LATINO IMMIGRANT FAIRNESS ACT OF 2000

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Talking Points on the Latino and Immigrant Fairness Act and the Republican Counterproposal

October 18, 2000

The Latino and Immigrant Fairness Act is a straightforward attempt to keep families together, reward immigrants who work hard and pay taxes, and make our immigration policies simple and fair.

Meanwhile, the Republicans have not negotiated seriously. Even under the most generous interpretation, the Republican's current counterproposal ignores at least 90% of the Latino and Immigrant Fairness Act, and would perpetuate the current patchwork of contradictory and discriminatory policies enacted by the Republican Congress itself.

The Latino and Immigrant Fairness Act is needed to clean up the mess created by the GOP-led Congress. It is based on the simple premise that people in similar situations should be treated equitably. Apparently, this is a premise the GOP finds difficult to embrace.

In fact, under the Latino and Immigrant Fairness Act, *most of those who benefit would already be U.S. citizens had they been treated fairly by Congress in the recent past.*

These are people who desperately want to follow the rules and stay in America legally and permanently, but are stuck in bureaucratic limbo because the rules keep getting changed on them in mid-stream by Congress.

In 1996 and 1997, Congress failed to stand up for family reunification by failing to renew Section 245i, passed an inequitable bill helping some Central American war refugees more than others, and enacted a mean-spirited law to vacate federal lawsuits on behalf of those wrongfully denied legalization in the 1980's. In so doing, Congress undermined the cornerstones of good immigration policy – keeping families together, treating refugees fairly, and rewarding long-established immigrants who work hard and pay taxes.

> As a result, some close family members are allowed to stay together or be reunited, while others in exactly the same situation are not.
>
> As a result, some refugees from Central America and the Caribbean have been granted permanent status, while others who fled the same conditions have not.
>
> As a result, some people who were eligible for the legalization program enacted in 1986 are U.S. citizens, while others who were eligible are threatened with deportation.

Under the Latino and Immigrant Fairness Act,

> *all* families and workers eligible for a permanent visa will be able to stay together, not just some;
>
> *all* similarly-situated refugees will be able to resolve their legal limbo, not just some; and
>
> *all* those who should have been legalized in the 1980's will be treated fairly, not just some.

Part of the Republican counterproposal is to provide temporary visas and work permits to some of those waiting in the family backlogs for permanent visas. Although only introduced into this year's debate a few days ago, something along these lines is worthy of consideration. However, this idea should be considered *in addition* to the provisions of the Latino and Immigrant Fairness Act, not *instead* of.

Congress should stop trying to trade some deserving immigrant groups for others, and move to help all deserving immigrants willing to play by the rules, pay taxes, and work hard in the United States.

Estimated Number of Individuals Covered by Proposed Parity and Registry Legislation[1]
10/13/00

Central American and Haitian Parity Act

Salvadorans	140,000[2]
Guatemalans	170,000[3]
Hondurans	80,000
Haitians	50,000[4]
Total	440,000[5]

Liberian Parity: 7,300[6]

Registry: 500,000

Section 249 of the Immigration and Nationality Act, known as the "registry" provision, allows certain individuals to obtain status as lawful permanent residents if they have resided continuously in the United States since January 1, 1972. The proposed legislation would update the registry date (last amended in 1986) to January 1, 1986.

[1] The Latino and Immigrant Fairness Act (LIFA), S. 2912, includes both parity and registry provisions. In addition, it would restore Section 245(i) of the Immigration and Nationality Act which would allow certain individuals who are eligible for adjustment of status to complete the process in the United States rather than traveling to a U.S. consulate overseas.
[2] 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.
[3] 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.
[4] 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.
[5] This total 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.
[6] This figure is based on the number of Liberians estimated to have continuously resided in the United States since December 31, 1996.

<u>Q&As on Registry</u>
10/23/2000

Q: Does the registry date make any changes to naturalization process?

No. Individuals who adjust their status to legal permanent residency under the registry date provision must comply with the rules of naturalization. Generally, they must wait 5 years before applying, they must pass the civics and English test and not be ineligible for other reasons.

Q: Does the registry date allow individuals to petition their spouses and children ahead of other legal immigrants?

No. Individuals who adjust their status to legal permanent residency under the registry date must petition spouses and children just like other legal permanent residents.

Q: What is the "registry" provision of the immigration law?

Section 249 of the Immigration and Nationality Act (INA) (8 USC 1259), known as the "registry" provision, allows certain aliens to become lawful permanent residents (LPRs) if they have resided continuously in the United States since January 1, 1972. Applicants must also meet certain other requirements, such as demonstrating that they have "good moral character."

Q: What is the history of the registry provision?

There has been a registry provision in the INA since 1929, and it has been updated several times, most recently in 1986 as part of the Immigration Reform and Control Act of 1986 (IRCA). At that time, the "registry date" was set at January 1, 1972.

Q: How does someone apply to become an LPR under the registry provision?

A registry applicant must file a form (Form I-485) with the INS and pay a fee of $220. This is the same form and fee required from individuals who apply to become LPRs under other provisions of the immigration law. Applicants must submit supporting evidence, photos, and fingerprints along with the form, and the INS interviews them. If INS approves the application, the alien is granted a "green card."

Q: Is there a cut-off date for registry applications?

No. Even today, someone who entered the United States before January 1, 1972, could file an application with INS to adjust to LPR status under the registry provision.

Q: What is the purpose of the registry provision, and has that purpose changed over time?

In its early years, the registry law aided aliens of good moral character who had lived in the United States for substantial periods of time, but who lacked records of their arrival. By establishing an entry date, it allowed such aliens to demonstrate residence in the United States in order to support an application for naturalization. When Congress amended the registry provision in 1958, it changed the requirements in such a way that the registry mechanism became available to aliens who had entered the country illegally or who had overstayed a temporary period of entry (or violated its terms). According to committee reports, these changes granting the Attorney General discretionary authority under the registry provision were prompted by congressional concern over the number of private bills designed to grant legal permanent residency (LPR) status to long-time U.S. residents. The registry provision, as updated by Congress in 1965 and 1986, serves much the same purpose today: providing discretionary relief to aliens of good moral character with long-standing ties to the United States.

Q: Is changing the registry date a reward for immigration violators?

No. The registry provision reflects the fact that it is an inefficient use of the government's resources to pursue the removal of aliens who have resided in the United States for substantial periods of time and who have acquired substantial connections to the United States. It is also in the public interest to avoid a perpetual "underground" class of individuals who are subject to exploitation by employers, landlords, and others and whose fear of government authorities has other negative effects, such as failing to report crimes or participate in important events such as the census.

Q: Is this a new amnesty?

No. While the registry provision does reflect the same concept as a statute of limitations, the benefit is not automatic. An alien must apply for the benefit at an INS office. In addition to demonstrating residence in the United States since the registry date, the alien must establish that he or she is a person of good moral character, is not ineligible for citizenship, and is not deportable on terrorism-related grounds.

Q: How does changing the registry date affect "late amnesty" class members?

The "late amnesty" cases involve claims by illegal aliens who did not successfully apply for legalization under IRCA before the deadline of May 1988. Legalization under IRCA required continuous unlawful presence since January 1, 1982. Because the pending legislation would move the registry date to January 1, 1986, "late amnesty" class members who would have been eligible for legalization would be eligible to apply under the new registry law.

NATIONAL IMMIGRATION FORUM

THE FAX ON MM GRAT ON

A nation of immigrants....a nation of prosperity

October 16, 2000 Contact: Angela Kelley (202) 544-0004, ext. 19
Vol. 1, No. 31 2 pages

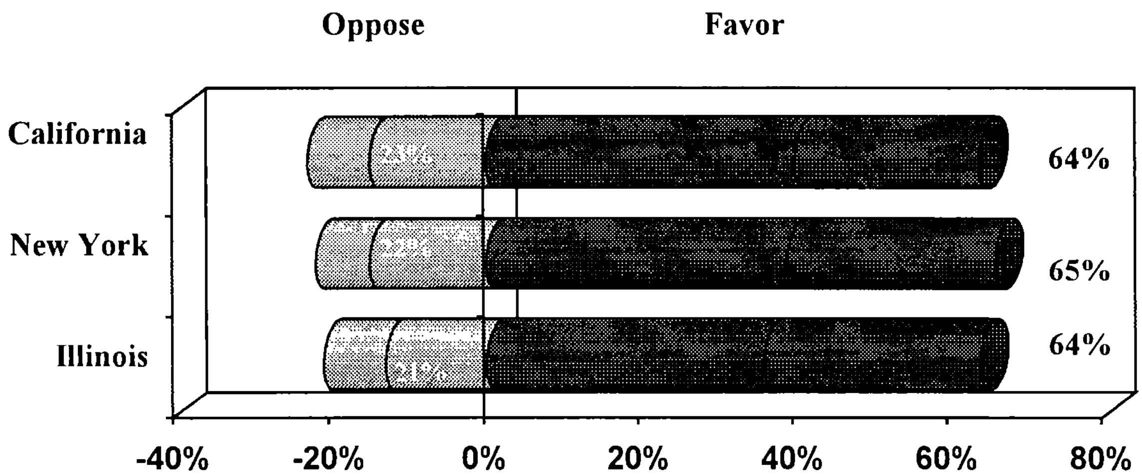
Poll: Majority of Democrats and Republicans Support Limited Legalization

Congress and the White House are considering the *Latino and Immigrant Fairness Act*, legislation that would legalize a limited number of immigrants, most of whom have resided in the U.S. for more than a decade in legal limbo.

A new poll of voters in the key states of California, Illinois, and New York reveals that nearly **two-thirds of voters** said they would favor legislation much more generous than the legislation that is pending. A majority of Republican voters, as well as Democrats, in all three states expressed support for a legalization proposal. Overall, Latino and African American support for the proposal was especially strong.

Question: If Congress were considering a bill that would legalize a limited number of undocumented immigrants, who can prove they have been in the United States since 1995, working at a job, and paying taxes, would you favor or oppose this legislation, or aren't you sure?

Answer: Voters in all three states support limited legalization for undocumented immigrant workers.

