

KAY BAILEY HUTCHISON
TEXAS

COMMITTEES:
APPROPRIATIONS
COMMERCE, SCIENCE,
AND TRANSPORTATION
RULES AND ADMINISTRATION

United States Senate

WASHINGTON, DC 20510-4304

October 9, 1998

The Honorable Trent Lott
Majority Leader
United States Senate
Washington, D.C. 20510

Dear Trent:

We understand there may be an effort to attach legislation reorganizing the Immigration and Naturalization Service (INS) to the Omnibus Appropriations bill. We strongly oppose including this legislation in the Omnibus measure.

We support efforts to reform INS and promote greater effectiveness and efficiency within the agency. However, the proposal in question is a major reorganization of INS, including separating the agency's border patrol and law enforcement missions from its naturalization mission. This measure would have a significant impact on INS's extensive operations in our states and across the Southwest border, and should be subject to review and hearings by the Judiciary Committee and consideration by the full Senate.

Trent, we oppose including the INS reorganization measure, or any substitute measure, in the Omnibus Appropriations bill. We hope that you will work to ensure that consideration of this issue is delayed until Congress reconvenes in January, when INS reorganization can be given the full attention it deserves.

Sincerely,



Kay Bailey Hutchison



Pete V. Domenici

American Immigration Lawyers Association**Attn: Judy Golub****1400 Eye Street, N.W.****Suite 1200****Washington, D.C. 20005****Phone: (202) 216-2403****Fax: (202) 371-9449**

AILA Fax Cover Sheet

To: Elena Kagan**From: Judy Golub**

Julia Fernandez

Fax #: 456-5581**Date: 10/7/98**

Re: INS Reorganization**# of Pages: 4**

Wanted you to see the attached. Look forward to talking with you about this. We urge the White House to strongly oppose the Rogers INS reorganization plan on Commerce, Justice, State.

We also enclose the letter sent by the Senate authorizers.

October 7, 1998

The Honorable William Jefferson Clinton
The White House
Washington, DC 20500

Dear Mr. President:

The undersigned organizations strongly urge you to oppose any hasty overhaul of the current immigration system. Any reorganization of the Immigration and Naturalization Service (INS) merits much thought and discussion, as it will dramatically affect millions of people: families seeking to reunify, naturalization candidates wanting to participate in civic society, asylum applicants and refugees seeking protection from life-threatening situations, and American businesses striving to compete globally.

Any successful structural reform will require careful, bipartisan consideration, not hastily reviewed proposals that evade responsible reform. We urge Congress to step back and carefully examine the underlying issues involved in overhauling the INS. Specifically, we ask the House of Representatives to hold hearings to facilitate full bipartisan review and discussion of the challenges facing INS enforcement and service operations. These discussions would not only enable Congress to enunciate a clear and constructive plan for INS reorganization, but also build consensus on the means by which such organizational reform could be achieved.

INS reorganization is simply too important to undertake without careful bipartisan deliberation. We strongly urge you to participate in such a discussion and not allow this issue to be addressed recklessly and without sufficient review.

Sincerely,

American Immigration Information Center
American Immigration Lawyers Association
American Jewish Committee
American-Arab Anti-Discrimination Committee
Anti-Defamation League
B'nai Brith
Council of Jewish Federations
Hebrew Immigrant Aid Society
Immigration and Refugee Services of America
Lutheran Immigration and Refugee Service
Mexican American Legal Defense and Education Fund
National Asian Pacific American Legal Consortium
National Federation of Filipino American Associations
National Council of La Raza
National Immigration Forum
Organization of Chinese Americans
Unite! (Union of Needletrades, Industrial and Textile Employees, AFL-CIO, CLC)
United States Catholic Conference – National Conference of Catholic Bishops

cc: Maria Echaveste, Deputy Chief of Staff

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ORRIN G. HATCH, UTAH, CHAIRMAN

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 CHARLES E. GRASSLEY, IOWA
 ARLEN SPECTER, PENNSYLVANIA
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PATRICK J. LEAHY, VERMONT
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 ROBERT G. TORRICELLI, NEW JERSEY

MANUS GOODY, Chief Counsel and Staff Director
 SAUL A. COMEN, Minority Chief Counsel

United States Senate

COMMITTEE ON THE JUDICIARY
 WASHINGTON, DC 20510-8275

September 23, 1998

The Honorable Judd Gregg, Chairman
 The Honorable Ernest Hollings, Ranking Member
 Committee on Appropriations
 Subcommittee on Commerce, Justice, State and the Judiciary
 Washington, D.C. 20510

Dear Senators Gregg and Hollings:

We write to you keep you apprised of the Judiciary Committee's keen interest in and plans to address the structure of the Immigration and Naturalization Service. In the past years, you have granted sizable increases in appropriations to the INS in an effort to improve its functioning, and we know that you have shared many of our concerns with the Service's performance.

Last week, the Judiciary Committee, through the Subcommittee on Immigration, just completed a series of three hearings that were designed to examine the main functions of the INS. Our aim was to consider whether it might make sense to move toward reorganizing the INS. Many have increasingly come to the view that improving the INS's functions may require comprehensive restructuring and not simply continued increases in appropriations.

During the next Congress, we expect the Judiciary Committee to give full consideration to legislation that will reorganize all of the INS's functions and that will be developed after adjournment. Particular attention will likely be paid to reorganizing functions within the Department of Justice, and this could affect other entities within the Department as well.

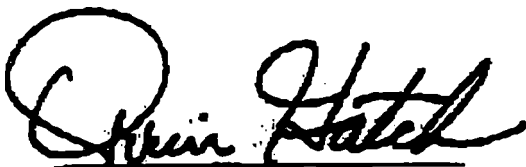
We cannot underestimate the importance or the size of this task. The INS already has more employees than a number of cabinet-level agencies, including the Department of State and the Department of Labor, and performs a wide range of law enforcement, service, and detention functions. Given the variety of functions performed by the INS, it is our view that any effective reorganization will have to reexamine in one comprehensive process all components of the agency, as well as their relationship to one another and to other components of the Department of Justice.

Because of your strong interest in the operation of the INS and the functioning of our immigration system, we are simply writing to inform you of our plans regarding this important issue within our jurisdiction. We believe it would be unwise to attempt to resolve these important, complex, and controversial issues in the brief time remaining before

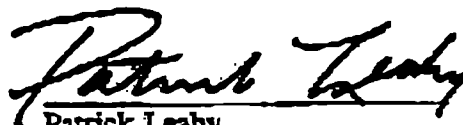
September 23, 1998
Page 2

Congress adjourns, but we look forward to working closely with you next year, and we welcome your suggestions and participation.

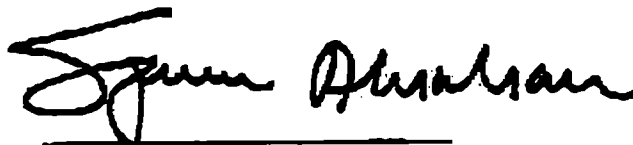
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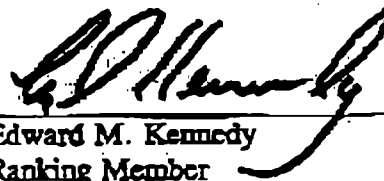
Orrin G. Hatch
Chairman



Patrick Leahy
Ranking Member



Spencer Abraham
Chairman
Subcommittee on Immigration



Edward M. Kennedy
Ranking Member

cc: The Honorable Trent Lott
The Honorable Tom Daschle
The Honorable Ted Stevens
The Honorable Robert Byrd

ORRIN G. HATCH, UTAH, CHAIRMAN

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ROBERT G. TORRICELLI, NEW JERSEY

MANUS COONEY, Chief Counsel and Staff Director
BRUCE A. COHEN, Minority Chief Counsel

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

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Subcommittee on Commerce, Justice, State and the Judiciary
Washington, D.C. 20510

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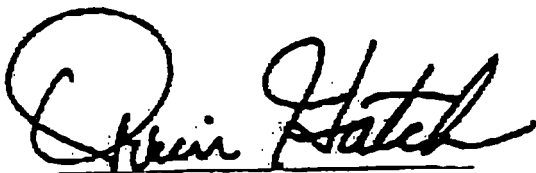
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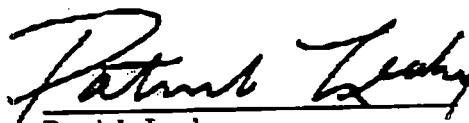
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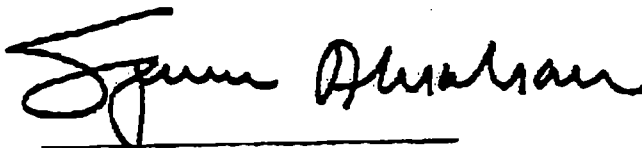
Sincerely,



Orrin G. Hatch
Chairman



Patrick Leahy
Ranking Member



Spencer Abraham
Chairman
Subcommittee on Immigration



Edward M. Kennedy
Ranking Member

cc: The Honorable Trent Lott
The Honorable Tom Daschle
The Honorable Ted Stevens
The Honorable Robert Byrd

TRANSMISSION RECORD

IMMIGRATION AND NATURALIZATION SERVICE
OFFICE OF CONGRESSIONAL RELATIONS
425 I STREET, N.W.
WASHINGTON, D.C. 20536

TO: <i>Julie Fernandez</i>	FROM: ALLEN ERENBAUM
ORGANIZATION:	TELEPHONE: (202) 514-5231
TELEPHONE:	FAX NUMBER: (202) 514-1117
FAX TELEPHONE: <i>456-5581</i>	DATE: <i>9/24/98</i>

NUMBER OF PAGES (including cover sheet):

3

COMMENT/MESSAGE:

Steven M. Mertens

09/15/98 05:12:41 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc: Ingrid M. Schroeder/OMB/EOP

Subject: FYI -- INS Markup

I talked with Alan Erenbaum about INS' strategy for House Judiciary Committee markup of the INS restructuring legislation this afternoon, and he told me that Judiciary minority staff have been told that the full Judiciary Committee does not plan to conduct any further legislative mark up hearings this session.

If this proves correct, the Rogers' INS restructuring bill is dead in the Judiciary Committee until next year. Alan also said that Congressman Berman and Watt have developed amendments to establish an Associate Attorney General for Immigration and a Bureau for Immigration Services within this structure -- and which support our key principles -- if a mark up does occur. Alan does not have a reading on whether the Committee would approve either amendment. However, nothing would prohibit Rogers from attaching the Subcommittee approved restructuring bill to the CJS appropriations in conference.

Alan also said that Senator Abraham's believes strongly that INS restructuring should be the purview of the authorizers and is/will push hard on Senator Gregg and the Senate leadership to strip any INS restructuring bill out of an appropriation bill.

