

G.O.P. and White House Near Accord on Immigrants

By ROBERT PEAR

WASHINGTON, Dec. 12 — Congressional Republicans said today that they were nearing agreement with the White House on legislation that would grant legal status to hundreds of thousands of illegal immigrants.

After resisting the idea for months, the Republicans have submitted an amnesty proposal to the White House, and they said they were inching toward an agreement that could be included in a comprehensive budget deal, clearing the way for adjournment of the 106th Congress.

The agreement falls far short of the comprehensive amnesty sought by President Clinton, the Congressional Hispanic Caucus, immigration lawyers and civil rights groups. But the proposal goes further than most Republicans were willing to go before the Nov. 7 election, offering benefits to tens of thousands of additional immigrants.

Republicans said two factors contributed to their new stance. They want to be in tune with Gov. George W. Bush of Texas, their party's presidential nominee, who has tried to cultivate good relations with Hispanic Americans. And the Republicans have been deluged with pleas from employers, who say they want to hire immigrants because, with the unemployment rate at a 30-year low, they cannot find the workers they need.

In assessing the latest Republican proposals, the White House has been consulting Hispanic groups.

Cecilia Muñoz, vice president of the National Council of La Raza, a Latino civil rights group, said: "The president's proposal will have helped 800,000 people. This will

help fewer than 400,000. That is probably better than nothing. But there's real anger in the Latino and immigrant community that it has been whittled down so far."

Representative Luis V. Gutierrez of Illinois, a Democrat who is chairman of the Hispanic Caucus's study panel on immigration, said the budget bill would include some assistance for immigrants, but not enough.

"Unfortunately," Mr. Gutierrez said in an interview, "our bargaining position is weakened. You have a recalcitrant Republican Congress that wants to provide a paltry amount of justice for immigrants. And you have a president who, I believe, does not really think immigrants are as important as Medicare, school construction and other federal programs."

The emerging deal, which builds on legislation offered by Senator Orrin G. Hatch, Republican of Utah, includes these provisions:

¶The government would grant a new type of visa to the spouses and minor children of certain lawful permanent resident aliens. This would help people who have been waiting for visas for three years or more. They would be allowed to come to the United States or to remain here, with the right to work, until they became permanent residents, as most eventually would.

¶Immigrant spouses and minor children of permanent residents and immigrant spouses of United States citizens already living here would be allowed to apply for the new visas without returning to their homelands, as they must do under current law. The government would ignore the fact that many illegally entered the United States or had over-

Republicans modify their stance to be in tune with Bush.

stayed their visas.

¶The government would reopen the cases of tens of thousands of immigrants seeking amnesty in several large class-action lawsuits. These immigrants have been here for more than 18 years and would have qualified for amnesty under a 1986 law but for errors by the Immigration and Naturalization Service.

Congress and the White House may also grant a special dispensation to certain immigrants who are

subject to deportation because they committed relatively minor crimes before 1996. Under this proposal, lawful permanent residents who have lived in the United States at least seven years could go before an immigration judge to show why they should be allowed to stay here. Under a 1996 law, a large number of offenses, including misdemeanors, were retroactively defined as aggravated felonies requiring deportation.

Republicans said they had rejected Mr. Clinton's effort to grant legal status, under a separate proposal, to tens of thousands of Salvadorans, Guatemalans, Hondurans and Haitians. Supporters of this proposal said it would give these immigrants the same treatment authorized in 1997 for Nicaraguans and Cubans.

But Republicans resisted the idea. Mr. Hatch said, "It would grant a blanket amnesty to undocumented aliens and pick out specific groups of immigrants — Central Americans — for special treatment."

The Republicans also refused to renew a provision of immigration law that allowed large numbers of people eligible for family and employment visas to get their green cards in this country by paying a \$1,000 fee. Employers, including hotels, restaurants and other service industries, lobbied for reinstatement of this provision, section 245(i) of the Immigration and Nationality Act.

"If all the aliens working in these industries were forced to leave, the economy would crash," said Bonnie B. Lanza, an immigration consultant

in Boston. Already, lawyers say, some immigrants have been forced to leave their jobs and their relatives in this country while pursuing their visa applications.

Elliot J. Diringer, a White House spokesman, said, "We want to make sure that individuals can remain with their families in this country while their immigration status is resolved."

Congress passed a stopgap spending bill on Monday that provides money to operate much of the government through Friday. By then, Congressional leaders said, they hope to have reached agreement with Mr. Clinton on a budget for the rest of the fiscal year, which runs through Sept.



Paul Heston/The New York Times

Representative John Edward Porter and staff members yesterday reviewed a House version of a bill for labor, health and education appropriations.

FACT SHEET

10/31/00

Estimated Number of Individuals Covered by the Administration's Legislative Proposal

Central American and Haitian Parity Act:

Salvadorans	140,000 ¹
Guatemalans	170,000 ²
Hondurans	80,000
Haitians	50,000 ³
<u>Total</u>	<u>440,000⁴</u>

Liberian Parity: 7,300⁵

Adjustment of status for aliens
residing continuously
in the United States since 1982: 150,000⁶

Section 245(i): 125,000 beneficiaries in FY 01⁷

TOTAL 722,300

OMB Cost Estimate: INS has been informed by OMB that the proposal would affect direct spending and receipts; therefore, it is subject to the pay-as-you-go (PAYGO) requirement of the Omnibus Budget Reconciliation Act of 1990. OMB estimates that the effect of the bill for pay-as-you-go purposes is insignificant. Any increase in fee income resulting from the bill will be offset by increased spending of that income. OMB considers any changes in spending on benefits that result from changes in immigration admission policy to be "secondary effects" and not a cost subject to PAYGO scoring. OMB scores "direct effects" of legislation. Legislation that changes the number of legal immigrants in the United States has a variety of ripple effects. Immigrants enter the workforce, pay taxes, marry, and have children. These ripple effects are all secondary effects.

¹ This figure does not include an estimated 190,000 Salvadorans who are already eligible to apply for benefits under Section 203 of the Nicaraguan and Central American Relief Act of 1997 (NACARA), which allows them to apply for suspension of deportation or cancellation of removal under the more favorable rules applicable before 1996.

² This figure does not include an estimated 50,000 Guatemalans who are already eligible to apply for benefits under Section 203 of NACARA, which allows them to apply for suspension of deportation or cancellation of removal under the more favorable rules applicable before 1996.

³ This figure does not include an estimated 50,000 Haitians who are already eligible to apply for benefits under the Haitian Refugee and Immigration Fairness Act of 1998.

⁴ This figure is derived from two sources: INS databases and INS estimates of the resident illegal population in the United States. It does not include the spouses or children of those individuals who would be eligible to apply for adjustment of status under parity legislation. In some instances, non-citizen family members who do not already have legal immigration status may also be eligible to apply for adjustment of status.

⁵ This figure is based on the number of Liberians estimated to have resided continuously in the United States since December 31, 1996, using data derived from the designation of Liberians for Temporary Protected Status in April 1997.

⁶ This figure is derived from INS estimates of the resident illegal population in the United States.

⁷ Based on FY2000 statistics, INS estimates that 75,000 individuals would pay the \$1,000 penalty. The remaining 50,000 beneficiaries would be exempt from paying the 245(i) fee because they are under age 17 or qualify under the Family Unity program.



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

FAX COVER SHEETDate: 12/5/2000

To:

Andrea / EstherIrene

Phone No.:

Fax No.:

228-4136 / 228-0864 / 456-1907

From:

Patricia A. First

Phone No.:

202/514-4810

Fax No.:

202/514-9149

No. of Pages:

7 (Excluding Cover)

Comments:

Estimated Adjustment of Aliens under Section 245(i) by Category

INS maintains statistics on the number of *applications* for adjustment under Section 245(i), but it does not have information to distinguish specifically those who actually *adjust* under 245(i) from other adjustments. In Fiscal Year 1996, before the sunset of Section 245(i), there were 183,000 applications for adjustment under Section 245(i), down from 224,000 applications in Fiscal Year 1995.

For 1996, INS has estimated the number of actual adjustments under Section 245(i) by category of admission. **These are estimates only.** To create these estimates, immigrants identified in INS' database as having originally entered without inspection or having an unknown status were identified as likely 245(i) adjusters. The estimates for persons who originally entered on valid nonimmigrant visas are less certain because they may have received extensions allowing them to stay in the country for many years.

Using this method, INS estimates that approximately 181,000 of the 915,900 immigrants admitted in Fiscal Year 1996 adjusted under Section 245(i). Their immigrant classes of admission are shown in the following table. These estimates show that more than 2 out of 3 immigrants adjusting under Section 245(i) were spouses of legal permanent residents (LPRs) or U.S. citizens.

Table 1. Estimated Aliens Adjusting to Immigrant Status
Under Section 245(i): Fiscal Year 1996

Category	Number	Percent
Spouses of LPRs	75,600	41.8
Spouses of U.S. Citizens	46,600	25.7
Employment 3rd preference	24,200	13.4
Children of U.S. Citizens	9,400	5.2
Other	25,200	13.9
Total	181,000	100.0

Note: Estimates have been rounded to the nearest hundred.

