severe = moderate at SSA
or less

Craig

Diary → CBO influence
→ Cheaser

Commissioners – 1M, 2m
1M, 1m

Talk to optrs 1st

June 12, 1995

TO: Carol Rasco
Bruce Reed
Jeremy Ben-Ami

FR: Diana Fortuna DF
Steve Warnath SW

Here is a draft response to the President's question about a Washington Post article on elderly immigrants on SSI. Sorry it took so long, but there were some developments on this issue last week that we wanted to reflect in the response.

TO: Diana Fortuna

FROM: Jean Martin JKM

RE: SSI and Legal Immigrants: Conversation with Tom Perritt 6/7/95

DATE: June 9, 1995

Background on Current Law

With regard to SSI, to be eligible, aliens must be lawfully admitted for permanent residency or Permanent Resident Under Color of Law (PRUCOL). To date, legal immigrants are seen as the same as citizens except that they do not have the right to vote.

The PRUCOL designation was formerly reserved for Cuban/Haitian refugees, but in the early '80s was expanded to cover other refugees. PRUCOL now covers 17 different alien categories. Since 1985, SSA has been pushing a proposal that would take the burdensome PRUCOL definitions out of current welfare language and put in a specific reference to "refugees and asylees."

Of the Senate and House bills, the Senate version more specifically offers this "refugees and asylees" language. The House version does not include asylees.

Refugees are protected under PRUCOL for up to five years after they enter the country.

SSA/Perritt's perspective on the House and Senate Bills

Re: Categories of Aliens Denied

The Senate Bill is more restrictive. Except for refugees and asylees, honorably discharged veterans and those who are 65 and have worked ten years in the U.S., the Senate denies legal immigrants SSI eligibility.

The House bill exempts refugees, active military personnel an their families, and legal immigrants whose disability makes them unable to take the citizenship test. This exemption could mean continued eligibility for many legal immigrants.

**SSA would like a specific list of immigrant categories for denial. They feel the denial of all legal immigrants is too broad.

Re: Timing of Denial

SSA is also concerned re: the impact of the bills. Although the House bill allows current SSI recipients to receive benefits for one year and the Senate bill allows continued receipt until January 1, 1997, many elderly may not have sponsors to fund their care and may be "left out in the cold."

Tom believes that both the House and Senate bills offer states the option of denying state benefits, as well.

**SSA would like to see all current recipients "grandfathered in" so that only new immigrants would be affected.

Re: Deeming Sponsor's Income

Under current law, once eligible, applicants for SSI must include their sponsors' income in their estimated income for three years.
Deeming currently applies only to those individuals who have sponsors, not refugees, asylees, parolees or those who become blind or disabled after entering the country. Both the House and Senate bills would eliminate these exemptions to require deeming for all legal immigrants.

In '93-'94 the three-year deeming requirement was extended to five years. This extension expires in January 1996.

The Simpson bill (S269) requires the sponsor to support the immigrants for 40 quarters regardless of citizenship.

The House bill includes a provision for making affidavits of sponsorship legally binding and for collecting from the sponsor up to ten years after the receipt of benefits.

SSA believes enforcement of this will be problematic because it requires the benefit agency to go after sponsors retroactively.

Re: The Simpson Bill

The Simpson bill is the same as the Senate bill except that it offers broader definitions of eligibility and allows all legal immigrants to qualify for benefits.

However, like the House bill it makes affidavits of sponsorship legally binding and requires sponsor to support immigrant for 40 quarters regardless of citizenship.

<u>**SSA prefers the Simpson bill to the other Senate proposal, because it allows for continued eligibility of legal aliens.</u>

TO: Diana Fortuna

FROM: Jean Martin JM

RE: Confirmation of Facts re: SSI and Legal Immigrants

DATE: June 12, 1995

This morning, I confirmed with Tom Perritt, the following information regarding the SSI and legal immigrants question. I am not certain if any of it has a place in the memo to the President:

- All three bills (House, Senate and Simpson) offer no exemptions from deeming for refugees, asylees, parolees and people who became disabled after entering the U.S..

  exempt now

- Under Simpson, all lawfully admitted permanent residents (LAPRs) retain their eligibility for SSI but are subject to the 40 quarters deeming provision.

- Currently, the House bill includes a provision for allowing people whose disability does not allow them to take the citizenship test to retain their SSI eligibility. Big question is how this will be defined. SSA believes the provision is open-ended enough that states could use the SSI definition and therefore, maintain all legal immigrants' eligibility. SSA suspects that this will be sorted out further in conference.

/jm

E X E C U T I V E   O F F I C E   O F   T H E   P R E S I D E N T

12-Jun-1995 02:54pm

TO: Diana M. Fortuna

FROM: Richard E. Green
Office of Mgmt and Budget, HRD

SUBJECT: RE: SSI restrictions (not for kids) in welfare reform

With the caveat that these are rough estimates, I have nymbers for the House bill and for a Simpson proposal. We don't have an estimate for the Senate Finance bill at the monment, but its provisions are harsher than the Simpson proposal. Five-year totals (FY1996-2000) are:

House bill	$6.4 billion
Simpson bill	$8.5 billion

Let me know if you need a different time-period (e.g., 7 years, 10 years).

E X E C U T I V E   O F F I C E   O F   T H E   P R E S I D E N T

12-Jun-1995 03:48pm

TO: Diana M. Fortuna

FROM: Richard E. Green
Office of Mgmt and Budget, HRD

SUBJECT: RE: SSI restrictions (not for kids) in welfare reform

The Branch's immigration specialist tells me the five-year number for HR 4 is more like $17 billion. The SSI figure is good -- the two biggest programs making up the difference are Medicaid and Food Stamps. HR 4 also has a number of smaller program effects, e.g., student loans.

I have "handy" a seven-year extrapolation of the House 5-year number -- $102 billion -- and a seven-year number for the Senate that combines Finance Committee and Budget Committee action to date (therefore a rough estimate) of $116 billion.

classes of aliens, such as the elderly, veterans, and immigrants disabled after entry.

We have not made this issue a priority in our comments on the welfare reform bill to date, and have therefore not been actively pushing our deeming proposal during the recent debate on the Hill. The conference will be a more appropriate time for us to weigh in, once we have ascertained how much support the various approaches/ Senator Simpson is garnering.

cc: Leon Panetta
Anthony Lake

Jennifer Meile

$38.8

comp

$68.6 Hr

Senate Fin

31.5

diff: food stamps
& child nutrition

DRAFT

June 12, 1995

MEMORANDUM FOR THE PRESIDENT

FROM: Carol Rasco

SUBJECT: Attached Clipping on SSI and Elderly Immigrants

You had sent me the attached Washington Post article on the growth in the number of elderly permanent residents on SSI and noted that we need a careful position on the issue.

In our welfare reform bill, we took the position that deeming of the sponsor's income under the SSI program (as well as AFDC and food stamps) should be five years. This period would be longer if the sponsor's annual income was above the U.S. median family income. In that case, the immigrant would not be eligible for benefits until citizenship.

