

areas experiencing high levels of apprehensions of illegal aliens, of structures to deter illegal entry into the United States; and

(2) for the Executive Office for Immigration Review in the Department of Justice for the purpose of removing the backlogs in the preparation of transcripts of deportation proceedings conducted under section 1252 of this title.

(June 27, 1952, ch. 477, title II, ch. 8, § 280, 66 Stat. 230; Nov. 29, 1990, Pub. L. 101-649, title V, § 542(a), 104 Stat. 5057; Oct. 25, 1994, Pub. L. 103-416, title II, § 219(s), 108 Stat. 4317.)

REFERENCES IN TEXT

Sections 203(b), 543(a), and 544 of the Immigration Act of 1990, referred to in subsec. (b), are sections 203(b), 543(a), and 544 of Pub. L. 101-649. Section 203(b) of the Act amended section 1281 of this title. Section 543(a) of the Act amended sections 1221, 1227, 1229, 1284, 1285, 1286, 1287, 1321, 1322, and 1323 of this title. Section 544 of the Act enacted section 1324c of this title and amended section 1251 of this title.

AMENDMENTS

1994—Subsec. (b)(1)(C). Pub. L. 103-416 substituted “maintenance” for “maintainance”.

1990—Pub. L. 101-649 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-416 effective as if included in the enactment of the Immigration Act of 1990, Pub. L. 101-649, see section 219(dd) of Pub. L. 103-416, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 542(b) of Pub. L. 101-649 provided that: “The amendment made by subsection (a) [amending this section] shall apply to fines and penalties collected on or after January 1, 1991.”

CROSS REFERENCES

Definition of Attorney General and United States, see section 1101 of this title.

PART IX—MISCELLANEOUS

§ 1351. Nonimmigrant visa fees

The fees for the furnishing and verification of applications for visas by nonimmigrants of each foreign country and for the issuance of visas to nonimmigrants of each foreign country shall be prescribed by the Secretary of State, if practicable, in amounts corresponding to the total of all visa, entry, residence, or other similar fees, taxes, or charges assessed or levied against nationals of the United States by the foreign countries of which such nonimmigrants are nationals or stateless residents: *Provided*, That nonimmigrant visas issued to aliens coming to the United States in transit to and from the headquarters district of the United Nations in accordance with the provisions of the Headquarters Agreement shall be gratis.

(June 27, 1952, ch. 477, title II, ch. 9, § 281, 66 Stat. 230; Oct. 3, 1965, Pub. L. 89-236, § 14, 79 Stat. 919; Oct. 21, 1968, Pub. L. 90-609, § 1, 82 Stat. 1199.)

REFERENCES IN TEXT

The Headquarters Agreement, referred to in text, is set out as a note under section 287 of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1968—Pub. L. 90-609 struck out provisions fixing statutory fees for specified immigration and nationality benefits and services rendered, including those pertaining to immigrant visas, reentry permits, adjustments of status to permanent residence, creation of record of admission for permanent residence, suspension of deportation, extension of stay to nonimmigrants, and application for admission to practice as attorney or representative before the Service.

1965—Subsec. (a). Pub. L. 89-236, § 14(a), (b), designated opening provision beginning “The following fees shall be charged:” and ending with the end of par. (7) as subsec. (a) and substituted reference to section 1154 of this title for sections 1154(b) and 1155(b) of this title in par. (6).

Subsec. (b). Pub. L. 89-236, § 14(c), added subsec. (b).

Subsec. (c). Pub. L. 89-236, § 14(d), designated closing provision consisting of the paragraph beginning “The fees for the furnishing” as subsec. (c).

EFFECTIVE DATE OF 1965 AMENDMENT

For effective date of amendment by Pub. L. 89-236, see section 20 of Pub. L. 89-236, set out as a note under section 1151 of this title.

SURCHARGE FOR PROCESSING MACHINE READABLE NONIMMIGRANT VISAS

Pub. L. 103-236, title I, § 140(a), Apr. 30, 1994, 108 Stat. 399, as amended by Pub. L. 103-415, § 1(bb), Oct. 25, 1994, 108 Stat. 4302, provided that:

“(1) Notwithstanding any other provision of law, the Secretary of State is authorized to charge a fee or surcharge for processing machine readable nonimmigrant visas and machine readable combined border crossing identification cards and nonimmigrant visas.

“(2) Fees collected under the authority of paragraph (1) shall be deposited as an offsetting collection to any Department of State appropriation, to recover the costs of providing consular services. Such fees shall remain available for obligation until expended.

“(3) For fiscal years 1994 and 1995, fees deposited under the authority of paragraph (2) may not exceed a total of \$107,500,000. For subsequent fiscal years, fees may be collected under the authority of paragraph (1) only in such amounts as shall be prescribed in subsequent authorization Acts.

“(4) The provisions of the Act of August 18, 1856 (Revised Statutes 1726-28; 22 U.S.C. 4212-14), concerning accounting for consular fees shall not apply to fees collected under this subsection.

“(5) No fee or surcharge authorized under paragraph (1) may be charged to a citizen of a country that is a signatory as of the date of enactment of this Act [Apr. 30, 1994] to the North American Free Trade Agreement, except that the Secretary of State may charge such fee or surcharge to a citizen of such a country if the Secretary determines that such country charges a visa application or issuance fee to citizens of the United States.”

Provisions directing the continuing effect for specific periods of authorities provided under section 140(a) of Pub. L. 103-236, set out above, were contained in the following appropriation acts:

Pub. L. 104-56, title I, § 118, Nov. 20, 1995, 109 Stat. 552.

Pub. L. 104-54, title I, § 118, Nov. 19, 1995, 109 Stat. 544.

Pub. L. 104-31, § 119, Sept. 30, 1995, 109 Stat. 281.

AGREEMENTS ON PASSPORT VISA FEES

The United States has various bilateral agreements reciprocally waiving or reducing passport fees for nonimmigrants from foreign countries.

Country	Date signed	Entered into force	Citation
Albania	May 7, 1926	June 1, 1926	
Argentina ...	April 15, 1942 ...	June 1, 1942	56 Stat. 1578.
Australia ...	Feb. 10, 1950 ...	Feb. 10, 1950 ...	1 UST 457.
	July 29, Aug. 9, 17, 20, 1955.	Aug. 20, 1955 ...	6 UST 6225.
	Mar. 13, June 1, Aug. 19, 1959.	Aug. 19, 1959 ...	11 UST 2049.

