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Lyman Van Nostrand

KARLYN DAVIS
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Marcia Eugenio
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Irene Bueno

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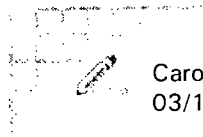
LYNN VAN NESTLAND

301-443-1891

John Fraser

219-9305

219-4753 fax



Carol R. Dennis
03/10/99 03:43:49 PM

Record Type: Record

To: Irene Bueno/OPD/EOP

cc: Steven M. Mertens/OMB/EOP, Debra J. Bond/OMB/EOP

Subject: Re: LRM CRD11 - - LABOR Report on Labor report on HR 441 Nursing Relief for Disadvantaged Areas
Act of 1999 

OMB Budget and DOL have talked and jointly decided to remain silent at the markup on HR 441.
Thus the report will not be sent.

HR 441 IH

106th CONGRESS

1st Session

H. R. 441

To amend the Immigration and Nationality Act with respect to the requirements for the admission of nonimmigrant nurses who will practice in health professional shortage areas.

IN THE HOUSE OF REPRESENTATIVES

February 2, 1999

Mr. RUSH (for himself and Mr. HYDE) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act with respect to the requirements for the admission of nonimmigrant nurses who will practice in health professional shortage areas.

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 'Nursing Relief for Disadvantaged Areas Act of 1999'.

SEC. 2. REQUIREMENTS FOR ADMISSION OF NONIMMIGRANT NURSES IN HEALTH PROFESSIONAL SHORTAGE AREAS DURING 4-YEAR PERIOD.

(a) ESTABLISHMENT OF A NEW NONIMMIGRANT CLASSIFICATION FOR NONIMMIGRANT NURSES IN HEALTH PROFESSIONAL SHORTAGE AREAS-

Section 101(a)(15)(H)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)) is amended by striking ` ; or' at the end and inserting the following: `, or (c)

who is coming temporarily to the United States to perform services as a registered nurse, who meets the qualifications described in section 212(m)(1), and with respect to whom the

Secretary of Labor determines and certifies to the Attorney General that an unexpired attestation is on file and in effect under section 212(m)(2) for the facility (as defined in section 212(m)(6)) for which the alien will perform the services; or'.

(b) REQUIREMENTS- Section 212(m) of the Immigration and Nationality Act (8 U.S.C. 1182(m)) is amended to read as follows:

` (m)(1) The qualifications referred to in section 101(a)(15)(H)(i)(c), with respect to an alien

who is coming to the United States to perform nursing services for a facility, are that the alien--

` (A) has obtained a full and unrestricted license to practice professional nursing in the country where the alien obtained nursing education or has received nursing education in the United States;

` (B) has passed an appropriate examination (recognized in regulations promulgated in consultation with the Secretary of Health and Human Services) or has a full and unrestricted license under State law to practice professional nursing in the State of intended employment; and

` (C) is fully qualified and eligible under the laws (including such temporary or interim licensing requirements which authorize the nurse to be employed) governing the place of intended employment to engage in the practice of professional nursing as a registered nurse immediately upon admission to the United States and is authorized

under such
laws to be employed by the facility.

` (2)(A) The attestation referred to in section 101(a)(15)(H)(i)(c), with respect to
a facility for
which an alien will perform services, is an attestation as to the following:

` (i) The facility meets all the requirements of paragraph (6).

` (ii) The employment of the alien will not adversely affect the wages and
working
conditions of registered nurses similarly employed.

` (iii) The alien employed by the facility will be paid the wage rate for
registered nurses
similarly employed by the facility.

` (iv) The facility has taken and is taking timely and significant steps
designed to recruit
and retain sufficient registered nurses who are United States citizens or
immigrants who
are authorized to perform nursing services, in order to remove as quickly as
reasonably
possible the dependence of the facility on nonimmigrant registered nurses.

` (v) There is not a strike or lockout in the course of a labor dispute, the
facility did not
lay off and will not lay off a registered nurse employed by the facility within
the period
beginning 90 days before and ending 90 days after the date of filing of any
visa petition,
and the employment of such an alien is not intended or designed to
influence an election
for a bargaining representative for registered nurses of the facility.

` (vi) At the time of the filing of the petition for registered nurses under
section

101(a)(15)(H)(i)(c), notice of the filing has been provided by the facility

to the bargaining representative of the registered nurses at the facility or, where
there is no such
bargaining representative, notice of the filing has been provided to the registered
nurses employed at
the facility through posting in conspicuous locations.

` (vii) The facility will not, at any time, employ a number of aliens issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(c) that exceeds 33 percent of the total number of registered nurses employed by the facility.

` (viii) The facility will not, with respect to any alien issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(c)--

` (I) authorize the alien to perform nursing services at any worksite other than a worksite controlled by the facility; or

` (II) transfer the place of employment of the alien from one worksite to another.

Nothing in clause (iv) shall be construed as requiring a facility to have taken significant steps described in such clause before the date of the enactment of the Nursing Relief for Disadvantaged Areas Act of 1999. A copy of the attestation shall be provided, within 30 days of the date of filing, to registered nurses employed at the facility on the date of filing.

` (B) For purposes of subparagraph (A)(iv), each of the following shall be considered a significant step reasonably designed to recruit and retain registered nurses:

` (i) Operating a training program for registered nurses at the facility or financing (or providing participation in) a training program for registered nurses elsewhere.

` (ii) Providing career development programs and other methods of facilitating health care workers to become registered nurses.

` (iii) Paying registered nurses wages at a rate higher than currently being paid to registered nurses similarly employed in the geographic area.

` (iv) Providing reasonable opportunities for meaningful salary advancement
by
registered nurses.

The steps described in this subparagraph shall not be considered to be an
exclusive list of the
significant steps that may be taken to meet the conditions of subparagraph
(A)(iv). Nothing in
this subparagraph shall require a facility to take more than one step if the
facility can
demonstrate that taking a second step is not reasonable.

` (C) Subject to subparagraph (E), an attestation under subparagraph (A)--

` (i) shall expire on the date that is the later of--

` (I) the end of the one-year period beginning on the date of its filing with
the
Secretary of Labor; or

` (II) the end of the period of admission under section 101(a)(15)(H)(i)(c)
of the
last alien with respect to whose admission it was applied (in accordance
with
clause (ii)); and

` (ii) shall apply to petitions filed during the one-year period beginning on the
date of its
filing with the Secretary of Labor if the facility states in each such petition
that it
continues to comply with the conditions in the attestation.

` (D) A facility may meet the requirements under this paragraph with respect to
more than one
registered nurse in a single petition.

` (E)(i) The Secretary of Labor shall compile and make available for public
examination in a
timely manner in Washington, D.C., a list identifying facilities which have filed
petitions for
nonimmigrants under section 101(a)(15)(H)(i)(c) and, for each such facility, a
copy of the
facility's attestation under subparagraph (A) (and accompanying documentation)
and each

such petition filed by the facility.

` (ii) The Secretary of Labor shall establish a process, including reasonable time limits, for the receipt, investigation, and disposition of complaints respecting a facility's failure to meet

conditions attested to or a facility's misrepresentation of a material fact in an attestation.

Complaints may be filed by any aggrieved person or organization (including bargaining

representatives, associations deemed appropriate by the Secretary, and other aggrieved

parties as determined under regulations of the Secretary). The Secretary shall conduct an

investigation under this clause if there is reasonable cause to believe that a facility fails to meet

conditions attested to. Subject to the time limits established under this clause, this

subparagraph shall apply regardless of whether an attestation is expired or unexpired at the

time a complaint is filed.

` (iii) Under such process, the Secretary shall provide, within 180 days after the date such a

complaint is filed, for a determination as to whether or not a basis exists to make a finding

described in clause (iv). If the Secretary determines that such a basis exists, the Secretary

shall provide for notice of such determination to the interested parties and an opportunity for a

hearing on the complaint within 60 days of the date of the determination.

` (iv) If the Secretary of Labor finds, after notice and opportunity for a hearing, that a facility

(for which an attestation is made) has failed to meet a condition attested to or that there was a

misrepresentation of material fact in the attestation, the Secretary shall notify the Attorney

General of such finding and may, in addition, impose such other administrative remedies

(including civil monetary penalties in an amount not to exceed \$1,000 per nurse per violation,

with the total penalty not to exceed \$10,000 per violation) as the Secretary determines to be

appropriate. Upon receipt of such notice, the Attorney General shall not approve petitions filed with respect to a facility during a period of at least one year for nurses to be employed by the facility.

` (v) In addition to the sanctions provided for under clause (iv), if the Secretary of Labor finds, after notice and an opportunity for a hearing, that a facility has violated the condition attested to under subparagraph (A)(iii) (relating to payment of registered nurses at the prevailing wage rate), the Secretary shall order the facility to provide for payment of such amounts of back pay as may be required to comply with such condition.

` (F)(i) The Secretary of Labor shall impose on a facility filing an attestation under subparagraph (A) a filing fee, in an amount prescribed by the Secretary based on the costs of carrying out the Secretary's duties under this subsection, but not exceeding \$250.

` (ii) Fees collected under this subparagraph shall be deposited in a fund established for this purpose in the Treasury of the United States.

` (iii) The collected fees in the fund shall be available to the Secretary of Labor, to the extent and in such amounts as may be provided in appropriations Acts, to cover the costs described in clause (i), in addition to any other funds that are available to the Secretary to cover such costs.

` (3) The period of admission of an alien under section 101(a)(15)(H)(i)(c) shall be 3 years.

` (4) The total number of nonimmigrant visas issued pursuant to petitions granted under section 101(a)(15)(H)(i)(c) in each fiscal year shall not exceed 500. The number of such visas issued for employment in each State in each fiscal year shall not exceed the following:

1990 ` (A) For States with populations of less than 9,000,000, based upon the
decennial census of population, 25 visas.

1990 ` (B) For States with populations of 9,000,000 or more, based upon the
decennial census of population, 50 visas.

 ` (C) If the total number of visas available under this paragraph for a fiscal
year quarter
 exceeds the number of qualified nonimmigrants who may be issued such
visas during
 those quarters, the visas made available under this paragraph shall be issued
without
 regard to the numerical limitation under subparagraph (A) or (B) of this
paragraph
 during the last fiscal year quarter.

 ` (5) A facility that has filed a petition under section 101(a)(15)(H)(i)(c) to
employ a
 nonimmigrant to perform nursing services for the facility--

 ` (A) shall provide the nonimmigrant a wage rate and working conditions
commensurate
 with those of nurses similarly employed by the facility;

 ` (B) shall require the nonimmigrant to work hours commensurate with those
of nurses
 similarly employed by the facility; and

 ` (C) shall not interfere with the right of the nonimmigrant to join or organize
a union.

 ` (6) For purposes of this subsection and section 101(a)(15)(H)(i)(c), the term
` facility' means
 a subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social
Security Act (42
 U.S.C. 1395ww(d)(1)(B))) that meets the following requirements:

 ` (A) As of March 31, 1997, the hospital was located in a health
professional shortage
 area (as defined in section 332 of the Public Health Service Act (42 U.S.C.
254e)).

