THE CLINTON-GORE ADMINISTRATION: GROWING THE NEW ECONOMY WITH INCREASED TRAINING AND ADDITIONAL SKILLED WORKERS

October 17, 2000

President Clinton today signed into law new legislation to increase the number of H-1B visas available to bring in highly skilled foreign temporary workers and to double the fee charged to employers using the program in order to provide critical funding for training U.S. workers and students. Many companies are reporting that their number one constraint on growth is the inability to hire workers with the necessary skills. S. 2045, the American Competitiveness in the Twenty-First Century Act, and the untitled H.R. 5362 together recognize the importance of allowing additional skilled workers to work in the United States in the short-run, while supporting longer-term efforts to prepare American workers for the jobs of the new economy by increasing our investments in education and training. The President also called on Congress to ensure fairness for immigrants who have lived and worked in this country for years by passing the Latino and Immigrant Fairness Act.

A PREPARED WORKFORCE FOR AMERICA – TODAY AND IN THE FUTURE

Together, these laws accomplish a number of key Administration priorities:

- Increase the number of H-1B visas available to 195,000 for each of the next three years (prior law would have capped the visas at 107,500 for FY 01, and 65,000 for subsequent years);
- Increase the fee charged to employers using the program from $500 per visa to $1000, and direct the majority of the funds to training U.S. workers. If FY 2001 alone, the new legislation will generate an estimated $170 million in additional funds to educate and train U.S. students and workers, including an estimated **additional**:
  - $101 million to the Labor Department to fund projects to train U.S. workers seeking the necessary skills for jobs for which employers seek H-1B workers.
  - $69 million for the National Science Foundation to provide scholarships to low-income individuals pursuing degrees in math, engineering or computer science and to support programs to improve K-12 education in math, science and technology.
- Generate, through the increased fees, an estimated $15 million of additional funds this year for the Departments of Labor and Justice for program administration and enforcement.
- Extend the hard-won protections for U.S. workers included in the American Competitiveness and Workforce Improvement Act of 1998.

PRESIDENT DIRECTS MONITORING OF IMPACT OF CERTAIN PROVISIONS

The President is concerned that certain provisions in the legislation could, in some cases: 1) weaken existing protections designed to ensure that the H-1B program does not undercut the wages and working conditions of U.S. workers; and 2) increase the vulnerability of H-1B workers to any unscrupulous employers using the program. The President has directed the Immigration and Naturalization Service, in consultation with the Departments of State and Labor, to monitor the impact of these provisions to determine whether the next Congress should revisit these changes to the H-1B program:

- H-1B Visa Portability would allow an H-1B visa holder to work for an employer who has not yet been approved for H-1B program participation.
- Extensions of H-1B Visa Status could have the unintended consequence of allowing an H-1B visa holder applying for permanent resident status to remain in H-1B status well beyond the current six-year limit on H-1B visas while waiting for a permanent visa to become available.

MORE WORK REMAINS TO BE DONE

The President remains committed to ensuring fairness for immigrants who have been in this country for years, working hard and paying taxes. The Latino and Immigrant Fairness Act (LIFA) will allow people who have lived here for fifteen years or more, and established families and strong ties to their communities, to become permanent residents. It will also amend the Nicaraguan Adjustment and Central American Relief Act (NACARA) to extend the same protections currently offered to people from Cuba and Nicaragua to immigrants from Honduras, Guatemala, El Salvador, Haiti and Liberia who fled to this country to escape serious hardships. Finally, it will allow families to stay together while their applications for permanent resident status are being processed. The President continues to strongly insist on passage of the Latino and Immigrant Fairness Act this year, before Congress adjourns.

STATEMENT BY THE PRESIDENT:
Signing of "American Competitiveness in the Twenty-First Century Act"

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release October 17, 2000

STATEMENT BY THE PRESIDENT

I am pleased today to sign into law S. 2045, the "American Competitiveness in the Twenty-First Century Act," and H.R. 5362, an Act to increase the fees charged to employers who petition to employ H-1B non-immigrant workers. Together, these laws increase the number of H-1B visas available to bring in highly skilled foreign temporary workers and double the fee charged to employers using the program to provide critical funding for training U.S. workers and students. The Acts recognize the importance of allowing additional skilled workers into the United States to work in the short-run, while supporting longer-term efforts to prepare American workers for the jobs of the new economy.

At the core of my economic strategy has been the belief that fiscal discipline and freeing up capital for private sector investment must be accompanied by a commitment to invest in human capital. The growing demand for workers with high-tech skills is a dramatic illustration of the need to "put people first" and increase our investments in education and training. Today, many companies are reporting that their number one constraint on growth is the inability to hire workers with the necessary skills. In today's knowledge-based economy, what you earn depends on what you learn. Jobs in the information technology sector, for example, pay 85 percent more than the private sector average.

My Administration has made clear that any increase in H-1B visas should be temporary and limited in number, that the fee charged to employers using the program should be increased significantly, and that the majority of the funds generated by the fee must go to the Department of Labor to fund training for U.S. workers seeking the necessary skills for these jobs. This legislation does those things. But the need to educate and train workers for these high-skilled jobs goes beyond what has been addressed here.

I want to challenge the high-tech companies to redouble their efforts to find long-term solutions to the rapidly growing demand for workers with technical skills. This will require doing more to improve K-12 science and math education, upgrading the skills of our existing workforce, and recruiting from under-represented groups such as older workers, minorities, women, persons with disabilities, and residents of rural areas. Many companies have important initiatives in these areas, but we clearly need to be doing more.

This legislation contains a number of provisions that merit concern. For example, one provision allows an H-1B visa holder to work for an employer who has not yet been approved for participation in the H-1B program. In addition, there are provisions that could have the unintended consequence of allowing an H-1B visa holder who is applying for a permanent visa to remain in H-1B status well beyond the current 6-year limit. I am concerned that these provisions could weaken existing protections that ensure that the H1-B program does not undercut the wages and working conditions of U.S. workers, and could also increase the vulnerability of H--1B workers to any unscrupulous employers using the program. For example, one of the key requirements of the H-1B program is that the foreign worker is paid the same wage as U.S. workers doing the same job. This legislation, however, by allowing H-1B workers to change employers before a new employer's application has been approved, could result in an employer -- knowingly or unknowingly -- not paying the prevailing wage. For these reasons, I am directing the Immigration and Naturalization Service, in consultation with the Department of State and the Department of Labor, to closely monitor the impact of these provisions to determine whether the next congress should revisit these changes made to the H-1B program.

I had hoped that the Congress would take this opportunity to address important issues of fairness affecting many immigrants already in this country. We need to meet the needs of the high-tech industry by raising the number of visas for temporary high-tech workers. But we also must ensure fairness for immigrants who have been in this country for years, working hard and paying taxes. The Latino and Immigrant Fairness Act (LIFA) will allow people who have lived here for 15 years or more – and who have established families and strong ties to their communities – to become permanent residents. It will also amend the Nicaraguan Adjustment and Central American Relief Act (NACARA) to extend the same protections currently offered to people from Cuba and Nicaragua to immigrants from Honduras, Guatemala, El Salvador, Haiti, and Liberia who fled to this country to escape serious hardship. Finally, it will allow families to stay together while their applications for permanent resident status are being processed. These fundamental fairness provisions have been embraced by humanitarian groups, business groups, and Members of the Congress from both sides of the aisle. I will continue to insist strongly on passage of the Latino and Immigrant Fairness Act this year, before the Congress adjourns.

WILLIAM J. CLINTON

THE WHITE HOUSE,
October 17, 2000.

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WILLIAM J. CLINTON

THE WHITE HOUSE,
October 17, 2000.

# # #

H1B Plus

EWIC Essential Worker Immigration Coalition

September 8, 2000

The Honorable Edward Kennedy
United States Senate
Washington, D.C. 20510

Dear Senator Kennedy:

The Essential Worker Immigration Coalition (EWIC) is a coalition of businesses, trade associations, and other organizations from across the industry spectrum concerned with the shortage of both semi-skilled and unskilled ("essential worker") labor.

While all sectors of the economy have benefited from the extended period of economic growth, one significant impediment to continued growth is the shortage of essential workers. With unemployment rates in some areas approaching zero and despite continuing vigorous and successful welfare-to-work, school-to-work, and other recruitment efforts, some businesses are now finding themselves with no applicants of any kind for numerous job openings. There simply are not enough workers in the U.S. to meet the demand of our strong economy, and we must recognize that foreign workers are part of the answer.