Country	Date signed	Entered into force	Citation	Country	Date signed	Entered into force	Citation
Austria	June 10, 28, July 12, 1949.	July 12, 1949	63 Stat. 2740.	Lithuania ...	Apr. 17, 1937	Apr. 17, 1937	
Bahamas	Nov. 9, 12, 1948	Nov. 12, 1948	62 Stat. 3824.	Luxembourg	Apr. 25, May 22, 26, 1936.	May 26, 1936	
Barbados	Nov. 9, 12, 1948	Nov. 12, 1948	62 Stat. 3824.	Madagascar	Aug. 19, Sept. 4, 5, 16, 1947.	Sept. 16, 1947 ...	61 Stat. 3776.
Belgium	May 3, 23, 1962 Mar. 9, Apr. 20, 1971.	May 23, 1962	22 UST 678.	Malaysia	Oct. 15, 22, 1954 Mar. 5, 12, 1958	.....
Brazil	Dec. 16, 17, 1937 May 26, 1965	Jan. 1, 1938 July 25, 1965	186 LNTS 413. 16 UST 1006.	Malta	Oct. 31, Dec. 12, 1949.	Dec. 12, 1949	64 Stat. B137.
Chile	Aug. 29, 1950 ...	Sept. 1, 1950	1 UST 719.	Mexico	Oct. 28, Nov. 10, 12, 1953.	Nov. 12, 1953	5 UST 174.
China	Jan. 7, 1981 Dec. 2, 1985	Jan. 7, 1981 Jan. 2, 1986	32 UST 4533. TIAS.	Monaco	May 29, 1974	Mar. 31, 1952 ...	25 UST 1172.
Colombia	Apr. 14, 1993 June 13, 26, 1956, May 22, 1957.	May 14, 1993 June 21, 1957 ...	10 UST 1250.	Mongolia	Mar. 31, 1952 ...	Mar. 31, 1952 ...	3 UST 3942.
Congo (Brazza- ville).	June 5, 11, 1957 Aug. 19, Sept. 4, 5, 16, 1947.	.....	10 UST 1250. 61 Stat. 3776.	Morocco	Aug. 2, 1990 Mar. 16, 31, 1949.	Aug. 2, 1990 Mar. 31, 1949 ...	TIAS. 63 Stat. 2737.
Costa Rica ..	June 29, 1925 ...	July 25, 1925		Netherlands	Jan. 21, Feb. 11, Mar. 5, 13, 1946.	Apr. 15, 1946 ...	61 Stat. 3834.
Cyprus	July 11, 1962, Jan. 11, 1963.	Jan. 11, 1963	14 UST 6.	New Zealand.	July 30, Aug. 20, 1947.	Aug. 20, 1947 ...	61 Stat. 3838.
Czech Re- public.	Dec. 18, 21, 1962	Dec. 21, 1962	13 UST 3842.	Nicaragua ...	Mar. 14, 1949 ... Dec. 16, 1957. May 2, 5, 1958.	Mar. 14, 1949 ... May 5, 1958	63 Stat. 2538. 9 UST 913.
Denmark	June 20, 1978 ... July 2, Sept. 29, 1925.	June 20, 1978 ... Aug. 6, 1925	30 UST 1593.	Norway	May 13, 1958 July 6, Sept. 30, Oct. 22, 1955.	Oct. 22, 1955 ...	9 UST 919. 10 UST 1696.
Dominican Republic.	June 9, 21, July 7, 8, 1947. Apr. 30, May 1, 1958.	July 8, 1947	62 Stat. 4068.	Pakistan	July 7, 29, 1947 Apr. 25, 1958 ... Sept. 10, Oct. 19, 1948.	July 29, 1947 ... Oct. 19, 1948 ...	61 Stat. 3101. 62 Stat. 3649.
Ecuador	Dec. 14, 16, 1955	Feb. 1, 1956	7 UST 135.	Philippines	Oct. 10, 18, 1949 Aug. 16, Oct. 11, Nov. 19, Dec. 16, 29, 1952, Mar. 19, Apr. 8, 1953.	Oct. 18, 1949 ...	3 UST 365. 4 UST 11.
Egypt	Dec. 11, 1962, Jan 7, 1963.	Jan. 7, 1963	14 UST 757.	Poland	Aug. 4, Oct. 20, Nov. 25, 29, 1955.	.....	6 UST 6107.
El Salvador	June 3, Aug. 1, 1963.	Aug. 1, 1963	14 UST 1191.	Romania	Mar. 16, June 27, 1959.	June 27, 1959 ...	12 UST 1685.
Estonia	Dec. 7, 15, 1953 Apr. 8, July 28, 1925.	Jan. 14, 1954 ... July 28, 1925 ...	5 UST 859.	Saint Lucia	Mar. 27, May 22, 25, 1956.	June 1, 1956	7 UST 905.
Fiji	Nov. 9, 12, 1948	Nov. 12, 1948	62 Stat. 3824.	Singapore ...	June 14, 17, 1971.	June 17, 1971 ...	22 UST 815.
Finland	July 7, Aug. 26, Dec. 14, 1955.	Dec. 14, 1955	9 UST 1175.	Slovak Re- public.	Apr. 6, Sept. 26, Oct. 9, 1956.	Sept. 26, 1956 ...	8 UST 468.
France	Feb. 15, 20, 1956 Aug. 15, 1958 ... Aug. 19, Sept. 4, 5, 16, 1947.	Aug. 15, 1958 ... Sept. 16, 1947 ...	9 UST 1179. 9 UST 1183. 61 Stat. 3776.	South Africa	Jan. 4, 7, 1957 .. Mar. 18, Apr. 23, 1970.	.....	8 UST 468. 21 UST 1317.
Germany	Mar. 16, 31, 1949.	Mar. 31, 1949 ...	63 Stat. 2737.	Spain	Nov. 24, 1952 Dec. 17, 1962, Jan 21, 1963.	Nov. 24, 1952 Jan. 21, 1963 ...	3 UST 5196. 14 UST 118.
Greece	Sept. 1, 21, 1961 Dec. 12, 30, 1952, Jan. 9, 1953.	Sept. 21, 1961 ... Feb. 1, 1953	12 UST 3197. 4 UST 126.	Sri Lanka (Ceylon).	June 7, 1983 Apr. 20, May 14, 26, 1962.	July 7, 1983 May 26, 1962 ...	TIAS 10723. 13 UST 1192.
Grenada	Jan. 7, 29, 1949	Jan. 29, 1949	63 Stat. 2905.	Surinam	May 31, June 17, 1967.	.....	18 UST 1266.
Guatemala ..	Nov. 9, 12, 1948	Nov. 12, 1948	62 Stat. 3824.	Switzerland	Sept. 12, Oct. 10, 1977.	Oct. 10, 1977 ...	29 UST 4705.
Guyana	May 30, 1956 ... Nov. 9, 12, 1948	May 30, 1956 ... Nov. 12, 1948 ...	7 UST 1075. 62 Stat. 3824.	Thailand	Nov. 9, 12, 1948 Oct. 15, 22, 1954 Mar. 5, 12, 1958	Nov. 12, 1948 ...	62 Stat. 3824.
Honduras	May 20, July 18, 1970.	Jan. 18, 1971	22 UST 233.	Tinidada and Tobago.	Dec. 18, 21, 1962	Dec. 21, 1962 ...	13 UST 3842.
Hungary	May 20, 27, 1925 Mar. 29, Apr. 7, 1976.	June 1, 1925 Apr. 7, 1976	28 UST 1311.	Tunisia	June 20, 1978 ... Mar. 28, Apr. 3, 1956.	June 20, 1978 ... May 1, 1956	30 UST 1593. 7 UST 631.
Iceland	Feb. 10, 1978 ... Feb. 10, 1978 ... Nov. 3, Dec. 21, 1925, June 11, 19, 21, 1926.	Apr. 11, 1978 ... Apr. 11, 1978 ... June 21, 1926 ...	30 UST 248. 30 UST 255.	United Kingdom.	Mar. 31, 1958 ... Jan. 21, 1952 ... May 11, July 5, 1963.	.....	9 UST 1023. 3 UST 2927. 14 UST 1206.
India	June 4, 1956 July 19, Aug. 11, 1948.	June 4, 1956 Aug. 11, 1948 ...	7 UST 1017. 5 UST 193.	Uruguay	Aug. 25, Sept. 7, 1956.	Sept. 7, 1956 ...	8 UST 83.
Iran	Mar. 27, Apr. 20, 21, 1926.	Apr. 21, 1926 ...		Vietnam	Jan. 21, Feb. 11, Mar. 5, 13, 1946.	Apr. 15, 1946 ...	61 Stat. 3834.
Iraq	Dec. 13, 16, 1976 Feb. 27, 1939 ...	Dec. 16, 1976 ... Feb. 27, 1939 ...	28 UST 8161.	Yemen	Apr. 10, 30, 1947 May 11, 1925 ... Oct. 22, 31, Nov. 4, 13, 1947.	Apr. 30, 1947 ... May 11, 1925 ... Nov. 13, 1947 ...	61 Stat. 4050. 6 UST 93.
Ireland	June 6, 1956	June 6, 1956	7 UST 1067.	Zimbabwe	Sept. 19, 1925 ... Nov. 9, 12, 1948	Sept. 19, 1925 ... Nov. 12, 1948 ...	62 Stat. 3824. 62 Stat. 3824.
Israel	Aug. 1, 1949 ... Mar. 27, June 1, 1951.	Aug. 1, 1949 ... June 1, 1951 ...	63 Stat. 2807. 3 UST 4796.				
Italy	Feb. 14, 28, Mar. 2, 1955. Feb. 11, 21, 26, 1929.	Mar. 2, 1955 Mar. 1, 1929	7 UST 2125.				
Jamaica	Sept. 28, 29, 1948.	Sept. 29, 1948 ...	62 Stat. 3480.				
Japan	Nov. 9, 12, 1948 May 21, Aug. 12, 26, Sept. 18, 1952.	Nov. 12, 1948 ... Sept. 18, 1952 ...	62 Stat. 3824. 5 UST 363.				
Kiribati	Aug. 9, 23, 1966 Nov. 9, 12, 1948	Sept. 22, 1966 ... Nov. 12, 1948 ...	17 UST 1228. 62 Stat. 3824.				
Korea	Mar. 28, 1968 ...	Apr. 27, 1968 ...	19 UST 4789.				
Kuwait	Dec. 11, 27, 1960	Dec. 27, 1960 ...	11 UST 2650.				
Latvia	Feb. 18, Mar. 27, 1935.	Mar. 27, 1935 ...					
Lesotho	Nov. 9, 12, 1948	Nov. 12, 1948 ...	62 Stat. 3824.				
Liberia	Aug. 31, 1925 ... Oct. 27, 28, 1947	Aug. 31, 1925 ... Oct. 28, 1947 ...	62 Stat. 3930.				
Liech- tenstein.	Apr. 22, June 18, 30, 1926. Oct. 22, 31, Nov. 4, 13, 1947.	June 30, 1926 ... Nov. 13, 1947 ...	6 UST 93.				

Country	Date signed	Entered into force	Citation
Uruguay	Nov. 3, 8, 1949 ..	Nov. 10, 1949	64 Stat. B128.
Venezuela ...	Jan. 5, 12, 1937	Jan. 12, 1937	
Yugoslavia ¹	Dec. 24, 29, 1925	Feb. 1, 1926	
	Mar. 23, 25, 1950.	Mar. 25, 1950	1 UST 471.
	Dec. 30, 1963,	Apr. 15, 1964	15 UST 355.
	Mar. 27, Apr. 4, 1964.		
China (Taiwan ²).	Dec. 20, 1955,	Feb. 20, 1956	7 UST 585.
	Feb. 20, 1956.		
	July 11, Oct. 17, Dec. 7, 1956.	.....	18 UST 3167.
	May 8, June 9, 15, 1970.	.....	21 UST 2213.

¹For successor states inquire of the Treaty Office of the United States Department of State.

²These agreements are administered on a nongovernmental basis by the American Institute in Taiwan pursuant to 22 U.S.C. 3305, as a result of the termination of relations with the governing authorities on Taiwan on Jan. 1, 1979.

CROSS REFERENCES

Definition of the term—

Alien, see section 1101(a)(3) of this title.

Attorney General, see section 1101(a)(5) of this title.

Entry, see section 1101(a)(13) of this title.

Immigrant visa, see section 1101(a)(16) of this title.

National, see section 1101(a)(21) of this title.

National of the United States, see section 1101(a)(22) of this title.

Nonimmigrant alien, see section 1101(a)(15) of this title.

Nonimmigrant visa, see section 1101(a)(26) of this title.

Residence, see section 1101(a)(33) of this title.

Service, see section 1101(a)(34) of this title.

Reentry permit, see section 1203 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1356 of this title.

§ 1352. Printing of reentry permits and blank forms of manifest and crew lists; sale to public

(a) Reentry permits issued under section 1203 of this title shall be printed on distinctive safety paper and shall be prepared and issued under regulations prescribed by the Attorney General.

(b) The Public Printer is authorized to print for sale to the public by the Superintendent of Documents, upon prepayment, copies of blank forms of manifests and crew lists and such other forms as may be prescribed and authorized by the Attorney General to be sold pursuant to the provisions of this subchapter.

(June 27, 1952, ch. 477, title II, ch. 9, § 282, 66 Stat. 231.)

CROSS REFERENCES

Definition of Attorney General, see section 1101 of this title.

§ 1353. Travel expenses and expense of transporting remains of officers and employees dying outside of United States

When officers, inspectors, or other employees of the Service are ordered to perform duties in a foreign country, or are transferred from one station to another, in the United States or in a foreign country, or while performing duties in any foreign country become eligible for voluntary retirement and return to the United States, they shall be allowed their traveling expenses in accordance with such regulations as the Attorney General may deem advisable, and

they may also be allowed, within the discretion and under written orders of the Attorney General, the expenses incurred for the transfer of their wives and dependent children, their household effects and other personal property, including the expenses for packing, crating, freight, unpacking, temporary storage, and drayage thereof in accordance with subchapter II of chapter 57 of title 5. The expense of transporting the remains of such officers, inspectors, or other employees who die while in, or in transit to, a foreign country in the discharge of their official duties, to their former homes in this country for interment, and the ordinary and necessary expenses of such interment and of preparation for shipment, are authorized to be paid on the written order of the Attorney General.

