

IMMIGRATION ISSUES AND LEGISLATION IN THE 98TH CONGRESS

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AUTHOR:

Joyce C. Vialet

Education and Public Welfare Division

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ISSUE DEFINITION

Immigration reform continues to be of concern in the 98th Congress, and legislation has been moving quickly. Specific issues include illegal immigration, temporary workers, legalization, asylum adjudications, and legal immigration. The legislation under consideration is the Immigration Reform and Control Act of 1983, popularly referred to as the Simpson-Mazzoli bill, introduced in the House and Senate on Feb. 17, 1983 as H.R. 1510 and S. 529. S. 529 was reported by the Senate Judiciary Committee on Apr. 21 (S.Rept. 98-62). S. 529 was reported by the Senate Judiciary Committee on Apr. 21, 1983 (S.Rept. 98-62). It passed the Senate on May 18 by a vote of 76 to 18. H.R. 1510 was reported by the House Judiciary Committee on May 13 (H.Rept. 98-115, pt. I), and sequentially referred to four other committees. It was reported on June 27 by the Committee on Agriculture (H.Rept. 98-115, pt. II), and on June 28 by the Committee on Energy and Commerce (H.Rept. 98-115, pt. III) and the Committee on Education and Labor (H.Rept. 98-115, pt. IV). House Speaker Tip O'Neill stated on Oct. 4, 1983 that the bill would not come to the House floor in 1983. He has since indicated that he will bring the bill to the floor in early 1984.

BACKGROUND AND POLICY ANALYSIS

Immigration law and policy are widely believed to be in need of reform, and major legislation to accomplish this goal is receiving action by the 98th Congress. Specific issues of concern are the control of illegal immigration by employer sanctions and the related issue of worker identification, the availability of legal alien temporary workers, the legalization of some portion of the illegal population already here, procedures for asylum and other adjudications, and the amount and composition of legal immigration.

The legislation currently under consideration is the Immigration Reform and Control Act of 1983, popularly referred to as the Simpson-Mazzoli bill. The bills in question, S. 529 and H.R. 1510, were introduced in the 98th Congress on Feb. 17, 1983 by Senator Alan Simpson, the Chairman of the Senate Judiciary Subcommittee on Immigration and Refugee Policy, and by Representative Romano Mazzoli, the Chairman of the House Judiciary Subcommittee on Immigration, Refugees, and International Law. The bills evolved from legislation passed by the Senate and reported by the House Judiciary Committee during the 97th Congress. S. 529 as introduced was identical to the Senate-passed S. 2222 of the 97th Congress and H.R. 1510 as introduced was almost identical to H.R. 6514 as reported by the House Judiciary Committee in the 97th Congress.

To date during the 98th Congress, S. 529 was marked up and approved by the Senate Judiciary Subcommittee on Immigration and Refugee Policy on Apr. 19, and was reported on April 21, 1983 (S.Rept. 98-62). It passed the Senate on May 18 by a vote of 76 to 18 after four days of floor debate. H.R. 1510 was marked up and approved by the House Judiciary Subcommittee on Immigration, Refugees, and International Law on Apr. 5 and 6, and was ordered reported by the full Judiciary Committee on May 5 after three days of markup. It was reported on May 13 (H.Rept. 98-115, pt. I), and referred to the Committees on Agriculture, Education and Labor, Energy and Commerce, and Ways and Means. It was reported on June 27 by the Committee on Agriculture (H.Rept. 98-115, pt. II), and on June 28 by the Committee on Energy and Commerce (H.Rept.

98-115, pt. II) and the Committee on Education and Labor (H.Rept. 98-115, pt. IV). On Oct. 4, 1983, House Speaker Tip O'Neill said he would not bring H.R. 1510 to the House floor in 1983 because he feared a Presidential veto. A discharge petition to force the bill to the House floor from the Rules Committee was filed on Oct. 28, 1983 by Representative Dan Lungren, the ranking minority member of the House Judiciary immigration subcommittee. In late November the Speaker indicated that he intends to bring the bill to the floor in early 1983, and expects its passage. INS is currently operating with a FY84 budget of \$527,257,000 under the authority of P.L. 98-107, the continuing appropriations resolution for FY84 which remains in effect until Nov. 10, 1983.

While current congressional concern about illegal immigration dates back to the early 1970s, the last full-scale congressional review of U.S. immigration policy was in the mid-1960s. This led to the enactment in 1965 of major amendments to the Immigration and Nationality Act of 1952, repealing the national origins quota system as the primary means of regulating immigration. The Immigration and Nationality Act (8 U.S.C. 1101 et seq.), as substantively amended by, among many other enactments, the Refugee Act of 1980, remains the basic law governing U.S. immigration and refugee policy.

The Simpson-Mazzoli bill -- now, in fact, several different bills -- originated as identical House and Senate bills introduced in the 97th Congress. This major bipartisan legislation was the result of months of extensive hearings by the two immigration subcommittees on all aspects of immigration and refugee policy, with a special focus on the Reagan Administration's proposals and the recommendations of the Select Commission on Immigration and Refugee Policy. The extensive review of immigration policy by the Ford and Carter Administrations also contributed to the reform effort. The Ford Administration had responded with the December 1976 report of the Domestic Council Committee on Illegal Aliens, and the Carter Administration with legislation proposed in 1977 to control illegal immigration.

