

THE WHITE HOUSE

WASHINGTON

August 2, 1996

Dear Mr. Speaker:

Reversing decades of neglect, this Administration has dedicated unprecedented resources and enforcement effort to curtailing illegal immigration. Our comprehensive strategy to restore the rule of law to illegal immigration enforcement has done more in three years than was done in thirty years before. It includes:

1) Gaining control of our borders. This Administration is deploying more Border Patrol agents than any previous Administration. In FY 1996, we will deploy an additional 1,000 new and reassigned agents. Overall, the Administration has increased the number of Border Patrol agents at the southwest border by 40% since 1993. For the first time, Border Patrol agents are being equipped with the high technology resources needed to do the job, including sensors, night scopes, computers and encrypted radios. Strengthened anti-smuggling efforts have reduced the criminal transport and exploitation of smuggled aliens.

2) Safeguarding the interests of legal workers. This Administration is the first to initiate effective enforcement of employer sanctions and worksite standards. In addition, I issued an Executive Order to keep federal contracts from going to businesses that knowingly hire illegal workers. We are also testing a computer work authorization verification system and are creating more fraud-resistant immigration documents.

3) Removing criminal and other deportable aliens from the country. In 1995, this Administration removed a record number of criminal and other illegal aliens from this country -- 74% more than in FY 1990.

Most of H.R. 2202, the Immigration in the National Interest Act, supports the steps we have taken. I continue to urge Congress to pass these provisions and present me with the additional tools that I need to continue the progress we have made.

However, there is a right way and a wrong way to fight illegal immigration. The Gallegly Amendment and the compromise being considered during the conference process would result in

The Honorable Newt Gingrich
Page Two

kicking children out of school and onto the streets. The street is no place for children to learn; children should be in school. This proposal is an unacceptable and ineffective way to fight illegal immigration. And the proposed compromise -- which will still require states to verify the immigration status of all children, and permit states to exclude those who cannot afford to pay tuition -- is as objectionable as the original provision. Congress should reject it.

If the immigration bill contains this provision, I will veto it. We can agree on so much in the legislation that would help what we are already doing. Let us move forward with illegal immigration enforcement legislation without this misguided measure.

Sincerely,

A handwritten signature in cursive script, reading "Bill Clinton". The signature is written in dark ink and is positioned below the word "Sincerely,".

The Honorable Newt Gingrich
Speaker of the
House of Representatives
Washington, D.C. 20515



NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS, INC.

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President

THOMAS J. SCOTTO
President, Detectives'
Endowment Association
of New York City
New York, NY

April 5, 1996

The Honorable Robert Dole
Majority Leader
United States Senate
Washington, DC 20510

Executive Director

ROBERT T. SCULLY

General Counsel

WILLIAM J. JOHNSON

Legislative Consultants

JULES BERNSTEIN

UNDA LIPSETT

Vice President
ERNEST W. GEORGE
Palm Beach County
Benevolent Association
West Palm Beach, FL

Recording Secretary

O. J. HOLT

President, Central
Coast Chapter, PORAC
San Jose, CA

Dear Senator Dole:

On behalf of the National Association of Police Organizations (NAPO), representing over 185,000 sworn law enforcement officers and 3,500 police associations and unions throughout the country, I urge you to oppose the ill-conceived Gallegly amendment to deny public school education to children of illegal immigrants.

Treasurer
WILLIAM BIRDSEYE
Police Officers
Association of Michigan

Sergeant-at-Arms

MARTIN McKEAN

Executive Secretary,
Ohio PBA
Barab, OH

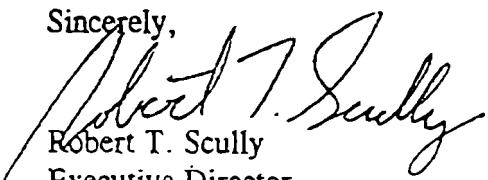
Illegal immigration is a national problem that impacts law enforcement everyday, however the effort to deny public education for children of illegal immigrants is not part of the solution.

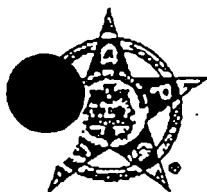
Law enforcement's position on the Gallegly amendment is based on our profession, protecting the peace of America — a job that would become much more difficult and dangerous if thousands of children are put on the nation's streets to grow into criminals or fall as victims. Overburdened local law enforcement agencies are ill-equipped to handle the certain resulting flood of juvenile crime and violence.

Police know that it is better to get kids off the streets and into the classroom where they have the opportunity to learn than to be on mean streets. The public safety cost of the Gallegly amendment would be disastrous for innocent children, the American public and for law enforcement as well.

Again, I urge you to join law enforcement in opposition to this amendment. Thank you for your consideration.

Sincerely,


Robert T. Scully
Executive Director



FRATERNAL ORDER OF POLICE

NATIONAL LEGISLATIVE PROGRAM

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GILBERT G. GALLEGOS
NATIONAL PRESIDENT

JAMES O. PASCO, JR.
EXECUTIVE DIRECTOR

BERNARD H. TEODORSKI
NATIONAL VICE PRESIDENT
CHAIRMAN, NATIONAL LEGISLATIVE COMMITTEE

April 4, 1996

The Honorable Robert Dole
Majority Leader
United States Senate
Washington, DC 20510

Dear Senator Dole:

On behalf of the National Fraternal Order of Police, this message is to urge you to join us in opposing language contained in the House-passed immigration enforcement bill which would permit states to deny a public school education to the children of illegal immigrants.

We approach this issue not as educators, immigration activists or sociologists, but rather from the perspective of law enforcement officers. This perspective is simple: the public safety professionals who put their lives on the line every day simply do not have the resources or the numbers to protect many more citizens, or, for that matter, arrest many more defendants. Putting hundreds of thousands of additional children on some of the toughest streets in our country translates into a windfall of potential new victims for the predators who work those streets.

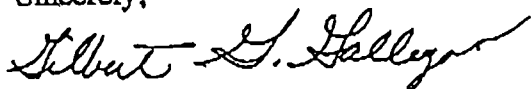
The cost of education pales by comparison to the cost of public safety in the neighborhoods where these kids are forced to live. To us, it is far better to have these youngsters in a structured, nurturing, learning environment than to have them out roaming crime ridden neighborhoods. To those who care only about dollars, we would point out that it's a lot more economical, too.

Regardless of where we stand as individuals or groups on the illegal alien issue, we'd better become reconciled to the fact that the majority of the children of illegal aliens are here to stay. That being said, isn't it better for them, and for us, if they are equipped, by education, with the tools they need to be productive residents?

page 2.

Let's not turn innocent kids with boundless potential into wards of the street. If we do, we may well end up paying a much higher price than the cost of a public school education.

Sincerely,



Gilbert G. Gallegos
National President

CITY OF CHICAGO / DEPARTMENT OF POLICE

1121 South State Street
Chicago, Illinois 60605



(312) 746-6000 Non-Emergency (Voice)
(312) 922-1414 Non-Emergency (TDD)
9-1-1 Emergencies

Richard M. Daley, Mayor
Matt L. Rodriguez, Superintendent of Police

April 2, 1996

The Honorable Alan K. Simpson
United States Senate
Washington, DC 20510

Dear Senator Simpson:

Illegal immigration is a serious problem that concerns police officials in Chicago and throughout the United States. But in addressing this problem, our country must stay focused on finding sensible, long-term solutions, not on passing specious and ineffective gestures.

That is why I am writing to express my strong opposition to any effort on the part of the Senate to amend the current immigration enforcement bill (S. 269) in any public education to undocumented children in our country. From a public safety perspective, such an amendment would be shortsighted, illogical and ultimately counterproductive.

In states such as Illinois, with high numbers of illegal immigrant schoolchildren, the practical effect of any provision similar to the Gallegly amendment endorsed by the House would be to turn thousands of young people away from school and onto the streets, with little or no supervision. I can predict with some certainty that most of these youth will either be drawn to gangs, drugs and other forms of trouble, or be victimized by them. The short-term result would be more crime and violence in our communities and an even greater workload for our already overburdened local law enforcement agencies.

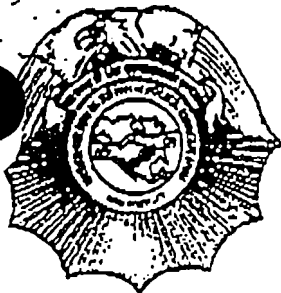
Forcing young people out of school and onto the streets would have disastrous long-term effects on public safety as well. Every study that has ever been done on the subject has found a close correlation between the absence of education and increased criminality. Our communities are made safer when our young people—in particular, young people from families that are already at risk—are given the opportunity to stay in school and to learn.

Here in Chicago, we have made tremendous strides in recent years reforming our public schools and refocusing them on producing results in the classroom. The Gallegly amendment would place new and expensive burdens on our public school personnel, distracting them from their fundamental mission of educating our children and putting them in the inappropriate position of having to enforce our immigration laws. The education of all of our children—and, hence, the safety of our communities—would suffer.

While the public safety implications of the Gallegly amendment would be felt in cities and towns across our nation, their impact would be greatest in our largest metropolitan areas. I am certain that my fellow police chiefs in these large jurisdictions join me in opposing this ill-conceived and counterproductive approach to immigration reform.

Sincerely,

Matt L. Rodriguez
Superintendent of Police



INTERNATIONAL UNION OF POLICE ASSOCIATIONS AFL-CIO

THE ONLY UNION FOR LAW ENFORCEMENT OFFICERS

SAM A. CABRAL

International President

ARTHUR J. REDDY

International Secretary-Treasurer

Legislative Liaison

April 2, 1996

Senator Robert Dole
United States Senate
141 Hart Building
Washington, DC 20515

Dear Senator Dole:

I am writing in behalf of the thousands of active duty law enforcement officers serving in more than 400 of our locals throughout the United States. Please oppose the proposed policy of denying education to the children of illegal immigrants.

Make no mistake, our position is not based on partisan election year politics. It is not based on broad social theory. But we do clearly object to denying any child access to schools and education within our borders regardless of origin. We base our position on immediate pragmatic concerns that can only come from collective years on the streets of America. How can anyone advocate throwing thousands of children onto the streets without supervision where they will become both victims and criminals. Local law enforcement officers, our members, will be overwhelmed at a time we can ill afford the extra pressure.

Until you and your colleagues can provide an effective solution to the greater problem of illegal immigration, our law enforcement officers will daily pay the consequences on streets few of you will ever have to walk. To deny these children access to our schools is to force them onto the streets where they are both at risk as victims and provided the incentives to develop careers as criminals. It is far better to bring them into our schools and teach them to be productive citizens until the greater issue is resolved than it is to abandon them.

Denying these children access to schools will not discourage their parents from slipping over our borders, that is not their reason for coming. Denying these children access to education will not cause their parents to leave, that is not their incentive for staying. Making these children a pawn in a larger issue will solve nothing. You will only create another tragic class of criminal that will increase the load on our already overburdened police departments. When it comes to children of any origin, any street smart law enforcement officer will agree, it is better to get them off the streets and into the schools than to cast them onto the streets where their only tutorials will be in criminal practices. Do not become victims of election year hysteria, keep the level headed course, oppose denying children access to school.

Sincerely yours,

A handwritten signature of Arthur J. Reddy in cursive script.