(June 27, 1952, ch. 477, title II, ch. 9, § 283, 66 Stat. 231; Oct. 24, 1988, Pub. L. 100-525, § 9(p), 102 Stat. 2621.)

AMENDMENTS

1988—Pub. L. 100-525 substituted “subchapter II of chapter 57 of title 5” for “the Act of August 2, 1946 (60 Stat. 806; 5 U.S.C., sec. 73b-1)”.

CROSS REFERENCES

Definition of Attorney General, Service, and United States, see section 1101 of this title.

§ 1353a. Officers and employees; overtime services; extra compensation; length of working day

The Attorney General shall fix a reasonable rate of extra compensation for overtime services of immigration officers and employees of the Immigration and Naturalization Service who may be required to remain on duty between the hours of five o'clock postmeridian and eight o'clock antemeridian, or on Sundays or holidays, to perform duties in connection with the examination and landing of passengers and crews of steamships, trains, airplanes, or other vehicles, arriving in the United States from a foreign port by water, land, or air, such rates to be fixed on a basis of one-half day's additional pay for each two hours or fraction thereof of at least one hour that the overtime extends beyond five o'clock postmeridian (but not to exceed two and one-half days' pay for the full period from five o'clock postmeridian to eight o'clock antemeridian) and two additional days' pay for Sunday and holiday duty; in those ports where the customary working hours are other than those heretofore mentioned, the Attorney General is vested with authority to regulate the hours of such employees so as to agree with the prevailing working hours in said ports, but nothing contained in this section shall be construed in any manner to affect or alter the length of a working day for such employees or the overtime pay herein fixed.

(Mar. 2, 1931, ch. 368, § 1, 46 Stat. 1467; Ex. Ord. No. 6166, § 14, June 10, 1933; 1940 Reorg. Plan No. V, eff. June 14, 1940, 5 F.R. 2223, 54 Stat. 1238; June 27, 1952, ch. 477, title IV, § 402(i)(1), 66 Stat. 278.)

CODIFICATION

Section was not enacted as part of the Immigration and Nationality Act which comprises this chapter.

Ex. Ord. No. 6166, is authority for the substitution of “Immigration and Naturalization Service” for “Immigration Service”; and 1940 Reorg. Plan No. V. is authority for the substitution of “Attorney General” for “Secretary of Labor.” See note set out under section 1551 of this title.

Section was formerly classified to section 342c of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, §1, Sept. 6, 1966, 80 Stat. 378. Prior thereto, section was classified to section 109a of this title.

AMENDMENTS

1952—Act June 27, 1952, substituted “immigration officers” for “inspectors”.

TRANSFER OF FUNCTIONS

Functions of all other officers of Department of Justice and functions of all agencies and employees of such Department, with a few exceptions, transferred to Attorney General, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees by 1950 Reorg. Plan No. 2, §§1, 2, eff. May 24, 1950, 15 F.R. 3173, 64 Stat. 1261, set out in the Appendix to Title 5, Government Organization and Employees. See sections 509 and 510 of Title 28, Judiciary and Judicial Procedure.

CROSS REFERENCES

Payment of overtime services or for Sunday or holiday work under this section not prevented by generally applicable premium pay provisions covering government employees, see section 5549 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1353a, 1353d of this title; title 5 section 5549.

§ 1353b. Extra compensation; payment

The said extra compensation shall be paid by the master, owner, agent, or consignee of such vessel or other conveyance arriving in the United States from a foreign port to the Attorney General, who shall pay the same to the several immigration officers and employees entitled thereto as provided in this section and section 1353a of this title. Such extra compensation shall be paid if such officers or employees have been ordered to report for duty and have so reported, whether the actual inspection or examination of passengers or crew takes place or not: *Provided*, That this section shall not apply to the inspection at designated ports of entry of passengers arriving by international ferries, bridges, or tunnels, or by aircraft, railroad trains, or vessels on the Great Lakes and connecting waterways, when operating on regular schedules.

(Mar. 2, 1931, ch. 368, §2, 46 Stat. 1467; 1940 Reorg. Plan No. V, eff. June 14, 1940, 5 F.R. 2223, 54 Stat. 1238.)

CODIFICATION

Section was not enacted as part of the Immigration and Nationality Act which comprises this chapter.

1940 Reorg. Plan No. V is authority for the substitution of “Attorney General” for “Secretary of Labor.” See note set out under section 1551 of this title.

Section was formerly classified to section 342d of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, §1, Sept. 6, 1966, 80 Stat. 378. Prior thereto, section was classified to section 109b of this title.

TRANSFER OF FUNCTIONS

Functions of all other officers of Department of Justice and functions of all agencies and employees of such Department, with a few exceptions, transferred to Attorney General, with power vested in him to authorize their performance or performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 2, §§1, 2, eff. May 24, 1950, 15 F.R. 3173, 64 Stat. 1261, set out in the Appendix to Title 5, Government Organization and Employees. See sections 509 and 510 of Title 28, Judiciary and Judicial Procedure.

CROSS REFERENCES

Maximum charges for inspection and quarantine overtime services, see section 80503 of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1353d, 1356 of this title; title 5 section 5549.

§ 1353c. Immigration officials; service in foreign contiguous territory

Nothing in section 209 of title 18 relative to augmenting salaries of Government officials from outside sources shall prevent receiving reimbursements for services of immigration officials incident to the inspection of aliens in foreign contiguous territory and such reimbursement shall be credited to the appropriation, “Immigration and Naturalization Service—Salaries and Expenses.”

(Mar. 4, 1921, ch. 161, §1, 41 Stat. 1424; Sept. 3, 1954, ch. 1263, §6, 68 Stat. 1227.)

CODIFICATION

“Section 209 of title 18” substituted in text for “section 1914 of title 18” on authority of section 2 of Pub. L. 87-849, Oct. 23, 1962, 76 Stat. 1126, which repealed section 1914 and supplanted it with section 209, and which provided that exemptions from section 1914 shall be deemed exemptions from section 209. For further details, see Exemptions note set out under section 281 of Title 18, Crimes and Criminal Procedure.

Section was not enacted as part of the Immigration and Nationality Act which comprises this chapter.

Section constituted a part of section 1 of act Mar. 4, 1921, ch. 161, 41 Stat. 1424, which rendered act Mar. 3, 1917, ch. 163, §1, 39 Stat. 1106 (section 66 of former Title 5), inapplicable to immigration officials under the circumstances stated.

Section was formerly classified to section 68 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, §1, Sept. 6, 1966, 80 Stat. 378. Prior thereto, section was classified to section 109c of this title.

AMENDMENTS

1954—Act Sept. 3, 1954, amended section generally, substituting “section 1914 of title 18” for reference to the proviso in the Act of March 3, 1917 (5 U.S.C. 66), and substituting “Immigration and Naturalization Service—Salaries and Expenses” for “Expenses of regulating immigration”.

§ 1353d. Disposition of money received as extra compensation

Moneys collected on or after July 1, 1941, as extra compensation for overtime service of immigration officers and employees of the Immigration Service pursuant to sections 1353a and 1353b of this title, shall be deposited in the Treasury of the United States to the credit of

the appropriation for the payment of salaries, field personnel of the Immigration and Naturalization Service, and the appropriation so credited shall be available for the payment of such compensation.

(Aug. 22, 1940, ch. 688, 54 Stat. 858; June 27, 1952, ch. 477, title IV, § 402(i)(2), 66 Stat. 278.)

CODIFICATION

Section was not enacted as part of the Immigration and Nationality Act which comprises this chapter.

Section was formerly classified to section 342e of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378. Prior thereto, section was classified to section 109d of this title.

AMENDMENTS

1952—Act June 27, 1952, substituted “immigration officers” for “inspectors”.

TRANSFER OF FUNCTIONS

Functions of all other officers of Department of Justice and functions of all agencies and employees of such Department, with a few exceptions, transferred to Attorney General, with power vested in him to authorize their performance or performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 2, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3173, 64 Stat. 1261, set out in the Appendix to Title 5, Government Organization and Employees. See sections 509 and 510 of Title 28, Judiciary and Judicial Procedure.

§ 1354. Applicability to members of the Armed Forces

Nothing contained in this subchapter shall be construed so as to limit, restrict, deny, or affect the coming into or departure from the United States of an alien member of the Armed Forces of the United States who is in the uniform of, or who bears documents identifying him as a member of, such Armed Forces, and who is coming to or departing from the United States under official orders or permit of such Armed Forces: *Provided*, That nothing contained in this section shall be construed to give to or confer upon any such alien any other privileges, rights, benefits, exemptions, or immunities under this chapter, which are not otherwise specifically granted by this chapter.

(June 27, 1952, ch. 477, title II, ch. 9, § 284, 66 Stat. 232.)

CROSS REFERENCES

Definition of alien and United States, see section 1101 of this title.

§ 1355. Disposal of privileges at immigrant stations; rentals; retail sale; disposition of receipts

(a) Subject to such conditions and limitations as the Attorney General shall prescribe, all exclusive privileges of exchanging money, transporting passengers or baggage, keeping eating houses, or other like privileges in connection with any United States immigrant station, shall be disposed of to the lowest responsible and capable bidder (other than an alien) in accordance with the provision of section 5 of title 41 and for the use of Government property in connection with the exercise of such exclusive privileges a

reasonable rental may be charged. The feeding of aliens, or the furnishing of any other necessary service in connection with any United States immigrant station, may be performed by the Service without regard to the foregoing provisions of this subsection if the Attorney General shall find that it would be advantageous to the Government in terms of economy and efficiency. No intoxicating liquors shall be sold at any immigrant station.

(b) Such articles determined by the Attorney General to be necessary to the health and welfare of aliens detained at any immigrant station, when not otherwise readily procurable by such aliens, may be sold at reasonable prices to such aliens through Government canteens operated by the Service, under such conditions and limitations as the Attorney General shall prescribe.

(c) All rentals or other receipts accruing from the disposal of privileges, and all moneys arising from the sale of articles through Service-operated canteens, authorized by this section, shall be covered into the Treasury to the credit of the appropriation for the enforcement of this subchapter.

(June 27, 1952, ch. 477, title II, ch. 9, § 285, 66 Stat. 232.)

CROSS REFERENCES

Definition of alien, Attorney General, Service, and United States, see section 1101 of this title.