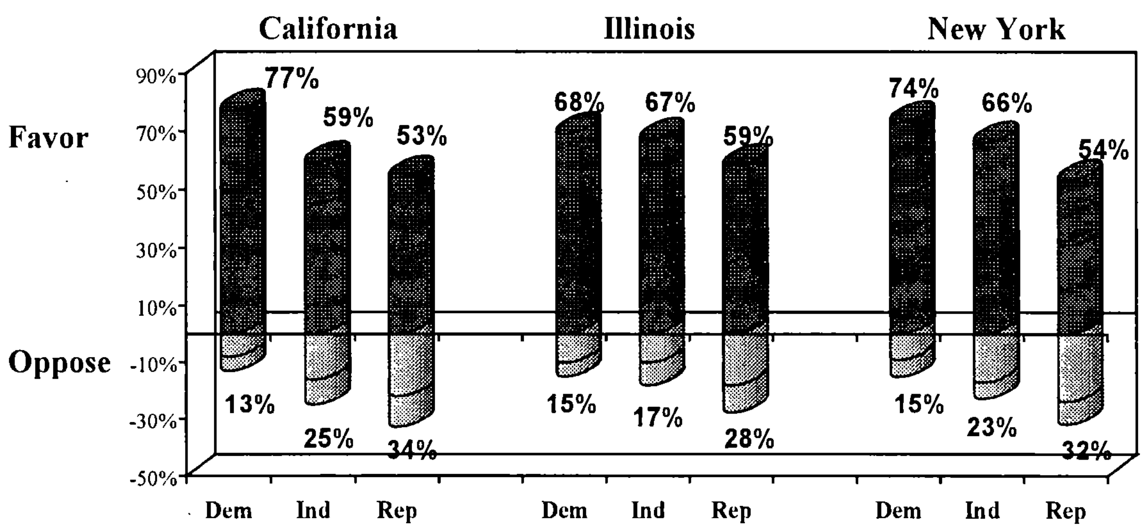


This overwhelming support for the proposal held true even *after* voters heard arguments against a legalization program, including the following: "Amnesty for illegal immigrants is a terrible idea that undermines the rule of law in our country. People who deliberately disobeyed our laws to sneak into this country and take American jobs should not be rewarded."

Support Across Party Lines

Question: If Congress were considering a bill that would legalize a limited number of undocumented immigrants, who can prove they have been in the United States Since 1995, working at a job, and paying taxes, would you favor or oppose this legislation, or aren't you sure?

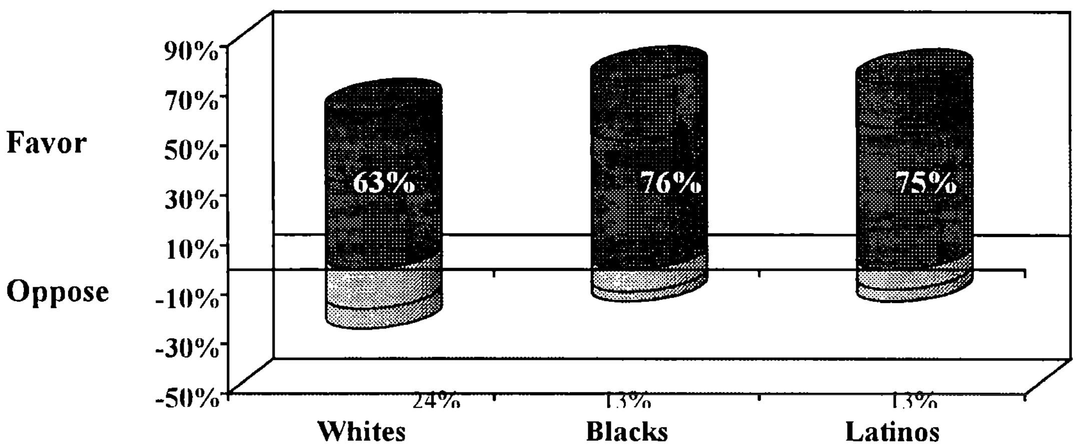
Answer: Voters support legalization across party lines, in all three states.



Support Across Race and Ethnicity

Question: If Congress were considering a bill that would legalize a limited number of undocumented immigrants, who can prove they have been in the United States Since 1995, working at a job, and paying taxes, would you favor or oppose this legislation, or aren't you sure?

Answer: Three-quarters of African American and Latino voters support the legalization proposal. Almost two-thirds of whites also support the proposal.



Source: The poll was conducted by Lake, Snell, Perry & Associates on behalf of SEIU with assistance from UNITE and the National Immigration Forum.

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

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

S. 2912:

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

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

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

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

Reauthorizes the 245(i) Provision:

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

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

Changes Registry Date:

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

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

Calendar No. 717

106TH CONGRESS
2D SESSION

S. 2912

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

IN THE SENATE OF THE UNITED STATES

JULY 25, 2000

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

JULY 26, 2000

Read the second time and placed on the calendar

A BILL

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

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Latino and Immigrant Fairness Act of 2000".

TITLE I—CENTRAL AMERICAN AND HAITIAN PARITY

SEC. 101. SHORT TITLE.

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

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

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

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

(2) in subsection (a)(1)(A), by striking ``2000'' and inserting ``200~~3~~4'';

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

~~(4) in subsection (d)Ð~~

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

(B) in subparagraph (E), by striking "2000" and inserting "200~~3~~4".

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

An application for relief properly filed by a national of Guatemala or El Salvador under the amendments made by section 203 of the Nicaraguan Adjustment and Central American Relief Act which was filed on or before the date of enactment of this Act, and on which a final administrative determination has not been made, shall, at the election of the applicant, be considered to be an application for adjustment of status under the provisions of section 202 of the Nicaraguan Adjustment and Central American Relief Act, as amended by ~~section ___12 of~~ this Act, upon the payment of any fees, and in accordance with procedures, that the Attorney General shall prescribe by regulation. The Attorney General may not refund any fees paid in connection with an application filed by a national of Guatemala or El Salvador under the amendments made by section 203 of ~~that~~ the Nicaraguan Adjustment and Central American Relief Act.

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

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

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

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

(1) in subsection (a)Ð

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

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

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

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

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

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

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

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

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

(4) in subsection (d)Ð

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

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

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

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

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

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

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

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

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

``(A) IN GENERAL.Ð In accordance with regulations to be promulgated by the Attorney General and the Secretary of State, upon approval of an application for adjustment of status to that of an alien lawfully admitted for permanent residence under subsection (a), an alien who is the spouse or child of the alien being granted such status may be issued a visa for admission to the United States as an immigrant following to join the principal applicant, if the spouse or childÐ ``(i) meets the requirements in paragraphs (1)(B) and (1)(D); and

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

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

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

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

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

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

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

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

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

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

(1) in subsection (a)Ð

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

in the unreviewable discretion of the Attorney General,

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

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

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

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

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

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

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

(4) in subsection (d)Ð

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

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

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

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

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

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

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

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

``(E) the alien applies for such adjustment before April ~~3~~ 1, 200~~3~~4.''; and

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 107. MOTIONS TO REOPEN.

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

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

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

Subtitle B – Adjustment of Status of Other Aliens

SEC. XX21. ADJUSTMENT OF STATUS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TITLE III—EXTENSION OF REGISTRY BENEFITS

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

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

(b) CONFORMING AMENDMENTS.Ð

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

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release **July 27, 2000**

STATEMENT BY THE PRESIDENT

It is long past time that we correct several injustices in the immigration system by changing the registry date and amending the Nicaraguan Adjustment and Central American Relief Act (NACARA). People who have been living for many years in the United States and have developed strong ties to their communities deserve the opportunity to normalize their immigration status. There is no reason for Congress to stand in the way of a reasonable bipartisan bill to increase H1-B visas, invest in our workers, and correct these longstanding injustices. Congress should not pass H1-B or any other immigration legislation this year without ensuring that these injustices are addressed. The American people deserve no less.

###

THE VICE PRESIDENT
WASHINGTON

July 26, 2000

The Honorable Lucille Roybal-Allard
Member of Congress
2435 Rayburn Building
Washington, DC 20515-0533

Dear Lucille:

As Congress concludes this work period, with few legislative days left this session, I want to communicate my continued support for legislation addressing fairness for legal immigrants.

America's economic prosperity stems in large part from the hard work of American workers and the innovation offered by American firms. As a result of the longest period of economic growth in our history, it is not surprising that we have achieved record low levels of unemployment. This positive employment picture is especially true among highly skilled and highly educated workers. In some sectors of the economy, it appears there may be genuine shortages of highly skilled workers necessary to sustain our economic growth. As a result, our Administration has offered a series of proposals aimed at dramatic improvements in the education and training of American workers. These proposals ought to be enacted by the Congress to assure that any gap between worker skills and employer needs is addressed comprehensively.

I recognize that periodically American industry requires access to the international labor market to maintain and enhance our global competitiveness, particularly in high-growth new technology industries and tight labor markets. For these reasons, I support legislation to make reasonable and temporary increases to the H-1B visa cap to address industry's immediate need for high-skilled workers. However, this increase must also include significant labor protections for American workers and a significant increase in H-1B application fees to fund programs to prepare American workers – especially those from under-represented groups – to fill these and future jobs.

In addition, I support measures that provide fairness and equity for certain immigrants already in the United States. Therefore, as Congress considers allowing more foreign temporary workers into this country to meet employers' needs, I urge Congress to correct two injustices currently affecting many immigrants already in our nation. I want to urge Members to pass two important immigration proposals that have long been Administration priorities – providing parity to Central Americans and Haitians under NACARA and changing the registry date to allow certain long-term migrants to adjust to legal permanent resident status. These proposals are much-needed and would restore fairness to our immigration system and American families. The registry date and the Central American and Haitian Parity Act proposals would provide good people who have developed ties to this country – families, homes, and roots in their communities – the opportunity to adjust their status. I am extremely disappointed that many in the Congressional majority seem intent on refusing to pass or even vote on these important immigration provisions. One way or another, however, the Congressional majority has an obligation to allow a vote on these issues and to join us in passing these measures of basic justice and fairness. The migrants and their families who would benefit from the registry date proposal have been in immigration limbo for up to two decades and are in desperate need of a resolution to their efforts to become full members of American society. In the case of Central Americans and Haitians, the parity provision would not only provide compassion and fairness for the affected immigrants, but also contribute to the stability and development of democracy and peace in their native countries.

I also urge Congress to pass and fund other Administration priorities that would address the needs of immigrants. Reinstatement of section 245(i) would allow families to stay together while an adjustment of status application is pending. The Administration's FY 2001 budget proposal would fund programs to ensure that immigrants' services have the resources needed to reduce the backlog of applications from people seeking naturalization and adjustment of status.

Finally, I urge Congress to fully fund the Administration's $75 million request for the English Language/Civics and Lifeskills Initiative that will allow communities to provide more English language courses that are linked to civics and lifeskills instruction to adults with limited English language proficiency. Immigrants are eager to learn English and all about civic responsibility, but the demand for programs outweighs the supply. We need to provide opportunities for these new Americans to become full participants in our society.

For these reasons, Congress should consider and enact these legislative proposals and fund the programs we requested. I commend your leadership in this area, and I look forward to working closely with you to enact these important immigration measures.

Sincerely,

Al

Al Gore

Congress of the United States
Washington, DC 20515

September 21, 2000

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

Dear Mr. President:

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

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

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

Sincerely,

Richard A. Gephardt   Lucille Roybal-Allard

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

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

Ron Wyden

Patty Murray

Jack Reed

Max Baucus

Paul S. Sarbanes

Joe Biden

Patrick Leahy

Carl Levin

Daniel K. Akaka

Herb Kohl

Russ Feingold

EWIC Essential Worker Immigration Coalition

September 8, 2000

U.S. House of Representatives
Washington, D.C. 20510

Dear Representative:

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

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

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

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

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

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

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

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

Sincerely,

Essential Worker Immigration Coalition

Enclosures:
- Reform Agenda
- List of Members

EWIC Essential Worker Immigration Coalition

MEMBERS

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

Essential Worker Immigration Coalition
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How does this proposal relate to the AFL-CIO resolution?

