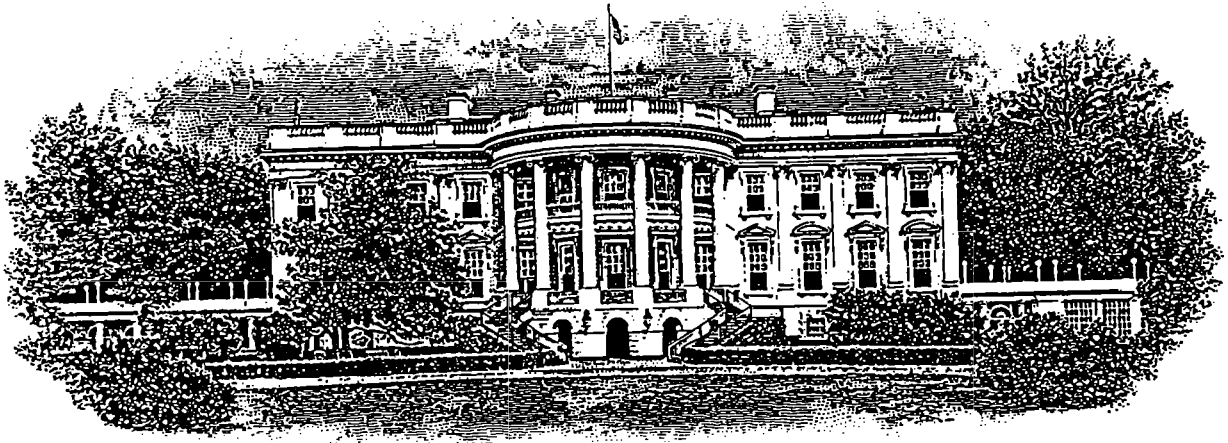


The White House

DOMESTIC POLICY COUNCIL



FAX COVER SHEET

To: Scott Boson

Phone: _____ Fax No: 69140

From: Uanne

Phone: _____

Comments: 24561) draft + Q + A + INS
materials

(DRAFT)
Section 245(i)
Adjustment of Status for Immigrants
Question and Answer
November 19, 1997

Q. Was section 245(i), which allows illegal immigrants to remain in the United States while they adjust to legal status, extended in the final Commerce, Justice spending bill?

A. Yes. The final bill contains provisions that continue to permit individuals, who have already been found to be eligible for immigrant visas, to pay a fine and stay in the country, while their applications are pending.

While we sought a permanent extension of section 245(i) of the Immigration and Nationality Act in its original form, the provisions that passed will help to ensure that families remain together and businesses are not disrupted while persons who are already in the United States go through the immigration process. Specifically, the provisions grandfather immigrants whose sponsors have filed for an immigrant visa petition at INS, or an application for labor certification by January 14, 1998.

In addition, in the future, certain persons seeking employment-based visas will be able to adjust their status under a different provision of law, section 245(a). This provision does not require the payment of a penalty.

STATEMENT

11/14/97

Section 245(i) Adjustment of Status

Section 245(i) of the Immigration and Nationality Act allows eligible aliens who have a current immigrant visa number available but who are unlawfully in the United States to remain and adjust their status on payment of a \$1,000 penalty. This section of law was scheduled to terminate on Friday, November 14, 1997. However, yesterday Congress passed an extension of eligibility for certain aliens, as part of the FY-98 Commerce-Justice-State Appropriations Bill.

Specifically, adjustment of status under section 245(i) will continue to be available to aliens whose sponsors have filed an immigrant visa petition with INS, or an application for labor certification in accordance with Department of Labor regulations, by January 14, 1998. This means that the filing of a visa petition or an application for labor certification may preserve an individual's eligibility to apply for adjustment of status in the future.

In addition, certain persons seeking an employment-based visa who are visa overstays or worked illegally for 180 days or less may be eligible to adjust status under another provision of law, section 245(a), which does not require payment of a \$1,000 penalty. This provision will apply to the first, second, third employment-based preference categories and religious workers under the fourth employment-based preference category.

INS is accepting immigrant visa petitions — as well as applications for section 245(i) adjustment of status — at any INS District Office or Service Center through close of business Friday, November 14, 1997. However, after November 14, INS will return to normal operating procedures. Individuals should follow the instructions specified on INS forms and file their applications at appropriate locations.

A continuing resolution is in place which extends section 245(i) until President Clinton signs the FY-98 Commerce-Justice-State Appropriations Bill into law.

— INS —

STATEMENT

11/10/97

Update on the Extension of Section 245(i) Adjustment of Status

Section 245(i) of the Immigration and Nationality Act allows eligible aliens who have a current immigrant visa number available but who are unlawfully in the United States to remain and adjust their status on payment of a \$1,000 penalty. This section of law is currently scheduled to terminate on Friday, November 14, 1997. However, as part of the FY-98 Commerce-Justice-State Appropriations Bill, Congress is considering an extension of eligibility for certain aliens.

Specifically, adjustment of status under Section 245(i) may continue to be available to aliens whose sponsors have filed an immigrant visa petition with INS, or a request for labor certification with the Department of Labor, by the date the appropriations bill is signed into law. This means that the filing of a visa petition or a request for labor certification may preserve an individual's eligibility to file for adjustment of status in the future.

Ordinarily a visa petition must be filed in the location specified by the instructions on the form. However, to accommodate last-minute filings, INS is allowing immigrant visa petitions — as well as applications for Section 245(i) adjustment of status — to be filed at any INS District Office or Service Center through close of business Friday, November 14, 1997.

Questions & Answers

Q: Will there be any further extensions of Section 245(i) after November 14?

A: It will depend on both the potential for any future continuing resolutions and on the final language of the Commerce-Justice-State Appropriations Bill.

Q: Does INS use visa petitions to find illegal aliens and deport them?

A: Generally, no, but there are certain circumstances where that might be done — for example, when the individual is already subject to a deportation order, has committed fraud, or has been convicted of crimes constituting a basis for deportation.

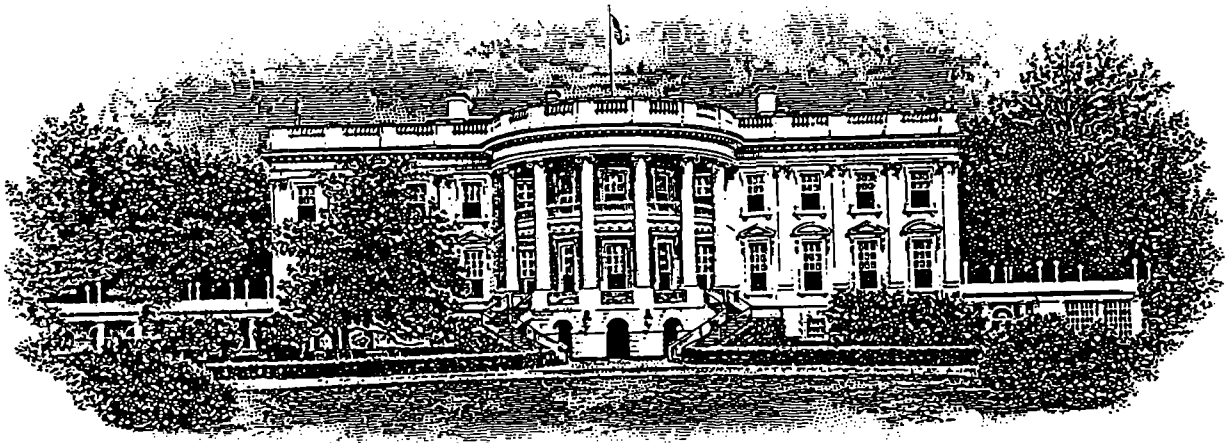
Q: Does the filing of a visa petition or labor certification shield the beneficiary from deportation or other INS enforcement actions?

A: No. A person unlawfully in the United States may be subject to removal. The mere filing of a visa petition does not create the right to remain in the United States.

— INS —

The White House

DOMESTIC POLICY COUNCIL



FAX COVER SHEET

To: Alan Ehrenbaum

Phone: 514-8102 Fax No: 514-1117

From: Leanne Shumabukoro

Phone: 456-4574

Comments: Draft Q+A on 245(i) - please review
for accuracy. Thanks.

(DRAFT)
Section 245(i)
Adjustment of Status for Immigrants
Question and Answer
November 19, 1997

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Essence P. Washington

11/21/97 09:26:45 AM

Allen Steve
Warnath

Record Type: Record

To:

cc:

Subject: meetings

----- Forwarded by Essence P. Washington/OPD/EOP on 11/21/97 09:33 AM

Essence P. Washington

11/21/97 09:24:51 AM

Record Type: Record

To: WARNATH_S @ A1 @ CD @ LNGTWY

cc:

Subject: meetings

The INS Restructuring Review Meetings:

Friday Nov 21: This meeting will be in room 211 of the Old Executive Office Building at 11:00 AM on Immigration groups to discuss enforcement issues.

Monday Nov 24: This meeting will be in room 211 of the Old Executive Office Building at 3:00 PM with the Department of Labor.

Tuesday Nov 25: This meeting will be in room 211 of the Old Executive Office Building at 10:00AM with the U.S Commission on Immigration Reform.

**U.S. Department of Justice
IMMIGRATION AND NATURALIZATION SERVICE**

STATEMENT

11/14/97

Section 245(i) Adjustment of Status

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Specifically, adjustment of status under section 245(i) will continue to be available to aliens whose sponsors have filed an immigrant visa petition with INS, or an application for labor certification in accordance with Department of Labor regulations, by January 14, 1998. This means that the filing of a visa petition or an application for labor certification may preserve an individual's eligibility to apply for adjustment of status in the future.

In addition, certain persons seeking an employment-based visa who are visa overstays or worked illegally for 180 days or less may be eligible to adjust status under another provision of law, section 245(a), which does not require payment of a \$1,000 penalty. This provision will apply to the first, second, third employment-based preference categories and religious workers under the fourth employment-based preference category.

INS is accepting immigrant visa petitions — as well as applications for section 245(i) adjustment of status — at any INS District Office or Service Center through close of business Friday, November 14, 1997. However, after November 14, INS will return to normal operating procedures. Individuals should follow the instructions specified on INS forms and file their applications at appropriate locations.

A continuing resolution is in place which extends section 245(i) until President Clinton signs the FY-98 Commerce-Justice-State Appropriations Bill into law.

— INS —

Draft

Dear

I am writing to express the Administration's strong support for the extension of section 245(i) of the Immigration and Nationality Act.

During the three years since Congress first enacted section 245(i), many thousands of individuals who had previously been determined to be eligible for an immigrant visa have used section 245(i) to adjust their status in the United States, rather than being forced to obtain their visa at a U.S. consulate abroad. As a result of section 245(i), families have remained together, and businesses have retained valuable employees.

All applicants under section 245(i) have already been found eligible for a visa to remain permanently in the United States. All must undergo complete background checks: a criminal check by which the FBI matches the applicant's fingerprints and name against its Criminal Justice Information System database, a national security check by which the applicant's name is compared against databases maintained by U.S. intelligence agencies, and a check conducted by the U.S. consulate in the applicant's home country. In order to get the benefit of adjusting their status in the U.S. versus overseas, applicants under 245(i) pay a fee of \$1,000.

