law judge. The Special Counsel may, on his own initiative, conduct investigations respecting unfair immigration-related employment practices and, based on such an investigation and subject to paragraph (3), file a complaint before such a judge.

"(2) PRIVATE ACTIONS.—If the Special Counsel, after receiving such a charge respecting an unfair immigration-related employment practice which alleges knowing and intentional discriminatory activity or a pattern or practice of discriminatory activity, has not filed a complaint before an administrative law judge with respect to such charge within such 120-day period, the person making the charge may (subject to paragraph (3)) file a complaint directly before such a judge.

"(3) TIME LIMITATIONS ON COMPLAINTS.—No complaint may be filed respecting any unfair immigration-related employment practice occurring more than 180 days prior to the date of the filing of the charge with the Special Counsel. This subparagraph shall not prevent the subsequent amending of a charge or complaint under subsection (e)(1).

"(e) HEARINGS.—

"(1) NOTICE.—Whenever a complaint is made that a person or entity has engaged in or is engaging in any such unfair immigration-related employment practice, an administrative law judge shall have power to issue and cause to be served upon such person or entity a copy of the complaint and a notice of hearing before the judge at a place therein fixed, not less than five days after the serving of the complaint. Any such complaint may be amended by the judge conducting the hearing, upon the motion of the party filing the complaint, in the judge's discretion at any time prior to the issuance of an order based thereon. The person or entity so complained of shall have the right to file an answer to the original or amended complaint and to appear

in person or otherwise and give testimony at the place and time fixed in the complaint.

“(2) JUDGES HEARING CASES.—Hearings on complaints under this subsection shall be considered before administrative law judges who are specially designated by the Attorney General as having special training respecting employment discrimination and, to the extent practicable, before such judges who only consider cases under this section.

“(3) COMPLAINANT AS PARTY.—Any person filing a charge with the Special Counsel respecting an unfair immigration-related employment practice shall be considered a party to any complaint before an administrative law judge respecting such practice and any subsequent appeal respecting that complaint. In the discretion of the judge conducting the hearing, any other person may be allowed to intervene in the said proceeding and to present testimony.

“(f) TESTIMONY AND AUTHORITY OF HEARING OFFICERS.—

“(1) TESTIMONY.—The testimony taken by the administrative law judge shall be reduced to writing. Thereafter, the judge, in his discretion, upon notice may provide for the taking of further testimony or hear argument.

“(2) AUTHORITY OF ADMINISTRATIVE LAW JUDGES.—In conducting investigations and hearings under this subsection and in accordance with regulations of the Attorney General, the Special Counsel and administrative law judges shall have reasonable access to examine evidence of any person or entity being investigated. The administrative law judges by subpoena may compel the attendance of witnesses and the production of evidence at any designated place or hearing. In case of contumacy or refusal to obey a subpoena lawfully issued under this paragraph and upon application of the administrative law judge, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as a contempt thereof.

“(g) DETERMINATIONS.—

“(1) ORDER.—The administrative law judge shall issue and cause to be served on the parties to the proceeding an order, which shall be final unless appealed as provided under subsection (i).

“(2) ORDERS FINDING VIOLATIONS.—

“(A) IN GENERAL.—If, upon the preponderance of the evidence, an administrative law judge determines that that any person or entity named in the complaint has engaged in or is engaging in any such unfair immigration-related employment practice, then the judge shall state his findings of fact and shall issue and cause to be served on such person or entity an order which requires such person or entity to cease and desist from such unfair immigration-related employment practice.

“(B) CONTENTS OF ORDER.—Such an order also may require the person or entity—

“(i) to comply with the requirements of section 274A(b) with respect to individuals hired (or recruited or referred for employment for a fee) during a period of up to three years;

8 USC 1324.

“(ii) to retain for the period referred to in clause (i) and only for purposes consistent with section 274(b)(5), the name and address of each individual who applies, in person or in writing, for hiring for an existing position, or for recruiting or referring for a fee, for employment in the United States;

“(iii) to hire individuals directly and adversely affected, with or without back pay; and

“(iv)(I) except as provided in subclause (II), to pay a civil penalty of not more than \$1,000 for each individual discriminated against, and

“(II) in the case of a person or entity previously subject to such an order, to pay a civil penalty of not more than \$2,000 for each individual discriminated against.

“(C) LIMITATION ON BACK PAY REMEDY.—In providing a remedy under subparagraph (B)(iii), back pay liability shall not accrue from a date more than two years prior to the date of the filing of a charge with an administrative law judge. Interim earnings or amounts earnable with reasonable diligence by the individual or individuals discriminated against shall operate to reduce the back pay otherwise allowable under such subparagraph. No order shall require the hiring of an individual as an employee or the payment to an individual of any back pay, if the individual was refused employment for any reason other than discrimination on account of national origin or citizenship status.

“(D) TREATMENT OF DISTINCT ENTITIES.—In applying this subsection in the case of a person or entity composed of distinct, physically separate subdivisions each of which provides separately for the hiring, recruiting, or referring for employment, without reference to the practices of, and not under the control of or common control with, another subdivision, each such subdivision shall be considered a separate person or entity.

“(3) ORDERS NOT FINDING VIOLATIONS.—If upon the preponderance of the evidence an administrative law judge determines that the person or entity named in the complaint has not engaged or is not engaging in any such unfair immigration-related employment practice, then the judge shall state his findings of fact and shall issue an order dismissing the complaint.

“(h) AWARDING OF ATTORNEYS' FEES.—In any complaint respecting an unfair immigration-related employment practice, an administrative law judge, in the judge's discretion, may allow a prevailing party, other than the United States, a reasonable attorney's fee, if the losing party's argument is without reasonable foundation in law and fact.

“(i) REVIEW OF FINAL ORDERS.—

“(1) IN GENERAL.—Not later than 60 days after the entry of such final order, any person aggrieved by such final order may seek a review of such order in the United States court of appeals for the circuit in which the violation is alleged to have occurred or in which the employer resides or transacts business.

“(2) FURTHER REVIEW.—Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its

judgment shall be final, except that the same shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28, United States Code.

“(j) COURT ENFORCEMENT OF ADMINISTRATIVE ORDERS.—

“(1) IN GENERAL.—If an order of the agency is not appealed under subsection (i)(1), the Special Counsel (or, if the Special Counsel fails to act, the person filing the charge) may petition the United States district court for the district in which a violation of the order is alleged to have occurred, or in which the respondent resides or transacts business, for the enforcement of the order of the administrative law judge, by filing in such court a written petition praying that such order be enforced.

“(2) COURT ENFORCEMENT ORDER.—Upon the filing of such petition, the court shall have jurisdiction to make and enter a decree enforcing the order of the administrative law judge. In such a proceeding, the order of the administrative law judge shall not be subject to review.

“(3) ENFORCEMENT DECREE IN ORIGINAL REVIEW.—If, upon appeal of an order under subsection (i)(1), the United States court of appeals does not reverse such order, such court shall have the jurisdiction to make and enter a decree enforcing the order of the administrative law judge.

“(4) AWARDING OF ATTORNEY'S FEES.—In any judicial proceeding under subsection (i) or this subsection, the court, in its discretion, may allow a prevailing party, other than the United States, a reasonable attorney's fee as part of costs but only if the losing party's argument is without reasonable foundation in law and fact.