Message Sent To:

Michael Deich/OMB/EOP
Julie A. Fernandes/OPD/EOP
Peter G. Jacoby/WHO/EOP
Kenneth L. Schwartz/OMB/EOP
David J. Haun/OMB/EOP



U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

August 4, 1998

The Honorable Henry J. Hyde
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

This letter provides the views of the Department of Justice on H.R. 4264, legislation to establish the Bureau of Enforcement and Border Affairs, which was introduced on July 17, 1998. The Department of Justice strongly endorses the legislation's objective of changing the Immigration and Naturalization Service's (INS) current structure in order to improve accountability and performance at the agency; however, we oppose H.R. 4264 in its current form. While we have a conceptual concern that the bill fails to create a proper balance between enforcement and service, our greatest concerns are operational. The bill does not provide an effective way to coordinate and integrate enforcement and service functions that are interdependent, and it does not allow technologies and recordkeeping that are vital to both functions to be used effectively on a daily basis.

As you know, we have invested a substantial amount of effort to develop a fundamental restructuring proposal for the INS that will enhance enforcement of the nation's immigration laws and improve the delivery of services. This proposal, which is embodied in H.R. 4363, the Immigration and Naturalization Service Restructuring Act of 1998, would untangle INS' current confusing and overlapping structure and replace it with two clear organizational chains of command -- one to accomplish its enforcement mission and the other to provide immigration-related services. The restructuring would eliminate current INS regional and district offices, and would extend from the lowest level of the agency to the highest. It will greatly improve the ability of the INS to perform its duties effectively and efficiently.

H.R. 4264 is consistent with a number of the underlying principles of the Department's approach. It recognizes that to improve performance, service and enforcement functions must be split from the ground level to the highest levels of the Department. It also acknowledges that both enforcement and administration of the immigration laws belong primarily in the Department of Justice, not other Cabinet agencies. Finally, it recognizes that the enforcement and service functions in the Department are supported by a set of shared services, including records, technology, training, and other management functions.

Despite these similarities, H.R. 4264 as introduced fails to address several critical aspects of our immigration system, omissions which could undermine our efforts to enhance accountability and results. Under the bill, there would no longer be any one person within the Federal government solely responsible for managing our immigration system on a full-time basis. By diffusing INS' current functions into two different agencies that connect only through the Office of the Attorney General, the bill weakens the coordination necessary to administer the immigration laws effectively.

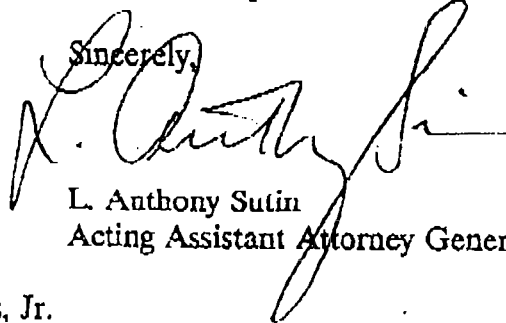
While it would seem on paper that providing that the head of the enforcement bureau report directly to the Attorney General would heighten oversight of this activity, the reality is quite different. The vast scope of responsibilities and competing priorities which ultimately reside with the Attorney General and Deputy Attorney General mean that these offices will not be able to give sufficient attention to providing the vital coordination between immigration enforcement and immigration services. The result would be weakened accountability.

This structure would also create delays in the development of policy and procedures that affect services and enforcement by forcing concurrence with a separate agency outside each agency's chain of command that has very different priorities and perspectives. The result would be weakened effectiveness. It is essential that any restructuring legislation ensure that our immigration system is managed full-time by a single high-level Department official.

H.R. 4264 also fails to take advantage of shared infrastructure -- such as records and computer systems -- and will create inefficiencies in the use of important joint systems. It would be difficult, cumbersome, and expensive to set up effective coordinating mechanisms that would provide the flexibility necessary to keep operations running smoothly. Instead, the bill should permit a separate supporting unit to provide these shared services to both the enforcement and services sides.

The Department wants to continue to work with the Committee on appropriate legislation to restructure INS in a manner which will improve effectiveness and accountability. If we may be of additional assistance, please do not hesitate to contact us. 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,



L. Anthony Sutin
Acting Assistant Attorney General

cc: The Honorable John Conyers, Jr.
Ranking Minority Member



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

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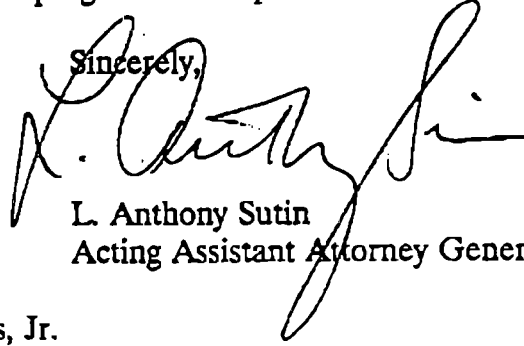
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Sincerely,



L. Anthony Sutin
Acting Assistant Attorney General

cc: The Honorable John Conyers, Jr.
Ranking Minority Member



U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

FAX COVER SHEETDATE: 8/5/98

TO:

Julie Fernandez

PHONE NO.

456-6558

FAX NO.

456-5581

FROM:

PATTY FIRST

PHONE NO.

202/514-4810

FAX NO.

202/514-9149

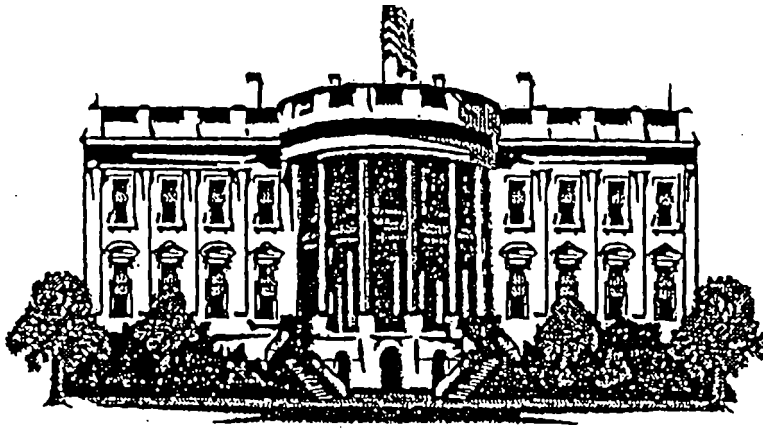
NO. OF PAGES:

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(EXCLUDING COVER)

COMMENTS:

Wanted to make sure you received
a copy of this.



THE WHITE HOUSE

Domestic Policy Council

DATE: 8/4/98

FACSIMILE FOR: Elena Kagan

PHONE: () - FAX: () -

FACSIMILE FROM: Julie Fernandez

PHONE: () - FAX: () -

NUMBER OF PAGES (INCLUDING COVER): 3

- ☐ FOR YOUR REVIEW
- ☐ PER MY E-MAIL OR VOICE-MAIL MESSAGE TO YOU
- ☐ PER YOUR REQUEST

COMMENTS: _____

08/04/98

:07

2025145231

HQCIR

Draft

The Honorable Henry Hyde
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Hyde:

Spelling

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08/04/98 15:08

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HQ CIR

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and expensive

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Sincerely,

ADD OMB
LINE

*** ACTIVITY REPORT ***

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H.R.4264

**To establish the Bureau of Enforcement and Border Affairs within the Department of Justice.
(Introduced in the House)**

SECTION 1. ESTABLISHMENT OF BUREAU OF ENFORCEMENT AND BORDER AFFAIRS.

(a) ESTABLISHMENT OF BUREAU-

(1) **IN GENERAL-** There is established in the Department of Justice a bureau to be known as the Bureau of Enforcement and Border Affairs (in this section referred to as the 'Bureau').

(2) **DIRECTOR-** The head of the Bureau shall be the Director of the Bureau of Enforcement and Border Affairs who--

(A) shall be appointed by the President, by and with the advice and consent of the Senate; and

(B) shall report directly to the Attorney General.

(3) **COMPENSATION-** The Director shall be paid at the rate of basic pay payable for level III of the Executive Schedule.

(4) **FUNCTIONS-** The Director shall perform such functions as are transferred to the Director by this section or otherwise vested in the Director by law.

(c) **TRANSFER OF FUNCTIONS-** There are transferred from the Commissioner of the Immigration and Naturalization Service to the Director all functions performed under the following programs, and all personnel, infrastructure, and funding provided to the Commissioner in support of such programs immediately before the effective date of this section:

(1) The Border Patrol program.

(2) The detention and deportation program.

(3) The intelligence program.

(4) The investigations program.

(5) The inspections program.

(d) **REFERENCES-** With respect to any function transferred by this section and exercised on or

after the effective date of this section, reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to an office from which a function is transferred by this section--

(1) to the head of such office is deemed to refer to the Director of the Bureau of Enforcement and Border Affairs; or

(2) to such office is deemed to refer to the Bureau.

(e) EXERCISE OF AUTHORITIES- Except as otherwise provided by law, a Federal official to whom a function is transferred by this section may, for purposes of performing the function, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this section.

(f) SAVINGS PROVISIONS-

(1) LEGAL DOCUMENTS- All orders, determinations, rules, regulations, permits, grants, loans, contracts, agreements, certificates, licenses, and privileges--

(A) that have been issued, made, granted, or allowed to become effective by the President, the Attorney General, the Commissioner of the Immigration and Naturalization Service, the Assistant Commissioner for Border Patrol, the Assistant Commissioner for Detention and Deportation, the Assistant Commissioner for Intelligence, the Assistant Commissioner for Investigations, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this section; and

(B) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date);

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law.

(2) PROCEEDINGS- This section shall not affect any proceedings or any application for any benefits, service, license, permit, certificate, or financial assistance pending on the effective date of this section before an office whose functions are transferred by this section, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

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U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

August 4, 1998

The Honorable Henry J. Hyde
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

This letter provides the views of the Department of Justice on H.R. 4264, legislation to establish the Bureau of Enforcement and Border Affairs, which was introduced on July 17, 1998. The Department of Justice strongly endorses the legislation's objective of changing the Immigration and Naturalization Service's (INS) current structure in order to improve accountability and performance at the agency; however, we oppose H.R. 4264 in its current form. While we have a conceptual concern that the bill fails to create a proper balance between enforcement and service, our greatest concerns are operational. The bill does not provide an effective way to coordinate and integrate enforcement and service functions that are interdependent, and it does not allow technologies and recordkeeping that are vital to both functions to be used effectively on a daily basis.

As you know, we have invested a substantial amount of effort to develop a fundamental restructuring proposal for the INS that will enhance enforcement of the nation's immigration laws and improve the delivery of services. This proposal, which is embodied in H.R. 4363, the Immigration and Naturalization Service Restructuring Act of 1998, would untangle INS' current confusing and overlapping structure and replace it with two clear organizational chains of command -- one to accomplish its enforcement mission and the other to provide immigration-related services. The restructuring would eliminate current INS regional and district offices, and would extend from the lowest level of the agency to the highest. It will greatly improve the ability of the INS to perform its duties effectively and efficiently.

H.R. 4264 is consistent with a number of the underlying principles of the Department's approach. It recognizes that to improve performance, service and enforcement functions must be split from the ground level to the highest levels of the Department. It also acknowledges that both enforcement and administration of the immigration laws belong primarily in the Department of Justice, not other Cabinet agencies. Finally, it recognizes that the enforcement and service functions in the Department are supported by a set of shared services, including records, technology, training, and other management functions.

