

Executive Documents**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

(a) 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.

(b) If a person lawfully admitted for permanent residence is the spouse or child of a member of the Armed Forces of the United States, is authorized to accompany the member and reside abroad with the member pursuant to the member's official orders, and is so accompanying and residing with the member (in marital union if a spouse), then the residence and physical presence of the person abroad shall not be treated as—

(1) an abandonment or relinquishment of lawful permanent resident status for purposes of clause (i) of section 1101(a)(13)(C) of this title; or

(2) an absence from the United States for purposes of clause (ii) of such section.

(June 27, 1952, ch. 477, title II, ch. 9, § 284, 66 Stat. 232; Pub. L. 110–181, div. A, title VI, § 673, Jan. 28, 2008, 122 Stat. 185.)

Editorial Notes**REFERENCES IN TEXT**

This chapter, referred to in subsec. (a), was in the original, “this Act”, meaning act June 27, 1952, ch. 477, 66 Stat. 163, known as the Immigration and Nationality Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

AMENDMENTS

2008—Pub. L. 110–181 designated existing provisions as subsec. (a) and added subsec. (b).

§ 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 ex-

clusive 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 6101 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.)

Editorial Notes**CODIFICATION**

In subsec. (a), “section 6101 of title 41” substituted for “section 3709 of the Revised Statutes, as amended (41 U.S.C. 5),” on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

Statutory Notes and Related Subsidiaries**ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS**

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 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 1223(b) of this title paid by the Service from the appropriation for the enforcement of this chapter, shall be credited to the appropria-

tion 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), 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 \$7 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) Except as provided in paragraph (3), no fee shall be charged under subsection (d) 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 State, 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) 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.

(3) The Attorney General shall charge and collect \$3 per individual for the immigration inspection or pre-inspection of each commercial vessel passenger whose journey originated in the United States or in any place set forth in paragraph (1): *Provided,* That this requirement shall not apply to immigration inspection at designated ports of entry of passengers arriving by ferry, or by Great Lakes vessels on the Great Lakes and connecting waterways when operating on a regular schedule. For the purposes of this paragraph, the term “ferry” means a vessel, in other than ocean or coastwise service, having provisions only for deck passengers and/or vehicles, operating on a short run on a frequent schedule between two points over the most direct water route, and offering a public service of a type normally attributed to a bridge or tunnel.

(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) at the time the document or ticket is issued; and

(B) identify on that document or ticket the fee charged under subsection (d) 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) 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) 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 when needed and at no cost (other than the fees imposed under subsection (d)) 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.¹ 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 1253(c), 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, including training of, and technical assistance to, commercial airline personnel regarding such detection;

(v) providing detention and removal services for inadmissible aliens arriving on commercial aircraft and vessels and for any alien who is inadmissible 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; and

(vi) providing removal and asylum proceedings at air or sea ports-of-entry for inadmissible aliens arriving on commercial aircraft and vessels including immigration removal proceedings resulting from presentation of fraudulent documents and failure to present documentation and for any alien who is inadmissible 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.

The Attorney General shall provide for expenditures for training and assistance described in clause (iv) in an amount, for any fiscal year, not less than 5 percent of the total of the expenses incurred that are described in the previous sentence.

(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, train, or vessel, or from any airport, rail line, 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). Reimbursements under this subsection may be collected in advance of the provision of such immigration inspection services. Notwithstanding subsection (h)(1)(B), and only to the extent provided in appropriations Acts, any amounts collected under this subsection shall be credited as offsetting collections to the currently applicable appropriation, account, or fund of U.S. Customs and Border Protection, remain available until expended, and be available for the purposes for which such appropriation, account, or fund is authorized to be used.

(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 chapter 10 of title 5, 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), 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,

¹ So in original.

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 financial condition of the "Immigration Examinations 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)(A)(i) Notwithstanding any other provision of law, the Attorney General is authorized to establish, by regulation, not more than 96 projects under which a fee may be charged and collected

for inspection services provided at one or more land border points of entry. Such projects may include the establishment of commuter lanes to be made available to qualified United States citizens and aliens, as determined by the Attorney General.

(ii) This subparagraph shall take effect, with respect to any project described in clause (1)² that was not authorized to be commenced before September 30, 1996, 30 days after submission of a written plan by the Attorney General detailing the proposed implementation of such project.

(iii) The Attorney General shall prepare and submit on a quarterly basis a status report on each land border inspection project implemented under this subparagraph.

(B) The Attorney General, in consultation with the Secretary of the Treasury, may conduct pilot projects to demonstrate the use of designated ports of entry after working hours through the use of card reading machines or other appropriate technology.

(2) All of the fees collected under this subsection, including receipts for services performed in processing forms I-94, I-94W, and I-68, and other similar applications processed at land border ports of entry, 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

² So in original. Probably should be clause "(i)".

balance, revenues, withdrawals, and ending account balance and projection for the ensuing fiscal year.

(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, and amount³ described in section 1255(i)(3)(b)⁴ of this title.

(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 Attorney General 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 amounts required to be refunded from the Fund for fiscal year 1998 and thereafter shall be refunded in accordance with estimates made in the budget request of the President for those fiscal years. Any proposed changes in the amounts designated in such budget requests shall only be made after Congressional reprogramming notification in accordance with the reprogramming guidelines for the applicable fiscal year.

