

October 23, 2014

The Honorable Jackson Miller  
General Assembly Building  
P.O. Box 406  
Richmond, Virginia 23218

**RE: Virginia Driver's License Integrity**

Dear Delegate Miller,

I write on behalf of the Federation for American Immigration Reform, a nonprofit, nonpartisan public interest membership organization of concerned citizens who share a common belief that our nation's immigration policies must be reformed to improve border security, stop illegal immigration, and promote immigration levels consistent with the national interest.

Virginia's New Majority, an illegal alien advocacy organization, issued a press release this week indicating that it has requested your presence on Friday to hear stories and testimonies on the impact of barring illegal aliens from gaining drivers licenses. On behalf of our members who reside in Virginia, we respectfully and strongly urge you to protect the interests of Virginia residents, families, and taxpayers and not consider its proposal because such policies threaten public safety, reward illegal conduct, and are bad public policy.

In its press release, Virginia's New Majority included six statements from the National Immigration Law Center's *Access to Driver's License Toolkit* to support its appeal for driver's licenses. As discussed in detail below, these statements do not adequately represent the consequences of granting state-issued identity documents to foreign nationals who are unlawfully present in the United States.

- **The press release claims that illegal aliens will be easier to track by law enforcement if they are included in state driver's license databases.**

Granting a valid state-issued driver's license to an illegal alien does not guarantee that the information provided will be accurate or that the license was not fraudulently obtained. States that grant driver's licenses to illegal aliens experience high rates of identity and document fraud because illegal aliens often depend on foreign or forged documents to prove their identities.

New Mexico, for example, provides a substantial amount of evidence of the ills of providing driver's licenses to illegal aliens because it has provided driver's licenses to

illegal aliens for more than 10 years. In 2003, New Mexico amended its driver's license statute to allow foreign nationals to obtain a driver's license regardless of immigration status.<sup>1</sup> State regulation requires applicants to provide only documentary proof of their tax identification number, identity, and residency.<sup>2</sup> As of 2011, more than 80,000 foreign nationals possessed a New Mexico driver's license.<sup>3</sup> Because New Mexico does not inquire into applicants' immigration status, the specific number of driver's licenses possessed by illegal aliens is unknown.<sup>4</sup>

Since July of 2010, anyone applying for the state's foreign national driver's license must make an appointment with the New Mexico Motor Vehicle Division (MVD). MVD offices review applications and grant a temporary driver's license to persons who meet the documentary requirements. The application is then passed on to the New Mexico Taxation & Revenue Department's Tax Fraud Investigations Division (TRD-TFID), who oversees the MVD.

During an audit between August 2010 and April 2011, TRD-TFID investigators found pervasive fraud. Investigators estimated that as much as **75 percent of foreign national license applications were phonies**.<sup>5</sup> Investigators found some phone numbers were used dozens of times to make appointments. One New Mexico number was used 228 times and a phone number with an Arizona area code was used 24 times.<sup>6</sup> Certain home and business addresses in New Mexico have been used by dozens of illegal aliens, many apparently from out of state, to obtain driver's licenses. One address in Albuquerque was used more than 70 times in the application process.<sup>7</sup> Thirty-one people used the same address to obtain driver's licenses over a 29 month period; over a dozen used an automotive repair shop over a 1 year period; and almost 50 foreign nationals said they lived at a particular smoke shop in Albuquerque, in order to obtain a license.<sup>8</sup> Between August 2010 and April 2011, 37 percent of the 16,000 foreign national requests for appointments came from out-of-state, most from Arizona, Georgia, and Texas.<sup>9</sup>

The TRD-TFID also uncovered the following specific acts of fraud:

- In November 2010, three Chinese nationals were arrested in Albuquerque after they attempted to acquire licenses with forged residency documents.

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<sup>1</sup> N.M. Stat. Ann. § 66-5-9 (2012).

<sup>2</sup> N.M. Admin. Code § 8.19.5.12 (2012).