Furthermore, in this tight labor market, it can be devastating when a business loses employees because they are found to be in the U.S. illegally. Many of these workers have been in this country for years: paying taxes and building lives. EWIC supports measures that will allow them to remain productive members of our society.

We believe there are several steps Congress can take now to help stabilize the current workforce:

- **Update the registry date.** As has been done in the past, the registry date should be moved forward, this time from 1972 to 1986. This would allow undocumented immigrants who have lived and worked in the U.S. for many years to remain here permanently.

- **Restore Section 245(i).** A provision of immigration law, Section 245(i), allowed eligible people living here to pay a $1,000 fee and adjust their status in this country. Since Section 245(i) was grandfathered in 1998, INS backlogs have skyrocketed, families have been separated, businesses have lost valuable employees, and eligible people must leave the country (often for years) in order to adjust.

- **Pass the Central American and Haitian Adjustment Act.** Refugees from certain Central American and Caribbean countries currently are eligible to become permanent residents. However, current law does not help others in similar circumstances. Congress needs to act to ensure that refugees from El Salvador, Guatemala, Haiti and Honduras have the same opportunity to become permanent residents.

We are also enclosing our reform agenda which includes our number one priority: allowing employers facing worker shortages greater access to the global labor market. EWIC's members employ many immigrants and support immigration reforms that unite families and help stabilize the current U.S. workforce. We look forward to working with you to pass all of these important measures.

Sincerely,

Essential Worker Immigration Coalition

Enclosures:
- Reform Agenda
- List of Members

Essential Worker Immigration Coalition
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EWIC Essential Worker Immigration Coalition

MEMBERS

American Health Care Association
American Hotel & Motel Association
American Immigration Lawyers Association
American Meat Institute
American Road & Transportation Builders Association
American Nursery & Landscape Association
Associated Builders and Contractors
Associated General Contractors
The Brickman Group, Ltd.
Building Service Contractors Association International
Carlson Hotels Worldwide and Radisson
Carlson Restaurants Worldwide and TGI Friday's
Cracker Barrel Old Country Store
Harborside Healthcare Corporation
Ingersoll-Rand
International Association of Amusement Parks and Attractions
International Mass Retail Association
Manufactured Housing Institute
Nath Companies
National Association for Home Care
National Association of Chain Drug Stores
National Association of RV Parks & Campgrounds
National Council of Chain Restaurants
National Retail Federation
National Restaurant Association
National Roofing Contractors Association
National Tooling & Machining Association
National School Transportation Association
Outdoor Amusement Business Association
Resort Recreation & Tourism Management
US Chamber of Commerce

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EWIC Essential Worker Immigration Coalition

Reform Agenda

The Essential Worker Immigration Coalition (EWIC) is a coalition of businesses, trade associations, and other organizations from across the industry spectrum concerned with the shortage of both semi-skilled and unskilled ("essential worker") labor. This document lays out EWIC's principles for essential worker immigration reform.

New Legal Immigration Programs Based on U.S. Worker Shortage

- Short-term: an effective H-2B-like program
- Long-term: an employment-based visa that could be converted to permanent residence
- Permanent: employment-based permanent residence for essential workers through an application process that is straightforward and quickly completed

Regularization of Certain Undocumented Workers Currently in the U.S.

- Establish a one-time mechanism to allow undocumented workers in the U.S. to convert to a legal status – a conditional employment-based status leading to permanent status
- Regularization initiatives should be matched to employability, although not necessarily a particular employer:
  - the worker should document actual or prospective employment to qualify
  - the employer documenting actual employment should be forgiven for any employer sanctions violation

Workable Immigration Enforcement System

- Employer sanctions repeal (Immigration Reform and Control Act of 1986)
- Employer sanctions repeal should be paired with an updated legal immigration system to reduce undocumented immigration

Maintenance of Existing Worker Protections

- A new immigration system should not result in any diminution or expansion of current worker protections

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Highlights of the "Latino and Immigrant Fairness Act of 2000"
S. 2912 + Liberians

The Administration is on record supporting a bill introduced by Senator Kennedy on July 26, "Latino and Immigrant Fairness Act of 2000" (S. 2912), **plus** wants a provision added to S. 2912 that will provide relief to Liberians. The Administration **is not on record** supporting a Kennedy amended version of the "Latino and Immigrant Fairness Act of 2000" (S. 3095) that provides coverage for Liberians and Russians/Eastern Europeans. **Attached is S. 2912 amended to correct technical errors and to include Liberians.**

S. 2912:

Provides Expanded Relief to Salvadoran, Guatemalans, Hondurans and Liberians:

- Amends the Nicaraguan Adjustment and Central American Relief Act (NACARA), which provided for adjustment of status of Nicaraguans and Cubans, to expand coverage to individuals from El Salvador, Guatemala, and Honduras.

- Salvadoran, Guatemalans and Haitians will be eligible for the more extensive adjustment opportunities available under Section 202 of NACARA, compared to the limited benefits available under the Haitian Fairness Act or Section 203 of NACARA. Hondurans are given NACARA coverage for the first time under this bill.

- Permits Liberians who have been physically present in the country continuously since December 1, 1996, to apply for adjustment of status.

Reauthorizes the 245(i) Provision:

- The Administration sought the reauthorization of the 245(i) provision in the FY 2001 Budget. The 245(i) adjustment of status penalty provision, which expired in 1998, permits certain migrants, upon payment of a $1,000 penalty, to adjust their immigration status while remaining in the United States.

- The proposal splits the penalty revenue between detention and immigration services as requested in the Budget.

Changes Registry Date:

- Changes the registry date from 1972 to 1986. This date change permits eligible aliens who can prove entry prior to 1986 and have resided here continuously to adjust their status and remain legally.

- The Administration had unsuccessfully sought this date change in 1996 in IIRIRA. This is essentially an administrative fix (date changes go back to 1924) that will ensure the country does not have a large undocumented illegal population.

Calendar No. 717

106TH CONGRESS
2D SESSION

S. 2912

To amend the Immigration and Nationality Act to remove certain limitations on the eligibility of aliens residing in the United States to obtain lawful permanent resident status.

IN THE SENATE OF THE UNITED STATES

JULY 25, 2000

Mr. KENNEDY (for himself, Mr. REID, Mr. DURBIN, Mr. GRAHAM, Mr. LEAHY, Mr. WELLSTONE, and Mr. DASCHLE) introduced the following bill; which was read the first time

JULY 26, 2000

Read the second time and placed on the calendar

A BILL

To amend the Immigration and Nationality Act to remove certain limitations on the eligibility of aliens residing in the United States to obtain lawful permanent resident status.

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 ``Latino and Immigrant Fairness Act of 2000''.

TITLE I—CENTRAL AMERICAN AND HAITIAN PARITY

SEC. 101. SHORT TITLE.

This title may be cited as the ``Central American and Haitian Parity Act of 2000''.

SEC. 102. ADJUSTMENT OF STATUS FOR CERTAIN NATIONALS FROM EL SALVADOR, GUATEMALA, HONDURAS, AND HAITI.

Section 202 of the Nicaraguan Adjustment and Central American Relief Act is amendedÐ

(1) in the section heading, by striking ``NICARAGUANS AND CUBANS'' and inserting ``NICARAGUANS, CUBANS, SALVADORANS, GUATEMALANS, HONDURANS, AND HAITIANS'';

(2) in subsection (a)(1)(A), by striking ``2000'' and inserting ``2003'';

(3) in subsection (b)(1), by striking ``Nicaragua or Cuba'' and inserting ``Nicaragua, Cuba, El Salvador, Guatemala, Honduras, or Haiti''; and

(4) in subsection (d)Ð

(A) in subparagraph (A), by striking ``Nicaragua or Cuba'' and inserting ``Nicaragua, Cuba, El Salvador, Guatamala, Honduras, or Haiti; and

(B) in subparagraph (E), by striking "2000" and inserting "2003".

SEC. 103. APPLICATIONS PENDING UNDER AMENDMENTS MADE BY SECTION 203 OF THE NICARAGUAN ADJUSTMENT AND CENTRAL AMERICAN RELIEF ACT.