Despite these similarities, H.R. 4264 as introduced fails to address several critical aspects of our immigration system, omissions which could undermine our efforts to enhance accountability and results. Under the bill, there would no longer be any one person within the Federal government solely responsible for managing our immigration system on a full-time basis. By diffusing INS' current functions into two different agencies that connect only through the Office of the Attorney General, the bill weakens the coordination necessary to administer the immigration laws effectively.

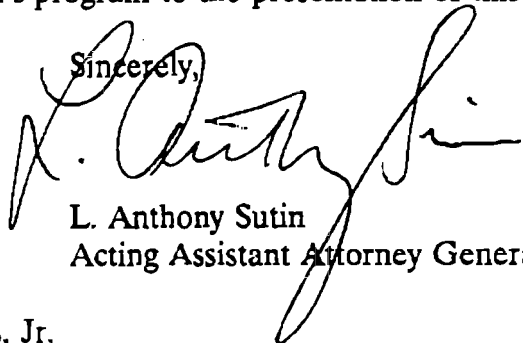
While it would seem on paper that providing that the head of the enforcement bureau report directly to the Attorney General would heighten oversight of this activity, the reality is quite different. The vast scope of responsibilities and competing priorities which ultimately reside with the Attorney General and Deputy Attorney General mean that these offices will not be able to give sufficient attention to providing the vital coordination between immigration enforcement and immigration services. The result would be weakened accountability.

This structure would also create delays in the development of policy and procedures that affect services and enforcement by forcing concurrence with a separate agency outside each agency's chain of command that has very different priorities and perspectives. The result would be weakened effectiveness. It is essential that any restructuring legislation ensure that our immigration system is managed full-time by a single high-level Department official.

H.R. 4264 also fails to take advantage of shared infrastructure -- such as records and computer systems -- and will create inefficiencies in the use of important joint systems. It would be difficult and cumbersome to set up effective coordinating mechanisms that would provide the flexibility necessary to keep operations running smoothly. Instead, the bill should permit a separate supporting unit to provide these shared services to both the enforcement and services sides.

The Department wants to continue to work with the Committee on appropriate legislation to restructure INS in a manner which will improve effectiveness and accountability. If we may be of additional assistance, please do not hesitate to contact us. 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,



L. Anthony Sutin
Acting Assistant Attorney General

cc: The Honorable John Conyers, Jr.
Ranking Minority Member

URGENT

August 4, 1998

Urgent for Julie Fernandez (sp?) 4565581 fax

From: Greg Jones, DOJ 5142113

Here's the current letter (signed but NOT sent). Markup is I believe first thing in the morning.

If possible, please try and clear w/o changes.

Thanks.!!

cc: Ingrid

URGENT



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

*Legislative Reference Division
Economics-Science-General Government Branch*

TO: Julie Farnsworth / Steve Martin
AGENCY: OPD / ONB

FROM: **JEFFREY WEINBERG**
(Tel(202)395-3457 Fax(202)395-3109)

2 PAGES FOLLOW THIS COVER SHEET

COMMENTS:

Per my e-mail, here's the
Justice Dept transmittal letter
for the INS Restructuring Act.
Please let me have your
signature/initials
Thank you.



U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

The Honorable Albert Gore
President
United States Senate
Washington, D.C. 20510

Dear Mr. President:

Enclosed herewith is a draft bill, the "Immigration and Naturalization Service Restructuring Act of 1998" which contains provisions to implement dramatic and fundamental reforms within the INS.

This bill will untangle the INS' overlapping and confusing organizational structure and replace it with two clear organizational chains of command -- one to accomplish its enforcement mission and the other to provide immigration-related services. By retaining both of these functions within a single agency, the Administration's reform plan will ensure that both the enforcement and service operations are appropriately coordinated and supported. XIn addition, this legislation will strengthen accountability and improve performance by allowing each of the two chains of command to focus on its unique requirements.

The key provision of the bill are to:

- Effect an operational split between enforcement and services, resulting in two distinct, clear lines of authority from the field to headquarters, with an INS Commissioner continuing to be responsible for overall agency operations.

The Honorable Albert Gore

Page 2

- Eliminate the current field structure in which district offices serve both enforcement and service functions, and replace it with separate enforcement and service offices that bring the right mix of staff and skills to local service caseloads and enforcement needs.
- Improve the quality of the workforce by creating separate enforcement and service career paths for INS employees, so that the best employees can move up the ladder and be rewarded for high performance.
- Restructure management operations to ensure an effective "shared services" operation (e.g., records and data management, technological support, training, and administrative support) that will serve both the enforcement and the service sides of the agency.
- Establish a Chief Financial Officer to improve financial, accounting, and budget execution systems.
- ~~Develop a new form of overtime pay within INS enforcement occupations, to achieve parity with other Federal law enforcement agencies and to minimize the use of administratively uncontrollable overtime.~~

The bill fundamentally changes the way the INS conducts business. Most important, it will greatly improve the ability of the INS to effectively and efficiently perform its duties and provide measurable changes to the immigrant community.

Senate It would be appreciated if you would lay this draft bill before the House. An identical proposal has been transmitted to the House of Representatives.

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

The Honorable Albert Gore
Page 3

We look forward to working with you and other members of Congress to implement this legislation and to ensure successful, long-term improvements in our Nation's immigration system.

Sincerely,

L. Anthony Sutin
Acting Assistant Attorney General

Attachments

cc: Honorable Trent Lott
Majority Leader

JANET MURGUIA

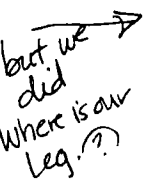
06/19/98 09:47:10 PM

Record Type: Record

To: Maria Echaveste/WHO/EOP, Julie A. Fernandes/OPD/EOP, Elena Kagan/OPD/EOP
cc: Peter G. Jacoby/WHO/EOP, Tracey E. Thornton/WHO/EOP
Subject: Re: INS reform

I spoke with Reyes, Becerra, and Guitierrez separately on this yesterday and have been in touch with Alan Erenbaum (INS/Leg). This is what I've gathered: Reyes is actually a little nervous about the reaction to the proposal but felt that Rogers was driving action on this and on him very hard in order to get it up at his Commerce, Justice, State Mark up next week. The fact is that Rep. Lamar Smith is not excited about doing this either but Rogers is really pressuring him to act before the approps. mark-up as well. So late Wednesday evening they came up with the modified Reyes proposal. Reyes told me he believes its better to go with this proposal than with the Rogers proposal and feels like he has made a significant contribution by pulling Rogers off his original bill. Becerra and Guitierrez both understand the shortcomings in Reyes' proposal but really wanted the Administration and groups to take the lead on highlighting these problems first. Reyes has actually said that he's not totally comitted to the proposal and wants to see what reaction he gets from the Administration, Hispanic Caucus and the groups. But the fact is that the most important response for him will be what the rest of the Hispanic Caucus has to say about the proposal. Becerra and Guitierrez have agreed to talk to Reyes over the weekend. I know that Peter Jacoby was also trying to ensure that Gephardt speak with Reyes to pull him off as well. We should try to meet on Monday (or earlier) both internally and with the groups. Should I set this up or do you want to? Let me know. Janet.

----- Forwarded by Janet Murguia/WHO/EOP on 06/19/98 08:26 PM -----


Maria Echaveste

06/19/98 09:49:15 AM

Record Type: Record

To: Julie A. Fernandes/OPD/EOP
cc: Janet Murguia/WHO/EOP, Peter G. Jacoby/WHO/EOP
bcc:
Subject: Re: INS reform 

Julie--thanks for the info--i just learned that markup of Smith's naturalization bill in full committee is scheduled for Tues--the groups will try to get it postponed--unclear what will happen--we need to regroup --can you find out from INS what they know and what their plan is--?
Julie A. Fernandes

► Julie A. Fernandes
06/19/98 09:45:37 AM
.....

Record Type: Record

To: Maria Echaveste/WHO/EOP

cc: Peter G. Jacoby/WHO/EOP, Elena Kagan/OPD/EOP, Janet Murguia/WHO/EOP

Subject: Re: INS reform 

Maria,

I spoke with Marisa Demeo from MALDEF late yesterday. The advocates had a conference call last night to determine next steps. All of the groups oppose the Reyes bill. When he first introduced it, he said he would add additional provisions (chiefly dealing with the services side of the operation) before it moved forward. However, as we can see, he has not done that.

The CHC is on the fence. Becerra and the rest of the caucus signed on to the original bill, and it will take a lot of convincing to persuade them not to go with Reyes. Right now, the CHC is trying to set up a meeting for today before 2pm to discuss their position. Neither Reyes nor Becerra will be in town on Monday. The groups convinced the caucus to invite INS to their meeting today so that they could be briefed on the Administration's plan and why it is better for their constituents. Becerra has indicated that if the groups can come forward with specifics about what makes the bill bad (including policy and politics), the caucus could be persuaded. Also, Reyes's staff has indicated that he might be willing to lift the Administration's proposal on services into the bill + create a Director of Services equivalent to the Director of the Bureau of Enforcement..))

According to Marisa, Smith is scheduled to mark this up on Tuesday. Rogers will then take this as a signal to allow him to make this part of his CJS appropriations package.

MALDEF is very concerned about the CHC. If they support this bill, it will really move.

Julie

INS Reform Leg.

TITLE I -- AGENCY ORGANIZATION

SEC. 101. AGENCY ORGANIZATION. -- The Immigration and Naturalization Service [the Service] shall be responsible for enforcing the immigration laws of the United States as codified in the Immigration and Nationality Act as amended. The Service will be organized in a way that ensures the effective implementation of border enforcement strategies through border management controls and the provision of immigrant services and benefits in a timely and efficient manner while safeguarding integrity. The Service will be headed by a Commissioner and a Deputy Commissioner. The Service will be structured along programmatic lines and composed of an: (1) Office of Immigrant Services, (2) Office of Enforcement Operations, and (3) Office of Shared Support Services.

(a) Headquarters Operations will be lead by a Commissioner and Deputy Commissioner who will focus on immigration enforcement and service policy and establish a framework to implement national priorities; strategic planning and developing goals, objectives and performance targets; management support and coordination; budget formulation and execution. All line management and operational authority for agency-wide support systems like finance, budget, information resource management policy, research and development and records management will be consolidated within headquarters.

(1) Chief Financial Officer -- A Chief Financial Officer is established to coordinate budget formulation, execution and agency-wide financial management operations. The CFO will be responsible for the effective and efficient management and accountability of Service resources. The CFO will coordinate the formulation and execution of the Service's budget and through a director of budget. To address the Service's diverse funding sources, the CFO will be responsible for ensuring sound agency-wide financial management through a director of finance.

(2) Strategic Planning and Statistical Measures -- A director of planning will be responsible for developing the long term-strategy for the Service and facilitating the process of designing programs to execute that strategy.