However, since that time, the House and the Senate Finance Committee have both acted on this issue. As the article notes, the House would bar legal immigrants from receipt of Medicaid, SSI, school lunch, and other Federal programs, with an exception for those older than 75 who have lived in the U.S. for at least five years. The Senate Finance Committee proposes to bar legal immigrants from receipt of SSI, except those who are older than 65 who have worked in the U.S. at least 10 years (long enough to qualify for SSDI and old-age benefits). Both would also exempt recent refugees and veterans. These changes generate a lot of savings/ would constitute a large portion of the savings in each bill: $-- billion out of $-- billion in the House, and $-- billion out of $-- billion in the Senate Finance.

One very recent development is Senator Simpson's immigration proposal. Senator Simpson would require an immigrant's sponsor to agree to financially support the sponsored individual until the sponsored individual has worked in the U.S. for 40 qualifying quarters. The bill would save $8.5 billion over five years. In our comments on Simpson's bill, we said that, while the Administration strongly supports making the affidavit of support legally binding, we have reservations about setting the period of obligation and deeming at 40 qualifying quarters, as it could lead to deeming even after the immigrant becomes a naturalized citizen. This feature of Simpson's bill was criticized by others in the attached Washington Post article over the weekend.

We offered to work with Simpson's Subcommittee to establish a reasonable deeming policy that addresses all concerns. We suggested that one option could be to deem sponsored immigrants for 10 years or until citizenship, with exemptions for certain

E X E C U T I V E   O F F I C E   O F   T H E   P R E S I D E N T

31-May-1995 05:21pm

TO: Stephen C. Warnath
TO: Diana M. Fortuna

FROM: Carol H. Rasco
Economic and Domestic Policy

CC: Jeremy D. Benami
CC: Julie E. Demeo

SUBJECT: article on immigrant elderly

You will receive more than likely tomorrow a clipping that the President forwarded to me on elderly immigrants. He noted we need a careful position on the issue. I would suggest a brief memo on the issue with any recs, etc. be prepared for me to share with him early next week. Let me know if you have further questions once you see the article.

Thanks.

Dave Madsen
410 965-2605

Tom Perritt

x2617

Walt Patterson

Dir HS, Ark

Here -

ME HCFA

- Pat LR/Dole

call; yanked

follow up s7d

on HCFA issue

fill you in

citizens and legal permanent residents from countries other than Cuba. Furthermore, we presently do not count the number of parolees as family-sponsored immigrants for purposes of the world-wide and per-country ceiling and see no reason to do so now.

Sec. 199B establishes the various effective dates of the provisions of the Immigrant Control and Financial Responsibility Act of 1995.

We support this section.

Title II--FINANCIAL RESPONSIBILITY
PART 1--RECEIPT OF CERTAIN PUBLIC BENEFITS

Part 1 of Title II of S. 269 contains provisions affecting the eligibility of legal and illegal aliens for certain benefits. While the Administration bill does not include comparable provisions, we support reinforcing current law restrictions that prevent illegal aliens from being eligible for most Federal public assistance. We also support reasonable extensions of the deeming policies that require sponsors to maintain a financial commitment to aliens they have sponsored. However, there are a number of specific problems under the various provisions of S. 269 as drafted that we believe should be remedied. Our positions on the individual alien eligibility provisions are outlined in the following section-by-section discussion.

Section 201 defines "eligible alien" as an alien: lawfully admitted for permanent residence; granted refugee or asylee status; whose deportation has been withheld under section 243(h) of the Immigration and Nationality Act; or who has been granted parole for a period of 1 year or more. All other aliens would be 'ineligible aliens' and would not be eligible for needs-based benefits under any Federal, state, or local program, except: (1) emergency medical services under title XIX of the Social Security Act; (2) short-term emergency disaster relief; (3) assistance or benefits under the National School Lunch Act; (4) assistance or benefits under the Child Nutrition Act of 1966; and (5) public health assistance for immunizations and for testing and treatment for communicable diseases. Ineligible aliens would be ineligible to receive any grant, contract, loan, professional license, or commercial license provided or funded by any Federal, state, or local government. Only aliens eligible to work would be able to receive unemployment benefits.

This section also requires the Secretary of the Department of Housing and Urban Development (HUD), within 90 days of the date of enactment, to submit a report to the Committees on Banking and Committees on the Judiciary of the House and Senate describing how HUD is enforcing section 214 of Housing &

Community Development Act of 1980, including statistics of individuals denied assistance.

This section also limits benefits under the Social Security Act to United States citizens and eligible aliens who have been granted work authorization and then only those benefits attributable to the authorized employment. Ineligible aliens may not be reimbursed amounts paid into Social Security Administration accounts.

While we support the goal of establishing a uniform definition of alien eligibility, we have reservations about section 201 as drafted. The provision would affect many diverse Federal, state, and local programs; represent a new mandate to many state and local governments; and target current immigrant beneficiaries.

We encourage you to examine the definition of eligible alien as the Administration proposed in its welfare reform bill introduced last year, the "Work and Responsibility Act of 1994."

We recommend this definition of eligibility apply to the four primary needs-based programs--AFDC, SSI, Medicaid, and Food Stamps. We would also allow state and local programs of cash and medical general assistance to utilize the same alien eligibility criteria. Finally, we support the provision in section 201 that would retain the current law provision for illegal aliens to receive only emergency medical services under Medicaid.

The Administration approach would avoid a number of problems. For example, the eligibility provision in S. 269 could be read to deny needs-based, education-related services and assistance paid for with Federal, State, or local funds--except for services under the National School Lunch Act--to undocumented alien children. Although the Federal Government could authorize the exclusion of such alien children from elementary and secondary schools, the principal reasons given by the Supreme Court in Plyler v. Doe for not permitting States to do so remain powerful. In addition, students who are not undocumented aliens could be stigmatized based on name or appearance, and parents, fearful of their children's safety or well-being, might keep them at home. These results are in direct conflict with the Administration's policy of encouraging better education for all students. The definition of an "eligible alien" in section 201(d) could be read to exclude certain post secondary students currently eligible for student assistance under title IV of the Higher Education Act of 1965; the negative consequences of varying eligibility requirements on these students and their educational institutions must be considered.

This provision should further be clarified so as not to apply to programs under section 214 of the Housing and Community

Development Act of 1980. Without such clarification, this provision would bar non-citizens from significant HUD mortgage programs, Federal Housing Administration contract programs, and Community Development Block Grants.

Furthermore, the definition of "eligible alien" does not include Cuban and Haitian entrants as defined under section 501 of the Refugee Education and Assistance Act of 1980. If Cuban and Haitian entrants are not included in the list of eligible aliens, they no longer would be eligible for assistance and services under the refugee program, nor would they be eligible for the programs listed in section 203. The definition of "ineligible alien" by its silence includes United States nationals thus making natives of American Samoa ineligible for benefits under this section.

left out Cuban/Haitian

Section 201(a)(3) requires agencies administering public assistance programs to notify individually or by public notice all ineligible aliens of the termination of their benefits. It is not clear whether this section would impose a duty on agencies to make eligibility determinations for each individual served. There are nutrition programs that are not excepted for which it would not be cost-effective, or in some cases feasible, to determine individual eligibility. These programs include soup kitchens and food banks which are provided commodities under the emergency food assistance program. We recommend that the following programs be added to the list of exceptions: Soup Kitchens, Food Banks, and Emergency Food Assistance Program.

