

105TH CONGRESS
2D SESSION

H. R. 4363

To provide for the restructuring of the Immigration and Naturalization Service, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 30, 1998

Mr. WATT of North Carolina (for himself and Mr. BERMAN) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide for the restructuring of the Immigration and Naturalization Service, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Immigration and Nat-
5 uralization Service Restructuring Act of 1998”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are to—

8 (1) advance the effective enforcement of our im-
9 migration laws at our borders and in the interior,

1 and the efficient provision of immigration and citi-
2 zenship services;

3 (2) untangle INS' overlapping and frequently
4 confusing organizational structure by replacing it
5 with two clear operational chains of command—one
6 for enforcement and one for providing services—
7 from the highest level of the agency to the lowest;

8 (3) create two parallel operational divisions
9 which can each focus on its unique management,
10 knowledge, skills, and abilities, while also retaining
11 the essential functions for guiding and coordinating
12 these operations;

13 (4) improve customer-oriented immigrant serv-
14 ices by:

15 (A) creating new local service offices;

16 (B) establishing new, distinct lines of ac-
17 countability of authority for services;

18 (C) setting clear standards for customer
19 service; and

20 (D) using technology to improve efficiency
21 and customer service;

22 (5) strengthen enforcement operations by:

23 (A) establishing a single, coordinated en-
24 forcement mission;

1 (B) integrating enforcement, and strength-
2 ening accountability;

3 (C) organizing enforcement areas by func-
4 tion, including Border Patrol, inspections, in-
5 vestigations and removals, detention, and en-
6 forcement support; and

7 (6) provide for efficient integration of service
8 and enforcement by:

9 (A) creating an administrative and tech-
10 nical backbone of support for enforcement and
11 service; and

12 (B) developing and managing essential im-
13 migration records, computer systems, training,
14 and shared administrative functions.

15 **SEC. 3. DEFINITIONS.**

16 For purposes of this Act, the following definitions
17 shall apply:

18 (1) The term “INA” refers to the Immigration
19 and Nationality Act of 1952, as amended up to the
20 effective date of this Act.

21 (2) The term “INS” means the Immigration
22 and Naturalization Service.

23 **SEC. 4. EFFECTIVE DATE.**

24 Except as otherwise provided by this Act, this Act
25 shall take effect on October 1, 2000.

TITLE I—AGENCY ORGANIZATION

3 SEC. 101. AGENCY ORGANIZATION.

4 The Immigration and Naturalization Service [the
5 Service] shall be responsible for administering the immi-
6 gration laws of the United States. The Service will be or-
7 ganized in a way that ensures the effective implementation
8 of enforcement strategies at the border, the interior of the
9 country, and overseas, and the timely and efficient provi-
10 sion of immigrant services and benefits with complete in-
11 tegrity. The Service will be structured along programmatic
12 lines and composed of an: (1) Office of Immigrant Serv-
13 ices, (2) Office of Enforcement Operations, and (3) Office
14 of Shared Services.

15 (a) **HEADQUARTERS OPERATIONS.**—The Service will
16 be lead by a Commissioner and Deputy Commissioner who
17 will focus on immigration enforcement and service policy
18 and establish a framework to implement national prior-
19 ities. In addition, headquarters operations will be respon-
20 sible for policy formulation, strategic planning and the de-
21 velopment of agency goals, objectives and performance
22 targets; agency-wide management support and coordina-
23 tion; budget formulation and execution; public affairs;
24 Congressional relations; general counsel, and internal
25 audit.

1 (1) CHIEF FINANCIAL OFFICER.—A Chief Fi-
2 nancial Officer (CFO) will be established for the ef-
3 fective and efficient management and accountability
4 of Service resources. The CFO will coordinate budg-
5 et formulation, execution and agency-wide financial
6 management operations. To address the Service’s di-
7 verse funding sources, the CFO will ensure sound
8 agency-wide financial management systems and
9 processes. The CFO will ensure that immigrant serv-
10 ices and enforcement operations have clearly sepa-
11 rated and defined resource streams.

