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Cost of Diversity

The Economic Costs of Racial and Cultural Diversity

Edwin S. Rubenstein and the Staff of NPI

NPI

"to ourselves and our posterity"
Preamble to the Constitution

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Introduction

The Cost of Diversity is a follow up to a study by Peter Brimelow and Leslie Spencer, "When quotas replace merit, everybody suffers," Forbes, February 15, 1993.

Edwin S. Rubenstein, under the sponsorship of the National Policy Institute, has updated this ground breaking study and expanded it. The "Economic Costs of Racial and Cultural Diversity" puts the annual waste at over $1.1 trillion dollars. To make this Washington size number comprehensible Rubenstein breaks it into costs and benefits expressed by family groups. Asian families pay the most and Hispanic families get most. Farther along the food chain whites give up less and blacks get less.

By training and experience Mr. Rubenstein is well credentialed to take on a study of this magnitude. He is President of ESR Research, economic consultants, and has 25 years experience in business research, financial analysis, and economics journalism. Mr. Rubenstein joined Hudson Institute, a public policy think tank headquartered in Indianapolis, as Director of Research in November 1997. At Hudson he wrote proposals and conducted research on a wide array of topics, including workforce development, the impact of AIDS on South Africa's labor force, Boston's "Big Dig" the economic impact of transportation infrastructure, and the future of the private water industry in the U.S.

As a journalist, Mr. Rubenstein was a contributing editor at *Forbes* Magazine and economics editor at *National Review*, where his "The Right Data" column was featured for more than a decade. TV appearances include Firing Line, Bill Moyers, McNeil-Lehr, CNBC, and Debates-Debates. In The Right Data (*National Review* Press, 1994), Rubenstein debunks many widely held beliefs surrounding the distribution of income, government spending, and the nature of economic growth.

Mr. Rubenstein is also an adjunct fellow at the Manhattan Institute where he is principal investigator in the institute's ongoing analysis of New York State's budget and tax structure. He also published a newsletter devoted to economic statistics and contributed regularly to *The City Journal*, the Manhattan Institute's quarterly.

From 1980 to 1986 he was senior economist at W.R. Grace & Co. where he directed studies of government waste and inefficiency for the Grace Commission.

From 1978 to 1980 he was a municipal bond analyst for *Moody's Investors Service* where he was also editor of the *Bond Survey*, a weekly review of the municipal bond market. He served as senior quantitative analyst for the Office of the Mayor of New York City from 1973 to 1978. He also was staff economist for the New York State Commission on Education (the Fleischman Commission), and was principal investigator on a study of multinational corporations published by the Institute for Public Administration. Mr. Rubenstein has a B.A. in economics from Johns Hopkins, and an M.A. in public finance from Columbia University.

In addition to detailing the inequity of current laws and practices the National Policy Institute offers the beginning of a solution. In 1995 an Equal Opportunity Act was introduced in Congress by Senator Robert Dole and Representative Charles Canady. The intent and language was on point then and is even more pertinent now. In part the bill provided that:

- *Notwithstanding any other provision of law, neither the Federal Government nor any officer, employee, or department or agency of the Federal Government—*
    - *(1) may intentionally discriminate against, or may grant a preference to, any individual or group based in whole or in part on race, color, national origin, or sex, in connection with—*
        - *(A) a Federal contract or subcontract;*
        - *(B) Federal employment; or*
        - *(C) any other federally conducted program or activity;*
    - *(2) may require or encourage any Federal contractor or subcontractor to intentionally discriminate against, or grant a preference to, any individual or group based in whole or in part on race, color, national origin, or sex;*

The National Policy Institute advocates the reintroduction if this bill in Congress and in support of this action we offer a petition as an addendum to our study. See http://NationalPolicyInstitute.org/petition.

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Cost of Diversity

The Economic Costs of Racial and Cultural Diversity

By Edwin S. Rubenstein and the NPI Staff

America pays a high price for racial and cultural diversity. Most of us have no idea how high the price really is. The economic burden falls hardest on non-Hispanic whites who, as a group, are disadvantaged by policies aimed at increasing diversity. It is increasingly clear, however, that minorities themselves are also hurt by these policies. Indeed, the unintended consequences of race-based preferences may be one of the greatest public policy stories never told.

We analyze here the economic impact of three policies that have changed the rules in favor of racial and ethnic minorities, increased their numbers, or their influence: affirmative action; immigration; and multiculturalism.

Affirmative Action

Peter Brimelow, writing several years ago in Forbes, calculated cumulative affirmative action costs to the U.S. economy at $225 billion, or four percent of Gross Domestic Product (GDP), for the year 1991.[1] In other words, had the funds spent to enforce and comply with affirmative action programs

Affirmative Action Costs and Benefits by Race 2007

($ billions except per family)

	Costs	Benefits	Net Costs(-)/Benefits	Net costs(-)/Benefits per family
White	$1,408.1	$96.8	-$1,311.3	-$24,165
Black	$26.9	$186.1	$159.2	$17,589
Hispanic	$30.5	$210.9	$180.4	$18,284
Asian	$134.5	$6.2	-$128.3	-$40,002
Total-all races	$1,600.0	$500.0	-$1,100.0	-$14,400

Note: Net costs of affirmative action programs estimated at 8% of GDP ($1.1 trillion in 2007.)

since their inception been put to other, more productive use—research and development or plant modernization, for example—GDP would have been four percent higher in 1991.

If Brimelow's four percent figure is accurate (and to my knowledge no one has ever challenged it), then the cost of affirmative action programs would currently be about $540 billion. But nearly fifteen years have passed since Brimelow made his calculation. Even if the same affirmative action programs are in place, their impact would be larger today because they have been in existence longer. The economic cost of affirmative action compounds annually, as the growth path of the economy increasingly diverges from its potential.

Bottom line: The misallocation that cost 4 percent of that GDP in 1991 could easily cost 8 percent of GDP today (2007). That implies a $1.1 *trillion* economic loss from affirmative action programs—a whopping $3,667 taken from every man, woman, and child in the country.

The table on the previous page shows the racial/ethnic breakdown of these figures. Asians and whites are the big losers, while Hispanics benefit even more than blacks.