An application for relief properly filed by a national of Guatemala or El Salvador under the amendments made by section 203 of the Nicaraguan Adjustment and Central American Relief Act which was filed on or before the date of enactment of this Act, and on which a final administrative determination has not been made, shall, at the election of the applicant, be considered to be an application for adjustment of status under the provisions of section 202 of the Nicaraguan Adjustment and Central American Relief Act, as amended by ~~section 12 of~~ this Act, upon the payment of any fees, and in accordance with procedures, that the Attorney General shall prescribe by regulation. The Attorney General may not refund any fees paid in connection with an application filed by a national of Guatemala or El Salvador under the amendments made by section 203 of ~~that~~ Act.

the Nicaraguan Adjustment and Central American Relief

SEC. 104. APPLICATIONS PENDING UNDER THE HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998.

An application for adjustment of status properly filed by a national of Haiti under the Haitian Refugee Immigration Fairness Act of 1998 which was filed on or before the date of enactment of this Act, and on which a final administrative determination has not been made, may be considered by the Attorney General, in the unreviewable discretion of the Attorney General, to also constitute an application for adjustment of status under the provisions of section 202 of the Nicaraguan Adjustment and Central American Relief Act, as amended by ~~section 12 of~~ this Act.

SEC. 105. TECHNICAL AMENDMENTS TO THE NICARAGUAN ADJUSTMENT AND CENTRAL AMERICAN RELIEF ACT.

(a) IN GENERAL.—Section 202 of the Nicaraguan Adjustment and Central American Relief Act is amended—

(1) in subsection (a)—

(A) by inserting before the period at the end of paragraph (1)(B) the following: ``, and the Attorney General may, in the unreviewable discretion of the Attorney General, waive the grounds of inadmissibility specified in section

212(a)(1) (A)(i) and (6)(C) of such Act for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest'';

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following:

``(2) INAPPLICABILITY OF CERTAIN PROVISIONS.Ð In determining the eligibility of an alien described in subsection (b) or (d) for either adjustment of status under this section or other relief necessary to establish eligibility for such adjustment, the provisions of section 241(a)(5) of the Immigration and Nationality Act shall not apply. In addition, an alien who would otherwise be inadmissible pursuant to section 212(a)(9) (A) or (C) of such Act may apply for the Attorney General's consent to reapply for admission without regard to the requirement that the consent be granted prior to the date of the alien's reembarkation at a place outside the United States or attempt to be admitted from foreign contiguous territory, in order to qualify for the exception to those grounds of inadmissibility set forth in section 212(a)(9) (A)(iii) and (C)(ii) of such Act.''; and

(D) by amending paragraph (3) (as redesignated by subparagraph (B)) to read as follows:

``(3) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.Đ An alien present in the United States who has been ordered excluded, deported, or removed, or ordered to depart voluntarily from the United States under any provision of the Immigration and Nationality Act may, notwithstanding such order, apply for adjustment of status under paragraph (1). Such an alien may not be required, as a condition of submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate such order. Such an alien may be required to seek a stay of such an order in accordance with subsection (c) to prevent the execution of that order pending the adjudication of the application for adjustment of status. If the Attorney General denies a stay of a final order of exclusion, deportation, or removal, or if the Attorney General renders a final administrative determination to deny the application for adjustment of status, the order shall be effective and enforceable to the same extent as if the application had not been made. If the Attorney General

grants the application for adjustment of status, the Attorney General shall cancel the order.";

(2) in subsection (b)(1), by adding at the end the following: `Subsection (a) shall not apply to an alien lawfully admitted for permanent residence, unless the alien is applying for relief under that subsection in deportation or removal proceedings.";

(3) in subsection (c)(1), by adding at the end the following: "Nothing in this Act requires the Attorney General to stay the removal of an alien who is ineligible for adjustment of status under this Act.";

(4) in subsection (d)Ð

(A) by amending the subsection heading to read as follows: `SPOUSES, CHILDREN, AND UNMARRIED SONS AND DAUGHTERS.Ð ";

(B) by amending the heading of paragraph (1) to read as follows: `ADJUSTMENT OF STATUS.Ð ";

(C) by amending paragraph (1)(A) to read as follows:

"(A) the alien entered the United States on or before the date of enactment of the Central American and Haitian Parity Act of 2000;";

(D) in paragraph (1)(B), by striking ``except that in the case of'' and inserting the following: ``except thatÐ

``(i) in the case of such a spouse, stepchild, or unmarried stepson or stepdaughter, the qualifying marriage was entered into before the date of enactment of the Central American and Haitian Parity Act of 2000; and

``(ii) in the case of''; and

(E) by adding at the end the following new paragraph:

``(3) ELIGIBILITY OF CERTAIN SPOUSES AND CHILDREN FOR ISSUANCE OF IMMIGRANT VISAS.Ð

``(A) IN GENERAL.Ð In accordance with regulations to be promulgated by the Attorney General and the Secretary of State, upon approval of an application for adjustment of status to that of an alien lawfully admitted for permanent residence under subsection (a), an alien who is the spouse or child of the alien being granted such status may be issued a visa for admission to the United States as an immigrant following to join the principal applicant, if the spouse or childÐ

``(i) meets the requirements in paragraphs (1)(B) and (1)(D); and

``(ii) applies for such a visa within a time period to be established by such regulations.

``(B) RETENTION OF FEES FOR PROCESSING APPLICATIONS.Ð The Secretary of State may retain fees to recover the cost of immigrant visa application processing and issuance for certain spouses and children of aliens whose applications for adjustment of status under subsection (a) have been approved. Such feesÐ

``(i) shall be deposited as an offsetting collection to any Department of State appropriation to recover the cost of such processing and issuance; and

``(ii) shall be available until expended for the same purposes of such appropriation to support consular activities.'';

(5) in subsection (g), by inserting ``, or an immigrant classification,'' after ``for permanent residence''; and

(6) by adding at the end the following new subsection:

``(i) STATUTORY CONSTRUCTION.Ð Nothing in this section authorizes any alien to apply for admission to, be admitted to, be paroled into, or otherwise lawfully return to the United States, to apply for, or to pursue an application for adjustment of status under this section without the express authorization of the Attorney General.''.

(b) EFFECTIVE DATE.Ð The amendments made by paragraphs (a)(1)(D), (2), and (6) shall be effective as if included in the enactment of the Nicaraguan and Central American Relief Act. The amendments made by paragraphs (a)(1) (A)±(C), (3), (4), and (5) shall take effect on the date of enactment of this Act.

SEC. 106. TECHNICAL AMENDMENTS TO THE HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998.

(a) IN GENERAL.Ð Section 902 of the Haitian Refugee Immigration Fairness Act of 1998 is amendedÐ

(1) in subsection (a)Ð

(A) by inserting before the period at the end of paragraph (1)(B) the following: ``, and the Attorney General may, in the unreviewable discretion of the Attorney General, waive the grounds of inadmissibility specified in section 212(a)(1)(A)(i) and (6)(C) of such Act for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest'';

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following:

``(2) INAPPLICABILITY OF CERTAIN PROVISIONS.Ð In determining the eligibility of an alien described in subsection (b) or (d) for either adjustment of status under this section or other relief necessary to establish eligibility for such adjustment, or for permission to reapply for admission to the United States for the purpose of adjustment of status under this section, the provisions of section 241(a)(5) of the Immigration and Nationality Act shall not apply. In addition, an alien who would otherwise be inadmissible pursuant to section 212(a)(9) (A) or (C) of such Act may apply for the Attorney General's consent to reapply for admission without regard to the requirement that the consent be granted prior to the date of the alien's reembarkation at a place outside the United States or attempt to be admitted from foreign contiguous territory, in order to qualify for the exception to those grounds of inadmissibility set forth in section 212(a)(9) (A)(iii) and (C)(ii) of such Act.''; and

(D) by amending paragraph (3) (as redesignated by subparagraph (B)) to read as follows:

``(3) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.Ð An alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart voluntarily from the United States under any provision of the Immigration and Nationality Act may, notwithstanding such order, apply for adjustment of status under paragraph (1). Such an alien may not be required, as a condition of submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate such order. Such an alien may be required to seek a stay of such an order in accordance with subsection (c) to prevent the execution of that order pending the adjudication of the application for adjustment of status. If the Attorney General denies a stay of a final order of exclusion, deportation, or removal, or if the Attorney General renders a final administrative determination to deny the application for adjustment of status, the order shall be effective and enforceable to the same extent as if the application had not been made. If the Attorney General

grants the application for adjustment of status, the Attorney General shall cancel the order.";