12 (2) STRATEGIC PLANNING AND STATISTICAL
13 MEASURES.—A director of the strategy unit will be
14 responsible for policy formulation, developing the
15 long term-strategy for the Service and facilitating
16 the process of designing programs to execute that
17 strategy, in consultation with the offices of Immi-
18 grant Services, Enforcement Operations and Shared
19 Services. This office will create long-range strategic
20 and performance measurement plans, in cooperation
21 with relevant program components. In addition, this
22 office will be responsible for establishing and
23 strengthening Federal immigration statistical policy
24 and measurement operations.

1 (b) The Office of Immigrant Services will be headed
2 by an Executive Associate Commissioner (EAC), a Senior
3 Executive who will report directly to the Office of the
4 Commissioner. The EAC will be responsible for establish-
5 ing an operational chain of command dedicated solely to
6 immigration services, focusing comprehensively on provid-
7 ing quality, timely and efficient services to the immigrant
8 community and institutions requiring immigrant services.
9 The EAC will be responsible for all aspects of INS service
10 and benefit operations and the Office of Immigration
11 Services will be organized around four functional goals:
12 (1) ensuring timely processing and courteous service of the
13 immigrant community through nationally-established cus-
14 tomer service standards, (2) providing efficient, accurate
15 benefit processing from remote service centers and service
16 area operations, (3) ensuring secure documents with un-
17 compromising integrity, and (4) serving the refugee and
18 asylee population through humane and timely service and
19 benefits. Additionally, the EAC is responsible for coordi-
20 nating, with the Office of Shared Services, the effective
21 acquisition and utilization of shared support items includ-
22 ing information technology, financial management, facility
23 construction, personnel and training. The responsibilities
24 and duties of the EAC shall include:

1 (1) SERVICE AREA OPERATIONS.—Service area
2 operations will be located in immigrant communities
3 around the United States. The EAC will develop and
4 maintain performance measures to ensure that of-
5 fices within each area provide efficient and consist-
6 ent service, while maintaining the integrity of appli-
7 cation processing. These offices will provide a variety
8 of services to applicants, including fingerprinting,
9 photographing, and interviewing applicants. Some
10 offices will be configured as full-service offices and
11 others will serve as satellite locations. All will have
12 a standard appearance with customer-oriented fea-
13 tures.

14 (2) SERVICE CENTER OPERATIONS.—Service
15 center operations will include centralized automated
16 processing and adjudication for applications and pe-
17 titions that do not require immigrant interviews. In
18 addition, the service centers will provide front-end
19 fee receipt, data entry and scheduling for applica-
20 tions and petitions that require interviews. The EAC
21 will be responsible for the collection of all manage-
22 ment reporting information relative to the service
23 centers, for budget formulation and execution for the
24 service center budgets, for ensuring the accuracy
25 and quality control of the adjudication of benefits at

1 the service centers, for all employee hiring and grievance issues at the centers and for monitoring, overseeing and executing the mail file and data entry operations. The EAC will also coordinate with the CFO on financial management.

6 (3) TELEPHONE CENTER OPERATIONS.—The Service will operate a coordinated telephone assistance system to respond to customer inquiries. The EAC will be responsible for designing and operating a telephone system that relies on all assets of the Service to ensure that customer inquiries are promptly and accurately addressed. This will include operating and maintaining the telephone centers, any contract call-answering facilities, and utilizing an overflow telephone call assistance capacity designed to access information officers at the service centers as needed.

18 (c) The Office of Enforcement Operations will be headed by an Executive Associate Commissioner (EAC), a Senior Executive who will report directly to the Office of the Commissioner. The EAC will be responsible for establishing an operational chain of command dedicated solely to immigration enforcement, focusing comprehensively on illegal immigration problems at the border and in the interior of the U.S., and ensuring better linkages

1 of enforcement operations through a single point of ac-
2 countability for performance. The EAC will be responsible
3 for all aspects of the Service's enforcement and border
4 management operations including international enforce-
5 ment efforts and will be organized around four functional
6 goals: managing by the Border Patrol of the border be-
7 tween ports-of-entry; conducting inspections and manag-
8 ing all port of entry operations; overseeing investigations
9 and removals; and coordinating and managing detention
10 and enforcement support. Additionally, the EAC is respon-
11 sible for coordinating, with the Office of Shared Services,
12 the effective acquisition and utilization of shared support
13 items including information technology, financial manage-
14 ment, facility construction, personnel and training. The
15 responsibilities and duties of the EAC will include:

16 (1) BORDER MANAGEMENT.—By placing both
17 Border Patrol and Inspection activities under a sin-
18 gle EAC, the Service will be able to provide seamless
19 border enforcement along the Nation's borders, and
20 will be better able to coordinate operations with
21 other Federal and governmental agencies along the
22 border.

