

SEC. 662. TREATMENT OF EXPENSES SUBJECT TO EMERGENCY MEDICAL SERVICES EXCEPTION.

(a) **IN GENERAL.**—Subject to such amounts as are provided in advance in appropriation Acts, each State or political subdivision of a State that provides medical assistance for care and treatment of an emergency medical condition (as defined in subsection (d)) through a public hospital or other public facility (including a non-profit hospital that is eligible for an additional payment adjustment under section 1886 of the Social Security Act) or through contract with another hospital or facility to an individual who is an alien not lawfully present in the United States is eligible for payment from the Federal Government of its costs of providing such services, but only to the extent that such costs are not otherwise reimbursed through any other Federal program and cannot be recovered from the alien or another person.

(b) **CONFIRMATION OF IMMIGRATION STATUS REQUIRED.**—No payment shall be made under this section with respect to services furnished to an individual unless the immigration status of the individual has been verified through appropriate procedures established by the Secretary of Health and Human Services and the Attorney General.

(c) **ADMINISTRATION.**—This section shall be administered by the Attorney General, in consultation with the Secretary of Health and Human Services.

(d) **EMERGENCY MEDICAL CONDITION DEFINED.**—For purposes of this section, the term "emergency medical condition" means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

- (1) placing the patient's health in serious jeopardy,
- (2) serious impairment to bodily functions, or
- (3) serious dysfunction of any bodily organ or part.

(e) **EFFECTIVE DATE.**—Subsection (a) shall apply to medical assistance for care and treatment of an emergency medical condition furnished on or after January 1, 1997.

SEC. 663. REIMBURSEMENT OF STATES AND LOCALITIES FOR EMERGENCY AMBULANCE SERVICES.

Subject to the availability of appropriations, the Attorney General shall fully reimburse States and political subdivisions of States for costs incurred by such a State or subdivision for emergency ambulance services provided to any alien who—

- (1) is injured while crossing a land or sea border of the United States without inspection or at any time or place other than as designated by the Attorney General; and
- (2) is under the custody of the State or subdivision pursuant to a transfer, request, or other action by a Federal authority.

SEC. 664. PILOT PROGRAMS TO REQUIRE BONDING.

(a) **IN GENERAL.**—

(1) The Attorney General of the United States shall establish a pilot program in 5 district offices of the Immigration and Naturalization Service to require aliens to post a bond in addition to the affidavit requirements under section 213A of the Immigration and Nationality Act and the deeming requirements under section 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1631). Any pilot program established pursuant to this subsection shall require an alien to post a bond in an amount sufficient to cover the cost of benefits described in section 213A(d)(2)(B) of the Immigration and Nationality Act (as amended by section 551(a) of this division) for the alien and the alien's dependents and shall remain in effect until the departure, naturalization, or death of the alien.

(2) Suit on any such bonds may be brought under the terms and conditions set forth in section 213A of the Immigration and Nationality Act.

(b) **REGULATIONS.**—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall issue regulations for establishing the pilot programs, including—

- (1) criteria and procedures for—
 - (A) certifying bonding companies for participation in the program, and
 - (B) debarment of any such company that fails to pay a bond, and
- (2) criteria for setting the amount of the bond to assure that the bond is in an amount that is not less than the cost of providing benefits under the programs described in subsection (a)(1) for the alien and the alien's dependents for 6 months.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(d) **ANNUAL REPORTING REQUIREMENT.**—Beginning 9 months after the date of implementation of the pilot program, the Attorney General shall submit annually to the Committees on the Judiciary of the House of Representatives and the Senate a report on the effectiveness of the program. The Attorney General shall submit a final evaluation of the program not later than 1 year after termination.

(e) **SUNSET.**—The pilot program under this section shall terminate after 3 years of operation.

(f) **BONDS IN ADDITION TO SPONSORSHIP AND DEEMING REQUIREMENTS.**—Section 213 (8 U.S.C. 1183) is amended by inserting "(subject to the affidavit of support requirement and attribution of sponsor's income and resources under section 213A)" after "in the discretion of the Attorney General".

SEC. 665. REPORTS.

Not later than 180 days after the end of each fiscal year, the Attorney General shall submit a report to the Inspector General of the Department of Justice and the Committees on the Judiciary of the House of Representatives and of the Senate describing the following:

(1) **PUBLIC CHARGE DEPORTATIONS.**—The number of aliens deported on public charge grounds under section 241(a)(5) of the Immigration and Nationality Act during the previous fiscal year.

(2) **INDIGENT SPONSORS.**—The number of determinations made under section 421(e) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (as added by section 552 of this division) during the previous fiscal year.

(3) **REIMBURSEMENT ACTIONS.**—The number of actions brought, and the amount of each action, for reimbursement under section 213A of the Immigration and Nationality Act (including private collections) for the costs of providing public benefits.

Subtitle E—Housing Assistance**SEC. 671. SHORT TITLE.**

This subtitle may be cited as the "Use of Assisted Housing by Aliens Act of 1996".

SEC. 672. PRORATING OF FINANCIAL ASSISTANCE. Section 214(b) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(b)) is amended—

- (1) by inserting "(1)" after "(b)"; and
- (2) by adding at the end the following new paragraph:

"(2) If the eligibility for financial assistance of at least one member of a family has been affirmatively established under the program of financial assistance and under this section, and the ineligibility of one or more family members has not been affirmatively established under this section, any financial assistance made available to that family by the Secretary of Housing and Urban Development shall be prorated, based on the number of individuals in the family for whom eligibility has been affirmatively established under the program of financial assistance and under this section, as compared with the total number of individuals who are members of the family."

SEC. 673. ACTIONS IN CASES OF TERMINATION OF FINANCIAL ASSISTANCE.

Section 214(c)(1) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(c)(1)) is amended—

- (1) in the matter preceding subparagraph (A), by striking "may, in its discretion," and inserting "shall";

(2) in subparagraph (A), by adding at the end the following: "Financial assistance continued under this subparagraph for a family may be provided only on a prorated basis, under which the amount of financial assistance is based on the percentage of the total number of members of the family that are eligible for that assistance under the program of financial assistance and under this section."; and

(3) in subparagraph (B)—

- (A) by striking "3 years" and inserting "18 months";

(B) by inserting "(i)" after "(B)";

(C) by striking "Any deferral" and inserting the following:

"(ii) Except as provided in clause (iii), any deferral"; and

(D) by adding at the end the following new clauses:

"(iii) The time period described in clause (ii) shall not apply in the case of a refugee under section 207 of the Immigration and Nationality Act or an individual seeking asylum under section 208 of that Act."

SEC. 674. VERIFICATION OF IMMIGRATION STATUS AND ELIGIBILITY FOR FINANCIAL ASSISTANCE.

Section 214(d) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(d)) is amended—

- (1) in the matter preceding paragraph (1), by inserting "or to be" after "being";

(2) in paragraph (1)(A), by adding at the end the following: "If the declaration states that the individual is not a citizen or national of the United States and that the individual is younger than 62 years of age, the declaration shall be verified by the Immigration and Naturalization Service. If the declaration states that the individual is a citizen or national of the United States, the Secretary of Housing and Urban Development, or the agency administering assistance covered by this section, may request verification of the declaration by requiring presentation of documentation that the Secretary considers appropriate, including a United States passport, resident alien card, alien registration card, social security card, or other documentation.";

(3) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking "on the date of the enactment of the Housing and Community Development Act of 1987" and inserting "on the date of enactment of the Use of Assisted Housing by Aliens Act of 1996 or applying for financial assistance on or after that date"; and

(B) by adding at the end the following:

"In the case of an individual applying for financial assistance on or after the date of enactment of the Use of Assisted Housing by Aliens Act of 1996, the Secretary may not provide any such assistance for the benefit of that individual before documentation is presented and verified under paragraph (3) or (4).";

(4) in paragraph (4)—

(A) in the matter preceding subparagraph (A), by striking "on the date of the enactment of the Housing and Community Development Act of 1987" and inserting "on the date of enactment of the Use of Assisted Housing by Aliens Act of 1996 or applying for financial assistance on or after that date";

(B) in subparagraph (A)—

(i) in clause (i)—

(I) by inserting ", not to exceed 30 days," after "reasonable opportunity"; and

(II) by striking "and" at the end; and

(ii) by striking clause (ii) and inserting the following:

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(c) **ADMINISTRATION.**—This section shall be administered by the Attorney General, in consultation with the Secretary of Health and Human Services.

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 - (A) certifying bonding companies for participation in the program, and
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- (2) by adding at the end the following new paragraph:

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(3) in subparagraph (B)—

(A) by striking "3 years" and inserting "18-months";

(B) by inserting "(i)" after "(B)";

(C) by striking "Any deferral" and inserting the following:

"(ii) Except as provided in clause (iii), any deferral"; and

(D) by adding at the end the following new clauses:

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(A) in the matter preceding subparagraph (A), by striking "on the date of the enactment of the Housing and Community Development Act of 1987" and inserting "on the date of enactment of the Use of Assisted Housing by Aliens Act of 1996 or applying for financial assistance on or after that date"; and

(B) by adding at the end the following:

"In the case of an individual applying for financial assistance on or after the date of enactment of the Use of Assisted Housing by Aliens Act of 1996, the Secretary may not provide any such assistance for the benefit of that individual before documentation is presented and verified under paragraph (3) or (4)."

(4) in paragraph (4)—

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(B) in subparagraph (A)—

(i) in clause (i)—

(I) by inserting ", not to exceed 30 days," after "reasonable opportunity"; and

(II) by striking "and" at the end; and

(ii) by striking clause (ii) and inserting the following:

Welfare Reform Research
APWA Meeting March 6, 1997

National Conference of State Legislatures -

Survey of State legislative leaders, still in draft, targeted for release in May 1997

Robert Wood Johnson Foundation grant to begin in May (did not know what the grant is for)

Immigrant Policy Project - A database that will track State legislation related to TANF and Medicaid and summarize bills that have passed one house.

General Accounting Office -

Income Security staff have a project dealing with TANF (no Medicaid involvement)

For Senator Dodd, a study of welfare reform on food stamps, Medicaid and child welfare methodology is under development but they are considering doing case studies in 10-12 States looking at eligibility systems, outreach efforts, best practices.

Congressional Research Service -

Has a contract with MEDSTAT to look at EPSDT in Medicaid managed care .

Families USA - No projects

Inspector General -

They are in the process of soliciting ideas, plan to do something.

(Have recently completed a report on EPSDT in managed care)

Urban Institute -

"Assessing the New Federalism" - a three year \$30 million project consisting of 3 main components

- A State database

- national survey of 50,000 families (conducted in 1997 and repeated in 1999 with oversampling of low income population)

- Case studies of 12 States

George Washington University - (funded with an RWJ grant)

50 State survey on State Medicaid changes

sample survey of States on issues for State/ considerations in making choices/ reasons for making choices

look at impacts on community health providers, especially in areas with large immigrant populations

Center on Budget and Policy Priorities -

Will conduct 50 State monitoring

Plans to work with the National Center for Health Statistics

Will collect State statutes, regulation, and other policy issuances and will characterize State policy.

National Health Law Program -

Will study impact of managed care on consumers

Will gather information on State and local responsibility for providing/paying for health care for indigents.

National Immigration Law Center -

Will monitor the States

Create library and use as a clearinghouse of information

Assistant Secretary for Policy and Evaluation -

Provide grants to States to create longitudinal relational databases which link information on beneficiaries in multiple programs.

w:\blucaucu.brf

TO: The Secretary
Through: DS _____
COS _____
ES _____

DRAFT

FROM: Richard J. Tarplin
Assistant Secretary for Legislation - Designate

SUBJECT: **MEETING WITH THE COALITION ("Blue Dogs")**
Wednesday, March 12, 1997 at 9:15 a.m., Location: xxx

CONGRESSIONAL PARTICIPANTS

Members of the Coalition (see attached list)

DEPARTMENT PARTICIPANTS

Richard J. Tarplin, Assistant Secretary for Legislation - Designate

BACKGROUND

On March 12, you will meet with members of the Coalition to discuss upcoming legislative issues that are of interest to Caucus members.

The Coalition, also known as the "Blue Dogs," was formed during the 104th Congress in February 1995. The 23 members, who are moderate to conservative Democrats in the House, focus on developing policies that represent the centrist views of both political parties.

During the 104th Congress, the Coalition developed a budget plan that won wide bipartisan support. The Coalition also introduced a welfare reform plan that demanded work in exchange for assistance, set strict two-year time limits, discouraged teen pregnancy by ending the practice of paying more money for additional children born while on assistance, and gave the states the resources and flexibility to test their own reform ideas. The plan did not pass but every Democratic House Member and a few Republicans supported the measure.

However, the plan laid the groundwork for the welfare reform legislation the President signed.

Representative Condit (D-CA), co-chair for administration and founding member of the Coalition, was elected through a special election in 1989 to replace Tony Coehlo. Representative Condit voted for the Hyde amendment banning most publicly-funded abortions, was the lead Democratic sponsor of the unfunded mandates bill. He also supports regulatory reform, including greater use of risk assessment and cost-benefit analysis. His removal from the Energy and Commerce in the 103 Congress may have had something to do with his independence from the Democratic Leadership. Representative Condit's top health priority is rural health care. He also is concerned about the unemployed, migrant workers, and the confidentiality of medical records. During the 105th Congress, Representative Condit serves on the House Agriculture Committee and the Government Reform and Oversight Committee.

Other leaders of The Coalition:

Representative John Tanner (D-TN), co-chair for communications

Representative David Minge (D-MN), co-chair for budget task force

Representative Collin Peterson (D-MN), co-chair for policy

ISSUES OF CONCERN

The members of the Coalition will be interested in discussing their recently proposed budget.

Coalition's Budget for Fiscal Year 1998

On February 26, 1997, The Coalition introduced a FY 1998 budget. According to The Coalition documents, the plan would have the budget reach balance by 2002 with a surplus; reach balance in 2005 without relying on the Social Security trust fund; and reach balance by 2007 without relying on any trust funds at all. The Coalition budget includes a 0.8 percent adjustment in the CPI. The budget includes a trigger to force Congress to take action to reduce the deficit further if targets are not reached, or risk across-the-board cuts in all programs (see attached background information).

HEALTH

Medicare savings - The Coalition budget calls for \$119 billion in Medicare savings through a variety of reforms similar to changes proposed last year. The group calls for means-testing the Medicare Part B premium and for extending the 25-percent Part B premium rule. In addition, this proposal would transfer home health visits after 100 to Part B and include those costs in the premium for people with incomes over \$30,000.

Medicare premium - In your courtesy meeting with Representative Tanner on March 4, the discussion touched on a possible ultimate compromise on the home health premium issue. You pointed out the administrative nightmare of requiring HHS to make income determinations to establish an income-related premium. In addition, the Blue Dogs have heightened the complexity by requiring a 3-tiered premium:

- for incomes below \$30,000, it would be flat and **exclude** the home health costs;
- for incomes between \$30,000 and \$50,000, it would be flat and **include** the home health costs; and
- for incomes above \$50,000, it would be means tested and include the home health costs.

You urged Representative Tanner to expand his protections for moderate income seniors. The Blue Dogs may want to consider including home health costs only in the means-tested Part B premium.

Medicare Fraud and Abuse - You and Representative Tanner also had a lengthy discussion about fraud and abuse. Though our new legislative proposal is not yet public, you could extend to the group your invitation to consider adopting our proposals.

Medicaid - The Coalition's budget includes \$26 billion in net Medicaid savings while guaranteeing coverage. The Coalition's per-capita cap achieves \$14 billion in savings (compared to our \$7 billion) while the DSH savings are almost \$12 billion (compared to our \$15 billion.) None of the savings are reinvested in Medicaid expansions as we propose. Because The Coalition budget includes the CPI adjustment, the members will resist Medicaid investments and other spenders. Most members feel that the CPI should be adjusted for deficit reduction alone.

The proposal also includes the same \$166.5 billion in discretionary savings which the group called for last year, but it allows for spending increases in education, health and research.

WELFARE

Immigrants - While members of The Coalition oppose reopening last year's welfare reform measure, their FY 1998 budget would provide vulnerable immigrants with an additional two years of benefits to give states time to prepare for the impact of implementation. We understand that they considered more restorations in this area but were limited in their ability to find funding.

During the 104th Congress, The Coalition budget was similar to the President's budget proposal on this issue. The Coalition budget did not include any bans and provided exemptions for the elderly.

Welfare-to-Work - The Coalition budget also reserves \$3.6 billion to be made available to states that demonstrate that they need additional funds for welfare-to-work activities. Unlike the President's proposal, The Coalition plan would require that states match these new federal funds. Further, these funds would be available for both the welfare and food stamp populations, since The Coalition budget does not otherwise revisit the food stamp cuts made last year. The proposal also would help low-income families meet child care expenses by making the Dependent Care Tax Credit refundable and would offset these costs by phasing it out for couples with adjusted gross incomes between \$100,000 and \$125,000 a year.

As you recall during your recent meeting with Representative Tanner, he indicated that Minority Leader Gephardt had appointed him and Representative Stenholm (D-TX) to serve on the Welfare-to-Work Task Force.

Attachments

- List of The Coalition members
- Background on The Coalition Budget

Blue Dog Coalition of 1997

Rep. Bud Cramer (AL)	(202) 225-4801
Rep. Marion Berry (AR)	(202) 225-4076
Rep. Gary Condit (CA)	(202) 225-6131
Rep. Ellen Tauscher (CA)	(202) 225-1880
Rep. Allen Boyd (FL)	(202) 225-5235
Rep. Sanford Bishop (GA)	(202) 225-3631
Rep. William Lipinski (IL)	(202) 225-5701
Rep. Scotty Baesler (KY)	(202) 225-4706
Rep. Chris John (LA)	(202) 225-2031
Rep. Collin Peterson (MN)	(202) 225-2165
Rep. David Minge (MN)	(202) 225-2331
Rep. Gene Taylor (MS)	(202) 225-5772
Rep. Pat Danner (MO)	(202) 225-7041
Rep. Mike McIntyre (NC)	(202) 225-2731
Rep. Tim Holden (PA)	(202) 225-5546
Rep. John Tanner (TN)	(202) 225-4714
Rep. Ralph Hall (TX)	(202) 225-6673
Rep. Max Sandlin (TX)	(202) 225-3035
Rep. Charlie Stenholm (TX)	(202) 225-6605
Rep. Jim Turner (TX)	(202) 225-2401
Rep. Owen Pickett (VA)	(202) 225-4215
Rep. Norman Sisisky (VA)	(202) 225-6365
Rep. Virgil Goode (VA)	(202) 225-4711

(C) in clause (ii), as so redesignated—

(i) in subclause (I), by striking "or" before "such other personal identifying information" and inserting "and";

(ii) by striking "and" at the end of subclause

(iii) by striking the period at the end of subclause (II) and inserting "and"; and

(iv) by adding at the end the following new subclause:

"(III) contains security features to make it resistant to tampering, counterfeiting, and fraudulent use.";

(2) in subparagraph (C)—

(A) by adding "or" at the end of clause (i),

(B) by striking clause (ii), and

(C) by redesignating clause (iii) as clause (ii); and

(3) by adding at the end the following new subparagraph:

"(E) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—If the Attorney General finds, by regulation, that any document described in subparagraph (B), (C), or (D) as establishing employment authorization or identity does not reliably establish such authorization or identity or is being used fraudulently to an unacceptable degree, the Attorney General may prohibit or place conditions on its use for purposes of this subsection."

(b) REDUCTION OF PAPERWORK FOR CERTAIN EMPLOYEES.—Section 274A(a) (8 U.S.C. 1324a(a)) is amended by adding at the end the following new paragraph:

"(6) TREATMENT OF DOCUMENTATION FOR CERTAIN EMPLOYEES.—

"(A) IN GENERAL.—For purposes of this section, if—

"(i) an individual is a member of a collective bargaining unit and is employed, under a collective bargaining agreement entered into between one or more employee organizations and an association of two or more employers, by an employer that is a member of such association, and within the period specified in subparagraph (B), another employer that is a member of such association (or an agent of such association on behalf of the employer) has complied with the requirements of subsection (b) with respect to the employment of the individual,

the subsequent employer shall be deemed to have complied with the requirements of subsection (b) with respect to the hiring of the employee and shall not be liable for civil penalties described in subsection (e)(5).

"(B) PERIOD.—The period described in this subparagraph is 3 years, or, if less, the period of time that the individual is authorized to be employed in the United States.

"(C) LIABILITY.—

"(i) IN GENERAL.—If any employer that is a member of an association hires for employment in the United States an individual and relies upon the provisions of subparagraph (A) to comply with the requirements of subsection (b) and the individual is an alien not authorized to work in the United States, then for the purposes of paragraph (1)(A), subject to clause (ii), the employer shall be presumed to have known at the time of hiring or afterward that the individual was an alien not authorized to work in the United States.

"(ii) REBUTTAL OF PRESUMPTION.—The presumption established by clause (i) may be rebutted by the employer only through the presentation of clear and convincing evidence that the employer did not know (and could not reasonably have known) that the individual at the time of hiring or afterward was an alien not authorized to work in the United States.

"(iii) EXCEPTION.—Clause (i) shall not apply in any prosecution under subsection (f)(1)."

(c) ELIMINATION OF DATED PROVISIONS.—Section 274A(a) (8 U.S.C. 1324a(a)) is amended by striking—

(1) the title "AUTHORITY OF APPLICATION TO FEDERAL GOVERNMENT.—Section 274A(a) (8 U.S.C. 1324a(a)), as amended by subsection (b), is

amended by adding at the end the following new paragraph:

"(7) APPLICATION TO FEDERAL GOVERNMENT.—For purposes of this section, the term 'entity' includes an entity in any branch of the Federal Government."

(e) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply with respect to hiring (or recruitment or referral) occurring on or after such date (not later than 12 months after the date of the enactment of this Act) as the Attorney General shall designate.

(2) The amendment made by subsection (b) shall apply to individuals hired on or after 60 days after the date of the enactment of this Act.

(3) The amendment made by subsection (c) shall take effect on the date of the enactment of this Act.

(4) The amendment made by subsection (d) applies to hiring occurring before, on, or after the date of the enactment of this Act, but no penalty shall be imposed under subsection (e) or (f) of section 274A of the Immigration and Nationality Act for such hiring occurring before such date.

SEC. 413. REPORT ON ADDITIONAL AUTHORITY OR RESOURCES NEEDED FOR ENFORCEMENT OF EMPLOYER SANCTIONS PROVISIONS.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report on any additional authority or resources needed—

(1) by the Immigration and Naturalization Service in order to enforce section 274A of the Immigration and Nationality Act, or

(2) by Federal agencies in order to carry out the Executive Order of February 13, 1996 (entitled "Economy and Efficiency in Government Procurement Through Compliance with Certain Immigration and Naturalization Act Provisions") and to expand the restrictions in such order to cover agricultural subsidies, grants, job training programs, and other Federally subsidized assistance programs.

(b) REFERENCE TO INCREASED AUTHORIZATION OF APPROPRIATIONS.—For provision increasing the authorization of appropriations for investigators for violations of sections 274 and 274A of the Immigration and Nationality Act, see section 131 of this division.

SEC. 414. REPORTS ON EARNINGS OF ALIENS NOT AUTHORIZED TO WORK.

(a) IN GENERAL.—Subsection (c) of section 290 (8 U.S.C. 1360) is amended to read as follows:

"(c)(1) Not later than 3 months after the end of each fiscal year (beginning with fiscal year 1996), the Commissioner of Social Security shall report to the Committees on the Judiciary of the House of Representatives and the Senate on the aggregate quantity of social security account numbers issued to aliens not authorized to be employed, with respect to which, in such fiscal year, earnings were reported to the Social Security Administration.

