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THE WHITE HOUSE  
WASHINGTON

12.30.82

Bill -

Pls. read + let's  
discuss.



U.S. Department of Justice  
Office of the Deputy Attorney General

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Associate Deputy Attorney General

Washington, D.C. 20530

December 14, 1982

MEMORANDUM TO: Michael Uhlmann  
Special Assistant to the President

FROM: David Hiller *DH*  
Associate Deputy Attorney General

SUBJECT: Immigration Bill

I am enclosing some materials I prepared for the Attorney General concerning immigration. I am also enclosing a copy of the House Republican Policy Committee's supporting statement.

Something over 300 amendments have been filed by the bill's opponents and it is yet uncertain whether the ersatz filibuster will succeed.

# THE HOUSE REPUBLICAN POLICY COMMITTEE

DICK CHENEY, CHAIRMAN

Statement No. II-7  
December 7, 1982

TIM WYNGAARD, Executive Director  
1620 Longworth House Office Building  
Washington, D.C. 20515, (202)225-6168

The House Republican Policy Committee supports passage of H.R. 7357, The Immigration Reform and Control Act. These reforms, the most thorough in 30 years, are designed to restore needed control of our borders while preserving America's tradition of accepting foreigners to our shores within realistic limits.

This nation has long needed additional immigration enforcement tools. As a result, hundreds of thousands illegal immigrants enter the U.S. each year, often taking jobs from American workers. The Department of Labor estimates that many thousands of jobs could be saved by 1986 if this bill is enacted. If H.R. 7357 is enacted into law, American taxpayers will be saved billions of dollars in expenditures for Americans who otherwise would lose jobs to illegal aliens.

This legislation will make it unlawful for employers to knowingly hire illegal aliens. Taking this step is an attempt to deal with the problem of illegal aliens. The legislation modifies procedures for handling asylum claims, exclusion and deportation cases and for returning persons here illegally to their countries of origin.

As reported by the House Committee on Judiciary, the legislation recognizes legitimate needs of some sectors of the American economy for temporary workers, and therefore streamlines provisions for temporary workers who will not take jobs away from Americans.

The House Committee on Education and Labor under sequential referral proposes extensive amendments that will upset the careful compromises and years of hearings and work that have gone into the drafting of H.R. 7357. The House Republican Policy Committee therefore opposes the amendments proposed by the House Committee on Education and Labor.

The proposed immigration bill is both realistic and humane. The House Republican Policy Committee supports passage of H.R. 7357 as reported by the House Committee on Judiciary.



U.S. Department of Justice  
Office of the Deputy Attorney General

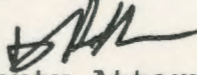
Associate Deputy Attorney General

Washington, D.C. 20530

December 10, 1982

MEMORANDUM TO: The Attorney General  
The Deputy Attorney General

FROM: Robert McConnell  
Assistant Attorney General  
Office of Legislative Affairs

David Hiller   
Associate Deputy Attorney General

SUBJECT: The Immigration Bill

This memorandum discusses the current status of the immigration bill, substantive issues and other considerations.

1. Legislative Status

The House Rules Committee on December 8 voted 9-2 to report a rule for the bill. Speaker O'Neill has restated his intention that the bill be considered prior to adjournment, but realistically the bill will not reach the floor before Monday and every indication is that it will be taken up on Tuesday. The rule provides for five hours of general debate divided among the Judiciary, Education and Labor, and Agriculture Committees. This then means there will be six hours of discussion (one hour on the rule itself) before the House begins working through the bill itself. The rule requires all amendments to be published in the Congressional Record not later than the close of day Thursday, December 9. Although we do not have final information on the number of amendments, Congressman Roybal filed 75 himself. This modified open rule will assure advance knowledge of amendments, but will not impede those intent upon offering numerous amendments. Congressman Roybal told the Rules Committee that the Hispanic Caucus would request roll call votes on each.

As you know, the bill passed the Senate on August 17 by a vote of 80-19. In our view, after House passage Conference consideration could be quick. Simpson and Rodino already have had discussions concerning the major items that would arise. A firm understanding with respect to many of them has been reached.

Time is the enemy! As it stands at this moment the Leadership plans to bring the bill up on Tuesday and use it as the "filler" for the remainder of the session. That is, when the Continuing Resolution, appropriations bills, or privileged matters are not on the floor, immigration will be debated. Although it is generally agreed in the Leadership (both sides) that the bill would pass and pass essentially the way Rodino wants, multiple amendments and roll call votes will simply eat up too much time. However, when the bill is pending business there are always events that could give us the window to passage. We must go full speed. We must exert every effort so that we maximize whatever possibilities are available.

## 2. Substantive Issues

A number of differences exist between the Senate and House versions and between them and the Administration views. (See attached chart). The following discussion proceeds roughly in order of importance to the Administration.

(a) Legalization. The House and Senate bills contain the same terms of eligibility for legalization, which the Administration has supported (permanent resident status for illegals here before 1/1/77, and temporary status for those who came between 1977 and 1/1/80). The bills differ significantly with respect to eligibility for welfare benefits. The Administration strongly favors the Senate version to authorize block grants to cover state and local public assistance costs. The House bill provides some federal benefits and authorizes 100% federal reimbursement of state and local public assistance and educational services. The estimated cost of these House provisions is \$7 billion in FY '83-86.