Arthur J. Reddy
International Secretary-Treasurer
Legislative Liaison



THE UNITED STATES CONFERENCE OF MAYORS

1620 EYE STREET, NORTHWEST
WASHINGTON, D.C. 20006
TELEPHONE (202) 293-7330
FAX (202) 293-2352
TDD (202) 293-9445

April 10, 1996

Dear Senator:

I am writing on behalf of the nation's mayors to urge you to vote against any amendment that would allow states to deny a public education to children residing in the country illegally. Such an amendment will do nothing to curb illegal immigration -- something which we all support -- and will penalize innocent children, shift costs to local governments and increase problems in our communities.

Education of children is clearly not the force driving illegal immigration. Denying education to undocumented kids will not address this problem but will jeopardize their futures, their ability to lead productive, contributing lives as adults.

School districts and other government agencies will be put in the position of having to verify the status of every student. This unfunded mandate will increase costs significantly, put an undue burden on teachers and administrators and jeopardize the teacher-student relationship which is so fundamental to successful learning.

Finally, as local police officials and others are saying, forcing young people out of school and onto the streets will likely increase crime and jeopardize public safety. It is in direct contrast to all of our current efforts to keep kids in school and off the streets. Many of the young people affected will either be drawn into crime or become its victims.

This is a bad amendment, a mean amendment and a dumb amendment. We urge you to vote against it.

Sincerely,

A handwritten signature in dark ink, appearing to read "Norman B. Rice".

Norman B. Rice
Mayor of Seattle
President

President:
NORMAN RICE
Mayor of Seattle

Vice President:
MICHAEL M. DALEY
Mayor of Chicago

Past President:
ABRAHAMSON
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MICHAEL WHITE
Mayor of Cleveland

Advisory Board:
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Mayor of Fort Wayne

DONALD ARCHER
Mayor of Detroit

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RITA MULLINS
Mayor of Pullman

KRYSTAL E. OSBORN
Mayor of Virginia Beach

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Mayor of Alton

SAUL RAMIREZ, JR.
Mayor of Laredo

M. SUSAN SAVAOK
Mayor of Tulsa

SHARON SAYLES BELTON
Mayor of Minneapolis

LUKE SCHMOYER
Mayor of Baltimore

UL SOGLIN
Mayor of Madison

BRUCE TODD
Mayor of Austin

WELLINGTON WEBB
Mayor of Denver

MARTHA WOOD
Mayor of Wilson-Nelson

Executive Director:

**The National PTA®**

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April 9, 1996

Dear Senator:

On behalf of the nearly seven million parents, teachers, students, and other child advocates who are members of the National PTA, I am writing with regard to S. 269, the Immigrant Control and Financial Responsibility Act. Specifically we are concerned about an amendment that was included in the House immigration reform bill that would allow states to deny a free public education to undocumented children. The National PTA does not have a position on S. 269; however, we opposed the Gallegly amendment in the House, and will oppose a similar amendment if offered in the Senate. We believe this amendment would:

- require schools to act as agents of the Immigration and Naturalization Service (INS) and inappropriately impose on school officials law enforcement tasks that undermine their role as educators;
- hold children responsible for the actions of their parents; and
- jeopardize unsupervised children who could become victims of crime or vulnerable to gangs and drugs.

Denying children access to education will not reduce the flow of illegal immigrants into this country. It will instead create school "dropouts," and the resulting cost of the amendment to our society could be much greater than the cost of education. We urge you, when this bill is debated on the Senate floor, to reject this amendment.

Sincerely,

Shirley Igo
Vice-President for Legislation

Council of the
Great City Schools

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Birmingham
Boston
Broward County
Buffalo
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Chicago
Clark County
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Council of the Great City Schools
1301 Pennsylvania Avenue, N.W. ♦ Suite 702 ♦ Washington, D.C. ♦ 20004
(202) 393-2427 ♦ (202) 393-2400 (fax)
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April 8, 1996

U.S. Senate
Washington D.C. 20515

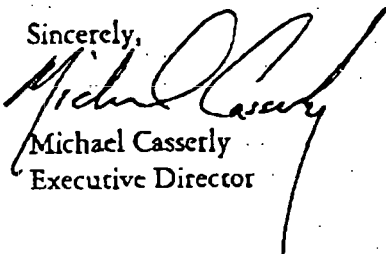
Dear Senator:

The Immigration bill, S. 269, pending before the Senate has the prospect of causing serious implementation problems within the nation's schools. Among the primary problems is the possibility of an amendment similar to Gallegly Amendment passed by the House, which would allow the states to deny education to certain immigrant children will cause major education disruptions among our schools.

More than any other education organization, the Council of the Great City Schools stands for expanding educational opportunities for children. Therefore it is antithetical to the Council to even consider denying educational services to a particular class of children. However, that is precisely what would occur if the Senate adopted a similar amendment on its Immigration bill. The image of being required to stand in the schoolhouse door and bar the entry of little children is beyond distasteful for those of us in the Great City Schools who have devoted our lives to the education of urban school children.

The Council of the Great City Schools strongly urges you to vote against the Gallegly-type amendments to the Immigration bill. Thank you for your concern and consideration.

Sincerely,



Michael Casserly
Executive Director

April 11, 1996

Dear Senator:

Educators, school administrators, local school board members, and principals are disappointed that the House recently passed an amendment that would allow states the option to deny free public education to a class of children based on their immigration status. The amendment offered by Representative Gallegly (R-CA) to the House immigration reform bill, H.R. 2202, would undermine our mission as educators. The role of schools is to provide an education to all children who come to the schoolhouse doors. It is not the role of schools to act as agents of the Immigration and Naturalization Service.

We, the undersigned members of the education community, recognize the importance of improving the immigration process. We are united in urging you to actively oppose any amendment to the Senate immigration reform bill that would deny or restrict free public education benefits to undocumented children during the upcoming Senate floor debate. Our organizations support, promote, and advance quality public education for all our nation's children. We work to protect the safety and well-being of all children residing within our borders, to assure opportunities to learn, and to instill the American values of democracy in all children, regardless of their immigration status. Access to a quality education is absolutely fundamental to the well-being of a child and to the success of this nation. We believe that every child deserves the opportunity for a free public education regardless of the child's immigration status or his or her parents.

Our schools and educators face many challenges today. Congress should not add to schools' burdens by allowing states to require educators and other school employees to screen children's immigration status, particularly for the sole purpose of excluding some children in the name of immigration enforcement. We staunchly oppose federal legislative efforts that would:

- require each school district to determine the citizenship status of each child and every family;
- burden local schools and educators with new roles and additional paperwork, undermining the academic mission of schools and the role of schools in the community;
- create unnecessary, costly litigation regarding equal access to education, making schools liable for unintentional discrimination; and
- unfairly penalize innocent children for the conduct of their parents.

We believe it is unwise and unfair to involve state and local school officials and personnel in federal immigration policy. Denying educational benefits to innocent children is neither the solution to our nation's illegal immigration problem nor to improving immigration enforcement.

Again, we urge you to oppose any amendment to the Senate immigration reform bill that would allow states to deny or restrict free public education benefits to children based on their immigrant status.

Sincerely,

American Association of School Administrators (AASA)
California Department of Education
Center for Law and Education (CLE)
Council of Great City Schools (CGCS)
International Reading Association (IRA)
National Association for College Admission Counseling (NACAC)
National Association of Elementary School Principals (NAESP)
National Association of Federal Education Program Administrators (NAFEPA)
National Association of Secondary School Principals (NASSP)
National Council for the Social Studies
National Council of Teachers of English
National Education Association (NEA)
National Rural Education Association (NREA)
National School Board Association's (NSBA), Council of Urban Boards of Education (CUBE)
Washington State Office of the Superintendent of Public Instruction (WA-OSPI)

OPPOSE THE HOUSE-PASSED "GALLEGLY" AMENDMENT AND ANY PROPOSED SENATE COUNTERPART AMENDMENT:

INTERFERES WITH MISSION OF SCHOOLS. Giving states the authority to require schools and teachers to serve as the extended agents of the Immigration and Naturalization Service runs counter to the role of schools: to provide students with a mastery of the basics, to prepare children for America's jobs of the future, to assure a safe learning environment; and to instill in our children the values of good citizenship. A law denying some children's access to education -- adopted by states and sanctioned by Congress -- would foster an atmosphere of suspicion and hostility in our schools and would seriously impair the teaching and learning process.

BURDENS LOCAL SCHOOLS. States that exclude undocumented children would force school personnel (who are not experts in immigration law enforcement) to screen for the immigration status of all students, creating substantial (and likely uncompensated) administrative and financial burdens on local schools. It is, as yet, unclear which entity -- the state or Immigration and Naturalization Service -- would have the constitutional duty to enforce a state law that required schools to exclude such children.

UNFAIRLY PENALIZES AND HARMS INNOCENT CHILDREN AND THEIR FAMILIES. Excluding undocumented children from receiving an elementary and secondary education unfairly penalizes innocent children for the conduct of their parents, conduct over which they have no control. Further, depriving these children of an education diminishes their capacity to attain self-sufficiency and to contribute to the nation's progress.

ESTABLISHES INAPPROPRIATE IMMIGRATION STRATEGY. Requiring schools to deny some children's access to essential education services will do little to eliminate illegal immigration in the United States. But it will go a long way in promoting discrimination and division in our nation's schools and communities. It is unwise and unfair to involve state and local school officials and staff in federal immigration policy.

NOT "STATES' RIGHTS." This is not an issue of compelling "states' rights." Rather, it is a federal responsibility to implement sound immigration policy that "promotes the general welfare of our nation." It would be unwise -- and unprecedented -- for Congress to give states the authority to determine their own immigration policy, a policy designed to punish innocent children and to weaken our communities and our nation.

UNDERMINES DEMOCRATIC GOVERNMENT. Our system of public education is the foundation of our democratic way of life. A democracy, after all, depends upon an educated citizenry and the access of all children living within our borders to a free, quality education. Excluding children from access to a basic education because of their immigrant status would undermine the spirit and principles upon which our democracy was founded.

RAISES SERIOUS CONSTITUTIONAL ISSUES. In light of the U.S. Supreme Court's 1982 *Plyler v. Doe* decision, passage of this amendment would raise serious constitutional issues about the authority of Congress to authorize such discriminatory policies affecting equal access to education.

April 3, 1996

Member
United States Senate
Washington, D.C. 20510

Dear Senator:

On behalf of the National School Boards Association's Council of Urban Boards of Education (CUBE), we write to express our strong opposition to any amendments which seek to deny educational services to any child based on citizenship status that may be offered on the Senate floor during the consideration of S.269, the Immigrant Control and Financial Responsibility Act.

As you may know, during consideration of H.R. 2202, the Immigration in the National Interest Act of 1995, Congressman Elton Gallegly offered an amendment, based on H.R. 1377, which seeks to overturn the U.S. Supreme Court's decision in *Plyler v. Doe*, 457 U.S. 202 (1982), that states that it is unconstitutional to deny children access to public education because of their citizenship status. The amendment was unwisely adopted by the House of Representatives.

Any Gallegly-like amendment should be defeated because it will:

- result in an inequitable cost shift to state and local governments for determining immigrant status, creating yet another unfunded mandate for local school districts;
- create an enormous administrative burden for every school district in the country to determine the immigration status of every public school student; and
- adversely impact the relationship of the school to the many lawful residents in this country who will fall suspect to being undocumented.

