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Immigration / Naturalization – generally

Under New Law, Nursing Homes Might Reject Legal Immigrants

By ROBERT PEAR

WASHINGTON, Oct. 12 — For the first time, nursing homes are checking the immigration status of applicants for admission, and they expect to exclude many elderly immigrants who will become ineligible for Medicaid because of the new welfare law.

Medicaid is unavailable to most immigrants entering the United States after Aug. 22, the date President Clinton signed the welfare bill.

Many nursing home residents have qualified for Medicaid because they received Supplemental Security Income, a form of cash assistance for the needy aged, blind and disabled. But the welfare law eliminates Supplemental Security Income for most legal immigrants, including many already in this country.

While no patient is known to have been rejected to date, Cynthia Rudder, director of the Nursing Home Community Coalition of New York State, a consumer group, said she was deeply concerned about what would happen to those who lost Medicaid coverage. And Linda Keegan, vice president of the American Health Care Association, representing 11,000 nursing homes, said she shared that concern. Ms. Rudder said, "These are elderly, chronically ill people who would lose not only their health care, but also a place to live."

The Government does not have reliable data on the number of immigrants in nursing homes because the homes had no particular need to collect and update such information. "Up till now, Medicaid never distinguished between the legal resident and the citizen," said Lee Partridge, coordinator of the National Association of State Medicaid Directors.

LuMarie Polivka-West, policy director of the Florida Health Care Association, said the restrictions could affect 2,880 elderly immigrants in nursing homes in the Miami area. "Many have been in the United States for some time but will have difficulty obtaining citizenship because they have Alzheimer's disease or other forms of dementia," she said.

Martin E. Casper, executive director of Greynolds Park Manor, a 324-bed nursing home in North Miami Beach, said: "I don't want to put some poor elderly lady or gentleman in a gurney and wheel them out to the parking lot of my nursing home and say, 'You must stay there because I'm not being paid.' But noncitizens in need of skilled nursing-facility care will have a harder time being admitted. Nursing homes won't take them if there is no source of payment. I'm not going to admit them. No businessman would."

Gary D. Macomber, executive vice president of the California Association of Health Facilities, said that 12,000 to 15,000 of the 100,000 nursing home residents in that state were legal immigrants who had not become citizens. "We don't know what the State Legislature will do," he said, "but it's our impression that many of them will eventually lose their coverage. California health officials said that 200 illegal immigrants in nursing homes would also lose Medicaid coverage.

In New York, Edward J. Stafford, executive director of the New York State Health Facilities Association, said: "Nursing homes right now are very hesitant to admit anyone if they're not sure he or she is a U.S. citizen. Some noncitizens have been in nursing homes for years, and we've been caring for them without question. But the new law will put them at risk. If all of a sudden their Medicaid benefits are cut off, obviously health care facilities can't afford to provide free care."

Mr. Stafford said nursing homes in New York received an average of $160 a day for each Medicaid patient.

William J. Pascocello, administrator of the Florence Nightingale Health Center, a 561-bed nursing home in Manhattan, said: "Significant numbers of immigrants have never achieved citizenship but have been in this country for years and years. They could be 80 or 90 years old. Many are women. We have a pretty good melting pot here — people from Romania, Russia, El Salvador, the Dominican Republic, Mexico, Argentina, Peru, Tibet. We have a whole floor of Chinese-speaking residents. I have no idea how to go about testing their eligibility. If they worked at all, it was probably in the cash economy of Chinatown, where there are no records."

Permanent-resident aliens are exempt from the ban on public benefits if they can prove that they or their spouses or parents have worked in the United States for 10 years.

The welfare law is expected to save the Federal Government $54.6 billion over six years. The Congressional Budget Office said that 44 percent of that would come from restricting immigrants' benefits. Congress, obviously anticipating legal challenges, has justified the restrictions as the best way to achieve "the compelling governmental interest of assuring that aliens be self-reliant in accordance with national immigration policy."

Lawmakers were especially concerned about the increase in noncitizens on Supplemental Security Income, a number that more than doubled from 1989 to last year, rising to 785,000 from 370,000. The Government plans to tell them in February and March that they will be cut off.

The Federal Government and the states share the cost of Medicaid. Bruce M. Bullen, the Medicaid director in Massachusetts, said of immigrants that "states may face the prospect of having to pick up, at state expense, the cost of their care."

While the general intent of Congress is clear, the actual provisions dealing with immigrants are complex and ambiguous. Most noncitizens will be automatically barred from food stamps and the Supplemental Security Income program, but states have some discretion in deciding whether to grant or deny Medicaid to noncitizens who were in the United States before Aug. 22.

In a letter to state officials this week, Judith D. Moore, acting director of the Medicaid Bureau at the Federal Department of Health and Human Services, said immigrants arriving here on or after Aug. 22 were generally ineligible for Medicaid for at least five years.

And, she said, before terminating Medicaid for those already on the rolls, states must perform "a redetermination of eligibility" to see if they are entitled to Medicaid for any other reason.

Prof. Sara Rosenbaum, director of the Center for Health Policy Research at George Washington University, said: "In many states, it is unlikely that there would be any alternative basis of Medicaid eligibility. When elderly and disabled adults lose S.S.I., they may have no other way to qualify for Medicaid."

Professor Rosenbaum said it was unrealistic for Congress to assume it could change welfare radically without affecting Medicaid. "You can't end welfare as we know it without ending Medicaid as we know it," she said. "Medicaid lives and breathes on welfare. It's a creature of the underlying welfare programs."

Amy S. Fleishman, chief operating officer of the Hebrew Home of Greater Washington, a 558-bed nursing home in Rockville, Md., said she had no idea who would pay for 26 residents, most of them Russians, who are not citizens. State officials have promised to continue Medicaid for immigrant children but have not made a commitment for elderly immigrants, she said.

THE NEW YORK TIMES,
WEDNESDAY, OCTOBER 16, 1996

In Anti-Immigrant Storm, the Pregnant Wait

A1

By TIM GOLDEN

LOS ANGELES, Oct. 15 — The pregnant young women began to vanish from community health clinics in East Los Angeles several weeks ago, scattered by Gov. Pete Wilson's announcement that California will soon cut off prenatal care to illegal immigrants under the new Federal welfare law.

Where the women have gone is uncertain. Most seem to have stayed home, assuming that their appointments had been canceled. But where some of the women and their newborn children will turn up, doctors say, is more predictable: in emergency rooms and neonatal intensive-care units. And just as inevitably, the doctors add, their care then will come at a far greater public cost.

"From a public-health perspective, this is a no-brainer," said Thomas Peters, the president of the state association of public-health executives, which opposes the Governor's plan. "In addition to the humanitarian and clinical considerations, it is an extremely prudent financial decision not to let any woman go without adequate prenatal care."

The choice being posed has set off a quiet revolt among public-health officials across the state. Stripped of Federal and state funds to help these women, the officials say, they will either have to carve new resources for illegal immigrants from their own emaciated county health budgets or do nothing for the women —

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knowing that state and Federal agencies will continue to cover the costs of the patients' emergency care.

Lawyers for a coalition of civil rights groups filed today for a restraining order in Federal District Court here, trying to stop the state from cutting off the funds for prenatal care on the grounds that doing so would violate an earlier Federal Court ruling and the California constitution.

San Francisco County and a half-dozen other counties in Northern California have already announced that they will continue to provide prenatal care to illegal immigrant women if the state cuts off its aid. In more politically conservative counties, like San Diego and Orange Counties, some local officials who had backed the idea of cutting off benefits to illegal immigrants say they are having second thoughts.

Most other states with large foreign-born populations are still debating how to deal with the cuts in aid for both legal and illegal immigrants that are in the new welfare law. But the fight over prenatal care in California offers a glimpse of the kind of struggle that policy analysts expect to be repeated again and again as Federal welfare spending is reduced and services for immigrants bear much of the brunt of the trims.

"The devolution of responsibility for all these programs to the counties is just going to sharpen the conflict," said Frank D. Bean, director of the Population Research Center at the University of Texas at Austin. "The feds get to decide who and how many people come into the country. But the costs largely get paid at the state and local level."

In final deliberations over the immigration bill that was approved two weeks ago, negotiators dropped Republican-sponsored provisions that could have barred illegal immigrants from public schools and would have ended AIDS treatment and battered-spouse services for illegal and legal immigrants. But advocates on both sides of the issue say the debate has probably just begun over immigrants' access to other public health and safety benefits, like the services that help control the spread of infectious diseases and keep schoolchildren out of gangs.

Under the terms of the new welfare law, the Federal Government will bar most legal immigrants from food stamps and Supplemental Security Income for the elderly and disabled; states may also halt Medicaid benefits to legal immigrants if they choose.

Although illegal immigrants are already ineligible for nearly all Federal benefit programs, they have received prenatal care and some other Medicaid benefits. The new law will cut off funding for virtually all services to illegal immigrants except public education, immunizations and emergency medical care. If state governments want to continue to provide particular services to illegal immigrants, they are supposed to pass laws to that effect.

In California, Governor Wilson has celebrated the welfare law as a long-awaited victory in the state's efforts to eliminate aid to illegal immigrants. A ballot initiative to do that, Proposition 187, has been blocked by legal challenges since its approval in 1994.

Under the Federal mandate that has required states to pay for labor and delivery services for pregnant women and other emergency care, state officials say, California's overall health spending on illegal immigrants has risen to $385 million in the last fiscal year from $22.1 million in the 1988 fiscal year.

In the last fiscal year, state officials say, California provided prenatal care to more than 70,000 illegal immigrants at a cost of $69.3 million. Of the roughly 212,000 women in the state whose obstetrical care was paid for in 1994 with Federal and state Medicaid funds, nearly 76,000, or about 36 percent, were illegal immigrants.

"Nobody is arguing about whether prenatal care benefits are good or bad," said a spokeswoman for the Governor, Lisa Kalustian. "Obviously it's a good thing. But we don't have enough resources. The Governor feels that it is unfair to deny people who are here obeying the laws when you're giving benefits to people who broke the law to come in."

But in both the liberal strongholds of the San Francisco Bay area and the much more conservative counties in the southern part of the state, public-health officials described the state government's logic as flawed.

A bipartisan study done in 1985 for the House Select Committee on Children, Youth and Families found that for each dollar spent on prenatal care, $3 dollars was saved in neonatal care costs; other estimates have put that figure for savings over a child's lifetime at as much as $10. A single bad case of spina bifida — a birth defect in which the spinal column does not close, which occurs disproportionately in the children of Hispanic women — can ultimately cost hundreds of thousands of dollars, doctors said. It can be prevented if folic acid, a B vitamin, is consumed early in pregnancy.

"If we don't provide the care, the logical conclusion is that normal deliveries will turn into complicated deliveries," said Irene E. Riley, chief of governmental relations for the Los Angeles County Department of Health Services. "You'll have more runs to the emergency room. You'll have more newborns in the neonatal intensive care. And the cost of deliveries will go up."

Ms. Kalustian argued that it was wrong to assume that all of the immigrant women now receiving benefits would stay in the United States. Halting aid, she said, is a necessary first step to dissuade immigrants from entering the United States illegally or to prompt them to return to their homelands. But experts on immigration counter that so long as the United States has jobs that pay more than those in the countries from which the immigrants come, they will keep coming and they will stay.

At the main outpost of the Community Health Foundation of East Los Angeles, a small, buzzing network of clinics that is the state's largest private purveyor of care to illegal immigrants, expectant mothers tell the same story over and over, with variations to account for the hardships of a particular home village or the foibles of a wayward husband or boyfriend.

"There is no other place to go," said a 25-year-old pregnant woman from the northern Mexican city of Durango who asked to not be identified, when asked what she would do without access to public health services. "I never thought that I wanted my son to be from here. I just wanted to get out of there. There, you just suffer. Here, at least we eat better."

New York, by virtue of a 1992 Federal Appeals Court ruling, is the one state in the country that has, until now, been reimbursed by the Federal Government for the costs of prenatal care for illegal immigrants. Officials in New York City remain openly hostile to the idea of cutting primary and preventive health care to any immigrant in need.

"How do you protect everyone from contagious diseases if you frighten illegal immigrants away from the health system?" asked Richard Schwartz, a senior adviser to Mayor Rudolph W. Giuliani.

In Florida and many other states, officials have often availed themselves of a Medicaid loophole that allows 45 days of Federally funded coverage for pregnant women while their eligibility and immigration status are checked. That window will now close. Florida officials say they will continue to forgo nationality checks as long as they can, but with the relatively low tax rate that is crucial to Florida's politically influential retirees, the officials have begun to wonder whether a backlash against immigrant services, like the one in California, is only a matter of time.

"Unless somebody forces the issue, unless there is a change in state law, we are going to continue to use state dollars to fund child health and prenatal care," said Dr. Leslie M. Beitsch, the assistant state health officer. "But we are also going to have to start looking around for things that you can cut. We haven't had a Proposition 187-type debate here yet. Now we may."

Zimmer Says He's a Centrist Who'd Shrink Government

THE NEW YORK TIMES,
WEDNESDAY, OCTOBER 16, 1996

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By ALAN FINDER

Differentiating himself from his Democratic opponent in the race for the open United States Senate seat from New Jersey, Representative Richard A. Zimmer says that if elected, he would emphasize cutting government spending and taxes and making government less intrusive.

In a detailed interview with reporters and editors of The New York Times, Mr. Zimmer noted often that he favors limiting the cost and scope of the Federal Government. He also sought to distance himself from Republican leaders by describing himself as moderate on issues like environmental protection and abortion.

Mr. Zimmer, a Republican, and his opponent, Representative Robert G. Torricelli, have sought to position themselves as centrists in a state known for its middle-of-the road voters. But in separate interviews, there were clear differences in emphasis between the candidates: Mr. Torricelli advocated a more activist view of government, and Mr. Zimmer supported a more limited one.

"I am a pro-choice, pro-environment, pro-reform Christie Whitman Republican," Mr. Zimmer said, seeking to counter political attacks from Mr. Torricelli, who has characterized Mr. Zimmer as a conservative acolyte of Newt Gingrich, the House Speaker, and a supporter of cuts to popular middle-class programs like Medicare, education and conserving the environment.

Mr. Zimmer said that he often agrees with Mr. Gingrich on fiscal matters like reducing spending and balancing the Federal budget, but that his views on many social issues are more moderate than those of the Republican mainstream in Congress. "I'm a New Jersey Republican," he said, reciting a list of occasions on which he had broken with Republican congressional leaders in recent years: on requiring compa-

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nies to grant employees family leave, on increasing the minimum wage and on a woman's right to an abortion.

"The world looks different from New Jersey than it does from Arizona or Georgia," said Mr. Zimmer, who discussed the Senate campaign for 90 minutes late Monday afternoon at The Times. An article about a similar session with Mr. Torricelli, on Monday morning, appeared yesterday.

In addition to trying to highlight the ideological differences between himself and his Democratic opponent, Mr. Zimmer also attacked Mr. Torricelli personally. He questioned Mr. Torricelli's fitness to serve as a Senator, saying that he had voted in Congress to maintain Federal subsidies and other economic benefits to industries that had contributed to Mr. Torricelli's political campaigns, including the sugar, dairy, cotton, peanut butter and aerospace industries.

"Over and over again, Bob Torricelli has voted for this sort of corporate welfare," Mr. Zimmer said. "It showed that his loyalty was with the people who give him the campaign contributions."

Mr. Zimmer also accused Mr. Torricelli of having benefited financially from an initial stock offering by a mutual savings bank, which Mr. Zimmer said Mr. Torricelli had known about only because he was a member of Congress and was informed by a politically connected friend. "He got special preference," Mr. Zimmer said.

Mr. Torricelli, who has said he did nothing improper, has criticized Mr. Zimmer for such personal attacks. Mr. Torricelli said he had declined to challenge Mr. Zimmer on anything other than his legislative record. "I'm going to get elected to the U.S. Senate, but I'm going to keep my dignity,' he said.

Sitting at attention in a straight-back chair, Mr. Zimmer toyed occasionally with cookies on a plate in front of him, though he seldom paused to eat. His tone was earnest, and he looked intense and serious. Occasionally, he also seemed ill at ease in response to a stream of questions on everything from the overhaul of welfare to educational aid to negative campaign advertising. At one point, Mr. Zimmer was asked if he sometimes failed to connect with voters.

"That's what you seem to report, so there may be some truth to it," he responded.

The contest between Mr. Zimmer and Mr. Torricelli has attracted considerable attention nationally, because it is one of 14 races for open Senate seats and because of its extensive use of hard-edged, negative television advertising.

A recent editorial in The Star Ledger of Newark criticized the relentlessly negative nature of many of the commercials, and dismissed as "an abomination" a Zimmer commercial that simulates a newscast and refers repeatedly to a Torricelli "scandal." Each candidate has accused the other of misstating and distorting his voting record.

Mr. Zimmer, in the interview, firmly resisted the suggestion that his ads went beyond acceptable bounds. He said Mr. Torricelli was to blame for the tone of the ad campaigns, because a group supporting the Democrat had been the first to broadcast negative commercials last summer.

"TV advertising is hideously expensive," said Mr. Zimmer, noting that it was hard for people who are not well known statewide to introduce themselves to New Jersey voters. "You've got to break through the clutter. Our ads have been, that we have put on the air, principally positive."

Mr. Zimmer defined a negative campaign commercial as one that was inaccurate, deceptive or focused on a candidate's personal life. By those standards, he said, his television ads have not been negative.

"I'm telling the truth about his record," Mr. Zimmer said. "It's important that the voters also understand the way that Bob Torricelli has performed in office."

Mr. Zimmer also contended that Mr. Torricelli's commercials, which say that Mr. Zimmer voted to reduce Medicare services, educational aid and environmental programs, were inaccurate. Mr. Torricelli has made similar claims about Mr. Zimmer's ads, and he has also derided them for being personal assaults and deceptive.

Throughout the interview, Mr. Zimmer emphasized the ideological differences between the candidates. He maintained that Mr. Torricelli was a liberal who had come only lately to appreciate the importance of reducing taxes, balancing the Federal budget and overhauling welfare.

"I've come to understand that when you raise taxes, elected legislators spend every dollar of the new revenue, and then some," Mr. Zimmer said. "And that's why I've become such a hawk on cutting spending."

Mr. Zimmer defined a liberal as "somebody who wants to spend more money, have higher levels of taxation, more bureaucracy, more intrusion in our lives."

"The liberal generally supports traditional forms of welfare and is not as aggressive in crime prevention," he said. "That's my definition of a liberal, and I think it fits Bob Torricelli pretty well."

At the core of his conservative political beliefs, Mr. Zimmer said, is the conviction that government must be made smaller, more efficient and less costly. He said he would not vote for any measure that would produce a net increase in taxes.

Mr. Zimmer said that the only Federal program that he would not consider cutting is Social Security. "The only way we are going to balance the budget is by putting the broad range of spending programs on the table," he said.

That would include spending on social programs favored by liberals, he said, as well as military and aerospace spending historically supported by conservatives. He proposed cutting the space station program, for example, as well as a number of subsidies and related benefits for the sugar, mining, cattle, dairy, cotton and peanut butter industries — all subsidies that Mr. Zimmer said Mr. Torricelli supports because of campaign contributions that he has received from those industries.

Mr. Zimmer also contended that he himself was not subject to influence from campaign contributors, including the Republican National Committee and a national Republican Senate campaign committee. Mr. Torricelli has asserted that Mr. Zimmer had been heavily influenced in his bare-knuckle campaign tactics by Senator Alfonse M. D'Amato, Republican of New York.

"I have never been influenced by the people who contribute to my campaigns," Mr. Zimmer said.

Mr. Zimmer also disagreed with his Democratic opponent on Gov. Christine Todd Whitman's plan to equalize spending and educational standards among poor and wealthy school districts in New Jersey. Mr. Torricelli said he was concerned that the proposal would in effect place a ceiling on how much some suburban districts would spend on education.

But Mr. Zimmer said that more affluent districts could vote to approve budgets that were higher than the equalized spending plans, and he said he approved of such local control. "If they can make the sale to the communities they serve, they'll have no problem," he said.

The Congressman also disputed Mr. Torricelli on the Democrat's contention that the new Federal welfare law would be too harsh on children and needed to be amended.

Mr. Zimmer said he had been troubled by the issue until he heard testimony at a Congressional hearing from a man who worked with abused children in Chicago and who described himself as a liberal Democrat. The man, whom Mr. Zimmer did not name, said that to improve the lives of children on welfare "you've just got to stop sending checks indefinitely to people, to teen-agers who have children before they're married, before they graduate high school," Mr. Zimmer said.

Mr. Zimmer also said that he supports giving states the option to decide whether to permit the children of illegal immigrants to attend schools.

"I believe that we should not prescribe to the states what they should do," he said. "Public education is principally a state responsibility."

IMMIGRATION-RELATED ISSUES IN WELFARE REFORM
SIGNIFICANT EVENTS TIMELINE

- Now to September/October: Definition of Lawfully Present

  Issue: Affects SSA's Decision to suspend benefits to non-qualified aliens. only?

- November 20, 1996 (90 days from enactment) Promulgate new Sponsorship Document (Affidavit of Support)

  Issue: Initiates new process that holds sponsors who petition for immigrant relatives accountable for the immigrant's financial status.

- January 1, 1997 States exercise options

  Issue: States define who and how they will serve. Likely to influence demands on verification of status information.

- January - February, 1997 (60-90 days from enactment) Complete regulations to execute new Affidavit of Support and sponsor requirements

  Issue: Executes new sponsorship process.

- February 1997: Tracking system on sponsors who change their residence

  Issue: To enforce sponsors' financial accountability, states need to know where they have moved. Law requires sponsors to report to AG when they move. (Law requires they report to the state where immigrant lives as well.)

- February 22, 1998: New Verification system

  Issue: Development of system more or less similar to the current SAVE system that verifies status of non-citizens.

- February 22, 2000

  Issue: States must implement verification system.

POTENTIAL IMMEDIATE IMPACTS BUT NO FIRM MILESTONES

- States required to report 4 times a year to INS on persons that a State "knows" is unlawfully in U.S. Reporting could occur immediately or at regular intervals.

- New program restrictions on aliens could expand INS verification workload.

- New restrictions on aliens could motivate states to request information from INS that it currently does not have (e.g., birthright citizens) or may not be in a position to provide immediately and electronically (e.g., naturalized citizens).

DOJ/INS

The Personal Responsibility and Work Opportunity Act of 1996
HR 3734

On August 22, 1996, the President signed major welfare reform legislation that seeks to reduce dependency, move welfare recipients into work and devolve authority over welfare to the states. The legislation also imposes new restrictions on immigrants' eligibility for public benefits. The new law:

- bars illegal, or "not qualified aliens," from most federal, state and local public benefits
- requires INS to verify immigration status for most federal public benefits
    - * to extent feasible verification system should resemble SAVE
    - * mandates verification for "not qualified" only, not required to verify citizenship
- bars, for the first time, most legal immigrants from receiving most federal means-tested public benefits
    - * restricts current and future (who enter after enactment) legal immigrants from food stamps and Supplemental Security Income (SSI)
    - * restricts future legal immigrants from most federal means-tested programs for their first five years
- increases the responsibility of immigrants' sponsors
    - * makes affidavit of support legally enforceable
    - * imposes new requirements on sponsors
    - * expands sponsor-deeming requirements to more programs and lengthens deeming period
- gives states broad flexibility in setting eligibility rules for legal immigrants
    - * allows states to bar current legal immigrants from major federal programs
    - * allows states to bar legal immigrants from state programs

Summary of HR 3734
"Personal Responsibility and Work Opportunity Reconciliation Act of 1996"

	Current Law	New Law - Welfare Reform
Illegal Immigrant Eligibility	Illegal immigrants ineligible for most federal public benefits, exceptions include emergency Medicaid, WIC, public education, public health services, child nutrition programs, child care, child protection, maternal care programs. Immigrants who are eligible for benefits because they are considered PRUCOL - permanent residing under color of law - varies by program.	"Not qualified" immigrants barred from any federal (401), state or local public benefit* (411), defined as: • any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any similar benefit for which payment or assistance is provided to an individual, household or family eligibility unit by an agency of the U.S. (or state or local government) or by appropriated funds of the U.S. (or state or local government), and • any governmental contract, loan, professional or commercial license (nonimmigrants may receive a license or contract related to visa)(401(c)). • social security (Title II) barred to those not lawfully present **(as defined by the AG)** who file applications in month after enactment (401(b)(2)). Exceptions: (401(b)) • emergency Medicaid • short-term emergency relief • immunization and testing and treatment for communicable diseases • programs, services, or assistance **specified by the AG,** which (i) deliver in-kind services at the community level, including through public or private nonprofits (ii) do not condition assistance on income or resources; and (iii) are necessary for the protection of life or safety • current recipients of housing or community development funds • those eligible for free public education under state or local law are not ineligible for school lunch and school breakfast programs on basis of citizenship, alienage, or immigration status (742(a)) • Only those with social security numbers can receive EITC (Earned Income Tax Credit) (451) "Qualified aliens" include: (431(b)) • LPRs • refugees and asylees • those with deportation withheld (Sec. 243(h)) • parolees (Sec. 212(d)(5)) admitted for at least 1 year • conditional entrants (pre 1980 Sec. 203(a)(7)) • Exception from federal, state, local bar for otherwise qualified, work authorized nonimmigrants or LPRs for whom US is required to pay benefits under reciprocal treaty, **as determined by AG, in consult with Secr. State.** (For state, local benefits, as determined by Secr. State, in consult with AG) (401(c)(2)(b)), 411(c)(2)(b)) *An alien who is not a qualified alien, nonimmigrant or parolee for less than 1 year is ineligible for any state or local public benefit (411)

Legal Immigrant Eligibility	No bars on legal immigrant eligibility	Current and future (those who enter on or after date of enactment) qualified aliens (i.e. LPRs) are barred from food stamps and SSI until citizenship. Eligibility for current recipients shall be redetermined between date of enactment and one year after enactment (402). Exceptions: (402(a)(2)) • refugees and asylees for first five years after admission as a refugee or after granted asylum • alien whose deportation is withheld for first five years • lawfully resident veterans and those on active duty in the Armed Forces; their spouse or unmarried dependent children • LPRs who work 40 quarters that qualify for Title II social security and who did not receive any federal means-tested benefit (after 12/31/96) during any of those quarters (work of parents or spouse can be credited to children under 18) (435). Future qualified aliens barred from federal means-tested programs (not defined) for first five years. Exceptions: • refugees and asylees • those with deportation withheld • lawfully resident veterans and those on active duty in the Armed Forces; their spouse or unmarried dependent children Program Exceptions to 5 year bar on federal means-tested benefits: (403(c)) • emergency Medicaid • short-term, non-cash emergency relief • National School Lunch Act • Child Nutrition Act • immunizations and testing and treatment for communicable diseases • foster care and adoption assistance (if foster or adoptive parent is a qualified alien) • programs, services, or assistance specified by the AG, which (i) deliver in-kind services at the community level, including through public or private nonprofits (ii) do not do not condition assistance on income or resources; and (iii) are necessary for the protection of life or safety • student assistance under Higher Education Act or Public Health Service Act • means-tested programs under ESEA • Head Start • JTPA additional exception for refugee and entrant assistance for Cuban-Haitian entrants (403(d)).

