[see Effective Date of 1996 Amendment note above], for purposes of this title—

"(1) the terms 'alien', 'Attorney General', 'national', 'naturalization', 'State', and 'United States' shall have the meaning given such terms in section 101(a) of the Immigration and Nationality Act [8 U.S.C. 1101(a)]; and

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

Section 14 of Pub. L. 85–316 provided that: "Except as otherwise specifically provided in this Act, the definitions contained in subsections (a) and (b) of section 101 of the Immigration and Nationality Act [8 U.S.C. 1101(a), (b)] shall apply to sections 4, 5, 6, 7, 8, 9, 12, 13, and 15 of this Act [enacting sections 1182b, 1182c, 1201a, 1205, 1251a, 1255a, and 1255b of this title and provisions set out as notes under section 1153 of this title and section 1971a of the Appendix to Title 50, War and National Defense.]"

Many of the terms listed in this section are similarly defined in section 782 of Title 50, War and National Defense.

§ 1102. Diplomatic and semidiplomatic immunities

Except as otherwise provided in this chapter, for so long as they continue in the nonimmigrant classes enumerated in this section, the provisions of this chapter relating to ineligibility to receive visas and the removal of aliens shall not be construed to apply to nonimmigrants—

(1) within the class described in paragraph (15)(A)(i) of section 1101(a) of this title, except those provisions relating to reasonable requirements of passports and visas as a means of identification and documentation necessary to establish their qualifications under such paragraph (15)(A)(i), and, under such rules and regulations as the President may deem to be necessary, the provisions of subparagraphs (A) through (C) of section 1182(a)(3) of this title;

(2) within the class described in paragraph (15)(G)(i) of section 1101(a) of this title, except those provisions relating to reasonable requirements of passports and visas as a means of identification and documentation necessary to establish their qualifications under such paragraph (15)(G)(i), and the provisions of subparagraphs (A) through (C) of section 1182(a)(3) of this title; and

(3) within the classes described in paragraphs (15)(A)(ii), (15)(G)(ii), (15)(G)(iii), or (15)(G)(iv) of section 1101(a) of this title, except those provisions relating to reasonable requirements of passports and visas as a means of identification and documentation necessary to establish their qualifications under such paragraphs, and the provisions of subparagraphs (A) through (C) of section 1182(a)(3) of this title.

(June 27, 1952, ch. 477, title I, § 102, 66 Stat. 173; Pub. L. 100–525, § 9(b), Oct. 24, 1988, 102 Stat. 2619; Pub. L. 101–649, title VI, § 603(a)(2), Nov. 29, 1990, 104 Stat. 5082; Pub. L. 102–232, title III, § 307(i), Dec. 12, 1991, 105 Stat. 1756; Pub. L. 104–208, div. C, title III, § 308(d)(4)(B), Sept. 30, 1996, 110 Stat. 3009–617.)

AMENDMENTS

1996—Pub. L. 104–208 substituted "removal" for "exclusion or deportation" in introductory provisions.

1991—Pars. (1) to (3). Pub. L. 102–232 substituted "subparagraphs (A) through (C) of section 1182(a)(3) of this title" for "paragraph (3) (other than subparagraph (E)) of section 1182(a) of this title".

1990—Pars. (1) to (3). Pub. L. 101–649 substituted "(3) (other than subparagraph (E))" for "(27)" in pars. (1) and (2), and "paragraph (3) (other than subparagraph (E))" for "paragraphs (27) and (29)" in par. (3).

1988—Par. (2). Pub. L. 100–525 substituted "documentation" for "documentaion".

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by 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.

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 1990 AMENDMENT

Amendment by Pub. L. 101–649 applicable to individuals entering United States on or after June 1, 1991, see section 601(e)(1) of Pub. L. 101–649, set out as a note under section 1101 of this title.

DENIAL OF VISAS TO CERTAIN REPRESENTATIVES TO UNITED NATIONS

Pub. L. 101–246, title IV, § 407, Feb. 16, 1990, 104 Stat. 67, provided that:

"(a) IN GENERAL.—The President shall use his authority, including the authorities contained in section 6 of the United Nations Headquarters Agreement Act (Public Law 80–357) [Aug. 4, 1947, ch. 482, set out as a note under 22 U.S.C. 287], to deny any individual's admission to the United States as a representative to the United Nations if the President determines that such individual has been found to have been engaged in espionage activities directed against the United States or its allies and may pose a threat to United States national security interests.

"(b) WAIVER.—The President may waive the provisions of subsection (a) if the President determines, and so notifies the Congress, that such a waiver is in the national security interests of the United States."

§ 1103. Powers and duties of the Secretary, the Under Secretary, and the Attorney General

(a) Secretary of Homeland Security

(1) The Secretary of Homeland Security shall be charged with the administration and enforcement of this chapter and all other laws relating to the immigration and naturalization of aliens, except insofar as this chapter or such laws relate to the powers, functions, and duties conferred upon the President, Attorney General, the Secretary of State, the officers of the Department of State, or diplomatic or consular officers: *Provided, however*, That determination and ruling by the Attorney General with respect to all questions of law shall be controlling.