The fundamental issue raised by a Gallegly-like amendment is whether we should harm the undocumented children who live in the United States, and ourselves, for the illegal choices of their parents. We agree that the United States must improve at protecting the integrity of the nation's borders. Yet, few would argue that education services are a strong incentive to illegal immigration. Rather it is the perceived job opportunities. Further, many of the children who would be affected by the amendment are here now and are likely to remain here. "By denying undocumented children a basic education, we deny them the ability to live within the structure of our civic institutions, and foreclose any realistic possibility that they will contribute in even the smallest way to the progress of our nation," *Plyler*, at 223.



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Office of Advocacy

- Roberta G. Doering
President
- Thomas A. Shannon
Executive Director
- Michael A. Resnick
Senior Associate
Executive Director

April 3, 1996

Page Two

For urban schools especially, such an amendment would create a phenomenal administrative burden. School personnel cannot be immigration enforcement agents for the federal government if their top priority is the education of the nation's children. Further, denying children of undocumented workers access to an education is unconstitutional and against the law.

On behalf of the 90 member districts of CUBE, representing 6 million students, we ask that you strongly oppose any amendments which seek to deny children an education based on their citizenship status. Moreover, we request that you actively participate in any efforts to defeat such an amendment from reaching the Senate floor.

Thank you for your support of public school children. If you have any questions, please feel free to call Katrina Kelley, Director, Urban School District Advocacy, at 703/838-6742.

Sincerely,



Karen Shook
Chair
Council of Urban Boards of Education



Michael A. Resnick
Senior Associate Executive Director
Office of Advocacy, NSBA



American Friends Service Committee

1501 Cherry Street, Philadelphia, Pennsylvania 19102-1479 • Phone: 215/241-7000

DONALD S. GANN
Chairperson

KARA L. NEWELL
Executive Director

April 3, 1996

Dear Senator:

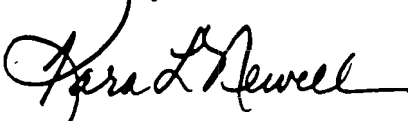
We urge you to oppose S. 269, the "Immigration Reform Act of 1996", and in particular to oppose any amendment to S. 269 that would allow states to deny public education to undocumented children. This cruel policy would turn places of learning into places of fear and suspicion, and would hurt all children, their families and their communities, regardless of immigration status.

The American Friends Service Committee is a Quaker organization committed to social justice, peace and humanitarian service. Since 1917, we have worked to uphold the rights and dignity of people who have been displaced by events over which they have no control. Depriving a child of elementary education violates a fundamental human right recognized by the United Nation's Universal Declaration of Human Rights, to which the United States is a signatory.

The spiritual and financial costs to this country of such a policy are incalculable. It would condemn undocumented children to struggle for the rest of their lives to participate meaningfully in society. They would require increased levels of support from federal, state and local governments for the rest of their lives. Further, requiring teachers or school officials to identify undocumented children and expel them from school is fundamentally at odds with the mission of educators. Scarce funds for education should be used to improve education for all, not to single out some for exclusion.

We do not believe that S. 269 represents a humane or realistic approach to regulating undocumented migration; the only effective response is to ameliorate the conditions of violence and economic dislocation in sending countries that force people to migrate. We are particularly dismayed that Congress would make children the target of an ill-conceived enforcement strategy. **Please oppose S. 269 and any bar to public education for undocumented children.**

Sincerely,



Kara L. Newell
Executive Director



NATIONAL EDUCATION ASSOCIATION

Rich Geiger, President
Robert Chase, Vice President
Marilyn Monahan, Secretary-Treasurer

Don Cameron, Executive Director

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GOVERNMENT RELATIONS

Mary Elizabeth Teasley, Director

April 16, 1996

United States Senate
Washington, DC 20510

Dear Senator:

The 2.2 million member National Education Association (NEA) urges you to oppose any amendment that may be offered to S. 1664, the Immigration Control and Financial Responsibility Act of 1996, that would authorize states to deny or restrict free public education benefits to undocumented children. NEA opposed a similar amendment offered by Representative Elton Gallegly (R-CA) to the House immigration reform bill, H.R. 2202, that was adopted on March 20.

NEA believes that every student living within America's borders has the right to a free public education, regardless of the immigration status of the child or his or her parents. The House-passed Gallegly amendment would give states the authority to require state and local school officials, including teachers, to serve as the extended agents of the Immigration and Naturalization Service.

If enacted, the Gallegly amendment -- or a similar Senate counterpart amendment -- would undermine the mission of schools to teach all children who come to the schoolhouse door. NEA opposes requirements that would force educators to verify the citizenship status of each child and every family for the purpose of excluding a class of children from receiving an elementary and secondary education. Further, at a time when local schools and educators are being asked to do more and more with less, we do not believe that public schools should be burdened with conducting activities that are wholly unrelated to the academic mission of schools and the role of schools in the community. Such a provision also raises constitutional concerns, given the U.S. Supreme Court's decision in *Plyler v. Doe* (1982). In *Plyler*, the Court held that states must provide school-aged children with an education, regardless of their immigration status.

NEA believes it is unwise and unfair to involve state and local school officials and educators in federal immigration policy. Denying educational benefits to innocent children for the conduct of their parents is not the solution to improving immigration enforcement.

We urge you to oppose any amendment that would deny or restrict free public education benefits -- including pre-school and school lunch programs -- to undocumented children. Votes associated with this issue will be included in our Legislative Report Card for the 104th Congress.

Sincerely,

Mary Elizabeth Teasley
Director of Government Relations



FRED H. LAU
CHIEF OF POLICE

POLICE DEPARTMENT
CITY AND COUNTY OF SAN FRANCISCO
THOMAS J. CAHILL HALL OF JUSTICE
880 BRYANT STREET
SAN FRANCISCO, CALIFORNIA 94103

July 29, 1996

Senator Dianne Feinstein
Senate Hart Office Building, Room 331
Washington, D.C. 20510

RE: H.F. 2202, S. 1795 and S. 1823

Dear Senator Feinstein:

I stand with my colleagues in the law enforcement community in strongly opposing provisions in the above-referenced immigration "reform" bills that would deny access to the most basic human and safety services to both legal and undocumented immigrants.

We leaders of the law enforcement community find incomprehensible the notion that refusing immigrants health, safety and education will somehow resolve the problem of illegal immigration and improve the quality of American life. I, and my colleagues, believe that:

- Criminality and lack of education go hand in hand. Putting immigrant children on the street, by closing the schools to them will create yet another new underclass to which drugs, gangs and crime will be the only means of recognition and escape from a dark and hopeless existence. Prospectively applying this sanction against children delays, only slightly, its burden on society and law enforcement. How and in what ways will we pay to protect ourselves from this folly?
- The verification and reporting provisions of these bills will close the doors of the court house to real victims of real crimes who will suffer in silence rather than risk arrest and deportation; or, will seek and obtain "private justice" through violence on the streets. Can we reconcile vendetta in one population with the rule of law that the rest of society operates under?
- Law enforcement, through community policing, is forming working partnerships with our communities. These measures wall off huge segments of our "client population" who will justly fear that any contact with any agent of government will result in deprivation of basic services and possible removal from the country. American criminal justice cannot function without the willing cooperation of witnesses and crime victims. If millions of residents cannot afford to say hello to the officer on the beat how can law enforcement remove the predators among us?
- Denial of basic health services to immigrants and the undocumented will add new burdens and dangers to law enforcement. We have already seen what happened when mental health

Hon. Dianne Feinstein
United States Senate
Immigration Reform
07/29/96
Page 2.

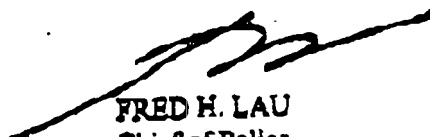
services were "reformed" in California- the police became the primary care providers for hundreds of thousands of acute psychiatric cases. These bills will add communicable diseases and its dangers, to the list of police duties. Who will watch the streets when the watchmen are detaining and seeking admission for the dangerous and infectious who cannot get treatment by any other means?

- The law enforcement community has worked long and hard, and still has some way remaining, to eliminate bias and discrimination from its practices and its ranks. Creating a statute "them" who are not worthy of basic public protections invites turning back the clock of police professionalism. Which "them" among us will be the next to be subject to "special actions?"

The shadow America of the undocumented among us is already fertile ground for crime and exploitation. The better approach would be to eliminate the economic incentives of exploitation. The social and economic costs of maintaining a dual society are, I firmly believe, far greater than policies of inclusion, fairness and opportunity.

We do have to reduce illegal immigration. Cutting off immigrants and the undocumented from basic social services will not make "them" dry up and disappear. Responsible law enforcement officials want government to seek effective solutions, not grandstand ploys that strike at the defenseless among us.

Sincerely yours,



FRED H. LAU
Chief of Police



U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

March 19, 1996

The Honorable Elton Gallegly
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Gallegly:

I am writing to share with you the views of the Department of Justice on H.R. 1377, your legislation that would amend the Immigration and Nationality Act to authorize a state to deny public education benefits to aliens not lawfully present in the United States. For the reasons set out below, we believe that this bill raises serious constitutional concerns.

The bill would add two sections to the Immigration and Nationality Act ("Act"). The first, to be codified as section 501 of the Act, would establish an express congressional policy regarding the eligibility of undocumented aliens for public education benefits. Specifically, Congress would declare it to be "the policy of the United States" that aliens not lawfully present in this country "not be entitled to public education benefits in the same manner as United States citizens and lawful resident aliens." In addition, the states "should not be obligated to provide public education benefits" to undocumented aliens.¹

The second new section, designated section 502 of the Act, would authorize but not require each state to carry out this national policy in one of two ways. States may provide that undocumented aliens are "not eligible for public education benefits," or they may treat such aliens as "non-resident[s] of the state for purposes of provision of such benefits." Presumably, though this is not entirely clear from the text of the bill, the first option would involve a total exclusion of undocumented children from public schools, while the second might entail the charging of a tuition fee to undocumented children.

The Supreme Court case that governs this area -- and to which

¹ For purposes of convenience, we will use the terms "undocumented aliens" or "undocumented children" throughout to refer to alien children not lawfully present in the United States.

the proposed bill appears to respond -- is Plyler v. Doe, 457 U.S. 202 (1982). In Plyler, the Court held that the State of Texas violated the Equal Protection Clause of the Fourteenth Amendment by denying to undocumented children the same free public education it provided to other children residing in the state. More specifically, the Court invalidated the policies of local school boards, adopted pursuant to state statute, charging undocumented alien children tuition as a condition of enrollment. 457 U.S. at 206 n.2, 216.

In deciding on a standard of review, the Court in Plyler declined to apply strict scrutiny, rejecting arguments that illegal aliens constitute a suspect class and that public education is a fundamental right for purposes of equal protection review. Id. at 219 n.19, 221. At the same time, the Court focused on two factors that elevated the case before it to one of "special constitutional sensitivity." Id. at 226. First, the state classification penalized minor children, unable to control their status, for the unlawful entries of their undocumented parents, "directing the onus of a parent's misconduct against his children" in a manner that "does not comport with fundamental conceptions of justice." Id. at 220. Second, the unique "benefit" in question -- public education -- plays a fundamental role in American society, and its deprivation would exact a unique cost, imposing a "lifetime hardship" in the form of illiteracy. Id. at 223, 221-22. For these two reasons, the Court held that the denial of free public education to undocumented children could not "be considered rational unless it further[ed] some substantial goal" of the state. Id. at 224.