“(k) TERMINATION DATES.—

“(1) This section shall not apply to discrimination in hiring, recruiting, referring, or discharging of individuals occurring after the date of any termination of the provisions of section 274A, under subsection (l) of that section.

“(2) The provisions of this section shall terminate 30 calendar days after receipt of the last report required to be transmitted under section 274A(j) if—

“(A) the Comptroller General determines, and so reports in such report that—

“(i) no significant discrimination has resulted, against citizens or nationals of the United States or against any eligible workers seeking employment, from the implementation of section 274A, or

“(ii) such section has created an unreasonable burden on employers hiring such workers; and

“(B) there has been enacted, within such period of 30 calendar days, a joint resolution stating in substance that the Congress approves the findings of the Comptroller General contained in such report.

The provisions of subsections (m) and (n) of section 274A shall apply to any joint resolution under subparagraph (B) in the same manner as they apply to a joint resolution under subsection (l) of such section.”

(b) NO EFFECT ON EEOC AUTHORITY.—Except as may be specifically provided in this section, nothing in this section shall be construed to restrict the authority of the Equal Employment Opportunity Commission to investigate allegations, in writing and under oath or affirmation, of unlawful employment practices, as provided in section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5), or any other authority provided therein.

Ante, p. 3360.

8 USC 1324b
note.

(c) **CLERICAL AMENDMENT.**—The table of contents is amended by inserting after the item relating to section 274A (as added by section 101(c)) the following new item:

“Sec. 274B. Unfair immigration-related employment practices.”

SEC. 103. FRAUD AND MISUSE OF CERTAIN IMMIGRATION-RELATED DOCUMENTS.

(a) **APPLICATION TO ADDITIONAL DOCUMENTS.**—Section 1546 of title 18, United States Code, is amended—

(1) by amending the heading to read as follows:

“§ 1546. Fraud and misuse of visas, permits, and other documents”;

(2) by striking out “or other document required for entry into the United States” in the first paragraph and inserting in lieu thereof “border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States”;

(3) by striking out “or document” in the first paragraph and inserting in lieu thereof “border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States”;

(4) by striking out “\$2,000” and inserting in lieu thereof “in accordance with this title”;

(5) by inserting “(a)” before “Whoever” the first place it appears; and

(6) by adding at the end the following new subsections:

“(b) Whoever uses—

“(1) an identification document, knowing (or having reason to know) that the document was not issued lawfully for the use of the possessor,

“(2) an identification document knowing (or having reason to know) that the document is false, or

“(3) a false attestation,

for the purpose of satisfying a requirement of section 274A(b) of the Immigration and Nationality Act, shall be fined in accordance with this title, or imprisoned not more than two years, or both.

“(c) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481).”

(b) **CLERICAL AMENDMENT.**—The item relating to section 1546 in the table of sections of chapter 75 of such title is amended to read as follows:

“1546. Fraud and misuse of visas, permits, and other documents.”

PART B—IMPROVEMENT OF ENFORCEMENT AND SERVICES

SEC. 111. AUTHORIZATION OF APPROPRIATIONS FOR ENFORCEMENT AND SERVICE ACTIVITIES OF THE IMMIGRATION AND NATURALIZATION SERVICE.

8 USC 1101 note.

(a) **TWO ESSENTIAL ELEMENTS.**—It is the sense of Congress that two essential elements of the program of immigration control established by this Act are—

(1) an increase in the border patrol and other inspection and enforcement activities of the Immigration and Naturalization Service and of other appropriate Federal agencies in order to prevent and deter the illegal entry of aliens into the United States and the violation of the terms of their entry, and

(2) an increase in examinations and other service activities of the Immigration and Naturalization Service and other appropriate Federal agencies in order to ensure prompt and efficient adjudication of petitions and applications provided for under the Immigration and Nationality Act.

8 USC 1101 note.

(b) **INCREASED AUTHORIZATION OF APPROPRIATIONS FOR INS AND EOIR.**—In addition to any other amounts authorized to be appropriated, in order to carry out this Act there are authorized to be appropriated to the Department of Justice—

(1) for the Immigration and Naturalization Service, for fiscal year 1987, \$422,000,000, and for fiscal year 1988, \$419,000,000; and

(2) for the Executive Office of Immigration Review, for fiscal year 1987, \$12,000,000, and for fiscal year 1988, \$15,000,000. Of the amounts authorized to be appropriated under paragraph (1) sufficient funds shall be available to provide for an increase in the border patrol personnel of the Immigration and Naturalization Service so that the average level of such personnel in each of fiscal years 1987 and 1988 is at least 50 percent higher than such level for fiscal year 1986.

(c) **USE OF FUNDS FOR IMPROVED SERVICES.**—Of the funds appropriated to the Department of Justice for the Immigration and Naturalization Service, the Attorney General shall provide for improved immigration and naturalization services and for enhanced community outreach and in-service training of personnel of the Service. Such enhanced community outreach may include the establishment of appropriate local community taskforces to improve the working relationship between the Service and local community groups and organizations (including employers and organizations representing minorities).

Community development.

(d) **SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR WAGE AND HOUR ENFORCEMENT.**—There are authorized to be appropriated, in addition to such sums as may be available for such purposes, such sums as may be necessary to the Department of Labor for enforcement activities of the Wage and Hour Division and the Office of Federal Contract Compliance Programs within the Employment Standards Administration of the Department in order to deter the employment of unauthorized aliens and remove the economic incentive for employers to exploit and use such aliens.

SEC. 112. UNLAWFUL TRANSPORTATION OF ALIENS TO THE UNITED STATES.

(a) **CRIMINAL PENALTIES.**—Subsection (a) of section 274 (8 U.S.C. 1324) is amended to read as follows:

“(a) **CRIMINAL PENALTIES.**—(1) Any person who—

“(A) knowing that a person is an alien, brings to or attempts to bring to the United States in any manner whatsoever such person at a place other than a designated port of entry or place other than as designated by the Commissioner, regardless of whether such alien has received prior official authorization to come to, enter, or reside in the United States and regardless of any future official action which may be taken with respect to such alien;

“(B) knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, transports, or moves or attempts to transport or move such alien within the United States by means of transportation or otherwise, in furtherance of such violation of law;

“(C) knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, such alien in any place, including any building or any means of transportation; or

“(D) encourages or induces an alien to come to, enter, or reside in the United States, knowing or in reckless disregard of the fact that such coming to, entry, or residence is or will be in violation of law,

shall be fined in accordance with title 18, United States Code, imprisoned not more than five years, or both, for each alien in respect to whom any violation of this subsection occurs.

“(2) Any person who, knowing or in reckless disregard of the fact that an alien has not received prior official authorization to come to, enter, or reside in the United States, brings to or attempts to bring to the United States in any manner whatsoever, such alien, regardless of any official action which may later be taken with respect to such alien shall, for each transaction constituting a violation of this paragraph, regardless of the number of aliens involved—

“(A) be fined in accordance with title 18, United States Code, or imprisoned not more than one year, or both; or

“(B) in the case of—

“(i) a second or subsequent offense,

“(ii) an offense done for the purpose of commercial advantage or private financial gain, or

“(iii) an offense in which the alien is not upon arrival immediately brought and presented to an appropriate immigration officer at a designated port of entry, be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both.”