(2) He shall have control, direction, and supervision of all employees and of all the files and records of the Service.

(3) He shall establish such regulations; prescribe such forms of bond, reports, entries, and other papers; issue such instructions; and perform such other acts as he deems necessary for carrying out his authority under the provisions of this chapter.

(4) He may require or authorize any employee of the Service or the Department of Justice to

perform or exercise any of the powers, privileges, or duties conferred or imposed by this chapter or regulations issued thereunder upon any other employee of the Service.

(5) He shall have the power and duty to control and guard the boundaries and borders of the United States against the illegal entry of aliens and shall, in his discretion, appoint for that purpose such number of employees of the Service as to him shall appear necessary and proper.

(6) He is authorized to confer or impose upon any employee of the United States, with the consent of the head of the Department or other independent establishment under whose jurisdiction the employee is serving, any of the powers, privileges, or duties conferred or imposed by this chapter or regulations issued thereunder upon officers or employees of the Service.

(7) He may, with the concurrence of the Secretary of State, establish offices of the Service in foreign countries; and, after consultation with the Secretary of State, he may, whenever in his judgment such action may be necessary to accomplish the purposes of this chapter, detail employees of the Service for duty in foreign countries.

(8) After consultation with the Secretary of State, the Attorney General may authorize officers of a foreign country to be stationed at preclearance facilities in the United States for the purpose of ensuring that persons traveling from or through the United States to that foreign country comply with that country's immigration and related laws.

(9) Those officers may exercise such authority and perform such duties as United States immigration officers are authorized to exercise and perform in that foreign country under reciprocal agreement, and they shall enjoy such reasonable privileges and immunities necessary for the performance of their duties as the government of their country extends to United States immigration officers.

(10) In the event the Attorney General determines that an actual or imminent mass influx of aliens arriving off the coast of the United States, or near a land border, presents urgent circumstances requiring an immediate Federal response, the Attorney General may authorize any State or local law enforcement officer, with the consent of the head of the department, agency, or establishment under whose jurisdiction the individual is serving, to perform or exercise any of the powers, privileges, or duties conferred or imposed by this chapter or regulations issued thereunder upon officers or employees of the Service.

(11) The Attorney General, in support of persons in administrative detention in non-Federal institutions, is authorized—

(A) to make payments from funds appropriated for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration for necessary clothing, medical care, necessary guard hire, and the housing, care, and security of persons detained by the Service pursuant to Federal law under an agreement with a State or political subdivision of a State; and

(B) to enter into a cooperative agreement with any State, territory, or political subdivision thereof, for the necessary construction, physical renovation, acquisition of equipment, supplies or materials required to establish acceptable conditions of confinement and detention services in any State or unit of local government which agrees to provide guaranteed bed space for persons detained by the Service.

(b) Land acquisition authority

(1) The Attorney General may contract for or buy any interest in land, including temporary use rights, adjacent to or in the vicinity of an international land border when the Attorney General deems the land essential to control and guard the boundaries and borders of the United States against any violation of this chapter.

(2) The Attorney General may contract for or buy any interest in land identified pursuant to paragraph (1) as soon as the lawful owner of that interest fixes a price for it and the Attorney General considers that price to be reasonable.

(3) When the Attorney General and the lawful owner of an interest identified pursuant to paragraph (1) are unable to agree upon a reasonable price, the Attorney General may commence condemnation proceedings pursuant to section 3113 of title 40.

(4) The Attorney General may accept for the United States a gift of any interest in land identified pursuant to paragraph (1).

(c) Commissioner; appointment

The Commissioner shall be a citizen of the United States and shall be appointed by the President, by and with the advice and consent of the Senate. He shall be charged with any and all responsibilities and authority in the administration of the Service and of this chapter which are conferred upon the Attorney General as may be delegated to him by the Attorney General or which may be prescribed by the Attorney General. The Commissioner may enter into cooperative agreements with State and local law enforcement agencies for the purpose of assisting in the enforcement of the immigration laws.

(d) Statistical information system

(1) The Commissioner, in consultation with interested academicians, government agencies, and other parties, shall provide for a system for collection and dissemination, to Congress and the public, of information (not in individually identifiable form) useful in evaluating the social, economic, environmental, and demographic impact of immigration laws.

(2) Such information shall include information on the alien population in the United States, on the rates of naturalization and emigration of resident aliens, on aliens who have been admitted, paroled, or granted asylum, on nonimmigrants in the United States (by occupation, basis for admission, and duration of stay), on aliens who have not been admitted or have been removed from the United States, on the number of applications filed and granted for cancellation of removal, and on the number of aliens estimated to be present unlawfully in the United States in each fiscal year.

(3) Such system shall provide for the collection and dissemination of such information not less often than annually.