Action in the 97th Congress leading up to and including action on the Simpson-Mazzoli bill is considered briefly below. This is followed by a discussion of the major immigration issues under consideration and the specific provisions of the Simpson-Mazzoli bill relating to them, and by a summary of other immigration-related legislation receiving action in the 98th Congress.

Action in the 97th Congress

Early in the 97th Congress, the Select Commission on Immigration and Refugee Policy submitted its final report, entitled, "U.S. Immigration Policy and the National Interest," dated Mar. 1, 1981. The 16-member Select Commission had been created in 1978 by P.L. 95-412 to conduct a study and evaluation of immigration and refugee laws, policies, and procedures. It consisted of four members each of the House and Senate Judiciary Committees, four Cabinet members, and four members appointed by President Carter, including its chairman, the Reverend Theodore M. Hesburgh.

The Select Commission on Immigration and Refugee Policy's basic conclusion was that controlled immigration has been and continues to be in the national interest, and this underlay many of its recommendations. At the same time, the Commission stressed the need to improve the enforcement of immigration law and to "regain control over our immigration policy." In Chairman

Hesburgh's words, the Commission recommended "closing the back door to undocumented illegal migration, and opening the front door a little more to accommodate legal migration in the interests of this country." The Commission's recommendations included sanctions for the knowing employment of undocumented aliens, increased immigration law enforcement, legalization of the status of otherwise eligible aliens who had been here illegally since prior to Jan. 1, 1980, and a restructuring of legal immigration.

The Congress responded to the Select Commission's report and recommendations initially with joint hearings in May 1981 by the House and Senate Judiciary immigration subcommittees under the chairmanship of Senator Simpson and Representative Mazzoli. These were the first joint congressional hearings on immigration since 1951.

The Reagan Administration responded to the final report of the Select Commission by appointing a Cabinet-level Interagency Task Force on Immigration and Refugee Policy, chaired by Attorney General William French Smith, to review the Commission's recommendations and the issues. Its work formed the basis for the Administration's proposals for immigration and refugee policy reform announced by the President and presented by the Attorney General at a joint hearing of the House and Senate Judiciary immigration subcommittees on July 30, 1981. At that time, President Reagan pledged that "America's tradition as a land which welcomes people from other countries" would continue, but he emphasized the necessity of insuring that they be accepted "in a controlled and orderly fashion." The Administration's proposals focused on the control of illegal immigration and of mass arrivals of undocumented aliens by sea.

Legislation to implement these provisions was introduced on behalf of the Administration on Oct. 22, 1981. The Omnibus Immigration Control Act was introduced as S. 1765 by Senate Judiciary Chairman Strom Thurmond, and as H.R. 4832 by House Judiciary Committee Chairman Peter Rodino. Provisions relating to the control of illegal immigration included employer sanctions for the knowing employment of unauthorized aliens, a legalization program, a 2-year experimental temporary worker program for up to 50,000 Mexican nationals annually, and an increase in the annual ceiling on Mexican and Canadian immigration. Provisions relating to mass arrivals by sea included special Presidential powers in the case of an immigration emergency, authorization for the Coast Guard to interdict certain vessels at sea, and provisions expediting exclusion and asylum proceedings.

The Reagan Administration proposals together with the Select Commission's recommendations were the subject of extensive hearings by the House and Senate Judiciary immigration subcommittees throughout the fall and winter of 1981 and early 1982. These hearings led to the introduction on Mar. 17, 1982, of identical bills by the subcommittee chairmen, referred to as the Simpson-Mazzoli bill. This, rather than the Administration bill, became the vehicle for legislative action. Although it differed in some important respects from the Administration bill, Attorney General William French Smith said at its introduction that it "takes us a significant further step." During joint subcommittee hearings on the Simpson-Mazzoli bill in April 1982, the Attorney General characterized it as "a rational and comprehensive set of reforms in the finest bipartisan tradition of the United States Congress," and indicated the Administration's strong commitment to enacting legislation "along the lines set out in the Administration's and Chairmen's bills." The Administration's differences with the provisions in the Simpson-Mazzoli bill were indicated in its comments on the bill in its various forms, and parallel Administration legislation has not been and is not expected to be introduced.

in the 98th Congress.

The Simpson-Mazzoli bill was introduced in the 97th Congress as S. 2222 and H.R. 5872. Action on it proceeded quite quickly, particularly on the Senate side. The bill proved much more controversial in the House, which did not complete action on it. The controversy during the heated House debate in the lame duck session focused on employer sanctions, the legalization program, and temporary workers. A brief summary of the legislative history of the House and Senate bills follows.