(b) **MISCELLANEOUS AMENDMENTS TO SEIZURE AND FORFEITURE PROCEDURES.**—Subsection (b) of such section is amended—

(1) in paragraph (1) before subparagraph (A) by striking out “is used” and inserting in lieu thereof “has been or is being used”;

(2) by striking out “subject to seizure and” in paragraph (1) and inserting in lieu thereof “seized and subject to”;

(3) by inserting “or is being” after “has been” in paragraph (2);

(4) by striking out “conveyances” in paragraph (3) and inserting in lieu thereof “property”;

(5) by inserting “, or the Federal Maritime Commission if appropriate under section 203(i) of the Federal Property and Administrative Services Act of 1949,” in paragraph (4)(C) after “General Services Administration”,

40 USC 484.

(6) in paragraph (4)—

(A) by striking out “or” at the end of subparagraph (B),

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof “; or”, and

(C) by inserting after such subparagraph the following new subparagraph:

“(D) dispose of the conveyance in accordance with the terms and conditions of any petition of remission or mitigation of forfeiture granted by the Attorney General.”;

(7) by striking out “: *Provided*, That” in paragraph (5) and inserting in lieu thereof “, except that”,

(8) by striking out “was not lawfully entitled to enter, or reside within, the United States” in paragraph (5) and inserting in lieu thereof “had not received prior official authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law” each place it appears, and

(9) by inserting “or of the Department of State” in paragraph (5)(B) after “Service”.

SEC. 113. IMMIGRATION EMERGENCY FUND.

Section 404 (8 U.S.C. 1101 note) is amended by inserting “(a)” after “SEC. 404.” and by adding at the end the following new subsection:

“(b) There are authorized to be appropriated to an immigration emergency fund, to be established in the Treasury, \$35,000,000, to be used to provide for an increase in border patrol or other enforcement activities of the Service and for reimbursement of State and localities in providing assistance as requested by the Attorney General in meeting an immigration emergency, except that no amounts may be withdrawn from such fund with respect to an emergency unless the President has determined that the immigration emergency exists and has certified such fact to the Judiciary Committees of the House of Representatives and of the Senate.”.

Appropriation
authorization.
State and local
governments.

SEC. 114. LIABILITY OF OWNERS AND OPERATORS OF INTERNATIONAL BRIDGES AND TOLL ROADS TO PREVENT THE UNAUTHORIZED LANDING OF ALIENS.

Section 271 (8 U.S.C. 1321) is amended by inserting at the end the following new subsection:

“(c)(1) Any owner or operator of a railroad line, international bridge, or toll road who establishes to the satisfaction of the Attorney General that the person has acted diligently and reasonably to fulfill the duty imposed by subsection (a) shall not be liable for the penalty described in such subsection, notwithstanding the failure of the person to prevent the unauthorized landing of any alien.

“(2)(A) At the request of any person described in paragraph (1), the Attorney General shall inspect any facility established, or any method utilized, at a point of entry into the United States by such person for the purpose of complying with subsection (a). The Attorney General shall approve any such facility or method (for such period of time as the Attorney General may prescribe) which the Attorney General determines is satisfactory for such purpose.

“(B) Proof that any person described in paragraph (1) has diligently maintained any facility, or utilized any method, which has been approved by the Attorney General under subparagraph (A) (within the period for which the approval is effective) shall be prima facie evidence that such person acted diligently and reasonably to fulfill the duty imposed by subsection (a) (within the meaning of paragraph (1) of this subsection).”

SEC. 115. ENFORCEMENT OF THE IMMIGRATION LAWS OF THE UNITED STATES.

It is the sense of the Congress that—

(1) the immigration laws of the United States should be enforced vigorously and uniformly, and

(2) in the enforcement of such laws, the Attorney General shall take due and deliberate actions necessary to safeguard the constitutional rights, personal safety, and human dignity of United States citizens and aliens.

SEC. 116. RESTRICTING WARRANTLESS ENTRY IN THE CASE OF OUTDOOR AGRICULTURAL OPERATIONS.

Section 287 (8 U.S.C. 1357) is amended by adding at the end the following new subsection:

“(d) Notwithstanding any other provision of this section other than paragraph (3) of subsection (a), an officer or employee of the Service may not enter without the consent of the owner (or agent thereof) or a properly executed warrant onto the premises of a farm or other outdoor agricultural operation for the purpose of interrogating a person believed to be an alien as to the person’s right to be or to remain in the United States.”

SEC. 117. RESTRICTIONS ON ADJUSTMENT OF STATUS.

Section 245(c)(2) (8 U.S.C. 1255(c)(2)) is amended by inserting after “hereafter continues in or accepts unauthorized employment prior to filing an application for adjustment of status” the following: “or who is not in legal immigration status on the date of filing the application for adjustment of status or who has failed (other than through no fault of his own for technical reasons) to maintain continuously a legal status since entry into the United States”.

PART C—VERIFICATION OF STATUS UNDER CERTAIN PROGRAMS

SEC. 121. VERIFICATION OF IMMIGRATION STATUS OF ALIENS APPLYING FOR BENEFITS UNDER CERTAIN PROGRAMS.

(a) REQUIRING IMMIGRATION STATUS VERIFICATION.—

(1) **UNDER AFDC, MEDICAID, UNEMPLOYMENT COMPENSATION, AND FOOD STAMP PROGRAMS.—**Section 1137 of the Social Security Act (42 U.S.C. 1320b-7) is amended—

(A) in the matter in subsection (a) before paragraph (1), by inserting “which meets the requirements of subsection (d) and” after “income and eligibility verification system”,

(B) in subsection (b), by striking out “income verification system” in the matter preceding paragraph (1) and inserting in lieu thereof “income and eligibility verification system”, and

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

“(d) The requirements of this subsection, with respect to an income and eligibility verification system of a State, are as follows:

State and local governments.

"(1)(A) The State shall require, as a condition of an individual's eligibility for benefits under any program listed in subsection (b), a declaration in writing by the individual (or, in the case of an individual who is a child, by another on the individual's behalf), under penalty of perjury, stating whether or not the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is in a satisfactory immigration status.

Children and youth.

"(B) In this subsection—

"(i) in the case of the program described in subsection (b)(1), any reference to an individual's eligibility for benefits under the program shall be considered a reference to the individual's being considered a dependent child or to the individual's being treated as a caretaker relative or other person whose needs are to be taken into account in making the determination under section 402(a)(7),

8 USC 1546.

"(ii) in the case of the program described in subsection (b)(4)—

"(I) any reference to the State shall be considered a reference to the State agency, and

"(II) any reference to an individual's eligibility for benefits under the program shall be considered a reference to the individual's eligibility to participate in the program as a member of a household, and

"(III) the term 'satisfactory immigration status' means an immigration status which does not make the individual ineligible for benefits under the applicable program.

"(2) If such an individual is not a citizen or national of the United States, there must be presented either—

"(A) alien registration documentation or other proof of immigration registration from the Immigration and Naturalization Service that contains the individual's alien admission number or alien file number (or numbers if the individual has more than one number), or

"(B) such other documents as the State determines constitutes reasonable evidence indicating a satisfactory immigration status.