State Options re: bars	According to Supreme Court, states not permitted to restrict legal immigrant eligibility for benefits *(Graham v. Richardson)*; states may restrict illegal immigrant eligibility for state/local benefits	Illegal: Although states are required to bar not qualified aliens from state programs: States may make aliens who are not lawfully present in the U.S. eligible for state and local benefits through enactment of a state law (411(d)). States are not prohibited or required to provide non- qualified aliens (i.e. states have option to provide illegal immigrants with) benefits under National School Lunch Act or Child Nutrition Act (except school lunch and breakfast programs which must be provided to those eligible for free public education), Sec. 4 Agriculture and Consumer Protection Act, Emergency Food Assistance, food distribution program in Indian reservation under Food Stamp Act. Legal States have option to bar current and future qualified immigrants (same immigrant groups excepted in 402(a)(2)) from AFDC (now temporary assistance for needy families block grant), Title XX social services block grant, Medicaid (since future immigrants are barred for first five years, amounts to an option to extend the bar for future immigrants and to apply it to current immigrants). Can bar until citizenship or until work 40 qualifying quarters. Current recipients continue to be eligible until 1/1/97. States are authorized to determine eligibility for any state public benefits (no definition) of current and future qualified aliens (with same exceptions as listed under 402(a)(2)), nonimmigrants or those paroled for less than one year; current recipients eligible until 1/1/97 (412).
Affidavit of Support	Affidavit of support not legally enforceable; sponsor does not have to be petitioner	Affidavits accepted by AG or consular officer must be executed as a contract which is legally enforceable against the sponsor by the sponsored alien, the federal or any state government that provides means-tested benefits (423). Enforceable until 10 years after alien last receives a benefit; enforceable for benefits provided until immigrant naturalizes. Sponsor must be citizen, national or lpr; aged 18 or over; living in the 50 states or DC. Sponsor must be petitioner. **Sponsor must notify AG** and the state in which sponsored alien is resident within 30 days of moving. **AG (in consult with Sec. of State and HHS) shall formulate affidavit** not later than 90 days after enactment. Requirements for affidavit apply to those executed on date specified by AG, which shall be between 60 and 90 days after formulation of affidavit.

Deeming	A portion of sponsor's (and the sponsor's spouse's) income is deemed to the immigrant for 3 years for AFDC and food stamps, for 5 years for SSI (until 10/1/96) when determining eligibility for benefits	For any federal means-tested program, the full income and resources of a sponsor is deemed to immigrant until citizenship or until immigrant has worked 40 qualifying quarters (421). Deeming does not apply to excepted programs listed in legal immigrant eligibility (403(c)). Programs that currently deem must apply new deeming rules to eligibility determinations made after enactment; programs that do not currently deem must apply new deeming rules beginning 180 days after enactment (421(d)). (The new deeming rules apply only to future immigrants, who are barred for 5 years from the same programs to which deeming applies. Therefore, deeming effectively does not kick in until after 5 year bar, except for sponsored veterans and deportation withheld.)
State Options re: deeming	States are not permitted to deem	States may deem for legal immigrants for state-funded programs; program exceptions include first seven in 402(a)(2) list (422). (means that states have option to deem, bar, or not restrict at all in their own programs)
Verification of Status	SAVE required to be used to verify status for AFDC, food stamps, Medicaid, unemployment compensation, education assistance, housing assistance	No later than 18 months after enactment, **AG shall (after consult with Sec. HHS) promulgate regs** requiring verification that a person applying for a federal public benefit (as defined in 401(c)) is a qualified alien and is eligible to receive the benefit. To extent feasible, regs shall require that information requested and exchanged be similar in form and manner to that under SAVE (432). No later than 24 months after regs are adopted, states administering federal benefits shall have verification system in effect. "There are authorized such sums as may be necessary to carry out the purpose of this section."
Reporting of illegal immigrants to INS		States providing benefits must, at least 4 times annually and upon request of the INS, **report to the INS** the name, address, other information, on any individual who the state knows is unlawfully in the U.S. (411A). No state or local government may be prohibited from **sending to or receiving from the INS** information regarding the immigration status, lawful or unlawful, of an alien in the U.S (434).

Revised 8/22/96

THE WHITE HOUSE

WASHINGTON

September 15, 1996

MEMORANDUM FOR JACK QUINN
KATHY WALLMAN

FROM: ELENA KAGAN EK

SUBJECT: WELFARE LAW -- REPORTING ILLEGALS

The attached article from the New York Times reports that Mayor Giuliani will bring suit within the next couple of weeks challenging the constitutionality of a provision of the welfare law that permits municipal employees, including police officers and teachers, to report information on illegal immigrants to the INS. The provision effectively overturns a longstanding New York City Executive Order prohibiting employees from reporting such information unless the immigrant has been charged with a crime.

Giuliani believes that this provision will deter illegal immigrants from sending their children to school and seeking other needed services, such as emergency health care (including for contagious diseases) and police protection. According to Giuliani, the City will argue that the provision violates the Due Process and Equal Protection Clauses of the Fourteenth Amendment, as well as the Tenth Amendment.

We should be sure to keep an eye on this.

THE NEW YORK TIMES, THURSDAY, SEPTEMBER 12, 1996

Giuliani to Sue Over Provision On Welfare

Law Lets City Workers Turn In Immigrants

By DAVID FIRESTONE

WASHINGTON, Sept. 11 — Calling it "inhumane and indecent," Mayor Rudolph W. Giuliani said today that he would sue the Federal Government to block a previously overlooked provision of the new welfare law that allows city employees to turn in illegal immigrants who seek services like police protection, hospital care and public education.

Speaking to students at the Georgetown University Law School here, the Mayor said the one-sentence provision, buried among the hundreds of pages of the new law, violated three amendments to the United States Constitution and would "create chaos in New York City."

He also said the provision was deliberately designed to overturn an executive order signed by Mayor Edward I. Koch in 1985 and reaffirmed by Mayor David N. Dinkins and then Mr. Giuliani. The order prohibited city employees, including police officers and teachers, from giving information on an illegal immigrant to the Federal Immigration and Naturalization Service unless the immigrant had been charged with a crime.

But under the welfare law that President Clinton signed last month, no city or state employee can be prohibited from giving information to the agency about the status of an immigrant.

A provision is called 'inhumane and indecent.'

The city's estimated 400,000 illegal immigrants may now be afraid to send their children to public schools, fearing that teachers would report them to the Federal Government, the Mayor said. They also may be afraid to report crimes or seek treatment for contagious diseases in city hospitals, he said.

"This really constitutes inhumane and indecent treatment," Mr. Giuliani said. "Think of the situation in which someone is illegal and undocumented and is being subjected to domestic violence, which is an ongoing situation. A person like that would have to make a choice between reporting that to the police, and run the risk that the police would report you to the Immigration and Naturalization Service, or you stay in the situation in which you're being beaten."

Similar provisions had been proposed in various education and crime bills being considered by Congress in previous years, but strenuous lobbying by the city succeeded in having the provisions killed.

The Mayor said that no one in his administration knew the provision existed until last week, when he and lawyers for the city discovered it while reading through the entire bill.

Though other states and cities have similar regulations prohibiting such cooperation with immigration agents, the Mayor said there was no doubt in his mind that the provision was targeted at New York City. He noted that some lawmakers in Congress have often criticized the city's executive order and have tried to overturn it.

Mr. Giuliani supports most of the major provisions in the new welfare law, including work requirements and time limits for recipients. But he has opposed the law as a whole, saying it does not supply the city with enough money to implement the new changes, and because it eliminates many

Continued on Page B4

Continued From Page B1

forms of assistance for some legal immigrants. His remarks today, however, were focused on the one provision he said was designed to overturn Executive Order 124, a provision he said the city would refuse to implement. Christine F. Lategano, his director of communications, said he decided to accept a longstanding invitation to discuss constitutional law after learning about the provision.

Indeed, the Mayor, who enjoys being pedagogical on legal matters, clearly enjoyed explaining to the students the constitutional basis for the city's opposition to the provision, doing so as if he were a law professor.

The provision, he said, denies legal immigrants the due process of law afforded by the Fifth Amendment, because people who are afraid to call the police are effectively denied police protection. He said it also violates the 14th Amendment's guarantee of equal protection under the law, and usurps the city's police power granted under the 10th Amendment, which gives states those powers not expressly delegated to the Federal Government.

"We will not implement this law," he said. "What we will do instead is challenge it in court as a violation of the 10th Amendment, a violation of due process, and between now and the time we file our grievance, any other violation we can figure out."

Lawyers for the city plan to file suit within the next two or three weeks, he said.

Last year, the Republican Mayor broke with the conservative wing of his party in opposing an immigration bill — proposed but never passed in the Congress — that would have had a similar effect as the provision in the welfare bill. That measure would have required public hospitals and schools to report illegal immigrants, a move Mr. Giuliani said last August would have "catastrophic social effects" on the city.

The Mayor argued today that the welfare law provision would have the same effect as requiring teachers to report illegal immigrants, because the immigrants would not know which of the city's 200,000 employees might decide to report them.

"Some would report and some wouldn't report, but the illegal and undocumented person, calculating whether to use this service, wouldn't know whether or not they were going to be asked or not," Mr. Giuliani said.

"The illegal and undocumented parent, seeking to put their child in public school, would not know whether the superintendent or the principal or the administrator of that school was going to ask a question: 'Are you a citizen? Are you a legal resident alien, or are you illegal?' So it would have precisely the impact the order was intended to avoid."

The Mayor said that there appeared to be a growing anti-immigrant sentiment around the nation, noting that California voters passed a measure last year denying many public benefits to illegal immigrants. But he said he hoped that New York, with its long tradition of immigration, would be understanding of his call for tolerance and his opposition to the welfare bill's provision.

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We should be sure to keep an eye on this.

Ek - kw
I agree - we'll keep an eye on this - what do

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PRIMARY ISSUES INVOLVING IMPLEMENTATION OF NONCITIZEN PROVISIONS OF THE WELFARE REFORM BILL

Food Stamp Waiver

SSA Process

- Deferral of eligibility determinations
- Notices
- 40 Quarters
  -- farmworkers, domestic help, etc. & how to prove w/o good records

Definition Issues

- "means-tested" - mine: need to do soon.
- "federal public benefit" (specifically how will "similar" be applied?) illegals can't get (SW): what sort of programs?
- "state or local public benefit" (sec. 401(c)) should feds write in? provide guidance.
- "veterans," including issues of Hmong refugees, Filipino WWII veterans, Mtg w/ VA. (North DOT)
- "qualified alien" and "lawfully present" — no real issue — defined in statute — diff from def of q.a. — interim reg out - 60 day c.p.
- Programs excepted by Attorney General discretion
  Initial memo out. Now - invitation to comment.
- Housing and community development programs exception (sec 401(b)(1)(E))
- U.S. Nationals and U.S. Territories -- American Samoans
  INS/ Herman from OLC.

Verification & Protecting Recipients and Applicants

- Interim Verification
- Longterm Verification → 18-mo-DOT.

End of next wk — interagency. Steve / me to run.

Sponsorship Issues

- Affidavits of Support
- Identification of other issues

Citizenship

- Disability & naturalization — reg - 30 day comment period. INS wants to extend.
- Dissemination of information about naturalization

Procedures Available for Redress for Improper Denial of Benefits or Discrimination

Medicaid

Evaluate California Executive Order Issues implications for verification group

Application of restrictions to Cuban/Haitian Entrants

Civil Rights Enforcement Issues — Long Term

Treaty Issue(s)

LESS URGENT OR LONGTERM ISSUES
(SUBJECT TO CONTINUING REEVALUATION)

Illegal Immigrant Reporting Requirements

Long-Term Legislative Fixes

Earned Income Tax credit -- (Although check whether there is imminent deadline for issuance of new regulation. sec. 451)

Appropriation requests needed?

THE NEW YORK TIMES
THURSDAY, SEPTEMBER 19, 1996

A Dangerous Immigration Bill

As the White House and members of Congress make final decisions this week about a severely flawed immigration bill, they seem more concerned with protecting their political interests than the national interest. The bill should be killed.

Debate over the bill has concentrated on whether it should contain a punitive amendment that would close school doors to illegal-immigrant children. But even without that provision, it is filled with measures that would harm American workers and legal immigrants, and deny basic legal protections to all kinds of immigrants. At the same time, the bill contains no serious steps to prevent illegal immigrants from taking American jobs.

Its most dangerous provisions would block Federal courts from reviewing many Immigration and Naturalization Service actions. This would remove the only meaningful check on the I.N.S., an agency with a history of abuse. Under the bill, every court short of the Supreme Court would be effectively stripped of the power to issue injunctions against the I.N.S. when its decisions may violate the law or the Constitution.

Injunctions have proven the only way to correct system-wide illegalities. A court injunction, for instance, forced the I.N.S. to drop its discriminatory policy of denying Haitian refugees the chance to seek political asylum.

On an individual level, legal immigrants convicted of minor crimes would be deported with no judicial review. If they apply for naturalization, they would be deported for such crimes committed in the past. The I.N.S. would gain the power to pick up people it believes are illegal aliens anywhere, and deport them without a court review if they have been here for less than two years.

The bill would also diminish America's tradition of providing asylum to the persecuted. Illegal immigrants entering the country, who may not speak English or be familiar with American law, would be summarily deported if they do not immediately request asylum or express fear of persecution. Those who do would have to prove that their fear was credible — a tougher standard than is internationally accepted — to an I.N.S. official on the spot, with no right to an interpreter or attorney.

Scam artists with concocted stories would be more likely to pass the test than the genuinely persecuted, who are often afraid of authority and so traumatized they cannot recount their experiences. Applicants would have a week to appeal to a Justice Department administrative judge but no access to real courts before deportation.

The bill would also go further than the recently adopted welfare law in attacking legal immigrants. Under the immigration bill they could be deported for using almost any form of public assistance for a year, including English classes. It would make family reunification more difficult by requiring high incomes for sponsors of new immigrants. The bill would also require workers who claim job discrimination to prove that an employer intended to discriminate, which is nearly impossible.

A bill that grants so many unrestricted powers to the Government should alarm Republicans as well as Democrats. This is not an immigration bill but an immigrant-bashing bill. It deserves a quick demise.

Misgivings Over a Media Merger

The Federal Trade Commission's approval of the acquisition of Turner Broadcasting by Time Warner will offer consumers no major benefit and could in fact harm them. Under narrow antitrust law, the commission may have had little choice but to approve the takeover. That is unfortunate, because the merger might well lead to higher cable prices and a smaller choice of programs.

Time Warner is the nation's second-largest cable operator. The largest, T.C.I., owns a part of Turner Broadcasting and will thus now own about 9 percent of Time Warner. One risk is that the merger will weaken the incentive for the cable industry's two giants to compete by offering top dollar for the wares of independent programmers.

Another problem is created by the fact that the merged company will own key cable programs that every cable system needs to offer customers. Time Warner owns all or part of the HBO movie channel, Warner Brothers studio and Cinemax, while Turner owns CNN, TNT, Turner Classic Movies and other popular cable programs. The danger is that cable operators will be forced to buy from the merged company, putting Time Warner in position to boost prices for its programs.

The commission, to its credit, recognized these threats and negotiated unprecedented conditions for its approval. The settlement agreement requires T.C.I. to remain a passive investor, insulated from Time Warner decisions. The commission blocked T.C.I.'s plan to buy Turner programs at a steep discount — a plan that could have made it hard for independent programmers to find space on T.C.I., which accounts for more than a quarter of all cable customers. The commission also insisted that Time Warner sell its programs to rival cable operators at fair market rates.

Though sensible, the restrictions may be beyond the commission's ability to enforce. The commission says it got the best deal it could. If it tried to block the merger, and Time Warner appealed, courts would decide the issue on narrow antitrust grounds, which favor the companies and might allow them to merge without the consumer protections that the commission negotiated.

The irony is that the Federal Trade Commission's chairman, Robert Pitofsky, made his academic reputation arguing that antitrust law is inadequate for media mergers because it does not assure the diversity of news and entertainment that is central to the health of a democracy. But special scrutiny for media mergers is Mr. Pitofsky's private thought, not part of current law.

There is an unfortunate taint of money politics surrounding the decision. Time Warner is one of the Democratic and Republican parties' largest contributors. Seagram, the largest shareholder in Time Warner, separately contributed over $600,000 to the Democrats over a recent 18-month period, the largest of any corporate contributor. There is no reason to doubt Mr. Pitofsky's word that no White House official intervened. Yet the huge corporate contributions create an impression that money talks.

The commission tried hard to make the merger as good for consumers as the law would allow. It is not clear, however, that its effort is good enough.

Weather
Today: Mostly sunny, windy, mild. High 74. Low 56. Wind 15-25 mph.
Friday: Sunny, breezy, warm. High 77. Low 58. Wind 8-16 mph.
Yesterday: Temp. range: 60-73.
AQI: 32. Details on Page B2.

The Washington Post

FINA
Inside: The Weekly, Clas
Washington Home
Today's Contents on Pag

119TH YEAR ···· No. 289 THURSDAY, SEPTEMBER 19, 1996

Prices May Vary in Areas Outside Metropolitan Washington (See Box on A2)

Clinton Acts To Protect Utah Land

Vast Resource-Rich Area Is Turned Into Monument

By David Maraniss
Washington Post Staff Writer

GRAND CANYON, Ariz., Sept. 18—President Clinton today made what many western naturalists called the boldest environmental move of his presidency, using his executive powers to transform 1.7 million acres in nearby southern Utah into national monument land, an act intended to protect the coal-rich expanse from mining and other development.

Clinton told a crowd that included Vice President Gore and actor Robert Redford that it was his generation's responsibility to protect the vast and isolated Utah territory just as earlier generations had protected the Grand Canyon, the spectacular stage prop that glistened in the late summer sun behind him. "Sometimes progress is measured in mastering frontiers, but sometimes we must measure progress in protecting frontiers for our children and all children to come," Clinton declared.

In transforming the Utah land into the Grand Staircase-Escalante National Monument, the president was also in essence attempting to transform himself, moving his political image from someone who once seemed indifferent to the environment to a leader whom Gore introduced today as "our environmental president." While environmentalists might have greeted that sobriquet with skepticism earlier in his tenure, many embraced Clinton today as one of their own.

"This was a historic and monumental action," said Ken Rait of the Southern Utah Wilderness Alliance. "It was visionary in the sense that 50 years from now we'll look back on it and consider it to have been the smartest decision that could have been made." Charles Wilkinson, a professor at the University of Colorado who has written extensively about the Utah land, called Clinton's decision "a brave and true act."

See CLINTON, A10, Col. 3

PHOTOS BY RICK T. WILKING—REUTER

Robert J. Dole lies on the ground after falling about four feet from a stage in Chico, Calif. The GOP nominee tumbled when a railing gave way.

Dole Chides Hollywood, President on Drug Issue

By Blaine Harden
Washington Post Staff Writer

WEST HILLS, Calif., Sept. 18—Robert J. Dole, who is making teenage drug use a defining issue of his campaign, scolded the entertainment industry today for glorifying heroin and slammed President Clinton for showing "moral confusion" on drug issues.

In his third trip to Los Angeles to attack the purported moral failures of the entertainment industry, Dole cited the 1994 American film "Pulp Fiction" and the newly released Scottish film "Trainspotting" as "widely praised movies . . . that feature the romance of heroin."

Dole has not seen either film, but has read reviews, according to his press secretary Nelson Warfield, who repeated a campaign refrain from two earlier Hollywood-bashing trips by saying, "You don't have to look in every trash can to know there is garbage inside."

Later, in the Northern California city of Chico, Dole suffered a scary and embarrassing moment when he fell from the edge of a stage after a railing gave way as he was shaking hands with a young boy. Dole tumbled about four feet into some photographers and landed on the ground, ending up on his back. He appeared unhurt as Secret Service agents helped him to his feet in the dust and later joked about it: "I think I just earned my third Purple Heart. . . . You can always say I have fallen for Chico."

See DOLE, A10, Col. 1

Dole pumps fist after getting up. He later made a joke: "I think I just earned my third Purple Heart."

GOP Assails Waiver for D.C. Welfare

Effort to Rescind City's Exemption Underway on Hill

By Judith Havemann and Cindy Loose
Washington Post Staff Writers

Angry that the District was given an exemption from some of the toughest provisions of the new welfare reform law, congressional Republicans are mounting an effort to rescind the waiver and are hoping to turn the city into a symbol of what they say is Clinton's reluctance to truly reform the nation's welfare system.

Just three days before Clinton signed the welfare bill into law last month, administration officials awarded the city a last-minute waiver that would enable it to escape the strict five-year lifetime limit on how long recipients can receive benefits.

Republicans seized the waiver yesterday as a ripe political issue, arguing that by excluding the nation's capital, Clinton not only has undermined the welfare legislation but also has robbed policymakers of a prime laboratory for testing some of the bill's fundamental principles.

Coming 11 days before the historic law takes effect, the fracas also foreshadows the political, legislative and legal battles that lie ahead as states are given greater responsibility for the poor.

Twice in recent days, Sen. Don Nickles (R-Okla.), a strong proponent of toughening the nation's welfare system, has introduced legislation to overturn the waiver, and some House leaders are said to be eager to take up the issue as well.

"We think that promptly giving D.C. a waiver of provisions that are the essence, the heart, of the welfare reform bill is a terrible mistake," said Ernie Schultz, Nickles's communications director. "We think it is wrong for the president to sign the bill with one hand and with the other to gut it."

But Democrats say Republicans on Capitol Hill opened up the waiver loophole themselves, at the explicit request of Republican governors. They also note that 30 states have time-limit exemptions in some way similar to the one granted the District.

"I hope everybody will be careful before they condemn anybody, whether it be the states or the District of Columbia," said Rep. Sander M. Levin (D-Mich.). "Especially the authors should be careful."

Indeed, according to congressional aides, the provision the Republicans are now attacking is a little-noticed clause conservatives inserted in the bill that allows states with

See WELFARE, A9, Col. 1

FILE PHOTO BY JOHN McDONNELL FOR THE WASHINGTON POST

Elizabeth Morgan, with her daughter, Ellen, in Christchurch, New Zealand.

Congress Votes to Let Morgan, Daughter Return

Rep. Wolf's Intervention Clears Way for D.C. Surgeon Who Fled U.S. Over Custody Case

By Bill Miller
Washington Post Staff Writer

Congress passed specially tailored legislation yesterday that will allow Washington plastic surgeon Elizabeth Morgan, who went to jail and then New Zealand to keep her daughter from her ex-husband, to return home with the child with no legal repercussions.

The unparalleled measure, tacked on to a massive $37.9 billion transportation spending bill by Rep. Frank R. Wolf (R-Va.), strips control of one of the most contentious child custody disputes in the nation's history from the District's courts.

The measure sailed through both houses of Congress in a single afternoon, with only scant objections from other legislators. It now goes to President Clinton.

Although it mentions neither Morgan nor her ex-husband, Eric A. Foretich, the effect of the legislation is that Foretich, an oral surgeon from McLean, cannot see his now 14-year-old daughter without the girl's consent. She has said she has no interest in seeing him.

Yesterday's action marked the second time that Congress—prodded both times by Wolf—has stepped into the case, which has generated books, a movie and worldwide attention. Seven years ago, legislators passed a measure that freed Morgan from the D.C. jail, where she had been kept for 25 months for refusing to obey a court order requiring her to turn the child over to Foretich for a visit.

Morgan repeatedly has accused Foretich of sexually abusing their daughter. Foretich has vigorously denied the accusations and said that Morgan is mentally ill.

See MORGAN, A15, Col. 4

Flight 800's Enduring Mystery

Lacking Bomb Evidence, Probers Look for Malfunction

By Don Phillips, Serge F. Kovaleski and Pierre Thomas
Washington Post Staff Writers

With more than four-fifths of the wreckage of Trans World Airlines Flight 800 recovered, the lack of evidence that a bomb or missile destroyed the Boeing 747 has led investigators to turn greater attention to the possibility that the plane was brought down by a mechanical or electrical malfunction, according to officials familiar with the inquiry.