We are skeptical of the chances of deleting these provisions on the floor, but Simpson and Rodino have agreed in principle to adopt the Senate version in Conference. Most other likely conferees have preferred the Senate version at least with respect to reimbursing state and local costs. Given the improbability of prevailing on the House floor, it may be advisable to defer the issue to Conference as it would be more difficult to obtain House passage of a Conference Report contrary to a floor vote on this issue. Moreover, given the shortness of time for House consideration, the contentious issue of federal reimbursement would protract debate and possibly derail the bill. However, an amendment is being submitted in the event we wish to pursue it.

(b) Adjudication Procedures. The Administration strongly prefers the Senate bill which establishes a new U.S. Immigration Board and immigration judges appointed and supervised by the Attorney General, and provides for strictly limited judicial review of exclusion and asylum decisions. The House bill establishes the Immigration Board as an independent agency within the Department of Justice and provides for administrative law judges (ALJ's) appointed by the Board Chairman. In addition, the House bill provides judicial review of exclusion and asylum decisions in the Courts of Appeals while preserving existing habeas corpus relief.

We have not planned to seek a floor amendment to the House bill. Rodino, Mazzoli, Fish, and other members of the Judiciary Committee strongly favor the House version. Some House members, including the Black Caucus, and members with ties to minority, church, and civil liberties groups would strenuously resist the Senate version. Simpson and the Senate Committee acceded to the changes we favored at the Attorney General's request. It is doubtful whether the Conference would adopt the Senate version in toto. We will want to revisit these issues with Simpson and Rodino over the next few days. We should discuss the Black Caucus position quickly. It is one of their primary concerns and we should make a decision after fully revisiting their concerns.

(c) Employer Sanctions and Worker ID. There are no significant differences between the Senate and House bills. With regard to the sanctions, the Administration has slightly favored the Senate language but with regard to the worker ID provisions, we strongly prefer the greater flexibility of the House bill (and its proviso against creating a national ID card).

(d) H-2 Temporary Workers. This has been a most controversial portion of the bill. On one side, the growers fear the loss of their workforce; on the other side the unions worry about a back-door bracero program. The uneasy compromise between the growers and unions struck in the Judiciary Committee has collapsed. The AFL-CIO is insisting that the House adopt the strongly pro-labor amendments reported by the Education and Labor Committee. Agricultural groups are working against the bill or, at the very least, their message is coming through as opposition. Our own Departments of Labor and Agriculture are sharply divided along constituent lines.

The Administration has supported passage of the House Judiciary version, without committing us to it at Conference.

We strongly oppose the Education and Labor Committee amendments, but are beset by a legislative gridlock. We cannot accommodate either side without further alienating the other, nor can the Departments of Labor and Agriculture agree upon movement in any direction. Beyond supporting the Judiciary bill on the House floor, further agreement within the Administration would appear to require Cabinet consideration. Without our intervention, Simpson likely will prevail in Conference, more to the advantage of growers than unions.

(e) Legal Immigration. The Administration has, at Rodino's request, stated its support for the House version which leaves untouched the existing preference system. Rodino has told us and Simpson that this is the one issue on which he is unmovable. Simpson has said he will accede in exchange for Rodino's agreement to certain other portions of the Senate bill (particularly H-2 and employer sanctions). Likewise, we have sought Rodino's agreement to the Senate legalization provisions, but this needs to be cemented.

### 3. Members Views

Support of the bill on final passage remains strong. Although a substantial number of Members remain undecided, support for the bill on final passage is nearly 2 to 1 (87 for, 115 leaning for; 55 against, 55 leaning against). This margin of support has remained roughly constant the last several weeks. We are confident that if the bill reaches a vote on final passage, it will prevail.

The Members' views on legalization are more nearly divided. However, at present count more Members favor legalization than oppose it (101 for, 67 leaning for; 93 against, 50 leaning against). Evidently, we will have to continue our vigorous efforts to prevent the deletion of legalization.

It appears that the strongly pro-labor amendments to the H-2 provisions offered by the Education and Labor Committee would fail by a margin of nearly 3 to 1 (49 for, 5 leaning for; 136 against, 14 leaning against). However, this situation could change were the Democratic leadership to strongly support these amendments. That appears unlikely at this time.

### 4. Considerations as the Bill Goes to the Floor

Briefly, the most important objective is to have the House pass a bill quickly enough to permit a Conference. As noted, the Senate and House versions are similar enough, and Rodino and



Simpson enough interested in a bill, that present differences easily could be accommodated. The greatest danger is protracted House debate that is clearly in front of us. This may well lead O'Neill to pull the bill from the floor. A secondary danger is the possibility of amendments unacceptable to Rodino, primarily changes in the immigrant preference system or secondarily the striking of the legalization provisions. Other amendments would prolong debate, but generally could be corrected in Conference. We must also consider the possibility of Rodino proceeding after the deletion of legalization by a large majority. This could make a resurrection at Conference unacceptable in the House. At that point, the Administration would have to decide whether we would accept a bill without legalization and, if not, whether the bill should be pulled before it is presented to the President.

Accordingly, with the possible exception of an amendment to adopt the Senate block grant provisions, the Administration generally will oppose floor amendments. We would particularly resist the likely amendments to (1) delete legalization, (2) change the current preference system, (3) place immigrants and refugees within an overall cap, (4) adopt the Education and Labor H-2 amendments, (5) liberalize legalization, (6) require INS to obtain search warrants for farm and ranch checks, (7) provide more elaborate adjudication procedures, and (8) add to the regulatory burden of employer sanctions.

Along these lines, we should actively pursue formal or informal means of discouraging dilatory amendments.

The Department of Justice will continue to coordinate all Congressional contacts. The pace of these Member contacts will be accelerated as the bill comes to the floor, and we will have to involve not only the Attorney General, but other senior Justice officials, senior officials of other departments, and the White House Congressional Liaison Office. Separate memoranda requesting these contacts will be supplied.