(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 the Fund for initial expenses necessary to enhance collection efforts: *Provided*, That any such transfers shall be refunded from the Fund back to the Immigration User Fee Account by December 31, 1993.

(s) H-1B Nonimmigrant Petitioner Account

(1) In general

There is established in the general fund of the Treasury a separate account, which shall be known as the “H-1B Nonimmigrant Petitioner Account”. Notwithstanding any other section of this subchapter, there shall be deposited as offsetting receipts into the account all fees collected under paragraphs (9) and (11) of section 1184(c) of this title.

(2) Use of fees for job training

50 percent of amounts deposited into the H-1B Nonimmigrant Petitioner Account shall remain available to the Secretary of Labor until expended for demonstration programs and projects described in section 3224a of title 29.

(3) Use of fees for low-income scholarship program

30 percent of the amounts deposited into the H-1B Nonimmigrant Petitioner Account shall remain available to the Director of the National Science Foundation until expended for scholarships described in section 1869c of title 42 for low-income students enrolled in a program of study leading to a degree in mathematics, engineering, or computer science.

(4) National Science Foundation competitive grant program for K-12 math, science and technology education

(A) In general

10 percent of the amounts deposited into the H-1B Nonimmigrant Petitioner Account shall remain available to the Director of the National Science Foundation until expended to carry out a direct or matching grant program to support private-public partnerships in K-12 education.

(B) Types of programs covered

The Director shall award grants to such programs, including those which support the development and implementation of standards-based instructional materials models and related student assessments that enable K-12 students to acquire an understanding of science, mathematics, and technology, as well as to develop critical thinking skills; provide systemic improvement in training K-12 teachers and education for students in science, mathematics, and technology; support the professional development of K-12 math and science teachers in the use of technology in the classroom; stimulate system-wide K-12 reform of science, mathematics, and technology in rural, economically disadvantaged regions of the United States; provide externships and other opportunities for students to increase their appreciation and understanding of science, mathematics, engineering, and technology (including summer institutes sponsored by an institution of higher education for students in grades 7-12 that provide instruction in such fields); involve partnerships of industry, educational institutions, and community organizations to address the educational needs of disadvantaged communities; provide college preparatory support to expose and prepare students for careers in science, mathematics, engineering, and technology; and provide for carrying out systemic reform activities under section 1862(a)(1) of title 42.

(5) Use of fees for duties relating to petitions

5 percent of the amounts deposited into the H-1B Nonimmigrant Petitioner Account shall remain available to the Secretary of Homeland Security until expended to carry out duties under paragraphs (1) and (9) of section 1184(c) of this title related to petitions made for nonimmigrants described in section 1101(a)(15)(H)(i)(b) of this title, under paragraph (1)(C) or (D) of section 1154⁵ of this title

³ So in original.

⁴ So in original. Probably should be section “1255(i)(3)(B)”.

⁵ So in original. Probably should be section “1154(a)”.

related to petitions for immigrants described in section 1153(b) of this title.

(6) Use of fees for application processing and enforcement

For fiscal year 1999, 4 percent of the amounts deposited into the H-1B Nonimmigrant Petitioner Account shall remain available to the Secretary of Labor until expended for decreasing the processing time for applications under section 1182(n)(1) of this title and for carrying out section 1182(n)(2) of this title. Beginning with fiscal year 2000, 5 percent of the amounts deposited into the H-1B Nonimmigrant Petitioner Account shall remain available to the Secretary of Labor until expended for decreasing the processing time for applications under section 1182(n)(1) of this title and section 1182(a)(5)(A) of this title.

(t) Genealogy Fee

(1) There is hereby established the Genealogy Fee for providing genealogy research and information services. This fee shall be deposited as offsetting collections into the Examinations Fee Account. Fees for such research and information services may be set at a level that will ensure the recovery of the full costs of providing all such services.

(2) The Attorney General will prepare and submit annually to Congress statements of the financial condition of the Genealogy Fee.

(3) Any officer or employee of the Immigration and Naturalization Service shall collect fees prescribed under regulation before disseminating any requested genealogical information.

(u) Premium fee for certain immigration benefit types

(1) In general

The Secretary of Homeland Security is authorized to establish and collect a premium fee for the immigration benefit types described in paragraph (2). Such fee shall be paid in addition to any other fees authorized by law, deposited as offsetting receipts in the Immigration Examinations Fee Account established under subsection (m), and used for the purposes described in paragraph (4).

(2) Immigration benefit types

Subject to reasonable conditions or limitations, the Secretary shall establish a premium fee under paragraph (1) in connection with—

(A) employment-based nonimmigrant petitions and associated applications for dependents of the beneficiaries of such petitions;

(B) employment-based immigrant petitions filed by or on behalf of aliens described in paragraph (1), (2), or (3) of section 1153(b) of this title;

(C) applications to change or extend nonimmigrant status;

(D) applications for employment authorization; and

(E) any other immigration benefit type that the Secretary deems appropriate for premium processing.

(3) Amount of fee

(A) In general

Subject to subparagraph (C), with respect to an immigration benefit type designated

for premium processing by the Secretary on or before August 1, 2020, the premium fee shall be \$2,500, except that the premium fee for a petition for classification of a nonimmigrant described in subparagraph (H)(ii)(b) or (R) of section 1101(a)(15) of this title shall be \$1,500.