` (B) Based on its settled cost report filed under title XVIII of the Social Security Act
for its cost reporting period beginning during fiscal year 1994--

` (i) the hospital has not less than 190 licensed acute care beds;

` (ii) the number of the hospital's inpatient days for such period which were made
up of patients who (for such days) were entitled to benefits under part A
of such
title is not less than 35 percent of the total number of such hospital's
acute care
inpatient days for such period; and

` (iii) the number of the hospital's inpatient days for such period which were made
up of patients who (for such days) were eligible for medical assistance
under a
State plan approved under title XIX of the Social Security Act, is not less
than
28 percent of the total number of such hospital's acute care inpatient
days for
such period.

` (7) For purposes of paragraph (2)(A)(v), the term `lay off', with respect to
a worker--

` (A) means to cause the worker's loss of employment, other than
through a
discharge for inadequate performance, violation of workplace rules,
cause,
voluntary departure, voluntary retirement, or the expiration of a grant or
contract; but

` (B) does not include any situation in which the worker is offered, as an
alternative to such loss of employment, a similar employment
opportunity with
the same employer at equivalent or higher compensation and benefits
than the
position from which the employee was discharged, regardless of whether
or not
the employee accepts the offer.

Nothing in this paragraph is intended to limit an employee's or an employer's
rights

under a collective bargaining agreement or other employment contract.'.

(c) REPEALER- Clause (i) of section 101(a)(15)(H) of the Immigration and Nationality Act

(8 U.S.C. 1101(a)(15)(H)(i)) is amended by striking subclause (a).

(d) IMPLEMENTATION- Not later than 90 days after the date of enactment of this Act, the

Secretary of Labor (in consultation, to the extent required, with the Secretary of Health and

Human Services) and the Attorney General shall promulgate final or interim final regulations to

carry out section 212(m) of the Immigration and Nationality Act (as amended by subsection

(b)).

(e) LIMITING APPLICATION OF NONIMMIGRANT CHANGES TO 4-YEAR

PERIOD- The amendments made by this section shall apply to classification petitions filed for

nonimmigrant status only during the 4-year period beginning on the date that interim or final

regulations are first promulgated under subsection (d).

SEC. 3. RECOMMENDATIONS FOR ALTERNATIVE REMEDY FOR NURSING SHORTAGE.

Not later than the last day of the 4-year period described in section 2(e), the Secretary of

Health and Human Services and the Secretary of Labor shall jointly submit to the Congress

recommendations (including legislative specifications) with respect to the following:

(1) A program to eliminate the dependence of facilities described in section 212(m)(6)

of the Immigration and Nationality Act (as amended by section 2(b)) on nonimmigrant

registered nurses by providing for a permanent solution to the shortage of registered

nurses who are United States citizens or aliens lawfully admitted for permanent

residence.

(2) A method of enforcing the requirements imposed on facilities under

sections

101(a)(15)(H)(i)(c) and 212(m) of the Immigration and Nationality Act (as amended

by section 2) that would be more effective than the process described in section

212(m)(2)(E) of such Act (as so amended).

SEC. 4. CERTIFICATION FOR CERTAIN ALIEN NURSES.

(a) IN GENERAL-

(1) Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended

by adding at the end the following new subsection:

` (r) Subsection (a)(5)(C) shall not apply to an alien who seeks to enter the United States for

the purpose of performing labor as a nurse who presents to the consular officer (or in the case

of an adjustment of status, the Attorney General) a certified statement from the Commission

on Graduates of Foreign Nursing Schools (or an equivalent independent credentialing

organization approved for the certification of nurses under subsection (a)(5)(C) by the

Attorney General in consultation with the Secretary of Health and Human Services) that--

` (1) the alien has a valid and unrestricted license as a nurse in a State where the alien

intends to be employed and such State verifies that the foreign licenses of alien nurses

are authentic and unencumbered;

` (2) the alien has passed the National Council Licensure Examination (NCLEX);

` (3) the alien is a graduate of a nursing program--

` (A) in which the language of instruction was English;

` (B) located in a country--

` (i) designated by such commission not later than 30 days after the

date of the enactment of the Nursing Relief for Disadvantaged Areas Act of 1999, based on such commission's assessment that the quality of nursing education in that country, and the English language proficiency of those who complete such programs in that country, justify the country's designation; or

` (ii) designated on the basis of such an assessment by unanimous agreement of such commission and any equivalent credentialing organizations which have been approved under subsection (a)(5)(C) for the certification of nurses under this subsection; and

` (C)(i) which was in operation on or before the date of the enactment of the Nursing Relief for Disadvantaged Areas Act of 1999; or

` (ii) has been approved by unanimous agreement of such commission and any equivalent credentialing organizations which have been approved under subsection (a)(5)(C) for the certification of nurses under this subsection.'.

(2) Section 212(a)(5)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(5)(C)) is amended by striking 'Any alien who seeks' and inserting 'Subject to subsection (r), any alien who seeks'.

(b) EFFECTIVE DATE- The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(c) ISSUANCE OF CERTIFIED STATEMENTS- The Commission on Graduates of Foreign Nursing Schools, or any approved equivalent independent credentialing organization, shall issue certified statements pursuant to the amendment under subsection (a) not more than 35 days after the receipt of a complete application for such a statement.

END



Carol R. Dennis
03/09/99 04:34:09 PM

Record Type: Record

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

cc:

Subject: LRM CRD11 - - LABOR Report on Labor report on HR 441 Nursing Relief for Disadvantaged Areas Act of 1999



---- Nurses98.lt

----- Forwarded by Carol R. Dennis/OMB/EOP on 03/09/99 04:34 PM -----



Carol R. Dennis
03/09/99 04:18:30 PM

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Subject: LRM CRD11 - - LABOR Report on Labor report on HR 441 Nursing Relief for Disadvantaged Areas Act of 1999



---- hr441.wpd _

THIS REPORT IS VERY SIMILAR TO ONE WE CLEARED LAST YEAR ON HR 2759, WHICH THE ADMINISTRATION STRONGLY OPPOSED.

----- Forwarded by Carol R. Dennis/OMB/EOP on 03/09/99 03:58 PM -----

LRM ID: CRD11

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

Tuesday, March 9, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Richard E. Green (for) Assistant Director for Legislative Reference
OMB CONTACT: Carol R. Dennis
PHONE: (202)395-4724 **FAX:** (202)395-3109
SUBJECT: **LABOR Report on Labor report on HR 441 Nursing Relief for Disadvantaged Areas Act of 1999**

DEADLINE: **4pm Wednesday, March 10, 1999**

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

COMMENTS: This report on HR 441 is very similar to one we cleared last year on HR 2759. That report "strongly opposed" HR 2759.

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SUBJECT: LABOR Report on Labor report on HR 441 Nursing Relief for Act of 1999

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

(2) sending us a memo or letter

TO: Carol R. Dennis Phone: 395-4724 Fax: 395-3109
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-3454

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

FAX RETURN of _____ pages, attached to this response sheet

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Broderick Johnson/WHO/EOP

The Honorable Lamar Smith
Chairman
Subcommittee on Immigration and Claims
Committee on the Judiciary
House of Representatives
Washington, D.C. 20515

Dear Chairman Smith:

I am writing to express the Administration's strong opposition to H.R. 441, the "Nursing Relief for Disadvantaged Areas Act," which is scheduled for markup by your Subcommittee on March 11. This legislation would establish a new temporary foreign nurses program under the Immigration and Nationality Act (INA). For the reasons set out below, the Department believes such a new temporary foreign nurses program is neither necessary nor advisable. I urge that you not report the bill.

First, there is no national shortage of nurses. As you heard at your November 5, 1997, hearing on H.R. 2759, the predecessor of H.R. 441, the Department of Health and Human Services -- which offers the best information currently available -- indicates that there is no national shortage of registered nurses. This has been the case for some time. In addition, the Immigration Nursing Relief Advisory Committee -- in its 1995 report -- unanimously agreed that there was no national nursing shortage.

Second, employers facing specialty or locality shortages in the nursing profession already have several means of access to foreign nurses. To meet any such shortages, current law already allows foreign nurses to enter and work in the U.S. under four separate existing programs: as permanent employment-based immigrants; as temporary workers under the temporary entry provisions of the North American Free Trade Agreement; as temporary workers under the H-1B provisions of the INA if the job requires a bachelor's degree (or equivalent); and as temporary workers under the H-2B provisions of the INA if the job itself is "temporary" (less than one year) in duration. Immigration should not be our principal public policy response to temporary labor shortages. In light of the existing array of programs that already allow access to foreign nurses, there is simply no justification for the establishment of yet another program intended to serve a

narrow, special interest.

Third, the Department believes that special legislation of this type is not appropriate. Such a narrowly drawn new program to address a "perceived" local shortage in the nursing profession can only make our immigration law more complex and confusing. Moreover, new temporary nonimmigrant programs almost inevitably become feeder programs for permanent residency. Also, the bill is seriously inadequate in terms of the protections it would afford both U.S. and temporary foreign nurses.

In summary, the Department of Labor firmly believes a new temporary foreign nurses program is unnecessary and inadvisable. The need for such a special foreign nurses program has been considered and rejected on several recent occasions in the House, and the Administration strongly urges that your Subcommittee reject H.R. 441 as well.

The first step that needs to be taken to address any current local shortage of nurses is to make the unfilled job opportunities more attractive for domestic workers, such as through increased salaries and benefits, improved work schedule flexibility, and enhanced training and educational opportunities. And where these steps fail, the other mechanisms which have already been described as available in existing law can be used to meet staffing needs. There is simply no justification for yet another temporary foreign nurses program.

I appreciate your Subcommittee's consideration of our views.

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

Sincerely,

Alexis M. Herman



DEPARTMENT OF HEALTH & HUMAN SERVICES

Testimony Statement

NEIL H. SAMPSON

ACTING ASSOCIATE ADMINISTRATOR FOR HEALTH PROFESSIONS

HEALTH RESOURCES AND SERVICES ADMINISTRATION

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Before the

Subcommittee on Immigration and Claims

Committee on the Judiciary

House of Representatives

November 5, 1997

Mr. Chairman:

I am Neil H. Sampson, Acting Associate Administrator for Health Professions in the Health Resources and Services Administration (HRSA). HRSA is the access agency that administers the safety net programs providing health care services to the uninsured and vulnerable individuals in our nation. Within HRSA, the Bureau of Health Professions provides national leadership to assure a health professions workforce that meets the health care needs of the public. I understand that the Department of Labor has submitted testimony for the record and that a representative of the Department of Labor is present today to answer questions related to their testimony.

Thank you for the opportunity to discuss the issue of nursing supply in this country, and how to deal with selected areas and institutions which may have some difficulty recruiting nurses. We have recently completed the Sixth National Sample Survey of Registered Nurses, and are beginning to analyze the data from that survey. Among major findings:

- In March 1996, the registered nurse population (including foreign nurses) in the United States totaled almost 2.6 million, an increase of more than 300,000 individuals since March 1992. The RN population grew at an average annual rate of 3.4 percent between those dates, the highest growth rate shown since the November 1980 National Sample Survey of Registered Nurses. Some 82.7 percent of the RN population is employed in nursing.
- Since the nurse shortage of the late 1980's, admissions to basic nurse programs increased

from 103,025 in 1988-89 to 129,897 in 1993-94. In 1994-95, this trend changed somewhat and the number of admissions has decreased slightly.