(b) The Office of Immigrant Services will be headed by a Senior Executive who will report directly to the Commissioner. The Executive Associate Commissioner for Immigrant Services will be responsible for establishing an operational chain of command dedicated solely to immigration service focusing comprehensively on providing quality, timely and efficient services to the immigrant community. The Executive Associate Commissioner (EAC) will be responsible for all aspects of INS service and benefit operations and the Office of Immigration Services will be organized around four functional goals: providing efficient, accurate benefit processing from service centers and service area operations, ensuring secure documents with uncompromising integrity, serving the refugee and asslyee population through humane and timely service and benefits and ensuring timely processing and courteous service for the immigrant community through nationally-established customer service standards. The responsibilities and duties include:

(1) Service Center Operations -- Service center operations will include automated assembly-line processing for all applications and petitions that do not require immigrant interviews. In addition, the service centers will provide front-end fee receipt, data entry and scheduling for all applications and petitions that require interviews. The EAC will be responsible for the collection of all management reporting information relative to the service centers, for budget formulation and execution for the service centers budgets, for ensuring the accuracy and quality control of the adjudication of benefits at the service centers, for all employee hiring and grievance issues at the centers and for monitoring and overseeing and executing the mail file and data entry contracts. Additionally, the EAC is responsible for coordinating with the Office of Shared Support Services for the effective acquisition and utilization of shared support items including ADP, financial management controls, facility construction, etc.

(2) Service Area Operations -- Service area operations will be located in immigrant communities around the United States. The EAC will be responsible for ensuring that these offices provide efficient and effective service, while maintaining the integrity of application processing. These offices will provide information to applicants, take fingerprints and photographs, test applicant for benefits where necessary, and interview aliens, as required by law. Some offices will be configured as full-service offices and others will serve as satellite locations. All will have a standard "look and feel" with clear signs, comfortable waiting rooms, evening and weekend hours, and other customer-friendly features. The EAC will be responsible for effectively operating these decentralized offices, maintaining performance measures for the activities that take place therein.

(3) Foreign Operations -- The EAC will be responsible for all overseas operations involving benefits processing and overseas enforcement of the immigration laws of the United States. All foreign activities will be monitored and overseen by the EAC for Immigrant Services, including refugee, and asylee processing, and addressing international anti-terrorism and enforcement efforts.

(4) Telephone Center Operations -- INS will operate a coordinate telephone answering system to respond to customer inquiries. The EAC for Immigrant Services will be responsible for designing and operating a telephone system that relies on all assets of the INS to ensure that customer inquiries are promptly and accurately addressed. This will include operating the telephone centers in the Eastern and Western regions, any contract call answering facilities, and utilizing an overflow telephone call answering capacity designed to access information officers at the service centers and service area offices as needed.

(c) The Office of Enforcement Operations will be headed by a Senior Executive who will report directly to the Commissioner. This Executive Associate Commissioner (EAC) for Enforcement will be responsible for establishing an operational chain of command dedicated solely to immigration enforcement, focusing comprehensively on illegal immigration problems at the border, and ensuring better linkages with interior enforcement through a single point of accountability for performance. The EAC will be responsible for all aspects of INS enforcement and border management operations and be organized around four functional goals: managing the

border; conducting inspections and managing all ports of entry; overseeing investigations and removals; and detention. The responsibilities and duties will include:

(1) Border Management -- The Border Patrol will perform its current border management and control functions of deterring illegal immigration, apprehending illegal aliens, between ports of entry. In addition, the Patrol will continue to work with local law enforcement agencies and other Federal law enforcement agencies to carry out laws relative to drug trafficking, and minimizing local criminal alien activities. Port of Entry Management is a key component of border management due to the interrelationship between activities at and between land border ports of entry. Aliens attempting illegal entry will be swiftly apprehended and removed from the United States. The EAC will be operationally responsible for carrying out these duties in compliance with applicable law and policy and will be responsible for effectively monitoring resource utilization and maintaining accurate performance measures of these activities. By restructuring both Border Patrol and Inspections activities under a single EAC INS will be able to provide seamless border enforcement both between and at ports of entry nationwide.

(2) Interior Enforcement and Removals -- The EAC will be responsible for restructuring investigators, intelligence officers and deportation officers into one multi-disciplinary component to focus on removals and to vigorously combat immigration fraud, smuggling and illegal employment in the workplace.

(3) Detention and Enforcement Support -- The EAC will be responsible for ensuring logistical coordination for the incarceration and transportation of criminal and illegal aliens. The EAC will be responsible for effectively managing INS' bed spaces at both, INS-owned and contract detention facilities. Additionally, this EAC will be responsible for effectively acquiring bedspaces from state and local entities as well to ensure that INS can properly execute its law enforcement responsibilities.

(d) The Office of Shared Support Services will be headed by a Senior Executive who will report directly to the Commissioner. This Executive Associate Commissioner (EAC) for Shared Support Services will be responsible for establishing an operational chain of command dedicated to meeting the enforcement and services support requirements of all INS operational components. The Executive Associate Commissioner of the Office of Share Support Services will be responsible for the effective provision of INS shared administrative and support services and ensuring that each side of the agency has the appropriate administrative and technological tools to do its jobs in the most effective and cost-efficient way. The EAC will accomplish this through four functional goals: establishing and maintaining a records management system that will accurately and efficiently document immigrant status, ensure information and enforcement technology enhancements and initiatives are developed, implemented and maintained to operational component specifications and managing the border; inspections and management at ports of entry; investigations and removals; and detention. The responsibilities and duties will include:

(1) Automation and Technology -- the EAC will be responsible for ensuring that INS operates state of the art information resources capability to carry out its enforcement and service functions. Additionally, this EAC will be responsible for deploying and monitoring technology and ensuring that the INS workforce operates as effectively as possible with these tools. The EAC will also establish and promulgate agency-wide policy relative to the acquisition and deployment of technology capabilities in coordinating with the operational components of INS.

(2) Centralized Records Management -- the EAC will be responsible for maintaining a centralized repository of all INS records and will be responsible for the effective transition from paper to automated files. INS' records are the foundation of its work -- whether in law enforcement or the provision of services to the immigrant community. This centralized capability will provide the foundation and potentially the site for the Law Enforcement Support Center once all alien files are accessible and accurately accounted for.

(3) Personnel and Training -- the EAC will be responsible for tracking and hiring all categories of INS personnel and ensuring that all are properly trained in a timely manner. Specialized training courses and a full spectrum of basic, advanced, and continuing education will be established. Records ensuring that all employees received requisite training will be maintained by this office. The responsibility for recruiting, hiring and promulgating all related personnel information will reside with this EAC.

(4) Facilities Management -- the EAC will be responsible for coordinating with the operational branches of INS to plan and construct all required facilities.

A BILL

1
2 To provide for the restructuring of the Immigration and Naturalization Service, and for other
3 purposes.

4
5 *Be it enacted by the Senate and House of Representatives of the United States of America in Congress*
6 *assembled,*

7
8 SECTION 1. SHORT TITLE.—This Act may be cited as the "Immigration and Naturalization
9 Service Restructuring Act of 1998".

10
11 SECTION 2. PURPOSES.—The purposes of this Act are to—

12
13 (a) Advance the effective enforcement of our immigration laws at our borders and in the
14 interior, and the efficient provision of immigration and citizenship services.

15
16 (b) Untangle INS' overlapping and frequently confusing organization structure by
17 replacing it with two clear organizational chains of command—one for its enforcement mission
18 and one for providing services—from the highest level of the agency to the lowest.

19
20 (c) Create two organizations which can each focus on its unique management,
21 knowledge, skills and abilities, while also retaining the essential functions for coordinating these
22 operations.

23
24 (d) Improve customer-oriented immigrant services by:

25
26 (1) Creating new local service offices;

27
28 (2) Establishing accountability and clear lines of authority;

29
30 (3) Setting clear standards for customer service; and,

31
32 (4) Using technology to improve efficiency and customer service.

33
34 (e) Strengthen enforcement operations by:

35
36 (1) Establishing a single, coordinated enforcement function;

37
38 (2) Integrating enforcement and strengthening accountability; and,

39
40 (3) Organizing enforcement areas by function, including Border Patrol,
41 inspections, investigations and removals, detention, and enforcement support.

42
43 (f) Provide for efficient integration of service and enforcement by:

1 (1) Creating an administrative and technical backbone of support for enforcement
2 and service; and,

3
4 (2) Managing essential immigration records, developing computer systems,
5 providing training and sharing administrative functions.
6

7
8 SECTION 3. DEFINITIONS.—For purposes of this Act, the following definitions shall apply—

9
10 (a) the term "INA" refers to the Immigration and Nationality Act of 1952, as amended
11 up to the effective date of this Act.

12
13 (b) the term "INS" means the Immigration and Naturalization Service.
14

15
16 SECTION 4. EFFECTIVE DATE.—Except as otherwise provided by this Act, this Act shall take
17 effect on October 1, 2000.
18

19 TITLE I—AGENCY ORGANIZATION

20
21
22 SEC. 101. AGENCY ORGANIZATION.—The Immigration and Naturalization Service shall be
23 composed of the following components.
24

25 (a) Headquarters will consist of functional units responsible for providing advice and
26 guidance directly to the Office of the Commissioner. These functions will include internal
27 audit, general counsel, public affairs, congressional relations, a chief financial officer, and strategy
28 and planning.
29

30 (b) The Office of Immigrant Services will be headed by a Senior Executive who will
31 report directly to the Office of the Commissioner. Immigrant Services will encompass all
32 aspects of INS service operations and will consist of two broad components. Benefits Service
33 Areas will be responsible for functions that are community based and require personal contact
34 with the public. Examples of such functions are interviewing naturalization candidates,
35 naturalization testing, oath administration, and fingerprinting. Remote Services will be
36 responsible for those activities which benefit from economies of scale, can be performed from a
37 remote location, and require consistency in execution. These include application intake, record
38 creation, application preprocessing, adjudication of some applications (including extensions of
39 stays and employment authorizations), and telephone center operations.
40

41 (c) The Office of Enforcement Operations will be headed by a Senior Executive who will
42 report directly to the Office of the Commissioner. Enforcement Operations will encompass all
43 activities relating to the enforcement of immigration laws, including border patrol, inspections,
44 investigations and removals, and detention and enforcement support.
45

1 (d) Shared Support will encompass functions that support both immigrant services and
2 enforcement operations. These functions will include records, information resources
3 management, training, human resources, equal employment opportunity, and administrative
4 support.

5
6
7 SEC. 102. SAVINGS PROVISIONS

8
9 (a) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants,
10 loans, contracts, agreements, certificates, licenses, and privileges—

11
12 (1) that have been issued, made, granted, or allowed to become effective by the
13 President, the Attorney General, the Commissioner of the INS, or any other
14 Government official, or by a court of competent jurisdiction, in the performance of any
15 function that is transferred; and

16
17 (2) that are in effect on the effective date of such transfer (or become effective after
18 such date pursuant to their terms as in effect on such effective date);

19
20 shall continue in effect according to their terms until modified, terminated, superseded, set aside,
21 or revoked in accordance with law by the President, any other authorization official, a court of
22 competent jurisdiction, or operation of law.

23
24 (b) Proceedings.—This Act shall not affect any proceedings and any application for any
25 benefits, service, license, permit, certificate, or financial assistance pending on the date of the
26 enactment of this Act before an office whose functions are transferred by this Act, but such
27 proceedings and applications shall be continued. Orders shall be issued in such proceedings,
28 appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this
29 Act had not been enacted, and orders issued in any such proceeding shall continue in effect until
30 modified, terminated, superseded, or revoked by a duly authorized official, by a court of
31 competent jurisdiction, or by operation of law. Nothing in this subsection shall be considered
32 to prohibit the discontinuance or modification of any such proceeding under the same terms and
33 conditions and to the same extent that such proceeding could have been discontinued or
34 modified if this Act had not been enacted.

