

118TH CONGRESS  
1ST SESSION

# S. 2038

To amend the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide certain benefits to noncitizens, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JUNE 15, 2023

Ms. HIRONO (for herself, Ms. WARREN, Mr. BROWN, Mr. WELCH, Mr. PADILLA, Mr. MARKEY, Mrs. MURRAY, Mr. SANDERS, Mrs. GILLIBRAND, Mr. BOOKER, Mr. HEINRICH, and Mr. LUJÁN) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide certain benefits to noncitizens, 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 TITLES.**

4 This Act may be cited as the “Lifting Immigrant  
5 Families Through Benefits Access Restoration Act of  
6 2023” or the “LIFT the BAR Act of 2023”.

1 **SEC. 2. AVAILABILITY OF BASIC ASSISTANCE TO LAWFULLY**  
2 **PRESENT NONCITIZENS.**

3 (a) **ELIMINATION OF ARBITRARY ELIGIBILITY RE-**  
4 **STRICTIONS.—**

5 (1) **IN GENERAL.—**Sections 402, 403, 411, 412,  
6 421, and 422 of the Personal Responsibility and  
7 Work Opportunity Reconciliation Act of 1996 (8  
8 U.S.C. 1612, 1613, 1621, 1622, 1631, and 1632)  
9 are repealed.

10 (2) **CONFORMING AMENDMENTS.—**Title IV of  
11 the Personal Responsibility and Work Opportunity  
12 Reconciliation Act of 1996 (8 U.S.C. 1601 et seq.)  
13 is amended—

14 (A) in section 401(b)(5) (8 U.S.C.  
15 1611(b)(5)), by striking “the program defined  
16 in section 402(a)(3)(A) (relating to the supple-  
17 mental security income program)” and inserting  
18 “the Supplemental Security Income Program  
19 under title XVI of the Social Security Act (42  
20 U.S.C. 1381 et seq.)”;

21 (B) in section 404(a) (8 U.S.C. 1614(a)),  
22 by striking “, 402, or 403”;

23 (C) in section 413 (8 U.S.C. 1625)—

24 (i) by striking “A State” and insert-  
25 ing the following:

1       “(a) STATE OR LOCAL PUBLIC BENEFIT DE-  
2 FINED.—In this section, the term ‘State or local public  
3 benefit’—

4           “(1) except as provided in paragraphs (2) and  
5 (3), means—

6           “(A) any grant, contract, loan, professional  
7 license, or commercial license provided by an  
8 agency of a State or local government or by ap-  
9 propriated funds of a State or local govern-  
10 ment; and

11           “(B) any retirement, welfare, health, dis-  
12 ability, public or assisted housing, postsec-  
13 ondary education, food assistance, unemploy-  
14 ment benefit, or any other similar benefit for  
15 which payments or assistance are provided to  
16 an individual, household, or family eligibility  
17 unit by an agency of a State or local govern-  
18 ment or by appropriated funds of a State or  
19 local government;

20           “(2) does not apply—

21           “(A) to any contract, professional license,  
22 or commercial license for a nonimmigrant  
23 whose visa for entry is related to such employ-  
24 ment in the United States, or to a citizen of a  
25 freely associated state, if section 141 of the ap-

1 plicable compact of free association approved in  
2 Public Law 99–239 or 99–658 (or a successor  
3 provision) is in effect;

4 “(B) with respect to benefits for an alien  
5 who as a work authorized nonimmigrant or as  
6 an alien lawfully admitted for permanent resi-  
7 dence under the Immigration and Nationality  
8 Act qualified for such benefits and for whom  
9 the United States under reciprocal treaty agree-  
10 ments is required to pay benefits, as determined  
11 by the Secretary of State, after consultation  
12 with the Attorney General; or

13 “(C) to the issuance of a professional li-  
14 cense to, or the renewal of a professional license  
15 by, a foreign national not physically present in  
16 the United States; and

17 “(3) does not include any Federal public ben-  
18 efit.