As for section 201(c), this provision would deny Social Security benefits as well as Social Security tax refunds to aliens legally admitted on a temporary basis to work in the United States. The payment restrictions in this provision violate the terms of the bilateral Social Security totalization agreements with 17 foreign countries, including Canada and virtually all of Western Europe. Also, the U.S. has treaties with other countries that require the U.S. to pay Social Security benefits to foreign treaty nationals on the same basis as U.S. citizens. Legislation abrogating these agreements and treaties would presumably lead to retaliatory restrictions on the payment of such benefits by other countries to U.S. citizens.

The payment restrictions are also inconsistent with current provisions of law that permit payment of benefits to aliens outside the U.S. if they are citizens of a country whose social insurance system does the same for U.S. citizens. About 65 countries meet this requirement.

Also the provision does not address the complex issue of benefit eligibility for citizens who are dependents or survivors of U.S. citizens, or ineligible aliens who are dependents or survivors of U.S. citizens.

<u>Sec. 202</u> defines "public charge" for purposes of deportation as the receipt of certain benefits for an aggregate of more than 12 months in the first five years after entry as an immigrant or, in the case of an individual who entered as a non-immigrant, the first five years after adjustment to permanent resident status. Such benefits are limited to one or more of the following programs: AFDC, SSI, Medicaid, Food Stamps, state general assistance, or any other program of assistance funded in whole or in part by the Federal government for which eligibility is based on need (except the exempted programs noted in section 201).

This section also provides that any alien who during the public charge period becomes a public charge, regardless of when the cause arose, is deportable. This section exempts from the public charge definition refugees and asylees. Further, if the cause of the alien's becoming a public charge arose after entry as an immigrant or, in the case of a non-immigrant, after adjustment to permanent resident status, and was a physical illness or injury that kept the alien from working or a mental disability that required continuous hospitalization.

This section also requires the Attorney General to review applications for benefits under section 216, 245 or chapter 2 of Title III of the INA to determine whether the exception to the definition of public charge applies. If the exception does not apply, the Attorney General shall institute deportation proceedings unless she exercises discretion to withhold or suspend deportation.

The legislation would require increased administrative efforts to ascertain (1) whether an alien who had received benefits for more than an aggregate of 12 months during the public charge period was receiving such benefits due to a "pre-existing condition," or one that arose since entry or since adjustment of status; (2) whether a physical illness or injury was so serious that the alien could not work at any job; or (3) whether the alien's mental disability required continuous hospitalization. Since this section would create a number of administrative and legal complexities as drafted, we do not endorse these provisions without further clarification or amendment.

Furthermore, we urge the Subcommittee to clarify that this provision does not limit the ability of the INS to establish its enforcement priorities. For example, a requirement to institute deportation proceedings against an alien considered a public charge should not mandate the alien's removal prior to or in place of the removal of an aggravated felon who threatens the community.

Sec. 203 sets forth the requirements for a sponsor's affidavit of support. It requires that the affidavit of support be executed as a contract that is enforceable against the sponsor by the sponsored individual, the Federal government, a state, district, territory or possession or any subdivision thereof, that provide any benefits to sponsored eligible aliens. In the affidavit, the sponsor must agree to financially support the sponsored individual until the sponsored individual has worked in the U.S. for 40 qualifying quarters. A sponsor must be age 18 or over, a citizen or legal permanent resident, domiciled in any of the several states of the United States, the District of Columbia, or a territory or possession of the United States and demonstrate an ability to maintain an annual income of at least 125% poverty line for him or herself and the sponsored individual.

The governmental entities are authorized to seek reimbursement from sponsors of aliens who have received benefits, and to bring suit against sponsors that do not reimburse the relevant government agencies. No cause of action could be brought against sponsors after 10 years from an alien's last receipt of benefits. The sponsor is required to notify the Federal, state, and local governments of any change of the sponsor's address.

The Administration strongly supports making the current affidavit of support legally binding. However, we have reservations about requiring the affidavit to be effective for 40 qualifying quarters, particularly as this requirement interacts with the deeming provisions in section 204. We note that these two sections would require a sponsored immigrant to remain subject to deeming provisions for a minimum of 10 years, or potentially 5 years after becoming a citizen. We have reservations about applying immigration restrictions to people that have become full citizens of the United States.

Because discrimination between citizens on the basis of national origin, even by the federal government, is in general subject to strict scrutiny, this section may be subject to a constitutional challenge as applied to naturalized aliens, who may be ineligible, solely because of their former status as aliens, for benefits to which other citizens are entitled. However, the section might be defended on the grounds that it merely regulates the process of naturalization, by making persons who intend to become citizens ineligible for certain benefits, even after their naturalization. On that theory, the section might be upheld as a valid exercise of Congress' power over immigration. We are unable at this time to opine definitively on the constitutional issue presented.

In addition, the definition of qualifying quarter is unworkable. Section 203(f)(3)(A) defines "qualifying quarter" as a 3-month period in which the sponsored individual has earned the minimum amount necessary for the period to count as a Social Security quarter of coverage. Since the implementation of annual wage reporting in 1978, SSA no longer maintains quarterly records of earnings and thus could not determine the amount earned in a calendar quarter. Quarters of coverage are now based on annual earnings.

We strongly suggest that rather than basing the time period for the legally binding affidavit on the immigrant working 40 qualifying quarters, that the legislation specify a period of 10 years or until the immigrant naturalizes.

Nevertheless, sec. 203(b) should provide 180 days--not 90 days--to develop a new affidavit of support in light of the complex interagency consultations called for by the provision. We suggest that the Secretary of Treasury and the Commissioner of Social Security be included in the list of those responsible for formulating the new affidavit of support since determining which immigrants have worked for 40 qualifying quarters would potentially involve activities managed by those agencies.

Furthermore, it should be clarified that notifications of changes of address should be made to the Attorney General and that the Attorney General--not the Commissioner of Social Security--shall promulgate regulations to carry out actions to obtain reimbursement for any federal or state assistance received by the sponsored individual.

<u>Section 203(e)</u> would require that no state court may decline jurisdiction over any action brought against a sponsor for reimbursement of the costs of a benefit if the sponsored individual received assistance while residing in the state.

We do not object to this provision.

<u>Sec. 204</u> requires that in determining the eligibility for and amount of benefits of an individual (whether a citizen or national of the United States or an alien) under any Federal program of assistance, or any program of assistance funded in whole or in part by the federal government for which eligibility is based on need, the entire amount of income and resources of the sponsor and sponsor's spouse would be presumed to be available to the individual. This section may also apply to any state or local program of assistance for which eligibility is based on need, or any need-based program of assistance administered by a state or local government.

This "deeming" period would continue for the period for which the sponsor has agreed in the affidavit or for five years from the date the alien was first lawfully in the United States, whichever period is longer. Thus, immigrants that signed the new affidavit of support under section 203 would be deemed for a minimum of 10 years in order to meet the requirement of working 40 qualifying quarters. As mentioned under section 203, this requirement may lead to deeming even after the immigrant had become a naturalized citizen.