"(3) If the documentation described in paragraph (2)(A) is presented, the State shall utilize the individual's alien file or alien admission number to verify with the Immigration and Naturalization Service the individual's immigration status through an automated or other system (designated by the Service for use with States) that—

"(A) utilizes the individual's name, file number, admission number, or other means permitting efficient verification, and

"(B) protects the individual's privacy to the maximum degree possible.

"(4) In the case of such an individual who is not a citizen or national of the United States, if, at the time of application for benefits, the statement described in paragraph (1) is submitted but the documentation required under paragraph (2) is not presented or if the documentation required under paragraph (2)(A) is presented but such documentation is not verified under paragraph (3)—

“(A) the State—

“(i) shall provide a reasonable opportunity to submit to the State evidence indicating a satisfactory immigration status, and

“(ii) may not delay, deny, reduce, or terminate the individual's eligibility for benefits under the program on the basis of the individual's immigration status until such a reasonable opportunity has been provided; and

“(B) if there are submitted documents which the State determines constitutes reasonable evidence indicating such status—

“(i) the State shall transmit to the Immigration and Naturalization Service photostatic or other similar copies of such documents for official verification,

“(ii) pending such verification, the State may not delay, deny, reduce, or terminate the individual's eligibility for benefits under the program on the basis of the individual's immigration status, and

“(iii) the State shall not be liable for the consequences of any action, delay, or failure of the Service to conduct such verification.

“(5) If the State determines, after complying with the requirements of paragraph (4), that such an individual is not in a satisfactory immigration status under the applicable program—

“(A) the State shall deny or terminate the individual's eligibility for benefits under the program, and

“(B) the applicable fair hearing process shall be made available with respect to the individual.

“(e) Each Federal agency responsible for administration of a program described in subsection (b) shall not take any compliance, disallowance, penalty, or other regulatory action against a State with respect to any error in the State's determination to make an individual eligible for benefits based on citizenship or immigration status—

“(1) if the State has provided such eligibility based on a verification of satisfactory immigration status by the Immigration and Naturalization Service,

“(2) because the State, under subsection (d)(4)(A)(ii), was required to provide a reasonable opportunity to submit documentation,

“(3) because the State, under subsection (d)(4)(B)(ii), was required to wait for the response of the Immigration and Naturalization Service to the State's request for official verification of the immigration status of the individual, or

“(4) because of a fair hearing process described in subsection (d)(5)(B).”

(2) UNDER HOUSING ASSISTANCE PROGRAMS.—Section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a) is amended by adding at the end the following new subsections:

“(d) The following conditions apply with respect to financial assistance being provided for the benefit of an individual:

“(1)(A) There must be a declaration in writing by the individual (or, in the case of an individual who is a child, by another on the individual's behalf), under penalty of perjury, stating whether or not the individual is a citizen or national of the

United States, and, if that individual is not a citizen or national of the United States, that the individual is in a satisfactory immigration status.

“(B) In this subsection, the term ‘satisfactory immigration status’ means an immigration status which does not make the individual ineligible for financial assistance.

“(2) If such an individual is not a citizen or national of the United States, there must be presented either—

“(A) alien registration documentation or other proof of immigration registration from the Immigration and Naturalization Service that contains the individual’s alien admission number or alien file number (or numbers if the individual has more than one number), or

“(B) such other documents as the Secretary determines constitutes reasonable evidence indicating a satisfactory immigration status.

“(3) If the documentation described in paragraph (2)(A) is presented, the Secretary shall utilize the individual’s alien file or alien admission number to verify with the Immigration and Naturalization Service the individual’s immigration status through an automated or other system (designated by the Service for use with States) that—

“(A) utilizes the individual’s name, file number, admission number, or other means permitting efficient verification, and

“(B) protects the individual’s privacy to the maximum degree possible.

“(4) In the case of such an individual who is not a citizen or national of the United States, if, at the time of application for financial assistance, the statement described in paragraph (1) is submitted but the documentation required under paragraph (2) is not presented or if the documentation required under paragraph (2)(A) is presented but such documentation is not verified under paragraph (3)—

“(A) the Secretary—

“(i) shall provide a reasonable opportunity to submit to the Secretary evidence indicating a satisfactory immigration status, and

“(ii) may not delay, deny, reduce, or terminate the individual’s eligibility for financial assistance on the basis of the individual’s immigration status until such a reasonable opportunity has been provided; and

“(B) if there are submitted documents which the Secretary determines constitutes reasonable evidence indicating such status—

“(i) the Secretary shall transmit to the Immigration and Naturalization Service photostatic or other similar copies of such documents for official verification,

“(ii) pending such verification, the Secretary may not delay, deny, reduce, or terminate the individual’s eligibility for financial assistance on the basis of the individual’s immigration status, and

“(iii) the Secretary shall not be liable for the consequences of any action, delay, or failure of the Service to conduct such verification.

"(5) If the Secretary determines, after complying with the requirements of paragraph (4), that such an individual is not in a satisfactory immigration status—

"(A) the Secretary shall deny or terminate the individual's eligibility for financial assistance, and

"(B) the applicable fair hearing process shall be made available with respect to the individual.

In this subsection and subsection (e), the term 'Secretary' refers to the Secretary and to a public housing authority or other entity which makes financial assistance available.

"(e) The Secretary shall not take any compliance, disallowance, penalty, or other regulatory action against an entity with respect to any error in the entity's determination to make an individual eligible for financial assistance based on citizenship or immigration status—

"(1) if the entity has provided such eligibility based on a verification of satisfactory immigration status by the Immigration and Naturalization Service,

"(2) because the entity, under subsection (d)(4)(A)(ii), was required to provide a reasonable opportunity to submit documentation,

"(3) because the entity, under subsection (d)(4)(B)(ii), was required to wait for the response to the Immigration and Naturalization Service to the entity's request for official verification of the immigration status of the individual, or

"(4) because of a fair hearing process described in subsection (d)(5)(B)."

(3) UNDER TITLE IV EDUCATIONAL ASSISTANCE.—Section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091) is amended by adding at the end the following new subsections:

"(c) The following conditions apply with respect to an individual's receipt of any grant, loan, or work assistance under this title as a student at an institution of higher education:

"(1)(A) There must be a declaration in writing to the institution by the student, under penalty of perjury, stating whether or not the student is a citizen or national of the United States, and, if the student is not a citizen or national of the United States, that the individual is in a satisfactory immigration status.

"(B) In this subsection, the term 'satisfactory immigration status' means an immigration status which does not make the student ineligible for a grant, loan, or work assistance under this title.

"(2) If the student is not a citizen or national of the United States, there must be presented to the institution either—

"(A) alien registration documentation or other proof of immigration registration from the Immigration and Naturalization Service that contains the individual's alien admission number or alien file number (or numbers if the individual has more than one number), or

"(B) such other documents as the institution determines (in accordance with guidelines of the Secretary) constitutes reasonable evidence indicating a satisfactory immigration status.

"(3) If the documentation described in paragraph (2)(A) is presented, the institution shall utilize the individual's alien file or alien admission number to verify with the Immigration and

Ante, p. 1480.

Grants.
Loans.

Naturalization Service the individual's immigration status through an automated or other system (designated by the Service for use with institutions) that—

“(A) utilizes the individual's name, file number, admission number, or other means permitting efficient verification, and

“(B) protects the individual's privacy to the maximum degree possible.