There is another critical component to section 245(i) -- its vital contribution to immigration enforcement. Eighty percent of every 245(i) applicant's \$1,000 processing fee is dedicated to the detention of criminal and illegal aliens. In fiscal year 1998, 245(i) is expected to generate over \$129 million for detention. This sum will allow INS to detain more than 14,000 additional criminal and other illegal aliens -- fulfilling one of this Administration's highest immigration enforcement priorities -- without any expense to the taxpayer.

Revenue from section 245(i) benefits the processing of legal immigration applications as well. In fact, critical improvements to the integrity and efficiency of the naturalization process depend on the continuation of revenue from 245(i).

We strongly urge you to extend section 245(i).

→ OMB tag line

to be signed by the Attorney General

TO: LEANNE S. 6-7028
FR: SCOTT B

Extension of Section 245(i) of
Immigration and Nationality Act
October 15, 1997

at consulates abroad. country

[Background: Prior to 1994, persons who became eligible for a visa to immigrate permanently to the United States could only obtain such a visa ~~outside the United States~~. This meant that a person who was in the United States at the time he or she became eligible for visa had to leave the ~~United States~~ in order to obtain it. In 1994, Congress passed section 245(i) of the Immigration and Nationality Act, which permits persons who become eligible for an immigrant visa while in the United States to obtain such a visa without leaving the country by paying a \$1000 penalty. However, section 245(i) was given a sunset date of September 30, 1997. It was extended until October 23, 1997 as part of the Continuing Resolution relating to FY 1998 appropriations.]

Q: What is the Administration's position on whether to extend section 245(i) of the Immigration and Nationality Act, which permits persons who become eligible for immigrant visas while in the United States to obtain such visas without leaving the country?

A: We strongly support the extension of section 245(i) of the Immigration and Nationality Act for ~~three~~ *two main* reasons:

- First, it permits persons found to be eligible for immigrant visas to remain with family members or loved ones while they obtain these visas. If it is not extended, families could be separated for many years.
- Second, it prevents needless disruption to those businesses and communities that depend on persons who may be eligible for immigrant visas.
- Third, it offers tremendous savings to the taxpayer. Eighty percent of the \$1000 penalty paid by persons who apply for processing under section 245(i) is devoted to the detention of criminal and illegal aliens. INS estimates that, in FY 1998, these penalties would generate over \$129 million for this crucial component of our immigration enforcement strategy.

007-10-1997 17:05 TO:63 - NSC
09/ZM/V/ 10.00

FROM: JUDIA TUTTLE

3. = =

TO: LEANNE S. 6-7028
FR: SCOTT B.

which is five times (?) Draft
the ordinary fee for an
adjustment of status
application.

Dear

I am writing to express the Administration's strong support for the extension of section 245(i) of the Immigration and Nationality Act.

During the three years since Congress first enacted section 245(i), many thousands of individuals who had previously been determined to be eligible for an immigrant visa have used section 245(i) to adjust their status in the United States, rather than being forced to obtain their visa at a U.S. consulate abroad. As a result of section 245(i), families have remained together, and businesses have retained valuable employees.

All applicants under section 245(i) have already been found eligible for a visa to remain permanently in the United States. All must undergo complete background checks: a criminal check by which the FBI matches the applicant's fingerprints and name against its Criminal Justice Information System database, a national security check by which the applicant's name is compared against databases maintained by U.S. intelligence agencies, and a check conducted by the U.S. consulate in the applicant's home country. In order to get the benefit of adjusting their status in the U.S. versus overseas, applicants under 245(i) pay a fee of \$1,000,

There is another critical component to section 245(i) -- its vital contribution to immigration enforcement. Eighty percent of every 245(i) applicant's \$1,000 processing fee is dedicated to the detention of criminal and illegal aliens. In fiscal year 1998, 245(i) is expected to generate over \$129 million for detention. This sum will allow INS to detain more than 14,000 additional criminal and other illegal aliens -- fulfilling one of this Administration's highest immigration enforcement priorities -- without any expense to the taxpayer.

Revenue from section 245(i) benefits the processing of legal immigration applications as well. In fact, critical improvements to the integrity and efficiency of the naturalization process depend on the continuation of revenue from 245(i).

We strongly urge you to extend section 245(i).

→OMB tag line

to be signed by the Attorney General

Extension of 245(i)
Adjustment of Status for Immigrants
Questions and Answers
October 10, 1997

Q. What is the Administration's position on 245(i) of the Immigration and Nationality Act-- which is set to expire in a couple of weeks-- that permits illegal immigrants to remain in the U.S. while they adjust their status?

A. The Administration firmly supports the extension of 245(i). Last week, the President signed a three-week extension of 245(i) into law in the continuing resolution, and has urged Congress to pass a long-term extension. The provision mainly benefits those already on track for legal residency who overstay their visas while their residency applications are pending. If the provision expires, thousands of immigrants will have to choose between remaining in the U.S. illegally or leaving the country, probably for several years, until they can obtain visas or green cards at consulates abroad.

7. Immigration -- Commission Report: The U.S. Commission on Immigration Reform will release its final report to Congress on Tuesday. The final report reiterates many of the recommendations made in interim reports during the Commission's six-year tenure. The report also contains two new recommendations: (1) a "structural reform" proposal to divide all functions now performed by the Immigration and Naturalization Service (INS) among a new bureau at the Department of Justice, a new undersecretaryship at the Department of State, and the Employment Standards Administration at the Department of Labor; and (2) an "Americanization and integration" proposal to help new immigrants become full participants in our national community. The DPC has begun a process (involving NPR, OMB, the Counsel's Office, and the interested agencies) to review the Commission's proposal to restructure the immigration system. As might be expected, the Justice Department (and particularly the INS) is quite anxious about this review process. In addition, DPC staff will work with the staff of the Race Commission to review the Commission's Americanization proposal.

8. Immigration -- Expiration of Law: Section 245(i) of the Immigration and Nationality Act, which permits certain illegal immigrants to file here for legal status instead of at U.S. consulates abroad, is set to expire on Tuesday. Congress will consider a three-week extension of the provision on Monday as part of the continuing resolution. The current Senate version of the Commerce-Justice appropriations bill contains an open-ended extension of the provision, as requested by the Administration, but the current House version does not contain any extension at all. As you know, the provision mainly benefits those already on track for legal residency who overstay their visas while their residency applications are pending. If the provision expires, thousands of immigrants will have to choose between remaining in the U.S. illegally or leaving the country, probably for several years, until they can obtain green cards at consulates abroad.

9. Crime -- FBI Statistics: The FBI will release the final 1996 Uniform Crime Report next Saturday. The final figures confirm preliminary data released earlier this year-- that serious crime dropped three percent in 1996, the fifth annual decrease in a row. Violent crime declined seven percent, with murder showing the greatest decline at 11 percent.

10. Tobacco -- Congressional Meeting: You will host a meeting on tobacco with the bipartisan congressional leadership on Wednesday. We think you should challenge them to work together to draft bipartisan legislation by the end of the year and to make tobacco the first issue they take up in 1998. We believe the prospects are good for a bipartisan bill to emerge in the Senate. Two days after your meeting, the Vice President will hold a tobacco event in Tampa to highlight Florida's success in taking on the tobacco industry and to build public support for tobacco legislation. We are working with the Vice President's office to plan a series of regional town halls on tobacco in the months to come.

11. Welfare Reform -- Fair Labor Standards Act: Rep. Clay Shaw is continuing his effort to draft a bill that will address state concerns about the cost of workfare programs. His first draft was attractive to several Democratic Governors (including Carper and Chiles), but not

ADJUSTMENT OF STATUS - SECTION 245(i)

BACKGROUND

Until October 1994, an alien with an approved visa petition who sought permanent status in the U.S. had to apply for a visa at a U. S. consulate abroad once a visa number became available. In 1994, Congress added subsection 245(i) of the Immigration and Nationality Act, which permits certain aliens, who would otherwise have to return to their home countries to apply for a visa, to pay a fee of \$1,000 and apply instead in the U.S.

Without Congressional action, this provision will sunset on September 30, 1997, and aliens otherwise eligible for permanent residence will again have to travel abroad to obtain a permanent visa. The adverse consequences of leaving the country are compounded by the new immigration law which bars, with certain limited exceptions, aliens who leave the U.S. from obtaining an immigrant visa or being readmitted to this country for 3 years if they were unlawfully present in the U.S. for more than 180 days after April 1, 1997. (They are barred for 10 years if they were unlawfully present in the U. S. for more than 1 year after April 1, 1997.)

The 245(i) fee is expected to generate \$129 million in FY 98 for the Congressionally-created Detention Account, to be used for the detention and removal of illegal aliens. Approximately 345,000 people became permanent residents under section 245(i) in FY 1995 and FY 1996. Based on proxy population characteristics, the top two countries of origin appear to be Mexico and El Salvador.

LEGISLATIVE UPDATE

Language to extend Section 245(i) is not included in the House Commerce, Justice State Appropriation bill, due in part to concerns raised by Immigration Subcommittee Chairman Lamar Smith that the provision benefits illegal aliens. That legislation is pending House floor action. The Senate Appropriations bill includes language to make Section 245(i) permanent. That bill has passed the Senate. The issue is likely to be resolved in an Appropriations Conference in September.

TALKING POINTS

- The Administration strongly supports permanent extension of the authority in Section 245(i). It was included in the President's FY 1998 budget. The fees from 245(i) applicants will total \$129.2 million and enable INS to increase detention space for criminal aliens in FY 1998.
- Those that benefit from Section 245 (i) already have immediate family members or businesses as sponsors. They have already been determined to be eligible for visas. Without 245(i), we would be separating family members and disrupting businesses.
- We will make every effort to keep affected communities aware of the status of section 245(i), so as to minimize confusion and fear. In the meantime, it is important for everyone who is now eligible to adjust their status under section 245(i) to do so immediately.

PRESIDENT CLINTON FOUGHT TO PROTECT OUR MOST VULNERABLE PEOPLE

Several provisions in last year's welfare reform bill had nothing to do with the goals of welfare reform. The President said so at the time and promised to work to correct these provisions. That's why he fought to ensure that any agreement protects the most vulnerable in our society. The President fought to better protect:

CHILDREN

- ✓ **KEEPING THE MEDICAID GUARANTEE.** Preserves the Federal guarantee of Medicaid coverage for the vulnerable populations who depend on it, and contains additional investments to extend coverage to uninsured children. Also ensures that 30,000 disabled children losing SSI because of the new tighter eligibility criteria keep their Medicaid coverage.

LEGAL IMMIGRANTS

- ✓ **CURRENT RECIPIENTS.** Restores both SSI and Medicaid benefits for immigrants now receiving assistance, ensuring that they will not be turned out of their apartments or nursing homes or otherwise left helpless.
- ✓ **CURRENT RESIDENT NONRECIPIENTS.** Does not change the rules retroactively. Immigrants in the country as of August 22, 1996 but not receiving benefits at that time who subsequently become disabled will also be fully eligible for SSI and Medicaid benefits. The budget will restore benefits to over 350,000 legal immigrants in FY 2002.
- ✓ **REFUGEES AND ASYLEES.** Extends the SSI and Medicaid eligibility period for refugees and asylees from 5 years after entry (the limit in the welfare bill) to 7 years to give these residents more time to naturalize. Adopts Administration proposal to treat Cuban and Haitian entrants and Amerasian immigrants as refugees to preserve benefits for these groups that have endured extraordinary hardships.