Under this standard, the Court held, the fact of undocumented status itself, reflecting apparent congressional disapproval of presence within the United States, could not justify the state policy. Id. at 224-26. Though Congress enjoys broader authority than the states to classify on the basis of alienage, the Court found no congressional "statement of policy" supporting the Texas statute that "might [] affect the state's prerogative to afford differential treatment" to undocumented aliens. Id. at 224. The Court went on to reject as inadequate the state's other asserted interests, including preservation of limited resources for use by lawful residents and protection against an influx of undocumented aliens. Id. at 227-28.

In light of Plyler, it is highly unlikely that any state, acting on its own, could justify a selective denial of free public education to undocumented alien children.

The first question presented by H.R. 1377, of course, is whether Congress, as opposed to a state, may classify undocumented children as ineligible for public education benefits consistent with the equal protection component of the Fifth Amendment. That question has not been ruled on directly by the Court, and such a

statute would raise a significant constitutional issue.

As the Court recognized in Plyler, Congress, because of its broad powers over naturalization, foreign relations, and international commerce, generally enjoys authority to make classifications both as between aliens and citizens and as among groups of aliens for the purposes of providing benefits. Plyler, 457 U.S. at 225; Mathews v. Diaz, 426 U.S. 67 (1976) (upholding congressional denial of Medicare benefits to certain resident aliens). That authority, however, is not free of all constitutional constraints, but rather is subject to review for rationality under the Fifth Amendment. Mathews, 426 U.S. at 77, 83. Though this review usually is quite deferential, the Court's reasoning in Plyler might lead to invalidation of H.R. 1377 for failure to meet the rationality standard.

Parties challenging H.R. 1377 would argue that the features of the Texas statute that the Court found so problematic in Plyler -- that it penalized innocent children, and that it subjected them to a lifetime disability through denial of basic literacy skills -- are replicated by H.R. 1377. Indeed, to the extent that H.R. 1377 would authorize a total exclusion from public schools, and not only the charging of a tuition fee as in Plyler, challengers would likely contend that its connection to the interests advanced is even more attenuated than was the case in Plyler.² In sum, Plyler's reasoning raises a significant constitutional issue as to the validity of a congressional statute authorizing denials of public education benefits to undocumented children.³

We recognize that, in the course of finding that Texas lacked a substantial interest in its exclusionary policy, the Plyler Court used language suggesting that a different result might have obtained had some "articulable federal policy" supported Texas'

² Various commentators have noted that the policy at issue in Plyler would have been even more difficult to defend had it excluded undocumented children from public schools altogether. See Tom Gerety, Children in the Labyrinth: The Complexities of Plyler v. Doe, 44 U. Pitt. L. Rev. 379, 388-89 (1983) ("Excluding the children altogether smacks of vindictiveness as well as rashness. A measure so blunt all but invites the federal courts to invalidate it for irrationality -- the lowest grade failure of equal protection."); Evangeline G. Abriel, Rethinking Preemption for Purposes of Aliens and Public Benefits, 42 UCLA L. Rev. 1597, 1623 (1995) (Proposition 187's total denial of public education to undocumented children may face more stringent review than imposition of tuition fee at issue in Plyler).

³ At least one prominent commentator has taken this view of Plyler's scope. Peter H. Schuck, The Transformation of Immigration Law, 84 Colum. L. Rev. 1, 57 & n.316 (1984).

actions. 457 U.S. at 226. The proposed bill seems to be an effort to respond to this suggestion, providing the congressional "statement of policy" missing in Plyler. Id. at 224. Even assuming, however, that Congress could mandate the exclusion of undocumented children from public schools consistent with the Fifth Amendment, there would remain a second and distinct question as to whether Congress can do what it has attempted here, authorizing the states, at their option, to establish and enforce their own exclusionary policies.

We believe there is a strong argument that Congress cannot authorize this kind of exclusionary state policy on a discretionary basis, and that H.R. 1377's purported authorization cannot insulate state-adopted exclusionary policies against Fourteenth Amendment equal protection challenges. Indeed, the Supreme Court already has taken the view that Congress' own plenary authority over immigration does not extend this far. In Graham v. Richardson, 403 U.S. 365 (1971), the Court invalidated on equal protection grounds a state policy excluding certain resident aliens from eligibility for welfare benefits. Faced with a claim that the state's policy was authorized by federal law, the Court declined to construe the federal statute "so as to authorize discriminatory treatment of aliens at the option of the States" in order to avoid the "serious constitutional questions" that otherwise would be presented:

Although the Federal Government admittedly has broad constitutional power to determine what aliens shall be admitted to the United States, the period they may remain, and the terms and conditions of their naturalization, Congress does not have the power to authorize the individual States to violate the Equal Protection Clause. Shapiro v. Thompson, 394 U.S. [618], at 641 [(1969)]. Under Art. I, § 8, cl. 4, of the Constitution, Congress' power is to 'establish an uniform Rule of Naturalization.' A congressional enactment construed so as to permit state legislatures to adopt divergent laws on the subject of citizenship requirements for federally supported welfare programs would appear to contravene this explicit constitutional requirement of uniformity.

403 U.S. at 382. Though Graham deals directly only with the treatment of legal aliens, the same "serious constitutional questions" would be raised by any federal statute purporting to authorize optional state alienage classifications that otherwise would violate the Equal Protection Clause -- as would an independently adopted state law, like the Texas statute at issue in Plyler, excluding undocumented children from public schools.

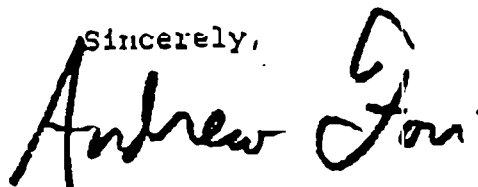
We do not read Plyler as calling this understanding into any serious question. The Court in Plyler followed both its references to the possibility that the exercise of congressional power might

affect state prerogatives regarding aliens with citations to De Canas v. Bica, 424 U.S. 351 (1976), which did not involve an equal protection claim but was instead decided solely on preemption grounds. Plyler, 457 U.S. at 219 n.19, 224-25. From this, it might be argued that the Court's concern in these passages was the degree to which the states may legislate with respect to undocumented aliens without running afoul of the Supremacy Clause; the Equal Protection Clause, on the other hand, remains as an independent constraint on state action. See Barannikova v. Town of Greenwich, 643 A.2d 251, 262 (Conn. 1994) (rejecting argument that Plyler validates state alienage classifications consistent with federal policy against equal protection challenge; relevant Plyler language is no more than "dictum regarding federal preemption doctrine").⁴ However, even if Plyler could be read for the proposition that congressional action may affect equal protection review of state alienage classifications, the kind of congressional action the Court had in mind was not the authorization of optional state laws, disapproved already in Graham, but rather the imposition of a uniform federal mandate:

But if the Federal Government has by uniform rule prescribed what it believes to be appropriate standards for the treatment of an alien subclass, the States may, of course, follow the federal direction. De Canas v. Bica, 424 U.S. 351 (1976).

Plyler, 457 U.S. at 219 n.19. In short, even assuming that Congress itself could require that undocumented children be excluded from public schools, we think there remains a very substantial question as to whether the optional state policies contemplated by H.R. 1377 can survive review.

Sincerely,



Andrew Fois
Assistant Attorney General

cc: Henry Hyde, Chairman
John Conyers, Jr., Ranking Minority Member

⁴ See also Gilbert Paul Carrasco, Congressional Abrogation of Power: Alien Constellation in the Galaxy of Equal Protection, 74 B.U.L.Rev. 591, 622-23 (1994) (citations to De Canas indicate that Plyler dicta does not address equal protection constraints on state alienage classifications).



UNITED STATES DEPARTMENT OF EDUCATION

WASHINGTON, D.C. 20202-_____

April 15, 1996

Honorable Robert Dole
Majority Leader
United States Senate
Washington, DC 20510

Dear Senator Dole:

As the Senate prepares to debate S. 1664, the "Immigration Control and Financial Responsibility Act of 1996," we would like to express our strong opposition to any amendment that would affirmatively authorize States either to exclude from the public schools undocumented children, or to admit such students on a tuition basis--which in many cases would be the functional equivalent of exclusion. If S. 1664 were to reach the President's desk containing such a provision, we would recommend that he veto the bill.

The plain purpose of such an amendment is to attempt to circumvent the decision of the Supreme Court in Plyler v. Doe, 457 U.S. 202 (1982), which holds that States may not, consistent with the Equal Protection Clause of the Fourteenth Amendment, withhold from undocumented children the same free public education they provide to other children residing in the State. The public schools of this country are a vitally important part of the foundation of our diverse and inclusive democracy and strong national economy. We have the following objections to requiring or authorizing States to exclude children from our public schools:

(1) Denying an education to any child is costly, to the child and to our country. Uneducated children are vastly more likely to wind up on the streets, engaging in unlawful behavior and otherwise placing burdens on their communities. President Clinton has stated that children denied education will "be on the street and then the increased risks of crime and other antisocial behavior will go up." This view is widely shared throughout the law enforcement community:

Robert T. Scully, Executive Director of the National Association of Police Organizations, Inc., recently wrote "[l]aw enforcement's position on the Gallegly amendment is based on our profession, protecting the peace of America--a job that would become much more difficult and dangerous if thousands of children are put



Page 2

on the nation's streets to grow into criminals or fall as victims. Overburdened local law enforcement agencies are ill-equipped to handle the certain resulting flood of juvenile crime and violence."

Gilbert C. Gallegos, National President of the Fraternal Order of Police, recently wrote that "[p]lutting hundreds of thousands of additional children on some of the toughest streets in our country translates into a windfall of potential new victims for the predators who work those streets. The cost of education pales by comparison to the cost of public safety in the neighborhoods where these kids are forced to live."

Matt L. Rodriguez, Superintendent of Police for the City of Chicago, recently wrote "[f]orcing young people out of school and onto the streets would have disastrous long-term effects on public safety as well. Every study that has ever been done on the subject has found a close correlation between the absence of education and increased criminality. Our communities are made safer when our young people--in particular, young people from families that are already at risk--are given the opportunity to stay in school and to learn."

Arthur J. Reddy, International Secretary-Treasurer and Legislative Liaison for the International Union of Police Associations AFL-CIO, recently wrote "[h]ow can anyone advocate throwing thousands of children onto the streets without supervision where they will become both victims and criminals. Local law enforcement officers, our members, will be overwhelmed at a time we can ill afford the extra pressure."

(2) It is fundamentally unfair, and unworthy of us as a great Nation, to penalize children for the conduct of their parents, conduct those children are powerless to control. As the Supreme Court said in Plyler, "legislation directing the onus of a parent's misconduct against his children does not comport with fundamental conceptions of justice," and "it is...difficult to conceive of a rational justification for penalizing these children for their presence within the United States." Plyler, at 220. It should be remembered, as well, that the punishment of undocumented children that the amendment would authorize would, in many families, be visited arbitrarily among siblings, because under the Fourteenth Amendment all children who are born in the United States are United States citizens.