(2) in subsection (b)(1), by adding at the end the following: `Subsection (a) shall not apply to an alien lawfully admitted for permanent residence, unless the alien is applying for such relief under that subsection in deportation or removal proceedings.";

(3) in subsection (c)(1), by adding at the end the following: `Nothing in this Act ~~shall~~ requires the Attorney General to stay the removal of an alien who is ineligible for adjustment of status under this Act.";

(4) in subsection (d)Đ

(A) by amending the subsection heading to read as follows: `SPOUSES, CHILDREN, AND UNMARRIED SONS AND DAUGHTERS.Đ ";

(B) by amending the heading of paragraph (1) to read as follows: `ADJUSTMENT OF STATUS.Đ ";

(C) by amending paragraph (1)(A), to read as follows:

`(A) the alien entered the United States on or before the date of enactment of the Central American and Haitian Parity Act of 2000;";

(D) in paragraph (1)(B), by striking ``except that in the case of'' and inserting the following: ``except thatÐ

``(i) in the case of such a spouse, stepchild, or unmarried stepson or stepdaughter, the qualifying marriage was entered into before the date of enactment of the Central American and Haitian Parity Act of 2000; and

``(ii) in the case of'';

(E) by adding at the end of paragraph (1) the following new subparagraph:

``(E) the alien applies for such adjustment before April 1, 2004.''; and

(F) by adding at the end the following new paragraph:

``(3) ELIGIBILITY OF CERTAIN SPOUSES AND CHILDREN FOR ISSUANCE OF IMMIGRANT VISAS.Ð

``(A) IN GENERAL.Ð In accordance with regulations to be promulgated by the Attorney General and the Secretary of State, upon approval of an application for adjustment of status to that of an alien lawfully admitted for permanent residence under subsection (a), an alien who is the spouse or child of the alien

being granted such status may be issued a visa for admission to the United States as an immigrant following to join the principal applicant, if the spouse or childÐ

``(i) meets the requirements in paragraphs (1)(B) and (1)(D); and

``(ii) applies for such a visa within a time period to be established by such regulations.

``(B) RETENTION OF FEES FOR PROCESSING APPLICATIONS.Ð The Secretary of State may retain fees to recover the cost of immigrant visa application processing and issuance for certain spouses and children of aliens whose applications for adjustment of status under subsection (a) have been approved. Such feesÐ

``(i) shall be deposited as an offsetting collection to any Department of State appropriation to recover the cost of such processing and issuance; and

``(ii) shall be available until expended for the same purposes of such appropriation to support consular activities.'';

(5) in subsection (g), by inserting ", or an immigrant classification," after "for permanent residence";

(6) by redesignating subsections (i), (j), and (k) as subsections (j), (k), and (l), respectively; and

(7) by inserting after subsection (h) the following new subsection:

"(i) STATUTORY CONSTRUCTION.—Nothing in this section authorizes any alien to apply for admission to, be admitted to, be paroled into, or otherwise lawfully return to the United States, to apply for, or to pursue an application for adjustment of status under this section without the express authorization of the Attorney General.".

(b) EFFECTIVE DATE.—The amendments made by paragraphs (a)(1)(D), (2), and (6) shall be effective as if included in the enactment of the Haitian Refugee Immigration Fairness Act of 1998. The amendments made by paragraphs (a)(1)(A)–(C), (3), (4), and (5) shall take effect on the date of enactment of this Act.

SEC. 107. MOTIONS TO REOPEN.

(a) NATIONALS OF HAITI.—Notwithstanding any time and number limitations imposed by law on motions to reopen, a national of Haiti who, on the date of enactment of this Act, has a final administrative denial of an application for adjustment of status under the Haitian

Refugee Immigration Fairness Act of 1998, and is made eligible for adjustment of status under that Act by the amendments made by this title, may file one motion to reopen an exclusion, deportation, or removal proceeding to have the application reconsidered. Any such motion shall be filed within 180 days of the date of enactment of this Act. The scope of any proceeding reopened on this basis shall be limited to a determination of the alien's eligibility for adjustment of status under the Haitian Refugee Immigration Fairness Act of 1998.

(b) NATIONALS OF CUBA.—Notwithstanding any time and number limitations imposed by law on motions to reopen, a national of Cuba or Nicaragua who, on the date of enactment of the Act, has a final administrative denial of an application for adjustment of status under the Nicaraguan Adjustment and Central American Relief Act, and who is made eligible for adjustment of status under that Act by the amendments made by this title, may file one motion to reopen an exclusion, deportation, or removal proceeding to have the application reconsidered. Any such motion shall be filed within 180 days of the date of enactment of this Act. The scope of any proceeding reopened on this basis shall be limited to a determination of the alien's eligibility for adjustment of status under the Nicaraguan Adjustment and Central American Relief Act.

Subtitle B – Adjustment of Status of Other Aliens

SEC. XX21. ADJUSTMENT OF STATUS.

(a) General Authority: Notwithstanding any other provision of law, an alien described in subsection (b) and the alien's dependents shall be eligible for adjustment of status by the Attorney General or issuance of an immigrant visa under the same procedures and under the same grounds of eligibility as are applicable to the adjustment of status of aliens and issuance of immigrant visas under section 202 of the Nicaraguan Adjustment and Central American Relief Act, as amended by this Act.

(b) Covered Aliens: an alien referred to in subsection (a) is –

(1) any alien who is a national of Liberia and who has been physically present in the United States for a continuous period, beginning not later than December 31, 1996, and ending not earlier than the date the application for adjustment under subsection (a) is filed, except an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any periods in the aggregate not exceeding 180 days.

TITLE II—RESTORATION OF SECTION 245(i) ADJUSTMENT OF STATUS BENEFITS

SEC. 201. REMOVAL OF CERTAIN LIMITATIONS ON ELIGIBILITY FOR ADJUSTMENT OF STATUS UNDER SECTION 245(i).

(a) IN GENERAL.—Section 245(i)(1) of the Immigration and Nationality Act (8 U.S.C. 1255(i)(1)) is amended by striking ``(i)(1)'' through ``The Attorney General'' and inserting the following:

``(i)(1) Notwithstanding the provisions of subsections (a) and (c) of this section, an alien physically present in the United States who—

``(A) entered the United States without inspection; or

``(B) is within one of the classes enumerated in subsection (c) of this section;

may apply to the Attorney General for the adjustment of his or her status to that of an alien lawfully admitted for permanent residence. The Attorney General''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in the enactment of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105–119; 111 Stat. 2440).

SEC. 202. USE OF SECTION 245(i) FEES.

Section 245(i)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1255(i)(3)(B)) is amended to read as follows:

"(B) One-half of any remaining portion of such fees remitted under such paragraphs shall be deposited by the Attorney General into the Immigration Examinations Fee Account established under section 286(m), and one-half of any remaining portion of such fees shall be deposited by the Attorney General into the Breached Bond/Detention Fund established under section 286(r).".

TITLE III—EXTENSION OF REGISTRY BENEFITS

SEC. 301. EXTENSION OF REGISTRY BENEFITS TO ALIENS WHO ENTERED THE UNITED STATES PRIOR TO JANUARY 1, 1986.

(a) IN GENERAL.—Section 249(a) of the Immigration and Nationality Act (8 U.S.C. 1259(a)) is amended by striking "January 1, 1972" and inserting "January 1, 1986".

(b) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading of section 249 of the Immigration and Nationality Act (8 U.S.C. 1259) is amended to read as follows:

Congress of the United States

Washington, DC 20515

September 21, 2000

The Honorable William J. Clinton
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

Dear Mr. President:

We write to you regarding an issue of great importance to us and to many families across this country. We are committed to ensuring that the provisions contained in S. 2912, the "Latino and Immigrant Fairness Act," are included in the Commerce, Justice, State and Judiciary (CJSJ) bill or any other legislation to which CJSJ may be attached. Therefore, as you work with Congress to craft the FY 2001 Commerce, Justice, State and Judiciary bill and other remaining appropriations legislation, we urge you to make it your priority to include this critical provision.