(B) Other immigration benefit types

With respect to an immigration benefit type designated for premium processing but not described in subparagraph (A), the initial premium fee shall be established by regulation, which shall include a detailed methodology supporting the proposed premium fee amount.

(C) Biennial adjustment

The Secretary may adjust a premium fee under subparagraph (A) or (B) on a biennial basis by the percentage (if any) by which the Consumer Price Index for All Urban Consumers for the month of June preceding the date on which such adjustment takes effect exceeds the Consumer Price Index for All Urban Consumers for the same month of the second preceding calendar year. The provisions of section 553 of title 5 shall not apply to an adjustment authorized under this subparagraph.

(4) Use of fee

Fees collected under this subsection may only be used by U.S. Citizenship and Immigration Services to—

(A) provide the services described in paragraph (5) to premium processing requestors;

(B) make infrastructure improvements in adjudications processes and the provision of information and services to immigration and naturalization benefit requestors;

(C) respond to adjudication demands, including by reducing the number of pending immigration and naturalization benefit requests; and

(D) otherwise offset the cost of providing adjudication and naturalization services.

(5) Premium processing services

The Secretary—

(A) may suspend the availability of premium processing for designated immigration benefit requests only if circumstances prevent the completion of processing of a significant number of such requests within the required period; and

(B) shall ensure that premium processing requestors have direct and reliable access to current case status information as well as the ability to communicate with the premium processing units at each service center or office that provides premium processing services.

(v) Fraud Prevention and Detection Account

(1) In general

There is established in the general fund of the Treasury a separate account, which shall be known as the “Fraud Prevention and Detection Account”. Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees

collected under paragraph (12) or (13) of section 1184(c) of this title.

(2) Use of fees to combat fraud

(A) Secretary of State

One-third of the amounts deposited into the Fraud Prevention and Detection Account shall remain available to the Secretary of State until expended for programs and activities at United States embassies and consulates abroad—

(i) to increase the number⁶ diplomatic security personnel assigned exclusively or primarily to the function of preventing and detecting fraud by applicants for visas described in subparagraph (H)(i), (H)(ii), or (L) of section 1101(a)(15) of this title;

(ii) otherwise to prevent and detect visa fraud, including primarily fraud by applicants for visas described in subparagraph (H)(i), (H)(ii), or (L) of section 1101(a)(15) of this title, in cooperation with the Secretary of Homeland Security or pursuant to the terms of a memorandum of understanding or other agreement between the Secretary of State and the Secretary of Homeland Security; and

(iii) upon request by the Secretary of Homeland Security, to assist such Secretary in carrying out the fraud prevention and detection programs and activities described in subparagraph (B).

(B) Secretary of Homeland Security

One-third of the amounts deposited into the Fraud Prevention and Detection Account shall remain available to the Secretary of Homeland Security until expended for programs and activities to prevent and detect immigration benefit fraud, including fraud with respect to petitions filed under paragraph (1) or (2)(A) of section 1184(c) of this title to grant an alien nonimmigrant status described in subparagraph (H) or (L) of section 1101(a)(15) of this title.

(C) Secretary of Labor

One-third of the amounts deposited into the Fraud Prevention and Detection Account shall remain available to the Secretary of Labor until expended for wage and hour enforcement programs and activities otherwise authorized to be conducted by the Secretary of Labor that focus on industries likely to employ nonimmigrants, including enforcement programs and activities described in section 1182(n) of this title and enforcement programs and activities related to section 1184(c)(14)(A)(i) of this title.

(D) Consultation

The Secretary of State, the Secretary of Homeland Security, and the Secretary of Labor shall consult one another with respect to the use of the funds in the Fraud Prevention and Detection Account or for programs and activities to prevent and detect fraud with respect to petitions under paragraph (1) or (2)(A) of section 1184(c) of this title to grant an alien nonimmigrant status de-

scribed in section 1101(a)(15)(H)(ii) of this title.