Investigators with the National Transportation Safety Board and law enforcement agencies including the FBI stressed that they still have not ruled out sabotage as a cause. They said they might at any time recover the "eureka" piece of debris from the ocean floor that would finally show clearly that a bomb or missile caused the explosion.

But the investigators are growing increasingly concerned that they will never find such evidence, and said they now are taking a closer look at whether a malfunction such as an accidental spark caused the center fuel tank explosion that is suspected to have cracked the plane apart.

"We are getting absolutely nothing as it relates to a bomb," one law enforcement source said. "Things seem to be pointing toward a mechanical malfunction and that is where investigators are concentrating now."

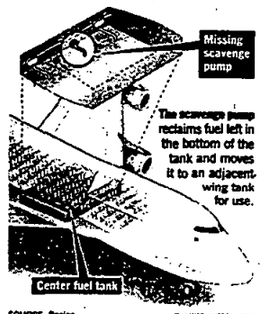
A safety board official said that with most of the plane off the ocean floor, investigators should have seen some evidence of a bomb if one were involved—at least a hint of typical damage patterns to bodies, metal or interior furnishings.

A senior law enforcement investigator agreed: "Something should have shown up in

See CRASH, A8, Col. 1

▶MISSING FUEL PUMP

Investigators are still searching for a missing fuel pump from TWA Flight 800. It may help determine if mechanical failure caused the center fuel tank to explode.



SOURCE: Boeing THE WASHINGTON POST

'Abortion Pill' Nears Approval

Federal Regulators Declare RU-486 Safe, Effective

By John Schwartz
Washington Post Staff Writer

The controversial French "abortion pill" moved a giant step closer to final approval yesterday.

The Food and Drug Administration officially declared that mifepristone—also known as RU-486—is safe and effective, and said it can approve the drug once its sponsor, the New York-based Population Council, provides additional information on such issues as manufacturing practices and labeling.

To induce abortion, the drug would be taken in combination with misoprostol, which has already been approved by the agency for other purposes.

The FDA action paves the way for the first approval of a "medical abortion," or a method for terminating pregnancy that does not require surgery. The treatment promises to expand access to abortion in the United States because it could be offered outside the usual setting of abortion clinics, and physicians could prescribe it without drawing the attention of antiabortion activists to their practices.

It comes at a particularly tense time in the debate over abortion. Congress is preparing to vote today on overturning President Clinton's veto of a bill banning a late-term procedure that opponents call "partial-birth" abortions.

"We're absolutely delighted with the news," said Susan Allen, president of Advances in Health Technology (AHT), the nonprofit organization that has lined up a manufacturer and a distributor for mifepristone once it gains final approval.

See DRUG, A9, Col. 1

INSIDE

Remembering Agnew
■ Spiro T. Agnew, right, who was Maryland's governor and then vice president to Richard M. Nixon, died Tuesday. He was the first U.S. vice president to resign under a cloud of scandal.
OBITUARY, *Page B7*

Korean Sub Mystery
■ A North Korean submarine is found beached off South Korea's

1973 FILE PHOTO

O's Fall to Yanks
■ Rookie Ruben Rivera singled with two outs in the bottom of the 10th to lift the New York Yankees over the Baltimore Orioles, 3-2, in a key game in the AL East Division race.
SPORTS, *Page D1*

ATF Considers Move
■ The Bureau of Alcohol, Tobacco and Firearms,

Contents © 1996

Those Who Surf Can Fly on the Cheap

Airlines Offer Big Discounts on the Internet for Short, Last-Minute Trips

By Anthony Faiola and Steven Ginsberg
Washington Post Staff Writers

Terrence J. Randell, 26, is taking a trip through the Internet this week.

While surfing the World Wide Web one afternoon, Randell, a resident of Washington—a $79 round-trip air fare to Rochester, N.Y., a huge discount from the going rate of $430.

"If I were the kind of guy who did a lot of traveling, I'd like to keep this a secret," said Randell, who is leaving from National Airport on Saturday to visit graduate school buddies in Rochester for the weekend.

some of the nation's major carriers. In exchange for some time spent searching for bargains on the Web and the flexibility to travel at short notice, some travelers are receiving better deals than those advertised by the airlines, even at fall sale prices announced by several major carriers yesterday.

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

17-Sep-1996 07:11pm

TO: Kenneth S. Apfel
TO: Elena Kagan
TO: Diana M. Fortuna

FROM: Jeremy D. Benami
Domestic Policy Council

CC: Carol H. Rasco
CC: Stephen C. Warnath

SUBJECT: immigration/welfare issues

I just wanted to be sure we were fully coordinated on how best to move forward on immigration/welfare issues. As far as I can tell, this is by far the most complex area we are dealing in our implementation effort.

Immediate meetings/issues:

There is a meeting called by you Ken tomorrow at 3:00 to discuss the "means tested program" definition.

On Thursday at 5:00, Seth Waxman is coming over to go over the entire range of these issues and to review the process DOJ and INS are putting into place.

We have yet to fully resolve the California food stamp question.

We have the oustanding issue of what exactly the notices to SSI recipients should be and when they should go out.

For Thursday 5:00:

I have asked Steve Warnath to put together his best take of a laundry list of ALL the issues in this sphere that we need to deal with. I think we should go through that list and ensure that DPC, OMB, Counsel's Office, DOJ and INS are in agreement that that is the right list and what the processes are to address those issues.

I would like to empower Steve at that meeting to serve on all of our behalfs as an oversight person to ensure these pieces keep moving and to serve as a central information depot.

Let's talk in advance of the Thursday 5:00 if any of you have a problem with that.

THE ISSUES

Dole's Immigration Stance Splits G.O.P.

By ERIC SCHMITT

WASHINGTON, Sept. 12 — A bill that would crack down on illegal immigration has exposed deep divisions among House and Senate Republicans, many of whom calculate that the best course for them might not serve the best interests of Bob Dole's struggling Presidential campaign.

Republican lawmakers, particularly those facing close races in states with large number of illegal immigrants, are eager to pass the bill, which toughens enforcement on the border and in the workplace. They want to show constituents that Congress is tackling the issue.

But Mr. Dole is loath to hand President Clinton an opportunity to claim credit for a politically popular bill.

"The Dole campaign doesn't want to have Clinton having more bills to sign," said Michele Davis, a senior aide to Representative Dick Armey, a Texas Republican who is the House majority leader.

Mr. Dole sent his campaign manager to Capitol Hill today to tell Republicans to insist that the bill include a provision almost certain to doom it in the Senate. The provision, included in the House version of the bill but not in the Senate's, would allow states to deny a public education to children who are illegal immigrants.

Mr. Dole and Speaker Newt Gingrich of Georgia strongly support the provision, but Democrats do not, and Senate Democrats have vowed to filibuster any bill that contains it. President Clinton has indicated that he want to sign the immigration bill, but not if it includes the education provision.

Republicans for weeks have been trying to decide whether it is better to have a bill without the education provision or stick to their guns and blame the Democrats for blocking the overall legislation.

This morning, the two main authors of the Republican immigration bill, Senator Alan K. Simpson of Wyoming and Representative Lamar Smith of Texas, met with the manager of Mr. Dole's campaign, Scott Reed, to plead for dropping the education provision to win credit for passing the bill. One official familiar with the discussions said the two legislators even offered to amend the bill to provide funds to reimburse some of California's education costs, if Mr. Dole would endorse dropping the offending provision.

Mr. Reed did not budge, said Congressional officials familiar with the meeting. "They don't want an illegal immigration bill," Mr. Simpson said in an interview, arguing that his old friend, Senator Dole, had been poorly served by the advice of his top campaign aides.

When the debate on immigration began months ago, the Republicans were united — but no longer.

Mr. Gingrich is worried that several Republicans in Southern California who are facing tight contests need an immigration bill that contains the education provision to demonstrate concern for their state's budget woes. But Mr. Armey recently canvassed six or seven of these Republicans and, to his surprise, Ms. Davis said, found that roughly half now believe it is better to have a bill in hand than a dicey political issue to wage against Democratic opponents.

In the Senate, Trent Lott, a Mississippi Republican who is majority leader, does not feel strongly either way about the education provision, but would like to put the immigration bill in his legislative win column before Congress adjourns later this month.

The immigration bill would double the number of Border Patrol officers, increase workplace inspections and restrict public benefits to legal aliens. But much of this is already financed or included in the recently passed welfare bill, so the fight has been largely symbolic for Mr. Dole and the Republicans.

House and Senate negotiators are set to meet next Tuesday to discuss the immigration bill. The outcome of their report is preordained. House and Senate Republicans have already completed the process, which is usually bipartisan, without the Democrats help. House leaders now plan to bring the conference report to a floor vote next Thursday.

"A likely outcome will be no bill and the attempt to blame Clinton and the Democrats will have backfired badly," said Frank Sharry, the executive director of the National Immigration Forum, a pro-immigration group in Washington.

dent Clinton for waging what he described as a "character assassination" by television advertising, even as his aides disclosed that they were preparing to escalate their own advertising campaign against Mr. Clinton in both scope and tone.

"We've had a barrage, we've had an assault, we've had a flood of negative ads," Mr. Dole said in Kentucky. "Have you seen one positive ad about Bill Clinton?" he asked his audience. "They're all negative ads bashing Bob Dole, bashing Jack Kemp, saying we're going to cut Medicare, we're going to cut Social Security, we're going to cut student loans, we're going to cut veterans — we don't have a friend in the world!"

He later told reporters: "They don't have anything positive to say. Character assassination."

His aides said that of the total 44,594 showings of television spots by the Clinton campaign and the Democratic National Committee, many of them commercials that were shown several times over, from March 27 to Sept. 8, 43,517, or 97.6 percent, were negative. They said the total negative spots ran for 362.6 hours.

"Oh, they'll deny it," Mr. Dole went on. "They get up at their convention and say, 'Oh, Bob Dole is a decent man.' And then comes the ax. And it comes every day. It comes about every hour on your TV set. Millions and millions and millions and millions and millions and millions of negative ads. Dollars in negative ads."

But advisers to Mr. Dole, who recently dismissed his media team and replaced it with another group known for its hard-hitting negative commercials, said in Washington that they had decided to shift their own advertising strategy, doubling weekly expenditure and producing some particularly hard-hitting advertisements, including one intended to remind viewers about Mr. Clinton's own experimentation with marijuana as a college student.

That advertisement shows Mr. Clinton, in an interview on MTV, joking about his assertion that he tried marijuana as a college student, but did not inhale. Asked if he would inhale if given another opportunity, Mr. Clinton responded: "Sure, if I could." As the President speaks, a teen-ager is shown lighting a marijuana cigarette.

Mr. Dole's aides said the campaign would also shift, for now, the subject of its advertisements, from Mr. Dole's economic plan, which includes a 15 percent across-the-board reduction in taxes, to Mr. Clinton's program to combat drugs.

Republican advisers also said that the campaign had decided to double the weekly expenditure on television advertisements, from $2.5 million to $5 million, for at least the next week. Mr. Dole's advisers had said earlier this week that he would refrain from huge expenditures on television advertising until October.

As he campaigned across the Midwest today, Mr. Dole, from Kansas, used a time-honored technique in trying to relate to voters. He claimed their states as his own.This has been a favorite past-time of Mr. Dole. He calls New York home, for example, because he attended Brooklyn College briefly during the war.

Today, he claimed Kentucky and Ohio as home states, but both references seemed somewhat risky for the 73-year-old candidate as they were laden with references to ancient times.

Here, for example, in the far northwest corner of Ohio, he visited the cemetery where his great-great grandfather, Michael Dole, is buried. As Mr. Dole left a nearby airport to take a helicopter to this tiny farming community, he told reporters cheerfully: "We're going to go to Montpelier now and have a good time, see some long-lost relatives, I guess."

BOB DOLE

Speaking yesterday at Georgetown College in Georgetown, Ky.;

"I say this particularly to the young people behind me because it's all about them. It's all about all of us, I guess. Think about two words. Think about the word 'trust.' Think about the word 'fear.' Think about the campaign of fear that's being waged right now by the Clinton/Gore campaign. Oh, they'll deny it. They get up at their convention and say, 'Oh, Bob Dole is a decent man.' And then comes the ax. And it comes every day. It comes about every hour on your TV set. Millions and millions and millions and millions and millions and millions of negative ads. Dollars in negative ads.... That's the way it is.

"It is about trust, and it is about fear. Particularly vulnerable groups like those who are disadvantaged, or disabled, the very young, the very old, the poor. They're going to try to frighten all of you. They're going to tell you that Bob Dole—— Well, I think I was referred to as an extremist. The Vice President once referred to me and Gingrich as a two-headed monster. This is a man who says I'm a decent guy."

THE NEW YORK TIMES,

FRIDAY, SEPTEMBER 13, 1996

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

13-Sep-1996 01:06pm

TO: Kenneth S. Apfel

FROM: Jeremy D. Benami
Domestic Policy Council

CC: Stephen C. Warnath
CC: Diana M. Fortuna
CC: Elena Kagan
CC: Dorothy K. Craft

SUBJECT: DOJ and immigration

I had a good conversation with Seth Waxman from DOJ this morning about the need to ensure the best possible coordination on the legal/immigration/DOJ/INS front of welfare reform. Seth is chairing the implementation group at DOJ. He agrees that there is a proliferation of groups, meetings, etc. with various people plugged in at better or worse levels in the different pieces.

We agreed to set up a meeting on Tuesday or Wednesday next week to go over the list of issues and to agree to the process for addressing them.

Next steps:

-- My office (Dorothy) will try to set this for 10:00 on Wednesday, in advance of the weekly immigration meeting - to minimize back and forth travel for Justice and INS.

-- Seth will determine who from DOJ and INS will attend. On our end, I think it should be Ken, me, Elena, Diana and Steve. Does that sound right to you guys?

-- Steve is compiling a complete list of the outstanding issues in this area to work off of for the Wednesday meeting. He has sent that around to you on email, I believe. Can you review and get comments back to him.

OTHER MEETINGS:

The only other issue-specific meeting that I am setting for early next week is with HHS on the TANF reg process. I assume there will be further work on the SSI front.

We will have the next sub-group meeting at 4:00 on Wednesday.

Dispute referred to in meeting:
Under law,
SS. benes — needs def of "lawfully present"

GC - SSA: if no formal def. he had to suspend benes in dept to those who are improperly in nation

INS → 1st - don't suspend - wait.

Now come up w/ def - vetting thru DOT -
we'll give to SSA - will act during dept while reg is being put out for notice + comment.

Strong case for fed. ~~vest~~ preemption on verification issue
Anything st could do reg verif.
States can't act until DOT does this.
Verif → goes to only the q of unqualified/qualified (so only illegals)

Bob Bach - Telecon 8/28

INS

Carol is having a follow up NGA/NCSL/APWA meeting at 1:00 on Wednesday.

Bruce/Carol are having the next big interagency implementation meeting on Thursday at 11:00.

I think that's all for next week. Let me know if I've missed anything.

Welfare NGA meeting 9/4/96

2 issues that will raise lots of consternation.

- waivers.
- if non-cits kept on rolls, what are obligs?

INS: If don't have new affidv of support — new deeming regs don't apply.

Similarly, on medicaid.

421

Is this in fact our interpretation?

* My job - check w/ Bob Bach, HHS - then Steisel.

↑ HHS: still struggling w/ this re medicaid. (Menahan)

Next mtg: identification of priority problems.

18th

United States Department of Justice

Immigration and Naturalization Service
425 I Street, N.W., Washington, D.C. 20536

Facsimile Transmission Cover Sheet

TO: Elana Kagan **Date:** 8/29

OFFICE: _____ **Room:** _____

Phone No.: _____

Fax No.: 456-1647

FROM: Barbara Strack
Office of the Executive Associate Commissioner, Policy and Planning

Room - 6038
Phone No.: (202) 514-3242
Fax No.: (202) 305-0134

No. of Pages: Cover + 8

SUBJECT: "Lawfully present" reg.

DISCUSSION: Bob Bach asked me to send this draft reg. to you. It is still under review @ DOJ.

BILLING CODE: 4410-10

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 103

[INS No. 1792-96]

RIN 1115-AE51

Definition of the Term Lawfully Present for Purposes of Applying for Title II Benefits Under the Social Security Act

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 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.

DATES: This interim rule is effective [Insert date of publication in the FEDERAL REGISTER]. Written comments must be received on or before [Insert date 30 days from date of publication in the FEDERAL REGISTER].

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.

FOR FURTHER INFORMATION CONTACT: Derek C. Smith, Assistant General Counsel, Office of the General Counsel; or Sophia Cox, Adjudications Officer, Adjudications Division; Immigration and Naturalization Service, 425 I Street, NW., Room 3214, Washington, DC 20536, telephone (202) 514-2895 and (202) 514-5014.

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 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(h) 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. [These 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 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.

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)(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 to make new applications for title II social security benefits. 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 deny new applications for title II social security benefits made by aliens who are not "qualified aliens" (as defined under section 431(b)), beginning September 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)(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 is considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning Review, and has been submitted to the Office of Management and Budget for review under E.O. 12866.

List of Subjects in 8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of Information, Privacy, Reporting and recordkeeping requirements, Surety bonds.

Accordingly, part 103 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 103--POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 552, 552(a); 8 U.S.C. 1101, 1103, 1201, 1252 note, 1252b, 1304, 1356; 31 U.S.C. 9701; E.O. 12356; 47 FR 14874, 15557; 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

2. A new § 103.12 is added to read as follows:

§103.12 Eligibility of lawfully present aliens for title II social security benefits under Public Law 104-193.

(a) Definition of the term an "alien who is lawfully present in the United States." For the purposes of section 401(b)(2) of Pub. L. 104-193 only, an "alien who is lawfully present in the United States" means:

(1) A qualified alien as defined in section 431(b) of Pub. L. 104-193;

(2) An alien who has been inspected and admitted to the United States and who has not violated the terms of the status under which he or she was admitted or to which he or she has changed after admission;

?

(3) An alien who has been paroled into the United States pursuant to section 212(d)(5) of the Act, except:

(i) Aliens paroled for deferred inspection or pending exclusion proceedings under 236(a) of the Act; and

(ii) Aliens paroled into the United States for prosecution pursuant to 8 CFR 212.5(a)(3).

(4) An alien who belongs to one of the following classes of aliens permitted to remain in the United States because the Attorney General has decided for humanitarian or other public policy reasons not to initiate deportation or exclusion proceedings or enforce departure:

(i) Aliens currently in temporary residence status pursuant to section 210 or 245A of the Act;

(ii) Aliens currently under Temporary Protected Status (TPS) pursuant to section 244A of the Act;

(iii) Cuban-Haitian entrants;

(iv) Family Unity beneficiaries pursuant to section 301 of Pub. L. 101-649, as amended;

(v) Aliens currently under Deferred Enforced Departure (DED) pursuant to an Executive Order;

(vi) Aliens currently in deferred action status pursuant to Service Operations Instructions at OI 242.1(a)(22);

(5) Applicants for asylum under section 208(a) of the Act and applicants for withholding of deportation under section 243(h) of the Act who have been granted employment authorization, and such applicants under the age of 14 who have had an application pending for at least 180 days.

(b) Non-Issuance of an Order to Show Cause and Non-Enforcement of Deportation and Exclusion Orders. An alien may not be deemed to be lawfully present solely on the basis of the Service's decision

not to, or failure to, issue an Order to Show Cause or solely on the basis of the Service's decision not to, or failure to, enforce an outstanding order of deportation or exclusion.

Dated:

Janet Reno,

Attorney General.

For New York's Newcomers, Anxiety Over Welfare Law

By CHARISSE JONES A1

In New York City, where more than half the residents are immigrants or the children of immigrants, a sense of panic and confusion has rippled from the shores of Brighton Beach to the streets of Washington Heights as the sweeping Federal welfare bill has become law, affecting millions of people, but perhaps none so immediately as the foreign-born.

Ever since President Clinton promised earlier this month to sign the legislation, a vast overhaul of Federal welfare policy that includes severe limits on Government aid to noncitizens, the number of immigrants and refugees seeking naturalization has jumped sharply in New York City, straining the services of immigrant organizations. Rumors have swirled around the new law, sending some immigrants into community centers in tears. Others have spent their days in denial, refusing to

UNCERTAIN WELCOME

Immigrants and Welfare

A special report.

believe that changes will take place at all. And advocates say that some desperate elderly immigrants even talk of suicide.

"We've been overwhelmed," said Manuel Matos, executive director of the Northern Manhattan Coalition for Immigrant Rights, which has seen the number of applicants for naturalization double in the last two weeks. "We don't have the capacity to meet the demand, and it hasn't been like this in the two-and-a-half years I've been here."

Advocacy groups are expanding hours and staffing to meet the rising demand for help in seeking naturalization. Grass-roots organizations

Continued on Page B5, Column 1

THE NEW YORK TIMES

MONDAY, AUGUST 26, 1996

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Continued From Page A1

are trying to find money to create networks to distribute food and clothing to immigrants whose benefits are cut off. And still others are passing out fliers, planning forums and taping spots for television and radio programs to educate immigrants about the complicated changes.

The legislation signed into law Thursday, which transfers control of much of the nation's welfare system from the Federal Government to the states, imposes many new restrictions on aid to legal immigrants who are not yet citizens. Among them:

¶Legal immigrants will generally no longer be eligible for food stamps or Supplemental Security Income, the Federal cash support for the poor, elderly and disabled.

¶States will be allowed, but not required, to deny noncitizens cash welfare, Medicaid, Title XX block grant benefits and other state and local public assistance.

¶Immigrants currently receiving S.S.I. or food stamps will technically be allowed to do so for up to one year, but individual cut-off dates will depend on when they undergo annual reviews for benefits. Those now receiving cash welfare, Medicaid or Title XX services cannot be denied those benefits until after Jan. 1.

¶Future legal immigrants will be denied most Federal benefits during their first five years in the United States, including Medicaid and public housing.

¶Sponsorship documents will become legally enforceable, requiring for the first time that those who sponsor new immigrants pay back any public benefits the immigrant receives. And in assessing new immigrants' applications for most Federal aid, the Government will take into account their sponsors' income. States will be able to do the same.

The law has some exceptions: Legal immigrants who are veterans, in the military, or who have worked at least 10 years without receiving Federal benefits will be entitled to the same assistance as American citizens. And refugees granted asylum will also be exempt from the restrictions on legal immigrants, but only during their first five years in the United States.

President Clinton, who had criticized the legislation's restrictions on immigrants as having nothing to do with welfare reform, has said he will try to change them in the next legislative session, but such change may be difficult because the immigration provisions represent major budget savings.

New Jersey officials have said the state will try to pick up the cost of benefits for the 20,000 immigrant families now receiving Aid to Families With Dependent Children, a bulwark of welfare that the new law abolishes. It is not clear whether New York State, which has long had the most generous and expansive poverty programs in the nation, will do the same. A task force is trying to determine how many legal immigrants are on the state's welfare rolls.

Scott Brenner, a spokesman for the House Ways and Means Committee, said that the new law merely reinforces existing — but seldom enforced — immigration policy, since noncitizens had technically never been entitled to public aid. He noted that legal immigrants would still be eligible for emergency medical services, school lunches and other specified Federal benefits.

But immigrant advocates say that the new law punishes lawful permanent residents, most of whom have worked and paid taxes as vigilantly as most citizens. And as harsh as the law will be for future immigrants, they say, it is particularly devastating for those already here.

1/2

"It's one thing to come in and know you're on your own no matter what," said Margie McHugh, executive director of the New York Immigration Coalition, an umbrella organization for some 100 groups working with immigrants and refugees in the New York area. "It's another thing to yank the net out from under people who have been here 10 or 20 years, who often worked the lowest paid and most unsafe jobs, and now find themselves in need of these services."

Fear of the Unknown

Amid Confusion, Rumors Prevail

Roberto Quirico's early life in New York was laced with work and dreams for the future. Mr. Quirico, a 45-year-old immigrant from the Dominican Republic, held various jobs and read about historical figures like George Washington and Franklin D. Roosevelt. Then, in 1992, he suffered a stroke. Heart trouble followed. He could not work and needed frequent medical care. And his hopes began to unravel.

"I need a doctor to be by my side all the time," Mr. Quirico said through an interpreter, wiping tears from his eyes. "If there's no Medicaid, death would be better for me."

But the changes Mr. Quirico fears will not apply to him because he became a citizen in June. Such reassurances, however, do not calm him. "I heard that even the naturalized citizens will be affected," he said. "I came here to improve my life, to prosper. But I think all my dreams are falling apart."

There is widespread confusion among immigrants over what the new law means to them. Newspapers for immigrants, from The Carib News to The China Press, have run articles on the legislation; and grass-roots groups have been trying to clarify facts. But in these close-knit communities, where even the simplest messages can be lost in translation, the primary source of communication is word of mouth. And often rumor prevails.

"Word doesn't tend to filter through that accurately," Mr. Matos said. "So the word on the street is you're not going to be treated in the hospital if you're not a citizen. Word on the street is if you owe a couple dollars on a parking violation, you may be deported. So there's widespread panic."

The rumors are spoken like truths in front of bodegas, on street corners and along the boardwalk in Brighton Beach, Brooklyn. Some believe a trip to the emergency room could lead to deportation. Some believe the children of noncitizens will be put out of school.

"Everybody is talking about it," said Maria Lopez, 47, a Dominican immigrant who receives A.F.D.C. and food stamps to care for her three children. "They say there will be no welfare, no Medicaid, no help at all," she said through an interpreter. "We will wind up on the streets. So the future means death."