#### 5. Conference

As indicated, we believe that any likely House-passed bill would be readily conferable. Simpson and Rodino already have had some discussions in anticipation of a Conference, as we have had with them. We would anticipate our Conference position to follow the substantive concerns set out above. In rough order of priority, our objectives will be the following:

- Adopt the Senate legalization provisions regarding block grants in lieu of the federal benefits and 100% reimbursement provisions of the House bill.
- Seek a compromise on the adjudication procedures; perhaps adopt certain portions of the House bill on judicial review in exchange for the simpler administrative system under the Attorney General's supervision provided in the Senate bill.
- Strongly seek the worker ID provisions of the House bill.
- Try to maintain a grower-Union balance in the H-2 temporary worker program, while assuring that agricultural employers will not be deprived of a necessary workforce. This will require further consultations among Justice, Agriculture, and Labor.

The Attorney General has had preliminary discussions concerning these points with Simpson and Rodino. We should pursue them further in the next days, including staff-level preparation of the necessary language.

cc. Rudolph Giuliani  
Donald Baker

SUMMARY OF THE IMMIGRATION BILL

<u>PROVISIONS</u>	<u>S. 2222, AS PASSED</u>	<u>H.R. 7357</u>	<u>ADMINISTRATION POSITION</u>
1. Employer sanctions			
Prohibition	Prohibits the knowing employment, recruitment, or referral for employment of aliens not authorized for such employment.	Same as S. 2222, but does not cover union hiring halls.	There are no significant differences, but the Administration has preferred S. 2222.
	Prohibits the continued employment of illegal aliens hired after enactment.	Same as S. 2222.	
	Prohibits employers of 4 or more persons from hiring any person without complying with paperwork requirements.	Same as S. 2222, but covers those who recruit or refer also.	
	Provides an affirmative defense if the verification procedures are followed in good faith.	Same as S. 2222.	
Penalties	Following a 6 mos. education period, and 6 mos. where 1st offense receives a warning, (1) for a first violation, a civil fine of \$1,000 for each alien; (2) for a subsequent violation, a civil fine of \$2,000 for each alien; (3) for a pattern or practice of violations, a criminal penalty of up to \$1,000 or 6 mos. imprisonment or both.	Provides a graduated penalty scheme: (1) first violation, a warning; (2) second violation, a civil fine of \$1,000 for each alien; (3) for a third violation, a civil fine of \$2,000 for each alien; (4) for a fourth violation, a criminal penalty of \$3,000 per alien or 1 year imprisonment or both.	There are no significant differences, but the Administration favored criminal penalties only for a pattern or practice. The Criminal Division favors H.R. 7357 for reasons of prosecutorial certainty.
	The Attorney General is authorized to seek injunctions against a pattern or practice of violations.	Same as S. 2222.	
	For a violation of paperwork requirements, a civil fine of \$500.	Same as S. 2222.	
Procedures	Provides administrative hearing before an immigration officer; AG may bring suit in District Court to collect fines.	Provides administrative hearing before ALJ's, appeal to Immig Board, and judicial review in Courts of Appeals.	The Administration strongly favors the less cumbersome S. 2222.

SUMMARY OF THE IMMIGRATION BILL (page 2)

PROVISIONS

S. 2222, AS PASSED

H.R. 7357

ADMINISTRATION POSITION

1. Employer sanctions  
(Cont.)

Worker ID

For 3 years, employer of 4 or more persons must examine specified existing ID's, and maintain form attesting that he has done so, signed by himself and the employee.

Within 3 years, the President is required to make such changes or additions to verification procedures as are necessary to establish a "secure system to verify work eligibility."

Provides that secure system reliably determine a person's identity and that any documents be counterfeit-resistant.

No comparable provision.

Same as S. 2222, but applies to those who recruit and refer also.

Same as S. 2222.

No comparable provision.

Provides that the bill does not authorize the creation of a national ID card.

The Administration strongly favors H.R. 7357, whose provisions are considerably more flexible.

2. User Fees

Requires the Attorney General to impose fees for the use by aliens of border crossing and other INS facilities, commensurate with cost.

Permits the Attorney General to impose user fees.

The Administration strongly favors the permissive language of H.R. 7357.

SUMMARY OF IMMIGRATION BILL (page 3)

PROVISIONS

S. 2222, AS PASSED

H.R. 7357

ADMINISTRATION POSITION

**3. Adjudication Procedures**

**Organization**

Establishes a 9-member U.S. Immigration Board (replacing BIA) and up to 70 immigration judges, appointed by the Attorney General.

Establishes a 6-member U.S. Immigration Board of PAS appointees, and up to 70 ALJ's appointed by the Chairman.

The Administration strongly prefers S. 2222. The ALJ "independent agency" model fragments management and accountability. The judicial review provisions of H.R. 7357 could protract proceedings beyond current law. The "speedy trial" provisions are unworkable.

**Summary Exclusion**

Provides expedited exclusion for aliens who arrive without documents or some reasonable basis for legal entry and who do not claim asylum.

Similar to S. 2222, but provides for alien's right to have decision reconsidered by an ALJ in a summary proceeding.

**Other exclusion, deportation, and asylum**

Provides an administrative hearing before an IJ, with an appeal to the U.S.I.B.

Provides a hearing before an ALJ with an appeal to the U.S.I.B. Creates "speedy trial" requirements for asylum cases.

**Judicial Review**

Deportation decisions reviewable in the Courts of Appeals. No judicial review of exclusion or asylum decisions, except habeas corpus under the Constitution (or where the Attorney General reverses the U.S.I.B.).