(June 27, 1952, ch. 477, title II, ch. 9, § 286, 66 Stat. 232; Pub. L. 97-116, § 13, Dec. 29, 1981, 95 Stat. 1618; Pub. L. 99-500, § 101(b) [title II, § 205(a), formerly § 205], Oct. 18, 1986, 100 Stat. 1783-39, 1783-53, renumbered § 205(a), Pub. L. 100-525, § 4(a)(2)(A), Oct. 24, 1988, 102 Stat. 2615; Pub. L. 99-591, § 101(b) [title II, § 205], Oct. 30, 1986, 100 Stat. 3341-39, 3341-53; Pub. L. 99-653, § 7(d)(1), Nov. 14, 1986, as added Pub. L. 100-525, § 8(f), Oct. 24, 1988, 102 Stat. 2617; Pub. L. 100-71, title I, § 1, July 11, 1987, 101 Stat. 394; Pub. L. 100-459, title II, § 209(a), Oct. 1, 1988, 102 Stat. 2203; Pub. L. 100-525, § 4(a)(1), (d), Oct. 24, 1988, 102 Stat. 2614, 2615; Pub. L. 101-162, title II, Nov. 21, 1989, 103 Stat. 1000; Pub. L. 101-515, title II, § 210(a), (d), Nov. 5, 1990, 104 Stat. 2120, 2121; Pub. L. 102-232, title III, § 309(a)(1)(A)(i), (B), (2), (b)(12), Dec. 12, 1991, 105 Stat. 1757-1759; Pub. L. 102-395, title I, § 112, Oct. 6, 1992, 106 Stat. 1843; Pub. L. 103-121, title I, Oct. 27, 1993, 107 Stat. 1161; Pub. L. 103-416, title II, § 219(t), Oct. 25, 1994, 108 Stat. 4317; Pub. L. 104-208, div. C, title I, §§ 122(a), 124(a)(1), title III, §§ 308(d)(3)(A), (4)(K), (e)(1)(L), (g)(1), 376(b), 382(b), title VI, § 671(b)(11), (e)(5), (6), Sept. 30, 1996, 110 Stat. 3009-560, 3009-562, 3009-617 to 3009-619, 3009-622, 3009-648, 3009-651, 3009-722, 3009-723; Pub. L. 105-119, title I, § 110(1), (2), Nov. 26, 1997, 111 Stat. 2457; Pub. L. 105-277, div. A, § 101(b) [title I, § 114], div. C, title IV, § 414(b), Oct. 21, 1998, 112 Stat. 2681-50, 2681-68, 2681-652; Pub. L. 106-113, div. B, § 1000(a)(1) [title I, § 118], Nov. 29, 1999, 113 Stat. 1535, 1501A-22; Pub. L. 106-313, title I, §§ 110(a), 113, Oct. 17, 2000, 114 Stat. 1255, 1261; Pub. L. 106-553, § 1(a)(2) [title I, § 112], Dec. 21, 2000, 114 Stat. 2762, 2762A-68; Pub. L. 106-554, § 1(a)(1) [title I, § 106], Dec. 21, 2000, 114 Stat. 2763, 2763A-11; Pub. L. 107-77, title I, §§ 109, 110, Nov. 28, 2001, 115 Stat. 765; Pub. L. 107-173, title IV, § 403(a), May 14, 2002, 116 Stat. 559; Pub. L. 107-206, title I, § 202, Aug. 2, 2002, 116 Stat. 832; Pub. L. 107-273, div. C, title I, § 11016(2), Nov. 2, 2002, 116 Stat. 1824; Pub. L. 107-296, title IV, § 457, Nov. 25, 2002, 116 Stat. 2201; Pub. L. 108-7, div. B, title I, § 108, div. L, § 107, Feb. 20, 2003, 117 Stat. 67, 532; Pub. L. 108-77, title IV, § 402(d)(2), Sept. 3, 2003, 117 Stat. 946; Pub. L. 108-447, div. J, title IV, §§ 426(b), 427, Dec. 8, 2004, 118 Stat. 3357, 3358; Pub. L. 109-13, div. A, title VI, § 6046, div. B, title IV, § 403(b), May 11, 2005, 119 Stat. 295, 319; Pub. L. 109-472, § 2, Jan. 11, 2007, 120 Stat. 3554; Pub. L. 111-117, div. D, title V, § 524(a), Dec. 16, 2009, 123 Stat. 3283; Pub. L. 114-125, title VIII, § 818(a), Feb. 24, 2016, 130 Stat. 222; Pub. L. 115-254, div. B, title V, § 573, Oct. 5, 2018, 132 Stat. 3389; Pub. L. 116-159, div. D, title I, § 4102(a), Oct. 1, 2020, 134 Stat. 738; Pub. L. 117-286, § 4(a)(44), Dec. 27, 2022, 136 Stat. 4310.)

AMENDMENT OF SECTION

For termination of amendment by section 107(c) of Pub. L. 108-77, see Effective and Termination Dates of 2003 Amendment note below.

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (h)(1)(B), and (r)(2), was in the original, “this Act”, meaning act June 27, 1952, ch. 477, 66 Stat. 163, known as the Immigration

⁶ So in original. Probably should be followed by “of”.

and Nationality Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

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.

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.

AMENDMENTS

2022—Subsec. (k). Pub. L. 117-286 substituted “chapter 10 of title 5,” for “the Federal Advisory Committee Act.”

2020—Subsec. (u). Pub. L. 116-159 amended subsec. (u) generally. Prior to amendment, text read as follows: “The Attorney General is authorized to establish and collect a premium fee for employment-based petitions and applications. This fee shall be used to provide certain premium-processing services to business customers, and to make infrastructure improvements in the adjudications and customer-service processes. For approval of the benefit applied for, the petitioner/applicant must meet the legal criteria for such benefit. This fee shall be set at \$1,000, shall be paid in addition to any normal petition/application fee that may be applicable, and shall be deposited as offsetting collections in the Immigration Examinations Fee Account. The Attorney General may adjust this fee according to the Consumer Price Index.”

2018—Subsec. (i). Pub. L. 115-254 inserted “, train,” after “commercial aircraft” and “, rail line,” after “airport”.

2016—Subsec. (i). Pub. L. 114-125 substituted “Reimbursements under this subsection may be collected in advance of the provision of such immigration inspection services. Notwithstanding subsection (h)(1)(B), and only to the extent provided in appropriations Acts, any amounts collected under this subsection shall be credited as offsetting collections to the currently applicable appropriation, account, or fund of U.S. Customs and Border Protection, remain available until expended, and be available for the purposes for which such appropriation, account, or fund is authorized to be used.” for “The Attorney General’s authority to receive such reimbursement shall terminate immediately upon the provision for such services by appropriation.”