- Graduations from nursing schools have increased annually from their lowest point in 1988-89 at 61,660 to their highest point in 1994-95 of 97,052 graduates, an increase of more than 50 percent.
- The changing employment picture is evident from the survey data. The total number of employed RNs increased 14 percent between 1992 and 1996. However, the number in hospitals increased only 3 percent. About 60 percent of the 2.1 million employed RNs were working in hospitals in 1996 compared to almost 67 percent in 1992. This change reflects the shift toward ambulatory and long term care positions.
- The average salary for a staff nurse working in a hospital in 1992 was \$36,618 and in 1996 was \$40,097, which if adjusted for inflation is \$35,874 in 1992 dollars.
- In 1996 there were 1516 basic RN programs of nursing in the U.S. Illinois ranked fifth in the number of nursing programs at 73. New York had the most at 100, followed by California with 96 programs, Pennsylvania with 84 and Texas with 77.
- In 1996, 110,000 RNs were employed or residing in the United States who received their basic nursing education in a foreign country. In 1988, prior to the passage of legislation

providing for the H-1A visas, there were an estimated 73,000 such RNs. This is a 51 percent increase in the number of foreign-trained nurses compared to a 26 percent increases in all RNs during that period.

- Almost three-quarters, 72 percent, of the 110,000 foreign-educated RNs in 1996 came from four countries. The largest single group, about 43 percent, or 47,400, came from the Philippines. Nineteen percent, or 21,400 came from Canada; 10 percent, or 11,500, from the United Kingdom, and 9 percent, or almost 10,000, from India.

The best information currently available indicates that there is not national shortage of registered nurses. There are a few areas in which specialty and locality shortages persist. Factors such as increased numbers of graduating nurses and changing demand for registered nurses associated with the movement to managed care have remedied any overall shortage.

Back in 1989, the Immigration Nursing Relief Act (INRA) created the H-1A visa classification for nonimmigrant registered nurses. The H-1A program was a five-year pilot program that expired September 1, 1995. When the program expired, we did not see any justification for extending this special visa category. Our view remains the same today with regard to creating new categories.

The written testimony submitted by the Department of Labor will outline already existing programs to allow foreign nurses to enter and work in the U.S. to meet specialty or locality

shortages, as well as local steps to make unfilled job opportunities more attractive, such as improved salaries and benefits, improved work schedule flexibility and enhanced educational and training opportunities.

The Department of Health and Human Services will continue to monitor nursing supply and demand, as well as nursing admissions under the other available immigration programs. Thank you for the opportunity to address this issue with you today.

21 Lamar Smith (R)

Of San Antonio — Elected 1986, 6th term

Biographical Information

Born: Nov. 19, 1947, San Antonio, Texas

Education: Yale U., B.A. 1969; Southern Methodist U., J.D. 1975

Occupation: Lawyer, rancher

Family: Wife, Elizabeth Lynn Schaefer, two children.

Religion: Christian Scientist

Political Career: Texas House, 1981-82, Bexar County Commissioners Court, 1983-85.

Capitol Office: 2231 Rayburn Bldg. 20515, 225-4236

Committees

Budget

Judiciary

Commercial & Administrative Law, Immigration & Claims (chairman)



In Washington: Like many subcommittee chairmen in the 105th, Smith intends to use his perch atop the Judiciary Subcommittee on Immigration and Claims more for oversight of the Clinton administration than for generating legislation. But in contrast to most of his Republican brethren

holding gavels, Smith has already succeeded in shepherding a landmark bill into law: a 1996 crackdown on immigration.

Smith's careful stewardship of the immigration law overhaul marked a return to the form he displayed earlier in his House career. Before spending the 103rd Congress heading a House GOP response team that dispensed rhetorical tweaks at the Clinton administration, Smith had been best known as a quiet bill-crafter laboring in the legislative shadows. When the 1994 GOP House takeover put Smith in the spotlight on the contentious issues of borders, benefits and visas, he resisted the temptation to score debating points in favor of crafting passable legislation.

"Republicans need to show we can govern," Smith said in September 1996. "We need to show we can pass good legislation."

But Smith, who also serves on the Budget Committee, was no moderate thrust by the accident of seniority into handling an issue of vital interest to Republicans. He is a stalwart conservative who never broke from the GOP majority on any significant legislation during the 104th. A longtime ally of Newt Gingrich, he was called on at the start of the 105th to fill a two-week vacancy on the ethics committee as the panel wrapped up its investigation of the Speaker.

When his fellow Texan Dick Armey asked Smith to take on that assignment, he said, "As majority leader, I thank you for serving." Smith told *The Hill*, a Capitol Hill newspaper, "As a friend, you're a darn fool."

Smith turned out to be the lone committee dissenter as the panel recommended levying a reprimand and a \$300,000 penalty against Gingrich for

supplying the committee with misleading information about his questionable use of tax-exempt organizations for political gain. "There's some suggestion that if he didn't break the law, he came very close," Smith said. "If a football player comes very close — maybe very, very close — to being offside, there's still no penalty." Smith also voted against the penalty on the House floor, arguing that it was far too severe to match the offense.

In 1996, Smith had to turn aside the importunings of another Republican Party leader to see his immigration bill across the finish line. In September, with the bill still in flux and the presidential campaign raging, Smith and his Senate counterpart, Alan K. Simpson, R-Wyo., sat down with former Senate Majority Leader Bob Dole's campaign manager. The Dole camp was convinced that instead of compromising with Clinton, the Republican Congress should pass a version satisfactory to itself and then dare — expect — the president to veto it, providing Dole a campaign bludgeon. Smith and Simpson, then the chairman of the Senate Judiciary Immigration Subcommittee, dismissed that logic and went ahead with their negotiations.

The biggest sticking point with the White House was a provision in the House bill sponsored by California Republican Elton Gallegly to deny illegal immigrants the benefit of a public education. Although the Gallegly amendment had passed the House and enjoyed passionate support within the House Republican Conference, Smith recognized it did not enjoy broad public support. And since the provision would end unless reauthorized in under three years, he deemed it not worth fighting for.

Smith declared himself "ambivalent" about the education language. "The children are the innocent parties," he said. "The real answer is to deport their parents." The Gallegly language was the immigration bill's only clear veto-bait and, in the end, Smith helped arrange a deal by which it was dropped from the immigration bill and voted on as a separate measure (which the House passed and the Senate ignored).

The final immigration bill, which was enacted

TEXAS

The 21st typifies the lengths to which Texas mapmakers went to divide Democratic and Republican neighborhoods in 1992 redistricting. Although much of their effort was later ruled unconstitutional, the 21st was not affected.

As a result, for 350 miles the boundaries of the 21st run in simple, straight blocks, often paralleling county lines. But as the 21st approaches Bexar County, the lines go berserk. Four congressional districts lay claim to portions of the San Antonio-based county, and redistricting carved out separate slices for each party.

Because of the spaghetti-like lines, several institutions in one district have dramatic influence over the neighboring districts.

Four Air Force bases and the Army's Fort Sam Houston are located in San Antonio. Although none of the bases are in the 21st, the military is believed to be the district's largest employer. The five San Antonio installations employ more than 45,000 people, though the numbers will continue to drop if one of the bases closes, as expected.

San Antonio's military history goes back centuries. Its greatest moment was in 1836 when 183 soldiers fought to defend the Alamo against an attack by the 6,000-man army led by Gen. Antonio Lopez de Santa Anna.

Tourism is the second-largest employer in San Antonio, frequently overlapping with military interests. The Alamo, in the heart of downtown and around the corner from a bustling shopping mall, is a popular attraction. Fort Sam Houston has more than 900 historic buildings and two museums on its 3,300 acres.

Almost a quarter of the people in the 21st live in Bexar County, most in the affluent neighborhoods of San Antonio and its sub-

TEXAS 21 South Central — Western Bexar County; Austin Suburbs

urbs. The predominantly white residents are well-paid, well-educated professionals — doctors, lawyers, engineers and insurance executives.

As the 21st moves west, the counties become less populous and the economic emphasis shifts to agriculture. Gillespie County is the largest peach-producing county in the state. Peach orchards are also prevalent in Menard County.

The central parts of the district raise a combination of crops and cattle. Pecans, peanuts and hay grow in abundance. The 21st is home to the state's largest goat market, in Kimble County, and the self-proclaimed "sheep and wool capital" of the nation, in Tom Green County.

More than 300 miles west of San Antonio lies San Angelo. The city's Goodfellow Air Force Base is just over the district line but employs many 21st District residents. The 21st takes in the city's wealthier northwest neighborhoods.

Before redistricting, Smith represented all of Midland, the West Texas oil center. Today, the 21st shares the city with two other districts.

Midland, Comal, Kerr and Williamson counties, combined with the portions of San Antonio in the 21st, deliver wide margins for Republican candidates. Overall, Bob Dole garnered 63 percent of the district's vote in 1996, while Smith got 76 percent in the House race.

1990 Population: 566,217. White 517,100 (91%), Black 13,972 (2%), Other 35,145 (6%) Hispanic origin 79,655 (14%). 18 and over 420,498 (74%). 62 and over 91,310 (16%) Median age. 34

as part of an omnibus spending package at the end of the 104th, increased penalties for alien smuggling and document fraud, and made it easier for illegal immigrants to be detained at the border or deported after arrival.

Smith had originally introduced a much tougher measure, tackling legal as well as illegal immigration, but he found himself giving up parts of it as specific provisions ran into opposition from Democrats, the Senate, or even pro-business Republicans in the House. Smith reasoned that the status quo was "unacceptable" and that getting a chunk of what he wanted was better than nothing. "Three-fourths of a loaf tastes pretty good," he said.

Smith did not begin the 105th expecting to revisit the immigration issue in a major way, because he did not see consensus building for stronger legislation than he had already achieved. He shares a pet concern of some Republicans (and a plank of the party's 1996 platform), to

make clear the constitutional guarantee of citizenship to anyone born in this country. Smith favors legislation that would deny this birthright to children born to parents in the country illegally. "The 14th Amendment is being enforced in ways for which it was not intended," Smith said. His panel hosted a hearing at the end of the 104th on a bill by California Republican Brian P. Bilbray to "fine tune" the 14th Amendment.

Smith joined Sen. Joseph I. Lieberman, a Connecticut Democrat, in challenging TV networks to air only programs acceptable for children during the first hour of prime time. Smith warned that networks "race each other to the bottom of the cultural barrel. . . TV shows increasingly feature the perverse, the obscure and the bizarre. Media polluters continue to dump garbage into the minds of our children."

The ability to deliver such tongue lashings served Smith well during the 103rd in his capacity as chairman of the Republican "Theme Team," a 17-member

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TEXAS

group that coordinated the House GOP response to the Clinton administration. Commenting on Clinton's economic proposals in 1993, Smith said, "President Clinton has become America's Pinocchio of the Potomac, except that every time he tells a fib it is our deficit and tax bill that grows."

Although he is a reliable Republican loyalist on most issues, his votes on abortion do not satisfy some of the party's most ardent conservatives. He supports such restrictions on abortion as parental notification and a 24-hour waiting period, and he opposes federal financing for abortions. But Smith opposed President George Bush's policy prohibiting abortion counseling at family-planning clinics that receive federal money. Smith said the question of counseling was a free speech issue, and patients have a right to know all their options. Such moderation nearly cost Smith his slot as delegate to the 1996 GOP convention as Texas Republicans sought to purge their ranks of any support for abortion rights.