Judicial review of exclusion, deportation, and asylum decisions in the Courts of Appeals (with automatic stay of deportation). Preserves judicial review via habeas corpus.

**4. Legal Immigration Preferences**

Provides extensive changes in existing preference system, including (1) placing immediate relatives of U.S. citizens under overall cap of 425,000, (2) dividing admissions into family and independent categories, (3) limiting 2d preference and eliminating 5th preference, (4) creating a new investor preference, and (5) doubling the country ceilings for Mexico and Canada.

No comparable provisions.

The Administration has stated its support for H.R. 7357, assisting Rodino in deleting provisions similar to S. 2222.

SUMMARY OF IMMIGRATION BILL (page 4)

PROVISIONS

S. 2222, AS PASSED

H.R. 7357

ADMINISTRATION POSITION

5. H-2 Temporary Workers

Provides that the Attorney General, in consultation with DOL and DOA, shall approve all regulations concerning the H-2 program.

Provides that H-2 workers may not be admitted for more than 8 mos., except where previously allowed by the Sec'y of Labor.

The Sec'y of Labor may not issue a labor certification if "there is a strike or lock-out in the course of a labor dispute which, under the regs, precludes such certification."

Miscellaneous provisions. See detail sheet.

No comparable provision, but specifically mentions DOL regs.

Admission period determined by DOL regs.

Same as S. 2222.

DOA favors strongly S. 2222. DOL as strongly insists that it have final regulatory authority.

6. Legalization

Provides permanent status to aliens in the U.S. before 1/1/77, and temporary status to those who came between 1977 and 1/1/80 (1/1/81 for Cuban & Haitian entrants).

New permanent residents not eligible for federal benefits for 3 years; new temporary residents ineligible for 6 years.

Authorizes block grants to cover State and local cost of providing public assistance. Estimated cost \$1.2 billion FY 83-86.

Same as S. 2222.

Newly legalized residents eligible for assistance to the aged, blind, and disabled, and medical assistance in the Attorney General's discretion. Estimated cost \$2 billion FY 83-86.

Authorizes 100% federal reimbursement of State and local costs of public assistance and educational services to legalized aliens. Estimated cost \$5 billion FY 83-86.

The Administration has supported these terms of eligibility.

The Administration strongly favors S. 2222, and has conditioned its support for H.R. 7357 on a conforming amendment.



## THE IMMIGRATION REFORM AND CONTROL ACT OF 1983

### Introduction

- o The time for reform of our nation's immigration laws is long overdue.
  - As President Reagan stated when the Administration's reform program was announced, "We shall continue America's tradition as a land that welcomes peoples from other countries. . . . At the same time, we must ensure adequate legal authority to establish control over immigration."
  - Needed control over immigration has been sadly lacking. Attorney General William French Smith has said, "In recent years, this nation truly has lost control of its own borders."
- o The Immigration Reform and Control Act of 1983 (H.R. 1510/S.529) may be the last best hope of remedying this problem.
  - Broadly similar to legislation submitted by the Administration during the 97th Congress, the legislation is intended to deter illegal immigration, reform current adjudications and asylum procedures, make certain changes in the system for legal immigration and provide a legalization program for undocumented aliens who entered the country before 1980 and are contributing members of their communities.
  - H.R. 1510, introduced on February 17th by Congressman Mazzoli, is identical in all major respects to the immigration reform legislation reported favorably by the House Judiciary Committee during the last Congress. S. 529, introduced on February 17th by Senator Simpson, is identical to the legislation which passed the Senate in the 97th Congress on a vote of 80-19.
  - The House and Senate Immigration Subcommittees have already favorably reported H.R. 1510 and S. 529 to their respective Judiciary Committees on near unanimous votes and full Committee action is expected in the near future.

- The Administration wholeheartedly supports enactment of comprehensive immigration reform legislation along the lines of these legislative initiatives.

#### The Problem

- o Immigrants -- both legal and illegal -- are entering the U.S. in greater numbers than at any time since the early 1900's.
  - Largely because of the Cuban boatlift and a large refugee admissions program, more than 800,000 persons were allowed to enter the U.S. in 1980 -- about a 30% increase from the previous year.
  - In 1978 the Census Bureau estimated that there were 3.5 to 6 million illegal aliens living in the U.S., and that number has grown by some 500,000 each year.
- o The forces driving illegal immigration will only increase.
  - In just the next 18 years, the world's population will grow from about 4.5 billion to over 6 billion -- an increase larger than the total population of the world as recently as 1930. The increase will be equivalent to adding 20 new countries the size of Bangladesh -- and 90% of the increase will occur in the developing world.
  - Illegal immigrants are drawn to the U.S. by easy travel and entry across our expansive borders, and by wages 5 to 10 times higher than those in their home countries.

The Mexican situation, which may account for one-half of all illegal migration, is illustrative. Its population likely will double in the next two decades. As much as 40% of its workforce may be unemployed and underemployed. Devaluation of the peso and halting economic growth exacerbate the pressure.



- o Illegal immigration causes serious problems for Americans, and for the illegal aliens themselves.
  - They take jobs, often well-paying jobs, that Americans could take. More than 80% of the illegal aliens are paid at or above the minimum wage -- many well above. They also depress the wages and working conditions of our own workers.
  - The Environmental Fund estimates that illegal alien workers cost \$8 to \$10 billion annually in payments to U.S. workers who lose their jobs to illegal aliens (unemployment insurance, foodstamps, etc.)
  - Illegal aliens also place substantial demands on social services in some communities, particularly public health and education.
  - They also create problems for themselves -- they live hidden in fear of deportation, can be exploited by unscrupulous employers and criminals, and fear recourse to legal authorities.
  - In short, the perpetuation of this illegal class is unhealthy and inhumane. It breeds disrespect for the law and undermines our institutions.