<sup>3</sup> Stephen Clark, *States Revise Rules on Driver's Licenses for Illegal Immigrants as National ID Approaches*, FOX NEWS, Feb. 17, 2011, available at <http://www.foxnews.com/politics/2011/02/17/states-revise-rules-drivers-licenses-illegal-immigrants-national-id-approaches/>.

<sup>4</sup> *Id.*

<sup>5</sup> *Immigrant License Fraud Increases*, KRQE, available at <http://www.youtube.com/watch?v=xrWkoXD9ND4>.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> Barry Massey, *New Mexico driver's license data point to fraud*, Jan. 25, 2012, available at [www.foxnews.com/us/2012/01/25/ap-enterprise-nm-license-data-points-to-fraud/#ixzz23jrd3VZM](http://www.foxnews.com/us/2012/01/25/ap-enterprise-nm-license-data-points-to-fraud/#ixzz23jrd3VZM)

<sup>9</sup> *Id.*

They had paid \$500 per person to obtain forged documents showing New Mexico residence in order to obtain driver's licenses.<sup>10</sup>

- In October 2010, State Police arrested two Chinese nationals accused of being part of an illegal driver's license scheme at an MVD office in Santa Fe. Shunxian Feng, 33, flew in from China for the sole purpose of getting a driver's license. Workers at MVD became suspicious after seeing Feng with Shu Juan Liu, whom workers had noticed at MVD several times. Shu Juan Liu fled, but Feng and Yue Xian Liu, 50, were arrested and charged with conspiracy and forging a fictitious license.<sup>11</sup>
- In September 2010, State Police arrested a Costa Rican national in Albuquerque for his suspected role in helping four illegal immigrants obtain driver's licenses. He is accused of using fake lease agreements to secure licenses. He was charged with four counts of conspiracy and six counts of forgery.<sup>12</sup>
- In September 2010, State Police arrested a Brazilian man who tried to obtain licenses for two other Brazilians in Albuquerque. The man was paid \$3,000 to fly them into New Mexico. He was charged with two counts of conspiracy to commit a felony.<sup>13</sup>
- In July 2010, a 32-year-old Illinois man was arrested after helping two Polish illegal aliens who live in Illinois get licenses in Albuquerque. The Illinois man, who pleaded guilty in federal court for transporting illegal immigrants, charged the immigrants \$1,000 each to drive them to New Mexico to obtain forged residency documents.<sup>14</sup>
- In 2011, four illegal aliens were arrested after conspiring to fraudulently obtain New Mexico driver's licenses. The ring leader, who made 26 appointments for illegal aliens with the MVD and charged \$6,000 per individual to obtain a driver's license, temporarily leased an apartment and bought insurance from a local insurance agent in the illegal aliens' names in an effort to fraudulently prove residency.<sup>15</sup>
- In 2012, three Polish illegal aliens were arrested after renting an apartment, opening a bank account and receiving an ITIN from the IRS in an attempt to prove residency even though they had no plans of staying in New Mexico. The men admittedly hatched the scheme after hearing that it was easy for illegal aliens to obtain a New Mexico driver's license.<sup>16</sup>

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<sup>10</sup> New Mexico Taxation & Revenue Department, Press Release, Aug. 9, 2013, *Illegal Immigrants Indicted in New Mexico Driver's License Scheme*, available at <http://www.tax.newmexico.gov/uploads/PressRelease/e19f5d4c8b014c6d870f8073d673341b/Illegal%20Immigrants%20Indicted%20In%20New%20Mexico%20Drivers%20License%20Scheme.pdf>

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Polish Men Arrested for Driver's License Fraud*, KRQE, available at <http://www.youtube.com/watch?v=JB-KLU7M27A>

- In 2012, a man was sentenced to six months of home detention with an electronic ankle bracelet after he pleaded guilty to the crime of conspiracy to transport illegal aliens. When arrested, the man was driving an illegal alien to obtain a driver's license for which fraudulent documents were procured from two alleged conspirators. As the sentencing hearing, Senior U.S. District Judge James A. Parker commented, "I'll just comment that this case to my mind demonstrates why it is unreasonable for the state of New Mexico to authorize the issuance of driver's licenses to people who are unlawfully in the United States."<sup>17</sup>

New Mexico Governor Susana Martinez has repeatedly pushed for legislation that would stop the licensing practice and cancel licenses given by the state to foreign nationals.