(3) Not only is it wrong to penalize children for their parents' unlawful entry by denying them a basic education, it is

Page 3

ineffective. Education services are not the incentive to illegal immigration that job opportunities are, and, in any event, many of the children who would be affected by the amendment are here now, and are likely to remain here. Moreover, even assuming that exclusion from the public schools would have a deterrent effect on illegal immigration, that effect would be undermined by the "crazy quilt" pattern of implementation that would result from State choice in the matter. Indeed, if a deterrent effect is assumed, such an amendment would presumably channel illegal immigration to those States that decline the invitation to turn their backs on our national traditions.

(4) Schools--which is where, inevitably, such an amendment would be implemented--are ill-suited by their nature to make determinations about the immigration status of their students. Imagine the burden and cost of training teachers and school administrators about the procedures of the Immigration and Naturalization Service (INS) and related documentary requirements; imagine further the burden and cost to parents (presumably, all parents in order to avoid charges of discriminatory implementation by school systems) of implementing such requirements. Certainly, implementation efforts by schools are likely to ensnare them in costly litigation. The INS Commissioner has also written to Congress describing the burden associated with this type of amendment, including its likely effect of diverting INS resources away from more pressing priorities.

(5) Forcing schools to act as extension agents of our immigration authorities would likely intimidate and estrange not only the students who are subject to exclusion and their families, but also students and families--of a variety of ethnicities--who are not subject to exclusion, but who are either uncertain of their rights or fear, rightly or wrongly, stigmatization. We need to do all we can to increase family involvement in education and reduce the drop-out rate, not undercut those efforts through divisive policies such as this.

The fundamental issue raised by such an amendment is not whether the United States needs to do a better job of protecting the integrity of its borders. Every responsible person agrees on this imperative, and this Administration is taking strong steps to fulfill this need. The fundamental issue is whether we should harm the undocumented children who live here--and ourselves and our values--for the transgressions of their parents. In this connection, we would remind you that less than two years ago, the Congress declared it to be the policy of the United States "that a high-quality education for all individuals and a fair and equitable opportunity to obtain that education are a societal good, are a moral imperative, and improve the life of every

individual, because the quality of our individual lives ultimately depends on the quality of the lives of others." Section 1001(a)(1) of the Elementary and Secondary Education Act of 1965. This policy reflects both the practical wisdom of our national experience and "the better angels of our nature" that President Lincoln invoked.

Some will argue, no doubt, that if excluding undocumented children from the public schools is such a bad idea, there is little harm in authorizing the States to do so, because few States would do it. We strongly disagree with this reasoning. By this logic, the more unwise the proposal, the more willing we should be to authorize the States to implement it. The issues here are plainly not about federalism or the wisdom of the States; the issues here are about our historical belief in the power of our public schools to promote opportunity, understanding, cooperation, and economic progress for us all.

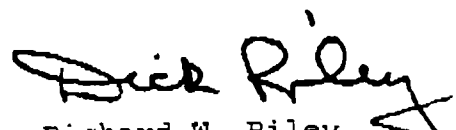
Others will argue that the obligation of the States under the Equal Protection Clause to avoid discrimination against these children should be seen as an unfunded mandate. The short answer to this rhetorical device is that under the terms of the recently enacted Unfunded Mandates Reform Act of 1995, P.L. 104-4, the Constitutional obligations of the States plainly are not unfunded mandates. Nor do we believe that the States' basic obligations under the Constitution--such as the right of all accused persons to a jury trial--should ever be considered as such.

Any amendment that would have the effect of denying or restricting public education benefits to undocumented children would have grave implications for public safety. It would not only harm innocent children, it would continue to harm them for the remainder of their lives. It would not deter illegal immigration. It would have our public schools screening children for their immigration status, an expensive and burdensome task for which they are not suited or prepared. For all these reasons, we urge you to oppose any such amendment.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program and that enactment of S. 1664 with a provision that would deny or limit public elementary or secondary education benefits to undocumented children would not be in accord with the program of the President.

Sincerely,


Janet Reno
Attorney General


Richard W. Riley
Secretary of Education



UNITED STATES DEPARTMENT OF EDUCATION

THE SECRETARY

March 18, 1996

Honorable Newt Gingrich
Speaker
House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

As the House prepares to debate H.R. 2202, the "Immigration in the National Interest Act of 1995," I would like to express my strong opposition to any effort to amend the bill to deny public education benefits to undocumented children.

As you know, among the amendments expected to be offered is an amendment by Congressman Gallegly that would be based on H.R. 1377, a bill "[t]o amend the Immigration and Nationality Act to authorize States to deny public education benefits to aliens not lawfully present in the United States." H.R. 1377 would authorize States either to exclude from the public schools children who are unable to document that they are lawfully present in the United States, or to admit such students on a tuition basis--which in many cases would be the functional equivalent of exclusion. I strongly oppose H.R. 1377 and any amendment based on it.

The plain purpose of H.R. 1377 is to attempt to circumvent the decision of the Supreme Court in Plyler v. Doe, 457 U.S. 202, (1982), which holds that States may not, consistent with the Equal Protection Clause of the Fourteenth Amendment, withhold from children who are undocumented the same free public education they provide to other children residing in the State. I understand that the Department of Justice is writing to explain the serious Constitutional concerns raised by such an amendment; I write to explain why such an amendment is shortsighted, illogical, and wrong.

The fundamental issue raised by such an amendment is not whether the United States needs to do a better job of protecting the integrity of its borders. Every responsible person agrees on this imperative, and the Clinton Administration is taking strong steps to fulfill this need. The fundamental issue is whether we should harm the undocumented children who live here--and ourselves and our values--for the transgressions of their parents. In this connection, I would remind you that less than two years ago, the Congress declared it to be the policy of the United States "that a high quality education for all individuals

Page 2

and a fair and equitable opportunity to obtain that education are a societal good, are a moral imperative, and improve the life of every individual, because the quality of our individual lives ultimately depends on the quality of the lives of others." Section 1001(a)(1) of the Elementary and Secondary Education Act of 1965. This policy reflects both the practical wisdom of our national experience as well as "the better angels of our nature" that President Lincoln invoked.

The public schools of this country are a vitally important part of the foundation of our diverse and inclusive democracy and strong national economy. I believe that those who would take the unprecedented step of requiring or authorizing States to exclude children from our public schools bear a heavy burden of proof, and must have very persuasive answers to the following objections:

(1) It is fundamentally unfair, and unworthy of us as a Nation, to penalize children for the conduct of their parents, conduct those children are powerless to control. As the Supreme Court said in Plyler, "legislation directing the onus of a parent's misconduct against his children does not comport with fundamental conceptions of justice," and "it is...difficult to conceive of a rational justification for penalizing these children for their presence within the United States." Plyler, at 223. It should be remembered, as well, that the punishment of undocumented children that the amendment would authorize would, in many families, be visited arbitrarily among siblings, because under the Fourteenth Amendment all children who are born in the United States are United States citizens.

(2) Denying an education to any child is costly, to the child and to our country. Again, the Supreme Court has it right: "[b]y denying [undocumented] children a basic education, we deny them the ability to live within the structure of our civic institutions, and foreclose any realistic possibility that they will contribute in even the smallest way to the progress of our Nation." Plyler, at 223. Uneducated children are vastly more likely to wind up on the streets, engaging in unlawful behavior and otherwise placing burdens on their communities.

(3) Not only is it wrong to penalize children for their parents' unlawful entry by denying them a basic education, it is ineffective. Education services are less clearly an incentive to illegal immigration than perceived job opportunities, and, in any event, many of the children who would be affected by the amendment are here now, and are likely to remain here. Moreover, even assuming that exclusion from the public schools would have a deterrent effect on illegal immigration, that effect would be undermined by the "crazy quilt" pattern of implementation that would result from State choice in the matter. Indeed, if a deterrent effect is assumed, the amendment would presumably

Page 3

channel illegal immigration to those States that decline the invitation to turn their backs on our national traditions.

(4) Schools--which is where, inevitably, the amendment would be implemented--are ill-suited by their nature to make determinations about the citizenship status of their students. Imagine the burden and cost of training teachers and school administrators about the procedures of the Immigration and Naturalization Service and the other documentary requirements in the amendment; imagine further the burden and cost to parents (presumably, all parents in order to avoid charges of discriminatory implementation) of providing the sworn statements and other documentation that would be required.

(5) Forcing schools to act as extension agents of our immigration authorities would likely intimidate and estrange not only the students who are subject to exclusion and their families, but also students and families--of a variety of ethnicities--who are not subject to exclusion, but who are either uncertain of their rights or fear, rightly or wrongly, stigmatization. We need to do all we can to increase family involvement in education and reduce the drop-out rate, not undercut those efforts through divisive policies such as this.

Some will argue, no doubt, that if excluding undocumented children from the public schools is such a bad idea, there is no harm in authorizing the States to do so, because no State would do it. I strongly disagree with this reasoning. By this logic, the more unwise the proposal, the more willing we should be to authorize the States to implement it. The issues here are plainly not about federalism or "trust" in the wisdom of the States; the issues here are about our historical belief in the power of our public schools to promote opportunity, understanding, cooperation, and economic progress for us all. For all these reasons, I urge you to oppose any amendment that would deny or restrict public education benefits to undocumented children.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Yours sincerely,


Richard W. Riley

cc: Honorable Elton Gallegly
House Judiciary Committee Members
House Economic and Educational Opportunities Committee Members



UNITED STATES DEPARTMENT OF EDUCATION

WASHINGTON, D.C. 20202-_____

April 15, 1996

Honorable Thomas A. Daschle
Minority Leader
United States Senate
Washington, DC 20510

Dear Senator Daschle:

As the Senate prepares to debate S. 1664, the "Immigration Control and Financial Responsibility Act of 1996," we would like to express our strong opposition to any amendment that would affirmatively authorize States either to exclude from the public schools undocumented children, or to admit such students on a tuition basis--which in many cases would be the functional equivalent of exclusion. If S. 1664 were to reach the President's desk containing such a provision, we would recommend that he veto the bill.

The plain purpose of such an amendment is to attempt to circumvent the decision of the Supreme Court in Plyler v. Doe, 457 U.S. 202 (1982), which holds that States may not, consistent with the Equal Protection Clause of the Fourteenth Amendment, withhold from undocumented children the same free public education they provide to other children residing in the State. The public schools of this country are a vitally important part of the foundation of our diverse and inclusive democracy and strong national economy. We have the following objections to requiring or authorizing States to exclude children from our public schools:

(1) Denying an education to any child is costly, to the child and to our country. Uneducated children are vastly more likely to wind up on the streets, engaging in unlawful behavior and otherwise placing burdens on their communities. President Clinton has stated that children denied education will "be on the street and then the increased risks of crime and other antisocial behavior will go up." This view is widely shared throughout the law enforcement community:

Robert T. Scully, Executive Director of the National Association of Police Organizations, Inc., recently wrote "[l]aw enforcement's position on the Gallegly amendment is based on our profession, protecting the peace of America--a job that would become much more difficult and dangerous if thousands of children are put



on the nation's streets to grow into criminals or fall as victims. Overburdened local law enforcement agencies are ill-equipped to handle the certain resulting flood of juvenile crime and violence."

Gilbert C. Gallegos, National President of the Fraternal Order of Police, recently wrote that "[p]utting hundreds of thousands of additional children on some of the toughest streets in our country translates into a windfall of potential new victims for the predators who work those streets. The cost of education pales by comparison to the cost of public safety in the neighborhoods where these kids are forced to live."