My understanding is that the AFL-CIO resolution addresses a number of issues including a proposal to grant amnesty for undocumented immigrants currently working in this country. This proposal is much more limited and only revises the registry date to allow long-term migrants who have been living in the US since 1986 to become lawful permanent residents.

Why are you proposing this legislation now?

The last time the registry date was revised was in 1986 and at that time the registry date was revised to 1972 with a 14 years period of residency. It has been 14 years since the registry date has been revised and should be revised to 1986 following the same 14 years residency requirement.

What does this legislation do?

This legislation would revise the registry date from 1972 to 1986 allowing long-time migrants - who have developed substantial ties to this country including establishing families, homes and roots in their communities – to become lawful permanent residents.

How many people do you expect will be allowed to become lawful permanent residents under this proposal?

The INS estimates that approximately 500,000 would become lawful permanent residents under this proposal.

What is Registry?

Registry is the process of a creation of a record of lawful admission for permanent residence for a qualifying alien. Upon conferral of this benefit, the immigrant is a lawful permanent resident.

Is this a new provision?

The registry provision has existed in some form in the immigration law since 1929. The purpose of the registry provision was to legalize the residence of immigrants who had entered improperly before 1921, the date of one of the first comprehensive immigration laws.

Has the Registry date been changed before?

Currently, the registry provision required that an immigrant have entered the United

States before January 1, 1972. This cutoff date was enacted in 1986, as part of the most recent amendment to the registry statute. Prior advancements of the cutoff date occurred in 1940 (July 1, 1924), 1958 (June 28, 1940), and 1965 (June 30, 1948).

How does this amendment affect "late amnesty" class members?

The "late amnesty" cases involve claims by undocumented immigrants who did not successfully apply for legalization under the Immigration Reform and Control Act of 1986 (IRCA) before the deadline of May 1988. IRCA required continuous unlawful presence since January 1, 1982. Because this amendment goes beyond the 1982 date, "late amnesty" class members who would have been eligible for legalization are covered by this amendment and may apply for registry.

Revising the registry date from 1972 to 1986 would not only provide humanitarian relief to many long-term migrants, but also reduce or eliminate the need to continue litigating some of the large class actions still lingering from the 1986 legalization program.

Is this amendment a reward for immigration violators?

No. The registry date was established in recognition that migrants who have resided in the U.S. for a long period have developed substantial ties to this country including establishing families, homes and roots in their communities. The registry provision reflects the fact that it is an inefficient use of the government's resources to pursue the removal of immigrants who have resided in the United States for substantial periods of time. The majority of immigrants who have resided in the United States for a period of time sufficient to qualify for registry will have acquired substantial connections to the United States so as to make their removal of dubious benefit. It is also in the public interest to avoid a perpetual "underground" class of individuals who are subject to exploitation by landlords, employers, and others and whose fear of government authorities has other negative effects, such as failing to report crimes or participate in important events such as the current census.

Is this a new amnesty?

No. While Registry does reflect the same concept, the benefit is not automatic. An immigrant must apply for the benefit at an INS office. In addition to demonstrating residence in the United States since the registry date, the alien must establish that he or she is a person of good moral character, is not ineligible for citizenship, and is not deportable on terrorism-related grounds.

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QUESTIONS AND ANSWERS ON THE PROPOSED CENTRAL AMERICAN AND HAITIAN PARITY ACT OF 1999

Q. What is the proposed Central American and Haitian Parity Act of 1999?

A. As part of the Administration's comprehensive effort to support the process of democratization and stabilization now under way in Central America and Haiti and to ensure equitable treatment for aliens from those countries, the President today transmitted to the Congress a legislative proposal entitled the "Central American and Haitian Parity Act of 1999." The proposed bill would expand the scope of section 202 of the Nicaraguan Adjustment and Central American Relief Act (NACARA) to include not only nationals of Cuba and Nicaragua, but eligible nationals from El Salvador, Guatemala, Haiti and Honduras as well. While the Administration is hopeful that the proposal will be enacted into law in its current form, it must be stressed that these revisions to section 202 of NACARA are only proposed legislation at this point and do not have the force of law. The Congress may make amendments to this proposal during its consideration, or Congress may not act on the proposal. Accordingly, no actions should be taken by any potentially affected party in reliance upon this proposal, which may or may not become law. No amendment to NACARA will become law unless and until it is passed by the Congress and signed by the President.

Q. What benefits does NACARA section 202 currently provide?

A. Section 202 currently affords eligible nationals of Cuba and Nicaragua the opportunity to apply for adjustment of status to that of lawful permanent resident and the right to live and work permanently in the United States. Section 202 waives many of the usual requirements for this benefit.

Q. Who is currently eligible to adjust under NACARA section 202?

A. To be eligible for NACARA section 202 benefits currently, the applicant must be a national of Cuba or Nicaragua who has been continuously physically present in the United States since December 1, 1995 (not counting absences totaling 180 days or less). The applicant must also be admissible to the United States. However, certain grounds of inadmissibility may not be applied to these applicants. Certain Nicaraguan or Cuban national dependents are also eligible.

Q. When does NACARA section 202 currently expire?

A. All applications (Form I-485, Application to Register Permanent Residence or Adjust

Status) must be received by the INS Texas Service Center, the Immigration Court, or the Board of Immigration Appeals, as appropriate, no later than March 31, 2000.

Q. Who would be affected by the proposed "Central American and Haitian Parity Act of 1999?

A. If enacted into law, Guatemalans, Haitians, Hondurans, and Salvadorans (in addition to Nicaraguans and Cubans) who have been continuously physically present in the United States since December 1, 1995 and are otherwise would be eligible to become lawful permanent residents. Certain dependents would also be eligible.

Q. What are the eligibility requirements for adjustment of status under the proposed legislation?

A. To be eligible, the applicant must be a national of Cuba, El Salvador, Guatemala, Haiti, Honduras, or Nicaragua who has been continuously physically present in the United States since December 1, 1995 (not counting absences totaling 180 days or less). The applicant must also be admissible to the United States. However, the grounds of inadmissibility pertaining to public charge, labor certification, present without inspection, lack of immigrant visa, and certain periods of unlawful presence would not apply to these applicants. Unlike the current section 202, the proposed legislation would remove certain obstacles to relief when considering an adjustment application, such as the applicability of reinstatement of removal orders, and the requirement that an alien be outside the United States to apply for an exception to certain inadmissibility grounds relating to previous removal from the United States. The legislation would also expand the Attorney General's authority to consider, on a case-by-case basis, whether to grant relief to an applicant who might otherwise be precluded based on a health-related condition, or for attempting to enter the United States (or obtain an immigration benefit) through misrepresentation. The proposed legislation would also relax the conditions under which an alien may seek the consent of the Attorney General to reapply for admission after deportation. All applications would have to be properly filed before April 1, 2003.

Q. What about dependents already in the United States?

A. The proposed legislation provides that, regardless of nationality, spouses, children (under 21 years of age), and unmarried sons and daughters (21 years of age or older) may be eligible for adjustment of status if they meet the same admissibility standard as the principal applicant. In addition, in order to qualify: spouses and children must have entered the United States prior to the date of enactment of the Central American and Haitian Parity Act of 1999 and sons and daughters must have been continuously physically present since December 1, 1995 (not counting absences totaling 180 days or less). In the case of a spouse, stepchild, or stepson or daughter, the qualifying marriage must have been entered into prior to the date of enactment of the Central American and Haitian Parity Act. Dependents seeking to adjust their status under the proposed legislation would have to properly file their applications prior to April 1, 200~~3.~~ 4

Q. What about dependents who are not present in the United States on the date of enactment of the proposed legislation?

A. The proposed legislation provides that an eligible spouse or child (under 21 years of age) of a principal applicant may, upon approval of the principal applicant's adjustment application, be issued an immigrant visa to follow to join the principal in the United States. The application deadline for these visas would be set in accordance with regulations promulgated by the Attorney General and the Secretary of State. In light of this provision, any attempt to unlawfully enter the United States to obtain benefits under this proposed legislation is strongly discouraged. Would-be unlawful entrants are subject to removal from the United States and such removal may jeopardize that person's ability to obtain benefits under both the proposed and existing legislation.

Q. Would it help my chances to obtain lawful status in the United States if I illegally enter the United States now so that I will be there if and when the proposed legislation passes?

A. Absolutely not. In order to benefit from the proposed legislation, applicants will have to have been continuously physically present in the United States since December 1, 1995 (not counting absences totaling 180 days or less). The only exception to this rule is eligible spouses or children as of the date of enactment of the proposed legislation, but the proposal provides for the issuance of immigrant visas to those dependents if they are not present in the United States. Unlawful entrants are subject to removal from the United States and such removal may jeopardize that person's ability to obtain benefits under both the proposed and existing legislation.

Q. What if I am eligible for and/or already have applied for suspension/cancellation of removal under section 203 of NACARA?

A. The proposed legislation does not alter the eligibility criteria or the applicable deadlines for applying for relief in the form of suspension of deportation or cancellation of removal pursuant to section 203 of NACARA. The proposed legislation does provide the Attorney General with the authority to develop a regulatory scheme for converting to an application for adjustment of status under the revised section 202 any application for section 203 relief which was properly filed by a national of Guatemala or El Salvador on or before the date of enactment of the

Central American and Haitian Parity Act and remains pending (i.e. no final administrative decision has been rendered by the INS or EOIR). Applications in which a final administrative decision had been rendered would not be considered for conversion, nor would any application for relief under section 203 filed after the date of enactment of the proposed legislation.

While it is believed that those applicants who can prove eligibility for relief under section 203 by demonstrating good moral character and the required physical presence should not have great difficulty in establishing eligibility for adjustment of status under the revised section 202, it must be noted that the eligibility requirements for the two forms of relief are not identical. Unlike section 203, applicants for adjustment of status under the proposed legislation must demonstrate their admissibility to the United States under those grounds, which are not excepted by the legislation. Failure to satisfy this requirement will result in the denial of the adjustment application. While there are waivers for certain grounds of inadmissibility, such waivers are discretionary in nature and may require a qualifying relationship to a United States citizen or lawful permanent resident and a demonstration of extreme hardship.

Accordingly, persons who believe that they are currently eligible under section 203 are cautioned not to abandon that application process in anticipation of enactment of this proposed legislation. As noted above, there may be reasons why pursuing 203 relief would be preferable to certain Guatemalans and Salvadorans even if the proposed legislation is passed. There is no bar to pursuing more than one application for relief at a time. Accordingly, the Administration strongly encourages persons to pursue any and all avenues of relief for which the person believes that he or she is eligible.