2009—Subsec. (v)(2)(B), (C). Pub. L. 111-117, which directed substitution of subpars. (B) and (C) for “subparagraphs (B) and (C) that appear within section 426(b) of division J of” Pub. L. 108-447, was executed by adding subpars. (B) and (C) to subsec. (v)(2) and striking out former subpars. (B) and (C), to reflect the probable intent of Congress. See 2004 Amendment note below. Prior to amendment, subpars. (B) and (C) read as follows:

“(B) SECRETARY OF HOMELAND SECURITY.—One-third of the amounts deposited into the Fraud Prevention and Detection Account shall remain available to the Secretary of Homeland Security until expended for programs and activities to prevent and detect fraud with respect to petitions under paragraph (1) or (2)(A) of section 1184(c) of this title to grant an alien nonimmigrant status described in subparagraph (H)(i), (H)(ii), or (L) of section 1101(a)(15) of this title.

“(C) SECRETARY OF LABOR.—One-third of the amounts deposited into the Fraud Prevention and Detection Account shall remain available to the Secretary of Labor until expended for enforcement programs and activities described in section 1182(n) of this title.”

2007—Subsec. (v)(2)(A)(i). Pub. L. 109-472, §2(1), inserted “or primarily” after “exclusively”.

Subsec. (v)(2)(A)(ii). Pub. L. 109-472, §2(2), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “otherwise to prevent and detect such fraud pursuant to the terms of a memorandum of understanding or other cooperative agreement between the Secretary of State and the Secretary of Homeland Security; and”.

2005—Subsec. (s)(6). Pub. L. 109-13, §6046, inserted “and section 1182(a)(5)(A) of this title” before period at end.

Subsec. (v). Pub. L. 109-13, §403(b)(2), struck out “H-1B and L” before “Fraud Prevention” in heading.

Subsec. (v)(1). Pub. L. 109-13, §403(b)(1)(A), (B), struck out “H-1B and L” before “Fraud Prevention” and substituted “paragraph (12) or (13) of section 1184(c) of this title” for “section 1184(c)(12) of this title”.

Subsec. (v)(2)(A). Pub. L. 109-13, §403(b)(1)(A), struck out “H-1B and L” before “Fraud Prevention” in introductory provisions.

Subsec. (v)(2)(A)(i). Pub. L. 109-13, §403(b)(1)(C), substituted “(H)(i), (H)(ii),” for “(H)(i)”.

Subsec. (v)(2)(B). Pub. L. 109-13, §403(b)(1)(A), (C), struck out “H-1B and L” before “Fraud Prevention” and substituted “(H)(i), (H)(ii),” for “(H)(i)”.

Subsec. (v)(2)(C). Pub. L. 109-13, §403(b)(1)(A), struck out “H-1B and L” before “Fraud Prevention”.

Subsec. (v)(2)(D). Pub. L. 109-13, §403(b)(1)(A), (D), struck out “H-1B and L” before “Fraud Prevention” and inserted “or for programs and activities to prevent and detect fraud with respect to petitions under paragraph (1) or (2)(A) of section 1184(c) of this title to grant an alien nonimmigrant status described in section 1101(a)(15)(H)(ii) of this title” before period at end.

2004—Subsec. (s)(2). Pub. L. 108-447, §427(1), substituted “50 percent” for “55 percent”.

Subsec. (s)(3). Pub. L. 108-447, §427(2), substituted “30 percent” for “22 percent”.

Subsec. (s)(4)(A). Pub. L. 108-447, §427(3), substituted “10 percent” for “15 percent”.

Subsec. (s)(5). Pub. L. 108-447, §427(4), substituted “5 percent” for “4 percent” and “Secretary of Homeland Security” for “Attorney General”.

Subsec. (s)(6). Pub. L. 108-447, §427(5), substituted “Beginning with fiscal year 2000, 5 percent of the amounts deposited into the H-1B Nonimmigrant Petitioner Account shall remain available to the Secretary of Labor until expended for decreasing the processing time for applications under section 1182(n)(1) of this title” for “Beginning with fiscal year 2000, 2 percent of the amounts deposited into the H-1B Nonimmigrant Petitioner Account shall remain available to the Secretary of Labor until expended for decreasing the processing time for applications under section 1182(n)(1) of this title and section 1182(a)(5)(A) of this title, and 2 percent of such amounts shall remain available to such Secretary until expended for carrying out section 1182(n)(2) of this title. Notwithstanding the preceding sentence, both of the amounts made available for any fiscal year (beginning with fiscal year 2000) pursuant to the preceding sentence shall be available to such Secretary, and shall remain available until expended, only for decreasing the processing time for applications under section 1182(n)(1) of this title until the Secretary submits to the Congress a report containing a certification that, during the most recently concluded calendar year, the Secretary substantially complied with the requirement in section 1182(n)(1) of this title relating to the provision of the certification described in section 1101(a)(15)(H)(i)(b) of this title within a 7-day period”.

Subsec. (v). Pub. L. 108-447, §426(b), added subsec. (v).

2003—Subsec. (e)(3). Pub. L. 108-7, §108, added par. (3) and struck out former par. (3) which read as follows: “The Attorney General shall charge and collect \$3 per individual for the immigration inspection or pre-inspection of each commercial vessel passenger whose journey originated in the United States or in any place set forth in paragraph (1): *Provided*, That this requirement shall not apply to immigration inspection at designated ports of entry of passengers arriving by the following vessels, when operating on a regular schedule: Great Lakes international ferries, or Great Lakes Vessels on the Great Lakes and connecting waterways.”