§ 1356. Disposition of moneys collected under the provisions of this subchapter

(a) Detention, transportation, hospitalization, and all other expenses of detained aliens; expenses of landing stations

All moneys paid into the Treasury to reimburse the Service for detention, transportation, hospitalization, and all other expenses of detained aliens paid from the appropriation for the enforcement of this chapter, and all moneys paid into the Treasury to reimburse the Service for expenses of landing stations referred to in section 1228(b) of this title paid by the Service from the appropriation for the enforcement of this chapter, shall be credited to the appropriation for the enforcement of this chapter for the fiscal year in which the expenses were incurred.

(b) Purchase of evidence

Moneys expended from appropriations for the Service for the purchase of evidence and subsequently recovered shall be reimbursed to the current appropriation for the Service.

(c) Fees and administrative fines and penalties; exception

Except as otherwise provided in subsection (a) and subsection (b) of this section, or in any other provision of this subchapter, all moneys received in payment of fees and administrative fines and penalties under this subchapter shall be covered into the Treasury as miscellaneous receipts: *Provided, however*, That all fees received from applicants residing in the Virgin Islands of the United States, and in Guam, required to be paid under section 1351 of this title, shall be paid over to the Treasury of the Virgin Islands and to the Treasury of Guam, respectively.

(d) Schedule of fees

In addition to any other fee authorized by law, the Attorney General shall charge and collect \$6 per individual for the immigration inspection of each passenger arriving at a port of entry in the United States, or for the preinspection of a passenger in a place outside of the United States prior to such arrival, aboard a commercial aircraft or commercial vessel.

(e) Limitations on fees

(1) No fee shall be charged under subsection (d) of this section for immigration inspection or preinspection provided in connection with the arrival of any passenger, other than aircraft passengers, whose journey originated in the following:

- (A) Canada,
- (B) Mexico,
- (C) a territory or possession of the United States, or
- (D) any adjacent island (within the meaning of section 1101(b)(5) of this title).

(2) No fee may be charged under subsection (d) of this section with respect to the arrival of any passenger—

- (A) who is in transit to a destination outside the United States, and
- (B) for whom immigration inspection services are not provided.

(f) Collection

(1) Each person that issues a document or ticket to an individual for transportation by a commercial vessel or commercial aircraft into the United States shall—

- (A) collect from that individual the fee charged under subsection (d) of this section at the time the document or ticket is issued; and
- (B) identify on that document or ticket the fee charged under subsection (d) of this section as a Federal inspection fee.

(2) If—

- (A) a document or ticket for transportation of a passenger into the United States is issued in a foreign country; and
- (B) the fee charged under subsection (d) of this section is not collected at the time such document or ticket is issued;

the person providing transportation to such passenger shall collect such fee at the time such passenger departs from the United States and shall provide such passenger a receipt for the payment of such fee.

(3) The person who collects fees under paragraph (1) or (2) shall remit those fees to the Attorney General at any time before the date that is thirty-one days after the close of the calendar quarter in which the fees are collected, except the fourth quarter payment for fees collected from airline passengers shall be made on the date that is ten days before the end of the fiscal year, and the first quarter payment shall include any collections made in the preceding quarter that were not remitted with the previous payment. Regulations issued by the Attorney General under this subsection with respect to the collection of the fees charged under subsection (d) of this section and the remittance of such fees to the Treasury of the United States

shall be consistent with the regulations issued by the Secretary of the Treasury for the collection and remittance of the taxes imposed by subchapter C of chapter 33 of title 26, but only to the extent the regulations issued with respect to such taxes do not conflict with the provisions of this section.

(g) Provision of immigration inspection and preinspection services

Notwithstanding section 1353b of this title, or any other provision of law, the immigration services required to be provided to passengers upon arrival in the United States on scheduled airline flights shall be adequately provided, within forty-five minutes of their presentation for inspection, when needed and at no cost (other than the fees imposed under subsection (d) of this section) to airlines and airline passengers at:

- (1) immigration serviced airports, and
- (2) places located outside of the United States at which an immigration officer is stationed for the purpose of providing such immigration services.

(h) Disposition of receipts

(1)(A) There is established in the general fund of the Treasury a separate account which shall be known as the “Immigration User Fee Account”. Notwithstanding any other section of this subchapter, there shall be deposited as offsetting receipts into the Immigration User Fee Account all fees collected under subsection (d) of this section, to remain available until expended. At the end of each 2-year period, beginning with the creation of this account, the Attorney General, following a public rulemaking with opportunity for notice and comment, shall submit a report to the Congress concerning the status of the account, including any balances therein, and recommend any adjustment in the prescribed fee that may be required to ensure that the receipts collected from the fee charged for the succeeding two years equal, as closely as possible, the cost of providing these services.

(B) Notwithstanding any other provisions of law, all civil fines or penalties collected pursuant to sections 1321 and 1323 of this title and all liquidated damages and expenses collected pursuant to this chapter shall be deposited in the Immigration User Fee Account.

(2)(A) The Secretary of the Treasury shall refund out of the Immigration User Fee Account to any appropriation the amount paid out of such appropriation for expenses incurred by the Attorney General in providing immigration inspection and preinspection services for commercial aircraft or vessels and in—

- (i) providing overtime immigration inspection services for commercial aircraft or vessels;
- (ii) administration of debt recovery, including the establishment and operation of a national collections office;
- (iii) expansion, operation and maintenance of information systems for nonimmigrant control and debt collection;
- (iv) detection of fraudulent documents used by passengers traveling to the United States; and¹

¹ So in original. The word “and” probably should not appear.

(v) providing detention and deportation services for: excludable aliens arriving on commercial aircraft and vessels; and any alien who is excludable under section 1182(a) of this title who has attempted illegal entry into the United States through avoidance of immigration inspection at air or sea ports-of-entry.²

(vi) providing exclusion and asylum proceedings at air or sea ports-of-entry for: excludable aliens arriving on commercial aircraft and vessels including immigration exclusion proceedings resulting from presentation of fraudulent documents and failure to present documentation; and any alien who is excludable under section 1182(a) of this title who has attempted illegal entry into the United States through avoidance of immigration inspection at air or sea ports-of-entry.

(B) The amounts which are required to be refunded under subparagraph (A) shall be refunded at least quarterly on the basis of estimates made by the Attorney General of the expenses referred to in subparagraph (A). Proper adjustments shall be made in the amounts subsequently refunded under subparagraph (A) to the extent prior estimates were in excess of, or less than, the amount required to be refunded under subparagraph (A).

(i) Reimbursement

Notwithstanding any other provision of law, the Attorney General is authorized to receive reimbursement from the owner, operator, or agent of a private or commercial aircraft or vessel, or from any airport or seaport authority for expenses incurred by the Attorney General in providing immigration inspection services which are rendered at the request of such person or authority (including the salary and expenses of individuals employed by the Attorney General to provide such immigration inspection services). The Attorney General's authority to receive such reimbursement shall terminate immediately upon the provision for such services by appropriation.

(j) Regulations

The Attorney General may prescribe such rules and regulations as may be necessary to carry out the provisions of this section.

(k) Advisory committee

In accordance with the provisions of the Federal Advisory Committee Act, the Attorney General shall establish an advisory committee, whose membership shall consist of representatives from the airline and other transportation industries who may be subject to any fee or charge authorized by law or proposed by the Immigration and Naturalization Service for the purpose of covering expenses incurred by the Immigration and Naturalization Service. The advisory committee shall meet on a periodic basis and shall advise the Attorney General on issues related to the performance of the inspectional services of the Immigration and Naturalization Service. This advice shall include, but not be limited to, such issues as the time periods during which such services should be performed, the

proper number and deployment of inspection officers, the level of fees, and the appropriateness of any proposed fee. The Attorney General shall give substantial consideration to the views of the advisory committee in the exercise of his duties.

(l) Report to Congress

In addition to the reporting requirements established pursuant to subsection (h) of this section, the Attorney General shall prepare and submit annually to the Congress, not later than March 31st of each year, a statement of the financial condition of the "Immigration User Fee Account" including beginning account balance, revenues, withdrawals and their purpose, ending balance, projections for the ensuing fiscal year and a full and complete workload analysis showing on a port by port basis the current and projected need for inspectors. The statement shall indicate the success rate of the Immigration and Naturalization Service in meeting the forty-five minute inspection standard and shall provide detailed statistics regarding the number of passengers inspected within the standard, progress that is being made to expand the utilization of United States citizen by-pass, the number of passengers for whom the standard is not met and the length of their delay, locational breakdown of these statistics and the steps being taken to correct any nonconformity.

(m) Immigration Examinations Fee Account

Notwithstanding any other provisions of law, all adjudication fees as are designated by the Attorney General in regulations shall be deposited as offsetting receipts into a separate account entitled "Immigration Examinations Fee Account" in the Treasury of the United States, whether collected directly by the Attorney General or through clerks of courts: *Provided, however,* That all fees received by the Attorney General from applicants residing in the Virgin Islands of the United States, and in Guam, under this subsection shall be paid over to the treasury of the Virgin Islands and to the treasury of Guam: *Provided further,* That fees for providing adjudication and naturalization services may be set at a level that will ensure recovery of the full costs of providing all such services, including the costs of similar services provided without charge to asylum applicants or other immigrants. Such fees may also be set at a level that will recover any additional costs associated with the administration of the fees collected.

(n) Reimbursement of administrative expenses; transfer of deposits to General Fund of United States Treasury

All deposits into the "Immigration Examinations Fee Account" shall remain available until expended to the Attorney General to reimburse any appropriation the amount paid out of such appropriation for expenses in providing immigration adjudication and naturalization services and the collection, safeguarding and accounting for fees deposited in and funds reimbursed from the "Immigration Examinations Fee Account".

(o) Annual financial reports to Congress

The Attorney General shall prepare and submit annually to Congress statements of finan-

² So in original. The period probably should be "; and".

cial condition of the “Immigration Examination Fee Account”, including beginning account balance, revenues, withdrawals, and ending account balance and projections for the ensuing fiscal year.

(p) Additional effective dates

The provisions set forth in subsections (m), (n), and (o) of this section apply to adjudication and naturalization services performed and to related fees collected on or after October 1, 1988.

(q) Land Border Inspection Fee Account

(1) Notwithstanding any other provision of law, the Attorney General is authorized to establish, by regulation, a project under which a fee may be charged and collected for inspection services provided at one or more land border points of entry. Such project may include the establishment of commuter lanes to be made available to qualified United States citizens and aliens, as determined by the Attorney General.

