

Calendar No. 634

104TH CONGRESS
2^D SESSION
H. R. 4134

AN ACT

To amend the Immigration and Nationality Act to authorize States to deny public education benefits to aliens not lawfully present in the United States who are not enrolled in public schools during the period beginning September 1, 1996, and ending July 1, 1997.

SEPTEMBER 26, 1996

Read the second time and placed on the calendar

Calendar No. **634**

104TH CONGRESS
2^D SESSION

H. R. 4134

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 1996

Received and read the first time

SEPTEMBER 26, 1996

Read the second time and placed on the calendar

AN ACT

To amend the Immigration and Nationality Act to authorize States to deny public education benefits to aliens not lawfully present in the United States who are not enrolled in public schools during the period beginning September 1, 1996, and ending July 1, 1997.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. AUTHORIZING STATES TO DENY PUBLIC EDU-**
2 **CATION BENEFITS TO CERTAIN ALIENS NOT**
3 **LAWFULLY PRESENT IN THE UNITED STATES.**

4 (a) IN GENERAL.—The Immigration and Nationality
5 Act is amended by adding after title V the following new
6 title:

7 “TITLE VI—AUTHORIZING STATES TO DIS-
8 QUALIFY CERTAIN ALIENS NOT LAWFULLY
9 PRESENT IN THE UNITED STATES FROM
10 PUBLIC EDUCATION BENEFITS

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

14 “SEC. 601. (a) STATEMENT OF POLICY.—Because
15 Congress views that the right to a free public education
16 for aliens who are not lawfully present in the United
17 States promotes violations of the immigration laws and be-
18 cause such a free public education for such aliens creates
19 a significant burden on States’ economies and depletes
20 States’ limited educational resources, Congress declares it
21 to be the policy of the United States that—

22 “(1) aliens who are not lawfully present in the
23 United States are not entitled to public education
24 benefits in the same manner as United States citi-
25 zens, nationals, and lawful resident aliens; and

1 “(2) States should not be obligated to provide
2 public education benefits to aliens who are not law-
3 fully present in the United States.

4 “(b) CONSTRUCTION.—Nothing in this section shall
5 be construed as expressing any statement of Federal pol-
6 icy with regard to—

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

9 “(2) benefits other than public education bene-
10 fits provided under State law, or

11 “(3) preventing the exclusion or deportation of
12 aliens unlawfully present in the United States.

13 “AUTHORITY OF STATES

14 “SEC. 602. (a) IN GENERAL.—In order to carry out
15 the policies described in section 601, each State may pro-
16 vide, subject to subsection (f), with respect to an alien who
17 is not lawfully present in the United States that—

18 “(1) the alien is not eligible for public education
19 benefits under State law; or

20 “(2) the alien is required, as a condition of ob-
21 taining such benefits, to pay a fee in an amount con-
22 sistent with the following:

23 “(A) In the case of a State that requires
24 payment of a fee of nonresidents as a condition
25 of obtaining such benefits, the amount of such
26 nonresident fee.

1 “(B) In the case of any other State, an
2 amount specified by the State, not to exceed the
3 average per pupil expenditures for such benefits
4 (as determined by the State and selected by the
5 State either for the State or for the local edu-
6 cational agency involved).

7 “(b) INDIVIDUALS NOT LAWFULLY PRESENT IN THE
8 UNITED STATES.—For purposes of subsection (a), an in-
9 dividual shall be considered to be not lawfully present in
10 the United States unless the individual (or, in the case
11 of an individual who is a child, another on the child’s be-
12 half)—

13 “(1) declares in writing under penalty of per-
14 jury that the individual (or child) is a citizen or na-
15 tional of the United States and (if required by a
16 State) presents evidence of United States citizenship
17 or nationality; or

18 “(2)(A) declares in writing under penalty of
19 perjury that the individual (or child) is not a citizen
20 or national of the United States but is an alien law-
21 fully present in the United States, and

22 “(B) presents either—

23 “(i) documentation described in section
24 1137(d)(2) of the Social Security Act, or

1 “(ii) such other documents as the State de-
2 termines constitutes reasonable evidence indi-
3 cating that the individual (or child) is an alien
4 lawfully present in the United States.

5 “(c) PROCEDURES FOR SCREENING.—If a State pro-
6 vides for immigration eligibility screening pursuant to this
7 section for individuals who are seeking public education
8 benefits, the State shall provide for such screening for all
9 individuals seeking such benefits.

10 “(2) A State may (at its option) verify with the Serv-
11 ice the alien’s immigration status through a system for
12 alien verification of eligibility (SAVE) described in section
13 1137(d)(3) of the Social Security Act (42 U.S.C. 1320b-
14 7(d)(3)).

15 “(d) OPPORTUNITY FOR FAIR HEARING.—If a State
16 denies public education benefits under this section with
17 respect to an alien, the State shall provide the alien with
18 an opportunity for a fair hearing to establish that the alien
19 has been determined by the Service to be lawfully present
20 in the United States, consistent with subsection (b) and
21 Federal immigration law.

22 “(e) NO REQUIREMENT TO DENY FREE PUBLIC
23 EDUCATION.—No State shall be required by this section
24 to deny public education benefits to any alien not lawfully
25 present in the United States.

1 “(f) NO AUTHORITY TO DENY FREE PUBLIC EDU-
2 CATION TO STUDENTS ENROLLED AT ANY TIME DURING
3 THE PERIOD BEGINNING SEPTEMBER 1, 1996, AND END-
4 ING JULY 1, 1997.—(1) A State may not deny, and may
5 not require payment of a fee as a condition for the receipt
6 of, public education benefits under this section with re-
7 spect to a protected alien.

8 “(2) For purposes of this subsection, the term ‘pro-
9 tected alien’ means an alien who is not lawfully present
10 in the United States and is enrolled as a student in a pub-
11 lic elementary or secondary school in the United States
12 at any time during the period beginning September 1,
13 1996, and ending July 1, 1997.

14 “(g) NO IMPACT ON IMMIGRATION STATUS.—Noth-
15 ing in this section or section 601 shall be construed as
16 affecting the immigration status of any alien, including
17 the conferring of any immigration benefit or change in any
18 proceedings under this Act with respect to the alien.”.

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

“TITLE VI—AUTHORIZING STATES TO DISQUALIFY CERTAIN
ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES
FROM PUBLIC EDUCATION BENEFITS

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

“Sec. 602. Authority of States.”.

Passed the House of Representatives September 25,
1996.

Attest:

ROBIN H. CARLE,

Clerk.