Some are already trying to take advantage of the fear, according to Alexander Kopelman, spokesman for the New York Association for New Americans, a refugee resettlement organization. "People are falling prey to scams around citizenship," he said. "There are always people out there who are ready to bamboozle people who are scared and don't understand what the law's about."

Immigrant advocates say that most people seeking citizenship are not doing so to get public assistance. And in fact, 12 percent of all households in the city headed by someone foreign-born receives public assistance, compared with 14 percent of households headed by native-born New Yorkers, according the Department of City Planning, citing 1990 census data.

Advocates say that many immigrants feel it is no longer safe to be a noncitizen, in the face of the new welfare law and a separate measure moving through Congress that would crack down on illegal immigration. Some want to protect their rights and benefits, while others are eager to voice their opinions at the ballot box.

The Shorefront Young Men's and Women's Hebrew Association in Brighton Beach normally gets three or four calls a week from people wanting information about citizenship classes. But the week after the President announced he would sign the welfare bill, the center received 90 calls in one day, and there is a waiting list of more than 200 people. "They all try to push their way into class, but each person's situation is as desperate as the next," said Larry Fish, coordinator of group's English language services.

But even as they try to ease fears, many immigrant advocates acknowledge that they themselves are unclear about a law they find vague and complicated. Some say it remains to be seen how many Federal benefits will become off-limits to new immigrants. And they are concerned that some who remain eligible for benefits might lose them prematurely or by mistake.

Many say they hope that the state will step in to offset the loss of Federal aid. They cite the State Constitution, which requires the state to provide for the "aid, care and support of the needy."

But for some immigrants, worry has already turned to despair. "A number of our groups have reported that some of their elderly clients have said that they are contemplating suicide," said Ms. McHugh of the New York Immigrant Coalition. "They simply have no means to support themselves and do not want to die on the streets."

A Helpless Feeling

Uneasy Acceptance Of Authority

When How Chong Wong, 77, was a young girl in China, her family was the safety net.

"If you can't eat rice, you eat rice soup, but you share and take care of your parents," she said of those days. "But this generation is different. If there are no benefits, there is no food, there is no shelter."

Mrs. Wong's children have families of their own, so she and her 81-year-old husband live by themselves in a subsidized Brooklyn housing complex for the elderly. She is in frail health, with high blood pressure and glaucoma. And her husband's hearing and memory are fading. Sometimes he cannot hear her calling him. Sometimes he buys groceries in Chinatown, then forgets them on a subway car.

She skims the Chinese newspapers to learn of her fate as a legal immigrant. "I don't understand politics that much," she said through a translator. "We hope the Government will let us have our last years with secure income."

Chinese immigrants make up the third largest foreign-born group in New York City, and their naturalization rate, about 56 percent, is relatively high, city officials say. But some who work within the community say that there are many elderly Chinese who have not become citizens because they do not speak English well enough to pass the exam, or lack the desire to become citizens of a nation that once barred their ancestors.

Many also feel they cannot challenge the Government. "They just feel powerless," said Hong Shing Lee, director of the City Hall Senior Center, the city's oldest community center for elderly Chinese. "These people are generally coming from a background where they have to tolerate what the Government wants to do to them."

But Mrs. Wong said she hoped she could appeal to the Government to keep the $800 in S.S.I. and $60 in food stamps they receive. "My husband has become a citizen, but I cannot," said Mrs. Wong, who can barely read and write in her native tongue. "I tried to ask some of my friends to teach me English, but if they tell me last night, I forget this morning."

She has visited China once since immigrating to the United States nine years ago. But she does not believe she could live there again. "If this passes and the Government said we could not get benefits, that means they're trying to get us out." But, Mrs. Wong said, "I don't know where I'd be going."

Suspecting a Motive

Feeling Unwanted, Some Long for Home

On a corner in Washington Heights, in upper Manhattan, is a newsstand where people gather. They buy copies of Listin Diario and Ultima Hora, newspapers from home, then stay awhile to muse about life in the Dominican Republic, and life here.

For months, the Dominican presidential race triggered the most passion in their street-corner debates. But now conversations inevitably turn to the welfare law and the discrimination many believe inspired it.

"I think there's some kind of racism behind it," said Israel Peguero, a cabdriver who came here in 1985. "There is a war against the Hispanic community."

Dominicans are the largest immigrant group in New York City, their numbers hovering at roughly half a million. And a strong bond remains between those who have immigrated and those who stayed behind. So on a recent afternoon, a Dominican newspaper correspondent prepared to write an article on how the welfare bill would affect his former countrymen as some Dominican immigrants spoke of how, feeling unwelcome, they might return to the land of their birth.

"Because the situation is going down in the U.S., Dominicans are looking back to the country they came from like never before," said Effrem Ballenila, who helps prepare Hispanic immigrants for citizenship exams. "They don't focus only on the bill. They feel there's something behind it that's against the Latino community."

Maria Lopez came to New York in 1988. "In the Dominican Republic it was not possible to live a good life," she said. "We were only able to survive."

She found work as a machine operator in a Brooklyn factory. "At the beginning, I was very excited," she said. "I started working. I could deal with everything easier. But as time passed, it got difficult to get a good job. English is very hard for me to learn. The money I was making was not good enough to pay my rent, and to feed my children."

When the factory closed in 1992, she and her three children began to receive public aid. The family lives off $686 in A.F.D.C. payments, $310 in food stamps, and $50 a month in child support from her ex-husband.

Mrs. Lopez is taking citizenship classes, but her continuing struggle to learn English has made naturalization seem a distant possibility. "I don't know what my future's going to be like," said Mrs. Lopez, who said she worried most about her children. "My main fear is going into the streets, and the possibility of having no doctor for them."

So right now, she and many other mothers simply worry and wait. "All of us, when we get together we talk about the problems we're facing," she said. "That we're stuck, and there's no way to go further."

Stunned by Change

Legacy of Generosity Held in High Regard

The students sat in a classroom, speaking a new language at an old age, writing in notebooks with weathered hands.

They were Jewish refugees, gathered at the Shorefront Young Men's and Young Women's Hebrew Association in Brighton Beach, Brooklyn, to study to become American citizens. In the Soviet Union, where they spent most of their lives they could not speak Yiddish in peace, or worship at a synagogue. But they say the United States gave them the freedom and the financial help to build new lives.

That is why many said they simply did not believe the welfare law would come to pass. Many of the refugees insisted that the new law did not signify hostility to them. "It is the economics," said Manya Drubetskya, 65, a refugee from Ukraine. "The United States maybe does not have enough money."

Nearly three years ago, Emilya Shershevskaya, 72, and her daughter fled Belarus with just enough money to pay for their passage. They were part of the flood of immigrants from the former Soviet Union, most of them Jewish refugees, who came to New York City by the tens of thousands in the 1990's. And she, too, has found it hard to imagine that the stroke of a President's pen could eliminate a legacy of generosity.

"It's impossible to believe that America is going to leave a 72-year-old woman and her disabled daughter without a piece of bread," Mrs. Shershevskaya said through a translator. "I can't believe that could happen."

But if it does, she will have few options. Mrs. Shershevskaya, a widow, lives with her 48-year-old daughter, Rosalya, in a one-bedroom apartment near Bensonhurst, Brooklyn. Her son, Ilya, works as a nursing home attendant, but makes little money and has no medical benefits. And Rosalya could not pass the citizenship test: she has the mental capacity of a 7-year-old child.

"My worry is not the present, because we make do," Mrs. Shershevskaya said. "It's the future, because if anything is to happen, I'm not able to take care of my daughter on my own. I'm not able to work, and my son is working but is not able to support us."

Nearly every dime of the $556 in S.S.I. payments she and her daughter each receive goes toward rent and bills. Food stamps, $138 worth, buy their groceries.

But Mrs. Shershevskaya is not complaining. "I am very grateful to America for sheltering us," she said. "We have safety and we have peace of mind. And I'm always grateful for this because it's not something that America owes us. It's something that the country does out of its goodness."

She has known persecution. She remembers how a bandit broke into a Jewish family's home in Minsk and killed all of its members. She speaks of the night four years ago when she and a friend cowered in her apartment as neighbors banged on the door and yelled terrible things.

"No, I don't feel immigrants are persecuted," she said of the United States and its new laws. "But there is a sense we're not welcome. It's more a sense I sometimes get when people look at me when I pass them on the street. There's just a feeling of being unwelcome, when people seem like they move away from you because you are from Russia."

It is subtle here, but haunting all the same. "In Minsk, I heard it first hand, when people would say 'You Jews should all go to Israel. What are you doing here?'

"Here, the feeling I sometimes get is not dissimilar."

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residence in favor of the roomy privacy of a led hotel cottage near cliffs overlooking the beach. is the same resort hotel where Reagan's senior staff mped out during his extended vacations in the 1980s.

Dole said he expected to tune into the Democratic convention each night, but he is also using the time to meet with advisers such as economist Martin Anderson and former defense secretary Donald Rumsfeld, both of whom have been traveling with him much of the past week.

Dole has already publicly taunted the Democrats by stopping at a Republican picnic in Palos Park southwest of Chicago on Sunday to declare that a Dole administration would restart the so-called war on drugs.

While drugs was the topic, Dole knew what he was doing by coming to suburban Cook County on the eve of the convention. After all, it was George Bush who paraphrased Woody Allen saying that, ``Eighty percent of politics is just showing up."

Later Sunday night, at a campaign rally in Portland, Ore., Dole claimed that starting Monday ``the Windy City will really be windy. There'll be a lot of hot air coming out of the convention."

He also told supporters that his emphasis on cutting taxes and balancing the budget has been effective in his drive to replace the president.

``What it did was blow a hole in his big lead and what it's going to do is blow him out of the water," said the 73-year-old former senator who has been getting more vigorous as his campaign gears up to the fall schedule.

In Portland, a local group rolled out five vintage World War II aircraft and the pilots dressed in the uniforms of the time to greet Dole. He posed with pictures and after admiring the planes, the former Army lieutenant quipped: ``I had to walk, I didn't get to fly around."

Running mate Jack Kemp began a five-day working vacation in Laguna Beach, Calif. on Monday, staying at the oceanside home of his older brother, Tom, a retired Coca-Cola bottling executive. He planned to join Dole in Santa Barbara Tuesday morning for a meeting with campaign economic advisors.

Embattled Illinois Sen. Moseley-Braun says she'll 'absolutely' run again By Rick Pearson and John Kass Chicago Tribune (KRT)

CHICAGO Embattled Sen. Carol Moseley-Braun, D-Ill., on Monday declared herself ``absolutely, positively" a candidate for re-election in 1998, even as Chicago Mayor Richard M. Daley called for her to explain why she took a secret trip to visit Nigeria's military dictator.

Daley's criticism stood out Monday on a day when fellow Illinois Democrats sought to push Moseley-Braun's controversial visit with Gen. Sani Abacha out of the glare of the Democratic National Convention.

Sen. Paul Simon, D-Ill., acknowledged that Moseley-Braun may have made a mistake by taking the trip. But he and others, trying to paint a picture of party unity on the opening day of the Democrats' national nominating convention in Chicago, said Illinois voters should judge Braun on her overall legislative record.

Rep. Jesse Jackson Jr., D-Ill., sought to head off talk of a possible primary challenge against Moseley-Braun in two years, saying that although he disagreed with her visit, he will support her re-election.

But Daley, speaking to reporters at an impromptu news conference, said of the trip: ``I'm just as alarmed as anyone else. She has to explain this to the American public and the people of Illinois."

Moseley-Braun refused to discuss her trip during a convention kickoff breakfast for the Illinois delegation.

But when asked whether she would seek re-election in two years, with Republicans and even some Democrats believing that she is politically vulnerable, Moseley-Braun responded: ``The answer is absolutely, positively. And if you want to run me for president in the year 2000, maybe I'll do that."

Simon, who is retiring from the Senate, initially said he could not make a judgment on Moseley-Braun's trip until he had spoken to her.

``I am one of the real critics of the regime in Nigeria. It's a dictatorship, and it's been a very harsh, repressive dictatorship," said Simon, a co-sponsor of legislation to place sanctions against Nigeria for its poor human rights record. Moseley-Braun opposes sanctions.

He added: ``I think people should be judged not by one mistake but by their overall record. Did Carol make a mistake in this case? I think she may have. But is the overall record a good one? I think it is."

Jackson, a first-year congressman who represents the South Side and south suburbs, called Moseley-Braun's trip ``ill-advised" and ``ill-informed."

But he dismissed speculation that he might be interested in challenging Moseley-Braun in the Democratic primary in two years.

``I do support the senator's re-election in 1998 if that is, in fact, what she chooses to do," Jackson said. ``We disagree on this one issue, but on 98 out of 100 other issues, we certainly do agree. Sen. Carol Moseley-Braun has been good for the state of Illinois."

Similarly, Rep. Bobby Rush, D-Ill., said that although he opposed the Nigerian regime and considered Moseley-Braun's trip a mistake, he did not think she had hurt herself with black voters.

``The black community is going to wrap their arms around her," Rush said. ``They're going to protect Carol Braun, our only African-American senator."

Election-year push to naturalize new citizens bypasses safeguards By David Jackson Chicago Tribune (KRT)

CHICAGO A short walk from the pomp and hoopla of the United Center, the mariachi bands played and local politicans gave patriotic speeches as nearly 5,000 immigrants gained their U.S. citizenship over the weekend in a civic ceremony of keen interest to the Democrats.

Newly naturalized Jose Enciso, 30, voiced a common theme as he fingered the handsome embossed letter of congratulations he received from President Clinton. ``I was waiting for this time to vote because I want to elect the best man for the country," said Enciso. ``I think Clinton's going to be my choice."

A new Clinton administration program, marked by a series of mass swearing-in ceremonies across the country, is expected to grant citizenship to some 1.3 million immigrants this year, more than in any other year in American history and nearly triple the total of 459,846 approved in 1995, according to federal immigration records and interviews.

But in Chicago, at least, the election-year push by the U.S. Immigration and Naturalization Service has taken on a decidedly partisan tone, melding the historically shining goal of citizenship with the old-fashioned machinery of ward politics.

In the rush to create new citizens, the INS has taken on help from local Democratic political activists. In the process, many of the traditional safeguards against criminals and unqualified applicants have been broken down, internal INS records and interviews show.

Backround checks for police records, Social Security fraud and child support payment are being done haphazardly by overworked and temporary staffers, INS reports and interviews with staffers show. Fingerprints are being collected by untrained volunteers instead of law-enforcement authorities. Green cards, which have a lucrative black-market value, are sometimes not gathered at the massive swearing-in events. And community groups have pressured INS officials to remove caseworkers who deny applications.

Nonetheless, enthusiasm for the program's potential to register Democratic voters from newly naturalized citizens extends to the highest levels of the White House, where Clinton himself helped put Chicago Democrats involved in the INS program in contact with his senior political aides, according to local activists helping organize the campaign.

The swearing-in events are being held in five cities

Chicago, Los Angeles, New York, Miami and San Francisco which together accounted for about 75 percent of the service's backlogged applications, INS records show.

Those cities are also key to four swing states the Clinton campaign needs to win in November. Coincidentally or not, the swearing-in ceremonies are timed to reach a crescendo by the end of September, just before the Oct. 8 deadline for registering to vote in the presidential election.

In Chicago, where some 55,000 immigrants have been granted citizenship so far this year, there will be two additional events in September from which another 15,000 new citizens are expected to emerge. No new swearing-in ceremonies are scheduled after that.

The stated purpose of Clinton's new $77 million Citizenship USA program was to eliminate the backlog of some 600,000 applicants stuck in the immigration service's processing pipeline. Most of those people established legal residency under the 1986 Immigration Reform and Control Act and became eligible for citizenship in 1994.

But in addition to clearing the backlog, INS officials launched an aggressive outreach program to net an additional 700,000 new citizens, the immigration service's records show.

Community advocacy groups, as well as local Democratic politicians, were given the task of scouring their precincts to find immigrants. The groups were licensed to take the prospective citizens' fingerprints, prepare their applications and help them study for citizenship tests.

In Chicago, for example, more than half of the 1996 applicants were brought in by community groups, INS records show, and nearly a quarter of the total came from the United Neighborhood Organization, or UNO, a Hispanic group long active in local politics.

The innovative program ``may provide the Democrats with a strategic advantage at next year's Convention," UNO's then-executive director, Daniel S. Solis, wrote to First Lady Hillary Rodham Clinton in September 1995.

``Accelerating the naturalization process for thousands of eligible Chicagoans is key to the Campaign's goal of 96,000 new voter registrants for 1996," Solis wrote.

Rep. Luiz Gutierrez, a Chicago Democrat, is one of 20 ``Citizenship Outreach Coordinators" licensed in Chicago by INS. The non-profit outreach organization he created with other Democratic politicians has ``handled over 10,000 applications," Gutierrez said in an interview.

Immigration officials said the community groups use police and deputy sheriffs to fingerprint applicants, as recommended by federal guidelines. But at Gutierrez's office, that work is done by a local photographer.

``Sometimes when it's too many people, I have my children take the fingerprints," said photographer Miguel Zuno, 57.

In a warren of offices, behind the newly built hearing rooms where mothers sit on the floor next to sleeping toddlers, immigration workers are awash in brown case files.

``The cases you're seeing slip through are people who have two or three arrests for crimes like burglary," said INS deportation officer Tom Conklin, who transferred out of the Citizenship USA program in April.

``They are not stopping people the way we used to," Conklin said. ``The big initiative is to get all these people eligible to vote and registered. It's just a rush for numbers."

(EDITORS: STORY CAN TRIM HERE)

At a ceremony on a sweltering day earlier this month at Soldier Field, 11,000 new citizens were sworn in, but immigration workers moved through the crowds with boxes of unsigned citizenship certificates and gave them to people without taking back their green cards, as required by law. A few weeks later, the service mailed a form letter to those who attended:

``PLEASE send us your Alien Registration Card (green card) by mail if you still have it."

Immigration workers said a green card can be fraudulently sold for up to $30,000 on the street.

An internal INS assessment of the Chicago office reported in July that the denial rate for prospective citizens had dropped to an unprecedented 6 percent, in part ``because of the perception of supervisors that denials are discouraged." Before the program, the denial rate was about 33 percent, Conklin said.

The INS report also said that when immigrants were denied citizenship, community leaders sometimes called the district director and had the INS officials ``removed" to other details. The result was ``an insidious effect on the quality of all interviews," the report said.

In July, the INS general counsel transmitted a special legal opinion to all regional directors saying the use of volunteers such as the UNO workers in Chicago was ``improper" and ``impermissible" and that it violates federal law.

INS Acting District Director Brian Perryman said in an interview that his office was ``maintaining the integrity of the process," and trying to insure that unqualified immigrants didn't slip through.

He insisted that the new push for citizens ``has absolutely nothing to do with people voting for a particular political party. We don't care how they vote."

But in Washington, the Republican-led House Committee on Government Reform and Oversight has begun investigating how many unqualified applicants gained citizenship through the program, and whether standards were relaxed for political purposes.

At UNO's office in Chicago, executive director Juan Rangel proudly showed the computer database with detailed information on the 35,988 immigrants the Latino community organization has processed for citizenship and voter registration since the 1992 election.

Come election day, UNO workers will drive the new citizens to the polls, as Democratic ward organizations have done in Chicago for decades.

``There is a value in the old precinct organizations, in being able to drum up that excitement," Rangel said.

Solis said, ``I think what you'll see is that most of these people are going to be Democrats."

After Solis was elected 25th Ward alderman in March, Mayor Daley appointed him chairman of the newly created Chicago Citizenship Assistance Council. The council enlisted the Chicago and Cook County boards of elections to register new voters at the naturalization ceremonies. At a May 24 ceremony, for example, 5,855 Chicagoans filed voter-registration applications, city board records show.

Solis's sister, Patti Solis, is a former assistant city treasurer who joined the Clinton campaign in 1991 and is now Hillary Rodham Clinton's scheduler. In September 1994, when President Clinton came to Chicago for a Democratic Senatorial Campaign Committee fundraiser, Daniel Solis joined Clinton and a dozen local Democrats at Eli's steakhouse for dessert, where ``I was lucky enough to sit next to him," Solis said.

``I said, There is going to be a great opportunity: there may be a million new voters. He looked at me and said, `We've got to do voter registration,' and I said, `No, no, no, Mr. President, we have to get all these citizens naturalized."

Solis said he was instructed by Clinton to begin correspondence with senior White House political aides Harold Ickes and Rahm Emanuel.

Clinton ``is a smart man and realized there are going to be great benefits for the Democrats," Solis said.

A few months later, in April 1995, Citizenship USA was identified as one of the major goals of Vice President Al Gore's effort to reinvent government, and a ``Naturalization Re-Engineering Team" was dispatched to Chicago and the four other cities.

The depth of Gore's commitment to the program may be measured by a memo one of his top aides wrote proposing that INS Commissioner Doris Meissner give district directors her ``authority to waive INS rules and regulations" to ``enhance the speed and convenience" with which legal immigrants could become citizens.

In a fax accompanying the proposed memo, the Gore aide, Doug Farbrother, argued that to ``get the results the vice president wants,

I need to get plenty of authority into the hands of your district directors in the big cities. I simply don't have

California Governor Acts to End State Aid for Illegal Immigrants

THE NEW YORK TIMES,

WEDNESDAY, AUGUST 28, 1996

Moves Rapidly Under New Federal Welfare Law

A1

By TIM GOLDEN

SAN FRANCISCO, Aug. 27 — Moving aggressively to cut off state services to illegal immigrants under the new Federal welfare overhaul, Gov. Pete Wilson today signed an executive order that would end those immigrants' access to benefits ranging from prenatal care and public housing to child abuse prevention programs.

State officials said the welfare legislation that President Clinton signed into law last Thursday had won them a partial but important triumph in their struggle to implement the provisions of Proposition 187, the ballot initiative — approved overwhelmingly by California voters in 1994 but enjoined by court order since then — denying state services to people who enter the United States illegally.

Neither the new Federal welfare act nor the Governor's order would bar illegal immigrants from public schools, as the ballot proposition was supposed to, or from emergency health care. But officials said the new restrictions would cover hundreds of other state services and programs, including many that were not contemplated under the initiative.

"Today's executive order, I think, is a vindication, as is the act itself," Mr. Wilson said at a signing ceremony at the State Capitol in Sacramento. Both actions, he said, answered Californians' demand "that the Federal Government end the magnetic lure of public services and benefits that have substantially spawned our national crisis of illegal immigration."

But like Proposition 187, the Governor's action was met immediately by the threat of challenges in the courts.

Civil rights advocates argued that the state government had effectively jumped the gun by failing to wait for regulations that the Justice Department must issue within the next 18 months on how immigration provisions of the Federal law should be implemented. Mr. Wilson, the advocates said, usurped Federal authority over immigration laws by effectively authorizing almost any state employee to begin asking the people they serve whether they entered the United States legally.

"If they try to implement any part of this tomorrow, we will be in court

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at 12:01," said Mark Rosenbaum, the legal director for the American Civil Liberties Union of Southern California, one of the lawyers who won a Federal injunction last November against implementation of Proposition 187.

Mr. Wilson, an ardent supporter of the ballot initiative, has led a small but influential group of governors in demanding both Federal compensation for the costs incurred by states in helping illegal immigrants and the right to cut off services to them.

His action would not affect legal immigrants, who will lose their food stamps, disability assistance and most other Federal welfare benefits under the new law. But the law also gives states the option to cut off Medicaid to legal immigrants, and Mr. Wilson said before its passage that he supported that provision.

State officials said they did not yet know exactly what aid, programs and licenses would be covered by the executive order or how much money

Aides say the actual cutoff of assistance will happen in a month or two.

its restrictions might save. In part, the order calls on all state agencies to determine what assistance they now provide to undocumented immigrants and to then report back.

But Mr. Wilson's chief spokesman, Sean T. Walsh, said the order would bar illegal immigrants from long-term health care and all professional and commercial licenses. In addition, it would bar them from admission to state colleges and universities unless they paid the full cost of their education.

A spokeswoman for the state Health and Welfare Agency, Lisa Kalustian, said California's prenatal care programs alone served more than 70,000 illegal immigrants each year at a cost of $69.3 million.

Mr. Walsh said that under the governor's order, some of the programs now available to illegal immigrants "could be cut off tomorrow, or within a week." He said it was more realistic, however, to expect the cuts to become effective within 30 to 60 days.

The California government acted under a provision of the new Federal law that makes illegal immigrants ineligible for all state and Federal benefits except a specific handful of services like emergency medical care, immunization programs and emergency disaster relief. The Federal law allows the states to extend their assistance to illegal immigrants only by enacting a new state law "which affirmatively provides for such eligibility."

Some immigrants-rights advocates said they agreed that most of the restrictions expected to come from Mr. Wilson's order would eventually be allowed under the Federal legislation.

"The welfare bill does explicitly give the states the right to do almost anything they want on this, and Wilson is doing it in a very political way," said Cecilia Muñoz, an official of the National Council of La Raza, an umbrella organization of Hispanic groups. But she cautioned that the move would come with high costs, in both money and discrimination.

"These kinds of things cost much more to implement than they save," Ms. Muñoz said. "And anybody with the wrong last name is immediately suspect. If somebody like me applies for a cosmetology license, I could be denied access to things I have a right to because of my ethnicity, and I am a U.S. citizen."

Lawyers involved in the battle to keep Proposition 187 from taking effect said they believed that the injunction against it, issued last year by a Federal district judge, Mariana R. Pfaelzer, would at least hinder the implementation of the illegal-immigrant parts of the welfare law. The lawyers noted that the court action had specifically barred state employees from asking the immigration status of people they suspect of having entered the country illegally.

The welfare law stipulates that the Attorney General will issue regulations within 18 months about how Government agencies may screen applicants for Federal benefits, and that states should issue their own, complementary rules within 24 months after that.