Source: Statistics Branch, U.S. INS

Decisions by Immigration Judges on CAP
November 7, 2000

	Grants (1)	CAP Grant (2)	Denials	Others (3)	Total
FY 1997	4	0	43	11	58
FY 1998	144	341	1,145	875	2,505
FY 1999	672	800	2,093	1,287	4,852
FY 2000(4)	687	1,584	2,464	1,183	5,918

Notes:

(1) IIRIRA established a limit (CAP) of 4,000 grants per fiscal year for both suspension of deportation/cancellation of removal. The number listed under the "GRANTS" column on this chart are grants not counted against the yearly CAP (battered immigrant spouses and children).

(2) The figures listed under CAP grants on this chart along with CAP grants to aliens who apply for suspension of deportation do not exceed 4,000 per fiscal year. On November 19, 1997, the enactment of the Nicaraguan Adjustment and Central American Relief Act of 1997 (NACARA) modified the provision of law concerning the cap on suspension/cancellation. Besides exempting certain aliens from the annual cap, NACARA also provided for an additional 4,000 grants to increase the CAP to 8,000 for fiscal 1998 only.

(3) An "Other" decision refers to cases neither granted, or denied suspension. "Other" refers to cases administratively closed, or terminated. Also, the application may have been abandoned or withdrawn.

(4) The FY 2000 data represents the period between October 1, 1999 and September 30, 2000. Revisions are still being made to FY 2000 data and may result in adjustments to the figures on this chart.

Office of Planning and Analysis
 November 7, 2000

TOTAL P.04
 TOTAL P.04

Decisions by Immigration Judges on Suspension of Deportation
November 7, 2000

	Grants	CAP Grant (2)	Denials	Others (3)	Total	
FY 1985	424			1,163	56	1,643
FY 1986	2,604			2,232	532	5,368
FY 1987	1,413			540	2,481	4,434
FY 1988	235			287	895	1,417
FY 1989	277			332	209	818
FY 1990	473			464	293	1,230
FY 1991	896			576	774	2,246
FY 1992	1,181			771	508	2,460
FY 1993	1,597			939	509	3,045
FY 1994	2,405			1,155	694	4,254
FY 1995	3,752			1,780	1,052	6,584
FY 1996	7,475			2,541	1,604	11,620
FY 1997	4,110			5,102	3,141	12,353
FY 1998 (1)	882	7,589		3,723	3,708	15,702
FY 1999	723	2,298		1,616	4,822	9,459
FY 2000 (4)	1,233	1,555		728	884	4,400

Notes:

(1) IIRIRA established a limit (CAP) of 4,000 grants per fiscal year for both suspension of deportation/cancellation of removal. Starting with fiscal year 1998, the number listed under the "GRANTS" column on this chart are NACARA eligible grants not counted against the yearly CAP.

(2) The figures listed under CAP grants on this chart along with CAP grants to aliens who apply for suspension of deportation do not exceed 4,000 per fiscal year. On November 19, 1997, the enactment of the Nicaraguan Adjustment and Central American Relief Act of 1997 (NACARA) modified the provision of law concerning the cap on suspension/cancellation. Besides exempting certain aliens from the annual cap, NACARA also provided for an additional 4,000 grants to increase the CAP to 8,000 for fiscal 1998 only.

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These five proposals address significant problem areas in immigration law resulting from the sweeping changes made by the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), Pub. L. 104-132, and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. 104-208. Although the 1996 changes included many beneficial improvements that have provided substantial assistance to the Immigration and Naturalization Service (INS) in performing its task of fairly and efficiently enforcing the immigration laws of the United States, including removing dangerous criminal aliens from American communities, in some cases the lessened discretion available as a result of the changes has led to excessively harsh results.

The 1996 changes significantly reduced opportunities for aliens removable for criminal offenses to make a case for discretionary relief. Section 304 of IIRIRA created a single form of proceeding, the "removal" proceeding, in place of separate exclusion and deportation proceedings. Congress consequently created a single form of relief, cancellation of removal under section 240A of the Immigration and Nationality Act (INA), in place of several former provisions. With respect to lawful permanent resident aliens (LPRs), IIRIRA repealed former section 212(c) of the INA, which previously had made a waiver of inadmissibility available to most LPRs with seven years continuous residence, including aggravated felons if they had served five years or less imprisonment in the aggregate for their offense(s). The new form of relief, cancellation of removal, is not available to LPRs convicted of aggravated felonies.

Before 1996, former section 244 of the INA provided the possibility of the discretionary relief of suspension of deportation and adjustment of status to a non-LPR alien without a criminal ground of deportation who had been continuously physically present in the United States for at least seven years preceding the date of application, was a person of good moral character during that time, and whose deportation would result in extreme hardship to the alien or his or her U.S. citizen or LPR spouse, parent, or child. Aliens deportable on criminal grounds were eligible for suspension if they met the changed requirements of 10 years physical presence since the ground of deportation arose, good moral character during that time period, and exceptional and extremely unusual hardship to the U.S. citizen or LPR spouse, parent or child. Section 304 of IIRIRA changed these requirements for cancellation of removal by eliminating suspension of deportation for criminal aliens, and by increasing the eligibility requirements for noncriminal aliens to those previously applying to criminal aliens, and even somewhat beyond them (by eliminating hardship to the alien himself or herself as a factor and by establishing an annual cap of 4,000 adjustments).

Section 304 of IIRIRA also addressed, for both LPR and non-LPR applicants for discretionary relief, the continuing issue of how to count the time frames of physical presence or residence required for eligibility. One new change in this area was to introduce the so-called "stop-time rule," which provided that accrual of these periods ended with the earlier of either the service of charging documents, or the commission of a crime rendering the alien removable.

Sections 440(e) of AEDPA and 321(a) of IIRIRA made significant changes to the important definition of "aggravated felony" for immigration purposes in section 101(a)(43) of the INA. The 1996 changes added offenses, or reduced required sentence length (typically from 5 years to 1 year) and/or money thresholds (typically from \$100,000 to \$10,000) for: rape, sexual abuse of a minor, money laundering, crimes of violence, theft, RICO and gambling, document or passport fraud, failure to appear to serve sentence, bribery, forgery, obstruction of justice, perjury, compromising an undercover agent, tax fraud and evasion, alien smuggling, failure to appear to answer a criminal charge, illegal entry to the United States by an aggravated felon, and interstate transportation for an immoral purpose. The law was clarified to ensure that an aggravated felony was such for immigration purposes regardless when it was committed.

IIRIRA also limited the Attorney General's discretion in the area of detention. New section 236(c) of the INA, added by IIRIRA section 303, requires the detention of many criminal aliens placed in removal proceedings who previously could have been released on bond or other appropriate conditions. Under former section 242 of the INA, mandatory detention before the 1996 changes was limited to certain aggravated felons under the former, more limited definition of that term.

LPR Cancellation of Removal:

Background: Cancellation of removal is a discretionary form of relief from deportation. A lawful permanent resident (LPR) who is removable from the United States is eligible for cancellation under section 240A(a) of the Immigration and Nationality Act (INA) if the alien has been an LPR for 5 years, with 7 years of continuous residence. An LPR with an aggravated felony conviction is ineligible, however. The aggravated felony definition in section 101(a)(43) of the INA, as toughened in 1996, includes many offenses *per se* (i.e., regardless of length of sentence), while for others (such as theft or crimes of violence) the sentence has to have been at least one year.

Prior to 1996, relief from deportation was available (under section 212(c) of the INA) to most LPRs with seven years continuous residence, including aggravated felons if they had served five years or less imprisonment in the aggregate for their offense(s).

Improvements: A number of difficult cases have arisen since 1996 involving LPRs with relatively minor and/or long-ago criminal offenses that qualify under the 1996 changes as aggravated felonies that render the LPR deportable. These LPRs have no ability to make their case on the equities before an immigration judge that they should receive discretionary relief.

Section 240A of the INA should be amended to allow cancellation of removal in the case of LPRs who have been convicted of aggravated felonies with an aggregate term, or terms of imprisonment of two years or less, or if the offense was committed more than ten years before the applicant is put in removal proceedings (excluding time served in prison). In the case of offenses with sentences aggregating more than two years, but less than five years, cancellation should be available upon a showing of outstanding and unusual equities. This proposal strikes an appropriate balance between ensuring that removal of career violent felons, or those who commit heinous offenses, is swift and sure, but that relief is available to those who may be able to make a case on the equities that they have been rehabilitated, present no danger to the public, and should be allowed to remain in the United States.

Detention:

Background: The Attorney General has the authority under section 236 of the Immigration and Nationality Act (INA) to detain aliens pending decisions on whether they are to be removed from the United States. The 1996 amendments limited the Attorney General's discretion to release criminal aliens in removal proceedings on bond or other appropriate conditions. Section 236(c) of the INA provides for the mandatory detention of criminal aliens in proceedings when the alien is released from criminal custody after October 9, 1998, except for a very limited exception for cooperating witnesses.

The Attorney General also has the authority to detain aliens under section 241 of the INA for the purpose of removing them upon entry of a final removal order. Section 241 requires the detention of criminal aliens during the 90-day "removal period." Otherwise, INS generally has discretionary authority to release removable aliens pending proceedings or after a removal order is entered, under appropriate conditions (such as bond or an order of supervision) intended to protect the public safety and ensure the alien's appearance when needed for future proceedings.