At Home: Smith is a fifth-generation Texas rancher, but his Yale University background and polished manner are not the first things you might expect from a conservative Texas pol. He has made them work for him, though: When the 21st was open in 1986, he aggressively courted rural voters and won them over, it would seem, for good. His subsequent re-elections have been non-events.

Smith spent a year in the Texas House and two years on the Bexar County commission, representing San Antonio suburbs. In 1985, when GOP

Rep. Tom Loeffler announced plans to leave the 21st for a gubernatorial campaign, Smith wasted no time in announcing his own candidacy.

Smith was the moderate in the GOP House runoff against Van Archer, a San Antonio city councilman. Smith finished first by a modest margin in the initial GOP primary and took 53 percent of the runoff vote against Archer.

In the primary and runoff, Smith had to overcome questions about his support of legal abortion (Archer opposed it) and his affiliation with Christian Science. Critics said his religion would prevent him from voting for medical care appropriations — a problem in a district where a medical equipment company was the largest private employer.

Smith's Democratic opponent was former state Sen. Pete Snelson, whose political base in Midland, at the western end of the district, positioned him to play to lingering rural perceptions of Smith as an elitist, big-city lawyer.

But Snelson was plagued by debt from previous campaigns. Smith cast himself as fiscally more conservative and signed a no-tax-increase pledge. He won San Antonio and Midland, overcoming Snelson's rural support.

The 1992 redistricting — and the subsequent redrawing of the map in 1996 — altered the district's lines but had little impact on its conservative tilt. The wealthy sections of San Antonio, combined with the sprawling counties to the west, helped Smith win without worry.

HOUSE ELECTIONS

1996 General			
Lamar Smith (R)	205,830	(76%)	
Gordon H. Wharton (D)	60,338	(22%)	
Randy Rutenbeck (NL)	3,139	(1%)	
1994 General			
Lamar Smith (R)	165,595	(90%)	
Kerry Lowry (I)	18,480	(10%)	

Previous Winning Percentages: 1992 (72%) 1990 (75%)
1988 (93%) 1986 (61%)

CAMPAIGN FINANCE

	Receipts	Receipts from PACs	Expenditures
1996			
Smith (R)	\$526,391	\$119,925 (23%)	\$443,571
Wharton (D)	\$26,430	\$50 (0%)	\$18,844
1994			
Smith (R)	\$546,639	\$105,116 (19%)	\$538,347

VOTING STUDIES

Year	Presidential Support		Party Unity		Conservative Coalition	
	S	O	S	O	S	O
1996	34	63	90	4	94	2
1995	17	83	94	2	93	2
1994	41	54	93	4	81	6
1993	35	63	94	4	100	0
1992	77	21	85	9	96	2
1991	75	23	84	11	95	5

DISTRICT VOTE FOR PRESIDENT

	1996	1992
D	81,943 (30%)	70,547 (25%)
R	174,076 (63%)	143,842 (52%)
I	18,474 (7%)	63,347 (23%)

KEY VOTES

1997	
Ban "partial birth" abortions	Y
1996	
Approve farm bill	Y
Deny public education to illegal immigrants	Y
Repeal ban on certain assault-style weapons	Y
Increase minimum wage	N
Freeze defense spending	N
Approve welfare overhaul	Y
1995	
Approve balanced-budget constitutional amendment	Y
Relax Clean Water Act regulations	Y
Oppose limits on environmental regulations	N
Reduce projected Medicare spending	Y
Approve GOP budget with tax and spending cuts	Y

INTEREST GROUP RATINGS

Year	ADA	AFL-CIO	CCUS	ACU
1996	10	n/a	93	100
1995	0	0	100	84
1994	5	11	92	95
1993	5	8	100	96
1992	20	36	88	88
1991	5	25	70	84

1 Bobby L. Rush (D)

Of Chicago — Elected 1992, 3rd term

Biographical Information

Born: Nov. 23, 1946, Albany, Ga.
Education: Roosevelt U., B.A. 1973; U. of Illinois, Chicago Circle, 1975-77.

Military Service: Army, 1963-68

Occupation: Insurance broker, political aide.

Family: Wife, Carolyn Thomas; five children.

Religion: Protestant.

Political Career: Candidate for Chicago City Council, 1975; sought Democratic nomination for Ill. House, 1978; Chicago City Council, 1983-93.

Capitol Office: 131 Cannon Bldg. 20515; 225-4372

Committees

Commerce

Energy & Power; Telecommunications, Trade & Consumer Protection



In Washington: A gifted political pitchman and organizer, Rush quickly became a valued vote-counter for his party's leadership when Democrats controlled the House. Because of his past association with the radical Black Panthers, the media instantly plucked him from the freshman

ring to the Speaker.

The 104th was notorious for its lack of comity, and one National Republican Congressional Committee fund raising mailing drew out the worst from both sides. The NRCC mailed a poster featuring pictures of 28 Democratic members "wanted" for voting against provisions contained in the House GOP's "Contract With America." The poster disproportionately featured black members, who complained that the mailing made them fear for their safety.

Rush said that if he or his family was harmed by anyone inspired by the poster, "I intend to deal directly in the most physical of manners with" Rep. Bill Paxon of New York, then the NRCC chairman.

It was an irony not lost on Rush that after a youth spent in the sights of law enforcement, his maiden appearance on a wanted poster occurred only after his swearing-in as a member of Congress.

For most of his life, Rush has worked within organizations — both inside and outside the mainstream: He was a Boy Scout, volunteered for the Army and became leader of the Illinois Black Panthers; in the 1970s he moved into elective politics, first working with insurgents fighting Chicago's Democratic machine, then wielding power as a Chicago alderman, state party official and national director of voter registration for Bill Clinton's 1992 presidential campaign.

Urban economic revitalization is Rush's chief priority, one he pursued in the 103rd from the Banking Committee. Rush maintains that "massive disinvestment" by establishment lenders has caused economic abandonment in many urban areas, bringing high unemployment that spawns a host of social problems. Lawlessness at the Chicago housing projects Cabrini-Green and Robert Taylor Homes has drawn national attention.

The Chicago Housing Authority fell into such sorry shape by 1995 that it was taken over by the Department of Housing and Urban Development. Still, Rush felt that Republicans who sought to alleviate inner-city conditions by cutting funding for urban programs were misguided at best. Rush argued on the House floor that nothing contained in the 1996 overhaul of welfare could have helped a young boy whose slaying in a project in his dis-

horde after the 1992 election: Rush was a TV celebrity before his first term even began.

But he set his sights on a behind-the-scenes role in the legislative process — a place in the party whip structure — and got it. Freshman Democrats chose Rush as one of three class whips. And in the 104th, although his party was relegated to the minority, Rush got a plum assignment on the Commerce Committee.

Rush also moved a rung up the whip structure in the 104th, becoming a whip at large. But Democrats have less need for vote-counting skills now that Republicans run the House and structure most votes so they can win them. So Rush's legislative persona has shifted: Where before he was a fairly quiet wheeler-dealer, now he devotes much energy to the oratory of frustration, lashing out at Republicans as they seek to limit funding for programs that he regards as vital to his inner-city constituents.

When Speaker Newt Gingrich announced in 1995 that Chicago would be one of the cities in which he would help sponsor a program that rewards children for reading books, Rush said that he was "offended."

"If Newt comes to Chicago, rather than bringing books, he should bring jobs," Rush said. "We don't need him to assume the duties of chief librarian of the United States."

He also attacked Gingrich personally when the Republicans unveiled their plan to slow the rate of growth in spending on Medicare. He called the bill "legislative terrorism" and said the GOP reminded him of an old horror movie about "the original bloodsuckers," adding, "the bloodsuckers in this Congress are led by Count Dracula," refer-

ILLINOIS

As early as the 1920s, Chicago's near South Side was the center of a booming black population and the core of the nation's first urban black-majority House district.

Even as the great migration from the South between 1940 and 1970 expanded the boundaries of Chicago's black neighborhoods, the 1st retained a rather compact form in the southeast section of Chicago.

In recent years, the territory covered by the 1st has grown, largely to compensate for the deterioration and depopulation of the 1st's low-income portions. During the 1980s, the district lost one-fifth of its population.

The 1st begins on the east side at 26th Street in the historic black hub, then moves south through mainly residential neighborhoods to 103rd Street, at the edge of a once thriving industrial belt.

At its midsection, the district swings west through inner-city communities. However, it also reaches an arm into Chicago's southwest side and close-in suburbs, home to most of the 1st's white residents and much of its sparse Republican vote. The district came under challenge in 1995 as part of a pending lawsuit brought against the Hispanic-majority 4th District.

The changing geography has had little impact on the district's demographics or politics. The 1st remains a majority-black Democratic stronghold. In some recent years, low voter turnout in the district undercut the chances of statewide Democratic candidates.

But 1992 efforts by Rush, who led Clinton's national minority voter outreach program, and by Carol Moseley-Braun, who was bidding to become the first black woman senator, spurred

ILLINOIS 1

Chicago — South and southwest sides

a turnout that was above average for Illinois' House districts.

The 1st has had just eight House members since 1929, all of them black. Rush has his base in the near South Side. Much of this area is fighting to stem urban blight. East of the Dan Ryan Expressway is the crime-plagued Stateway Gardens housing project; the 1st District crosses the highway to take in Comiskey Park, home of baseball's White Sox.

To the southeast is Hyde Park, site of the University of Chicago (11,900 students) and its mainly white, largely liberal community.

Then come Woodlawn and South Shore, black areas with alternating pockets of poverty and stability. In the southeast end of the 1st are solid middle-class black communities such as Chatham and Avalon Park.

The 1st District crosses town through mainly low-income black areas such as Englewood, then banks south and crosses Western Avenue, a widely recognized boundary between white and black Chicago.

This area includes such communities as Lithuanian Village and Beverly, an enclave of affluent Irish-Americans, and suburban Evergreen Park. The 1st also takes in parts of Oak Lawn, Alsip and Blue Island.

1990 Population: 571,530. White 155,885 (27%), Black 398,318 (70%), Other 17,327 (3%). Hispanic origin 20,548 (4%). 18 and over 418,800 (73%), 62 and over 96,054 (17%) Median age: 33

district attracted extensive publicity.

Rush, an early supporter of Clinton's 1992 White House bid, lobbied the president to include more funding for food stamps, which were cut by the welfare law, in his fiscal 1998 budget. He took issue with a tougher public housing eviction policy that Clinton ordered, but if Rush was disappointed by the president's signature on the welfare bill, he did not air that grievance in public. He instead focused his political attacks on Republicans.

Rush opposed such high-profile GOP agenda items as term limits and a line-item veto during the 104th. When the GOP sought to loosen the exclusionary rule and allow a "good faith" exemption for illegal police searches, Rush, who said he had cried at a 1995 dramatic movie about the Panthers, claimed to be the only member of Congress "ever to have been victimized by illegal search and seizure."

Rush did support a GOP-driven initiative to update telecommunications law during the 104th. As a member of the Commerce Committee, Rush

succeeded in inserting a provision that calls upon the Federal Communications Commission to identify and eliminate barriers to small and minority-owned businesses providing telecommunications and information services.

Rush's prime committee seat offers him some jurisdiction over a rival political clan. Clinton's second-term Commerce Secretary, Bill Daley, is the brother of Chicago Mayor Richard M. Daley, with whom Rush has frequently locked horns.