Federal Regulatory Agencies

The calculation starts with the cost of running the government agencies that oversee affirmative action programs. The staffing and budget appropriations for the Equal Employment Opportunity Commission (EEOC) mushroomed during the 1990s, and have continued rising during the Bush years:

Equal Employment Opportunity Commission Outlays	
(Millions of Dollars; Fiscal years)	
1990	$181
2000	$290
2005	$320
2006 est.	$333
2007 est.	$324

Source: Susan Dudley and Melinda Warren, "Moderating Regulatory Growth: An Analysis of the U.S. Budget for Fiscal Years 2006 and 2007," Mercatus Center, George Mason University and Weidenbaum Center, Washington University, May 2006. wc.wustl.edu/Reg_Report/RegBudget2007.pdf

EEOC outlays are quite modest by government standards. But like a pebble dropped in a pool of water, the direct cost of running an agency like EEOC generates far larger costs to a wide swath of the economy.

All employers with more than 15 staff, public, private, or nonprofit, come under the EEOC's Uniform Guidelines on Employee Selection Procedures. All can be sued by the EEOC for "discrimination" if the racial, ethnic, and sex mix of new hires diverges sufficiently from that of all other qualified applicants—for example, if the percentage of blacks hired is lower than the percentage of blacks applying. EEOC regulations cover nearly 90 percent of the non-farm private-sector work force.

In 2005, nearly 80,000 grievances were filed with the EEOC—about the same annual amount as during its Clinton Administration hay day.

Then there is E.O.11246 administered by the Labor Department's Office of Federal Contract Compliance Programs (OFCCP). The Executive Order requires all Federal contractors and subcontractors with contracts worth more than $50,000 per year to prepare and file affirmative action plans. More than 400,000 corporations, covering about 42 percent of the private sector workforce, are under its purview.[2]

Affirmative action plans lay out, in excruciating detail, the special recruitment, monitoring, notification, review, and record-keeping procedures a company will implement to hire the target percentages of minority and female employees. A typical "Affirmative Action/Non-Discrimination/MBE-WBE Requirement" document lists "participation goals" for the construction trades. Carpenters for one job were expected to be 42.74 percent minority and 1.58 percent female; Ironworkers are expected to be 58.53 percent minority and 7.63 percent female.[3] There is no clue as to how those numbers were derived—but you can see the value of a minority female ironworker.

Contractors must keep records of each applicant and document reasons for not hiring a woman or minority candidate. Even if there are no openings, help wanted ads must be published—just to add potential female and minority hires to company files.

The Federal government is a victim of its own regulations. The Commerce Department, for example, has labeled industries awarded roughly three-quarters of all federal contracts as guilty of discrimination, thereby making female and minority owned firms in these industries eligible for a 10-percent bid shelter.[4]

Translation: ten percent wiggle room on federal contracts for anyone of the appropriate skin color.

How much do these set asides cost taxpayers?

Data provided to us by the Federal Procurement Data System shows $20.6 billion of federal contracts were awarded to minority-owned and women-owned firms FY 2005. The dollar amount has more than doubled since 2000:

Federal Contracts Awarded to Minority and Female Owned Firms 2000–2004

(Obligated Amount in Billions of Dollars)

Fiscal Year	Minority Owned Firms	Female Owned Firms	Total
2000	$ 0.089	$ 5.921	$ 6.010
2001	$ 0.161	$ 7.178	$ 7.339
2002	$ 0.342	$ 7.178	$ 7.520
2003	$ 0.761	$ 8.824	$ 9.585
2004	$ 6.019	$ 9.634	$15.653
2005	$10.464	$10.494	$20.598

Source: Federal Procurement Data System; unpublished statistics sent to author in July 2005. (FY2000–2004)

FY2005: Press release: www.sba.gov/idc/groups/public/documents/adacct/news_0645.pdf

Full report: www.sba.gov/GC/goals/SmallBusinessGoalingReport_2005.pdf

The premium for awarding contracts to minority and female-headed enterprises is not supposed to exceed 10 percent, but on some contracts it can be as high as 25 percent.[5] Thus minority and female set asides could easily have cost taxpayers an extra $3 billion in FY2005—i.e., over and above the cost under competitive bidding.

Some costs are impossible to quantify. These include the social costs due to fraud and corruption in the design and implementation of the affirmative action programs. Non-Minority Owned Firms and Women Owned Firms set up dummy corporations to qualify for set-asides. In some cases the dummy corporations with minority ownership did nothing more than take some percentage of contract dollars without doing any work under the contract. In other cases, firms changed their organizational structure to include a minority when in fact ownership and control remained in the hands of the non-minority agents.

EEOC is one of several agencies that regulate the workplace. Others include the Employment Standards Administration, Employment Benefits Security Administration, Occupational Health and Safety Administration, and the National Labor Relations Board. Outlays of the agencies involved in workplace regulation are estimated to be $1.788 billion in 2007.

Research at the Center for the Study of American Business estimates that for every dollar spent on regulatory enforcement, about 20 dollars is spent on compliance costs by the private sector. Applying the 20 to 1 ratio to the $1.788 billion, we arrive at $36 billion as the cost to private sector firms of complying with federal regulations—affirmative action and others—in 2007.

Larger still are the opportunity costs. Funds spent complying with affirmative action regulations could have been used to hire more workers or for more productivity enhancing investment. To the extent that affirmative action programs result in lower efficiency and productivity of these resources, affirmative action quotas diminish social welfare.

Benefits of Affirmative Action?

Proponents of race based preferences claim that the benefits of such programs outweigh their costs. Ending, or at least reducing, discrimination in hiring and pay practices is surely a benefit worth paying for. Yet many economists believe discrimination is rare or non-existent in a capitalist economy such as ours.

Gary Becker, a 1992 Nobel laureate, wrote the standard analysis, *The Economics of Discrimination* (1957.) In a free market, Becker argued, there is an inevitable tendency for everyone to be paid the marginal value of his or her labor. This means that ultimately, you are likely to be paid something like what your work is worth. If you are in an unpopular group—a racial minority, for example—employers may pay you less. But that means they will make more money off you. Because you will be such a profitable hire, other employers will demand your services, and your wages will be bid up. Employers who pay minority workers less than their "marginal product" will lose those workers to competitors. They will not survive. This process can be forestalled only by monopoly or government intervention—both of which occurred, for example, in South Africa under apartheid. And now in the U.S. it is occurring under affirmative action.

If you believe that racism is pervasive and that only the Federal government can keep it in check, you won't like what Becker is saying. But the evidence clearly supports him.