Subsec. (m). Pub. L. 108-7, §107, repealed Pub. L. 107-296, §457. See 2002 Amendment note below.

Subsec. (s)(1). Pub. L. 108-77, §§107(c), 402(d)(2), temporarily substituted “paragraphs (9) and (11) of section

1184(c) of this title” for “section 1184(c)(9) of this title”. See Effective and Termination Dates of 2003 Amendment note below.

2002—Subsec. (e)(3). Pub. L. 107-206 substituted “shall” for “is authorized to” and “requirement” for “authorization”.

Subsec. (g). Pub. L. 107-173 struck out “, within forty-five minutes of their presentation for inspection,” after “adequately provided” in introductory provisions.

Subsec. (m). Pub. L. 107-296, § 457, which directed the substitution of “such services.” for “such services, including the costs of similar services provided without charge to asylum applicants or other immigrants.”, was repealed by Pub. L. 108-7, § 107.

Subsec. (q)(2). Pub. L. 107-273 inserted “, including receipts for services performed in processing forms I-94, I-94W, and I-68, and other similar applications processed at land border ports of entry,” after “subsection”.

2001—Subsec. (d). Pub. L. 107-77, § 109(1), substituted “\$7” for “\$6”.

Subsec. (e)(1). Pub. L. 107-77, § 109(2), substituted “Except as provided in paragraph (3), no” for “No”.

Subsec. (e)(3). Pub. L. 107-77, § 109(3), added par. (3).

Subsec. (q)(1)(A)(i). Pub. L. 107-77, § 110, which directed the substitution of “96” for “6” in section 286(q)(1)(A) of the Immigration and Nationality Act of 1953, was executed by making the substitution in section 286(q)(1)(A) of the Immigration and Nationality Act to reflect the probable intent of Congress.

2000—Subsec. (s)(2). Pub. L. 106-313, § 110(a)(1), substituted “55 percent” for “56.3 percent”.

Subsec. (s)(3). Pub. L. 106-313, § 113(b), provided that in the amendment made by section 110(a)(2) of Pub. L. 106-313 the figure to be inserted is deemed to be “22 percent”. See below.

Pub. L. 106-313, § 110(a)(2), substituted “23.5 percent” for “28.2 percent”. See above.

Subsec. (s)(4). Pub. L. 106-313, § 110(a)(3), amended heading and text of par. (4) generally. Prior to amendment, text read as follows:

“(A) GRANTS FOR MATHEMATICS, ENGINEERING, OR SCIENCE ENRICHMENT COURSES.—4 percent of the amounts deposited into the H-1B Nonimmigrant Petitioner Account shall remain available to the Director of the National Science Foundation until expended to make merit-reviewed grants, under section 1862(a)(1) of title 42, for programs that provide opportunities for enrollment in year-round academic enrichment courses in mathematics, engineering, or science.

“(B) SYSTEMIC REFORM ACTIVITIES.—4 percent of the amounts deposited into the H-1B Nonimmigrant Petitioner Account shall remain available to the Director of the National Science Foundation until expended to carry out systemic reform activities administered by the National Science Foundation under section 1862(a)(1) of title 42.”

Subsec. (s)(5). Pub. L. 106-313, § 113(a), amended text of par. (5) generally. Prior to amendment, text read as follows: “1.5 percent of the amounts deposited into the H-1B Nonimmigrant Petitioner Account shall remain available to the Attorney General until expended to carry out duties under paragraphs (1) and (9) of section 1184(c) of this title related to petitions made for nonimmigrants described in section 1101(a)(15)(H)(i)(b) of this title, to decrease the processing time for such petitions, and to carry out duties under section 416 of the American Competitiveness and Workforce Improvement Act of 1998. Such amounts shall be available in addition to any other fees authorized to be collected by the Attorney General with respect to such petitions.”

Subsec. (s)(6). Pub. L. 106-554, which directed amendment of section 286(s)(6) of the Immigration and Naturalization Act by inserting “and section 1182(a)(5)(A) of this title” after “decreasing the processing time for applications under section 1182(n)(1) of this title”, was executed by making the amendment to subsec. (s)(6) of this section, which is section 286 of the Immigration and Nationality Act, to reflect the probable intent of Congress.

Pub. L. 106-313, § 113(b), provided that in the amendments made by section 110(a)(4) and (5) of Pub. L. 106-313 the figures to be inserted are deemed to be “4 percent” and “2 percent”, respectively. See below.

Pub. L. 106-313, § 110(a)(4), substituted “5 percent” for “6 percent”. See above.

Pub. L. 106-313, § 110(a)(5), substituted “2.5 percent” for “3 percent” in two places. See above.

Subsecs. (t), (u). Pub. L. 106-553 added subsecs. (t) and (u).

1999—Subsec. (q)(1)(A)(ii) to (iv). Pub. L. 106-113, which directed amendment of section 286(q)(1)(A) of the Immigration and Nationality Act of 1953 by striking out cl. (ii), redesignating cl. (iii) as (ii), striking out “, until September 30, 2000,” after “submit on a quarterly basis” in cl. (iv), and redesignating cl. (iv) as (iii), was executed by making the amendment to this section, which is section 286 of the Immigration and Nationality Act, to reflect the probable intent of Congress. Prior to amendment, cl. (ii) read as follows: “The program authorized in this subparagraph shall terminate on September 30, 2000, unless further authorized by an Act of Congress.”