(2) All of the fees collected under this subsection shall be deposited as offsetting receipts in a separate account within the general fund of the Treasury of the United States, to remain available until expended. Such account shall be known as the Land Border Inspection Fee Account.

(3)(A) The Secretary of the Treasury shall refund, at least on a quarterly basis amounts to any appropriations for expenses incurred in providing inspection services at land border points of entry. Such expenses shall include—

- (i) the providing of overtime inspection services;
- (ii) the expansion, operation and maintenance of information systems for non-immigrant control;
- (iii) the hire of additional permanent and temporary inspectors;
- (iv) the minor construction costs associated with the addition of new traffic lanes (with the concurrence of the General Services Administration);
- (v) the detection of fraudulent documents used by passengers travelling to the United States;
- (vi) providing for the administration of said account.

(B) The amounts required to be refunded from the Land Border Inspection Fee Account for fiscal years 1992 and thereafter shall be refunded in accordance with estimates made in the budget request of the Attorney General for those fiscal years: *Provided*, That any proposed changes in the amounts designated in said budget requests shall only be made after notification to the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 606 of Public Law 101-162.

(4) The Attorney General will prepare and submit annually to the Congress statements of financial condition of the Land Border Immigration Fee Account, including beginning account balance, revenues, withdrawals, and ending account balance and projection for the ensuing fiscal year.

(5)(A) The program authorized in this subsection shall terminate on September 30, 1993, unless further authorized by an Act of Congress.

(B) The provisions set forth in this subsection shall take effect 30 days after submission of a written plan by the Attorney General detailing the proposed implementation of the project specified in paragraph (1).

(C) If implemented, the Attorney General shall prepare and submit on a quarterly basis, until September 30, 1993, a status report on the land border inspection project.

(r) Breached Bond/Detention Fund

(1) Notwithstanding any other provision of law, there is established in the general fund of the Treasury a separate account which shall be known as the Breached Bond/Detention Fund (in this subsection referred to as the “Fund”).

(2) There shall be deposited as offsetting receipts into the Fund all breached cash and surety bonds, in excess of \$8,000,000, posted under this chapter which are recovered by the Department of Justice.

(3) Such amounts as are deposited into the Fund shall remain available until expended and shall be refunded out of the Fund by the Secretary of the Treasury, at least on a quarterly basis, to the Immigration and Naturalization Service for the following purposes—

- (i) for expenses incurred in the collection of breached bonds, and
- (ii) for expenses associated with the detention of illegal aliens.

(4) The amount required to be refunded from Fund³ for fiscal year 1994 and thereafter shall be refunded in accordance with estimates made in the budget request of the Attorney General for those fiscal years: *Provided*, That any proposed changes in the amounts designated in said budget requests shall only be made after notification to the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 606 of Public Law 102-395.

(5) The Attorney General shall prepare and submit annually to the Congress, statements of financial condition of the Fund, including the beginning balance, receipts, refunds to appropriations, transfers to the general fund, and the ending balance.

(6) For fiscal year 1993 only, the Attorney General may transfer up to \$1,000,000 from the Immigration User Fee Account to Fund³ for initial expenses necessary to enhance collection efforts: *Provided*, That any such transfers shall be refunded from Fund³ back to the Immigration User Fee Account by December 31, 1993.

(June 27, 1952, ch. 477, title II, ch. 9, §286, 66 Stat. 232; Dec. 29, 1981, Pub. L. 97-116, §13, 95 Stat. 1618; Oct. 18, 1986, Pub. L. 99-500, §101(b) [title II, §205(a), formerly §205], 100 Stat. 1783-39, 1783-53, renumbered §205(a), Oct. 24, 1988, Pub. L. 100-525, §4(a)(2)(A), 102 Stat. 2615; Oct. 30, 1986, Pub. L. 99-591, §101(b) [title II, §205], 100 Stat. 3341-39, 3341-53; Nov. 14, 1986, Pub. L. 99-653, §7(d)(1), as added Oct. 24, 1988, Pub. L. 100-525, §8(f), 102 Stat. 2617; July 11, 1987, Pub. L. 100-71, title I, §1, 101 Stat. 394; Oct. 1, 1988, Pub. L. 100-459, title II, §209(a), 102 Stat. 2203; Oct. 24, 1988, Pub. L. 100-525, §4(a)(1), (d), 102 Stat. 2614, 2615; Nov. 21, 1989, Pub. L. 101-162, title II, 103 Stat. 1000; Nov.

³ So in original. Probably should be preceded by “the”.

5, 1990, Pub. L. 101-515, title II, §210(a), (d), 104 Stat. 2120, 2121; Dec. 12, 1991, Pub. L. 102-232, title III, §309(a)(1)(A)(i), (B), (2), (b)(12), 105 Stat. 1757-1759; Oct. 6, 1992, Pub. L. 102-395, title I, §112, 106 Stat. 1843; Oct. 27, 1993, Pub. L. 103-121, title I, 107 Stat. 1161; Oct. 25, 1994, Pub. L. 103-416, title II, §219(t), 108 Stat. 4317.)

REFERENCES IN TEXT

Subchapter C of chapter 33 of title 26, referred to in subsec. (f)(3), is classified to section 4261 et seq. of Title 26, Internal Revenue Code.

The Federal Advisory Committee Act, referred to in subsec. (k), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

Section 606 of Public Law 101-162, referred to in subsec. (q)(3)(B), is section 606 of Pub. L. 101-162, title VI, Nov. 21, 1989, 103 Stat. 1031, which is not classified to the Code.

Section 606 of Public Law 102-395, referred to in subsec. (r)(4), is section 606 of Pub. L. 102-395, 106 Stat. 1873, which is not classified to the Code.

AMENDMENTS

1994—Subsec. (r). Pub. L. 103-416, §219(t)(1), substituted “Fund” for “Account” in heading.

Subsec. (r)(1). Pub. L. 103-416, §219(t)(2), substituted “(in this subsection referred to as the ‘Fund’)” for “(hereafter referred to as the Fund)”.

Subsec. (r)(2). Pub. L. 103-416, §219(t)(3), made technical amendment to reference to this chapter involving corresponding provision of original act.

Subsec. (r)(4). Pub. L. 103-416, §219(t)(4), struck out “the Breached Bond/Detention” before “Fund”.

Pub. L. 103-416, §219(t)(5), substituted “of Public Law 102-395” for “of this Act”.

Subsec. (r)(5). Pub. L. 103-416, §219(t)(6), substituted “Fund” for “account” after “condition of the”.

Subsec. (r)(6). Pub. L. 103-416, §219(t)(4), struck out “the Breached Bond/Detention” before “Fund” in two places.

1993—Subsec. (d). Pub. L. 103-121 substituted “\$6” for “\$5”.

Subsec. (h)(2)(A)(v), (vi). Pub. L. 103-121, which directed the amendment of subpar. (A) by “deleting subsection (v)” and adding new cls. (v) and (vi), was executed by adding cls. (v) and (vi) and striking out former cl. (v) which read as follows: “providing detention and deportation services for excludable aliens arriving on commercial aircraft and vessels.”, to reflect the probable intent of Congress.

1992—Subsec. (r). Pub. L. 102-395 added subsec. (r).

1991—Subsec. (e)(1)(D). Pub. L. 102-232, §309(b)(12), made an amendment to reference to section 1101(b)(5) of this title involving corresponding provision of original act.

Subsec. (f)(3). Pub. L. 102-232, §309(a)(2)(B), made technical correction to directory language of Pub. L. 101-515, §210(a)(2). See 1990 Amendment note below.

Subsec. (h)(1)(A). Pub. L. 102-232, §309(a)(2)(A)(i), inserted a period after “available until expended”.

Subsec. (m). Pub. L. 102-232, §309(a)(2)(A)(ii), substituted “additional” for “additional”.

Pub. L. 102-232, §309(a)(1)(A)(i)(I), made technical correction to directory language of Pub. L. 100-459. See 1988 Amendment note below.

Subsec. (n). Pub. L. 102-232, §309(a)(1)(B), amended directory language of Pub. L. 101-162. See 1989 Amendment note below.

Pub. L. 102-232, §309(a)(1)(A)(i)(I), made technical correction to directory language of Pub. L. 100-459. See 1988 Amendment note below.

Subsec. (o). Pub. L. 102-232, §309(a)(1)(A)(i)(II), substituted “shall” for “will”.

Pub. L. 102-232, §309(a)(1)(A)(i)(I), made technical correction to directory language of Pub. L. 100-459. See 1988 Amendment note below.

Subsec. (p). Pub. L. 102-232, §309(a)(1)(A)(i)(I), made technical correction to directory language of Pub. L. 100-459. See 1988 Amendment note below.

Subsec. (q)(2). Pub. L. 102-232, §309(a)(2)(A)(iii), realigned margin.

Subsec. (q)(3)(A). Pub. L. 102-232, §309(a)(2)(A)(iii), (iv), inserted “the” after “The Secretary of” and realigned margin.

Subsec. (q)(5)(B). Pub. L. 102-232, §309(a)(2)(A)(v), substituted “paragraph (1)” for “subsection (q)(1)”.

1990—Subsec. (e)(1). Pub. L. 101-515, §210(a)(1), inserted “, other than aircraft passengers,” after “arrival of any passenger”.

Subsec. (f)(3). Pub. L. 101-515, §210(a)(2), as amended by Pub. L. 102-232, §309(a)(2)(B), inserted “, except the fourth quarter payment for fees collected from airline passengers shall be made on the date that is ten days before the end of the fiscal year, and the first quarter payment shall include any collections made in the preceding quarter that were not remitted with the previous payment” after “in which the fees are collected”.

Subsec. (g). Pub. L. 101-515, §210(a)(3), inserted “, within forty-five minutes of their presentation for inspection,” before “when needed and”.

Subsec. (h)(1)(A). Pub. L. 101-515, §210(a)(4), substituted “There is established in the general fund of the Treasury a separate account which shall be known as the ‘Immigration User Fee Account’. Notwithstanding any other section of this subchapter, there shall be deposited as offsetting receipts into the Immigration User Fee Account all fees collected under subsection (d) of this section, to remain available until expended” for “All of the fees collected under subsection (d) of this section shall be deposited in a separate account within the general fund of the Treasury of the United States, to remain available until expended. Such account shall be known as the ‘Immigration User Fee Account’.”