Improvements: The Administration proposed to Congress in June, 1999, and we continue to urge, that the Attorney General's authority to release certain criminal aliens from custody during immigration proceedings under specified conditions be expanded, based upon the Transition Period Custody Rules applicable between 1996 and 1998.

Specifically, aliens otherwise subject to mandatory detention under section 236(c) should be eligible for release if they have been lawfully admitted, cannot be removed, or are cooperating with a criminal investigation (making certain necessary improvements to the current exception for that purpose), and if they can satisfy the Attorney General that they do not present a danger to the public or a flight risk. This expansion of release authority is necessary to provide the Attorney General with enhanced flexibility in determining how to use limited detention space.

A clarifying amendment to section 241 is also appropriate to define the removal period as beginning on the date the alien actually comes into INS custody following a final administrative order, in order to take into account gaps of time in which the INS may not immediately know of the finality of the order, the alien may fail to surrender, or the INS may be unable to locate the alien.

MEMORANDUM

**TO: JOHN PODESTA
MARIA ECHAVESTE**

FROM: IRENE BUENO

**RE: MEETING ON LATINO IMMIGRANT FAIRNESS ACT (LIFA) WITH HOUSE
DEMOCRATIC LEADERSHIP – Tuesday, December 5, 2000 at 11:00 am in H-204
Capitol**

PURPOSE

The purpose of this meeting is to seek agreement on our bottom line on the Latino and Immigrant Fairness Act proposal. The specific question is whether we take a small victory on immigration issue this Congress or wait and fight for larger victory during the next Congress in light of Republican opposition to our Central American parity proposal.

BACKGROUND

Over the last couple of months, we have been meeting with the Republicans to develop a proposal that addresses the issues raised in the Latino and Immigration Fairness Act (LIFA) proposal. As a result of these discussions, Republicans have included a modest proposal in the Commerce, Justice, State Appropriations bill developed by Senator Hatch that inadequately addresses our concerns on Class of 1982/Late Amnesty and section 245(i) and does nothing on Central American parity proposal. Our latest intelligence indicates that Senate Republicans may be willing to provide some limited help to Salvadorans and Guatemalans but do nothing for Liberians, Haitians, or Hondurans.

On December 1, 2000, we drafted a proposal that attempts to improve the Hatch proposal on Class 1982/Late Amnesty and V-Visas/245(i) and offers a proposal on the Parity provision. Our proposal also provides amendments to improve the House-passed H.R. 5062, a McCollum-Frank legislation that seeks to undue the harshest provisions of the 1996 immigration law by restoring the Attorney General's discretion and judicial review in cases that have resulted in the deportations of thousands of individuals who committed relatively minor crimes many years ago. We gave this proposal to Mark Childress of Senator Daschle's staff who verbally walked David Hoppe through this proposal (See attached).

We expect that the Republicans will not be willing to accept our entire proposal. However, they may be willing to fix Class 1982 and V-visa/245(i) but not give us anything or give us little on Parity. Therefore, the options we must discuss with the House Democratic leadership and Congressional Hispanic Caucus members is whether: (1) to continue pushing on parity or (2) whether to give up on parity and focus our energies on improving the current Hatch provisions on late amnesty/class of 1982 and 245(i) and secure passage of H.R. 5062.

PARTICIPANTS:

You

Maria Echaveste

Jack Lew

Chuck Brain

Democratic Leader Richard Gephardt

Congressional Hispanic Caucus Members

FACT SHEET

10/31/00

Estimated Number of Individuals Covered by the Administration's Legislative Proposal

Central American and Haitian Parity Act:

Salvadorans	140,000 ¹
Guatemalans	170,000 ²
Hondurans	80,000
Haitians	50,000 ³
<u>Total</u>	<u>440,000⁴</u>

Liberian Parity: 7,300⁵

Adjustment of status for aliens residing continuously in the United States since 1982: 150,000⁶

Section 245(i): 125,000 beneficiaries in FY 01⁷

TOTAL 722,300

OMB Cost Estimate: INS has been informed by OMB that the proposal would affect direct spending and receipts; therefore, it is subject to the pay-as-you-go (PAYGO) requirement of the Omnibus Budget Reconciliation Act of 1990. OMB estimates that the effect of the bill for pay-as-you-go purposes is insignificant. Any increase in fee income resulting from the bill will be offset by increased spending of that income. OMB considers any changes in spending on benefits that result from changes in immigration admission policy to be "secondary effects" and not a cost subject to PAYGO scoring. OMB scores "direct effects" of legislation. Legislation that changes the number of legal immigrants in the United States has a variety of ripple effects. Immigrants enter the workforce, pay taxes, marry, and have children. These ripple effects are all secondary effects.

¹ This figure does not include an estimated 190,000 Salvadorans who are already eligible to apply for benefits under Section 203 of the Nicaraguan and Central American Relief Act of 1997 (NACARA), which allows them to apply for suspension of deportation or cancellation of removal under the more favorable rules applicable before 1996.

² This figure does not include an estimated 50,000 Guatemalans who are already eligible to apply for benefits under Section 203 of NACARA, which allows them to apply for suspension of deportation or cancellation of removal under the more favorable rules applicable before 1996.

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⁵ This figure is based on the number of Liberians estimated to have resided continuously in the United States since December 31, 1996, using data derived from the designation of Liberians for Temporary Protected Status in April 1997.

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⁷ Based on FY2000 statistics, INS estimates that 75,000 individuals would pay the \$1,000 penalty. The remaining 50,000 beneficiaries would be exempt from paying the 245(i) fee because they are under age 17 or qualify under the Family Unity program.

ISSUE	LIFA	Hatch Proposal	Revised Administration Position	Feinstein Proposal (group's proposal).	Possible Compromise
Class of 1992/Late Amnesty	Change Registry Date to 1986 <i>INS estimates: 500,000 people</i>	Legalization for class members only. <i>INS estimates: 80,000</i> <i>Hatch estimates: 400,000 based on class membership</i>	Legalization for everyone eligible for legalization under IRCA not only class members. Include spouses and children. <i>INS estimates: 150,000</i>	Same as revised Administration proposal but add repeal of section 377 – the court stripping provision.	Expand the Hatch proposal to cover everyone who would have benefited under the legalization program of IRCA 1986. Add to the Hatch proposal spouses and children.
245(i)	Reinstate section 245(I). <i>INS estimates: Helps 125,000 people and would generate \$74 million in FY01</i>	New V visa program for spouses and children of U.S. citizens (USCs) & Legal Permanent Residents (LPRs). <i>Hatch estimates: 600,000 people (see letter dated 10/26/00)</i>	Reinstatement of section 245(i) <i>INS Estimates: 125,000 in FY 2001</i>	Reinstate section 245(I) <i>INS Estimates: 125,000 in FY 2001</i>	OPTIONS: • Reinstate sect. 245(I). - Has bipartisan support. - Keep families together. - Easy to implement. - brings in revenues • Expand V visa program to allow more people who are waiting to become LPRs to be able to stay legally in the U.S. while they wait for their visa number to become available.
Parity Legislation	Provide sect. 202 relief for Liberians, Haitians, Salvadorans, Guatemalans and Hondurans. <i>INS estimates: 447,300 people</i>	Nothing. Possible proposal to conduct hearings and a study?	We are interested in exploring options that Republicans have developed.	Provide sect. 202 relief to Salvadorans, Guatemalans and Haitians currently covered under sect. 203 (i.e. can legalize if they have been here since 12/1/95). Provide sect. 203 for other Salvadorans, Guatemalans, Hondurans and Haitians if they can show: (1) been in the US at least 5 years; (2) good moral character; (3)	OPTIONS: (1) <i>Move everyone up proposal.</i> - Would address inequities of NACARA. - Help others who were not helped under NACARA (i.e. Liberians and Hondurans) (2) <i>No country-specific proposal by giving everyone sect. 203 relief.</i> - Would help many more people regardless of national origin. - But inequity would continue to exist for Salvadorans,

				extreme hardship; and (d) merit favorable .INS discretion Silent on Liberians. <i>Estimates: 240,000-300,000</i>	Guatemalans and Haitians. (3) <i>Study and hearings.</i> - would be something on the parity issue. - But does not provide relief to anyone.
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Issue	LIFA	Hatch	Revised Administration	Feinstein	Compromise
Age-Out Protection	Would be helped if met registry date requirements.	Hatch response to the Feinstein proposal that there is not enough time proposal but seemed to be supportive	Have not addressed it directly in letters but would support.	Allow for adjustment of status of minor children who age out while waiting for application to be processed. <i>Estimates: 2,000 – 3,000 individuals</i>	Feinstein proposal
H.R. 5062/FIX 96	Summary of H.R. 5062 - Allows for old rules to apply to crimes prior to 9/30/96 - Allows for some to be eligible for cancellation of removal for crimes committed before 9/30/96 - Requires AG to establish a process for those who already have been deported. <i>INS estimates: pending</i>	Object to Administration raising it b/c new issue.	Administration supports and raised in Nov. 1 letter Hatch	Nothing.	OPTIONS: - Pass H.R. 5062 with some improvements – cancellation of removal; mandatory detention; restoration of judicial review. - Pass H.R. 5062 as passed by the House or with some minor modifications to address Republicans concerns.