23 (A) The Border Patrol will perform its
24 current border management and control func-
25 tions of deterring illegal immigration and ap-

1 prehending illegal aliens between ports of entry.
2 In addition, the Border Patrol will continue to
3 work with Federal, State and local law enforce-
4 ment agencies to effectively administer laws re-
5 lated to the interdiction of drug trafficking ac-
6 tivities.

7 (B) Port of Entry management is a key
8 component of border management due to the
9 interrelationship between activities at and be-
10 tween land border ports of entry. The EAC will
11 be operationally responsible for carrying out
12 these duties in compliance with applicable law
13 and policy and will be responsible for effectively
14 monitoring resource utilization and maintaining
15 accurate performance measures of these activi-
16 ties.

17 (2) INTERIOR ENFORCEMENT AND REMOV-
18 ALS.—The EAC will be responsible for consolidating
19 investigations, intelligence and deportation functions
20 into one coordinated multi-disciplinary component to
21 focus on illegal alien removals and to vigorously
22 combat immigration document fraud, smuggling and
23 illegal employment in the workplace. This consoli-
24 dated approach will ensure swift and proper appre-

1 hension, incarceration and removal of those illegally
2 residing and working in this country.

3 (3) DETENTION AND ENFORCEMENT SUP-
4 PORT.—The EAC will be responsible for ensuring
5 logistical coordination for the incarceration and
6 transportation of criminal and illegal aliens. The
7 EAC will be responsible for effectively managing the
8 Service’s bed space at both Service-owned and con-
9 tract detention facilities. Additionally, the EAC will
10 be responsible for effectively acquiring bed space
11 from State and local entities to ensure the Service
12 can detain and transport individuals it apprehends.

13 (d) The Office of Shared Services will be headed by
14 an Executive Associate Commissioner (EAC), a Senior
15 Executive who will report directly to the Office of the
16 Commissioner. The EAC will be responsible for establish-
17 ing an operational chain of command dedicated to meeting
18 the support requirements for both the enforcement and
19 service operational components. The EAC will be respon-
20 sible for the effective provision of shared administrative
21 and support services to ensure that each side of the agency
22 has the appropriate administrative and technological tools
23 to do its jobs in the most effective and cost-efficient way.
24 The EAC will accomplish this through four functional
25 goals; establishing and maintaining a records management

1 system that accurately and efficiently documents immigra-
2 tion status; ensuring information and enforcement tech-
3 nology enhancements and initiatives are developed and
4 maintained to operational component specifications; build-
5 ing and maintaining a superior recruiting, hiring and
6 training operation to meet Service employment require-
7 ments; and building and managing a Service physical
8 plant to adequately support agency housing needs. The
9 EAC will also coordinate with the CFO on financial man-
10 agement. The responsibilities and duties of the EAC will
11 include:

12 (1) AUTOMATION AND TECHNOLOGY.—The
13 EAC will be responsible for ensuring that the Serv-
14 ice establishes and maintains state-of-the-art infor-
15 mation resources capability to carry out agency en-
16 forcement and service functions. The EAC will be
17 responsible for deploying and monitoring technology
18 and ensuring that the Service’s workforce operates
19 as effectively as possible with these tools. The EAC
20 will also establish and promulgate agency-wide policy
21 relative to the acquisition and deployment of tech-
22 nology capabilities in coordinating with the oper-
23 ational components of the Service.

24 (2) CENTRALIZED RECORDS MANAGEMENT.—
25 The EAC will be responsible for maintaining a cen-

1 tralized repository for all Service records and will be
2 responsible for establishing a greater level of data
3 integrity in existing electronic records and managing
4 the transition to an electronic records environment.

5 (3) PERSONNEL AND TRAINING.—The EAC will
6 be responsible for tracking the hiring of all cat-
7 egories of Service personnel and ensuring that all
8 employees receive proper training in a timely man-
9 ner. Specialized training courses and a full spectrum
10 of basic, advanced, and continuing education will be
11 established to ensure a professional workforce.