"In order to deny anybody anything, you have to make a determination about someone's legal status, and under the welfare bill there is an elaborate process set up for the development of a reliable verification process by Federal personnel," Mr. Rosenbaum said. "The cornerstone of the 187 injunction is that state personnel cannot act as immigration agents."

But Daniel M. Kolkey, a legal adviser to Mr. Wilson, said the new Federal law had effectively overridden the judge's order.

"The advocates of benefits to illegal immigrants are at least being inconsistent," he said. "They argued that the state could not implement Proposition 187 because the initiative was pre-empted by Federal law. Now there is a Federal law."

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WEDNESDAY, AUGUST 28, 1996

REPORT SHOWS U.S. WAS TOLD IN 1991 OF CHEMICAL ARMS

'LEAKING SHELL' IS NOTED

Data on Iraqi Munitions Cited in Files Hidden in Pentagon From American Troops

A1

By PHILIP SHENON

WASHINGTON, Aug. 27 — A long-classified intelligence report shows that the Pentagon, the White House, the Central Intelligence Agency and the State Department were alerted in November 1991 that chemical weapons had been stored in an Iraqi ammunition depot that was blown up earlier that year by a group of American troops.

The report was relayed by the Joint Chiefs of Staff to American military commanders around the world and then remained hidden in files at the Pentagon and other Government agencies even as the Defense Department issued statement after statement suggesting that it had no evidence that large numbers of American troops might have been exposed to chemical weapons.

The November 1991 report, which was marked "priority," was never shared with the troops themselves. The estimated 150 American soldiers who participated in the demolition mission in March 1991 in the southern Iraqi desert were informed only this spring that they may have been exposed to a cloud of mustard gas and sarin, a nerve agent.

Many of the soldiers who destroyed the arms depot have since developed debilitating medical problems that they say may be linked to their exposure to chemical weapons, and nearly 60,000 other veterans of the gulf war have asked for special health screenings to determine if they are suffering from ailments related to their service in the gulf.

The 1991 intelligence report was distributed to the White House Situation Room, the C.I.A., the Defense Intelligence Agency and the offices of the Secretary of State.

Pentagon officials said much of the material in the report had been obtained from United Nations arms inspectors who traveled to Iraq after the war ended on Feb. 27, 1991, and who had found evidence of chemical

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weapons at the massive arms depot at Kamisiyah when it was destroyed.

While the author's identity and other information was deleted from a declassified version of the 1991 report on national security grounds, the headline of the document includes the words "Kamisiyah Ammunition Storage Facility" and refers to the "chemical munitions" stored there.

It noted that a "leaking shell" had been found, but that "other than the leaking shell, all the shells appeared to be in good condition." Because of deletions from the report, it was not clear what had been reported leaking from the shell.

Most of the depot was destroyed on March 4, 1991 — eight months before the intelligence report was prepared — by soldiers serving in the Army's 37th Engineer Battalion. In recent interviews with 37 former members of the battalion, 27 reported that they seriously ill, many with mysterious infections and gastrointestinal ailments.

The undeleted portions of the report make no mention of American troops nor of the destruction of the depot, which would leave open the possibility that Government analysts did not understand the significance of the document when they first read it. The document was labeled "Information Report — Not Finally Evaluated Intelligence."

But the fact that the Joint Chiefs obtained an intelligence report on Kamisiyah in late 1991 — and that it would be so widely distributed — would suggest that someone in the Government should have recognized years ago that American troops may have been exposed to chemical weapons when the huge Kamisiyah depot was destroyed.

The depot sprawled across nearly 20 square miles, and the explosions produced a black cloud that stretched over hundreds of square miles of the Iraqi desert.

A copy of the 1991 Pentagon report was obtained by a former Congressional researcher, James J. Tuite 3d, who said the document was posted for a time last year and early this year on an Internet site maintained by the Pentagon for gulf war veterans. That document and hundreds of others were pulled off the Internet site last February.

A Pentagon spokesman, Capt. Michael Doubleday, said that it was not surprising that the report would have drawn little attention in 1991, given the flood of other intelligence information reaching the Government after the war.

"It was not setting off a lot of alarms," he said, noting that five years ago few veterans were complaining of health problems, and therefore Pentagon investigators had no reason to suspect that troops might have been exposed to chemical weapons. "There was no such thing at this point as a gulf war illness."

Captain Doubleday said of the 1991 report, "I would think that this would not have caused any particular notice outside of the analysts who were at that point trying to get a handle on exactly what the Iraqis did or didn't have in terms of weapons."

While the report was labeled "priority," he said that "priority" was in fact the designation assigned to intelligence of only moderate importance — "immediate" and "flash" are higher levels — and that "during a wartime footing, a priority message will almost never get through."

Early evidence that the Pentagon knew there were chemical weapons deployed near U.S. forces.

He said that it was only last fall that Government analysts began to understand how the destruction of the Kamisiyah depot might have resulted in the exposure of American troops to chemical weapons.

It is not clear that senior officials of the Bush Administration, which was then in control of the Government, ever saw the report.

A spokesman for Colin L. Powell, the retired Army general who was then Chairman of the Joint Chiefs, said the general had no recollection of the report. "Typically, something like this would not go to the Chairman or someone at that level," said the spokesman, Bill Smullen.

Calls to spokesmen for James A. Baker 3d, who was then Secretary of State, and Brent Scowcroft, who was President George Bush's national security adviser, were not returned.

Mr. Tuite, who was the chief investigator in a Senate Banking Committee investigation of gulf war illnesses from 1993 until last year, said the report was put on the Pentagon site on the Internet — http://www.dtic.dla.mil/gulflink/ — last July along with hundreds of other declassified documents.

But the documents disappeared from the site in February. Pentagon officials said that the documents were removed from the Internet because of a dispute between the Defense Department and the C.I.A. over whether the material had been declassified too quickly and whether they disclosed intelligence methods. Pentagon officials said that it was not clear whether the November 1991 report was now considered classified or unclassified.

Mr. Tuite said that he found it significant that the documents — and the November 1991 report, in particular — had been withdrawn from public view "because they may have relevance to what is causing the health problems of these soldiers."

He added, "I think the significance of this document is that it shows that the Government was aware there were chemical weapons in forward-deployed areas where U.S. forces were located, and that they were aware of that since at least November of 1991."

The Banking Committee investigation concluded that there was evidence that Iraqi chemical weapons had been released during the gulf war at levels sufficient to harm American troops.

The conclusions were rejected by the Defense Department, which until this year had insisted that it had no evidence that American troops were ever exposed to chemical weapon in the gulf war.

In a statement to gulf war veterans in May 1994, Defense Secretary William J. Perry and the Chairman of the Joint Chiefs of Staff, Gen. John M. Shalikashvili, said that "there is no information, classified or unclassified, that indicates that chemical or biological weapons were used in the Persian Gulf."

Earlier this month the Pentagon made public a report that listed reports of seven detections of chemical weapons in the first week of the air campaign gulf war near areas of Saudi Arabia where tens of thousands of American troops were stationed. Groups of ailing gulf war veterans have cited the reports in contending that they were made ill by chemical weapons.

The Personal Responsibility and Work Opportunity Act of 1996
HR 3734

On August 22, 1996, the President signed major welfare reform legislation that seeks to reduce dependency, move welfare recipients into work and devolve authority over welfare to the states. The legislation also imposes new restrictions on immigrants' eligibility for public benefits. The new law:

- bars illegal, or "not qualified aliens," from most federal, state and local public benefits

- requires INS to verify immigration status for most federal public benefits

    * to extent feasible verification system should resemble SAVE

    * mandates verification for "not qualified" only, not required to verify citizenship

- bars, for the first time, most legal immigrants from receiving most federal means-tested public benefits

    * restricts current and future (who enter after enactment) legal immigrants from food stamps and Supplemental Security Income (SSI)

    * restricts future legal immigrants from most federal means-tested programs for their first five years

- increases the responsibility of immigrants' sponsors

    * makes affidavit of support legally enforceable

    * imposes new requirements on sponsors

    * expands sponsor-deeming requirements to more programs and lengthens deeming period

- gives states broad flexibility in setting eligibility rules for legal immigrants

    * allows states to bar current legal immigrants from major federal programs

    * allows states to bar legal immigrants from state programs

Summary of HR 3734
"Personal Responsibility and Work Opportunity Reconciliation Act of 1996"

	Current Law	New Law - Welfare Reform
Illegal Immigrant Eligibility	Illegal immigrants ineligible for most federal public benefits, exceptions include emergency Medicaid, WIC, public education, public health services, child nutrition programs, child care, child protection, maternal care programs. Immigrants who are eligible for benefits because they are considered PRUCOL - permanent residing under color of law - varies by program.	"Not qualified" immigrants barred from any federal (401), state or local public benefit* (411), defined as: • any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any similar benefit for which payment or assistance is provided to an individual, household or family eligibility unit by an agency of the U.S. (or state or local government) or by appropriated funds of the U.S. (or state or local government), and • any governmental contract, loan, professional or commercial license (nonimmigrants may receive a license or contract related to visa)(401(c)). • social security (Title II) barred to those not lawfully present **(as defined by the AG)** who file applications in month after enactment (401(b)(2)). Exceptions: (401(b)) • emergency Medicaid • short-term emergency relief • immunization and testing and treatment for communicable diseases • programs, services, or assistance **specified by the AG,** which (i) deliver in-kind services at the community level, including through public or private nonprofits (ii) do not condition assistance on income or resources; and (iii) are necessary for the protection of life or safety • current recipients of housing or community development funds • those eligible for free public education under state or local law are not ineligible for school lunch and school breakfast programs on basis of citizenship, alienage, or immigration status (742(a)) • Only those with social security numbers can receive EITC (Earned Income Tax Credit) (451) "Qualified aliens" include: (431(b)) • LPRs • refugees and asylees • those with deportation withheld (Sec. 243(h)) • parolees (Sec. 212(d)(5)) admitted for at least 1 year • conditional entrants (pre 1980 Sec. 203(a)(7)) • Exception from federal, state, local bar for otherwise qualified, work authorized nonimmigrants or LPRs for whom US is required to pay benefits under reciprocal treaty, **as determined by AG, in consult with Secr. State.** (For state, local benefits, as determined by Secr. State, in consult with AG) (401(c)(2)(b)), 411(c)(2)(b)) *An alien who is not a qualified alien, nonimmigrant or parolee for less than 1 year is ineligible for any state or local public benefit (411)

Legal Immigrant Eligibility	No bars on legal immigrant eligibility	Current and future (those who enter on or after date of enactment) qualified aliens (i.e. LPRs) are barred from food stamps and SSI until citizenship. Eligibility for current recipients shall be redetermined between date of enactment and one year after enactment (402). Exceptions: (402(a)(2)) • refugees and asylees for first five years after admission as a refugee or after granted asylum • alien whose deportation is withheld for first five years • lawfully resident veterans and those on active duty in the Armed Forces; their spouse or unmarried dependent children • LPRs who work 40 quarters that qualify for Title II social security and who did not receive any federal means-tested benefit (after 12/31/96) during any of those quarters (work of parents or spouse can be credited to children under 18) (435). Future qualified aliens barred from federal means-tested programs (not defined) for first five years. Exceptions: • refugees and asylees • those with deportation withheld • lawfully resident veterans and those on active duty in the Armed Forces; their spouse or unmarried dependent children Program Exceptions to 5 year bar on federal means-tested benefits: (403(c)) • emergency Medicaid • short-term, non-cash emergency relief • National School Lunch Act • Child Nutrition Act • immunizations and testing and treatment for communicable diseases • foster care and adoption assistance (if foster or adoptive parent is a qualified alien) • programs, services, or assistance specified by the AG, which (i) deliver in-kind services at the community level, including through public or private nonprofits (ii) do not do not condition assistance on income or resources; and (iii) are necessary for the protection of life or safety • student assistance under Higher Education Act or Public Health Service Act • means-tested programs under ESEA • Head Start • JTPA additional exception for refugee and entrant assistance for Cuban-Haitian entrants (403(d)).

State Options re: bars	According to Supreme Court, states not permitted to restrict legal immigrant eligibility for benefits *(Graham v. Richardson)*; states may restrict illegal immigrant eligibility for state/local benefits	Illegal: Although states are required to bar not qualified aliens from state programs: States may make aliens who are not lawfully present in the U.S. eligible for state and local benefits through enactment of a state law (411(d)). States are not prohibited or required to provide non- qualified aliens (i.e. states have option to provide illegal immigrants with) benefits under National School Lunch Act or Child Nutrition Act (except school lunch and breakfast programs which must be provided to those eligible for free public education), Sec. 4 Agriculture and Consumer Protection Act, Emergency Food Assistance, food distribution program in Indian reservation under Food Stamp Act. Legal States have option to bar current and future qualified immigrants (same immigrant groups excepted in 402(a)(2)) from AFDC (now temporary assistance for needy families block grant), Title XX social services block grant, Medicaid (since future immigrants are barred for first five years, amounts to an option to extend the bar for future immigrants and to apply it to current immigrants). Can bar until citizenship or until work 40 qualifying quarters. Current recipients continue to be eligible until 1/1/97. States are authorized to determine eligibility for any state public benefits (no definition) of current and future qualified aliens (with same exceptions as listed under 402(a)(2)), nonimmigrants or those paroled for less than one year; current recipients eligible until 1/1/97 (412).
Affidavit of Support	Affidavit of support not legally enforceable; sponsor does not have to be petitioner	Affidavits accepted by AG or consular officer must be executed as a contract which is legally enforceable against the sponsor by the sponsored alien, the federal or any state government that provides means-tested benefits (423). Enforceable until 10 years after alien last receives a benefit; enforceable for benefits provided until immigrant naturalizes. Sponsor must be citizen, national or lpr; aged 18 or over; living in the 50 states or DC. Sponsor must be petitioner. **Sponsor must notify AG** and the state in which sponsored alien is resident within 30 days of moving. **AG (in consult with Sec. of State and HHS) shall formulate affidavit** not later than 90 days after enactment. Requirements for affidavit apply to those executed on date specified by AG, which shall be between 60 and 90 days after formulation of affidavit.

Deeming	A portion of sponsor's (and the sponsor's spouse's) income is deemed to the immigrant for 3 years for AFDC and food stamps, for 5 years for SSI (until 10/1/96) when determining eligibility for benefits	For any federal means-tested program, the full income and resources of a sponsor is deemed to immigrant until citizenship or until immigrant has worked 40 qualifying quarters (421). Deeming does not apply to excepted programs listed in legal immigrant eligibility (403(c)). Programs that currently deem must apply new deeming rules to eligibility determinations made after enactment; programs that do not currently deem must apply new deeming rules beginning 180 days after enactment (421(d)). (The new deeming rules apply only to future immigrants, who are barred for 5 years from the same programs to which deeming applies. Therefore, deeming effectively does not kick in until after 5 year bar, except for sponsored veterans and deportation withheld.)
State Options re: deeming	States are not permitted to deem	States may deem for legal immigrants for state-funded programs; program exceptions include first seven in 402(a)(2) list (422). (means that states have option to deem, bar, or not restrict at all in their own programs)
Verification of Status	SAVE required to be used to verify status for AFDC, food stamps, Medicaid, unemployment compensation, education assistance, housing assistance	No later than 18 months after enactment, **AG shall (after consult with Sec. HHS) promulgate regs** requiring verification that a person applying for a federal public benefit (as defined in 401(c)) is a qualified alien and is eligible to receive the benefit. To extent feasible, regs shall require that information requested and exchanged be similar in form and manner to that under SAVE (432). No later than 24 months after regs are adopted, states administering federal benefits shall have verification system in effect. "There are authorized such sums as may be necessary to carry out the purpose of this section."
Reporting of illegal immigrants to INS		States providing benefits must, at least 4 times annually and upon request of the INS, **report to the INS** the name, address, other information, on any individual who the state knows is unlawfully in the U.S. (411A). No state or local government may be prohibited from **sending to or receiving from the INS** information regarding the immigration status, lawful or unlawful, of an alien in the U.S (434).

Revised 8/22/96

Immigration Issues 8-2-96

1. Implementation issues
2. "Remedial" initiatives
3. Long term – legislative changes

1. a. Food stamps. goes into effect New people – New.
New apps – indig. immed upon enactment
(unless exempted)
State basically has yr to do can-by-case review – certification process – of whether fits w/in exemptions

b. SSI – New applicants – off
people – new. Old people –
Redetermine by Jan 1, 1998. People go off as they do the redetermination, not applicants?

c. Medicaid – New people – banned for 5 yrs
Current recips – state option.
Some of me what "means-test" programs are

AG/HHS – has to set up verification system – to determine status
Never had to do this before.

2. Remedy
Need guidance – how do states verify?
should be uniformity, no?
Usually left to states.

Why gov't – to do this – need look what's like!

b) Outreach - how to help w/ naturalizati- effort
state/local
fact sheets - how to hash info other langs?

c) Authority to provid $ to certain areas to encourage them to provide Medicaid etc???

d) More disability waivers for naturalizati-.

e) $ specif. provided to SSA for redetermination
how broad??

Early Tues mtg.

Signing - when?
no decision when
delivering it.

Media recs

8 UIC 1427a

Cong has plenary power over nat.
Does auth? Only of aliens
who served in armed forces?

AG – ltd auth to set stds for who will be naturalized

leg – 5-yr res req
good moral character
committed to the happiness
of the US.

AG – auth to interpret above "moral character" ⇐ (around edges)
– literacy reqs – by reg.

One other const issue – drug testing prohibition
~~Allow~~

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

LRM NO: 5292
FILE NO: 1073

8/2/96

LEGISLATIVE REFERRAL MEMORANDUM

Total Page(s): _____

TO: Legislative Liaison Officer - See Distribution below:

FROM: James JUKES (for) Assistant Director for Legislative Reference

OMB CONTACT: Ingrid SCHROEDER 395-3883 Legislative Assistant's Line: 395-3454
C=US, A=TELEMAIL, P=GOV+EOP, O=OMB, OU1=LRD, S=SCHROEDER, G=INGRID, I=M
schroeder_i@a1.eop.gov

SUBJECT: EDUCATION Conference Document RE: HR2202, Immigration in the National Interest Act

DEADLINE: Noon Friday, August 02,1996 – Firm

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President.

Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Attached is a draft Education statement on the "Gallegly Amendment" compromise in the H.R. 2202 conference report. We have also included for your reference the draft section of the conference report referred to in the Education statement. The above deadline is FIRM.

LEGISLATIVE REFERRAL MEMORANDUM
Distribution List

LRM NO: 5292

FILE NO: 1073

SUBJECT: EDUCATION Conference Document RE: HR2202, Immigration in the National Interest Act

AGENCIES:

52-HHS - Sondra S. Wallace - 2026907760
61-JUSTICE - Andrew Fois - 2025142141
76-National Economic Council - Sonyia Matthews - 2024562174
114-STATE - Julia C. Norton - 2026474463

EOP:

Lisa Fairhall
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Joe Minarik
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John Angell
Rahm Emanuel
Michelle Crisci
Steve Aitken
Elena Kagan
Cindy Gustafson
Lael Brainard
Lisa Kountoupes
Chuck Konigsberg
Alice Shuffield

DRAFT

Draft

Statement of Secretary of Education
Richard Riley Regarding Immigration

Most major law enforcement organizations, a broad spectrum of religious groups, over 50 United States Senators, retired General Colin Powell and former President George Bush have all joined President Clinton in speaking out against efforts by some in Congress to legislate the exclusion of innocent children and youth from our Nation's schools.

Now, reports indicate that House and Senate negotiators are trying to repackage the destructive "Gallegly Amendment" to appear less extreme while accomplishing the same goal. So-called "compromise" language would allow states to completely bar some students while charging "tuition" to others or lock those students out if their families cannot pay.

On the surface this proposal may sound less drastic, but the inevitable result is the same: innocent kids cast out of our schools and into the streets, where many will be preyed upon by gangs and drug dealers. A General Accounting Office study issued years after enactment would only confirm what we already know: that the effect on these children's well-being and on their local communities will be severe.

Under the reported "compromise," the immigration status of all children would still have to be verified -- just like the Gallegly Amendment. Even if currently enrolled students are "grandfathered" in, or younger children are exempted, thousands of children and youth would still wind up on the streets, placing major new burdens on law enforcement -- just like the Gallegly Amendment.

Talk of charging tuition is particularly ironic because it is just such a "tuition" scheme that the Supreme Court rejected in the 1982 case of Plyler v. Doe -- the decision that the Gallegly Amendment attempts to circumvent.

* As Senators Phil Gramm and Kay Bailey Hutchison recently stated, "[p]ermitting any child to grow up in the United States idle and illiterate is unacceptable national policy." Any "compromise" that would have such a devastating effect on our values amounts to no compromise at all, and should be vetoed.

It's time to drop these controversial measures once and for all and pass consensus provisions that will tighten our borders and secure our Nation's future.

###

poses 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 that 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—Authorizing States to Deny Public Education Benefits to Aliens Not Lawfully Present in the United States

SEC. 521. AUTHORIZING STATES TO DENY PUBLIC EDUCATION BENEFITS TO ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by adding after title V the following new title:

"TITLE VI—DISQUALIFICATION OF ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES FROM CERTAIN PROGRAMS

"CONGRESSIONAL POLICY REGARDING INELIGIBILITY OF ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES FOR PUBLIC EDUCATION BENEFITS

"SEC. 601. (a) Because Congress views that the right to a free public education for aliens who are not lawfully present

1 in the United States promotes violations of the immigration
2 laws and because such a free public education for such aliens
3 creates a significant burden on States' economies and depletes
4 States' limited educational resources. Congress declares it to be
5 the policy of the United States that—
6 "(1) aliens who are not lawfully present in the United
7 States are not entitled to public education benefits in the
8 same manner as United States citizens, nationals, and law-
9 ful resident aliens; and
10 "(2) States should not be obligated to provide public
11 education benefits to aliens who are not lawfully present in
12 the United States.
13 "(b) Nothing in this section shall be construed as express-
14 ing any statement of Federal policy with regard to—
15 "(1) aliens who are lawfully present in the United
16 States,
17 "(2) benefits other than public education benefits pro-
18 vided under State law, or
19 "(3) preventing the exclusion or deportation of aliens
20 unlawfully present in the United States.
21 "AUTHORITY OF STATES
22 "SEC. 602. (a) In order to carry out the policies described
23 in section 601, each State may provide—
24 "(1) that an alien who is not lawfully present in the
25 United States is not eligible for public education benefits
26 under State law; or
27 "(2) in the case of a State that—
28 "(A) requires payment of a fee for nonresidents as
29 a condition of obtaining such benefits, that an alien
30 who is not lawfully present in the United States is re-
31 quired to pay such a fee as a condition of obtaining
32 such benefits, or
33 "(B) does not require payment of a fee for non-
34 residents as a condition of obtaining such benefits, that
35 an alien who is not lawfully present in the United
36 States is required to pay a fee as a condition for the
37 receipt of such benefits, so long as the amount of such

fee represents the average per student cost of the such benefits (as determined, by the State and selected by the State, either for the State or for the local educational agency involved).

"(b) For purposes of subsection (a), an individual shall be considered to be not lawfully present in the United States unless the individual (or, in the case of an individual who is a child, another on the child's behalf)—

"(1) declares in writing under penalty of perjury that the individual (or child) is a citizen or national of the United States and (if required by a State) presents evidence of United States citizenship or nationality; or

"(2)(A) declares in writing under penalty of perjury that the individual (or child) is not a citizen or national of the United States but is an alien lawfully present in the United States, and

"(B) presents either—

"(i) documentation described in section 1137(d)(2) of the Social Security Act, or

"(ii) such other documents as the State determines constitutes reasonable evidence indicating that the individual (or child) is an alien lawfully present in the United States.

A State may (at its option) verify with the Service the alien's immigration status through a system for alien verification of eligibility (SAVE) described in section 1137(d)(3) of the Social Security Act (42 U.S.C. 1320b–7(d)(3)).

"(c) If a State denies public education benefits under this section with respect to an alien, the State shall provide the alien with an opportunity for a fair hearing to establish that the alien is lawfully present in the United States, consistent with subsection (b) and Federal immigration law.".

(b) CLERICAL AMENDMENT.—The table of contents is amended by adding at the end the following new items:

"TITLE VI—DISQUALIFICATION OF ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES FROM CERTAIN PROGRAMS

"Sec. 601. Congressional policy regarding ineligibility of aliens not lawfully present in the United States for public education benefits.

"Sec. 602. Authority of States.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of the date of the enactment of this Act and shall apply to State actions occurring on or after the date of the enactment of this Act.

(d) TRANSITION PROVISIONS.—

(1)(A) A State may not deny public education benefits under such amendments with respect to an alien described in subparagraph (B), so long as such alien remains enrolled in the same public school in which the alien was enrolled on the date of the enactment of this Act.

(B) An alien described in this subparagraph is an alien who is enrolled in a public elementary, middle, or secondary school in a State as of the date of the enactment of this Act.

(C) In applying this subsection, the grades that are included in the elementary, middle, and secondary levels shall be specified by the State and may vary by local educational agency, but in no case shall the elementary level extend beyond the 6th grade.

(2) If a State enacts (or has enacted) a law denying public education benefits under such amendments, subject to paragraph (1), such denial may not apply with respect to an alien who is enrolled in a public elementary, middle, or secondary school in the State as of the date of such enactment before the beginning of the school year that begins after such date of enactment.