Immigration Proposal

A. **Late Amnesty/Class of 1982.** We propose to expand the Hatch proposal to allow the following three groups to apply for legal permanent residency.

1. Anyone who entered the U.S. before January 1, 1982 (and is otherwise eligible), if he or she has resided continuously in the U.S. during the relevant subsequent period -- whether or not the person is currently in a lawful or unlawful status.
2. The person's spouse, children and unmarried adult sons and daughters who currently are a part of the family unit if they also have resided in the U.S. from 1988 (or from date of birth, if born after 1988) through the present.
3. "Family unity" spouses, children and unmarried adult sons and daughters¹.

Other significant changes from Hatch's language: Eliminate the naturalization English/Civic requirement consistent with current law requirements for legal permanent residency. Section (c)(8) of the proposed legislation, entitled "Jurisdiction of Courts," must be deleted because it promises much confusion without any notable benefit for the class of aliens this legislation seeks to protect. The terms of the provision are ambiguous, but it is likely that litigants in the so-called "late amnesty" cases, which have been winding to a close over the last several years, may seize upon this provision as a basis for seeking to reopen or prolong this costly litigation pertaining to the 1986 legalization program. To the extent that the drafters of section (c)(8) intend it to ensure judicial review of claims made under the new adjustment provisions of this proposed legislation, it is doubtful that the section will have that effect, and, in any event, existing provisions for judicial review are clearly reaffirmed in section (f) [relettered as section (e)] of the proposed legislation."

B. Restore Section 245(i): Section 245(i) allowed people who are in the U.S. illegally while they are waiting to become legal permanent residents (LPRs) to stay in the country if they pay an additional \$1,000 fee **and** if they had filed their petition for permanent residence by January 14, 1998. However, this option is not available to people who filed a petition after that date because section 245(i) has not been reauthorized. We propose to reauthorize 245(i) for three years to enable people who are here illegally but have approved visa petitions, to adjust to LPR status as their visa numbers become available over the next three years. This

¹ Note on Family Unity: The Family Unity program was enacted in 1990 as a temporary measure to allow the families of persons who legalized under the 1986 amnesty provisions (IRCA) to remain together until an immigrant visa became available for the family members. In many cases, the wait times for visa numbers to become available have been longer than anticipated. In fairness, if family members of persons benefiting under this proposal may become LPRs without a long wait, family members of persons who benefited from the 1986 law also should be able to become LPRs without waiting.

proposal allows families to remain together and not leave the country during the waiting period.

C. NACARA PARITY PROPOSAL: The following proposal seeks to address the unequal treatment under NACARA:

1. Provide Salvadorans and Guatemalans who are currently provided relief under section 203 of NACARA and Haitians provided relief under HRIFA with the same relief available to Cubans and Nicaraguans under section 202 of NACARA.
2. For others who deserve relief - Hondurans, Salvadorans, Guatemalans, and Haitians who entered the country before December 1995 but are not currently covered under section 203 and Liberians who were granted Temporary Protected Status (TPS) before 1997 - we propose to provide them with section 203 relief.

D. NACARA/HRIFA Amendments: We propose amendments to NACARA and HRIFA to address a number of technical problems that have become apparent in the course of implementing these laws. In general, these amendments increase relief opportunities for otherwise eligible aliens whom we believe Congress intended to be covered, but who are not currently eligible due to several provisions of the immigration laws. The most significant of these amendments include:

1. **Extension of application period.** To provide the opportunity to apply for relief to those made eligible by these changes, we propose to extend the NACARA and HRIFA application period (which expired on April 1, 2000) to April 1, 2003.
2. **Reinstatement.** Due to the interplay between current law that bars any relief to certain individuals and the relief provided under NACARA and HRIFA, many individuals are ineligible to apply for relief under NACARA and HRIFA. Individuals most affected by this interplay are a large class of Salvadorans and Guatemalans known as the "ABC class", the very group that Congress intended to help under NACARA. We propose to fix by this problem by providing an exception.
3. **Waivers of inadmissibility.** A number of otherwise eligible NACARA and HRIFA applicants are unable to obtain relief because of certain grounds of inadmissibility under the immigration laws. In keeping with the ameliorative purpose of NACARA and HRIFA, we propose to allow certain individuals to apply for a waiver of the health-related ground of inadmissibility and to provide the Attorney General with greater flexibility to grant waivers in compelling cases involving otherwise eligible aliens fleeing violence and instability who used false documents to secure passage out of their homeland and to the United States.
4. **Dependents:** In the interest of family unity, we propose to lift the requirements in NACARA section 202 and HRIFA that the spouse or dependent of an eligible applicant be the same nationality. We also propose to remove the NACARA section 203 requirement that an otherwise qualifying dependent must independently establish eligibility for NACARA relief, including seven years of continuous physical presence. This is

particularly a problem for young children.

E. Improvements to H.R. 5062: These proposals are amendments to HR 5062, legislation that has bipartisan support (sponsored by Representatives McCullom and Barney Frank) and passed the House under suspension of the rules. We propose the following important additions to H.R. 5062:

1. **Cancellation of Removal (Formerly 212(c) Relief).** For many decades the Attorney General had the discretion to grant long-term legal residents a reprieve from deportation and allowing them to remain in the US in compelling circumstances (cancellation of removal). We propose to restore discretion to the Attorney General to grant relief from deportation to certain long-term permanent residents.
2. **Mandatory Detention.** The 1996 immigration law requires the INS to detain thousands of individuals even if the INS believes that the person does not present a flight risk or danger to the public. We propose to restore the Attorney General's discretion to release individuals with pending removal orders and provide individualized custody hearings before immigration judges to review custody decisions.
3. **Restoration of Judicial Review.** Many cases have arisen in which LPRs have been removed from the US based on relatively minor and /or long-ago criminal offenses that qualify under the 1996 immigration law as aggravated felonies that render the LPR deportable. These LPRs do not have the ability to make their case before an immigration judge that they should receive discretionary relief. We propose to restore judicial review of immigration decisions relating to certain criminal aliens.

MEMORANDUM

TO: MARIA ECHAVESTE
FROM: IRENE BUENO
RE: MEETING WITH LEADERSHIP ON LIFA – Thursday, November 16, 2000 at 1:30 pm
in S-230 Capitol

PURPOSE: The purpose of this meeting is to try to resolve the pending immigration proposals including H.R. 5062.

BACKGROUND: At this meeting, it is important to stress that there is a way that the immigration issues can be resolved in a way in which all parties can claim some victory. The attached is a chart that lays out the different options and a possible compromise and letters between Hatch, John and Hatch and Feinstein. The following is the possible compromise and the arguments for each:

Class of 1982: *Expand the Hatch Proposal* to cover all individuals who would have been eligible under the 1986 legalization program and add their spouses and children.

- Should help all those would have be eligible for legalization, not only those who are part of certain lawsuits.
- Some people were not aware of the lawsuit.
- Should make sure that spouses and children are eligible for the same relief.

Section 245(i): *Reinstatement of Section 245(i)* is the only reasonable compromise.

- It is easier to implement than creating a new V visa program.
- It has bipartisan support.
- It keeps families together.
- It would generate at least \$74 million in revenues for immigration services for FY 2001.
- New V visa program would not work. INS has demonstrated problems with implementing new programs.

NACARA Parity: *Move Everyone Up Proposal*

- Would address inequities of NACARA.
- Would use the existing structure of NACARA and not create some new program.
- Help others who were not helped under NACARA at all (i.e. Liberians and Hondurans).
- Would take the argument off the table for the next Congress and President.

H.R. 5062: *Senate should pass H.R.5062 as passed by the House.*

- Passed overwhelmingly by the House with bipartisan support.
- This legislation is needed to undo the harshest provisions of IIRIRA.
- Minor modification can be made but need assurances that the amended version can pass the House before the end of the session.

ATTENDEES:

You
Mark Childress, Senator Daschle
Andrea LaRue, Senator Daschle
Dave Hoppe, Senator Lott
Lee Otis, Senator Abraham
Patty First, DOJ
Chuck Brain, WH
Irene

ISSUE	LIFA	Hatch Proposal	Revised Administration Position	Feinstein Proposal (group's proposal).	Possible Compromise
Class of 1992/Late Amnesty	Change Registry Date to 1986 <i>INS estimates: 500,000 people</i>	Legalization for class members only. <i>INS estimates: 80,000</i> <i>Hatch estimates: 400,000 based on class membership</i>	Legalization for everyone eligible for legalization under IRCA not only class members. Include spouses and children. <i>INS estimates: 150,000</i>	Same as revised Administration proposal but add repeal of section 377 – the court stripping provision.	Expand the Hatch proposal to cover everyone who would have benefited under the legalization program of IRCA 1986. Add to the Hatch proposal spouses and children.
245(i)	Reinstate section 245(I). <i>INS estimates: Helps 125,000 people and would generate \$74 million in FY01</i>	New V visa program for spouses and children of U.S. citizens (USCs) & Legal Permanent Residents (LPRs)	Reinstatement of section 245(i) and new V visa program	Reinstate section 245(I)	Reinstate sect. 245(I). - Has bipartisan support. - Keep families together. - Easy to implement. - brings in revenues
Parity Legislation	Provide sect. 202 relief for Liberians, Haitians, Salvadorans, Guatemalans and Hondurans. <i>INS estimates: 447,300 people</i>	Nothing. Possible proposal to conduct hearings and a study?	We are interested in exploring options that Republicans have developed.	Provide sect. 202 relief to Salvadorans, Guatemalans and Haitians currently covered under sect. 203 (i.e. can legalize if they have been here since 12/1/95). Provide sect. 203 for others Salvadorans, Guatemalans, Hondurans and Haitians if they can show: (1) been in the US at least 5 years; (2) good moral character; (3) extreme hardship; and (d) merit favorable INS discretion Silent on Liberians. <i>Estimates: 240,000-300,000</i>	OPTIONS: (1) <i>Move everyone up proposal (Feinstein proposal).</i> - Would address inequities of NACARA. - Help others who were not helped under NACARA (ie Liberians and Hondurans) (2) <i>No country-specific proposal by giving everyone sect. 203 relief.</i> - Would help many more people regardless of national origin. - But inequity would continue to exist for Salvadorans, Guatemalans and Haitians. (3) <i>Study and hearings.</i> - would be something on the parity issue. - But does not provide relief to anyone.