(e) Annual report

(1) The Commissioner shall submit to Congress annually a report which contains a summary of the information collected under subsection (d) of this section and an analysis of trends in immigration and naturalization.

(2) Each annual report shall include information on the number, and rate of denial administratively, of applications for naturalization, for each district office of the Service and by national origin group.

(f) Minimum number of agents in States

The Attorney General shall allocate to each State not fewer than 10 full-time active duty agents of the Immigration and Naturalization Service to carry out the functions of the Service, in order to ensure the effective enforcement of this chapter.

(g) Attorney General

(1) In general

The Attorney General shall have such authorities and functions under this chapter and all other laws relating to the immigration and naturalization of aliens as were exercised by the Executive Office for Immigration Review, or by the Attorney General with respect to the Executive Office for Immigration Review, on the day before the effective date of the Immigration Reform, Accountability and Security Enhancement Act of 2002.

(2) Powers

The Attorney General shall establish such regulations, prescribe such forms of bond, reports, entries, and other papers, issue such instructions, review such administrative determinations in immigration proceedings, delegate such authority, and perform such other acts as the Attorney General determines to be necessary for carrying out this section.

(June 27, 1952, ch. 477, title I, § 103, 66 Stat. 173; Pub. L. 100–525, § 9(c), Oct. 24, 1988, 102 Stat. 2619; Pub. L. 101–649, title I, § 142, Nov. 29, 1990, 104 Stat. 5004; Pub. L. 104–208, div. C, title I, §§ 102(d), 125, 134(a), title III, §§ 308(d)(4)(C), (e)(4), 372, 373, Sept. 30, 1996, 110 Stat. 3009–555, 3009–562, 3009–564, 3009–618, 3009–620, 3009–646, 3009–647; Pub. L. 107–296, title XI, § 1102, Nov. 25, 2002, 116 Stat. 2273; Pub. L. 108–7, div. L, § 105(a)(1), (2), Feb. 20, 2003, 117 Stat. 531; Pub. L. 108–458, title V, § 5505(a), Dec. 17, 2004, 118 Stat. 3741; Pub. L. 111–122, § 2(a), Dec. 22, 2009, 123 Stat. 3480.)

REFERENCES IN TEXT

The Immigration Reform, Accountability and Security Enhancement Act of 2002, referred to in subsec. (g)(1), was S. 2444 of the 107th Congress, as introduced on May 2, 2002, which was not enacted into law. Provisions relating to the Executive Office for Immigration Review are contained in section 521 of Title 6, Domestic Security.

CODIFICATION

''Section 3113 of title 40'' substituted in subsec. (b)(3) for ''the Act of August 1, 1888 (Chapter 728; 25 Stat. 357)'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

2009—Subsec. (h). Pub. L. 111–122 struck out subsec. (h), which directed the Attorney General to establish within the Criminal Division of the Department of Justice an Office of Special Investigations and to consult with the Secretary of Homeland Security concerning the prosecution or extradition of certain aliens.

2004—Subsec. (h). Pub. L. 108–458 added subsec. (h).

2003—Subsec. (a). Pub. L. 108–7, § 105(a)(1), amended Pub. L. 107–296, § 1102(2). See 2002 Amendment notes below.

Pub. L. 108–7, § 105(a)(2), which directed the amendment of Pub. L. 107–296, was executed to section 1102(2) of Pub. L. 107–296, to reflect the probable intent of Congress. See 2002 Amendment notes below.

2002—Pub. L. 107–296, § 1102(1), amended section catchline generally.

Subsec. (a). Pub. L. 107–296, § 1102(2)(A), as added by Pub. L. 108–7, § 105(a)(1), which directed the substitution of ''Secretary of Homeland Security'' for ''Attorney General'' in heading, was executed by inserting ''Secretary of Homeland Security'' as heading, to reflect the probable intent of Congress.

Subsec. (a)(1). Pub. L. 107–296, § 1102(2)(B), as added by Pub. L. 108–7, § 105(a)(1), substituted ''The Secretary of Homeland Security'' for ''The Attorney General''.

Pub. L. 107–296, § 1102(2)(C), formerly § 1102(2)(A), as redesignated by Pub. L. 108–7, § 105(a)(2), inserted ''Attorney General,'' after ''President,''. See 2003 Amendment note above.

Subsec. (a)(8) to (11). Pub. L. 107–296, § 1102(2)(D), formerly § 1102(2)(B), as redesignated by Pub. L. 108–7, § 105(a)(2), redesignated par. (8), relating to Attorney General authorization of State and local law enforcement officers in event of mass influx of aliens arriving, and par. (9), relating to Attorney General authority to support administrative detention of persons in non-Federal institutions, as pars. (10) and (11), respectively. See 2003 Amendment note above.

Subsec. (g). Pub. L. 107–296, § 1102(3), added subsec. (g).