POOR ELDERLY AND DISABLED, INCLUDING CITIZENS

- ✓ **RECIPIENTS OF STATE SSI SUPPLEMENTS.** Does not include the House-passed provision that would have repealed the maintenance-of-effort requirement applying to State supplementation of SSI benefits which would have permitted States to reduce or eliminate benefits to almost 3 million poor blind, elderly and disabled individuals.

PEOPLE WHO WANT TO WORK BUT CAN'T FIND A JOB

- ✓ **235,000 MORE WORK SLOTS.** Last year's welfare reform bill restricted food stamps for able-bodied childless adults to only 3 out of every 36 months, unless they were working. This move ignored the fact that finding a job often takes time. The budget bill provides nearly \$1 billion for an estimated 235,000 work slots over 5 years and food stamp benefits to those who are willing to work but, through no fault of their own, have not yet found employment.
- ✓ **ALLOWS STATES TO EXEMPT UP TO 15 PERCENT OF THE FOOD STAMP RECIPIENTS (70,000 Individuals Monthly) WHO WOULD OTHERWISE BE DENIED BENEFITS AS A RESULT OF THE "3 IN 36" LIMIT.**

THE WHITE HOUSE

Office of the Vice President

FOR IMMEDIATE RELEASE

Tuesday, July 29, 1997

Contact: Roger Salazar

(202) 456-7035

Statement of the Vice President on Legal Immigrant Provisions of the Balanced Budget Agreement

President Clinton and I are very aware of the fears and uncertainty that many immigrants feel as a result of last year's immigration and welfare reform legislation. Today, President Clinton and the Congress announced an agreement to balance the budget for the first time since 1969. This agreement corrects many of the provisions in last year's welfare reform bill that were harmful to legal immigrants. President Clinton and I fought hard to ensure that any balanced budget agreement would protect legal immigrants unfairly affected by prior legislation.

This balanced budget agreement treats immigrants fairly. It includes \$12 billion to restore both disability and health benefits to legal immigrants who are currently receiving aid, ensuring that they will not be turned out of their apartments or nursing homes or otherwise left to an uncertain fate.

This \$12 billion also protects current residents who may become disabled in the future. In addition, it extends the SSI and Medicaid eligibility period for refugees and asylees from 5 years after entry to 7 years, in order to give these residents more time to naturalize.

Estos esfuerzos por parte de la Administracion aseguran que nuestras leyes no afectan severamente a las personas que han contribuido tanto a sus comunidades y que han puesto raices en nuestro pais. Presidente Clinton y yo lucharemos por el tratamiento justo de los inmigrantes legales en los Estados Unidos.**

**(These Administration efforts ensure that our laws do not have an unduly harsh effect on individuals who have made vital contributions to their communities and who have put down roots in our nation. President Clinton and I will continue to fight for just treatment for our nation's legal immigrants.)

##

THE WHITE HOUSE

Office of the Vice President

FOR IMMEDIATE RELEASE

CONTACT: (202) 456-7035

Thursday, June 19, 1997

**VICE PRESIDENT GORE WARNS AGAINST
HOUSE GOP PROPOSAL ON LEGAL IMMIGRANTS**

Notes that 75,000 Fewer People Would Get Benefits in 2002 than in Budget Agreement

WASHINGTON -- Vice President Gore today (6/19) warned against the House Republican proposal affecting disabled legal immigrants, warning that 75,000 fewer people would get Supplemental Security Income as compared to the bipartisan budget agreement.

The bipartisan budget agreement restored SSI and Medicaid benefits to any immigrant in the country as of August 23, 1996 who is or becomes disabled. The House Ways and Means Committee proposal ignores vulnerable immigrants who become disabled after August 23, 1996. About 75,000 fewer immigrants would receive benefits by 2002, and 125,000 fewer by 2007.

"The Republican plan singles out immigrants who are in this country legally for harsh and unfair treatment and it breaks faith with the bipartisan balanced budget agreement," the Vice President said at a White House ceremony.

"It fails to restore a safety net for disabled legal immigrants by abandoning the people who were in the United States when the welfare bill was signed, but who unexpectedly fell ill or became disabled after that date."

When Congress enacted last year's welfare law, they included provisions affecting legal immigrants that were not only harsh and unnecessary, but had nothing to do with the real goal of welfare reform -- moving people from welfare to work. Since then, the President and Vice President have worked hard to restore benefits to legal immigrants.

National groups representing the elderly and people with disabilities are united in their opposition to this proposal. They recognize that the budget agreement would protect more disabled elderly and non-elderly people than the House Ways and Means proposal.

##

Extension of 245(i)
Adjustment of Status for Immigrants
Questions and Answers
September 29, 1997

Q. What is the Administration's position on 245(i) of the Immigration and Nationality Act which allows immigrants to remain in the U.S. adjust their status by paying a penalty and is set to expire tomorrow?

A. The Administration supports the extension of 245(i) and its inclusion in a continuing resolution. The provision allows certain persons to obtain their immigrant visas while they remain in the United States, as long as they satisfy eligibility criteria and pay a \$1,000 penalty. These individuals would otherwise have to leave the U.S. and go to a consulate abroad to obtain the immigrant visa. The penalty fees from 245(i) are currently used to fund INS detention efforts.

However, until Congress passes and the President signs a continuing resolution, the September 30 deadline remains in effect. The Immigration and Naturalization Service is scheduling additional hours at local offices tomorrow to accommodate applicants.

Possible Extension of 245(i)

The Clinton administration supports the extension of the 245(i) provision of the Immigration and Nationality Act. The 245(i) provision is currently scheduled to expire on September 30, 1997. Under the provision, certain persons who are eligible for an immigrant visa but who are unlawfully in the United States may remain and adjust their status upon payment of a \$1,000 penalty.

The administration supports the inclusion of an extension of the 245(i) provision in a continuing resolution. However, until Congress passes and the President signs a continuing resolution, the current September 30 deadline remains in effect. The Immigration and Naturalization Service (INS) is scheduling additional hours at local offices on September 30 to accommodate applicants.

Should an extension of the provision beyond September 30 be included in the continuing resolution, the INS will adjust its operations to accommodate the extension.

FACT SHEET

9/22/97

INS Reminder: Adjustment of Status Under 245(i) Nears End ***Applicants May Risk Becoming Inadmissible***

Section 245(i) of the Immigration and Nationality Act is currently scheduled to terminate on September 30, 1997. Section 245(i) allows certain persons who are eligible for an immigrant visa but who are unlawfully in the United States to remain and adjust status in the United States upon payment of a \$1,000 penalty. INS will process those 245(i) applications which were properly filed on or before September 30, 1997. After that date, such persons must obtain their immigrant visas overseas at the appropriate U.S. Consulate offices.

How To Apply

Qualified applicants must apply on or before September 30, 1997, in order to be considered under the current Section 245(i) provision. INS encourages eligible applicants to apply as early as possible. The proper forms to adjust status under Section 245 (i) are Form I-485 and Supplement A to Form I-485. These forms are available at INS District Offices.

Eligibility Requirements

Only those aliens who are in the United States illegally and who meet all of the following requirements should submit their applications to the INS by the September 30 deadline:

- You have an approved visa petition pending with INS.
- The immigrant visa must be immediately available in your preference category in accordance with the State Department's monthly Visa Bulletin.
 - If by September 30 you are still waiting for a visa to become available to you, you are NOT eligible to apply for adjustment of status under 245(i), as of the September 30 deadline.
 - If you are the spouse or unmarried minor child of a United States citizen — or, if you are the parent of a United States citizen child at least 21 years of age — you do not have to wait for an immigrant visa. An immigrant visa is immediately available to you. You can file for Section 245 (i) adjustment of status at the same time your visa petition is filed with INS.
- You pay the \$1,000 penalty.

(more)

Prepared by the Office of Public Affairs (202) 514-2648

If an applicant does not meet all the above criteria, he or she is not eligible to file an application for Section 245(i) adjustment of status.

IMPORTANT NOTE: If you are the spouse or unmarried minor child of a United States citizen — or, if you are the parent of a United States citizen child at least 21 years of age — and you entered the United States illegally (“entered without inspection”), you must apply for adjustment under Section 245(i) in order to remain in the United States to adjust your status.

You do not apply for Section 245 (i) adjustment if you are the spouse or unmarried minor child of a United States citizen — or, if you are the parent of a United States citizen child at least 21 years of age — and you were inspected and lawfully admitted to the United States, but subsequently became illegal either because you overstayed your visa or you worked without permission. You may adjust your status in the United States at any time under another provision of the immigration law — Section 245 (a). You are not affected by the September 30 deadline related to the expiration of Section 245(i).

Accommodation of Deadline Filings

To accommodate the large number of completed Section 245 (i) applications that are expected to be filed on the deadline date, a number of INS District Offices will either remain open beyond regular business hours or have “drop-off” boxes available on Tuesday, September 30. Individuals should contact their local INS office for details.

Effect of Failing to Apply by Deadline

Eligible Section 245(i) applicants who do not apply on or before September 30, 1997, may also be subject to new penalties contained in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). Under the new law, aliens seeking to reenter the United States will be inadmissible for three years if they were unlawfully present in the United States for more than 180 days, beginning April 1, 1997. The 180-day mark from April 1 is September 27, 1997. Aliens seeking to reenter the United States will be inadmissible for 10 years if they were unlawfully present in the United States for one year or more beginning April 1, 1997.

— INS —

Section 245(i): Questions and Answers

What is Section 245 of the Immigration and Nationality Act?

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Why not just keep sending people abroad?

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INS long has had the job of processing applications for adjustment, undertaking the same evaluation of an individual's eligibility for an immigrant visa that had been performed by consulates abroad. In the case of Section 245(i) applicants, moreover, the State Department and INS undertake the same checks and make the same determinations – apparently reaching the same conclusions. At a recent Congressional hearing, Mary Ryan, the Assistant Secretary for Consular Affairs, stated that in the past consulates approved virtually all the cases that are now the subject of Section 245(i) applications because these individuals largely were eligible to adjust. The INS's mandate is to determine who is and is not eligible for admission into the U.S. and receive lawful permanent residence.

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What will happen if Section 245(i) is not extended?

As an immediate matter, both the INS and the State Department will be adversely impacted by a significant shift in workload. INS will lose personnel and money now earmarked for badly-needed apprehension and detention efforts. U.S. consulates abroad will collapse under the increased workload without the additional resources that Section 245(i) provides. Every U.S. citizen who seeks services from one of these agencies will suffer, not just those who could have used Section 245(i).

Those who would have benefited from Section 245(i) will suffer undue hardship. American employers will have their businesses interrupted and lose the much needed skills of employees who work on revenue-generating projects as they wait for their return from overseas. This could take months, with unforeseen delays keeping these needed personnel away from their work. Families will suffer from the hardship of separation and loss of income. All of this uncertainty is unnecessary and unwarranted in light of the high approval rate of these cases.

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Questions and Answers Extension of 245(i) Adjustment of Status for Immigrants
October 10, 1997

- Q. What is the Administration's position on 245(i) of the Immigration and Nationality Act, which allows immigrants to remain in the U.S. adjust their status by paying a penalty and is set to expire with the continuing resolution?

makes
no sense -
missing
words?

- A. The Administration firmly supports the extension of 245(i). Last week, the President signed a three-week extension of 245(i) into law in the continuing resolution. If the provision expires, thousands of immigrants will have to choose between remaining in the U.S. illegally or leaving the country, probably for several years, until they can obtain visas or green cards abroad. The provision allows certain persons to obtain their immigrant visas while they remain in the United States, as long as they satisfy eligibility criteria and pay a \$1,000 penalty. The penalty fees from 245(i) are currently used to fund INS detention efforts.