Matt L. Rodriguez, Superintendent of Police for the City of Chicago, recently wrote "[f]orcing young people out of school and onto the streets would have disastrous long-term effects on public safety as well. Every study that has ever been done on the subject has found a close correlation between the absence of education and increased criminality. Our communities are made safer when our young people--in particular, young people from families that are already at risk--are given the opportunity to stay in school and to learn."

Arthur J. Reddy, International Secretary-Treasurer and Legislative Liaison for the International Union of Police Associations AFL-CIO, recently wrote "[h]ow can anyone advocate throwing thousands of children onto the streets without supervision where they will become both victims and criminals. Local law enforcement officers, our members, will be overwhelmed at a time we can ill afford the extra pressure."

(2) It is fundamentally unfair, and unworthy of us as a great Nation, to penalize children for the conduct of their parents, conduct those children are powerless to control. As the Supreme Court said in Plyler, "legislation directing the onus of a parent's misconduct against his children does not comport with fundamental conceptions of justice," and "it is...difficult to conceive of a rational justification for penalizing these children for their presence within the United States." Plyler, at 220. It should be remembered, as well, that the punishment of undocumented children that the amendment would authorize would, in many families, be visited arbitrarily among siblings, because under the Fourteenth Amendment all children who are born in the United States are United States citizens.

(3) Not only is it wrong to penalize children for their parents' unlawful entry by denying them a basic education, it is

ineffective. Education services are not the incentive to illegal immigration that job opportunities are, and, in any event, many of the children who would be affected by the amendment are here now, and are likely to remain here. Moreover, even assuming that exclusion from the public schools would have a deterrent effect on illegal immigration, that effect would be undermined by the "crazy quilt" pattern of implementation that would result from State choice in the matter. Indeed, if a deterrent effect is assumed, such an amendment would presumably channel illegal immigration to those States that decline the invitation to turn their backs on our national traditions.

(4) Schools--which is where, inevitably, such an amendment would be implemented--are ill-suited by their nature to make determinations about the immigration status of their students. Imagine the burden and cost of training teachers and school administrators about the procedures of the Immigration and Naturalization Service (INS) and related documentary requirements; imagine further the burden and cost to parents (presumably, all parents in order to avoid charges of discriminatory implementation by school systems) of implementing such requirements. Certainly, implementation efforts by schools are likely to ensnare them in costly litigation. The INS Commissioner has also written to Congress describing the burden associated with this type of amendment, including its likely effect of diverting INS resources away from more pressing priorities.

(5) Forcing schools to act as extension agents of our immigration authorities would likely intimidate and estrange not only the students who are subject to exclusion and their families, but also students and families--of a variety of ethnicities--who are not subject to exclusion, but who are either uncertain of their rights or fear, rightly or wrongly, stigmatization. We need to do all we can to increase family involvement in education and reduce the drop-out rate, not undercut those efforts through divisive policies such as this.

The fundamental issue raised by such an amendment is not whether the United States needs to do a better job of protecting the integrity of its borders. Every responsible person agrees on this imperative, and this Administration is taking strong steps to fulfill this need. The fundamental issue is whether we should harm the undocumented children who live here--and ourselves and our values--for the transgressions of their parents. In this connection, we would remind you that less than two years ago, the Congress declared it to be the policy of the United States "that a high-quality education for all individuals and a fair and equitable opportunity to obtain that education are a societal good, are a moral imperative, and improve the life of every

individual, because the quality of our individual lives ultimately depends on the quality of the lives of others." Section 1001(a)(1) of the Elementary and Secondary Education Act of 1965. This policy reflects both the practical wisdom of our national experience and "the better angels of our nature" that President Lincoln invoked.

Some will argue, no doubt, that if excluding undocumented children from the public schools is such a bad idea, there is little harm in authorizing the States to do so, because few States would do it. We strongly disagree with this reasoning. By this logic, the more unwise the proposal, the more willing we should be to authorize the States to implement it. The issues here are plainly not about federalism or the wisdom of the States; the issues here are about our historical belief in the power of our public schools to promote opportunity, understanding, cooperation, and economic progress for us all.

Others will argue that the obligation of the States under the Equal Protection Clause to avoid discrimination against these children should be seen as an unfunded mandate. The short answer to this rhetorical device is that under the terms of the recently enacted Unfunded Mandates Reform Act of 1995, P.L. 104-4, the Constitutional obligations of the States plainly are not unfunded mandates. Nor do we believe that the States' basic obligations under the Constitution--such as the right of all accused persons to a jury trial--should ever be considered as such.

Any amendment that would have the effect of denying or restricting public education benefits to undocumented children would have grave implications for public safety. It would not only harm innocent children, it would continue to harm them for the remainder of their lives. It would not deter illegal immigration. It would have our public schools screening children for their immigration status, an expensive and burdensome task for which they are not suited or prepared. For all these reasons, we urge you to oppose any such amendment.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program and that enactment of S. 1664 with a provision that would deny or limit public elementary or secondary education benefits to undocumented children would not be in accord with the program of the President.

Sincerely,


Janet Reno
Attorney General


Richard W. Riley
Secretary of Education

U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR
WASHINGTON, D.C.

March 7, 1996

Honorable Orrin Hatch
Chairman, Committee on
the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Proposed amendments to the Immigration and Nationality Act, referred to as the "Temporary Agricultural Worker Amendments of 1995," if enacted, would create a new agricultural guestworker program. The proposed new program, designated as H-2B, would not replace the existing temporary agricultural worker program, H-2A, but rather, create yet another means by which agricultural employers may import foreign farm workers. If such a proposal is included in an immigration reform bill, we would strongly recommend that the President veto the legislation. However, the Administration is prepared to work with all interested parties, including the Congress, as appropriate, to address ways to improve the existing H-2A program which will not jeopardize worker protections.

The Administration strongly opposes a new agricultural guestworker program. A new guestworker program is unwarranted for several reasons:

- It would increase illegal immigration;
- It would reduce work opportunities for U.S. citizens and other legal residents;
- It would depress wages and work standards for U.S. farmworkers; and
- It is not a sustainable solution to any labor shortage which might develop.

Such results are entirely incompatible with this Administration's strenuous efforts to improve illegal immigration control and to improve earnings of American workers. The Administration's position conforms closely with the views of two congressionally-mandated, bi-partisan Commissions -- the Commission on Immigration Reform, known as the Jordan Commission after its late Chair, Barbara Jordan, and the Commission on Agricultural Workers.

The Jordan Commission has stated its unambiguous opposition to a new agricultural guestworker program:

The Commission believes that an agriculture guestworker program, sometimes referred to as a revisiting of the "bracero agreement," is not in the national interest and

unanimously and strongly agrees that such a program would be a grievous mistake.

Independently, the Commission on Agricultural Workers concluded in its 1992 report that:

[d]espite an expanding perishable crop industry, the national supply of agricultural labor has been more than adequate for the past several years.

Analysis of recent data from the Department of Labor's National Agricultural Worker Survey reveals a persistently high degree of underemployment among farmworkers at both the national and regional level. The Commission on Agricultural Workers did acknowledge that in many localities a significant portion of the harvest work is unauthorized. But it went on to say that to the extent that the agricultural labor supply needs to be supplemented, the existing H-2A program was sufficient, though it should be reviewed in light of grower criticism and litigation which surrounds the existing programs.

This Administration recognizes that there are areas of agriculture in this country that are heavily labor intensive and rely on a dependable harvest work force. It is also vital that we protect the competitiveness of U.S. agriculture and related employment in non-farm industries that depend on farm production. At the present time, however, there is simply no evidence of an agricultural labor shortage in this country. On the contrary, all of the available evidence indicates a continuing and structural agricultural labor surplus. Rather, advocates of a new agricultural guestworker program justify the purported need on fears of possible future shortages. This is no basis for a whole new guestworker program. Rather the Administration believes that if there are future shortages, they can be effectively dealt with through improvements of the existing H-2A program.

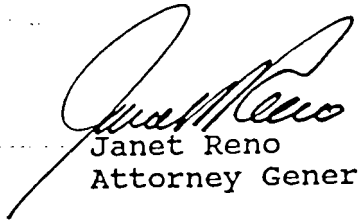
Unfortunately, the proposed guestworker amendments do not effectively address either the Administration's or the Jordan Commission's justified concerns about workers. The amendments do not promote or protect job opportunities for U.S. workers; on the contrary, these amendments substantially weaken the statutory preference for and protections of U.S. workers currently embodied in the H-2A program. The amendments would largely negate the current law's protections intended to ensure that wages and working conditions of U.S. farmworkers do not suffer from the presence of guestworkers in the low-wage, low-skill agricultural labor market. Other provisions in the amendments would simply eliminate many existing labor protections for U.S. and foreign workers, such as the employer's obligation to provide housing and transportation for migrant workers. Finally, the amendments

could well increase the likelihood that guestworkers will not return to the sending countries upon completion of employment.

For all these reasons, the Administration strongly opposes the creation of a new agricultural guestworker program. Mr. Chairman, in the interest of achieving immigration reform in this Congress, we urge you to reject this proposal. Thank you for considering our views on this important matter.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely,



Janet Reno
Attorney General



Robert Reich
Secretary of Labor

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For all these reasons, the Administration strongly opposes the creation of a new agricultural guestworker program. Mr. Chairman, in the interest of achieving immigration reform in this Congress, we urge you to reject this proposal. Thank you for considering our views on this important matter.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely,



Janet Reno
Attorney General



Robert Reich
Secretary of Labor



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

THE DIRECTOR

March 20, 1996

The Honorable Orrin Hatch
Chairman
Senate Judiciary Committee
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

On behalf of the Administration, I would like to express our strong support for three of the amendments that may be offered during the Senate Judiciary Committee mark-up of Title II of S. 1394, the Immigration Reform Act of 1995.

We understand that an amendment will be offered to limit the application of deeming rules to programs that currently "deem" an immigrant's income to include the income of his or her sponsor (AFDC, Food Stamps, and SSI). The Administration supports this amendment. As currently drafted, S. 1394 would broaden the application of deeming rules to all means-tested programs. This would include Medicaid, the Maternal and Child Health Services programs, the School Lunch program, student financial assistance programs for postsecondary education and scores of other Federal programs. The Administration opposes deeming under the Medicaid program. Broadening the scope of deeming could endanger the public health and safety by precluding immigrants in need of health care from receiving assistance. In addition, this provision would significantly complicate the administration of programs that do not currently deem, especially those programs run by local charities and non-profit organizations.

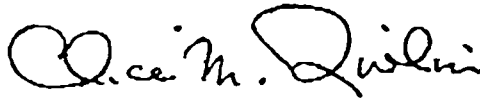
The Administration also supports an amendment that would limit the application period of deeming rules until the sponsored immigrant becomes a naturalized U.S. citizen. Under S. 1394, future immigrants would be subject to deeming -- even after attaining citizenship -- until they have worked 40 qualifying quarters. Thus, a sponsored immigrant would be subject to deeming for a minimum of 10 years, or potentially 5 to 7 years after becoming a U.S. citizen. A sponsored immigrant who did not fulfill the 40 quarters requirement would be subject to deeming forever. Deeming beyond citizenship would treat naturalized citizens differently from natural born citizens, creating two classes of citizens. It would be a mistake to relegate naturalized U.S. citizens -- who have demonstrated their commitment to our country by undergoing the naturalization process -- to a kind of second class citizenship status. Furthermore, the Department of Justice has serious concerns about the constitutionality of this provision as applied to naturalized citizens.

