

**THE WHITE HOUSE**

WASHINGTON

1/23/2017

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: ANDREW BREMBERG

SUBJECT: Executive Order on Protecting Taxpayer Resources by Ensuring Our Immigration Laws Promote Accountability and Responsibility

Purpose

With this Executive Order, President Trump will help fulfill a number of key campaign promises by ensuring that our immigration laws are enforced in a manner that promotes accountability and responsibility, thereby protecting American taxpayers and promoting immigrant self-sufficiency.

Background

Our country's immigration laws are designed to protect American taxpayers and promote immigrant self-sufficiency. Yet, households headed by aliens (legal and illegal) are much more likely than households headed by native-born citizens to use federal means-tested public benefits. Our immigration laws must be enforced in a manner that achieves the goal of protecting our taxpayers and promoting self-sufficiency. Indeed, for over a century it has been the policy of the United States, as required by statute, to deny entry to foreigners who are likely to become a public charge, but past administrations in recent years have failed to enforce this policy. The immigration laws must ensure the United States does not welcome individuals who are likely to become or have become a burden on taxpayers.

Discussion

This Executive Order fulfills several key campaign promises related to immigration by, among other things: (1) directing the Director of the Office of Management and Budget to compile a report detailing how the federal government will save \$100 billion by ensuring that aliens receive only the public benefits that they are eligible to receive, and that the sponsors of aliens fulfill their obligations to reimburse the government for the cost of welfare benefits provided to such aliens; (2) requiring DHS and the State Department to establish new standards and regulations for determining when aliens will become subject to the "public charge" grounds of inadmissibility and deportability (i.e. their likelihood of requiring public assistance after being admitted to the United States); (3) directing the Commissioner of Social Security to issue a report on the impact of low-skilled foreign workers on the Social Security Trust Fund's long-term solvency; (4) directing the Secretary of State to publish a report on the long-term costs of the Refugee Admissions Program at the federal, state, and local levels; and, (5) directing DHS

and the State Department to submit a report on the efforts that they are taking to combat the birth-tourism phenomenon.

**Recommendation**

I recommend that you sign the attached Executive Order.

Approve \_\_\_\_\_

Disapprove \_\_\_\_\_

Needs more discussion \_\_\_\_\_

Executive Order—Protecting Taxpayer Resources by Ensuring Our Immigration Laws Promote Accountability and Responsibility

EXECUTIVE ORDER

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PROTECTING TAXPAYER RESOURCES BY ENSURING OUR IMMIGRATION LAWS PROMOTE ACCOUNTABILITY AND RESPONSIBILITY

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193), as amended (PRWORA), I hereby order as follows:

Section 1. Purpose. Our country's immigration laws are designed to protect American taxpayers and promote immigrant self-sufficiency. Yet households headed by aliens are much more likely than those headed by citizens to use Federal means-tested public benefits. Our immigration laws must be enforced in a manner that protects our taxpayers and promotes self-sufficiency.

Sec. 2. Policy. It is the policy of the United States to:

- (a) deny admission to any alien who is likely to become a public charge;
- (b) identify and remove, as expeditiously as possible, any alien who has become a public charge and is subject to removal; and
- (c) seek reimbursement from all sponsors of immigrants for the costs of Federal means-tested public benefits provided to sponsored immigrants.

Sec. 3. Reforms to Immigration Policies and Procedures. In furtherance of the policies described in section 2 of this order, I hereby direct:

- (a) the Secretary of Homeland Security:
  - (i) to rescind any field guidance concerning the inadmissibility or deportability of aliens on the ground that they are likely to be or have become public charges, as applicable (public-charge grounds), and replace it immediately with new field guidance consistent with the provisions of this order;
  - (ii) to propose for notice and comment a rule that provides standards for determining which aliens are inadmissible or deportable on public-charge grounds, and that specifies that an alien is inadmissible as a public charge if he is likely to receive, and is deportable as a public charge if he does receive, public benefits for which eligibility or amount is determined in any way on the basis of income, resources, or financial need;

(iii) to propose for notice and comment a rule that provides standards for determining whether an alien is deportable under 8 U.S.C. 1227(a)(5) for having become a public charge within five years of entry, from causes not affirmatively shown to have arisen since entry, and that defines “public charge” in a manner consistent with section 3(a)(ii) of this order;

(iv) to propose for notice and comment a rule that defines “means-tested public benefits” under 8 U.S.C. 1183a for purposes of Federal programs, and that require reimbursement from sponsors of aliens who have signed affidavits of support under 8 U.S.C. 1183a(a)(1), to include all Federal programs for which eligibility for benefits, or the amount of such benefits, are determined in any way on the basis of income, resources, or financial need; and

(v) within 270 days of the date of this order, to submit to the President a report, in consultation with the Secretary of State and the Governor of the Commonwealth of the Northern Mariana Islands, describing steps taken to combat the problem of “birth tourism,” whereby individuals travel for the purpose of giving birth in the United States.