35
36 (c) SUITS.—This Act shall not affect suits commenced before the date of the enactment of
37 this Act, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in
38 the same manner and with the same effect as if this Act had not been enacted.

39
40 (d) Nonabatement of Actions.—No suit, action, or other proceeding commenced by or
41 against the Department of Justice or the Immigration and Naturalization Service, or by or
42 against any individual in the official capacity of such individual as an officer or employee in
43 connection with a function transferred by the Act, shall abate by reason of the enactment of this
44 Act.

45

1 (e) Continuance of Suits.—If any Government officer in the official capacity of such
2 officer is party to a suit with respect to a function of the officer, and under this Act such
3 function is transferred to any other officer or office, then such suit shall be continued with the
4 other officer or the head of such other office, as applicable, substituted or added as a party.

5
6 (f) Administrative Procedure and Judicial Review.—Except as otherwise provided by this
7 Act, any statutory requirements relating to notice, hearings, action upon the record, or
8 administrative or judicial review that apply to any function transferred by this Act shall apply to
9 the exercise of such function by the head of the office, and other officers of the office, to which
10 such function is transferred by this Act.

11 12 TITLE II—IMMIGRATION OFFICER COMPENSATION

13
14
15 SECTION 201. (a) IN GENERAL.— Section 1 of the Act of March 2, 1931 (8 U.S.C. §
16 1353a) is amended to read as follows:

17 "EXTRA COMPENSATION: OVERTIME AND PREMIUM PAY FOR 18 IMMIGRATION INSPECTORS

19 "(a) EXTRA COMPENSATION.—

20
21
22 Immigration inspectors shall be allowed extra compensation for overtime services and
23 services at night or on Sundays and holidays to perform immigration examination, inspection or
24 preinspection duties in connection with any person arriving or landing in or departing to the
25 United States at the rate specified herein.

26 27 28 "(b) OVERTIME PAY.—

29
30 "(1) IN GENERAL.— Subject to paragraph (2) and subsection (d) an immigration
31 inspector who is officially assigned to perform work in excess of 40 hours in the administrative
32 workweek of the inspector or in excess of 8 hours in a day or for an immigration inspector
33 under a compressed work schedule in excess of the number of hours of the compressed work
34 schedule shall be compensated for that work at an hourly rate of pay that is equal to 2 times the
35 hourly rate of the basic pay of the inspector. Overtime pay provided under this subsection shall
36 not be paid to any inspector unless such inspector actually performs work during the time
37 corresponding to such overtime pay. For purposes of this paragraph, the hourly rate of basic
38 pay for an immigration inspector does not include any premium pay provided for under
39 subsection (c).

40 41 "(2) SPECIAL PROVISIONS RELATING TO OVERTIME WORK ON CALLBACK 42 BASIS.—

43
44 "(A) MINIMUM DURATION.— Any work for which compensation is
45 authorized under paragraph (1) and for which the immigration inspector is required to return to

1 the inspector's place of work shall be treated as being not less than 2 hours in duration; but only
2 if such work begins at least 1 hour after the end of any previous regularly scheduled work
3 assignment and ends at least 1 hour before the beginning of the following regularly scheduled
4 work assignment.

5
6 **"(B) COMPENSATION FOR COMMUTING TIME.-**

7
8 **"(i) IN GENERAL.-** Except as provided in clause (ii), in addition to the
9 compensation authorized under paragraph (b)(1) for work to which subparagraph
10 (2)(A) applies, the immigration inspector is entitled to be paid, as compensation
11 for commuting time, an amount equal to 3 times the hourly rate of base pay for
12 the immigration inspector.

13
14 **"(ii) EXCEPTION.-** Compensation for commuting time is not payable
15 under clause (i) if the work for which compensation is authorized under
16 paragraph (1)-

17
18 **"(I) does not commence** within 16 hours of the immigration
19 inspector's last regularly scheduled work assignment, or

20
21 **"(II) commences** within 2 hours of the next regularly scheduled
22 work assignment of the immigration inspector.

23
24 **"(c) PREMIUM PAY FOR IMMIGRATION INSPECTORS.-**

25
26 **"(1) NIGHT WORK DIFFERENTIAL.-**

27
28 **"(A) 6 P.M. to MIDNIGHT.-** If the hours of regularly scheduled work of an
29 immigration inspector occur during the period beginning at 6 p.m. and ending at 12 a.m., the
30 inspector is entitled to pay for the actual hours worked during such period (except for work to
31 which paragraph (2) or (3) applies) at the inspector's hourly rate of basic pay plus premium pay
32 amounting to 15 percent of that basic rate.

33
34 **"(B) MIDNIGHT to 8 A.M.-** If the hours of regularly scheduled work of an
35 immigration inspector occur during the period beginning at 12 a.m. and ending at 8 a.m., the
36 inspector is entitled to pay for the actual hours worked during such period (except for work to
37 which paragraph (2) or (3) applies) at the inspector's hourly rate of basic pay plus premium pay
38 amounting to 20 percent of that basic rate.

39
40 **"(2) SUNDAY DIFFERENTIAL.-** An immigration inspector who performs any
41 regularly scheduled work on a Sunday that is not a holiday is entitled to pay for the hours
42 worked between 12:01 a.m. and 12 Midnight at the inspector's hourly rate of basic pay plus
43 premium pay amounting to 50 percent of that basic rate for that Sunday work that is not in
44 excess of 8 hours, or for an employee on a compressed work schedule for that Sunday work that
45 is not in excess of the employee's compressed work schedule for that day.

1 "(3) HOLIDAY DIFFERENTIAL.- An immigration inspector who performs any
2 regularly scheduled work on a holiday is entitled to pay for that work at the inspector's hourly
3 rate of basic pay plus premium pay amounting to 100 percent of that basic rate for that holiday
4 work that is not in excess of 8 hours, or for an employee on a compressed work schedule for
5 that holiday work that is not in excess of the employee's compressed work schedule for that day.

6
7 "(4) PAYMENT OF PREMIUM PAY DIFFERENTIALS.- Premium pay provided
8 under this section shall be paid only for actual nonovertime work performed during the periods
9 for which the differentials are authorized. An Immigration Inspector shall receive payment for
10 only one of the differentials for any one given period of work. The order of precedence for the
11 payment of premium pay differentials is holiday, Sunday, and night work.

12
13 "(5) TREATMENT OF PREMIUM PAY.- Premium pay provided for under this
14 subsection shall not be treated as basic pay for any purpose, nor shall it be used in calculating
15 lump sum annual leave payments in accordance with sections 5551 and 5552 of title 5, United
16 States Code.

17
18 "(d) LIMITATIONS.-

19
20 "(1) CALENDAR YEAR CAP.- The aggregate of overtime pay under subsection (b)
21 (including commuting compensation under subsection (b)(2)(B)) that an immigration inspector
22 may be paid in any calendar year may not exceed any limitation established by law, except that-

23
24 "(A) the Commissioner of the Immigration and Naturalization Service or her
25 designee may waive this limitation in individual cases in order to prevent excessive costs or to
26 meet emergency requirements of the Immigration and Naturalization Service. This authority
27 may not be delegated below the Deputy Commissioner of the Immigration and Naturalization
28 Service, and

29
30 "(B) the Commissioner is authorized to pay any immigration inspector for one
31 assignment that would result in the overtime pay of that inspector exceeding any statutory
32 limitation established by law, in addition to any overtime pay that may be received pursuant to a
33 waiver under subparagraph (A).

34
35 "(2) EXCLUSIVITY OF PAY UNDER THIS SECTION.- An immigration inspector
36 who receives overtime pay under subsection (b) or premium pay under subsection (c) for time
37 worked shall not receive pay or other compensation for that work under any other provision of
38 law.

39
40 "(e) REGULATIONS.- The Attorney General shall promulgate regulations to prevent-

41
42 "(1) the abuse of callback work assignments and commuting time compensation
43 authorized under subsection (b)(2); and

44
45 "(2) the disproportionately more frequent assignment of overtime work to immigration

1 inspectors who are near to retirement.

2

3 "(f) DEFINITIONS.- As used in this section:

4

5 "(1) The term 'immigration inspector' means an individual whose position of
6 record is that of an 'Immigration Inspector' or 'Supervisory Immigration Inspector,' consistent
7 with such applicable standards as may be promulgated by the Office of Personnel Management
8 and the Attorney General, with the exception of those Immigration Inspectors and Supervisory
9 Immigration Inspectors meeting the definition of a law enforcement officer under section
10 5541(3) of title 5, United States Code.

11

12 "(2) The 'term holiday' means any day designated as a holiday under a Federal
13 statute or Executive Order."

14

15 (b) NECESSARY CONFORMING AMENDMENTS.-

16

17 (1) Section 2 of the Act of 1931 (8 U.S.C. § 1353b) is amended to read as follows:

18

19 "It shall be the duty of the master, owner, agent or consignee of a vessel, aircraft or other
20 conveyance arriving or landing in or departing to the United States from foreign
21 territory to reimburse the Attorney General for any extra compensation paid to
22 immigration inspectors pursuant to section 1353a of this title. Such compensation shall
23 be paid if such immigration inspectors have been ordered to report for duty and have so
24 reported whether immigration examination, inspection or preinspection services are
25 actually performed or not: Provided, That this section shall not apply to the provision of
26 immigration examination, inspection or preinspection services to passengers arriving by
27 international ferries, bridges, or tunnels, or by aircraft, railroad trains, or vessels on the
28 Great Lakes and connecting waterways, when operating on regular schedules. The
29 Attorney General shall promulgate regulations that establish the rate(s) at which the
30 master, owner, agent or consignee of a vessel, aircraft or other conveyance shall be billed
31 at a level that will ensure the recovery of the full cost of any extra compensation paid to
32 immigration inspectors pursuant to section 1353a of this title. Notwithstanding section
33 80503 of Title 49, the owner, operator, or agent of a private aircraft or private vessel shall
34 reimburse the Attorney General for the full cost of any extra compensation paid to
35 immigration inspectors pursuant to section 1353a of this title."

36

37 (2) Section 1 of the Act of March 4, 1921 (8 U.S.C. §1353c) is amended to read as
38 follows:

39

40 "Nothing in section 209 of Title 18 of the United States Code, relative to the augmenting
41 of salaries of officers and employees of the executive branch of the United States
42 government from non-United States Government sources shall prevent the Attorney
43 General from receiving reimbursements for extra compensation for overtime services and
44 services at night or on Sundays and holidays incident to the immigration examination,
45 inspection or preinspection of persons arriving or landing in or departing to the United

1 States. Such reimbursements shall be deposited as offsetting receipts in the Immigration
2 User Fee Account to remain available until expended."

3
4 (3) Section 1353d of title 8 (8 U.S.C. 1353d) is repealed.

5
6 (4) Section 286(h)(1) of the Immigration and Nationality Act (8 U.S.C. 1356(h)(1)) is
7 amended by adding a new subparagraph (C) to read as follows:

8
9 "(C) Notwithstanding any other provision of law, all reimbursements received pursuant
10 to section 1353b of this title for extra compensation paid to immigration inspectors
11 pursuant to section 1353a of this title shall be deposited in the Immigration User Fee
12 Account."