#### The Immigration Reform and Control Act of 1983

- o Introduced in February by Senator Simpson and Congressman Mazzoli, this reform legislation is in the best bipartisan tradition of the U.S. Congress.
  - The legislation builds on the President's proposals, on the study of several past Administrations, and on the work of the Select Commission on Immigration and Reform Policy.
  - The legislation will preserve our country's tradition of accepting foreigners to our shores, but in a legal and orderly manner, within realistic limits.

- o The legislation reflects a consensus concerning what must be done to deal with the problems of illegal immigration and mass asylum. There are several inter-related elements:
  - A. Increased enforcement of existing laws.
  - B. Employer sanctions.
  - C. Reform of adjudication procedures.
  - D. Revision of the current H-2 temporary worker program.
  - E. Legalization.

A. Increased Enforcement of Existing Laws

- o With the support of the Judiciary Committees of the House and Senate, the President sought and received substantial increases in the FY 1982 budget for the Border Patrol and other law enforcement efforts of the INS. The pending legislation continues its support for increases in these resources.
- o In addition, the President sought and received a significant increase in the budget of the Wage and Hour Division of the Department of Labor, to ensure that illegal aliens as well as others are not employed in sweatshop conditions that violate our Fair Labor Standards Laws.
- o The Administration is committed to providing adequate resources to support these needed law enforcement programs.
- o The legislation stiffens penalties for bringing illegal aliens to the U.S. and for fraud and counterfeiting documents used in immigration law violations.

B. Employer Sanctions

- o The legislation prohibits employers from knowingly hiring illegal aliens.
  - This is the only remaining credible enforcement tool that we have. Illegal aliens come here for jobs. If we do not cut off the opportunity for them to work, illegal immigration will not be stopped or even slowed.
  - This is the core of the reform bill. Without employer sanctions there will be no workable or realistic reform.

o The mechanics --

-- The bills provide first for a warning, then for civil fines of \$1,000 to \$2,000, and for criminal fines and jail terms for repeat offenders.

-- The Attorney General may seek injunctions where a pattern or practice of violations exists.

o An employer has a complete defense if he has looked at appropriate identification showing the prospective employee is eligible to work in the U.S.

-- During the first three years, the employer must look at one or two existing pieces of identification, i.e., U.S. passport, Social Security card, drivers license, etc., and sign and retain an affidavit that he has done so.

-- Within three years the President is directed to implement necessary changes or additions to existing identification procedures to protect against counterfeiting and fraud.

-- These simple procedures will fully protect the honest employer, and require little beyond ordinary hiring practices. The verification process should consume only 2 to 3 minutes.

-- The employer is not asked to verify the authenticity of ID's, nor to make subjective judgments whether a person is an alien. These are tasks for the government -- the employer is not being made a policeman.

o The legislation has been written to ensure that it will not result in discrimination against Americans who may look or sound foreign.

-- There is no latitude for the employer to make his own judgment whether a person is an alien or whether the documents presented to him are authentic -- and thus there is no latitude to discriminate.

-- Both House and Senate bills provide for monitoring of possible discrimination by the President and by the General Accounting Office, and for periodic reports to the Congress.

- The House bill also provides for monitoring of discrimination by the U.S. Civil Rights Commission, and for a task force on discrimination established by the Attorney General, the Secretary of Labor, and the Chairman of the Equal Employment Opportunity Commission.
- Employers who used the verification procedures as a pretext for discrimination could be proceeded against under Title VII of the 1964 Civil Rights Act, which prohibits employment discrimination based on national origin.

### C. Adjudication Procedures

- o It is widely recognized that our cumbersome procedures for adjudicating immigration cases have broken down under the weight of overwhelming numbers.
  - Applications for asylum in the U.S. have increased from a few thousand per years as recently as 1979 to a point where there are now more than 140,000 pending cases.
  - Representatives of the ACLU have pointed out that the asylum system is "cumbersome" and "has been justly criticized by Members of Congress, by officials of the State and Justice Departments and by lawyers representing asylum applicants."
  - The backlog of cases prevents meritorious cases from being heard in a timely fashion, while those with frivolous claims can use the procedures as a delaying tactic to remain in the U.S. for lengthy periods of time causing problems for communities with large numbers of illegal aliens.
- o The pending legislation achieves badly needed reforms of the asylum process and of our procedures for returning people who come here illegally.
  - Aliens who come to the U.S. without documents required for entry, who are not seeking asylum, and who have no other legal basis for entry can be summarily excluded, without administrative or judicial appeals.

- Other aliens in exclusion or deportation proceedings, including those raising claims of asylum, are provided an administrative hearing (with the opportunity to have the assistance of an attorney) with an administrative appeal to the new U.S. Immigration Board.
- Limited judicial review is retained to ensure fairness in the administrative process.

D. H-2 Temporary Worker Program

- o The bills recognize that with employer sanctions there may be legitimate labor needs in some sectors of our economy not filled by American workers --
  - This may be particularly true of parts of American agriculture that have become dependent on illegal alien workers.
- o For this reason, the bills revise and streamline the existing H-2 temporary worker program to admit foreign workers to the U.S. for temporary employment in agriculture.
  - The bills provide for the admission of foreign workers to fill temporary jobs in agriculture where there are not sufficient American workers "who are able, willing, and qualified and who will be available at the time and place needed."
  - The bills also streamline the labor certification process by which the Secretary of Labor determines whether the need for foreign workers exists.
- o At the same time, the bills preserve the safeguards to protect American workers from the adverse effects of competition from imported labor.