Secure in his own district, Rush has become an adept fundraiser for other Democrats. His support for the candidacy of fellow Rep. Richard J. Durbin in the 1996 Senate primary helped Durbin overcome his main primary opponent's complaints about his minority hiring record. Durbin went on to win the Senate seat.

At Home: Rush, a potential mayoral aspirant in 1999, is seeking to become a stronger political force at home. He wins re-election with ease, but he has made moves to expand his base by helping

ILLINOIS

hand-picked candidates in pursuit of local offices. He has also made a name for himself flacking videotapes by personal performance guru Anthony Robbins on Chicago cable television.

Born in southern Georgia, Rush grew up in Chicago, where his mother moved after her marriage broke up. She worked as a GOP activist, because whites dominated the Democratic machine. Rush was in an integrated Boy Scout troop and volunteered for the Army, but, disillusioned by a racist commanding officer, joined the Student Non-Violent Coordinating Committee, then went AWOL after the assassination of the Rev. Dr. Martin Luther King Jr. (But he was soon honorably discharged.)

Rush joined the Black Panthers, eventually heading the Illinois chapter, and spent six months in prison on a weapons charge. He quit the Panthers and went to college, and in the 1970s he began running for the Chicago City Council and the state legislature, challenging the Democratic machine and losing. In 1983, Rush was elected alderman, riding the coattails of Harold

Washington, who was elected in an upset as Chicago's first black mayor.

After Washington's unexpected death in 1987, Rush allied himself with mainstream Democrats, earning the enmity of some old political associates who formed a more radical party named after Washington. During nearly 10 years on the council, Rush was an activist on education, housing and community development issues. As head of the environment committee, he pushed through tough toxic waste legislation and pressured the city to remove asbestos from public housing units.

In 1992, Rush won the House Democratic primary over Rep. Charles A. Hayes, a longtime labor leader who, at 74, was not known for his legislative vigor. Rush offered his own energetic style in contrast, and just days before the primary, Hayes was named as one of the top abusers of the House bank, with 716 overdrafts. Rush took 42 percent to Hayes' 39 percent.

Rush has coasted to electoral victory ever since.

HOUSE ELECTIONS

1996 General		
Bobby L. Rush (D)	174,005	(86%)
Noel Naughton (R)	25,659	(13%)
Tim M. Griffin (LIBERT)	3,449	(2%)
1996 Primary		
Bobby L. Rush (D)	74,281	(89%)
Caleb A. Davis Jr. (D)	8,894	(11%)
1994 General		
Bobby L. Rush (D)	112,474	(76%)
William J. Kelly (R)	36,038	(24%)

Previous Winning Percentages: 1992 (83%)

CAMPAIGN FINANCE

	Receipts	Receipts from PACs	Expenditures
1996			
Rush (D)	\$174,714	\$167,485 (96%)	\$156,219
Naughton (R)	\$21,656	\$628 (3%)	\$20,220
1994			
Rush (D)	\$196,510	\$152,936 (78%)	\$195,833
Kelly (R)	\$42,986	\$2,639 (6%)	\$37,066

DISTRICT VOTE FOR PRESIDENT

	1996	1992
D	179,744 (85%)	214,045 (81%)
R	22,912 (11%)	32,628 (12%)
I	6,378 (3%)	17,195 (7%)

KEY VOTES

1997	
Ban "partial birth" abortions	N
1996	
Approve farm bill	N
Deny public education to illegal immigrants	?
Repeal ban on certain assault-style weapons	N
Increase minimum wage	Y
Freeze defense spending	Y
Approve welfare overhaul	N
1995	
Approve balanced-budget constitutional amendment	-
Relax Clean Water Act regulations	N
Oppose limits on environmental regulations	Y
Reduce projected Medicare spending	N
Approve GOP budget with tax and spending cuts	N

VOTING STUDIES

Year	Presidential Support		Party Unity		Conservative Coalition	
	S	O	S	O	S	O
1996	78	15	90	4	10	86
1995	83	11	88	2	9	82
1994	68	24	87	2	6	86
1993	76	19	93	1	2	95

INTEREST GROUP RATINGS

Year	ADA	AFL-CIO	CCUS	ACU
1996	95	n/a	25	0
1995	85	100	15	4
1994	100	89	33	5
1993	95	100	9	0

NORTH CAROLINA

12 Melvin Watt (D)

Of Charlotte — Elected 1992, 3rd term

Biographical Information

Born: Aug. 26, 1945, Steele Creek, N.C.

Education: U. of North Carolina, B.S. 1967; Yale U., J.D. 1970

Occupation: Lawyer.

Family: Wife, Eulada Paysour; two children.

Religion: Presbyterian

Political Career: N.C. Senate, 1985-87.

Capitol Office: 1230 Longworth Bldg. 20515; 225-1510

Committees

Banking & Financial Services

Capital Markets, Securities & Government Sponsored Enterprises; Financial Institutions & Consumer Credit

Judiciary

Constitution, Immigration & Claims (ranking)



In Washington: Adjusting to life in the House minority was tough for many Democrats, but Watt seemed energized by the Republican takeover. In debate on the House floor, his is one of the most frequently and passionately heard Democratic voices in defense of civil liberties.

Despite his traditionally liberal voting record on many issues, though, Watt cultivates an image as someone who works well with his district's business community and votes an often tight-fisted fiscal line.

Watt serves on the Banking and Financial Services Committee, where he has an interest not only in banking issues, but also in the housing and urban affairs matters under the committee's jurisdiction. He also sits on Judiciary, where he is ranking member of the Immigration and Claims Subcommittee.

A civil rights lawyer for 22 years before winning election to Congress, Watt is the product of a fatherless household and was brought up in rural Mecklenburg County in a tin-roofed shack without running water or electricity. He attended a segregated high school and then moved on to the University of North Carolina at Chapel Hill, where he graduated Phi Beta Kappa, and then to Yale University, where he received a law degree and a coveted spot on the Yale Law Review.

During the 104th Congress, Watt voted against such Republican priorities as the balanced-budget constitutional amendment, the GOP-engineered welfare overhaul legislation that President Clinton signed and the proposed ban on an abortion procedure that its opponents call "partial birth" abortion. But Watt won praise from the Concord Coalition, a balanced-budget advocacy organization, for his 1996 voting record, the group rated Watt the most fiscally prudent member of the North Carolina delegation, noting his opposition to taking transportation trust funds off-budget, his opposition to repealing a portion of the gasoline tax, and his support for a budget blue-

print mapped by a conservative Democrats known as "blue dogs" that would have brought the budget into balance without cutting tax rates.

Watt expended a good deal of energy during the 104th railing against GOP crime initiatives. His most notable effort was an attempt during March 1996 consideration of an anti-terrorism bill to retain habeas corpus appeals by state inmates, to federal courts. He joined in a strange-bedfellows coalition with staunchly conservative Republican Helen Chenoweth of Idaho, who shared his concern about civil liberties.

Watt argued that the bill's provisions placing restrictions on death row appeals were a betrayal of the Founding Fathers' commitment to individual rights. "We can't sacrifice our constitutional principles because we're angry at people for bombing," Watt said. But this argument did not sway many members and the Watt-Chenoweth amendment was defeated, 135-283.

That vote actually represented a diminution of support from an earlier Watt attempt on different crime legislation to allow defendants federal review if they could produce "clear and convincing" new evidence of innocence. That amendment was beaten, 151-280.

Watt's concern for the point of view of the Founding Fathers was evident in his attempt to attach the Fourth Amendment to a bill allowing officers to obtain evidence through illegal search and seizures, so long as they had been operating in good faith. The Fourth Amendment protects Americans from "unreasonable search and seizures." But bill sponsor Bill McCollum of Florida successfully pleaded, "Don't wipe out the bill by voting for the Constitution," and Watt's move to get Congress to endorse the Fourth Amendment was turned aside, 121-303.

Watt also launched lonely crusades against a federal version of Megan's Law, which requires state and local law enforcement agencies to disclose information about sex offenders upon their release from prison. "An individual, having paid their debt to society by serving time and having complied with their sentence, ought to be able...to get on with their lives," Watt said. But the bill was enacted over that objection.

NORTH CAROLINA

The 12th is best described as the mother of all gerrymanders, a congressional district so notorious in its design that it sparked an editorial in *The Wall Street Journal* and drew criticism from 1992 GOP presidential candidate Patrick J. Buchanan during a campaign stop in North Carolina.

The Supreme Court twice jumped into the fray, declaring the district an unconstitutional gerrymander in June 1996. The district was redrawn by the North Carolina General Assembly in March 1997. If approved in federal court, the new district would slip from 57 percent black to 46 percent black. Under the new boundaries, the 12th would still include Charlotte, Greensboro and Winston-Salem.

The scandal was in the shape. Known as the "I-85 District," the serpentine 12th winds across the Piedmont Plateau mostly along the Interstate 85 corridor, linking small parts of 10 counties and including all of none.

The district was the Democratic-controlled legislature's response to the 1992 Justice Department mandate that North Carolina have two majority-minority districts. In an effort to avoid significantly weakening white Democratic incumbents, the 12th was stretched to extremes.

The predominantly black neighborhoods in Durham, Greensboro, Winston-Salem, Charlotte and Gastonia provide much of the vote.

Durham is the 12th's eastern frontier. Tobacco processing was once the big game in town here, but nowadays, Duke University is Durham County's largest single employer. Besides Duke, the district takes in several of the state's historically black colleges and universities.

Durham has long been home to a black polit-

NORTH CAROLINA 12 The I-85 Corridor – Parts of Charlotte, Greensboro and Durham

ical and economic elite, whose rise was nurtured by an organization that used to be known as the Durham Committee for Negro Affairs. Now referred to simply as the Durham Committee, the group has been a locus of power in black politics since pre-World War II days.

More than half the district's residents live in either Guilford or Mecklenburg (Charlotte) counties. The 12th only covers part of Charlotte, but it is the population anchor of the district: it contains more black voters than any city in the 12th.

Any candidate for the 12th must be careful, though, not to couch his message in Charlotte-oriented terms, for voters in other cities along I-85 have expressed concern about a Charlotte-dominated district that would be less attuned to their local interests.

Throughout its existence, the 12th has routinely given Watt and Bill Clinton two-thirds of the votes cast.

Economically, the 12th is widely diverse. Since it courses through six of the state's 10 largest cities, it relies on the fortunes of the state's traditional industries — tobacco, textiles and furniture. In Charlotte, banking and financial concerns dominate the local economy.

1990 Population: 552,387 White 230,889 (42%), Black 312,791 (57%), Other 8,707 (2%). Hispanic origin 4,772 (1%). 18 and over 411,687 (75%), 62 and over 77,540 (14%). Median age: 32.

He also complained about a bill that would have increased prison sentences an average of two years for those who commit crimes against children or the elderly, saying it would interfere with the U.S. Sentencing Commission's ability to set guidelines. The commission was created, Watt contended, to force Congress to "resist temptations to beat ourselves on the chest and proclaim as politicians how tough we are on crime." The Judiciary Committee rejected his attempt to limit the bill to requiring the commission to review its guidelines. He also failed with an effort to reduce penalties for crack cocaine and methamphetamine to make them equivalent to the penalties that apply to powder cocaine. "Crack cocaine happens to be used by poor people, mostly black people, because it's cheap," Watt said. "Powder cocaine happens to be used by wealthy white people."