“(4) In the case of such an individual who is not a citizen or national of the United States, if the statement described in paragraph (1) is submitted but the documentation required under paragraph (2) is not presented or if the documentation required under paragraph (2)(A) is presented but such documentation is not verified under paragraph (3)—

“(A) the institution—

“(i) shall provide a reasonable opportunity to submit to the institution evidence indicating a satisfactory immigration status, and

“(ii) may not delay, deny, reduce, or terminate the individual's eligibility for the grant, loan, or work assistance on the basis of the individual's immigration status until such a reasonable opportunity has been provided; and

“(B) if there are submitted documents which the institution determines constitutes reasonable evidence indicating such status—

“(i) the institution shall transmit to the Immigration and Naturalization Service photostatic or other similar copies of such documents for official verification,

“(ii) pending such verification, the institution may not delay, deny, reduce, or terminate the individual's eligibility for the grant, loan, or work assistance on the basis of the individual's immigration status, and

“(iii) the institution shall not be liable for the consequences of any action, delay, or failure of the Service to conduct such verification.

“(5) If the institution determines, after complying with the requirements of paragraph (4), that such an individual is not in a satisfactory immigration status—

“(A) the institution shall deny or terminate the individual's eligibility for such grant, loan, or work assistance, and

“(B) the fair hearing process (which includes, at a minimum, the requirements of paragraph (6)) shall be made available with respect to the individual.

“(6) The minimal requirements of this paragraph for a fair hearing process are as follows:

“(A) The institution provides the individual concerned with written notice of the determination described in paragraph (5) and of the opportunity for a hearing respecting the determination.

“(B) Upon timely request by the individual, the institution provides a hearing before an official of the institution at which the individual can produce evidence of a satisfactory immigration status.

“(C) Not later than 45 days after the date of an individual's request for a hearing, the official will notify the

individual in writing of the official's decision on the appeal of the determination.

"(d) The Secretary shall not take any compliance, disallowance, penalty, or other regulatory action against an institution of higher education with respect to any error in the institution's determination to make a student eligible for a grant, loan, or work assistance based on citizenship or immigration status—

"(1) if the institution has provided such eligibility based on a verification of satisfactory immigration status by the Immigration and Naturalization Service,

"(2) because the institution, under subsection (c)(4)(A)(ii), was required to provide a reasonable opportunity to submit documentation,

"(3) because the institution, under subsection (c)(4)(B)(ii), was required to wait for the response of the Immigration and Naturalization Service to the institution's request for official verification of the immigration status of the student, or

"(4) because of a fair hearing process described in subsection (c)(5)(B).

"(e) Notwithstanding subsection (c), if—

"(1) a guaranty is made under this title for a loan made with respect to an individual,

"(2) at the time the guaranty is entered into, the provisions of subsection (c) had been complied with,

"(3) amounts are paid under the loan subject to such guaranty, and

"(4) there is a subsequent determination that, because of an unsatisfactory immigration status, the individual is not eligible for the loan,

the official of the institution making the determination shall notify and instruct the entity making the loan to cease further payments under the loan, but such guaranty shall not be voided or otherwise nullified with respect to such payments made before the date of the entity receives the notice."

(b) PROVIDING 100 PERCENT REIMBURSEMENT FOR COSTS OF IMPLEMENTATION AND OPERATION.—

42 USC 603.

(1) UNDER AFDC PROGRAM.—Section 403(a)(3) of the Social Security Act is amended by inserting before subparagraph (B) the following new subparagraph:

"(A) 100 percent of so much of such expenditures as are for the costs of the implementation and operation of the immigration status verification system described in section 1137(d)."

42 USC 1396b.

(2) UNDER MEDICAID PROGRAM.—Section 1903(a) of such Act is amended by inserting after paragraph (3) the following new paragraph:

"(4) an amount equal to 100 percent of the sums expended during the quarter which are attributable to the costs of the implementation and operation of the immigration status verification system described in section 1137(d); plus"

42 USC 1320b-7.

(3) UNDER UNEMPLOYMENT COMPENSATION PROGRAM.—The first sentence of section 302(a) of such Act is amended by inserting before the period at the end the following: ", including 100 percent of so much of the reasonable expenditures of the State as are attributable to the costs of the implementation and operation of the immigration status verification system described in section 1137(d)".

42 USC 502.

(4) UNDER CERTAIN TERRITORIAL ASSISTANCE PROGRAMS.—Sections 3(a)(4), 1003(a)(3), 1403(a)(3), and 1603(a)(4) of the Social Security Act (as in effect without regard to section 301 of the Social Security Amendments of 1972) are each amended by redesignating subparagraph (B) as subparagraph (C) and inserting after subparagraph (A) the following new subparagraph:

“(B) 100 percent of so much of such expenditures as are for the costs of the implementation and operation of the immigration status verification system described in section 1137(d); plus”.

(5) UNDER THE FOOD STAMP PROGRAM.—Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended by adding at the end the following new subsection:

“(h) The Secretary is authorized to pay to each State agency an amount equal to 100 per centum of the costs incurred by the State agency in implementing and operating the immigration status verification system described in section 1137(d) of the Social Security Act.”.

(6) UNDER HOUSING ASSISTANCE PROGRAMS.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

“PAYMENT FOR IMPLEMENTATION OF IMMIGRATION STATUS
VERIFICATION SYSTEM

“SEC. 20. The Secretary is authorized to pay to each public housing authority an amount equal to 100 percent of the costs incurred by the authority in implementing and operating the immigration status verification system under section 214(c) of the Housing and Community Development Act of 1980 with respect to financial assistance made available pursuant to this Act.”.

(7) UNDER TITLE IV EDUCATIONAL ASSISTANCE.—Section 489(a) of the Higher Education Act of 1965 (20 U.S.C. 1096) is amended by adding at the end the following: “In addition, the Secretary shall provide for payment to each institution of higher education an amount equal to 100 percent of the costs incurred by the institution in implementing and operating the immigration status verification system under section 484(c).”.

(c) EFFECTIVE DATES.—

(1) IMMIGRATION AND NATURALIZATION SERVICE ESTABLISHING VERIFICATION SYSTEM BY OCTOBER 1, 1987.—The Commissioner of Immigration and Naturalization shall implement a system for the verification of immigration status under paragraphs (3) and (4)(B)(i) of section 1137(d) of the Social Security Act (as amended by this section) so that the system is available to all the States by not later than October 1, 1987. Such system shall not be used by the Immigration and Naturalization Service for administrative (non-criminal) immigration enforcement purposes and shall be implemented in a manner that provides for verification of immigration status without regard to the sex, color, race, religion, or nationality of the individual involved.

(2) HIGHER MATCHING EFFECTIVE IN FISCAL YEAR 1988.—The amendments made by subsection (b) take effect on October 1, 1987.

(3) USE OF VERIFICATION SYSTEM REQUIRED IN FISCAL YEAR 1989.—Except as provided in paragraph (4), the amendments made by subsection (a) take effect on October 1, 1988. States

42 USC 303,
1203, 1353, 1383
note.

42 USC
1381-1383c.

State and local
governments.

42 USC 1320b-7.

42 USC 1437r.

42 USC 1436a.

Ante, p. 1491.

20 USC 1091.
State and local
governments.
42 USC 1320b-7
note.

42 USC 1320b-7.
Discrimination,
prohibition.

42 USC 502 note.

Effective date.
42 USC 1320b-7
note.