(3) In the case of an alien described in paragraph (1)(B) who finishes or terminates enrollment at the public school referred to in such paragraph, the State may not deny continued public education benefits to the alien through the completion of secondary school through schools [in that State]/[of the local educational agency of the public school involved] if—

(A) the State imposes a fee described in section paragraph (2) or (3) of 602(a) of the Immigration and

Nationality Act as a condition for obtaining such benefits, and

(B) such fee is paid.

(4) Subject to the previous provisions of this subsection, such amendments shall apply without regard to whether the State law denying public education benefits was enacted before, on, or after the date of the enactment of this Act.

Subtitle C—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—

"(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.

DRAFT DRAFT DRAFT DRAFT DRAFT

MEMORANDUM

TO: Ken Apfel
OMB
395-5730

ATTENTION: Cynthia Smith

FROM: Robert Bach
Immigration and Naturalization Service
Phone: 514-3234 or 616-7767
FAX: 305-0134

Welfare reform legislation may have a huge impact on the 9.5 million legal immigrants currently resident in the United States. It raises two special issues for the Administration and the Immigration and Naturalization Service.

NATURALIZATION

Legal immigrants who are using public benefits may maintain their eligibility if they naturalize. At the outside, INS estimates that roughly 6 million legal immigrants are currently time-eligible to become citizens. A very rough estimate is that one million legal immigrant children (under 18 years of age) are included in this group of potential citizens. INS does not know how many of these potential applicants receive public benefits or if they would be eligible for citizenship if they did apply.

Before welfare reform, INS estimated that it will receive around 1 million new citizenship applications in each of the next three years. Welfare reform could motivate many of these future applicants to apply immediately. Other immigrants who may be time-eligible but not planning to naturalize could also decide to apply now. Still others, who would apply if they had sufficient information, resources, and encouragement, would also decide to become citizens.

What could INS do?

o Resource Needs

INS' current Citizenship U.S.A. initiative is designed to respond to the large increase in applications in the last 2 years, the significant processing backlogs in the major cities, and delay in processing times that exceed the target 6 months. As a consequence of improved service, INS will naturalize over 1.2 million immigrants this fiscal year. It will also reduce processing times

throughout the country to the six month period. Application backlogs are also falling rapidly.

To maintain this level of service, INS needs to convert 200 temporary adjudication positions used for Citizenship, U.S.A., into permanent positions. INS' FY97 budget request includes resources to support these temporary positions during the first quarter. It is also preparing a reprogramming request to Congress for longer-term support in FY97.

These resources are need to keep the naturalization initiative current. If there is a significant increase in applications due to welfare reform, extra staff and facilities would be needed. A back of the envelope calculation would be roughly $25 million for 300,000 additional applications.

o Outreach

An outreach campaign could utilize the existing network of relationships between INS and community-based organizations and local governments. INS submitted such a plan two years ago to Congress and was turned down. At that time, INS requested $15 million. An energetic outreach program would be very useful in reaching people who, until now, may have been eligible to naturalize but did not have sufficient information.

o New Regulation on Disability Waiver

INS is completing a new regulation on disability waivers of the language and/or civics test. INS could also step up its efforts to go to the homes of the disabled to facilitate their applications. The practice currently works well in Miami.

o Shift Processing Priorities

INS could shift the processing priorities for targeted groups such as the elderly or adults with minor children. With some lead time, and substantial changes in computerized scheduling, INS could create priorities in backlog reduction and in future processing.

o Cooperation with Other Public Agencies

A few States, including Illinois, Texas, Maryland, and Massachusetts, already support community-based organizations' efforts to educate and assistance naturalization applicants. City and other local governments could help. They can distribute information, provide space for interviews and ceremonies (which is in short supply in some locations), offer on their own additional ESL and citizenship classes using local schools, and host application workshops and provide volunteers to help complete applications. They need to take care that their assistance with applications is appropriately supervised by an attorney or a BIA accredited representative to avoid charges of unauthorized practice of law.

o Transition Period

INS recommends creating a transition period by allowing people who file form "Intention to Become a Citizen" to retain eligibility for public benefits until they actually apply for citizen or a year period. A proposal was submitted last week.

o Special Note

The integrity of citizenship application and processing is fundamental to INS' success in providing this service throughout the country. Through Congressional oversight and our own monitoring, the quality and fairness of the Citizenship U.S.A. initiative is under close scrutiny. Efforts to accelerate processing and to expand service should continue the solid progress made in the last year consistent with efforts to improve quality of applications while expanding access.

VERIFICATION IMPLEMENTATION

Welfare reform makes considerable demands on the Federal Government's capacities to verification eligibility and residency status. Currently, the INS will verify the lawful residence of public benefits recipients when an agency provides the information. INS does not establish eligibility, however, for participation in the benefits program.

Legislation that increases the INS workload creates several problems.

o Budgetary: As of this writing, INS' request for an additional $10 million in the FY97 budget to centralize and improve its records needed for verification has been removed from the House (floor vote) and Senate (committee mark). Although INS could continue to operate its systems at the same level as now, these budgetary actions impede any efforts to improve the verification system to respond to the new demands under welfare reform. Without those improvements, some people who are eligible may be incorrectly denied benefits. Even if states take on the verification task, as some do now with waivers, they still send cases to INS when a document is questioned.

o Affidavit of Support: A critical part of the welfare legislation's impact on immigrants is the requirement that sponsors (who are U.S. citizens) must sign a legally-binding affidavit of support before their relative can be admitted. Because this is a new regulatory effort, affidavits of support are not computerized or readily available for use. Providing proof of affidavits to public benefits offices would require inefficient paper processing.

o Links with Other Agencies: New requirements may differentially affect certain categories of immigrants and, especially, naturalized citizens in the verification process. Much work is needed to design procedures that would allow agencies, such as the Social Security

Administration, to recertify their files and to work with INS to verify information. For example, an immigrant that first entered the SSA files as a legal permanent resident, then became a naturalized citizen, is still recorded in the SSA database as an immigrant. INS is the only agency that would have information on the person's naturalization, but that information is not readily available on computer. INS may also not have legal authority to verify information on U.S. citizens, even those who have been naturalized. (INS is examining its authority in this area).

There is a clear need for the formation of a government-wide group to examine -- under high priority and tight timeframe (say 60 days) -- to examine the full implications of the welfare legislation on verification. The group would have to consult with state and local governments and work actively with the civil rights community to develop measures that would protect U.S. citizens from discriminatory practices that may emerge in the verification process. The potential for state governments to become active, independent actors in verifying or using immigration-related information is also cause for concern about standardized usage.

DRAFT

Memorandum

To: Ken Apfel
From: Dennis Hayashi

As an addenda to Bob Bach's memo on welfare implementation, one additional concern is that states must not violate Title VI of the Civil Rights Act while carrying out the eligibility and verification provisions of the welfare bill. Title VI prohibits covered entities from utilizing criteria or methods of administration which have the effect of subjecting individuals to discrimination because of race, color or, particularly relevant here, national origin. Thus, a state or local government agency could be in violation of Title VI if its process of verifying benefit eligibility, making eligibility determinations, or delivering services is applied selectively. For example, a state or county which presumes that all applicants who speak Spanish or appear to be of Hispanic or Asian background are not U.S. citizens and subjects them to a more burdensome verification process could be engaging in prohibited discriminatory conduct.

It is recommended that a government-wide group designated to address short-term eligibility and verification concerns should examine this issue as well.

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

07-Aug-1996 07:29pm

TO: (See Below)

FROM: Keith J. Fontenot

SUBJECT:

Message Creation Date was at 7-AUG-1996 19:31:00

Regarding the idea that USDA mentioned about the applicability of APA rulemaking to the immigrants provisions in Food Stamps. Our initial reading, that this does not affect the implementation of the ban on non-citizens in Food Stamps, appears to have been correct. USDA now confirms that they believe the provision in the law to be self-implementing, and that "regardless of when regulations are published, States are bound by law to implement all provisions in accordance with the date mandated in the legislation". This position has been cleared by their legal counsel.

Distribution:

TO: APFEL_K
TO: Richard E. Green
TO: Jack A. Smalligan
TO: Matthew McKearn

CC: DAMUS_R
CC: KAGAN_E
CC: Deborah F. Kramer
CC: Cynthia M. Smith
CC: Mary I. Cassell

1 the Federal classification in determining the eligibility of
2 such aliens for public assistance shall be considered to have
3 chosen the least restrictive means available for achieving
4 the compelling governmental interest of assuring that aliens
5 be self-reliant in accordance with national immigration pol-
6 icy.

7 Subtitle A—Eligibility for Federal 8 Benefits

9 SEC. 401. ALIENS WHO ARE NOT QUALIFIED ALIENS IN-
10 ELIGIBLE FOR FEDERAL PUBLIC BENEFITS.

11 (a) IN GENERAL.—Notwithstanding any other provision of
12 law and except as provided in subsection (b), an alien who is
13 not a qualified alien (as defined in section 431) is not eligible
14 for any Federal public benefit (as defined in subsection (c)).

15 (b) EXCEPTIONS.—

16 (1) Subsection (a) shall not apply with respect to the
17 following Federal public benefits:

18 (A) Medical assistance under title XIX of the So-
19 cial Security Act (or any successor program to such
20 title) for care and services that are necessary for the
21 treatment of an emergency medical condition (as de-
22 fined in section 1903(v)(3) of such Act) of the alien in-
23 volved and are not related to an organ transplant pro-
24 cedure, if the alien involved otherwise meets the eligi-
25 bility requirements for medical assistance under the
26 State plan approved under such title (other than the
27 requirement of the receipt of aid or assistance under
28 title IV of such Act, supplemental security income ben-
29 efits under title XVI of such Act, or a State supple-
30 mentary payment).

31 (B) Short-term, non-cash, in-kind emergency dis-
32 aster relief.

33 (C) Public health assistance (not including any as-
34 sistance under title XIX of the Social Security Act) for
35 immunizations with respect to immunizable diseases
36 and for testing and treatment of symptoms of commu-

1 nicable diseases whether or not such symptoms are
2 caused by a communicable disease.
3 (D) Programs, services, or assistance (such as
4 soup kitchens, crisis counseling and intervention, and
5 short-term shelter) specified by the Attorney General,
6 in the Attorney General's sole and unreviewable discre-
7 tion after consultation with appropriate Federal agen-
8 cies and departments, which (i) deliver in-kind services
9 at the community level, including through public or pri-
10 vate nonprofit agencies; (ii) do not condition the provi-
11 sion of assistance, the amount of assistance provided,
12 or the cost of assistance provided on the individual re-
13 cipient's income or resources; and (iii) are necessary for
14 the protection of life or safety.
15 (E) Programs for housing or community develop-
16 ment assistance or financial assistance administered by
17 the Secretary of Housing and Urban Development, any
18 program under title V of the Housing Act of 1949, or
19 any assistance under section 306C of the Consolidated
20 Farm and Rural Development Act, to the extent that
21 the alien is receiving such a benefit on the date of the
22 enactment of this Act.
23 (2) Subsection (a) shall not apply to any benefit pay-
24 able under title II of the Social Security Act to an alien
25 who is lawfully present in the United States as determined
26 by the Attorney General, to any benefit if nonpayment of
27 such benefit would contravene an international agreement
28 described in section 233 of the Social Security Act, to any
29 benefit if nonpayment would be contrary to section 202(t)
30 of the Social Security Act, or to any benefit payable under
31 title II of the Social Security Act to which entitlement is
32 based on an application filed in or before the month in
33 which this Act becomes law.
34 (c) FEDERAL PUBLIC BENEFIT DEFINED.—
35 (1) Except as provided in paragraph (2), for purposes
36 of this title the term "Federal public benefit" means—

(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; and

(B) any retirement, welfare, health, disability, public or assisted housing, postsecondary 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.

(2) Such term shall not apply—

(A) to any contract, professional license, or commercial license for a nonimmigrant whose visa for entry is related to such employment in the United States; or

(B) with respect to benefits for an alien who as a work authorized nonimmigrant or as an alien lawfully admitted for permanent residence under the Immigration and Nationality Act qualified for such benefits and for whom the United States under reciprocal treaty agreements is required to pay benefits, as determined by the Attorney General, after consultation with the Secretary of State.

SEC. 402. LIMITED ELIGIBILITY OF QUALIFIED ALIENS FOR CERTAIN FEDERAL PROGRAMS.

(a) LIMITED ELIGIBILITY FOR SPECIFIED FEDERAL PROGRAMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law and except as provided in paragraph (2), an alien who is a qualified alien (as defined in section 431) is not eligible for any specified Federal program (as defined in paragraph (3)).

(2) EXCEPTIONS.—

(A) TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES.—Paragraph (1) shall not apply to an alien until 5 years after the date—

(i) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

(ii) an alien is granted asylum under section 208 of such Act; or

(iii) an alien's deportation is withheld under section 243(h) of such Act.

(B) CERTAIN PERMANENT RESIDENT ALIENS.—Paragraph (1) shall not apply to an alien who—

(i) is lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act; and

(ii)(I) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act or can be credited with such qualifying quarters as provided under section 435, 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) during any such period.

(C) VETERAN AND ACTIVE DUTY EXCEPTION.—Paragraph (1) shall not apply to an alien who is lawfully residing in any State and is—

(i) a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage,

(ii) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(iii) the spouse or unmarried dependent child of an individual described in clause (i) or (ii).

(D) TRANSITION FOR ALIENS CURRENTLY RECEIVING BENEFITS.—

(i) SSI.—

(I) IN GENERAL.—With respect to the specified Federal program described in paragraph (3)(A), during the period beginning on the date of the enactment of this Act and ending on the date which is 1 year after such date of enactment, the Commissioner of Social Security shall redetermine the eligibility of any individual who is receiving benefits under such program as of the date of the enactment of this Act and whose eligibility for such benefits may terminate by reason of the provisions of this subsection.

(II) REDETERMINATION CRITERIA.— With respect to any redetermination under subclause (I), the Commissioner of Social Security shall apply the eligibility criteria for new applicants for benefits under such program.

(III) GRANDFATHER PROVISION.—The provisions of this subsection and the redetermination under subclause (I), shall only apply with respect to the benefits of an individual described in subclause (I) for months beginning on or after the date of the redetermination with respect to such individual.

(IV) NOTICE.—Not later than March 31, 1997, the Commissioner of Social Security shall notify an individual described in subclause (I) of the provisions of this clause.

(ii) FOOD STAMPS.—

(I) IN GENERAL.—With respect to the specified Federal program described in paragraph (3)(B), during the period beginning on the date of enactment of this Act and ending on the date which is 1 year after the date of enactment, the State agency shall, at the time of the recertification, recertify the eligibility of

1 any individual who is receiving benefits under
2 such program as of the date of enactment of
3 this Act and whose eligibility for such benefits
4 may terminate by reason of the provisions of
5 this subsection.
6 (II) RECERTIFICATION CRITERIA.—With
7 respect to any recertification under subclause
8 (I), the State agency shall apply the eligibility
9 criteria for applicants for benefits under such
10 program.
11 (III) GRANDFATHER PROVISION.—The
12 provisions of this subsection and the
13 recertification under subclause (I) shall only
14 apply with respect to the eligibility of an alien
15 for a program for months beginning on or after
16 the date of recertification, if on the date of en-
17 actment of this Act the alien is lawfully resid-
18 ing in any State and is receiving benefits under
19 such program on such date of enactment.
20 (3) SPECIFIED FEDERAL PROGRAM DEFINED.—For
21 purposes of this title, the term "specified Federal program"
22 means any of the following:
23 (A) SSI.—The supplemental security income pro-
24 gram under title XVI of the Social Security Act, in-
25 cluding supplementary payments pursuant to an agree-
26 ment for Federal administration under section 1616(a)
27 of the Social Security Act and payments pursuant to
28 an agreement entered into under section 212(b) of
29 Public Law 93–66.
30 (B) FOOD STAMPS.—The food stamp program as
31 defined in section 3(h) of the Food Stamp Act of 1977.
32 (b) LIMITED ELIGIBILITY FOR DESIGNATED FEDERAL
33 PROGRAMS.—
34 (1) IN GENERAL.—Notwithstanding any other provi-
35 sion of law and except as provided in section 403 and para-
36 graph (2), a State is authorized to determine the eligibility

of an alien who is a qualified alien (as defined in section 431) for any designated Federal program (as defined in paragraph (3)).

(2) EXCEPTIONS.—Qualified aliens under this paragraph shall be eligible for any designated Federal program.

(A) TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES.—

(i) An alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act until 5 years after the date of an alien's entry into the United States.

(ii) An alien who is granted asylum under section 208 of such Act until 5 years after the date of such grant of asylum.

(iii) An alien whose deportation is being withheld under section 243(h) of such Act until 5 years after such withholding.

(B) CERTAIN PERMANENT RESIDENT ALIENS.—An alien who—

(i) is lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act; and

(ii)(I) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act or can be credited with such qualifying quarters as provided under section 435, 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) during any such period.

(C) VETERAN AND ACTIVE DUTY EXCEPTION.—An alien who is lawfully residing in any State and is—

(i) a veteran (as defined in section 101 of title 38, United States Code) with a discharge charac-

1 terized as an honorable discharge and not on ac-
2 count of alienage,
3 (ii) on active duty (other than active duty for
4 training) in the Armed Forces of the United
5 States, or
6 (iii) the spouse or unmarried dependent child
7 of an individual described in clause (i) or (ii).
8 (D) TRANSITION FOR THOSE CURRENTLY RECEIV-
9 ING BENEFITS.—An alien who on the date of the enact-
10 ment of this Act is lawfully residing in any State and
11 is receiving benefits under such program on the date of
12 the enactment of this Act shall continue to be eligible
13 to receive such benefits until January 1, 1997.
14 (3) DESIGNATED FEDERAL PROGRAM DEFINED.—For
15 purposes of this title, the term "designated Federal pro-
16 gram" means any of the following:
17 (A) TEMPORARY ASSISTANCE FOR NEEDY FAMI-
18 LIES.—The program of block grants to States for tem-
19 porary assistance for needy families under part A of
20 title IV of the Social Security Act.
21 (B) SOCIAL SERVICES BLOCK GRANT.—The pro-
22 gram of block grants to States for social services under
23 title XX of the Social Security Act.
24 (C) MEDICAID.—A State plan approved under title
25 XIX of the Social Security Act, other than medical as-
26 sistance described in section 401(b)(1)(A).
27 **SEC. 403. FIVE-YEAR LIMITED ELIGIBILITY OF QUALI-**
28 **FIED ALIENS FOR FEDERAL MEANS-TESTED**
29 **PUBLIC BENEFIT.**
30 (a) IN GENERAL.—Notwithstanding any other provision of
31 law and except as provided in subsections (b), (c), and (d), an
32 alien who is a qualified alien (as defined in section 431) and
33 who enters the United States on or after the date of the enact-
34 ment of this Act is not eligible for any Federal means-tested
35 public benefit for a period of five years beginning on the date

1 of the alien's entry into the United States with a status within
2 the meaning of the term "qualified alien".
3 (b) EXCEPTIONS.—The limitation under subsection (a)
4 shall not apply to the following aliens:
5 (1) EXCEPTION FOR REFUGEES AND ASYLEES.—
6 (A) An alien who is admitted to the United States
7 as a refugee under section 207 of the Immigration and
8 Nationality Act.
9 (B) An alien who is granted asylum under section
10 208 of such Act.
11 (C) An alien whose deportation is being withheld
12 under section 243(h) of such Act.
13 (2) VETERAN AND ACTIVE DUTY EXCEPTION.—An
14 alien who is lawfully residing in any State and is—
15 (A) a veteran (as defined in section 101 of title
16 38, United States Code) with a discharge characterized
17 as an honorable discharge and not on account of
18 alienage,
19 (B) on active duty (other than active duty for
20 training) in the Armed Forces of the United States, or
21 (C) the spouse or unmarried dependent child of an
22 individual described in subparagraph (A) or (B).
23 (c) APPLICATION OF TERM FEDERAL MEANS-TESTED
24 PUBLIC BENEFIT.—
25 (1) The limitation under subsection (a) shall not apply
26 to assistance or benefits under paragraph (2).
27 (2) Assistance and benefits under this paragraph are
28 as follows:
29 (A) Medical assistance described in section
30 401(b)(1)(A).
31 (B) Short-term, non-cash, in-kind emergency dis-
32 aster relief.
33 (C) Assistance or benefits under the National
34 School Lunch Act.
35 (D) Assistance or benefits under the Child Nutri-
36 tion Act of 1966.

(E) 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.

(F) Payments for foster care and adoption assistance under parts B and E of title IV of the Social Security Act for a parent or a child who would, in the absence of subsection (a), be eligible to have such payments made on the child's behalf under such part, but only if the foster or adoptive parent (or parents) of such child is a qualified alien (as defined in section 431).

(G) 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.

(H) Programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965, and titles III, VII, and VIII of the Public Health Service Act.

(I) Means-tested programs under the Elementary and Secondary Education Act of 1965.

(J) Benefits under the Head Start Act.

(K) Benefits under the Job Training Partnership Act.

(d) SPECIAL RULE FOR REFUGEE AND ENTRANT ASSISTANCE FOR CUBAN AND HAITIAN ENTRANTS.—The limitation under subsection (a) shall not apply to refugee and entrant assistance activities, authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980, for Cuban and Haitian entrants as defined in section 501(e)(2) of the Refugee Education Assistance Act of 1980.

SEC. 404. NOTIFICATION AND INFORMATION REPORTING.

(a) NOTIFICATION.—Each Federal agency that administers a program to which section 401, 402, or 403 applies shall, directly or through the States, post information and provide general notification to the public and to program recipients of the changes regarding eligibility for any such program pursuant to this subtitle.

(b) INFORMATION REPORTING UNDER TITLE IV OF THE SOCIAL SECURITY ACT.—Part A of title IV of the Social Security Act is amended by inserting the following new section after section 411:

"SEC. 411A. STATE REQUIRED TO PROVIDE CERTAIN INFORMATION.

"Each State to which a grant is made under section 403 shall, at least 4 times annually and upon request of the Immigration and Naturalization Service, furnish the Immigration and Naturalization Service with the name and address of, and other identifying information on, any individual who the State knows is unlawfully in the United States.".

(c) SSI.—Section 1631(e) of such Act (42 U.S.C. 1383(e)) is amended—

(1) by redesignating the paragraphs (6) and (7) inserted by sections 206(d)(2) and 206(f)(1) of the Social Security Independence and Programs Improvement Act of 1994 (Public Law 103–296; 108 Stat. 1514, 1515) as paragraphs (7) and (8), respectively; and

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

1 "(9) Notwithstanding any other provision of law, the Com-
2 missioner shall, at least 4 times annually and upon request of
3 the Immigration and Naturalization Service (hereafter in this
4 paragraph referred to as the 'Service'), furnish the Service with
5 the name and address of, and other identifying information on,
6 any individual who the Commissioner knows is unlawfully in
7 the United States, and shall ensure that each agreement en-
8 tered into under section 1616(a) with a State provides that the
9 State shall furnish such information at such times with respect
10 to any individual who the State knows is unlawfully in the
11 United States.".

12 (d) INFORMATION REPORTING FOR HOUSING PRO-
13 GRAMS.—Title I of the United States Housing Act of 1937 (42
14 U.S.C. 1437 et seq.) is amended by adding at the end the fol-
15 lowing new section:

16 "SEC. 27. PROVISION OF INFORMATION TO LAW EN-
17 FORCEMENT AND OTHER AGENCIES.

18 "Notwithstanding any other provision of law, the Sec-
19 retary shall, at least 4 times annually and upon request of the
20 Immigration and Naturalization Service (hereafter in this sec-
21 tion referred to as the 'Service'), furnish the Service with the
22 name and address of, and other identifying information on, any
23 individual who the Secretary knows is unlawfully in the United
24 States, and shall ensure that each contract for assistance en-
25 tered into under section 6 or 8 of this Act with a public hous-
26 ing agency provides that the public housing agency shall fur-
27 nish such information at such times with respect to any individ-
28 ual who the public housing agency knows is unlawfully in the
29 United States.".

Attachment 2

House Bill

Legal noncitizens who are "qualified aliens" (i.e., permanent resident aliens, refugees, asylees, aliens paroled into the United States for a period of at least 1 year, and aliens whose deportation has been withheld) are ineligible for SSI, Medicaid, and food stamp benefits until they attain citizenship, with exceptions noted below. States are given the option of similarly restricting Federal cash welfare and Title XX benefits for qualified aliens, with the exception of those who are receiving benefits on the date of enactment as described below.

Refugees, asylees, and aliens whose deportation has been withheld are excepted for 5 years after being granted their respective statuses. Also excepted are legal permanent residents who have worked (in combination with their spouse and parents) for at least 10 years, and noncitizens who are veterans or on active duty or their spouse or unmarried child.

To allow individuals time to adjust to the revised policy, otherwise restricted aliens who are receiving SSI, food stamps, cash welfare, Medicaid or Title XX benefits on the date of enactment would remain eligible for at most 1 year after enactment. However, if a review determines the noncitizen would be ineligible if enrolling under the revised standards for SSI, Medicaid, and food stamps (for example, because the noncitizen failed to qualify under the refugee or work exemptions) such benefits would cease immediately. States have the option of ending cash welfare and social services benefits for current recipients after January 1, 1997.

Senate Amendment

Similar to House bill, except that Medicaid is included among the programs subject to State option rather than a blanket bar.

Conference Agreement

The conference agreement follows the Senate amendment.

4. Five-Year Limited Eligibility of Qualified Aliens for Federal Means-Tested Public Benefit

Present Law

See above.