> "Once adjustments are made for factors like age, education and experience, 70% to 85% of the observed differences in income and employment between the various groups in America disappears," says economist Howard R. Bloch of George Mason University. "That's been shown by studies dating back to the mid-1960s. And you can't even be sure that the residual gap is due to discrimination. It could be due to factors we haven't controlled for."[6]

Harvard economist Richard Freeman found blacks and whites with the same backgrounds and education had achieved wage parity by 1969, well before quotas had America in their grip. "By the late 1970s," Freeman writes, "young black male college graduates attained rough income parity with young white graduates."[7]

For female black college graduates, the gap more than vanishes. Joseph Conti reports in Profiles of a New Black Vanguard "black college-educated females currently earn 125 percent of what white college educated females earn."[8]

All of which shows the fallacy underlying affirmative action in the American labor market.

Unintended Consequences

The programs may even be counter-productive. Since the onset of affirmative action in the 1960s, the employment-population ratio for black workers has deteriorated relative to that of whites and Hispanics.[9]

This could reflect the over-representation of Blacks in manufacturing and other declining sectors of the economy. The affirmative action programs themselves, by increasing the threat of lawsuits brought by employees in protected groups, could also be a factor.

Case in point: the 1991 Civil Rights Act. The legislation significantly expended the rights of plaintiffs in discrimination complaints to the EEOC and in federal civil court. In particular, the Act made it easier to use statistical evidence, however flawed and misleading, to "prove" discriminatory intent even when no discriminatory intent is evident on the part of the employer.

Research has uncovered three main changes in the hiring and dismissal of protected workers in the wake of the civil rights law. First, a trend toward greater racial and gender integration in labor markets stopped around 1991.[10] Industries that historically had low minority and female employment shares were hiring more such workers prior to the legislation, but this pattern did not continue into the post-Act period.

Second, employers changed the way they dismissed protected workers. Because it is more difficult for workers to win employment discrimination lawsuits after losing their job as part a mass layoff, employers delayed dismissing protected workers until the next round of layoffs. While the overall rate of job loss remained constant for both protected and unprotected workers, the fraction of lost jobs coming as part of a mass layoff increased for protected workers, but not for unprotected, after the passage of the Act.[11]

Third, the wage premium on labor market experience (which economists refer to as returns to experience) increased for some groups of protected workers after the 1991 Act. If employers are concerned about the costs of dismissing potential employees, then increases in those costs will cause firms to reduce their demand for workers who are relatively likely to be dismissed. Because job turnover rates are highest for inexperienced employees, increases in firing costs can increase the returns to experience.

Prior to the 1991 Act, black men were fired about twice as frequently as white men. After the legislation, this gap closed considerably. In fact, in the post Act period, the firing rates for black and white men were roughly the same—0.5 percent per year.

But this pattern did not signal less frequent job loss for black workers. Economists Paul Oyer and Scott Schaefer found a change in the manner of dismissing minority workers following passage of the civil rights law:

> We discovered that the overall rate of involuntary job loss for black men did not change as a result of the Act. Thus, it appears that firms simply shifted the form of some dismissals for black men from individual firings to layoffs in response to the 1991 Act. We documented that the share of black involuntary job loss coming in the form of firings dropped by around one-third after the passage of the Act, while the share of white involuntary job loss coming in the form of firings was unchanged.[12]

We think these findings should be troubling for those who supported the 1991 Act in the belief that it would help open labor market opportunities for members of protected groups. As economists and legal scholars have long argued, employment protections that make it costly for firms to fire protected workers are likely to have very different effects from protections that make it costly for firms to fail to hire protected workers. Because the firm feels firing-based costs only if it decides to hire, the costs act as an implicit tax on such hiring. Firing-based protections may therefore lead employers to hire fewer protected workers, not more. This may explain why the Civil Rights Act of 1991 does not appear to have led to gains in wages or employment for protected workers.

To avoid the threat of lawsuits, many U.S. employers have hired illegal immigrants in place of minorities—many of who may be willing to work for the same wage. That employers take such risks, including hiring people who can barely speak English, suggests that the true cost of hiring protected groups may be huge. Some have put the "implicit tax" of hiring workers protected under the Civil

Rights Act at $25,000 per worker.

At the end of the day, the 1991 Civil Rights Act may have hurt those it was designed to help.

Mass Immigration

Immigration Drives Ethnic Diversity

Whites are the largest racial group in the country, but their grip on that status is weak by historic standards, and is getting weaker. Of the nearly 294 million people in the country in 2004 about 198 million, or 67.4 percent, identified themselves as white and non-Hispanic. As recently as 1990, 76 percent of Americans called themselves non-Hispanic white.

It's not that whites are fewer in number, but that minority groups are increasing rapidly due mainly to a surge in immigration. While the non-Hispanic white population grew by 9.5 million since 1990, or about 5 percent, other races grew by 35.3 million, or 58 percent. Since 1990, non-whites have accounted for nearly 80 percent of U.S. population growth, according to Census data.

This increase in Hispanic and Asian populations is due mainly to immigration. Mexicans accounted for 30.7 percent of all foreign-born in 2005, up from 28 percent in 2000, 22 percent in 1990, and 16 percent in 1980. In 2005, Mexico accounted for almost six times as many immigrants as the combined total for China, Taiwan, and Hong Kong. As recently as 1970, Mexico had only the 4th highest foreign-born population—behind Italy, Germany, and Canada

Demographers prefer to express immigration as a proportion of population *growth*. Population growth, of course, is the determined by the birthrate (which has been declining for decades) less the death rate (also declining), plus net immigration (up since 1965 immigration law). Juxtaposing total population growth alongside the change in foreign-born population, we calculate immigration's contribution to U.S. population growth:

In the first five years of the 21st Century, immigration accounted for a record 43.2% of U.S,

Immigration's Contribution to U.S. Population Change 1900–2005

	Population (millions)		Change from prior period (millions)		
Year	Total	Foreign-born	Total	Foreign-born	Foreign-born as % Total
1900	76.0	10.3			
1910	92.0	13.5	16.0	3.2	20.0%
1920	105.7	13.9	13.7	0.4	2.9%
1930	122.8	14.2	17.1	0.3	1.8%
1940	131.7	11.6	8.9	-2.6	9.2%
1950	151.3	10.3	19.6	-1.3	-6.6%
1960	179.3	9.7	28.0	-0.6	-2.1%
1970	203.3	9.6	24.0	-0.1	-0.4%
1980	226.5	14.1	23.2	4.5	19.4%
1990	248.7	19.8	22.2	5.7	25.7%
2000	281.4	31.1	32.7	11.3	34.6%
2005	290.9	35.2	9.5	4.1	43.2%

Sources: CIS and Census Bureau. Foreign-born contribution calculated by author.

population growth—*more than twice what is was during the 1880–1920 Great Wave.*

Immigration's contribution to population growth does not tell the whole story. Immigrants have children after they arrive in the United States. The immigrants, by definition foreign-born, and their U.S.-born children together constitute what demographers call the "foreign stock."