42 USC 1320b-7
note.

have until that date to begin complying with the requirements imposed by those amendments.

(4) USE OF VERIFICATION SYSTEM NOT REQUIRED FOR A PROGRAM IN CERTAIN CASES.—

(A) REPORT TO RESPECTIVE CONGRESSIONAL COMMITTEES.—

With respect to each covered program (as defined in subparagraph (D)(i)), each appropriate Secretary shall examine and report to the appropriate Committees of the House of Representatives and of the Senate, by not later than April 1, 1988, concerning whether (and the extent to which)—

(i) the application of the amendments made by subsection (a) to the program is cost-effective and otherwise appropriate, and

(ii) there should be a waiver of the application of such amendments under subparagraph (B).

Effective date.

The amendments made by subsection (a) shall not apply with respect to a covered program described in subclause (II), (V), (VI), or (VII) of subparagraph (D)(i) until after the date of receipt of such report with respect to the program.

(B) WAIVER IN CERTAIN CASES.—If, with respect to a covered program, the appropriate Secretary determines, on the Secretary's own initiative or upon an application by an administering entity and based on such information as the Secretary deems persuasive (which may include the results of the report required under subsection (d)(1) and information contained in such an application), that—

(i) the appropriate Secretary or the administering entity has in effect an alternative system of immigration status verification which—

(I) is as effective and timely as the system otherwise required under the amendments made by subsection (a) with respect to the program, and

(II) provides for at least the hearing and appeals rights for beneficiaries that would be provided under the amendments made by subsection (a), or

(ii) the costs of administration of the system otherwise required under such amendments exceed the estimated savings,

such Secretary may waive the application of such amendments to the covered program to the extent (by State or other geographic area or otherwise) that such determinations apply.

(C) BASIS FOR DETERMINATION.—A determination under subparagraph (B)(ii) shall be based upon the appropriate Secretary's estimate of—

(i) the number of aliens claiming benefits under the covered program in relation to the total number of claimants seeking benefits under the program,

(ii) any savings in benefit expenditures reasonably expected to result from implementation of the verification program, and

(iii) the labor and nonlabor costs of administration of the verification system,

the degree to which the Immigration and Naturalization Service is capable of providing timely and accurate information to the administering entity in order to permit a

reliable determination of immigration status, and such other factors as such Secretary deems relevant.

(D) DEFINITIONS.—In this paragraph:

(i) The term “covered program” means each of the following programs:

(I) The aid to families with dependent children program under part A of title IV of the Social Security Act.

Children and youth.
42 USC 601.
Medicaid.
42 USC 1396.

(II) The medicaid program under title XIX of the Social Security Act.

(III) Any State program under a plan approved under title I, X, XIV, or XVI of the Social Security Act.

(IV) The unemployment compensation program under section 3304 of the Internal Revenue Code of 1954.

42 USC 301,
1201, 1351, 1381.

(V) The food stamp program under the Food Stamp Act of 1977.

26 USC 3304.

(VI) The programs of financial assistance for housing subject to section 214 of the Housing and Community Development Act of 1980.

7 USC 2026.

(VII) The program of grants, loans, and work assistance under title IV of the Higher Education Act of 1965.

42 USC 1436a.

(ii) The term “appropriate Secretary” means, with respect to the covered program described in—

Ante, p. 1308.

(I) subclauses (I) through (III) of clause (i), the Secretary of Health and Human Services;

(II) clause (i)(IV), the Secretary of Labor;

(III) clause (i)(V), the Secretary of Agriculture;

(IV) clause (i)(VI), the Secretary of Housing and Urban Development; and

(V) clause (i)(VII), the Secretary of Education.

(iii) The term “administering entity” means, with respect to the covered program described in—

(I) subclause (I), (II), (III), (IV), or (V) of clause (i), the State agency responsible for the administration of the program in a State;

(II) clause (i)(VI), the Secretary of Housing and Urban Development, a public housing agency, or another entity that determines the eligibility of an individual for financial assistance; and

(III) clause (i)(VII), an institution of higher education involved.

(5) FUNDS AUTHORIZED.—Such sums as may be necessary are authorized for the Immigration and Naturalization Service to carry out the purposes of this section.

(d) GAO REPORTS.—

42 USC 1320b-7
note.

(1) REPORT ON CURRENT PILOT PROJECTS.—The Comptroller General shall—

(A) examine current pilot projects relating to the System for Alien Verification of Eligibility (SAVE) operated by, or through cooperative agreements with, the Immigration and Naturalization Service, and

Contracts.

(B) report, not later than October 1, 1987, to Congress and to the Commissioner of the Immigration and Naturalization Service concerning the effectiveness of such projects and

any problems with the implementation of such projects, particularly as they may apply to implementation of the system referred to in subsection (c)(1).

(2) REPORT ON IMPLEMENTATION OF VERIFICATION SYSTEM.—The Comptroller General shall—

(A) monitor and analyze the implementation of such system,

(B) report to Congress and to the appropriate Secretaries described in subsection (c)(4)(D)(ii), by not later than April 1, 1989, on such implementation, and

(C) include in such report such recommendations for changes in the system as may be appropriate.

TITLE II—LEGALIZATION

SEC. 201. LEGALIZATION OF STATUS.

(a) PROVIDING FOR LEGALIZATION PROGRAM.—(1) Chapter 5 of title II is amended by inserting after section 245 (8 U.S.C. 1255) the following new section:

“ADJUSTMENT OF STATUS OF CERTAIN ENTRANTS BEFORE JANUARY 1, 1982, TO THAT OF PERSON ADMITTED FOR LAWFUL RESIDENCE

8 USC 1255a.

“SEC. 245A. (a) TEMPORARY RESIDENT STATUS.—The Attorney General shall adjust the status of an alien to that of an alien lawfully admitted for temporary residence if the alien meets the following requirements:

“(1) TIMELY APPLICATION.—

“(A) DURING APPLICATION PERIOD.—Except as provided in subparagraph (B), the alien must apply for such adjustment during the 12-month period beginning on a date (not later than 180 days after the date of enactment of this section) designated by the Attorney General.

8 USC 1252.

“(B) APPLICATION WITHIN 30 DAYS OF SHOW-CAUSE ORDER.—An alien who, at any time during the first 11 months of the 12-month period described in subparagraph (A), is the subject of an order to show cause issued under section 242, must make application under this section not later than the end of the 30-day period beginning either on the first day of such 18-month period or on the date of the issuance of such order, whichever day is later.

“(C) INFORMATION INCLUDED IN APPLICATION.—Each application under this subsection shall contain such information as the Attorney General may require, including information on living relatives of the applicant with respect to whom a petition for preference or other status may be filed by the applicant at any later date under section 204(a).

8 USC 1154.

“(2) CONTINUOUS UNLAWFUL RESIDENCE SINCE 1982.—

“(A) IN GENERAL.—The alien must establish that he entered the United States before January 1, 1982, and that he has resided continuously in the United States in an unlawful status since such date and through the date the application is filed under this subsection.

“(B) NONIMMIGRANTS.—In the case of an alien who entered the United States as a nonimmigrant before January 1, 1982, the alien must establish that the alien's period of authorized stay as a nonimmigrant expired before such

date through the passage of time or the alien's unlawful status was known to the Government as of such date.