Issue	LIFA	Hatch	Revised Administration	Feinstein	Compromise
Age-Out Protection	Would be helped if met registry date requirements.	Hatch response to the Feinstein proposal that there is not enough time proposal but seemed to be supportive	Have not addressed it directly in letters but would support.	Allow for adjustment of status of minor children who age out while waiting for application to be processed. <i>Estimates: 2,000 – 3,000 individuals</i>	Feinstein proposal
H.R. 5062	Summary of H.R. 5062:	Object to Administration raising it b/c new issue.	Administration supports and raised in Nov. 1 letter Hatch	Silent.	Pass H.R. 5062 as passed by the House or with some minor modifications (e.g. make sure that traffickers cannot get relief).

THE WHITE HOUSE

WASHINGTON

October 12, 2000

The Honorable Orrin G. Hatch
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

As Congress considers immigration legislation in the final days of this session, the Administration urges Congress to pass the legislative proposals described below. These legislative proposals would restore fairness in our immigration system that is long overdue for many individuals and their families who have been living in the United States for a number of years.

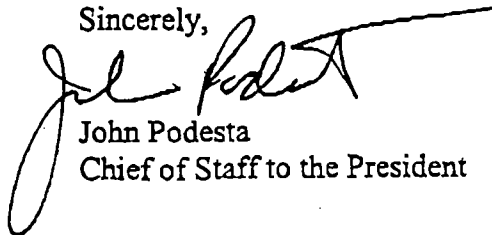
Registry Date Amendment. This legislation would amend section 249 of the Immigration and Nationality Act (INA) to allow qualified long-term migrants who have resided in the United States since 1986 to become lawful permanent residents. The INA registry provision has existed in this country since 1929 and has changed several times. The last time the date was changed was in 1986 when it was revised to 1972. Revising the registry date from 1972 to 1986 would provide humanitarian relief to many long-term migrants and also reduce or eliminate the need to continue litigating some of the large class action suits still lingering from the 1986 legalization program.

Central American and Haitian Parity Relief Act. This legislation would amend the Nicaraguan Adjustment and Central American Relief Act of 1997 (NACARA) to allow qualified nationals of El Salvador, Guatemala, Honduras, Haiti, and Liberia an opportunity to become lawful permanent residents by providing treatment equal to that granted to Nicaraguans and Cubans. NACARA was passed, in part, to support important, fragile emerging democracies. Like Nicaraguans and Cubans, many Salvadorans, Guatemalans, Hondurans, Haitians and Liberians fled human rights abuses or unstable political conditions in the 1980s and 1990s. Yet these latter groups received less favorable treatment than that granted to Nicaraguans and Cubans by NACARA.

Reauthorization of Section 245(i). This legislation would reauthorize section 245(i) of the INA to permit certain eligible migrants to adjust their immigration status while remaining in the United States by paying an additional fee. This provision had previously been the law but it expired in 1998. The revenues generated from this proposal should be directed toward efforts to reduce the backlog of naturalization applications and other immigrant benefit applications and to support detention funding. If such revenues are not directed in this manner, then we need to increase resources to ensure adequate funding for naturalization and other services and to support detention efforts.

As previously indicated, the President will veto the Commerce, Justice, State Appropriations bill unless these provisions are resolved satisfactorily. It is long overdue that we correct these injustices in the immigration system. The legislative proposals described above would address these injustices and would help many individuals and their families who have been living in the United States for a long time and have developed strong ties to their community to normalize their immigration status. For these reasons, the Administration urges Congress to pass this legislation without delay. We stand ready to work with Congress to enact these legislative proposals this year.

Sincerely,

A handwritten signature in black ink, appearing to read "John Podesta", with a long horizontal flourish extending to the right.

John Podesta
Chief of Staff to the President

ORRIN G. HATCH, UTAH, CHAIRMAN

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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

October 26, 2000

Mr. John Podesta
Chief of Staff to the President
The White House
Washington, DC 20500

Dear John:

I regret that we have reached an apparent impasse in our negotiations over immigration law. Our goal throughout has been to take a much needed step toward bringing fairness to our nation's immigration policy by reuniting families and by helping those who have played by the rules and are yet denied legal status due to delays and INS mix-ups.

Last month, you presented the Administration's proposal to grant a blanket amnesty to all illegal immigrants who have been in this country since 1986. The proposal also offered preferential treatment to immigrants from certain countries. In a letter to you dated October 18, 2000, we acknowledged that something should be done, but we disagreed with your proposal insofar as it failed to treat fairly those immigrant families who have played by the rules. Further, we noted that the Administration's policies would undermine this country's efforts to curb illegal immigration.

In order to assist legal immigrants who have abided by our laws, I have proposed the Legal Immigration Family Equity Act (LIFE Act). The LIFE Act would reunite families and restore due process to immigrants who have been victimized by INS snafus. The LIFE Act (1) provides visas to the spouses and children of permanent residents – family members who have been waiting to enter our country legally; (2) gives visas to the spouses of U.S. citizens under the same terms as fiances of citizens; and (3) allows members of the class of 1982 to secure permanent residence under the original terms of the 1986 Act.

As one member of the class of 1982 recently stated, the LIFE Act is a "full and fair solution which will require the INS to promptly process our 10-year old applications for legalization. This proposal will end what has been a decade-long nightmare for me and my over 100,000 class members." Another member of the class pleaded, "We urge President Clinton to now call upon his INS to lay down its arms, to stop its decade-old battle to block our legalization, to comply with the numerous court orders we have won." I believe that the LIFE Act clearly satisfies the President's stated goal "to keep families together and to make our immigration policies more equitable."

Mr. John Podesta
October 26, 2000
page two

In addition to passing the LIFE Act, the Senate Judiciary Committee is committed to holding hearings on reform of the INS. We want the INS to operate in a manner that ensures a fairer, more humane, and more effective national immigration policy. We propose to consider the different treatment of various nationalities within the same geographical regions and to examine any shortages in the supply of workers across different sectors of the economy. In the past eight years, the current Administration has neither proposed nor worked for such needed reforms.

We have encouraged dialogue on these issues; but, to date, we have received no written response from the Administration. At a meeting on October 24, 2000, your representatives raised unsupported allegations about deficiencies in our proposal that were not corroborated by the Department of Justice officials in attendance. We have yet to receive serious feedback on our proposal.

I regret that we have reached this point because the lives of many immigrants depend upon our reaching some kind of agreement. The late amnesty class of 1982 has been in litigation for over 10 years. Litigants from this group have stated that the Republican proposal in the LIFE Act is far preferable to the Administration's proposal. The Democratic proposal would require these immigrants to go through numerous additional hoops in the INS, the very agency that has denied their due process claims for all of these years. Further, hundreds of thousands of spouses and minor children languish on wait lists for more than five years. They deserve the benefit of the LIFE Act.

Finally, I would like to call your attention to the fact that, by assisting the late amnesty class, the LIFE Act covers as many as 400,000 of the people benefitted by your proposal. Further, it provides relief to over 600,000 spouses and children of permanent residents — allowing them to reunite with their families. As Congress comes close to finalizing its business for the year, we hope that the White House will respond to our proposal and put immigrant families ahead of political posturing.

Sincerely,

A handwritten signature in black ink, appearing to read "Orrin", with a large, stylized initial "O" that loops around the first part of the name.

Orrin G. Hatch
Chairman

OGH:nrr

THE WHITE HOUSE

WASHINGTON

October 27, 2000

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

Dear Senator Hatch:

I share your disappointment that we have been unable to reach agreement on legislation to address several injustices in our immigration system as called for by the *Latino and Immigrant Fairness Act*. While we applaud your willingness to consider these issues, your legislative proposal simply does not go far enough.

