

PART 3—PUBLIC EDUCATION BENEFITS
SEC. 615. AUTHORIZING STATES TO DENY PUBLIC EDUCATION BENEFITS TO ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES.

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

“TITLE VI—DISQUALIFICATION OF ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES FROM CERTAIN PROGRAM

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

“SEC. 601. (a) Because Congress views that the right to a free public education for aliens who are not lawfully present in the United States promotes violations of the immigration laws and because such a free public education for such aliens creates a significant burden on States’ economies and depletes States’ limited educational resources, Congress declares it to be the policy of the United States that—

“(1) aliens who are not lawfully present in the United States not be entitled to public education benefits in the same manner as United States citizens and lawful resident aliens; and

“(2) States should not be obligated to provide public education benefits to aliens who are not lawfully present in the United States.

“(b) Nothing in this section shall be construed as expressing any statement of Federal policy with regard to—

“(1) aliens who are lawfully present in the United States, or

“(2) benefits other than public education benefits provided under State law.

“AUTHORITY OF STATES

“SEC. 602. (a) In order to carry out the policies described in section 601, each State may provide that an alien who is not lawfully present in the United States is not eligible for public education benefits in the State or, at the option of the State, may be treated as a non-resident of the State for purposes of provision of such benefits.

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

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

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

“(B) presents either—

“(i) alien registration documentation or other proof of immigration registration from the Service, or

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

If the documentation described in paragraph (2)(B)(i) is presented, the State may (at its option) verify with the Service the alien’s immigration status through a system described in section 1137(d)(3) of the Social Security Act (42 U.S.C. 1320b-7(d)(3)).

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

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

“TITLE VI—DISQUALIFICATION OF ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES FROM CERTAIN PROGRAM

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

“Sec. 602. Authority of States.”

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of the date of the enactment of this Act.

It was decided in the { Yeas 257 affirmative } Nays 163

31.15 [Roll No. 75] AYES—257

- Allard, Archer, Arney, Bachus, Baker (CA), Baker (LA), Ballenger, Barr, Barrett (NE), Bartlett, Bass, Bateman, Bereuter, Bevill, Bilbray, Bilirakis, Bliley, Blute, Boehner, Bonilla, Bono, Brewster, Browder, Brownback, Bryant (TN), Bunning, Burr, Burton, Buyer, Callahan, Calvert, Camp, Canady, Cardin, Castle, Chabot, Chambliss, Chenoweth, Christensen, Chrysler, Clement, Clinger, Coble, Coburn, Collins (GA), Combust, Condit, Cooley, Costello, Cox, Cramer, Crane, Crapo, Cremeans, Cubin, Cunningham, Danner, Davis, Deal, DeLay, Deutsch, Dickey, Doolittle, Dornan, Doyle, Dreier, Duncan, Dunn, Ehlers, Ehrlich, Emerson, English, Ensign, Everrett, Ewing, Fawell, Fields (TX), Flanagan, Foley, Forbes, Fowler, Fox, Franks (CT), Franks (NJ), Frelinghuysen, Frisa, Funderburk, Gallegly, Ganske, Gekas, Geren, Gilchrest, Gillmor, Gingrich, Goodlatte, Goodling, Gordon, Goss, Graham, Greenwood, Gutknecht, Hall (OH), Hall (TX), Hamilton, Hancock, Hansen, Hastert, Hastings (WA), Hayes, Hayworth, Hefley, Hefner, Heineman, Herger, Hilleary, Hobson, Hoekstra, Hoke, Holden, Horn, Hunter, Hutchinson, Hyde, Inglis, Istook, Jacobs, Johnson (CT), Johnson (SD), Johnson, Sam, Jones, Kanjorski, Kaptur, Kasich, Kelly, Kim, King, Kingston, Klink, Klug, Knollenberg, LaHood, Largent, Latham, LaTourette, Laughlin, Lazio, Lewis (CA), Lewis (KY), Lightfoot, Linder, Lipinski, Livingston, LoBiondo, Lucas, Manzullo, Martini, Mascara, McCollum, McCrery, McDade, McHale, McHugh, McInnis, McIntosh, McKeon, McKeef, Meyers, Mica, Miller (FL), Minge, Montgomery, Moorhead, Moran, Murtha, Myers, Myrick, Nethercutt, Neumann, Ney, Norwood, Nussle, Oxley, Packard, Parker, Paxon, Peterson (MN), Petri, Pickett, Pombo, Portman, Poshard, Pryce, Quillen, Ramstad, Regula, Riggs, Roberts, Roemer, Rogers, Rohrabacher, Roth, Roukema, Royce, Salmon, Saxton, Scarborough, Schaefer, Seastrand, Sensenbrenner, Shadegg, Shaw, Shays, Shuster, Sisisky, Skeen, Smith (MI), Smith (NJ), Smith (TX), Smith (WA), Solomon, Souder, Spence, Spratt, Stearns, Stenholm, Stockman, Stump, Stupak, Talent, Tanner, Tate, Tauzin, Taylor (MS), Taylor (NC)