"(2) If earnings are reported on or after January 1, 1997, to the Social Security Administration on a social security account number issued to an alien not authorized to work in the United States, the Commissioner of Social Security shall provide the Attorney General with information regarding the name and address of the alien, the name and address of the person reporting the earnings, and the amount of the earnings. The information shall be provided in an electronic form agreed upon by the Commissioner and the Attorney General."

(b) REPORT ON FRAUDULENT USE OF SOCIAL SECURITY ACCOUNT NUMBERS.—The Commissioner of Social Security shall transmit to the Attorney General, by not later than 1 year after the date of the enactment of this Act, a report on the extent to which social security account numbers and cards are used by aliens for fraudulent purposes.

SEC. 415. AUTHORIZING MAINTENANCE OF CERTAIN INFORMATION ON ALIENS.

Section 264 (8 U.S.C. 1304) is amended by adding at the end the following new subsection:

"(f) Notwithstanding any other provision of law, the Attorney General is authorized to require any alien to provide the alien's social security account number for purposes of inclusion in any record of the alien maintained by the Attorney General or the Service."

SEC. 416. SUBPOENA AUTHORITY.

Section 274A(e)(2) (8 U.S.C. 1324a(e)(2)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "and"; and

(3) by inserting after subparagraph (B) the following:

"(C) immigration officers designated by the Commissioner may compel by subpoena the attendance of witnesses and the production of evidence at any designated place prior to the filing of a complaint in a case under paragraph (2)."

Subtitle C—Unfair Immigration-Related Employment Practices

SEC. 431. TREATMENT OF CERTAIN DOCUMENTARY PRACTICES AS UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 274B(a)(6) (8 U.S.C. 1324b(a)(6)) is amended—

(1) by striking "For purposes of paragraph (1), a" and inserting "A"; and

(2) by striking "relating to the hiring of individuals" and inserting the following: "if made for the purpose or with the intent of discriminating against an individual in violation of paragraph (1)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to requests made on or after the date of the enactment of this Act.

TITLE V—RESTRICTIONS ON BENEFITS FOR ALIENS

Subtitle A—Eligibility of Aliens for Public Assistance and Benefits

SEC. 501. EXCEPTION TO INELIGIBILITY FOR PUBLIC BENEFITS FOR CERTAIN BATTERED ALIENS.

Section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641) is amended by adding at the end the following new subsection:

"(c) TREATMENT OF CERTAIN BATTERED ALIENS AS QUALIFIED ALIENS.—For purposes of this title, the term 'qualified alien' includes—

"(1) an alien who—

"(A) has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented to, or acquiesced in, such battery or cruelty, but only if (in the opinion of the Attorney General, which opinion is not subject to review by any court) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

"(B) has been approved or has a petition pending which sets forth a prima facie case for—

"(i) status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act,

"(ii) classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B) of the Act,

"(iii) suspension of deportation and adjustment of status pursuant to section 244(a)(3) of such Act, or

"(iv) status as a spouse or child of a United States citizen pursuant to clause (i) of section 204(a)(1)(A) of such Act, or classification pursuant to clause (i) of section 204(a)(1)(B) of such Act; or

"(2) an alien—

"(A) whose child has been battered or subjected to extreme cruelty in the United States by

a spouse or a parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, and the alien did not actively participate in such battery or cruelty, but only if (in the opinion of the Attorney General, which opinion is not subject to review by any court) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

"(B) who meets the requirement of clause (ii) of subparagraph (A).

This subsection shall not apply to an alien during any period in which the individual responsible for such battery or cruelty resides in the same household or family eligibility unit as the individual subjected to such battery or cruelty."

SEC. 502. PILOT PROGRAMS ON LIMITING ISSUANCE OF DRIVER'S LICENSES TO ILLEGAL ALIENS.

(a) **IN GENERAL.**—Pursuant to guidelines prescribed by the Attorney General not later than 6 months after the date of the enactment of this Act, all States may conduct pilot programs within their State to determine the viability, advisability, and cost-effectiveness of the State's denying driver's licenses to aliens who are not lawfully present in the United States. Under a pilot program a State may deny a driver's license to aliens who are not lawfully present in the United States. Such program shall be conducted in cooperation with relevant State and local authorities.

(b) **REPORT.**—Not later than 3 years after the date of the enactment of this Act, the Attorney General shall submit a report to the Judiciary Committees of the House of Representatives and of the Senate on the results of the pilot programs conducted under subsection (a).

SEC. 503. INELIGIBILITY OF ALIENS NOT LAWFULLY PRESENT FOR SOCIAL SECURITY BENEFITS.

(a) **IN GENERAL.**—Section 202 of the Social Security Act (42 U.S.C. 402) is amended by adding at the end the following new subsection:

"Limitation on Payments to Aliens

"(y) Notwithstanding any other provision of law, no monthly benefit under this title shall be payable to any alien in the United States for any month during which such alien is not lawfully present in the United States as determined by the Attorney General."

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to benefits for which applications are filed on or after the first day of the first month that begins at least 60 days after the date of the enactment of this Act.

SEC. 504. PROCEDURES FOR REQUIRING PROOF OF CITIZENSHIP FOR FEDERAL PUBLIC BENEFITS.

Section 432(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1642) is amended—

(1) by inserting "(1)" after the dash, and

(2) by adding at the end the following:

"(2) Not later than 18 months after the date of the enactment of this Act, the Attorney General, in consultation with the Secretary of Health and Human Services, shall also establish procedures for a person applying for a Federal public benefit (as defined in section 401(c)) to provide proof of citizenship in a fair and nondiscriminatory manner."

SEC. 505. LIMITATION ON ELIGIBILITY FOR PREFERENTIAL TREATMENT OF ALIENS NOT LAWFULLY PRESENT ON BASIS OF RESIDENCE FOR HIGHER EDUCATION BENEFITS.

(a) **IN GENERAL.**—Notwithstanding any other provision of law, an alien who is not lawfully present in the United States shall not be eligible on the basis of residence within a State (or a political subdivision) for any postsecondary edu-

cation benefit unless a citizen or national of the United States is eligible for such a benefit (in no less an amount, duration, and scope) without regard to whether the citizen or national is such a resident.

(b) **EFFECTIVE DATE.**—This section shall apply to benefits provided on or after July 1, 1998.

SEC. 506. STUDY AND REPORT ON ALIEN STUDENT ELIGIBILITY FOR POST-SECONDARY FEDERAL STUDENT FINANCIAL ASSISTANCE.

(a) **GAO STUDY AND REPORT.**—

(1) **STUDY.**—The Comptroller General shall conduct a study to determine the extent to which aliens who are not lawfully admitted for permanent residence are receiving postsecondary Federal student financial assistance.

(2) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit a report to the appropriate committees of the Congress on the study conducted under paragraph (1).

(b) **REPORT ON COMPUTER MATCHING PROGRAM.**—

(1) **IN GENERAL.**—Not later than one year after the date of the enactment of this Act, the Secretary of Education and the Commissioner of Social Security shall jointly submit to the appropriate committees of the Congress a report on the computer matching program of the Department of Education under section 484(p) of the Higher Education Act of 1965.

(2) **REPORT ELEMENTS.**—The report under paragraph (1) shall include the following:

(A) An assessment by the Secretary and the Commissioner of the effectiveness of the computer matching program, and a justification for such assessment.

(B) The ratio of successful matches under the program to inaccurate matches.

(C) Such other information as the Secretary and the Commissioner jointly consider appropriate.

(c) **APPROPRIATE COMMITTEES OF THE CONGRESS.**—For purposes of this section the term "appropriate committees of the Congress" means the Committee on Economic and Educational Opportunities and the Committee on the Judiciary of the House of Representatives and the Committee on Labor and Human Resources and the Committee on the Judiciary of the Senate.

SEC. 507. VERIFICATION OF IMMIGRATION STATUS FOR PURPOSES OF SOCIAL SECURITY AND HIGHER EDUCATIONAL ASSISTANCE.

(a) **SOCIAL SECURITY ACT STATE INCOME AND ELIGIBILITY VERIFICATION SYSTEMS.**—Section 1137(d)(4)(B)(i) of the Social Security Act (42 U.S.C. 1320b-7(d)(4)(B)(i)) is amended to read as follows:

"(i) the State shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification."

(b) **ELIGIBILITY FOR ASSISTANCE UNDER HIGHER EDUCATION ACT OF 1965.**—Section 484(g)(4)(B)(i) of the Higher Education Act of 1965 (20 U.S.C. 1091(g)(4)(B)(i)) is amended to read as follows:

"(i) the institution shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification."

SEC. 508. NO VERIFICATION REQUIREMENT FOR NONPROFIT CHARITABLE ORGANIZATIONS.

Section 432 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1642) is amended by adding at the end the following new subsection:

"(d) **NO VERIFICATION REQUIREMENT FOR NONPROFIT CHARITABLE ORGANIZATIONS.**—Subject to subsection (a), a nonprofit charitable organization, in providing any Federal public

benefit (as defined in section 401(c)) or any State or local public benefit (as defined in section 411(c)), is not required under this title to determine, verify, or otherwise require proof of eligibility of any applicant for such benefits."

SEC. 509. GAO STUDY OF PROVISION OF MEANS-TESTED PUBLIC BENEFITS TO ALIENS WHO ARE NOT QUALIFIED ALIENS ON BEHALF OF ELIGIBLE INDIVIDUALS.

Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate and to the Inspector General of the Department of Justice a report on the extent to which means-tested public benefits are being paid or provided to aliens who are not qualified aliens (as defined in section 431(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) in order to provide such benefits to individuals who are United States citizens or qualified aliens (as so defined). Such report shall address the locations in which such benefits are provided and the incidence of fraud or misrepresentation in connection with the provision of such benefits.

SEC. 510. TRANSITION FOR ALIENS CURRENTLY RECEIVING BENEFITS UNDER THE FOOD STAMP PROGRAM.

Effective as if included in the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, subclause (1) of section 402(a)(2)(D)(ii) (8 U.S.C. 1612(a)(2)(D)(ii)) is amended to read as follows:

"(1) **IN GENERAL.**—With respect to the specified Federal program described in paragraph (3)(B), ineligibility under paragraph (1) shall not apply until April 1, 1997, to an alien who received benefits under such program on the date of enactment of this Act, unless such alien is determined to be ineligible to receive such benefits under the Food Stamp Act of 1977. The State agency shall recertify the eligibility of all such aliens during the period beginning April 1, 1997, and ending August 22, 1997."

Subtitle B—Public Charge Exclusion

SEC. 531. GROUND FOR EXCLUSION.

(a) **IN GENERAL.**—Paragraph (4) of section 212(a) (8 U.S.C. 1182(a)) is amended to read as follows:

"(4) **PUBLIC CHARGE.**—

"(A) **IN GENERAL.**—Any alien who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission or adjustment of status, is likely at any time to become a public charge is excludable.

"(B) **FACTORS TO BE TAKEN INTO ACCOUNT.**—

(i) In determining whether an alien is excludable under this paragraph, the consular officer or the Attorney General shall at a minimum consider the alien's—

"(I) age;

"(II) health;

"(III) family status;

"(IV) assets, resources, and financial status;

and

"(V) education and skills.

"(ii) In addition to the factors under clause (i), the consular officer or the Attorney General may also consider any affidavit of support under section 213A for purposes of exclusion under this paragraph.

"(C) **FAMILY-SPONSORED IMMIGRANTS.**—Any alien who seeks admission or adjustment of status under a visa number issued under section 201(b)(2) or 203(a) is excludable under this paragraph unless—

"(i) the alien has obtained—

"(I) status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A), or

"(II) classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B); or

"(ii) the person petitioning for the alien's admission (including any additional sponsor required under section 213A(f)) has executed an

affidavit of support described in section 213A with respect to such alien.

"(D) CERTAIN EMPLOYMENT-BASED IMMIGRANTS.—Any alien who seeks admission or adjustment of status under a visa number issued under section 203(b) by virtue of a classification petition filed by a relative of the alien (or by an entity in which such relative has a significant ownership interest) is excludable under this paragraph unless such relative has executed an affidavit of support described in section 213A with respect to such alien."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to applications submitted on or after such date, not earlier than 30 days and not later than 60 days after the date the Attorney General promulgates under section 551(c)(2) of this division a standard form for an affidavit of support, as the Attorney General shall specify, but subparagraphs (C) and (D) of section 212(a)(4) of the Immigration and Nationality Act, as so amended, shall not apply to applications with respect to which an official interview with an immigration officer was conducted before such effective date.

Subtitle C—Affidavits of Support

SEC. 551. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

(a) IN GENERAL.—Section 213A (8 U.S.C. 1183a), as inserted by section 423(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, is amended to read as follows:

"REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT

"SEC. 213A. (a) ENFORCEABILITY.—

"(1) TERMS OF AFFIDAVIT.—No affidavit of support may be accepted by the Attorney General or by any consular officer to establish that an alien is not excludable as a public charge under section 212(a)(4) unless such affidavit is executed by a sponsor of the alien as a contract—

"(A) in which the sponsor agrees to provide support to maintain the sponsored alien at an annual income that is not less than 125 percent of the Federal poverty line during the period in which the affidavit is enforceable;

"(B) that is legally enforceable against the sponsor by the sponsored alien, the Federal Government, any State (or any political subdivision of such State), or by any other entity that provides any means-tested public benefit (as defined in subsection (e)), consistent with the provisions of this section; and

"(C) in which the sponsor agrees to submit to the jurisdiction of any Federal or State court for the purpose of actions brought under subsection (b)(2).

"(2) PERIOD OF ENFORCEABILITY.—An affidavit of support shall be enforceable with respect to benefits provided for an alien before the date the alien is naturalized as a citizen of the United States, or, if earlier, the termination date provided under paragraph (3).

"(3) TERMINATION OF PERIOD OF ENFORCEABILITY UPON COMPLETION OF REQUIRED PERIOD OF EMPLOYMENT, ETC.—

"(A) IN GENERAL.—An affidavit of support is not enforceable after such time as the alien (i) has worked 40 qualifying quarters of coverage as defined under title 11 of the Social Security Act or can be credited with such qualifying quarters as provided under subparagraph (B), and (ii) in the case of any such qualifying quarter creditable for any period beginning after December 31, 1996, did not receive any Federal means-tested public benefit (as provided under section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) during any such period.

"(B) QUALIFYING QUARTERS.—For purposes of this section, in determining the number of qualifying quarters of coverage under title 11 of the Social Security Act an alien shall be credited

(i) all of the qualifying quarters of coverage as defined under title 11 of the Social Security

Act worked by a parent of such alien while the alien was under age 18, and

"(ii) all of the qualifying quarters worked by a spouse of such alien during their marriage and the alien remains married to such spouse or such spouse is deceased.

No such qualifying quarter of coverage that is creditable under title 11 of the Social Security Act for any period beginning after December 31, 1996, may be credited to an alien under clause (i) or (ii) if the parent or spouse (as the case may be) of such alien received any Federal means-tested public benefit (as provided under section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) during the period for which such qualifying quarter of coverage is so credited.

"(C) PROVISION OF INFORMATION TO SAVE SYSTEM.—The Attorney General shall ensure that appropriate information regarding the application of this paragraph is provided to the system for alien verification of eligibility (SAVE) described in section 1137(d)(3) of the Social Security Act.

"(b) REIMBURSEMENT OF GOVERNMENT EXPENSES.—

"(1) REQUEST FOR REIMBURSEMENT.—

"(A) REQUIREMENT.—Upon notification that a sponsored alien has received any means-tested public benefit, the appropriate nongovernmental entity which provided such benefit or the appropriate entity of the Federal Government, a State, or any political subdivision of a State shall request reimbursement by the sponsor in an amount which is equal to the unreimbursed costs of such benefit.

"(B) REGULATIONS.—The Attorney General, in consultation with the heads of other appropriate Federal agencies, shall prescribe such regulations as may be necessary to carry out subparagraph (A).

"(2) ACTIONS TO COMPEL REIMBURSEMENT.—

"(A) IN CASE OF NONRESPONSE.—If within 45 days after a request for reimbursement under paragraph (1)(A), the appropriate entity has not received a response from the sponsor indicating a willingness to commence payment an action may be brought against the sponsor pursuant to the affidavit of support.

"(B) IN CASE OF FAILURE TO PAY.—If the sponsor fails to abide by the repayment terms established by the appropriate entity, the entity may bring an action against the sponsor pursuant to the affidavit of support.

"(C) LIMITATION ON ACTIONS.—No cause of action may be brought under this paragraph later than 10 years after the date on which the sponsored alien last received any means-tested public benefit to which the affidavit of support applies.

"(3) USE OF COLLECTION AGENCIES.—If the appropriate entity under paragraph (1)(A) requests reimbursement from the sponsor or brings an action against the sponsor pursuant to the affidavit of support, the appropriate entity may appoint or hire an individual or other person to act on behalf of such entity acting under the authority of law for purposes of collecting any amounts owed.

"(c) REMEDIES.—Remedies available to enforce an affidavit of support under this section include any or all of the remedies described in section 3201, 3203, 3204, or 3205 of title 28, United States Code, as well as an order for specific performance and payment of legal fees and other costs of collection, and include corresponding remedies available under State law. A Federal agency may seek to collect amounts owed under this section in accordance with the provisions of subchapter 11 of chapter 37 of title 31, United States Code.

"(d) NOTIFICATION OF CHANGE OF ADDRESS.—

"(1) GENERAL REQUIREMENT.—The sponsor shall notify the Attorney General and the State in which the sponsored alien is currently a resident within 30 days of any change of address of the sponsor during the period in which an affidavit of support is enforceable.

"(2) PENALTY.—Any person subject to the requirement of paragraph (1) who fails to satisfy

such requirement shall, after notice and opportunity to be heard, be subject to a civil penalty of—

"(A) not less than \$250 or more than \$2,000, or

"(B) if such failure occurs with knowledge that the sponsored alien has received any means-tested public benefits (other than benefits described in section 401(b), 403(c)(2), or 411(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) not less than \$2,000 or more than \$5,000.

The Attorney General shall enforce this paragraph under appropriate regulations.

"(e) JURISDICTION.—An action to enforce an affidavit of support executed under subsection (a) may be brought against the sponsor in any appropriate court—

"(1) by a sponsored alien, with respect to financial support; or

"(2) by the appropriate entity of the Federal Government, a State or any political subdivision of a State, or by any other nongovernmental entity under subsection (b)(2), with respect to reimbursement.

"(f) SPONSOR DEFINED.—

"(1) IN GENERAL.—For purposes of this section the term 'sponsor' in relation to a sponsored alien means an individual who executes an affidavit of support with respect to the sponsored alien and who—

"(A) is a citizen or national of the United States or an alien who is lawfully admitted to the United States for permanent residence;

"(B) is at least 18 years of age;

"(C) is domiciled in any of the several States of the United States, the District of Columbia, or any territory or possession of the United States;

"(D) is petitioning for the admission of the alien under section 204; and

"(E) demonstrates (as provided in paragraph (6)) the means to maintain an annual income equal to at least 125 percent of the Federal poverty line.

"(2) INCOME REQUIREMENT CASE.—Such term also includes an individual who does not meet the requirement of paragraph (1)(E) but accepts joint and several liability together with an individual under paragraph (5).

"(3) ACTIVE DUTY ARMED SERVICES CASE.—Such term also includes an individual who does not meet the requirement of paragraph (1)(E) but is on active duty (other than active duty for training) in the Armed Forces of the United States, is petitioning for the admission of the alien under section 204 as the spouse or child of the individual, and demonstrates (as provided in paragraph (6)) the means to maintain an annual income equal to at least 100 percent of the Federal poverty line.

"(4) CERTAIN EMPLOYMENT-BASED IMMIGRANTS CASE.—Such term also includes an individual—

"(A) who does not meet the requirement of paragraph (1)(D), but is the relative of the sponsored alien who filed a classification petition for the sponsored alien as an employment-based immigrant under section 203(b) or who has a significant ownership interest in the entity that filed such a petition; and

"(B)(i) who demonstrates (as provided under paragraph (6)) the means to maintain an annual income equal to at least 125 percent of the Federal poverty line, or

"(ii) does not meet the requirement of paragraph (1)(E) but accepts joint and several liability together with an individual under paragraph (5).

"(5) NON-PETITIONING CASE.—Such term also includes an individual who does not meet the requirement of paragraph (1)(D) but who accepts joint and several liability with a petitioning sponsor under paragraph (2) or relative of an employment-based immigrant under paragraph (4) and who demonstrates (as provided under paragraph (6)) the means to maintain an annual income equal to at least 125 percent of the Federal poverty line.

"(6) DEMONSTRATION OF MEANS TO MAINTAIN INCOME.—

"(ii) in the case of any individual receiving assistance on the date of enactment of the Use of Assisted Housing by Aliens Act of 1996, may not deny, reduce, or terminate the eligibility of that individual for financial assistance on the basis of the immigration status of that individual until the expiration of that 30-day period; and

"(iii) in the case of any individual applying for financial assistance on or after the date of enactment of the Use of Assisted Housing by Aliens Act of 1996, may not deny the application for such assistance on the basis of the immigration status of that individual until the expiration of that 30-day period; and"; and

(C) in subparagraph (B), by striking clause (ii) and inserting the following:

"(ii) pending such verification or appeal, the Secretary may not—

"(I) in the case of any individual receiving assistance on the date of enactment of the Use of Assisted Housing by Aliens Act of 1996, delay, deny, reduce, or terminate the eligibility of that individual for financial assistance on the basis of the immigration status of that individual; and

"(II) in the case of any individual applying for financial assistance on or after the date of enactment of the Use of Assisted Housing by Aliens Act of 1996, deny the application for such assistance on the basis of the immigration status of that individual; and";

(5) in paragraph (5), by striking "status—" and all that follows through the end of the paragraph and inserting the following: "status, the Secretary shall—

"(A) deny the application of that individual for financial assistance or terminate the eligibility of that individual for financial assistance, as applicable;

"(B) provide that the individual may request a fair hearing during the 30-day period beginning upon receipt of the notice under subparagraph (C); and

"(C) provide to the individual written notice of termination under this paragraph, the right to a fair hearing process, and the time limitation for requesting a hearing under subparagraph (C)."; and

(6) by striking paragraph (6) and inserting the following:

"(6) The Secretary shall terminate the eligibility for financial assistance of an individual and the members of the household of the individual, for a period of not less than 24 months, upon determining that such individual has knowingly permitted another individual who is not eligible for such assistance to reside in the public or assisted housing unit of the individual. This provision shall not apply to a family if the ineligibility of the ineligible individual at issue was considered in calculating any proration of assistance provided for the family."

SEC. 575. PROHIBITION OF SANCTIONS AGAINST ENTITIES MAKING FINANCIAL ASSISTANCE ELIGIBILITY DETERMINATIONS.

Section 214(e) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(e)) is amended—

(1) in paragraph (2), by adding "or" at the end;

(2) in paragraph (3), by adding at the end the following: "the response from the Immigration and Naturalization Service to the appeal of that individual."; and

(3) by striking paragraph (4).

SEC. 576. ELIGIBILITY FOR PUBLIC AND ASSISTED HOUSING.

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 subsection:

"(b) **GENERAL.**—Except in the case of an individual applying for financial assistance may receive such financial assistance prior to the af-

firmative establishment and verification of eligibility of at least the individual or one family member under this section by the Secretary or other appropriate entity.