While we support the goal of making sponsors more responsible for the immigrants they sponsor, we have strong reservations about section 204 as drafted. This section would target current immigrant beneficiaries; apply to immigrants that have become naturalized citizens if they have signed the new affidavit of support; repeal the current law exemption from deeming for sponsored immigrants who become disabled after entry; affect many diverse Federal programs--including Medicaid; create new administrative complexities and requirements; and change the current deeming formula to include 100 percent of a sponsor's income and resources. By attributing 100 percent of a sponsor's income and resources to the sponsored immigrant, section 204 does not take into account the needs of the sponsor and his or her family. Legal challenges may also arise where the spouse was not a signatory to the affidavit or the spouse is separated from the sponsor.

The Administration proposed strengthening the deeming provisions in its welfare reform bill introduced last year, the "Work and Responsibility Act of 1994," and we would like to work with the Subcommittee to establish a reasonable deeming policy that addresses the concerns identified above. For example, one option would be to generally deem sponsored immigrants until citizenship under the AFDC, SSI, and Food Stamp programs and apply the policy to future applicants, with exemptions for certain classes of aliens, such as the elderly, veterans, immigrants disabled after entry, and tax-paying legal immigrants. We also support providing state and local governments with the authority to implement the same deeming rules under their cash general assistance programs as the Federal government uses in its cash welfare programs.

Sec. 205 authorizes state and local governments to prohibit or limit assistance to aliens and to distinguish among classes of aliens in providing general public assistance so long as the restrictions are no more restrictive than that of comparable Federal programs.

We support this provision.

Sec. 206 denies eligibility for the earned income tax credit to individuals who are not, for the entire tax year, United

States citizens or lawful permanent resident aliens. It amends section 32(c)(1) of the Internal Revenue Code of 1986 (relating to individuals eligible to claim the earned income tax credit) by adding that the term "eligible individual" does not include any individual who does not include on his or her tax return the individual's taxpayer identification number and their spouse's taxpayer identification number (if married). The section further provides that for purposes of the earned income tax credit a social security number issued to an individual pursuant to clause (II) (or that portion of clause (III) that relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security Act, i.e., to qualify for federal benefits, would not satisfy the taxpayer identification number reporting requirement. The section also authorizes IRS to use simplified procedures if a taxpayer claiming the earned income tax credit omits a correct taxpayer identification number.

We support this provision. The President's FY 1996 Budget contained a similar provision.

[Treasury to review: This provision limits EITC eligibility to U.S. citizens and lawful permanent resident aliens.]

Sec. 207 requires that whoever falsely makes, forges, counterfeits, mutilates, or alters the seal of any U.S. department or agency, or any copy thereof; knowingly uses, affixes, or impresses such altered seal or copy to or upon any instrument; or with fraudulent intent possesses, sells, offers to sell, furnishes, offers to furnish, gives away, offers to give away, transports, offers to transport, imports, or offers to import any such seal or copy, knowing it to have been falsely made, shall be fined under this title, or imprisoned for up to 5 years, or both. If any of the above was done with the intent or effect of facilitating an unlawful alien's application for, or receipt of a federal benefit, the penalties which may be imposed for each offense shall be double the maximum fine, and three times the maximum imprisonment, or both. Each instance of forgery, counterfeiting, mutilation, or alteration shall constitute a separate offense.

We support this provision.

Sec. 208 permits a State that is certified by the Attorney General as having high illegal immigration, to establish and operate a program for the placement of anti-fraud investigators in State, county, and private hospitals to verify the immigration status and income eligibility of applicants for medical assistance under the State plan prior to the furnishing of medical assistance.

We note that this would be permitted under current law, and thus the provision is unnecessary.

Sec. 209. bars costs, attorney fees or expenses from being awarded under the Equal Access to Justice Act in any civil action brought by or on behalf of any individual who is not a United States citizen or legal permanent resident.

[Awaiting reconciliation of the following two positions]

INS: We do not support this provision. The EAJA contains sufficient safeguards against litigation abuse and is available only if the alien is the prevailing party. There is no basis upon which to distinguish among classes of aliens, particularly with respect to refugees and asylees, regarding access to the courts.

CIV: We have no position on this provision, but believe that EAJA does not contain sufficient safeguards against litigation abuse.

Sec. 211 authorizes the collection of a $1 land border fee for each individual entering the U.S. as a pedestrian or in a noncommercial conveyance. Commercial conveyance fee shall be set by the Attorney General in consultation with the Secretary of State. The Attorney General may establish frequent crosser discount and contract with private and public sector entities to collect the fee.

The section also provides that funds shall be deposited into the Fee Account as offsetting receipts and remain available until expended. The funds may be used to pay for inspection services and related expenses. Unused funds may be used for Border security, including hiring additional Border Patrol agents.

Revenues may be spent on providing inspection services and maintaining inspection facilities; expanding, operating and maintaining information systems for nonimmigrant control; employing additional permanent and temporary inspectors; minor construction costs, including commuter lanes; detecting fraudulent documents; and administering the border fee. Excess funds may be spent on additional border patrol, support and equipment resources. Any additional excess funds may be spent on deportations.

The Administration proposal also calls for a land border user fee. We recommend that section 211 be modified to be consistent with the key features of our proposal, which provides local flexibility on collecting such a fee. Our proposal adds a new subsection 286(s) to the INA, authorizing the Attorney General to charge and collect a border services user fee for every land border entry, including persons arriving at U.S. borders by ferry. The fee is to be collected in U.S. currency and is set at $1.50 for each non-commercial conveyance, and $.75 for each pedestrian. The Administration will soon transmit legislation authorizing the Department of Treasury to collect and spend a parallel fee for Customs-related activities. Commercial passenger conveyances will be charged the pedestrian fee for the operator and each passenger, except that ferry crewmen are not subject to the fee.

The Administration proposal provides for funding of start-up costs. The fees proposed in this section are too low to generate the funds needed to accomplish the goal of timely and effective land border inspection.

The Administration proposal also provides for a "local option" which allows each State to determine at which, if any, ports the fee is to be collected. A State that exercises this local option may establish a Border Service Council for each port to develop priorities for use of the fees collected, for submission to the Commissioner. The Commissioner must consider these priorities in funding port services. Funds remaining after payment of the costs of port services are to be granted to the Councils to spend on port-related enhancements. The Commissioner will allocate enhancement funds for ports that do not set up a Border Service Council.

Section 212 authorizes additional commuter border crossing fees pilot projects, one on the northern land border and another one on the southern land border.

The Administration proposal provides for projects along the southern and northern land borders and does not limit the number of pilot projects that may be established. We recommend that S. 269 adopt the Administration proposal.

Sec. 213 removes the current exemption from payment of the $6 immigration user fee for cruise ship passengers.

This provision is similar to the Administration's proposal, and we support its inclusion in the Committee Amendment to S. 269.

Sec. 221 establishes the effective dates for the sections of this title. The date of enactment is the effective date except in the case of the section related to benefits (received or applied for on or after the date of enactment) and the section authorizing a border services user fee (which shall be six months after the date of enactment).

The new definition of eligible alien (section 201) and the 5 year deeming period (section 204) would apply to benefits being received at the time of enactment, and affect current recipients as well as future applicants. We have reservations about applying the new deeming and eligibility provisions to current recipients. Benefits received after the date of enactment would be counted towards the new public charge provisions (section (202), and we are concerned about the ability to adequately inform current immigrants of the new rules concerning public charge and the potential for becoming deportable.