Immigrants seem to have children at a faster pace than native-born Americans. Fertility rates (births per 1,000 women of child bearing ages, 15 to 44) in 2002 were[13]:

- 102 births per 1,000 immigrants
- 59 births per 1,000 native born

Although fertility is falling for both natives and foreign-born, the share of immigrant females in child-bearing ages is rising, while a smaller share of native born females are in this bracket. As a result, absolute numbers of births to immigrant mothers have quadrupled over the past three decades:

- 228,486 in 1970 (6.1 percent of all births)
- 339,662 in 1980 (9.4 percent of all births)
- 621,442 in 1990 (14.9 percent of all births)
- 915,800 in 2002 (22.7 percent of all births)
-

Even in 1910—the peak of the Great Wave—only 21.9 percent of births were to foreign-born mothers, according to a Center for Immigration Studies report.[14]

And back then, of course, the native birth rate was much higher than it is now, while immigration was poised to decline. Illegal immigration was a rarity—a situation generally conducive to assimilation.

Not so today. Births to illegal alien mothers—aka "anchor babies"—accounted for a whopping 42 percent of all immigrant births in 2002. That may sound surprising until you consider that illegals account for at least one-quarter of the total foreign-born population and a still larger share of foreign-born females in the prime childbearing years, 18 to 39. Moreover, their fertility rate—average number of births per mother of childbearing age—is higher than that of legal immigrants.

Foreign Stock's Share of U.S. Population Growth 1970–2004

(millions, except percents)

	Total Population	Total Post 1970 Immigrant Stock	Post-1970 Change in Foreign Stock as % Population Growth	% Change, 1970–2004
1970	203.2			
1980	226.5	8.6	36.9%	
1990	248.8	19.9	51.0%	
2000	281.4	38.3	56.1%	
2004	293.6	45.9	61.9%	50.7%

Source: Joy Lee, Jack Martin, Stan Fogel, "Immigrant Stock's Share of U.S. Population Growth," Federation for American Immigration Reform, 2005. Appendix A. www.fairus.org/site/DocServer/immstock_report.pdf?docID=462

Note: Census Bureau estimates for 2004 population differ from the Current Population Survey figures in prior tables.

The share of U.S. population growth attributable to foreign stock—immigrants and their U.S.-born children—rose each decade since 1970 as shown in the table on page 7.

Overall, foreign stock accounted for more than half (50.7 percent) of U.S. population growth between 1970 and 2004.

Importing Poverty

Immigrants are far more likely to be poor than U.S. natives. The March 2005 Current Population Survey found, for example, that:[15]

- 17.1 percent of immigrants are poor
- 12.0 percent of natives are poor
- 18.4 percent of immigrant stock (including U.S.-born children) are poor

If you simply exclude poor immigrants and their children, the poverty population would decline by 8.5 million, or to 28.5 million. The overall poverty rate would fall to 11.7 percent.

But of course this static effect is only part of the impact of immigration on the poverty rate. There is also a dynamic effect. If these poor immigrants were not present, wage competition would arguably be reduced—and even fewer Americans would be in poverty.

There are large variations in poverty among immigrants from different countries:

At 26.4 percent, the poverty rate for Mexicans is twice that of Koreans, and more than five-times that of persons from Canada or the Philippines (not shown.)

Immigrant Poverty Rates Ranked by Country of Origin 2004

	In Poverty	
	Number (1,000s)	Percent
Mexico	2,847	26.4%
Dominican Rep.	174	25.1%
Russia	107	20.6%
Guatemala	110	20.6%
Haiti	117	20.6%
Honduras	76	20.1%
Cuba	161	17.0%
Colombia	78	16.3%
Brazil	55	15.4%
El Salvador	164	14.7%
Vietnam	142	14.3%
Korea	89	13.2%
All Immigrants	6,006	17.1%
All Natives	30,991	12.0%

Source: Steven Camarota, “Immigrants at Mid-Decade: A snapshot of America’s Foreign-born Population in 2005,” CIS, December 2005. Table 10. (Percents calculated by author.) www.cis.org/articles/2005/back1405.pdf

Given the increased Mexicanization of the immigrant population, and the perverse tendency of American immigration policy to favor the poorest, least-skilled and least versed in English, increases in immigrant poverty rates are inevitable.

Dependency

The 1996 federal welfare reform law prohibits immigrants who entered the U.S. after August 22, 1996 from receiving most types of public assistance. (The ban is lifted when the immigrant becomes an American citizen.) Nevertheless, most states have filled the gap, enacting programs that grant welfare eligibility to new arrivals. As a result, immigrants continue to receive every major welfare program at higher rates than native-born Americans.

An analysis of Census Bureau survey data reveals that in 2004:

- 28.6 percent of immigrant households received at least one major welfare program
- 18.2 percent of native households received at least one major welfare program

And remember, the native-born rate is boosted by troubled subgroups like blacks and Hispanics. The dependency rate of white, non-Hispanic households is significantly below that of the other groups:

Welfare Recipiency Rates by Race/ethnicity 2001

Program	All Races	White non-Hispanic	Black	Hispanic
	(% of households receiving benefits)			
Any Means-Tested Non-cash Benefit	20.0%	14.0%	39.0%	41.8%
Medicaid	14.5%	10.4%	27.3%	28.6%
Food Stamps	5.4%	3.6%	13.5%	9.5%
Subsidized Housing	4.6%	3.0%	12.9%	6.2%
School Lunch	7.3%	3.8%	16.5%	22.7%

Source: U.S. Census, Current Population Survey (CPS), Annual Demographic Survey, 2001. ferret.bls.census.gov/macro/032002/noncash/nc1_000.htm

Only 14 percent of white households received means-tested benefits in 2001. That was about one-third the dependency rate of Hispanic households (41.8 percent) and less than half that of Black households (39.0 percent.)