Contrary to statements in your letter that you have not received serious feedback on your proposal, we have communicated our views orally to your staff. Briefly, your proposal does not help most of the people who need relief and continues the patchwork of contradictory and discriminatory policies passed by previous Congresses. In an effort to move this process along, however, please find below the Administration's specific objections:

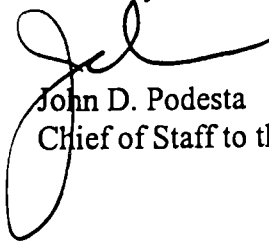
Proposal on the 1986 Legalization Program. Your proposal does not fully correct the flawed implementation of the 1986 legalization program under the Immigration Reform and Control Act of 1986. Your proposal would only help individuals who filed specific lawsuits with a specific law firm. Those individuals who would now be citizens will wait years for relief as their court actions continue after a four-year hiatus. While we continue to prefer our registry date proposal, we would consider a proposal to define the class of people to be protected as those who were in the country before January 1, 1982 and would have likely benefited from the 1986 legalization program. Additionally, a non-judicial process for ensuring that such individuals meet the admissibility requirements of the Immigration and National Act (INA) section 212 will result in a more timely, humane and less burdensome process. Given that immediate relatives, along with those who would have qualified for relief in 1986, were all victims of the INS' misinterpretation of the law, solutions must address the status of both the applicants and their immediate family members.

Section 245(i). Your response to our proposal to reinstate section 245(i) is to create an entirely new visa program, which would help some but not all of the individuals who would benefit from reinstatement of this section. Your proposal treats the family members of some legal permanent residents better than family members of U.S. citizens. It leaves out U.S. citizens applying for their children over the age of 21 and fails to help U.S. citizens seeking to reunite with their spouses and children if the spouse or child fell out of status for six months or more. There is bipartisan support for reinstatement of 245(i) as evidenced by its inclusion in past Senate versions of the Commerce, Justice, State Appropriations bill. Accordingly, while we are interested in exploring your proposal for a new "V" visa program, we believe it should be coupled with reinstatement of section 245(i).

NACARA Parity. Your proposal fails to address in any way the inequities contained in the *Nicaraguan Adjustment and Central American Relief Act (NACARA)* and the *Haitian Refugee and Immigration Fairness Act (HRIFA)*. These laws, passed in 1997 and 1998, provide for unequal treatment for refugees fleeing from countries that were torn by war in the 1980's and early 1990's. At the time these laws were passed, we made clear our opposition to this unequal treatment. We have tried since then to correct these inequities. It is long past time to close the chapter on this country's history of choosing some people for preferential treatment even though there were others similarly situated. Again, there is bipartisan support for this proposal as evidenced by a recent letter of support signed by seven prominent House Republicans. We simply cannot accept your suggestion to defer this issue until the next Congress.

We continue to believe that we can find some common ground to address these issues and look forward to hearing from you.

Sincerely,

A handwritten signature in black ink, appearing to be 'J. Podesta', written over the printed name.

John D. Podesta
Chief of Staff to the President

ORRIN G. HATCH, UTAH, CHAIRMAN

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 BRUCE A. COHEN, Minority Chief Counsel

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-8275

October 30, 2000

Mr. John Podesta
 Chief of Staff to the President
 The White House
 Washington, DC 20500

Dear Mr. Podesta:

Thank you for responding to my latest letter. It appears, however, that the Administration is simply reiterating its desire to grant amnesty to a large group of undocumented aliens and to pick and choose among immigrants from different countries. Your letter does not address the substantive innovation of our proposal, the Legal Immigration Family Equity Act, the LIFE Act, which restores rights to the late amnesty class and reunites the families of permanent residents who are languishing on long waiting lists. I fail to see how our proposal to provide relief to approximately 1 million immigrants and their families from all countries does not go "far enough."

First, with regard to the late amnesty class that would have qualified for residency under the 1986 Act, we provide full and complete relief. Our proposal does not require these individuals to go back to court, but rather allows them to file for residency under the original 1986 terms. Members of the litigating class prefer our proposal to the Administration's. These immigrants are tired of battling the Clinton Administration's INS in the courts for relief to which they are entitled. This portion of the LIFE Act will assist about 400,000 individuals. Indeed, I am puzzled by your suggestion that coverage of our due process provision is too narrow when you have consistently maintained that your comparable proposal to move the registry forward four additional years would only benefit 500,000 individuals.

Second, your letter states that the Administration is opposed to the different treatment of various groups of Central American immigrants. Yet at the time the Nicaraguan Adjustment and Central American Relief Act was passed, the Administration made clear in various letters and memoranda that there were principled reasons for distinguishing between the different groups. The President also supported the 1996 Act that tightened immigration laws. He said in his signing statement that the 1996 Act "reinforces the efforts we have made over the last three years to combat illegal immigration. It strengthens the rule of law by cracking down on illegal immigration." Now, however, the White House advocates a blanket amnesty for illegal immigrants — undermining legal immigration and the very rule of law it once touted.

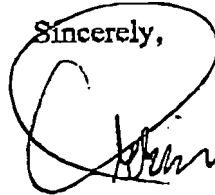
Mr. John Podesta
October 30, 2000
page two

The Clinton-Gore White House apparently believes that the public wishes to risk family reunification for legal immigrants in order to grant amnesty to millions of undocumented aliens — many of whom have violated our nation's immigration laws. I am convinced, however, that the Administration does not have a public mandate to grant amnesty to millions of undocumented aliens. Perhaps this is why the Administration has not proposed amnesty during its last seven and a half years in Washington, but instead has raised the issue during the final days of Congress in an election year.

I have always espoused a progressive approach to our nation's immigration policies. I believe, however, that fairness dictates that we first help those immigrants who have played by the rules, not those who have managed to evade our laws.

I believe that if we work together, we still have an opportunity to accomplish something important for immigrants and their families before Congress adjourns. I hope that you will reconsider your position and encourage the President to support our proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "Orrin", enclosed within a large, loopy circular flourish.

Orrin G. Hatch
Chairman

OGH:mr

THE WHITE HOUSE
WASHINGTON

November 1, 2000

The Honorable Orrin Hatch
Chairman
Judiciary Committee
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Thank you for your recent letter concerning immigration fairness. We continue to hope that in the spirit of bipartisanship we can work to achieve an amicable solution to the problems in our current immigration laws and practices.

First, your proposal to provide relief for at least some individuals who would have likely benefited from the legalization program under the Immigration Reform and Control Act of 1986 goes some distance in trying to provide fairness. However, your approach provides relief only to the litigants in particular lawsuits and leaves similarly situated long-term individuals to fend for themselves. I would like to work together to determine the best process for achieving our shared goal for this group of people.

Second, your proposal to create a new "V" visa program for persons who have awaited an immigrant visa for a significant period of time would benefit only some of the individuals who would be protected under our proposal to reinstate section 245(i). Your plan provides insufficient relief to persons who would otherwise be eligible to adjust their status. I believe we can find a way of bridging the gap between our proposals.

Finally, the Administration seeks to eliminate disparate treatment under our immigration laws for individuals who fled civil unrest and human rights abuses in the 1980s and 1990s. However, your proposal provides no relief to these deserving individuals. While members of your party have explored a different approach for achieving much of the same goal, your staff has not been willing to discuss this alternate proposal with Administration officials. Perhaps you can pursue this idea. Surely your expressed desire to bring "fairness to our nation's immigration policy," should result in a serious consideration of this and any other proposal that seeks to treat similarly situated people the same.

As the foregoing indicates, there is actually more common ground than your recent letters suggest. Indeed, there is bipartisan support for H.R. 5062 that would provide relief for certain individuals affected by changes in the 1996 immigration law. Such efforts would go a long way to achieving fairness in our immigration system. The time for finding a solution is upon us, and we look forward to working with you to achieve that end. I look forward to hearing from you regarding next steps.

Sincerely,

A handwritten signature in black ink, appearing to read "John D. Podesta", with a long horizontal stroke extending to the right.

John D. Podesta

Chief of Staff to the President

FAX from . . .

Senator Dianne Feinstein

of California

331 Hart Senate Office Building
Washington, DC 20510
(202) 224-3841

DATE: Nov. 15

TIME: _____

TO: Chuck Brain, White House
fax 456 - 6220

FROM: LaVita Strickland

COMMENTS:

Andrea La Rue asked me to send you the attached letters. Please give me a call to discuss. My direct line is 202-224-9641.

Please keep this correspondence confidential and do not distribute. Thanks.

TOTAL NUMBER OF PAGES (INCLUDING COVER SHEET): _____

NOTE: The information contained in this facsimile is confidential. If you receive this transmission in error, please notify the sender immediately.



United States Senate

WASHINGTON, DC 20510-0504

October 30, 2000

Honorable Orrin G. Hatch
Chairman
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Mr. Chairman:

I am writing in the hope that I might be able to help produce an agreement on legislation to address the situation facing a number of Central Americans and others in uncertain immigration status in our country. I would like to offer a proposal that would provide a fair resolution to deserving immigrants, while preserving the integrity of our immigration laws. My proposal would allow between 380,000 and 535,000 qualified aliens to adjust their status, compared to the estimated 1.1 million under the Latino and Immigrant Fairness Act.