"(2) **RULES APPLICABLE TO PUBLIC HOUSING AGENCIES.**—A public housing agency (as that term is defined in section 3 of the United States Housing Act of 1937)—

"(A) may elect not to comply with this section; and

"(B) in complying with this section—

"(i) may initiate procedures to affirmatively establish or verify the eligibility of an individual or family under this section at any time at which the public housing agency determines that such eligibility is in question, regardless of whether or not that individual or family is at or near the top of the waiting list of the public housing agency;

"(ii) may affirmatively establish or verify the eligibility of an individual or family under this section in accordance with the procedures set forth in section 274A(b)(1) of the Immigration and Nationality Act; and

"(iii) shall have access to any relevant information contained in the SAVE system (or any successor thereto) that relates to any individual or family applying for financial assistance.

"(3) **ELIGIBILITY OF FAMILIES.**—For purposes of this subsection, with respect to a family, the term "eligibility" means the eligibility of each family member."

SEC. 577. REGULATIONS.

(a) **ISSUANCE.**—Not later than the 60 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall issue any regulations necessary to implement the amendments made by this part. Such regulations shall be issued in the form of an interim final rule, which shall take effect upon issuance and shall not be subject to the provisions of section 533 of title 5, United States Code, regarding notice or opportunity for comment.

(b) **FAILURE TO ISSUE.**—If the Secretary fails to issue the regulations required under subsection (a) before the date specified in that subsection, the regulations relating to restrictions on assistance to noncitizens, contained in the final rule issued by the Secretary of Housing and Urban Development in RIN-2501-AA63 (Docket No. R-95-1409; FR-2383-F-050), published in the Federal Register on March 20, 1995 (Vol. 60, No. 53; pp. 14824-14861), shall not apply after that date.

Subtitle F—General Provisions

SEC. 591. EFFECTIVE DATES.

Except as provided in this title, this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

SEC. 592. NOT APPLICABLE TO FOREIGN ASSISTANCE.

This title does not apply to any Federal, State, or local governmental program, assistance, or benefits provided to an alien under any program of foreign assistance as determined by the Secretary of State in consultation with the Attorney General.

SEC. 593. NOTIFICATION.

(a) **IN GENERAL.**—Each agency of the Federal Government or a State or political subdivision that administers a program affected by the provisions of this title, shall, directly or through the States, provide general notification to the public and to program recipients of the changes regarding eligibility for any such program pursuant to this title.

(b) **FAILURE TO GIVE NOTICE.**—Nothing in this section shall be construed to require or authorize continuation of eligibility if the notice under this section is not provided.

SEC. 594. DEFINITIONS.

Except as otherwise provided in this title, for purposes of this title—

(1) the terms "alien", "Attorney General", "national", "naturalization", "State", and "United States" shall have the meaning given

such terms in section 101(a) of the Immigration and Nationality Act; and

(2) the term "child" shall have the meaning given such term in section 101(c) of the Immigration and Nationality Act.

TITLE VI—MISCELLANEOUS PROVISIONS

Subtitle A—Refugees, Parole, and Asylum

SEC. 601. PERSECUTION FOR RESISTANCE TO COERCIVE POPULATION CONTROL METHODS.

(a) DEFINITION OF REFUGEE.—

(1) Section 101(a)(42) (8 U.S.C. 1101(a)(42)) is amended by adding at the end the following: "For purposes of determinations under this Act, a person who has been forced to abort a pregnancy or to undergo involuntary sterilization, or who has been persecuted for failure or refusal to undergo such a procedure or for other resistance to a coercive population control program, shall be deemed to have been persecuted on account of political opinion, and a person who has a well founded fear that he or she will be forced to undergo such a procedure or subject to persecution for such failure, refusal, or resistance shall be deemed to have a well founded fear of persecution on account of political opinion."

(2) Not later than 90 days after the end of each fiscal year, the Attorney General shall submit a report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate describing the number and countries of origin of aliens granted refugee status or asylum under determinations pursuant to the amendment made by paragraph (1). Each such report shall also contain projections regarding the number and countries of origin of aliens that are likely to be granted refugee status or asylum for the subsequent 2 fiscal years.

(b) **NUMERICAL LIMITATION.**—Section 207(a) (8 U.S.C. 1157(a)) is amended by adding at the end the following new paragraph:

"(5) For any fiscal year, not more than a total of 1,000 refugees may be admitted under this subsection or granted asylum under section 208 pursuant to a determination under the third sentence of section 101(a)(42) (relating to persecution for resistance to coercive population control methods)."

SEC. 602. LIMITATION ON USE OF PAROLE

(a) **PAROLE AUTHORITY.**—Section 212(d)(5)(A) (8 U.S.C. 1182(d)(5)) is amended by striking "for emergent reasons or for reasons deemed strictly in the public interest" and inserting "only on a case-by-case basis for urgent humanitarian reasons or significant public benefit".

(b) **REPORT TO CONGRESS.**—Not later than 90 days after the end of each fiscal year, the Attorney General shall submit a report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate describing the number and categories of aliens paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act. Each such report shall provide the total number of aliens paroled into and residing in the United States and shall contain information and data for each country of origin concerning the number and categories of aliens paroled, the duration of parole, the current status of aliens paroled, and the number and categories of aliens returned to the custody from which they were paroled during the preceding fiscal year.

SEC. 603. TREATMENT OF LONG-TERM PAROLEES IN APPLYING WORLDWIDE NUMERICAL LIMITATIONS.

Section 201(c) (8 U.S.C. 1151(c)) is amended—

(1) by amending paragraph (1)(A)(ii) to read as follows:

"(ii) the sum of the number computed under paragraph (2) and the number computed under paragraph (4), plus"; and

(2) by adding at the end the following new paragraphs:

"(4) The number computed under this paragraph for a fiscal year (beginning with fiscal

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TITLE V--RESTRICTIONS ON BENEFITS FOR ALIENS

SEC. 500. STATEMENTS OF NATIONAL POLICY CONCERNING WELFARE AND IMMIGRATION.

(a) STATEMENTS OF CONGRESSIONAL POLICY- The Congress makes the following statements concerning national policy with respect to welfare and immigration:

(1) Self-sufficiency has been a basic principle of United States immigration law since this country's earliest immigration statutes.

(2) It continues to be the immigration policy of the United States that--

(A) aliens within the nation's borders not depend on public resources to meet their needs, but rather rely on their own capabilities and the resources of their families, their sponsors, and private organizations, and

(B) the availability of public benefits not constitute an incentive for immigration to the United States.

(3) Despite this principle of self-sufficiency, aliens have been applying for and receiving public benefits from Federal, State, and local governments at increasing rates.

(4) Current eligibility rules for public assistance and unenforceable financial support agreements have proved incapable of assuring that individual aliens do not burden the public benefits system.

(5) It is a compelling government interest to enact new rules for eligibility and sponsorship agreements in order to assure that aliens are self-reliant in accordance with national immigration policy.

(6) It is a compelling government interest to remove the incentive for illegal immigration provided by the availability of public benefits.

(b) SENSE OF CONGRESS-

(1) IN GENERAL- With respect to the authority of a State to make determinations concerning the eligibility of aliens for public benefits, it is the sense of the Congress that a court should apply the same standard of review to an applicable State law as that court uses

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(b) EXCEPTIONS-

(1) NONIMMIGRANT ALIEN AUTHORIZED TO WORK IN THE UNITED STATES- Subsection (a) shall not apply to an alien in lawful nonimmigrant status who is authorized to work in the United States with respect to the following:

(A) Any professional or commercial license required to engage in such work.

(B) Any contract.

(C) A driver's license.

(2) NONIMMIGRANT ALIEN- Subsection (a) shall not apply to an alien in lawful nonimmigrant status with respect to a driver's license.

(3) ALIEN OUTSIDE THE UNITED STATES- Subsection (a) shall not apply to an alien who is outside of the United States with respect to any contract.

(c) EFFECTIVE DATE-

(1) IN GENERAL- This section shall apply to contracts or loan agreements entered into, and professional, commercial, and driver's licenses issued (or renewed), on or after such date as the Attorney General specifies in regulations under paragraph (2). Such date shall be at least 30 days, and not more than 60 days, after the date the Attorney General first issues such regulations.

(2) REGULATIONS- The Attorney General (in consultation with the heads of other appropriate agencies) shall first issue regulations to carry out this section not later than 180 days after the date of the enactment of this Act. Such regulations shall be effective on an interim basis, pending change after opportunity for public comment.

(3) WAIVER AUTHORITY- The Attorney General is authorized to waive any provision of this section in the case of applications pending on the effective date of such provision.

SEC. 503. UNEMPLOYMENT BENEFITS.

(a) ELIMINATION OF CREDITING EMPLOYMENT MERELY ON BASIS OF PRUCOL STATUS- Section 3304(a)(14)(A) of the Internal Revenue Code of 1986 is amended--

(1) by striking ` , was lawfully' and inserting `or was lawfully', and

(2) by striking `, or was permanently' and all that follows up to the comma at the end.

(b) *EFFECTIVE DATE-* The amendments made by subsection (a) shall apply with respect to certifications of States for 1998 and subsequent years, or for 1999 and subsequent years in the case of States the legislatures of which do not meet in a regular session which closes in the calendar year 1997.

(c) *REPORT-* The Secretary of Labor, in consultation with the Attorney General, shall provide for a study of the impact of limiting eligibility for unemployment compensation only to individuals who are citizens or nationals of the United States or eligible aliens (as defined in section 501(c)). Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit a report on such study to the Committee on the Judiciary and the Committee on Labor and Human Resources of the Senate and the Committee on the Judiciary and the Committee on Economic and Educational Opportunities of the House of Representatives.

SEC. 504. SOCIAL SECURITY BENEFITS.

(a) *INELIGIBILITY OF ALIENS NOT LAWFULLY PRESENT FOR SOCIAL SECURITY BENEFITS-*

(1) *IN GENERAL-* Section 202 of the Social Security Act (42 U.S.C. 402) is amended by adding at the end the following new subsection:

'LIMITATION ON PAYMENTS TO ALIENS

'(y) Notwithstanding any other provision of law, no monthly benefit under this title shall be payable to any alien in the United States for any month during which such alien is not lawfully present in the United States as determined by the Attorney General.'

(2) *EFFECTIVE DATE-* The amendment made by paragraph (1) shall apply with respect to benefits for which applications are filed on or after the first day of the first month that begins at least 60 days after the date of the enactment of this Act.

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(ii) has been approved or has a petition pending which sets forth a prima facie case for--

(I) status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act,

(II) classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B) of the Act,

(III) suspension of deportation and adjustment of status pursuant to section 244(a)(3) of such Act, or

(IV) status as a spouse or child of a United States citizen pursuant to clause (i) of section 204(a)(1)(A) of such Act, or classification pursuant to clause (i) of section 204(a)(1)(B) of such Act; or

(B) an alien--

(i) whose child has been battered or subjected to extreme cruelty in the United States by a spouse or a parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, and the alien did not actively participate in such battery or cruelty, but only if (in the opinion of the Attorney General, which opinion is not subject to review by any court) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

(ii) who meets the requirement of clause (ii) of subparagraph (A).

Such term shall not apply to an alien during any period in which the individual responsible for such battery or cruelty resides in the same household or family eligibility unit as the individual subjected to such battery or cruelty.

(d) INELIGIBLE ALIEN DEFINED- For purposes of this section, the term 'ineligible alien' means an individual who is not--

(1) a citizen or national of the United States; or

(2) *an eligible alien.*

(e) *MEANS-TESTED PUBLIC BENEFIT-* For purposes of this section, the term 'means-tested public benefit' means any public benefit (including cash, medical, housing, food, and social services) provided or funded in whole or in part by the Federal Government, or by a State or political subdivision of a State, in which the eligibility of an individual, household, or family eligibility unit for the benefit or the amount of the benefit, or both, are determined on the basis of income, resources, or financial need of the individual, household, or unit.

(f) *EFFECTIVE DATE-*

(1) *IN GENERAL-* This section shall apply to benefits provided on or after such date as the Attorney General specifies in regulations under paragraph (2). Such date shall be at least 30 days, and not more than 60 days, after the date the Attorney General first issues such regulations.

(2) *REGULATIONS-* The Attorney General (in consultation with the heads of other appropriate agencies) shall first issue regulations to carry out this section not later than 180 days after the date of the enactment of this Act. Such regulations shall be effective on an interim basis, pending change after opportunity for public comment.

(3) *WAIVER AUTHORITY-* The Attorney General is authorized to waive any provision of this section in the case of applications pending on the effective date of such provision.

SEC. 502. GRANTS, CONTRACTS, AND LICENSES.

(a) *IN GENERAL-* Except as provided in subsection (b) and notwithstanding any other provision of law, an ineligible alien (as defined in section 501(d)) shall not be eligible for any grant, contract, loan, professional license, driver's license, or commercial license provided or funded by any agency of the United States or any State or political subdivision of a State.

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27-298

104TH CONGRESS

Report

HOUSE OF REPRESENTATIVES

2d Session

104-828

ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996

September 24, 1996- Ordered to be printed

Mr. HYDE, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 2202]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for the eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT; APPLICATION OF DEFINITIONS OF SUCH ACT; TABLE OF CONTENTS; SEVERABILITY.

(a) SHORT TITLE- This Act may be cited as the `Illegal Immigration Reform and Immigrant

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'LIMITATION ON PAYMENTS TO ALIENS

'(y) Notwithstanding any other provision of law, no monthly benefit under this title shall be payable to any alien in the United States for any month during which such alien is not lawfully present in the United States as determined by the Attorney General.'

(2) EFFECTIVE DATE- The amendment made by paragraph (1) shall apply with respect to benefits for which applications are filed on or after the first day of the first month that begins at least 60 days after the date of the enactment of this Act.

(b) NO CREDITING FOR UNAUTHORIZED EMPLOYMENT-

(1) IN GENERAL- Section 210 of such Act (42 U.S.C. 410) is amended by adding at the end the following new subsection:

'DEMONSTRATION OF REQUIRED CITIZENSHIP STATUS

'(s) For purposes of this title, service performed by an individual in the United States shall constitute 'employment' only if it is demonstrated to the satisfaction of the Commissioner of Social Security that such service was performed by such individual while such individual was a citizen, a national, a permanent resident, or otherwise authorized to be employed in the United States in such service.'

(2) EFFECTIVE DATE- The amendment made by paragraph (1) shall apply with respect to services performed after December 31, 1996.

(c) TRADE OR BUSINESS-

(1) IN GENERAL- Section 211 of such Act (42 U.S.C. 411) is amended by adding at the end the following new subsection:

'DEMONSTRATION OF REQUIRED CITIZENSHIP STATUS

'(j) For purposes of this title, a trade or business (as defined in subsection (c)) carried on in the United States by any individual shall constitute a 'trade or business' only if it is demonstrated to the satisfaction of the Commissioner of Social Security that such trade or business (as so defined) was carried on by such individual while such individual was a citizen, a national, a permanent resident, or otherwise lawfully present in the United States carrying on such trade or business.'

(2) *EFFECTIVE DATE-* The amendment made by paragraph (1) shall apply with respect to any trade or business carried on after December 31, 1996.

(d) *CONSTRUCTION-* Nothing in the amendments made by this section shall be construed to affect the application of chapter 2 or chapter 21 of the Internal Revenue Code of 1986.

SEC. 505. REQUIRING PROOF OF IDENTITY FOR CERTAIN PUBLIC ASSISTANCE.

(a) *REVISION OF SAVE PROGRAM-*

(1) *IN GENERAL-* Paragraph (2) of section 1137(d) of the Social Security Act (42 U.S.C. 1320b-7(d)) is amended to read as follows:

(2) *There must be presented the item (or items) described in one of the following subparagraphs for that individual:*

(A) *A United States passport (either current or expired if issued both within the previous 12 years and after the individual attained 18 years of age).*

(B) *A resident alien card or an alien registration card, if the card (i) contains a photograph of the individual and (ii) contains security features to make it resistant to tampering, counterfeiting, and fraudulent use.*

(C) *A driver's license or similar document issued for the purpose of identification by a State, if it contains a photograph of the individual.*

(D) *If the individual attests to being a citizen or national of the United States and that the individual does not have other documentation under this paragraph (under penalty of perjury), such other documents or evidence that identify the individual as the Attorney General may designate as constituting reasonable evidence indicating United States citizenship or nationality.'*

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(2) TEMPORARY ELIGIBILITY FOR BENEFITS- Section 1137(d) of such Act is further amended by adding after paragraph (5) the following new paragraph (6):

`(6) If at the time of application for benefits, the documentation under paragraph (2) is not presented or verified, such benefits may be provided to the applicant for not more than 2 months, if--

`(A) the applicant provides a written attestation (under penalty of perjury) that the applicant is a citizen or national of the United States, or

`(B) the applicant provides documentation certified by the Department of State or the Department of Justice, which the Attorney General determines constitutes reasonable evidence indicating satisfactory immigration status.'.

(3) CONFORMING AMENDMENTS- Section 1137(d) of such Act is further amended in paragraph (3), by striking `(2)(A) is presented' and inserting `(2)(B) is presented and contains the individual's alien admission number or alien file number (or numbers if the individual has more than one number)'.

(b) SSI- Section 1631(e) of such Act (42 U.S.C. 1383(e)(7)) is amended by adding at the end the following new paragraph:

`(8) The Commissioner of Social Security shall provide for the application under this title of rules similar to the requirements of section 1137(d), insofar as they apply to the verification of immigration or citizenship status for eligibility for supplemental security income benefits under this title.'.

(c) EFFECTIVE DATE-

(1) IN GENERAL- This section shall apply to application for benefits filed on or after such date as the Attorney General specifies in regulations under paragraph (2). Such date shall be at least 60 days, and not more than 90 days, after the date the Attorney General first issues such regulations.

(2) REGULATIONS- The Attorney General (in consultation with the heads of other appropriate agencies) shall first issue regulations to carry out this section (and the amendments made by this section) not later than 180 days after the date of the enactment of this Act. Such regulations shall be effective on an interim basis, pending change after opportunity for public comment.

SEC. 506. AUTHORIZATION FOR STATES TO REQUIRE PROOF OF ELIGIBILITY FOR STATE PROGRAMS.

(a) IN GENERAL- In carrying out this title (and the amendments made by this title), subject to section 510, a State or political subdivision is authorized to require an applicant for benefits under a program of a State or political subdivision to provide proof of eligibility consistent with the provisions of this title.

(b) EFFECTIVE DATE- This section shall take effect on the date of the enactment of this Act.

SEC. 507. LIMITATION ON ELIGIBILITY FOR PREFERENTIAL TREATMENT OF ALIENS NOT LAWFULLY PRESENT ON BASIS OF RESIDENCE FOR HIGHER EDUCATION BENEFITS.

(a) IN GENERAL- Notwithstanding any other provision of law, an alien who is not lawfully present in the United States shall not be eligible on the basis of residence within a State (or a political subdivision) for any postsecondary education benefit unless a citizen or national of the United States is eligible for such a benefit (in no less an amount, duration, and scope) without regard to whether the citizen or national is such a resident.

(b) EFFECTIVE DATE- This section shall apply to benefits provided on or after July 1, 1998.

SEC. 508. VERIFICATION OF STUDENT ELIGIBILITY FOR POSTSECONDARY FEDERAL STUDENT FINANCIAL ASSISTANCE.

(a) IN GENERAL- No student shall be eligible for postsecondary Federal student financial assistance unless--

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(1) the student has certified that the student is a citizen or national of the United States or an alien lawfully admitted for permanent residence, and

(2) the Secretary of Education has verified such certification.

(b) REPORT REQUIREMENT-

(1) IN GENERAL- Not later than one year after the date of the enactment of this Act, the Secretary of Education and the Commissioner of Social Security shall jointly submit to the appropriate committees of the Congress a report on the computer matching program of the Department of Education under section 484(p) of the Higher Education Act of 1965.

(2) REPORT ELEMENTS- The report under paragraph (1) shall include the following:

(A) An assessment by the Secretary and the Commissioner of the effectiveness of the computer matching program, and a justification for such assessment.

(B) The ratio of successful matches under the program to inaccurate matches.

(C) Such other information as the Secretary and the Commissioner jointly consider appropriate.

(3) APPROPRIATE COMMITTEES OF THE CONGRESS- For purposes of this subsection the term 'appropriate committees of the Congress' means the Committee on Economic and Educational Opportunities and the Committee on the Judiciary of the House of Representatives and the Committee on Labor and Human Resources and the Committee on the Judiciary of the Senate.

(c) EFFECTIVE DATE- This section shall take effect on the date of the enactment of this Act.

SEC. 509. VERIFICATION OF IMMIGRATION STATUS FOR PURPOSES OF SOCIAL SECURITY AND HIGHER EDUCATIONAL ASSISTANCE.

(a) SOCIAL SECURITY ACT STATE INCOME AND ELIGIBILITY VERIFICATION SYSTEMS- Section 1137(d)(4)(B)(i) of the Social Security Act (42 U.S.C. 1320b-7(d)(4)(B)(i)) is amended to read as follows:

(i) the State shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information

from such documents, as specified by the Immigration and Naturalization Service, for official verification,'.

(b) ELIGIBILITY FOR ASSISTANCE UNDER HIGHER EDUCATION ACT OF 1965- Section 484(g)(4)(B)(i) of the Higher Education Act of 1965 (20 U.S.C. 1091(g)(4)(B)(i)) is amended to read as follows:

'(i) the institution shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,'.

SEC. 510. NO VERIFICATION REQUIREMENT FOR NONPROFIT CHARITABLE ORGANIZATIONS.

(a) IN GENERAL- Subject to subsection (b), and notwithstanding any other provision of this title, a nonprofit charitable organization, in providing any means-tested public benefit (as defined in section 501(e), but not including any hospital benefit, as defined by the Attorney General in consultation with Secretary of Health and Human Services) is not required to determine, verify, or otherwise require proof of eligibility of any applicant for such benefits.

(b) REQUIREMENT OF STATE OR FEDERAL DETERMINATION OF ELIGIBILITY-

(1) IN GENERAL- Except as provided in paragraph (3), in order for a nonprofit charitable organization to provide to an applicant any means-tested public benefit, the organization shall obtain the following:

(A) In the case of a citizen or national of the United States, a written attestation (under penalty of perjury) that the applicant is a citizen or national of the United States.

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(B) In the case of an alien and subject to paragraph (2), written verification, from an appropriate State or Federal agency, of the applicant's eligibility for assistance or benefits and the amount of assistance or benefits for which the applicant is eligible.

(2) NO NOTIFICATION WITHIN 10 DAYS- If the organization is not notified within 10 business days after a request of an appropriate State or Federal agency for verification under paragraph (1)(B), the requirement under paragraph (1) shall not apply to any means-tested public benefit provided to such applicant by the organization until 30 calendar days after such notification is received.

(3) LIMITATIONS-

(A) PRIVATE FUNDS- The requirement under paragraph (1) shall not apply to assistance or benefits provided through private funds.

(B) SECTION 501 EXCEPTED BENEFITS- The requirement under paragraph (1) shall not apply to assistance or benefits described in section 501(b) which are not subject to the limitations of section 501(a).

(4) ADMINISTRATION-

(A) IN GENERAL- The Attorney General shall through regulation provide for an appropriate procedure for the verification required under paragraph (1)(B).

(B) TIME PERIOD FOR RESPONSE- The appropriate State or Federal agencies shall provide for a response to a request for verification under paragraph (1)(B) of an applicant's eligibility under section 501(a) of this title and the amount of eligibility under section 552 (or comparable provisions of State law as authorized under section 553 or 554) not later than 10 business days after the date the request is made.

(C) RECORDKEEPING- If the Attorney General determines that recordkeeping is required for the purposes of this section, the Attorney General may require that such a record be maintained for not more than 90 days.