13
14 (c) EFFECTIVE DATE.— The amendments made by paragraphs (a) and (b) shall apply to
15 immigration inspectional services provided on or after the first day of the first applicable pay
16 period beginning 180 days following the date of enactment of this Act.

17
18 (d) ADDITIONAL BENEFITS FOR IMMIGRATION INSPECTORS.—

19
20 (1) TREATMENT OF CERTAIN PAY FOR RETIREMENT PURPOSES.—

21
22 Section 8331(3) of title 5, United States Code, is amended—

23
24 (A) by striking out "and" at the end of subparagraph (D);

25
26 (B) by striking out the semicolon at the end of subparagraph (E) and
27 inserting "; and";

28
29 (C) by adding after subparagraph (E) the following:

30
31 "(F) with respect to a immigration inspector (referred to in subsection
32 (f)(1) of section 1 of the Act of March 2, 1931), compensation for overtime inspectional services
33 provided for under subsection (b) of such section 1, but not to exceed 50 percent of any statutory
34 maximum in overtime pay for immigration inspectors which is in effect for the calendar year
35 involved;" and

36
37 (D) by striking out "subparagraphs (B), (C), (D), and (E) of this
38 paragraph," and inserting "subparagraphs (B), (C), (D), (E), and (F) of this paragraph".

39
40 (2) FOREIGN LANGUAGE PROFICIENCY AWARDS.— Cash awards for foreign
41 language proficiency may, under regulations prescribed by the Attorney General, be paid
42 to immigration inspectors (as referred to in section 1(f)(1) of the Act of March 2, 1931)
43 for languages other than those for which a formal course of instruction is provided by the
44 Immigration and Naturalization Service for continued employment in the position or for
45 which proficiency is a condition of employment. Such awards may be paid to the same

1 extent and in the same manner as would be allowable under subchapter III of chapter 45
2 of title 5, United States Code, with respect to law enforcement officers (as defined by
3 section 4521 of such title).

4
5 (e) EFFECTIVE DATE.- The amendments made by paragraph (d) shall take effect on the first
6 day of the first applicable pay period beginning 180 days following the date of enactment of this
7 Act, and apply only with respect to service performed on or after such date.

8
9 SECTION 202. FUNDING.- For the purposes of carrying out this Act, additional funding to
10 compensate inspectors within the Immigration and Naturalization Service Salaries and Expenses
11 Account shall be subject to appropriation. For inspectors funded with offsetting collections, this
12 Act shall not impact the level of planned obligations as depicted in the President's Fiscal Year
13 1999 Budget. Given the following receipt levels, offsetting collections credited to the
14 Immigration and Naturalization Service shall not exceed the following:

Fiscal Year	Offsetting Receipts	Obligations
1999	\$1,426,000,000	\$1,463,000,000
2000	\$1,417,000,000	\$1,227,000,000
2001	\$1,429,000,000	\$1,272,000,000
2002	\$1,447,000,000	\$1,319,000,000
2003	\$1,437,000,000	\$1,319,000,000

23 TITLE III—CONFORMING AMENDMENTS

26 SEC. 301. CONFORMING AMENDMENTS.

27
28 (a) Section 103(e)(2) of the INA, 8 U.S.C. section 1103(e)(2), is amended by striking
29 "district office of the Service" and inserting "designated office of the Immigration and
30 Naturalization Service".

31
32 (b) Section 242(b)(3)(A) of the INA, 8 U.S.C. section 1252(b)(3)(A), is amended by
33 striking "Service district" and inserting "designated office of the Immigration and Naturalization
34 Service".

35
36 (c) Section 316 of the INA, 8 U.S.C. section 1427, is amended—

37
38 (1) in section (a) by striking "district of the Service" and inserting "area serviced
39 by the designated office of the Immigration and Naturalization Service"; and

40
41 (2) in section (f)(1) by striking "district of the Service" and inserting "area serviced
42 by the designated office of the Immigration and Naturalization Service".

43
44 (d) Section 319 of the INA, 8 U.S.C. section 1430, is amended—
45

1 (1) in section (a) by striking "district of the Service" and inserting "area serviced
2 by the designated office of the Immigration and Naturalization Service";

3 (2) in section (b)(3) by striking "district of the Service" and inserting "area serviced
4 by the designated office of the Immigration and Naturalization Service";

5 (3) in section (c)(5) by striking "district of the Service" and inserting "area serviced
6 by the designated office of the Immigration and Naturalization Service"; and

7 (4) in section (d) by striking "district of the Service" and inserting "area serviced
8 by the designated office of the Immigration and Naturalization Service".

9 (e) Section 324 of the INA, 8 U.S.C. section 1435(a)(1), is amended by striking "district of
10 the Service" and inserting "area serviced by the designated office of the Immigration and
11 Naturalization Service".

12 (f) Section 328 of the INA, 8 U.S.C. section 1439, is amended—

13 (1) in section (a) by striking "district of the Service" and inserting "area serviced
14 by the designated office of the Immigration and Naturalization Service";

15 (2) in section (b)(1) by striking "district of the Service" and inserting "area serviced
16 by the designated office of the Immigration and Naturalization Service"; and

17 (3) in section (c) by striking "district of the Service" and inserting "area serviced
18 by the designated office of the Immigration and Naturalization Service".

19 (g) Section 329(b)(2) of the INA, 8 U.S.C. section 1440(b)(2), is amended by striking
20 "district of the Service" and inserting "area serviced by the designated office of the Immigration
21 and Naturalization Service".

22 (h) Section 335(f) of the INA, 8 U.S.C. section 1446(f), is amended by striking "district of
23 the Service" each time the phrase appears and inserting "area serviced by the designated office of
24 the Immigration and Naturalization Service".

25 (i) Section 338 of the INA, 8 U.S.C. section 1449, is amended by striking "district office
26 of the Service" and inserting "designated office of the Immigration and Naturalization Service".

27 (j) Section 339(b) of the INA, 8 U.S.C. section 1450(b), is amended by striking "district
28 office of the Service" and inserting "designated office of the Immigration and Naturalization
29 Service".

30 (k) Section 404 of the INA, 8 U.S.C. section 1101, note, is amended—

31 (1) in section (b)(2)(A)(i) by striking "a district director of the Service" and
32 inserting "a designated Immigration and Naturalization Service officer"; and

1
2 (2) in (b)(2)(A)(iii) by striking "in a district" and inserting "in a designated office of
3 the Immigration and Naturalization Service".
4
5

Section-by-Section Analysis of the "Immigration and Naturalization Service Restructuring Act of 1998."

Background

America has always been a nation of immigrants. Significant progress has been made in improving the Nation's immigration system. Over the last five years, illegal immigration has been curtailed through tougher border control, a badly abused asylum system has been reformed, and a record numbers of criminal and other aliens have been removed. While important progress has been made, recent changes in the breadth and scope of the Immigration and Naturalization Service's mission require a rethinking of its structure.

In its final report to Congress last fall, the Commission on Immigration Reform (CIR) called for significant reform to our Nation's immigration system. The major thrust of the CIR's proposed reform was to dismantle the INS and to parcel out its immigration functions to the Departments of Justice, State and Labor.

In response to CIR's recommendations, the President asked the Domestic Policy Council (DPC) to "evaluate carefully the [CIR] proposal and other reform options designed to improve the executive branch's administration of the Nation's immigration laws." In conducting this review, the DPC, working closely with the Office of Management and Budget, consulted with the Departments of Justice, Labor, and State, CIR staff, immigration experts and advocacy groups, and other White House offices, including the National Security Council. This review examined organizational and restructuring options including those formulated by the CIR and members of Congress. From this effort, a new framework for reform was established, and the Justice Department contracted with a management consulting firm to provide an independent assessment of structural options and assisted in developing a framework.

The DPC review process concluded that the CIR report correctly diagnosed many of INS' longstanding problems - insufficient accountability between field offices and headquarters, lack of consistency, need for greater professionalism, overlapping organizational relationships, and significant management weaknesses. These problems have hampered the INS' ability to effectively enforce our immigration laws both at our borders and in the interior, and to efficiently provide immigration and citizenship services. Improving the ability of the INS to pursue these critical priorities must be the goal of any restructuring.

General description of the amendments

The most effective way to remedy the issues identified by the DPC review is to implement dramatic and fundamental reforms within the INS. The reforms to be implemented will untangle INS' overlapping and frequently confusing organizational structure and replace it with two clear organization chains of command - one for

accomplishing its enforcement mission and one for providing services. Each operation will be headed by an Executive Associate Commissioner (EAC) who will report directly to the Commissioner through the Deputy Commissioner.

The reorganization will eliminate the current field structure in which regional district offices serve both enforcement and service functions and replace it with separate enforcement and service offices that bring the right mix of staff and skills to local service caseload and enforcement efficiency and effectiveness. The reorganization will allow each operation to focus on its unique management, knowledge, skills, and abilities, while also retaining the essential functions for coordinating these operations.

The new immigration services operation will locate new service offices in immigrant communities around the country. These offices will focus on providing efficient and effective service, while maintaining the integrity of application processing. The offices will provide a range of services, including: providing information to applicants, taking fingerprints and photographs, testing, and interviewing. Depending on community needs, some offices will be configured as full-service centers and others will serve as satellite locations to perform specific functions. These new service facilities will have a standard "look and feel" with clear signs, comfortable waiting rooms, evening and weekend hours, and other customer-friendly features.

The reorganization will create an operational chain of command dedicated solely to immigration enforcement, focus comprehensively on illegal immigration problems at the border, and establish better linkages with interior enforcement through a single point of accountability for performance. This approach will strengthen professionalism and improve results. This structure also will ensure priorities are shared and allow close coordination of day-to-day operations among each enforcement discipline. The new enforcement operations areas will combine all functions related to the enforcement of immigration laws. Each enforcement area will be organized according to four functions, and led by a single director. The Area Enforcement Director will report directly to the Executive Associate Commissioner for Enforcement.

The shared support operation (e.g., records and data management, technological support, employee relations, and administrative support) will serve as the administrative and technological backbone upon which both enforcement and service operations depend under the new framework. Under the reorganization, each side of the agency will have the appropriate administrative and technological tools to do its job in the most efficient and cost-effective way. These tools will range from new computer software systems that are "user friendly" for enforcement agents and service officers, to appropriate training to strengthen professionalism.

Pay Reform

In 1992, the United States Customs Service sought legislation to reform the

overtime pay for Customs Inspectors. The Customs Officer Pay Reform Act of 1993 (COPRA) was enacted as part of the Omnibus Budget Reconciliation Act of 1993, P.L. 103-66. It significantly changed overtime pay for Customs Officers. Under the provisions of COPRA, overtime for Customs Officers (defined as Customs Inspectors and Canine Enforcement Officers) is paid at 2 times basic pay for actual hours worked, officers are paid substantial differentials for night work, and an officer's overtime up to one-half the statutory pay cap is considered basic pay for retirement purposes. This legislation amends the provisions under which Immigration Inspectors in the Immigration and Naturalization Service (INS) are currently paid overtime, Sunday, and holiday pay to afford Immigration Inspectors the same pay that Customs Inspectors are currently receiving, with minimal changes to reduce the cost of providing such pay and retirement benefits while at the same time paying premium pay to such Inspectors for actual hours worked.