To be fair, I firmly believe that any resolution must address four issues: (1) adjustment of status under the Immigration Reform and Control Act of 1986 (IRCA) for aliens in the U.S. before 1982 who, according to federal courts, were wrongfully denied the opportunity to legalize by the Immigration and Naturalization Service (INS); (2) the discrepancies in treatment of different groups under the Nicaraguan and Central American Relief Act of 1997 (NACARA); (3) restoration of Immigration and Nationality Act section 245(i); and (4) protection of those who have entered the immigration system as minor children, but turn 21 before the INS can process their applications for an adjustment of status or a visa. I offer the following suggestions on how we might resolve these issues:

Adjustment for Legalization Applicants in the U.S. as of 1982 In Reno v. Catholic Services (1993), the Supreme Court determined that the Immigration and Naturalization Service's (INS) erroneous interpretation of the law blocked otherwise eligible aliens from applying for legalization under IRCA. Therefore, the Court determined that their applications should be considered and remanded the cases back to the lower federal courts. In 1996, however, Congress revoked the jurisdiction of federal courts to further entertain and rule on the matter. This effectively nullified these cases, leaving many of those who were qualified for adjustment susceptible to deportation. To correct this situation, I would propose the following:

- Repeal Section 377 of the Immigration and Nationality Act to allow those who filed class action lawsuits against the INS for wrongfully denying their applications to proceed with their litigation.
- Provide the opportunity for adjustment to Lawful Permanent Resident status for aliens who were in the U.S. before January 1, 1982 and can prove they were eligible for legalization under the 1986 immigration law. In addition, immediate family members who would have been eligible under the Family Unity provisions of the Immigration Act of 1990 should also have the opportunity to adjust.

My proposal would affect between 140,000 and 235,000 people, compared to an estimated 500,000 under the Latino and Immigrant Fairness Act.

NACARA Parity In 1997, Congress passed the Nicaraguan Adjustment and Central American Relief Act (NACARA), creating two tiers of benefits for refugees long-residing in the United States who have similar histories. It permitted nationals from Cuba and Nicaragua to adjust immediately to lawful permanent resident status, provided they met certain criteria and had lived continuously in the U.S. since December 1, 1995. Other Central Americans and Haitians, however, were not offered the same opportunity. This disparity in treatment for groups facing similar life-threatening circumstances was simply unfair. To correct this, I offer the following proposal:

- Provide the opportunity for immediate adjustment to Lawful Permanent Resident Status for Salvadorans and Guatemalans currently covered in Sec. 203 of NACARA, and Haitians covered by the Haitian Relief and Immigrant Fairness Act; and
- Provide the opportunity to apply for relief from deportation, consistent with section 203 of NACARA and its implementing regulations, to Salvadorans, Guatemalans, Haitians, and Hondurans who can demonstrate that (a) they have been in the U.S. for at least 5 years; (b) they have exhibited good moral character during their presence in the United States; (c) return to their country would result in extreme hardship to them or their spouse, child, or parent who is a U.S. citizen or lawful permanent resident; and (d) they merit a favorable exercise of INS discretion.

This proposal would affect roughly 240,000 to 300,000 people, compared to the estimated 440,000 under the Latino and Immigrant Fairness Act.

Restoration of 245(i) I would also support reinstating the 245(i) provision. This would allow eligible students, workers, and family members who are on the verge of gaining permanent immigration status to remain in the U.S. to complete the "green card" process. I believe this measure would also reduce the strain on our consular offices overseas. The State Department estimates that implementation of Section 245(i), in the past, reduced the number of petitions processed overseas by 25 percent, resulting in a savings of nearly \$5 million for the agency. This provision has had bipartisan support and passed the Senate three times. Accordingly, I encourage you to support its inclusion in the Fiscal Year 2001 Commerce, Justice, and State appropriations legislation.

Age-Out Protection Oftentimes, minor aliens apply for adjustment of status or a visa as the son or daughter of the principal applicant for immigration. Because the INS is often unable to process their applications before they reach the age of 21, the son or daughter becomes ineligible for permanent residence even though they have been in the INS system for years.

I believe these individuals should be afforded protection from ineligibility if they have filed a timely application and met the criteria for eligibility at the time of the application. In addition, such protection should extend to the sons and daughters of those who were wrongfully denied legalization

The Honorable Orrin G. Hatch

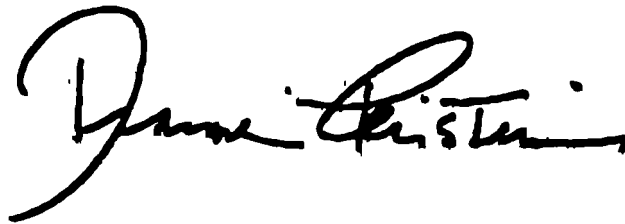
October 30, 2000

Page 3

on account of the INS's misinterpretation of the 1986 law, These individuals should be permitted to adjust along with the principle applicant. This provision would be limited in scope and assist an estimated 2,000 to 3,000 individuals.

As you know, I have always been a staunch supporter of curbing illegal immigration. However, I believe these proposed changes are a matter of fairness and common sense. I appreciate the steps you have taken thus far to address these important issues. I hope that we can find middle ground between the immigration legislation you have put forth and what the Administration desires.

Sincerely,

A handwritten signature in black ink, appearing to read "Jane Austin". The signature is fluid and cursive, with a large initial "J" and "A".

ORRIN G. HATCH
UTAH

PATRICIA KNIGHT
CHIEF OF STAFF

131 Russell Senate Office Building

Telephone: (202) 224-6251
TDD (202) 224-2849

E-mail: senator_hatch@hatch.senate.gov
Website: <http://www.senate.gov/~hatch/>

United States Senate

WASHINGTON, DC 20510-4402

October 31, 2000

COMMITTEES:

JUDICIARY
CHAIRMAN

FINANCE
CHAIRMAN, SUBCOMMITTEE ON
TAXATION AND IRS OVERSIGHT

INTELLIGENCE

INDIAN AFFAIRS

The Honorable Dianne Feinstein
United States Senate
Washington, D.C. 20510

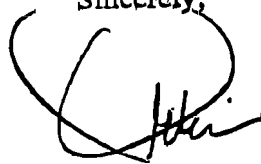
Dear Senator Feinstein:

Thank you for your letter of October 30, 2000. It represents a thoughtful commitment to reaching resolution on this difficult issue. I believe, however, that your proposal would not have sufficient support within the Senate to garner a majority. Thus, I urge you to consider supporting the Legal Immigration Family Equity Act, the LIFE Act. I have consistently taken the position that immigrants who have endeavored to play by the rules should not be disadvantaged in favor of those who have not. I also maintain that any immigration reform should help people from all countries.

The LIFE Act accomplishes these goals in several ways. First, we allow the late amnesty class of immigrants here before 1982 to pursue their legalization claims under the original terms of the 1986 Act. This would provide relief to approximately 400,000 immigrants who were wrongly denied adjustment of status by the INS. We seem to share a lot of common ground on this proposal. Second, we create a new form of visitor visa for the spouses and minor children of permanent residents. Eligible applicants would be permitted to reunite with their families, reside in the U.S., and work legally while awaiting a decision on the merits of their petitions. This would assist nearly 600,000 people over the next three years. Third, we permit the spouses of citizens married outside the U.S. to enter the country while awaiting visa processing. Overall, the LIFE Act would help about one million immigrants and their families.

I appreciate your efforts to assist immigrants without granting a blanket amnesty to undocumented aliens, many of whom have violated our immigration laws. The age-out protection provided by your proposal may encourage family reunification and fairness for those who have waited for INS to adjust their status. However, given that Congress may adjourn in the next few days, your proposal, which includes the issue of NACARA parity, simply will not have the necessary support within the Senate. Still, I hope that we can continue to work together to reach a resolution on these issues during the coming months.

Sincerely,



Orrin G. Hatch
Chairman

OHG:nrr

V.G. HATCH, UTAH, CHAIRMAN

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CHARLES E. GRASSLEY, IOWA
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MANUS COONEY, Chief Counsel and Staff Director
BRIAN A. CUMEN, Minority Chief Counsel

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

MARIA

✓ 11/6

November 3, 2000

Mr. John Podesta
Chief of Staff to the President
The White House
Washington, D.C. 20500

Dear Mr. Podesta:

I appreciate the spirit of bipartisanship and cooperation expressed in your latest letter concerning immigration. Unfortunately, the White House has placed our ability to reach agreement at risk by refusing to continue discussions unless I agree to some form of amnesty for Central Americans. Before we can reach agreement on legislation there needs to be some agreement on the goals. My repeatedly stated goal is to provide relief to immigrants and their families who have played by the rules. The Administration's goals are less-defined.

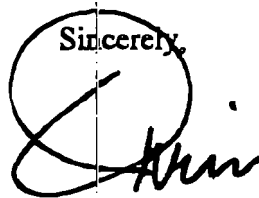
My stated goals will be achieved if the Administration supports enactment of the Legal Immigration Family Equity Act, the LIFE Act. First, in the LIFE Act I have proposed that the late amnesty class be allowed to file for residency under the original terms of the 1986 legalization program. Included are all individuals in the U.S. before 1982 that were covered by the 1986 Act - about 400,000 individuals would be able to adjust their status. There are no similarly situated individuals who were entitled by law to apply for residency. The Administration's proposal to advance the registry date would grant amnesty to undocumented aliens, many of whom have violated immigration laws. These aliens are not in the same category as the class of 1982.