~~However, until Congress passes a longer term extension of 245(i), the provision is set to expire in the next two weeks.~~

and he has urged Congress
to pass a long-term
extension.

What happened to the language we've
used before about people who are already
in the process of getting permission to stay
(or something like that). I liked that
a lot better; this sounds too technical.

SSI Rules," news story, Sept. 11). The writers didn't mention that, although there had been allegations of false claim submissions, they proved minimal. Reports by Congress's General Accounting Office, the Inspector General of the Department of Health and Human Services, the congressionally appointed Disability Policy Panel and the Social Security Administration (SSA) all failed to find evidence of pervasive fraud. To the contrary, those studies found that recipients of SSI benefits had significant cognitive, physical or emotional disabilities.

Yes, the SSI benefits program for children nearly tripled in the early 1990s; however, this was not a result of fraud but rather of the 1990 Supreme Court ruling in *Sullivan v. Zebley*, a class-action suit. The court found that the Social Security Administration had used excessively strict standards that

meant to deter fraud but to tighten standards to cut costs. What an easy group to target: children with disabilities whose families are living at or below the poverty level.

Although families can appeal the termination of a child's disability benefits pursuant to this new law, many have failed to do so. The American Bar Association has established a Children's SSI Project to monitor the impact of the new law and the implementation of SSA regulations, and to encourage and train attorneys to represent, pro bono, these most vulnerable children in the appeal process. Statistics from the SSA indicate that of the 121,000 children who have been sent termination notices, 44 percent have appealed within the 60-day period but fewer than two-thirds of those have applied within the requisite 10 days for continued benefits pending appeal.

by early reports from the ABA that only 15 percent to 20 percent of families were appealing, the law center has sent out notices alerting social service providers and school social workers about the appeal process, have provided representation for children whose benefits have been terminated and have helped train pro bono attorneys. Many families in the D.C. metropolitan area and elsewhere, however, remain unrepresented and overwhelmed by the process.

The rush by the SSA to meet congressional deadlines and cut the disability rolls should not imperil children. Congress should rethink whether this is the best way to cut costs.

JEAN KELLEHER NIEBAUER

Managing Attorney
The Law Center for Children
Falls Church

Future Immigrants or Illegal Aliens?

I am writing to clear up a misstatement in The Post's Sept. 18 front-page article "Caught Between Home, Homeland." What was an otherwise excellent discussion of Section 245(i) of the Immigration and Nationality Act contained one critical error.

Section 245(i) does not "let illegal immigrants live in the United States while applying for permanent residence." Rather, it permits those immigrants who already have been approved for their green cards to adjust their status while in the United States instead of forcing them to return temporarily to their home countries to adjust their status. Those found ineligible for a green card then would be placed in removal proceedings.

Section 245(i) provides no protection to those who are living in the United States illegally. Regardless of family or business ties, anyone living in the United States illegally is subject to deportation. The section does, however, provide funding to the Immigration and Naturalization Service for detaining illegal aliens. In addition, Section 245(i) is available only to those who have been approved for green cards and who, once their paperwork is processed, have undergone a personal interview.

If Section 245(i) were a protection program for illegal immigrants, it would not have the support of my organization as well as that of the National Association of Manufacturers, the U.S. Chamber of Commerce,

B'nai B'rith, Americans for Tax Reform and Microsoft, Motorola and more than 70 other national business organizations.

JOHN SWENSON

Executive Director
United States Catholic Conference
Migration and Refugee Services
Washington

The compassion for the aliens facing tough choices expressed in the headline "Caught Between Home, Homeland" is misplaced. The problems these individuals face are the result of their own calculated and willful decisions to violate our immigration laws. To describe the individuals involved as "immigrants in legal limbo," as the subhead does, is a serious misstatement. Immigrants are aliens lawfully admitted for permanent residence, not illegal residents.

The law adopted last year was intended to withdraw the welcome mat for such illegal aliens. The new measures are intended to penalize both those who enter the country illegally and those who intentionally violate the terms of their visas by staying here illegally for at least six months after their visas expire.

The new law that penalizes illegal aliens would be undermined if Congress allows these aliens to remain here rather than requiring that they return home before applying for legal residence. Some instances of hardship may result from the law's enforcement. But that is the fault of the people who chose to break the law, not the people of the United States.

It's time to remember that one of the main reasons so many people find the United States a desirable place to live is the American people's respect for the law. Concern for the circumstances of any individual should not blind us to the danger that violation of our laws represents.

DAN STEIN

Executive Director
Federation for American Immigration Reform
Washington

The Washington Post

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PHILIP L. GRAHAM, 1915-1963

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Date: 09/26/97 Time: 12:13

Illegal immigrants grated reprieve in bid to stay in U.S

WASHINGTON (AP) Illegal immigrants would get a three-week reprieve to file paperwork in their fight to stay in the United States under legislation the House will consider next week.

Immigrant communities nationwide have been in a panic over Tuesday's expiration of a measure that lets undocumented, or illegal, immigrants to file here for legal status instead of at U.S. consulates abroad.

With Congress still far from completing its appropriations process for the fiscal year beginning Oct. 1, the House on Monday will consider a stopgap spending bill that would fund government operations through Oct. 23.

Included in that bill is a three-week extension of the immigration provision due to expire Tuesday.

Initially, a one-year extension had been contemplated but was withdrawn after Rep. Dana Rohrabacher, R-Calif., threatened to delay passage of the stopgap spending bill.

Rohrabacher lifted his objection to the three-week extension after securing a commitment from the GOP leadership that a vote on the provision's fate will be scheduled later this year.

Rohrabacher and others contend the United States shouldn't reward immigrants who either came here unlawfully or overstayed their temporary visas at the expense of others who followed the rules.

But immigrant-rights groups argue that the provision benefits only those who already are on track for legal residence.

Facing a possible defeat of the measure, tens of thousands of immigrants have been confronted with a difficult choice. They could remain here illegally or leave the country to secure their green cards at U.S. consulates abroad. With the application process sometimes taking years, the immigrants would face a lengthy period away from family and jobs if they leave the U.S.

Adding urgency to the dilemma is a separate deadline mandated under the 1996 immigration law. As of Saturday, illegal aliens found to have been here six months or more face a three-year ban on readmission to the country. Those here unlawfully for a year or more face a 10-year ban on reentry.

Confronted with the twin deadlines, thousands have been pondering whether to leave the country by Saturday.

In 1994, Congress wrote a regulation allowing undocumented

immigrants to remain here while applying for permanent residence provided they pay a fine now \$1,000 and either be already on track for legal residence or related to a U.S. citizen or legal permanent resident.

With that provision expiring Sept. 30, the Clinton administration asked for an extension. Congress has yet to decide the issue.

The Senate, in the bill that funds INS operations, approved an extension. The House, completing work this week on its bill, doesn't have similar language meaning House and Senate negotiators will have to resolve the issue later this fall when they iron out differences in their respective bills.

APNP-09-26-97 1215EDT

Message Sent To:

Jose Cerda III
Leanne A. Shimabukuro
Jose Cerda III
Leanne A. Shimabukuro
Jose Cerda III
WARNATH_S @ A1@CD@LNGTWY
WARNATH_S @ A1@CD@LNGTWY

Gay Children Need Support, Bishops Urge

By The Associated Press

Roman Catholic bishops in the United States are advising parents of gay children to love and support their sons and daughters.

In a pastoral letter, the bishops say homosexual orientation is not freely chosen and parents must not reject their gay children in a society full of rejection and discrimination.

"All in all, it is essential to recall one basic truth," the bishops say. "God loves every person as a unique individual. Sexual identity helps to define the unique person we are. God does not love someone any less simply because he or she is homosexual."

The document, titled "Always Our Children," was approved by the Administrative Board of the National Conference of Catholic Bishops early in September and released yesterday, with an early copy provided to The Associated Press.

In the last two decades, with almost every other church struggling over gay ordination or efforts to ease church doctrine condemning homosexuality, the Roman Catholic Church has stood firm, teaching that homosexuality is morally wrong.

The bishops' letter in no way abandons Catholic doctrine. It states clearly that genital sexual activity between same-sex partners is immoral and that the letter is not to be understood "as an endorsement of what some would call a 'homosexual life style.'" It draws a distinction, however, between homosexual orientation and sexual activity.

In the letter, the bishops urge parents to encourage their children to lead a chaste life.

But the bishops also tell parents that church rules should not be enforced at the expense of their child.

"First, don't break off contact; don't reject your child," the bishops say. Instead, they say, create an atmosphere in which a child would be willing to discuss his or her sexual orientation.

Mary Ellen Lopata, co-founder of the Catholic Gay and Lesbian Ministry in the Diocese of Rochester, said many parents struggle with the conflict between loving their child and their understanding that church teaching condemns that child.

Seeking Death Penalty In Bomb Case Is Upheld

By The New York Times

DENVER, Sept. 30 — The Federal Court of Appeals for the 10th Circuit here today upheld the decision by a Federal judge not to challenge the method Attorney General Janet Reno used in authorizing the United States Attorney in Oklahoma City to seek the death penalty for Terry L. Nichols in the bombing of the Federal building there.

Mr. Nichols had contended in a civil suit that the Attorney General failed to follow procedures and denied Mr. Nichols his Constitutional right to due process because she announced she would seek the death penalty on the day of the bombing, before Mr. Nichols was arrested.

Judge Richard P. Matsch of Federal District Court here held that the decision to seek the death penalty fell within the range of prosecutorial discretion, which may not be reviewed by the courts. The appeals court upheld that ruling.

Changes in Immigration Rules Hitting Some Companies Hard

By MIRTA OJITO

In SoHo, a Japanese restaurant closed its doors last Friday after the chef returned to Japan. In Westport, Conn., a construction company shut down when the owner, a Chilean immigrant, suddenly left with his family. And in a midtown Manhattan factory, where 25 employees work making fine jewelry 14 hours a day, the owner, a Ukrainian refugee, wonders whether he too should pack and leave.

Changes in immigration rules have prompted many immigrants in the New York area and across the country who are seeking legal status to return to their homelands in the last week, believing that such a move — however painful — is their best hope for someday returning legally.

It is impossible to tell how many people might have left the country in the recent exodus. But immigration lawyers and advocates believe that the wave of departures will have a great impact on some businesses, especially those that rely heavily on the expertise of foreigners, like detailed construction work, specialty restaurants and some highly technical jobs.

Already, in Manhattan, a popular downtown restaurant called Katana closed after its chef, Nao Hiko Sugiyama, returned to Japan to continue his appeal for residency status in the United States, said Sam Firer, the restaurant's public relations representative. Mr. Sugiyama's specialty was kaiseki cuisine, a rare food that originated with the Japanese tea ceremony.

Other restaurants in the city lost a significant portion of their employees last week and had to scramble to find their replacements on short notice. Nobu, a Japanese restaurant in TriBeCa, lost 6 of its 20 waiters, said Richard M. Notar, the restaurant's general manager.

"One day, I had a full staff," Mr. Notar said. "Next day, no waiters. And it is not easy to replace them. We are very particular about who we hire. And then there is the training."

The sudden exodus has been set off by two changes in immigration rules. One is the expiration of a three-year-old law that allowed illegal immigrants who were seeking green cards to obtain the documents here. Under the new rules, those close to obtaining a green card, which confers legal status, must go home to get the document.