The Latino and Immigrant Fairness Act has strong support in both the House and the Senate because it would add desperately needed fairness to our immigration laws. S. 2912 would stabilize the immigration status of specific immigrants who have been living, working, paying taxes and raising families in the United Stated for many years. In particular, the bill includes three provisions: (1) establishing legal parity between Central American and Caribbean refugees; (2) updating the "registry" date so that long-time resident, deeply-rooted immigrants who have been in this country since before 1986 will qualify to remain here permanently; and (3) restoring Section 245(i) of the Immigration Act, a provision that sensibly allows persons in the U.S. who are on the verge of gaining their immigration status to remain in the U.S. while completing the process.

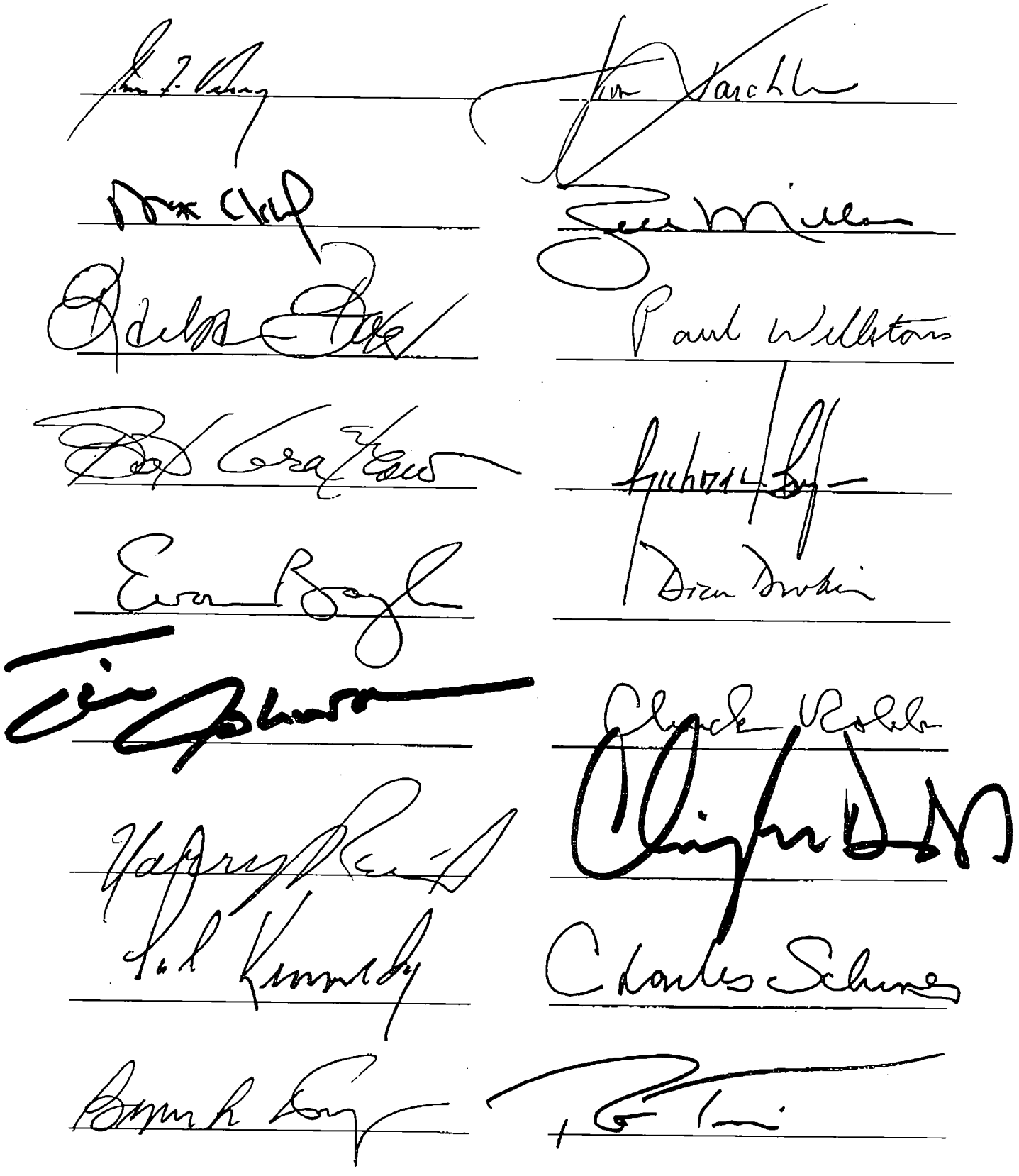
We, the undersigned, believe that the time is now to normalize the status of these immigrants. This will ensure that these individuals can continue to make valued contributions to our economy and that their families, which often include American-born children, are not torn apart. Accordingly, we will vote to sustain a veto of the FY 2001 Commerce, Justice, State and Judiciary appropriations bill or any other bill that may contain its provisions, if the components of S. 2912 are not included. As Democrats, we believe that the Latino and Immigrant Fairness Act is a measured and just recognition of the important contributions these individuals have made to our country. We know you share our beliefs, and we look forward to working with you to accomplish this important goal.