12 (4) ADMINISTRATIVE SUPPORT.—The EAC will
13 be responsible, in coordination with the operational
14 components of the Service, for planning, construct-
15 ing and renovating all required Service facilities and
16 equipment, including Border Patrol stations, deten-
17 tion facilities, Immigrant Services offices and gen-
18 eral support office space. The EAC will also be re-
19 sponsible for logistics; procurement; and environ-
20 mental, occupational and health activities of the
21 Service.

22 **SEC. 102. SAVINGS PROVISIONS.**

23 (a) LEGAL DOCUMENTS.—All orders, determinations,
24 rules, regulations, permits, grants, loans, contracts, agree-
25 ments, certificates, licenses, and privileges—

1 (1) that have been issued, made, granted, or al-
2 lowed to become effective by the President, the At-
3 torney General, the Commissioner of the INS, or
4 any other Government official, or by a court of com-
5 petent jurisdiction, in the performance of any func-
6 tion that is transferred; and

7 (2) that are in effect on the effective date of
8 such transfer (or become effective after such date
9 pursuant to their terms as in effect on such effective
10 date); shall continue in effect according to their
11 terms until modified, terminated, superseded, set
12 aside, or revoked in accordance with law by the
13 President, any other authorization official, a court of
14 competent jurisdiction, or operation of law.

15 (b) PROCEEDINGS.—This Act shall not affect any
16 proceedings including proceedings before the Executive
17 Office for Immigration Review and any application for any
18 benefits, service, license, permit, certificate, or financial
19 assistance in pending on the date of the enactment of this
20 Act before an office whose functions are transferred by
21 this Act, but such proceedings and applications shall be
22 continued. Orders shall be issued in such proceedings, ap-
23 peals shall be taken therefrom, and payments shall be
24 made pursuant to such orders, as if this Act had not been
25 enacted, and orders issued in any such proceeding shall

1 continue in effect until modified, terminated, superseded,
2 or revoked by a duly authorized official, by a court of com-
3 petent jurisdiction, or by operation of law. Nothing in this
4 subsection shall be considered to prohibit the discontinu-
5 ance or modification of any such proceeding under the
6 same terms and conditions and to the same extent that
7 such proceeding could have been discontinued or modified
8 if this Act had not been enacted.

9 (c) SUITS.—This Act shall not affect suits com-
10 menced before the date of the enactment of this Act, and
11 in all such suits, proceedings shall be had, appeals taken,
12 and judgments rendered in the same manner and with the
13 same effect as if this Act had not been enacted.

14 (d) NONABATEMENT OF ACTIONS.—No suit, action,
15 or other proceeding commenced by or against the Depart-
16 ment of Justice or the Immigration and Naturalization
17 Service, or by or against any individual in the official ca-
18 pacity of such individual as an officer or employee in con-
19 nection with a function transferred by the Act, shall abate
20 by reason of the enactment of this Act.

21 (e) CONTINUANCE OF SUITS.—If any Government of-
22 ficer in the official capacity of such officer is party to a
23 suit with respect to a function of the officer, and under
24 this Act such function is transferred to any other officer
25 or office, then such suit shall be continued with the other

1 officer or the head of such other office, as applicable, sub-
2 stituted or added as a party.

3 (f) ADMINISTRATIVE PROCEDURE AND JUDICIAL RE-
4 VIEW.—Except as otherwise provided by this Act, any
5 statutory requirements relating to notice, hearings, action
6 upon the record, or administrative or judicial review that
7 apply to any function transferred by this Act shall apply
8 to the exercise of such function by the head of the office,
9 and other officers of the office, to which such function is
10 transferred by this Act.

11 (g) DEPARTMENT OF STATE.—Nothing in this Act
12 shall be construed to preclude or limit in any way the pow-
13 ers, authorities, or duties of special agents of the Depart-
14 ment of State and the Foreign Service under section 2709
15 of title 22, United States Code, or of the Secretary of
16 State under section 4801, et seq. of title 22, United States
17 Code, to investigate illegal passport or visa issuance or
18 use.