1996—Subsec. (a). Pub. L. 104–208, § 372(1), (2), inserted ''(1)'' before first sentence and designated each sentence after the first sentence, which included second through ninth sentences, as a separate par. with appropriate consecutive numbering and initial indentation.

Pub. L. 104–208, § 125, inserted at end ''After consultation with the Secretary of State, the Attorney General may authorize officers of a foreign country to be stationed at preclearance facilities in the United States for the purpose of ensuring that persons traveling from or through the United States to that foreign country comply with that country's immigration and related laws. Those officers may exercise such authority and perform such duties as United States immigration officers are authorized to exercise and perform in that foreign country under reciprocal agreement, and they shall enjoy such reasonable privileges and immunities necessary for the performance of their duties as the government of their country extends to United States immigration officers.''

Subsec. (a)(8). Pub. L. 104–208, § 372(3), added at end par. (8) relating to Attorney General authorization of State and local law enforcement officers in event of mass influx of aliens arriving.

Subsec. (a)(9). Pub. L. 104–208, § 373(1), added at end par. (9) relating to Attorney General authority to support administrative detention of persons in non-Federal institutions.

Subsec. (b). Pub. L. 104–208, § 102(d)(1)(B), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 104–208, § 373(2), inserted at end ''The Commissioner may enter into cooperative agreements with State and local law enforcement agencies for the purpose of assisting in the enforcement of the immigration laws.''

Pub. L. 104–208, § 102(d)(1)(A), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 104–208, § 102(d)(1)(A), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(2). Pub. L. 104–208, § 308(e)(4), which directed amendment of subsec. (c)(2) by substituting ''cancellation of removal'' for ''suspension of deportation'', was executed by making the substitution in sub-

sec. (d)(2) to reflect the probable intent of Congress and the redesignation of subsec. (c) as (d) by Pub. L. 104–208, § 102(d)(1)(A). See above.

Pub. L. 104–208, § 308(d)(4)(C), which directed amendment of subsec. (c)(2) by substituting ''not been admitted or have been removed'' for ''been excluded or deported'', was executed by making the substitution in subsec. (d)(2) to reflect the probable intent of Congress and the redesignation of subsec. (c) as (d) by Pub. L. 104–208, § 102(d)(1)(A). See above.

Subsec. (e). Pub. L. 104–208, § 102(d)(2), substituted ''subsection (d)'' for ''subsection (c)'' in par. (1).

Pub. L. 104–208, § 102(d)(1)(A), redesignated subsec. (d) as (e).

Subsec. (f). Pub. L. 104–208, § 134(a), added subsec. (f).

1990—Subsecs. (c), (d). Pub. L. 101–649 added subsecs. (c) and (d).

1988—Subsec. (a). Pub. L. 100–525, § 9(c)(1), substituted ''instructions'' for ''intructions'' and amended fourth sentence generally. Prior to amendment, fourth sentence read as follows: ''He is authorized, in accordance with the civil-service laws and regulations and the Classification Act of 1949, to appoint such employees of the Service as he deems necessary, and to delegate to them or to any officer or employee of the Department of Justice in his discretion any of the duties and powers imposed upon him in this chapter; he may require or authorize any employee of the Service or the Department of Justice to perform or exercise any of the powers, privileges, or duties conferred or imposed by this chapter or regulations issued thereunder upon any other employee of the Service.''

Subsec. (b). Pub. L. 100–525, § 9(c)(2), struck out provision that Commissioner was to receive compensation at rate of $17,500 per annum.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of the transfer of functions from the Commissioner of Immigration and Naturalization to officials of the Department of Homeland Security (Mar. 1, 2003), see section 1104 of Pub. L. 107–296, as added by Pub. L. 108–7, set out as an Effective Date note under section 521 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 134(b) of div. C of Pub. L. 104–208 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect 90 days after the date of the enactment of this Act [Sept. 30, 1996].''

Amendment by section 308(d)(4)(C), (e)(4) 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.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–649 effective Oct. 1, 1991, and applicable beginning with fiscal year 1992, see section 161(a) of Pub. L. 101–649, 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.

FINGERPRINT CARDS

Pub. L. 105–119, title I, Nov. 26, 1997, 111 Stat. 2448, provided in part: ''That beginning seven calendar days after the enactment of this Act [Nov. 26, 1997] and for each fiscal year thereafter, none of the funds appropriated or otherwise made available to the Immigration and Naturalization Service may be used by the Immigration and Naturalization Service to accept, for the purpose of conducting criminal background checks on applications for any benefit under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.], any FD–258 fingerprint card which has been prepared by or received from any individual or entity other than an office of the Immigration and Naturalization Service with the following exceptions: (1) State and local law enforcement agencies; and (2) United States consular offices at United States embassies and consulates abroad under the jurisdiction of the Department of State or United States military offices under the jurisdiction of the Department of Defense authorized to perform fingerprinting services to prepare FD–258 fingerprint cards for applicants residing abroad applying for immigration benefits''.