SEC. 511. GAO STUDY OF PROVISION OF MEANS-TESTED PUBLIC BENEFITS TO INELIGIBLE ALIENS ON BEHALF OF ELIGIBLE INDIVIDUALS.

(a) IN GENERAL- Not later than 180 days after the date of the enactment of this Act, the

Comptroller General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate and to the Inspector General of the Department of Justice a report on the extent to which means-tested public benefits are being paid or provided to ineligible aliens in order to provide such benefits to individuals who are United States citizens or eligible aliens. Such report shall address the locations in which such benefits are provided and the incidence of fraud or misrepresentation in connection with the provision of such benefits.

(b) DEFINITIONS- The terms 'eligible alien', 'ineligible alien', and 'means-tested public benefits' have the meanings given such terms in section 501.

Subtitle B--Expansion of Disqualification From Immigration Benefits on the Basis of Public Charge

SEC. 531. GROUND FOR EXCLUSION.

(a) IN GENERAL- Paragraph (4) of section 212(a) (8 U.S.C. 1182(a)) is amended to read as follows:

'(4) PUBLIC CHARGE-

'(A) IN GENERAL- Any alien who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission or adjustment of status, is likely at any time to become a public charge is excludable.

'(B) FACTORS TO BE TAKEN INTO ACCOUNT- (i) In determining whether an alien is excludable under this paragraph, the consular officer or the Attorney General shall at a minimum consider the alien's--

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Current Law , Other Legislation, Regulations, or Case Law Affected	House Sections in Order	Related Senate Sections	Administration Views & Suggested Modifications
	<i>Verification.</i> Only 4 documents could be accepted as proof of identity for federal licenses, contracts, loans, grants, and 6 federally-funded programs (601(c)). The 4 documents are: a U.S. passport; a resident alien card; a state driver s license; and a state identity card. The 6 programs are: SSI; AFDC; Medicaid; Social Services Block Grant; Food Stamps; and Housing Assistance. Effective after such date as the Attorney General issues regulations defining	<i>Verification.</i> The President is required to submit a recommendation to Congress for a verification system 3 years after date of enactment. System would be used for employment and benefit verification (111). Also, the AG is directed to undertake demonstration projects, including a project in the legislative branch, on the feasibility of an alternative system verifying eligibility for employment and benefits (112). Effective upon enactment. Aliens eligible for benefits or services at the time of	has great potential to impose significant new costs on individuals and small businesses that provide goods and services to federal, state, and local governments, and new administrative burdens on those governments as they seek to comply with these provisions. We prefer the Senate provision regarding verification of eligibility for benefits. We oppose section 601(c) of the House bill since it would impose a significant new burden on U.S. citizens and legal immigrants and undermine current verification procedures for eligibility of public benefits, which have proven effective in deterring unauthorized immigrants from participating in public assistance programs. In particular, elderly and disabled citizens, refugees, and others would be ineligible for benefits under the House provision for however long it would take them to acquire one of the required documents. We are also concerned about the effect on non-immigrants legally present in the United states who seek contracts or professional licenses. At a minimum, if the Hou provision is maintained there should be language added to section 601(c)(3) such as "or any other appropriate document as determined by the Attorney General in consultation with... " and the reference to SSBG in the list of programs should be dropped. We oppose the retroactive implementation of these provisions to

(6) It is a compelling government interest to remove the incentive for illegal immigration provided by the availability of public benefits.

(7) Where States are authorized to follow Federal eligibility rules for public assistance programs, the Congress strongly encourages the States to adopt the Federal eligibility rules.

Subtitle A—Eligibility of Illegal Aliens for Public Benefits

PART 1—PUBLIC BENEFITS GENERALLY

SEC. 601. MAKING ILLEGAL ALIENS INELIGIBLE FOR PUBLIC ASSISTANCE, CONTRACTS, AND LICENSES.

(a) **FEDERAL PROGRAMS.**—Notwithstanding any other provision of law, except as provided in section 603, any alien who is not lawfully present in the United States shall not be eligible for any of the following:

(1) **FEDERAL ASSISTANCE PROGRAMS.**—To receive any benefits under any program of assistance provided or funded, in whole or in part, by the Federal Government for which eligibility (or the amount of assistance) is based on financial need.

(2) **FEDERAL CONTRACTS OR LICENSES.**—To receive any grant, to enter into any contract or loan agreement, or to be issued (or have renewed) any

1 in paragraph (2), a Federal agency shall require the
2 applicant to provide proof of identity under para-
3 graph (3) to be considered for such Federal con-
4 tract, grant, loan, license, or public assistance.

5 (2) PUBLIC ASSISTANCE PROGRAMS COV-
6 ERED.—The requirement of proof of identity under
7 paragraph (1) shall apply to the following Federal
8 public assistance programs:

9 (A) SSI.—The supplemental security in-
10 come program under title XVI of the Social Se-
11 curity Act, including State supplementary bene-
12 fits programs referred to in such title.

13 (B) AFDC.—The program of aid to fami-
14 lies with dependent children under part A or E
15 of title IV of the Social Security Act.

16 (C) SOCIAL SERVICES BLOCK GRANT.—The
17 program of block grants to States for social
18 services under title XX of the Social Security
19 Act.

20 (D) MEDICAID.—The program of medical
21 assistance under title XIX of the Social Secu-
22 rity Act.

23 (E) FOOD STAMPS.—The program under
24 the Food Stamp Act of 1977.

1 (F) HOUSING ASSISTANCE.—Financial as-
2 sistance as defined in section 214(b) of the
3 Housing and Community Development Act of
4 1980.

5 (3) DOCUMENTS THAT SHOW PROOF OF IDEN-
6 TITY.—Any one of the documents listed under this
7 paragraph may be used as proof of identity under
8 this subsection. Any such document shall be current
9 and valid. No other document or documents shall be
10 sufficient to prove identity.

11 (A) United States passport (either current
12 or expired if issued both within the previous 20
13 years and after the individual attained 18 years
14 of age).

15 (B) Resident alien card.

16 (C) State driver's license, if presented with
17 the individual's social security account number
18 card.

19 (D) State identity card, if presented with
20 the individual's social security account number
21 card.

22 (d) AUTHORIZATION FOR STATES TO REQUIRE
23 PROOF OF ELIGIBILITY FOR STATE PROGRAMS.—In con-
24 sidering an application for contracts, grants, loans, li-
25 censes, or public assistance under any State program, a

1 (E) an alien paroled into the United States
2 under section 212(d)(5) of such Act for a pe-
3 riod of at least 1 year.

4 (2) INELIGIBLE ALIEN.—The term “ineligible
5 alien” means an individual who is not—

6 (A) a United States citizen or national; or

7 (B) an eligible alien.

8 (3) PUBLIC ASSISTANCE PROGRAM.—The term
9 “public assistance program” means any program of
10 assistance provided or funded, in whole or in part,
11 by the Federal Government or any State or local
12 government entity, for which eligibility for benefits is
13 based on need.

14 (4) GOVERNMENT BENEFITS.—The term “gov-
15 ernment benefits” includes—

16 (A) any grant, contract, loan, professional
17 license, or commercial license provided or fund-
18 ed by any agency of the United States or any
19 State or local government entity, except, with
20 respect to a nonimmigrant authorized to work
21 in the United States, any professional or com-
22 mercial license required to engage in such work,
23 if the nonimmigrant is otherwise qualified for
24 such license;

in determining whether an Act of Congress regulating the eligibility of aliens for public benefits meets constitutional scrutiny.

(2) STRICT SCRUTINY- In cases where a court holds that a State law determining the eligibility of aliens for public benefits must be the least restrictive means available for achieving a compelling government interest, a State that chooses to follow the Federal classification in determining the eligibility of aliens for public benefits, pursuant to the authorization contained in this title, shall be considered to have chosen the least restrictive means available for achieving the compelling government interest of assuring that aliens are self-reliant in accordance with national immigration policy.

Subtitle A--Ineligibility of Excludable Deportable, and Nonimmigrant Aliens From Public Assistance and Benefits

SEC. 501. MEANS-TESTED PUBLIC BENEFITS.

(a) IN GENERAL- Except as provided in subsection (b), and notwithstanding any other provision of law, an ineligible alien (as defined in subsection (d)) shall not be eligible to receive any means-tested public benefits (as defined in subsection (e)).

(b) EXCEPTIONS- Subsection (a) shall not apply to any of the following benefits:

(1)(A) Medical assistance under title XIX of the Social Security Act (or any successor program to such title) for care and services that are necessary for the treatment of an emergency medical condition of the alien involved and are not related to an organ transplant procedure.

(B) For purposes of this paragraph, the term 'emergency medical condition' means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in--

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ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996

- (i) *placing the patient's health in serious jeopardy,*
 - (ii) *serious impairment to bodily functions, or*
 - (iii) *serious dysfunction of any bodily organ or part.*
- (2) *Short-term noncash emergency disaster relief.*
- (3) *Assistance or benefits under any of the following (including any successor program to any of the following as identified by the Attorney General in consultation with other appropriate officials):*
 - (A) *The National School Lunch Act (42 U.S.C. 1751 et seq.).*
 - (B) *The Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).*
 - (C) *Section 4 of the Agriculture and Consumer Protection Act of 1973 (Public Law 93-86; 7 U.S.C. 612c note).*
 - (D) *The Emergency Food Assistance Act of 1983 (Public Law 98-8; 7 U.S.C. 612c note).*
 - (E) *Section 110 of the Hunger Prevention Act of 1988 (Public Law 100-435; 7 U.S.C. 612c note).*
 - (F) *The food distribution program on Indian reservations established under section 4(b) of Public Law 88-525 (7 U.S.C. 2013(b)).*
- (4) *Public health assistance for immunizations and, if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of a serious communicable disease, for testing and treatment for any such diseases (which may not include treatment for HIV infection or acquired immune deficiency syndrome).*
- (5) *Such other in-kind service or noncash assistance (such as soup kitchens, crisis counseling, intervention (including intervention for domestic violence), and short-term shelter) as the Attorney General specifies, in the Attorney General's sole and unreviewable discretion, after consultation with appropriate government agencies, if--*
 - (A) *such service or assistance is delivered at the community level, including through public or private nonprofit agencies;*

(B) such service or assistance is necessary for the protection of life, safety, or public health; and

(C) such service or assistance or the amount or cost of such service or assistance is not conditioned on the recipient's income or resources.

(6) Benefits under laws administered by the Secretary of Veterans Affairs and any other benefit available by reason of service in the United States Armed Forces.

(c) ELIGIBLE ALIEN DEFINED- For the purposes of this section--

(1) IN GENERAL- The term 'eligible alien' means an alien--

(A) who is an alien lawfully admitted for permanent residence under the Immigration and Nationality Act,

(B) who is an alien granted asylum under section 208 of such Act,

(C) who is an alien admitted as a refugee under section 207 of such Act,

(D) whose deportation has been withheld under section 241(b)(3) of such Act (as amended by section 305(a)(3)), or

(E) who is paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year, but only for the first year of such parole.

(2) INCLUSION OF CERTAIN BATTERED ALIENS- Such term includes--

(A) an alien who--

(i) has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented to, or acquiesced in, such battery or cruelty, but only if (in the opinion of the Attorney General, which opinion is not subject to review by any court) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

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"(A) IN GENERAL.—

"(i) METHOD OF DEMONSTRATION.—For purposes of this section, a demonstration of the means to maintain income shall include provision of a certified copy of the individual's Federal income tax return for the individual's 3 most recent taxable years and a written statement, executed under oath or as permitted under penalty of perjury under section 1746 of title 28, United States Code, that the copies are certified copies of such returns.

"(ii) FLEXIBILITY.—For purposes of this section, aliens may demonstrate the means to maintain income through demonstration of significant assets of the sponsored alien or of the sponsor, if such assets are available for the support of the sponsored alien.

"(iii) PERCENT OF POVERTY.—For purposes of this section, a reference to an annual income equal to at least a particular percentage of the Federal poverty line means an annual income equal to at least such percentage of the Federal poverty line for a family unit of a size equal to the number of members of the sponsor's household (including family and non-family dependents) plus the total number of other dependents and aliens sponsored by that sponsor.

"(B) LIMITATION.—The Secretary of State, or the Attorney General in the case of adjustment of status, may provide that the demonstration under subparagraph (A) applies only to the most recent taxable year.

"(h) FEDERAL POVERTY LINE DEFINED.—For purposes of this section, the term 'Federal poverty line' means the level of income equal to the official poverty line (as defined by the Director of the Office of Management and Budget, as revised annually by the Secretary of Health and Human Services, in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902)) that is applicable to a family of the size involved.

"(i) SPONSOR'S SOCIAL SECURITY ACCOUNT NUMBER REQUIRED TO BE PROVIDED.—(1) An affidavit of support shall include the social security account number of each sponsor.

(2) The Attorney General shall develop an automated system to maintain the social security account number data provided under paragraph (1).

"(3) The Attorney General shall submit an annual report to the Committees on the Judiciary of the House of Representatives and the Senate setting forth—

"(A) for the most recent fiscal year for which data are available the number of sponsors under this section and the number of sponsors in compliance with the financial obligations of this section; and

"(B) a comparison of such numbers with the numbers of such sponsors for the preceding fiscal year."

(b) CONFORMING AMENDMENTS.—

(1) Section 421(a)(1) and section 422(a)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1631(a)(1), 1632(a)(1)) are each amended by inserting "and as amended by section 551(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996" after "section 423".

(2) Section 423 of such Act (8 U.S.C. 1138a) is amended by striking subsection (c).

(c) EFFECTIVE DATE; PROMULGATION OF FORM.—

(1) **IN GENERAL.**—The amendments made by this section shall apply to affidavits of support executed on or after a date specified by the Attorney General, which date shall be not earlier than 60 days (and not later than 90 days) after the date the Attorney General formulates the form for such affidavits under paragraph (2).

(2) **PROMULGATION OF FORM.**—Not later than 90 days after the date of the enactment of this Act, the Attorney General, in consultation with the heads of other appropriate agencies, shall promulgate a standard form for an affidavit of support consistent with the provisions of section 421 of the Immigration and Nationality Act, as amended by subsection (a).

SEC. 552. INDIGENCE AND BATTERED SPOUSE AND CHILD EXCEPTIONS TO FEDERAL ATTRIBUTION OF INCOME RULE.

Section 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1631) is amended by adding at the end the following new subsection:

"(e) INDIGENCE EXCEPTION.—

"(1) IN GENERAL.—For an alien for whom an affidavit of support under section 213A of the Immigration and Nationality Act has been executed, if a determination described in paragraph (2) is made, the amount of income and resources of the sponsor or the sponsor's spouse which shall be attributed to the sponsored alien shall not exceed the amount actually provided for a period beginning on the date of such determination and ending 12 months after such date.

"(2) DETERMINATION DESCRIBED.—A determination described in this paragraph is a determination by an agency that a sponsored alien would, in the absence of the assistance provided by the agency, be unable to obtain food and shelter, taking into account the alien's own income, plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor. The agency shall notify the Attorney General of each such determination, including the names of the sponsor and the sponsored alien involved.

"(f) SPECIAL RULE FOR BATTERED SPOUSE AND CHILD.—

"(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any other provision of this section, subsection (a) shall not apply to benefits—

"(A) during a 12 month period if the alien demonstrates that (i) the alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented to or acquiesced to such battery or cruelty, or (ii) the alien's child has been battered or subjected to extreme cruelty in the United States by the spouse or parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse's or parent's family residing in the same household as the alien when the spouse or parent consented or acquiesced to and the alien did not actively participate in such battery or cruelty, and the battery or cruelty described in clause (i) or (ii) (in the opinion of the agency providing such public benefits, which opinion is not subject to review by any court) has a substantial connection to the need for the public benefits applied for; and

"(B) after a 12 month period (regarding the batterer's income and resources only) if the alien demonstrates that such battery or cruelty under subparagraph (A) has been recognized in an order of a judge or administrative law judge or a prior determination of the Immigration and Naturalization Service, and that such battery or cruelty (in the opinion of the agency providing such public benefits, which opinion is not subject to review by any court) has a substantial connection to the need for the benefits.

"(2) LIMITATION.—The exception under paragraph (1) shall not apply to benefits for an alien during any period in which the individual responsible for such battery or cruelty resides in the same household or family eligibility unit as the individual who was subjected to such battery or cruelty."

SEC. 553. AUTHORITY OF STATES AND POLITICAL SUBDIVISIONS OF STATES TO LIMIT ASSISTANCE TO ALIENS AND TO DISTINGUISH AMONG CLASSES OF ALIENS IN PROVIDING GENERAL CASH PUBLIC ASSISTANCE.

(a) IN GENERAL.—Subject to subsection (b) and notwithstanding any other provision of law, a State or political subdivision of a State is authorized to prohibit or otherwise limit or restrict the eligibility of aliens or classes of aliens

for programs of general cash public assistance furnished under the law of the State or a political subdivision of a State.

(b) LIMITATION.—The authority provided for under subsection (a) may be exercised only to the extent that any prohibitions, limitations, or restrictions imposed by a State or political subdivision of a State are not more restrictive than the prohibitions, limitations, or restrictions imposed under comparable Federal programs. For purposes of this section, attribution to an alien of a sponsor's income and resources (as described in section 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1631)) for purposes of determining eligibility for, and the amount of, benefits shall be considered less restrictive than a prohibition of eligibility for such benefits.

Subtitle D—Miscellaneous Provisions**SEC. 561. INCREASED MAXIMUM CRIMINAL PENALTIES FOR FORGING OR COUNTERFEITING SEAL OF A FEDERAL DEPARTMENT OR AGENCY TO FACILITATE BENEFIT FRAUD BY AN UNLAWFUL ALIEN.**

Section 506 of title 18, United States Code, is amended to read as follows:

"§506. Seals of departments or agencies

"(a) Whoever—

"(1) falsely makes, forges, counterfeits, mutilates, or alters the seal of any department or agency of the United States, or any facsimile thereof;

"(2) knowingly uses, affixes, or impresses any such fraudulently made, forged, counterfeited, mutilated, or altered seal or facsimile thereof to or upon any certificate, instrument, commission, document, or paper of any description; or

"(3) with fraudulent intent, possesses, sells, offers for sale, furnishes, offers to furnish, gives away, offers to give away, transports, offers to transport, imports, or offers to import any such seal or facsimile thereof, knowing the same to have been so falsely made, forged, counterfeited, mutilated, or altered, shall be fined under this title, or imprisoned not more than 5 years, or both.

"(b) Notwithstanding subsection (a) or any other provision of law, if a forged, counterfeited, mutilated, or altered seal of a department or agency of the United States, or any facsimile thereof, is—

"(1) so forged, counterfeited, mutilated, or altered;

"(2) used, affixed, or impressed to or upon any certificate, instrument, commission, document, or paper of any description; or

"(3) with fraudulent intent, possessed, sold, offered for sale, furnished, offered to furnish, given away, offered to give away, transported, offered to transport, imported, or offered to import,

with the intent or effect of facilitating an alien's application for, or receipt of, a Federal benefit to which the alien is not entitled, the penalties which may be imposed for each offense under subsection (a) shall be two times the maximum fine, and 3 times the maximum term of imprisonment, or both, that would otherwise be imposed for an offense under subsection (a).

"(c) For purposes of this section—

"(1) the term 'Federal benefit' means—

"(A) the issuance of any grant, contract, loan, professional license, or commercial license provided by any agency of the United States or by appropriated funds of the United States; and

"(B) any retirement, welfare, Social Security, health (including treatment of an emergency medical condition in accordance with section 1903(v) of the Social Security Act (19 U.S.C. 1396b(v))), disability, veterans, public housing, education, food stamps, or unemployment benefit, or any similar benefit for which payments or assistance are provided by an agency of the United States or by appropriated funds of the United States; and

"(2) each instance of forgery, counterfeiting, mutilation, or alteration shall constitute a separate offense under this section."

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October 29, 1997

A "Federal public benefit" includes "any grant, contract, loan, professional license, or commercial license" provided to individuals, and also includes "any retirement, welfare, health, disability, public or assisted housing, post-secondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit" pursuant to an application.¹

The following HHS programs provide "Federal Public Benefits":

- Temporary Assistance for Needy Families (TANF)
- ✓ Social Services Block Grant (SSBG)
- ✓ Community Services Block Grant (CSBG)
- ✓ Child Care
- ✓ Foster Care
- ✓ Adoption Assistance
- Job Opportunities for Low Income Individuals (JOLI) Program
- ✓ Low Income Home Energy Assistance Program (LIHEAP)
- Residential Energy Assistance Challenge Option (REACH) Program
- Medicare
- Medicaid
- State Child Health Insurance Program (CHIP)
- Refugee Cash Assistance
- Refugee Medical Assistance
- Refugee Social Services Formula Program
- Refugee Targeted Assistance Formula Program
- Refugee Social Services Discretionary Program
- Refugee Targeted Assistance Discretionary Program
- Refugee Unaccompanied Minor Program (foster care part)
- Refugee Preventive Health Services
- Refugee Voluntary Agency Matching Grant Programs
- Repatriation Program
- Native Hawaiian Loan Program (ANA)
- Adult Programs/Payments to the Territories
- AHCPR Dissertation Grants

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Some of the services funded through these programs are not considered to be "Federal public benefits" because they are not provided to an individual, family or household eligibility unit. For example, some states may use their SSBG and CSBG resources to fund drug prevention education programs in schools.

¹ An application exists if, based on Federal statute or regulation, or as a matter of practice by the Federal agency administering the program: (1) the individual, household, or family seeking the benefit or service must meet minimum criteria in order to be eligible for such benefit; and (2) the benefit provider or program verifies that the individual, household, or family has met the eligibility criteria by either (a) inspecting documentation proffered by the individual, household, or family, or (b) by contacting a person or agency outside the program to verify the relevant information.

² In addition to the programs identified above, Some HHS programs would be interpreted as "federal public benefits" but are specifically exempted under the provisions of section 401(b). The Indian Health Service programs, and HIV Health Care Services under the Ryan White CARE Act, are exempted under section 401(b)(1)(C) related to public health assistance and section 401(b)(1)(D) related to services or assistance specified by the Attorney General.

*cc Leanne S. 224 L
from Diana*

**INTERIM GUIDANCE ON VERIFICATION OF CITIZENSHIP, QUALIFIED
ALIEN STATUS AND ELIGIBILITY UNDER TITLE IV OF THE PERSONAL
RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996**

INTRODUCTION

A. Summary

Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (the "Act") provides that, with certain exceptions, only United States citizens, United States non-citizen nationals and "qualified aliens" (and sometimes only particular categories of qualified aliens) are eligible for federal, state and local public benefits. The Act, as amended by the Balanced Budget Act of 1997, requires the Attorney General, by November 3, 1997, to issue interim guidance on the verification of eligibility of aliens for federal public benefits. The Act also requires the Attorney General, by February 1998, to promulgate final regulations requiring verification that an applicant is a qualified alien eligible to receive federal public benefits under the Act. States have an additional twenty-four months to put into effect a verification system that complies with those regulations. Amendments to the Act by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 further require the Attorney General to establish fair and nondiscriminatory procedures for applicants to provide proof of citizenship. Benefit providers, however, are required to implement the Act, and hence to make determinations regarding citizenship, qualified alien status, and eligibility under Title IV of the Act, before the Attorney General's issuance of new regulations and the States' development of conforming verification systems.