S. 2222, the Senate version of the Simpson-Mazzoli bill, was approved, 16-1, by the full Judiciary Committee with amendments on May 27, 1982 (S.Rept. 97-485), and the bill passed the Senate by a rollcall vote of 80 to 19 on Aug. 17, 1982. The House version, H.R. 5872, was marked up and unanimously approved by the House Judiciary immigration subcommittee on May 18 and 19. A clean bill, H.R. 6514, was introduced by Representatives Mazzoli and Fish on May 27, and was marked up by the full House Judiciary Committee for 5 days beginning Sept. 14, 1982. The bill was ordered reported on Sept. 22 after a motion to recommit it to the subcommittee failed 13-15. H.R. 6514 was reported by the Judiciary Committee on Sept. 28 (H.Rept. 97-890, pt. I), and referred to four other committees for a period ending not later than Nov. 30, 1982. It was reported by the House Education and Labor Committee with further amendments on Dec. 1, 1982 (H.Rept. 97-890, pt. II). H.R. 7357, a clean bill identical to the Judiciary Committee-reported bill except for a technical amendment addressing a budget concern, cleared the House Rules Committee on Dec. 8. Under the modified open rule, all amendments to be offered on the floor were required to be printed no later than the Dec. 9 Congressional Record; approximately 300 amendments were offered. The bill was debated Dec. 16-18, 1982, but no final action was taken.

By the end of the 97th Congress, the House and Senate versions of the Simpson-Mazzoli bill had evolved into two different bills. The principal difference was the omission of any changes in the numerical limits and preference system regulating the admission of legal immigrants in the House bill, compared to an extensive revision in the Senate bill. The employer sanctions provisions in the House bill were more graduated than those in the Senate bill. The legalization provisions in the two bills were similar in that both included the same two-tier entry requirements, but the House bill provided for more Federal reimbursement of related State and local costs. The House asylum adjudications provisions allowed for more judicial review and the House bill differed from the Senate bill in establishing a U.S. Immigration Board which would be independent of the Attorney General, a point of conflict with the Administration. It was with these and other differences that the two bills were reintroduced in the 98th Congress.

Major Immigration Issues

Illegal immigration remains the principal focus of concern today in the area of immigration, as it has been for the past 10 years. Mass arrivals by sea and the related issue of backlogged asylum adjudications have also been of concern since the mass arrivals of undocumented Cubans and Hatitians in 1980. There is also interest in establishing more control on the total number of immigrants entering annually.

The common theme underlying these issues is a growing concern that existing immigration law and policy are inadequate to control the increasing

numbers of aliens entering the country, both legally and illegally. In introducing the original Simpson-Mazzoli bill, Senator Simpson said, "our present immigration law and enforcement procedures no longer serve the national interest," and stated that the bill he and Congressman Mazzoli were introducing was "intended to bring immigration to the United States back under the control of the American people." Representative Mazzoli stated that the purposes of the bill were "to reform outmoded and unworkable provisions of the present immigration law and gain control of our national borders."

The following is a discussion of current immigration themes and alternatives as defined by the ongoing debate on immigration reform, with a particular emphasis on the current House and Senate versions of the Simpson-Mazzoli bill.

Control of Illegal Immigration

Illegal immigration has been of serious concern to the Congress since the early 1970s. As measured by apprehensions by the U.S. Immigration and Naturalization Service (INS), illegal immigration has increased dramatically over the past 15 years. Apprehensions increased from 86,597 in FY64 to over a million each year in FY77, FY78, and FY79, and over 900,000 in FY80, FY81, and FY82, with 962,687 deportable aliens apprehended in FY82. The size of the illegal population in the United States was recently estimated unofficially by the Census Bureau at between 3.5 and 6 million. Mexico is generally thought to account for 50% to 60% of the total.

1. Employer Sanctions

The prospect of employment at U.S. wages is generally agreed to be the magnet which draws aliens here illegally. The principal legislative remedy proposed throughout the 1970s was to penalize employers who knowingly hire illegal aliens. Legislation establishing employer penalties passed the House during the 92nd and 93rd Congresses, and was proposed by the Carter Administration in the 95th Congress, but it was not enacted. Frustration with the illegal/undocumented alien issue played a major role in the enactment in 1978 of the legislation creating the Select Commission on Immigration and Refugee Policy.

Penalties for the knowing employment of illegal aliens were recommended by the Select Commission on Immigration and Refugee Policy in order to establish an economic deterrent in the workplace to illegal entry or status violation. They were prominent in both the Reagan Administration bill and the Simpson-Mazzoli bill as it was originally introduced in the 97th Congress, and they continue to be the major provision of the immigration reform legislation under consideration by the Congress. Commenting on the Administration bill and the original Simpson-Mazzoli bill last Congress, Attorney General William French Smith observed that both bills "recognize the immigration problem, at bottom, is how to stop illegal aliens from coming into the United States, and both bills recognize that a law against hiring illegals is the only remaining credible way of stopping them."

While employer sanctions were and are widely supported and provisions establishing them passed the Senate by wide margins in 1982 and are included in bills passed by the Senate and reported by House Committees, support is by no means universal. Sanctions remain controversial, particularly among

Hispanic groups, civil rights organizations, and some business groups. Opposition is generally based on the concern that employer sanctions will result in discrimination, particularly against Hispanics, and/or that U.S. businessmen will be required to enforce the immigration law.