IMPROVEMENT OF BARRIERS AT BORDER

Pub. L. 104–208, div. C, title I, § 102(a)–(c), Sept. 30, 1996, 110 Stat. 3009–554, 3009–555, as amended by Pub. L. 109–13, div. B, title I, § 102, May 11, 2005, 119 Stat. 306; Pub. L. 109–367, § 3, Oct. 26, 2006, 120 Stat. 2638; Pub. L. 110–161, div. E, title V, § 564(a), Dec. 26, 2007, 121 Stat. 2090, provided that:

''(a) IN GENERAL.—The Secretary of Homeland Security shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States.

''(b) CONSTRUCTION OF FENCING AND ROAD IMPROVEMENTS ALONG THE BORDER.—

''(1) ADDITIONAL FENCING ALONG SOUTHWEST BORDER.—

''(A) REINFORCED FENCING.—In carrying out subsection (a), the Secretary of Homeland Security shall construct reinforced fencing along not less than 700 miles of the southwest border where fencing would be most practical and effective and provide for the installation of additional physical barriers, roads, lighting, cameras, and sensors to gain operational control of the southwest border.

''(B) PRIORITY AREAS.—In carrying out this section [amending this section], the Secretary of Homeland Security shall—

''(i) identify the 370 miles, or other mileage determined by the Secretary, whose authority to determine other mileage shall expire on December 31, 2008, along the southwest border where fencing would be most practical and effective in deterring smugglers and aliens attempting to gain illegal entry into the United States; and

''(ii) not later than December 31, 2008, complete construction of reinforced fencing along the miles identified under clause (i).

''(C) CONSULTATION.—

''(i) IN GENERAL.—In carrying out this section, the Secretary of Homeland Security shall consult with the Secretary of the Interior, the Secretary of Agriculture, States, local governments, Indian tribes, and property owners in the United States to minimize the impact on the environment, culture, commerce, and quality of life for the communities and residents located near the sites at which such fencing is to be constructed.

''(ii) SAVINGS PROVISION.—Nothing in this subparagraph may be construed to—

''(I) create or negate any right of action for a State, local government, or other person or entity affected by this subsection; or

''(II) affect the eminent domain laws of the United States or of any State.

''(D) LIMITATION ON REQUIREMENTS.—Notwithstanding subparagraph (A), nothing in this paragraph shall require the Secretary of Homeland Security to install fencing, physical barriers, roads, lighting, cameras, and sensors in a particular location along an international border of the United States, if the Secretary determines that the use or placement of such resources is not the most appropriate means to achieve and maintain operational control over the international border at such location.

''(2) PROMPT ACQUISITION OF NECESSARY EASEMENTS.—The Attorney General, acting under the authority conferred in section 103(b) of the Immigration and Nationality Act [8 U.S.C. 1103(b)] (as inserted by subsection (d)), shall promptly acquire such easements as may be necessary to carry out this subsection and shall commence construction of fences immediately following such acquisition (or conclusion of portions thereof).

''(3) SAFETY FEATURES.—The Attorney General, while constructing the additional fencing under this subsection, shall incorporate such safety features into the design of the fence system as are necessary to ensure the well-being of border patrol agents deployed within or in near proximity to the system.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection. Amounts appropriated under this paragraph are authorized to remain available until expended.

''(c) WAIVER.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall have the authority to waive all legal requirements such Secretary, in such Secretary's sole discretion, determines necessary to ensure expeditious construction of the barriers and roads under this section [amending this section]. Any such decision by the Secretary shall be effective upon being published in the Federal Register.

''(2) FEDERAL COURT REVIEW.—

''(A) IN GENERAL.—The district courts of the United States shall have exclusive jurisdiction to hear all causes or claims arising from any action undertaken, or any decision made, by the Secretary of Homeland Security pursuant to paragraph (1). A cause of action or claim may only be brought alleging a violation of the Constitution of the United States. The court shall not have jurisdiction to hear any claim not specified in this subparagraph.

''(B) TIME FOR FILING OF COMPLAINT.—Any cause or claim brought pursuant to subparagraph (A) shall be filed not later than 60 days after the date of the action or decision made by the Secretary of Homeland Security. A claim shall be barred unless it is filed within the time specified.

''(C) ABILITY TO SEEK APPELLATE REVIEW.—An interlocutory or final judgment, decree, or order of the district court may be reviewed only upon petition for a writ of certiorari to the Supreme Court of the United States.''

IMPROVED BORDER EQUIPMENT AND TECHNOLOGY

Section 103 of div. C of Pub. L. 104–208 provided that: ''The Attorney General is authorized to acquire and use, for the purpose of detection, interdiction, and reduction of illegal immigration into the United States, any Federal equipment (including fixed wing aircraft, helicopters, four-wheel drive vehicles, sedans, night vision goggles, night vision scopes, and sensor units) determined available for transfer by any other agency of the Federal Government upon request of the Attorney General.''