Illegal aliens by definition do not have valid U.S. identification or work authorization documents. Therefore, they depend on foreign or forged documents when necessary. Granting driver's licenses to illegal aliens will likely require officials accept consular identification documents, foreign passports, and foreign birth, marriage, adoption and divorce certificates as proof of identification. Most state DMV offices, however, do not have the capacity to verify the validity of these documents, which invites fraud and abuse.

- **The press release claims that granting driver's licenses to illegal aliens will aid law enforcement efforts to combat national security threats.**

To the contrary, granting driver's licenses to illegal aliens will only create additional public safety and national security threats. Unlike legal immigrants, illegal aliens are not subject to stringent background checks or face-to-face interviews to determine the existence of any national security threat that they might pose. Consequently, by making illegal aliens eligible to obtain driver's licenses in the Commonwealth of Virginia, our nation becomes more vulnerable to terrorist attack.

A driver's license is a critical document that alone, or in conjunction with other documents, allows one to live, work, bank, and move about with ease, without drawing any unwelcome attention. It is the "platinum visa" for any international terrorist to use throughout the United States. While driver's licenses are not created with the purpose of proving identity, they are the most widely accepted form of identification in the United States as proof of identity or age. State driver's licenses are used for proof of identity to board planes, cash checks, purchase alcohol and to gain access to state and federal government buildings, among other activities. And because driver's licenses are the most widely accepted form of identification in the United States, their reliability is of utmost importance for homeland security.

For this reason, the 9/11 hijackers made certain to obtain a variety of driver's licenses while they plotted their mission. Eighteen out of the nineteen 9/11 hijackers were in possession

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<sup>17</sup> Scott Sandlin, Judge Blasts Driver's License Law, THE ALBUQUERQUE JOURNAL, Jan. 20, 2012, available at <http://www.abqjournal.com/main/2012/01/19/news/judge-blasts-drivers-license-law.html>.

of at least one form of U.S. identification document.<sup>18</sup> Among them, the hijackers possessed over 30 state driver's licenses from various states including Virginia, Florida, California, Arizona and Maryland.<sup>19</sup> Janice Kephart, counsel for the 9/11 Commission, testified that these identity documents proved critical to the 9/11 terrorists. Ms. Kephart explained: "The hijackers' acquisition of driver's licenses and identification cards was clearly part of the hijackers' overall travel strategy that included fraud in every aspect of their travel: using fraudulently altered passports to obtain visas, entry, and immigration benefits through fraud."<sup>20</sup>

Those state driver's licenses assisted the hijackers in boarding the commercial flights, renting cars, obtaining housing and other activities that led to the most devastating terrorist attack ever on American soil.<sup>21</sup> Prior to 9/11, one of the hijackers, an illegal alien with an expired visa, was stopped by a law enforcement officer but did not arouse suspicion because he showed a valid driver's license.<sup>22</sup> The hijacker had entered the United States on a six-month tourist visa and was issued a Florida driver's license with an expiration date six years after he flew a commercial airplane into the North Tower of the World Trade Center killing thousands of innocent people.<sup>23</sup>

Furthermore, any criminal alien in possession of a driver's license gains an immeasurable advantage in his ability to prey on innocent Virginians. In testimony before the U.S. House Judiciary Committee, the FBI described the value to criminals of obtaining a driver's license:

Once in possession of a driver's license, a criminal is well on his way to using the false identity to facilitate a variety of crimes, from money laundering to check fraud. And of course, the false identity serves to conceal a criminal who is already being sought by law enforcement. . . . Such false identities are particularly useful to facilitate the crime of money laundering, as the criminal is able to establish one or more bank accounts under completely fictitious names. Accounts based upon such fraudulent premises greatly hamper money-laundering investigations once the criminal activity is discovered. As the Subcommittee is well aware, the FBI is particularly concerned about fraudulent financial transactions in the post 9/11

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<sup>18</sup> The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks upon the United States, *What to Do? A Global Strategy*, at 390 (2004), available at <http://ccis.ucsd.edu/wp-content/uploads/2012/07/wrkg140.pdf>.