S. 529 as passed by the Senate prohibits the knowing employment, or recruitment or referral for a fee of aliens known to be unauthorized to accept employment. It establishes a graduated series of penalties for violation consisting of civil fines of \$1,000 and \$2,000 for each alien for first and subsequent offenses, and a criminal misdemeanor penalty of up to a \$1,000 fine and/or six months imprisonment for a pattern and practice of violation. The penalty structure is more graduated in the House Judiciary bill. H.R. 1510 as reported by the House Judiciary Committee provides for an administrative citation by the Attorney General for a first violation, which need not be knowing. Subsequent violations are punishable by civil fines of \$1,000 and \$2,000 and by a criminal penalty of up to \$3,000 and/or one year imprisonment, in each case for each alien involved. Both bills also provide for injunctive relief in the case of a pattern or practice of violation.

H.R. 1510, as reported by the House Education and Labor Committee, reflects the concern about the possibility of discrimination resulting from employer sanctions. An amendment by Rep. Augustus Hawkins makes it unlawful for an employer to discriminate against any individual with respect to hiring, recruitment, or referral for employment because of the individual's national origin or alienage. It creates an administrative adjudications process similar to that of the National Labor Relations Board, involving a Special Counsel and the new independent U.S. Immigration Board, for enforcing both the employer sanction and the non-discrimination provisions, and allows any person "adversely affected directly" to file a charge. It also eliminates criminal penalties for violation, and increases the graduated civil fines to \$2,000, \$3,000 and \$4,000 for each violation.

2. Worker Identification

One of the most controversial aspects of employer penalty legislation is the issue of how employers are to determine whether prospective employees are, in fact, legally entitled to accept employment. While aliens authorized to work here have documents issued by INS indicating their status, U.S. citizens do not necessarily have proof of their citizenship or entitlement to work. Those who fear discrimination argue either that only those who look foreign will be asked for identification or that employers will simply not hire them at all in order to avoid violation.

In an effort to meet the concerns of those fearful of discrimination, the Simpson-Mazzoli bill originally required that all employers examine specified documentation from all new hires, with penalties for failure to do so. An affidavit signed by both the employer and the new hire would provide the employer with an affirmative defense that he had complied with the law. The House bill as reported by the Judiciary Committee was amended to make the verification procedure voluntary unless an employer was found, knowingly or unknowingly, to have unauthorized aliens in his employ, at which point the verification procedures would become mandatory.

Both the House Judiciary and Senate bills provide for reliance on existing forms of identification for three years. At the end of this period, the President is required by the Senate bill to implement such changes as may be necessary to establish a secure system of determining employment eligibility,

and by the House bill to report to the Congress on the need for such changes. An amendment adopted during the Senate floor debate provides for congressional review of any proposal by the President requiring a new secure identification document. An attempt has been made to strike a balance between those opposed to anything resembling a national identity system, and those who argue that existing forms of identification are not sufficiently secure to support employer sanctions.

3. Legalization

The legalization of the status of certain aliens residing illegally in the United States is also closely associated with the illegal alien issue. Legalization of status with varying residence requirements has been proposed since 1974 and was advocated by the Select Commission on Immigration and Refugee Policy. Related but differing provisions were included in both the Reagan Administration bill and the original Simpson-Mazzoli bill in the 97th Congress, and remain in the House and Senate bills in the 98th Congress.

Legalization is supported on the grounds of equity and the lack of any viable alternative. It is argued that many undocumented aliens are productive members of our society whose presence here is the result of U.S. ambivalence about enforcing the immigration law, and that the only alternatives to their legalization are mass roundups or continued toleration of an exploited underclass. However, legalization has been and remains controversial, and an attempt to strike it or at least push back the eligibility date is expected during the House floor debate. Those opposing legalization argue that it condones and encourages law-breaking, and/or that it will be far too costly, particularly with a recent eligibility date.

S. 529 includes a two-tier legalization provision, providing for immediate permanent resident status for otherwise eligible aliens who have been in this country continuously prior to Jan. 1, 1977. Aliens who entered prior to Jan. 1, 1980, would be eligible for temporary resident status and after three years could apply to adjust to permanent status. H.R. 1510 includes a one-tier legalization provision, authorizing permanent resident status for otherwise eligible aliens who have been in this country continuously since Jan. 1, 1982. S. 529 would bar legalized temporary resident aliens and, for 3 years, permanent resident aliens from Federal assistance programs, and H.R. 1510 would limit such assistance for five years to emergency medical care and aid for the aged, blind, and disabled. Both bills authorize legalization assistance to the States and localities, S. 529 in the form of State block impact aid grants, and H.R. 1510 in the form of 100% Federal reimbursement subject to available appropriations.

Amendments to H.R. 1510 by the House Committees on Energy and Commerce and on Education and Labor would expand the services for which legalized aliens would be eligible. In addition, the Energy and Commerce Committee amendments would authorize 100% reimbursement for the cost of public health assistance provided legalized aliens or aliens applying on a timely basis to become legalized.