House Bill

The proposal restricts most Federal means-tested benefits (including SSI, food stamps, cash welfare, Medicaid, and title XX social services benefits) for permanent resident aliens who arrive after the date of enactment for their first 5 years in the United States. Programs that are not restricted to legal noncitizens arriving in the future include emergency medical services, non-cash emergency disaster relief, school lunch and child nutrition benefits, immunizations and testing and treatment for symptoms of communicable diseases, foster care and adoption payments under parts B and E of Title IV of the Social Security Act, community programs for the protection of life or safety, certain elementary and secondary

education programs, Head Start, the Job Training Partnership Act, and higher education grants and loans.

Exceptions are made for refugees, asylees, aliens whose deportation is being withheld, and noncitizens who are veterans, on active duty, or the spouse or unmarried child of such an individual.

Senate Amendment

Excepted programs are similar to the House with the following differences:

(1) benefits under Head Start Act and the Job Training Partnership Act are not excepted;
(2) the exception for foster care and adoption assistance is limited to Part E of Title IV of the Social Security Act;
(3) the exception for testing and treatment of communicable diseases is more limited and must be triggered by a finding by HHS that detection and treatment of a particular disease is necessary to prevent its spread; and
(4) includes an exception for education assistance under titles III, VII, and VIII of the Public Health Service Act.

Excepted classes are similar to House bill.

Conference Agreement

The conference agreement follows the House bill and Senate amendment as follows. (1) The definition of Federal Means Tested Public Benefit (defined as "a public benefit (including cash, medical, housing, and food assistance and social services) of the Federal Government in which the eligibility of an individual, household, or family eligibility unit for benefits, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit") was deleted due to the Byrd rule. It is the intent of conferees that this definition be presumed to be in place for purposes of this title. (2) Regarding excepted programs, the conference agreement follows the House bill on testing and treatment of communicable diseases and by adding Head Start and the Job Training Partnership Act as excepted programs; the conference agreement adds refugee and entrant assistance as an excepted program; and the conference agreement follows the Senate amendment by adding education assistance under titles III, VII, and VIII of the Public Health Services Act as an excepted program.

5. Notification and Information Reporting

Present Law

Notification. Under regulation, individual advance written notice must be given of an intent to suspend, reduce, or terminate SSI benefits.

Information Reporting. AFDC and SSI restrict the use or disclosure of information concerning applicants and recipients to purposes connected to the administration of needs-based Federal programs.

House Bill

Attachment 3

DEFINITION OF "FEDERAL MEANS-TESTED PUBLIC BENEFIT"

Section 403 of the bill denies future immigrants "any Federal means-tested public benefit" (with specified exceptions) for five years after entry. Also, the new deeming rules in section 421 apply to "any Federal means-tested public benefits program" as provided in section 403. The legislation, however, does not define the term "Federal means-tested public benefit." An earlier draft of the bill contained a definition of the term, but that definition was deleted due to the Byrd Rule. As a result, the final legislation contains no clear guidance regarding which programs will be affected by the 5-year eligibility ban on future immigrants and the new deeming rules.

We recommend that, for purposes of this legislation, the term "Federal means-tested public benefit programs" be interpreted to include only Federal means-tested, mandatory spending programs. This interpretation is supported by the legislative history.

The original definition, which was essentially a catch-all for any benefit program funded with federal dollars that determined eligibility or amount of assistance on the basis of income or resources, was deleted due to the Byrd Rule. Congress adopted the Byrd Rule, codified as Section 313 of the Congressional Budget Act, 2 U.S.C. § 644, "to address growing concerns that it was being forced to consider nonbudgetary (and potentially controversial) matters under the expedited reconciliation procedures rather than under its regular procedures." S. Rep. No. 103-297, 103rd Cong., 2nd Sess. (1994). It thus protects the reconciliation process by allowing the Senate to strike, by raising a point of order, certain "extraneous provisions." The Byrd Rule may be waived by a three-fifths vote in the Senate.

A provision will be considered "extraneous" if, among other criteria, it does not produce a change in outlays or revenues or it produces changes in outlays or revenues that are merely incidental to the nonbudgetary components of the provision. In the case of sections 403 and 421, the Senate invoked the Byrd Rule on the grounds that the definition of "Federal means-tested public benefit program" would have included non-mandatory spending programs, i.e., programs that would not change outlays or revenues. The Parliamentarian upheld the Byrd Rule objection, the definition was deleted, and no attempt was made to waive the Byrd Rule.

Senator Chafee stated on the Senate floor the significance of striking the definition:

> "According to the Parliamentarian, that inclusion caused the definition to violate Section 313(b)(1)(D) of the Byrd Rule, which prevents reconciliation legislation from extending its scope to items that provide merely incidental deficit reduction, that is, discretionary programs.
>
> Therefore, when the bill was considered in conference, I understand that there was an intentional effort to ensure this provision complied with [the] Byrd Rule by omitting the definition of that particular term.
>
> In other words, then, the term 'Federal means-tested public benefit' . . . does not refer to discretionary programs. I would assume that programs such as funding for community health centers, as well as the maternal and child health block grant, would not be impacted."

142 Cong. Rec. S9,403 (daily ed. August 1, 1996). Therefore, to be affected by section 403 (and, by reference, section 421) the programs must be mandatory spending programs. This is the logical conclusion, notwithstanding the conference report's statement that the broad definition of "Federal means-tested benefit" that was stricken from the bill was consistent with Congressional intent. Interpreting these sections of the bill to include discretionary programs would openly flout the Byrd Rule.[1]

Furthermore, to be affected by sections 401 and 421, the mandatory spending programs must also be "means-tested", i.e., a program that is statutorily required to establish eligibility or amount of assistance based on an individual's, household's, or eligibility unit's income or resources. For example, certain mandatory spending programs such as Title XX and Family Preservation are not affected since they are not means-tested.

Congress takes the Byrd Rule seriously. The Committee on Rules and Administration explained that the Byrd Rule "is vital to making reconciliation work as a tool for reducing the deficit, and entirely consistent with the general proposition that the Senate should be restrictive in the matters it considers while operating under expedited procedures." S. Rep. No. 103-297, 103rd Cong., 2nd Sess. (1994).

We have identified the following HHS programs as means-tested, mandatory spending programs affected by section 403: TANF and Medicaid. Although Foster Care and Adoption Assistance is a means-tested, mandatory spending program, it is explicitly exempted under section 403(c)(2)(F). Child Care assistance presents a unique issue, in that it is funded from both mandatory and discretionary parts of the budget. However, since the funds are operationally commingled at the state and local level, we recommend as a practical matter treating Child Care assistance as a discretionary program for purposes of sections 403 and 421.

Other Option: Define "Federal means-tested benefit" as provided in the deleted definition, but specify that both income <u>and</u> resource eligibility determinations are necessary to constitute a "means-tested" program. This approach would include more programs within the 5-year ban and new deeming rules and would present administrative difficulties in identifying unambiguously which programs conformed to such a definition.

<u>Other Possible Administrative Actions</u>

The following ideas may warrant further exploration and development:

- Ensure that disabled immigrants currently receiving SSI and/or Medicaid who are qualified to naturalize (i.e., with 3 or 5 years residence, no criminal convictions, etc.) and who submit a bona fide, non-frivolous application for naturalization (as determined by INS), are considered naturalized citizens solely for purposes of benefit eligibility (SSI, Food Stamps, AFDC, Medicaid, Title XX). This status shall be in effect until citizenship or until the application is rejected by INS. This option may be possible within the regulatory authority of INS to implement section 312(b) of the INA (which essentially waives the English and civics requirement for people who are too disabled to comply).

- Ensure that applicants are treated fairly under new rules that may require information that is simply unavailable. For example, the exemption from the eligibility bans for

immigrants who have 40 quarters of coverage for social security may be difficult -- if not impossible -- for some elderly immigrants to establish. It is not likely that such immigrants have maintained such information, and the Government may also not have such information available in a timely manner. In such cases, an immigrant should be allowed to present a prima facie case for eligibility, with the burden of proof placed on the Government to affirmatively establish ineligibility.

- Increase the administrative support for the naturalization process by: (1) making available to INS additional personnel to help process naturalization applications and to administer naturalization exams (e.g., redeploy DoEd. or HHS personnel); and (2) increasing the number of Judges and ceremonies available for swearing-in of new citizens. This action may require appropriations or reprogramming of funds in order to reach the goal of 6 months between application and naturalization.

- Launch a proactive community-based campaign to educate legal immigrants about the new welfare eligibility laws, and naturalization requirements and opportunities.

- Clarify that the requirement for states, SSA, and housing agencies to report quarterly to INS those immigrants they know are unlawful only applies in those cases where the state can affirmatively establish the unlawful immigration status of an individual.

Attachment 1

federal register

Wednesday
July 12, 1989

Part II

Department of Justice

Immigration and Naturalization Service

8 CFR Part 100 et al.

Temporary Disqualification From Financial Assistance, Applicant Processing for Legalization Program, and Temporary/ Permanent Residence Status Adjustment for Aliens; Final Rules and Notice

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 245A

[INS No. 1038-89]

RIN 1115-AA55

Temporary Disqualification of Certain Newly Legalized Aliens From Receiving Benefits From Federal Programs of Financial Assistance

AGENCY: Immigration and Naturalization Service, Department of Justice.

ACTION: Final rule.

SUMMARY: This final rule implements section 245A(h) of the Immigration and Nationality Act ("Act"), as amended by section 201 of the Immigration Reform and Control Act of 1986, Pub. L. 99-603 ("IRCA"). Section 245A(h) provides that, with certain exceptions, aliens granted lawful temporary resident status pursuant to 245A(a) ("legalization") are not eligible for a period of five years after such grant to receive benefits from programs of financial assistance furnished under Federal law on the basis of financial need. The Attorney General is required by section 245A(h)(1)(A)(i) of the Act, to identify such programs after consultation with other appropriate heads of the various departments and agencies of government. The intended effect is to lessen the impact of legalization on benefit programs.

EFFECTIVE DATE: July 12, 1989. The compliance date of the rule will be determined by each of the administering Federal agencies for its programs, but in no event later than October 1, 1989.

FOR FURTHER INFORMATION CONTACT: Paul W. Virtue, Deputy General Counsel, Immigration and Naturalization Service, Room 7048, 425 I Street, NW., Washington, DC 20536, (202) 633-3195.

SUPPLEMENTARY INFORMATION:

Section 245A(a) of the Immigration and Nationality Act as amended by Pub. L. 99-603, 100 Stat. 3359, provides for the legalization of status of certain individuals who have been residing illegally in the United States since before January 1, 1982. Section 245A(h) of the Act provides that, with certain exceptions, aliens legalized under section 245A will be ineligible for five years for "any program of financial assistance furnished under Federal law (whether through grant, loan, guarantee, or otherwise) on the basis of financial need, as such programs are identified by the Attorney General in consultation with other appropriate heads of the various departments and agencies of Government (but in any event including the program of aid to families with dependent children under part A of Title IV of the Social Security Act)." Section 245A(h)(2) of the Act provides that such temporary ineligibility does not apply (A) to a Cuban or Haitian entrant (as defined in paragraph (1) or (2)(A) of section 510(e) of Pub. L. 96-422, 94 Stat. 1799, as in effect on April 1, 1983), or (B) in the case of assistance (other than aid to families with dependent children) which is furnished to an alien who is an aged, blind, or disabled individual (as defined in section 1614(a)(1) of the Social Security Act, Pub. L. 74-271, 49 Stat. 620). The five-year period of eligibility begins on the date an alien is granted lawful temporary resident status under section 245A(a) of the Act.

Section 245A(h) of the Act also provides that, subject to the same exceptions, aliens legalized under section 245A of the Act will be temporarily ineligible for medical assistance under a State plan approved under Title XIX of the Social Security Act (Medicaid), Pub. L. 74-271, 49 Stat. 620 (except certain emergency services and services to pregnant women or aliens who are under 18 years of age) and for benefits financed by the Food Stamp Act of 1977, as amended by Pub. L. 95-400, 92 Stat. 856 (which includes, but is not limited to, section 19 therein, the Puerto Rico Block Grant).

It is also noted that a different provision, section 210(f) of the Act, provides that, with certain exceptions, aliens granted lawful temporary resident status under section 210 of the Act (Lawful Residence for Certain Special Agricultural Workers) are temporarily ineligible for aid under a State plan approved under part A of Title IV of the Social Security Act (aid to families with dependent children), Pub. L. 74-271, 49 Stat. 620, or for Medicaid. It is further noted that section 210A(d)(5) of the Act provides in effect that an alien granted lawful temporary resident status under section 210A of the Act (Determinations of Agricultural Labor Shortages and Admission of Additional Special Agricultural Workers) shall be subject to the same ineligibility rules as aliens legalized under section 245A of the Act except that the provision in section 245A(h) relating to assistance under the Food Stamp Act of 1977, Pub. L. 95-400, 92 Stat. 856, shall not apply, and assistance furnished under the Legal Services Corporation Act, Pub. L. 88-452, 78 Stat. 508, or Title V of the Housing Act of 1949, 63 Stat. 413, shall not be construed to be financial assistance for which such additional special agricultural workers are temporarily ineligible.

No such temporary ineligibility is in effect for (1) aliens granted the status of an alien lawfully admitted for permanent residence pursuant to section 249 of the Act (Record of Admission for Permanent Residence in the Case of Certain Aliens who Entered the United States Prior to July 1, 1924 or January 1, 1972); (2) a Cuban and Haitian entrant (as defined in paragraph (1) or (2)(A) of section 501(e) of Pub. L. 96-422, as in effect on April 1, 1983); or (3) assistance (other than aid to families with dependent children) which is furnished to an alien who is aged, blind, or disabled (as defined in section 1614(a)(1) of the Social Security Act).

In addition, State and local governments may, at their discretion, provide that aliens legalized under section 245A or 210A of the Act are ineligible for certain other programs. Section 245A(h)(1)(B) of the Act states that a State or political subdivision therein may, to the extent consistent with sections 245A(h) (1)(A), (2), and (3) of the Act, provide that such legalized aliens are ineligible for a period of five years, for the programs of financial assistance or for certain medical assistance which are furnished under the law of that State or political subdivision therein.

Criteria Used To Identify Programs

The Department of Justice, after consulting with representatives of various appropriate departments and agencies of the Federal Government has developed a list of programs of financial assistance furnished under Federal law on the basis of financial need for which newly legalized aliens are ineligible for a period of five years.

The criteria used by the Department of Justice to identify programs of financial assistance furnished under Federal law are as follows:

1. Federal financial assistance is furnished for the benefit of individuals in financial need.

(A) Financial assistance in the form of grants, wages, loans, loan guarantees, or otherwise, is furnished by the Federal Government directly, or indirectly through a State or local government or a private entity, to eligible individuals or to private suppliers of goods or services to such individuals, or is furnished to a State or local government that provides to such individuals goods or services of a kind that is offered by private suppliers.

(B) Benefits under the program are targeted to individuals in financial need. Either (i) in order to be eligible,

individuals must establish that their income or wealth is below some maximum level, or, with respect to certain loan or loan guarantee programs, that they are unable to obtain financing from alternative sources, or at prevailing interest rates, or at rates that would permit the achievement of program goals, or (ii) distribution of assistance is directed, geographically or otherwise, in a way that is intended to primarily benefit persons in financial need, as evidenced by references to such intent in the authorizing legislation.

2. The financial assistance is not furnished under a Federal disaster relief program.

3. Eligibility does not require United States citizenship.

4. Assistance under the program is not expressly precluded from being construed as financial assistance by section 245A(h)(4) of the Act. This paragraph provides that assistance furnished under the following provisions of law shall not be construed to be such financial assistance:

(A) The National School Lunch Act, 60 Stat. 230.

(B) The Child Nutrition Act of 1966, Pub. L. 89-642, 88 Stat. 885.

(C) The Vocational Education Act of 1963, Pub. L. 88-210, 77 Stat. 403.

(D) Chapter 1 of the Education Consolidation and Improvement Act of 1981, Pub. L. 97-35, 95 Stat. 358.

(E) The Headstart-Follow Through Act, Pub. L. 88-452, 78 Stat. 508.

(F) The Job Training Partnership Act, Pub. L. 97-300, 96 Stat. 1322.

(G) Title IV of the Higher Education Act of 1965, Pub. L. 89-329, 79 Stat. 1219.

(H) The Public Health Service Act, 37 Stat. 309.

(I) Titles V, XVI, and XX, and parts B, D, and E of Title IV, of the Social Security Act, 49 Stat. 620 (and Titles I, X, XIV, and XVI of such Act as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972).

Some of the programs that are listed in § 245a.5(c) of this final rule provide for Federal financial assistance to intermediate State or local government agencies or private entities. In several programs of this kind, the intermediate government agency or private entity uses the funds for many different programs of its own. Only some of these private or State or local government programs provide benefits for which aliens legalized under section 245A or 210A of the Act are, with certain exceptions, temporarily ineligible, specifically those programs having both of the following characteristics: (A) The distribution of financial assistance directly or indirectly (through intermediate public or private entities) to eligible individuals or to private suppliers of goods or services to such individuals, or the distribution to such individuals of goods or services of a kind that is offered by private suppliers, and (B) targeting to individuals in financial need.

Analysis of Comments

A Proposed Rule was published on August 24, 1987 (52 FR 31784-31786) adding 8 CFR 245a.4, which sets forth a proposed list of programs of Federal financial assistance identified by the Attorney General. Interested persons were given the opportunity to submit written comments on the Proposed Rule on or before September 23, 1987. Forty-six comments were received within that period.

Most of the commenters stated their belief that the list in the Proposed Rule was overbroad in that it included programs that were not furnished "on the basis of financial need" or were not programs of "financial assistance furnished under Federal law." Other issues raised by the comments related to the application of the ineligibility provisions to families where not all members are newly legalized aliens (the "family issue"), and whether to "grandfather in" newly legalized aliens who are currently receiving benefits under a program on the ineligible list. These concerns will be addressed in turn.

A. Financial Assistance Furnished on the Basis of Financial Need

Many commenters objected to a portion of the criterion included in the Proposed Rule for use in determining whether Federal assistance programs involve "financial assistance furnished * * * on the basis of financial need." In particular such commenters disagreed that programs should be included if benefits under the program are "targeted to individuals in financial need" in the sense that "distribution of assistance is directed, geographically or otherwise, in a way that is intended to primarily benefit persons in financial need, as evidenced by references to such intent in the authorizing legislation."

These commenters believe that only programs applying an individual means test should be covered. They believe that section 245A(h) does not contemplate disqualification of persons from programs of Federal financial assistance aimed at the development or rehabilitation of property in low-income neighborhoods. The programs at issue include the Urban Development Action Grants, Operating Assistance for Troubled Multifamily Housing Projects (Flexible Subsidy Program), and Rental Housing Rehabilitation administered by HUD.

The Department of Justice remains of the opinion that these programs are appropriately listed. The statutory language directs the Attorney General to designate programs of financial assistance furnished on the basis of financial need. Each of the three programs at issue requires the applicant (State or local government, or property owner) to show that the Federal funds will be used to benefit economically depressed areas. To the extent such funds are used to provide housing to low-income individuals, they constitute Federal financial assistance furnished on the basis of financial need. Nothing in the statutory language or the legislative history suggests that only programs using an individual means test can be programs of financial assistance furnished on the basis of financial need must use.

Our review of the legislative history of this section indicates that Congress intended to minimize two potential adverse impacts of legalization: (a) The financial burden of newly legalized aliens on U.S. taxpayers, and (b) the reduction of benefits to disadvantaged citizens and lawful permanent residents ("LPRs") under Federally funded programs because of the participation of newly legalized aliens.

The effect of making legalized aliens eligible to receive benefits under an entitlement program, i.e., an assistance program not subject to a fixed annual spending limit, would be higher program cost and hence a heavier burden on the taxpayers of this country (unless the funding for one or more other programs, which might well be more in the national interest, were reduced or eliminated). With respect to a non-entitlement program, the effect of making legalized aliens eligible would depend on whether the program's annual spending limit is reached. If not, then the effect would be the same. If, however, there is excess demand for the benefits of a non-entitlement program; if, that is, the program's annual spending limit would be exceeded should all persons meeting the minimum eligibility requirements receive the benefits for which they would be eligible if such spending limit were not in effect, then permitting legalized aliens to receive benefits would force American taxpayers and their elected representatives to choose one or a combination of three possibilities: (a) Letting some citizens and LPRs be deprived of the benefits of the program, or increasing the annual cost of the

program through (b) increasing the burden on taxpayers, or (c) reducing or eliminating one or more other, possibly more beneficial, Federal programs.

It is true that a certain portion of funds for Urban Development Action Grants is expended for projects which benefit the public at large, e.g., sewers, roads, sidewalks, parks. However, a significant percentage of the funds is directed toward providing housing for low and moderate income persons. It is this portion of the assistance which is intended to be covered by the rule. Accordingly, in the final rule the Urban Development Action Grant Program is marked with an asterisk (*) to clarify the extent to which financial assistance provided under that program is covered by the rule.

B. Program of Financial Assistance Furnished Under Federal Law

A majority of the comments were directed at the Proposed Rule's interpretation of the statutory term "program of financial assistance furnished under Federal law." The most frequent objection raised concerned the inclusion of the Legal Services Corporation on the ineligible list because, these commenters believe, legal advice and assistance received from the Legal Services Corporation cannot reasonably be classified as "financial assistance furnished under Federal law." Many of these same commenters also pointed out that, by its own enabling legislation, the Legal Services Corporation is not an agency or instrumentality of the Federal Government, as they believe the statute requires. Finally, many commenters stated their belief that to make newly legalized aliens ineligible for services provided by the Legal Services Corporation would be to effectively deny access to the courts for many low income newly legalized aliens.

The Department of Justice believes that it is irrelevant that legal services are not financial assistance. The statute provides that legalized aliens are not eligible for certain kinds of programs, namely, those involving "financial assistance furnished on the basis of Federal law * * * on the basis of financial need." Legal services provided to individuals by the Legal Services Corporation do constitute benefits from such a program. Indeed, the language of section 210A(d)(6) of the Act specifically provides that the provisions of section 245A(h), making newly legalized aliens ineligible for financial assistance furnished under Federal law, apply to an alien legalized under section 210A—

> In the same manner as they apply to an alien granted lawful temporary residence under section 245A; except that, for purposes of this paragraph, assistance furnished under the Legal Services Corporation Act (42 U.S.C. 2996 *et seq.*) or under title V of the Housing Act of 1949 (42 U.S.C. 1471 *et seq.*) shall not be construed to be financial assistance described in section 245A(h)(3)(A)(i).

Applying standard rules of statutory construction, this language implies the Congress believed that assistance furnished by the Legal Services Corporation is a benefit of a "program of financial assistance furnished under Federal law" within the meaning of section 245A(h). Otherwise this language would be mere surplusage. There is no reason to believe that such benefits were regarded differently from benefits under the housing programs that this same section also excepts from the ineligibility rule and that the legislative history clearly shows were understood by the Congress to be covered by section 245A(h).

Neither is the Department of Justice persuaded by the objection that the Legal Services Corporation is not technically an agency or instrumentality of the Federal Government. Many of the recipients of Federal monies are State and local government agencies, quasi-governmental, charitable or private entities which use such funds to finance benefits to individuals in financial need. It is the Department's view that the focus of the inquiry as to whether a benefit comes from a "program of financial assistance furnished under Federal law * * * on the basis of financial need" should not be either (a) the public or private legal status of the entity that distributes the benefit to the ultimate recipient, or (b) the form the benefit to the ultimate recipient takes, whether a cash grant (or loan, loan guarantee, etc.) or goods or services, but rather that the benefit is financed with Federal funds that are targeted to those in financial need.

The Department also notes that although Legal Services Corporation is a private organization, it is described as a "quasi-official agency" in The United States Government Manual, the "official handbook of the Federal Government" (see the preface of such manual, at iii), published by the Office of the Federal Register. It is so described because it is required by statute to publish in the Federal Register certain information about its programs and activities.

The comment that inclusion of Legal Services Corporation on the list of programs will effectively deny access to the courts by newly legalized aliens is unfounded. Pro bono and low cost programs, not supported by Federal funds under the Legal Services Corporation, are available through local bar associations nationwide. Furthermore, although newly legalized aliens would undoubtedly benefit if they were eligible for such program during the ineligibility period, the same is true with respect to the other programs from which Congress believed it necessary to exclude them temporarily. Finally, regardless of the policy issues involved, the Department does not have the discretion to exempt legalized aliens from section 245A(h) with respect to any program covered by the statutory language unless an explicit exception is provided.

Another frequent objection to the Proposed Rule's application of "financial assistance furnished under Federal law" was the inclusion on the proposed list of employment and job training programs administered by the Department of Labor (Senior Community Service Employment Program) and the Office of Personnel Management Federal Employment for Disadvantaged Youth—Part-time (Stay-in-School) and Summer (Summer Aides) programs. The issue raised was whether wages paid for services rendered could legitimately be considered "financial assistance furnished under Federal law" since consideration was exchanged for payment. It is the position of the Department of Justice that the employment opportunities are made available through Federal funds and are filled on the basis of financial need. The inclusion of these programs on the list is consistent with the Congressional intent of preventing the displacement of citizens and lawful permanent residents from Federal programs by newly legalized aliens.

In addition, the Department of Energy has pointed out that one of the programs included on the proposed list, the Minority Honors Vocational Training Program, is limited to United States citizens. Accordingly, the program has been removed from the list.

C. The Family Issue

Another frequently expressed concern was how to administer the ineligibility provisions of the Proposed Rule to prevent the receipt of assistance by newly legalized aliens without applying the ineligibility to other members of the same family who may not be ineligible: that is, family members who are U.S. citizens or lawful permanent resident aliens. This situation is most likely to arise in the case of assistance which benefits, and is based upon, the income of all members of a household (e.g., fuel assistance payments under the Low-

income Home Energy Assistance program administered by the Department of Health and Human Services).