(b) the Attorney General to certify immediately and review any Board of Immigration Appeals decisions that have frustrated or impeded Department of Homeland Security enforcement of the public-charge grounds of inadmissibility and deportability;

(c) the Secretary of State:

(i) within one year of the date of this order, to provide a report on the long-term costs of the Refugee Admissions Program at the Federal, State, and local levels; and

(ii) within six months of the date of this Order, to amend the Foreign Affairs Manual to ensure that its public-charge provisions are consistent with the goals of this Order;

(d) the Secretary of the Treasury, to propose for notice and comment a rule that requires submission of a Social Security Number by a taxpayer and by the taxpayer’s qualifying dependent child to claim the Child Tax Credit;

(e) the Director of the Office of Management and Budget:

(i) within one year of the date of this order, to provide a report detailing how much the Federal Government could realize in savings by ensuring that aliens receive Federal public benefits, including Federal means-tested public benefits, Supplemental Security Income, Food Stamps, Temporary Assistance for Needy Families, Social Service Block Grants, and Medicaid only as allowed by PRWORA and ensuring that executive departments and agencies that provide Federal means-tested public benefits to sponsored immigrants obtain reimbursement from the immigrants’ sponsors who have signed legally enforceable affidavits of support;

(ii) within one year of the date of this order, to provide a report detailing how any savings can be invested in programs and services designed to benefit impoverished American communities, including inner-city communities, and to disadvantaged youth; and

(iii) every six months after submitting the report described in paragraph (i) of this subsection, to provide a report detailing the extent of the Federal Government's success in ensuring that aliens receive federal public benefits, including Federal means-tested public benefits, Supplemental Security Income, Food Stamps, Temporary Assistance for Needy Families, Social Service Block Grants, and Medicaid only as allowed by PRWORA and in obtaining reimbursement from the sponsors of immigrants for the Federal means-tested public benefits provided to the immigrants;

(f) the Council of Economic Advisers:

(i) to provide a report within six months after the conclusion of each new fiscal year on the cost to American taxpayers of providing means-tested public benefits in that fiscal year to households headed by illegal aliens;

(ii) to provide a report within six months after the conclusion of each new fiscal year on the number of non-citizens receiving means-tested public benefits in such fiscal year;

(iii) within one year of the date of this order, to provide a report on the impact of low-skilled immigrant workers on the long-term solvency of the Social Security Trust Fund;

(g) the Secretary of State and the Secretary of Homeland Security, in consultation with the Commissioner of Social Security, within 18 months of the date of this order, to implement fully, to the extent permitted by law, the recommendations set forth in the Social Security Benefits Reform Joint Working Group Study, in order to prohibit aliens from receiving, for Social Security benefit eligibility purposes, credit for wages earned during periods of unauthorized work;

(h) the Director of the Census Bureau to publish an annual report comparing welfare use among alien-headed households and U.S. citizen-headed households; and

(i) the heads of all executive departments and agencies:

(i) to seek reimbursement from sponsors who signed legally enforceable affidavits of support under 8 U.S.C. 1183a(a)(1) for the costs of Federal means-tested public benefits within their authority that were provided to sponsored aliens, and bring court actions against or refer to the Attorney General those sponsors if necessary to compel reimbursement;

(ii) following the issuance of the proposed rule issued pursuant to the directive in section 3(a)(iv) of this order, to propose for notice and comment a rule, consistent with such

proposed rule, that lists all Federal benefits within their authority for which eligibility or amount is determined on the basis of income, resources, or financial need as “Federal means-tested public benefits” for purposes of determining the eligibility of aliens for those benefits under PRWORA; and

(iii) inform the Department of Homeland Security whenever they provide any alien with Federal means-tested public benefits, as defined in the proposed rule issued pursuant to the directive in section 3(a)(iv) of this order.

Sec. 4. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

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

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

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

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.