19 “(b) PROOF OF ELIGIBILITY REQUIREMENT.—A  
20 State”; and

21 (ii) in subsection (b), as redesignated,  
22 by striking “(as defined in section  
23 411(e))”;

1 (D) in section 432(d) (8 U.S.C. 1642(d)),  
2 by striking “(as defined in section 411(c))” and  
3 inserting “(as defined in section 413(a))”;

4 (E) in section 435 (8 U.S.C. 1645), by  
5 striking “(as provided under section 403)”;

6 (F) in section 436 (8 U.S.C. 1646)—

7 (i) by striking “the food stamp pro-  
8 gram (as defined in section 402(a)(3)(B))”  
9 and inserting “the supplemental nutrition  
10 assistance program established under the  
11 Food and Nutrition Act of 2008 (7 U.S.C.  
12 2011 et seq.)”; and

13 (ii) by striking “the supplemental se-  
14 curity income program (as defined in sec-  
15 tion 402(a)(3)(A))” and inserting “the  
16 Supplemental Security Income Program  
17 under title XVI of the Social Security Act  
18 (42 U.S.C. 1381 et seq.)”.

19 (b) QUALIFIED NONCITIZENS.—Title IV of the Per-  
20 sonal Responsibility and Work Opportunity Reconciliation  
21 Act of 1996 (8 U.S.C. 1601 et seq.) is amended—

22 (1) in the title header, by striking “**ALIENS**”  
23 and inserting “**NONCITIZENS**”;

24 (2) in the header of section 401 (8 U.S.C.  
25 1611), by striking “**ALIENS WHO ARE NOT**

1       **QUALIFIED ALIENS**” and inserting “**NONCITI-**  
2       **ZENS WHO ARE NOT QUALIFIED NONCITI-**  
3       **ZENS**”;

4           (3) by striking “qualified alien” each place such  
5       term appears and inserting “qualified noncitizen”;

6           (4) by striking “qualified aliens” each place  
7       such term appears and inserting “qualified nonciti-  
8       zens”;

9           (5) by striking “qualified alien’s” each place  
10       such term appears and inserting “qualified nonciti-  
11       zen’s”;

12          (6) by striking “an alien” each place such term  
13       appears and inserting “a noncitizen”;

14          (7) by striking “alien” each place such term ap-  
15       pears and inserting “noncitizen”;

16          (8) by striking “aliens” each place such term  
17       appears and inserting “noncitizens”; and

18          (9) by striking “alien’s” each place such term  
19       appears and inserting “noncitizen’s”.

20       (c) **ACCESS TO BASIC SERVICES FOR LAWFULLY RE-**  
21       **SIDING NONCITIZENS.**—Section 431 of the Personal Re-  
22       sponsibility and Work Opportunity Reconciliation Act of  
23       1996 (8 U.S.C. 1641) is amended—

24           (1) by striking subsection (b) and inserting the  
25       following:

1       “(b) QUALIFIED NONCITIZEN.—For purposes of this  
2 title, the term ‘qualified noncitizen’ means a noncitizen  
3 who, at the time the noncitizen applies for, receives, or  
4 attempts to receive a Federal public benefit, is lawfully  
5 present in the United States.”;

6           (2) in subsection (c)—

7           (A) in the header, by striking “QUALIFIED  
8 ALIENS” and inserting “QUALIFIED NONCITI-  
9 ZENS”;

10          (B) in paragraph (3), by striking “or” at  
11 the end;

12          (C) in paragraph (4), by striking the pe-  
13 riod at the end and inserting “; or”; and

14          (D) by inserting after paragraph (4) the  
15 following:

16       “(5) a noncitizen—

17           “(A) in a category that was treated as law-  
18 fully present for purposes of section 1101 of the  
19 Patient Protection and Affordable Care Act of  
20 2010 (42 U.S.C. 18001);

21           “(B) who met the requirements of section  
22 402(a)(2)(D) of the Personal Responsibility and  
23 Work Opportunity Reconciliation Act of 1996  
24 (8 U.S.C. 1612(a)(2)(D)) on or before January  
25 1, 2021;

1           “(C) who is granted special immigrant ju-  
2           venile status as described by section  
3           101(a)(27)(J) of the Immigration and Nation-  
4           ality Act (8 U.S.C. 1101(a)(27)(J));

5           “(D) who has a pending, bona fide applica-  
6           tion for nonimmigrant status under section  
7           101(a)(15)(U) of the Immigration and Nation-  
8           ality Act (8 U.S.C. 1101(1)(15)(U));

9           “(E) who was granted relief under the De-  
10          ferred Action for Childhood Arrivals program;  
11          or

12          “(F) who is not described in subpara-  
13          graphs (A) through (E), is not a citizen of the  
14          United States, resides in a State or territory of  
15          the United States, and is authorized by Federal  
16          law to be present in the United States.”; and  
17          (3) by adding at the end the following:

18          “(d) NONCITIZEN.—In this title, the term ‘noncit-  
19          izen’ means any individual who is not a citizen of the  
20          United States.”.

