

## **APPENDIX J. NONCITIZENS**

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### **INTRODUCTION**

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193) changed almost every aspect of alien eligibility for Federal, State and local government assistance programs. It established comprehensive new restrictions on the eligibility of legal aliens for means-tested public assistance, and also broadened restrictions on public benefits for illegal aliens and nonimmigrants (aliens temporarily here, e.g., to visit, attend school, or work). Subsequently in the 104th Congress, the provisions of the new welfare law were amended and supplemented by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, immigration enforcement legislation enacted as division C of the Omnibus Consolidated Appropriations Act of 1997, and signed into law on September 30, 1996 (Public Law 104–208).

The changes made in the alien eligibility rules proved controversial, particularly the termination of benefits for recipients who were receiving Supplemental Security Income (SSI) as of the date the new welfare law was enacted, August 22, 1996. The termination date for SSI for these recipients was extended from August 22 to September 30, 1997 by Public Law 105–18, signed June 12,

1997. More extensive modifications to the new alienage rules were included in Public Law 105-33, the 1997 Balanced Budget Act signed into law on August 5, 1997. It amended the welfare law to provide that "qualified aliens" who were receiving SSI as of August 22, 1996 will continue to be eligible, regardless of whether their claim was based on disability or age. Additionally, qualified aliens who were here by August 22, 1996 and subsequently become disabled will be eligible for SSI.

This appendix begins with a brief discussion of U.S. immigration policy and trends, including naturalization requirements and statistics. This is followed by a review of alien eligibility requirements and benefit use under prior law; some of the reasons for the adoption of restrictions on alien eligibility for benefits; and a summary of the new alien eligibility law, including action taken in the 105th Congress. Provisions relating to verification of status and reporting requirements and concerns about illegal aliens and benefits are also reviewed.

### **U.S. IMMIGRATION POLICY AND TRENDS**

The three major goals underlying U.S. policy on legal immigration are the reunification of families, the admission of immigrants with needed skills, and the protection of refugees. These goals are implemented through the Immigration and Nationality Act (INA), the basic law regulating the admission of immigrants (i.e., aliens allowed to reside in the United States permanently). Another goal of immigration policy is to allow immigrants an opportunity to integrate fully into society. Once aliens have been admitted for lawful permanent residence or have adjusted to permanent resident status while here, they generally become eligible to apply for U.S. citizenship after residing here for 5 years.

Immigration has been increasing sharply since 1980. A recent Census Bureau report indicates that more than 60 percent of the foreign born currently in the United States entered between 1980 and 1996.<sup>1</sup> An analysis of the 12.4 million immigrant admissions recorded by the Immigration and Naturalization Service (INS) from 1980 through 1994 indicates that much of the increase is attributable to the admission of approximately 1.6 million refugees and the adjustment of 2.8 million legalized aliens.<sup>2</sup> The latter were formerly illegal aliens who acquired legal status under legalization programs authorized by the Immigration Reform and Control Act of 1986 (IRCA) for long-term residents and agricultural workers.

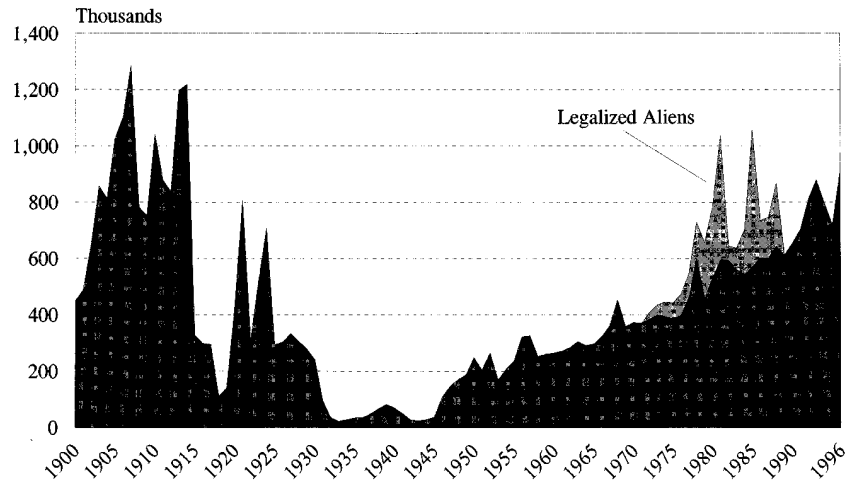
As indicated in chart J-1, immigration during the 1990s has reached the highest level since its precipitous fall during World War I. The foreign-born population of the United States over the period 1870-1996 is shown in chart J-2 in terms of absolute numbers and as a percentage of total U.S. population. The year 1910 was the peak in terms of the percent of foreign born (14.8 percent), but 1996 was the high point in terms of absolute numbers (24.6 million). By 1996, the percentage of foreign-born residents of the

<sup>1</sup>Kristin A. Hansen and Carol S. Faber, "The Foreign-born Population: 1996," *Current Population Reports*, P20-494. U.S. Department of Commerce, Census Bureau, March 1997. p. 3.

<sup>2</sup>CRS Report 97-230, *Immigration: Reasons for Growth, 1981-95*, by Joyce C. Viallet.

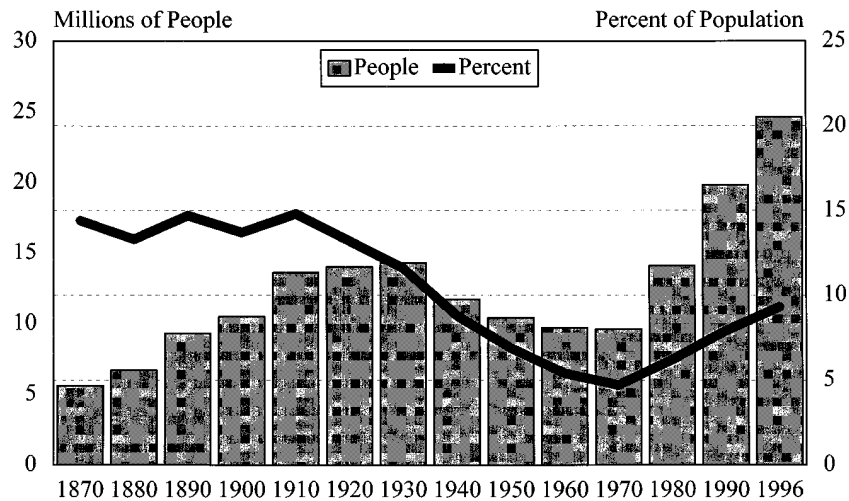
United States approached 10 percent for the first time since the mid-1930s.

**CHART J-1. ADMISSION OF LEGAL PERMANENT RESIDENTS AND ALIENS LEGALIZED UNDER IRCA BY MOST RECENT YEAR OF ENTRY, 1900-96**



Source: Congressional Research Service based on data from the Immigration and Naturalization Service.

**CHART J-2. FOREIGN-BORN POPULATION OF THE UNITED STATES, 1870-1996**



Source: Congressional Research Service, based on data from the U.S. Bureau of the Census, 1995 and Bogue, 1985.

The Immigration and Naturalization Service (INS) estimated that there were a total of 10.5 million legal permanent residents in the United States as of April 1996 (see table J-1). They were heavily concentrated in four States, led by California (35.3 percent). The other three were New York (14.2 percent), Texas (7.8 percent), and Florida (7.5 percent).

TABLE J-1.—POPULATION ESTIMATES BY STATE OF RESIDENCE: LEGAL PERMANENT RESIDENTS AND ALIENS ELIGIBLE TO APPLY FOR NATURALIZATION AS OF APRIL 1996

| State of residence      | Legal permanent residents |             | Eligible to apply for naturalization |             |
|-------------------------|---------------------------|-------------|--------------------------------------|-------------|
|                         | Estimate                  | Range (+/-) | Estimate                             | Range (+/-) |
| Alabama .....           | 23,000                    | 1,000       | 12,900                               | 600         |
| Alaska .....            | 10,900                    | 400         | 4,800                                | 300         |
| Arizona .....           | 144,000                   | 5,000       | 84,000                               | 5,000       |
| Arkansas .....          | 12,300                    | 400         | 7,100                                | 400         |
| California .....        | 3,717,000                 | 130,000     | 2,265,000                            | 118,000     |
| Colorado .....          | 71,000                    | 2,000       | 38,000                               | 2,000       |
| Connecticut .....       | 126,000                   | 4,000       | 73,000                               | 4,000       |
| Delaware .....          | 10,000                    | 300         | 4,700                                | 300         |
| District of Columbia .. | 42,000                    | 1,000       | 23,000                               | 1,000       |
| Florida .....           | 790,000                   | 28,000      | 405,000                              | 26,000      |
| Georgia .....           | 102,000                   | 3,000       | 51,000                               | 3,000       |
| Hawaii .....            | 66,000                    | 2,000       | 23,000                               | 2,000       |
| Idaho .....             | 16,000                    | 1,000       | 9,800                                | 500         |
| Illinois .....          | 457,000                   | 16,000      | 194,000                              | 14,000      |
| Indiana .....           | 46,000                    | 2,000       | 28,000                               | 1,000       |
| Iowa .....              | 27,000                    | 1,000       | 15,000                               | 1,000       |
| Kansas .....            | 36,000                    | 1,000       | 22,000                               | 1,000       |
| Kentucky .....          | 21,000                    | 1,000       | 11,500                               | 500         |
| Louisiana .....         | 47,000                    | 2,000       | 27,000                               | 2,000       |
| Maine .....             | 14,700                    | 400         | 10,000                               | 400         |
| Maryland .....          | 178,000                   | 6,000       | 97,000                               | 6,000       |
| Massachusetts .....     | 310,000                   | 9,000       | 177,000                              | 9,000       |
| Michigan .....          | 164,000                   | 5,000       | 94,000                               | 5,000       |
| Minnesota .....         | 77,000                    | 2,000       | 40,000                               | 2,000       |
| Mississippi .....       | 10,800                    | 300         | 6,500                                | 300         |
| Missouri .....          | 44,000                    | 2,000       | 23,000                               | 1,000       |
| Montana .....           | 5,900                     | 200         | 3,400                                | 200         |
| Nebraska .....          | 13,700                    | 400         | 5,900                                | 400         |
| Nevada .....            | 53,000                    | 2,000       | 33,000                               | 2,000       |
| New Hampshire .....     | 19,000                    | 1,000       | 12,400                               | 500         |
| New Jersey .....        | 462,000                   | 16,000      | 231,000                              | 13,000      |
| New Mexico .....        | 43,000                    | 2,000       | 30,000                               | 1,000       |
| New York .....          | 1,498,000                 | 46,000      | 669,000                              | 43,000      |
| North Carolina .....    | 64,000                    | 2,000       | 35,000                               | 2,000       |
| North Dakota .....      | 4,900                     | 100         | 2,200                                | 100         |
| Ohio .....              | 113,000                   | 3,000       | 65,000                               | 3,000       |
| Oklahoma .....          | 32,000                    | 1,000       | 18,000                               | 1,000       |
| Oregon .....            | 78,000                    | 2,000       | 47,000                               | 2,000       |
| Pennsylvania .....      | 160,000                   | 5,000       | 72,000                               | 5,000       |
| Rhode Island .....      | 47,000                    | 2,000       | 31,000                               | 2,000       |
| South Carolina .....    | 24,000                    | 1,000       | 13,400                               | 700         |

TABLE J-1.—POPULATION ESTIMATES BY STATE OF RESIDENCE: LEGAL PERMANENT RESIDENTS AND ALIENS ELIGIBLE TO APPLY FOR NATURALIZATION AS OF APRIL 1996—Continued

| State of residence                                                                                                         | Legal permanent residents |             | Eligible to apply for naturalization |             |
|----------------------------------------------------------------------------------------------------------------------------|---------------------------|-------------|--------------------------------------|-------------|
|                                                                                                                            | Estimate                  | Range (+/-) | Estimate                             | Range (+/-) |
| South Dakota .....                                                                                                         | 4,400                     | 100         | 1,900                                | 100         |
| Tennessee .....                                                                                                            | 37,000                    | 1,000       | 20,000                               | 1,000       |
| Texas .....                                                                                                                | 825,000                   | 29,000      | 483,000                              | 27,000      |
| Utah .....                                                                                                                 | 33,000                    | 1,000       | 19,000                               | 1,000       |
| Vermont .....                                                                                                              | 7,400                     | 200         | 4,000                                | 200         |
| Virginia .....                                                                                                             | 183,000                   | 5,000       | 97,000                               | 5,000       |
| Washington .....                                                                                                           | 174,000                   | 6,000       | 84,000                               | 5,000       |
| West Virginia .....                                                                                                        | 7,000                     | 200         | 3,800                                | 200         |
| Wisconsin .....                                                                                                            | 70,000                    | 2,000       | 46,000                               | 2,000       |
| Wyoming .....                                                                                                              | 3,600                     | 100         | 2,300                                | 100         |
| Total .....                                                                                                                | 10,525,000                | 350,000     | 5,776,000                            | 325,000     |
| Under age 18—Not eligible for naturalization but may be able to derive citizenship through a parent's naturalization ..... |                           |             | 687,000                              | 26,000      |

Note.—Totals may not add due to rounding.