HIRING AND TRAINING STANDARDS

Section 106(a), (b) of div. C of Pub. L. 104–208 provided that:

''(a) REVIEW OF HIRING STANDARDS.—Not later than 60 days after the date of the enactment of this Act [Sept. 30, 1996], the Attorney General shall complete a review of all prescreening and hiring standards used by the Commissioner of Immigration and Naturalization, and, where necessary, revise such standards to ensure that they are consistent with relevant standards of professionalism.

''(b) CERTIFICATION.—At the conclusion of each of fiscal years 1997, 1998, 1999, 2000, and 2001, the Attorney General shall certify in writing to the Committees on the Judiciary of the House of Representatives and of the Senate that all personnel hired by the Commissioner of Immigration and Naturalization for such fiscal year were hired pursuant to the appropriate standards, as revised under subsection (a).''

REPORT ON BORDER STRATEGY

Section 107 of div. C of Pub. L. 104–208 provided that:

''(a) EVALUATION OF STRATEGY.—The Comptroller General of the United States shall track, monitor, and evaluate the Attorney General's strategy to deter illegal entry in the United States to determine the efficacy of such strategy.

''(b) COOPERATION.—The Attorney General, the Secretary of State, and the Secretary of Defense shall cooperate with the Comptroller General of the United States in carrying out subsection (a).

''(c) REPORT.—Not later than one year after the date of the enactment of this Act [Sept. 30, 1996], and every year thereafter for the succeeding 5 years, the Comptroller General of the United States shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate on the results of the activities undertaken under subsection (a) during the previous year. Each such report shall include an analysis of the degree to which the Attorney General's strategy has been effective in reducing illegal entry. Each such report shall include a collection and systematic analysis of data, including workload indicators, related to activities to deter illegal entry and recommendations to improve and increase border security at the border and ports of entry.''

COMPENSATION FOR IMMIGRATION JUDGES

Section 371(c) of div. C of Pub. L. 104–208 provided that:

''(1) IN GENERAL.—There shall be four levels of pay for immigration judges, under the Immigration Judge Schedule (designated as IJ–1, 2, 3, and 4, respectively), and each such judge shall be paid at one of those levels, in accordance with the provisions of this subsection.

''(2) RATES OF PAY.—

''(A) The rates of basic pay for the levels established under paragraph (1) shall be as follows:

IJ–1	70% of the next to highest rate of basic pay for the Senior Executive Service
IJ–2	80% of the next to highest rate of basic pay for the Senior Executive Service
IJ–3	90% of the next to highest rate of basic pay for the Senior Executive Service
IJ–4	92% of the next to highest rate of basic pay for the Senior Executive Service.

''(B) Locality pay, where applicable, shall be calculated into the basic pay for immigration judges.

''(3) APPOINTMENT.—

''(A) Upon appointment, an immigration judge shall be paid at IJ–1, and shall be advanced to IJ–2 upon completion of 104 weeks of service, to IJ–3 upon completion of 104 weeks of service in the next lower rate, and to IJ–4 upon completion of 52 weeks of service in the next lower rate.

''(B) Notwithstanding subparagraph (A), the Attorney General may provide for appointment of an immigration judge at an advanced rate under such circumstances as the Attorney General may determine appropriate.

''(4) TRANSITION.—Immigration judges serving as of the effective date shall be paid at the rate that corresponds to the amount of time, as provided under paragraph (3)(A), that they have served as an immigration judge, and in no case shall be paid less after the effective date than the rate of pay prior to the effective date.''

[Section 371(d)(2) of div. C of Pub. L. 104–208 provided that: ''Subsection (c) [set out above] shall take effect 90 days after the date of the enactment of this Act [Sept. 30, 1996].'']

MACHINE-READABLE DOCUMENT BORDER SECURITY PROGRAM

Pub. L. 100–690, title IV, § 4604, Nov. 18, 1988, 102 Stat. 4289, which required Department of State, United States Customs Service, and Immigration and Naturalization Service to develop a comprehensive machine-readable travel and identity document border security program that would improve border entry and departure control through automated data capture of machine-readable travel and identity documents, directed specified agencies and organizations to contribute law enforcement data for the system, authorized appropriations for the program, and required continuing full implementation in fiscal years 1990, 1991, and 1992, by all participating agencies, was repealed by Pub. L. 102–583, § 6(e)(1), Nov. 2, 1992, 106 Stat. 4933.

IMMIGRATION AND NATURALIZATION SERVICE PERSONNEL ENHANCEMENT

Pub. L. 100–690, title VII, § 7350, Nov. 18, 1988, 102 Stat. 4473, provided that:

''(a) PILOT PROGRAM REGARDING THE IDENTIFICATION OF CERTAIN ALIENS.—

''(1) Within 6 months after the effective date of this subtitle [Nov. 18, 1988], the Attorney General shall establish, out of funds appropriated pursuant to subsection (c)(2), a pilot program in 4 cities to improve the capabilities of the Immigration and Naturalization Service (hereinafter in this section referred to as the 'Service') to respond to inquiries from Federal, State, and local law enforcement authorities concerning aliens who have been arrested for or convicted of, or who are the subject of any criminal investigation relating to, a violation of any law relating to controlled substances (other than an aggravated felony as defined in section 101(a)(43) of the Immigration and Nationality Act [8 U.S.C. 1101(a)(43)], as added by section 7342 of this subtitle).