In addition, the Administration supports an amendment that would make the binding affidavit of support legally binding only until the sponsored immigrant becomes a naturalized U.S. citizen. Under the proposed legislation, the affidavit of support would be legally binding for a

period of 40 qualifying quarters. This section would hold a sponsor legally liable to support a sponsored immigrant, even after the immigrant has become a U.S. citizen. While the Administration supports making the current affidavit of support legally binding, we oppose an affidavit of support which would be binding after the immigrant has naturalized. We have been advised by the Department of Justice that there may be constitutional concerns related to this section as well.

We strongly urge you and other members of the Committee to support these amendments.

Sincerely,



Alice M. Rivlin
Director

Identical letters sent to The Honorable Joseph Biden, The Honorable Thomas Daschle,
and The Honorable Robert Dole.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
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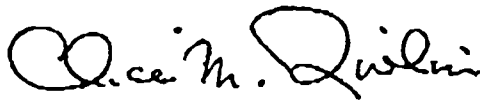
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U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

Administration Summary Opposing English Only Amendment

We understand that S. 356, "The Language of Government Act of 1995," will be offered as an amendment to S. 1664, the Immigration Control and Financial Responsibility Act of 1996. For the reasons set forth below, the Administration strongly opposes S. 356 and its addition to S. 1664.

S. 356 would declare English the official language of the Government and require the Government to conduct all of its official business in English. S. 356 defines "official business" generally as "governmental actions, documents, or policies which are enforceable with the full weight and authority of the Government." It would eliminate all governmental actions that are conducted in languages other than English, except: (1) teaching foreign languages; (2) actions, documents, or policies not enforceable in the United States; (3) actions, documents, or policies necessary for international relations, trade, or commerce; (4) actions or documents that protect the public health; (5) actions that protect the rights of victims of crimes or criminal defendants; and (6) documents that use terms of art or phrases from languages other than English.

S. 356 proposes to fix a problem that does not exist. As the President has stated, there has never been a dispute that English is the common and primary language of the United States. According to the 1990 Census, 94% of all residents speak English well or very well and of the 13.8% of residents who speak languages other than English at home, 79% above the age of four speak English "well" or "very well". In fact, there is overwhelming demand for adult English language classes in communities with large, language minority populations. For example, in Los Angeles, the demand for these classes is so great that some schools operate 24 hours per day and 50,000 students are on the waiting lists city-wide. In New York City, an individual can wait up to 18 months for classes. To help meet this need, the President's fiscal year 1997 budget proposes a 13% increase over 1995 for adult English education.

The overwhelming majority of Federal official business is conducted in English. According to a recent GAO study, only 0.06% of Federal documents are in a language other than English - and these are translations of English documents. These non-English documents, such as income tax forms, voting assistance

information, decennial census forms, and medical care information, assist taxpaying citizens and residents who have limited English proficiency (LEP) and are subject to the laws of this country. In those very few instances where the Government uses languages other than English, the usage promotes vital interests, such as national security; law enforcement; border enforcement; civil rights; communicating with witnesses, prisoners or parolees; protecting and promoting public health; and informing people of their legal rights and responsibilities.

S. 356 would invite frivolous litigation against the Government. It would create a vague, private cause of action -- and allow attorney fees -- for anyone who believed that he or she had been injured by the Government's communication in a language other than English. Actual injury due to a failure to conduct all activities in English is highly conjectural since virtually all of the Government's business is conducted in English. S. 356 would impede Federal agencies performing vital tasks and delivering important information.

Although it is difficult to predict how the Supreme Court ultimately would resolve arguments that S. 356 violates constitutional protections, Yniguez v. Arizonans for Official English, 69 F.3d 920 (9th Cir. 1995), cert. granted, 64 U.S.L.W. 3635, 3639 (U.S. Mar. 25, 1996) (No. 95-974), a case raising constitutional challenges to a similar State statute, is now pending before the Court. In that case, a divided Ninth Circuit Federal Court of Appeals ruled that the English-only requirements in the Arizona constitution were facially overbroad in violation of the free speech rights of State government employees. Although the dissent's argument in Yniguez is not without force, the existence of the Ninth Circuit's en banc decision raises a concern that the bill is vulnerable to First Amendment challenge.

If S. 356 applied to the legislative franchise of Members of Congress, it would violate the Speech or Debate Clause of the Constitution. If it prevented a Federal legislator, or the President or other Executive branch officials from communicating effectively with the persons he or she represented, a court might conclude that it interfered with a core element of representative government established by the Constitution. Since several ethnic and national origin minority groups in this country include large numbers of people with limited English proficiency, S. 356 could be challenged under the Equal Protection Clause of the Constitution, which prohibits discrimination on the basis of ethnicity or national origin. S. 356 also would be subject to attack on the ground that it violated the due process rights of non-English speakers who were parties to civil and administrative proceedings, such as deportation proceedings.

The broad language of S. 356 is at odds with the longstanding principle of government-to-government relations between the Federal government and Indian tribes. If broadly construed, S. 356 could repeal the specific mandates found in the

Native American Languages Act, 25 U.S.C. §§2901-2905, and related statutes. Recognizing that Indian languages are an essential aspect of tribal culture, the Native American Languages Act authorizes tribes to "preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages."

S. 356 would threaten the right of United States citizens to vote. It would effectively repeal the minority language provisions of the Voting Rights Act (VRA) which require the use of languages other than English in enforcement efforts, e.g., checking the accuracy of translations. The VRA also requires covered jurisdictions to provide election information and voting assistance to minority language citizens in a language they can better understand, to enable them to participate in the electoral process as effectively as English-speaking voters. The VRA helps many Native Americans and some other language minority citizens, especially older individuals, who continue to speak their traditional languages and to be affected by the lack of meaningful educational opportunities during their school years. In addition, over 3.5 million Puerto Ricans born and educated on the island are citizens by birth but often lack full English proficiency.

S. 356 could threaten public health. Although section 3 of the bill (creating section 165(2)(D)) excludes from its application "actions or documents that protect the public health," the "public health" is not defined and might not include programs within the Department of Health and Human Services (HHS) that promote the welfare of children and adults where an immediate public health risk does not exist, e.g., older Americans and AFDC recipients.

S. 356's mandate for "English only" would prevent the Government from making particularized judgments about the need to use languages in addition to English to provide or to obtain essential information. It is in the best interest of the Government -- as well as its customers -- for the public to understand clearly Government services and processes, and their rights.

S. 356 would hinder law enforcement and other governmental programs, such as tax collection; natural resource conservation; census data collection and other surveys; and promoting compliance with the law. S. 356 could affect HHS' ability to provide Medicaid and Medicare interpreter services; to print materials on HIV transmission, organ transplantation, food labeling, food safety, safe use of medicines and medical devices; and to produce Head Start publications, child support collection pamphlets, and child abuse prevention pamphlets in non-English languages. S. 356 could hamper enforcement of housing anti-discrimination laws by limiting the ability of the Department of Housing and Urban Development (HUD) to make complaint forms available in languages in addition to English. It could prevent

interviews with witnesses in languages other than English. It would limit HUD's ability to provide housing counseling to many low-income and minority families and to people who use other languages, such as sign language.

S. 356 would promote division and discrimination rather than foster unity in America. It would exacerbate national origin discrimination and intolerance against ethnic minorities who look or sound "foreign" and may not be English proficient. It would keep many Americans from the political and social mainstreams. It would undermine efforts like those of the Justice Department's Community Relations Service to ease community and racial conflicts through conciliation and community outreach. Thus, the Administration strongly opposes S. 356 and its addition to S. 1664, illegal immigration enforcement legislation the Administration supports.



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If S. 356 applied to the legislative franchise of Members of Congress, it would violate the Speech or Debate Clause of the Constitution. If it prevented a Federal legislator, or the President or other Executive branch officials from communicating effectively with the persons he or she represented, a court might conclude that it interfered with a core element of representative government established by the Constitution. Since several ethnic and national origin minority groups in this country include large numbers of people with limited English proficiency, S. 356 could be challenged under the Equal Protection Clause of the Constitution, which prohibits discrimination on the basis of ethnicity or national origin. S. 356 also would be subject to attack on the ground that it violated the due process rights of non-English speakers who were parties to civil and administrative proceedings, such as deportation proceedings.

The broad language of S. 356 is at odds with the longstanding principle of government-to-government relations between the Federal government and Indian tribes. If broadly construed, S. 356 could repeal the specific mandates found in the

Native American Languages Act, 25 U.S.C. §§2901-2905, and related statutes. Recognizing that Indian languages are an essential aspect of tribal culture, the Native American Languages Act authorizes tribes to "preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages."

S. 356 would threaten the right of United States citizens to vote. It would effectively repeal the minority language provisions of the Voting Rights Act (VRA) which require the use of languages other than English in enforcement efforts, e.g., checking the accuracy of translations. The VRA also requires covered jurisdictions to provide election information and voting assistance to minority language citizens in a language they can better understand, to enable them to participate in the electoral process as effectively as English-speaking voters. The VRA helps many Native Americans and some other language minority citizens, especially older individuals, who continue to speak their traditional languages and to be affected by the lack of meaningful educational opportunities during their school years. In addition, over 3.5 million Puerto Ricans born and educated on the island are citizens by birth but often lack full English proficiency.

S. 356 could threaten public health. Although section 3 of the bill (creating section 165(2)(D)) excludes from its application "actions or documents that protect the public health," the "public health" is not defined and might not include programs within the Department of Health and Human Services (HHS) that promote the welfare of children and adults where an immediate public health risk does not exist, e.g., older Americans and AFDC recipients.

S. 356's mandate for "English only" would prevent the Government from making particularized judgments about the need to use languages in addition to English to provide or to obtain essential information. It is in the best interest of the Government -- as well as its customers -- for the public to understand clearly Government services and processes, and their rights.

S. 356 would hinder law enforcement and other governmental programs, such as tax collection; natural resource conservation; census data collection and other surveys; and promoting compliance with the law. S. 356 could affect HHS' ability to provide Medicaid and Medicare interpreter services; to print materials on HIV transmission, organ transplantation, food labeling, food safety, safe use of medicines and medical devices; and to produce Head Start publications, child support collection pamphlets, and child abuse prevention pamphlets in non-English languages. S. 356 could hamper enforcement of housing anti-discrimination laws by limiting the ability of the Department of Housing and Urban Development (HUD) to make complaint forms available in languages in addition to English. It could prevent

interviews with witnesses in languages other than English. It would limit HUD's ability to provide housing counseling to many low-income and minority families and to people who use other languages, such as sign language.

S. 356 would promote division and discrimination rather than foster unity in America. It would exacerbate national origin discrimination and intolerance against ethnic minorities who look or sound "foreign" and may not be English proficient. It would keep many Americans from the political and social mainstreams. It would undermine efforts like those of the Justice Department's Community Relations Service to ease community and racial conflicts through conciliation and community outreach. Thus, the Administration strongly opposes S. 356 and its addition to S. 1664, illegal immigration enforcement legislation the Administration supports.



Office of the Attorney General
Washington, D. C. 20530

April 29, 1996

The Honorable Robert Dole
Majority Leader
United States Senate
Washington, D.C. 20510

Dear Senator Dole:

This letter expresses the Administration's views on S. 356, "The Language of Government Act of 1995." We understand that S. 356 will be offered as an amendment to S. 1664, the Immigration Control and Financial Responsibility Act of 1996. For the reasons set forth below, the Administration strongly opposes S. 356 and its addition to S. 1664.