Source: U.S. Department of Justice, Immigration and Naturalization Service.

#### NATURALIZATION REQUIREMENTS AND STATISTICS

Under U.S. immigration law, all legal permanent resident aliens are potential citizens. To naturalize, aliens must have continuously resided in the United States for 5 years as permanent residents (3 years in the case of spouses of U.S. citizens), show that they have good moral character, demonstrate the ability to read, write, speak, and understand English, and pass an examination on U.S. Government and history. Applicants pay a fee of \$95 when they file their materials and have the option of taking a standardized civics test or of having the INS examiner test them on civics as part of their interview.

The language requirement is waived for those who are at least 50 years old and have lived in the United States at least 20 years or who are at least 55 years old and have lived in the United States at least 15 years. Special consideration on the civics requirement is to be given to aliens who are over 65 years and have lived in the United States for at least 20 years. Both the language and civics requirements are waived for those who are unable to comply due to physical or developmental disabilities or mental impairment. Certain requirements are waived for those who served in the U.S. military.

As shown in table J-1, the Immigration and Naturalization Service (INS) estimates that about 6 million permanent resident aliens currently are eligible to apply for naturalization. Estimates of the number of immigrants who ultimately become citizens vary by the methods in which the data are collected, but have typically ranged

from 30 percent to 40 percent. Recently the number of immigrants petitioning to naturalize has surged, reaching 1.3 million in fiscal year 1996.<sup>3</sup> This trend is continuing. INS reported that in fiscal year 1997, through July 31, 1997, it had received 1.4 million naturalization applications, a 51 percent increase over the same period in fiscal year 1996 and a 33 percent increase over all of fiscal year 1995 (table J-2).

TABLE J-2.—NATURALIZATION CASELOAD, FISCAL YEARS 1990–96

| Fiscal year | Petitions filed | Petitions approved | Petitions denied |
|-------------|-----------------|--------------------|------------------|
| 1990 .....  | 233,843         | 270,101            | 6,516            |
| 1991 .....  | 206,668         | 308,058            | 6,268            |
| 1992 .....  | 342,269         | 240,252            | 19,293           |
| 1993 .....  | 522,298         | 314,681            | 39,931           |
| 1994 .....  | 558,139         | 417,847            | 42,574           |
| 1995 .....  | 1,012,538       | 500,892            | 49,117           |
| 1996 .....  | 1,347,474       | 1,148,574          | 244,001          |

Source: INS Statistics Division.

## ALIEN ELIGIBILITY PRIOR TO 1996 WELFARE REFORM

### FEDERAL LAW

Prior to 1996, there was no uniform rule governing which categories of noncitizens were eligible for benefits, and no single statute where the rules were described. Summarizing briefly, lawful permanent residents (i.e., immigrants) and other noncitizens who were legally present on a permanent basis (e.g., refugees) were generally eligible for Federal benefits on the same basis as citizens. With the single exception of emergency Medicaid, illegal aliens were statutorily barred by law from participation in all the major Federal assistance programs, as were tourists and most other aliens here legally in a temporary status (i.e., nonimmigrants). Prior law relating to five key programs is shown in table J-3.

Prior to the 1996 reforms, alien eligibility requirements, if any, were set forth in the laws and regulations governing the individual Federal assistance programs. Because many income, health, education, and social service programs did not include specific provisions regarding alien eligibility, even illegal aliens were potentially participants. These programs included, for example, the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), earned income tax credits (EITC), migrant health centers, and the Social Services Block Grant (SSBG) Program.

<sup>3</sup> CRS Report 95-279 EPW, *Naturalization of Immigrants: Facts and Issues*, by Ruth Ellen Wasem.

TABLE J-3.—ALIEN ELIGIBILITY FOR SELECTED FEDERAL PROGRAMS

| Alien category                                                  | SSI                                                | Food stamps                       | Medicaid                                                                         | TANF <sup>1</sup> and title XX social services (SSBG) |
|-----------------------------------------------------------------|----------------------------------------------------|-----------------------------------|----------------------------------------------------------------------------------|-------------------------------------------------------|
| <b>Immigrants<sup>2</sup></b>                                   |                                                    |                                   |                                                                                  |                                                       |
| Eligibility under prior law .....                               | Yes, with deeming <sup>3</sup> ..                  | Yes, with deeming <sup>3</sup> .. | Yes .....                                                                        | Yes, with deeming for AFDC <sup>3</sup> ..            |
| Eligibility under current law                                   |                                                    |                                   |                                                                                  |                                                       |
| a) Here before 8/22/96 (Public Law 104-193 enactment).          | Yes, if on rolls 8/22/96 or disabled subsequently. | No .....                          | Yes, for SSI-derivative benefits or emergency services; otherwise, State option. | State option                                          |
| b) New entrants—1st 5 years after arrival.                      | No .....                                           | No .....                          | Emergency only .....                                                             | No                                                    |
| c) New entrants—after 5 years .....                             | No .....                                           | No .....                          | Yes, for emergency services; otherwise, State option, with deeming.              | State option, with deeming                            |
| <b>Refugees and asylees<sup>4</sup></b>                         |                                                    |                                   |                                                                                  |                                                       |
| Eligibility under prior law .....                               | Yes .....                                          | Yes .....                         | Yes .....                                                                        | Yes                                                   |
| Eligibility under current law.                                  |                                                    |                                   |                                                                                  |                                                       |
| a) 1st 5 years after entry or asylum ....                       | Yes .....                                          | Yes .....                         | Yes .....                                                                        | Yes                                                   |
| b) after 5 years .....                                          | Yes, until 7 years after entry.                    | No .....                          | Yes, for 2 more years and emergency services; otherwise, State option.           | State option                                          |
| <b>Nonimmigrants<sup>5</sup> and illegal aliens<sup>6</sup></b> |                                                    |                                   |                                                                                  |                                                       |
| Eligibility under prior law .....                               | No .....                                           | No .....                          | Emergency only .....                                                             | SSBG only                                             |
| Eligibility under current law .....                             | No .....                                           | No .....                          | Emergency only .....                                                             | No                                                    |

<sup>1</sup> Previously AFDC. <sup>2</sup> Also known as permanent residents and green card holders. May live here indefinitely unless they commit a deportable act. Parolees admitted temporarily for at least 1 year under the Attorney General's immigration parole power may receive same benefits. <sup>3</sup> Deeming refers to the attribution of the sponsor's income to the immigrant in determining financial eligibility, and formerly applied to only SSI, food stamps, and AFDC (replaced by TANF) for 3 years after entry (5 years for SSI as of January 1, 1996). <sup>4</sup> Status based on individualized persecution abroad. May eventually adjust to permanent residency. Includes Cuban/Haitian entrants and Amerasians. <sup>5</sup> Admitted temporarily for a limited purpose. Includes, e.g., students, visitors, and temporary workers. <sup>6</sup> Also known as undocumented aliens. Includes aliens here in violation of immigration law for whom no legal relief or recognition has been extended.

Source: Congressional Research Service.

*The “public charge” provision and development of eligibility standards*

Opposition to the entry of foreign paupers and aliens “likely at any time to become a public charge”—language found in the Immigration and Nationality Act today—dates from colonial times. The colony of Massachusetts enacted legislation in 1645 prohibiting the entry of paupers, and in 1700 excluding the infirm unless security was given against their becoming public charges. New York adopted a similar practice. A bar against the admission of “any person unable to take care of himself or herself without becoming a public charge” was included in the act of August 3, 1882, the first general Federal immigration law.

Prior to the 1996 legislation, applicants for immigrant status could meet the public charge requirement based on their own funds, prearranged or prospective employment, or an affidavit of support. Affidavits of support were submitted by one or more residents of the United States in order to provide assurance that the applicant for entry would be supported in this country. Starting in the 1930s and continuing until the 1980s, affidavits of support were administratively required by INS but had no specific basis in statute or regulation. Court decisions beginning in the 1950s generally held that affidavits of support were not legally binding on the U.S. resident sponsors.<sup>4</sup> The unenforceability of affidavits of support led to the adoption of legislation in the 1980s intended to make them more effective.

Despite immigration policy to exclude potential public charges, Federal assistance laws contained no eligibility restrictions based on immigration status until the early 1970s. In the absence of Federal law State governments enacted restrictions, usually durational residency requirements, or the eligibility of legal aliens for assistance under State or joint Federal-State programs. However, in 1971 in a landmark decision, *Graham v. Richardson*, 403 U.S. 365, the U.S. Supreme Court declared these State restrictions to be unconstitutional. The Supreme Court found that they violated the equal protection clause of the 14th amendment and they encroached upon the exclusive Federal power to regulate immigration.

Beginning with the new SSI Program in 1972, Federal statutory and regulatory alien eligibility criteria were established for the major Federal assistance programs. In addition to meeting the financial need and family structure criteria applicable to U.S. citizens, noncitizens were required either to be lawfully admitted for permanent residence, or otherwise “permanently residing in the United States under color of law” (PRUCOL) in order to be eligible for SSI, AFDC, Medicaid, or food stamps.<sup>5</sup> These criteria were adopted with the intent of barring participation by temporary non-immigrants and particularly by illegal aliens.

In response to concerns about the unenforceability of affidavits of support and the perceived abuse of the welfare system by some newly arrived immigrants, legislation was enacted in the early

<sup>4</sup>*Department of Mental Hygiene v. Renal*, 6 N.Y. 2d 791 (1959); *State v. Binder*, 356 Mich. 73 (1959).

<sup>5</sup>In part because of the vagueness of the PRUCOL standard, the food stamp legislation was amended in 1977 to specify categories of eligible aliens.

1980s limiting the availability to sponsored immigrants of SSI, AFDC, and food stamps. The enabling legislation for the three programs was amended to provide that for the purpose of determining financial eligibility, immigrants who had used an affidavit of support to meet the public charge requirement would be deemed to have available for their support some portion of the income and resources of their immigration sponsors. The sponsor-to-alien deeming period was set at 3 years for the three programs. This period was temporarily increased from 3 to 5 years for SSI, effective January 1, 1994 to October 1, 1996. For those immigrants still covered under the pre-1996 rules, the duration of SSI deeming has reverted back to 3 years.

The 1996 welfare law significantly expanded the use of sponsor-to-alien deeming as a means of restricting the participation of new immigrants in Federal means-tested programs. It also established new, legally enforceable responsibilities for sponsors who pledge support through affidavits of support. Both deeming and the affidavits of support upon which deeming is based are intended to implement the provision of the Immigration and Nationality Act (INA) that excludes aliens who appear "likely at any time to become a public charge."