This memorandum provides guidance on how to verify citizenship, immigration status and eligibility under Title IV of the Act during this interim period. This guidance adopts a four-step procedure: 1) Determine if your program provides a "federal public benefit" subject to the Act's verification requirements; 2) Determine whether the applicant is otherwise eligible for benefits under general program requirements; 3) Verify the applicant's status as a U.S. citizen, U.S. non-citizen national or qualified alien; and 4) Verify the applicant's eligibility for benefits under the Act. If at any step you determine that you are not required to verify (or further verify) immigration status, you should not go on to the following step(s). If you have any questions regarding verification of immigration status pursuant to this Guidance, contact the local office of the Immigration and Naturalization Service ("INS") serving your geographic area. A list of local INS offices is set forth in Attachment 1. Attachment 1 also includes a copy of INS Form G-845 and the Supplement thereto to be used to verify immigration status pursuant to this Guidance.

This Guidance applies only to federal public benefits, and does not directly address the citizenship and immigration requirements that Title IV of the Act imposes on the provision of state and local public benefits. To the extent that you are required to verify that an applicant is a U.S. citizen, U.S. non-citizen national or qualified alien when determining eligibility for a state or local program, however, the Attorney General will be promulgating regulations that set forth procedures by which state and local providers can verify alien eligibility for such benefits.

During the interim, we advise that you use this Guidance in consultation with state and local authorities.

B. Programs with Governmental Verification

Some federal programs (e.g., Medicaid) require federal, state and local governmental agencies, but not private providers, to verify citizenship and immigration status as part of program eligibility determinations. The private entities actually providing the benefits must abide by the verification determination made by the governmental agency; they engage in no independent verification. Nothing in this Guidance modifies such program requirements: providers of benefits under programs where verification is performed by a governmental agency are not required by this Guidance to verify that an applicant is a U.S. citizen, non-citizen national or qualified alien, and they should not engage in such verification. They should continue to provide benefits pursuant to program requirements based on the verification determinations made by the appropriate governmental agency.

C. Programs Currently Required to Use the SAVE System

Some federal programs (e.g., Medicaid, unemployment compensation, educational assistance under Title IV of the Higher Education Act of 1965, the multi-housing program and the Indian and public housing program) already require, absent a waiver, verification of the immigration status of noncitizens applying for benefits through the Systematic Alien Verification for Entitlements ("SAVE") system. SAVE is an intergovernmental information-sharing program that is available to benefit-granting agencies that need to determine an alien's immigration status. With one exception, nothing in the Act changes preexisting legal requirements regarding use of the SAVE system or relieves the administrators of statutorily mandated programs of their obligations to comply with the SAVE program (including the terms of any waiver of SAVE program requirements received from the appropriate federal agency); section 840 of the Act, however, did remove the requirement that a state agency use the SAVE system to verify eligibility for Food Stamps. You should note that SAVE does not provide all of the information that may now be necessary to determine an individual's eligibility under Title IV of the Act. You should use this Guidance to obtain or verify that new information.

D. Exemption for Nonprofit Charitable Organizations

Subject to such verification regulations as the Attorney General may subsequently adopt and the limitations set forth immediately below, a "nonprofit charitable organization" providing a federal, state or local public benefit covered by the Act is not required under Title IV of the Act to determine, verify, or otherwise require proof of an applicant's eligibility for such benefits based on the applicant's status as a U.S. citizen, U.S. non-citizen national or qualified alien. Thus, a nonprofit charitable organization is not required by the Act to seek an applicant's confirmation that he or she is a qualified alien, or to have a separate entity verify the applicant's status before providing benefits. To be eligible for this exemption, an organization must be both "nonprofit" and "charitable." For purposes of this Guidance, an organization is "nonprofit" if

it is organized and operated for purposes other than making gains or profits for the organization, its members or its shareholders, and is precluded from distributing any gains or profits to its members or shareholders. An organization is "charitable" if it is organized and operated for charitable purposes. The term "charitable" should be interpreted in its generally accepted legal sense as developed by judicial decisions. It includes organizations dedicated to relief of the poor and distressed or the underprivileged, as well as religiously-affiliated organizations and educational organizations. If you have any questions as to whether your organization is a nonprofit charitable organization exempt from the Act's verification requirements, you should contact the federal, state or local agency overseeing the program you administer to obtain guidance.

The exemption for nonprofit charitable organizations is limited to verification requirements imposed by Title IV of the Act and to those instances in which the nonprofit charitable organization itself would be required by Title IV to engage in verification. Certain programs, however, require federal, state and local agencies to verify citizenship and immigration status as part of program eligibility determinations, while benefits are provided, at least in part, by charitable organizations. Other programs currently require verification by the charitable organization itself. These independent requirements are not altered by the provision exempting nonprofit charitable organizations from the Act's verification requirements. If a non-exempt entity (e.g., a state agency) performs verification for benefits provided through a nonprofit charitable organization, you must abide by those determinations. Similarly, if your program has procedures unrelated to Title IV of the Act that require verification by your charitable organization, or adopts such procedures in the future, you must comply with such procedures.

A nonprofit charitable organization that chooses not to verify cannot be penalized (e.g., through cancellation of its grant or denial of reimbursement for benefit expenditures) for providing federal public benefits to an individual who is not a U.S. citizen, U.S. non-citizen national or qualified alien, except when it does so either in violation of independent program verification requirements or in the face of a verification determination made by a non-exempt entity. However, if your organization chooses to verify, even though it is a nonprofit charitable organization that is not required to do so under the Act, you should comply with the procedures set forth in this Guidance and provide benefits only to those whom you verify to be U.S. citizens, U.S. non-citizen nationals or qualified aliens. Any verification request to INS by a nonprofit charitable organization must be accompanied by the written consent of the individual whose status is to be verified to the release of information about the individual to a nongovernmental entity. The consent must be notarized or executed under penalty of perjury. (INS Form G-639 may be used for this purpose.)

E. Nondiscrimination and Privacy Requirements

Various federal civil rights laws and regulations prohibit discrimination by governmental and private entities on the basis of race, color, national origin, gender, religion, age and disability. They include Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq.

("Title VI"), Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq., the Age Discrimination Act of 1975, 42 U.S.C. § 6101 et seq., and the Fair Housing Act, 42 U.S.C. § 3601 et seq. These laws apply to entities' provision of any public benefits, including their implementation of the Act. In particular, Title VI prohibits discrimination on the basis of race, color, or national origin in any program or activity, whether operated by a public or private entity, that receives federal funds or other federal financial assistance. Thus, in operating or participating in a federally assisted program and implementing the requirements of the Act, including those set forth in this Guidance, a provider should not, on the basis of race, color or national origin, directly or indirectly differentiate among persons in the types of program services, aids or benefits it provides or the manner in which it provides them. For example, benefit providers should treat all similarly situated individuals in the same manner, and should not single out individuals who look or sound foreign for closer scrutiny or require them to provide additional documentation of citizenship or immigration status. The nondiscrimination requirements of Title VI and other applicable civil rights laws are discussed more fully in Attachment 2.

If you have questions regarding issues of discrimination that may arise with respect to benefit-granting procedures or the implementation of this Guidance, you should contact the civil rights office of the pertinent benefit-granting agency or the applicable office in the Civil Rights Division of the U.S. Department of Justice. Contact numbers in the U.S. Department of Justice, Civil Rights Division are set forth in Attachment 2.

When implementing the Act's verification requirements, you should be sensitive to privacy interests, and should use the citizenship and immigration status information received only for purposes of verifying the applicant's eligibility for benefits under the Act and, if you are a governmental entity, for sharing such information with the INS and other governmental entities as provided for by the Act. You should also review the Privacy Act (5 U.S.C. § 552a), state and local privacy laws, and your program's requirements to ensure that you comply with all applicable privacy requirements.

VERIFICATION PROCEDURES

STEP 1: DETERMINE IF YOUR PROGRAM PROVIDES A "FEDERAL PUBLIC BENEFIT" SUBJECT TO THE ACT'S VERIFICATION REQUIREMENTS

The Act's requirement that benefit recipients be U.S. citizens, U.S. non-citizen nationals or qualified aliens does not apply to all federally funded activity or programs; it applies only to non-exempted "federal public benefits". Therefore, benefit providers should first determine whether the particular program they are administering provides a "federal public benefit" for which the Act requires them to verify citizenship, nationality or immigration status. Preliminary guidance on which programs provide "federal public benefits" subject to the Act's verification requirements is set forth in Attachment 3. If the federal program does not provide a "federal public benefit" covered by the Act (e.g., the program is exempted by Attorney General Order No. 2049, 61 Fed. Reg. 45,985 (1996), regarding government-funded community programs,

services or assistance that are necessary for the protection of life or safety), the benefit provider is not required to, and should not attempt to, verify an applicant's status, unless otherwise required or authorized to do so by law, because all aliens, regardless of their immigration status, are eligible for such benefits.

If one program provides several public benefits, the Act's requirements apply only to those benefits that are non-exempted federal public benefits under the Act. A provider is not required to, and should not, verify the citizenship, nationality and immigration status of applicants for other benefits provided by the program that do not constitute federal public benefits.

STEP 2: DETERMINE WHETHER APPLICANT IS ELIGIBLE FOR BENEFITS UNDER GENERAL PROGRAM REQUIREMENTS

Given the potential intrusiveness and possibly time-consuming nature of the citizenship and alien status verification inquiry, a provider should determine whether an applicant otherwise meets specific program requirements for benefit eligibility before initiating the verification process, unless determining program eligibility would be considerably more complex and time-consuming than verifying immigration status. This will reduce verification inquiries that prove unnecessary because the applicant is not otherwise eligible for the benefits requested. This Guidance does not address these other program eligibility requirements; a provider should refer to the statute, regulations and agency guidance (if any) governing its program for such requirements. (Note, however, that Title IV contains provisions requiring that, upon the effective date of the new affidavit of support, required under section 213A of the Act, when determining eligibility for federal means-tested public benefits and the amount of such benefits to which an alien is entitled, the income and resources of the alien be deemed to include those of any person executing an affidavit of support on behalf of the alien and that person's spouse, if applicable, with certain exceptions for indigent qualified aliens and aliens who (or whose children or parents) have been battered or subjected to extreme cruelty in the U.S. by a spouse, parent or member of the spouse or parent's family. See Exhibit B of Attachment 5.)

Determining program eligibility will normally include verifying that the applicant is who he or she claims to be. Although many of the documents and procedures relevant to determining citizenship or immigration status may also be relevant to identity verification, this Guidance is designed to provide assistance in determining the status of applicants whose identity has already been verified, and does not address appropriate identity verification procedures. It is your responsibility to assure yourself, pursuant to non-discriminatory procedures, of the identity of the applicant.

STEP 3: VERIFY APPLICANT'S STATUS AS A U.S. CITIZEN, U.S. NON-CITIZEN NATIONAL OR QUALIFIED ALIEN

Because the process of verifying an individual's status as a U.S. citizen, U.S. non-citizen national or qualified alien raises significant issues involving privacy and anti-discrimination

protections, no verification of an applicant's status as a U.S. citizen, U.S. non-citizen national or qualified alien should be undertaken where benefits are not contingent on such status. In addition, if an alien is applying for benefits on behalf of another person, you may, under federal law, only verify the status of the person who will actually be receiving the benefits.

Except as set forth in this paragraph, if your program provides a non-exempted "federal public benefit," and thus is available only to U.S. citizens, U.S. non-citizen nationals and qualified aliens, you should verify an applicant's status as set forth below. If you are a private provider of a "federal public benefit" and your program requires verification by a federal, state or local governmental agency, but not by a private provider, you should not engage in any independent verification and should continue to comply with the verification determinations made by the appropriate governmental entity. If you are on the SAVE system, you should continue following the SAVE procedures and should use this Guidance only for matters not addressed under the SAVE program.

A. U.S. Citizen or Non-Citizen National

1. **Ask for Declaration of Status.** If you are required to verify an applicant's status as a U.S. citizen, U.S. non-citizen national or qualified alien, you should begin by asking the applicant to submit a written declaration, under penalty of perjury, that he or she is a citizen or non-citizen national of the U.S. (or that he or she is a qualified alien -- see Paragraph B.1. below).

Subject to certain exceptions and qualifications (particularly with respect to derivative citizenship), a United States citizen is:

- a person (other than the child of a foreign diplomat) born in one of the several States or in the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, or the Northern Mariana Islands who has not renounced or otherwise lost his or her citizenship;
- a person born outside of the United States to at least one U.S. citizen parent (sometimes referred to as a "derivative citizen"); or
- a naturalized U.S. citizen.

As a general matter, a United States non-citizen national is a person born in an outlying possession of the United States (American Samoa or Swain's Island) on or after the date the U.S. acquired the possession, or a person whose parents are U.S. non-citizen nationals (subject to certain residency requirements).

The law regarding U.S. citizenship and nationality is complex. These broad definitions are provided for general guidance only, and do not address all of the complexities involved in attaining or losing status as a U.S. citizen or non-citizen national. See 8 U.S.C. § 1401 et seq.

If you have any questions regarding whether an applicant is a U.S. citizen or non-citizen national, you should consult with the INS (in the case of a naturalized citizen) or the federal agency or department that oversees your program.

2. Verify Status. A number of programs have existing procedures for verifying that an applicant is a U.S. citizen or non-citizen national for purposes of program eligibility. You should continue to comply with any existing or future legal requirements for verifying citizenship and nationality that are imposed on your program, as well as with any applicable existing or future guidance provided by the agency or department overseeing your program. If a program has no requirements or guidance regarding verification, a benefit provider should refer to this Guidance.

The appropriate method of verifying an applicant's citizenship will depend upon the requirements and needs of the particular program, including, but not limited to, the nature of the benefits to be provided, the need for benefits to be provided on an expedited basis, the length of time during which benefits will be provided, the cost of providing the benefits, the length of time it will take to verify based on a particular method, and the cost of a particular method of verification. For example, a benefit provider could adopt a quick and simple verification procedure if it provides short-term benefits and the cost of extensive verification will outweigh the cost of the benefits or if verification will be time-consuming and the benefits are needed in the short term. On the other hand, if the benefit provider provides substantial, long-term benefits, it may be reasonable to require more extensive verification of citizenship.

Regardless, a benefit provider's decision as to the appropriate method must be made in a non-discriminatory fashion; for example, it cannot turn on the fact that the applicant looks or sounds foreign or has an ethnic surname. A benefit provider should adopt neutral procedures that apply equally to all applicants regardless of their appearance, ethnicity or accent. A benefit provider should not implement its procedures in a manner that discriminates against applicants whom it assumes to be foreign; nor should a benefit provider treat any applicant in a more beneficial manner based on assumptions as to the applicant's citizenship. (See Nondiscrimination Advisory in Attachment 2.)

To verify that an applicant is a U.S. citizen or non-citizen national, a benefit provider could do any one of the following:

(a) Ask the applicant to present a document demonstrating that he or she is a U.S. citizen or non-citizen national. Documents that can be used to make this demonstration are described in Attachment 4. (A benefit provider may also consult records of verified citizenship, if any, maintained by the agency overseeing its program.)

(i) If the document reasonably appears on its face to be genuine and to relate to the individual presenting it (or, if your program already has existing guidance or procedures mandating a higher standard of proof for acceptance of documentary evidence of status, the document satisfies that higher standard), the

provider should accept the document as conclusive evidence that the applicant is a U.S. citizen or non-citizen national, and should not verify status any further.

(ii) If the document presented does not on its face reasonably appear to be genuine (or to satisfy a higher applicable standard) or to relate to the individual presenting it, the benefit provider should contact the governmental entity that originally issued the document presented or that can confirm the applicant's status as a U.S. citizen or non-citizen national. (With regard to naturalized citizens and derivative citizens presenting certificates of citizenship, the INS is the appropriate governmental entity to contact for verification of such status. If the applicant presents a document relating to such status and that document does not on its face reasonably appear to be genuine or to relate to the applicant (or to satisfy a higher applicable standard), the provider may request verification of status by filing INS Form G-845 along with copies of the pertinent documents provided by the applicant with the local INS office. If an applicant has lost his or her original documents or never had an original document demonstrating naturalized or derivative citizenship, refer the applicant to the local INS office to obtain documentation of status.)

(b) Accept a written declaration, made under penalty of perjury and possibly subject to later verification of status, from one or more third parties indicating a reasonable basis for personal knowledge that the applicant is a U.S. citizen or non-citizen national.

(c) Accept the applicant's written declaration, made under penalty of perjury and possibly subject to later verification of status, that he or she is a U.S. citizen or non-citizen national.

The options described in subparagraphs (b) and (c) above present a greater potential for undetected false claims of being a United States citizen or non-citizen national, and therefore should be used with caution in appropriate circumstances. For example, before using these options, a provider might require the applicant to demonstrate why a document evidencing that he or she is a U.S. citizen or non-citizen national does not exist or cannot be readily obtained. Such a requirement must be imposed equally on all applicants, and cannot be applied in a discriminatory manner.

3. Action Pending Verification. If an applicant has satisfied the above requirements regarding submission of a sworn declaration and presentation of any other required evidence of status, you should refer to the legal requirements of your program and to any applicable guidance provided by the federal agency or department overseeing your program to determine if you should grant or withhold benefits during the period of time in which you are verifying the applicant's status. If your program has no such requirements or guidance and the applicant has submitted a written declaration, under penalty of perjury, that he or she is a U.S. citizen or non-citizen national, you should not delay, deny, reduce or terminate the applicant's

eligibility for benefits under the program on the basis of an applicant's citizenship or nationality during the period of time it takes to verify his or her status.

4. Take Action Based on Results of Verification. If you verify that the applicant is a U.S. citizen or non-citizen national, you are subject to no further verification requirements under Title IV of the Act and should grant the benefits requested if the applicant is otherwise eligible for them under the specific program's requirements. If you cannot verify that the applicant is a U.S. citizen or non-citizen national after exhausting the above-described methods (and the applicant is not a qualified alien -- see below), you should deny the benefits requested, and notify the applicant pursuant to your regular procedures of his or her rights under the applicable program to appeal the denial of benefits. If the INS was involved in the provider's attempt to verify naturalized or derivative citizenship, the INS will, upon request of the agency or department handling the appeal, conduct a thorough review of its initial verification response and will provide the agency or department with information in its possession necessary to resolve the appeal.

B. Qualified Alien

1. Ask for Declaration of Status. If an applicant is not a U.S. citizen or U.S. non-citizen national, you may grant the applicant non-exempted federal public benefits only if the applicant submits a written declaration, under penalty of perjury, that he or she has an immigration status that makes him or her a "qualified alien" and you verify that status as set forth below.

A "qualified alien" is:

- an alien lawfully admitted for permanent residence under the Immigration and Nationality Act ("INA");
- an alien granted asylum under § 208 of the INA;
- a refugee admitted to the U.S. under § 207 of the INA;
- an alien paroled into the U.S. under § 212(d)(5) of the INA for at least one year;
- an alien whose deportation is being withheld under § 243(h) of the INA as in effect prior to April 1, 1997, or whose removal is being withheld under § 241(b)(3) of the INA;
- an alien granted conditional entry pursuant to § 203(a)(7) of the INA as in effect prior to April 1, 1980;
- an alien who is a Cuban or Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980; or

- an alien who (or whose child or parent) has been battered or subjected to extreme cruelty in the U.S. and otherwise satisfies the requirements of § 431(c) of the Act (see Exhibit B of Attachment 5).

2. Request Documentation of Immigration Status. Ask the applicant to provide documentation evidencing his or her status as a qualified alien. The documents that will demonstrate that an applicant is a "qualified alien" are described in Attachment 5. Note that, if the applicant is applying for federal means-tested public benefits covered by the Act, or possibly a program funded by a Social Services Block Grant, the applicant may well have to present additional documentation demonstrating eligibility under the Act -- see Step 4 below -- and you will also want to ask the applicant to provide any such additional documentation demonstrating eligibility.

3. If Supported by Documents, Conclude that the Applicant is a Qualified Alien. If the documentation reasonably appears on its face to be genuine (or, if your program already has existing guidance or procedures mandating a higher standard of proof for acceptance of documentary evidence of immigration status, the document satisfies that higher standard) and to relate to the individual presenting it, you should accept the documentation as conclusive evidence that the applicant is a qualified alien, you should not further verify immigration status with the INS (unless you are a SAVE user, in which case you should proceed to verify status according to SAVE procedures), and you should proceed to determine if the applicant satisfies the Act's other eligibility requirements for the particular benefits discussed in Step 4 below (addressing SSI, Food Stamps, TANF, Medicaid, programs funded by a Social Services Block Grant, and federal means-tested public benefits).

4. If, Based on the Documents Presented, You Are Considering Concluding that the Applicant Is Not a Qualified Alien, Take the Following Steps.

(a) Verify Status. If, based on your review of the documents presented, you are considering determining that an applicant is not a qualified alien and thus is not eligible for the benefits requested based on his or her immigration status -- e.g., because the document does not on its face reasonably appear to be genuine (or to satisfy a higher applicable standard) or to relate to the person presenting it -- you should check with the INS to verify the information presented as set forth below. (You do not need to check with the INS if the applicant presents a document that is valid and demonstrates lawful immigration status but that simply does not qualify him or her for status as a qualified alien: e.g., INS Form I-94 showing admission as a nonimmigrant visitor.) **Do not determine that an applicant is not a qualified alien, and do not conclusively deny benefits on that basis, without first verifying the applicant's status with the INS as follows:**

If you are connected to the INS SAVE system, check the applicant's immigration status using the standard procedures for use of the SAVE system, including both the electronic mechanism and, if necessary (e.g., if information regarding the pertinent immigration status cannot be confirmed through the electronic SAVE database), the procedures for secondary

verification. If you are not connected to the SAVE system and the applicant presents documents relating to such status, request verification of immigration status by filing INS Form G-845 and Supplement along with copies of the pertinent immigration documents provided by the applicant with the local INS office. In either instance, the INS will conduct a thorough review of its records to determine if the applicant is a qualified alien. If the applicant presents expired documents or is unable to present any documentation evidencing his or her immigration status, refer the applicant to the local INS office to obtain documentation of status. In unusual cases involving applicants who are hospitalized or medically disabled, or who can otherwise show good cause for their inability to present documentation, and for whom securing such documentation would constitute an undue hardship, if the applicant can provide an alien registration number, you may file INS Form G-845 and Supplement, along with the alien registration number and a copy of any expired INS document presented, with the local INS office to verify status. As with any documentation of immigration status, you should confirm that the status information you receive back from INS pertains to the applicant whose identity you have verified.

(b) Action Pending Verification. You should refer to the legal requirements of your program and to any applicable guidance provided by the federal agency or department overseeing your program, if any, to determine whether you should grant or withhold benefits during the period of time in which you are verifying the applicant's immigration status. If your program has no such requirements or guidance and the applicant has submitted a written declaration, under penalty of perjury, that he or she is a qualified alien, you should not delay, deny, reduce or terminate the applicant's eligibility for benefits under the program on the basis of an applicant's immigration status during the period of time it takes to verify his or her immigration status. If you are to grant benefits pending verification, you should first determine if the applicant satisfies the Act's other eligibility requirements (if any) for the benefits requested as set forth in Step 4 below.

(c) Take Action Based on Response to Verification Inquiry.

If the INS notifies you that the applicant has an immigration status that makes him or her a qualified alien within the meaning of the Act, you should accept the INS verification and proceed to determine whether the applicant satisfies the Act's other eligibility requirements (if any) for the benefits requested as set forth in Step 4 below.

If the INS notifies you that it cannot verify that the applicant has an immigration status that makes him or her a qualified alien within the meaning of the Act, you should deny benefits and notify the applicant pursuant to your program's regular procedures of his or her rights under the applicable program to appeal the denial of benefits. Upon request of the agency or department handling the appeal, the INS will conduct a thorough review of its initial verification response and will provide the agency or department with information in its possession necessary to resolve the appeal.