The provisions with the greatest SSI impact--the definition of "eligible alien" and sponsor-to-alien deeming--would be effective upon enactment. Such an effective date would require the immediate removal from the SSI rolls of a number of aliens now considered to be "permanently residing in the United States under colo-of-law (PRUCOL) because they would not meet the definition of "eligible alien" and require SSA to contact aliens who are currently exempt from deeming--i.e., refugees, asylees, parolees, and immigrants who became blind or disabled after entry--who have entered within the past 5 years to determine if they have sponsors.

While the magnitude of the administrative effort required for such determinations would be much less under the Committee Amendment than the original version of S. 269, we still prefer the approach used in the Administration's welfare reform bill last year for grandfathering current recipients and having the new deeming requirements apply to new applications. Such grandfathering would likely have only a minimal program cost effect since the number of PRUCOL aliens is relatively small (around 30,000), and many could immediately convert to lawfully admitted for permanent residence status. Very few refugees, asylees, and parolees have sponsors, and maintaining the current-law deeming rules would only last, at a maximum, five years.

Mr. Chairman, we want to work with you on bipartisan immigration enforcement legislation that is in the national interest. We have emphasized the core areas of worksite enforcement, border control, criminal alien deportation and authorizing critical resources to the INS.

Sections 116 and 131 would amend the INA to authorize an administrative law judge to increase the civil penalties for knowingly employing ineligible aliens and for document fraud where willful or repeated violations of specified labor standards laws are found. We believe this authority should be extended to cover immigration-related discrimination, as covered by section 274B(g) of the INA.

Of particular importance in the Administration's bill are coordination of aggressive law enforcement efforts of the

Department of Labor and the Department of Justice to end the job magnet for unauthorized aliens; the enhancement and support of investigatory and prosecutorial weapons against alien smugglers and employers who profit from undocumented aliens; a border services user fee; and the measured and deliberate creation of pilot projects to establish employment verification systems that are cost-effective, free from discrimination and invasions of privacy, and not susceptible to fraud. Comprehensive immigration enforcement legislation should advance these principles and we stand ready to assist you and Subcommittee members in this regard.

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

Sincerely,

Kent Markus
Acting Assistant Attorney General

E X E C U T I V E   O F F I C E   O F   T H E   P R E S I D E N T

09-Jun-1995 06:58pm

TO: Diana M. Fortuna

FROM: Jeremy D. Benami
Domestic Policy Council

CC: Bruce N. Reed
CC: Stephen C. Warnath

SUBJECT: RE: POTUS inquiry on SSI elderly

the framework of the response looks good. I can give you details on our proposal last year -- deem everyone for five years, deem those with sponsors above median income till citizenship -- but I don't know the other info.

Jean's draft

DRAFT

June 7, 1995

MEMORANDUM FOR THE PRESIDENT

FROM: Carol Rasco

SUBJECT: Attached Clipping on SSI and Elderly Immigrants

You had sent me the attached Washington Post article on the growth in the number of elderly permanent residents on SSI and noted that we need a careful position on the issue.

In our welfare reform bill, we took the ~~position that we support reinforcing current law restrictions that prevent illegal aliens from being eligible for most Federal public assistance.~~ We also support reasonable extensions of the deeming policies that require sponsors to maintain a financial commitment to aliens they have sponsored. (explain our deeming proposal more fully here??)

However, since that time, the House and the Senate Finance Committee have both acted on this issue. As the article notes, the House would bar legal immigrants from receipt of Medicaid, SSI, school lunch and other federal programs, except for those ~~legal immigrants who~~ are older than 75 who ~~and~~ have lived in the U.S. at least five years, recent refugees and veterans. ~~and~~ The Senate would bar legal immigrants from receipt of SSI except those who are older than 65 and have worked at least 10 years in the United States (long enough to qualify for SSDI and old-age benefits), recent refugees and veterans. These changes constitute a large portion of the savings in each bill: $18-21 billion out of $~~54-63~~ billion in the House (gained from cuts in a combination of programs), and $10-11 billion out of $~~25-27.5~~ billion (gained specifically from cuts in SSI) in ~~the~~ Senate Finance.

One very recent development is Senator Simpson's immigration proposal. Senator Simpson would offer broader than HHS definitions of eligibility, allowing legal immigrants to continue to receive benefits. However, Simpson makes sponsorship legally binding such that the sponsor is required to support the immigrant for forty quarters, ~~in some cases~~, even if ~~after~~ that immigrant becomes a citizen. His proposal is more similar to ours in that legal immigrants may still receive benefits; however, the deeming period for sponsor's income is extended.

In our overall comments on Simpson's bill, we said that the Administration strongly supports making the current affidavit of support legally binding. However, we have reservations about

sponsors legally resp for

we?

who

requiring the affidavit to be effective for 40 qualifying quarters. We have reservations about applying immigration restrictions to people ~~that~~ have become full citizens of the United States. We strongly suggest that, rather than basing the time period for the legally binding affidavit on 40 qualifying quarters, the legislation ~~specify a~~ period of ten years or until ~~the immigrant~~ naturalizes. While we support the goal of making sponsors more responsible for the immigrants they sponsor, we object to Simpson's repeal of the current law exemption for sponsored immigrants who become disabled after entry and the changing of the current deeming formula to include 100% of a sponsor's income and resources. We believe such changes do not take into account the needs of the sponsor and his or her family. Finally, we prefer grandfathering current recipients and having the new deeming requirements apply only to new applications.

We have not made this issue a priority in our comments on the welfare reform bill to date, and have therefore not been actively pushing our deeming proposal during the recent debate on the Hill. The conference will be a more appropriate time for us to weigh in, once we have ascertained how much support Senator Simpson is garnering.

Steve

Deal - over 75

Diana - consider for insertion into Carol-POTUS memo

In our welfare reform bill, we took the position that deeming of the sponsor's income under the SSI program (as well as AFDC and Food Stamps) should be five years. This period would be longer if the sponsor's annual income was above the U.S. median family income. In that case, the immigrant would not be eligible for benefits until citizenship.

One very recent development is Senator Simpson's immigration proposal. Senator Simpson would require an immigrant's sponsor to agree to financially support the sponsored individual until the sponsored individual has worked in the U.S. for 40 qualifying quarters. In our overall comments on Simpson's bill, we said that while the Administration strongly supports making the affidavit of support legally binding, we have reservations about ?? requiring the setting the period of obligation and deeming at 40 qualifying quarters, as it could lead to deeming even after the immigrant and become a naturalized citizen.

We offered to work with the Subcommittee to establish a reasonable deeming policy that addresses all concerns. We suggested that one option could be to generally deem sponsored immigrants for 10 years or until citizenship, with exemptions for certain classes of aliens, such as the elderly, veterans, and immigrants disabled after entry.

?

TO: Diana Fortuna

FROM: Jean Martin

SUBJECT: Legal Aliens and SSI

DATE: June 5, 1995

Based on review of the *Washington Post* article and my other notes on entitlement funding for aliens, the current situation regarding SSI recipiency by illegal aliens may be characterized as follows:

1) **The number of legal aliens receiving SSI is high and is increasing.**

Legal immigrants are 12% of all SSI recipients and 30% of all SSI recipients age 65 and older. 738,000 legal aliens received SSI in December 1994.