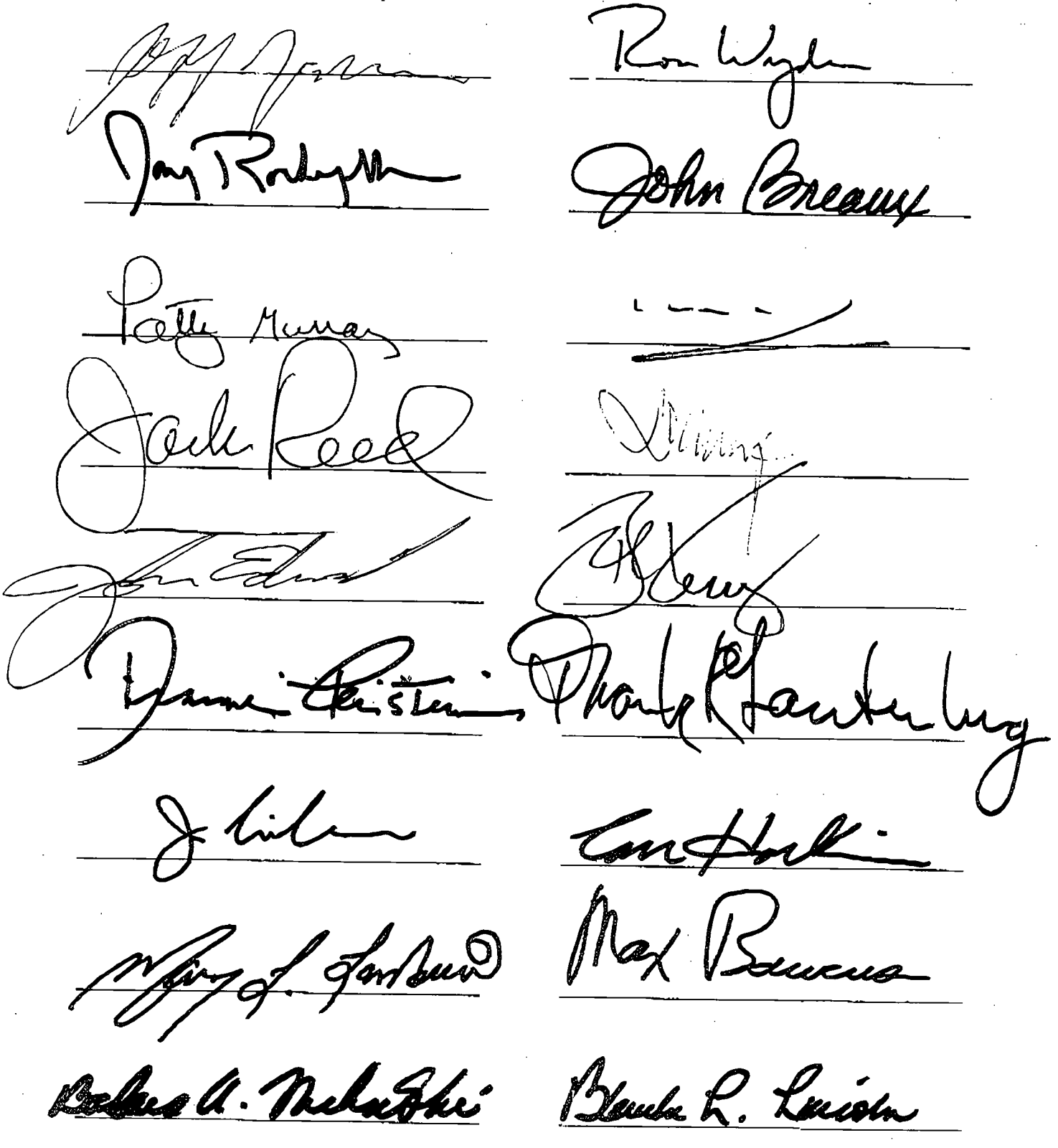
Sincerely,

Richard A. Gephardt Lucille Roybal-Allard

1. Gephardt
2. Roybal-Allard
3. Rodriguez
4. Romero-Barcelo
5. Gutierrez
6. Conyers
7. Velazquez
8. Scott
9. Ortiz
10. Sanchez
11. Napolitano
12. Baca
13. Becerra
14. Jackson-Lee
15. Hinojosa
16. Blagojevich
17. Hoyer
18. Pelosi
19. DeLauro
20. Miller, George
21. Berman
22. Eshoo
23. Lipinski
24. Rothman
25. Thompson, Mike
26. Johnson, Eddie Bernice
27. Waters
28. Payne
29. Woolsey
30. Clayton
31. Dixon
32. DeGette
33. Slaughter
34. Kennedy
35. Murtha
36. Reyes
37. Pastor
38. Menendez
39. Underwood
40. Bonior
41. Frost
42. Gonzales
43. Meeks, Gregory
44. Capuano
45. Crowley
46. Dooley
47. Green, Gene
48. Lofgren
49. Capps
50. Schakowsky
51. Davis, Danny
52. Jackson, Jr.
53. Tierney
54. Hastings
55. Meek, Carrie
56. Olver
57. Gordon
58. Millender-McDonald
59. Watt
60. Blumenhauer
61. Markey
62. Clyburn
63. McGovern
64. Pascrell
65. Thurman
66. McCarthy, Carolyn
67. Tauscher
68. Kaptur
69. Phelps
70. Smith
71. Nadler
72. Wynn
73. Deutch
74. Crowley
75. Hoeffel
76. Holt
77. Levin
78. Sherman
79. Cummings
80. Udall, Tom
81. McDermot
82. Meehan
83. Sabo
84. Abercrombie
85. McKinney
86. Towns
87. Baird
88. Rush
89. Lowey
90. Kucinich
91. Pomeroy
92. Waxman
93. Udall, Mark
94. Lewis
95. Oberstar
96. Delahunt
97. Brady
98. Costello
99. Frank, Barnie
100. Snyder
101. Matsui
102. Farr
103. Owens
104. Rangel
105. Carson
106. Maloney, Carolyn
107. Stark
108. Lee, Barbara
109. Palone
110. Berkley
111. Turner
112. Moakley
113. Fattah
114. Forbes
115. Baldwin
116. Wexler
117. Weiner
118. Baucher
119. Sandlin
120. Hilliard
121. Payne
122. Filner
123. Strickland
124. Ford
125. Doggett
126. Evans
127. McNulty
128. Sanders
129. Ackerman
130. Borski
131. LaFalce
132. Clay
133. Kilpatrick

134. Jefferson
135. Berry
136. Boswell
137. Cardin
138. Turner
139. Barrett
140. Price
141. Kildee
142. Coyne
143. Weygand
144. Davis, Jim
145. Condit
146. Andrews
147. Lampson
148. Skelton
149. Obey
150. Moran
151. Brown, Corrine
152. Brown, Sherrod





Paul S. Sarbanes

Joe Biden

Patrick Leahy

Carl Levin

Daniel K. Akaka

Herb Kohl

Dianne Feinstein

Calendar No. 825

106th CONGRESS

2d Session

S. 3095

To amend the Immigration and Nationality Act to remove certain limitations on the eligibility of aliens residing in the United
States to obtain lawful permanent resident status.

IN THE SENATE OF THE UNITED STATES

September 21, 2000

Mr. KENNEDY (for himself, Mr. REID, Mr. DURBIN, Mr. REED, Mr. DASCHLE, Mr. GRAHAM, Mr. LEAHY,
Mr. KERRY, and Mr. WELLSTONE) introduced the following bill; which was read the first time

September 22, 2000

Read the second time and placed on the calendar

A BILL

To amend the Immigration and Nationality Act to remove certain limitations on the eligibility of aliens residing in the United
States to obtain lawful permanent resident status.

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 `Latino and Immigrant Fairness Act of 2000'.

TITLE I--CENTRAL AMERICAN AND HAITIAN PARITY

SEC. 101. SHORT TITLE.

This title may be cited as the `Central American and Haitian Parity Act of 2000'.

SEC. 102. ADJUSTMENT OF STATUS FOR CERTAIN NATIONALS FROM EL SALVADOR, GUATEMALA, HONDURAS, AND HAITI.

Section 202 of the Nicaraguan Adjustment and Central American Relief Act is amended--

(1) in the section heading, by striking `NICARAGUANS AND CUBANS' and inserting
`NICARAGUANS, CUBANS, SALVADORANS, GUATEMALANS, HONDURANS, AND
HAITIANS';

(2) in subsection (a)(1)(A), by striking `2000' and inserting `2004';

(3) in subsection (b)(1), by striking `Nicaragua or Cuba' and inserting `Nicaragua, Cuba, El Salvador,
Guatemala, Honduras, or Haiti'; and

(4) in subsection (d)--

(A) in subparagraph (A), by striking `Nicaragua or Cuba' and inserting `Nicaragua, Cuba, El
Salvador, Guatamala, Honduras, or Haiti; and

(B) in subparagraph (E), by striking `2000' and inserting `2004'.

SEC. 103. APPLICATIONS PENDING UNDER AMENDMENTS MADE BY SECTION 203
OF THE NICARAGUAN ADJUSTMENT AND CENTRAL AMERICAN RELIEF ACT.

An application for relief properly filed by a national of Guatemala or El Salvador under the amendments made by
section 203 of the Nicaraguan Adjustment and Central American Relief Act which was filed on or before the date
of enactment of this Act, and on which a final administrative determination has not been made, shall, at the election
of the applicant, be considered to be an application for adjustment of status under the provisions of section 202 of
the Nicaraguan Adjustment and Central American Relief Act, as amended by sections 102 and 105 of this Act,
upon the payment of any fees, and in accordance with procedures, that the Attorney General shall prescribe by

regulation. The Attorney General may not refund any fees paid in connection with an application filed by a national
of Guatemala or El Salvador under the amendments made by section 203 of that Act.

SEC. 104. APPLICATIONS PENDING UNDER THE HAITIAN REFUGEE IMMIGRATION
FAIRNESS ACT OF 1998.

An application for adjustment of status properly filed by a national of Haiti under the Haitian Refugee Immigration
Fairness Act of 1998 which was filed on or before the date of enactment of this Act, and on which a final
administrative determination has not been made, may be considered by the Attorney General to also constitute an
application for adjustment of status under the provisions of section 202 of the Nicaraguan Adjustment and Central
American Relief Act, as amended by sections 102 and 105 of this Act.

SEC. 105. TECHNICAL AMENDMENTS TO THE NICARAGUAN ADJUSTMENT AND
CENTRAL AMERICAN RELIEF ACT.