STEP 4: VERIFY ELIGIBILITY UNDER THE ACT

Title IV of the Act provides that all qualified aliens are eligible for some federal public benefits, while it imposes additional eligibility requirements for receipt of other benefits. If the qualified alien is applying for a benefit for which all qualified aliens are eligible, you should not engage in any further verification of immigration status. If he or she is applying for a program for which the Act imposes additional eligibility requirements, however, you should determine whether the applicant satisfies those requirements.

A. Federal Public Benefits With No Further Immigration Eligibility Requirements for Qualified Aliens

Except as set forth below, all qualified aliens are eligible for all federal public benefits. If the qualified alien is applying for a federal public benefit for which all qualified aliens are eligible, you should not engage in any further verification of immigration status.

With some exceptions, individuals receiving SSI as of August 22, 1996, continue to be eligible for such benefits until the Commissioner of Social Security, prior to September 30, 1998, redetermines their eligibility; if, as a result of that redetermination, an individual is found to be ineligible for SSI, the individual can nevertheless continue receiving benefits until September 30, 1998.

In the absence of a State's decision to restrict eligibility for programs funded by a Social Services Block Grant, all qualified aliens are eligible for Social Services Block Grant programs. In the absence of a State's decision to restrict eligibility for TANF and Medicaid, the Act does not restrict the availability of these benefits to qualified aliens who entered the United States prior to August 22, 1996, and who were continuously present in the United States until attaining qualified alien status; however, because the Department of Health and Human Services has determined that TANF and Medicaid are federal means-tested public benefits, see 62 Fed. Reg. 45,256 (August 26, 1997), aliens who entered the United States on or after August 22, 1996, are ineligible for those programs for five years from the date that they attain qualified alien status (see discussion of federal means-tested public benefits in Paragraph B below and Attachment 7). You should determine whether your State is continuing to provide TANF, Medicaid, and programs funded by a Social Services Block Grant to all qualified aliens:

- If the State is continuing to provide programs funded by a Social Services Block Grant to all qualified aliens, you should not engage in any further verification of immigration status;
- If the State is continuing to provide TANF and Medicaid to all qualified aliens, you should refer to Paragraph B below and Attachment 7 for further guidance on additional eligibility requirements; and
- If the State has restricted qualified aliens' eligibility for TANF and Medicaid, you

should determine whether the applicant is eligible for such benefits as set forth in Paragraph B below.

B. Federal Benefits With Additional Eligibility Requirements for Qualified Aliens

SSI, Food Stamps, TANF, Medicaid, and Programs Funded by a Social Services Block Grant: The Act provides that only certain excepted categories of aliens are eligible for SSI and Food Stamps. A State may, however, choose to issue Food Stamp benefits to individuals that are otherwise ineligible for such benefits under sections 402 or 403 of the Act, provided that the State reimburses the federal government for the costs of such benefits and complies with certain administrative requirements. In addition, if a State has exercised its right to limit qualified aliens' eligibility for TANF, Medicaid, and programs funded by a Social Services Block Grant, certain excepted categories of aliens remain eligible for such programs. The excepted categories of aliens that remain eligible for SSI are somewhat broader than the excepted categories for Food Stamps, Medicaid, TANF and programs funded by a Social Services Block Grant. Consult Attachment 6 for a more specific description of these excepted categories and the documentation that will demonstrate that an alien falls within such an exception and thus remains eligible for these programs.

Federal Means-Tested Public Benefits. With certain exceptions discussed in greater detail in Attachment 7, qualified aliens are ineligible to receive federal means-tested public benefits for five years from the date that they attain qualified alien status. However, aliens who entered the United States prior to August 22, 1996, and who were continuously present in the United States until attaining qualified alien status are not subject to this restriction. In addition, exceptions are made for refugees, asylees, aliens whose deportation or removal has been withheld, Cuban/Haitian entrants, certain Amerasian immigrants, and aliens who are veterans honorably discharged or on non-training active duty and their families. This restriction, moreover, does not apply after the expiration of the five-year period. If a qualified alien is applying for such a benefit, you should determine, in accordance with Attachment 7, whether he or she arrived in the United States prior to August 22, 1996, whether he or she falls within one of the enumerated exceptions, or whether he or she has been a qualified alien for at least five years.

ATTACHMENT 1

Local INS Office Addresses

State or Territory	County	File Control Office	Address
Alabama		Atlanta, GA	77 Forsyth Street, S.W. Atlanta, GA 30303-3427
Alaska		Anchorage, AK	620 East 10th Avenue Suite 102 Anchorage, AK 99501
Arizona		Phoenix, AZ	2035 North Central Avenue Phoenix, AZ 85004-1548
Arkansas		Memphis, TN	1341 Sycamore View Suite 100 Memphis, TN 38134
California	Inyo, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura	Los Angeles, CA	300 North Los Angeles Street Los Angeles, CA 90012
	Imperial and San Diego	San Diego, CA	880 Front Street, Suite 1234 San Diego, CA 92101-8834
	Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba	San Francisco, CA	630 Sansome Street Room 300 San Francisco, CA 94111-2280
Colorado		Denver, CO	4730 Paris Street Albrook Center Denver, CO 80239-2804
Connecticut		Hartford, CT	Ribicoff Federal Building 450 Main Street Hartford, CT 06103-3060
Delaware		Philadelphia, PA	1600 Callowhill Street Philadelphia, PA 19130-4112
District of Columbia		Arlington, VA	4420 North Fairfax Drive Arlington, VA 22203
Florida		Miami, FL	7880 Biscayne Blvd. Miami, FL 33138-4797

State or Territory	County	File Control Office	Address
Georgia		Atlanta, GA	77 Forsyth Street, S.W. Atlanta, GA 30303-3427
Guam		Agana, GU	Pacific News Bldg., Room 801 238 Archbishop Flores Street Agana, GU 96910
Hawaii		Honolulu, HI	595 Ala Moana Blvd. Honolulu, HI 96813
Idaho		Helena, MT	2800 Skyway Drive Helena, MT 59601
Illinois		Chicago, IL	10 West Jackson Blvd. Chicago, IL 60604
Indiana		Indianapolis, IN	Gateway Plaza 950 North Meridian Street Room 400 Indianapolis, IN 46204
Iowa		Omaha, NE	3736 132nd Street Omaha, NE 68144
Kansas		Kansas City, MO	9747 North Conant Avenue Kansas City, MO 64153
Kentucky		Memphis, TN	1341 Sycamore View Suite 100 Memphis, TN 38134
Louisiana		New Orleans, LA	Postal Services Building 701 Loyola Avenue Room T-8011 New Orleans, LA 70113-1912
Maine		Portland, ME	739 Warren Avenue Portland, ME 04103-1187
Maryland		Baltimore, MD	Nations Bank Center Tower One 100 South Charles/ 12th Floor Baltimore, MD 21201-2725

State or Territory	County	File Control Office	Address
Massachusetts		Boston, MA	John F. Kennedy Federal Bldg. Government Center Room E-160 Boston, MA 02203-0701
Michigan		Detroit, MI	Federal Building 333 Mt. Elliott Street Detroit, MI 48207-4381
Minnesota		St. Paul, MN	2901 Metro Drive Suite 100 Bloomington, MN 55425
Mississippi	Alcorn, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Clay, Coahoma, DeSoto, Grenada, Humphreys, Itawamba, Lafayette, Lee, Leflore, Lowndes, Marshall, Monroe, Montgomery, Oktibbeha, Panola, Pontotoc, Prentiss, Quitman, Sunflower, Tallahatchie, Tate, Tippah, Tishomingo, Tunica, Union, Washington, Webster, Winston, and Yalobusha	Memphis, TN	1341 Sycamore View Suite 100 Memphis, TN 38134
	Adams, Amite, Claiborne, Clarke, Copiah, Covington, Forrest, Franklin, George, Greene, Hancock, Harrison, Hinds, Holmes, Issaquena, Jackson, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lamar, Lauderdale, Lawrence, Leake, Lincoln, Madison, Marion, Neshoba, Newton, Noxubee, Pearl River, Perry, Pike, Rankin, Scott, Sharkey, Simpson, Smith, Stone, Walthall, Warren, Wayne, Wilkinson, and Yazoo	New Orleans, LA	Postal Services Building 701 Loyola Avenue Room T-8011 New Orleans, LA 70113-1912
Missouri	Andrew, Atchison, Barry, Barton, Bates, Benton, Boone, Buchanan, Caldwell, Callaway, Camden, Carroll, Cass, Cedar Christian, Clay, Clinton, Cole, Cooper, Dade, Dallas, Daviess, De Kalb, Douglas, Gentry, Greene, Grundy, Harrison, Henry, Hickory, Holt, Howard, Howell, Jackson, Jasper, Johnson, Laclede, Lafayette, Lawrence, Livingston, McDonald, Mercer, Miller, Moniteau, Morgan, Newton, Nodaway, Oregon, Osage, Ozark, Pettis, Platte, Polk, Pulaski, Putnam, Ray, St. Clair, Saline, Stone, Sullivan, Taney, Texas, Vernon, Webster, Worth, and Wright	Kansas City, MO	9747 North Conant Avenue Kansas City, MO 64153
	Adair, Audrain, Bollinger, Butler, Cape Girardeau, Carter, Chariton, Clark, Crawford, Dent, Dunklin, Franklin, Gasconade, Iron, Jefferson, Knox, Lewis, Lincoln, Linn, Macon, Madison, Maries, Marion, Mississippi, Monroe, Montgomery, New Madrid, Pemiscot, Perry, Phelps, Pike, Ralls, Randolph, Reynolds, Ripley, St. Charles, St. Francois, St. Louis, Ste. Genevieve, Schuyler, Scotland, Scott, Shannon, Shelby, Stoddard, Warren, Washington, and Wayne	St. Louis, MO	Robert A. Young Federal Bldg. 1222 Spruce Street Room 1100 St. Louis, MO 63103-2815
Montana		Helena, MT	2800 Skyway Drive Helena, MT 59601

State or Territory	County	File Control Office	Address
Nebraska		Omaha, NE	3736 132nd Street Omaha, NE 68144
Nevada	Clark, Esmeralda, Lincoln, and Nye	Las Vegas, NV	3373 Pepper Lane Las Vegas, NV 89120
	Churchill, Douglas, Elko, Eureka, Humboldt, Lander, Lyon, Mineral, Pershing, Storey, Washoe, and White Pine	Reno, NV	1351 Corporate Boulevard Reno, NV 89502
New Hampshire		Boston, MA	John F. Kennedy Federal Bldg. Government Center Room E-160 Boston, MA 02203-0701
New Jersey		Newark, NJ	Peter Rodino Federal Building 970 Broad Street Newark, NJ 07102-2506
New Mexico		El Paso, TX	1545 Hawkins, Suite 167 El Paso, TX 79925
New York	Albany, Broome, Chenango, Columbia, Delaware, Fulton, Greene, Hamilton, Herkimer, Madison, Montgomery, Oneida, Otsego, Rensselaer, Saratoga, Schenectady, Schoharie, Tioga, Warren, and Washington	Albany, NY	James T. Foley Federal Courthouse 445 Broadway Room 227 Albany, NY 12207-2999
	Allegany, Cattaraugus, Cayuga, Chautauqua, Chemung, Clinton, Cortland, Erie, Essex, Franklin, Genessee, Jefferson, Lewis, Livingston, Monroe, Niagara, Onondaga, Ontario, Orleans, Oswego, St. Lawrence, Schuyler, Seneca, Steuben, Tompkins, Wayne, Wyoming, and Yates	Buffalo, NY	130 Delaware Avenue Buffalo, NY 14202-2404
	Bronx, Dutchess, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, Sullivan, Ulster, and Westchester	New York, NY	26 Federal Plaza New York, NY 10278-0127
North Carolina		Charlotte, NC	6 Woodlawn Green, Bldg. 6 Suite 138 Charlotte, NC 28217-2216
North Dakota		St. Paul, MN	2901 Metro Drive Suite 100 Bloomington, MN 55425

State or Territory	County	File Control Office	Address
Ohio	Adams, Athens, Brown, Butler, Champaign, Clark, Clermont, Clinton, Darke, Delaware, Fairfield, Fayette, Franklin, Gallia, Greene, Hamilton, Highland, Hocking, Jackson, Licking, Lawrence, Logan, Madison, Meigs, Miami, Montgomery, Perry, Pickaway, Pike, Preble, Ross, Scioto, Shelby, Union, Vinton, and Warren	Cincinnati, OH	J.W. Peck Federal Building 550 Main Street Room 8525 Cincinnati, OH 45202
	Allen, Ashland, Ashtabula, Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Cuyahoga, Defiance, Erie, Fulton, Geauga, Guernsey, Hancock, Hardin, Harrison, Henry, Holmes, Huron, Jefferson, Knox, Lake, Lorain, Lucas, Mahoning, Marion, Medina, Mercer, Monroe, Morgan, Morrow, Muskingum, Noble, Ottawa, Paulding, Portage, Putman, Richland, Sandusky, Seneca, Stark, Summit, Trumbull, Tuscarawas, Van Wert, Washington, Wayne, Williams, Wood, and Wyandot	Cleveland, OH	Anthony J. Celebreeze Federal Bldg. 1240 E. 9th Street, Room 1917 Cleveland, OH 44199
Oklahoma		Dallas, TX	8101 North Stemmons Freeway Dallas, TX 75247
Oregon		Portland, OR	511 N.W. Broadway Portland, OR 97209
Pennsylvania	Adams, Berks, Bradford, Bucks, Cameron, Carbon, Centre, Chester, Clinton, Columbia, Cumberland, Dauphin, Delaware, Franklin, Fulton, Huntingdon, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Mifflin, Monroe, Montgomery, Montour, Northampton, Northumberland, Perry, Philadelphia, Pike, Potter, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming, and York	Philadelphia, PA	1600 Callowhill Street Philadelphia, PA 19130-4112
	Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Clarion, Clearfield, Crawford, Elk, Erie, Fayette, Forest, Greene, Indiana, Jefferson, Lawrence, McKean, Mercer, Somerset, Venango, Warren, Washington, and Westmoreland	Pittsburgh, PA	Federal Building, Room 314 1000 Liberty Avenue Pittsburgh, PA 15222-4181
Puerto Rico		San Juan, PR	P.O. Box 365068 San Juan, PR 00936-5068
Rhode Island		Providence, RI	200 Dyer Street Providence, RI 02903-3993
South Carolina		Charlotte, NC	6 Woodlawn Green, Bldg. 6 Suite 138 Charlotte, NC 28217-2216
South Dakota		St. Paul, MN	2901 Metro Drive Suite 100 Bloomington, MN 55425

State or Territory	County	File Control Office	Address
Tennessee		Memphis, TN	1341 Sycamore View Suite 100 Memphis, TN 38134
Texas	Anderson, Andrews, Archer, Armstrong, Bailey, Baylor, Borden, Bosque, Bowie, Briscoe, Callahan, Camp, Carson, Cass, Castro, Cherokee, Childress, Clay, Cochran, Coilin, Coilingsworth, Comanche, Cooke, Cottie, Crosby, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, Dickens, Donley, Eastland, Ellis, Erath, Fannin, Fisher, Floyd, Foard, Franklin, Freestone, Gaines, Garza, Gray, Grayson, Gregg, Hale, Hall, Hamilton, Hansford, Hardeman, Harrison, Hartley, Haskell, Hemphill, Henderson, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hunt, Hutchinson, Jack, Johnson, Jones, Kaufman, Kent, King, Knox, Lamar, Lamb, Leon, Limestone, Lipscomb, Lubbock, Lynn, Marion, Martin, Mitchell, Montague, Moore, Morris, Motley, Navarro, Nolan, Oehiltree, Oldham, Palo Pinto, Panoia, Parker, Parmer, Potter, Rains, Randall, Red River, Roberts, Rockwall, Rusk, Scurry, Shackelford, Sherman, Smith, Somervell, Stephens, Stonewall, Swisher, Tarrant, Taylor, Terry, Throckmorton, Titus, Upshur, Van Zandt, Wheeler, Wichita, Wilbarger, Wise, Wood, Yoakum, and Young	Dallas TX	8101 North Stemmons Freeway Dallas, TX 75247
	Brewster, Crane, Culberson, Ector, El Paso, Hudspeth, Jeff Davis, Loving, Midland, Pecos, Presidio, Reeves, Terrell, Upton, Ward, and Winkler	El Paso, TX	1545 Hawkins, Suite 167 El Paso, TX 79925
	Brooks, Cameron, Hidalgo, Kenedy, Kleberg, Starr, and Willacy	Harlingen, TX	2102 Teege Road Harlingen, TX 78550
	Angelina, Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Grimes, Hardin, Harris, Jasper, Jefferson, Liberty, Madison, Matagorda, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Shelby, Trinity, Tyler, Walker, Waller, Washington, and Wharton	Houston, TX	509 N. Sam Houston Parkway East Houston, TX 77060
	Aransas, Atascosa, Bandera, Bastrop, Bee, Bell, Baxar, Blanco, Brazos, Brown, Burieson, Burner, Caldwell, Calhoun, Coke, Coleman, Comal, Concho, Coryell, Crockett, DeWitt, Dimmit, Duval, Edwards, Fails, Fayette, Frio, Gillespie, Glasscock, Goliad, Gonzales, Guadalupe, Harp, Hayes, Irion, Jackson, Jim Hogg, Jim Wells, Karnes, Kendall, Kerr, Kimble, Kinney, Lampasas, La Saile, Lavaca, Lee, Live Oak, Llano, McCulloch, McLennan, McMullen, Mason, Maverick, Medina, Menard, Milam, Mills, Nueces, Reagan, Real, Refugio, Robertson, Runnels, San Patricio, San Saba, Schleicher, Sterling, Sutton, Tom Green, Travis, Uvalde, Val Verde, Victoria, Webb, Williamson, Wilson, Zapata, and Zavala	San Antonio, TX	8940 Four Winds Drive Suite 2020 San Antonio, TX 78239
Utah		Salt Lake City, UT	5272 South College Drive Suite 100 Salt Lake City, UT 84123

State or Territory	County	File Control Office	Address
Vermont		St. Albans, VT	Federal Building P.O. Box 328 50 South Maine Street St. Albans, VT 05478-0328
Virginia	Accomack, Amelia, Brunswick, Caroline, Charles City, Chesterfield, Colonial Heights, Dinwiddie, Essex, Fredericksburg, Gloucester, Goochland, Greenville, Hanover, Henrico, Isle of Wight, James City, King and Queen, King William, Lancaster, Louisa, Lunenburg, Matthews, Mecklenburg, Middlesex, New Kent, Northampton, Northumberland, Nottingham, Powhatan, Prince Edward, Prince George, Richmond, Southampton, Spotsylvania, Surry, Sussex, Westmoreland, and York	Norfolk, VA	Norfolk Commerce Park 5280 Henneman Drive Norfolk, VA 23513
	Albemarle, Alleghany, Amherst, Appomattox, Arlington, Augusta, Bath, Bedford, Bland, Botetourt, Buchanan, Buckingham, Campbell, Carroll, Charlotte, Clarke, Craig, Culpepper, Cumberland, Dickenson, Fairfax, Fauquier, Floyd, Fluvanna, Franklin, Frederick, Giles, Grayson, Greene, Halifax, Henry, Highland, King George, Lee, Loudoun, Madison, Montgomery, Nelson, Orange, Page, Patrick, Pittsylvania, Prince William, Pulaski, Rappahannock, Roanoke, Rockbridge, Rockingham, Russell, Scott, Shenandoah, Smyth, Stafford, Tazewell, Warren, Warwick, Washington, Wise, and Wythe	Arlington, VA	4420 North Fairfax Drive Arlington, VA 22203
Virgin Islands		St. Thomas, VI	P.O. Box 610 Federal Building, Suite 117 Veterans Drive, Charlotte Amalie St. Thomas, U.S. Virgin Islands 00801
Washington		Seattle, WA	815 Airport Way South Seattle, WA 98134
West Virginia		Pittsburgh, PA	Federal Building, Room 314 1000 Liberty Avenue Pittsburgh, PA 15222-4181
Wisconsin		Milwaukee, WI	Federal Building 517 East Wisconsin Avenue Room 186 Milwaukee, WI 53202
Wyoming		Denver, CO	4730 Paris Street Albrook Center Denver, CO 80239-2804

SUBMITTING VERIFICATION REQUESTS TO INS

A copy of INS Form G-845 is attached along with a supplemental form that should be used to obtain more detailed information on immigration status, citizenship, and sponsorship. (The supplemental form may only be used in conjunction with Form G-845, not separately.) Requests for verification on Form G-845 may be mailed to the Immigration and Naturalization Service at the addresses listed on the following pages. To speed processing, please indicate "Attention: Immigration Status Verifier" on the envelope.

The attached Form G-845 may be copied for submission to the INS; it should be reproduced as a two-sided document. Additional copies may be obtained in three ways:

1. Request Form G-845 from the INS Forms Distribution Center serving your region:

Eastern Forms Center
P.O. Box 567
Williston, VT 05497

Forms Center West
5600 Rickenbacker Road
Building 701A
Bell, CA 90201

(east of the Mississippi River)

(west of the Mississippi River)

2. Download Form G-845 from the Internet: www.usdoj.gov/ins/forms.
3. Call the INS Forms Request Line: 1-800-870-3676.
(Due to the high volume of calls to this line, the best time to call is early on weekday mornings.)

INS formerly required that Form G-845 be printed on blue paper stock to distinguish it from Form G-845S, which is printed on white paper. Form G-845 may now be submitted on white stock, and existing copies on blue stock may also be submitted during this transition period. As a result of this change, **it is particularly important that copies of the forms include the form number at the bottom of the page to allow INS to distinguish between them.**

When submitting copies of documents with Form G-845, please send copies made from the originals, if possible, in order to enhance the quality of the reproduction.

Section A - to be completed by the submitting agency.

To: Immigration and Naturalization Service

6. Verification Number

7. ☐ Photocopy of Document Attached.
(If printed on both sides, attach a copy of the front and of the back.)
- ☐ Other Information Attached (Specify documents).

From: Typed or Stamped Name and Address of Submitting Agency

8. Organization (specify)

Attn: Status Verifier

(INS may use above address with a #20 window envelope.)

1. Alien Registration or I-94 Number

2. Applicant's Name (Last, First, Middle)

3. Nationality

4. Date of Birth (Month/Day/Year)

5. Social Security Number

9. Name of Submitting Official

10. Title of Submitting Official

11. Date

12. Telephone Number

Section B - to be completed by INS

INS RESPONSE: From the documents or information submitted and/or a review of our records we find that:

1. ☐ This document appears valid and relates to a **Lawful Permanent Resident** alien of the United States.
2. ☐ This document appears valid and relates to a **Conditional Resident** alien of the United States.
3. ☐ This document appears valid and relates to an alien **authorized employment** as indicated below:
- a. ☐ Full-Time
- b. ☐ Part-Time
- c. ☐ No Expiration (Indefinite)
- d. ☐ Expires on _____
(specify Month/Day/Year, below)
4. ☐ This document appears valid and relates to an alien who has an application pending for _____
(specify INS benefit below)
5. ☐ This document relates to an alien having been **granted asylum/refugee status** in the United States.
6. ☐ This document appears valid and relates to an alien **paroled** into the United States pursuant to Section 212 of the I&N Act.
7. ☐ This document appears valid and relates to an alien who is a **Cuban/Haitian entrant**.
8. ☐ This document appears valid and relates to an alien who is a **conditional entrant**.
9. ☐ This document appears valid and relates to an alien who is a **nonimmigrant**
(specify type or class below)
10. ☐ This document appears valid and relates to an alien **not authorized employment** in the United States.
11. ☐ Continue to process as legal alien. INS is searching indices for further information.
12. ☐ This document is **not valid** because it appears to be (check all that apply)
- a. ☐ Expired
- b. ☐ Altered
- c. ☐ Counterfeit

INS Stamp

Comments

- 13. ☐ No determination can be made from the information submitted. Please obtain a copy of the original alien registration documentation and resubmit.
- 14. ☐ No determination can be made without seeing both sides of the document submitted (*please resubmit request*).
- 15. ☐ Copy of document is not readable (*please resubmit request*).