“(C) EXCHANGE VISITORS.—If the alien was at any time a nonimmigrant exchange alien (as defined in section 101(a)(15)(J)), the alien must establish that the alien was not subject to the two-year foreign residence requirement of section 212(e) or has fulfilled that requirement or received a waiver thereof.

8 USC 1101.

8 USC 1182.

“(3) CONTINUOUS PHYSICAL PRESENCE SINCE ENACTMENT.—

“(A) IN GENERAL.—The alien must establish that the alien has been continuously physically present in the United States since the date of the enactment of this section.

“(B) TREATMENT OF BRIEF, CASUAL, AND INNOCENT ABSENCES.—An alien shall not be considered to have failed to maintain continuous physical presence in the United States for purposes of subparagraph (A) by virtue of brief, casual, and innocent absences from the United States.

“(C) ADMISSIONS.—Nothing in this section shall be construed as authorizing an alien to apply for admission to, or to be admitted to, the United States in order to apply for adjustment of status under this subsection.

“(4) ADMISSIBLE AS IMMIGRANT.—The alien must establish that he—

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

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

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

“(D) is registered or registering under the Military Selective Service Act, if the alien is required to be so registered under that Act.

50 USC app. 451.

For purposes of this subsection, an alien in the status of a Cuban and Haitian entrant described in paragraph (1) or (2)(A) of section 501(e) of Public Law 96-422 shall be considered to have entered the United States and to be in an unlawful status in the United States.

8 USC 1522 note.

“(b) SUBSEQUENT ADJUSTMENT TO PERMANENT RESIDENCE AND NATURE OF TEMPORARY RESIDENT STATUS.—

“(1) ADJUSTMENT TO PERMANENT RESIDENCE.—The Attorney General shall adjust the status of any alien provided lawful temporary resident status under subsection (a) to that of an alien lawfully admitted for permanent residence if the alien meets the following requirements:

“(A) TIMELY APPLICATION AFTER ONE YEAR'S RESIDENCE.—The alien must apply for such adjustment during the one-year period beginning with the nineteenth month that begins after the date the alien was granted such temporary resident status.

“(B) CONTINUOUS RESIDENCE.—

“(i) IN GENERAL.—The alien must establish that he has continuously resided in the United States since the date the alien was granted such temporary resident status.

"(ii) **TREATMENT OF CERTAIN ABSENCES.**—An alien shall not be considered to have lost the continuous residence referred to in clause (i) by reason of an absence from the United States permitted under paragraph (3)(A).

"(C) **ADMISSIBLE AS IMMIGRANT.**—The alien must establish that he—

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

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

"(D) **BASIC CITIZENSHIP SKILLS.**—

"(i) **IN GENERAL.**—The alien must demonstrate that he either—

"(I) meets the requirements of section 312 (relating to minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States), or

"(II) is satisfactorily pursuing a course of study (recognized by the Attorney General) to achieve such an understanding of English and such a knowledge and understanding of the history and government of the United States.

"(ii) **EXCEPTION FOR ELDERLY INDIVIDUALS.**—The Attorney General may, in his discretion, waive all or part of the requirements of clause (i) in the case of an alien who is 65 years of age or older.

"(iii) **RELATION TO NATURALIZATION EXAMINATION.**—In accordance with regulations of the Attorney General, an alien who has demonstrated under clause (i)(I) that the alien meets the requirements of section 312 may be considered to have satisfied the requirements of that section for purposes of becoming naturalized as a citizen of the United States under title III.

"(2) **TERMINATION OF TEMPORARY RESIDENCE.**—The Attorney General shall provide for termination of temporary resident status granted an alien under subsection (a)—

"(A) if it appears to the Attorney General that the alien was in fact not eligible for such status;

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

"(C) at the end of the thirty-first month beginning after the date the alien is granted such status, unless the alien has filed an application for adjustment of such status pursuant to paragraph (1) and such application has not been denied.

"(3) **AUTHORIZED TRAVEL AND EMPLOYMENT DURING TEMPORARY RESIDENCE.**—During the period an alien is in lawful temporary resident status granted under subsection (a)—

"(A) **AUTHORIZATION OF TRAVEL ABROAD.**—The Attorney General shall, in accordance with regulations, permit the alien to return to the United States after such brief and casual trips abroad as reflect an intention on the part of the

8 USC 1423.

8 USC 1401.

alien to adjust to lawful permanent resident status under paragraph (1) and after brief temporary trips abroad occasioned by a family obligation involving an occurrence such as the illness or death of a close relative or other family need.

“(B) AUTHORIZATION OF EMPLOYMENT.—The Attorney General shall grant the alien authorization to engage in employment in the United States and provide to that alien an ‘employment authorized’ endorsement or other appropriate work permit.

“(c) APPLICATIONS FOR ADJUSTMENT OF STATUS.—

“(1) TO WHOM MAY BE MADE.—The Attorney General shall provide that applications for adjustment of status under subsection (a) may be filed—

“(A) with the Attorney General, or

“(B) with a qualified designated entity, but only if the applicant consents to the forwarding of the application to the Attorney General.

As used in this section, the term “qualified designated entity” means an organization or person designated under paragraph (2).

“(2) DESIGNATION OF QUALIFIED ENTITIES TO RECEIVE APPLICATIONS.—For purposes of assisting in the program of legalization provided under this section, the Attorney General—

“(A) shall designate qualified voluntary organizations and other qualified State, local, and community organizations, and

“(B) may designate such other persons as the Attorney General determines are qualified and have substantial experience, demonstrated competence, and traditional long-term involvement in the preparation and submittal of applications for adjustment of status under section 209 or 245, Public Law 89-732, or Public Law 95-145.

“(3) TREATMENT OF APPLICATIONS BY DESIGNATED ENTITIES.—Each qualified designated entity must agree to forward to the Attorney General applications filed with it in accordance with paragraph (1)(B) but not to forward to the Attorney General applications filed with it unless the applicant has consented to such forwarding. No such entity may make a determination required by this section to be made by the Attorney General.

“(4) LIMITATION ON ACCESS TO INFORMATION.—Files and records of qualified designated entities relating to an alien's seeking assistance or information with respect to filing an application under this section are confidential and the Attorney General and the Service shall not have access to such files or records relating to an alien without the consent of the alien.

“(5) CONFIDENTIALITY OF INFORMATION.—Neither the Attorney General, nor any other official or employee of the Department of Justice, or bureau or agency thereof, may—

“(A) use the information furnished pursuant to an application filed under this section for any purpose other than to make a determination on the application or for enforcement of paragraph (6),

“(B) make any publication whereby the information furnished by any particular individual can be identified, or

“(C) permit anyone other than the sworn officers and employees of the Department or bureau or agency or, with

8 USC 1159,
1255.
8 USC 1255 note.

Law
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respect to applications filed with a designated entity, that designated entity, to examine individual applications.

Anyone who uses, publishes, or permits information to be examined in violation of this paragraph shall be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both.

“(6) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—Whoever files an application for adjustment of status under this section and knowingly and willfully falsifies, misrepresents, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both.

“(7) APPLICATION FEES.—

“(A) FEE SCHEDULE.—The Attorney General shall provide for a schedule of fees to be charged for the filing of applications for adjustment under subsection (a) or (b)(1).