<sup>19</sup> *Id.*

<sup>20</sup> Testimony of Janice L. Kephart before the U.S. Senate Judiciary Subcommittee on Immigration, Border Security and Citizenship and the U.S. Senate Judiciary Subcommittee on Terrorism, Technology, and Homeland Security, *Border Security and Enforcement: The 9/11 Commission Staff Report on Training for Border Inspectors, Document Integrity, and Defects in the U.S. Visa Program*. (March 14, 2005).

<sup>21</sup> The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks upon the United States, *What to Do? A Global Strategy*, at 407 (2004), available at <http://ccis.ucsd.edu/wp-content/uploads/2012/07/wrkg140.pdf>.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

environment, given the fact that foreign terrorists often rely on money transferred from within the United States.<sup>24</sup>

The Virginia General Assembly should not make it easier for aliens whose backgrounds have not been verified by the federal government to live, work, and travel unsuspected in the United States by providing taxpayer-funded driver's licenses to illegal aliens.

- **The press release claims that granting driver's licenses to illegal aliens will increase the rate of insured drivers.**

Granting driver's licenses to illegal aliens does not guarantee that they will purchase auto insurance. While many states' laws require all motorists to have auto insurance, there is no reason to think that illegal aliens, having disregarded so many other laws, would obey this one. What is mistakenly assumed is that illegal aliens, who generally are low-income, have the cash available to acquire auto insurance plus the incentive to buy it in order to protect what little assets they have. While a few illegal aliens may be willing and able to buy insurance, on the whole it will not significantly reduce the number of uninsured drivers.

A 2011 study published in the *Journal of Insurance Regulation* reported that the average percentage of uninsured motorists is actually higher in states that have no lawful presence requirement for obtaining driving privileges.<sup>25</sup> Indeed, New Mexico, who has issued driver's licenses to unlawfully present persons since 2003, is also home to the nation's fourth highest percentage of uninsured drivers at 21.6 percent.<sup>26</sup>

Furthermore, providing driver's licenses to illegal aliens may only increase rates of insurance fraud. According to a 2010 report from the National Insurance Crime Bureau, Florida, New York, California, Texas, and Illinois were the top five states that generated the most staged accident questionable claims, and all five states were also reported to have the highest illegal alien population at the time. In Florida, the insurance division of the Florida Department of Financial Services reported that arrests for personal injury protection fraud increased 55 percent in just one year. Officials attribute the increase to illegal aliens being told they could pay off the price of being smuggled into the country by faking injuries in staged crashes.

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<sup>24</sup> Testimony of Steve McCraw, Assistant Director of The Office of Intelligence, FBI before the House Judiciary Subcommittee on Immigration, Border Security, and Claims on Consular ID Cards, *Consular ID Cards in a Post-9/11 World* (June 26, 2003).

<sup>25</sup> J. Tim Query, Ph.D. and Risa Kumazawa, Ph.D., *Examining the Impact of Issuing Driver's Licenses to Undocumented Immigrants and Other Socioeconomic Factors on the Percentage of Uninsured Motorists*, 2011 National Association of Insurance Commissioners, available at <http://business.nmsu.edu/~tquery/research/UM-NM%20FINAL%20JIR%20VERSION.pdf>.

<sup>26</sup> Insurance Information Institute, *Uninsured Motorists, Estimated Percentage of Uninsured Motorists by State*, 2012, available at <http://www.iii.org/fact-statistic/uninsured-motorists>.

- **The press release claims that granting driver's licenses to illegal aliens will result in safer roads and highways.**

Any statements suggesting that granting driver's licenses to illegal aliens will improve safety conditions on Virginia's roads and highways are unfounded. In 2011, the AAA Foundation for Traffic Safety released a report that analyzed traffic accident data collected by the National Highway Traffic Safety Administration's Fatality Analysis Reporting System database.<sup>27</sup> The AAA report reveals that from 2007-2009 less than 5 percent of the drivers involved in fatal car accidents nationwide were unlicensed drivers.<sup>28</sup> More than 95 percent of all drivers involved in fatal car accidents were licensed drivers or driver's whose licenses were suspended, revoked, expired, cancelled, or denied.<sup>29</sup> As a result, any correlation asserted by advocates of illegal alien driver's licenses between road safety and unlicensed illegal alien drivers is tenuous at best.