S. 356 would declare English the official language of the Government and require the Government to conduct all of its official business in English. S. 356 defines "official business" generally as "governmental actions, documents, or policies which are enforceable with the full weight and authority of the Government." It would eliminate all governmental actions that are conducted in languages other than English, except: (1) teaching foreign languages; (2) actions, documents, or policies not enforceable in the United States; (3) actions, documents, or policies necessary for international relations, trade, or commerce; (4) actions or documents that protect the public health; (5) actions that protect the rights of victims of crimes or criminal defendants; and (6) documents that use terms of art or phrases from languages other than English.

S. 356 proposes to fix a problem that does not exist. As the President has stated, there has never been a dispute that English is the common and primary language of the United States. According to the 1990 Census, 97% of all residents speak English at least well and of the 13.8% of residents who speak languages other than English at home, 79% above the age of four speak English well or very well. In fact, there is overwhelming demand for adult English language classes in communities with large, language minority populations. For example, in Los Angeles, the demand for these classes is so great that some schools operate 24 hours per day and 50,000 students are on the waiting lists city-wide. In New York City, an individual can wait up to 18 months for classes. To help meet this need, the President's fiscal year 1997 budget proposes a 13% increase over 1995 for adult English education.

The overwhelming majority of Federal official business is conducted in English. According to a recent GAO study, only

The Honorable Robert Dole
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0.06% of Federal documents are in a language other than English - and these are translations of English documents. These non-English documents, such as income tax forms, voting assistance information, decennial census forms, and medical care information, assist taxpaying citizens and residents who have limited English proficiency (LEP) and are subject to the laws of this country. In those very few instances where the Government uses languages other than English, the usage promotes vital interests, such as national security; law enforcement; border enforcement; civil rights; communicating with witnesses, prisoners or parolees; protecting and promoting public health; and informing people of their legal rights and responsibilities.

S. 356 would invite frivolous litigation against the Government. It would create a vague, private cause of action -- and allow attorney fees -- for anyone who believed that he or she had been injured by the Government's communication in a language other than English. Actual injury due to a failure to conduct all activities in English is highly conjectural since virtually all of the Government's business is conducted in English. S. 356 would impede Federal agencies performing vital tasks and delivering important information.

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The Honorable Robert Dole
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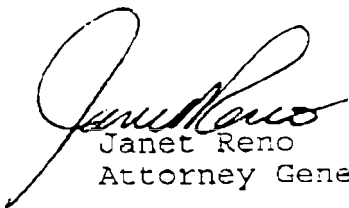
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The Honorable Robert Dole
Page 4

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Sincerely,



Janet Reno
Attorney General



Donna E. Shalala
Secretary of Health
and Human Services



Henry G. Cisneros
Secretary of Housing
and Urban Development

cc: Honorable Thomas A. Daschle
Minority Leader



U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

APR 16 1996

Hon. Robert Dole
Majority Leader
United States Senate
Washington D.C. 20510

Dear Senator Dole:

I write to express the Administration's strong opposition to the proposed requirement for triple-tier fencing contained in S. 269, the "Immigration in the National Interest Act of 1995." This provision requires the construction of second and third fences, in addition to the existing 10 foot steel fence, along the 14 miles of U.S.-Mexico border in the San Diego Border Patrol Sector. The bill also requires roads to be built between the fences. Instead, we support an amendment, to be offered by Senators Feinstein and Boxer, to replace the requirement for triple fencing along portions of the Southwest border with an authorization of funds for the construction and improvement of physical barriers, lighting, sensors, and other technologies to detect and deter unlawful entry.

The requirement now in the bill, if enacted, would endanger the physical safety of Border Patrol agents. U.S. Border Patrol agent Joe Dassaro, Public Information Coordinator for Local 1613, U.S. Border Patrol Council, recently stated, "There is no support from U.S. Border Patrol agents in the field for the three tiered fence. We see it as a dangerous situation. If an agent goes between the three fences and gets into trouble, there is a longer response time for another Border Patrol agent to come to his/her aid. . . ." From a tactical perspective, agents travelling along roads surrounded by fencing present an easy target for alien smugglers and others ready to thwart our enforcement efforts. Our experience has shown that when agents travel in a single, predictable line, they and their vehicles are susceptible to attack with rocks and other objects.

Response time to an emergency situation in areas adjacent to fenced in areas will be greatly and unnecessarily increased if this provision is enacted. Agents that patrol between the sections of the fence will not have the ability to quickly and directly get out of the area at critical times. With triple fencing, smugglers can easily block a Border Patrol vehicle with

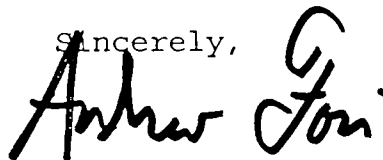
debris and limit agent mobility to the fixed path bounded by the fence. In addition, the rocky terrain and deep canyons in this region of California make a continuous road impossible to build and use. The challenges presented by this terrain are better met through the other tactics currently deployed in the San Diego Sector.

We support physical barriers along the border when and where they are appropriate and have erected 23 miles of fences along the California Border as an important part of our strategic plans. In order to build the fence that is now in place, it was necessary to construct an access road along the border. Rather than specifying barriers, we recommend funding to construct "all-weather roads", since the existing roads become impassable after relatively little rainfall. The current situation prohibits the Border Patrol from actually reaching the border and interrupts repair and maintenance on the fence. Rain also precludes the Border Patrol from working close to the border in a high visibility, deterrent posture. Agents must pull back and work from hardpacked or paved streets during these periods. With an all-weather road system, Border Patrol agents would have access to the fence even during the extended rainy season.

We fully recognize the usefulness and need for border fencing and have been at the forefront of fencing innovations for many years. Single fencing is a valid deterrent in many areas and we will continue to use this tool at various locations to meet the needs of the San Diego Sector Border Patrol. In some carefully selected areas, multiple fencing may be appropriate. Other deterrence technologies, such as enhanced communications systems, lighting, low light television systems and fixed infrared/daylight cameras also will compliment the existing and planned fencing. In our view, the actual deployment of personnel, physical barriers, technology and operational judgments are decisions best left to the Border Patrol with responsibility for the day-to-day operation at the ground level.

Please do not hesitate to contact me if I can be of further assistance. The Office of Management and Budget has advised that there is no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew Foiss". The signature is written in a cursive, flowing style with a large initial "A".

Andrew Foiss
Assistant Attorney General

cc: Hon. Thomas A. Daschle
Minority Leader
United States Senate



U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

APR 16 1996

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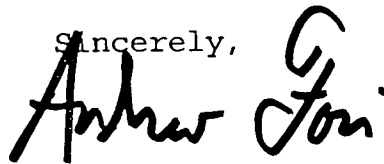
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Please do not hesitate to contact me if I can be of further assistance. The Office of Management and Budget has advised that there is no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew Foiss". The signature is stylized with a large, looped initial "A" and a cursive "Foiss".

Andrew Foiss
Assistant Attorney General

cc: Hon. Thomas A. Daschle
Minority Leader
United States Senate



**U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
200 INDEPENDENCE AVE., SW
WASHINGTON, D.C. 20201**

PHONE: (202) 690-6786

FAX: (202) 690-6351

**OFFICE OF THE ASSISTANT SECRETARY FOR LEGISLATION
CONGRESSIONAL LIAISON OFFICE
ROOM 406G HUMPHREY BUILDING**

TO: Steve Warnath

FROM: Irene B. Bueno

TE: 3/15/96

FAX NO: 456-7028

**TOTAL PAGES
INCLUDING COVER): 3**

Attached is a draft letter opposing Representative Ed Bryant's amendment to the House immigration bill and a copy of the amendment.

I sent this letter to Ingrid earlier and asked her to try to clear the letter ASAP.

Please call me if you have any questions 690-6786.

Thank you.

The Honorable Newt Gingrich
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker: (Identical letter will be sent to Minority Leader Gephardt).

The Administration opposes the amendment that may be offered by Representative Bryant of Tennessee during the House consideration of H.R. 2202, the Immigration in the National Interest Act of 1996.

While the Administration opposes undocumented immigration and supports the denial of means-tested government benefits to undocumented immigrants, the Bryant amendment would impose new requirements on health care providers and seriously jeopardize the health of many U.S. citizen and legal immigrant children, and endanger overall public health.

Under current law as well as under H.R. 2202, the only government benefits and services for which undocumented immigrants are eligible are emergency medical services, immunizations, and testing for communicable diseases. This exception is made to provide immediate protection for the seriously ill and to protect the public's health from disease that may go untreated in the community.

Under the Bryant amendment medical providers would be required to report to the Immigration and Naturalization Service (INS) identifying information regarding adult undocumented immigrants who are seeking emergency medical services.

The fundamental mission of medical providers is to serve patients and protect public health. The Bryant amendment would undermine this fundamental mission and require medical providers to act as immigration enforcement agents.

Furthermore, United States citizens or legal immigrant children who are seriously ill may not receive necessary medical services if their parents or other close relatives refrain from going to hospitals for fear of being reported to INS. For example, if a U.S. citizen child with tuberculosis was not taken to a health care facility because the child's undocumented parent is afraid of being reported to INS, then the citizen child's health as well as overall public health would be seriously threatened.

We are hopeful that the House will vote to defeat the Bryant amendment.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

Donna E. Shalala

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H.L.C.

**AMENDMENT TO H.R. 2202, AS REPORTED
OFFERED BY MR. BRYANT OF TENNESSEE**

At the end of section 604(b), add the following:
"Such procedures shall include, in the case of such an individual who is 18 years of age or older and not lawfully present in the United States, the hospital or facility promptly providing the Service with the individual's name, address, and name of employer and other identifying information that the hospital or facility may have that may assist the Service in its efforts to locate the individual."

March 8, 1995 (11:07 a.m.)



**U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
200 INDEPENDENCE AVE., SW
WASHINGTON, D.C. 20201**

PHONE: (202) 690-6786

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OFFICE OF THE ASSISTANT SECRETARY FOR LEGISLATION

**CONGRESSIONAL LIAISON OFFICE
ROOM 406G HUMPHREY BUILDING**

TO: Steve Warnath

FROM: Irene B. Bueno

DATE: 3/25/96

FAX NO: 456- 7028

**TOTAL PAGES
INCLUDING COVER): 2**

I tried to call but could not get through your line. During the Committee mark-up, the following amendments were passed:

Feinstein amendment to limit deeming until citizenship;

Kennedy amendment to allow undocumented immigrants who have been in the country for at least 3 years to receive prenatal care under emergency Medicaid. As you may recall, we met with people from California on this issue.

● **esley/Kennedy** - an amendment that would exempt nonprofit, charitable organizations from verifying and deeming requirements. Exact language on this amendment are still being worked out.

Kennedy's amendments to limit deeming to the cash-assistance and educational programs failed.

No one offered an amendment to limit the period of the legally binding affidavit of support until citizenship.

The major problems with the Senate "illegal" bill include:

- ▶ Deeming all means-test programs including Medicaid.
- ▶ Legally binding affidavit of support - binding for 40 quarters.
- ▶ Birth certificate amendment by Simpson. I would like to discuss this amendment with you.

Please call to discuss 690-6786. Thank you.

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