#### PRIOR STATE AND LOCAL LAW

In 1971, the Supreme Court held in *Graham v. Richardson* that the equal protection clause and the exclusive authority of Congress to regulate immigration barred States from distinguishing between citizens and legal aliens in providing State-funded or joint Federal-State benefits. More recently, the Supreme Court has recognized that the States do have some authority to enact laws that adversely affect illegal aliens, at least where these laws mirror Federal immigration policy. However, this authority is circumscribed. In 1982, the Supreme Court held in *Plyler v. Doe*<sup>6</sup> that the States could not deny illegal alien children a free public education, in part because of the absence of Federal guidance on the issue.

State regulation of alien access to State and local assistance programs continued to be governed by the *Graham* and *Plyler* decisions. For example, several State supreme courts cited *Graham* to overturn State laws that imposed sponsor-to-alien deeming under State cash assistance programs. In a later example, a U.S. district court judge overturned large parts of California's proposition 187, a ballot initiative that denied illegal aliens education and other State-provided services.<sup>7</sup> Though the judge ruled that the State did have leeway to deny illegal aliens many services (not including elementary and secondary education), she also held that the State could not make its own determinations of the legality of individuals' immigration status nor impose its own alienage standards on services funded at least in part with Federal funds.

Because *Graham* left little leeway for State regulation of legal permanent residents, the States were required to provide needy permanent residents with the same assistance they provided needy citizens. This was true under joint Federal-State programs, such as

<sup>6</sup> 457 U.S. 202 (1982).

<sup>7</sup> *League of United Latin American Citizens v. Wilson*, 908 F. Supp. 755 (C.D. Cal. 1995).

AFDC and Medicaid, which were governed by broad Federal alien eligibility rules even though the Federal Government funded only a portion of assistance. Broad alien eligibility rules set by Congress also indirectly resulted in significant outlays for State supplements to SSI.

Also, States could not differentiate between legal aliens and citizens under State-funded general assistance (GA) programs. According to an October 1996 report by the Urban Institute, cash or in-kind assistance was provided to the needy under GA programs in all or part of 41 States; 9 States had no GA programs operating within them. Of the States with GA programs in at least some localities, 32 had statewide programs (though in some of these, including California, benefits varied by county). In nine States (including Texas and Florida), general assistance is not required statewide but some localities, especially large urban jurisdictions, have chosen to operate GA programs on their own.

Exercising their broader authority with regard to illegal aliens, the GA laws of 36 States limited eligibility to citizens and legal residents. Nevertheless, even though many States had thus attempted to limit expenditures for illegal aliens, some of the largest State outlays for illegal aliens—elementary and secondary education, for example—remained beyond State control.

## USE OF BENEFITS BY NONCITIZENS UNDER PRIOR LAW

### ADMINISTRATIVE DATA

Much of the current concern with the use of public assistance by noncitizens began in 1993 in response to a study by the Social Security Administration (SSA). The subject was the use of SSI by legal aliens entering either as lawfully admitted immigrants or “under color of law.” SSA found that permanent legal aliens made up more than 25 percent of SSI recipients receiving benefits based on age.

More recent data presented by SSA<sup>8</sup> indicated a steady increase from 1982 through 1995 in the number and percentage of lawfully admitted aliens receiving SSI, and an increased percentage of total beneficiaries who are legal aliens (see table J-4). Significant numbers of refugees were being admitted during this period. Legal aliens entering under color of law, most of whom were refugees, accounted for 26 percent of the total number of legal alien SSI recipients in December 1995 (see table J-5). The figures were even greater among aged recipients. In 1995, legal aliens accounted for about 32 percent of all aged SSI recipients, who receive more than 50 percent of all SSI funds for the aged; legal aliens accounted for 6.5 percent of disabled (or blind) recipients.<sup>9</sup>

<sup>8</sup>Elsa Ponce, *Lawfully Resident Aliens Who Receive SSI Payments, December 1995*. U.S. Social Security Administration, February 1996.

<sup>9</sup>The number of new alien applicants for SSI, which had been increasing during each of the 12 previous years, actually decreased by nearly 15,000 in fiscal year 1994 and almost 11,000 in fiscal year 1995. SSA stated that one possible factor for this drop was the temporary extension of the sponsor-to-alien deeming period from 3 to 5 years beginning in January 1994 (Ponce, 1996, p. 2). As the deeming period is extended, the number of sponsored aliens who may be denied assistance because of deeming potentially increases.

TABLE J-4.—NUMBER OF ALIENS RECEIVING SSI PAYMENTS AND ALIEN RECIPIENTS AS A PERCENTAGE OF ALL SSI RECIPIENTS BY ELIGIBILITY CATEGORY, 1982–95

| Year       | Total      |                      | Aged    |                     | Disabled |                         |
|------------|------------|----------------------|---------|---------------------|----------|-------------------------|
|            | All aliens | Percent of total SSI | Aliens  | Percent of SSI aged | Aliens   | Percent of SSI disabled |
| 1982 ..... | 127,906    | 3.3                  | 91,900  | 5.9                 | 36,000   | 1.6                     |
| 1983 ..... | 151,207    | 3.9                  | 106,600 | 7.0                 | 44,600   | 1.9                     |
| 1984 ..... | 181,108    | 4.5                  | 127,600 | 8.3                 | 53,500   | 2.1                     |
| 1985 ..... | 210,810    | 5.1                  | 146,500 | 9.7                 | 64,300   | 2.4                     |
| 1986 ..... | 244,311    | 5.7                  | 165,300 | 11.2                | 79,000   | 2.8                     |
| 1987 ..... | 282,513    | 6.4                  | 188,000 | 12.9                | 94,500   | 3.2                     |
| 1988 ..... | 320,315    | 7.2                  | 213,900 | 14.9                | 106,400  | 3.5                     |
| 1989 ..... | 370,317    | 8.1                  | 245,700 | 17.1                | 124,600  | 4.0                     |
| 1990 ..... | 435,619    | 9.0                  | 282,400 | 19.4                | 153,200  | 4.6                     |
| 1991 ..... | 519,683    | 10.2                 | 329,690 | 22.5                | 189,970  | 5.2                     |
| 1992 ..... | 601,455    | 10.8                 | 372,930 | 25.4                | 228,500  | 5.6                     |
| 1993 ..... | 683,178    | 11.5                 | 416,420 | 28.2                | 266,730  | 5.9                     |
| 1994 ..... | 738,140    | 11.8                 | 440,000 | 30.2                | 298,140  | 6.2                     |
| 1995 ..... | 785,410    | 12.2                 | 459,220 | 32.1                | 326,190  | 6.5                     |

Source: SSI 10-percent sample files.

The most recent SSA data indicated that 724,990 noncitizens were receiving SSI in December 1996, shown by State in table J-6. Of this number, 417,360 (or 57.6 percent) qualified because of age, and 307,630 (or 42.4 percent) because of disability. The noncitizen caseload was 11 percent of the total SSI caseload, and the noncitizen aged caseload was 30 percent of the total SSI aged caseload. According to an SSA spokesman, about 490,000 of total noncitizen recipients were over 65, which means that 73,000 of the disabled recipients were also elderly. (Recipients admitted to the rolls on the basis of disability remain in this category regardless of their age.)

Diagnostic data for disabled noncitizen SSI recipients available for December 1995 are shown in table J-7. More than half (55 percent) of disabled noncitizens were in the 50–64 age category. This age group accounted for 27 percent of disabled recipients in general. (The table is limited to the disabled under 65.) The diseases of this older group of alien recipients, of course, heavily weighted the overall picture of diagnoses of disability. This data is of interest because, as amended in 1997, the welfare law provides for continued SSI eligibility of qualified aliens who were in the United States before August 22, 1996 and subsequently become disabled.

TABLE J-5.—NUMBER OF ALIENS RECEIVING FEDERALLY ADMINISTERED SSI PAYMENTS  
BY LEGAL STATUS AND COUNTRY OF ORIGIN, DECEMBER 1995

| Country of origin             | Total            | Color of law     | Lawfully admitted | Increase 1989-95 |
|-------------------------------|------------------|------------------|-------------------|------------------|
| Africa .....                  | 7,660            | 1,330            | 6,330             | 4,970            |
| North America:                |                  |                  |                   |                  |
| Canada .....                  | 2,890            | 140              | 2,750             | 900              |
| Other .....                   | ( <sup>1</sup> ) | ( <sup>1</sup> ) | ( <sup>1</sup> )  | ( <sup>1</sup> ) |
| Latin America:                |                  |                  |                   |                  |
| Cuba .....                    | 58,270           | 15,740           | 42,530            | 24,360           |
| Dominican Republic .....      | 31,730           | 160              | 31,570            | 20,650           |
| El Salvador .....             | 11,020           | 580              | 10,440            | 7,680            |
| Haiti .....                   | 10,070           | 490              | 9,580             | 6,140            |
| Jamaica .....                 | 10,130           | 120              | 10,010            | 5,550            |
| Mexico .....                  | 131,650          | 5,740            | 125,910           | 78,640           |
| Columbia .....                | 8,390            | 170              | 8,220             | 4,020            |
| Ecuador .....                 | 6,230            | 110              | 6,120             | 3,330            |
| Guyana .....                  | 4,910            | ( <sup>1</sup> ) | ( <sup>1</sup> )  | 2,700            |
| Other .....                   | 31,670           | 1,360            | 30,310            | 17,890           |
| East Asia:                    |                  |                  |                   |                  |
| China .....                   | 41,820           | 2,120            | 39,700            | 20,700           |
| South Korea .....             | 26,380           | 140              | 26,240            | 10,850           |
| Other .....                   | 3,680            | ( <sup>1</sup> ) | ( <sup>1</sup> )  | 1,210            |
| South Asia:                   |                  |                  |                   |                  |
| Afghanistan .....             | 4,620            | 2,650            | 1,970             | 2,420            |
| Cambodia .....                | 22,460           | 12,170           | 10,290            | 10,070           |
| India .....                   | 18,420           | 210              | 18,210            | 10,160           |
| Iran .....                    | 20,710           | 6,320            | 14,390            | 13,290           |
| Laos .....                    | 27,830           | 16,420           | 11,410            | 14,390           |
| Philippines .....             | 38,780           | 390              | 38,390            | 13,510           |
| Taiwan .....                  | 5,600            | 100              | 5,500             | 2,450            |
| Vietnam .....                 | 53,220           | 26,650           | 26,570            | 33,520           |
| Other .....                   | 24,740           | 3,200            | 21,540            | 14,110           |
| Europe:                       |                  |                  |                   |                  |
| Italy .....                   | 3,200            | ( <sup>1</sup> ) | ( <sup>1</sup> )  | 600              |
| Portugal .....                | 6,190            | ( <sup>1</sup> ) | ( <sup>1</sup> )  | 1,480            |
| Romania .....                 | 4,060            | 1,410            | 2,650             | 1,830            |
| United Kingdom .....          | 2,730            | 540              | 2,190             | 1,160            |
| Other .....                   | 14,810           | 1,370            | 13,440            | 6,220            |
| Former Soviet Republics ..... | 74,230           | 60,060           | 14,170            | 57,090           |
| Oceania .....                 | 2,460            | ( <sup>1</sup> ) | ( <sup>1</sup> )  | 1,390            |
| Unidentified .....            | 74,760           | 43,830           | 30,930            | 12,020           |
| Total .....                   | 785,410          | 203,840          | 581,570           | 405,370          |

<sup>1</sup> Relative sampling error too large for presentation of estimates.

Source: SSI 10-percent sample.