Subsec. (i). Pub. L. 101-515, §210(a)(5), added subsec. (i).

Subsec. (m). Pub. L. 101-515, §210(d)(1), (2), inserted “as offsetting receipts” after “shall be deposited” and inserted before period at end “: *Provided further*, That fees for providing adjudication and naturalization services may be set at a level that will ensure recovery of the full costs of providing all such services, including the costs of similar services provided without charge to asylum applicants or other immigrants. Such fees may also be set at a level that will recover any additional [sic] costs associated with the administration of the fees collected”.

Subsec. (q). Pub. L. 101-515, §210(d)(3), added subsec. (q).

1989—Subsec. (n). Pub. L. 101-162, as amended by Pub. L. 102-232, §309(a)(1)(B), struck out “in excess of \$50,000,000” before “shall remain available” and struck out after first sentence “At least annually, deposits in the amount of \$50,000,000 shall be transferred from the ‘Immigration Examinations Fee Account’ to the General Fund of the Treasury of the United States.”

1988—Subsec. (a). Pub. L. 100-525, §8(f), added Pub. L. 99-653, §7(d)(1). See 1986 Amendment note below.

Subsecs. (d) to (i). Pub. L. 100-525, §4(a)(2)(A), (d), amended Pub. L. 99-500 and Pub. L. 99-591. See 1986 Amendment note below.

Subsec. (f)(3). Pub. L. 100-525, §4(a)(1)(A), substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

Subsec. (g). Pub. L. 100-525, §4(a)(1)(B), substituted “section 1353b of this title” for “section 1353(a) of this title”.

Subsec. (h)(1)(A). Pub. L. 100-525, §4(a)(1)(C)(i), amended that portion of the first sentence of subpar. (A) following “Treasury of the United States” so as to read “, to remain available until expended”. See 1987 Amendment note below.

Pub. L. 100-525, §4(a)(1)(C)(ii), substituted “Fee Account.” for “Fee Account.”

Subsec. (h)(1)(B). Pub. L. 100-525, §4(a)(1)(C)(iii)-(v), substituted “civil fines or penalties” for “fines, pen-

alties, liquidated damages or expenses”, inserted “and all liquidated damages and expenses collected pursuant to this chapter” after “this title”, and struck out quotation marks before and after the term “Immigration User Fee Account”.

Subsec. (h)(2)(A). Pub. L. 100-525, §4(a)(1)(C)(vi), substituted “vessels and in—” for “vessels and:” in introductory provisions and inserted “and” at end of cl. (iv).

Subsec. (i). Pub. L. 100-525, §4(a)(1)(D), inserted “Reimbursement” as heading.

Subsec. (l). Pub. L. 100-525, §4(a)(1)(E), struck out subsec. (l) which read as follows:

“(1) The provisions of this section and the amendments made by this section, shall apply with respect to immigration inspection services rendered after November 30, 1986.

“(2) Fees may be charged under subsection (d) of this section only with respect to immigration inspection services rendered in regard to arriving passengers using transportation for which documents or tickets were issued after November 30, 1986.”

Subsecs. (m) to (p). Pub. L. 100-459, as amended by Pub. L. 102-232, §309(a)(1)(A)(i)(I), added subsecs. (m) to (p).

1987—Subsec. (h)(1)(A). Pub. L. 100-71, directed the general amendment of first sentence of section 205(h)(1)(A) of the Departments of Commerce, Justice, and State, and the Judiciary and Related Agencies Appropriations Act, 1987, in Pub. L. 99-500 and Pub. L. 99-591. Section 205 of such act does not contain a subsec. (h)(1)(A) but did enact subsec. (h)(1)(A) of this section and had such amendment been executed to first sentence of subsec. (h)(1)(A) of this section it would have resulted in inserting “, to remain available until expended” after “Treasury of the United States”. See 1988 Amendment note above.

1986—Subsec. (a). Pub. L. 99-653, §7(d)(1), as added by Pub. L. 100-525, §8(f), substituted “section 1228(b) of this title” for “section 1228(c) of this title”.

Subsecs. (d) to (l). Pub. L. 99-500, §101(b) [title II, §205(a), formerly §205], as redesignated by Pub. L. 100-525, §4(a)(2)(A), added subsecs. (d) to (l).

Pub. L. 99-591, §101(b) [title II, §205], a corrected version of Pub. L. 99-500, §101(b) [title II, §205(a)], was repealed by Pub. L. 100-525, §4(d), effective as of Oct. 30, 1986.

1981—Subsecs. (b), (c). Pub. L. 97-116 added subsec. (b), redesignated former subsec. (b) as (c), and inserted “and subsection (b)” after “subsection (a)”.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 219(t) of Pub. L. 103-416 provided that the amendment made by that section is effective as if included in the enactment of Pub. L. 102-395.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 309(a)(3) of Pub. L. 102-232, as amended by Pub. L. 103-416, title II, §219(z)(6), Oct. 25, 1994, 108 Stat. 4318, provided that: “The amendments made by paragraphs (1)(A) [amending this section and section 1455 of this title] and (1)(B) [amending this section] shall be effective as if they were included in the enactment of the Department of Justice Appropriations Act, 1989 [Pub. L. 100-459, title II] and the Department of Justice Appropriations Act, 1990 [Pub. L. 101-162, title II], respectively.”

EFFECTIVE DATE OF 1990 AMENDMENT

Section 210(b) of Pub. L. 101-515 provided that: “The amendment made by subsection (a)(1) of this section [amending this section] shall apply to fees charged only with respect to immigration inspection or pre-inspection services rendered in regard to arriving passengers using transportation for which documents or tickets were issued after November 30, 1990.”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 4(a)(1), (2)(A) of Pub. L. 100-525 effective as if included in enactment of Depart-

ment of Justice Appropriation Act, 1987 (as contained in section 101(b) of Pub. L. 99-500), see section 4(c) of Pub. L. 100-525, set out as a note under section 1227 of this title.

Amendment by section 8(f) of Pub. L. 100-525 effective as if included in the enactment of the Immigration and Nationality Act Amendments of 1986, Pub. L. 99-653, see section 309(b)(15) of Pub. L. 102-232, set out as an Effective and Termination Dates of 1988 Amendments note under section 1101 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by section 7(d)(1) of Pub. L. 99-653 applicable to visas issued, and admissions occurring, on or after Nov. 14, 1986, see section 23(a) of Pub. L. 99-653, set out as a note under section 1101 of this title.

Pub. L. 99-500, §101(b) [title II, §205(b)], as added by Pub. L. 100-525, §4(a)(2)(B), Oct. 24, 1988, 102 Stat. 2615, provided that:

“(1) The amendments made by subsection (a) [amending this section] shall apply with respect to immigration inspection services rendered after November 30, 1986.

“(2) Fees may be charged under section 286(d) of the Immigration and Nationality Act [8 U.S.C. 1356(d)] only with respect to immigration inspection services rendered in regard to arriving passengers using transportation for which documents or tickets were issued after November 30, 1986.”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-116 effective Dec. 29, 1981, see section 21(a) of Pub. L. 97-116, set out as a note under section 1101 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

DEPOSIT OF RECEIPTS FROM INCREASED CHARGE FOR IMMIGRANT VISAS CAUSED BY PROCESSING FINGERPRINTS

Pub. L. 103-317, title V, Aug. 26, 1994, 108 Stat. 1760, provided in part: “That hereafter all receipts received from an increase in the charge for Immigrant Visas in effect on September 30, 1994, caused by processing an applicant’s fingerprints, shall be deposited in this account as an offsetting collection and shall remain available until expended.”

EXTENSION OF LAND BORDER FEE PILOT PROJECT

Title I of Pub. L. 103-121, Oct. 27, 1993, 107 Stat. 1161, as amended by Pub. L. 103-317, title I, §111, Aug. 26, 1994, 108 Stat. 1736, provided in part: “That the Land Border Fee Pilot Project scheduled to end September 30, 1993 [see subsec. (q) of this section], is extended to September 30, 1996 for projects on the northern border of the United States and California only.”

CROSS REFERENCES

Definition of alien and Service, see section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1255, 1455 of this title.

§ 1357. Powers of immigration officers and employees

(a) Powers without warrant

Any officer or employee of the Service authorized under regulations prescribed by the Attorney General shall have power without warrant—

(1) to interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States;

(2) to arrest any alien who in his presence or view is entering or attempting to enter the United States in violation of any law or regulation made in pursuance of law regulating the admission, exclusion, or expulsion of aliens, or to arrest any alien in the United States, if he has reason to believe that the alien so arrested is in the United States in violation of any such law or regulation and is likely to escape before a warrant can be obtained for his arrest, but the alien arrested shall be taken without unnecessary delay for examination before an officer of the Service having authority to examine aliens as to their right to enter or remain in the United States;

(3) within a reasonable distance from any external boundary of the United States, to board and search for aliens any vessel within the territorial waters of the United States and any railway car, aircraft, conveyance, or vehicle, and within a distance of twenty-five miles from any such external boundary to have access to private lands, but not dwellings, for the purpose of patrolling the border to prevent the illegal entry of aliens into the United States;

(4) to make arrests for felonies which have been committed and which are cognizable under any law of the United States regulating the admission, exclusion, or expulsion of aliens, if he has reason to believe that the person so arrested is guilty of such felony and if there is likelihood of the person escaping before a warrant can be obtained for his arrest, but the person arrested shall be taken without unnecessary delay before the nearest available officer empowered to commit persons charged with offenses against the laws of the United States; and

(5) to make arrests—

(A) for any offense against the United States, if the offense is committed in the officer's or employee's presence, or

(B) for any felony cognizable under the laws of the United States, if the officer or employee has reasonable grounds to believe that the person to be arrested has committed or is committing such a felony,

if the officer or employee is performing duties relating to the enforcement of the immigration laws at the time of the arrest and if there is a likelihood of the person escaping before a warrant can be obtained for his arrest.