Q. What if I am eligible for and/or already applied for adjustment of status under section 902 of the Haitian Refugee Immigration Fairness Act of 1998 (HRIFA)?

A. The proposed legislation provides the Attorney General with the authority to develop a regulatory scheme for converting to an application for adjustment of status under the revised section 202 any application for adjustment filed pursuant to section 902 of HRIFA which was properly filed on or before the date of enactment of the Central American and Haitian Parity Act and remains pending (i.e., no final administrative decision has been rendered by the INS or EOIR). The proposed legislation would revise section 902 of HRIFA in many of the same ways that it would revise section 202 of NACARA. Specific revisions to section 902 would include removing certain obstacles to relief (such as the applicability of the reinstatement provisions of the Act), and expanding the Attorney General's authority to grant waivers for health and fraud-related grounds of inadmissibility and to give consent to reapply for admission. The requirements for dependents would also be similar to those contained in the revised NACARA section 202 and would include, among other things, eligibility for dependents who were not nationals of Haiti. A similar immigrant visa process would also be available for spouses and children who could not meet the physical presence requirement. As a result, the proposed legislation would impose an application deadline for dependents of April 2, 2003. Principal applicants would still have to apply prior to April 1, 2000. After that date eligible Haitians could still apply for adjustment of status pursuant to NACARA section 202 through March 31, 2003.

Q. What would happen if my NACARA 203 or HRIFA application had already been denied on the date that the proposed legislation takes effect?

A. The proposed legislation provides the opportunity for persons who have been made eligible for adjustment of status under the revised NACARA section 202 or HRIFA section 902 with a limited opportunity to file one motion to reopen their case solely for the purpose of determining that person's eligibility under the revised law.

Q. What about travel and work authorization?

A. The proposed legislation would not alter the Attorney General's ability to grant employment authorization to NACARA or HRIFA adjustment applicants. Such authorization shall be granted if the applicant has requested work authorization and the adjustment application remains pending for more than 180 days. More specific requirements for both employment and travel authorization would be set forth in regulations to be promulgated by the Attorney General.

Q. What type of application process is envisioned, and how long would the process take?

A. The application process would be set forth in regulations to be promulgated by the Attorney General. Processing time would depend upon the application procedure established, as well as the Service's overall workload at the time the applications were filed.

Q. What are the estimates of individuals that will be covered by the proposed legislation?

A. INS estimates that approximately 440,000 individuals would be covered by the proposed Central American legislation. These numbers do not include individuals already covered by NACARA section 203, the Haitian Relief Act, or derivative spouses and children. The breakdown is as follows:

Salvadorans	140,000
Guatemalans	170,000
Hondurans	80,000
Haitians	50,000

TOTAL 440,000

Q. What are the differences between the bill introduced by Representative Luis Gutierrez and the proposed Administration legislation?

A. The centerpiece of Representative Gutierrez's bill is the same as the Administration's -- it adds Guatemalans, Salvadorans, Hondurans and Haitians to NACARA 202. Representative Gutierrez's bill also removes the requirement that dependents be one of those nationalities, like the Administration's bill. However, Representative Gutierrez's bill is different:

(1) because it removes Guatemalans and Salvadorans from NACARA 203. The Administration's bill does not do this because it may cut some people off from relief (for example, an inadmissibility ground may bar someone from 202 relief, but not from 203 relief);

(2) and, it does not contain the Administration's technical amendments (aside from the one regarding the dependents' nationality), which are described in the section-by-section.

Q. What fees will applicants be required to pay to adjust their status under the provisions of the proposed act?

A. Applicants over 14 years of age who file applications to adjust their status under the provisions of section 202 will be required to pay $220; applicants under 14 years of age will be required to pay $160. No family cap applies to applications submitted under section 202. Under the provisions of section three of the proposed act, individuals who have filed applications for adjustment of status under section 203 of NACARA may convert their applications to applications under the provisions of section 202 of NACARA. The fee for such an application conversion has not yet been determined.

Q. Why has the Administration proposed this legislation?

A. This bill meets President Clinton's commitment to right the imbalances created by NACARA by offering the same treatment to all Central Americans whether they were fleeing oppression by the right or the left. It would provide benefits to Haitians who, following the overthrow of a democratically elected regime, also sought the protection of the United States in the early 1990's. The enactment of this legislation would contribute to stability and development in the young and fragile democracies of El Salvador, Guatemala, Honduras, and Haiti. While these countries have made important strides in recent years, they suffer from significant unemployment and underemployment. Repatriation of the nationals of these countries who have longstanding ties in the United States would only add to the economic and political challenges facing these societies. The United States has invested substantial resources in establishing democracy and peace in these societies and this legislation will help follow through on this important commitment.

8/4/99

GUIDANCE ON IMMIGRATION PROVISIONS IN POTUS H-1B PROPOSAL
June 15, 2000

Question:

Why does the Administration's H-1B proposal include other immigration provisions, specifically providing parity to Central Americans and Haitians under NACARA and changing the Registry Date to allow certain long-term migrants to adjust to legal permanent resident status?

Answer:

The President feels strongly that as we consider allowing more foreign temporary workers into this country to meet employers' needs, we need to also correct these injustices currently affecting many immigrants already in our country. Neither of these two immigration provisions would allow any additional people entry into the United States. Rather, they would provide good people who have developed ties to this country – families, homes and roots in their communities – the opportunity to normalize those ties. In the case of Central Americans and Haitians, the parity provision would not only provide compassion and fairness for the affected immigrants, but also contribute to the stability and development of democracy and peace in their native countries.

If asked:

Estimated persons who would become eligible to adjust to legal permanent residents under the provisions:

Change of Registry Date:	500,000
Central American and Haitian Parity:	440,000

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
LEGISLATIVE AFFAIRS

PHONE: 395-4790 / FAX: 395-3729

TO: Irene Bueno

DATE: 10/11

FROM:

____ CHUCK KIEFFER

____ BETH ROBINSON

____ TED ZEGERS

____ BROOKE LIVINGSTON

____ NANCY BRANDEL

____ KATE ELTRICH

Comments: CJS SAP — latest —

FAX #: 61907

PAGES: ____________
(includes cover page)

PHONE NUMBER: ____________

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

October 6, 2000
(Senate Floor)

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

H.R. 4690 – DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS BILL, FY 2001

(Sponsors: Stevens (R), Alaska; Gregg (R), New Hampshire)

This Statement of Administration Policy provides the Administration's views on the Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, FY 2001, as reported by the Senate Committee. Your consideration of the Administration's views would be appreciated.

The President's FY 2001 Budget is based on a balanced approach that maintains fiscal discipline, eliminates the national debt, extends the solvency of Social Security and Medicare, provides for an appropriately sized tax cut, establishes a new voluntary Medicare prescription drug benefit in the context of broader reforms, expands health care coverage to more families, and funds critical investments for our future. An essential element of this approach is ensuring adequate funding for discretionary programs. To this end, the President has proposed discretionary spending limits at levels that we believe are necessary to serve the American people.

Unfortunately, the FY 2001 congressional budget resolution provides inadequate resources for discretionary investments. We need realistic levels of funding for critical government functions that the American people expect their government to perform well, including education, national security (including critical infrastructure protection and counterterrorism initiatives), law enforcement, environmental protection, preservation of our global leadership, air safety, food safety, economic assistance for the less fortunate, research and technology, and the administration of Social Security and Medicare. Based on the inadequate budget resolution, this bill fails to address critical needs of the American people.

The Senate Committee-reported bill severely underfunds critical programs and includes highly objectionable language provisions. For example, funding that needs to be restored includes the following: tobacco litigation support, funding to support the agreement between the President and the Speaker regarding New Markets/Empowerment Zones and Renewal Communities, U.S. contributions to international peacekeeping, community oriented policing services, gun enforcement programs, civil rights and legal services, counterterrorism and critical infrastructure programs, construction to provide greater security for U.S. embassies, anti-drug abuse programs, programs to assist in the reentry of offenders, law enforcement for Native Americans, programs to close the "digital divide," public television's digital transition, environmental programs to enhance and restore fisheries and coastal areas, improved climate information, trade compliance and promotion efforts, and economic development funding for disadvantaged communities. Consequently, the President's senior advisers would recommend that he veto the bill if it were presented to him in its current form.

The Administration understands that an amendment will be considered to provide $22 million to the Department of Justice to support the costs of ongoing tobacco litigation. We strongly support this funding provision. The Department of Justice lawsuit alleges that the tobacco companies have conducted their business for decades in a false and deceptive manner, without regard to the truth, the law, or the health of the American public. This matter is now being considered by the courts, which will determine whether the tobacco companies should bear responsibility for the staggering costs of treating tobacco-related illnesses. The Administration urges the Congress not to undermine the judicial process by underfunding Justice's efforts.

In addition, the Administration also strongly supports efforts by Members of Congress to address injustices in the immigration system by changing the registry date and amending the Nicaraguan Adjustment and Central American Relief Act (NACARA), and reinstating section 245(i). This amendment would help individuals and their families who have been living for many years in the United States and have developed strong ties to their communities by giving them the opportunity they deserve to normalize their immigration status. We urge the Senate to accept this amendment. The President will insist that these provisions be included before the bill is signed into law. While we support the Committee's decision to reinstate section 245(i), we object to using the revenues for the purposes recommended by the Committee and urge that the funds be used instead to reduce the backlog of naturalization applications and to support detention funding.

The attachment provides a discussion of the Administration's specific concerns with the Senate Committee bill.

Attachment

Attachment
(Senate Floor)

DEPARTMENTS OF COMMERCE, JUSTICE AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS BILL, FY 2001
(As Reported by the Senate Committee)

Department of Justice

- Tobacco Litigation Support. The Administration strongly objects to language in the Committee bill requiring reprogramming notification for all reimbursements to the Department of Justice's General Legal Activities accounts. Enactment of this provision could potentially restrict the Department from utilizing agency reimbursement to support the cost of pursuing tobacco litigation. In addition, it would create a tremendous administrative burden by requiring the legal divisions to submit over 200 reprogrammings associated with reimbursements annually to the Congress. We strongly urge the Senate not to adopt this language. The Administration understands that an amendment to provide $22 million to the Department of Justice to support the costs of ongoing tobacco litigation may be offered. We strongly support this funding provision.

- Immigration Provisions. The Administration strongly supports efforts by Members of Congress to address injustices in the immigration system by changing the registry date and amending the Nicaraguan Adjustment and Central American Relief Act. We understand that an amendment will be considered on these issues. The President will insist that these provisions be included before the bill is signed into law. People who have been living for many years in the United States and have developed strong ties to their communities deserve the opportunity to normalize their immigration status. While we support the Committee's decision to reinstate section 245(i), we object to using the revenues for the purposes recommended by the Committee and urge that the funds be used instead to reduce the backlog of naturalization applications and to support detention funding.