The Customs Service and the INS share jurisdiction over Ports-of-Entry. Inspection of cross-border traffic has been parceled out statutorily by subject matter: the Customs Service is responsible for cargo (clearing the entry of goods and merchandise) while the INS is responsible for persons (screening travelers seeking admission into the United States). Under current law, both agencies are cross-designated to enforce each other's respective areas of laws and are cross-designated to enforce Federal drug laws. Consequently, INS Inspectors, like their Customs counterparts, interdict inadmissible aliens, contraband, and drugs. However, INS Inspectors and Customs Officers are paid premium pay and overtime pay under two significantly different pay systems, often for performing the same duties.

The current rules regulating INS Immigration Inspector overtime compensation date to 1931, a time when international travel occurred solely by sea and when actual arrival times varied by several hours. This is no longer the case since the vast majority of inspections can be scheduled with relative precision. Nonetheless, the international nature of the Inspectors work, particularly in light of the rapid increases in air travel, requires that the Inspections staff be fully deployed on a full seven day - 24 hour basis. The judicious use of overtime to fully maintain 24-hour control is required at all but the smallest entry locations. Application of the current rules requires inordinate amounts of time by local management in managing overtime staff hours to ensure proper scheduling to meet the needs of the traveling public.

The proposed provision for overtime modernization will both strike equity in pay between the INS Inspector and the Customs Officer and more fairly compensate the INS Inspector by streamlining the specific rules for overtime work. The issue of equitable compensation between the two agencies is inextricably linked to the corresponding span of duties of each agency. Both Customs and INS Inspectors are charged with a similar mission—protecting the United States borders, either from the illegal entry of goods or the illegal entry of people—and continue to perform these duties side by side. Parity in pay and retirement benefits is required.

Section-by-section analysis

Section 1. This bill may be cited as the "Immigration and Naturalization Service Restructuring Act of 1998."

Section 2. The purpose of this bill is to restructure the Immigration and Naturalization Service within the Department of Justice by replacing the current organizational structure with new organizational chains of command. Under the revised structure, the Immigration and Naturalization Service will consist of two separate functions: one enforcement function and one service function, with separate lines of authority. The revised structure will also include one support office that will provide administrative and technical support to the two separate functions.

Section 3. This section contains the definitions applicable to the bill.

Section 4. The effective date of this bill is October 1, 2000, unless otherwise specified.

Section 101(a). This subsection identifies the functional units within the Headquarters functions that provide advice and guidance directly to the Office of the Commissioner. The units include internal audit, general counsel, public affairs, congressional relations, a chief financial officer, and strategy and planning.

Section 101(b). This subsection describes the immigrant services function of the INS. This functional unit encompasses all aspects of service operations and consists of the benefits services areas, which will provide personal processing of benefits, and remote services, which will perform activities that benefit from economies of scale and can be performed from remote locations.

Section 101(c). This subsection describes the enforcement operations unit, which encompasses all activities relating to the enforcement of immigration laws, including border patrol, inspections, investigations and removals, and detention and enforcement support.

Section 101(d). This subsection describes the shared support function that will support both immigrant services and enforcement operations. This unit will include records, IRM, training, human resources, equal employment opportunity, and administrative support.

Section 102(a). This subsection provides that all legal documents that are in effect prior to the restructuring shall continue in effect until modified or terminated.

Section 102(b). This subsection states that the restructuring shall not affect any proceeding or any application for a benefit that is pending on the date of the enactment of the bill.

Section 102(c). This subsection states that the restructuring will not affect any suit that was commenced prior to the time the restructuring occurs.

Section 102(d). This subsection provides that the restructuring will not abate any action or suit pending against the INS or any individual in his or her official capacity.

Section 102(e). This subsection provides that if any INS official is party to a suit with respect to that officer's function, and said function is transferred, the suit will continue with the new officer or office as a substituted or added party.

Section 102(f). This subsection indicates that all statutory requirements relating to administrative procedure and judicial review that currently apply to an office in which a function is transferred will apply in the same way to the new office.

Section 201 provides for a 2 x hourly rate for basic overtime pay. The basic compensation provision for overtime, as well as the following array of related provisions, will both strike equity in pay between the INS Inspector and the Customs Inspector and more fairly compensate the INS officer by modernizing the specific rules for overtime work. The issue of equitable compensation between the two agencies is inextricably linked to the corresponding span of duties of each agency. Although each enforces a totally different body of laws, the agencies share physical facilities and the officers themselves in their daily work environment, duty hours, and exposure to danger perform similar duties. It follows that in pay compensation there should exist a general balance. The current lack of parity, a consequence of the recent update in the Customs officer's pay structure, creates a general atmosphere of tension within the port facility as the INS officer is compensated generally at a lower level than his/her Customs colleague. Additionally staff morale, often difficult to maintain in many of the larger port work environments, is further degraded by pay disparities between the two agencies.

Section 201 also provides for a 2 x hourly rate for callback. Callback provisions involve compensation when an officer is recalled for duty at a time not immediately preceding or following an assigned shift. The proposed language simplifies the application of call back conditions by establishing a direct link as a multiple of hours worked.

Section 201 also provides a 3 x hourly rate for commuting. In addition to furthering equity between INS and Customs officers performing a similar range of duties at port facilities, this proposal would provide for compensation when the officer must return to his/her duty station for additional work. It provides appropriate

compensation for Inspectors who often work full shifts under difficult conditions and are later asked to return with little intervening rest time.

Section 201 also provides a night differential rate. This essentially both increases the compensation for Inspectors assigned to the operational complex evening hours, times at which INS port facilities often experience heavy traffic flows exacerbated by unique enforcement demands, and further differentiates between early and late periods of duty. It deviates from the provisions for Customs Officers which provide that a Customs Officer will receive premium pay for all hours of his/her tour of duty if the "majority" of the hours of the Customs Officers scheduled duty falls within one of the periods for night pay. This provision reduces the costs associated with the higher differentials by compensating Inspectors for the actual hours worked during the night period.

Section 201 also provides a 1.5 x hourly rate for Sunday Pay / 2 x hourly rate for Holiday pay. The Immigration Inspector's functions are required throughout the week. The demands of international travel, particularly evident during the busy holiday periods, require that the Inspections staff be fully deployed on a full seven day basis. At many locations Sundays represent heavy travel periods and require the assignment of additional staff hours. The current computation methodology is an arcane holdover from the time when international travel occurred solely by sea and when actual arrival times varied by several hours due to tide and poor communications. This is no longer the case since the vast majority of inspections can be scheduled with relative precision. Application of these rules require inordinate time by local management in recording hours worked for both scheduling and pay cap purposes. Implementation of the proposed provision will greatly streamline the weekly management of shift hours by simply allowing for a direct calculation at the proposed multiple of the basic rate as compared to the current system's computation based on larger blocks of time.

Section 201 also provides for a calendar year overtime earnings cap. This language is preferable to the inclusion of a cap expressed in law in a fixed amount. The INS overtime cap contained in current (and past) appropriation law applies to ALL INS employees and ALL overtime earned by these employees. If the overtime cap is included in Title 8 as a fixed amount, any changes in the cap effected through the appropriation law without changes to Title 8 could result in inequities between INS employees. Allowing Congress to set the limit in the annual appropriation language provides for greater flexibility in adjusting the level as conditions warrant. The attention of Congress was directed to this issue in 1984 with the public disclosure of very high earnings by some officers. This led to direct limiting language in the FY 1985 Budget. The reinstitution of limited waiver authority, absent since FY 1993, will allow the Commissioner needed flexibility in the rare instances when exceeding the cap is operationally required, essentially only at very small locations when one officer is unable to work. Paragraph (d)(1)(B) allows the Commissioner to pay inspectors overtime for one assignment over the cap to avoid potential grievances or complaints

from employees who are prevented from working overtime because they are close to reaching the limit.

Section 201 also provides that the Attorney General will promulgate regulations to prevent the abuse of callback assignments and commuting time compensation and the more frequent assignment of overtime to Immigration Inspectors near retirement. Regulations will establish policy for assignment of overtime to prevent abuse and to ensure annuity integrity to the extent feasible.

Subsection 201(d) also provides for retirement pay. The duties of the Immigration Inspector require the continuing use of overtime to maintain full 24 hour control of immigration at all but the smallest entry locations. As a consequence overtime earnings represent a significant portion of an Inspector's total remuneration. This situation continues throughout the span of the officer's career. This heavy dependence on overtime earnings contributes to a broader-than-normal disparity between income before and after the officer's retirement. Since overtime is not considered as part of the pension percentage, the Inspector experiences an extremely large drop in earnings upon retirement. The proposed change would offset this problem by allowing half of the maximum earnings to be considered in the annuity computation.

Subsection 201(d) also provides that a Foreign Language Award may be provided for by regulation. This provision, allowing for compensation for language proficiency not gained during formal training, is expected to both enhance Inspector retention and recruitment efforts and provide important language expertise to improve program productivity. The international nature of the Inspectors work, particularly in light of the rapid increases in air travel, often demands that the officer be able to conduct the inspection in several languages. At many of the major international gateways, where over 10,000 foreign arrivals are often processed daily, the Inspector may interview individuals speaking a multitude of languages. Port managers have found that both facilitation and enforcement performance has been greatly aided when officers are available to conduct interviews in the applicant's native language. The provision differs from the Customs provision to take into account that the INS provides a formal course of instruction in Spanish as part of both its basic immigration officer and border patrol agent training academies.

Section 301(a). Amends Section 103(e)(2) of the INA by striking "district office of the Service" and inserting "designated office of the Immigration and Naturalization Service".

Section 301(b). Amends Section 242(b)(3)(A) of the INA by striking "Service district" and inserting "designated office of the Immigration and Naturalization Service".

Section 301(c). Amends Section 316 of the INA, (1) in section (a) by

striking "district of the Service" and inserting "area serviced by the designated office of the Immigration and Naturalization Service" each time it appears

Section 301(d). Amends Section 319 of the INA by striking "district of the Service" and inserting "area serviced by the designated office of the Immigration and Naturalization Service" each time it

Section 301(e). Amends Section 324 of the INA by striking "district of the Service" and inserting "area serviced by the designated office of the Immigration and Naturalization Service".

Section 301(f). Amends Section 328 of the INA by striking "district of the Service" and inserting "area serviced by the designated office of the Immigration and Naturalization Service" each time it appears.

Section 301(g). Amends Section 329(b)(2) of the INA by striking "district of the Service" and inserting "area serviced by the designated office of the Immigration and Naturalization Service".

Section 301(h). Amends Section 335(f) of the INA by striking "district of the Service" each time the phrase appears and inserting "area serviced by the designated office of the Immigration and Naturalization Service".

Section 301(i). Amends Section 338 of the INA by striking "district office of the Service" and inserting "designated office of the Immigration and Naturalization Service".

Section 301(j). Amends Section 339(b) of the INA by striking "district office of the Service" and inserting "designated office of the Immigration and Naturalization Service".

Section 301(k). Amends Section 404 of the INA, 8 U.S.C. section 1101, note, by striking "a district director of the Service" and inserting "a designated Immigration and Naturalization Service officer" and by striking "in a district" and inserting "in a designated office of the Immigration and Naturalization Service".