Dependency rate differences primarily reflect differences in poverty rates. In 2001, the poverty rate for Blacks (22.7 percent) and for people of Hispanic origin (21.9 percent) was nearly three-times the poverty rate for non-Hispanic whites (7.8 percent.)[16]

The Immigrant Labor force

During the decade of the 1990s, 47 percent of the nation's civilian labor force growth was due to immigration. This represented the largest influx of foreign workers ever to enter the U.S. in a given decade—substantially exceeding the number who came here during the Great Wave of 1890 to 1910.[17]

Records are made to be broken, nowhere more so than in U.S. immigration stats. During the 2000 to 2005 period foreign-born individuals accounted for:

- 37 percent of U.S. population growth
- 51 percent of U.S. labor force growth
- 82 percent of U.S. employment growth

Here are the underlying numbers:

U.S. versus Foreign-born Population, Labor force, and Job Growth 2000–2005				
	2000	**2005**	**Increase, 2000–2005**	**% Increase, 2000–2005**
Population (1000s)				
Total	209,699	226,082	16,383	7.8%
US born	183,173	193,525	10,352	5.7%
Foreign born	26,527	32,558	6,031	22.7%
% of total	12.7%	14.4%	36.8%	
Labor force (1,000s)				
Total	140,863	149,320	8,457	6.0%
US born	123,158	127,278	4,120	3.3%
Foreign born	17,705	22,042	4,337	24.5%
% of total	12.6%	14.8%	51.3%	
Employed (1,000s)				
Total	135,208	141,730	6,522	4.8%
US born	118,254	120,706	2,454	2.1%
Foreign born	16,954	21,022	4,068	24.0%
% of total	12.5%	14.8%	82.4%	
SOURCE: Census Bureau, Current Population Survey. Unpublished tables sent to author by BLS economist Abraham Mosisa, (202) 691–6346.				

The foreign-born share of the labor force grew from 12.6 percent in 2000 to 14.8 percent in 2004. Thus it took about 225 years of nationhood for the foreign-born share of our labor force to reach 12.6 percent—and only five additional years for it to reach 14.8 percent.

If the immigrant and U.S.-born labor forces continue growing at their 2000–2005 rates, the foreign-born share will reach the following levels:

2010: 17.3 percent
2025: 26.8 percent
2050: 48.2 percent

By contrast, at the peak of the "Great Wave" in 1910 the foreign born share of the U.S. labor force was slightly more than 15 percent.[18]

Natives Lose Income

A study by Harvard University Professor George Borjas finds that each 10 percent increase in the U.S. labor force due to immigration reduces native wages by about 3.5 percent.[19] Foreign-born workers account for about 15.0 percent of the U.S. labor force. If Borjas is right, immigrant workers reduce average native wages by 5.25 percent (15.0/10.0 X 3.5 percent).

This obviously will reduce revenues from personal income taxes, payroll taxes, sales, and excise taxes. By contrast, corporate income tax receipts will probably rise because cheap immigrant labor reduces costs and increases profits of U.S. corporations.

A "quick and dirty" way to estimate lost revenues is to assume that the taxes sensitive to personal income decline at the same rate as personal income. If U.S.-born workers suffer a 5.25 percent reduction in income, total personal income will fall by about 4.6 percent, the difference reflecting the fact that native-born workers receive 88 percent of personal income.[20]

Using this model, immigrant workers generate the following revenue losses:

Tax Revenues Lost From Displacement of U.S.-Born Workers by Foreign-born Workers			
($ Billions)			
	Total Revenues	Revenue Loss	Percentage Loss
Federal Tax Revenues (2004)			
Individual Income Taxes	$ 809.0	$37.2	-4.6%
Social Security Taxes	$ 733.4	$33.7	-4.6%
Excise Taxes	$ 69.9	$ 3.2	-4.6%
Sub-total-Federal	$1,612.3	$74.2	-4.6%
State and Local Tax Revenues (2002)			
Individual Income Taxes	$ 202.8	$ 9.3	-4.6%
Sales and use taxes	$ 324.0	$14.9	-4.6%
Sub-total-State and Local	$ 526.8	$24.2	-4.6%
TOTAL-Fed., State, Local	$2,139.1	$98.4	-4.6%
Source: Federal Revenues (2004): OMB; State and Local Tax Revenues (2002): Tax Foundation. Revenue loss estimates calculated by author.			

Based on these calculations, native-born workers pay $98.4 billion less tax because of their immigrant-related wage losses.

Fiscal Burden of Immigration

There are two important ways in which immigration may affect government expenditures. First there is the interaction between immigration and the welfare state. We have shown that immigrants and their offspring are poorer than natives, and are more likely to receive social services, including welfare, medical assistance, and housing. Similarly, immigrant households have more children than native households, and are less likely to send their children to private schools. Moreover, cultural and language differences require additional and, often expensive, compensatory programs like English as a Second Language. As a result, immigrants receive considerably more public education spending per capita than do the native born.

In addition, the most recent immigrant cohorts appear to have a higher need for police, fire and public transportation than does the general population, magnifying the effect on public safety and transport subsidies.

The second impact of immigration stems from the effects of increased population on public infrastructure (roads, bridges, airports) and the environment. Maintaining clean water, air, and land requires large increases in expenditures, especially when most new immigrants come from cultures which do not value a clean and healthy environment as much as Americans do. Public utilities and transportation facilities are severely impacted by an increasing population.

Furthermore, the higher level of poverty in recent immigrant groups also means that these groups have less tax paying ability and, therefore, impose a higher tax burden on the general population.

A recent study by researcher Stan Fogel examines the net impact of immigrants on state and local government spending. Fogel's econometric model estimates per capita spending required by non-Hispanic whites, Blacks, and the immigrant stock (immigrants and their post 1965 offspring.)[21] He then goes on to develop two measures of fiscal burden imposed by immigrants on native-born Americans:

"excess expenditure"—the government spending received by immigrants over and above what an equivalent number of native-born would receive; and

"Net costs"—un-reimbursed costs, i.e., the government spending attributable to immigrants less the taxes they pay. (Immigrants are assumed to contribute revenues in proportion to their income relative to that of the native born.)

It is expected that certain expenditures will be particularly sensitive to immigration. Education, health care, social services, and public safety are clearly in that group. Other spending categories which are impacted by immigration include transportation infrastructure (highway construction, air, parking, ports, and transit), utilities (water, sewerage, electric, gas), and the environment (natural resources, parks and recreation.) These are included in the "other" category.

Fogel's econometric model estimated the average spending required by non-Hispanic whites, blacks, and immigrants (foreign-born and their children) in 1992 and 1999. By extrapolating that trend we update his estimates to 2006, as follows:

Estimated State and Local Expenditure Per Capita 2006

Function	Non Hispanic White	Black	Foreign Born & Offspring
Education	$ 2,151	$1,465	$3,246
Welfare	$ 911	$1,113	$1,056
Health	$ 358	$ 730	$ 672
Public Safety	$ 1,057	$ 767	$ 755
Other	$ 2,339	$ 464	$4,228
Total	$ 6,816	$ 4,539	$9,957

Source: Stan Fogel, "Recent Immigration: Impact on State and Local Expenditures," May 2003. (Copies on request.) 2006 estimates based on Ed Rubenstein's extrapolations of Fogel's figures for 1992 and 1999.