Under regulations prescribed by the Attorney General, an officer or employee of the Service may carry a firearm and may execute and serve any order, warrant, subpoena, summons, or other process issued under the authority of the United States. The authority to make arrests under paragraph (5)(B) shall only be effective on

and after the date on which the Attorney General publishes final regulations which (i) prescribe the categories of officers and employees of the Service who may use force (including deadly force) and the circumstances under which such force may be used, (ii) establish standards with respect to enforcement activities of the Service, (iii) require that any officer or employee of the Service is not authorized to make arrests under paragraph (5)(B) unless the officer or employee has received certification as having completed a training program which covers such arrests and standards described in clause (ii), and (iv) establish an expedited, internal review process for violations of such standards, which process is consistent with standard agency procedure regarding confidentiality of matters related to internal investigations.

(b) Administration of oath; taking of evidence

Any officer or employee of the Service designated by the Attorney General, whether individually or as one of a class, shall have power and authority to administer oaths and to take and consider evidence concerning the privilege of any person to enter, reenter, pass through, or reside in the United States, or concerning any matter which is material or relevant to the enforcement of this chapter and the administration of the Service; and any person to whom such oath has been administered, (or who has executed an unsworn declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28) under the provisions of this chapter, who shall knowingly or willfully give false evidence or swear (or subscribe under penalty of perjury as permitted under section 1746 of title 28) to any false statement concerning any matter referred to in this subsection shall be guilty of perjury and shall be punished as provided by section 1621 of title 18.

(c) Search without warrant

Any officer or employee of the Service authorized and designated under regulations prescribed by the Attorney General, whether individually or as one of a class, shall have power to conduct a search, without warrant, of the person, and of the personal effects in the possession of any person seeking admission to the United States, concerning whom such officer or employee may have reasonable cause to suspect that grounds exist for exclusion from the United States under this chapter which would be disclosed by such search.

(d) Detainer of aliens for violation of controlled substances laws

In the case of an alien who is arrested by a Federal, State, or local law enforcement official for a violation of any law relating to controlled substances, if the official (or another official)—

(1) has reason to believe that the alien may not have been lawfully admitted to the United States or otherwise is not lawfully present in the United States,

(2) expeditiously informs an appropriate officer or employee of the Service authorized and designated by the Attorney General of the arrest and of facts concerning the status of the alien, and

(3) requests the Service to determine promptly whether or not to issue a detainer to detain the alien,

the officer or employee of the Service shall promptly determine whether or not to issue such a detainer. If such a detainer is issued and the alien is not otherwise detained by Federal, State, or local officials, the Attorney General shall effectively and expeditiously take custody of the alien.

(e) Restriction on warrantless entry in case of outdoor agricultural operations

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

(f) Fingerprinting and photographing of certain aliens

(1) Under regulations of the Attorney General, the Commissioner shall provide for the fingerprinting and photographing of each alien 14 years of age or older against whom a proceeding is commenced under section 1252 of this title.

(2) Such fingerprints and photographs shall be made available to Federal, State, and local law enforcement agencies, upon request.

(June 27, 1952, ch. 477, title II, ch. 9, § 287, 66 Stat. 233; Oct. 18, 1976, Pub. L. 94-550, § 7, 90 Stat. 2535; Oct. 27, 1986, Pub. L. 99-570, title I, § 1751(d), 100 Stat. 3207-47; Nov. 6, 1986, Pub. L. 99-603, title I, § 116, 100 Stat. 3384; Oct. 24, 1988, Pub. L. 100-525, §§ 2(e), 5, 102 Stat. 2610, 2615; Nov. 29, 1990, Pub. L. 101-649, title V, § 503(a), (b)(1), 104 Stat. 5048, 5049; Dec. 12, 1991, Pub. L. 102-232, title III, § 306(a)(3), 105 Stat. 1751.)

AMENDMENTS

1991—Subsec. (a)(4). Pub. L. 102-232 substituted a semicolon for comma at end.

1990—Subsec. (a). Pub. L. 101-649, § 503(a), struck out “and” at end of par. (3), substituted “United States, and” for “United States. Any such employee shall also have the power to execute any warrant or other process issued by any officer under any law regulating the admission, exclusion, or expulsion of aliens.” at end of par. (4), and added par. (5) and concluding provisions.

Subsec. (f). Pub. L. 101-649, § 503(b)(1), added subsec. (f).

1988—Subsec. (d). Pub. L. 100-525, § 5, added par. (3) and closing provisions and struck out former par. (3) which read as follows: “requests the Service to determine promptly whether or not to issue a detainer to detain the alien, the officer or employee of the Service shall promptly determine whether or not to issue such a detainer. If such a detainer is issued and the alien is not otherwise detained by Federal, State, or local officials, the Attorney General shall effectively and expeditiously take custody of the alien.”

Subsec. (e). Pub. L. 100-525, § 2(e)(2), made technical amendment to directory language of Pub. L. 99-603, § 116, and redesignated the subsec. (d) added by such § 116, as (e). See 1986 Amendment note below.

1986—Subsec. (d). Pub. L. 99-570 added subsec. (d).

Subsec. (e). Pub. L. 99-603, as amended by Pub. L. 100-525, § 2(e), added subsec. (e), which prior to amendment by Pub. L. 100-525, was designated as a second subsec. (d) of this section.

1976—Subsec. (b). Pub. L. 94-550 inserted “(or who has executed an unsworn declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28)” after “to whom such oath has been administered” and “(or subscribe under penalty of perjury as permitted under section 1746 of title 28)” after “give false evidence or swear”.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-232 effective as if included in the enactment of the Immigration Act of 1990, Pub. L. 101-649, see section 310(1) of Pub. L. 102-232, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 2(e) of Pub. L. 100-525 effective as if included in enactment of Immigration Reform and Control Act of 1986, Pub. L. 99-603, see section 2(s) of Pub. L. 100-525, set out as a note under section 1101 of this title.

CROSS REFERENCES

Definition of the term—

Alien, see section 1101(a)(3) of this title.

Attorney General, see section 1101(a)(5) of this title.

Entry, see section 1101(a)(13) of this title.

Immigration officer, see section 1101(a)(18) of this title.

Service, see section 1101(a)(34) of this title.

United States, see section 1101(a)(38) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1226, 1304 of this title.

§ 1358. Local jurisdiction over immigrant stations

The officers in charge of the various immigrant stations shall admit therein the proper State and local officers charged with the enforcement of the laws of the State or Territory of the United States in which any such immigrant station is located in order that such State and local officers may preserve the peace and make arrests for crimes under the laws of the States and Territories. For the purpose of this section the jurisdiction of such State and local officers and of the State and local courts shall extend over such immigrant stations.

(June 27, 1952, ch. 477, title II, ch. 9, § 288, 66 Stat. 234.)

§ 1359. Application to American Indians born in Canada

Nothing in this subchapter shall be construed to affect the right of American Indians born in Canada to pass the borders of the United States, but such right shall extend only to persons who possess at least 50 per centum of blood of the American Indian race.

(June 27, 1952, ch. 477, title II, ch. 9, § 289, 66 Stat. 234.)

§ 1360. Establishment of central file; information from other departments and agencies

(a) There shall be established in the office of the Commissioner, for the use of security and enforcement agencies of the Government of the United States, a central index, which shall contain the names of all aliens heretofore admitted to the United States, or excluded therefrom, insofar as such information is available from the existing records of the Service, and the names of

all aliens hereafter admitted to the United States, or excluded therefrom, the names of their sponsors of record, if any, and such other relevant information as the Attorney General shall require as an aid to the proper enforcement of this chapter.

(b) Any information in any records kept by any department or agency of the Government as to the identity and location of aliens in the United States shall be made available to the Service upon request made by the Attorney General to the head of any such department or agency.

(c) The Secretary of Health and Human Services shall notify the Attorney General upon request whenever any alien is issued a social security account number and social security card. The Secretary shall also furnish such available information as may be requested by the Attorney General regarding the identity and location of aliens in the United States.

(d) A written certification signed by the Attorney General or by any officer of the Service designated by the Attorney General to make such certification, that after diligent search no record or entry of a specified nature is found to exist in the records of the Service, shall be admissible as evidence in any proceeding as evidence that the records of the Service contain no such record or entry, and shall have the same effect as the testimony of a witness given in open court.

(June 27, 1952, ch. 477, title II, ch. 9, § 290, 66 Stat. 234; Oct. 24, 1988, Pub. L. 100-525, § 9(q), 102 Stat. 2621.)

AMENDMENTS

1988—Subsec. (c). Pub. L. 100-525 substituted “Secretary of Health and Human Services” for “Federal Security Administrator” and “The Secretary” for “The Administrator”.

CROSS REFERENCES

Definition of the term—

Alien, see section 1101(a)(3) of this title.

Attorney General, see section 1101(a)(5) of this title.

Commissioner, see section 1101(a)(8) of this title.

Entry, see section 1101(a)(13) of this title.

Immigration laws, see section 1101(a)(17) of this title.

Service, see section 1101(a)(34) of this title.

United States, see section 1101(a)(38) of this title.

§ 1361. Burden of proof upon alien

Whenever any person makes application for a visa or any other document required for entry, or makes application for admission, or otherwise attempts to enter the United States, the burden of proof shall be upon such person to establish that he is eligible to receive such visa or such document, or is not subject to exclusion under any provision of this chapter, and, if an alien, that he is entitled to the nonimmigrant, immigrant, special immigrant, immediate relative, or refugee status claimed, as the case may be. If such person fails to establish to the satisfaction of the consular officer that he is eligible to receive a visa or other document required for entry, no visa or other document required for entry shall be issued to such person, nor shall such person be admitted to the United States unless he establishes to the satisfaction of the

Attorney General that he is not subject to exclusion under any provision of this chapter. In any deportation proceeding under Part V of this subchapter against any person, the burden of proof shall be upon such person to show the time, place, and manner of his entry into the United States, but in presenting such proof he shall be entitled to the production of his visa or other entry document, if any, and of any other documents and records, not considered by the Attorney General to be confidential, pertaining to such entry in the custody of the Service. If such burden of proof is not sustained, such person shall be presumed to be in the United States in violation of law.

(June 27, 1952, ch. 477, title II, ch. 9, § 291, 66 Stat. 234; Dec. 29, 1981, Pub. L. 97-116, § 18(k)(1), 95 Stat. 1620.)

AMENDMENTS

1981—Pub. L. 97-116 substituted “immigrant, special immigrant, immediate relative, or refugee” for “quota immigrant, or nonquota immigrant”.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-116 effective Dec. 29, 1981, see section 21(a) of Pub. L. 97-116, set out as a note under section 1101 of this title.

CROSS REFERENCES

Definition of the term—

Alien, see section 1101(a)(3) of this title.