The Department of Justice understands the concerns raised by these comments. However, Congress did not statutorily exempt those newly legalized aliens who are members of "mixed" families from the ineligibility provisions of section 245A(h). Nor did it give the Department any authority to do so by regulation. It should also be noted that the Attorney General's statutory obligation under section 245A(h)(1)(A)(i) is only to "identify" the programs of Federal financial assistance from which newly legalized aliens are ineligible to receive benefits. The programs are actually administered by various other Federal agencies, which must comply not only with this statute and regulation, but with the programs' authorizing statutes, and the agencies' own regulations and responsibility to administer programs efficiently. Consequently, the Department suggests that these concerns be expressed to the appropriate administering agency.

D. Grandfathering Benefits

The Department has no authority to "grandfather in" newly legalized aliens who are currently receiving benefits under a program listed in this rule. Although it is possible that efficient administration of certain programs may require a limited amount of "grandfathering," this would be a decision for the agency administering such programs.

The Housing Act of 1987

Following publication of the Proposed Rule and prior to publication of this Final Rule, Congress amended section 214 of the Housing and Community Development Act of 1980, to provide:

Sec. 214(a) Notwithstanding any other provision of law, the Secretary of Housing and Urban Development may not make financial assistance available for the benefit of any alien unless that alien is a resident of the United States and is

* * * * *

(6) an alien lawfully admitted for temporary or permanent residence under section 245A of the Immigration and Nationality Act.

(b) For purposes of this section the term "financial assistance" means financial assistance made available pursuant to the United States Housing Act of 1937, section 235 or 236 of the National Housing Act, or section 101 of the Housing and Urban Development Act of 1965.

Housing and Community Development Act of 1987, Pub. L. 100–242 section 164 (1988) (codified as amended at 42 U.S.C. 1436a). The programs referred to in section 214(b) and administered by the Secretary of Housing and Urban Development have been eliminated from the list included in § 245a.5(c) of this Final Rule.

Pub. L. 100–242 also amended Title V of the Housing Act of 1949 (Farm Housing), 42 U.S.C. 1471–1490o, to provide eligibility for lawful temporary residents for certain programs administered by the Secretary of Agriculture. Section 302 provides, in pertinent part, as follows:

(a) Resident Aliens.—Section 501 of the Housing Act of 1949 is amended by adding at the end the following new subsection:

(h)(1) The Secretary may not restrict the availability of assistance under this title for any alien for whom assistance may not be restricted by the Secretary of Housing and Urban Development under section 214 of the Housing and Community Development Act of 1980.

The Title V programs which were included in the list in the Proposed Rule have been eliminated from the Final Rule.

In accordance with 5 U.S.C. 605(b), the Commissioner certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities.

This is not a "major rule" within the meaning of section 1(b) of Executive Order 12291, nor does this rule have federalism implications warranting the preparation of a Federal Assessment in accordance with E.O. 12612.

List of Subjects in 8 CFR Part 245a

Aliens, Temporary resident status and permanent resident status.

Accordingly, Chapter I of Title 8, Code of Federal Regulations, is amended as follows:

PART 245a—[AMENDED]

1. The authority for Part 245a continues to read as follows:

Authority: Pub. L. 99–603, 100 Stat. 3359; 8 U.S.C. 1101 note.

2. Part 245a is amended by adding the following section:

§ 245a.5 Temporary disqualification of certain newly legalized aliens from receiving benefits from programs of financial assistance furnished under federal law.

(a) Except as provided in § 245a.5(b), any alien who has obtained the status of an alien lawfully admitted for temporary residence pursuant to section 245A of the Act (Adjustment of Status of Certain Entrants Before January 1, 1982, to that of Person Admitted for Lawful Residence) or 210A of the Act (Determinations of Agricultural Labor Shortages and Admission of Additional Special Agricultural Workers) is ineligible, for a period of five years from the date such status was obtained, for benefits financed directly or indirectly, in whole or in part, through the programs identified in § 245a.5(c) of this chapter.

(b)(1) Section 245a.5(a) shall not apply to a Cuban or Haitian entrant (as defined in paragraph (1) or (2)(A) of section 501(e) of Pub. L. 96–422, as in effect on April 1, 1983), or in the case of assistance (other than aid to families with dependent children) which is furnished to an alien who is an aged, blind, or disabled individual (as defined in section 1614(a)(1) of the Social Security Act).

(2) With respect to any alien who has obtained the status of an alien lawfully admitted for temporary residence pursuant to section 210A of the Act only, assistance furnished under the Legal Services Corporation Act (42 U.S.C. 2996, et seq.) or Title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) shall not be construed to be financial assistance referred to in § 245a.5(a).

(3) Section 245a.5(a) shall not apply to benefits financed through the programs identified in § 245a.5(c), which are marked with an asterisk (*), except to the extent that such benefits:

(i) Consist of, or are financed by, financial assistance in the form of grants, wages, loan, loan guarantees, or otherwise, which is furnished by the Federal Government directly, or indirectly through a State or local government or a private entity, to eligible individuals or to private suppliers of goods or services to such individuals, or is furnished to a State or local government that provides to such individuals goods or services of a kind that is offered by private suppliers, and

(ii) Are targeted to individuals in financial need; either (A) in order to be eligible, individuals must establish that their income or wealth is below some maximum level, or, with respect to certain loan or loan guarantee programs, that they are unable to obtain financing from alternative sources, or at prevailing interest rates, or at rates that would permit the achievement of program goals, or (B) distribution of assistance is directed, geographically or otherwise, in a way that is intended to primarily benefit persons in financial need, as evidenced by references to such intent in the authorizing legislation.

(c) The programs of Federal financial assistance referred to in § 245a.5(a) are those identified in the list set forth below. The General Services Administration (GSA) Program Numbers

set forth in the right column of the program list refer to the program identification numbers used in the Catalog of Federal Domestic Assistance, published by the United States General Services Administration, as updated through December, 1986.

	GSA Program Numbers
Department of Agriculture:	
Farm Operating Loans	10.406
Farm Ownership Loans	10.407
Department of Health and Human Services:	
Assistance Payments—Maintenance Assistance (Maintonance Assistance; Emergency Assistance; State Aid; Aid to Families with Dependent Children)	13.780
Low-Income Home Energy Assistance	13.789
*Community Services Block Grant	13.792
*Community Services Block Grant—Discretionary Awards	13.793
Department of Housing and Urban Development:	
Mortgage Insurance—Housing in Older, Declining Areas (223(e))	14.123
Mortgage Insurance—Special Credit Risks (237)	14.140
Operating Assistance for Troubled Multifamily Housing Projects (Troubled Projects (Flexible Subsidy) Program)	14.164
*Community Development Block Grants/Entitlement Grants	14.218
*Community Development Block Grants/Small Cities Program (Small Cities)	14.219
Section 312 Rehabilitation Loans (312)	14.220
*Urban development action grants	14.221
*Community Development Block Grants/State's Program	14.228
Section 221(d)(3) Mortgage Insurance for Multifamily Rental Housing for Low and Moderate Income Families (Below Market Interest Rate)	14.136
Department of Labor:	
Senior Community Service Employment Program (SCSEP)	17.235
Office of Personnel Management:	
Federal Employment for Disadvantaged Youth—Part-Time (Stay-in-School Program)	27.003
Federal Employment for Disadvantaged Youth—Summer (Summer Aides)	27.004
Small Business Administration:	
Small Business Loans (7(a) Loans)	59.012
Department of Energy:	
Weatherization Assistance for Low-Income Persons	81.042
Department of Education:	
Patricia Roberts Harris Fellowships (Graduate and Professional Study; Graduate and Professional Study Opportunity Fellowships; Public Service Education Fellowships)	84.094
Legal Training for the Disadvantaged (The American Bar Association Fund for Public Education)	84.136
Allen J. Ellender Fellowship Program (Ellender Fellowship)	84.148
Legal Services Corporation:	
Payments to Legal Services Corporation	

Dated: June 21, 1989.

Alan C. Nelson,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 89-15789 Filed 7-11-89; 8:45 am]

BILLING CODE 4410-10-M

8 CFR Parts 100, 103, 242, 264, and 299

[INS No. 1020R-89]

RIN 1115-AA39

Applicant Processing for the Legalization Program; Conforming Amendments

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule amends certain regulations to conform to regulation changes published elsewhere in this issue. These provisions relate to the processing of applicants for permanent residence under the Legalization Program as authorized by the Immigration Reform and Control Act of 1986 (IRCA). The purpose of this rule is to make final the provisions set forth in the interim rule concerning changes to the regulations brought about by the Service's processing of applications for adjustment of temporary resident aliens for lawful permanent residence status.

EFFECTIVE DATE: July 12, 1989.

FOR FURTHER INFORMATION CONTACT: Terrance M. O'Reilly, Assistant Commissioner, Legalization, (202) 786-3658.

SUPPLEMENTARY INFORMATION: The Immigration Reform and Control Act of 1986 (IRCA), Pub. L. 99-603, enacted on November 6, 1986, provided for the legalization program. Under the first phase of the program, eligible aliens were afforded temporary resident status. This rule finalizes the interim rule that described the permanent resident application process of the legalization program, which was published at 53 FR 43984 on October 31, 1988, with request for comments. Forty-eight responses representing 71 individuals and interested organizations, were received. The Service wishes to thank the many interested parties for their useful comments regarding the October 31, 1988 regulations. All comments were reviewed and, as a result, several changes were incorporated into this final rule.

This rule changes the list of legalization offices; deletes the reference to the appellate authority concerning the application (I-695) for replacement of Form I-688 (Temporary Resident Card); makes editorial changes; and provides the display control numbers and edition dates for Form I-698, Application to Adjust Status from Temporary to Permanent Resident, Form I-699, Certificate of Satisfactory Pursuit; and Form I-603, Petition for Attorney General Recognition to Provide Course of Study for Legalization: Phase II.

Summary of the Final Rule

Section 100.4(f) is amended to provide a list of legalization offices which will accommodate applicants for permanent residence. The Service wishes to assure interested parties that it will continue to carefully consider decisions to close legalization offices. The Service will continue to strive to keep the maximum number of legalization offices open within funding constraints.

In addition to the legalization offices listed in § 100.4(f) the following Service offices will conduct interviews for permanent residence.

Eastern Region

District offices—Baltimore, MD; Boston, MA; Buffalo, NY; Philadelphia, PA; Portland, ME; and San Juan, PR; Sub-offices—Albany, NY; Charlotte Amalie, VI; Christiansted, VI; Camden, NJ; Hartford, CT; Norfolk, VA; Pittsburgh, PA; St. Albans, VT; and Syracuse, NY.

Northern Region

District offices—Anchorage, AK; Cleveland, OH; Detroit, MI; Helena, MT; Kansas City, MO; Omaha, NB; Portland, OR; Seattle, WA; and Saint Paul, MN; Sub-offices—Boise, ID; Cincinnati, OH; Indianapolis, IN; Milwaukee, WI; Salt Lake City, UT; St. Louis, MO; and Yakima, WA.

Southern Region

District offices—Atlanta, GA; and New Orleans, LA; Sub-offices—Charlotte, NC; Jacksonville, FL; Louisville, KY; Memphis, TN; Oklahoma City, OK; and Tampa, FL.

Western Region

District offices—Honolulu, HI; Sub-offices—Agana, GU; Reno, NV; and Tucson, AZ.

(g) IMPLEMENTATION OF SECTION.—

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

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

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

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

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

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

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

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

(C) WAIVERS OF CERTAIN ABSENCES.—The Attorney General may provide for a waiver, in the discretion of the Attorney General, of the periods specified under subparagraph (A) in the case of an absence from the United States due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

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

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

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

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

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

(1) IN GENERAL.—During th
the date an alien was granted la
under subsection (a), and notwi
of law—

(A) except as provided
alien is not eligible for—

(i) any program of
under Federal law (whe
antee, or otherwise) on
such programs are iden
in consultation with o
various departments an
in any event including
with dependent childre
Social Security Act),

(ii) medical assist
proved under title XIX

(iii) assistance und
and

(B) a State or political
extent consistent with sub
(2) and (3), provide that t
programs of financial assis
described in subparagraph
of that State or political sub
Unless otherwise specifically p
law, an alien in temporary la
under subsection (a) shall not
any law of a State or political
gram of financial assistance) to
United States under color of lav

(2) EXCEPTIONS.—Paragrap

(A) to a Cuban and
paragraph (1) or (2)(A) of s
422, as in effect on April 1,

(B) in the case of assist
with dependent children)
who is an aged, blind, or di
section 1614(a)(1) of the So

(3) RESTRICTED MEDICAID B

(A) CLARIFICATION OF
restrictions under subpara
providing aliens with eligi
ance—

(i) paragraph (1) sl

(ii) aliens who wou
ance but for the provi
deemed, for purposes o
Act, to be so eligible, a

(iii) aliens lawfull
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changed, shall be cons
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(B) RESTRICTION OF BE

TION.—
Attorney General, after consulta-
. the Judiciary of the House of Rep-
.te, shall prescribe—
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as used in this section, and the evi-
sh that an alien has resided con-
States for purposes of this section,

ulations as may be necessary to

1 prescribing regulations described

NTINUOUS RESIDENCE.—The Attor-
r individual periods, and aggregate
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l take into account absences due
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ED BY DEPORTATION OR ADVANCED
General shall provide that—
. not be considered to have resided
United States, if, during any pe-
inuous residence is required, the
e United States as a result of a de-
ier of deportation, and
of time during which an alien is
tates pursuant to the advance pa-
ie Service shall not be considered
of time during which an alien is
tates for purposes of this section.
RTAIN ABSENCES.—The Attorney
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periods specified under subpara-
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mporary trip abroad required by
g circumstances outside the con-

DOCUMENTATION.—The Attorney
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independent corroboration of the
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ATIONS.—Regulations prescribed
escribed to take effect on an in-
iey General determines that this
lement this section in a timely

CATION OF NEWLY LEGALIZED
PUBLIC WELFARE ASSISTANCE.—

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

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

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

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

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

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

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

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

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

(B) in the case of assistance (other than aid to families with dependent children) which is furnished to an alien who is an aged, blind, or disabled individual (as defined in section 1614(a)(1) of the Social Security Act).

(3) RESTRICTED MEDICAID BENEFITS.—

(A) CLARIFICATION OF ENTITLEMENT.—Subject to the restrictions under subparagraph (B), for the purpose of providing aliens with eligibility to receive medical assistance—

(i) paragraph (1) shall not apply,

(ii) aliens who would be eligible for medical assistance but for the provisions of paragraph (1) shall be deemed, for purposes of title XIX of the Social Security Act, to be so eligible, and

(iii) aliens lawfully admitted for temporary residence under this section, such status not having changed, shall be considered to be permanently residing in the United States under color of law.

(B) RESTRICTION OF BENEFITS.—

(i) LIMITATION TO EMERGENCY SERVICES AND SERVICES FOR PREGNANT WOMEN.—Notwithstanding any provision of title XIX of the Social Security Act (including subparagraphs (B) and (C) of section 1902(a)(10) of such Act), aliens who, but for subparagraph (A), would be ineligible for medical assistance under paragraph (1), are only eligible for such assistance with respect to—

(I) emergency services (as defined for purposes of section 1916(a)(2)(D) of the Social Security Act), and

(II) services described in section 1916(a)(2)(B) of such Act (relating to service for pregnant women).

(ii) NO RESTRICTION FOR EXEMPT ALIENS AND CHILDREN.—The restrictions of clause (i) shall not apply to aliens who are described in paragraph (2) or who are under 18 years of age.

(C) DEFINITION OF MEDICAL ASSISTANCE.—In this paragraph, the term "medical assistance" refers to medical assistance under a State plan approved under title XIX of the Social Security Act.

(4) TREATMENT OF CERTAIN PROGRAMS.—Assistance furnished under any of the following provisions of law shall not be construed to be financial assistance described in paragraph (1)(A)(i):

(A) The National School Lunch Act.

(B) The Child Nutrition Act of 1966.

(C) The Vocational Education Act of 1963.

(D) Title I of the Elementary and Secondary Education Act of 1965.[185a]

(E) The Headstart-Follow Through Act.

(F) The Job Training Partnership Act.

(G) Title IV of the Higher Education Act of 1965.

(H) The Public Health Service Act.

(I) Titles V, XVI, and XX, and parts B, D, and E of title IV, of the Social Security Act (and titles I, X, XIV, and XVI of such Act as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972).

(5) ADJUSTMENT NOT AFFECTING FASCELL-STONE BENEFITS.—For the purpose of section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96–122), assistance shall be continued under such section with respect to an alien without regard to the alien's adjustment of status under this section.

(i) DISSEMINATION OF INFORMATION ON LEGALIZATION PROGRAM.—Beginning not later than the date designated by the Attorney General under subsection (a)(1)(A), the Attorney General, in cooperation with qualified designated entities, shall broadly disseminate information respecting the benefits which aliens may receive under this section and the requirements to obtain such benefits.

[185a] Subparagraph (D) was rewritten by § 394(g) of Improving America's Schools Act of 1994 (P.L. 103–382, Oct. 20, 1994, 108 Stat. 4028).

RESCISSION OF ADJUST

SEC. 246. [8 U.S.C. 1256] (a) years after the status of a person under the provisions of section 245 provision of law to that of an alien l residence, it shall appear to the sa eral that the person was not in fact status, the Attorney General shall ing an adjustment of status to such tion in the case of such person if th thereupon be subject to all provisio as if the adjustment of status had n

(b) Any person who has becor United States upon the basis of a permanent residence, created as a for which such person was not in f quently rescinded under subsection ject to the provisions of section 34 naturalization was procured by co by willful misrepresentation.

ADJUSTMENT OF STATUS OF CI NONIMMIGRA

SEC. 247. [8 U.S.C. 1257] (a) admitted for permanent residence ney General, under such regulatic of a nonimmigrant under paragra section 101(a), if such alien had quently acquires an occupational seeking admission to the United immigrant status under such sect ney General's order making such ney General shall cancel the recor manent residence, and the immi thereby be terminated.

(b) The adjustment of status not be applicable in the case of a permitted to retain his status as form as the Attorney General ma the Attorney General a written v emptions, and immunities under which would otherwise accrue to an occupational status entitling under paragraph (15)(A), (15)(E),

[185b] The previous first 3 sentences of this sub tion and Nationality Technical Corrections Ac 1994), effective as of October 25, 1994.

Attachment 5

96-159 EPW

CRS Report for Congress

Cash and Noncash Benefits for Persons With Limited Income: Eligibility Rules, Recipient and Expenditure Data, FYs 1992-1994

Compiled by
Vee Burke
Specialist in Income Maintenance
Education and Public Welfare Division

December 19, 1995

Congressional Research Service • The Library of Congress

CATALOG OF PROGRAMS OFFERING CASH AND NONCASH BENEFITS TO PERSONS OF LIMITED INCOME . . . . . .

MEDICAL AID . . . . . .

1. MEDICAID . . . . . .
2. MEDICAL CARE FOR VETERANS WITHOUT SERVICE-CONNECTED DISABILITY . . . . . .
3. GENERAL ASSISTANCE (MEDICAL CARE COMPONENT) . . . . . .
4. INDIAN HEALTH SERVICES . . . . . .
5. MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT, TITLE V OF THE SOCIAL SECURITY ACT . . . . . .
6. COMMUNITY HEALTH CENTERS . . . . . .
7. TITLE X FAMILY PLANNING SERVICES . . . . . .
8. MIGRANT HEALTH CENTERS . . . . . .
9. MEDICAL ASSISTANCE TO REFUGEES AND CUBAN/HAITIAN ENTRANTS . . . . . .

CASH AID . . . . . .

10. SUPPLEMENTAL SECURITY INCOME (SSI) . . . . . .
11. AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC) . . . . . .
12. EARNED INCOME TAX CREDIT (EITC) . . . . . .
13. FOSTER CARE . . . . . .
14. GENERAL ASSISTANCE (NONMEDICAL CARE COMPONENT) . . . .
15. PENSIONS FOR NEEDY VETERANS, THEIR DEPENDENTS, AND SURVIVORS . . . . . .
16. EMERGENCY ASSISTANCE (EA) TO NEEDY FAMILIES WITH CHILDREN . . . . . .
17. ADOPTION ASSISTANCE . . . . . .
18. GENERAL ASSISTANCE TO INDIANS . . . . . .
19. CASH ASSISTANCE TO REFUGEES AND CUBAN/HAITIAN ENTRANTS . . . . . .
20. DEPENDENCY AND INDEMNITY COMPENSATION (DIC) AND DEATH COMPENSATION FOR PARENTS OF VETERANS . . . . . .

FOOD AID . . . . . .

21. FOOD STAMPS . . . . . .
22. SCHOOL LUNCH PROGRAM (FREE AND REDUCED PRICE SEGMENTS) . . . . . .
23. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC) . . . . . .
24. SCHOOL BREAKFAST PROGRAM (FREE AND REDUCED PRICE SEGMENTS) . . . . . .
25. CHILD AND ADULT CARE FOOD PROGRAM . . . . . .
26. NUTRITION PROGRAM FOR THE ELDERLY . . . . . .
27. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN . . . . . .
28. THE EMERGENCY FOOD ASSISTANCE PROGRAM (TEFAP) . . . . . .
29. COMMODITY SUPPLEMENTAL FOOD PROGRAM (CSFP) . . . . .
30. FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS .
31. SPECIAL MILK PROGRAM (FREE SEGMENT) . . . . . .

HOUSING AID . . . . . .
32. SECTION 8 LOW-INCOME HOUSING ASSISTANCE . . . . . .
33. LOW-RENT PUBLIC HOUSING . . . . . .
34. HOME INVESTMENT PARTNERSHIPS PROGRAM (HOME) . . . . .
35. RURAL HOUSING LOANS (SECTION 502) . . . . . .
36. SECTION 236 INTEREST REDUCTION PAYMENTS . . . . . .
37. RURAL RENTAL HOUSING LOANS (SECTION 515) . . . . . .
38. RURAL RENTAL ASSISTANCE PAYMENTS (SECTION 521) . . . . . .
39. HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE (HOPE) PROGRAMS . . . . . .
40. FARM LABOR HOUSING LOANS (SECTION 514) AND GRANTS (SECTION 516) . . . . . .
41. SECTION 101 RENT SUPPLEMENTS . . . . . .
42. RURAL HOUSING REPAIR LOANS AND GRANTS (SECTION 504) . . . . . .
43. SECTION 235 HOMEOWNERSHIP ASSISTANCE FOR LOW-INCOME FAMILIES . . . . . .
44. RURAL HOUSING PRESERVATION GRANTS (SECTION 533) . . .
45. INDIAN HOUSING IMPROVEMENT GRANTS . . . . . .
46. RURAL HOUSING SELF-HELP TECHNICAL ASSISTANCE GRANTS (SECTION 523) AND RURAL HOUSING SITE LOANS (SECTIONS 523 AND 524) . . . . . .

EDUCATION AID . . . . . .
47. FEDERAL PELL GRANTS . . . . . .
48. HEAD START . . . . . .
49. SUBSIDIZED FEDERAL STAFFORD LOANS . . . . . .
50. FEDERAL WORK-STUDY PROGRAM . . . . . .
51. SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS . . . .
52. FEDERAL TRIO PROGRAMS . . . . . .
53. CHAPTER 1 MIGRANT EDUCATION PROGRAM . . . . . .
54. PERKINS LOANS . . . . . .
55. STATE STUDENT INCENTIVE GRANT (SSIG) PROGRAM . . . . . .

56. FELLOWSHIPS FOR GRADUATE AND PROFESSIONAL STUDY .
57. HEALTH PROFESSIONS STUDENT LOANS AND SCHOLARSHIPS . . . . . .
58. FOLLOW THROUGH . . . . . .
59. MIGRANT HIGH SCHOOL EQUIVALENCY PROGRAM (HEP) . . .
60. ELLENDER FELLOWSHIPS . . . . . .
61. COLLEGE ASSISTANCE MIGRANT PROGRAM (CAMP) . . . . . .
62. CHILD DEVELOPMENT ASSOCIATE SCHOLARSHIP PROGRAM . . . . . .

OTHER SERVICES . . . . . .
63. SOCIAL SERVICES BLOCK GRANT (TITLE XX) . . . . . .
64. CHILD CARE FOR RECIPIENTS (AND EX-RECIPIENTS) OF AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC) . . . .
65. CHILD CARE AND DEVELOPMENT BLOCK GRANT . . . . . .
66. "AT-RISK" CHILD CARE (TO AVERT ELIGIBILITY FOR AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC)) . . . . . .
67. COMMUNITY SERVICES BLOCK GRANT . . . . . .
68. LEGAL SERVICES . . . . . .
69. EMERGENCY FOOD AND SHELTER PROGRAM . . . . . .
70. SOCIAL SERVICES FOR REFUGEES AND CUBAN/HAITIAN ENTRANTS . . . . . .

JOBS AND TRAINING AID . . . . . .
71. JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM (JOBS) . . . . . .
72. JOB CORPS . . . . . .
73. ADULT TRAINING PROGRAM (JTPA TITLE II-A) . . . . . .
74. SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAM . .
75. YOUTH TRAINING PROGRAM (JTPA TITLE II-C) . . . . . .
76. SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM . . . .
77. FOSTER GRANDPARENTS . . . . . .
78. SENIOR COMPANIONS . . . . . .

ENERGY AID . . . . . .
79. LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP) . . . . . .
80. WEATHERIZATION ASSISTANCE . . . . . .

VARIED AID . . . . . .
81. STATE LEGALIZATION IMPACT ASSISTANCE GRANTS . . . . . .