Under a second change, immigrants who have been in the United States illegally for more than six months and who leave for any reason

Businesses strive to cope with illegal immigrants leaving their jobs in the U.S.

— including going home to get a green card — can be barred from returning for three years. Those who have been in this country illegally for more than a year can be denied re-entry for 10 years.

The Senate yesterday joined the House in delaying the first change, which was to take effect yesterday, for three weeks. But experts said the brief reprieve would affect very few of the thousands of immigrants faced with the decision of whether to stay or go. The American Immigration Lawyers Association and about 80 other national organizations and big businesses, including Apple Computer and Hewlett-Packard, support a longer extension of the provision allowing those seeking green cards to stay here.

Those who left, like Mr. Sugiyama, played it safe, being willing to wait for their green card outside the United States. But those who stayed took a gamble. Their hope is that the expiring provision will be extended beyond the three weeks, so that they can continue to live here while seeking their legal status.

Judith B. Sporn, an immigration lawyer in Westport, said 99 percent of her clients opted to stay despite a letter that she sent them urging them to leave by the Sept. 27 deadline.

"If they are wrong, they are in a lot of trouble," Ms. Sporn said. "But had they left, they would have had an incredible impact on businesses. There isn't a restaurant that does not need people like them. How are you supposed to have foreign specialties without the foreigners?" One who chose to stay, a client of Ms. Sporn who spoke on condition of anonymity, said he was a Brazilian chef who works without a working permit. He stayed, he said, because there is nothing and no one waiting for him in Brazil.

"My wife is here, my job is here, my home is here," he said. "My boss told me that if I left, the restaurant would be in a lot of trouble."

That is Feodor Sheffer's dilemma. He is a refugee from Ukraine, who was denied political asylum two days before the deadline. Mr. Sheffer decided to stay in the hope that an

immigration judge would grant him his asylum in January, his next immigration hearing.

Mr. Sheffer is the owner of the NK Star Corporation, a jewelry factory in midtown Manhattan that employs 25 people. If he leaves, Mr. Sheffer said, the factory will close and his employees will have no work.

Despite the disruption for some families and businesses, Rae D. Rosen, a regional economist for the Federal Reserve Bank of New York, said she did not expect the departures to have a broad effect on the economy. "The size of the labor market here is so great, that their departure will not have a significant impact, however painful to the individual it is," Ms. Rosen said.

Lawmakers who oppose the extension of the expiring rule say that if illegal immigrants leave, more Americans, who are now unemployed, will find jobs.

Allan Kay, a spokesman for Representative Lamar Smith, a Texas Republican who opposes the provision, said the Congressman "is deeply concerned about American citizens and legal residents not getting jobs because they are filled by people who are here illegally."

AMERICAN IMMIGRATION LAWYERS ASSOCIATION
1400 Eye Street, NW, Suite 1200
Washington, DC 20005
Tel. (202) 371-9377 - Fax. (202) 371-9449

AILA FAX MEMO

DATE: October 1, 1997

TO:	Cecilia Munoz/Joel Najar	La Raza
	Micheal Hill/Abby Price	USCC
	Bronwyn Lance	Lutherans
	Jason Epstein	B'nai B'rith
	Paul Finnegan	Coalition Irish Immigrant Centers
	Angie Kelly	National Immigration Forum
	Scott Hoffman/David Safavian	The Merritt Group
	Lynn Shotwell/Ali Cleveland	ACIP
	Liese Wright	Texas Instruments
	Fred Gebler	EDS
	John Lyons	Motorola
	Jennie Eisen	Intel
	Brian Raymond	AEA
	Phyllis Eisen	NAM
	Jessica Rifkin	"12 Angry Working Moms"
	Margie Jones	Intel
	Mary Dee Beall	Hewlett Packard
	Heidi Wilson	Sun Microsystems
	Lowell Sachs	Sun Microsystems

FROM: Judy Golub & Elissa McGovern

RE: 245(i) Update and Lobbying Efforts

The Continuing Resolution (CR) signed by the President last night includes a three week extension of Section 245(i) (See the attached AILA All-Member Fax). Both supporters and opponents have generated numerous "Dear Colleagues" in the House on 245(i). Several House members (notably Dana Rohrabacher) used floor time during the CR debate to press the FAIR line and mischaracterize 245(i) as an amnesty for illegal aliens. The press also has been very active on the issue, providing some very moving stories of the impact of 245(i) (see, for example, today's *New York Times*) and the earlier *Washington Post* article.

Conferees will be meeting shortly on the FY98 Commerce, Justice, State Appropriations Bill. Please contact House leadership (Gingrich, Armey, Delay), and members of the Rules Committee (Reps. Drier, Goss, Linder, Pryce, Diaz-Balart, McInnis, Hastings, Myrick, Moakley, Frost, Hall, Slaughter) and especially Representative Solomon, the chair), as well as members of the Commerce, State, Justice Appropriations Subcommittee who are likely conferees (attached). In your contacts, emphasize that *the House should cede to the Senate provision and that you oppose deals that will dilute or eviscerate the effectiveness of the provision*. Attached is a letter that addresses many of the issues being raised on 245(i) which you may find useful in getting the word out to these offices.

We have made significant headway since we began. Several key Republicans are now publicly expressing support for 245(i). Let's get the rest of the job done!

Attachments

15AD7019

AMERICAN IMMIGRATION LAWYERS ASSOCIATION
1400 Eye Street, N.W., Suite 1200
Washington, D.C. 20005
Tel. 202/371-9377 - Fax. 202/371-9449

AILA ALL MEMBER FAX

September 30, 1997

Stopgap Spending Bill Includes Three Week Extension of 245(i) Until October 23, 1997

The Senate and House both approved a three week extension of 245(i) of the Immigration and Nationality Act as part of a Continuing Resolution (CR) to fund the government while Congress completes various FY98 appropriations bills for the next fiscal year which begins October 1.

On Monday, the House approved the stopgap spending measure by a 355-57 vote and the Senate approved a similar bill today, Tuesday, September 30, 1997, by a vote of 99-0. The President is expected to sign the bill tonight. This temporary extension will expire on October 23 unless Congress takes further action to extend 245(i) as a part of the FY98 Commerce, State, Justice (CSJ) appropriations bill.

We expect that the fate of Section 245(i) will be determined in October in a House/Senate conference on the CSJ appropriations bill. While the Senate CSJ appropriations bill includes a permanent extension of Section 245(i), to date the House bill includes no such provision. If conferees agree to an extension of Section 245(i), the provision will become part of the CSJ appropriations bill that both Houses of Congress will vote on and send to the President for his signature. However, the CSJ bill includes many controversial provisions, including one about census sampling, that may lead to a Presidential veto of the bill.

Opponents are working to derail efforts to include the provision in the final CSJ bill, and they are making headway. We are now in the final stages of this battle. **Your help is urgently needed! Please contact your Representative and Senators and urge them to support the permanent extension of Section 245(i) as part of the final CSJ appropriations bill.**

Thanks for your good work. We have come a long way. Let's bring this home!

23LE7013

**POTENTIAL CONFEREES FOR COMMERCE, JUSTICE, STATE AND JUDICIARY
APPROPRIATIONS BILL (9/22/97)**

SENATE				HOUSE			
Senator	Party-State	Phone #	Fax #	Representative	Party-State	Phone #	Fax #
Dale Bumpers	D-AR	224-4843	224-6435	Julian C. Dixon	D-CA	225-7084	225-4091
Robert C. Byrd	D-WV	224-3954	228-0002	Michael P. Forbes	R-NY	225-3826	225-3143
Ben Campbell	R-CO	224-5852	224-1933	Jim Kolbe	R-AZ	225-2542	225-0378
Pete V. Domenici	R-NM	224-6621	224-7371	Tom Latham	R-IA	225-5476	225-3301
Judd Gregg	R-NH	224-3324	224-4952	Bob Livingston	R-LA	225-3015	225-0739
Ernest F. Hollings	D-SC	224-6121	224-4293	Alan B. Mollohan	D-WV	225-4172	225-7564
Kay Bailey Hutchison	R-TX	224-5922	224-0776	David R. Obey	D-WI	225-3365	225-3240
Daniel K. Inouye	D-HI	224-3934	224-8022	Ralph Regula	R-OH	225-3876	225-3059
Frank R. Lautenberg	D-NJ	224-4744	224-9707	Harold Rogers	R-KY	225-4601	225-0940
Mitch McConnell	R-KY	224-2541	224-2499	David E. Skaggs	D-CO	225-2161	226-3806
Barbara A. Mikulski	D-MD	224-4654	224-8858	Charles H. Taylor	R-NC	225-6401	226-6405
Ted Stevens	R-AK	224-3004	224-2354				
Senate Address: The Honorable [full name] United States Senate Washington, DC 20510 Dear Senator [last name]:				House Address: The Honorable [full name] United States House of Representatives Washington, DC 20515 Dear Representative [last name]:			



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September 22, 1997

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Facsimile: (202) 371-9449

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Dear Representative:

You have been hearing a lot lately about Section 245(i). This provision of the Immigration and Nationality Act allows certain immigrants to have their papers processed here in order to become permanent residents, rather than requiring them to return to their home country. We urge you to support this provision as part of the FY 98 Commerce, Justice, State Appropriations bill that emerges from a House/Senate conference. Without your support, Section 245(i) will expire on September 30. Section 245(i) is pro-family, pro-business, good policy, and makes sense.

- Section 245(i) is available only to people who are already eligible to become permanent residents: those who are sponsored by close family members or by employers who cannot find eligible U.S. workers, and whose "priority date" is current under existing quotas.
- Section 245(i) permits those eligible to adjust status in the United States. It does not, as alleged, give illegal immigrants the right to live in the U.S.
- Section 245(i) does not change the order in which a person's claim is adjudicated. There is one single world-wide line for everyone waiting for their immigrant visa.
- Section 245(i) mandates that people using this provision be otherwise eligible: People adjusting status under Section 245(i) are screened to make sure that they are not barred by any ground of inadmissibility from obtaining a green card (criminal offenses, health problems, the potential of becoming a public charge, fraud, misrepresentation, or any of the many other grounds of inadmissibility.) In addition, people applying under Section 245(i) must submit fingerprints to the FBI for verification that they have no disqualifying criminal history in the U.S. or in their home country.
- Section 245(i) generated about \$200 million in revenues (from a \$1,000 fee each individual pays) in FY 97. 80% of these funds are used for detention.

Section 245(i) allows business to keep valued employees, allows families to stay together, and pays for detention. Please join the many national organizations and businesses that support Section 245(i).

Sincerely,

Jeanne A. Butterfield
Executive Director

Total Pages: 5

LRM ID: IMS177

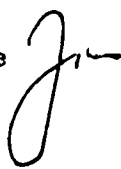
**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001**

Wednesday, October 22, 1997

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: James J. Jukes (for) Assistant Director for Legislative Reference

OMB CONTACT: Ingrid M. Schroeder 
PHONE: (202)395-3883 FAX: (202)395-3109

SUBJECT: JUSTICE Report on 245(i) immigration penalty provision in S1022
Commerce, Justice, and State, the Judiciary, and Related Agencies
Appropriations, FY 1998

DEADLINE: 10am Thursday, October 23, 1997

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: The attached letter will be merged into the letter circulated under LRM #IMS171 commenting on the 245(i) penalty provision. The final letter will be signed by the Attorney General.