“(B) USE OF FEES.—The Attorney General shall deposit payments received under this paragraph in a separate account and amounts in such account shall be available, without fiscal year limitation, to cover administrative and other expenses incurred in connection with the review of applications filed under this section.

“(d) WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR EXCLUSION.—

8 USC 1151,
1152.

“(1) NUMERICAL LIMITATIONS DO NOT APPLY.—The numerical limitations of sections 201 and 202 shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

“(2) WAIVER OF GROUNDS FOR EXCLUSION.—In the determination of an alien's admissibility under subsections (a)(4)(A), (b)(1)(C)(i), and (b)(2)(B)—

8 USC 1182.

“(A) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (14), (20), (21), (25), and (32) of section 212(a) shall not apply.

“(B) WAIVER OF OTHER GROUNDS.—

“(i) IN GENERAL.—Except as provided in clause (ii), the Attorney General may waive any other provision of section 212(a) in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

“(ii) GROUNDS THAT MAY NOT BE WAIVED.—The following provisions of section 212(a) may not be waived by the Attorney General under clause (i):

“(I) Paragraphs (9) and (10) (relating to criminals).

“(II) Paragraph (15) (relating to aliens likely to become public charges) insofar as it relates to an application for adjustment to permanent residence by an alien other than an alien who is eligible for benefits under title XVI of the Social Security Act or section 212 of Public Law 93-66 for the month in which such alien is granted lawful temporary residence status under subsection (a).

42 USC 1381.
42 USC 1382
note.

“(III) Paragraph (23) (relating to drug offenses), except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marihuana.

“(IV) Paragraphs (27), (28), and (29) (relating to national security and members of certain organizations).

“(V) Paragraph (33) (relating to those who assisted in the Nazi persecutions).

“(iii) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for adjustment of status under this section due to being inadmissible under section 212(a)(15) if the alien demonstrates a history of employment in the United States evidencing self-support without receipt of public cash assistance.

8 USC 1182.

“(C) MEDICAL EXAMINATION.—The alien shall be required, at the alien’s expense, to undergo such a medical examination (including a determination of immunization status) as is appropriate and conforms to generally accepted professional standards of medical practice.

“(e) TEMPORARY STAY OF DEPORTATION AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

“(1) BEFORE APPLICATION PERIOD.—The Attorney General shall provide that in the case of an alien who is apprehended before the beginning of the application period described in subsection (a)(1)(A) and who can establish a prima facie case of eligibility to have his status adjusted under subsection (a) (but for the fact that he may not apply for such adjustment until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for adjustment, the alien—

“(A) may not be deported, and

“(B) shall be granted authorization to engage in employment in the United States and be provided an ‘employment authorized’ endorsement or other appropriate work permit.

“(2) DURING APPLICATION PERIOD.—The Attorney General shall provide that in the case of an alien who presents a prima facie application for adjustment of status under subsection (a) during the application period, and until a final determination on the application has been made in accordance with this section, the alien—

“(A) may not be deported, and

“(B) shall be granted authorization to engage in employment in the United States and be provided an ‘employment authorized’ endorsement or other appropriate work permit.

“(f) ADMINISTRATIVE AND JUDICIAL REVIEW.—

“(1) ADMINISTRATIVE AND JUDICIAL REVIEW.—There shall be no administrative or judicial review of a determination respecting an application for adjustment of status under this section except in accordance with this subsection.

“(2) NO REVIEW FOR LATE FILINGS.—No denial of adjustment of status under this section based on a late filing of an application for such adjustment may be reviewed by a court of the United States or of any State or reviewed in any administrative proceeding of the United States Government.

“(3) ADMINISTRATIVE REVIEW.—

“(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Attorney General shall establish an appellate authority to provide for a single level of administrative appellate review of a determination described in paragraph (1).

“(B) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

“(4) JUDICIAL REVIEW.—

“(A) LIMITATION TO REVIEW OF DEPORTATION.—There shall be judicial review of such a denial only in the judicial review of an order of deportation under section 106.

“(B) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

“(g) IMPLEMENTATION OF SECTION.—

“(1) REGULATIONS.—The Attorney General, after consultation with the Committees on the Judiciary of the House of Representatives and of the Senate, shall prescribe—

“(A) regulations establishing a definition of the term ‘resided continuously’, as used in this section, and the evidence needed to establish that an alien has resided continuously in the United States for purposes of this section, and

“(B) such other regulations as may be necessary to carry out this section.

“(2) CONSIDERATIONS.—In prescribing regulations described in paragraph (1)(A)—

“(A) PERIODS OF CONTINUOUS RESIDENCE.—The Attorney General shall specify individual periods, and aggregate periods, of absence from the United States which will be considered to break a period of continuous residence in the United States and shall take into account absences due merely to brief and casual trips abroad.

“(B) ABSENCES CAUSED BY DEPORTATION OR ADVANCED PAROLE.—The Attorney General shall provide that—

“(i) an alien shall not be considered to have resided continuously in the United States, if, during any period for which continuous residence is required, the alien was outside the United States as a result of a departure under an order of deportation, and

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

“(C) WAIVERS OF CERTAIN ABSENCES.—The Attorney General may provide for a waiver, in the discretion of the Attorney General, of the periods specified under subpara-

graph (A) in the case of an absence from the United States due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

“(D) USE OF CERTAIN DOCUMENTATION.—The Attorney General shall require that—

“(i) continuous residence and physical presence in the United States must be established through documents, together with independent corroboration of the information contained in such documents, and

“(ii) the documents provided under clause (i) be employment-related if employment-related documents with respect to the alien are available to the applicant.

“(3) INTERIM FINAL REGULATIONS.—Regulations prescribed under this section may be prescribed to take effect on an interim final basis if the Attorney General determines that this is necessary in order to implement this section in a timely manner.

“(h) TEMPORARY DISQUALIFICATION OF NEWLY LEGALIZED ALIENS FROM RECEIVING CERTAIN PUBLIC WELFARE ASSISTANCE.—

“(1) IN GENERAL.—During the five-year period beginning on the date an alien was granted lawful temporary resident status under subsection (a), and notwithstanding any other provision of law—

“(A) except as provided in paragraphs (2) and (3), the alien is not eligible for—

“(i) any program of financial assistance furnished under Federal law (whether through grant, loan, guarantee, or otherwise) on the basis of financial need, as such programs are identified by the Attorney General in consultation with other appropriate heads of the various departments and agencies of Government (but in any event including the program of aid to families with dependent children under part A of title IV of the Social Security Act),

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

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

“(B) a State or political subdivision therein may, to the extent consistent with subparagraph (A) and paragraphs (2) and (3), provide that the alien is not eligible for the programs of financial assistance or for medical assistance described in subparagraph (A)(ii) furnished under the law of that State or political subdivision.

Unless otherwise specifically provided by this section or other law, an alien in temporary lawful residence status granted under subsection (a) shall not be considered (for purposes of any law of a State or political subdivision providing for a program of financial assistance) to be permanently residing in the United States under color of law.

“(2) EXCEPTIONS.—Paragraph (1) shall not apply—

“(A) to a Cuban and Haitian entrant (as defined in paragraph (1) or (2)(A) of section 501(e) of Public Law 96-422, as in effect on April 1, 1983), or

“(B) in the case of assistance (other than aid to families with dependent children) which is furnished to an alien

42 USC 601.

42 USC 1396.

7 USC 2026.

8 USC 1255 note.