Average per capita spending for immigrants—$9,957—exceeds that of non-Hispanic whites by $3,141, or 46 percent, and that of Blacks by $5,418, or 119 percent. In each category except public safety, immigrants receive more government spending per capita than non-Hispanic whites. Note that the tendency of immigrants to settle in high growth areas where infrastructure is expanding rapidly may distort the "other" spending attributed to them. Similarly, the propensity of whites to live in more affluent, less densely populated areas increases their public safety spending amounts.

Health, education, and welfare spending due to immigration is estimated at $433 billion in 2006, or about 37 percent of all HEW spending that year. The immigrant share of HEW outlays has increased steadily since 1992, as has both "excess spending" and unreimbursed costs associated with immigrant HEW spending:

Impact of Immigration on Health, Education, and Welfare Spending

($ Millions)

	2006	1999	1992
Total HEW spending (actual)	$1,174,060	$815,277	$566,880
Immigrant HEW spending (estimated)	$ 433,156	$197,691	$ 95,091
Percentage of total HEW spending	36.9%	24.2%	16.8%
Excess immigration spending(a)	$ 103,565	$ 48,667	$ 29,561
Un-reimbursed immigration spending (b)	$ 201,348	$ 84,512	$ 37,287
Percentage of total immigration spending	46.5%	42.7%	39.2%

a. Spending on immigrants over and above their population share.
b. Spending on immigrants over and above their tax payments.
Sources: Stan Fogel, "Recent Immigration: Impact on State and Local Expenditures," May 2003. (1992, 1999); Author's extrapolations of Fogel's figures (2006).

These results suggest that immigration is a major factor contributing to the costs incurred by state and local governments. Furthermore, the problem appears to be worsening. States that up to now have seen little impact are beginning to experience adverse effects on their finances. The gap between annual expenditures for and revenues received by states and localities due to recent immigration amounts to more than $200 billion for health, education, and welfare expenditures nationwide.

The un-reimbursed portion is of particular interest because it represents a net transfer of income from native-born Americans to immigrants. In 2006, the un-reimbursed HEW spending amount was estimated to be $201.3 billion. Total immigrant stock population (post 1965 immigrants and their U.S. born children) is estimated at 50 million in 2006.[22] This implies that, on average, every foreign born person and his or her U.S. born child received a net transfer of approximately $4,026 ($201.3 billion/50 million) from U.S. natives in 2006.

Total U.S. population is 300 million, so the immigrant subsidy is paid for by the 250 million of us who are not post 1965 immigrants or their children. The bottom line: every U.S. native—man, woman, and child—pays a whopping $800 per year to provide HEW benefits for immigrants and their children.

There are three ways in which this fiscal burden can be reduced. The first is to tighten eligibility requirements for various social services. This will have only a limited effect since expenditures for infrastructure, public safety, and even education cannot be so constrained. The second is to reduce the number of immigrants, legal and illegal. This would, of course, have a direct effect on the level of spending.

Finally, we need more selectivity in admitting immigrants. Increasing the average income and tax paying capacity of new admissions would reduce their use of public services, thereby closing the gap between what they receive and what they contribute.

Immigration's Bottom Line: a Loss

American economists have made relatively little effort to measure the overall impact of immigration. But when they have, the answer is clear: immigration does not contribute much to economic growth. The consensus: the economic surplus (benefits less costs) generated by immigrants and accruing to native-born Americans is very small—about one-tenth of one percent of GDP.

One-tenth of one percent of GDP translates to a $12.5 billion immigration surplus. But if immigration imposes a fiscal loss on native taxpayers of $200 billion—as we calculate above—that means that its net economic effects are a negative $187.5 billion. American society is being transformed by a policy that, at the end of the day, makes us slightly poorer.

Of course, not all of "us" lose. By pushing down wages immigration triggers a substantial redistribution of income from native-born workers to native-born owners of capital. Borjas calculates that this redistribution amounts to about 2 percent of GDP, or a whopping $250 billion at current levels.

Native elites gain this sum at the expense of native workers.

Multiculturalism

Multiculturalism is considered the natural order of society today, especially with the racial and ethnic diversity brought on by immigration and globalization. But many economists see a downside to diversity. Cultural differences are often a source of social conflict and often act as a barrier to economic progress as well as personal freedom.

In a yet to be published study, Harvard political scientist Robert Putnam (author of "Bowling Alone") finds that the more ethnically diverse a community is, the lower the level of trust in the community. Putnam is not anti-diversity and notes that immigration is beneficial for countries that send and receive immigrants. But his research finds that social connectedness is less likely to be found in areas of the United States most affected by recent waves of immigration. And it isn't just a lack of trust between different races or cultures, but within them as well.[23]

Prof Putnam found trust was lowest in Los Angeles, "the most diverse human habitation in human history," but his findings also held for rural South Dakota, where "diversity means inviting Swedes to a Norwegians' picnic."[24]

When the data were adjusted for class, income and other factors, they showed that the more people of different races lived in the same community, the greater the loss of trust. "They don't trust the local mayor, they don't trust the local paper, they don't trust other people and they don't trust institutions," said Prof Putnam. "The only thing there's more of is protest marches and TV-watching."

Putnam is hardly the first learned man to weigh in on the culture-trust relationship. An overwhelming anti-diversity consensus, backed by data quantifying the negative impact of diversity on economic development, is found among serious scholars:

There are scholars who have assessed empirically the influence of cultural diversity on economic development. The primary argument—which can be traced to Aristotle—suggests that diverse states are more susceptible to development-inhibiting internal strife than their homogeneous counterparts are…. Following Tocqueville (1873), Duetsch (1953), and Banks and Textor (1963), Adelman and Morris (1967) gather the data for 74 less developed countries from 1957 to 1962 and rank each country on a 10-point ordinal scale of diversity. Their results, based on factor analysis, support their hypothesis: homogeneous countries typically had higher growth rates. Haug (1967) finds a negative correlation between per capita GNP and cultural diversity based on the data of 114 countries in 1963. Reynolds (1985) compares 37 less developed countries from 1950 to 1980 and, again, indicates that cultural diversity results in lower growth rates. He suggests that this may be due to a sense of alienation among peoples. In other words, reaching a consensus on policies favorable to economic development, especially for the long run, may be difficult when groups have different interpretations of the past and different goals for the future.[25]

Culture includes learned patterns of behavior, socially acquired traditions, ways of thinking and acting, attitudes, values and morals. Culture standardizes relationships by allowing people to make reasonably confident assumptions about the reactions of those with whom they interact. There are many dimensions of culture, but race, religion, ethnicity and language are the principal sources of diversity.