TABLE J-6.—NUMBER OF ALIENS RECEIVING SSI PAYMENTS BY ELIGIBILITY CATEGORY AND STATE, DECEMBER 1996

| State                      | Total   | Aged             | Disabled         |
|----------------------------|---------|------------------|------------------|
| Alabama .....              | 480     | 370              | 110              |
| Alaska .....               | 750     | 390              | 360              |
| Arizona .....              | 7,650   | 3,900            | 3,750            |
| Arkansas .....             | 340     | 190              | 150              |
| California .....           | 293,180 | 163,900          | 129,280          |
| Colorado .....             | 5,140   | 2,740            | 2,400            |
| Connecticut .....          | 4,370   | 2,700            | 1,670            |
| Delaware .....             | 330     | 200              | 130              |
| District of Columbia ..... | 860     | 530              | 330              |
| Florida .....              | 69,710  | 44,310           | 25,400           |
| Georgia .....              | 4,570   | 2,930            | 1,640            |
| Hawaii .....               | 3,770   | 2,850            | 920              |
| Idaho .....                | 410     | 220              | 190              |
| Illinois .....             | 22,980  | 13,360           | 9,620            |
| Indiana .....              | 1,080   | 730              | 350              |
| Iowa .....                 | 1,170   | 600              | 570              |
| Kansas .....               | 1,500   | 700              | 800              |
| Kentucky .....             | 720     | 380              | 340              |
| Louisiana .....            | 2,500   | 1,430            | 1,070            |
| Maine .....                | 540     | 200              | 340              |
| Maryland .....             | 7,800   | 5,970            | 1,830            |
| Massachusetts .....        | 23,980  | 13,410           | 10,570           |
| Michigan .....             | 7,350   | 4,060            | 3,290            |
| Minnesota .....            | 6,640   | 2,340            | 4,300            |
| Mississippi .....          | 440     | 220              | 220              |
| Missouri .....             | 1,800   | 1,030            | 770              |
| Montana .....              | 150     | ( <sup>1</sup> ) | ( <sup>1</sup> ) |
| Nebraska .....             | 720     | 340              | 380              |
| Nevada .....               | 2,370   | 1,590            | 780              |
| New Hampshire .....        | 350     | 200              | 150              |
| New Jersey .....           | 22,140  | 14,580           | 7,560            |
| New Mexico .....           | 3,350   | 1,530            | 1,820            |
| New York .....             | 113,900 | 65,340           | 48,560           |
| North Carolina .....       | 2,600   | 1,590            | 1,010            |
| North Dakota .....         | 180     | ( <sup>1</sup> ) | ( <sup>1</sup> ) |
| Ohio .....                 | 5,340   | 3,380            | 1,960            |
| Oklahoma .....             | 1,340   | 880              | 460              |
| Oregon .....               | 4,260   | 2,200            | 2,060            |
| Pennsylvania .....         | 11,340  | 6,470            | 4,870            |
| Rhode Island .....         | 3,440   | 1,700            | 1,740            |
| South Carolina .....       | 580     | 420              | 160              |
| South Dakota .....         | 200     | ( <sup>1</sup> ) | ( <sup>1</sup> ) |
| Tennessee .....            | 1,380   | 850              | 530              |
| Texas .....                | 54,760  | 32,640           | 22,120           |
| Utah .....                 | 1,420   | 700              | 720              |
| Vermont .....              | 150     | ( <sup>1</sup> ) | ( <sup>1</sup> ) |
| Virginia .....             | 6,780   | 5,150            | 1,630            |
| Washington .....           | 13,160  | 5,920            | 7,240            |
| West Virginia .....        | 190     | ( <sup>1</sup> ) | ( <sup>1</sup> ) |

TABLE J-6.—NUMBER OF ALIENS RECEIVING SSI PAYMENTS BY ELIGIBILITY CATEGORY AND STATE, DECEMBER 1996—Continued

| State           | Total            | Aged             | Disabled         |
|-----------------|------------------|------------------|------------------|
| Wisconsin ..... | 4,790            | 1,800            | 2,990            |
| Wyoming .....   | ( <sup>1</sup> ) | ( <sup>1</sup> ) | ( <sup>1</sup> ) |
| Total .....     | 724,990          | 417,360          | 307,630          |

<sup>1</sup> Relative sampling error too large for presentation of estimates.

Source: SSI 10-percent sample file, December 1996.

High use of SSI by aliens has resulted in large outlays of Federal funds for SSI benefits, large outlays of State funds under State supplementation of SSI, and large Federal-State outlays for Medicaid benefits that generally accompany SSI. Table J-8 shows that, beyond high rates of use, the average benefit amount for alien recipients exceeds the average benefit paid to citizens. This difference is largely attributable to the fact that alien recipients of SSI are less likely than citizens to qualify for retirement and disability benefits under the Old Age, Survivors, and Disability Insurance Program (OASDI), frequently because they have not been here long enough to work 10 years. Receipt of OASDI benefits reduces the amount of SSI benefits to which a recipient is entitled.

Administrative data for the AFDC and Food Stamp Programs, while more limited than those available for SSI, show lower usage rates than have been found for SSI. Health and Human Services data on characteristics of AFDC recipients indicate that, as a percentage of total adult AFDC recipients, noncitizens legally in the United States have increased from 6.3 percent in fiscal year 1986 to 12.2 percent in fiscal year 1995 (U.S. Department of Health and Human Services, 1996). This compares with the increase in noncitizen aged SSI recipients from 11.2 percent of the total in fiscal year 1986 to 32.1 percent of the total in fiscal year 1995 (Ponce, 1996). Department of Agriculture Food Stamp Program data on the citizenship of the heads of households receiving food stamps in fiscal year 1995 indicated that 7.7 percent were headed by permanent resident aliens and 1.8 percent were headed by other aliens, for a total of 9.5 percent (U.S. Department of Agriculture, 1997).

#### U.S. CENSUS BUREAU DATA

The most comprehensive source of information on participation by the foreign born in public assistance programs is the Census Bureau's March Current Population Survey (CPS). The Census Bureau conducts the CPS each month to collect labor force data about the civilian noninstitutionalized population. The March Supplement of the CPS gathers additional data about income, education, household characteristics, and geographic mobility. The March 1994 Supplement was the first CPS to ask participants about their citizenship status.

TABLE J-7.—BLIND AND DISABLED PERSONS UNDER AGE 65 RECEIVING FEDERALLY ADMINISTERED SSI PAYMENTS AND BLIND AND DISABLED ALIENS UNDER AGE 65 RECEIVING FEDERALLY ADMINISTERED SSI PAYMENTS BY AGE AND DIAGNOSTIC GROUP, DECEMBER 1995

| Diagnostic group              | Blind and disabled SSI recipients |          |         |           |           | Blind and disabled aliens receiving SSI |          |        |        |         |
|-------------------------------|-----------------------------------|----------|---------|-----------|-----------|-----------------------------------------|----------|--------|--------|---------|
|                               | Age                               |          |         |           |           | Age                                     |          |        |        |         |
|                               | Total                             | Under 18 | 18-24   | 25-49     | 50-64     | Total                                   | Under 18 | 18-24  | 25-49  | 50-64   |
| Infective and parasitic ..... | 1.7                               | 0.4      | 0.5     | 2.8       | 1.4       | 2.4                                     | 1.0      | 2.0    | 4.4    | 1.2     |
| Neoplasms .....               | 1.5                               | 1.6      | 1.2     | 1.1       | 2.2       | 2.2                                     | 3.0      | 1.6    | 1.8    | 2.5     |
| Endocrine and metabolic ..... | 4.1                               | 1.1      | 1.4     | 4.0       | 7.5       | 3.9                                     | 0.4      | 0.5    | 2.2    | 5.5     |
| Mental disorders:             |                                   |          |         |           |           |                                         |          |        |        |         |
| Retardation .....             | 28.2                              | 40.6     | 50.2    | 28.1      | 11.3      | 10.0                                    | 40.9     | 42.1   | 13.7   | 2.7     |
| Psychiatric illness .....     | 31.2                              | 24.8     | 22.0    | 38.6      | 27.6      | 35.3                                    | 11.7     | 19.1   | 47.0   | 30.4    |
| Schizophrenia .....           | 8.9                               | 0.5      | 4.8     | 14.3      | 8.2       | 8.9                                     | 0.7      | 7.8    | 16.9   | 4.2     |
| Other psychiatric .....       | 22.3                              | 24.3     | 17.2    | 24.3      | 19.4      | 26.3                                    | 11.0     | 11.2   | 30.1   | 26.1    |
| Diseases of systems:          |                                   |          |         |           |           |                                         |          |        |        |         |
| Nervous and sense organ ....  | 10.1                              | 12.2     | 14.0    | 9.8       | 7.9       | 10.3                                    | 26.0     | 21.7   | 10.8   | 8.1     |
| Circulatory .....             | 5.0                               | 0.7      | 0.9     | 2.6       | 13.3      | 10.7                                    | 1.3      | 1.4    | 3.6    | 16.8    |
| Respiratory .....             | 2.6                               | 2.9      | 0.8     | 1.2       | 5.3       | 2.5                                     | 1.3      | 0.5    | 1.3    | 3.6     |
| Digestive .....               | 0.7                               | 0.1      | 0.2     | 0.7       | 1.0       | 0.8                                     | 0.2      | 0.0    | 0.6    | 1.0     |
| Musculoskeletal .....         | 7.1                               | 1.1      | 1.6     | 5.0       | 17.1      | 14.7                                    | 2.9      | 2.8    | 6.7    | 21.9    |
| Congenital anomalies .....    | 1.6                               | 4.9      | 2.1     | 0.8       | 0.3       | 0.4                                     | 4.3      | 0.5    | 0.4    | 0.2     |
| Injury and poisoning .....    | 2.8                               | 0.6      | 2.4     | 3.4       | 3.6       | 4.2                                     | 1.1      | 3.7    | 4.5    | 4.3     |
| Other .....                   | 3.4                               | 8.8      | 2.7     | 2.0       | 1.6       | 2.7                                     | 6.0      | 4.1    | 3.2    | 2.0     |
| Percent .....                 | 100.0                             | 100.0    | 100.0   | 100.0     | 100.0     | 100.0                                   | 100.0    | 100.0  | 100.0  | 100.0   |
| Total .....                   | 4,345,820                         | 911,910  | 390,450 | 1,868,160 | 1,175,300 | 249,050                                 | 8,380    | 12,370 | 90,970 | 137,330 |

Source: Social Security Administration, unpublished data, 1996.

TABLE J-8.—AVERAGE MONTHLY FEDERALLY ADMINISTERED PAYMENT (FEDERAL SSI AND STATE SUPPLEMENTATION) RECEIVED BY NONALIENS AND ALIENS BY STATE, DECEMBER 1995