(a) IN GENERAL- Section 202 of the Nicaraguan Adjustment and Central American Relief Act is amended--

(1) in subsection (a)--

(A) by inserting before the period at the end of paragraph (1)(B) the following: `, and the Attorney
General may waive the grounds of inadmissibility specified in section 212(a)(1)(A)(i) and (6)(C) of
such Act for humanitarian purposes, to assure family unity, or when it is otherwise in the public
interest';

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following:

`(2) INAPPLICABILITY OF CERTAIN PROVISIONS- In determining the eligibility of an alien
described in subsection (b) or (d) for either adjustment of status under this section or other relief necessary
to establish eligibility for such adjustment, the provisions of section 241(a)(5) of the Immigration and

Nationality Act shall not apply. In addition, an alien who would otherwise be inadmissible pursuant to section
212(a)(9) (A) or (C) of such Act may apply for the Attorney General's consent to reapply for admission
without regard to the requirement that the consent be granted prior to the date of the alien's reembarkation at
a place outside the United States or attempt to be admitted from foreign contiguous territory, in order to
qualify for the exception to those grounds of inadmissibility set forth in section 212(a)(9) (A)(iii) and (C)(ii)
of such Act.'; and

(D) by amending paragraph (3) (as redesignated by subparagraph (B)) to read as follows:

`(3) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS- An alien present in the United
States who has been ordered excluded, deported, or removed, or ordered to depart voluntarily from the
United States under any provision of the Immigration and Nationality Act may, notwithstanding such order,
apply for adjustment of status under paragraph (1). Such an alien may not be required, as a condition of
submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate such order.
Such an alien may be required to seek a stay of such an order in accordance with subsection (c) to prevent
the execution of that order pending the adjudication of the application for adjustment of status. If the
Attorney General denies a stay of a final order of exclusion, deportation, or removal, or if the Attorney
General renders a final administrative determination to deny the application for adjustment of status, the
order shall be effective and enforceable to the same extent as if the application had not been made. If the
Attorney General grants the application for adjustment of status, the Attorney General shall cancel the
order.';

(2) in subsection (b)(1), by adding at the end the following: `Subsection (a) shall not apply to an alien
lawfully admitted for permanent residence, unless the alien is applying for relief under that subsection in
deportation or removal proceedings.';

(3) in subsection (c)(1), by adding at the end the following: `Nothing in this Act requires the Attorney
General to stay the removal of an alien who is ineligible for adjustment of status under this Act.';

(4) in subsection (d)--

(A) by amending the subsection heading to read as follows: `SPOUSES, CHILDREN, AND
UNMARRIED SONS AND DAUGHTERS- ';

(B) by amending the heading of paragraph (1) to read as follows: `ADJUSTMENT OF STATUS- ';

(C) by amending paragraph (1)(A) to read as follows:

`(A) the alien entered the United States on or before the date of enactment of the Central American
and Haitian Parity Act of 2000;';

(D) in paragraph (1)(B), by striking `except that in the case of' and inserting the following: `except
that--

`(i) in the case of such a spouse, stepchild, or unmarried stepson or stepdaughter, the qualifying
marriage was entered into before the date of enactment of the Central American and Haitian
Parity Act of 2000; and

`(ii) in the case of'; and

(E) by adding at the end the following new paragraph:

`(3) ELIGIBILITY OF CERTAIN SPOUSES AND CHILDREN FOR ISSUANCE OF IMMIGRANT
VISAS-

`(A) IN GENERAL- In accordance with regulations to be promulgated by the Attorney General and
the Secretary of State, upon approval of an application for adjustment of status to that of an alien
lawfully admitted for permanent residence under subsection (a), an alien who is the spouse or child of
the alien being granted such status may be issued a visa for admission to the United States as an

immigrant following to join the principal applicant, if the spouse or child--

`(i) meets the requirements in paragraphs (1)(B) and (1)(D); and

`(ii) applies for such a visa within a time period to be established by such regulations.

`(B) RETENTION OF FEES FOR PROCESSING APPLICATIONS- The Secretary of State may
retain fees to recover the cost of immigrant visa application processing and issuance for certain
spouses and children of aliens whose applications for adjustment of status under subsection (a) have
been approved. Such fees--

`(i) shall be deposited as an offsetting collection to any Department of State appropriation to
recover the cost of such processing and issuance; and

`(ii) shall be available until expended for the same purposes of such appropriation to support
consular activities.';

(5) in subsection (g), by inserting `, or an immigrant classification,' after `for permanent residence'; and

(6) by adding at the end the following new subsection:

`(i) STATUTORY CONSTRUCTION- Nothing in this section authorizes any alien to apply for admission to, be
admitted to, be paroled into, or otherwise lawfully return to the United States, to apply for, or to pursue an
application for adjustment of status under this section without the express authorization of the Attorney General.'.

(b) EFFECTIVE DATE- The amendments made by paragraphs (1)(D), (2), and (6) shall be effective as if
included in the enactment of the Nicaraguan and Central American Relief Act. The amendments made by
paragraphs (1) (A)-(C), (3), (4), and (5) shall take effect on the date of enactment of this Act.

SEC. 106. TECHNICAL AMENDMENTS TO THE HAITIAN REFUGEE IMMIGRATION
FAIRNESS ACT OF 1998.

(a) IN GENERAL- Section 902 of the Haitian Refugee Immigration Fairness Act of 1998 is amended--

(1) in subsection (a)--

(A) by inserting before the period at the end of paragraph (1)(B) the following: `, and the Attorney
General may waive the grounds of inadmissibility specified in section 212(a)(1)(A)(i) and (6)(C) of
such Act for humanitarian purposes, to assure family unity, or when it is otherwise in the public
interest';

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following:

`(2) INAPPLICABILITY OF CERTAIN PROVISIONS- In determining the eligibility of an alien
described in subsection (b) or (d) for either adjustment of status under this section or other relief necessary
to establish eligibility for such adjustment, or for permission to reapply for admission to the United States for
the purpose of adjustment of status under this section, the provisions of section 241(a)(5) of the Immigration
and Nationality Act shall not apply. In addition, an alien who would otherwise be inadmissible pursuant to
section 212(a)(9) (A) or (C) of such Act may apply for the Attorney General's consent to reapply for
admission without regard to the requirement that the consent be granted prior to the date of the alien's
reembarkation at a place outside the United States or attempt to be admitted from foreign contiguous
territory, in order to qualify for the exception to those grounds of inadmissibility set forth in section 212(a)(9)
(A)(iii) and (C)(ii) of such Act.'; and

(D) by amending paragraph (3) (as redesignated by subparagraph (B)) to read as follows:

`(3) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS- An alien present in the United
States who has been ordered excluded, deported, removed, or ordered to depart voluntarily from the
United States under any provision of the Immigration and Nationality Act may, notwithstanding such order,

apply for adjustment of status under paragraph (1). Such an alien may not be required, as a condition of

submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate such order.

Such an alien may be required to seek a stay of such an order in accordance with subsection (c) to prevent

the execution of that order pending the adjudication of the application for adjustment of status. If the

Attorney General denies a stay of a final order of exclusion, deportation, or removal, or if the Attorney

General renders a final administrative determination to deny the application for adjustment of status, the

order shall be effective and enforceable to the same extent as if the application had not been made. If the

Attorney General grants the application for adjustment of status, the Attorney General shall cancel the

order.';

(2) in subsection (b)(1), by adding at the end the following: `Subsection (a) shall not apply to an alien

lawfully admitted for permanent residence, unless the alien is applying for such relief under that subsection in

deportation or removal proceedings.';

(3) in subsection (c)(1), by adding at the end the following: `Nothing in this Act shall require the Attorney

General to stay the removal of an alien who is ineligible for adjustment of status under this Act.';

(4) in subsection (d)--

(A) by amending the subsection heading to read as follows: `SPOUSES, CHILDREN, AND

UNMARRIED SONS AND DAUGHTERS- ';

(B) by amending the heading of paragraph (1) to read as follows: `ADJUSTMENT OF STATUS- ';

(C) by amending paragraph (1)(A), to read as follows:

`(A) the alien entered the United States on or before the date of enactment of the Central American

and Haitian Parity Act of 2000;';

(D) in paragraph (1)(B), by striking `except that in the case of' and inserting the following: `except

that--

`(i) in the case of such a spouse, stepchild, or unmarried stepson or stepdaughter, the qualifying
marriage was entered into before the date of enactment of the Central American and Haitian
Parity Act of 2000; and

`(ii) in the case of';

(E) by adding at the end of paragraph (1) the following new subparagraph:

`(E) the alien applies for such adjustment before April 3, 2004.'; and

(F) by adding at the end the following new paragraph:

`(3) ELIGIBILITY OF CERTAIN SPOUSES AND CHILDREN FOR ISSUANCE OF IMMIGRANT
VISAS-

`(A) IN GENERAL- In accordance with regulations to be promulgated by the Attorney General and
the Secretary of State, upon approval of an application for adjustment of status to that of an alien
lawfully admitted for permanent residence under subsection (a), an alien who is the spouse or child of
the alien being granted such status may be issued a visa for admission to the United States as an
immigrant following to join the principal applicant, if the spouse or child--

`(i) meets the requirements in paragraphs (1)(B) and (1)(D); and

`(ii) applies for such a visa within a time period to be established by such regulations.