When societies are multicultural, the ethnocentric differences of race, religion, ethnicity and language often lead to enmity. Even if different groups live together peacefully, the lack of a common language and common norms reduces cooperation and increases the cost of economic transactions.

Economist Gerald W. Scully summarizes the benefits of mono- as opposed to multi-cultural societies in a 1995 paper:

Cultural relativism has made the study of the role of culture in human controversial. But there is little disagreement that intergroup enmity is widespread in culturally heterogeneous societies.[26]

Free markets, private property, rule of law and eventually representative democracy and universal suffrage arose in culturally homogeneous Western societies where all members of society had equal rights to compete in the marketplace. On the other hand, culturally heterogeneous societies are less likely to adopt the institutions of liberty. Since control of economic resources is essential to political control, dominant cultural groups structure economic institutions to serve their self-interest. And when private property and economic rights are allocated along cultural lines, economic inefficiency is inevitable and societies are less prosperous.[27]

Language may be the most important component of culture—at least for economic development. A common culture and a common language allow individuals to interact (and trade) more easily: a contract need not be translated if two individuals speak the same language. By contrast, linguistic diversity may lead to cultural shocks and conflicts. In this case, diversity imposes costs to the economy.

Some economists have explicitly factored diversity into economic models. For example, E.P. Lazear assumes that a common culture and a common language facilitate trade between individuals and shows that minorities have incentives to become assimilated and to learn the majority language so that they have a larger pool of potential trading partners.[28] In this model, individuals do not properly internalize the social value of assimilation. They ignore the benefits that others receive when they learn the majority language and become assimilated. In the absence of strong offsetting effects, policies that encourage multiculturalism reduce the amount of trade and have adverse welfare consequences.

Europeans have taken these findings to heart. In France, for example, the state is widely viewed as a force for integrating different groups into the same society. Actively multicultural policies are considered dangerous because they divide society. Immigration from Less Developed Countries is restricted far more zealously in Europe than in the U.S. The French are so terrified of threats to their culture that they have restricted American film imports.[29]

The U.S. Experience

The first settlers in the United States were almost all expatriate Englishmen and thus adopted English institutions. Being labor-poor, we had a very liberal immigration policy. “Give me your tired, your poor” was the justifiably famous dictum on the Statue of Liberty. Yet immigration was a two-edged sword. We needed workers for our farms and factories, but we ran out of Anglo-Saxons. Irish, Germans, Scandinavians, Italians, Greeks and other Europeans came by the tens of thousands. Each had its own culture, some elements of which were thought to be inconsistent with American values.

Part of the impetus for free public schooling in the United States, which began in the 1830s, was the desire to educate immigrants and their children in American values and institutions. We sought to homogenize immigrants, to make them speak English and inculcate the political values of our liberal democracy.

In this regard, we were successful. But the desire to associate with one’s own kind dies hard. Many immigrants naturally segregated themselves (or were segregated) into areas with others of their own ethnic group. It is no accident that certain states have a predominant ethnic group or that large cities have ethnic neighborhoods.

In recent years, multiculturalism has become ensconced in U.S. education policy. Public school curricula celebrate black, or Hispanic, or other immigrant cultures—often at the expense of a shared American experience. English as a second language has replaced English immersion. Pluralism in today’s America assumes that all cultural values are equally valid. It should come as no surprise that America has become a Tower of Babel. The economic consequences are profound.

Endnotes

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Introduction to the Petition

It's time to end one of the last vestiges of "state sponsored racial discrimination" in the United States. It's unnecessary. It's unjust. It's un-American.

- Racial and ethnic minorities now account for 43 percent of Americans under 20 years old. Among people of all ages, minorities make up at least 40 percent of the population in more than one in six of the nation's 3,141 counties. (1)
- Almost five times as many counties are losing white children as gaining them. (1)
- Non-Hispanic Whites are only 64.86% of the U.S. Population and this number is plunging. (2)
- Afro-American Barack Obama is the Democratic candidate for President.
- Hawaii, New Mexico, Texas, and California are minority states.
- District of Columbia, Puerto Rico, Guam U. S. Virgin Islands, North Mariana Islands, and American Samoa are minority jurisdictions.
- The Urban Institute, Washington, D. C. reported in May 2006 that since 1970 the number of U. S. immigrants exceeded 35 million, and their children numbered over 15 million. The overwhelming majority of these 50 million people fall into the "protected" class of citizens who enjoy a privileged status. These people came willingly to the United States and their good fortune should not include the assumption rights not enjoyed by all citizens.

The beginning of a solution to the inequity of current laws and practices was offered to Congress in 1995 by Senator Robert Dole and Representative Charles Canady in the form of an Equal Opportunity Act. The intent and language was on point then and is even more pertinent now. Here is an abbreviated version of the Bill that conveys its scope.

- *Notwithstanding any other provision of law, neither the Federal Government nor any officer, employee, or department or agency of the Federal Government—*
    - *(1) may intentionally discriminate against, or may grant a preference to, any individual or group based in whole or in part on race, color, national origin, or sex, in connection with—*
        - *(A) a Federal contract or subcontract;*
        - *(B) Federal employment; or*
        - *(C) any other federally conducted program or activity;*
    - *(2) may require or encourage any Federal contractor or subcontractor to intentionally discriminate against, or grant a preference to, any individual or group based in whole or in part on race, color, national origin, or sex;*

The National Policy Institute advocates the reintroduction and passage of this bill in Congress. In support of this action we offer a petition for your completion. We will do our part by collecting, organizing and presenting the petitions to the appropriate Representative and Senators. See http://NationalPolicyInstitute.org/petition.