| State                              | Nonalien |          | Alien    |          |
|------------------------------------|----------|----------|----------|----------|
|                                    | Total    | Disabled | Total    | Disabled |
| Alabama .....                      | \$293.57 | \$159.54 | \$331.94 | \$369.22 |
| Alaska .....                       | 323.65   | 225.81   | 333.79   | 284.86   |
| Arizona .....                      | 324.09   | 187.03   | 347.47   | 299.92   |
| Arkansas .....                     | 281.82   | 138.85   | 320.61   | 343.91   |
| California .....                   | 402.48   | 265.12   | 439.47   | 492.10   |
| Colorado .....                     | 305.06   | 157.15   | 329.03   | 367.05   |
| Connecticut .....                  | 318.95   | 193.18   | 336.54   | 353.56   |
| Delaware .....                     | 306.82   | 133.42   | 331.83   | 312.51   |
| District of Columbia .....         | 334.14   | 179.24   | 361.33   | 342.83   |
| Florida .....                      | 310.82   | 182.67   | 342.10   | 342.57   |
| Georgia .....                      | 283.33   | 148.66   | 318.32   | 356.85   |
| Hawaii .....                       | 361.64   | 290.60   | 390.88   | 354.16   |
| Idaho .....                        | 309.97   | 109.97   | 335.29   | 317.42   |
| Illinois .....                     | 354.88   | 179.08   | 370.78   | 367.62   |
| Indiana .....                      | 319.20   | 148.79   | 337.53   | 357.15   |
| Iowa .....                         | 289.03   | 138.62   | 313.90   | 371.88   |
| Kansas .....                       | 304.86   | 152.59   | 323.05   | 399.94   |
| Kentucky .....                     | 314.15   | 156.16   | 342.36   | 376.85   |
| Louisiana .....                    | 315.74   | 164.61   | 347.66   | 335.84   |
| Maine .....                        | 263.90   | 107.64   | 297.17   | 301.42   |
| Maryland .....                     | 326.38   | 159.08   | 352.51   | 354.64   |
| Massachusetts .....                | 336.76   | 210.79   | 377.87   | 421.52   |
| Michigan .....                     | 347.46   | 167.62   | 366.16   | 376.00   |
| Minnesota .....                    | 301.12   | 144.11   | 327.78   | 410.54   |
| Mississippi .....                  | 392.71   | 156.52   | 331.55   | 362.79   |
| Missouri .....                     | 342.71   | 156.52   | 331.55   | 362.79   |
| Montana .....                      | 342.71   | 156.52   | 331.55   | 362.79   |
| Nebraska .....                     | 342.71   | 156.52   | 331.55   | 362.79   |
| Nevada .....                       | 342.71   | 156.52   | 331.55   | 362.79   |
| New Hampshire .....                | 342.71   | 156.52   | 331.55   | 362.79   |
| New Jersey .....                   | 342.71   | 156.52   | 331.55   | 362.79   |
| New Mexico .....                   | 342.71   | 156.52   | 331.55   | 362.79   |
| New York .....                     | 342.71   | 156.52   | 331.55   | 362.79   |
| North Carolina .....               | 342.71   | 156.52   | 331.55   | 362.79   |
| North Dakota .....                 | 342.71   | 156.52   | 331.55   | 362.79   |
| Ohio .....                         | 342.71   | 156.52   | 331.55   | 362.79   |
| Oklahoma .....                     | 342.71   | 156.52   | 331.55   | 362.79   |
| Oregon .....                       | 342.71   | 156.52   | 331.55   | 362.79   |
| Pennsylvania .....                 | 342.71   | 156.52   | 331.55   | 362.79   |
| Rhode Island .....                 | 342.71   | 156.52   | 331.55   | 362.79   |
| South Carolina .....               | 342.71   | 156.52   | 331.55   | 362.79   |
| South Dakota .....                 | 342.71   | 156.52   | 331.55   | 362.79   |
| Tennessee .....                    | 342.71   | 156.52   | 331.55   | 362.79   |
| Texas .....                        | 342.71   | 156.52   | 331.55   | 362.79   |
| Utah .....                         | 342.71   | 156.52   | 331.55   | 362.79   |
| Vermont .....                      | 342.71   | 156.52   | 331.55   | 362.79   |
| Virginia .....                     | 342.71   | 156.52   | 331.55   | 362.79   |
| Washington .....                   | 342.71   | 156.52   | 331.55   | 362.79   |
| West Virginia .....                | 342.71   | 156.52   | 331.55   | 362.79   |
| Wisconsin .....                    | 342.71   | 156.52   | 331.55   | 362.79   |
| Wyoming .....                      | 342.71   | 156.52   | 331.55   | 362.79   |
| American Samoa .....               | 342.71   | 156.52   | 331.55   | 362.79   |
| Guam .....                         | 342.71   | 156.52   | 331.55   | 362.79   |
| Marshall Islands .....             | 342.71   | 156.52   | 331.55   | 362.79   |
| Micronesia .....                   | 342.71   | 156.52   | 331.55   | 362.79   |
| Northern Mariana Islands .....     | 342.71   | 156.52   | 331.55   | 362.79   |
| Puerto Rico .....                  | 342.71   | 156.52   | 331.55   | 362.79   |
| Virgin Islands .....               | 342.71   | 156.52   | 331.55   | 362.79   |
| Washington, D.C. .....             | 342.71   | 156.52   | 331.55   | 362.79   |
| Yukon .....                        | 342.71   | 156.52   | 331.55   | 362.79   |
| Northern Territory .....           | 342.71   | 156.52   | 331.55   | 362.79   |
| Christmas Island .....             | 342.71   | 156.52   | 331.55   | 362.79   |
| Cook Islands .....                 | 342.71   | 156.52   | 331.55   | 362.79   |
| Fiji .....                         | 342.71   | 156.52   | 331.55   | 362.79   |
| French Polynesia .....             | 342.71   | 156.52   | 331.55   | 362.79   |
| Guinea-Bissau .....                | 342.71   | 156.52   | 331.55   | 362.79   |
| Madagascar .....                   | 342.71   | 156.52   | 331.55   | 362.79   |
| Malawi .....                       | 342.71   | 156.52   | 331.55   | 362.79   |
| Maldives .....                     | 342.71   | 156.52   | 331.55   | 362.79   |
| Mali .....                         | 342.71   | 156.52   | 331.55   | 362.79   |
| Mauritania .....                   | 342.71   | 156.52   | 331.55   | 362.79   |
| Mauritius .....                    | 342.71   | 156.52   | 331.55   | 362.79   |
| Mexico .....                       | 342.71   | 156.52   | 331.55   | 362.79   |
| Moldova .....                      | 342.71   | 156.52   | 331.55   | 362.79   |
| Monaco .....                       | 342.71   | 156.52   | 331.55   | 362.79   |
| Mongolia .....                     | 342.71   | 156.52   | 331.55   | 362.79   |
| Montenegro .....                   | 342.71   | 156.52   | 331.55   | 362.79   |
| Morocco .....                      | 342.71   | 156.52   | 331.55   | 362.79   |
| Mozambique .....                   | 342.71   | 156.52   | 331.55   | 362.79   |
| Nicaragua .....                    | 342.71   | 156.52   | 331.55   | 362.79   |
| Niger .....                        | 342.71   | 156.52   | 331.55   | 362.79   |
| Nigeria .....                      | 342.71   | 156.52   | 331.55   | 362.79   |
| Romania .....                      | 342.71   | 156.52   | 331.55   | 362.79   |
| Russia .....                       | 342.71   | 156.52   | 331.55   | 362.79   |
| San Marino .....                   | 342.71   | 156.52   | 331.55   | 362.79   |
| Senegal .....                      | 342.71   | 156.52   | 331.55   | 362.79   |
| Serbia .....                       | 342.71   | 156.52   | 331.55   | 362.79   |
| Seychelles .....                   | 342.71   | 156.52   | 331.55   | 362.79   |
| Slovakia .....                     | 342.71   | 156.52   | 331.55   | 362.79   |
| Slovenia .....                     | 342.71   | 156.52   | 331.55   | 362.79   |
| South Africa .....                 | 342.71   | 156.52   | 331.55   | 362.79   |
| Spain .....                        | 342.71   | 156.52   | 331.55   | 362.79   |
| Sweden .....                       | 342.71   | 156.52   | 331.55   | 362.79   |
| Switzerland .....                  | 342.71   | 156.52   | 331.55   | 362.79   |
| Taiwan .....                       | 342.71   | 156.52   | 331.55   | 362.79   |
| Tanzania .....                     | 342.71   | 156.52   | 331.55   | 362.79   |
| Thailand .....                     | 342.71   | 156.52   | 331.55   | 362.79   |
| Togo .....                         | 342.71   | 156.52   | 331.55   | 362.79   |
| Tonga .....                        | 342.71   | 156.52   | 331.55   | 362.79   |
| Trinidad and Tobago .....          | 342.71   | 156.52   | 331.55   | 362.79   |
| Tunisia .....                      | 342.71   | 156.52   | 331.55   | 362.79   |
| Turkey .....                       | 342.71   | 156.52   | 331.55   | 362.79   |
| Turkmenistan .....                 | 342.71   | 156.52   | 331.55   | 362.79   |
| Ukraine .....                      | 342.71   | 156.52   | 331.55   | 362.79   |
| United Kingdom .....               | 342.71   | 156.52   | 331.55   | 362.79   |
| United States .....                | 342.71   | 156.52   | 331.55   | 362.79   |
| United States (Foreign Born) ..... | 342.71   | 156.52   | 331.55   | 362.79   |
| United States (Native Born) .....  | 342.71   | 156.52   | 331.55   | 362.79   |
| Uruguay .....                      | 342.71   | 156.52   | 331.55   | 362.79   |
| Uzbekistan .....                   | 342.71   | 156.52   | 331.55   | 362.79   |
| Vietnam .....                      | 342.71   | 156.52   | 331.55   | 362.79   |
| Yemen .....                        | 342.71   | 156.52   | 331.55   | 362.79   |
| Zambia .....                       | 342.71   | 156.52   | 331.55   | 362.79   |
| Zimbabwe .....                     | 342.71   | 156.52   | 331.55   | 362.79   |

|                      |          |          |          |          |          |          |
|----------------------|----------|----------|----------|----------|----------|----------|
| Missouri .....       | 310.45   | 143.20   | 338.24   | 385.99   | 389.69   | 379.93   |
| Montana .....        | 331.78   | 330.82   | 314.10   | 354.71   | (1)      | (1)      |
| Nebraska .....       | 286.41   | 122.10   | 315.17   | 352.22   | 364.88   | 339.56   |
| Nevada .....         | 306.82   | 190.17   | 339.54   | 367.46   | 372.52   | 357.57   |
| New Hampshire .....  | 301.41   | 126.24   | 318.95   | 306.37   | 306.05   | 306.80   |
| New Jersey .....     | 334.93   | 200.36   | 360.46   | 378.07   | 374.73   | 384.79   |
| New Mexico .....     | 305.29   | 165.21   | 340.64   | 301.36   | 281.09   | 319.80   |
| New York .....       | 375.36   | 224.61   | 403.92   | 419.13   | 405.38   | 438.08   |
| North Carolina ..... | 277.54   | 150.40   | 314.79   | 363.25   | 354.12   | 379.31   |
| North Dakota .....   | 272.90   | 142.42   | 302.96   | 377.07   | 403.40   | 362.44   |
| Ohio .....           | 347.82   | 163.77   | 362.52   | 365.92   | 360.27   | 376.16   |
| Oklahoma .....       | 291.65   | 150.54   | 326.85   | 357.57   | 352.38   | 367.52   |
| Oregon .....         | 309.57   | 141.34   | 332.04   | 373.03   | 365.65   | 381.07   |
| Pennsylvania .....   | 351.55   | 185.46   | 378.39   | 408.82   | 397.39   | 424.96   |
| Rhode Island .....   | 336.65   | 161.73   | 367.82   | 380.45   | 353.35   | 408.90   |
| South Carolina ..... | 287.51   | 156.29   | 323.52   | 350.15   | 349.28   | 352.32   |
| South Dakota .....   | 294.51   | 143.62   | 326.56   | 334.32   | 241.00   | 402.18   |
| Tennessee .....      | 299.07   | 149.90   | 331.39   | 365.08   | 362.75   | 368.74   |
| Texas .....          | 282.12   | 162.62   | 324.74   | 287.91   | 266.16   | 320.74   |
| Utah .....           | 315.08   | 149.27   | 331.30   | 369.07   | 359.86   | 378.00   |
| Vermont .....        | 305.23   | 158.76   | 330.89   | 420.63   | 364.63   | 476.63   |
| Virginia .....       | 292.16   | 150.47   | 324.49   | 366.36   | 361.91   | 379.46   |
| Washington .....     | 335.03   | 181.50   | 350.30   | 419.44   | 408.92   | 428.05   |
| West Virginia .....  | 326.65   | 151.71   | 348.83   | 349.00   | 320.83   | 391.25   |
| Wisconsin .....      | 315.27   | 134.52   | 337.41   | 409.25   | 388.92   | 421.43   |
| Wyoming .....        | 303.48   | 98.78    | 327.27   | 232.50   | 153.33   | 470.00   |
| Total .....          | \$329.18 | \$189.83 | \$359.32 | \$421.17 | \$405.23 | \$443.61 |

<sup>1</sup> Relative sampling error too large for presentation of estimates.

Source: SSI 10-percent sample file, December 1996.

Because CPS is a sample of the U.S. population, the results are necessarily estimates. Additionally, while the data collected in this survey distinguish between the foreign born who have naturalized and those who have not, it does not distinguish between types of noncitizens (e.g., permanent, temporary, illegal). Most noncitizens counted by the census are thought to be here legally, with probably the majority being legal permanent residents.

The Congressional Research Service analyzed data from the March 1994 CPS Survey.<sup>10</sup> The findings are summarized in tables J-9 and J-10 (O'Grady, 1995, p. 28).