DISTRIBUTION LIST

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LRM ID: IMS177 SUBJECT: JUSTICE Report on 245(i) Immigration penalty provision in S1022 Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations, FY 1998

**RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM**

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

- (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
- (2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: Ingrid M. Schroeder Phone: 395-3883 Fax: 395-3109
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-3454

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

Concur

 No Objection

No Comment

See proposed edits on pages

Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

**U.S. Department of Justice****Office of Justice Programs****Violence Against Women Office**

Washington, D.C. 20531

draft

October 21, 1997

Dear Senator/ Representative:

This letter is an urgent plea to you for your support of the permanent extension of Section 245(i) of the Immigration Act. This provision directly involves issues of violence against women, and as the Director of the Violence Against Women Office, I am deeply concerned with the untenable situation that battered immigrant women would face if Section 245(i) expires.

Before the Violence Against Women Act (Public Law 103-322)(hereinafter "VAWA") was passed in 1994, battered immigrant women were forced to make the difficult choice between remaining in an abusive relationship, or facing deportation. The VAWA provides special protection for battered immigrant women and their children in recognition of their legal and physical vulnerability.

Section 245(i) of the Immigration and Nationality Act allows battered immigrant women to obtain lawful permanent residency under VAWA without having to leave the country. VAWA allows abused immigrant women to self-petition for lawful permanent status, rather than having to rely upon their abusers. Indeed, the abusers would characteristically use their position and status as a control mechanism to prevent the battered woman from escaping the abusive situation.

Allowing Section 245(i) to expire would negate the protection that the VAWA is intended to provide, and would thus undermine seriously VAWA's promise of freedom from abuse. It would also put the U.S. government in the anomalous position of forcing the woman to return to her country after having made a determination that doing so would cause her unreasonable hardship. This result is simply unacceptable; it puts the battered immigrant woman in a life-threatening position of having to return to a home country, where the laws of that country will not be likely to protect her from further violence against her.

Section 245(i) does not create special privileges--it merely recognizes the especially vulnerable position of a certain group of aliens. This group consists of people who are already eligible to become permanent residents. It allows such people to remain in the U.S. during the

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DOJ/OSG

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pendency of their petition. It is important to note that Section 245(i) does not change the order in which such petitions are granted.

It is the duty of my Office to work to protect women from abuse. I cannot overstate the importance of permanently extending this provision to avoid the unjust and inexcusable result of forcing a battered immigrant woman into a more dangerous situation for herself and often her children. Our Office, in conjunction with the INS, has made progress on behalf of battered immigrant women. It would be both cruel and regressive to now take that protection away.

On behalf of battered immigrant women and their children, thank you for your support, and for your careful consideration of this compelling problem. Your vote will help enormously.

Sincerely,

Bonnie J. Campbell
Director

EXECUTIVE OFFICE OF THE PRESIDENT
Office of Management and Budget
TCJS Division
Justice/GSA Branch

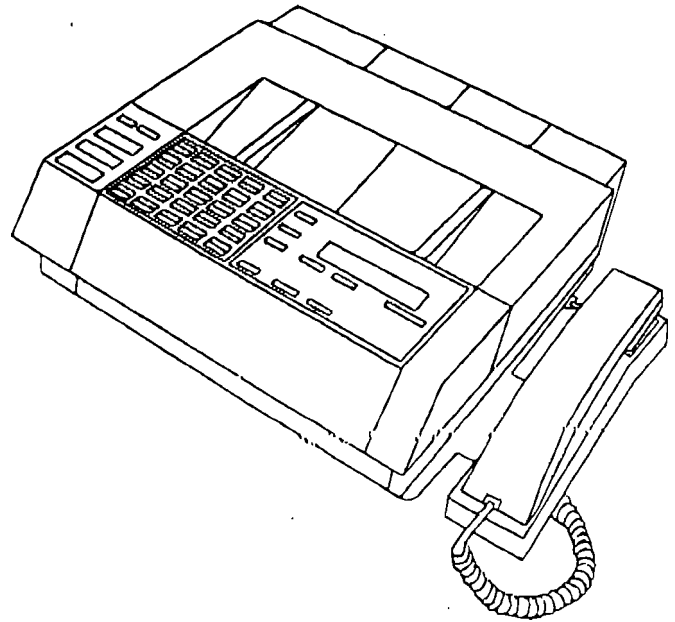
FY1998
Appropriations
Bill
COUNCIL

FAX COVER SHEET

TO: LEANNE SHIMABAKURO

FAX NUMBER: 6-7028

PHONE NUMBER:



FROM: Tim Bolon

PHONE NUMBER: 202/395-3740

FAX NUMBER: 202/395-0850

COMMENTS: CONFERENCE LETTER

Date:

Time:

Number of Pages (including this page) -

If you do not receive all the pages, please call as soon as possible.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

October 15, 1997

THE DIRECTOR

The Honorable Bob Livingston
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This letter provides the Administration's views on the Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, FY 1998, as passed by the House and by the Senate. As the conferees develop a final version of the bill, your consideration of the Administration's views would be appreciated.

Both the House and Senate versions of the bill provide requested funding for many of the Administration's priorities. For example, we appreciate the funding levels provided by both the House and the Senate for law enforcement programs in general and the COPS program in particular. Funding COPS at the requested level of \$1.4 billion is consistent with the Bipartisan Budget Agreement (BBA) and would enable us to achieve the goal of hiring 100,000 additional police officers by the year 2000.

However, the Administration strongly opposes several provisions of the House and Senate versions of bill, including:

- House language that would prohibit the Bureau of the Census from expending any funds on planning, preparing for, or testing the use of sampling techniques for the decennial census, after a civil action has been filed, until the Supreme Court has determined that sampling is constitutional and authorized by statute;
- House language that would require the United States to pay attorneys' fees and litigation costs to "prevailing parties" in Federal criminal cases unless the Government can demonstrate that the case was "substantially justified;"
- Senate language that would reorganize the Ninth Circuit by splitting it into two separate circuits;
- Unacceptable funding for the Legal Services Corporation.

If the bill presented to the President were to include any of these provisions, the President's senior advisers would recommend that the President veto the bill.

As discussed below, the Administration will seek restoration of certain of the reductions to the President's request made by the House and Senate. We recognize that it will not be possible in all cases to attain the Administration's full request and will work with the conferees toward achieving acceptable funding levels. The Administration is committed to working with the conferees to identify reductions in the bill in order to find offsets for the restoration of funds that the Administration seeks. For example, funding could be reduced for the Local Law Enforcement Block Grant and the new Juvenile Justice Block Grant. We urge the conferees to reduce funding for lower priority programs, or for programs that would be adequately funded at the requested level, and to redirect funding to programs of higher priority.

Department of Commerce

The Administration is pleased that the both House and Senate bills would increase funding for the Department of Commerce above the FY 1997 level. However, both the House and Senate versions of the bill would not provide sufficient funding for important Department of Commerce programs. The Administration strongly urges the conferees to support the critical programs detailed below.

Census Sampling. The Administration strongly opposes House language that would effectively ban sampling in the guise of providing for judicial review. The House language would prohibit the Census Bureau from expending any funds on planning, preparing for, or testing the use of sampling after a civil action has been filed until the Supreme Court has determined that sampling is constitutional and authorized by statute.

First, the Administration is concerned that the amendment's requirement for a final Supreme Court endorsement of sampling prior to any planning, testing, or use of sampling in the 2000 census would simply act to ban sampling for the census. For example, the amendment does not satisfy constitutional standards for standing. The Supreme Court has required that a plaintiff must have suffered an injury that is "concrete and particularized." It is unlikely that those defined as "aggrieved parties" will be deemed to have the requisite injury to satisfy Article III. In the recent legislative veto decision, for example, the Court found that members of Congress did not have standing to challenge that statute. This limitation is jurisdictional, cannot be waived, and can be raised by the Court on its own.

Moreover, the Supreme Court held in 1992 that it could not rule on legal challenges to the Census Bureau's actions until after the President sends the census numbers to Congress (*Franklin v. Massachusetts*, 505 U.S. 788 (1992)). There is thus a serious question as to whether the Court has the power to rule on the merits of a census before the results of that census are finalized. Given these problems, subsection (d)(2)'s requirement of a judicial endorsement of sampling effectively prohibits sampling.

Finally, the House language would likely lead to complicated, lengthy, and complex litigation that would be highly unlikely to be resolved in a time frame to permit planning, testing, and use of sampling. Litigation is not consolidated in any one district, there is no deadline for filing suit, and no limit on the number of suits that may be filed. The Court would, therefore, be required to hear numerous appeals. This problem is magnified because virtually every United States citizen is an "aggrieved party," given a cause of action and an appeal of right to the Supreme Court. Denying funding during this potentially lengthy judicial process would effectively prevent use of sampling in the 2000 census.

For these reasons, if the bill were to contain the House language, the President's senior advisers would recommend that the President veto the bill. While the compromise language included in the Senate-passed bill would be workable, the Administration would strongly object to any prohibition on the use of sampling as part of the 2000 census. Without the limited use of sampling, the accuracy of the census would decrease significantly, especially with regard to children and minority groups that have traditionally been undercounted. The National Academy of Sciences, the General Accounting Office, the Commerce Department Inspector General, and the vast majority of the professional statistical community support the use of sampling in the decennial census.

National Oceanic and Atmospheric Administration. The Administration is deeply disappointed by the House and Senate's underfunding of two essential programs to protect the environment and foster sustainable development. The President's budget requests \$22 million for the National Oceanic and Atmospheric Association's (NOAA's) Clean Water Initiative. NOAA, as the primary trustee of our Nation's coastal resources, helps communities to improve coastal water quality and control pollution -- like the run-off into the Chesapeake Bay that caused the recent outbreak of *Pfiesteria*. Yet the House bill would provide only \$8 million for this important program, and the Senate bill would provide no funding.

The Administration is also disappointed that neither the House nor the Senate would provide funding for the Global Learning and Observations to Benefit the Environment (GLOBE) program. This program was developed to increase our understanding of the Earth and has already forged partnerships with over 2,500 U.S. schools and 35 other countries, involving thousands of students across the U.S. and worldwide. Both the House and Senate versions of the bill recommend funding in NOAA for activities that were not requested by the Administration. We strongly urge the conferees to redirect these funds to the Clean Water Initiative, GLOBE, and other environmental programs.

National Institute of Standards and Technology. Both the House and Senate funding levels for the National Institute of Standards and Technology (NIST) fail to support the BBA. The Senate mark falls short of the agreed-upon level by \$89 million, and the House mark falls short by \$6 million. The Administration urges the conferees to restore this funding, specifically to the Advanced Technology Program (ATP) and the Manufacturing Extension Partnership

(MEP). Further, the Administration urges the conferees to drop House language that would restrict new ATP awards, and to adopt language that would allow renewals of Federal funding of Manufacturing Extension Centers beyond six years, as passed by the House in H.R. 1274.

National Information Infrastructure. The Administration urges the conferees to reallocate resources between the National Information Infrastructure (NII) grants program and the Public Broadcasting Facilities program. Both the House and the Senate would substantially reduce funding for the former and provide a large, unrequested increase for the latter. The NII program is meritorious, providing seed money for innovative projects that deploy, use, and evaluate advanced telecommunications and information technology.

Economic and Statistical Analysis. The Administration is concerned that both the House and Senate marks for Economic and Statistical Analysis (ESA) are insufficient to make necessary improvements to important economic indicators. Although problems with economic indicators have major consequences for decisions on the Federal budget, monetary policy, and for decisions made in private markets, ESA has not received funding for needed improvements in key indicators such as the GDP.