4. Temporary Workers

An effort to replace illegal immigration with a large-scale temporary guest worker program was rejected by the Select Commission on Immigration and Refugee Policy and was not proposed by the Reagan Administration or in the

Simpson-Mazzoli bill, although it has some supporters. The Reagan Administration initially proposed a 2-year experimental program to consist of 50,000 Mexican workers annually, but this was rejected in favor of modifications to the existing H-2 program providing essentially for a separate agricultural segment.

The H-2 temporary worker program authorized by the Immigration and Nationality Act currently accounts for approximately 43,000 entries annually, about 18,000 of them in agriculture. Widespread concern has been expressed that seasonal agriculture, particularly in the West and Southwest, is heavily dependent on illegal workers and will be hard hit by employer sanctions unless legal temporary alien workers are made more readily available than they are now. In response to this concern, both the House Judiciary and the Senate bills contain detailed amendments intended to make H-2 temporary agricultural workers more easily available by, among other things, requiring that the test for domestic worker availability be limited to the time and place of need, rather than nationwide; providing a statutory role for the Secretary of Agriculture as well as the Secretary of Labor; and providing for expedited review of H-2 refusals when domestic workers are not subsequently available. In addition, both bills provide for a separate transitional program under which seasonal agricultural workers would be available without a labor market test for three years on a phaseout basis, with the number available each year reduced by one-third.

H.R. 1510, as reported by the Committees on Education and Labor and on Agriculture, include major amendments relating to the temporary worker provisions. The Education and Labor bill, as the result of an amendment by Rep. George Miller, includes revisions in the H-2 provisions intended to strengthen the protections provided both domestic and foreign workers, and establishes an 11-member commission to study the agricultural segment of the H-2 program and make recommendations for improvement. It also substitutes the version of the 3-year transitional program contained in S. 529 as passed by the Senate. The Agriculture Committee bill, as the result of an amendment by Rep. Leon Panetta, establishes a third temporary worker program which would be limited to perishable commodities. Under this bill, "P" nonimmigrant workers would be free to move from employer to employer within agricultural employment regions designated by the Attorney General, provided the employers were approved to participate in the program.

Asylum and Related INS Adjudications Procedures

INS's adjudication structure and procedures, particularly for asylum cases, have recently been a focus of concern. The current processes used in asylum cases have been the center of controversy and the subject of litigation for several years. The following summarizes the issues and proposed changes:

1. Asylum and Related Adjudications Procedures

Administration spokesmen have indicated that the current asylum and exclusion procedures were not intended to accommodate large numbers of applicants. They have said the increase in the number of persons claiming asylum and the availability of judicial review have delayed the processing of claims so that there is a considerable backlog. They suggested expediting asylum and exclusion proceedings to resolve this situation. Those opposed to various aspects of expedited asylum and exclusion procedures have indicated that since past administrative decisions by INS have been interpreted by the

courts as improper, streamlining asylum and exclusion proceedings by abolishing judicial review would open the door to abuses. They also argued that the long delays involved in processing asylum claims are due to inefficiencies at INS rather than to judicial review. Concern has also been expressed that imposing a time limit for applying for asylum violates the U.N. Convention that prohibits return of those seeking asylum to a country of persecution whether or not the applicant seeks refuge promptly.

S. 529 and H.R. 1510 provide for expedited exclusion of undocumented aliens seeking to enter the United States unless claiming asylum. The House bill provides for an administrative review of such exclusions, while the Senate bill has no provision for such a review. These measures also provide for one claim for asylum unless there are changed circumstances in the alien's country and a limit of one administrative appeal. Both H.R. 1510 and S. 529 restrict review of asylum orders and specify that such review may occur only in the context of judicial review of final exclusion or deportation orders; they provide for judicial review in exclusion and deportation cases. The expanded provisions for judicial review in S. 529 are the result of a compromise Kennedy-Simpson amendment adopted during the Senate floor debate.

2. U.S. Immigration Board and Judge System

The current Board of Immigration Appeals reviews some decisions of immigration judges and rules on certain applications. It is not a statutory body but was created through regulations promulgated by the Attorney General. Immigration judges (or special inquiry officers) decide some immigration cases, including some relating to exclusion, deportation, and asylum. Immigration judges are Civil Service employees within INS. Concern has been expressed about the Board's uncertainty of status as well as the judges' credibility since they are accountable to one party in the litigation (INS). Suggested reforms of the Board and judges ranged from making the Board a statutory body to creating a court system completely outside the Justice Department (DOJ) to handle administrative determinations in immigration matters. The Administration proposed removing the immigration judges from INS and establishing them as an independent body within DOJ and providing statutory authority for the Board of Immigration Appeals. S. 529 and H.R. 1510 would provide statutory authority for establishing in the DOJ a U.S. Immigration Board to review decisions of immigration (or administrative law) judges and provide for the appointment of such judges. However, H.R. 1510 specifies that the Board would be an independent agency within the DOJ while S. 529 would establish the Board, separate from INS, within DOJ. In addition, S. 529 provides that the Attorney General shall appoint the law judges, while H.R. 1510 provides that the Chairman of the Board would appoint them. [For additional information, See IB83119, Immigration: Asylum Issues, by Sharon Masanz]