TABLE J-9.—PERCENT OF CITIZENS BY BIRTH, NATURALIZED CITIZENS, AND NONCITIZENS RECEIVING VARIOUS WELFARE BENEFITS IN 1994

| Welfare program        | Citizens by birth | Naturalized citizens | Noncitizens |
|------------------------|-------------------|----------------------|-------------|
| SSI .....              | 2                 | 3                    | 3           |
| Under age 65 .....     | 2                 | 2                    | 2           |
| Age 65 and older ..... | 4                 | 7                    | 23          |
| AFDC .....             | 5                 | 2                    | 6           |
| State assistance ..... | 1                 | ( <sup>1</sup> )     | 2           |
| Food stamps .....      | 12                | 7                    | 16          |
| Medicaid .....         | 8                 | 3                    | 11          |

<sup>1</sup> Sample too small for reliable estimates.

Note.—Twenty-nine percent of noncitizen households live below the Federal poverty level as compared with 15 percent of citizens by birth and 10 percent of naturalized citizens.

Source: O'Grady, M.J. (1995).

Generally speaking, the CRS analysis corroborated administrative data that showed that the foreign born were significantly more likely to use SSI, but were not significantly more likely than citizens by birth to use AFDC or food stamps. Table J-9 shows that in the AFDC, Food Stamp and Medicaid Programs, noncitizens had higher participation rates than the native born, but that naturalized citizens had lower participation rates than the native born. However, in the SSI Program both noncitizens and naturalized citizens had higher participation rates than native born citizens. This was especially true among the aged population.

In addition to the elderly, the other major subgroup of the foreign born using welfare appears to be refugees (and their relatives). While the CRS study did not desegregate refugees, Urban Institute analysts did in Senate testimony. Based also on the March 1994 CPS, they found that 13.1 percent of the foreign born from the major refugee sending countries used AFDC, SSI, or GA, compared to 5.8 percent of the foreign born from other countries.<sup>11</sup>

<sup>10</sup> O'Grady, M.J. (1995).

<sup>11</sup> Fix, M., Passel, J.S., & Zimmermann, W. (1996). *The use of SSI and other welfare programs by immigrants*. Testimony before the U.S. Senate [Judiciary] Subcommittee on Immigration, Feb. 6, 1996. Washington, DC: The Urban Institute.

TABLE J-10.—PERCENTAGE OF PEOPLE RECEIVING VARIOUS WELFARE BENEFITS AND PERCENTAGE OF TOTAL RECIPIENTS BY CITIZENSHIP STATUS, MARCH 1994

| Program                                                          | Citizenship status |                      |             |
|------------------------------------------------------------------|--------------------|----------------------|-------------|
|                                                                  | Citizens by birth  | Naturalized citizens | Noncitizens |
| Food stamps                                                      |                    |                      |             |
| Percentage receiving .....                                       | 12                 | 7                    | 16          |
| Percentage of all food stamp recipients .....                    | 90                 | 1                    | 8           |
| AFDC                                                             |                    |                      |             |
| Percentage receiving .....                                       | 5                  | 2                    | 6           |
| Percentage of all AFDC recipients .....                          | 92                 | 1                    | 7           |
| State assistance                                                 |                    |                      |             |
| Percentage receiving .....                                       | 1                  | ( <sup>1</sup> )     | 2           |
| Percentage of all State assistance recipients <sup>2</sup> ..... | 85                 | ( <sup>1</sup> )     | 12          |
| Total population                                                 |                    |                      |             |
| Number (thousands) .....                                         | 237,184            | 6,975                | 15,593      |
| Percentage .....                                                 | 91                 | 3                    | 6           |

<sup>1</sup> Sample too small for reliable estimates.

<sup>2</sup> Percentages do not add to 100 due to sample sizes too small for reliable results.

Source: O'Grady, M.J. (1995).

With regard to use of food stamps, O'Grady (1995, pp. 17–18) found the following (see table J-10):

- Overall 31 million people or 12 percent of the population lived in food stamp households.
- Naturalized citizens were less likely to live in food stamp households than citizens born in the United States. Only 7 percent of naturalized citizens lived in households that received food stamps compared with 12 percent of the population born in the United States.
- Noncitizens were more likely than citizens born in the United States to live in households that receive food stamps. Among noncitizens 3 million or 16 percent lived in households that receive food stamps.

As with food stamps, O'Grady also found that noncitizens were more likely to report Medicaid coverage than the native born (p. 20), but that naturalized citizens were less likely to report Medicaid coverage. Other findings include:

- There were about 2 million noncitizens reporting Medicaid coverage. These noncitizens represented 8 percent of the population reporting Medicaid coverage but less than 1 percent of the total U.S. population.
- Eleven percent of noncitizens reported that they were covered by Medicaid as compared with 8 percent of citizens born in the United States, and 3 percent of naturalized citizens.

Seven percent of the people living in AFDC families were noncitizens. Further, of the noncitizen population, 6 percent lived in families receiving AFDC compared to 5 percent of the native born population and only 2 percent of the naturalized population. Table J-10 summarizes the findings on use of AFDC and State cash assistance.

## REASONS FOR CHANGE IN ALIEN ELIGIBILITY FOR BENEFITS

High immigration levels in the 1990s came at a time of increasing concern about both welfare dependence and the budget. There was growing public concern about immigrants' disproportionately high use of SSI. As noted above, in May 1993, the Social Security Administration issued a report entitled "SSI Payments to Lawfully Resident Aliens." According to the report, over 600,000 legal aliens were receiving SSI payments in December 1992, the annual application rate of legal immigrants for SSI had tripled between 1982 and 1992, and immigrants made up more than 25 percent of total age-based recipients.

In the opinion of many, this high use of SSI indicated, at best, an abuse of the spirit of the law. There was widespread public concern that naturalized U.S. citizens were bringing in their parents as immigrants with the intention of supporting them only as long as they were required to do so under the SSI sponsor-to-alien deeming rule—at which point, the parents could start collecting SSI benefits.

This concern coincided with a broader effort to reform welfare. During the 1992 election campaign, President Clinton had promised to end welfare as we know it, and the House Republicans sponsored a comprehensive welfare proposal during the 103d Congress that included new alienage restrictions. Another factor driving changes in benefits for noncitizens involved the budget. The money spent on public assistance for noncitizens was viewed as a budget resource to help reduce Federal spending and thus balance the budget.

The Congressional Budget Office (CBO) estimated that the alien eligibility changes in the welfare law would save almost \$23.7 billion over 6 years, 56 percent of which would result from changing the eligibility rules for SSI.<sup>12</sup> The \$23.7 billion savings accounted for almost half of the \$54.1 billion savings estimated for the act. These savings were subsequently reduced by the immigration-related provisions of the 1997 Balanced Budget Act. CBO estimated their cost at \$11.5 billion over the 5-year period 1998–2002. Thus, estimated net reductions in Federal spending on welfare benefits for noncitizens resulting from the 1996 welfare reform law and subsequent changes is \$12.2 billion over 5 years.

In summary, Congress decided that citizens should take priority over noncitizens in allocating limited budget resources and that the primary responsibility for assisting needy immigrants should be borne by the immigrants' sponsors rather than the government. In the view of the authors of this legislation, the new restrictions were a logical extension of the policies historically embodied by the public charge provision.

Public Law 105–33, the Balanced Budget Act of 1997, modified in several ways the basic policy adopted in the 104th Congress of restricting alien eligibility for Federal benefits. However, while expensive, these modifications were limited in scope. Only two programs, Supplemental Security Income (SSI), which provides cash

<sup>12</sup> *Federal Budgetary Implications of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996*, CBO Memorandum, Congressional Budget Office, December 1996. p. 27.

assistance for needy persons who are aged, blind, or disabled, and, to a lesser degree, Medicaid, are substantially affected by the changes to noncitizens' benefits in the Balanced Budget Act. Similarly, only noncitizens here before August 22, 1996, the enactment date of the 1996 welfare law, are affected (except for new entries who benefit from a 2-year extension of refugee eligibility). The basic policy laid out by the 1996 welfare law remains essentially unchanged for noncitizens entering after its enactment.

### **ALIEN ELIGIBILITY FOR FEDERAL ASSISTANCE**

The 1996 welfare law and, to a lesser extent, the 1996 immigration law restricted alien eligibility for Federal benefits in three basic ways:

- They barred access to programs based on alien status;
- They required legally binding affidavits of support from immigrants' sponsors; and
- They required that sponsors' income be deemed available to immigrants in determining eligibility for most means-tested programs.

These three types of restrictions on Federal benefits, and the change they represent from prior law, are reviewed below.

#### **PROGRAM BARS**

Until 1996, aliens who were lawful permanent residents or who were otherwise legally present on a permanent basis (e.g., refugees) were generally eligible for Federal benefits on the same basis as citizens. That is, they were only required to meet the eligibility criteria (such as family income and size) that applied to citizens. In contrast, undocumented aliens were specifically barred by law from participation in all the major Federal assistance programs (except emergency Medicaid), as were tourists and most other aliens here legally in a temporary status.

The 1996 welfare law added new rules barring qualified aliens from participation in Federal assistance programs. Qualified aliens include aliens admitted for legal permanent residence (also known as immigrants), refugees, aliens paroled into the United States for at least 1 year, and aliens granted asylum or related relief. The 1996 immigration law added certain abused spouses and children as another class of qualified aliens, and the 1997 Balanced Budget Act added Cuban/Haitian entrants. (The terms qualified alien and legal immigrant are used interchangeably in this appendix.)

The laws made several exceptions to eligibility changes, so that the restrictions discussed below do not apply to qualified aliens who are veterans or certain active duty personnel, and their spouses and dependent unmarried children; or those who meet a 10-year work requirement. In order to satisfy the work requirement, the immigrant must meet the 40 "qualifying quarters" test. As defined by Public Law 104-193, a qualifying quarter is a 3-month work period with sufficient income to qualify as a Social Security quarter and, with respect to periods beginning after 1996, during which the worker did not receive Federal means-based assistance. Work performed by the alien, the alien's parent while the alien was under age 18, and the alien's spouse (provided the alien

remains married to the spouse or the spouse is deceased) all may be counted as qualifying quarters.

The rules barring legal immigrants from benefits fall into three general categories, and are summarized below. It should be noted that none of these rules apply to aliens once they become naturalized citizens. The effect of these rules as they apply to SSI, food stamps, Medicaid, TANF, and SSBG is summarized in table J-3 above, together with the change from the law prior to 1996.

#### *Permanent bar*

Congress imposed a bar to access by legal immigrants to two federally financed programs. These are Supplemental Security Income (SSI), which provides cash aid for needy persons who are aged, blind, or disabled; and food stamps, which provides certain low-income households with monthly benefits, generally in the form of food stamp coupons, to enable them to purchase more adequate diets.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193) bars most legal immigrants from food stamps and, with significant exceptions, from SSI. Public Law 105-33 amended the welfare law to provide that qualified aliens who were receiving SSI as of August 22, 1996 will continue to be eligible, regardless of whether their claim was based on disability or age. Additionally, qualified aliens who were here by August 22, 1996 and subsequently become disabled will be eligible for SSI.<sup>13</sup> Refugees and asylees are temporarily exempted from the SSI bar for 7 years and the food stamp bar for 5 years after entering as refugees or being granted asylum. The 1997 act also made Cuban/Haitian entrants and Amerasians eligible for benefits on the same basis as refugees, as they had been prior to 1996.

#### *State option*

The second set of restrictions applies to three Federal/State matching grant programs: Medicaid, TANF, and SSBG. Medicaid provides medical assistance for low-income persons who are aged, blind, or disabled or members of needy families with dependent children. Temporary Assistance for Needy Families (TANF) is a new block grant program established by the 1996 welfare act; TANF provides Federal funds to States for temporary cash assistance for needy families, and replaces Aid to Families with Dependent Children (AFDC). The Social Services Block Grant (SSBG) Program is also a State block grant program, providing Federal funds to States for social services aimed at preventing dependency and remedying problems associated with it.