`(B) RETENTION OF FEES FOR PROCESSING APPLICATIONS- The Secretary of State may
retain fees to recover the cost of immigrant visa application processing and issuance for certain
spouses and children of aliens whose applications for adjustment of status under subsection (a) have
been approved. Such fees--

`(i) shall be deposited as an offsetting collection to any Department of State appropriation to
recover the cost of such processing and issuance; and

`(ii) shall be available until expended for the same purposes of such appropriation to support
consular activities.';

(5) in subsection (g), by inserting `, or an immigrant classification,' after `for permanent residence';

(6) by redesignating subsections (i), (j), and (k) as subsections (j), (k), and (l), respectively; and

(7) by inserting after subsection (h) the following new subsection:

`(i) STATUTORY CONSTRUCTION- Nothing in this section authorizes any alien to apply for admission to, be
admitted to, be paroled into, or otherwise lawfully return to the United States, to apply for, or to pursue an
application for adjustment of status under this section without the express authorization of the Attorney General.'.

(b) EFFECTIVE DATE- The amendments made by paragraphs (1)(D), (2), and (6) shall be effective as if
included in the enactment of the Haitian Refugee Immigration Fairness Act of 1998. The amendments made by
paragraphs (1) (A)-(C), (3), (4), and (5) shall take effect on the date of enactment of this Act.

SEC. 107. MOTIONS TO REOPEN.

(a) NATIONALS OF HAITI- Notwithstanding any time and number limitations imposed by law on motions to
reopen, a national of Haiti who, on the date of enactment of this Act, has a final administrative denial of an
application for adjustment of status under the Haitian Refugee Immigration Fairness Act of 1998, and is made
eligible for adjustment of status under that Act by the amendments made by this Act, may file one motion to reopen
an exclusion, deportation, or removal proceeding to have the application reconsidered. Any such motion shall be
filed within 180 days of the date of enactment of this Act. The scope of any proceeding reopened on this basis shall
be limited to a determination of the alien's eligibility for adjustment of status under the Haitian Refugee Immigration
Fairness Act of 1998.

(b) NATIONALS OF CUBA- Notwithstanding any time and number limitations imposed by law on motions to
reopen, a national of Cuba or Nicaragua who, on the date of enactment of the Act, has a final administrative denial
of an application for adjustment of status under the Nicaraguan Adjustment and Central American Relief Act, and
who is made eligible for adjustment of status under that Act by the amendments made by this Act, may file one
motion to reopen an exclusion, deportation, or removal proceeding to have the application reconsidered. Any such
motion shall be filed within 180 days of the date of enactment of this Act. The scope of any proceeding reopened
on this basis shall be limited to a determination of the alien's eligibility for adjustment of status under the Nicaraguan
Adjustment and Central American Relief Act.

TITLE II--ADJUSTMENT OF STATUS OF OTHER ALIENS

SEC. 201. ADJUSTMENT OF STATUS.

(a) GENERAL AUTHORITY- Notwithstanding any other provision of law, an alien described in subsection (b)
and subsection (c) shall be eligible for adjustment of status by the Attorney General under the same procedures and
under the same grounds of eligibility as are applicable to the adjustment of status of aliens under section 202 of the
Nicaraguan Adjustment and Central American Relief Act.

(b) COVERED ALIENS- An alien described in this subsection is any alien who was a national of the Soviet
Union, Russia, any republic of the former Soviet Union, Latvia, Estonia, Lithuania, Poland, Czechoslovakia,
Romania, Hungary, Bulgaria, Albania, East Germany, Yugoslavia, or any state of the former Yugoslavia and who
has been physically present in the United States for a continuous period, beginning not later than December 1,
1995, and ending not earlier than the date the application for adjustment under subsection (a) is filed, except an
alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or
absences, from the United States for any periods in the aggregate not exceeding 180 days; and

(c) any alien who is a national of Liberia and who has been physically present in the United States for a continuous

period, beginning not later than December 31, 1996, and ending not earlier than the date the application for
adjustment under subsection (a) is filed, except an alien shall not be considered to have failed to maintain
continuous physical presence by reason of an absence, or absences, from the United States for any periods in the
aggregate not exceeding 180 days.

TITLE III--RESTORATION OF SECTION 245(i) ADJUSTMENT OF STATUS BENEFITS

SEC. 301. REMOVAL OF CERTAIN LIMITATIONS ON ELIGIBILITY FOR ADJUSTMENT OF STATUS UNDER SECTION 245(i).

(a) IN GENERAL- Section 245(i)(1) of the Immigration and Nationality Act (8 U.S.C. 1255(i)(1)) is amended by
striking `(i)(1)' through `The Attorney General' and inserting the following:

`(i)(1) Notwithstanding the provisions of subsections (a) and (c) of this section, an alien physically present in the
United States who--

`(A) entered the United States without inspection; or

`(B) is within one of the classes enumerated in subsection (c) of this section;

may apply to the Attorney General for the adjustment of his or her status to that of an alien lawfully admitted for
permanent residence. The Attorney General'.

(b) EFFECTIVE DATE- The amendment made by subsection (a) shall be effective as if included in the enactment
of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act,
1998 (Public Law 105-119; 111 Stat. 2440).

SEC. 302. USE OF SECTION 245(i) FEES.

Section 245(i)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1255(i)(3)(B)) is amended to read as
follows:

`(B) One-half of any remaining portion of such fees remitted under such paragraphs shall be deposited by the
Attorney General into the Immigration Examinations Fee Account established under section 286(m), and one-half

of any remaining portion of such fees shall be deposited by the Attorney General into the Breached Bond/Detention
Fund established under section 286(r).'.

TITLE IV--EXTENSION OF REGISTRY BENEFITS

SEC. 401. SHORT TITLE.

This title may be cited as the `Date of Registry Act of 2000'.

SEC. 402. RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN THE CASE OF CERTAIN ALIENS.

(a) IN GENERAL- Section 249 of the Immigration and Nationality Act (8 U.S.C. 1259) is amended--

(1) in subsection (a), by striking `January 1, 1972' and inserting `January 1, 1986'; and

(2) by striking `JANUARY 1, 1972' in the heading and inserting `JANUARY 1, 1986'.

(b) EFFECTIVE DATES-

(1) GENERAL RULE- The amendments made by subsection (a) shall take effect on the date of enactment
of this Act.

(2) EXTENSION OF DATE OF REGISTRY-

(A) PERIOD BEGINNING JANUARY 1, 2002- Beginning on January 1, 2002, section 249 of the
Immigration and Nationality Act (8 U.S.C. 1259) is amended by striking `January 1, 1986' each
place it appears and inserting `January 1, 1987'.

(B) PERIOD BEGINNING JANUARY 1, 2003- Beginning on January 1, 2003, section 249 of
such Act is amended by striking `January 1, 1987' each place it appears and inserting `January 1,
1988'.

(C) PERIOD BEGINNING JANUARY 1, 2004- Beginning on January 1, 2004, section 249 of

such Act is amended by striking `January 1, 1988' each place it appears and inserting `January 1,
1989'.

(D) PERIOD BEGINNING JANUARY 1, 2005- Beginning on January 1, 2005, section 249 of
such Act is amended by striking `January 1, 1989' each place it appears and inserting `January 1,
1990'.

(E) PERIOD BEGINNING JANUARY 1, 2006- Beginning on January 1, 2006, section 249 of
such Act is amended by striking `January 1, 1990' each place it appears and inserting `January 1,
1991'.

(3) TABLE OF CONTENTS- The table of contents of the Immigration and Nationality Act is amended by
amending the item relating to section 249 to read as follows:

`Sec. 249. Record of admission for permanent residence in the case of certain aliens who entered the United
States prior to July 1, 1924 or January 1, 1986.'.

(c) EFFECTIVE DATE- The amendments made by this section shall take effect on January 1, 2001, and the amendment made by subsection (a) shall apply to applications to record lawful admission for permanent residence
that are filed on or after January 1, 2001.

Calendar No. 825

106th CONGRESS

2d Session

S. 3095

A BILL

To amend the Immigration and Nationality Act to remove certain limitations on the eligibility of aliens residing in the United
States to obtain lawful permanent resident status.