Attorney General, see section 1101(a)(5) of this title.

Consular officer, see section 1101(a)(9) of this title.

Entry, see section 1101(a)(13) of this title.

Nonimmigrant alien, see section 1101(a)(15) of this title.

Profession, see section 1101(a)(32) of this title.

Service, see section 1101(a)(34) of this title.

United States, see section 1101(a)(38) of this title.

§ 1362. Right to counsel

In any exclusion or deportation proceedings before a special inquiry officer and in any appeal proceedings before the Attorney General from any such exclusion or deportation proceedings, the person concerned shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose.

(June 27, 1952, ch. 477, title II, ch. 9, § 292, 66 Stat. 235.)

CROSS REFERENCES

Definition of Attorney General and special inquiry officer, see section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1252a of this title.

§ 1363. Deposit of and interest on cash received to secure immigration bonds

(a) Cash received by the Attorney General as security on an immigration bond shall be deposited in the Treasury of the United States in trust for the obligor on the bond, and shall bear interest payable at a rate determined by the Secretary of the Treasury, except that in no case shall the interest rate exceed 3 per centum per annum. Such interest shall accrue from date of deposit occurring after April 27, 1966, to and

including date of withdrawal or date of breach of the immigration bond, whichever occurs first: *Provided*, That cash received by the Attorney General as security on an immigration bond, and deposited by him in the postal savings system prior to discontinuance of the system, shall accrue interest as provided in this section from the date such cash ceased to accrue interest under the system. Appropriations to the Treasury Department for interest on uninvested funds shall be available for payment of said interest.

(b) The interest accruing on cash received by the Attorney General as security on an immigration bond shall be subject to the same disposition as prescribed for the principal cash, except that interest accruing to the date of breach of the immigration bond shall be paid to the obligor on the bond.

(June 27, 1952, ch. 477, title II, ch. 9, §293, as added July 10, 1970, Pub. L. 91-313, §2, 84 Stat. 413.)

§ 1364. Triennial comprehensive report on immigration

(a) Triennial report

The President shall transmit to the Congress, not later than January 1, 1989, and not later than January 1 of every third year thereafter, a comprehensive immigration-impact report.

(b) Details in each report

Each report shall include—

(1) the number and classification of aliens admitted (whether as immediate relatives, special immigrants, refugees, or under the preferences classifications, or as nonimmigrants), paroled, or granted asylum, during the relevant period;

(2) a reasonable estimate of the number of aliens who entered the United States during the period without visas or who became deportable during the period under section 1251 of this title; and

(3) a description of the impact of admissions and other entries of immigrants, refugees, asylees, and parolees into the United States during the period on the economy, labor and housing markets, the educational system, social services, foreign policy, environmental quality and resources, the rate, size, and distribution of population growth in the United States, and the impact on specific States and local units of government of high rates of immigration resettlement.

(c) History and projections

The information (referred to in subsection (b) of this section) contained in each report shall be—

(1) described for the preceding three-year period, and

(2) projected for the succeeding five-year period, based on reasonable estimates substantiated by the best available evidence.

(d) Recommendations

The President also may include in such report any appropriate recommendations on changes in numerical limitations or other policies under subchapter II of this chapter bearing on the admission and entry of such aliens to the United States.

(Pub. L. 99-603, title IV, §401, Nov. 6, 1986, 100 Stat. 3440.)

CODIFICATION

Section was enacted as part of the Immigration Reform and Control Act of 1986, and not as part of the Immigration and Nationality Act which comprises this chapter.

EX. ORD. NO. 12789. DELEGATION OF REPORTING FUNCTIONS UNDER THE IMMIGRATION REFORM AND CONTROL ACT OF 1986

Ex. Ord. No. 12789, Feb. 10, 1992, 57 F.R. 5225, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including section 301 of title 3, United States Code, and title IV of the Immigration Reform and Control Act of 1986, Public Law 99-603 ("Reform Act") [title IV of Pub. L. 99-603, Nov. 6, 1986, 100 Stat. 3440, which enacted section 1364 of this title and provisions set out as notes under sections 1101, 1187, 1188, 1255a, and 1324a of this title], it is hereby ordered as follows:

SECTION 1. The Attorney General shall: (a) perform, in coordination with the Secretary of Labor, the functions vested in the President by section 401 of the Reform Act (8 U.S.C. 1364);

(b) perform, except for the functions in section 402(3)(A), the functions vested in the President by section 402 of the Reform Act (8 U.S.C. 1324a note); and

(c) perform, insofar as they relate to the initial report described in section 404(b), the functions vested in the President by section 404 of the Reform Act (8 U.S.C. 1255a note).

SEC. 2. The Secretary of Labor shall: (a) perform the functions vested in the President by section 402(3)(A) of the Reform Act (8 U.S.C. 1324a note);

(b) perform the functions vested in the President by section 403 of the Reform Act (8 U.S.C. 1188 note); and

(c) perform, insofar as they relate to the second report described in section 404(c), the functions vested in the President by section 404 of the Reform Act (8 U.S.C. 1255a note).

SEC. 3. The functions delegated by sections 1 and 2 of this order shall be performed in accordance with the procedures set forth in OMB Circular A-19.

SEC. 4. This order shall be effective immediately.

GEORGE BUSH.

§ 1365. Reimbursement of States for costs of incarcerating illegal aliens and certain Cuban nationals

(a) Reimbursement of States

Subject to the amounts provided in advance in appropriation Acts, the Attorney General shall reimburse a State for the costs incurred by the State for the imprisonment of any illegal alien or Cuban national who is convicted of a felony by such State.

(b) Illegal aliens convicted of a felony

An illegal alien referred to in subsection (a) of this section is any alien who is any alien convicted of a felony who is in the United States unlawfully and—

(1) whose most recent entry into the United States was without inspection, or

(2) whose most recent admission to the United States was as a nonimmigrant and—

(A) whose period of authorized stay as a nonimmigrant expired, or

(B) whose unlawful status was known to the Government,

before the date of the commission of the crime for which the alien is convicted.

(c) Marielito Cubans convicted of a felony

A Marielito Cuban convicted of a felony referred to in subsection (a) of this section is a national of Cuba who—

(1) was allowed by the Attorney General to come to the United States in 1980,

(2) after such arrival committed any violation of State or local law for which a term of imprisonment was imposed, and

(3) at the time of such arrival and at the time of such violation was not an alien lawfully admitted to the United States—

(A) for permanent or temporary residence, or

(B) under the terms of an immigrant visa or a nonimmigrant visa issued,

under the laws of the United States.

(d) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

(e) “State” defined

The term ‘State’ has the meaning given such term in section 1101(a)(36) of this title.

(Pub. L. 99-603, title V, §501, Nov. 6, 1986, 100 Stat. 3443.)

CODIFICATION

Section was enacted as part of the Immigration Reform and Control Act of 1986, and not as part of the Immigration and Nationality Act which comprises this chapter.

REGULATIONS

Pub. L. 103-317, title VIII, Aug. 26, 1994, 108 Stat. 1778, provided in part: “That the Attorney General shall promulgate regulations to (a) prescribe requirements for program participation eligibility for States, (b) require verification by States of the eligible incarcerated population data with the Immigration and Naturalization Service, (c) prescribe a formula for distributing assistance to eligible States, and (d) award assistance to eligible States”.

CROSS REFERENCES

Assistance to States and counties for costs of incarcerating certain Cuban nationals, see section 1522(f) of this title.

SUBCHAPTER III—NATIONALITY AND
NATURALIZATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1101, 1186a, 1186b, 1255a, 1438 of this title.

PART I—NATIONALITY AT BIRTH AND COLLECTIVE
NATURALIZATION**§ 1401. Nationals and citizens of United States at birth**

The following shall be nationals and citizens of the United States at birth:

(a) a person born in the United States, and subject to the jurisdiction thereof;

(b) a person born in the United States to a member of an Indian, Eskimo, Aleutian, or other aboriginal tribe: *Provided*, That the granting of citizenship under this subsection shall not in any manner impair or otherwise affect the right of such person to tribal or other property;

(c) a person born outside of the United States and its outlying possessions of parents both of whom are citizens of the United States and one of whom has had a residence in the United States or one of its outlying possessions, prior to the birth of such person;

(d) a person born outside of the United States and its outlying possessions of parents one of whom is a citizen of the United States who has been physically present in the United States or one of its outlying possessions for a continuous period of one year prior to the birth of such person, and the other of whom is a national, but not a citizen of the United States;

(e) a person born in an outlying possession of the United States of parents one of whom is a citizen of the United States who has been physically present in the United States or one of its outlying possessions for a continuous period of one year at any time prior to the birth of such person;

(f) a person of unknown parentage found in the United States while under the age of five years, until shown, prior to his attaining the age of twenty-one years, not to have been born in the United States;

(g) a person born outside the geographical limits of the United States and its outlying possessions of parents one of whom is an alien, and the other a citizen of the United States who, prior to the birth of such person, was physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years: *Provided*, That any periods of honorable service in the Armed Forces of the United States, or periods of employment with the United States Government or with an international organization as that term is defined in section 288 of title 22 by such citizen parent, or any periods during which such citizen parent is physically present abroad as the dependent unmarried son or daughter and a member of the household of a person (A) honorably serving with the Armed Forces of the United States, or (B) employed by the United States Government or an international organization as defined in section 288 of title 22, may be included in order to satisfy the physical-presence requirement of this paragraph. This proviso shall be applicable to persons born on or after December 24, 1952, to the same extent as if it had become effective in its present form on that date; and

(h) a person born before noon (Eastern Standard Time) May 24, 1934, outside the limits and jurisdiction of the United States of an alien father and a mother who is a citizen of the United States who, prior to the birth of such person, had resided in the United States.

(June 27, 1952, ch. 477, title III, ch. 1, §301, 66 Stat. 235; Nov. 6, 1966, Pub. L. 89-770, 80 Stat. 1322; Oct. 27, 1972, Pub. L. 92-584, §§1, 3, 86 Stat. 1289; Oct. 10, 1978, Pub. L. 95-432, §§1, 3, 92 Stat. 1046; Nov. 14, 1986, Pub. L. 99-653, §12, 100 Stat. 3657; Oct. 25, 1994, Pub. L. 103-416, title I, §101(a), 108 Stat. 4306.)

AMENDMENTS

1994—Subsec. (h). Pub. L. 103-416 added subsec. (h).