By the same token, it defies common sense to contend that the best way to combat accidents by illegal aliens is to give them all driver's licenses. If states really want to prevent crashes by unlicensed drivers, the state would discourage them from driving in the first place. This could be done in a variety of ways, but it is certainly not done by lowering standards for driver's licenses.

What Virginia's New Majority's press release did not highlight, however, is that granting driver's licenses to illegal aliens will serve as a perverse incentive for illegal aliens to move to Virginia. Illegal immigration is a burden to every state and city as it results in higher costs of living, reduced job availability,<sup>30</sup> lower wages,<sup>31</sup> higher crime rates,<sup>32</sup> fiscal hardship on hospitals

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<sup>27</sup> AAA FOUNDATION FOR TRAFFIC SAFETY, *Unlicensed to Kill*, November 2011, available at <https://www.aaafoundation.org/sites/default/files/2011Unlicensed2Kill.pdf>

<sup>28</sup> *Id.* at 5, 6. The 5 percent figure includes not only illegal aliens, but citizens and legal residents as well. Thus, the percentage of fatal crashes involving illegal alien unlicensed drivers is reduced further.

<sup>29</sup> *Id.*

<sup>30</sup> There is no such thing as an "illegal alien job." Illegal aliens and natives compete for the same jobs, and native workers are increasingly disadvantaged because employers have access to a steady supply of low-wage foreign workers. Illegal immigration has a disproportional impact on poor Americans. Because a large proportion of illegal aliens are low-skilled workers, they are more likely to compete with and undercut the wages of low-skill native workers. See Jeffrey S Passel and D'Vera Cohn, *A Portrait of Unauthorized Immigrants in the United States*, Pew Research Center, Apr. 2009, at 11-12, available at <http://pewhispanic.org/files/reports/107.pdf>

<sup>31</sup> In Georgia, where the illegal alien share of the labor force went from about 4 percent to 7 percent from 2000 to 2007, a study by the Federal Reserve found that the illegal labor caused a 2.5 percent wage drop overall and a 11 percent drop in construction wages over that time period. See Julie L. Hotchkiss and Myriam Quispe-Agnoli, *The Labor Market Experience and Impact of Undocumented Workers*, Federal Reserve Bank of Atlanta, Feb. 2008, at 36, 39, available at <http://www.frbatlanta.org/filelegacydocs/wp0807c.pdf>. Harvard University's George Borjas concluded that immigration reduced wages for the poorest 10 percent of Americans by about 7.4 percent between 1980 and 2000 with even larger effects for workers with less than 20 years of experience. George J. Borjas, *Increasing the Supply of Labor through Immigration: Measuring the Impact on Native Workers, Background*, Center for Immigration Studies, May 2004, at 1, available at <http://www.cis.org/sites/cis.org/files/articles/2004/back504.pdf>

<sup>32</sup> The Federal Bureau of Prisons (FBS) reported that, although illegal aliens only make up an estimated 3.7 percent of the United States population, non-citizens account for 26 percent of the federal jail population. See United States Department of Justice, FBS, *State of the Bureau*, at 3 (2010), available at

and substandard quality of care for residents,<sup>33</sup> burdens on public services, increasing their costs and diminishing their availability,<sup>34</sup> and a reduction on the overall quality of life. As of 2010, the cost of illegal immigration to Virginia taxpayers is estimated to be over \$1.9 billion a year.<sup>35</sup> Granting driver's licenses to illegal aliens will only serve to burden the state more.

It is not fair to constituents to continue to increase taxes, cut their benefits, and mortgage against their children's futures while expanding benefits for illegal aliens. Providing driving privileges to illegal aliens will only encourage illegal aliens to remain in the state and continue to work in the underground economy for lower wages – severely undercutting American workers and yielding little to no tax revenue for the Commonwealth. Virginia must not invite illegal aliens to the state and place the fiscal burden of providing education, health care and other services to illegal aliens on the backs of taxpayers.