Second, the Administration continues to push for amnesty for certain select groups of immigrants. Your proposal does not eliminate disparate treatment, but only perpetuates it by expanding the amnesty afforded a small group of immigrants in NACARA to an even larger, unknown number of aliens. This special amnesty would be extended to whole classes of people based on their countries of origin, rather than on the merits of their individual claims. Indeed, immigrants from some countries receive amnesty under your proposal while others are denied it. How does this "restore fairness" to our nation's immigration policies? I prefer policies that will assist immigrants from all countries, such as granting visitor visas to the spouses and children of permanent residents. The proposed "V" visa would allow an estimated 600,000 people to reunite with their husbands, wives, and children.

Mr. John Podesta
November 3, 2000
page two

Finally, in a letter of October 12, 2000, the Administration outlined three proposals to amend our immigration system. The most recent letter, however, raises an additional item – H.R. 5062, a bill that would make some aggravated felons eligible for cancellation of deportation – that has not been a part of the formal discussions. While this bill may have some bipartisan support in the House of Representatives, it has not been introduced or considered in the Senate. Our ability to resolve the full issue of immigrant fairness is made more difficult if the Administration's list of proposals continues to increase.

It is most unfortunate that, to date, the White House has been unwilling to provide relief to the one million immigrants the LIFE Act would help. If we truly want to restore fairness, we should work together to develop a fair, humane, and effective immigration policy that will help immigrants from all countries.

Sincerely,


Orrin G. Hatch
Chairman

OGH:nrr



United States Senate

WASHINGTON, DC 20510-0604

November 2, 2000

Honorable Orrin G. Hatch
Chairman
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Mr. Chairman:

Thank you for your speedy response to my letter of October 30. You have always been willing to sit down and work out issues and I am very grateful to you for this. Needless to say, I am anxious to return to Washington and look forward to seeing you again on November 14th.

I know that you have worked to address many of the issues affecting immigrants whose status in the United States is uncertain. However, the figure you cited in your letter to me of October 31 regarding the Late Amnesty class is not reflected in the legislation you included in the Fiscal Year 2001 Commerce-Justice-State-Judiciary appropriations bill. In your letter, you mentioned that the Legal Immigration and Family Equity Act (LIFE Act) would provide relief to approximately 400,000 immigrants who had filed class action suits in two cases. According the Department of Justice, only 80,000 would actually qualify for relief under your bill.

As I read your legislation, it would allow only a limited group of immigrants who filed their class action lawsuits with one law firm the ability to pursue their legalization claims under the original terms of the Immigration Reform and Control Act of 1986. The legislation does not address the compelling situations of those who signed up for other class action lawsuits that were just as successful and meritorious (for example, Proyecto San Pablo v. INS; Immigration Assistance Project of L.A. County Fed. of Labor v. INS; and Zambrano v. INS). In addition, the legislation does not provide relief for other eligible aliens who were harmed by the INS in the same manner as those covered in the LIFE Act, but who were never aware of the pending class action lawsuits and, consequently, never filed for membership.

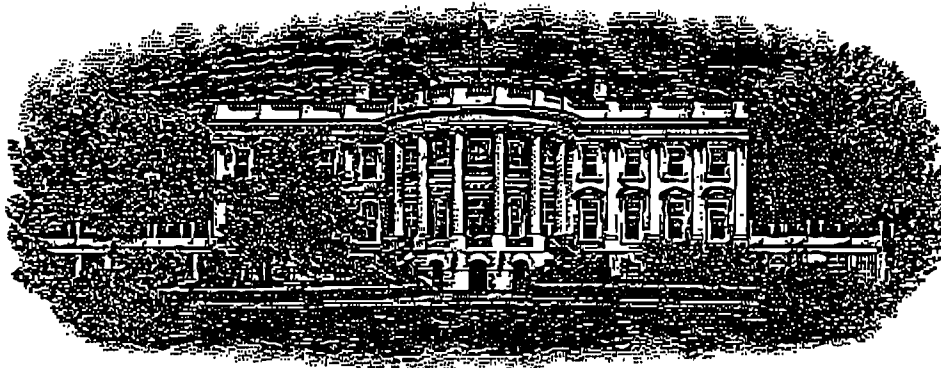
Like you, I believe Congress should move away from crafting country-specific immigration legislation and toward more general legislation that would benefit deserving people without regard to their nationality. Nevertheless, I am still concerned about the plight of a limited group of Salvadorans, Guatemalans, and Haitians. They sought refuge in our country because they faced the same sort of horrific, life-threatening circumstances that prevailed in Nicaragua and Cuba. I believe that Congress should help them. Many of them have American-born children.

The Honorable Orrin G. Hatch
November 2, 2000
Page 2

May I work with you to address these issues and craft a bipartisan solution before the end of the 106th Congress? I am available at your convenience by phone and very much hope we can, together, solve this problem.

With warm personal regards,

A handwritten signature in black ink, appearing to read "Jane Austin". The signature is written in a cursive style with a large, looping initial "J".



THE WHITE HOUSE

BRIAN BARRETO
ASSOCIATE DIRECTOR
OFFICE OF PUBLIC LIAISON
202-456-5807 (Phone)
202-456-6218 (Fax)

TO: IRISUE BUENO

PHONE: _____

FAX: 61907

DATE: 12/7/00

PAGES TO FOLLOW: 3

COMMENTS: _____

FYI - PER OUR CONVERSATION...

"LATE" AMNESTY MOVEMENT IN ACTION - LAMA 1995**5712 Kester Avenue # 6****Vun Nuys, CA 91411****Telephone (818) 908-8042****Fax (818) 908-8022****Email: lamacalls4unity@aol.com****Monday, December 6, 2000****Via Facsimile****Brian Barreto****Associate Director****of Latino Outreach****White House****Fax: (202)456-6218****(3)pages including this****Dear Mr. Barreto:**

In light of the present entangled and controversial presidential election outcome and foreseeing the possibility that neither S2912 "The Latino and Immigrant Fairness Act 2000" (LIFA) nor "The Legal Immigration Family Equity Act" (The LIFE Act) from Rep. Orrin Hatch would be considered or passed during the present Congress, our Los Angeles based grassroots organization "Late" Amnesty Movement in Action (LAMA) is urgently calling to hold a conference call with Mrs. Maria Echaveste, proposed by Ms. Oly Mogollon, Executive Director from LAMA with the purpose to discuss with Mrs. Echaveste the following:

The fact that neither LIFA nor LIFE under their present language will effectively resolve the problem of the long-term suffering so-called "late amnesty" people. While LIFA attempts to amend section 249 of the Immigration and Nationality Act (INA) by updating the registry date to January 1, 1986, the treatment for the "late amnesty" people under the registry disfavors the late amnesty applicants, because of the new paperwork or applications to fill out.

According to the INS regulations on registry, an unsuccessful applicant have not right to appeal, 8C.F.R. §249.2. With the use of new forms (registry),

late amnesty applicants must provide evidence to support their new application, i.e. proving being on U.S. grounds on or before January 1, 1986, otherwise, their applications would be rejected, mimicking the application rejections during the amnesty legalization program between May 5, 1987 and May 4, 1988. [A Federal mistake occurred during the amnesty legalization application period (1987-1988), in which hundreds of qualified applicants with their application were rejected]

So far, we have not heard or seen that LIFA would address any special language with respect whether if the actual 13-year-old pending application (I-687 Form), would be the only INS form sufficient for adjustment.

While on the other hand, and notwithstanding that LIFE would allow persons who applied for work permits under CSS and NEWMAN, another year to apply for legalization under the 1986 amnesty law, yet, the person, regardless if she or he was front-desked, had to go again through the same bureaucratic application process they went during the amnesty application period of May 5, 1987 and May 4, 1988.

Furthermore, under LIFE, individual class members must demonstrate continuous residency in the United States between January 1, 1982 and May 4, 1988. Under LIFE, there is not any language for those who can't prove the above continuous residency requirements in the United States, since they were victims of fraudulent information in their applications provided by attorneys, or notaries such as in the LULAC case from Las Vegas in which are involved around 18,000 victims.

Besides other immigrants, we, the Latino community, in 1996 understood that many part from IRIRA 1996 such as Sec. 377, were going to affect horrendously in many ways, the lives of thousands and thousands of immigrants. Nevertheless, we accepted the sacrifice, so we could have had President Clinton as the head of the nation. However, he made a commitment that he would correct the law later on during his presidential term. Up until now, the President has not yet fulfilled his commitment to resolve the problem of these long-term affected immigrants of the late amnesty cases, as well as from other immigrant communities like the Central American.

Therefore, and considering that President Clinton is still the President of the United States until January 20, 2001, and in light that none of the above mentioned legislation which most likely would be left for next congress, would resolve definitely the late amnesty cases.

We, the grassroots and affected immigrants from LAMA plead to our President not to leave the presidency leaving us in the hands of a new Congress. A Congress which we don't know how they are going to proceed with us, let alone not yet knowing if the future President would be a real friend of the immigrants, because until now we don't even know who would be the President of the United States.

We, the people from LAMA plead to President Clinton to finally grant us, the late amnesty applicants, the administrative solution that we have been asking him since 1996. Nothing prevents the President from his presidential abilities to move the executive branch around a fair and just solution.

The President's executive order should be based on the implementation of Sec. 245(a) of the Immigration and Nationality Act since has not been amended. This would allow that all pending applications from the late amnesty applicants would complete the amnesty legalization process under IRCA 1986 and be finally adjudicated for permanent residence.

Thank you very much for your attention to the above matter:



Oly Mogollon

Executive Director, LAMA