Reimbursement of Legal Fees

The President's senior advisers would recommend that the President veto the bill if it were to contain the Hyde amendment. The Hyde amendment, adopted by the House, would require the United States to pay attorneys' fees and litigation costs to "prevailing parties" in Federal criminal cases, unless the Government can demonstrate that the case was "substantially justified." This would have a profound and harmful impact on the Federal criminal justice system. It would create a monetary incentive for criminal defense attorneys to generate additional litigation in cases in which prosecutors have in good faith brought sound charges, tying up the scarce time and resources that are vital to bringing criminals to justice.

The Fifth Amendment already requires that, in every Federal felony case, a grand jury of citizens find probable cause to bring charges against a defendant, thereby protecting against unjustified prosecutions. In addition, the Department of Justice and the courts have safeguards to guard against such prosecutions. The Hyde amendment, which would provide for reimbursement from the budget of the Federal agency involved, would have a chilling effect on prosecutorial discretion.

Finally, the litigation generated by this proposal may require disclosure and compromise of confidential sources and law enforcement techniques.

The Judiciary Ninth Circuit

The Administration opposes the provision of the Senate bill that would reorganize the Ninth Circuit by splitting it into two circuits. The Administration strongly objects to using the appropriations process to legislate on this important matter. The division of the Ninth Circuit is

an important issue not just for the bench and the bar of the affected region, but also for the citizens of the Ninth Circuit. The Administration believes that a much better approach would be passage of legislation, H.R. 908 — already passed by the House and currently at the desk in the Senate — that would create a bipartisan commission to study this difficult and complex question and make recommendations to the Congress within a date certain. This would allow for substantive resolution of the issue in a deliberative manner, allowing all affected parties to voice their views. The President's senior advisers would recommend that the President veto the bill if it contains this provision.

Legal Services Corporation

The Administration appreciates the funding level of \$300 million provided for the Legal Services Corporation (LSC) in the Senate bill, and urges the conferees to fully fund President's request. While the Administration appreciates the House amendment to increase funding above the House Committee level, the resulting House funding level for LSC remains unacceptable. The House version of the bill would fund LSC at \$250 million, \$33 million below the FY 1997 level — already the lowest level in 20 years, adjusted for inflation — and \$90 million below the President's request of \$340 million. The House level, 38 percent below the FY 1995 level of \$400 million, would require further cuts in legal assistance to the poor, calling into question the Federal Government's commitment to ensuring that all Americans, regardless of income, have access to the judicial system. The President's senior advisers would recommend that the President veto the bill if it were to contain the House funding for LSC.

While the \$300 million provided by the Senate bill is a six-percent increase over the FY 1997 level, \$17 million is earmarked for *pro se* legal education programs, effectively holding the basic LSC program at the FY 1997 level. To prevent a further decline in the number of clients served, the Administration would prefer that a \$300 million funding level include \$7.4 million for *pro se* programs.

The Burton amendment adopted by the House would require recipients of Legal Services Corporation (LSC) funds to make available to the public, and report to LSC, the names and addresses of both plaintiffs and defendants in actions filed by LSC grantees. The amendment raises serious privacy concerns for plaintiffs represented by LSC grantees, as well as for defendants in LSC cases, and would impose significant administrative and financial burdens on LSC and its recipients. Critics of the program have not identified any problem that would be remedied by such a disclosure requirement.

Finally, the Administration is concerned about section 504(c)(5) of the Senate bill, which would permit LSC to debar any grantee that files a lawsuit against the Corporation or any government agency. While existing law prevents LSC grantees from using LSC funds to sue the Corporation, the Administration opposes restricting grantees from using non-Federal funds to exercise their right to protect themselves from improper government actions.

Teamsters Election

The Administration strongly objects to the House provision that would prohibit the use of funds in the bill for monitoring a re-run of the Teamsters election. This provision, together with an identical provision in the House version of the Labor, Health and Human Services, and Education appropriations bill, could significantly undermine the Government's effort to rid the Teamsters union of the influence of organized crime and corruption. Furthermore, the provision is contrary to the 1989 consent decree that requires the United States to pay for any monitoring of the 1996 Teamsters election.

Department of Justice

Community Oriented Policing Services. The Administration opposes the earmarks in the House-passed bill on unobligated balances within the Community Oriented Policing Services (COPS) program. These earmarks will make it more difficult to put 100,000 officers on the street by 2000 within the funding levels for COPS specified in the recent Balanced Budget Agreement.

Drug Courts. The Administration urges the conferees to provide the President's request of \$75 million for drug courts. The drug courts program is a proven, cost-effective means of using the coercive power of the courts to move non-violent offenders into drug treatment programs.

Drug Testing. The Administration is concerned that neither the House nor the Senate version of the bill identifies \$30 million from the Byrne Law Enforcement Assistance program to offset the cost of testing State and local arrestees, as proposed by the President. The Administration urges the conferees to authorize States to use Violent Offender Incarceration/Truth-In-Sentencing funding (VOI/TIS), commonly referred to as prison construction grants, to help offset the cost of prisoner and parolee drug testing and intervention programs. As a condition for receiving VOI/TIS funding, States are required to implement drug testing and intervention programs for State and local prisoners and parolees, but may not use VOI/TIS funding to offset the cost of these programs.

Juvenile Justice. The Administration appreciates the funding increase provided by both the House and the Senate for juvenile justice. This funding will help keep schools open during peak youth crime hours, provide grants to prosecutors to break up gang violence and violent juvenile crime, and provide grants to courts to expedite the handling of juvenile offenders. We urge the conferees to provide the Senate funding levels of \$155 million for ongoing programs and \$75 million for after-school crime prevention, and to adopt the House level for research and evaluation. We also urge the conferees to provide \$150 million for enforcement as a discretionary program targeted for prosecutors and violent juvenile courts, as requested in the FY 1998 Budget.

FBI Recruitment. The Senate version of the bill would exempt the FBI from Title 5 personnel laws and regulations on the basis that the FBI is restricted in its ability to recruit and retain individuals with scientific and technical skills, and that pay flexibility under Title 5 is inefficient. We believe the Senate's action, while well intended, is flawed. There is insufficient evidence of a recruitment problem at the FBI that needs to be solved by an exemption from Title 5 provisions for employee classification, pay, and performance. The Federal agencies that have documented pay-related recruitment problems have successfully used the pay flexibility provided in Title 5. In addition, the provision would unnecessarily exempt all FBI employees, including agents and support staff, in response to undocumented recruitment problems related to scientific and technical personnel. The provision would also establish a personnel system not subject to Office of Personnel Management oversight, and would create inequities in the recruitment of scientific and technical employees by other law enforcement agencies. We recommend that the conferees delete this provision.

245(I) Adjustment of Immigration Status Extension. The Senate bill would provide a permanent extension of the 245(I) adjustment of status penalty provision of the Immigration and Naturalization Act. This provision permits an immigrant who is eligible for legal permanent residency to remain in the United States, after paying a one thousand dollar penalty, until his or her application is approved by the Immigration and Naturalization Service (INS). We urge the conferees to approve the Senate language and extend this provision permanently. Were the provision not extended, State Department overseas operations would face a sizeable, unfunded workload requirement.

Prison Funding/INS Political Appointees. The Administration objects to language in the Senate Report that would mandate that unless a certain minimum funding level were included in the President's FY 1999 Budget for prison facilities, funding for INS political appointees would be restricted in FY 1998. This directive inappropriately attempts to encroach on the President's authority to determine the Administration's FY 1999 funding priorities and precludes an assessment of the Bureau of Prison's needs in favor of a pre-determined level set by Congress. It also ties funding for prisons to an unrelated sanction in the INS appropriation. We recommend that this provision be deleted.

The Administration also urges the conferees to strike House and Senate language that would prohibit the Bureau of Prisons from funding abortions except in cases of rape or where the life of the mother is endangered. The Department of Justice believes that there is a great likelihood that this provision would be held unconstitutional.

Department of State

The Administration appreciates the support by the House and especially by the Senate for the several State Department operating accounts that support domestic and overseas diplomatic and consular activities. We urge the conferees to provide the full request for these accounts, which would help reverse the erosion of the Department's worldwide operations. We are also pleased that both the House and Senate versions of the bill provide the transfers requested to

support the International Cooperative Administrative Support Services (ICASS) program. Likewise, we appreciate the support for the Department's Border Security and consular efforts through the continuation of the Machine Readable Visa Fees, and support the language in the Senate version of the bill.

The Administration welcomes the House and Senate's inclusion of first-year funding of \$100 million for arrears payments for international organizations. Discussions between Congress and the Administration are near completion on a reform and arrears funding package. It is essential that a final package pays all acknowledged arrears and contains achievable reforms that make the U.N. more effective. At the same time, the Administration is engaged in an extensive diplomatic effort with the more than 185 members of the United Nations to build majority support for reform measures within the U.N. system. Fortunately, the Balanced Budget Act makes arrears payments for the next three years possible via advance appropriations. We strongly urge the conferees to include these advance appropriations in the final bill in order to bolster further the chances for timely reform at the U.N.

We are deeply concerned that the conference bill provide sufficient funding for the FY 1998 annual costs of the Contributions to International Organizations (CIO) and Contributions for International Peacekeeping Activities (CIPA) accounts. The Administration supports the total funding level in the House bill for CIO and CIPA combined. This level would be adequate to address total needs. It is important that this level be provided so that the Administration can pay annual costs, avoid new arrears, and have some flexibility to address evolving and unforeseen needs relating to peace and security around the world.

The Administration urges the conferees to strike the following provisions, all of which raise serious Constitutional concerns and are being dealt with in the pending State Department authorization bill. Section 406 of the Senate version and section 609 of the House version concern Vietnam. The Senate version in particular would mandate additional POW/MIA-related requirements that we fear would undermine the progress that has already been made by the Defense Department, in cooperation with the Government of Vietnam, and put at risk the effective functioning of the U.S. Embassy in Hanoi and new consulate in Ho Chi Minh City. Furthermore, there are concerns related to privacy and other issues of MIA cases. Another provision, section 610 of the House bill, relates to command and control of United Nations peacekeeping efforts, which have been extensively negotiated as part of the U.N. reform package in the authorization bill.

In addition, Section 613 of the Senate version of the bill would prohibit appropriated funds from being used to issue visas to any person who may have been involved in certain "political killings" and other similar activities in Haiti. This provision would limit the President's unfettered constitutional authority to "receive Ambassadors and other public Ministers."

Arms Control and Disarmament Agency

The Administration is greatly concerned that the funding shortfalls in both the House and Senate versions of the bill for the Arms Control and Disarmament Agency (ACDA) would undercut the U.S. Government's efforts to reduce the threat of nuclear and other weapons to the security of the American people. The Administration strongly urges the conferees to provide no less than the House level of \$41.5 million, which is about 10 percent lower than the original requested level.

In addition to the \$2.8 million requested in the FY 1998 Budget, a \$13 million budget amendment for Comprehensive Nuclear Test Ban Treaty (CTBT) requirements was transmitted by the President on July 17th. The Administration strongly urges the conferees to provide funding at the requested level to address this important national security matter and to ensure continued U.S. participation in the CTBT preparatory Commission's activities.