21          (d) CHILD NUTRITION PROGRAMS.—Section 742 of  
22          the Personal Responsibility and Work Opportunity Rec-  
23          onciliation Act of 1996 (8 U.S.C. 1615) is amended—

24                 (1) in subsection (a)—



1 (A) in the header by striking “SCHOOL  
2 LUNCH AND BREAKFAST PROGRAMS” and in-  
3 serting “CHILD NUTRITION PROGRAMS”;

4 (B) by striking “the school lunch pro-  
5 gram” and inserting “any program”; and

6 (C) by striking “the school breakfast pro-  
7 gram under section 4 of the” and inserting  
8 “any program under”; and

9 (2) in subsection (b), by amending paragraph  
10 (1) to read as follows:

11 “(1) IN GENERAL.—A State may not deny ben-  
12 efits under programs established under the provi-  
13 sions of law described in paragraph (2) on the basis  
14 of an individual’s citizenship or immigration sta-  
15 tus.”.

16 (e) EXCLUSION OF MEDICAL ASSISTANCE EXPENDI-  
17 TURES FOR CITIZENS OF FREELY ASSOCIATED STATES.—  
18 Section 1108(h) of the Social Security Act (42 U.S.C.  
19 1308(h)) is amended—

20 (1) by striking “Expenditures” and inserting:

21 “(1) IN GENERAL.—Expenditures”; and

22 (2) by adding at the end the following:

23 “(2) EXCEPTION.—With respect to eligibility  
24 for benefits under a State plan approved under title  
25 XIX (other than medical assistance described in sec-

1 tion 401(b)(1)(A) of the Personal Responsibility and  
2 Work Opportunity Reconciliation Act of 1996 (8  
3 U.S.C. 1611(b)(1)(A))), paragraph (1) shall not  
4 apply to any individual who lawfully resides in 1 of  
5 the 50 States or in the District of Columbia in ac-  
6 cordance with the Compacts of Free Association be-  
7 tween the Government of the United States and the  
8 Governments of the Federated States of Micronesia,  
9 the Republic of the Marshall Islands, and the Re-  
10 public of Palau and shall not apply, at the option of  
11 the Governor of Puerto Rico, the Virgin Islands,  
12 Guam, the Northern Mariana Islands, or American  
13 Samoa as communicated to the Secretary of Health  
14 and Human Services in writing, to any individual  
15 who lawfully resides in the respective territory in ac-  
16 cordance with such Compacts.”.

17 (f) CHILD HEALTH INSURANCE PROGRAM.—Section  
18 2107(e)(1) of the Social Security Act (42 U.S.C.  
19 1397gg(e)(1)) is amended—

20 (1) by striking subparagraph (O); and  
21 (2) by redesignating subparagraphs (P), (Q),  
22 (R), (S), (T), and (U) as subparagraphs (O), (P),  
23 (Q), (R), (S), and (T), respectively.

24 (g) CONFORMING AMENDMENTS.—

1           (1) SUPPLEMENTAL FOOD ASSISTANCE PRO-  
2           GRAM.—The Food and Nutrition Act of 2008 (7  
3           U.S.C. 2011 et seq.) is amended—

4                   (A) in section 5 (7 U.S.C. 2014)—

5                           (i) in subsection (d)(10), by striking  
6                           “(k)” and inserting “(j)”;

7                           (ii) by striking subsection (i); and

8                           (iii) by redesignating subsections (j),  
9                           (k), (l), (m), and (n) as subsections (i), (j),  
10                           (k), (l), and (m), respectively;