Immigrants and Refugees

Under current law, 270,000 numerically restricted immigrants may enter annually under a six-category preference system which gives priority to family members and those with needed skills. No country may use more than 20,000 of these numerically restricted numbers. Additionally, the spouses and unmarried minor children of U.S. citizens and the parents of adult U.S. citizens are exempt from the numerical limits, as are a small number of "special immigrants," including certain ministers of religion and residents of Panama. Immediate relatives of U.S. citizens accounted for approximately

170,000 entries in FY83. Finally, refugees adjusting to immigrant status after a year's residence in the United States are also exempt from numerical limitations. A total of 530,639 immigrants, including adjusting refugees, were admitted in FY80, and the preliminary figure for FY81 is 596,600.

Refugees are currently admitted outside the numerical limitations on immigrants, under a refugee ceiling determined each year by the President following consultation with the Congress. The Reagan Administration initially recommended an FY83 refugee ceiling of 98,000, but decreased the ceiling to 90,000 in response to the lower figures recommended by the Congress (Federal Register, vol. 47, Oct. 19, 1982: pp. 46483). A ceiling of 72,000 has been requested by the Administration for FY84, and agreed to through the Congressional consultation process.

As originally introduced in the 97th Congress, the Simpson-Mazzoli bill would have restructured the preference system regulating the entry of legal immigrants to separate the family and independent or occupational categories, as recommended by the Select Commission on Immigration and Refugee Policy. It would also have subtracted the numerically unlimited immediate relatives of U.S. citizens from the number of other family members which could be admitted the following year, in order to provide more control over the total number of immigrants entering annually. These provisions have been retained in the Senate bill but were eliminated in their entirety from the House bill by an amendment offered by House Judiciary Committee Chairman Peter Rodino during full Committee markup in the 97th Congress. Representative Rodino argued that it was premature to change the preference system before we know the results of legalization, and he also objected to a reduction in the numbers available for family reunification. The Reagan Administration had also opposed any major changes in the regulation of legal immigration.

As passed by the Senate in the 98th Congress, S. 529 provides for a ceiling of 425,000 on immigration, exclusive of refugees, with the number of immigrant visas issued to numerically unrestricted immediate relatives and special immigrants deducted from the ceiling the following year. Of the total, 350,000 is set aside for the family reunification categories, and 75,000 is allotted to the independent categories. The family reunification categories differ from those under current law in providing no preference for the adult children of permanent resident aliens or the married brothers and sisters of adult U.S. citizens. An amendment offered by Senator Edward Kennedy in Judiciary Committee markup to restore a preference for the unmarried brothers and sisters of U.S. citizens was accepted.

Under the 425,000 ceiling proposed by the Senate bill, countries would generally be subject to annual limits of 20,000 except for Mexico and Canada, which would be allowed 40,000 immigrant visas each with numbers unused by one country available to the other country the following year. H.R. 1510 would amend existing law to allow Mexico or Canada to have an additional 20,000 immigrant visas outside the worldwide ceiling of 270,000 whenever up to 90% of the initial 20,000 was made available to them. Additionally, the House bill would increase the limit on dependent areas from 600 to 3,000, a provision which would primarily benefit Hong Kong.

Other Legislation Receiving Action in the 98th Congress

Almost 100 bills with some bearing on immigration were introduced in the first session of the 98th Congress. The following summary of legislation is generally limited to bills that have passed one or both houses.

Restrictions on Alien Social Security Beneficiaries

P.L. 98-21, the Social Security Amendments of 1983, included in sec. 340 a provision restricting the eligibility of certain nonresident aliens seeking social security benefits as dependents or survivors of insured workers. Whether resident or not, alien workers seeking benefits based on their own U.S. work records are unaffected by the law. The amendment to the Social Security Act establishes a residency requirement in the United States for alien dependents and survivors of insured workers, whether or not the workers are U.S. citizens. The amendment applies to aliens who become otherwise eligible for benefits after Dec. 31, 1984. After an absence of six consecutive months from the United States, alien dependents and survivors may no longer receive benefits unless they can prove that they have lived in the United States for a total of at least five years in the same relationship to the worker upon which their eligibility is based (e.g., spouse, child, parent). Children whose parents meet the 5-year residency requirement are also deemed to be eligible. The above provision was the result of a conference agreement (H.Rept. 98-47, pp. 156-157).

Other relevant provisions of the Social Security Amendments of 1983 included sec. 121(c), which made half of the social security benefits received by nonresident aliens subject to tax; sec. 122(a) which made nonresident aliens ineligible for a tax credit for the elderly and the permanently and totally disabled; and sec. 345, which provided for the printing of social security cards on counterfeit-resistant banknote paper.