- Community Oriented Policing Services. The Administration appreciates the Senate Committee's decision to fund the Community Oriented Policing Services (COPS) at a higher level than the House. Nevertheless, the proposed level of $812 million is still $523 million below the Administration's request. We are concerned that this funding level may jeopardize the President's goal of funding up to 50,000 additional community police officers by FY 2005. In addition, the Administration strongly objects to the bill's failure to provide any funds for community prosecutors or the Police Integrity Initiative. We strongly urge the Senate to fully fund the Administration's request for COPS.

- Amendments to the Ethics in Government Act. The Administration strongly opposes provisions amending the Ethics in Government Act, which would exempt judges from the honoraria prohibition and exclude honoraria from the definition of outside earned income. While the Administration fully agrees that adequate judicial pay is an important component of judicial independence, we have serious objections to augmenting compensation for public officials in this manner. Moreover, this provision would have significant effects on the ethics law applicable to all three branches. It is the kind of change in law that should be made only after an opportunity for thoughtful deliberation.

  The honoraria prohibition of 5 U.S.C. app. § 501(b) being amended by this provision was struck down as unconstitutional in part by the Supreme Court in 1995 and determined by the Department of Justice to have no surviving force. To now amend this provision to exclude certain officers and employees of the judiciary without addressing the intended application to other officers and employees in all three branches could create confusion regarding the status of the honoraria prohibition as it applies to the other branches. In addition, by excluding honoraria from the definition of outside earned income, the amendment would change the statute to allow senior employees in all three branches to earn unlimited honoraria. This represents a change in the ethics law, which currently imposes a 15-percent limit on outside earned income for such employees.

- Gun Prosecutors. The Administration strongly opposes the failure of the Committee bill to fund nearly all of the Justice Department components of the President's Gun Enforcement Initiative, including the absence of any funding for Federal and local gun prosecutors to enhance prosecutions of dangerous gun criminals and illegal gun traffickers. The bill fails to provide funding for local anti-gun violence media campaigns to help cities replicate programs like Richmond's "Project Exile," which sends a message to criminals about tough penalties for violating gun laws. The bill also fails to provide the funding increase requested for "smart gun" technology, which can prevent unauthorized gun use and accidents by limiting the use of a given gun to its proper owner. The bill provides only $33 million of the requested $70 million for the National Criminal History Improvement Program, which would upgrade criminal history records to help make Brady background checks faster and more effective. We strongly encourage the Senate to include funding for these important initiatives.

- Law Enforcement and Litigation. The Administration opposes the funding levels provided for high-priority Federal law enforcement and litigation programs, including the FBI, the U.S. Attorneys, and the Department of Justice's legal divisions. The Committee bill provides $4.7 billion, $419 million below the Administration's request for these activities. The Committee mark, including the rescission of $40 million in previously available funds for the FBI's Information Sharing Initiative (now titled e-FBI) and the elimination of $20 million in base funding for e-FBI, would threaten the ability of the FBI to maintain its current level of operations.

The bill provides only $121 million to the Antitrust Division, $13 million below the Administration's request. This level of funding would inhibit the Division's ability to review the record number of corporate mergers and to investigate violations of antitrust laws. The Committee bill provides inadequate resources to represent the interests of the United States in the Nation's courts, thereby putting the U.S. Treasury at risk of paying out claims that lack merit and diminishing the Government's ability to pursue criminal and civil enforcement actions. Our litigating components, including the U.S. Attorneys, would lose 900 positions, including 400 attorneys. The Administration also objects to language included in the Committee bill and report that would require that funding be cut off mid-year for U.S. Attorneys unless the Attorney General publishes rules related to the conduct of Department employees and which limit payment of any potential judgments resulting from the case of *Doe v. U.S.* to the salaries and expenses of U.S. Attorneys and general legal divisions.

- Civil Rights Enforcement. The Administration strongly opposes the bill's funding level for the Civil Rights Division, which is $10 million below the FY 2000 enacted level and $26 million below the President's request. This level of funding would require the Division to reduce its staff by 20 percent and calls into question the Nation's commitment to enforcing civil rights legislation such as the Americans With Disabilities Act and the Voting Rights Act. The Civil Rights Division is essential in combating abuses in our institutions for the mentally ill and nursing homes, and in investigating allegations of misconduct within police departments where a pattern of widespread abuse exists. We urge the Senate to fully fund the Administration's request.

- Counterterrorism. We appreciate the Committee providing the full $31 million requested for Nunn-Lugar-Domenici State and local first responder training. However, the bill does not fund the Administration's counterterrorism budget amendment for the Department of Justice. Recent events have underscored the need for increased government efforts to combat counterterrorism. The Administration's budget amendment seeks funding for the FBI, including services to translate electronic intercepts in a foreign language, equipment to improve the capability to conduct lawful electronic intercepts, and resources to expand the number of joint terrorism task forces (JTTF). For the Immigration and Naturalization Service, no funding has been provided for JTTF staff, intelligence staff, and border technology needed to strengthen our defenses on the northern border. We urge the Senate to support these initiatives fully.

- Cybercrime. The Committee has not adequately addressed critical resources needed to improve the government's capacity to combat cybercrime. Recent computer security events have highlighted the need for additional government efforts. Not only has Congress provided no enhancements provided to the Criminal Division, but the Division would also have to reduce its staffing level below its current state to live within the Senate mark. Without the 97 positions requested for the U.S. Attorneys, there would be insufficient prosecutorial resources to address the burgeoning cybercrime caseload. Furthermore, the FBI would not have sufficient computer forensic examiners to address incoming cases, let alone reduce the backlog of pending cases. We urge the Senate to fully fund the Administration's cybercrime initiatives.

- Deputy Attorney General for Combating Domestic Terrorism. The Committee bill would establish a Deputy Attorney General for Combating Domestic Terrorism. While the Administration is supportive of efforts to improve the coordination of terrorism programs, we have serious concerns about the provision, particularly the assignment of responsibilities that appear to go beyond the Department's statutory role. In addition, creation of a second Deputy Attorney General position may not be structurally appropriate. We stand ready to work with the Committee to address these concerns.

- Immigration Budget. While the Administration supports the Committee's decision to reinstate section 245(i) of the Immigration and Nationality Act, we object to using the revenue generated by this provision to fund activities currently funded through direct appropriations. The Administration has recommended that section 245(i) revenue be used to reduce a backlog in naturalization applications and to maintain the current level of detention funding. In addition, the Committee has failed to provide $34 million in appropriations to support naturalization backlog reduction and also transfers $50 million from the Exams Fee account to fund previously appropriated adjudication functions. Combined, these actions would reduce funding available for citizenship and immigration benefit processing and result in longer wait times and greater backlogs.

- "Stop Drugs - Stop Crime" and Project Reentry. The Committee bill provides only $103 million for the "Stop Drugs - Stop Crime" initiative, $87 million below the Administration's request. The bill does not fund the Department of Justice's Zero Tolerance and Drug Intervention Program, which would help States and localities implement tough new systems to test, treat, and punish drug offenders. The bill provides $40 million, $10 million below the request, for the highly successful Drug Courts Program. Taken together, these actions would make it difficult, if not impossible, to achieve the drug reduction targets specified in the annual drug strategy and in the Office of National Drug Control Policy Reauthorization Act of 1998. Further, while the Administration appreciates the Committee's decision to provide $7 million for the Reentry Program, this funding level still falls significantly below the Administration's request of $60 million. The request would provide greater community and law enforcement supervision of released offenders, and key services such as drug testing and treatment and job training to help lower recidivism rates and promote responsible fatherhood among offenders.

- Detention Trustee. The Committee mark does not establish the Detention Trustee, the first step in achieving the goal of centralized Federal detention policy, which is supported by the Committee. The Committee also has not provided the $25 million requested to cover the Department's costs for the detention, care and removal of illegal migrants held outside the continental United States. The establishment of a source of funding for routine illegal migrant detention is a priority for the Administration.

- State Criminal Alien Assistance Program (SCAAP). The Administration is disappointed with the Committee's decision to fund only $50 million of the $600 million request for SCAAP. The Committee's bill would virtually eliminate reimbursements to States for incarcerated criminal aliens. The Administration urges the Senate to fully fund this program.

- Native American Law Enforcement. While the Committee provides some additional FBI funding, most Justice programs aiding crime prevention and law enforcement in Native American communities are funded only at the enacted level. The Administration strongly urges the Senate to provide the additional tribal resources requested for U.S. Attorneys and within the Office of Justice Programs. The Administration also urges the Senate to provide the request for the COPS Tribal Resources Grants program, the Sexual Assault Nurse Examiner (SANE) Units, the Tribal Courts Project, the Tribal Youth Program, the Office of Tribal Justice, and Alcohol and Substance Abuse Testing. While the nationwide violent crime rate has dropped, homicides and violent crime in Indian Country are on the rise. These funds are designed to address this problem through both prevention and enforcement.

- Pardon Attorney. The Administration takes strong exception to the Committee's action to eliminate funding for the Office of the Pardon Attorney and to move the Office from the Department of Justice. For over 100 years, the Office of Pardon Attorney has assisted the President in carrying out this power. The Office consists entirely of career, nonpartisan, Department of Justice attorneys, who research clemency petitions and draft the Department's report and recommendation in each case for the signature of the Deputy Attorney General. The Department consults with the FBI, U.S. attorneys, and other relevant entities to provide a thorough analysis of each case and the impact of a clemency grant on law enforcement. The Office is properly assigned to and funded through the Department of Justice.

- United States Parole Commission. The Administration opposes the Committee's efforts to phase out the United States Parole Commission (USPC). The Committee mark of $7.4 million is $1.8 million, or 20 percent, be ow the Administration's request. Such a reduced funding level would seriously impede the USPC's ability to maintain current operations and render it virtually impossible for the Commission to assume statutorily mandated responsibilities over D.C. inmates and parolees.

- Prisoner Transportation. The Administration opposes the Committee's action to transfer "base" funding for the transportation of prisoners and aliens from the Immigration and Naturalization Service, the Bureau of Prisons, and the U.S. Marshall Service to the Justice Prisoner and Alien Transportation System (JPATS) revolving fund. The transfer would undermine the concept of JPATS being run as a business operation and eliminate the ability of participating agencies to make economic decisions regarding the most cost-effective way to transport prisoners.

- Telecommunications Carrier Compliance. The Committee bill does not include funding for the Telecommunications Carrier Compliance Fund. Additional funding is needed for implementation of the Communications Assistance to Law Enforcement Act (CALEA). Implementation of the Act would ensure that law enforcement has the capability to conduct court-approved electronic surveillance on digital telecommunications equipment. While the Administration is very appreciative of the funding provided for CALEA in P.L. 106-246, the FY 2000 Emergency Supplemental Act, only $300 million has been appropriated to date out of the $500 million authorized by CALEA. A delay in providing the remaining $200 million would hinder law enforcement, particularly in its fight against terrorists, drug lords, and organized crime.