11                   (B) in section 6 (7 U.S.C. 2015)—

12                           (i) in subsection (f), by striking “an  
13                           alien lawfully admitted for permanent” and  
14                           all that follows through the end of the sub-  
15                           section and inserting “a noncitizen who is  
16                           lawfully present in the United States.”;  
17                           and

18                           (ii) in subsection (s)(2), by striking  
19                           “(i), (k), (l), (m), and (n)” and inserting  
20                           “(j), (k), (l), and (m)”;

21                   (C) in section 11(e)(2)(B)(v)(II) (7 U.S.C.  
22                   2020(e)(2)(B)(v)(II)) by striking “aliens” and  
23                   inserting “noncitizens”.

24           (2) MEDICAID.—Section 1903(v) of the Social  
25           Security Act (42 U.S.C. 1396b(v)) is amended—

1 (A) in paragraph (1), by striking “admit-  
2 ted for” and all that follows and inserting  
3 “present in the United States.”; and

4 (B) by striking paragraph (4).

5 (3) HOUSING ASSISTANCE.—Section 214(a) of  
6 the Housing and Community Development Act of  
7 1980 (42 U.S.C. 1436a(a)) is amended—

8 (A) by redesignating paragraphs (6) and  
9 (7) as paragraphs (7) and (8), respectively; and

10 (B) by inserting after paragraph (5) the  
11 following:

12 “(6) a qualified noncitizen (as defined in sec-  
13 tion 431 of the Personal Responsibility and Work  
14 Opportunity Reconciliation Act of 1996 (8 U.S.C.  
15 1641));”.

16 (4) ASSISTANCE NOT TREATED AS DEBT AB-  
17 SENT FRAUD.—Section 213A of the Immigration  
18 and Nationality Act (8 U.S.C. 1183a) is amended—

19 (A) in subsection (a)(3)—

20 (i) in subparagraph (A), by striking  
21 “(as provided under section 403 of the  
22 Personal Responsibility and Work Oppor-  
23 tunity Reconciliation Act of 1996)”;

24 (ii) in subparagraph (B), in the un-  
25 designated matter following clause (ii), by

1 striking “(as provided under section 403 of  
2 the Personal Responsibility and Work Op-  
3 portunity Reconciliation Act of 1996)”;  
4 and

5 (B) in subsection (b)(1)(A) is amended by  
6 striking “benefit,” and inserting “benefit by  
7 fraud.”.

8 (h) PRESERVING ACCESS TO HEALTH CARE.—Sec-  
9 tion 36B(c)(1)(B) of the Internal Revenue Code of 1986  
10 is amended to read as follows:

11 “(B) SPECIAL RULE FOR CERTAIN INDI-  
12 VIDUALS LAWFULLY PRESENT IN THE UNITED  
13 STATES.—If—

14 “(i) a taxpayer has a household in-  
15 come which is not greater than 100 per-  
16 cent of an amount equal to the poverty line  
17 for a family of the size involved,

18 “(ii) the taxpayer is a non-citizen law-  
19 fully present in the United States,

20 “(iii) the taxpayer is ineligible for  
21 minimum essential coverage under section  
22 5000A(f)(1)(A)(ii), and

23 “(iv) under the Medicaid eligibility  
24 criteria for non-citizens in effect on De-  
25 cember 26, 2020, the taxpayer would be

1           ineligible for such minimum essential cov-  
2           erage by reason of the taxpayer's immigra-  
3           tion status,  
4           the taxpayer shall, for purposes of the credit  
5           under this section, be treated as an applicable  
6           taxpayer with a household income which is  
7           equal to 100 percent of the poverty line for a  
8           family of the size involved.”.

9 **SEC. 3. FEDERAL AGENCY GUIDANCE.**

10         Not later than 180 days after the date of the enact-  
11         ment of this Act, each Federal agency affected by any of  
12         the amendments made by this Act shall issue guidance  
13         with respect to the implementation of such amendments.

14 **SEC. 4. EFFECTIVE DATE.**

15         The amendments made by this Act—

16           (1) shall take effect on the date of the enact-  
17           ment of this Act; and

18           (2) shall apply to services furnished on or after  
19           the date that is 180 days after the date on which  
20           any guidance is issued pursuant to section 3.

○