**New York Times* August 7, 2007

***CIA World Fact Book*

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Equal Opportunity Act of 1995 (Introduced in House)

HR 2128

104th CONGRESS
1st Session
H. R. 2128

To prohibit discrimination and preferential treatment on the basis of race, color, national origin, or sex with respect to Federal employment, contracts, and programs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

July 27, 1995

Mr. CANADY of Florida (for himself, Mr. HYDE, Ms. MOLINARI, Mrs. FOWLER, Mr. WICKER, Mr. SENSENBRENNER, Mr. HOKE, Mr. SMITH of Texas, Mr. GOODLATTE, Mr. MCCOLLUM, Mr. COBLE, Mr. HEINEMAN, Mr. BRYANT of Tennessee, Mr. BONO, Mr. BARR, Mr. ROHRABACHER, Mr. ISTOOK, Mr. HERGER, Mr. NORWOOD, Mr. CALLAHAN, Mr. CUNNINGHAM, Mr. CHAMBLISS, Mr. HUTCHINSON, Mr. JONES, Mr. KING, Mr. LIGHTFOOT, Mr. PACKARD, Mr. PAXON, Mr. ROBERTS, Mr. ROTH, Mr. STUMP, Mr. YOUNG of Alaska, Mr. BURTON of Indiana, Mr. DREIER, Mr. EMERSON, Mr. SCHAEFER, Mr. MILLER of Florida, Mr. GOSS, Mr. DOOLITTLE, Mr. MCINTOSH, Mr. COMBEST, Mr. MICA, Mr. SCARBOROUGH, Mr. SMITH of New Jersey, Mr. STOCKMAN, Mr. WALKER, Mr. WELDON of Florida, Mr. EVERETT, Mr. LEWIS of Kentucky, Mrs. VUCANOVICH, Mr. BILBRAY, Mr. SOLOMON, Mrs. SEASTRAND, Mr. BILIRAKIS, Mr. CHRISTENSEN, Mrs. CUBIN, Mr. HASTERT, Mr. LARGENT, Mr. BUNNING of Kentucky, Mr. CLINGER, Mr. KOLBE, Mr. HANCOCK, Mrs. ROUKEMA, Mr. HOSTETTLER, Mr. GRAHAM, Mr. RADANOVICH, Mr. OXLEY, Mr. HOEKSTRA, Mr. BARRETT of Nebraska, Mr. BASS, Mr. DORNAN, Mr. SALMON, and Mr. BALLENGER) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Economic and Educational Opportunities, Government Reform and Oversight, and House Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To prohibit discrimination and preferential treatment on the basis of race, color, national origin, or sex with respect to Federal employment, contracts, and programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Equal Opportunity Act of 1995'.

SEC. 2. PROHIBITION AGAINST DISCRIMINATION AND PREFERENTIAL TREATMENT.

Notwithstanding any other provision of law, neither the Federal Government nor any officer, employee, or department or agency of the Federal Government--

(1) may intentionally discriminate against, or may grant a preference to, any individual or group based in whole or in part on race, color, national origin, or sex, in connection with--

(A) a Federal contract or subcontract;

(B) Federal employment; or

(C) any other federally conducted program or activity;

(2) may require or encourage any Federal contractor or subcontractor to intentionally discriminate against, or grant a preference to, any individual or group based in whole or in part on race, color, national origin, or sex; or

(3) may enter into a consent decree that requires, authorizes, or permits any activity prohibited by paragraph (1) or (2).

SEC. 3. RECRUITMENT AND ENCOURAGEMENT OF BIDS.

Nothing in this Act shall be construed to prohibit or limit any effort by the Federal Government or any officer, employee, or department or agency of the Federal Government--

(1) to recruit qualified women or qualified minorities into an applicant pool for Federal employment or to encourage businesses owned by women or by minorities to bid for Federal contracts or subcontracts, if such recruitment or encouragement does not involve using a numerical objective, or otherwise granting a preference, based in whole or in part on race, color, national origin, or sex, in selecting any individual or group for the relevant employment, contract or subcontract, benefit, opportunity, or program; or

(2) to require or encourage any Federal contractor or subcontractor to recruit qualified women or qualified minorities into an applicant pool for employment or to encourage businesses owned by women or by minorities to bid for Federal contracts or subcontracts, if such requirement or encouragement does not involve using a numerical objective, or otherwise granting a preference, based in whole or in part on race, color, national origin, or sex, in selecting any individual or group for the relevant employment, contract or subcontract, benefit, opportunity, or program.

SEC. 4. RULES OF CONSTRUCTION.

(a) HISTORICALLY BLACK COLLEGES AND UNIVERSITIES- Nothing in this Act shall be construed to prohibit or limit any act that is designed to benefit an institution that is a historically Black college or university on the basis that the institution is a historically Black college or university.

(b) INDIAN TRIBES- Nothing in this Act shall be construed to prohibit or limit any action taken--

(1) pursuant to a law enacted under the constitutional powers of Congress relating to the Indian tribes; or

(2) under a treaty between an Indian tribe and the United States.

(c) BONA FIDE OCCUPATIONAL QUALIFICATION, PRIVACY, AND NATIONAL SECURITY CONCERNS- Nothing in this Act shall be construed to prohibit or limit any classification based on sex if--

(1) sex is a bona fide occupational qualification reasonably necessary to the normal operation of the Federal Government entity or Federal contractor or subcontractor involved;
(2) the classification is designed to protect the privacy of individuals; or
(3)(A) the occupancy of the position for which the classification is made, or access to the premises in or on which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any Act or any Executive order of the President; or
(B) the classification is applied with respect to a member of the Armed Forces serving on active duty in a theatre of combat operations (as determined by the Secretary of Defense).

SEC. 5. COMPLIANCE REVIEW OF POLICIES AND REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the head of each department or agency of the Federal Government, in consultation with the Attorney General, shall review all existing policies and regulations that such department or agency head is charged with administering, modify such policies and regulations to conform to the requirements of this Act, and report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate the results of the review and any modifications to the policies and regulations.

SEC. 6. REMEDIES.

(a) IN GENERAL- In any action involving a violation of this Act, a court may award only injunctive or equitable relief (including but not limited to back pay), a reasonable attorney’s fee, and costs.
(b) CONSTRUCTION- Nothing in this section shall be construed to affect any remedy available under any other law.

SEC. 7. EFFECT ON PENDING MATTERS.

(a) PENDING CASES- This Act shall not affect any case pending on the date of enactment of this Act.
(b) PENDING CONTRACTS, SUBCONTRACTS, AND CONSENT DECREES- This Act shall not affect any contract, subcontract, or consent decree in effect on the date of enactment of this Act, including any option exercised under such contract or subcontract before or after such date of enactment.

SEC. 8. DEFINITIONS.

As used in this Act:

(1) FEDERAL GOVERNMENT- The term ‘Federal Government’ means the executive and legislative branches of the Government of the United States.
(2) GRANT A PREFERENCE- The term ‘grant a preference’ means use of any preferential treatment and includes but is not limited to any use of a quota, set-aside, numerical goal, timetable, or other numerical objective.
(3) HISTORICALLY BLACK COLLEGE OR UNIVERSITY- The term ‘historically Black college or university’ means a part B institution, as defined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)).

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