The bill receiving action was H.R. 1900. It was signed into law as P.L. 98-21 on Apr. 20, 1983. (For more information, see Issue Brief 82001, Social Security: Alien Beneficiaries.)

El Salvador

P.L. 98-164, the Department of State Authorization Act for FY84 and FY85, includes in section 1012 a sense of the Congress provision that certain Salvadorans who have been present in the United States since Jan. 1, 1983 should be granted extended voluntary departure status until conditions in El Salvador permit their safe return. The provision originated on the House side in H.R. 2915 and was amended in conference to define those individuals who should receive extended voluntary departure status (H.Rept. 98-563).

INS Appropriation

P.L. 98-166, the FY84 Justice Department appropriations act signed Nov. 28, 1983, appropriates \$501,257,000 for INS. This was the amount proposed by the Senate and agreed to in conference, compared to \$562,975,000 proposed by the House. The Conference report (H.Rept. 98-478) noted that the conferees were aware that the Administration was considering a FY84 supplemental budget request of \$93 million for INS, and that they would address the matter of additional resources at that point.

As reported by the House Judiciary Committee (H.Rept. 98-181), H.R. 2912, the Department of Justice FY84 Authorization Act, authorized a funding level of \$606,807,000 for INS.

The FY84 budget request for the Justice Department's Immigration and

Naturalization Service (INS) was \$539,261,000. INS's FY83 appropriation was \$484,431,000.

Refugee Resettlement and Cuban/Haitian Assistance

Funding authority for assistance for both refugee resettlement under title IV of the Immigration and Nationality Act as amended by the Refugee Act of 1980, and for Cuban/Haitian entrants under title V of the Refugee Education Assistance Act (Fascell-Stone) expired at the end of FY83. Both programs are currently operating under the authority of P.L. 98-151, the FY84 further continuing appropriations resolution, which appropriated funds at the FY83 rate with the provision that they not be distributed through block or per grants.

H..R. 3729, the Refugee Assistance Extension Act of 1983, would reauthorize the refugee resettlement assistance program through FY85. H.R. 3729 passed the House on Nov. 14, 1983 by a vote of 300 to 99 in the form that it was reported by the House Judiciary COMmittee (h.Rept. 98-404). Amendments to the enabling legislation include a requirement that the Secretary of HHS develop alternatives to cash assistance, provision of medical assistance to refugees to the extent of available appropriations for a one-year period after entry, and a prohibition against the distribution of refugee assistance in block grants. (For more information, see Issue Brief 83060, Refugee Act Reauthorization: Admissions and Resettlement Issues.)

Special Impact Aid for Educating Alien Children

P.L. 98-151, the further continuing appropriations resolution for FY84, appropriated \$30 million for the education of "immigrant" children, including undocumented aliens, under the terms of H.R. 3520 as passed by the House.

H.R. 3520, the Rehabilitation Act Amendments of 1983 passed by the House on Sept. 13, 1983, was amended during the House floor action to provide special impact aid for the education of immigrant children. Title V of the House-passed bill authorizes appropriations for three years through fiscal year 1986 for State grants to be calculated at a rate of \$500 per alien child in school districts having a population of 500 such students or a number equal to 5% of the school population.

P.L. 98-166, the Department of Justice appropriations act, continues the prohibition during FY84 on the use of Legal Service Corporation funds for most aliens not admitted for lawful permanent residence, including nonimmigrants, entrants and parolees, and undocumented aliens.

LEGISLATION

P.L. 98-21, H.R. 1900

Social Security Amendments of 1983. Includes restriction on the payment of social security benefits to certain nonresident alien dependents and survivors. Requires the printing of social security cards on counterfeit-resistant banknote paper. Passed House on Mar. 9 and Senate on Mar. 23; conference report (H.Rept. 98-47) agreed to by House on Mar. 24 and Senate on Mar. 25; signed by the President on Apr. 20, 1983.

P.L. 98-151, H.J.Res. 413

Further Continuing Appropriations, FY84. Includes FY84 appropriation at the current rate for refugee resettlement assistance and for assistance to Cuban and Haitian entrants, with the provision that the funds may not be distributed through block or per capita grants. Appropriates \$30 million for special impact aid for educating alien children. Passed House on Nov. 10 and Senate on Nov. 11, 1983; House and Senate agreed to conference report (H.Rept. 98-540) and amendments on Nov. 12; signed by the President on Nov. 14, 1983.

P.L. 98-164, H.R. 2915

Department of State Authorization Act, FY84 and 85. Includes sense of the Congress provision that certain Salvadorans should be granted extended voluntary departure until conditions in El Salvador permit their safe return. Passed House on June 9 and Senate on Oct. 20, 1983; House and Senate agreed to conference report on Nov. 17 and 18, 1983, respectively; signed by the President on Nov. 28, 1983.

P.L. 98-166, H.R. 3222

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations, 1984. Includes a FY84 appropriation of \$501,257,000 for INS. Prohibits use of Legal Service Corporation funds for undocumented aliens and most aliens not admitted for permanent residence. Passed House on Sept. 19 and Senate on Oct. 21, 1983; House agreed to conference report on Nov. 9 and Senate agreed on Nov. 15, 1983, both cases with subsequent amendment; signed by the President on Nov. 28, 1983.