- Fees and Expenses of Witnesses. The Committee mark reduces funding for expert government witness testimony to $79 million, 17 percent below the FY 2000 enacted level. The Committee's action is being taken at a time when large cases such as WINSTAR, tobacco and certain tax and environmental litigation raises the potential liability for the Federal Government into the billions of dollars. The full $156 million requested should be provided to ensure the Department will be able to hire expert witnesses and prepare and present testimony to strengthen the Government's ability to prevail in court.

Department of Commerce

The Administration appreciates that the Senate Committee-reported bill is a significant improvement over the House-passed version. Nevertheless, we believe that certain key Commerce programs are still significantly underfunded:

- Conservation Funding. The Administration strongly opposes the Committee's cuts to the President's Lands Legacy Initiative, which is funded at almost 60 percent below the request. Coastal ecosystem protection programs such as marine sanctuaries, coral reef restoration, State coastal zone management grants, and State coastal impact assistance grants (to assist States that have offshore oil and gas development) would be cut, along with the Pacific coastal salmon recovery fund, thereby complicating and delaying State, local, and Tribal salmon recovery initiatives. The Administration expects the Committee to honor the appropriations and congressional leadership agreement that would establish a new "conservation spending" discretionary budget category in FY2002 continuing through FY2006, and provide funding for the conservation programs at levels equal to or greater than proposed in that agreement for FY2001. The Administration is prepared to work with the Committee to ensure that the high priority environmental conservation programs under the new category are fully funded.

- National Oceanic and Atmospheric Administration. The Administration strongly urges full funding of the Climate Observation and Services initiative in order to support a transition of research observing and data systems into operational systems and products. Likewise, we strongly recommend funding for NOAA's efforts to establish an integrated inter-agency Global Disaster Information Network to improve disaster management information, for the Clean Water Action Plan, and for National Marine Fisheries Service activities to help recover endangered species. In addition, the Administration urges that funding be provided to continue the highly successful Global Learning and Observations to Benefit the Environment (GLOBE) program. We also recommend increased funding for the PORTS program, to enable NOAA to institute quality controls for data that assist the maritime industry.

The Administration urges the Senate to provide requested advance appropriations for construction work at the Suitland Federal Center. The nearly 60-year-old buildings at the Center are failing, threatening the health and safety of employees of NOAA and the Census Bureau. The Administration is also concerned that the Evansville, Indiana, Doppler weather radar -- which the Modernization Transition Committee recognized as necessary before the Evansville Weather Service Office can close -- is not funded. The Administration urges that funding be provided to build capacity at minority serving institutions, both through NOAA and the National Institute of Standards and Technology, to increase the number of minorities trained in environmental and physical sciences.

- Digital Divide Initiatives. The Administration urges the Senate to fully fund the initiatives to help close the Digital Divide and help communities benefit from the emerging digital economy. During its six-year history, the Technology Opportunities Program (TOP) of the National Telecommunications and Information Administration (NTIA) has helped underserved and low-income communities across the country gain access to innovative information technology applications. The new Connecting America's Families (Home Internet Access) program builds on that success by supporting efforts to help low-income families receive the benefits of home access to computers and the Internet. The Committee bill provides no funding for the Connecting America's Families program and underfunds TOP. The bill also fails to provide funding for the Economic Development Administration's initiative to promote deployment of broadband infrastructure in economically-distressed areas.

- Economic Development Administration. The Administration strongly urges the Senate to fully fund the Economic Development Administration (EDA). The Committee's mark cuts EDA programs by 40 percent from the 2000 enacted level and 47 percent from the Administration's request. This reduction would severely impair efforts to assist economically disadvantaged communities. The bill denies Native American and Mississippi Delta communities, which are among the Nation's most distressed areas, some of the critical assistance they need in order to build stronger local economies and to connect with our overall prosperity. The Administration urges full funding of $49 million for EDA to fund infrastructure, planning, and public works projects in Indian Country. In addition, the bill does not fund assistance to be provided by EDA's proposed Office of Community Economic Adjustment to communities injured by economic downturns due to trade-related issues and other causes.

- Chemical Weapons Convention Compliance. The Administration strongly urges full funding of the President's request of $8.5 million for Chemical Weapons Convention inspections at industry facilities. Without this funding, the Department of Commerce would be unable to conduct site assistance visits to help U.S. companies prepare for these international inspections and thereby better protect confidential business information. The Department of Commerce would also be unable to host the full complement of industry inspections required under the Convention. Failure to provide the necessary funds could result in U.S. noncompliance with its industry inspection obligations under the Convention.

- Critical Infrastructure Protection. The Administration urges support for the President's requested funding for the Critical Infrastructure Assurance Office (CIAO) in the Bureau of Export Administration and for the Expert Review Team in the National Institute of Standards and Technology to help Government agencies identify vulnerabilities and plan secure systems. Likewise, the Administration strongly urges providing the $50 million requested by the President to establish the Institute for Information Infrastructure Protection to address research and development needs related to the protection of the Nation's critical infrastructures. In addition, the $6.3 million requested by NTIA will support the National Infrastructure Assurance Plan for the communications and information sectors, as well as research to evaluate telecommunication system and network enhancements that address infrastructure vulnerabilities -- such as design weaknesses and external threats. These funds will help ensure the security of the Nation's critical infrastructure now and in the years to come.

- Economic and Statistical Infrastructure. The Administration appreciates the Senate bill's funding for the decennial census, base restoration, and e-business initiatives in the Census Bureau, as well as the funding provided for the Economic and Statistics Administration. However, we urge the Senate to include full funding for the Census Bureau's continuous measurement program (which will provide current information to allocate nearly $200 billion in Federal funds annually), demographic survey sample redesign (an interagency process that updates the sample populations of the major national demographic surveys after the decennial census), and planned improvements in measuring economic well-being and exports.

- International Trade Administration. The Administration appreciates the Committee's support for the International Trade Administration's (ITA's) Trade Compliance initiative. However, in order to support ITA's trade enforcement capabilities fully and ensure that U.S. companies and workers receive the full benefits of international agreements, we urge the Senate to provide an additional $4 million to fund the full request. The $35 million cut to the President's request for the U.S. and Foreign Commercial Service could lead to significant reductions in the Service's export promotion activities.

- Public Television's Digital Transition. The Administration appreciates the Committee's providing an increase over the House-passed bill for NTIA's Public Telecommunications Facilities, Planning, and Construction Program. However, we urge the Senate to fully fund the program at $110 million in order to help ensure that public broadcasters can meet the Federally-mandated May 2003 deadline for the transition to digital broadcasting.

- Technology Administration Programs. While the Administration appreciates increases for key research and development programs at the National Institute of Standards and Technology (NIST), we urge the Senate to fully fund the President's request. The bill provides insufficient funds for NIST initiatives to promote the development of new information technologies, nanotechnology, and infrastructure assurance, as well as to enhance the use of e-commerce services by small manufacturers.

- Inspector General. The Administration urges the Senate to review the Committee's proposed funding of the Office of Inspector General (OIG), which is 16 percent below the request and five percent below the FY 2000 enacted level. Through audits, inspections, and investigations, the requested OIG funds support the Department's efforts to prevent and detect fraud, waste, and abuse.

- Security and Departmental Management. The Administration commends the Committee for providing full funding for Digital Department investments and salaries and expenses within Commerce's Departmental Management. The Administration also acknowledges the Committee's effort to support Department Security services, but encourages full funding for this important activity.

- New Markets Initiative. The Senate bill fails to provide the $58.3 million requested for the New Markets Initiative ($21.7 million for credit subsidy for New Markets Venture Capital (NMVC), $30 million for technical assistance to small businesses by NMVC firms, and $6.6 million for BusinessLINC). Without these funds, the Administration and the Congress would be unable to fund the Hastert-Clinton Agreement on New Markets/Empowerment Zones and Renewal Communities to bring America's economic prosperity and growth to those communities (including Indian reservations) lagging behind the rest of the Nation.

Department of State and the Broadcasting Board of Governors

- Contributions for International Peacekeeping Activities (CIPA). The Administration strongly opposes the Senate bill's funding levels for UN peacekeeping. The bill would cut the Administration's FY 2001 request by one-third, from $739 million to $500 million, and would halve the FY 2000 CIPA allocation by means of a $213 million rescission and another $45 million shift out of FY 2000 CIPA funds – money already agreed to and appropriated by the Congress. This is on top of denying an earlier Administration request for $107 million in supplemental FY 2000 CIPA funds, which remains as a pending request to address current funding requirements. If enacted, these funding levels would be devastating to UN peacekeeping and our efforts to reform the UN, rationalize peacekeeping and reduce U.S. assessment rates there. They would prevent us from meeting our treaty obligations and would undermine important missions in Kosovo, East Timor, Sierra Leone, Lebanon, Ethiopia-Eritrea, and elsewhere.

- Arrearage Payments. The Committee recommendation includes $102 million for additional arrearage payments to the United Nations and other international organizations, but includes a variety of spending restrictions on the funding. While this amount would belatedly bring the total appropriated for the payment of arrears to the Administration's originally requested level of approximately one billion dollars, the funding comes with too many hindrances to be an asset to our current reform efforts and creates new certification requirements above and beyond those in the United Nations Reform Act of 1999. The Administration notes the irony of seemingly providing additional funding for payment of arrears while severely underfunding, and even rescinding existing appropriated funds from CIPA, thus creating new arrears at least four times as high as those the Committee proposed to pay. If the Committee is interested in strengthening our hand in negotiating assessment scale reforms at the United Nations, the Administration strongly recommends that it provide full funding of current peacekeeping bills.

- Embassy Security. The Administration strongly opposes the Committee's decision to cut the President's FY 2001 request for embassy security in the Diplomatic and Consular Programs (D&CP) and Embassy Security, Construction, and Maintenance (ESCM) accounts by $420 million, or 40 percent. This would require steep reductions in requested worldwide security upgrades and ongoing security enhancement support within the ESCM and D&CP accounts. Only three of the six new security construction projects requested in the ESCM account received funding in the Committee mark, and nothing is provided for buildings to support USAID activities. In addition, of the embassy security funding the Committee does provide, $72 million is earmarked for unrequested projects. Although the Administration appreciates funding for these unrequested projects located primarily in China, it opposes funding them at the expense of important security-related facility requirements. The overall unacceptable level of funding would leave Americans working in our diplomatic facilities overseas more vulnerable to terrorist attack and would slash the Administration's effort to support a long-term replacement program for unsafe facilities.

  The Administration is also disappointed that the Committee has not provided the requested advance appropriations for embassy security construction to help ensure successful implementation of that long-term capital investment program. The need to pursue a multi-year program to improve security and protect all Americans serving abroad was recognized by the authors of the Crowe report, which was produced in the aftermath of the embassy bombings in Nairobi and Dar es Salaam. These findings were reaffirmed in the more recent report of the Overseas Presence Advisory Panel.