Watt's sense of fairness was also upset by the GOP's bill to toughen immigration enforcement, enacted at session's end in 1996. He tried to eliminate a program that allotted 10,000 visa slots for

immigrants who have at least \$1 million and pledge to create at least 10 jobs in the U.S. "We are allowing rich people to buy their way into our country," Watt complained. He also argued against mandating a 14-mile triple fence in California along part of the Mexican border, saying it could endanger Border Patrol officers trapped and attacked between the layers. Both those efforts, along with an amendment to strengthen the ability to sue for discrimination under an ultimately unsuccessful affirmative action overhaul, were defeated.

Though Watt usually is in league with his party's liberals, he does show an independent streak from time to time. During debate in the 103rd on a bill that would provide stiffer penalties for so-called "hate crimes," he took a position that was contrary to that of most Democrats on Judiciary. Watt argued that the criminal justice system is not equipped to determine a defendant's state of mind.

And when freshmen Democrats met in March 1993 to finalize a proposal on campaign finance

NORTH CAROLINA

law that targeted PACs, Watt stood up and said he could not support a plan that would have hurt his 1992 campaign and that of many other black candidates. Taking PAC money, he said, is a necessity for minority members, who often represent poor districts that are not fertile ground for fundraising. Less than half of his campaign funds had come from PACs to that time; nearly three-quarters of the money he has raised for subsequent bids has come from PACs.

At Home: Watt's political career has been cast in the shadow of criticism of his district, perhaps the most maligned configuration newly drawn for the 1990s. The 12th snakes across the center of North Carolina along Interstates 85 and 77 to pull together a black-majority constituency. Almost

from the day it was drawn, the district was a subject of litigation, and in June 1996 it was deemed an unconstitutional gerrymander by the Supreme Court. Given that decision's late date, the existing lines were used again in November 1996 voting, when Watt easily won a third term. He may have a rougher time in the future, because as redrawn in March 1997 by the North Carolina legislature, the 12th's percentage of black residents drops from 57 to 46 percent.

Watt was dubbed "the most effective freshman legislator" during his only other stint in elective office in a 1985-87 term in the North Carolina Senate. He was appointed to that job by local Democrats after their candidate died at the end of the campaign.

HOUSE ELECTIONS

1996 General		
Melvin Watt (D)	124,675	(71%)
Joseph A. "Joe" Martino Jr. (R)	46,581	(27%)
Roger L. Kohn (LIBERT)	1,874	(1%)
1994 General		
Melvin Watt (D)	57,655	(66%)
Joseph A. "Joe" Martino (R)	29,933	(34%)

Previous Winning Percentages: 1992 (70%)

CAMPAIGN FINANCE

	Receipts	Receipts from PACs	Expenditures
1996			
Watt (D)	\$133,797	\$94,150 (70%)	\$148,001
Martino (R)	\$7,206	\$16 (0%)	\$6,902
1994			
Watt (D)	\$273,380	\$199,008 (73%)	\$253,715
Martino (R)	\$15,529	\$514 (3%)	\$14,700

DISTRICT VOTE FOR PRESIDENT

	1996	1992
D	124,533 (70%)	127,941 (66%)
R	45,348 (25%)	49,105 (25%)
I	7,803 (4%)	16,936 (9%)

KEY VOTES

1997	N
Ban "partial birth" abortions	N
1996	N
Approve farm bill	N
Deny public education to illegal immigrants	N
Repeal ban on certain assault-style weapons	N
Increase minimum wage	Y
Freeze defense spending	Y
Approve welfare overhaul	N
1995	N
Approve balanced-budget constitutional amendment	N
Relax Clean Water Act regulations	N
Oppose limits on environmental regulations	N
Reduce projected Medicare spending	N
Approve GOP budget with tax and spending cuts	N

VOTING STUDIES

Presidential Support			Party Unity		Conservative Coalition	
Year	S	O	S	O	S	O
1996	16	95	2	16	82	
1995	11	94	4	9	90	
1994	73	95	2	3	94	
1993	79	97	2	7	93	

INTEREST GROUP RATINGS

Year	ADA	AFL-CIO	CCUS	ACU
1996	90	n/a	19	0
1995	100	100	4	4
1994	100	100	17	10
1993	100	100	9	0

MAJORITY:

HENRY A. HYDE, R-INDIAN, CHAIRMAN
 P. JAMES GEMMELSHAWER, JR., WISCONSIN
 BILLY RICHARDSON, FLORIDA
 GEORGE W. GIBBS, PENNSYLVANIA
 HOWARD COBLE, NORTH CAROLINA
 LAMAR B. SMITH, TEXAS
 STEVEN SCHIFF, NEW MEXICO
 ELTON GALLEGLY, CALIFORNIA
 CHARLES T. CANADY, FLORIDA
 ROLAND SOUTH CAROLINA
 GOODLATT, VIRGINIA
 STEVE BUYER, INDIANA
 SONNY BONO, CALIFORNIA
 BO BRYANT, TENNESSEE
 STEVE CHABOT, OHIO
 BOB BARR, GEORGIA
 WILLIAM L. JENKINS, TENNESSEE
 ASA HUTCHINSON, ARKANSAS
 EDWARD A. FEAR, INDIANA
 CHRISTOPHER B. CANNON, UTAH

ONE HUNDRED FIFTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-3951

<http://www.house.gov/judiciary>THOMAS E. MOONEY, SR.
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October 27, 1997

Mr. Rich Tarplin
 Assistant Secretary for Legislation
 U.S. Department of Health and Human Services
 200 Independence Avenue, S.W.
 Room 416 G
 Washington, D.C. 20201

Dear Mr. Tarplin:

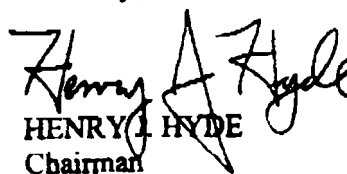
The Subcommittee on Immigration and Claims will be holding a hearing on H.R. _____, the Health Professional Shortage Area Nursing Relief Act of 1997, on Wednesday, November 5, at 10:00 a.m. in Room 2237 of the Rayburn House Office Building. On behalf of the Committee, I would like to invite you or your representative to appear and testify.

Your appearance before the Subcommittee will be limited to an oral presentation of five minutes with the assurance that your prepared statement will be made part of the hearing record in its entirety. Please forward one hundred (100) copies of your prepared statement to the Subcommittee at B-370B Rayburn House Office Building no later than the close of business on Monday, November 3. The Committee puts prepared statements for hearings on the Internet to allow access to the public. To that end, please provide a diskette with your prepared statement. (WordPerfect 5.2 or 6.1 on a 3.5 inch diskette).

Consistent with the terms of House Rule XI, clause 2(g)(4), nongovernmental witnesses appearing before the Committee must include, as part of their written testimony, a curriculum vitae and a disclosure by source and amount of any federal grant, contract, or subcontract received by them or any entity they represent at the hearing, in the current and preceding two fiscal years.

If the Subcommittee can provide you with any additional information, please do not hesitate to contact George Fishman by phone at (202) 225-5727 or by fax at (202) 225-3672. I appreciate your participation in our hearing.

Sincerely,


 HENRY A. HYDE
 Chairman

COMMITTEE ON THE JUDICIARY**HOUSE OF REPRESENTATIVES****NOTICE TO WITNESSES****Prepared Statements**

The Subcommittee on Immigration and Claims of the House Committee on the Judiciary requires all witnesses scheduled to testify before it to provide the Subcommittee with a minimum of 100 copies of a prepared statement and 100 copies of a one-page summary, at least forty-eight hours prior to the scheduled appearance of the witness. The entire written testimony will be made part of the record, but witnesses should be prepared to limit their oral presentations to five minutes. However, the Subcommittee reserves the right not to include in the hearing record any written testimony not received 48 hours prior to the witness' scheduled appearance. While there is no set form required for the prepared statement, it is recommended that the statement be typewritten (double spaced) or printed. The 100 copies will be for the use of the members and staff of the Subcommittee and any additional copies of the prepared statement will be made available to the press and the public. Also, the Subcommittee puts prepared statements for hearings on the Internet to allow access to the public. To that end, providing a diskette with your prepared statement would be greatly appreciated (WordPerfect 5.1 or 6.1, on a 3.5 inch diskette).

Consistent with the terms of House Rule XI, clause 2(g)(4), nongovernmental witnesses appearing before the Subcommittee on Immigration and Claims need to include as part of their written testimony a curriculum vitae and a disclosure by source and amount of any federal grant, contract or subcontract received by them or any entity they represent at the hearing, in the current and preceding two fiscal years.

Name, mailing address, agency, organization or client represented, and telephone number should appear on the face of testimony.

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105TH CONGRESS
1ST SESSION**H. R. _____**

IN THE HOUSE OF REPRESENTATIVES

Mr. RUSH introduced the following bill; which was referred to the Committee
on _____

A BILL

To amend the Immigration and Nationality Act with respect
to the requirements for the admission of nonimmigrant
nurses who will practice in health professional shortage
areas.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Health Professional
5 Shortage Area Nursing Relief Act of 1997".

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1 SEC. 2. REQUIREMENTS FOR ADMISSION OF NON-
2 IMMIGRANT NURSES IN HEALTH PROFES-
3 SIONAL SHORTAGE AREAS DURING 5-YEAR
4 PERIOD.

5 (a) ESTABLISHMENT OF A NEW NONIMMIGRANT
6 CLASSIFICATION FOR NONIMMIGRANT NURSES IN
7 HEALTH PROFESSIONAL SHORTAGE AREAS.—Section
8 101(a)(15)(H)(i) of the Immigration and Nationality Act
9 (8 U.S.C. 1101(a)(15)(H)(i)) is amended by adding at the
10 end the following: “, or (c) who is coming temporarily to
11 the United States to perform services as a registered
12 nurse, who meets the qualifications described in section
13 212(m)(1) and with respect to whom the Secretary of
14 Labor determines and certifies to the Attorney General
15 that an unexpired attestation is on file and in effect under
16 section 212(m)(2) for the facility described in section
17 212(m)(1)(5) for which the alien will perform the services,
18 or”.

19 (b) REQUIREMENTS.—Subsection (m) of section 212
20 of the Immigration and Nationality Act (8 U.S.C. 1182)
21 is amended to read as follows:

22 “(m)(1) The qualifications referred to in section
23 101(a)(15)(H)(i)(c), with respect to an alien who is com-
24 ing to the United States to perform nursing services for
25 a facility, are that the alien—

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1 “(A) has obtained a full and unrestricted li-
2 cense to practice professional nursing in the country
3 where the alien obtained nursing education or has
4 received nursing education in the United States;

5 “(B) has passed an appropriate examination
6 (recognized in regulations promulgated in consulta-
7 tion with the Secretary of Health and Human Serv-
8 ices), has obtained a certificate from the Commis-
9 sion on Graduates of Foreign Nursing Schools (in
10 this subsection referred to as ‘CGFNS’) certifying
11 that the alien has fulfilled the necessary require-
12 ments for the CGFNS Qualifying Examination and
13 has passed both the Nursing and English Language
14 Proficiency sections of the CGFNS Qualifying Ex-
15 amination, or has graduated from a nursing school
16 in the United States and has a full and unrestricted
17 license under State law to practice professional nurs-
18 ing in the State of intended employment; and

19 “(C) is fully qualified and eligible under the
20 laws (including such temporary or interim licensing
21 requirements which authorize the nurse to be em-
22 ployed) governing the place of intended employment
23 to engage in the practice of professional nursing as
24 a registered nurse immediately upon admission to

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1 the United States and is authorized under such laws
2 to be employed by the facility.