1998—Subsec. (e)(1)(C). Pub. L. 105-277, § 101(b) [title I, § 114], inserted “State,” before “territory”.

Subsec. (s). Pub. L. 105-277, § 414(b), added subsec. (s).

1997—Subsec. (r)(2). Pub. L. 105-119, § 110(2)(A), inserted “, and amount described in section 1255(i)(3)(b) of this title” after “recovered by the Department of Justice”.

Subsec. (r)(3). Pub. L. 105-119, § 110(2)(B), substituted “Attorney General” for “Immigration and Naturalization Service” in introductory provisions.

Subsec. (r)(4). Pub. L. 105-119, § 110(2)(C), added par. (4) and struck out former par. (4) which read as follows: “The amount required to be refunded from the Fund 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.”

Subsec. (s). Pub. L. 105-119, § 110(1), struck out heading and text of subsec. (s) which established Immigration Detention Account in general fund of the Treasury to be drawn upon to refund to any appropriation amounts paid out for expenses incurred by Attorney General for detention of aliens.

1996—Subsec. (a). Pub. L. 104-208, § 308(g)(1), substituted “section 1223(b)” for “section 1228(b)”.

Subsec. (h)(1)(A). Pub. L. 104-208, § 671(e)(5), inserted period after “expended”.

Subsec. (h)(1)(B). Pub. L. 104-208, § 382(b), substituted “1253(c), 1321,” for “1321”.

Subsec. (h)(2)(A). Pub. L. 104-208, § 124(a)(1)(B), inserted concluding provisions “The Attorney General shall provide for expenditures for training and assistance described in clause (iv) in an amount, for any fiscal year, not less than 5 percent of the total of the expenses incurred that are described in the previous sentence.”

Subsec. (h)(2)(A)(iv). Pub. L. 104-208, § 671(e)(6)(A), struck out “and” at end.

Pub. L. 104-208, § 124(a)(1)(A), inserted “, including training of, and technical assistance to, commercial airline personnel regarding such detection” after “United States”.

Subsec. (h)(2)(A)(v). Pub. L. 104-208, § 671(e)(6)(B)–(E), struck out colon after “services for”, substituted “and for any alien” for “; and any alien”, adjusted margins, and substituted “entry; and” for “entry.” at end.

Pub. L. 104-208, § 308(e)(1)(L), substituted “removal” for “deportation”.

Pub. L. 104-208, § 308(d)(3)(A), substituted “inadmissible” for “excludable” in two places.

Subsec. (h)(2)(A)(vi). Pub. L. 104-208, § 671(e)(6)(B)–(D), struck out colon after “ports-of-entry for”, substituted “and for any alien” for “; and any alien”, and adjusted margins.

Pub. L. 104-208, §308(d)(4)(K), substituted “removal” for “exclusion” in two places.

Pub. L. 104-208, §308(d)(3)(A), substituted “inadmissible” for “excludable” in two places.

Subsec. (q)(1). Pub. L. 104-208, §122(a)(1), added par. (1) and struck out heading and text of former par. (1). Text read as follows: “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.”

Subsec. (q)(5). Pub. L. 104-208, §122(a)(2), struck out par. (5) which read as follows:

“(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.”

Subsec. (r)(4), (6). Pub. L. 104-208, §671(b)(11), substituted “the Fund” for “Fund” wherever appearing.

Subsec. (s). Pub. L. 104-208, §376(b), added subsec. (s). 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 “additonal”.

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

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 (l). 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, penalties, 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)”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-117, div. D, title V, §524(b), Dec. 16, 2009, 123 Stat. 3284, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 16, 2009].”

EFFECTIVE AND TERMINATION DATES OF 2005 AMENDMENT

Amendment by section 403(b) of Pub. L. 109-13 effective 14 days after May 11, 2005, and applicable to filings for a fiscal year after fiscal year 2005, see section 403(c) of Pub. L. 109-13, set out as a note under section 1184 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 426(b) of Pub. L. 108-447 effective Dec. 8, 2004, and the fees imposed under such amendment applicable to petitions under section 1184(c) of this title, and applications for nonimmigrant visas under section 1202 of this title, filed on or after the date that is 90 days after Dec. 8, 2004, see section 426(c) of Pub. L. 108-447, set out as a note under section 1184 of this title.

EFFECTIVE AND TERMINATION DATES OF 2003 AMENDMENT

Amendment by Pub. L. 108-77 effective on the date the United States-Chile Free Trade Agreement enters into force (Jan. 1, 2004), and ceases to be effective on the date the Agreement ceases to be in force, see section 107 of Pub. L. 108-77, set out in a note under section 3805 of Title 19, Customs Duties.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-208, div. C, title I, §124(a)(2), Sept. 30, 1996, 110 Stat. 3009-562, provided that: “The amendments made by paragraph (1) [amending this section] shall apply to expenses incurred during or after fiscal year 1997.”

Amendment by section 308(d)(3)(A), (4)(K), (e)(1)(L), (g)(1) of Pub. L. 104-208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Pub. L. 104-208, set out as a note under section 1101 of this title.

Amendment by section 376(b) of Pub. L. 104-208 applicable to applications made on or after the end of the 90-day period beginning Sept. 30, 1996, see section 376(c) of Pub. L. 104-208, set out as a note under section 1255 of this title.