Since 1982, the number of legal aliens receiving SSI increased 580%, reflecting an increase in immigration.

2) **Legal alien receipt of SSI represents a significant cost to the federal government.** The current Senate proposal promises $10-11 billion savings over five years if legal immigrants are barred from receiving SSI. (See attached side-by-side for more specific comparison of current law, House and Senate bills.)

3) **Most legal aliens receiving SSI do not receive Social Security.**

77% of elderly immigrant SSI recipients do not receive Social Security, versus ~~only 34% of~~ elderly native recipients. (Source: *Public Welfare*, Spring 1994, Vol. 52. No.2) impossibly high

This suggests that SSI may serve as a gap-filler when Social Security cannot be accessed because elderly immigrants' term of residence is too short.

4) **For many legal immigrants, SSI represents the only source of affordable health care and the only safety net against falling below poverty.**

5) **SSI facilitates immigrant family reunification** by making it economically feasible for U.S. citizens to bring elderly immigrant parents to the United States.

6) **SSI supports "obligations" to refugees and veterans.** (This may have foreign policy implications.)

Given these facts and the Administration's current focus on cost-cutting, specifically on cutting benefits for U.S. citizens, several possible policies may be considered:

To contain cost, the House proposal goes furthest toward saving revenue; however, because the proposal involves cuts in several programs, it is unclear what percentage of this savings will result specifically from barring receipt of SSI. The actual savings from SSI is likely to be closer to the Senate estimate. ?

To prohibit use of SSI as a gap-filler for Social Security, the Senate proposal eliminates only those recipients who have not bought into the Social Security system by restricting eligibility to those over 65 who have worked at least ten years.

How long do you have to work?

To protect only the oldest (and likely most disabled) part of the legal immigrant population, the House proposal will offer exemption for those over 75 who have lived in the country at least five years.

Across ~~all~~ both proposals, there is **consensus on two issues:**

1) Both the House and Senate proposals protect refugees and veterans from cuts. It may be advisable that any adopted policy protect these sensitive populations.

2) Both proposals require a certain period of residency before benefits can be received. This period is in addition to the three-year deeming period under current law, during which legal immigrants cannot receive benefits. The House proposal requires 5 years residency for exempted populations (except refugees and veterans). The Senate proposal requires 10 years residency and work. To support a sense that immigrants should "earn" their way into the system, any adopted policy may wish to include a residency requirement. ?

In the end, to balance the desire for cost containment with humanitarian concerns, the Administration may wish to consider:

1) Barring receipt of Social Security to those over 65 with less than ten years residency, wherein legal aliens may eventually "earn/work" their way into the system.

2) Allowing a grandfather clause such that immigrants currently receiving SSI do not lose their benefits.

3) Allowing refugees and veterans to continue to receive benefits uninterrupted.

Such a proposal should result in cost savings similar to the Senate proposal although over a longer period of time because it will apply only to newly-entering residents. Such a proposal will also be less of a burden on state and local governments (who will likely be forced to pick up the care of the denied group) because after ten years, as the population ages and cost of care increases, the legal immigrants will eventually fall back into the SSI safety net.

I hope this compilation is useful. Please let me know if I may be of help in doing any further analysis or research on this issue.

attached: Pros and Cons
Side-by-Side

RESTRICTING SSI COVERAGE FOR LEGAL ALIENS: PROS AND CONS

PROS

- House bill saves $18-21 billion (incorporating cuts from other programs); Senate bill saves $10-11 billion. (Both figures are over five years.)

- May reduce incentive for immigration of foreign-born elderly, preventing United States from being used as "retirement home."

- Creates an incentive for legal immigrants to apply for citizenship (unclear exactly what benefit this will have as legal immigrants already pay taxes and are different from citizens only in that they cannot vote: incentive for citizenship may be viewed as an incentive for better assimilation as citizenship requires knowledge of English, etc. and enables full political participation)

- Seems a necessary prerequisite to any cuts in benefits for U.S. citizens.

CONS

- Will cause some elderly legal immigrants to fall below the poverty level. (Application for citzenship is impossible for many as low education levels make learning English impossible.) — true, Steve?

- Will eliminate the only means for some legal immigrants to get health care.

- May make it economically impossible for U.S. citizens to care for elderly legal immigrant parents.

- May make it economically impossible for U.S. citizens to bring elderly familymembers to the United States, making it difficult for immigrating families to reunify.

- May shift the burden of caring for elderly legal immigrants to the state and local governments.

- May reduce immigration of foreign-born elderly, possibly keeping out individuals who could make valuable contributions to U.S. society.

- Denies any "special obligation" for the U.S. to provide for refugees: may have foreign policy implications (although at least some refugees are exempt under both the House and Senate plans.)

- Reassesses the role of legal immigrants in society not based on economic, social, and cultural contributions but based on use of public assistance.

SSI COVERAGE FOR LEGAL ALIENS

CURRENT LAW	HOUSE PROPOSAL	SENATE PROPOSAL
SSI Coverage: Legal Permanent Residents are barred from cash assistance during a three-year deeming period during which sponsors income is deemed to be theirs. After that those legal immigrants over 65 and aged, blind or disabled are eligible to receive SSI according to laws governing SSI eligibility.	SSI Coverage: Bars most legal immigrants from receipt of Medicaid, SSI, school lunch and other federal programs except immigrants who are: SSA prefers 1) older than 75 and have lived in the U.S. at least five years 2) recent refugees ? 3) veterans	SSI Coverage: Gives states the option of barring legal immigrants from receipt of AFDC and bars most legal immigrants from receipt of SSI except immigrants who are: 1) older than 65 and have worked at least 10 years in the U.S. (long enough to qualify for SSDI and/or old-age benefits) lived or worked 10 yrs? 2) recent refugees 3) veterans
Cost Savings: none	Cost Savings: (over five years) $ 18 billion - 21 billion (from combination of program cuts not just SSI) = 1/3 of all savings promised by House Welfare Reform	Cost Savings:(over five years) $10 billion - $11 billion = 40% of all savings promised by Senate Welfare Reform

(40 Q's)

Simpson – refugee

– deeming thru citizenship

Diana

THE WHITE HOUSE

WASHINGTON

95 JUN 13 P1:47

June 13, 1995

MEMORANDUM FOR THE PRESIDENT

FROM: Carol Rasco CHR

SUBJECT: Attached Clipping on SSI and Elderly Immigrants

You had sent me the attached Washington Post article on the growth in the number of elderly permanent residents on SSI and noted that we need a careful position on the issue.

In our welfare reform bill, we took the position that the income of an immigrant's sponsor should be deemed available to the immigrant for a period of five years for the purposes of determining eligibility for SSI, as well as AFDC and food stamps. This period would be longer if the sponsor's annual income was above the U.S. median family income. In that case, the immigrant would not be eligible for benefits until citizenship.