3 The qualification described under subparagraph (B) con-
4 cerning the CGFNS Qualifying Examination shall only
5 apply prior to the date of promulgation of regulations
6 under section 212(a)(5)(C).

7 “(2)(A) The attestation referred to in section
8 101(a)(15)(H)(i)(c), is an attestation as to the following:

9 “(i) The facility meets all the requirements of
10 paragraph (4).

11 “(ii) The employment of the alien will not ad-
12 versely affect the wages and working conditions of
13 registered nurses similarly employed.

14 “(iii) The alien employed by the facility will be
15 paid the wage rate for registered nurses similarly
16 employed by the facility.

17 “(iv) The facility has taken and is taking timely
18 and significant steps designed to recruit and retain
19 sufficient registered nurses who are United States
20 citizens or immigrants who are authorized to per-
21 form nursing services, in order to remove as quickly
22 and as reasonably possible the dependence of the fa-
23 cility on nonimmigrant registered nurses.

24 “(v) There is not a strike or lockout in the
25 course of a labor dispute, nor has the facility laid off

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1 registered nurses within the previous year other than
2 terminations for cause, and the employment of such
3 an alien is not intended or designed to influence an
4 election for a bargaining representative for reg-
5 istered nurses of the facility.

6 “(vi) At the time of the filing of the petition for
7 registered nurses under section 101(a)(15)(H)(i)(c),
8 notice of the filing has been provided by the facility
9 to the bargaining representative of the registered
10 nurses at the facility or, where there is no such bar-
11 gaining representative, notice of the filing has been
12 provided to registered nurses employed at the facility
13 through posting in conspicuous locations.

14 Nothing in clause (iv) shall be construed as requiring a
15 facility to have taken significant steps described in such
16 clause before the date of the enactment of this subsection.
17 A copy of the attestation shall be provided, within 30 days
18 of the date of filing, to registered nurses employed at the
19 facility on the date of filing.

20 “(B) For purposes of subparagraph (A)(iv), each of
21 the following shall be considered a significant step reason-
22 ably designed to recruit and retain registered nurses:

23 “(i) Operating a training program for reg-
24 istered nurses at the facility or financing (or provid-

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1 ing participation in) a training program for reg-
2 istered nurses elsewhere.

3 “(ii) Providing career development programs
4 and other methods of facilitating health care work-
5 ers to become registered nurses.

6 “(iii) Paying registered nurses wages at a rate
7 higher than currently being paid to registered nurses
8 similarly employed in the geographic area.

9 “(iv) Providing adequate support services to
10 free registered nurses from administrative and other
11 non-nursing duties.

12 “(v) Providing reasonable opportunities for
13 meaningful salary advancement by registered nurses.

14 The steps described in this subparagraph shall not be con-
15 sidered to be an exclusive list of the significant steps that
16 may be taken to meet the conditions of subparagraph
17 (A)(iv). Nothing in this subparagraph shall require a facil-
18 ity to take more than 1 step if the facility can demonstrate
19 that taking a second step is not reasonable.

20 “(C) Subject to subparagraph (E), an attestation
21 under subparagraph (A) shall—

22 “(i) expire at the end of the 1-year period be-
23 ginning on the date of its filing with the Secretary
24 of Labor; and

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1 “(ii) apply to petitions filed during such 1-year
2 period if the facility states in each such petition that
3 it continues to comply with the conditions in the at-
4 testation.

5 “(D) A facility may meet the requirements under this
6 paragraph with respect to more than 1 registered nurse
7 in a single petition.

8 “(E)(i) The Secretary of Labor shall compile and
9 make available for public examination in a timely manner
10 in Washington, D.C., a list identifying facilities which
11 have filed petitions for nonimmigrants under section
12 101(a)(15)(H)(i)(C) and, for each such facility, a copy of
13 the facility’s attestation under subparagraph (A) (and ac-
14 companying documentation) and each such petition filed
15 by the facility.

16 “(ii) The Secretary of Labor shall establish a process,
17 including reasonable time limits, for the receipt, investiga-
18 tion, and disposition of complaints respecting a facility’s
19 failure to meet conditions attested to or a facility’s mis-
20 representation of a material fact in an attestation. Com-
21 plaints may be filed by any aggrieved person or organiza-
22 tion (including bargaining representatives, associations
23 deemed appropriate by the Secretary, and other aggrieved
24 parties as determined under regulations of the Secretary).
25 The Secretary shall conduct an investigation under this

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1 clause if there is reasonable cause to believe that a facility
2 fails to meet conditions attested to.

3 “(iii) Under such process, the Secretary shall provide,
4 within 180 days after the date such a complaint is filed,
5 for a determination as to whether or not a basis exists
6 to make a finding described in clause (iv). If the Secretary
7 determines that such a basis exists, the Secretary shall
8 provide for notice of such determination to the interested
9 parties and an opportunity for a hearing on the complaint
10 within 60 days of the date of the determination.

11 “(iv) If the Secretary of Labor finds, after notice and
12 opportunity for a hearing, that a facility (for which an
13 attestation is made) has failed to meet a condition attested
14 to or that there was a misrepresentation of material fact
15 in the attestation, the Secretary shall notify the Attorney
16 General of such finding and may, in addition, impose such
17 other administrative remedies (including civil monetary
18 penalties in an amount not to exceed \$1,000 per nurse
19 per violation, with the total penalty not to exceed \$10,000
20 per violation) as the Secretary determines to be appro-
21 priate. Upon receipt of such notice, the Attorney General
22 shall not approve petitions filed with respect to a facility
23 during a period of at least 1 year for nurses to be em-
24 ployed by the facility.

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1 “(v) In addition to the sanctions provided for under
2 clause (iv), if the Secretary of Labor finds, after notice
3 and an opportunity for a hearing, that a facility has vio-
4 lated the condition attested to under subparagraph (A)(iii)
5 (relating to payment of registered nurses at the prevailing
6 wage rate), the Secretary shall order the facility to provide
7 for payment of such amounts of back pay as may be re-
8 quired to comply with such condition.

9 “(3) The period of admission of an alien under sec-
10 tion 101(a)(15)(H)(i)(c) shall be for an initial period of
11 not to exceed 3 years, subject to an extension for a period
12 or periods, not to exceed a total period of admission of
13 5 years.

14 “(4) For purposes of this subsection and section
15 101(a)(15)(H)(i)(c), the term ‘facility’ means an employer
16 who—

17 “(A) is located in a health professional shortage
18 area (as such term is defined in section 332 of the
19 Public Health Service Act (42 U.S.C. 254e) as of
20 March 31, 1997;

21 “(B) is a subsection (d) hospital as described in
22 section 1886(d) of the Social Security Act (42
23 U.S.C. 1395ww(d)) with at least 190 licensed acute
24 care beds as reported by the Health Care Financing
25 Administration in its PPS XI data report;

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1 “(C) has at least 35 percent of its hospital
2 acute care inpatient days reimbursed under the med-
3 icare program under title XVIII of the Social Secu-
4 rity Act (42 U.S.C. 1395 et. seq.) as reported by the
5 Health Care Financing Administration in its PPS
6 XI data report; and

7 “(D) has at least 28 percent of its hospital
8 acute care inpatient days reimbursed under the med-
9 icaid program under title XIX of the Social Security
10 Act (42 U.S.C. 1396 et. seq.) as reported by the
11 Health Care Financing Administration in its PPS
12 XI data report.”.

13 (c) IMPLEMENTATION.— Not later than 90 days after
14 the date of enactment of this Act, the Secretary of Labor
15 (in consultation, to the extent required, with the Secretary
16 of Health and Human Services) and the Immigration and
17 the Naturalization Service shall publish final or interim
18 final regulations to carry out section 212(m)(1) of the Im-
19 migration and Nationality Act (as added by subsection
20 (b)), except that in the event any such regulations are not
21 published within 90 days after the date of enactment of
22 this Act, the regulations published to carry out and imple-
23 ment the Immigration Nursing Relief Act of 1989, in ef-
24 fect on September 30, 1995 (specifically including part
25 504 of title 29, Code of Federal Regulations and parts

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1 621 and 655 of title 20, Code of Federal Regulations)
2 shall continue to apply.

3 (d) LIMITING APPLICATION OF NONIMMIGRANT
4 CHANGES TO 5-YEAR PERIOD.—The amendments made
5 by this section shall apply to classification petitions filed
6 for nonimmigrant status only during the 5-year period be-
7 ginning on the date of enactment of this Act.

8 (e) ANNUAL LIMITATION ON PETITIONS GRANTED.—
9 The total number of nonimmigrant visas issued pursuant
10 to petitions granted under section 101(a)(15)(H)(i)(c) of
11 the Immigration and Nationality Act in each fiscal year
12 shall not exceed 500, not including extensions of non-
13 immigrant status under that section. The number of peti-
14 tions granted under such section 101(a)(15)(H)(i)(c) for
15 each State in each fiscal year shall not exceed the follow-
16 ing:

17 (1) For States with populations of less than
18 10,000,000 based upon the 1992 Census, 25 peti-
19 tions, not including extensions of nonimmigrant sta-
20 tus under that section.

21 (2) For States with populations of 10,000,000
22 or more based upon the 1992 census, 50 petitions,
23 not including extensions of nonimmigrant status
24 under that section.

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1 (f) FULL PRIOR DISCLOSURE TO NON-
2 IMMIGRANT NURSES.—Prior to contracting with a
3 nonimmigrant under section 101(a)(15)(H)(i)(c) of
4 the Immigration and Nationality Act, an employer
5 sponsoring such a nonimmigrant must provide the
6 potential nonimmigrant nurse with detailed informa-
7 tion on the neighborhood, hospital, and working con-
8 ditions under which the nonimmigrant will be work-
9 ing.

10 (g) WORKING CONDITIONS.—An employer sponsor-
11 ing a nonimmigrant under section 101(a)(15)(H)(i)(c) of
12 the Immigration and Nationality Act shall—

13 (1) provide a wage rate and working conditions
14 commensurate with those of nurses similarly em-
15 ployed by the hospital; and

16 (2) require the nonimmigrant to work hours
17 commensurate with those of nurses similarly em-
18 ployed by the hospital; and

19 (3) not interfere with the right of the non-
20 immigrant to join or organize a union.

21 (h) TECHNICAL AMENDMENT.—Section 212(a)(5)(C)
22 of the Immigration and Nationality Act (8 U.S.C.
23 1182(a)(5)(C)) is amended in the matter preceding clause
24 (i) by striking “physician,” and inserting “physician, and,
25 until such time as final regulations are published concern-

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- 1 ing this section, other than nonimmigrant health care
- 2 workers pursuant to section 101(a)(15)(H)(i)(C),”.