Thus, the Secretary of Labor cannot certify that there is a need for foreign workers if --

- there are sufficient numbers of American workers who could fill the jobs.
- the foreign workers would "adversely affect the wages and working conditions of workers in the United States who are similarly employed."

- there is a strike or lock-out in a labor dispute where the foreign workers would be used as strike-breakers.
- the employer has in the past substantially violated a material term or condition of a labor certification.

Also, the Secretary of Labor is provided authority and resources to enforce the terms and conditions under which the foreign workers are admitted.

#### E. Legalization

- o Some realistic way must be found to deal with the estimated 3 to 6.5 million illegal aliens now living in the U.S.
  - We have neither the resources nor the inclination to uproot and deport millions of persons, many of whom have become in effect members of the community.
  - It makes far more sense to focus our limited law enforcement resources on stopping the future illegal migration.
  - And the perpetuation of a large, hidden, fugitive class is unhealthy for the nation in the long run.
- o At the same time, we must not encourage more illegal migration. The purpose of the legislation is to deter unlawful entry.
  - Thus the terms of legalization should not be so generous that they attract more illegal aliens, either to take advantage of this program, or in the hopes of repeated "amnesties."
- o Finally, a legalization program must be fair to Americans who bear the burden of social services for the new residents and to legal immigrants who wait patiently in line, often for years.
- o The terms of eligibility for legalization in the Senate bill more appropriately reflect the concept of a demonstrated commitment to this country through long term continuous residence than do the eligibility terms in the House bill.

- In the Senate bill illegal aliens who have continuously resided here since before 1/1/77 may apply for permanent resident status. Those who came between 1/1/77 and 1/1/80 (1/1/81 for Cuban/Haitian entrants) are provided first a temporary resident status, with adjustment to permanent status after 3 years.
- In the House bill illegal aliens who have continuously resided here since before 1/1/81 would immediately be entitled to apply for permanent resident status.
- Only law-abiding and self-supporting people would be eligible for either of the proposed legalization programs.
- o There are also differences between the House and Senate versions of legalization concerning the welfare benefits available to the new residents.
  - The Senate bill provides for a block grant program to support the States and localities in providing emergency medical care or other services to the legalized residents, while excluding the new residents from federal entitlement programs (AFDC, Medicaid, Foodstamps, etc.) for 3 years (6 years in the case of persons who first become temporary residents).
  - The House bill authorizes the Federal government to reimburse 100% of all State and local programs of support for the legalized residents for 4 years. Payments are also authorized to assist state and local educational agencies in providing educational services to legalized residents.
  - The Administration strongly favors the Senate version. The House version would transfer to the Federal government open-ended financial responsibility for state programs without limitation, and without the ability to discourage unnecessary use of the programs. Federal outlays for welfare benefits alone could exceed \$4.8 billion during FY 1984-1987.

The House version requires federal reimbursement even of programs partly or fully funded by State and local taxes -- giving the States a double recovery.

The House version, like the refugee assistance provisions after which it was modelled, would nurture welfare dependence rather than discourage unnecessary welfare support.

# Memorandum



Subject	Date
House Mark-up of H.R. 1510 - Immigration Reform and Control Act of 1983	May 10, 1983
To	From
Management Team	Greg Leo, Acting Director Congressional and Public Affairs

On Tuesday, May 3rd through Thursday, May 5th, the House Judiciary Committee considered approximately 40 amendments and voted H.R. 1510, the Immigration Reform and Control Act of 1983, out of committee by a vote of 20-9.

Attached are listings of the amendments which were considered each day. We expect to receive the full corrected set of amendments today which I will send out upon receipt. Please consider the attached a brief descriptive overview of the amendments considered each day.

The major amendments to H.R. 1510 as reported out of the Immigration Subcommittee are:

#### Employer Sanctions and Enforcement

- . The Committee voted 18-10 with the support of Rodino and Mazzoli to delay required employment eligibility verification procedures and recordkeeping until after an illegal alien has been found in the employ of a business. (The U.S. Chamber of Commerce had sought this and has indicated to Chairman Rodino that it will now endorse the bill).
- . The Committee voted 17-9 to require a warrant prior to entry onto open lands. (Again, this was supported by Rodino and Mazzoli, with the expectation that passage would help the Constitutional liberals on the Committee to accept the bill overall).

#### Adjudicatory Procedures and Judicial Review

- . The Committee restored the pattern of judicial review that it had included in the bill last year exclusion as well as deportation review at the circuit court level and reversed the McCollum amendment that would have placed these and habeas petitions with the Circuit Court of Appeals for the Federal District.
- . Class action judicial review (prior to exhaustion of administrative remedies) was provided where the delay would cause denial of Constitutional rights due to administrative abuse.



### Legal Immigration

No significant amendments as two different amendments to establish an overall cap were defeated. The transitional temporary agricultural worker program was not amended.

### Legalization

- . The eligibility date for the single tier legalization program was advanced to January 1, 1982 by a vote of 15-14. (A substitute amendment to roll it backwards to January 1, 1980 was defeated 13-17).
- . A five-year period (instead of four-year) of ineligibility for federal benefits was established.