- State Department Operations. The Administration appreciates the Committee's support for the regular operations of the Department of State but opposes the multiple earmarks, restrictions including bill language limiting the detail of employees, and unrequested items that the Committee has included in its bill and report that seek to micro-manage the activities of the Department of State and reduce the Administration's flexibility to address foreign policy needs. Of utmost concern is the Committee's unacceptable restriction on Machine Readable Visa fees that support the President's Border Security Program. This restriction would result in a reduction below current estimates of $101 million in resources available to the program in FY 2001. The Administration requested permanent, unrestricted extension of this authority. These funds have become indispensable to American citizens for timely passport services and the improvement and support of the visa process including the control mechanisms that prevent travel to the U.S. of individuals associated with terrorist organizations or others who may seek to use the process illegally.

In addition, the Administration is disappointed that the Committee mark does not include $3 million in funds requested for trade compliance, $1.5 million for labor and environmental standards coordination, and $1 million in transfer authority to meet potential needs of the Presidential Advisory Commission on Holocaust Assets. Finally, the Administration appreciates funding provided to support the 1999 Pacific salmon treaty agreement. The Administration would prefer, however, this funding be provided in the National Oceanic and Atmospheric Administration accounts, where the funding was requested.

- Contributions to International Organizations. While the Administration does not object to the overall level of funding for this account, which is $21 million above the Administration's request, we are concerned with the funding assumptions that undergird the $944 million provided. The Committee recommendation includes approximately $78 million in unrequested funding, and after factoring in the recent reprogramming notification would still leave a shortfall in requested funding for assessments for the United Nations and other international organizations. To meet this shortfall, the Committee recommends some untenable measures, including a directive to transfer $25 million provided for Contributions to International Peacekeeping Activities in FY 2000, which comes on top of a proposed rescission of $213 million in FY 2000 Peacekeeping Funds. We urge the Senate to fund this account at a level sufficient to meet all our assessments to international organizations.

- Making U.S. Exporters Pay Fees for Munitions Export License Applications. The Administration opposes section 403, which would authorize the State Department to collect fees to process export license applications for munitions, satellites, and related items controlled under section 38 of the Arms Export Control Act. A number of issues would need to be seriously considered before the Administration could consider supporting this proposal, which has not been previously addressed by Congress in hearings, or in discussions with the Administration or U.S. industry. Making the State Department's licensing resources dependent on fees collected could encourage additional licensing requirements at a time when current Administration policy is to support mechanisms to streamline the munitions licensing process. We urge the deletion of this provision.

- Foreign Buildings Operations. While the Administration appreciates the Committee's support of the Department of State's ongoing overseas building program, the Administration objects to unrequested items in the Embassy Security, Construction, and Maintenance mark. For example, the Committee Report provides an earmark for fresco restoration in the Palazzo Corpi in Istanbul Turkey. These earmarks would reduce the amount available to pay leases and other building requirements and divert funds away from higher-priority security enhancements.

- <u>Diplomatic Telecommunications</u>. The Administration is opposed to efforts by the Congress to mandate the management, operations, and security procedures for diplomatic telecommunications. The Administration is working diligently to resolve any outstanding problems with diplomatic telecommunications. Provisions such as those proposed would be counterproductive to this effort. The Administration looks forward to consulting with the Congress on remaining concerns.

- <u>International Broadcasting Operations</u>. The funding level of $388 million recommended by the Committee is $17 million below the President's request of $405 million This $17 million reduction is directly tied to the proposal to merge the WORLDNET Television and Film Service into the Voice of America (VOA). By funding only a skeletal version of the merger, the U.S. Government would not have the ability to support technically any television broadcasts for the U.S. Broadcasting Board of Governors or Interactive *Dialogues* of the Department of State. The Administration requests that the Senate support the continuation of television production and delivery through the consolidation of WORLDNET with the VOA by fully funding the President's request.

- <u>Educational and Cultural Exchanges</u>. The Administration appreciates funding for Education and Cultural Exchanges at the requested level of $225 million, but is disappointed with the funding level of $118 million for the J. William Fulbright Educational Exchange Program, and urges the Senate to provide the President's request of $125 million. The Administration opposes earmarking $1,750,000 within this account for the North/South Center, in lieu of a separate appropriation, as requested in the budget. The Administration further requests that funding in this account be made available until expended, as in previous years.

- <u>Other International Accounts</u>. The Administrat on appreciates the overall level of funding for the International Boundary and Water Commission, the International Joint Commission, the International Boundary Commission, the Border Environment Cooperation Commission, and the International Fisheries Commissions. However, the Administration objects to report language setting forth earmarks and spending directions with no allowance to deviate without first consulting with Congress. This restriction would hamper effective program management. The Administration opposes the Committee's decision to eliminate funding for the Asia Foundation.

- <u>Foreign Policy Concerns</u>. The Administration strongly opposes provisions in the Committee bill concerning Jerusalem on constitutional, foreign policy, and operational grounds. These provisions would intrude on the President's constitutional authority to conduct foreign affairs and to determine recognition by directing U.S. policy regarding Jerusalem as the capital of Israel. At Camp David, the parties agreed to continue their efforts to conclude an agreement on permanent status issues as soon as possible and avoid actions that would prejudge the outcome of these negotiations. The actions called for by these provisions would prejudge the outcome of these negotiations and thus would severely undermine U.S. efforts to promote a peaceful resolution of the Arab-Israeli conflict.

- Trade in Conflict Diamonds. The Administration recognizes that trade in "conflict diamonds" fuels instability in Africa and, therefore, launched a State Department Initiative in 1999 aimed at curbing the illegal diamond trade. We strongly support the intent conveyed in section 409 of the Committee-passed bill, in particular the intent to restrict trade in illegal diamonds while recognizing the certification of origin of rough diamonds by the Governments of Sierra Leone and Angola. We also support the identification of countries actively engaged in the illicit diamond trade.

  The Administration believes that while we counter illicit trade in diamonds, legitimate diamond procedures should be protected and encouraged. Therefore, we cannot support language that would inhibit trade in legitimate diamonds. We are also concerned that section 409, as drafted, could provide a disincentive for several African governments to participate in an internationally-accepted certification regime, as their diamonds would be excluded from the United States even if they decided to participate in such a regime. In addition, there are technical administrative issues which must be addressed in order to make the bill enforceable. The Administration would be pleased to work with the Senate to try to develop language that resolves these concerns while preserving the intent of section 409.

- National Endowment for Democracy. While the Administration appreciates the Committee's funding recommendation for the National Endowment for Democracy, it objects to report language earmarking funds and mandating activities that are inconsistent with the Endowment's mission of working with the non-governmental sector to promote democracy at the grassroots level.

- General Provisions. Other provisions in the Committee bill regarding the conduct of foreign affairs raise constitutional concerns. Section 609 regarding Vietnam would unconstitutionally constrain the President's authority with respect to the conduct of diplomacy. In addition, language in the Contributions for International Peacekeeping Activities appropriation that would require a report to Congress prior to voting for a U.N. Peacekeeping mission would unconstitutionally constrain the President's authority with respect to the conduct of diplomacy as well as his authority as Commander-in-Chief.

Legal Services Corporation

While the Administration appreciates that the Committee has approved funding at a level above the House, the bill is still $40 million below the President's request and $4 million below the FY 2000 enacted level. This level of funding would undermine the commitment of the Federal Government that all persons have access to the judicial system, regardless of income. We strongly urge the Senate to fund the LSC at the requested level to help ensure equal access to the courts for all.

Equal Employment Opportunity Commission

The Senate Committee-reported bill is preferable to the House-passed level, in that it provides sufficient funds to allow the Equal Employment Opportunity Commission (EEOC) to maintain current service levels. The Committee level, however, is still inadequate in that it eliminates over $29 million in funding needed to ensure fair, efficient, and effective handling of employment discrimination charges. At this funding level, the EEOC would be unable to provide certain mediation and prevention opportunities for employers and employees, make needed information technology investments, and provide training and outreach as part of the President's Equal Pay Initiative. The Administration urges the Senate to support these important activities.

Commission on Civil Rights

The Senate Committee's recommendation to freeze the Commission's funding at the FY 2000 level of $9 million is $2 million below the President's request and would impair the Commission's ability to advance civil rights for all Americans. The Administration urges the Senate to restore funding to this critical agency.

Small Business Administration

The Administration is deeply concerned that the Senate bill provides insufficient funding for critical Small Business Administration programs, especially the following:

- Small Business Loans. The Senate bill underfunds the Administration's request of $11.5 billion in 7(a) business loan volume, by providing less than half the amount requested for direct microloans, and less than twenty-five percent of the requested accompanying microloan technical assistance. The funding level provided for these programs would be insufficient to meet demand for small business loans and would lead to fewer new business start-ups.

- Business Assistance Programs. The Administration appreciates the $90 million funding level for the Small Business Development Centers (SBDCs). We ask that the Senate provide the requested earmarks for Native American SBDCs and for Tribal Business Information Centers, including the request to waive the necessity for matching funds. In addition, the Administration is disappointed that the Senate failed to provide the Administration's request for several other business assistance programs, including: SBIR Phase III ($15 million) and Electronic Commerce ($5 million). Further, the Senate has not provided the requested increases necessary to support other business assistance programs, including Women's Business Centers, One Stop Capital Shops, and SCORE.

- Modernizing Program Management. The Senate bill fails to provide the additional $5 million requested for the Systems Modernization Initiative to begin work to modernize the disaster loan system, $7 million for the needed upgrade and maintenance of SBA's IT systems, $4 million for workforce transformation, and $1.5 million for the financial program advisor to support SBA's successful loan asset sales program. These reductions would weaken SBA's loan program management and result in higher loan program costs. At the same time, the Administration appreciates the Senate's inclusion of language permitting up to $3 million in reimbursement to the SBA for qualified expenses to be derived from increased collections of delinquent debt. The Administration also appreciates the Senate's support for the creation of a new account (Non-Credit Business Assistance), which separates the costs directly attributable to non-credit business programs from salaries and expenses, thereby increasing the accountability of both.

Federal Communications Commission

The Administration strongly opposes the Senate provision that would prevent the FCC from granting or transferring a license or authorization to any corporation of which more than 25-percent is directly or indirectly owned by a foreign government or its representatives. The prospect of a foreign government-owned company investing in a U.S. telecommunications carrier could raise legitimate concerns. However, existing law already requires that the FCC, the Executive Branch, and the multi-agency Committee on Foreign Investment in the United States ensure that the proposed foreign investment would not harm the public interest, including competition in our market and national security or law enforcement capabilities. The United States has benefitted greatly from the widespread opening of foreign telecom markets in recent years. If the U.S. institutes this provision, many countries may be tempted to restrict existing opportunities offered to U.S. carriers and resist any further opening. This could affect billions of dollars in current U.S. investment abroad, and even more future investment. The Administration supports the objective of robust competition for global markets. We believe this can be achieved within existing legislative, regulatory and international mechanisms, without risking possible disruption of the international telecommunications market. The Senate provision is unnecessary and potentially harmful; it should be dropped.