However, since that time, the House and the Senate Finance Committee have both acted on this issue as part of their welfare reform bills. As the article notes, the House would bar legal immigrants from receipt of Medicaid, SSI, school lunch, and other Federal programs, with an exception for those older than 75 who have lived in the U.S. for at least five years. The Senate Finance Committee approach is tougher. It would bar legal immigrants from receipt of SSI, except those who are older than 65 who have worked in the U.S. at least 10 years (long enough to qualify for SSDI and old-age benefits). Both would also exempt recent refugees and veterans. These measures result in significant savings within each bill: $6 billion out of $69 billion in savings in the House welfare reform bill, and approximately $10-11 billion out of $32 billion in savings in the Senate Finance version.

One very recent development is Senator Simpson's immigration proposal. Senator Simpson would require an immigrant's sponsor to agree to financially support the sponsored individual until the sponsored individual has worked in the U.S. for 40 qualifying quarters. The bill would save $8.5 billion over five years. In our comments on Simpson's bill, we said that, while the Administration strongly supports making the affidavit of support legally binding, we have reservations about setting the period of obligation and deeming at 40 qualifying quarters, as it could lead to deeming even after the immigrant becomes a naturalized citizen. This feature of Simpson's bill was criticized by others in the attached Washington Post article over the weekend.

The Washington Post, June 11, 1995

Senate Measure On Immigrants Draws Protest

Benefits Limits Apply Even After Citizenship

By Barbara Vobejda
Washington Post Staff Writer

The Senate welfare reform bill would make it more difficult for legal immigrants to receive benefits even after they become citizens, which immigrant groups claim would violate long-standing tradition by creating two classes of citizens.

Republican legislation in the House and Senate calls for restricting welfare aid to legal immigrants. But only in the Senate bill do the restrictions extend beyond the point at which immigrants become citizens.

"It means that a naturalized citizen doesn't have all the rights of a citizen who was born here," said Josh Bernstein, a policy analyst with the National Immigration Law Center. "We're asking people to pledge allegiance to the country, take on the full responsibilities of citizenship, but we're withholding some of the benefits of citizens."

A spokesman for Sen. Alan K. Simpson (R-Wyo.), who proposed the language, dismissed arguments that the policy would be unfair to immigrants who become citizens.

For Simpson, said Richard W. Day, chief counsel to the Judiciary immigration subcommittee, "it's a matter of principle that newcomers should be self-supporting."

Under the welfare bill approved by the House in March, most legal immigrants who have not become citizens would be barred from receiving benefits under the major welfare programs—including Aid to Families with Dependent Children, food stamps, Medicaid and Supplemental Security Income (SSI) for the elderly and disabled.

Illegal immigrants are not eligible for most programs under current law, nor would they be under the proposed changes.

Immigrant groups and others protested the House provisions affecting legal immigrants, arguing they are living in this country legally and paying taxes and should be eligible for the same programs as other Americans.

To some extent, those provisions were softened in the legislation approved by the Senate Finance Committee last month. Under the Senate bill, for example, noncitizens would be barred from only one program, SSI, rather than the five programs in the House bill.

But in other ways, the Senate bill is more restrictive than the House version.

The issue most disturbing to immigrant groups is the Senate provision that would make it more difficult for legal immigrants to qualify for benefits even after they become citizens. The added barrier to benefits is a requirement that states, when determining eligibility, take into account the income not only of the immigrants applying for assistance, but the income of the sponsors of those immigrants, and the sponsors' spouses.

For the most part, sponsors are relatives of the immigrants.

Advocacy groups argue that few immigrants could qualify for assistance under the proposed provisions, known as "deeming" rules. Also, these groups say, the relatives of immigrants are often struggling financially, and supporting another family would send them into further economic difficulty.

Under current law, the income of sponsors must be "deemed" when a noncitizen applies for three programs: AFDC, food stamps and SSI.

In the House version, the deeming requirement would end when an immigrant became a citizen. In the Senate bill, the deeming requirement would apply even after an immigrant becomes a citizen.

"To create this distinction between naturalized citizens and other citizens is a huge departure from a couple hundred years' worth of tradition in this country," said Cecilia Munoz, deputy vice president at the National Council of La Raza.

That argument was supported by David Martin, University of Virginia professor of law. "Traditionally, the dividing line has been obtaining citizenship," Martin said. "Virtually every kind of restriction that applies to aliens ceases to apply when you become a citizen."

Day said Simpson had disagreed with the House provisions creating an outright ban on benefits to noncitizens, arguing there should be a "limited safety net" for immigrants who fall on hard times.

But when that happens, sponsors who have pledged to help support immigrants should be held to that agreement, Day said. Taking into account the income of the sponsors in determining eligibility is similar to considering the alimony or child support other welfare applicants may be receiving, he said.

"It's just like another asset that should be considered," Day said. "Folks who are their relatives should be responsible for them, not the American taxpayer."

We offered to work with Simpson's Subcommittee to establish a reasonable deeming policy that addresses these concerns. We suggested that one option could be to deem sponsored immigrants for 10 years or until citizenship with certain exemptions.

We have not made this issue a priority in our comments on the welfare reform bill to date, and have therefore not been actively pushing our deeming proposal during the recent debate on the Hill. The conference will be a more appropriate time for us to weigh in, once we have ascertained how much support Senator Simpson is garnering.

cc: Leon Panetta
Anthony Lake

CC: [illegible]

MAY 31 1995

AN UNCERTAIN OLD AGE

THE IMMIGRANT ELDERLY

Benefit Lifeline May Be Severed For Noncitizens

First of three articles

By Lena H. Sun
Washington Post Staff Writer

Phan Hue rolls up his pants and sleeves to show the scars from four bullet and shrapnel wounds, reminders of his days in the South Vietnamese army. Now living in Falls Church, Phan, 74, and his wife survive on $680 a month in federal benefits for the elderly poor, known as Supplemental Security Income, or SSI. They stretch those dollars by turning the heat down in the winter, sitting outside in the sun to keep warm, and seldom buying meat.

The two refugees are among hundreds of thousands of elderly immigrants, all of them legally admitted into the country, who would lose such benefits under the Republican-sponsored welfare reform bill that passed the House in March and under another bill pending in the Senate. These cuts are an essential part of the GOP proposals because they produce roughly one-third of the $66 billion in savings over five years that backers expect to glean from the House welfare plan, and about 40 percent of the $26 billion in savings from the Senate version.

The impact of the legislation goes far beyond dollars and cents. Already these money-saving proposals have prompted a wide-ranging debate over the place of legal immigrants in American society. For the first time, they are being judged substantially in relation to their use of publicly funded health care and other entitlements, as opposed to their

See ELDERLY, A6, Col. 3

ELDERLY, From A1

economic, social and cultural contributions to society.

"When did we change the definition of American? . . . From Albert Einstein to Martina Navratilova; from An Wang, the founder of Wang computers, to Elie Wiesel, winner of the Nobel Peace Prize—all have come to this country and been accepted as Americans," said Rep. Norman Y. Mineta (D-Calif.) during the House floor debate.

But advocates of the new restrictions insist that legal immigrants must accept substantial sacrifices at a time of widespread cuts in federal spending on assistance programs.

"Quite frankly, I do not think that when we're cutting benefits and cutting welfare for our citizens, I don't see why we should stretch and say that we have an obligation to those that aren't even citizens of our own country," said Rep. E. Clay Shaw Jr. (R-Fla.), an author of the House welfare plan.