Beginning January 1, 1997, States may permit or prohibit participation by legal immigrants who entered the United States before enactment of the welfare law (August 22, 1996) from Medicaid, TANF, and SSBG. Legal immigrants entering the United States

<sup>13</sup>The 1997 law also includes a limited grandfather clause for legal aliens who have been identified by SSA as receiving benefits on August 22, 1996, but who do not appear to fit within one of the categories of qualified aliens defined by the 1996 legislation. SSA and CBO estimate their number to be approximately 20,000, but little is known about their current status. Presumably a determination about their continuing eligibility will be made by September 30, 1998. Additionally, members of recognized Indian tribes and certain Canadian-born Indians are exempt from SSI and Medicaid restrictions.

after August 22, 1996, are barred for 5 years from all benefits under these programs except emergency medical assistance. After 5 years, the decision as to whether legal immigrants may participate in Medicaid, TANF, and/or SSBG rests with the States, subject to a rule “deeming” sponsors’ income and resources to be available to the immigrant, as discussed below.

Only Alabama and Guam have indicated that they will not permit qualified aliens to participate in TANF; all other States have indicated they will make them eligible. Louisiana and Wyoming are the only States which have indicated they are barring qualified aliens from Medicaid.

Note that the 5 year bar does not apply to refugees and asylees, and the State option to restrict Medicaid benefits does not apply to them in the same manner that it does to immigrants. Refugees and asylees who meet the other program criteria are eligible for full Medicaid benefits for 7 years after entering as refugees or being granted asylum, and for TANF and SSBG benefits for 5 years. After that time, refugees and asylees are subject to the same State option provision that applies to legal immigrants.

#### *Other programs*

Most qualified aliens arriving after August 22, 1996 are barred from most other Federal means-tested programs for 5 years after their arrival. Their participation after that time is subject to sponsor-to-alien deeming, as it is for Medicaid, TANF, and SSBG. However, a number of programs are exempt from both the 5-year bar and sponsor-to-alien deeming (see table J-11). These include:

- Treatment under Medicaid for emergency medical conditions (other than those related to an organ transplant);
- Short-term, in-kind emergency disaster relief;
- Assistance under the National School Lunch Act or the Child Nutrition Act of 1966;
- Immunizations against diseases and testing for and treatment of symptoms of communicable diseases;
- Foster care and adoption assistance under title IV of the Social Security Act, unless the foster parent or adoptive parent is an alien other than a qualified alien;
- Education assistance under the Elementary and Secondary Education Act of 1965, specified titles (IV, V, IX, and X) of the Higher Education Act of 1965, or specified titles (III, VII, and VIII) of the Public Health Service Act;
- Benefits under the Head Start Act;
- Benefits under the Job Training Partnership Act; and
- Services or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelters) designated by the Attorney General as: (i) delivering in-kind services at the community level; (ii) providing assistance without individual determinations of each recipient’s needs; and (iii) being necessary for the protection of life and safety.

TABLE J-11.—ALIEN ELIGIBILITY PROVISIONS FOR FEDERAL BENEFITS UNDER NEW WELFARE AND IMMIGRATION LAWS

| Provisions                                 | Qualified aliens regardless of entry date                                                                                                                                                                 | Qualified aliens entering after 8/22/96                                                                                                                                                                                                                                                               | Nonqualified aliens                                                                                                                                                                                                                                                                                                                                   |
|--------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Restricted programs.                       | Food stamps; SSI, unless on rolls 8/22/86 or here then and later disabled. At State option: <sup>1</sup> TANF, SSBG, and Medicaid (other than emergency services and SSI-related).                        | For 5 years after entry, Federal means-tested public benefits (with exceptions noted below). Thereafter, the restrictions in the left column apply.                                                                                                                                                   | Most Federal public benefits (with exceptions noted below).                                                                                                                                                                                                                                                                                           |
| Programs excepted from restrictions.       | Qualified aliens here before 8/22/96 not barred by alienage status from programs other than those listed above.                                                                                           | Emergency medical services, disaster relief, public health assistance, community-level services, school lunch, child nutrition, Foster Care and Adoption Assistance, Head Start, certain job training, elementary, secondary, & higher education, and Public Health Service Act education assistance. | Emergency medical services, disaster relief, public health assistance, community services, housing assistance received at enactment, Social Security and Medicare benefits for lawful aliens, and school lunch and breakfast. Other child nutrition and food distribution programs at State option. (Does not change law regarding public education.) |
| Individuals excepted from restrictions.    | Refugees & asylees—7 years for SSI, Medicaid, 5 years for other programs; immigrants with 40 Social Security work quarters; <sup>2</sup> and alien veterans, certain active duty personnel, and families. | Refugees and asylees (as in left column); immigrants with 40 Social Security work quarters; <sup>2</sup> and alien veterans, certain active duty personnel, and families.                                                                                                                             | Nonimmigrants only for contracts or licenses related to their authorized employment, and for benefits under reciprocal treaty agreements.                                                                                                                                                                                                             |
| Modification of sponsor-for-alien deeming. | New deeming rules applicable to qualified aliens entering after 8/22/96 and with affidavits complying with new INA requirements—see next column.                                                          | After 5-year bar, for Federal means-tested programs until alien naturalizes or has 40 Social Security work quarters; <sup>2</sup> with exceptions similar to 5-year bar.                                                                                                                              | Not applicable.                                                                                                                                                                                                                                                                                                                                       |

<sup>1</sup> State option begins 5 years after entry for qualified aliens entering after 8/22/96.

<sup>2</sup> Includes quarters worked by a spouse/parent; for quarters worked after 1996, no quarter during which the alien received public assistance may be counted toward the 40-quarter exception.

Source: Congressional Research Service.

Emergency services, school lunch, and community-level services are available for all aliens; other school nutrition programs may be provided to nonqualified aliens at State option. The so-called Attorney General's list, defining noncash community-level services exempt from the various prohibitions, was published in the Federal Register on August 30, 1996 (p. 45985). Among other services, it includes senior nutrition programs, such as Meals on Wheels.

#### EXPANDED SPONSOR-TO-ALIEN DEEMING AND AFFIDAVITS OF SUPPORT

The other two restrictions on alien access to public benefits included in the 1996 welfare and immigration laws are: (1) legally binding affidavits of support; and (2) sponsor-to-alien deeming rules. As discussed below, both are expansions of previously existing law and practice. They have their roots in the public charge provision of immigration law, which has been a feature of United States immigration law since 1882.

##### *Affidavits of support*

The Immigration and Nationality Act (INA) was amended in 1996 by the addition of a new section 213A,<sup>14</sup> which provides a statutory basis for affidavits of support and greatly extends their scope in a variety of ways, in part as follows:

- It makes them legally binding documents effective either until the sponsored immigrant naturalizes or meets the 40-quarter work requirement;
- It requires affidavits of all family-based immigrants and employment-based immigrants coming to work for relatives;
- It requires sponsors to have an income of at least 125 percent of the Federal poverty level, and to agree to support the sponsored immigrant at the same level; and
- It provides that both government agencies and sponsored immigrants could sue sponsors for failure to meet their obligations.

##### *Expanded deeming rules*

A significant difference from previous law is that all the sponsor's income and resources and that of the sponsor's spouse is deemed to be available to the immigrant in determining financial eligibility. Coupled with the fact that government agencies providing benefits to sponsored immigrants are legally entitled to sue the sponsors, the clear intent of the new deeming provisions is to bar immigrants from participation in means-tested programs. The sponsor, rather than the Federal Government, is expected to be financially responsible for immigrants who need assistance.

The sponsor-to-alien deeming rules have also been expanded in terms of duration, and the number of programs and immigrants covered.

- Deeming remains in effect until the immigrant naturalizes or meets the 40-quarter work requirement.

<sup>14</sup>This section was added first by Public Law 104-193, and subsequently amended by the immigration provisions of Public Law 104-204, the Omnibus Consolidated Appropriations Act, 1997.

- The new deeming rules apply to all Federal means-tested programs except those expressly exempted by law (and to SSI and food stamps, from which immigrants are barred). The excepted programs are the same as those exempted from the 5-year bar (see table J-11).
- Deeming applies to all sponsored immigrants, a group expanded by the immigration law's requirement that all family-based immigrants have affidavits of support.<sup>15</sup>

### **ALIEN ELIGIBILITY FOR STATE AND LOCAL ASSISTANCE**

Historically, the level of a State's expenditures for noncitizens has been driven primarily by the size of its alien population and the range of services it provides its residents generally. However, two sets of provisions of the 1996 welfare reforms have led the States to reexamine benefits for aliens. One set directly addresses alien eligibility for State benefits and potentially can reduce State expenditures. The second set restricts Federal benefits for aliens and indirectly may lead to new State funding.

As part of restricting the access of aliens to benefits, the 1996 act expressly denies illegal aliens most State and local public benefits (elementary and secondary education is not among programs specifically denied) and authorizes the States to restrict the access of many legal aliens to these activities. States now are authorized to regulate the eligibility of legal aliens (including immigrants, non-immigrants and parolees) for State and local benefits in the same manner (and subject to similar limitations) that Congress has regulated the eligibility of legal aliens for Federal benefits, and this State regulation may include imposing sponsor-to-alien deeming requirements. The constitutionality of these provisions—especially the ability of Congress to enhance State authority over legal aliens—doubtless will be litigated for some time. Still, unless overturned, the act has provided States new legal means for controlling expenditures.

Nevertheless, the unprecedented restrictions on Federal benefits in the 1996 act, though eased in part by the Balanced Budget Act of 1997, have led many States to consider substituting State programs. Several factors have pushed the States to look at funding alien benefits. Among these factors are State constitutional limits on denying benefits to noncitizens and concern about vulnerable noncitizen populations.

New perceived needs have combined with new legal flexibility to result in an outburst of recent legislative activity. Most States have long provided some type of cash assistance to needy individuals—under general assistance programs or State supplements to SSI, for example—apart from that provided under Federal or joint Federal-State programs. Provisions in the 1996 act to bar SSI for most legal aliens—a restriction since limited under the 1997 Balanced Budget Act—led many States to reexamine coverage of aliens under their cash programs, coverage that before the 1996 act was

<sup>15</sup>The new deeming rules apply only to aliens who enter after enactment with affidavits of support that comply with the new statutory requirements. Sponsored aliens are not covered by them.

considered legally mandatory. Restrictions in the 1996 act on food stamps for aliens, a restriction not addressed in the Balanced Budget Act, also has prompted State action.

The Immigration Policy Project at the National Conference of State Legislatures has summarized State legislative activity in these areas through October 21, 1997 as follows:

*State-funded cash benefits*

Prior to the Federal reprieve in the 1997 Balanced Budget Act, States considered and often put in place one of three options in providing an SSI replacement cash benefit for immigrants: access to or expansion of the State's general assistance program, access to or expansion of the State's SSI supplement or disability benefit program, and creation of a new program. For example, Rhode Island legislation considered a new cash assistance program for disabled and elderly legal immigrant residents who were receiving State supplementary assistance on July 1, 1997, but would have lost eligibility for Federal benefits due to the Federal welfare reform law. Most States, however, are considering the first two methods. Washington has enacted legislation permitting immigrants who lose their SSI to apply for the State's general assistance-unemployable program. Enacted Colorado legislation makes legal immigrants, regardless of date of entry, eligible for the State's Old Age Pension, Aid to the Blind, and Aid to the Needy Disabled Programs; sponsor deeming may apply. Nebraska allows qualified immigrants to receive aid to the aged, blind and disabled, regardless of their date of entry, though deeming applies. California would permit immigrants who lose SSI to continue receiving the State supplement for SSI. Illinois legislation allocates \$10 million for an SSI replacement program, separate from the State's general assistance program, which is not administered statewide. With the restoration of Federal SSI benefits for a significant portion of the affected immigrant populations, States face new decisions regarding the use of the money and programs intended to replace SSI.