"PRUCOL"

For Purposes Of Determining If Alien Is Permanently Residing Under Color Of Law Only!

- 16. ☐ INS actively pursues the expulsion of an alien in this class/category.
- 17. ☐ INS is not actively pursuing the expulsion of an alien in this class/category, at this time.

- 18. ☐ Other

Instructions

- Submit copies of both front and back of alien's original documentation.
- Make certain a complete return address has been entered in the "From" portion of the form.
- The Alien Registration Number ("A" Number) is the letter "A" followed by a series of (7) or (8) digits. Also in this block may be recorded the number found on Form I-94. (Check the front and back of the I-94 document and if the "A" Number appears, record that number when requesting information instead of the longer admission number as the "A" Number refers to the most integral record available.)
- If Form G-845 is submitted without copies of applicant's original documentation, it will be returned to the submitting agency without any action taken.
- Address this verification request to the local office of the Immigration and Naturalization Service.

TO BE COMPLETED BY THE SUBMITTING AGENCY

To: Immigration and Naturalization Service

Date _____

Applicant's Name (*Last, First, Middle*) _____

Social Security Number _____

Alien Registration Number or I-94 Number _____

From: Typed or Stamped Name and Address of Submitting Agency _____

Telephone (____) _____

Complete the following items: ☐ #1 ☐ #2 ☐ #3 ☐ #4 ☐ #5 ☐ #6 ☐ #7

TO BE COMPLETED BY INS

1. IMMIGRATION STATUS (check all that apply):

From the document or information submitted and/or a review of our records we find that the person identified is a/an:

- ☐ a. Lawful Permanent Resident alien of the United States.
(Complete b,c,d,g,h, or i if alien adjusted to LPR status from one of those statuses in the past 7 years.)
- ☐ b. Refugee admitted to the United States under Section 207 of the INA. (Complete Item 2 below.)
- ☐ c. Asylee under Section 208 of the INA. (Complete Item 3 below.)
- ☐ d. Alien whose deportation has been withheld under section 243(h) of the INA (as in effect prior to April 1, 1997) or whose removal has been withheld under section 241(b)(3).
Date deportation or removal ordered withheld: _____
- ☐ e. Alien paroled into the United States under Section 212(d) (5) of the INA for a period of at least 1 year.
(Complete Items 3 and 4 below.)
- ☐ f. Conditional Entrant pursuant to Section 203(a)(7) of the INA in effect prior to April 1, 1980.
- ☐ g. American Indian born in Canada to whom the provisions of Section 289 of the INA apply.
- ☐ h. Cuban/Haitian Entrant, as defined in Section 501(e) of the Refugee Education Assistance Act of 1980.
(Complete Item 3 below.)
- ☐ i. Amerasian immigrant, pursuant to Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988. (Complete Item 2 below.)
- ☐ j. Other (indicate status): _____

2. Date alien entered the United States: _____

3. Date status was granted: _____

4. Date status expires: _____

5. CITIZEN STATUS:

- ☐ This document appears valid and relates to a United States citizen.

6. SPECIAL BENEFIT PROVISIONS FOR CERTAIN VICTIMS OF ABUSE:

- ☐ a. This alien obtained Lawful Permanent (or Conditional) Resident Status as the spouse, child, or widow(er) of a U.S. citizen.
- ☐ b. This alien obtained Lawful Permanent (or Conditional) Resident Status as the spouse, child, or unmarried son or daughter of a lawful permanent resident alien.
- ☐ c. This alien did not obtain status as described in (a) or (b).

TO BE COMPLETED BY INS

7. AFFIDAVIT OF SUPPORT:

- ☐ a. This alien was sponsored on Form I-864, Affidavit of Support under Section 213A of the INA.
Service receipt date _____. (Complete Item 3 on page 1.)
- ☐ b. This alien was not sponsored on Form I-864.

Name of Sponsor

Sponsor's Social Security Number

____-____-____

Sponsor's Address

Name of Joint Sponsor(s) (if any)

Joint Sponsor's Social Security Number

____-____-____

Joint Sponsor's Address

- ☐ See reverse for information on additional joint sponsor(s).

INS Stamp

* This supplement may be used in conjunction with Form G-845 to request verification; it cannot be used alone. It reflects information that may be relevant to eligibility for Federal, State, and local public benefits under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193.

ATTACHMENT 2

NONDISCRIMINATION ADVISORY

Various federal civil rights laws, regulations and executive orders prohibit discrimination by governmental and private entities on the basis of race, national origin, gender, religion, age and disability. These laws, of course, apply to entities' implementation of Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (the "Act"). Because of the particular potential for national origin and race discrimination under the Act and its verification requirements, and because persons with disabilities are more likely to need benefits under various public benefit programs, this Advisory focuses on the laws relating to discrimination based on national origin, race and/or disability. Emphasizing these particular laws, however, is in no way meant to minimize the importance of guarding against all forms of illegal discrimination, and you should comply with all nondiscrimination requirements applicable to your program.

A. Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq. ("Title VI")

Because Title IV of the Act imposes new and significant restrictions on the ability of non-citizens to receive federal, state or local public benefits, there is particular potential for discrimination on the basis of national origin. It is important to remember that, although the Act limits the benefits available to some aliens, many aliens will continue to be entitled to receive public benefits. If improperly applied, the Act's restrictions may result in national origin discrimination against applicants who are eligible to receive benefits. It is therefore important to understand which aliens are eligible for which benefits.

Title VI prohibits discrimination on the basis of race, color, or national origin in any program or activity, whether operated by a state, local or private entity, that receives federal funds or other federal financial assistance. When operating or participating in a federally assisted program, a benefit provider cannot, on the basis of race, color or national origin, either directly or indirectly, including through contractual means, distinguish among individuals in the types, quantity, quality or timeliness of program services, aids or benefits that it provides or the manner in which it provides them. This prohibition applies to disparate treatment, as well as to the utilization of facially neutral procedures, criteria or methods of administration that have the effect of discriminating against individuals because of their race, color, or national origin. Policies and practices that are neutral in design and operation but have a disparate impact based on race, color or national origin must be eliminated unless they are necessary to the program's operation and there is no less discriminatory alternative.

Violations of Title VI may be obvious or subtle. A benefit provider that denies benefits or delays determinations of eligibility on the basis of an individual's race, color or national origin may violate Title VI. A benefit provider may violate Title VI if it concludes that applicants are ineligible for benefits because they have ethnic surnames or origins outside the United States, or because they look or sound foreign. It also may violate Title VI if it acts upon the assumption that applicants with these characteristics are illegal aliens, or if it imposes additional eligibility requirements on ethnic or racial minorities because of their ethnicity or race.

When confirming immigration status for purposes of determining eligibility for public benefits, benefit providers should be aware that there is no single immigration document that will establish all aliens' qualifications to receive benefits under the Act. The types of documents that an alien will be able to present to establish immigration status will vary depending upon the status in which the alien entered the U.S. and his or her individual circumstances. Demanding that an alien present one specific type of document to the exclusion of all other legally valid documents establishing immigration status, or demanding more or different documentation based on assumptions about the applicant's citizenship or national origin rather than knowledge of such status obtained in a non-discriminatory fashion, may constitute a violation of Title VI. For example, it may be discriminatory to demand that a specific applicant present three documents to establish her identity merely because she speaks Spanish or looks Asian, while allowing English-speaking persons and non-Asians to present only one identity document. It may also violate Title VI to assume, based on an applicant's national origin, that his or her documents are fraudulent.

B. Civil Rights Laws Applicable to Persons with Disabilities

Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 ("Section 504"), and the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq.*, prohibit discrimination on the basis of disability by public entities and recipients of federal funds. Public service providers are required to offer their services in locations that are accessible to applicants with disabilities, including people who use wheelchairs. In addition, service providers must ensure effective communication with applicants who have impaired hearing, vision, or speech, and service providers must make reasonable modifications to their policies and practices to ensure that eligible people with disabilities are not excluded from participation in a program as a result of their disability. Appropriate auxiliary aids may include sign language interpreters for applicants who have hearing impairments or readers or audiotaped materials for applicants who have vision impairments. Applicants who have impaired manual skills may require assistance in completing forms. Citizens, non-citizen nationals and qualified aliens with disabilities may find it difficult to provide the information needed to establish their citizenship, nationality or immigration status. Therefore, if an applicant has a disability that limits the applicant's ability to provide the required evidence of status (*e.g.*, mental retardation, amnesia, or other cognitive, mental or physical impairment), you should make every effort to assist the individual to obtain the required evidence.

You should work with the applicant or his or her representative to obtain leads for possible sources of evidence. In many cases, a current or prior employer will have employment records for the individual that will identify his or her immigration status and provide other relevant information. You should also seek cooperation from local agencies, the INS and other organizations (*e.g.*, rehabilitation programs, advocacy groups and homeless shelters) to assist the individual in obtaining evidence from existing records. If the applicant has been granted another benefit that is contingent upon being a U.S. citizen, U.S. non-citizen national or qualified alien, contact that benefit-granting agency to determine what evidence it relied upon to establish eligibility. When conducting a search for documentation, use all possible spelling

variations of the applicant's name.

C. Other Applicable Federal Civil Rights Laws

There are a number of other federal civil rights laws that prohibit discrimination based on other characteristics. They include the following:

- The Age Discrimination Act of 1975, 42 U.S.C. §§ 6101 et seq.

The Age Discrimination Act prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance. There are specific exceptions to the general prohibition against age discrimination, however, and you should consult the statute, 42 U.S.C. §§ 6101 et seq., as well as the regulations published by the Department of Health and Human Services, 45 C.F.R. Part 90, for further information.

- The Fair Housing Act, 42 U.S.C. § 3601 et seq.

The Fair Housing Act prohibits discrimination in the provision of housing based on race, color, religion, sex, familial status, national origin or handicap.

D. Contact Numbers

Benefit providers with questions may call the following numbers for information on the various federal civil rights laws:

Title VI -- U.S. Department of Justice, Civil Rights Division, Coordination and Review Section, 1-888-TITLE-06 (1-888-848-5306).

ADA -- U.S. Department of Justice, Civil Rights Division, Disability Rights Section, 1-800-514-0301 (voice) or 1-800-514-0383 (TDD).

Age Discrimination Act -- U.S. Department of Health and Human Services, 1-800-368-1019.

Fair Housing Act -- U.S. Department of Housing and Urban Development, 1-800-669-9777 (voice) or 1-800-927-9275 (TDD).

Questions regarding discrimination in immigration status verification procedures or other benefit-granting procedures can be referred to the civil rights office of the pertinent benefit-granting agency. Such questions can also be referred to the Office of Special Counsel for Immigration Related Unfair Employment Practices in the Civil Rights Division of the U.S. Department of Justice, 1-800-255-8155 (voice) or 1-800-237-2515 (TDD).

ATTACHMENT 3

FEDERAL PUBLIC BENEFITS

Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (the "Act") applies only to non-exempted "federal public benefits" as defined by the Act, rather than to all federally funded programs. (It also applies to certain state and local public benefits, which are not the subject of this Attachment.) Under the Act, benefit providers are only required to verify the immigration status of applicants for benefits that fall within the Act's definition of "federal public benefits" and are not specifically exempted from the Act's requirements. (If the program independently requires benefit providers to verify the citizenship, nationality and/or immigration status of an applicant, however, you should continue to comply with such requirements even if the program does not provide a "federal public benefit" covered by the Act.) Set forth below is preliminary guidance on the meaning of "federal public benefit," as well as a summary of the benefits specifically exempted from the Act's verification requirements. If you have any questions as to whether a particular program provides a federal public benefit covered by the Act or a benefit that is exempted from the Act's requirements, you should consult with the federal agency or department that oversees the program.

Federal Public Benefit: A "federal public benefit" is:

- (a) Any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; or
- (b) Any retirement, welfare, health, disability, public or assisted housing, post-secondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States or by appropriated funds of the United States.

Subject to the list of exceptions set forth below, Title IV of the Act precludes all aliens who are not "qualified aliens" from receiving any "federal public benefit." In determining whether a program provides a "federal public benefit," you should first consider whether the program provides one of the benefits expressly enumerated in either (a) or (b) above. Under (a), if your program provides a "grant," "contract," "loan," "professional license," or "commercial license" to an individual, either through a U.S. agency or with U.S. appropriated funds, then you provide a "federal public benefit." If you do not provide a benefit of the type enumerated in (a), you should then go on to consider whether your program provides a benefit covered by (b).

To fall within (b), the benefit provided by your program must be one of the types of benefits described ("retirement," "welfare," "health," "disability," "public or assisted housing," "post-secondary education," "food assistance," "unemployment benefit," or "any other similar benefit"), it must be "provided by an agency of the United States or by appropriated funds of the United States," and it must be provided to one of the enumerated categories of recipients (an "individual, household, or family eligibility unit"). Thus, for example, if you provide an

"unemployment benefit" to an "individual, household, or family eligibility unit" using "appropriated funds of the United States," the definition is satisfied. In contrast, if you provide generally available services such as fire or ambulance services, or do not provide benefits to an "individual, household, or family eligibility unit," or do not provide benefits through an "agency of the United States" or with "appropriated funds of the United States," the definition does not apply.

If your program provides payments or assistance to an individual, household or family eligibility unit through a U.S. agency or by U.S. appropriated funds, but the benefits are not expressly enumerated above, you should consider whether the benefits are "similar" to one of the benefits enumerated in (b). If you believe that the benefit is arguably similar to an enumerated benefit, you should consult with the federal agency or department that oversees your program to confirm that the benefit constitutes a federal public benefit covered by the Act.

Finally, you should consider who is actually receiving the benefits that you provide. Although the Act prohibits certain aliens from receiving non-exempted "federal public benefits," it does not prohibit governmental or private entities from receiving federal public benefits that they might then use to provide assistance to aliens, so long as the benefit ultimately provided to the non-qualified aliens does not itself constitute a "federal public benefit." Thus, if a local agency were to receive a "grant" (which is expressly identified as a federal public benefit), but the agency uses it to provide police services, fire protection or crime victim counseling (which are not federal public benefits under the Act's definition because they are not similar to an enumerated benefit), the prohibition would not apply. Similarly, if you provide a "grant" to a community organization (which is not an "individual, household or family eligibility unit") that uses the funds to build a library or renovate a park (which are not federal public benefits under the Act's definition), the prohibition would not apply. In contrast, if the agency uses the "grant" to provide a "federal public benefit" -- e.g., a "loan" or "welfare" payment to a poor "individual, household or family eligibility unit" -- then the prohibition would apply and non-qualified aliens would be ineligible for such benefits.

Exceptions: The Act's verification requirements do not apply to all "federal public benefits," as the Act specifically exempts certain types of benefits. If a program provides "federal public benefits" that fall within one of the following exceptions, the program provider is not required by this Act to, and should not attempt to, verify an applicant's immigration status, unless otherwise required or authorized to do so by federal law, except to the extent necessary to determine whether the exemption applies:

- Benefits covered by Attorney General Order No. 2049, 61 Fed. Reg. 45,985 (1996), attached hereto, or any subsequent order, re: government-funded community programs, services or assistance that are necessary for protection of life or safety;
- Any wages, pensions, annuities, or other earned payments to which an alien is entitled as a result of federal, state, or local government employment, provided

that the alien is not residing or present in the United States and provided that the employment was not prohibited under the immigration laws;

- Any veterans benefits to which an alien is entitled, provided that the alien is not residing or present in the United States;
- Any contract, professional license, or commercial license for a nonimmigrant whose visa for entry is related to such employment in the U.S.;
- Any contract, professional license, or commercial license for a citizen of a freely associated state (Palau, the Federated States of Micronesia, and the Marshall Islands), if section 141 of the applicable compact of free association is in effect;
- Any benefits that the U.S. is required to pay under the reciprocal treaty agreements listed in the forthcoming Attorney General Order to a work authorized nonimmigrant or alien lawfully admitted for permanent residence qualified for such benefits;
- Medical assistance under Title XIX of the Social Security Act (or any successor program to such Title) for care and services that are necessary for the treatment of an emergency medical condition (as defined in § 1903(v)(3) of such Act) of the alien involved and that are not related to an organ transplant procedure, if the alien involved otherwise meets the eligibility requirements for medical assistance under the state plan approved under such Title (other than the requirement of the receipt of aid or assistance under Title IV of such Act, SSI benefits under Title XVI of such Act, or a state supplementary payment);
- Short-term, non-cash, in-kind emergency disaster relief;
- Public health assistance (not including any assistance under Title XIX of the Social Security Act) for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease;
- Programs for housing or community development assistance or financial assistance administered by the Secretary of Housing and Urban Development ("HUD"), any program under Title V of the Housing Act of 1949, or any assistance under § 306C of the Consolidated Farm and Rural Development Act, to the extent that the alien is receiving such a benefit on August 22, 1996;
- Any benefit payable under Title II of the Social Security Act to which entitlement is based on an application filed on or before August 31, 1996, and any benefit covered by Attorney General Order No. 2054, 61 Fed. Reg. 47,039 (1996), attached hereto, re: benefits payable under Title II of the Social Security Act to

an alien who is lawfully present in the U.S.;

- Any benefit the nonpayment of which would contravene an international agreement described in § 233 of the Social Security Act (an agreement establishing totalization arrangements between the social security system of the U.S. and that of any foreign country which establishes entitlement to and the amount of old-age, survivors, disability, or derivative benefits based on an individual's coverage under both systems);
- Any benefit the nonpayment of which would be contrary to § 202(t) of the Social Security Act;
- Any benefit under the school lunch program under the National School Lunch Act, 42 U.S.C. § 1751 et seq., or the school breakfast program under section 4 of the Child Nutrition Act of 1966, 42 U.S.C. § 1773, provided to an individual who is eligible to receive free public education benefits under state or local law;
- Any benefit payable under Title XVIII of the Social Security Act (relating to the Medicare program) to an alien who is lawfully present in the U.S., as determined by the Attorney General, provided that, with respect to the attribution of the alien's wages for purposes of eligibility for benefits payable under Part A of such program, the alien was authorized to be employed; and
- Any benefit payable under the Railroad Retirement Act of 1974 or the Railroad Unemployment Insurance Act to an alien who is lawfully present in the U.S., as determined by the Attorney General, or to an alien residing outside the U.S.

State Option: Each State may, but is not required to, provide benefits under programs established under the laws listed below to individuals who are not U.S. citizens, U.S. non-citizen nationals or qualified aliens. You should determine whether your State is providing such benefits to all persons, regardless of citizenship, alienage or immigration status, or whether it is providing them only to U.S. citizens, U.S. non-citizen nationals and qualified aliens. If your State is providing such benefits to all persons, you should not verify citizenship or immigration status; if it is limiting such benefits to citizens, non-citizen nationals and qualified aliens, you may want to use the Interim Guidance, in consultation with state and local authorities, to verify citizenship and immigration status.

- Programs (other than the school lunch program and the school breakfast program) under the National School Lunch Act, 42 U.S.C. § 1751 et seq., and the Child Nutrition Act of 1966, 42 U.S.C. § 1771 et seq.;
- Section 4 of the Agriculture and Consumer Protection Act of 1973, 7 U.S.C. § 612c note;

- The Emergency Food Assistance Act of 1983, 7 U.S.C. §§ 7501 et seq.; and
- The food distribution program on Indian reservations established under section 4(b) of the Food Stamp Act of 1977, 7 U.S.C. § 2013(b).



U. S. Department of Justice
Office of the Attorney General

Washington, D.C. 20530

DATE: November 3, 1997

TO: Diana Fortuna

Telephone No. () _____ - _____ Fax No. () 456 - 7028

FROM: David W. Ogden
Counselor to the Attorney General

Telephone No. (202) 514 - 8633 Fax No. (202) 514 - 1724

TRANSMISSION CONTAINS 4 SHEETS INCLUDING THIS COVERSHEET

SPECIAL NOTE(S) Per our conversation today, attached is the
draft summary of issues related to the welfare verification
guidance.

WARNING: Many fax machines produce copies on thermal paper. The image produced is highly unstable and will deteriorate significantly in a few years. It should be copied on a plain paper copier prior to filing as a record.

cc Rob Kerner; Steve Wamath, Jack Smalligan, Debra Bo. + Cynthia
cc Elena Jose Leanne
This is DAT's summary of the interim verification guidance. It does not address the substance of the federal public benefit definition.
It has been sent to the Hill, and will be in Federal Register around Monday.
- Diana

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The "Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996" (the "Interim Guidance") was developed by the Department of Justice in consultation with other federal agencies. The primary purpose of the Interim Guidance is to explain to providers of federal public benefits how they might verify the eligibility of an applicant seeking public assistance. The Interim Guidance is just guidance, and imposes no new legal obligations. Moreover, because the Attorney General's statutory mandate to issue interim guidance extends only to federal public benefits, the Guidance applies only to such benefits and does not directly address the citizenship and immigration requirements that Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 ("PRWORA") imposes on the provision of state and local public benefits. (A separate provision of the PRWORA, as amended by the Balanced Budget Act, requires the Attorney General to promulgate regulations setting forth procedures by which state and local governments can verify eligibility for state and local public benefits. These regulations will be forthcoming.) The Interim Guidance does, however, advise providers of state and local benefits that, if they are required to verify an applicant's citizenship or immigration status, they may use the Guidance in consultation with state and local authorities.

We discuss below some questions that may arise with respect to the Interim Guidance. First, the exemption for nonprofit charitable organizations may give rise to questions. The PRWORA, as amended, states that a "nonprofit charitable organization" providing a federal, state or local public benefit covered by the PRWORA "is not required under . . . Title [IV] of the Act to determine, verify or otherwise require proof of an applicant's eligibility for such benefits." The Interim Guidance defines an organization as "nonprofit" if it is organized and operated for purposes other than making gains or profits for the organization, its members or its shareholders, and is precluded from distributing any gains or profits to its members or shareholders. An organization is "charitable" if it is organized and operated for charitable purposes, with the term "charitable" to be interpreted in its generally accepted legal sense as developed by judicial decisions. The Interim Guidance emphasizes that the exemption for nonprofit charitable organizations is limited to verification requirements imposed by Title IV of the PRWORA and does not exempt organizations from verification requirements imposed by particular programs or from complying with verification determinations that must be made by a governmental entity prior to the nonprofit's provision of benefits. (Catholic Charities has expressed the view that the nonprofit charitable organization exception means that state and local governments may not require that charitable organizations verify eligibility for state and local benefits based on immigration status. This issue is not addressed in the Guidance, since the Guidance focuses on federal public benefits and also because, to the extent appropriate, this contention can best be addressed in the final verification regulations.) Significantly, the Guidance states that a nonprofit charitable organization that chooses not to verify cannot be penalized for providing federal public benefits to an individual who is not a U.S. citizen, U.S. non-citizen national or qualified

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alien, except when it does so either in violation of independent program verification requirements or in the face of a verification determination made by a non-exempt entity.

A second issue that may generate questions is the definition of "federal means-tested public benefit" included in the Interim Guidance. The PRWORA prohibits qualified aliens who enter the United States on or after August 22, 1996 from receiving "federal means-tested public benefits" for a period of five years from the date of their entry into the United States, unless they fall within a specific exception; the statute, however, does not define the phrase "federal means-tested public benefit." The Department of Health and Human Services ("HHS") and the Social Security Administration have recently published a definition that would limit the phrase "federal means-tested public benefit" to mandatory spending programs, such as Medicaid, SSI and TANF, and would not extend the limitation on the availability of "federal means-tested public benefits" to discretionary spending programs, such as housing assistance. The Interim Guidance simply references the definition that has already been adopted by HHS and SSA, and it directs providers to consult with the appropriate federal agency overseeing the benefit program they administer to determine whether that program provides a federal means-tested public benefit. Agencies should be prepared to address questions regarding the application of this phrase to their programs.