We understand that amendments may be offered which affect current FCC authorities. For example, we understand there may be an amendment that would hinder FCC from approving low power broadcasting by community groups. We do not believe such amendments should be added to this bill.

Securities and Exchange Commission

We understand that an amendment may be offered that would substantially reduce the registration and transaction fees collected by the Securities and Exchange Commission (SEC). The Administration would have deep concerns about such an amendment. In 1996, Congress and the President collaborated on legislation – the National Securities Markets Improvement Act (NSMIA) -- that established a calendar for reducing SEC fee rates. The Administration continues to support the declining fee rates agreed to in the NSMIA legislation. Proposals to reduce these fees further should be considered only in the context of an overall fiscal policy that balances the importance of debt reduction and competing priorities such as strengthening Social Security and Medicare, providing tax relief to middle-income families, and other critical initiatives called for in the President's FY 2001 Budget.

In addition, the Administration would strongly oppose any amendment that would prevent the SEC from moving forward with its proposal relating to its requirements for auditor independence, which have not been updated in 18 years. The SEC is currently receiving public comments on the proposed regulation and has held several public hearings to ensure concerns of all interested parties are considered. An amendment that prevents the SEC, a well-respected independent regulatory agency, from completing its legal regulatory process could undermine its ability to ensure confidence in our Nation's financial markets.

General Provisions

The Administration is very concerned that Section 626 -- called Amy Boyer's law -- purports to protect individual privacy by restricting the public display of Social Security numbers, but fails to do so effectively. The exceptions in the section narrow its impact substantially. For example, the prohibition does not apply to information obtained from public records, which are the source of Social Security numbers for many information brokers. Businesses could thus comb through public records and display and sell the information they glean without any restrictions whatsoever. In addition, Section 626 contains a broad provision preempting state laws, which could actually result in the American people losing significant privacy protections.

The Administration has offered an alternative proposal, which has been introduced by Senator Feinstein as S. 2699, that would prohibit the sale and purchase of social security numbers. We believe that this proposal would more effectively preserve legitimate business practices while also helping to prevent identity theft and the sort of heinous crime of which Amy Boyer was a victim.

Metropolitan Statistical Areas

The Administration would strongly oppose an amendment that may be offered that would prohibit implementation of revised standards for metropolitan statistical areas. The metropolitan area standards provide nationally consistent definitions for collecting, tabulating, and publishing Federal statistics for a set of geographic areas. Since 1950, when the metropolitan areas were first used in census reports, OMB has reviewed the criteria for designating metropolitan areas and, if warranted, revised them in the years preceding their application to new decennial census data. Periodic review is necessary to ensure that the standards stay abreast of changes in population distribution and activity patterns. OMB is currently conducting the fifth such review. This has been a multi-year process during which OMB has actively sought public involvement program advisor to support SBA's successful loan asset sales program. These reductions would weaken SBA's loan program management and result in higher loan program costs. At the same time, the Administration appreciates the Senate's inclusion of language permitting up to $3 million in reimbursement to the SBA for qualified expenses to be derived from increased collections of delinquent debt. The Administration also appreciates the Senate's support for the creation of a new account (Non-Credit Business Assistance), which separates the costs directly attributable to non-credit business programs from salaries and expenses, thereby increasing the accountability of both.

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We understand that amendments may be offered which affect current FCC authorities. For example, we understand there may be an amendment that would hinder FCC from approving low power broadcasting by community groups. We do not believe such amendments should be added to this bill.

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In addition, the Administration would strongly oppose any amendment that would prevent the SEC from moving forward with its proposal relating to its requirements for auditor independence, which have not been updated in 18 years. The SEC is currently receiving public comments on the proposed regulation and has held several public hearings to ensure concerns of all interested parties are considered. An amendment that prevents the SEC, a well-respected independent regulatory agency, from completing its legal regulatory process could undermine its ability to ensure confidence in our Nation's financial markets.

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The Administration would strongly oppose an amendment that may be offered that would prohibit implementation of revised standards for metropolitan statistical areas. The metropolitan area standards provide nationally consistent definitions for collecting, tabulating, and publishing Federal statistics for a set of geographic areas. Since 1950, when the metropolitan areas were first used in census reports, OMB has reviewed the criteria for designating metropolitan areas and, if warranted, revised them in the years preceding their application to new decennial census data. Periodic review is necessary to ensure that the standards stay abreast of changes in population distribution and activity patterns. OMB is currently conducting the fifth such review. This has been a multi-year process during which OMB has actively sought public involvement through conferences, outreach to interested organizations, and three *Federal Register* Notices.

Other Issues

The Administration understands that items contained in Division B of the FY 2001 Agriculture bill may be considered by the appropriate Subcommittee of jurisdiction. The Administration has serious concerns about pending provisions in the bill affecting Commerce and Justice programs and a pending supplemental request under the Department of State heading. Therefore, the Administration provides the following views on those items relevant to this bill:

- Department of Commerce Administrative Funding. The Administration opposes funding the Commission on Online Child Protection by reducing funding for the Department of Commerce's General Administration and Inspector General accounts by $1.5 million. While the Administration has no objection to providing funding for the Commission, cutting these already small accounts with less than one month remaining in the fiscal year would negatively affect the Department's ability to carry out its management and auditing activities for the remainder of the fiscal year.

- Law Enforcement. Proposed law enforcement rescissions would have a detrimental effect. For example, the $15 million rescission to INS enforcement and service programs would result in cutbacks to current border enforcement operations – particularly Operation Safeguard -- along the Rio Grande and adversely affect Border Patrol recruitment efforts. A reduction in immigration service funding would directly impact the timely processing of immigration benefits such as citizenship, adoption, and adjustment of status. The $15 million rescission to the FBI's Information Sharing Initiative would impede the FBI's response to criminal incidents, including cases involving national security. The FY 2000 $2 million rescission for Civil Division would impede the office's ability to effectively defend the Treasury from meritless lawsuits. The proposed FY 2000 $1.1 million rescission to the U.S. Parole Commission would require drastic furloughs or reductions in staff, as well as disrupt the transition of District of Columbia parolees into the Federal system as required by law.

- Presidential Advisory Commission on Holocaust Assets in the United States. The Administration encourages Congress to approve the FY 2000 supplemental request of $1.4 million for the Presidential Advisory Commission on Holocaust Assets in the United States. These funds would support the completion of the Commission's statutorily mandated comprehensive report on the acquisition and disposition of Holocaust-era assets in the United States.

106th CONGRESS

2d Session

H. R. 5062

AN ACT

To establish the eligibility of certain aliens lawfully admitted for permanent residence for cancellation of removal under section 240A of the Immigration and Nationality Act.

HR 5062 EH

106th CONGRESS

2d Session

H. R. 5062

AN ACT

To establish the eligibility of certain aliens lawfully admitted for permanent residence for cancellation of removal under section 240A of the Immigration and Nationality Act.

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

SECTION 1. LIMITING DISQUALIFICATION FROM CANCELLATION OF REMOVAL FOR CERTAIN PERMANENT RESIDENT ALIENS.

(a) TERMINATION OF PERIOD OF CONTINUOUS RESIDENCE-

(1) IN GENERAL- Section 240A(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1229b(d)(1)) is amended by adding at the end the following:

`Notwithstanding the preceding sentence, in determining under such sentence whether a period of continuous residence described in subsection (a)(2) has ended, any offense committed on or before September 30, 1996, shall be disregarded.'.

(2) EFFECTIVE DATE- The amendment made by paragraph (1) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-587).

(b) TREATMENT OF PARTICULAR CRIMES AS AGGRAVATED FELONIES-

(1) IN GENERAL- Section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (as contained in title III of division C of Public Law 104-208; 110 Stat. 3009-587) is amended by adding at the end the following:

`(d) TRANSITION RULE FOR CANCELLATION OF REMOVAL FOR CERTAIN PERMANENT RESIDENTS-

`(1) IN GENERAL- Except as provided in paragraph (2), notwithstanding section 321 or

322 of this Act, section 440 of the Antiterrorism and Effective Death Penalty Act of 1996 (8 U.S.C. 1101 note), or any other provision of law (including any effective date), in applying section 240A(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1229b(a)(3)) to a criminal offense committed on or before September 30, 1996, the term `aggravated felony' shall not be construed to include the offense if the offense--

`(A) was not considered to be within the meaning of that term (as defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) on the date on which the offense was committed; and

`(B) is considered to be within the meaning of that term (as so defined) by reason of the enactment of--

`(i) this Act, in the case of an offense committed during the period beginning on April 25, 1996, and ending on September 30, 1996; or

`(ii) this Act or the Antiterrorism and Effective Death Penalty Act of 1996, in the case of an offense committed on or before April 24, 1996.

`(2) EXCEPTION- Paragraph (1) shall not apply to an offense of rape or sexual abuse of a minor. The amendment made by section 321(a)(1) of this Act shall not be affected by such paragraph.

`(3) COURSE OF CONDUCT- In the case in which a course of conduct is an element of a criminal offense, for purposes of paragraph (1), the date on which the last act or omission of that course of conduct occurs shall be considered to be the date on which the offense is committed.'.

(2) EFFECTIVE DATE- The amendment made by paragraph (1) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-587).

SEC. 2. POST-PROCEEDING RELIEF FOR AFFECTED ALIENS.

(a) IN GENERAL- Notwithstanding section 240(c)(6) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)(6)) or any other limitation imposed by law on motions to reopen removal proceedings, the Attorney General shall establish a process (whether through permitting the reopening of a removal proceeding or otherwise) under which an alien--

(1) who is (or was) in removal proceedings before the date of the enactment of this Act (whether or not the alien has been removed as of such date); and

(2) whose eligibility for cancellation of removal has been established by section 1 of this Act,

may apply (or reapply) for cancellation of removal under section 240A(a) of the Immigration and Nationality Act (8 U.S.C. 1229b(a)) as a beneficiary of the relief provided under section 1 of this Act.

(b) PAROLE- The Attorney General should exercise the parole authority under section 212(d)(5)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)(A)) for the purpose of permitting aliens removed from the United States to participate in the process established under subsection (a).

Passed the House of Representatives September 19, 2000.

Attest:

Clerk.

END

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

September 19, 2000
(House)

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

H.R. 5062 - To Provide for the Cancellation of the Removal of Certain Aliens
(Rep. McCollum (R) Florida and 10 cosponsors)

The Administration strongly supports the underlying goals of H.R. 5062, which would grant the Attorney General the discretion to allow certain lawful permanent resident aliens with significant ties to the United States to remain in the United States, despite certain criminal convictions in their past. The Administration is pleased that Congress is acting to ameliorate some of the harshest aspects of the 1996 immigration laws, but this legislation is too limited in its focus and does not address several of the most extreme features of the 1996 legislation. In addition, there may be preferable alternatives for dealing with the impact of the 1996 law on completed cases. The Administration welcomes Congress' interest in ameliorating the 1996 laws and will continue to work with Congress regarding these concerns with this legislation.

* * * * * * *