Amendment by section 382(b) of Pub. L. 104-208 applicable to fines and penalties collected on or after Sept. 30, 1996, see section 382(c) of Pub. L. 104-208, set out as a note under section 1330 of this title.

Amendment by section 671(b)(11) of Pub. L. 104-208 effective as if included in the enactment of the Immigration and Nationality Technical Corrections Act of 1994, Pub. L. 103-416, see section 671(b)(14) of Pub. L. 104-208, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-416, title II, §219(t), Oct. 25, 1994, 108 Stat. 4317, 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

Pub. L. 102-232, title III, §309(a)(3), Dec. 12, 1991, 105 Stat. 1758, 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

Pub. L. 101-515, title II, §210(b), Nov. 5, 1990, 104 Stat. 2120, 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 preinspection 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 Department 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 1222 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.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 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 1013 of Title 5, Government Organization and Employees.

EXPANSION TO NEW BENEFIT REQUESTS

Pub. L. 116-159, div. D, title I, §4102(b), Oct. 1, 2020, 134 Stat. 740, provided that:

“(1) IN GENERAL.—Notwithstanding the requirement to set a fee by regulation under section 286(u)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1356(u)(3)(B)), as amended by subsection (a), the Secretary of Homeland Security may set a fee under that section without regard to the provisions of section 553 of title 5, United States Code, if such fee is consistent with the following:

“(A) For a petition for classification under section 203(b)(1)(C) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(1)(C)), or a petition for classification under section 203(b)(2) involving a waiver under section 203(b)(2)(B) of such Act, the fee is set at an amount not greater than \$2,500 and the required processing timeframe is not greater than 45 days.

“(B) For an application under section 248 of the Immigration and Nationality Act (8 U.S.C. 1258) to change status to a classification described in subparagraph (F), (J), or (M) of section 101(a)(15) of such Act (8 U.S.C. 1101(a)(15)), the fee is set at an amount not greater than \$1,750 and the required processing timeframe is not greater than 30 days.

“(C) For an application under section 248 of the Immigration and Nationality Act (8 U.S.C. 1258) to change status to be classified as a dependent of a non-immigrant described in subparagraph (E), (H), (L), (O), (P), or (R) of section 101(a)(15) of such Act (8 U.S.C. 1101(a)(15)), or to extend such classification,

the fee is set at an amount not greater than \$1,750 and the required processing timeframe is not greater than 30 days.

“(D) For an application for employment authorization, the fee is set at an amount not greater than \$1,500 and the required processing timeframe is not greater than 30 days.

“(2) CLARIFICATION.—The required processing timeframe for each of the applications and petitions described in paragraph (1) shall not commence until the date that all prerequisites for adjudication are received by the Secretary of Homeland Security.”

OTHER BENEFIT REQUESTS

Pub. L. 116-159, div. D, title I, §4102(c), Oct. 1, 2020, 134 Stat. 740, provided that: “In implementing the amendments made by subsection (a) [amending this section], the Secretary of Homeland Security shall develop and implement processes to ensure that the availability of premium processing, or its expansion to additional immigration benefit requests, does not result in an increase in processing times for immigration benefit requests not designated for premium processing or an increase in regular processing of immigration benefit requests so designated.”

RESTORATION OF PROVISION REGARDING FEES TO COVER THE FULL COSTS OF ALL ADJUDICATION SERVICES

Pub. L. 108-7, div. L, §107, Feb. 20, 2003, 117 Stat. 532, provided in part: “That no court shall have jurisdiction over any cause or claim arising under the provisions of section 457 of the Homeland Security Act of 2002 (Public Law 107-296) [amending this section], this section [repealing section 457 of Pub. L. 107-296], or any regulations promulgated thereunder.”

REPORTING REQUIREMENT

Pub. L. 105-277, div. C, title IV, §414(e), as added by Pub. L. 106-313, title I, §110(c), Oct. 17, 2000, 114 Stat. 1256, provided that:

“The Secretary of Labor and the Director of the National Science Foundation shall—

“(1) track and monitor the performance of programs receiving H-1B Nonimmigrant Fee grant money; and

“(2) not later than one year after the date of enactment of this subsection [Oct. 17, 2000], submit a report to the Committees on the Judiciary of the House of Representatives and the Senate—[sic]

“(A) the tracking system to monitor the performance of programs receiving H-1B grant funding; and

“(B) the number of individuals who have completed training and have entered the high-skill workforce through these programs.”

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

Pub. L. 104-208, div. A, §101(a) [title I], Sept. 30, 1996, 110 Stat. 3009, 3009-10, provided in part: “That the Land Border Fee Pilot Project scheduled to end September 30, 1996 [see subsec. (q) of this section], is extended to September 30, 1999, for projects on both the northern and southern borders of the United States, except that no pilot program may implement a universal land border crossing toll”.

Similar provisions were contained in the following prior appropriations act:

Pub. L. 103-121, title I, Oct. 27, 1993, 107 Stat. 1161, as amended by Pub. L. 103-317, title I, §111, Aug. 26, 1994,

108 Stat. 1736, and repealed by Pub. L. 104-208, div. C, title I, § 122(b), Sept. 30, 1996, 110 Stat. 3009-560.

§ 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, expulsion, or removal 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, expulsion, or removal 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 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 denial of admission to 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 ar-