*Deeming*

In general, most States are expecting the new, enforceable affidavits of support to be reliable tools and to deem in accordance with the welfare reform law. This means that the immigrant's sponsor's income, and that of the sponsor's spouse, will be attributed to the immigrant in determining eligibility until the immigrant has achieved citizenship or 40 qualifying work quarters. Newly enacted laws in Arizona, California, Colorado, Florida, Maryland, Nebraska, Rhode Island and Washington include deeming provisions.

*Nutrition*

To date, eleven States have chosen to provide State-funded food assistance to some or all legal immigrants who will lose Federal food stamp eligibility due to the welfare reform law, either by purchasing Federal food stamps or developing State food benefits: California, Florida, Maryland, Massachusetts, Minnesota, Nebraska, New Jersey, New York, Rhode Island, Texas, and Washington. Many States also appropriated additional funds for emergency food assistance.

Most States are providing food assistance either at a lower benefit level to current residents of the State or to selected groups of immigrants, such as children and the elderly. Washington, with a State history of supporting food programs, appropriated \$65 million to purchase Federal food stamps for all legal immigrants made ineligible by Federal law at the Federal benefit level. Florida will provide about \$12 million in food stamps for immigrants 65 and older who were residents as of February 1, 1997. California allocated \$35.6 million to replace food stamps for some 40,000 children and elderly immigrants who were residing in the United States as of August 22, 1996. Maryland plans to spend \$2.15 million on State-run food stamp benefits for legal immigrant children. New York permits counties and New York City to provide food assistance for individuals under 18 or over 65 years of age, resident as of August 22, 1996, who apply for naturalization within 30 days. Nebraska will provide State funded benefits to approximately 2,240 immigrants. Rhode Island will provide food stamps to immigrants resident as of August 22, 1996. The Governor of New Jersey approved \$15 million for legal immigrant children, elderly and disabled who were resident as of August 22, 1996. Minnesota is providing "Minnesota-grown" coupons at 35 percent of the Federal benefit level, for those residing in Minnesota as of July 1, 1997; recipients must work toward citizenship. Massachusetts appropriated \$5 million for food stamps to legal immigrants, with benefits expected to be between \$15 and \$24 per person per month. Benefits will eventually be provided via electronic benefit transfer. The Governor of Texas has announced a plan to provide up to \$18 million to approximately 28,000 aged and disabled immigrants. The average benefit will be \$53 per month, and distributed via the State's electronic benefit transfer system.

Cash and nutrition assistance have not been the only areas to receive State attention. While the restoration of SSI benefits under the Balanced Budget Act concomitantly restored Medicaid benefits for long-term residents, most newly arriving aliens are disqualified from Medicaid for 5 years after entry (after which time States have the option to make Medicaid available). Several States have acted to provide some medical benefits for these new arrivals. These States include New York; Connecticut; Minnesota; Nebraska; Maryland (children and pregnant women); Rhode Island (children and pregnant women); and Virginia (children).

Also, the States clearly are aware that restrictions on Federal benefits for aliens terminate once the aliens become U.S. citizens. For example, New Jersey has allocated approximately \$2 million, to be matched by private funds, for naturalization outreach programs. Florida appropriated a like amount for similar purposes. In California, a \$5 million appropriation for naturalization services was line-item vetoed.

#### **VERIFICATION OF STATUS AND REPORTING REQUIREMENTS**

The increase in the number of programs and classes of aliens affected by the new welfare reform law has necessitated an expansion of previous procedures used for verifying alien eligibility for benefits. For example, the SSBG Program is now barred to newly

arrived qualified aliens, whereas in the past it was not subject to any alienage restrictions. Similarly, the concept of qualified aliens originated with the welfare law, and includes noncitizens not covered by the INS database used by the SAVE system.

The Systematic Alien Verification for Entitlement (SAVE) Program authorized by the Immigration Reform and Control Act (IRCA) of 1986 has been the primary means of verifying eligibility for many major Federal benefits. Under SAVE, applicants who stated that they were not citizens were required to have their status verified through a database of INS files. If this primary verification was unsuccessful, manual secondary verification by INS officials was conducted. Both Federal and State governments were critical of the time needed to complete secondary verifications. Because the SAVE data base was limited to aliens, it was also criticized as being vulnerable to circumvention by false citizenship claims. Reportedly, INS plans to have an enhanced SAVE-like system in place by February 1998.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193) and subsequent amendments in the Balanced Budget Act of 1997 (Public Law 105-33) included new verification and reporting requirements. These are supplemented by provisions in the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, immigration enforcement legislation enacted as part of the Omnibus Consolidated Appropriations Act of 1997 (Public Law 104-208).

#### VERIFICATION REQUIREMENTS

- The welfare reform law requires the Attorney General to adopt regulations by February 22, 1998, to verify that individuals who apply for Federal public benefits are qualified aliens and eligible for assistance. As amended by IIRIRA, the welfare reform law also requires the Attorney General to establish fair and nondiscriminatory procedures by February 22, 1998 on proving citizenship when applying for a Federal public benefit.
- States that administer a program which provides a restricted federally assisted benefit must have a verification program that complies with the above regulations within 24 months of their adoption.
- The 1996 immigration law amended the welfare law to allow nonprofit charitable organizations to provide Federal, State, and local public benefits without having to verify the immigration status of the recipients.
- The 1996 immigration law amended the Social Security and Higher Education Acts to require the transmittal to INS of copies of documents required to verify eligibility for Social Security and Higher Education assistance.
- Public Law 105-33 authorized State and local governments to verify the eligibility of individuals for State and local public benefits.
- Public Law 105-33 requires the Attorney General, within 90 days of its enactment, to issue interim verification guidance and to adopt regulations on procedures to be used by States and local governments for determining whether applicants are subject to the new federally-imposed bars on State and local

benefits—i.e., for verifying that alien applicants are qualified aliens, nonimmigrants, or short-term parolees.

#### REPORTING REQUIREMENTS

- The welfare law requires the following entities to provide INS at least 4 times annually and at INS' request the name, address, and other information they have regarding each individual whom they know is in the United States unlawfully: (1) States receiving block grants for Temporary Assistance for Needy Families (TANF); (2) the Commissioner of Social Security; (3) States operating under agreements for the payment of SSI State supplements through the Federal Government; (4) the Secretary of Housing and Urban Development; and (5) public housing agencies operating under contracts for assistance under sections 6 or 8 of the United States Housing Act of 1937.
- Separately, the welfare reform law states that no State or local entity may be prohibited or in any way restricted from sending to or receiving from the INS information regarding an individual's immigration status.
- The immigration law requires the Attorney General to notify, not later than 180 days after the end of each fiscal year, the House and Senate Judiciary Committees and the Inspector General of the Department of Justice on: (1) the number of public charge deportations; (2) the number of sponsors determined to be indigent; and (3) the number of reimbursement actions brought under affidavits of support.

#### ILLEGAL ALIENS AND BENEFITS

##### STATISTICAL BACKGROUND

Illegal aliens are those noncitizens who either entered the United States without having been inspected by INS (i.e., entered surreptitiously)—referred to as EWIs—or overstayed the term of their nonimmigrant visas—e.g., tourist or student visas. INS has estimated that the resident illegal alien population was 5 million as of October 1996.<sup>16</sup> EWIs made up 59 percent (2.9 million) of the total, while visa overstays made up the remaining 41 percent (2.1 million). The annual growth in the resident illegal alien population was estimated at 275,000.

Seven States accounted for 83 percent of the illegal population, led by California at 40 percent. The other States, in order, were Texas (14 percent), New York (11 percent), Florida (7 percent), Illinois (6 percent), New Jersey (3 percent), and Arizona (2 percent). Mexico dominated the sending countries at 54 percent, followed by El Salvador (7 percent), Guatemala (3 percent), Canada (2.4 percent) and Haiti (2.1 percent).

<sup>16</sup> U.S. Immigration and Naturalization Service, Office of Policy and Planning. *Backgrounder: Estimates of the Unauthorized Immigrant Population Residing in the United States: October 1996*. Washington, Jan. 1997.

## ELIGIBILITY STANDARDS

*Federal benefits*

The 1996 welfare reform law denies most Federal benefits, regardless of whether they are means tested, to illegal aliens. The class of benefits denied is broad and covers (1) grants, contracts, loans, and licenses and (2) retirement, welfare, health, disability, housing, food, unemployment, postsecondary education, and similar benefits. So defined, this bar covers many programs whose enabling statutes do not individually make citizenship or immigration status a criterion for participation. Thus, programs that previously were not individually restricted—the earned income tax credit, social services block grants, and migrant health centers, for example—became unavailable to illegal aliens, unless they fall within the act's limited exceptions. These programmatic exceptions include:

1. Treatment under Medicaid for emergency medical conditions (other than those related to an organ transplant);
2. Short-term, in-kind emergency disaster relief;
3. Immunizations against immunizable diseases and testing for and treatment of symptoms of communicable diseases;
4. Services or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelters) designated by the Attorney General as: (i) delivering in-kind services at the community level; (ii) providing assistance without individual determinations of each recipient's needs; and (iii) being necessary for the protection of life and safety; and
5. To the extent that an alien was receiving assistance on the date of enactment, programs administered by the Secretary of Housing and Urban Development, programs under title V of the Housing Act of 1949, and assistance under section 306C of the Consolidated Farm and Rural Development Act (subtitle E of title V of the Illegal Immigration Reform and Immigrant Responsibility Act (division C of Public Law 104-208) later facilitated the removal of illegal aliens from housing assistance).

The 1996 welfare reform law also permits illegal aliens to receive Old Age, Survivors, and Disability Insurance benefits under title II of the Social Security Act, if the benefits are protected by that title or by treaty or are paid under applications made before August 22, 1996. Separately, the act states that individuals who are eligible for free public education benefits under State and local law shall remain eligible to receive school lunch and school breakfast benefits. (The act itself does not address a State's obligation to grant all aliens equal access to education under the Supreme Court's decision in *Plyler v. Doe*.) Beyond these nutrition benefits, the act neither prohibits nor requires a State to provide illegal aliens other benefits funded under the National School Lunch Act of the Child Nutrition Act or under the Emergency Food Assistance Act, section 4 of the Agriculture and Consumer Protection Act, or the Food Distribution Program on Indian Reservations under the Food Stamp Act.

*State benefits*

Unlike earlier Federal law, the 1996 welfare reforms expressly bar illegal aliens from most State- and locally-funded benefits. The

restrictions on these benefits parallel the restrictions on Federal benefits. Illegal aliens are generally barred from State and local government contracts, licenses, grants, loans, and assistance. Exceptions are made for:

1. Treatment for emergency conditions (other than those related to an organ transplant);
2. Short-term, in-kind emergency disaster relief;
3. Immunization against immunizable diseases and testing for and treatment of symptoms of communicable diseases; and
4. Services or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelters) designated by the Attorney General as: (i) delivering in-kind services at the community level; (ii) providing assistance without individual determinations of each recipient's needs; and (iii) being necessary for the protection of life and safety.

Also, the restrictions on State and local benefits do not apply to activities that are funded in part by Federal funds; these activities are regulated under the 1996 law as Federal benefits. Furthermore, the law states that nothing in it is to be construed as addressing eligibility for basic public education. Finally, the 1996 law allows the States, through enactment of new State laws, to provide illegal aliens with State and local benefits that otherwise are restricted.

Despite the federally-imposed bar and the State flexibility provided by the 1996 law, the States still may be required to expend a significant amount of State funds for illegal aliens. Public elementary and secondary education for illegal aliens remains compelled by judicial decision, and payment for emergency medical services for illegal aliens remains compelled by Federal law. Meanwhile, certain other costs attributable to illegal aliens, such as criminal justice costs, remain compelled by the continued presence of illegal aliens.

The degree of required State spending on illegal aliens is illustrated in a 1994 report by the Urban Institute (Clark, et al., 1994). There, the authors estimated that seven States with large populations of illegal aliens—California, Florida, Texas, New York, Illinois, Arizona, and New Jersey—spent the following amounts in fiscal year 1993 in providing three types of services to illegal aliens within their borders: \$3.1 billion for public education; \$471 million for incarceration; and \$445 million for emergency medical care under Medicaid.

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