''(2) At the end of the 12-month period after the establishment of such pilot program, the Attorney General shall provide for an evaluation of its effectiveness, including an assessment by Federal, State, and local prosecutors and law enforcement agencies. The Attorney General shall submit a report containing the conclusions of such evaluation to the Committees on the Judiciary of the House of Representatives and of the Senate within 60 days after the completion of such evaluation.

''(b) HIRING OF INVESTIGATIVE AGENTS.—

''(1) Any investigative agent hired by the Attorney General for purposes of this section shall be employed exclusively to assist Federal, State, and local law enforcement agencies in combating drug trafficking and crimes of violence by aliens.

''(2) Any investigative agent hired under this section who is older than 35 years of age shall not be eligible for Federal retirement benefits made available to individuals who perform hazardous law enforcement activities.''

PILOT PROGRAM TO ESTABLISH OR IMPROVE COMPUTER CAPABILITIES

Pub. L. 99–570, title I, § 1751(e), Oct. 27, 1986, 100 Stat. 3207–48, provided that:

''(1) From the sums appropriated to carry out this Act, the Attorney General, through the Investigative Division of the Immigration and Naturalization Service, shall provide a pilot program in 4 cities to establish or improve the computer capabilities of the local offices of the Service and of local law enforcement agencies to respond to inquiries concerning aliens who have been arrested or convicted for, or are the subject to criminal investigation relating to, a violation of any law relating to controlled substances. The Attorney General shall select cities in a manner that provides special consideration for cities located near the land borders of the United States and for large cities which have major concentrations of aliens. Some of the sums made available under the pilot program shall be used to increase the personnel level of the Investigative Division.

''(2) At the end of the first year of the pilot program, the Attorney General shall provide for an evaluation of the effectiveness of the program and shall report to Congress on such evaluation and on whether the pilot program should be extended or expanded.''

EMERGENCY PLANS FOR REGULATION OF NATIONALS OF ENEMY COUNTRIES

Attorney General to develop national security emergency plans for regulation of immigration, regulation of nationals of enemy countries, and plans to implement laws for control of persons entering or leaving the United States, see section 1101(4) of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

EX. ORD. NO. 13404. TASK FORCE ON NEW AMERICANS

Ex. Ord. No. 13404, June 7, 2006, 71 F.R. 33593, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to strengthen the efforts of the Department of Homeland Security and Federal, State, and local agencies to help legal immigrants embrace the common core of American civic culture, learn our common language, and fully become Americans, it is hereby ordered as follows:

SECTION 1. *Establishment*. The Secretary of Homeland Security (Secretary) shall immediately establish within the Department of Homeland Security (Department) a Task Force on New Americans (Task Force).

SEC. 2. *Membership and Operation*. (a) The Task Force shall be limited to the following members or employees designated by them at no lower than the Assistant Secretary level or its equivalent:

(i) the Secretary of Homeland Security, who shall serve as Chair;

(ii) the Secretary of State;

(iii) the Secretary of the Treasury;

(iv) the Secretary of Defense;

(v) the Attorney General;

(vi) the Secretary of Agriculture;

(vii) the Secretary of Commerce;

(viii) the Secretary of Labor;

(ix) the Secretary of Health and Human Services;

(x) the Secretary of Housing and Urban Development;

(xi) the Secretary of Education;

(xii) such other officers or employees of the Department of Homeland Security as the Secretary may from time to time designate; and

(xiii) such other officers of the United States as the Secretary may designate from time to time, with the concurrence of the respective heads of departments and agencies concerned.

(b) The Secretary shall convene and preside at meetings of the Task Force, direct its work, and as appropriate, establish and direct subgroups of the Task Force that shall consist exclusively of Task Force members. The Secretary shall designate an official of the Department to serve as the Executive Secretary of the Task Force, and the Executive Secretary shall head the staff assigned to the Task Force.

SEC. 3. *Functions*. Consistent with applicable law, the Task Force shall:

(a) provide direction to executive departments and agencies (agencies) concerning the integration into American society of America's legal immigrants, particularly through instruction in English, civics, and history;

(b) promote public-private partnerships that will encourage businesses to offer English and civics education to workers;

(c) identify ways to expand English and civics instruction for legal immigrants, including through faith-based, community, and other groups, and ways to promote volunteer community service; and

(d) make recommendations to the President, through the Secretary, from time to time regarding:

(i) actions to enhance cooperation among agencies on the integration of legal immigrants into American society;

(ii) actions to enhance cooperation among Federal, State, and local authorities responsible for the integration of legal immigrants;

(iii) changes in rules, regulations, or policy to improve the effective integration of legal immigrants into American society; and

(iv) proposed legislation relating to the integration of legal immigrants into American society.