19 **SEC. 103. COMMISSIONER COMPENSATION.**

20 Effective as of the day following the date on which
21 the present incumbent in the office of the Commissioner
22 ceases to serve as such, the Commissioner of the Immigra-
23 tion and Naturalization Service shall receive compensation
24 at the rate prescribed for level III of the Federal Executive

1 Salary Schedule (section 5314 of title 5, United States
2 Code).

3 **TITLE II—CONFORMING**
4 **AMENDMENTS**

5 **SEC. 201. CONFORMING AMENDMENTS.**

6 (a) Section 103(e)(2) of the INA, 8 U.S.C. section
7 1103(e)(2), is amended by striking “district office of the
8 Service” and inserting “designated office of the Immigra-
9 tion and Naturalization Service”.

10 (b) Section 242(b)(3)(A) of the INA, 8 U.S.C. section
11 1252(b)(3)(A), is amended by striking “Service district”
12 and inserting “designated office of the Immigration and
13 Naturalization Service”.

14 (c) Section 316 of the INA, 8 U.S.C. section 1427,
15 is amended—

16 (1) in section (a) by striking “district of the
17 Service” and inserting “area serviced by the des-
18 igned office of the Immigration and Naturalization
19 Service”; and

20 (2) in section (f)(1) by striking “district of the
21 Service” and inserting “area serviced by the des-
22 igned office of the Immigration and Naturalization
23 Service”.

24 (d) Section 319 of the INA, 8 U.S.C. section 1430,
25 is amended—

1 (1) in section (a) by striking “district of the
2 Service” and inserting “area serviced by the des-
3 ignated office of the Immigration and Naturalization
4 Service”;

5 (2) in section (b)(3) by striking “district of the
6 Service” and inserting “area serviced by the des-
7 ignated office of the Immigration and Naturalization
8 Service”;

9 (3) in section (c)(5) by striking “district of the
10 Service” and inserting “area serviced by the des-
11 ignated office of the Immigration and Naturalization
12 Service”; and

13 (4) in section (d) by striking “district of the
14 Service” and inserting “area serviced by the des-
15 ignated office of the Immigration and Naturalization
16 Service”.

17 (e) Section 324 of the INA, 8 U.S.C. section
18 1435(a)(1), is amended by striking “district of the Serv-
19 ice” and inserting “area serviced by the designated office
20 of the Immigration and Naturalization Service”.

21 (f) Section 328 of the INA, 8 U.S.C. section 1439,
22 is amended—

23 (1) in section (a) by striking “district of the
24 Service” and inserting “area serviced by the des-

1 ignated office of the Immigration and Naturalization
2 Service”;

3 (2) in section (b)(1) by striking “district of the
4 Service” and inserting “area serviced by the des-
5 ignated office of the Immigration and Naturalization
6 Service”; and

7 (3) in section (c) by striking “district of the
8 Service” and inserting “area serviced by the des-
9 ignated office of the Immigration and Naturalization
10 Service”.

11 (g) Section 329(b)(2) of the INA, 8 U.S.C. section
12 1440(b)(2), is amended by striking “district of the Serv-
13 ice” and inserting “area serviced by the designated office
14 of the Immigration and Naturalization Service”.

15 (h) Section 335(f) of the INA, 8 U.S.C. section
16 1446(f), is amended by striking “district of the Service”
17 each time the phrase appears and inserting “area serviced
18 by the designated office of the Immigration and Natu-
19 ralization Service”.

20 (i) Section 338 of the INA, 8 U.S.C. section 1449,
21 is amended by striking “district office of the Service” and
22 inserting “designated office of the Immigration and Natu-
23 ralization Service”.

24 (j) Section 339(b) of the INA, 8 U.S.C. section
25 1450(b), is amended by striking “district office of the

1 Service” and inserting “designated office of the Immigra-
2 tion and Naturalization Service”.

3 (k) Section 404 of the INA, 8 U.S.C. section 1101,
4 note, is amended—

5 (1) in section (b)(2)(A)(i) by striking “a district
6 director of the Service” and inserting “a designated
7 Immigration and Naturalization Service officer”;
8 and

9 (2) in (b)(2)(A)(iii) by striking “in a district”
10 and inserting “in a designated office of the Immi-
11 gration and Naturalization Service”.

○