A BILL

To provide for the restructuring of the Immigration and Naturalization Service, and for other purposes.

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

SECTION 1. SHORT TITLE.—This Act may be cited as the "Immigration and Naturalization Service Restructuring Act of 1998".

SECTION 2. PURPOSES.—The purposes of this Act are to—

Advance the effective enforcement of our immigration laws at our borders and in the interior, and the efficient provision of immigration and citizenship services.

Untangle INS' overlapping and frequently confusing organization structure by replacing it with two clear organizational chains of command—one for its enforcement ^{ion} ~~missing~~ and one for providing services—from the highest level of the agency to the lowest.

Create two organizations which can each focus on its unique management, knowledge, skills and abilities, while also retaining the essential functions for coordinating these operations.

Improve customer-oriented immigrant services by:

- Creating new local service offices;
- Establishing accountability and clear lines of authority;
- Setting clear standards for customer service; and,
- Using technology to improve efficiency and customer service.

Strengthen enforcement operations by:

- Establishing a single, coordinated enforcement function;
- Integrating enforcement and strengthening accountability; and,
- Organizing enforcement areas by function, including Border Patrol, inspections, investigations and removals, detention, and enforcement support.

Provide for efficient integration of service and enforcement by:

- Creating an administrative and technical backbone of support for enforcement and service; and,
- Managing essential immigration records, developing computer systems, providing training and sharing administrative functions.

1
2 SECTION 3. DEFINITIONS.—For purposes of this Act, the following definitions shall apply—
3

4 (1) the term INA refers to the Immigration and Nationality Act of 1952, as amended
5 up to the effective date of this Act.
6

7 (2) the term INS means the Immigration and Naturalization Service.
8

9 (3) * * *
10

11 SECTION 4. EFFECTIVE DATE.—Except as otherwise provided by this Act, this Act shall take effect
12 on October 1, 2000.
13

14
15 TITLE I—AGENCY ORGANIZATION
16

17 SEC. 101. AGENCY ORGANIZATION.—The Immigration and Naturalization Service shall be
18 composed of the following components.
19

20 (a) Headquarters will consist of functional units responsible for providing advice and
21 guidance directly to the Commissioner (and INS Senior Management.) These functions will include
22 internal audit, general counsel, public affairs, congressional relations, a chief financial officer, and
23 strategy and planning.
24

25 (b) Immigrant Services will encompass all aspects of INS service operations and will
26 consist of two broad components. Benefits Service Areas will be responsible for functions that are
27 community based and require personal contact with the public. Examples of such functions are
28 interviewing naturalization candidates, naturalization testing, oath administration, and
29 fingerprinting. Remote Services will be responsible for those activities which benefit from
30 economies of scale, can be performed from a remote location, and require consistency in execution.
31 These include application intake, record creation, application preprocessing, adjudication of some
32 applications (including extensions of stays and employment authorizations), and telephone center
33 operations.
34

35 (c) Enforcement Operations will encompass all activities relating to the enforcement of
36 immigration laws, including border patrol, inspections, investigations and removals, and detention
37 and enforcement support.
38

39 (d) Shared Support will encompass functions that support both immigrant services and
40 enforcement operations. These functions will include records, information resources management,
41 training, human resources, equal employment opportunity, and administrative support.
42
43
44
45

1
2 SEC. 102. SAVINGS PROVISIONS
3

4 (a) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants,
5 loans, contracts, agreements, certificates, licenses, and privileges—
6

7 (1) that have been issued, made, granted, or allowed to become effective by the
8 President, the Attorney General, the Commissioner of the INS, or any other Government
9 official, or by a court of competent jurisdiction, in the performance of any function that is
10 transferred; and
11

12 (2) that are in effect on the effective date of such transfer (or become effective after
13 such date pursuant to their terms as in effect on such effective date);
14

15 shall continue in effect according to their terms until modified, terminated, superseded, set aside, or
16 revoked in accordance with law by the President, any other authorization official, a court of
17 competent jurisdiction, or operation of law.
18

19 (b) PROCEEDINGS.—This Act shall not affect any proceedings and any application for any
20 benefits, service, license, permit, certificate, or financial assistance pending on the date of the
21 enactment of this Act before an office whose functions are transferred by this Act, but such
22 proceedings and applications shall be continued. Orders shall be issued in such proceedings,
23 appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act
24 had not been enacted, and orders issued in any such proceeding shall continue in effect until
25 modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent
26 jurisdiction, or by operation of law. Nothing in this subsection shall be considered to prohibit the
27 discontinuance or modification of any such proceeding under the same terms and conditions and to
28 the same extent that such proceeding could have been discontinued or modified if this Act had not
29 been enacted.
30

31 (c) SUITS.—This Act shall not affect suits commenced before the date of the enactment of
32 this Act, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in
33 the same manner and with the same effect as if this Act had not been enacted.
34

35 (d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or
36 against the Department of Justice or the Immigration and Naturalization Service, or by or against
37 any individual in the official capacity of such individual as an officer or employee in connection
38 with a function transferred by the Act, shall abate by reason of the enactment of this Act.
39

40 (e) CONTINUANCE OF SUITS.—If any Government officer in the official capacity of such
41 officer is party to a suit with respect to a function of the officer, and under this Act such function is
42 transferred to any other officer or office, then such suit shall be continued with the other officer or
43 the head of such other office, as applicable, substituted or added as a party.
44

1 (f) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by
2 this Act, any statutory requirements relating to notice, hearings, action upon the record, or
3 administrative or judicial review that apply to any function transferred by this Act shall apply to the
4 exercise of such function by the head of the office, and other officers of the office, to which such
5 function is transferred by this Act.

6
7
8 TITLE II—IMMIGRATION OFFICER COMPENSATION
9

10 * * *

11
12
13 TITLE III—CONFORMING AMENDMENTS
14

15 SEC. 301. CONFORMING AMENDMENTS
16

17 (a) Section 103(e)(2) of the INA, 8 U.S.C. section 1103(e)(2), is amended by striking
18 "district office of the Service" and inserting "designated office of the Immigration and
19 Naturalization Service".
20

21 (b) Section 242(b)(3)(A) of the INA, 8 U.S.C. section 1252(b)(3)(A), is amended by
22 striking "Service district" and inserting "designated office of the Immigration and Naturalization
23 Service".
24

25 (c) Section 316 of the INA, 8 U.S.C. section 1427, is amended—
26

27 (1) in section (a) by striking "district of the Service" and inserting "area serviced by
28 the designated office of the Immigration and Naturalization Service"; and
29

30 (2) in section (f)(1) by striking "district of the Service" and inserting "area serviced
31 by the designated office of the Immigration and Naturalization Service".
32

33 (d) Section 319 of the INA, 8 U.S.C. section 1430, is amended—
34

35 (1) in section (a) by striking "district of the Service" and inserting "area serviced by
36 the designated office of the Immigration and Naturalization Service";
37

38 (2) in section (b)(3) by striking "district of the Service" and inserting "area serviced
39 by the designated office of the Immigration and Naturalization Service";
40

41 (3) in section (c)(5) by striking "district of the Service" and inserting "area serviced
42 by the designated office of the Immigration and Naturalization Service"; and
43

44 (4) in section (d) by striking "district of the Service" and inserting "area serviced by
45 the designated office of the Immigration and Naturalization Service".

1
2 (e) Section 324 of the INA, 8 U.S.C. section 1435(a)(1), is amended by striking "district of
3 the Service" and inserting "area serviced by the designated office of the Immigration and
4 Naturalization Service".
5

6 (f) Section 328 of the INA, 8 U.S.C. section 1439, is amended—
7

8 (1) in section (a) by striking "district of the Service" and inserting "area serviced by
9 the designated office of the Immigration and Naturalization Service";
10

11 (2) in section (b)(1) by striking "district of the Service" and inserting "area serviced
12 by the designated office of the Immigration and Naturalization Service"; and
13

14 (3) in section (c) by striking "district of the Service" and inserting "area serviced by
15 the designated office of the Immigration and Naturalization Service".
16

17 (g) Section 329(b)(2) of the INA, 8 U.S.C. section 1440(b)(2), is amended by striking
18 "district of the Service" and inserting "area serviced by the designated office of the Immigration
19 and Naturalization Service".
20

21 (h) Section 335(f) of the INA, 8 U.S.C. section 1446(f), is amended by striking "district of
22 the Service" each time the phrase appears and inserting "area serviced by the designated office of
23 the Immigration and Naturalization Service".
24

25 (i) Section 338 of the INA, 8 U.S.C. section 1449, is amended by striking "district office of
26 the Service" and inserting "designated office of the Immigration and Naturalization Service".
27

28 (j) Section 339(b) of the INA, 8 U.S.C. section 1450(b), is amended by striking "district
29 office of the Service" and inserting "designated office of the Immigration and Naturalization
30 Service".
31

32 (k) Section 404 of the INA, 8 U.S.C. section 1101, note, is amended—
33

34 (1) in section (b)(2)(A)(i) by striking "a district director of the Service" and inserting
35 "a designated Immigration and Naturalization Service officer"; and
36

37 (2) in (b)(2)(A)(iii) by striking "in a district" and inserting "in a designated office of
38 the Immigration and Naturalization Service".
39

40 Sec. 302. MISCELLANEOUS CONFORMING AMENDMENTS.
41

42 * * *

INS Reform II

June 5, 1998

Leg. w/ pay provision approved (?) by OMB

SM - not cleared by LRM

→ Customs/INS equal footing) pay comparability
how long to clear? one week (or partly)

DM - testifying Thursday of

→ Kennedy/Watt

Abraham

Have 6(c) ~~ex~~ issue examined separately
w/ Treasury/DOJ. (all federal inspectors
as law enforcement officers.)

timetable?

DM - need to get w/ Treasury to do a joint
proposal.

Decision for next year's
budget by Dec

pay-go implications
of pay comparability?

\$30 million. Need off-sets

Let's try to solve the mandatory
problem w/out \$

w/in
one week

- * OPM sign-off
- * solve budgeting problems

→ Talk to Kennedy about sponsorship.

Abraham's first hearing is next Thursday

DM to testify

1st hearing: service

2nd hearing: enforcement (?)

Pres. of AILA
Mass. Sen. Provider
Immigrant

Sen.
approp.

Starts on
the 16th

All signals from Sen. approp. is that auth. should handle this. ↑

Gress told this to Steve Colgate (+) AG

Need to get our leg. up before Abraham's enforcement hearing.

Rogers starting to mark-up his bill

~~we want our bill before this~~

→ Before House mark-up
Rogers

like On the end of the month

EK — make leg. look a
little meatier.

Get copy of Rogers bill

PJ/AE

will talk to Reyes

have talked to Becerra

Find some other member to take on Reyes.

Groups - have talked ~~to~~ to Reyes

Goal: to isolate Reyes

to get to
Becerra.

Our end game?

Prevent something from passing this fiscal year.

INS wants to move forward.

INS would eventually need to send up an admin.
plan that would be approved by appropriators.

Get leg. from INS Monday (605)

House? Watt/Smith talk

Smith ~~staff~~ staff has some interest in Carnegie
Assoc. AG proposal.