Also, legislators should not spend scarce resources by granting driver's licenses to illegal aliens who are subject to immediate deportation. States have a legitimate interest in restricting licenses to those who are citizens or legal residents because of the concern that persons subject to immediate deportation will not be financially responsible for property damage or personal injury due to automobile accidents.

Granting driver's licenses to illegal aliens also insults legal immigrants who patiently waited for months and years for the U.S. State Department and U.S. Department of Homeland Security to approve their application for admission or adjustment and paid thousands of dollars in travel, legal and medical fees to abide by the entry, employment, health and processing laws and regulations.<sup>36</sup>

Finally, granting driver's licenses to illegal aliens conflicts with and frustrates the purposes and objectives of federal immigration law. Federal law clearly states under what

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<http://www.bop.gov/resources/publications.jsp>. DHS estimates that non-citizens nationally comprise 20 percent of inmates in prisons and jails. See Center for Immigration Studies, *Immigration and Crime: Assessing a Conflicted Issue* at 1 (Nov. 2009), available at <http://www.cis.org/sites/cis.org/files/articles/2009/crime.pdf>. Even so, every crime an illegal alien commits in the United States was potentially preventable if the alien had been identified, apprehended, and removed before they victimized anyone.

<sup>33</sup> The national annual state and local costs related to health care for Illegal aliens is \$5.8 billion. See FAIR, *The Fiscal Burden of Illegal Immigration on United States Taxpayers* (2010), available at <http://www.fairus.org/publications/the-fiscal-burden-of-illegal-immigration-on-u-s-taxpayers>.

<sup>34</sup> Illegal immigration costs United States taxpayers about \$113 billion a year at the federal, state and local level. *Id.* The bulk of the costs — some \$84 billion — are absorbed by state and local governments. *Id.*

<sup>35</sup> FAIR, *Immigration in Virginia* (2010), available at [http://www.fairus.org/DocServer/state-cost/virginia\\_state\\_cost\\_illegal\\_immigration.pdf](http://www.fairus.org/DocServer/state-cost/virginia_state_cost_illegal_immigration.pdf).

<sup>36</sup> See Michelle Malkin, *Amnesty Gang Throws Law-Abiders Under the Bus*, TOWNHALL, January 30, 2013, available at <http://townhall.com/columnists/michellemalkin/2013/01/30/amnesty-gang-throws-lawabiders-under-the-bus-n1500802/page/full/> (“President Obama and the bipartisan Gang of Eight in Washington who want to create a ‘pathway to citizenship’ for millions of illegal aliens have sent a message loud and clear to those who follow the rules: You’re chumps! Have you patiently waited for months and years for the State Department and Department of Homeland Security to slog through your application? You’re chumps! Have you paid thousands of dollars in travel, legal and medical fees to abide by the thicket of entry, employment, health and processing regulations? You’re chumps! Have you studied for your naturalization test, taken the oath of allegiance to heart, embraced our time-tested principle of the rule of law, and demonstrated that you will be a financially independent, productive citizen? You’re chumps!”).



circumstances a person may legally reside in the United States.<sup>37</sup> An illegal alien, by definition, does not possess lawful presence and is subject to immediate removal. Granting driver's licenses to illegal aliens treats them as if they are lawfully present and facilitates illegal conduct. A driver's license is one of the most useful single items of identification for creating an appearance of lawful presence. Providing identification and driving privileges to illegal aliens only enables the illegal aliens to continue to live, work, and vote in states unlawfully in contradiction to federal law.

We, therefore, respectfully and strongly urge you to reject Virginia's New Majority's proposal of granting driver's licenses to illegal aliens.

Thank you for your time and consideration. Please feel free to contact me if you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Elizabeth Jacobs', written in a cursive style.

ELIZABETH JACOBS  
STATE & LOCAL COUNSEL

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<sup>37</sup> See the Immigration and Nationality Act, 8 U.S.C. § 1101, *et seq.*