With respect to the five-year ban on federal means-tested public benefits, an additional issue should be mentioned. The PRWORA states that "an alien who is a qualified alien . . . and who enters the United States on or after the date of the enactment of this Act" is ineligible for federal means-tested public benefits for five years from the date of the alien's entry into the United States. The Interim Guidance takes the position that if an applicant for such benefits entered the United States before August 22, 1996 (the date of enactment of the PRWORA) and obtained qualified alien status before that date, he or she is not subject to the five-year ban. If the alien entered the United States before August 22, 1996, but obtained qualified alien status after that date, the alien is only exempt from the five-year ban if he or she can demonstrate "continuous presence" in the United States from the latest date of entry prior to August 22, 1996 until the date he or she obtained qualified alien status. The Interim Guidance defines "continuous presence" as presence in the United States that is not interrupted by a single absence of more than 30 days, or a total of aggregated absences of more than 90 days. If such an alien cannot demonstrate continuous presence, he or she is subject to the five-year ban on federal means-tested public benefits.

The federal agencies are also in the process of defining the term "federal public benefit." The broad definition of "federal public benefit" in the PRWORA has raised a number of issues regarding its interpretation and whether it encompasses particular federal programs. The Interim Guidance does not attempt to resolve all of these issues, or to classify specific programs, but it does provide a methodology for addressing whether particular programs constitute "federal public benefits." That methodology requires the benefit provider to determine what type of benefit it provides, whether the benefit is of a type expressly enumerated in the statutory definition, whether the benefit is "similar" to an enumerated benefit, and who is the ultimate recipient of the benefit. Where the Guidance

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leaves the provider uncertain, the provider is directed to consult with the federal agency overseeing the program at issue.

Finally, questions may be raised regarding the comparatively flexible approach the Interim Guidance takes with respect to verification of citizenship, as opposed to verification of alien status. It is generally a far more complex matter to verify citizenship than to verify immigration status. Unlike aliens, many citizens do not have documents demonstrating their citizenship, and there is no one repository of information regarding who is a U.S. citizen. The Interim Guidance therefore suggests a variety of approaches to verification. The Guidance does not require each provider to verify citizenship and nationality pursuant to a set procedure, but rather defers to existing program procedures and guidance for verifying citizenship for purposes of program eligibility, and, in the absence of such procedures, the Guidance gives providers the option of adopting one of a number of methods for verifying status. The Guidance states that the appropriate method of verifying an applicant's citizenship will depend upon the requirements and needs of the particular program, including, but not limited to, the nature of the benefits to be provided, the need for benefits to be provided on an expedited basis, the length of time during which benefits will be provided, the cost of providing the benefits, the length of time it will take to verify based on a particular method, and the cost of a particular method of verification.

Dated: August 22, 1996.

Thomas Dwyer,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 96-22040 Filed 8-29-96; 8:45 am]

BILLING CODE 4110-44-0

DEPARTMENT OF JUSTICE

(AG Order No. 2049-96)

Specification of Community Programs Necessary for Protection of Life or Safety Under Welfare Reform Legislation

AGENCY: Department of Justice.

ACTION: Notice.

EFFECTIVE DATE: August 23, 1996.

FOR FURTHER INFORMATION OR TO PROVIDE COMMENT CONTACT: Lisalyn R. Jacobs, Counsel, Office of Policy Development, Department of Justice, 10th Street & Constitution Avenue, N.W., Washington, D.C. 20530, telephone (202)-616-0038.

SUPPLEMENTARY INFORMATION: The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, H.R. 3734, which the President signed on August 22, 1996, vests in the Attorney General the authority to designate the kinds of government-funded community programs, services or assistance that are necessary for protection of life or safety and for which all aliens will continue to be eligible. This Order implements that authority.

Background

Section 401 provides a new rule that an alien who is not a "qualified alien," as defined in § 431 of the Act, is not eligible for any "Federal public benefit"—which, in general, means

(a) any grant, contract, loan, professional license or commercial license provided by a federal agency or through appropriated federal funds; or

(b) any retirement, welfare, health, disability, public or assisted housing, post-secondary education, food assistance, unemployment benefit or any other similar benefit for which payments or assistance are provided to individuals, households or families by a federal agency or through appropriated federal funds.

Section 411 also makes certain non-qualified aliens ineligible for state and local public benefits unless the state enacts new legislation after August 22, 1996 that affirmatively provides for such eligibility. In addition, § 403 of the Act makes qualified aliens ineligible for specific means-tested federal benefit programs for a five-year period after their entry into the United States as a qualified alien.

In addition to certain statutory exceptions, the Act authorizes the Attorney General to establish limited exceptions to these provisions for the following kinds of benefits:

Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments which (i) deliver in-kind services at the community level, including through public or private nonprofit agencies; (ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (iii) are necessary for the protection of life or safety.

This authority appears in several places in the Act, including: § 401(b)(1)(D), with respect to federal public benefits; § 403(c)(2)(G), with respect to the five-year limited eligibility for federal means-tested public benefits; and § 411(b)(4), with respect to state and local public benefits. (This authority also appears in § 423(d)(7) in the context of new requirements with regard to individuals who execute an affidavit of support on behalf of a sponsored alien.)

Attorney General Review

As required by the statute, the Department of Justice has conducted preliminary consultations with other federal agencies regarding the scope and interpretation of these provisions and their proper application. Given the great variety of federal, state and local programs conducted or supported at the community level, including those administered by private non-profit organizations, and the limited time available, the Department's consultation process is still ongoing. At my direction, the Department is seeking additional, more specific recommendations from all appropriate federal agencies, from representatives of state and local governments, and from the public.

Given the immediate effective date of provisions of the Act, I have decided to provide a "provisional specification" of programs, services and assistance that will be exempt from the limitations on alien eligibility discussed above, based upon preliminary consultations with appropriate federal agencies and departments. This "provisional specification" is effective immediately and will continue in effect pending adoption of a revised specification, if necessary, after further consultations. Should ongoing consultations indicate that further refinements in this specification are appropriate under the Act, I will revise it accordingly.

Specification

Therefore, by virtue of the authority vested in me as Attorney General by law, including Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, I hereby specify that:

1. I do not construe the Act to preclude aliens from receiving police, fire, ambulance, transportation (including paratransit), sanitation, and other regular, widely available services and, for that reason, I am not making specifications of such programs, services or assistance. It is not the purpose of this Order, however, to define more specifically the scope of the public benefits that Congress intended to deny certain aliens either altogether or absent my specification and nothing herein should be so construed.

2. The government-funded programs, services or assistance specified in this Order are those that: deliver in-kind (non-cash) services at the community level, including through public or private non-profit agencies or organizations; serve purposes of the type described in paragraph 3, below, for the protection of life and safety; and do not condition the assistance according to the individual recipient's income or resources, as discussed in paragraph 4, below.

3. Included within the specified programs, services or assistance determined to be necessary for the protection of life and safety are:

(a) Crisis counseling and intervention programs, services and assistance relating to child protection, adult protective services, violence and abuse prevention, victims of domestic violence or other criminal activity, or treatment of mental illness or substance abuse;

(b) Short-term shelter or housing assistance for the homeless, for victims of domestic violence, or for runaway, abused or abandoned children;

(c) Programs, services or assistance to help individuals during periods of heat, cold, or other adverse weather conditions;

(d) Soup kitchens, community food banks, senior nutrition programs such as meals on wheels, and other such community nutritional services for persons requiring special assistance;

(e) Medical and public health services (including treatment and prevention of diseases and injuries) and mental health, disability or substance abuse assistance necessary to protect life or safety;

(f) Activities designed to protect the life and safety of workers, children and youths, or community residents; and

(g) Any other programs, services, or assistance necessary for the protection of life or safety.

4. The community-based programs, services or assistance specified in

paragraphs 2 and 3 of this Order are limited to those that provide in-kind (non-cash) benefits and are open to individuals needing or desiring to participate without regard to income or resources. Programs, services or assistance delivered at the community level, even if they serve purposes of the type described in paragraph 3 above, are not within this specification if they condition (a) the provision of assistance, (b) the amount of assistance provided, or (c) the cost of the assistance provided on the individual recipient's income or resources.

Dated: August 23, 1996.

Janet Reno,

Attorney General.

[FR Doc. 96-22233 Filed 8-29-96; 8:45 am]

BILLING CODE 4110-01-M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on July 15, 1995, Celgene Corporation, 7 Powder Horn Drive, Warren, NJ 07059, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
2,5-Dimethoxyamphetamine (7396)	I
Amphetamine (1100)	II

The firm plans to manufacture small quantities of 2,5-dimethoxyamphetamine using biocatalysis to develop, manufacture and sell high value added compounds to pharmaceutical and agrochemical industries and amphetamine for distribution of the bulk active substances to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than October 29, 1996.

Dated: August 21, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96-22218 Filed 8-29-96; 8:45 am]

BILLING CODE 4110-01-M

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on July 25, 1996, Ciba-Geigy Corporation, Pharmaceuticals Division, Regulatory Compliance, 556 Morris Avenue, Summit, New Jersey 07901, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of methylphenidate (1724).

The firm plans to manufacture finished product for distribution to this customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than October 29, 1996.

Dated: August 21, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96-22219 Filed 8-29-96; 8:45 am]

BILLING CODE 4110-01-M

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated May 22, 1996, and published in the Federal Register on May 30, 1996, (61 FR 27099), Lonza Riverside, 900 River Road, Conchohocken, Pennsylvania 19428, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
4-4'-oxyamphetamine (7411)	I
Amphetamine (1100)	II

Drug	Schedule
Phenylacetone (8501)	II

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Lonza Riverside to manufacture the listed controlled substances is consistent with the public interest at this time. Therefore, pursuant to 21 U.S.C. § 823 and 28 C.F.R. §§ 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: August 21, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96-22148 Filed 8-29-96; 8:45 am]

BILLING CODE 4110-01-M

Manufacturer of Controlled Substances; Notice of Correction

As set forth in the Federal Register (FR Doc. 96-14037) Vol. 61, No. 109 at page 28598, dated June 5, 1996, Penick Corporation, 158 Mount Olivet Avenue, Newark, New Jersey 07114, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer for certain controlled substances. The listing of controlled substances for which Penick Corporation applied should not have included the basic classes of controlled substances listed below:

Drug	Schedule
Cocoa Leaves (9040)	II
Opium, raw (9600)	II
Opium poppy (9650)	II
Poppy Straw Concentrate (9670)	II
Ethymorphine (9190)	II

Therefore, Penick Corporation no longer wishes to be registered for the above listed controlled substances and they are hereby deleted from the list of controlled substances for which Penick Corporation made application to manufacture in bulk.

order's termination. However, a handler would continue to be required to maintain records of milk receipts and sales into another Federal order marketing area and report them to the market administrator of the other marketing area. In addition, if a handler's sales into another Federal order marketing area become a large enough percentage of a handler's milk receipts, a handler would be pooled under another order and incur the same reporting, recordkeeping and payment obligations it currently has under the Black Hills order.

Termination of the order will remove government enforcement of minimum prices to handlers and to producers that are determined by supply and demand conditions. It will also remove other stabilizing features of the regulatory program such as: an impartial audit of handler records to insure payment to dairy farmers and to verify the reported uses of milk; the assurance to farmers of accurate weighing, testing, classification and accounting for milk; and the existence of marketing information to evaluate market performance. Thus, it is likely that market conditions would tend to become less orderly or stable. However, it must be assumed that the consequences of the removal of the regulatory program have been considered by the cooperative association that has requested the action, and that possibly other approaches have or will be made to replace the stabilizing influence of the order.

Regardless of the possible economic effects of the order termination on the small entities involved, a termination is required by the Agricultural Marketing Agreement Act of 1937, as amended, whenever a termination is requested by a majority of the producers engaged in the production of milk for sale in the marketing area in a representative period determined by the Secretary. Black Hills Milk Producers, as the cooperative association representing all of the producers whose milk is pooled under the Black Hills milk order, has requested that the order be terminated.

Determination—

It is hereby determined that termination of the Black Hills, South Dakota, order, Part 1075, is favored by a majority of the producers engaged in the production of milk for sale in the marketing area in the representative period, determined to be June 1996, and that such producers produced more than 50 percent of the milk produced for sale in the Black Hills, South Dakota, milk marketing area in such representative period.

It is also determined that notice of proposed rule making and public procedure thereon is impracticable, unnecessary and contrary to the public interest. Section 608(c)(16)(B) of the Agricultural Marketing Agreement Act of 1937, as amended, requires that if a majority of the producers engaged in the production of milk for sale in the marketing area in a representative period determined by the Secretary favor termination of the order, and such producers produced more than 50 percent of the milk produced for sale in the marketing area in the representative period, that such order shall be terminated. It is therefore necessary that the provisions of the order, as amended, subject to specific exceptions, be terminated effective October 1, 1996.

List of Subjects in 7 CFR Part 1075

Milk marketing orders.

Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.) it is hereby ordered that all provisions of the order, as amended, regulating the handling of milk in the Black Hills, South Dakota, marketing area (7 CFR Part 1075) except § 1075.1, which incorporates the General Provisions in Part 1000, are hereby terminated effective October 1, 1996.

Milk marketing orders.

For the reason set forth in the preamble, 7 CFR Part 1075 is amended as follows:

PART 1075—MILK IN THE BLACK HILLS, SOUTH DAKOTA, MARKETING AREA

1. The authority citation for 7 CFR Part 1075 continues to read as follows:

Authority: (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

§§ 1075.2 through 1075.85 (Removed)

2. In part 1075 §§ 1075.2 through 1075.85 and their undesignated center headings are removed effective October 1, 1996.

Dated: August 30, 1996.

Michael V. Dunn,

Assistant Secretary, Marketing and Regulatory Programs.

(FR Doc. 96-22786 Filed 9-5-96; 8:45 am)

BILLING CODE 3410-02-P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 103

[AG Order No. 2064-96; INS No. 1792-96]

RIN 1115-AE51

Definition of the Term Lawfully Present in the United States for Purposes of Applying for Title II Benefits Under Section 401(b)(2) of Public Law 104-193

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends the Immigration and Naturalization Service (Service) regulations to define the term "an alien who is lawfully present in the United States" so that the Social Security Administration may determine which aliens in the United States are eligible for benefits under title II of the Social Security Act. Aliens who are considered "lawfully present in the United States," however, must otherwise satisfy the requirements for benefits under title II of the Social Security Act in order to receive social security benefits.

DATES: This rule is effective September 6, 1996. Written comments must be received on or before November 5, 1996.

ADDRESSES: Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., Room 5307, Washington, DC 20536. To ensure proper handling, please reference INS number 1792-96 on your correspondence. Comments are available for public inspection at this location by calling (202) 514-3048 to arrange an appointment.

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SUPPLEMENTARY INFORMATION: On August 22, 1996, the President signed the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Personal Responsibility Act), Pub. L. 104-193. Section 401(a) of the Personal Responsibility Act provides that, subject to limited exceptions, only "qualified aliens," as defined under section 431, may receive Federal public benefits.

including retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, and unemployment benefits, among others.

Section 431(b) of the Personal Responsibility Act defines the term "qualified alien" to mean the following six groups of aliens:

- (1) Aliens who are lawfully admitted for permanent residence under the Immigration and Nationality Act (Act);
- (2) Aliens who are granted asylum under section 208 of the Act;
- (3) Refugees admitted into the United States under section 207 of the Act;
- (4) Aliens who are paroled into the United States under section 212(d)(5) of the Act for a period of at least 1 year;
- (5) Aliens whose deportation is being withheld under section 243(b) of the Act; and

(6) Aliens who are granted conditional entry pursuant to section 203(a)(7) of the Act as in effect prior to April 1, 1980.

Section 401(b)(2) of the Personal Responsibility Act, however, provides an exception, which allows aliens who are "lawfully present in the United States," as determined by the Attorney General, to receive benefits under title II of the Social Security Act. (Title II benefits include, for example, retirement benefits.) The purpose of this regulation, therefore, is to define the term "an alien who is lawfully present in the United States," as required under section 401(b)(2) of the Personal Responsibility Act, thereby enabling the Social Security Administration to determine whether aliens who are not "qualified aliens" are eligible to receive title II benefits, if they are lawfully present in this country. This definition is made solely for the purpose of determining an alien's eligibility for payment of title II social security benefits, as required under section 401(b)(2) of the Personal Responsibility Act, and is not intended to confer any immigration status or benefit under the Immigration and Nationality Act.

In determining which aliens are lawfully present for the purposes of section 401(b)(2) of Public Law 104-193, the Service had to distinguish among many classes of aliens in the United States. The characteristic common to all the classes of aliens defined as "lawfully present in the United States" is that their presence in the United States has been sanctioned by a policy determination that a particular class of aliens should be allowed to remain in the United States, and that policy determination has almost always been implemented by an official act having the force of law. Each

of the five categories defined as lawfully present fits within this rationale. First, the Service has concluded that Congress intended for qualified aliens, as defined in section 431(b) of the Personal Responsibility Act, to be included in the definition of lawfully present. Second, aliens who have been inspected and admitted to the United States and have not violated their status are lawfully present under the terms of the Immigration and Nationality Act. Third, an alien who has been paroled into the United States is lawfully present pursuant to section 212(d)(5) of the Act. However, persons who are paroled in order to determine whether or not they must be excluded under the Act are not lawfully present because no determination has been made as to the lawfulness of their presence, and they are allowed into the United States to avoid having to keep them in detention while they wait proceedings. Fourth, aliens who belong to one of the seven classes of aliens listed in section 103.12(a)(4) of this rule have been permitted to remain in the United States either by an act of Congress or through some other policy determination affecting that class of aliens. Aliens in temporary resident status pursuant to section 210 or 245A of the Act, aliens under Temporary Protected Status (TPS) pursuant to section 244A of the Act, and Family Unity beneficiaries pursuant to section 301 of Pub. L. 101-649 are all in lawful status under the Act. Cuban-Haitian entrants, aliens in deferred action status, aliens under Deferred Enforced Departure, and aliens who are the spouses and children of a United States citizen with an approved visa petition all remain in the United States under a Presidential or administrative policy that permits them to do so. Finally, applicants for asylum and withholding of deportation are permitted to remain in the United States because section 208(a) of the Act requires the Attorney General to create a procedure for adjudicating claims for asylum made by aliens physically present in the United States. Section 208(a) of the Act was passed to implement the obligations of the United States under the Convention Relating to the Status of Refugees, of July 28, 1951, as incorporated into the Protocol Relating to the Status of Refugees, of January 31, 1967.

Good Cause Exception

This interim rule is effective upon publication in the Federal Register although the Service invites post-promulgation comments and will address any such comments in a final rule. For the following reasons, the

Service finds that good cause exists for adopting this rule without the prior notice and comment period ordinarily required by 5 U.S.C. 553(b). Section 401(b)(2) of Pub. L. 104-193 requires the Attorney General to define the term "an alien lawfully present in the United States" so that the Social Security Administration can determine which aliens are eligible for payment of title II social security benefits under the terms of the Social Security Act. Absent a definition of "an alien lawfully present in the United States," section 401(a) of Pub. L. 104-193 requires the Social Security Administration to suspend payments under title II for aliens who are not "qualified aliens" (as defined under section 431(b)) and who file applications on or after September 1, 1996. It is therefore impracticable to adopt this rule with the prior notice and comment period normally required under 5 U.S.C. 553(b).

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities, because this regulation affects individuals, not small entities.

Executive Order 12866

This interim rule is considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under E.O. 12866, section 3(f), Regulatory Planning Review, and it has been submitted to the Office of Management and Budget for review under E.O. 12866.

Executive Order 12988

This interim rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988.

Executive Order 12612

This regulation will not have a substantial direct effect on the States, on the relationships between the National government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with E.O. 12612, it is determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 5 CFR Part 103

Administrative practice and procedure; Authority delegations

order's termination. However, a handler would continue to be required to maintain records of milk receipts and sales into another Federal order marketing area and report them to the market administrator of the other marketing area. In addition, if a handler's sales into another Federal order marketing area become a large enough percentage of a handler's milk receipts, a handler would be pooled under another order and incur the same reporting, recordkeeping and payment obligations it currently has under the Black Hills order.

Termination of the order will remove government enforcement of minimum prices to handlers and to producers that are determined by supply and demand conditions. It will also remove other stabilizing features of the regulatory program such as: an impartial audit of handler records to insure payment to dairy farmers and to verify the reported uses of milk; the assurance to farmers of accurate weighing, testing, classification and accounting for milk; and the existence of marketing information to evaluate market performance. Thus, it is likely that market conditions would tend to become less orderly or stable. However, it must be assumed that the consequences of the removal of the regulatory program have been considered by the cooperative association that has requested the action, and that possibly other approaches have or will be made to replace the stabilizing influence of the order.

Regardless of the possible economic effects of the order termination on the small entities involved, a termination is required by the Agricultural Marketing Agreement Act of 1937, as amended, whenever a termination is requested by a majority of the producers engaged in the production of milk for sale in the marketing area in a representative period determined by the Secretary. Black Hills Milk Producers, as the cooperative association representing all of the producers whose milk is pooled under the Black Hills milk order, has requested that the order be terminated.

Determination

It is hereby determined that termination of the Black Hills, South Dakota, order, Part 1075, is favored by a majority of the producers engaged in the production of milk for sale in the marketing area in the representative period, determined to be June 1996, and that such producers produced more than 50 percent of the milk produced for sale in the Black Hills, South Dakota, milk marketing area in such representative period.

It is also determined that notice of proposed rule making and public procedure thereon is impracticable, unnecessary and contrary to the public interest. Section 608(c)(16)(B) of the Agricultural Marketing Agreement Act of 1937, as amended, requires that if a majority of the producers engaged in the production of milk for sale in the marketing area in a representative period determined by the Secretary favor termination of the order, and such producers produced more than 50 percent of the milk produced for sale in the marketing area in the representative period, that such order shall be terminated. It is therefore necessary that the provisions of the order, as amended, subject to specific exceptions, be terminated effective October 1, 1996.

List of Subjects in 7 CFR Part 1075

Milk marketing orders.

Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*) it is hereby ordered that all provisions of the order, as amended, regulating the handling of milk in the Black Hills, South Dakota, marketing area (7 CFR Part 1075) except § 1075.1, which incorporates the General Provisions in Part 1000, are hereby terminated effective October 1, 1996.

Milk marketing orders.

For the reason set forth in the preamble, 7 CFR Part 1075 is amended as follows:

PART 1075—MILK IN THE BLACK HILLS, SOUTH DAKOTA, MARKETING AREA

1. The authority citation for 7 CFR Part 1075 continues to read as follows:

Authority: (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

§§ 1075.2 through 1075.85 (Removed)

2. In part 1075 §§ 1075.2 through 1075.85 and their undesignated center headings are removed effective October 1, 1996.

Dated: August 30, 1996.

Michael V. Dunn,

Assistant Secretary, Marketing and Regulatory Programs.

(FR Doc. 96-22786 Filed 9-5-96; 8:45 am)

BILLING CODE 3110-28-P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 103

(AG Order No. 2054-96; INS No. 1792-96)

RIN 1115-AE51

Definition of the Term Lawfully Present in the United States for Purposes of Applying for Title II Benefits Under Section 401(b)(2) of Public Law 104-193

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

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