These actions accentuate differences between the Senate and House versions. Assuming that House passage as reported and Senator Simpson is able to hold S. 529 in its present form through floor debate (now scheduled for May 11-12), it will not be easy to develop an acceptable compromise in the conference committee. However, the more recent legalization date should be open to challenge on the House floor. Similarly, we will work to reverse the delayed verification procedures and the warrant requirement. These last two items are likely to have a larger group of supporters when they come up as amendments in the Senate floor debate than they would have had without the favorable House Judiciary action.

Attachments

HOUSE JUDICIARY COMMITTEE  
MARKUP - S. 529  
Tuesday, May 3, 1983

1. Hall Amendment to exempt employers of 3 or fewer employees from Employer Sanctions provisions. Failed by voice vote.
2. Kindness Amendment to delay required adherence to certification procedures until Attorney General notifies employers that an illegal alien is in his employ. (Amendment attached.) Passed 18-10.
3. Hughes Amendment to require telephone verification system (for employment eligibility) demonstration project. Failed by voice vote.
4. Frank Amendment to sunset employer sanctions provisions after 5 years. Failed by voice vote.
5. Edwards Amendment to require the President to report regarding more secure verification system, but deleting the implementation of such system without legislative action. Agreed to by voice vote.
6. Hall Amendment directing the Attorney General to actively seek the assistance of state and local enforcement agencies in the performance of his responsibility to enforce the immigration laws. Failed 9-17.

HOUSE JUDICIARY COMMITTEE

MARK-UP - S. 529

Wednesday, May 4, 1983

1. Hughes Amendment to delete "Sense of Congress" and insert "essential element" in Section 111 concerning enhanced enforcement. Passed by voice vote.
2. Seiberling Amendment to delete "under penalty of perjury" (p. 5) requirement that a new employee sign, the verification form. However, it does add "false attestation" on page 18, line 19 of the bill down to assure penalty for false information. Passed by voice vote.
3. Smith Amendment establishing \$35 million contingency fund for enforcement expenditures and reimbursement of state and local government at time of immigration emergency. Passed.
4. Lungren Amendment requiring warrant for entry onto open lands. Passed 17-9.
5. Crockett Amendment to require advice of right to counsel to individual being summarily excluded. Passed.
6. Kastenmeier Amendment to restore judicial review to pattern that was in bill before McCollum amendment in subcommittee (exclusion and deportation at circuit level, habeas in any district court). Passed by voice vote after passing 19-11 as a substitute for another McCollum amendment.
7. Fish Amendment extending from 30 to 60 days the time within which an alien must file his appeal of an exclusion or deportation order. Adopted by voice vote.
8. Kastenmeier Amendment restoring class action judicial review prior to exhaustion to administrative remedies, if such exhaustion would be prejudicial to Constitutional rights. (Restores judicial review under 28 U.S.C. 1331, by which Haitian Refugee Centers v. Smith and Orantes v. Smith were brought). Adopted by voice vote.
9. Fish Amendment to add Senate language concerning reports on human rights from Secretary of State and other advice re asylum application. Failed by voice vote (as did slightly different perfecting amendment of Frank which Fish expressed willingness to accept).
10. Crockett Amendment a) to require Secretary of State to report annually on asylum applications and their disposition, and b) to assure asylum applicant access to records concerning asylum except those affecting national security and internal memorandum (per Section 552 (b) of FOIA). Passed by voice vote.
11. Lungren Technical Amendment to Section 201 to assure intent of amendment that there would be as many as 40,000 immigrant visa numbers available to Mexican nationals under preference system. Passed by voice vote.

12. Sensenbrenner Amendment to cap all legal immigration, refugee and asylee admissions at a level between 300,000 and 420,000 according to annual report of President, which could be reversed by 2-house vote. Failed 5-22.
13. Moorhead Amendment to cap legal immigration at 450,000. Failed 11-19.
14. Synar Amendment to include additional subjects to Presidential Report on impact of immigrants, etc: "environmental quality population, and resource utilization". Adopted by voice vote.
15. Sensenbrenner Amendment to restrict 5th preference to unmarried brothers and sisters. Failed by voice vote.
16. Frank Amendment to Section 205 adding back section excised inadvertently by subcommittee that would allow aliens with Ph. D's sought by universities as researcher to be treated for labor certification similarly to those sought as teachers. Passed by voice vote.
17. Lungren Amendment to establish a guestworker program. Failed by voice vote.

HOUSE JUDICIARY COMMITTEE

MARK-UP - S. 529

Thursday, May 5, 1983

1. Frank Amendment allowing waiver of required foreign residency period for students with Economics or Business degrees and expertise in export - import business. Adopted by voice vote.
2. McCollum Amendment to add "and other governments" to the provision urging President to establish an advisory commission to consult with Mexico re: the H-2 temporary worker program. Adopted by voice vote.
3. McCollum Amendment to strike legalization (section 301). Failed 10-19.
4. Lungren Amendment to return legalization to 2-tier system with 1980/1977 eligibility dates. Failed 10-20.
5. Shaw Substitute (for Frank Amendment) to roll back legalization eligibility date to January 1, 1980 (single tier). Failed 13-17.
6. Frank Amendment to advance legalization eligibility date to January 1, 1982. Passed 15-14.
7. Frank Amendment to substitute 6 general exclusions for the specific and general reference to the existing grounds of inadmissibility under legalization. Failed by voice vote.
8. Lungren Amendment to extend ineligibility for federal benefits for legalized aliens from 4 to 5 years. Adopted by voice vote.
9. Lungren Amendment to substitute block grant program for the provisions authorizing up to 100% reimbursement to state and local government for social welfare expenditures for legalized aliens. Failed by voice vote.
10. Lungren Amendment to remove medical benefits exception to ineligibility for federal benefits. Failed by voice vote.
11. McCollum Amendment to substitute Fascell-Stone type educational impact grants for the more general educational assistance for school systems enrolling legalized aliens. Failed 13-17.
12. Frank Amendment that information elicited as part of employer sanctions recordkeeping shall not be used for other law enforcement purposes. Passed by voice vote.
13. Hughes Amendment to suspend employer sanctions unless Congress appropriates full amount authorized for INS enforcement in the bill. Failed by voice vote.