SEC. 4. *Administration*. (a) To the extent permitted by law, the Department shall provide the funding and administrative support the Task Force needs to implement this order, as determined by the Secretary.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to an agency or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(c) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This order is intended to improve the internal management of the Federal Government. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity against the United States, its departments, agencies, entities, instrumentalities, officers, employees, agents, or any other person.

GEORGE W. BUSH.

§1104. Powers and duties of Secretary of State

(a) Powers and duties

The Secretary of State shall be charged with the administration and the enforcement of the provisions of this chapter and all other immigration and nationality laws relating to (1) the powers, duties, and functions of diplomatic and consular officers of the United States, except those powers, duties, and functions conferred upon the consular officers relating to the granting or refusal of visas; (2) the powers, duties, and functions of the Administrator; and (3) the determination of nationality of a person not in the United States. He shall establish such regulations; prescribe such forms of reports, entries and other papers; issue such instructions; and perform such other acts as he deems necessary for carrying out such provisions. He is authorized to confer or impose upon any employee of the United States, with the consent of the head of the department or independent establishment under whose jurisdiction the employee is serving, any of the powers, functions, or duties conferred or imposed by this chapter or regulations issued thereunder upon officers or employees of the Department of State or of the American Foreign Service.

(b) Designation and duties of Administrator

The Secretary of State shall designate an Administrator who shall be a citizen of the United States, qualified by experience. The Administrator shall maintain close liaison with the appropriate committees of Congress in order that they may be advised regarding the administration of this chapter by consular officers. The Administrator shall be charged with any and all responsibility and authority in the administration of this chapter which are conferred on the Secretary of State as may be delegated to the Administrator by the Secretary of State or which may be prescribed by the Secretary of State, and shall perform such other duties as the Secretary of State may prescribe.

(c) Passport Office, Visa Office, and other offices; directors

Within the Department of State there shall be a Passport Office, a Visa Office, and such other offices as the Secretary of State may deem to be appropriate, each office to be headed by a director. The Directors of the Passport Office and the Visa Office shall be experienced in the administration of the nationality and immigration laws.

(d) Transfer of duties

The functions heretofore performed by the Passport Division and the Visa Division of the Department of State shall hereafter be performed by the Passport Office and the Visa Office, respectively.

(e) General Counsel of Visa Office; appointment and duties

There shall be a General Counsel of the Visa Office, who shall be appointed by the Secretary of State and who shall serve under the general direction of the Legal Adviser of the Department of State. The General Counsel shall have authority to maintain liaison with the appropriate officers of the Service with a view to securing uniform interpretations of the provisions of this chapter.

(June 27, 1952, ch. 477, title I, §104, 66 Stat. 174; Pub. L. 87-510, §4(a)(2), June 28, 1962, 76 Stat. 123; Pub. L. 88–426, title III, §305(43), Aug. 14, 1964, 78 Stat. 428; Pub. L. 95–105, title I, §109(b)(1), Aug. 17, 1977, 91 Stat. 847; Pub. L. 100–525, §9(d), Oct. 24, 1988, 102 Stat. 2620; Pub. L. 103–236, title I, §162(h)(2), Apr. 30, 1994, 108 Stat. 407.)

AMENDMENTS

1994—Pub. L. 103–236, §162(h)(2)(A), struck out "; Bureau of Consular Affairs" after "Secretary of State" in section catchline.

Subsec. (a)(2). Pub. L. 103–236, §162(h)(2)(B), substituted "the Administrator" for "the Bureau of Consular Affairs".

Subsec. (b). Pub. L. 103–236, §162(h)(2)(C), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "There is established in the Department of State a Bureau of Consular Affairs, to be headed by an Assistant Secretary of State for Consular Affairs. The Assistant Secretary of State for Consular Affairs shall be a citizen of the United States, qualified by experience, and shall maintain close liaison with the appropriate committees of Congress in order that they may be advised regarding the administration of this chapter by consular officers. He shall be charged with any and all responsibility and authority in the administration of the Bureau and of this chapter which are conferred on the Secretary of State as may be delegated to him by the Secretary of State or which may be prescribed by the Secretary of State. He shall also perform such other duties as the Secretary of State may prescribe."

Subsec. (c). Pub. L. 103–236, §162(h)(2)(D), substituted "Department of State" for "Bureau".

Subsec. (d). Pub. L. 103–236, §162(h)(2)(E), struck out before period at end ", of the Bureau of Consular Affairs".

1988—Pub. L. 100–525 substituted "Bureau of Consular Affairs" for "Bureau of Security and Consular Affairs" in section catchline.

1977—Subsec. (a)(2). Pub. L. 95–105, §109(b)(1)(A), struck out "Security and" after "Bureau of".