U.S. Information Agency Programs

The Administration urges the conferees to provide funding at the President's requested level for core public diplomacy programs. However, the Administration supports the House funding level of \$391.5 million for international broadcasting operations. The House level includes funding for increased broadcasting to China in FY 1998, an initiative supported by both the Congress and the Administration that was developed after the President's budget was submitted. In addition, the Administration urges the conferees to reject language in the Senate-passed bill that would tie the availability of direct appropriations for international broadcasting programs to the collection of revenues from advertising. We believe it is unwise to link ongoing broadcasting services to an estimate of revenue that may never materialize.

Ounce of Prevention Council

The Administration strongly opposes the termination of the Ounce of Prevention Council. Elimination of this program would hinder the Federal Government's ability to help neighborhoods implement strategies to reduce crime through enforcement, prevention, and intervention activities. The Council awards discretionary grants for promising community collaborative crime prevention programs, publishes a catalog of crime prevention grants and programs, and provides information and technical assistance. It plays a critical role in helping communities gain access to information on crime prevention best practices. The Administration strongly urges the conferees to provide funding for the Council and has identified an appropriate offset.

Equal Employment Opportunity Commission

Given the importance of its work in addressing unlawful discrimination, the Administration urges the conferees to fully fund the President's request of \$246 million for the Equal Employment Opportunity Commission.

The Judiciary: Pay Raise for Federal Judges

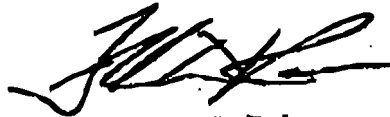
The Administration strongly supports the annual salary adjustment for justices and judges of the United States, as provided in section 306 of the Senate bill. There is always a danger that a judicial cost of living adjustment will be held hostage to the political process -- all to the detriment of attracting and retaining the most qualified individuals to serve on the federal bench. It is time to seriously consider "delinking" the annual salary adjustment of the judiciary from that of Congress -- or from any other unrelated issue -- so that the independence and integrity of the judiciary is maintained.

Office of the United States Trade Representative

The Administration appreciates the increase in funding for the Office of the United States Trade Representative (USTR) that both the House and Senate versions of the bill would provide. USTR has had to manage a seven-fold increase in the number of World Trade Organization dispute settlement cases since the signing of the Uruguay Round Agreement. Despite its substantially increased workload, USTR has virtually the same number of attorneys working in this area as it did in 1990. USTR's work will be even more important in FY 1998 and in future years as the United States seeks to capitalize on new market-opening opportunities and to improve access to existing markets through enforcement actions. Given these circumstances, the Administration has transmitted a fully-offset \$1.7 million budget amendment. We urge the conferees to fully fund the revised request.

Additional Administration concerns are contained in the enclosure. We look forward to working with the conferees to address our mutual concerns.

Sincerely,



Franklin D. Raines
Director

Enclosure

Identical Letter Sent to The Honorable Bob Livingston,
The Honorable David R. Obey, The Honorable Harold Rogers,
The Honorable Alan Mollohan, The Honorable Ted Stevens,
The Honorable Robert C. Byrd, The Honorable Judd Gregg,
and The Honorable Ernest F. Hollings

Enclosure
(Conference)

ADDITIONAL CONCERNS
H.R. 2267 - DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE,
THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS BILL, FY 1998
(AS PASSED BY THE HOUSE AND BY THE SENATE)

Department of Commerce

- Economic Development Administration. The Administration strongly supports the restoration of funding for the Economic Development Administration (EDA) in the conference agreement to the level of the President's request, for both Economic Development Assistance Programs and for Salaries and Expenses. Unfortunately, the Senate bill significantly cuts well-established and proven EDA programs - in public works, defense economic adjustment, local planning and technical assistance, and program evaluation - below the FY 1997 level. These cuts would seriously impact EDA's ability to assist local communities.
- General Administration. The Administration is deeply concerned about the impact of the House mark. Funds provided for this account have been reduced from \$36.5 million in FY 1995 to \$28.5 million in FY 1997, a 22 percent decrease. This has resulted in the reduction of 103 positions within the Office of the Secretary. The House-proposed \$2 million reduction from the FY 1997 enacted level would compromise the Secretary's ability to provide direction and oversight on important national issues, including the Year 2000 Census, promotion of economic growth, and improvement of government statistics.
- National Oceanic and Atmospheric Administration. The Administration is concerned about the \$22 million reduction to the Geostationary Satellite program in the House bill and urges the conferees to provide funding at the Senate level. The Administration also objects to additional cuts to the National Polar Orbiting Environmental Satellite Program and requests that, at a minimum, Commerce funding for this inter-agency effort be restored to the \$34 million level that would be provided in the FY 1998 Defense Conference Report. The Administration is opposed to the House proposal to specify the amount available for each of NOAA's line offices, which would unnecessarily limit resource management flexibility. Finally, the Administration urges that funding be restored for conversion of the El Nino observing system to operational status.

- Bureau of Export Administration. The Administration urges the conferees to provide the requested level, \$2.3 million, for the newly-ratified Chemical Weapons Convention Treaty, as provided by the Senate. In addition, we urge that the conference agreement include seizure and forfeiture authority language to allow the Bureau of Export Administration to join the Department of Justice's Assets Forfeiture Fund, as proposed in the Commerce Department's General Provisions in the FY 1998 budget.
- Patent and Trademark Office. The Administration favors the Senate funding level of \$27 million for the Patent and Trademark Office, but prefers the less restrictive language in the House bill.
- Congressional Earmarking. The Administration remains concerned about unrequested funds that are earmarked for low priority programs, particularly in the National Oceanic and Atmospheric Administration, the Economic Development Administration, the National Institute of Standards and Technology, and the International Trade Administration.

Department of Justice

- Mandatory Immigration Funding for Discretionary Programs. The Administration is very concerned that the Senate bill underfunds authorized discretionary programs and uses mandatory funds from immigration examination and user fees for certain unauthorized discretionary activities. The Senate bill would commit balances necessary for providing services or processing and adjudicating applications for other unauthorized discretionary purposes. The result of this action would be that sufficient resources would not be available to complete naturalization processing and other services and benefits for which these fees are collected. We recommend that House language that funds mandatory fee programs from the immigration user and exams fees be retained.
- Executive Support. The Administration opposes the House and Senate action to freeze legislative and public affairs activities at FY 1997 levels for the Department and to reduce funding and staff for the Immigration and Naturalization Service (INS) and the United States Marshals Service. Freezing or reducing these activities would inhibit the Department's ability to clear legislation in a timely and responsive manner and would constrain its capacity to serve Congress. The Administration urges the Congress to increase funding for the Executive Support offices and to delete restrictions on the use of detailees. The Administration also objects to the House action that would reduce the number of non-career appointments at the INS. Limiting non-career appointments to four would adversely affect INS' ability to provide executive leadership.

- United States Attorneys. The Senate bill's Judiciary appropriation contains a provision capping the amount that Federal Public Defenders may spend on representation of defendants in capital cases. It stipulates that any costs over this cap must be borne by the courts and the prosecutors. This provision is an unacceptable restriction on defendants' right to legal representation, raising the prospect that decisions of judges and prosecutors could be affected by monetary pressures. The Administration opposes any suggestion that the cost of defending a citizen should be a consideration in the litigation of any matter, especially in capital cases.

Department of State

- Designation of Foreign Terrorist Organizations. The Administration urges the conferees to delete the provision in the House version of the bill that would withhold about \$7.25 million of State Department Salaries and Expenses funds until one or more designations are made. As the sponsors of the House amendment have been informed, the bulk of the relevant designations were submitted (in classified form) to Congress on October 1st. Moreover, putting essential State Department funding at risk because of delays in a complex interagency process would accomplish no useful purpose.

- Passport Information. The State Department has recognized legitimate concerns voiced by the American public and has implemented reforms that have dramatically improved the provision of detailed passport information to individuals with special needs. Unfortunately, the House version of the bill includes a provision that would prohibit the expenditure of funds to continue this service. This provision would cause taxpayers who do not require these services to fund the program, while likely leading to a deterioration in service. The House provision should be deleted.

- American Sections. The Administration supports funding for these programs at the House level. The funding level provided by the Senate for the Border Environment Cooperation Commission (BECC) is substantially below the level necessary to maintain adequate operations.

Department of Transportation

- Maritime Administration. The Administration urges the conferees to support the Senate marks of \$69 million for Maritime Administration (MARAD) Operations and Training and \$4 million for MARAD Title XI Administrative Expenses. The levels that the House version of the bill would provide for these programs would

require personnel reductions that would prevent MARAD from carrying out its statutory responsibilities. The Administration also opposes Senate earmarking that would force similar personnel reductions.

Federal Communications Commission

- **Relocation.** Neither the House nor the Senate versions of the bill would provide funds in support of the Federal Communications Commission's (FCC's) scheduled move to the Portals complex. Failure to provide these funds would delay the move, which could result in the Government unnecessarily paying for rent on an unoccupied building. The Administration urges the House to provide the \$30 million required for the FCC move in FY 1998.

Limitations on Research Activities

- The House-passed bill includes a provision that would prohibit the use of any of the funds appropriated in the bill for any study of the medicinal use of marijuana. Although this amendment has no practical effect in this legislation, the Administration is concerned in general about limitations on research activities. While the Administration remains opposed to drug legalization efforts, we work to base drug policy on scientific findings. As such, the Administration is opposed to the inclusion of such additional legislated limitations on research activities.

desire our
ability
to go home

Jan 8, 1998

Battered Women @ 245(i)

Failure to extend 245(i)

Battered

4 1/2 yr. wait for spouses of LPRs.

Extreme hardship to leave the country

an element of VAWA relief.

Options

① Reinstate 245(i) for this group + pay the penalty.

② go into 245(a) & (c)

allow to adjust status in U.S.
(special programs for those
that can't)

VAWA: WSA

245: allows you to
adjust

allows
women to
self petition

① proof of having suffered
abuse (battering or extreme cruelty)
(any credible evidence)

② valid marriage to citizen
or LPR

③ Resided w/ spouse in the U.S.
④ extreme hardship
if departed

⑤ good moral
character

will give language to INS soon.
Kennedy is drafting language
To be included in Biden/Kennedy Bill. ^{women's}

Issue hasn't been shopped around a lot w/
Republicans.

Opposition on Hill (?)

Jacoby: may be worth doing a "niggle shot" bill
(to get it done sooner)

In a bigger package, will take longer.

~~Be ready~~

Timing issues (?)

petitions filed prior to Jan. 14, 1998

can use 245(i). After that, no more
245(i).

House has a "wish list" bill; Senate bill is
more realistic.

Need an estimate on the # of people that
this would cover.

(# who have done self-petition since 1994)
By country

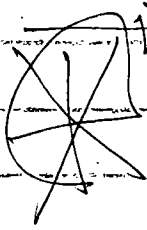
Since July, all of these petitions
go through Vermont.

~~186~~

(*) Need to figure out what ~~is~~

Work authorizations (?)

Not clear whether they ~~they~~ will get work authorizations.



→ with 245(i) don't have to go back to their home countries if they fall out of status.

Want to amend (i) so that they ~~wait but have~~ to leave the country to get the visa.
with 245(a) will have to go back to home country if they fall out of status.

VAWA creates a special category of Suspension of deportation.

3 yrs. in country + other visa qualifiers.

[Effect of codification of NJB (?)

~~VAWA~~

→ (?) Include ^{exception for} ~~exception for~~ VAWA eligible woman from NJB.

(whether to count time in proceedings toward yrs. needed to qualify for suspension under VAWA)