14. Conyers Amendment stating Sense of Congress that extended voluntary departure should be granted to El Salvadorans in the U.S. until Secretary of State specifies that civil strife has ended in their homeland. Passed by voice vote.

The Immigration Reform Bill as amended was voted out of the Committee by 20-9.



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Washington, D.C. 20530

May 6, 1983

MEMORANDUM TO: Interagency Task Force on  
Immigration and Refugee Policy

FROM: Phillip D. Brady *PD*  
Deputy Associate Attorney General

Please find attached copies of 19 amendments which were adopted during the House Judiciary Committee mark-up of H.R. 1510. It would be appreciated if you would review these from the perspective of your Department and return your comments. I would anticipate having an Interagency Task Force meeting on this subject shortly after next week's Senate action on S. 529.

Thank you for your attention to this matter.

FRANK AMENDMENT 2A

Page 7, line 9, insert the following new sentence:

" A form designated or established by the Attorney General under this section and any information contained in or appended to such form, may not be used for purposes other than for enforcement of this section or section 1546 of Title 18, United States Code.

~~Yes~~  
True vote



5/2:

#1 -- Presidential study and report to Congress concerning verification system to establish employment eligibility in the United States

Amendment to Subcommittee  
Amendment to H.R. 1510 to be offered by Edwards

Page 7, line 11, strike out "implement such"  
and insert in lieu thereof "study and report to  
the Congress concerning the possible need for  
and costs of"

*yes  
will vote*

#3--Annual asylum report and permitting asylum applicants  
access to necessary information

Amendment to Subcommittee Amendment to H.R. 1510

Offered by Mr. Crockett

Page 41, line 9, strike out 'subsection' and insert in lieu thereof 'subsections'.

Page 41, line 11, strike out all that follows the first period.

Page 41, after line 11, insert the following new subsection:

1        '(e) The Attorney General shall report to the Congress  
2 annually on the number of applications for asylum (by  
3 country of nationality of applicant) (1) submitted during  
4 the year, (2) approved during the year, (3) denied during  
5 the year, and (4) pending at the end of the year, and shall  
6 also include in such report such other general information  
7 relating to such applications as may be appropriate.'.

Page 41, line 19, insert ', by inserting '(whether as an immigrant, nonimmigrant, refugee, or otherwise)' after 'enter the United States', and' before 'and'.

Page 41, line 21, strike out '(2) The' and insert in lieu thereof '(2)(A) Except as provided in subparagraph (B), the'.

Page 41, line 24, strike out ', refugee status,' and insert in lieu thereof 'or'.

*Yes  
voice vote*

Page 41, line 25, strike out '', 208,''

Page 42, line 12, strike out all that follows the first period.

Page 42, after line 12, insert the following new subparagraph:

1       ''(B) In the case of an applicant for asylum or  
2 withholding of deportation who seeks records or documents  
3 relevant to that particular application, subparagraph (A)  
4 shall not be construed as limiting that applicant's access  
5 to such records or documents except in so far as such  
6 records or documents are exempt from disclosure under  
7 section 552(b) of title 5, United States Code.''

5/2: #1--Authorization for immigration emergency fund  
Amendment to Subcommittee Amendment to H.R. 1510  
Offered by Mr. Smith

Page 20, after line 4, insert the following new  
subsection:

1        '(c) There are authorized to be appropriated to an  
2 immigration emergency revolving fund, to be established in  
3 the Treasury, \$35,000,000, to be used to provide for an  
4 increase in border patrol or other enforcement activities of  
5 the Service and for reimbursement of State and localities in  
6 providing assistance to the Attorney General in meeting an  
7 immigration emergency, except that no amounts may be  
8 withdrawn from such fund with respect to an emergency unless  
9 the President has determined that the immigration emergency  
10 exists and has certified such fact to the Judiciary  
11 Committees of the House of Representatives and of the  
12 Senate.

*Yes  
voice vote*

#2--Restricting Warrantless Entry to conduct searches

Amendment to H.R. -1510

Offered by Mr. Lungren

Page 22, before line 8, insert the following new section  
(and insert a corresponding item in the table of contents):

1 RESTRICTING WARRANTLESS ENTRY IN THE CASE OF OUTDOOR

2 OPERATIONS

3 SEC. 114. Section 287 (8 U.S.C. 1357) is amended by

4 adding at the end the following new subsection:

5 '(d) Notwithstanding any other provision of this  
6 section other than paragraph (3) of subsection (a), an  
7 officer or employee of the Service shall not enter without  
8 the consent of the owner (or agent thereof) or a properly  
9 executed warrant onto the premises of a farm or other  
10 outdoor operation for the purpose of interrogating a person  
11 believed to be an alien as to the person's right to be or to  
12 remain in the United States or for activities related to  
13 that purpose.'.

*Use*  
*19-5*

4/28: #1--Notice of right to counsel before expedited  
exclusion

Amendment to Subcommittee Amendment to H.R. 1510

Offered by Mr. Crockett

Page 23, line 1, insert "to be represented by counsel  
(in accordance with section 292) and" after "right".

~~Yes~~  
no vote