The issue is likely to be a major point of contention in coming months now that the welfare reform debate has moved to the Senate, where some prominent Republicans favor either adopting less restrictive measures or letting individual states decide on immigrants' eligibility.

'In Every Sense Part of Us'

Sen. Alan K. Simpson, (R-Wyo.), a longtime leader on immigration policy, often argues that legal immigrants enter into a contract with the government when they come to the United States. They pay taxes and serve in the military. To take the safety net from them, he said, "would be a very grave mistake" and goes against the spirit of House Republicans' "Contract With America."

"They live in your home town. They go to the Rotary Club. They're in the service club," Simpson said. "They are in every sense part of us—except for one thing, the right to vote."

The House version of welfare reform would produce savings of between $18 billion and $21 billion over five years by barring most legal immigrants from receiving a range of federally funded benefits, from Medicaid to school lunches.

Exceptions would be made for legal immigrants over 75 who have lived here five years, recent refugees and veterans, among others. Undocumented aliens would continue to be barred from welfare programs and non-emergency health care welfare programs.

The Senate version of the welfare bill adopted last week by the Finance Committee would give states the option of barring legal immigrants from the basic cash welfare program, Aid to Families with Dependent Children.

But, like the House bill, the Senate legislation targets the federal program that has been used by increasing numbers of elderly immigrants and refugees in the last decade: the Supplemental Security Income program, which provides assistance to the nation's disabled and elderly poor.

The Senate version of welfare reform would produce savings of between $10 billion and $11 billion over five years by keeping most elderly immigrants from receiving aid under SSI.

Exceptions would be made for legal immigrants who have worked in the United States long enough to qualify for Social Security disability income or old-age benefits—at least 10 years—and for recent refugees and veterans.

An estimated 738,000 legal aliens received SSI benefits in December 1994. Legal aliens account for nearly 12 percent of all SSI recipients and 30 percent of all recipients 65 or older. Since 1982, the number of legal residents receiving SSI has risen 580 percent, reflecting a surge in immigration.

Robert Rector, a policy analyst with the Heritage Foundation who favors the new restrictions, says knowledge about these benefits has spread in immigrant communities here and overseas, attracting foreign-born elderly who are turning the U.S. welfare system into a "deluxe retirement home."

Critics of the legislation say the bills, particularly the broader House legislation, would hurt the needy and vulnerable. For immigrants who arrive too late in life to work enough time to qualify for Social Security, there is virtually no other way to get affordable health insurance except through SSI. In most states, elderly people receiving SSI automatically qualify for Medicaid, the government health insurance program for the poor and disabled.

Another category of immigrants that opponents of the cutbacks consider particularly deserving are those who worked in the United States long enough to get Social Security but were employed in such low-wage, low-benefit jobs that they now need SSI to keep them out of poverty. About one of every four legal immigrants receiving SSI, many of them former workers in the garment and service industries, also gets Social Security retirement benefits.

Juan Martinez, 71, a retired day laborer, lives in Weslaco, Tex., in the Rio Grande valley. Originally from Mexico, Martinez worked for 16 years picking cucumbers, tomatoes, strawberries and oranges in Ohio, Florida and Michigan. He retired four years ago after he became ill with diabetes. He receives $287 a month in Social Security, and $178 in SSI. His wife, also a retired farm worker, receives an additional spousal Social Security check of $139 a month.

Martinez would be protected under the Senate welfare reform bill, but the House version would cut off his SSI income and force the couple to live on an annual income of $5,112, substantially below the poverty line.

"They can check with my bosses, they can find out if I worked or not," said Martinez, his words tumbling out in Spanish. "If they get rid of the check, I couldn't pay the electric, I couldn't pay the water, I couldn't pay for the old car I got—I couldn't pay for anything."

Others who would be hard-hit are refugees, with the largest numbers having fled the former Soviet Union and Southeast Asia. Refugee advocates say the United States played a central role in the political upheavals that produced the flow of refugees during the Cold War and therefore has a special obligation to help them once they are here.

Proponents of the bill say the United States should not use welfare to compensate for misery under communism.

The group most frequently criticized by proponents of restricting benefits are elderly immigrants coming to the United States to join their American-citizen children. Many are too old or disabled to work. Advocates of welfare reform say children who sponsor their parents to come to the United States, not American taxpayers, should take care of them.

Opponents say elderly immigrants who are eligible for SSI are not cheating the system but making normal use of a benefit that native-born Americans would not deny their own families.

In the Washington area, where foreign-born residents make up 12 percent of the general population—higher than the national average—the two largest groups of legal residents receiving SSI are from Vietnam and South Korea, according to the Social Security Administration.

When Families Can't Help

Du Won Kim, a retired South Korean auto parts salesman, came to the United States 10 years ago to be with his grown daughter and son. Kim, now 74, stayed briefly with his daughter in her Silver Spring home but moved out because he did not want to live in the same house with his son-in-law's mother. He lives alone in a subsidized apartment in Rockville.

He worked for about a year in a delicatessen but stopped when he turned 65 and was eligible to receive SSI. His monthly check is $458. He can pay his $128 monthly rent, but he relies on his daughter for additional money to cover living expenses.

The daughter, Chong Hong, 51, is an American citizen. She owns a Rockville sandwich shop; her husband is an auto mechanic. With three daughters in college, she said, she is unable to provide full financial support for her father.

"I can't cover all his expenses," she said. "In Korea, the wives stay home, but in America, my husband and I both work hard, and still we do not have enough for everything."

Her brother, recently divorced, is also struggling and cannot provide for his father.

Kim turns 75 next year and would be exempt from the ban under the House bill, but unprotected under the Senate version. He is taking no chances. He is applying for citizenship.

Other elderly immigrants may not be as fortunate.

Phan, the former South Vietnamese army sergeant, has a third-grade education and little chance of learning enough English to pass the citizenship test. In 1987, he fled his village in central Vietnam for the Philippines on a fishing boat with six of his nine children and their families.

A year later, they arrived in the United States. The children are working—some as carpenters, one as a custodian—but their wages are low, and they cannot help their parents financially. The $680 in monthly SSI benefits barely covers rent, utilities and food for Phan and his wife, Truong Thi Ty, 68, who arrived last year.

The blue couch in their one-bedroom Falls Church apartment is threadbare. A white Frisbee turned upside down is the tray for chipped teacups. One recent afternoon, the fiance of one of their granddaughters brought them a bag of shrimp, a treat they seldom buy themselves.

Truong has frequent migraines, and may have diabetes. Phan suffers from severe arthritis. Because of his age, Phan would keep his benefits under the House bill, but his wife would lose her SSI stipend and Medicaid coverage. Under the Senate version, the couple would lose their entire monthly income of $680.

"If the government does not help out the old people, I don't see how we can survive," said Phan, speaking agitatedly in Vietnamese. "The Americans helped the Vietnamese fight the Communists. I don't really don't understand about the politics here. But if America had won the war, then all the Vietnamese soldiers would be leading a much happier life everywhere."

Staff writers Guy Gugliotta and Peter Pae contributed to this report.

THE PRESIDENT HAS SEEN 5/31

Leon / CEA / Tony –

we need a clear position on this – also might have some foreign policy implications.

BC