IMMIGRATION NURSING RELIEF ADVISORY COMMITTEE

**Report to the Secretary of Labor
on the Immigration Nursing Relief Act of 1989**

March, 1995

Immigration Category: H-1A

- Statute:** Immigration and Nationality Act sections 101, 212, and 214, as amended by the Immigration Nursing Relief Act of 1989 (P.L. 101-238) and Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232).
- RNs Eligible:** The H-1A category is available only to registered nurses (RNs) who (1) are licensed in the country where they received their nursing education, and (2) have passed the exam administered by the Commission on Graduates of Foreign Nursing Schools or are licensed in the state where they intend to work or are licensed in any U.S. state or territory and have a temporary authorization to practice in the state where they intend to work. The nurse must be fully qualified to work as a professional nurse immediately upon entry and must be employed only as a professional RN. Spouses and children accompanying or joining an RN also may be admitted but are not authorized to work in the United States.
- Employer Requirements:** An attestation by the prospective employer, approved by the U.S. Department of Labor, that the employer has not laid off any staff RNs during the past year, that the temporary foreign nurses are needed to avoid substantial disruptions in health care services, that their employment will not adversely affect the employment of U.S. nurses, that they will be paid the same as other RNs similarly employed, that the employer is taking steps to recruit and retain U.S. nurses in order to remove its dependence on temporary workers from abroad, and that there is no strike or lockout. A petition for each prospective employee must be approved by the Immigration and Naturalization Service. Recruitment of U.S. workers is not required.
- Time limits:** The employer's attestation is approved for one year. The initial period of admission for a nurse cannot exceed 3 years. The maximum period of admission is 5 years. One additional year may be granted under extraordinary circumstances.
- Numerical Limits:** None
- Enforcement:** Interested/aggrieved persons may file a complaint with the U.S. Department of Labor, Employment Standards Administration. The Immigration and Naturalization Service also has broad enforcement authority.
- Other:** These provisions expire August 31, 1995 unless extended.

Immigration Category: H-1B

Statute:	Immigration and Nationality Act, sections 101, 212, and 214
RNs Eligible:	Generally this program is available to workers in specialty occupations requiring application of highly specialized knowledge, a bachelor's or higher college degree, state licensure if required for practice, and experience in the occupation. It also includes fashion models of distinguished merit and ability. RNs seeking employment in the United States in fields other than health care delivery may be eligible for an H-1B visa. Examples are Peer Review Organizations, insurance companies, and health care consultants that employ nurses in positions requiring them to be licensed. The law explicitly excludes from the H-1B category aliens "coming temporarily to the United States to perform services as a registered nurse" as described under H-1A.
Employer Requirements:	Employers file an attestation (called a "labor condition application" or LCA) promising to pay the alien worker the higher of the local prevailing wage as determined by the State Employment Security Agency, the wage available from a survey by an authoritative source, or the actual wage the employer is paying U.S. workers that are similarly employed. The prevailing wage must be updated when a new LCA is submitted; the LCA is valid for three years. The employer also promises to provide working conditions that do not adversely affect U.S. workers, that no strike or lockout is under way at the time of filing, and that the union or workers will be notified of the filing. Documentation supporting the application must be maintained at the employer's principal office. Recruitment of U.S. workers is not required. A petition for the prospective employee must be approved by the Immigration and Naturalization Service.
Time limits:	An initial period of 3 years with a maximum of 6 years
Numerical Limits:	65,000 per year for all occupations defined as eligible by regulation
Enforcement:	Interested/aggrieved parties may file complaints with the U.S. Department of Labor, Employment Standards Administration. The Immigration and Naturalization Service also has broad enforcement authority.
Other:	The H-1B program is included in the commitments for temporary admission under the General Agreement on Trade in Services (GATS) and therefore cannot readily be changed.

Immigration Category: H-2B

Statute:	Immigration and Nationality Act sections 101 and 214
RNs Eligible:	The H-2B category is available to aliens who enter to fill a temporary position, defined as a position that will last no longer than one year. The alien filling the position will be staying in the United States for a temporary period not to exceed one year.
Employer Requirements:	Employers must establish that the need for the alien worker is temporary. The need can be seasonal, peak load, or intermittent. Employers also must obtain the Department of Labor certification that qualified U.S. workers are not available and that admission of temporary alien workers will not adversely affect U.S. workers' wages and working conditions. Employers file labor certification applications with State Employment Security Agencies, similar to the permanent labor certification program. Determinations are made by Certifying Officers of the U.S. Department of Labor, Employment and Training Administration.
Time limits:	Initial period not to exceed one year; extensions of not more than 12 months are possible for a maximum stay of 3 years.
Numerical Limits:	66,000 per year in all occupations
Enforcement:	Enforcement is by the Immigration and Naturalization Service
Other:	While registered nurses are eligible for this program, very few nursing jobs qualify as temporary, and only a handful of admissions are reported by the Immigration and Naturalization Service each year.

Immigration Category: TN

Statute:	North American Free Trade Agreement (NAFTA), Chapter 1
RNs Eligible:	Licensed RNs from Mexico and Canada
Employer Requirements:	Canadian RNs may obtain temporary entry with proof of Canadian citizenship, a license to practice as an RN, and a written offer of employment from a U.S. employer. No visa, petition, or attestation is required. Mexican RNs are subject to the same terms as RNs admitted under the H-1A program. They must obtain a visa. Employers seeking to employ Mexican nurses also must file attestations with the Department of Labor and a petition for each prospective employee with the Immigration and Naturalization Service; however, these requirements will be in place for no more than 10 years from the inception of NAFTA and may be removed sooner.
Time limits:	NAFTA RNs may be admitted in a professional status for a maximum initial period of one year; their temporary stay is renewable every year as approved by the Immigration and Naturalization Service. There is no maximum length of stay in the United States, but the intention is temporary employment.
Numerical Limits:	None for Canadian RNs. The treaty caps admissions of professionals (including RNs) from Mexico at 5500 per year; the cap may be readjusted, and is to be in place for a period no longer than 10 years.
Enforcement:	The same complaint mechanism available under the H-1A program applies to nurses from Mexico. Complaints also may be sent to the U.S. Trade Representative. The Immigration and Naturalization Service also has broad enforcement authority.
Other:	NAFTA succeeded the previous U.S.-Canada Free Trade Agreement, and largely adopted that agreement's terms (in force before INRA) with respect to the admission of Canadian professionals, including registered nurses. Both Canadian and Mexican RNs also may be admitted under the H-1A program. According to the Commission on Graduates of Foreign Nursing Schools, at present only a limited number of Mexican nurses—approximately 5,000—would qualify to take the Commission's qualifying exam, which is a prerequisite for becoming licensed to practice as an RN in 80 percent of U.S. board of nursing jurisdictions.

U.S. Department of Labor

Employment Standards Administration
Wage and Hour Division
Washington, D.C. 20210**FAX COVER SHEET****OFFICE OF THE ADMINISTRATOR**
WAGE AND HOUR DIVISION**FAX NUMBER (202) 219-4753**
COMMERCIAL (202) 219-8305TO: Ms. Ingrid Schneider - OMB
Ms. Irene Owens - HHS DATE: 3/25/96FAX NUMBER: _____ PAGES: 3
(include cover sheet)LOCATION: OMB & HHSFROM John Frazee OSDOL

If you do not receive all of the pages please call:

NAME: FrazeeNUMBER: 219-8305**COMMENTS/INSTRUCTIONS:**

Ingrid and Irene - These are the H-1A "talking points" that
resulted from my conversation with Irene during week-up
last week. I am not sure they were up in time to be given to
or used by anyone, but we sure tried, and - hopefully - this
is now over. But, we do still have an unresolved issue w/ HHS
re H-1B - to be joined.

Frank
F.

MAR 21 1996

TALKING POINTS**BURR (H-1A) AMENDMENT TO H.R. 2202**

The Immigration Nursing Relief Act (INRA) of 1989 created the H-1A visa category for nonimmigrant registered nurses (RNs). The H-1A program was a five-year pilot program that expired more than six months ago, on September 1, 1995.

INRA was enacted to address a perceived nationwide nursing shortage in the mid-1980s. The legislation permitted temporary foreign registered nurses admitted under the H-1 program who had been employed in the U.S. for at least three years, to adjust to permanent resident status. The H-1A program also allowed continued employer access to temporary foreign nurses while reducing their dependence on foreign nurses as quickly as possible.

By the time INRA was enacted, the national shortage of the mid-1980s had begun to abate.

There is no longer a national shortage of RNs, although some specialty and locality shortages persist, and recruitment and retention problems may occur in some inner cities and rural areas.

Factors such as increasing RN wages; increasing numbers of nursing graduates; and changing demand for registered nurses remedied the shortage.

INRA had relatively little impact on the national shortage.

There is now no justification for extending the H-1A program.

The Immigration Nursing Relief Advisory Committee mandated by the Act unanimously agreed that the H-1A program should not be continued or extended in its current form. While the Committee recommended (with a minority dissent) that a modified H-1A program should be extended as a hedge against possible future shortages, the Committee could not consider certain other alternative admissions programs.

To meet specialty or locality shortages, current law allows foreign nurses to enter the U.S. under the temporary entry provisions of NAFTA, in some cases through the H-1B and H-2B nonimmigrant programs, and through the permanent labor certification program. However, nurses often do not qualify for admission under the H-1B program.

Unlimited numbers of Canadian nurses may enter the U.S. under the NAFTA temporary entry provisions. Visas, petitions and attestations are not required for entry of Canadian nurses, and there is no maximum length of stay restriction. In 1994, RN

admissions under NAFTA totaled 6,822 (only one admission was from Mexico). This represents a 30% increase over 1993 when Canadian RNs entered under provisions of the CFTA. (It is important to note that admissions data must be used with caution as it can represent both initial entry and subsequent entries of the same individual in the same year, somewhat overstating the total number of admissions.)

Anecdotal information suggests that new nurse graduates are finding it difficult to secure employment and employed U.S. nurses are being laid-off due primarily to restructuring and downsizing in the health care industry, though recruitment problems may occur in some inner cities and rural areas.

A previous attempt to extend the H-1A program failed. In full House Judiciary Committee mark-up of H.R. 2202 on October 24, 1995, Congressman Bryant (R-TN) offered an amendment to reinstate the H-1A program for an additional 6 months. This amendment was rejected by voice vote.

The Administration will continue to monitor nursing supply and demand, as well as nursing admissions under the other available immigration programs, and will be considering issues relating to the eligibility of nurses to qualify for H-1B nonimmigrant visas.

Summary: Available information indicates that there is no overall current nursing shortage and there are several other means of access to foreign nurses should such shortage develop. Therefore, there is no justification for temporary extension of the H-1A program which has been expired for over six months.

DIVISION OF NURSING

DATE: APR 12 1995			
TO:	See Addressees Below	FROM:	Denise H. Geolot, PhD, RN Deputy Director Division of Nursing Parklawn Bldg., Rm. 9-35 5600 Fishers Lane Rockville, MD 20857
TEL:		TEL:	301-443-5688
FAX:		FAX:	301-443-8586
Number of Pages (Including Cover):			

CONFIRMATION OF TIME CHANGE FOR CONFERENCE CALL

This to confirm the time change for the conference call on nursing immigration scheduled for today, Friday, April 12. The call will take place at 3:00pm.

Conference call participants:

	Telephone #	FAX #
Marcia Eugenio, DOL	202-219-9098	202-219-5071
Karlynn Davis, DOL	202-219-6094 x131	202-219-9216
John Frasier, DOL	202-219-8305	202-219-4753
Irene Bueno, HHH	202-690-6786	202-690-6351
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