- Thomas, Thornberry, Tiahrt, Torkildsen, Torricelli, Traficant, Upton, Visclosky, Vucanovich, Walker, Walsh, Wamp, Watts (OK), Weldon (FL), Weldon (PA), Whitfield, Wicker, Wilson, Wolf, Young (AK), Young (FL), Zeliff, Zimmer

NOES—163

- Abercrombie, Ackerman, Andrews, Baesler, Baldacci, Barcia, Barrett (WI), Barton, Becerra, Beilenson, Bentsen, Berman, Bishop, Boehlert, Bonior, Borski, Boucher, Brown (CA), Brown (FL), Brown (OH), Bryant (TX), Bunn, Campbell, Chapman, Clay, Clayton, Clyburn, Coleman, Collins (MI), Conyers, Coyne, de la Garza, DeFazio, DeLauro, Dellums, Diaz-Balart, Dicks, Dingell, Dixon, Doggett, Dooley, Durbin, Edwards, Engel, Eshoo, Evans, Farr, Fattah, Fazio, Fields (LA), Filner, Flake, Foglietta, Ford, Frank (MA), Frost, Furse, Gejdenson, Gephardt, Gibbons, Gilman, Gonzalez, Green, Gunderson, Gutierrez, Harman, Hastings (FL), Hilliard, Hinchey, Houghton, Hoyer, Jackson (IL), Jackson-Lee (TX), Jefferson, Johnson, E. B., Kennedy (MA), Kennedy (RI), Kennelly, Kildee, Kleczka, Kolbe, LaFalce, Lantos, Leach, Levin, Lewis (GA), Lincoln, Lofgren, Longley, Lowey, Luther, Maloney, Manton, Markey, Martinez, Matsui, McCarthy, McDermott, Eshoo, McKinney, McNulty, Meehan, Meek, Menendez, Miller (CA), Mink, Molinari, Mollohan, Morella, Neal, Oberstar, Obey, Olver, Ortiz, Orton, Owens, Pallone, Pastor, Payne (NJ), Payne (VA), Pelosi, Pomeroy, Quinn, Rahall, Rangel, Reed, Richardson, Rivers, Ros-Lehtinen, Rose, Roybal-Allard, Sabo, Sanders, Sanford, Sawyer, Schiff, Schroeder, Schumer, Scott, Serrano, Skaggs, Skelton, Slaughter, Studds, Tejada, Thompson, Thornton, Thurman, Torres, Towns, Velazquez, Vento, Volkmer, Waldholtz, Ward, Watt (NC), Waxman, Weller, White, Williams, Wise, Woolsey, Wynn, Yates

NOT VOTING—12

- Collins (IL), Hostettler, Johnston, Moakley, Nadler, Peterson (FL), Porter, Radanovich, Rush, Stark, Stokes, Waters

So the amendment was agreed to.

31.16 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment, as modified, submitted by Mr. CHABOT:

Modify the amendment to read as follows: Strike section 401.