H.R. 1510

Immigration Reform and Control Act of 1983, as reported by the House Judiciary Committee.

Title I -- Control of Illegal Immigration. Part A, Employment, amends Immigration and Nationality Act (INA) to prohibit the hiring, and recruitment or referral for a fee, of aliens known to be unauthorized to accept employment, and establishes a graduated series of penalties for violation consisting of an administrative citation for a first offense, which need not be knowing, civil penalties of \$1,000 and \$2,000 for second and third offenses, and a criminal penalty of up to \$3,000 and/or one year imprisonment for subsequent offenses. Provides for injunctive relief in the event of a pattern or practice of violation. Establishes voluntary employment verification procedures which become mandatory if an employer is found with undocumented aliens in his employ. Requires the President to report to the Congress within 3 years on such changes as may be necessary to determine employment eligibility. Increases penalties for fraud and misuse of certain documents. Part B increases enforcement appropriations, authorizes user fees, establishes penalties for the unlawful transportation of aliens to the United States, and requires a search warrant to enter agricultural lands. Part C, Adjudication Procedures and Asylum, revises asylum and exclusion procedures. Establishes an administrative law judge system and U.S. Immigration Board within the Department of Justice but independent of INS and the Attorney General. Part D prohibits the adjustment of status of nonimmigrants who have violated the terms of their visas.

Title II -- Reform of Legal Immigration. Part A, Immigrants, makes additional numbers available for Mexico, Canada, and dependent areas;

provides special immigrant status for certain G-4 spouses and children of international organization employees. Part B, Nonimmigrants, liberalizes H-2 temporary agricultural workers admissions procedures and establishes a transitional program; requires "F" and "M" nonimmigrant foreign students to return home for 2 years before adjusting to permanent resident status with provision for a waiver in specified fields; and provides for a pilot visa waiver program.

Title III -- Legalization. Establishes a temporary program authorizing the Attorney General, at his discretion, to adjust the status of otherwise eligible aliens who have been here continuously since prior to Jan. 1, 1982, to that of permanent resident alien; excludes legalized permanent resident aliens for 5 years from Federal assistance except for emergency medical care and aid for the aged, blind, and disabled. Authorizes Federal reimbursement to States and localities for public assistance and educational services to legalized aliens.

Title IV -- Expresses the sense of the Congress that certain Salvadorans should be granted extended voluntary departure.

The bill was introduced Feb. 17, 1983; referred to Committee on the Judiciary. Approved by the Subcommittee on Immigration, refugees, and International Law on Apr. 6, 1983. Ordered reported by the Committee on the Judiciary on May 5, 1983. Reported May 13 (H.Rept. 98-115, pt. I). Reported by the Committee on Agriculture June 27 (H.Rept. 98-115, pt. II); reported by the Committee on Energy and Commerce June 28 (H.Rept. 98-115, pt. III); reported by the Committee on Education and Labor June 28, 1983 (H.Rept. 98-115, pt. IV).

H.R. 2466 (Miller et al.)

Amends the Immigration and Nationality Act with respect to the admission of nonimmigrant workers to the United States for temporary employment. Tightens provisions for the admission of H-2 workers, particularly in agriculture. Identical to amendments to the H-2 provision reported by the Committee on Education and Labor in the 97th Congress (H.Rept. 97-890, pt. II). The bill was introduced Apr. 12, 1983; referred jointly to the Committees on the Judiciary and on Education and Labor.

H.R. 3729 (Mazzoli et al.)

Refugee Assistance Extension Act of 1983. Reauthorizes refugee assistance programs through FY85 at the following annual levels: \$100 million for social services; \$14 million for health screening activities; \$50 million for targeted assistance; and such sums as are necessary for other refugee assistance programs. Requires Secretary of HHS to develop and implement alternatives to refugee cash assistance. Provides for specific legal and financial obligations for refugees during first 90 days in voluntary agency contracts. Authorizes appropriations for partial reimbursement of States and counties for certain incarcerated Cuban entrants. Provides for the refusing to participate in a social service or targeted assistance program, or refusing to be interviewed for a job. To the extent of available appropriations, provides that medical assistance be made available to refugees for the first year they are in the United States. Prohibits the distribution of refugee assistance in block grants. Authorizes targeted assistance to areas with high concentrations of refugees. Requires the General Accounting Office to monitor reception and placement grants annually, and sets forth certain conditions for the grants. Establishes the Office of Refugee Resettlement in the Office of the Secretary at the Department of

Health and Human Services. Provides for the administration of refugee education assistance by the Department of Education. Introduced Aug. 1, 1983; referred to the Committee on the Judiciary. Ordered reported by the Committee on the Judiciary Sept. 27, 1983. Reported Oct. 5, 1983 (H.Repted by the Committee on the Judiciary Sept. 27, 1983. Reported Oct. 5, 1983 (H.Rept. 98-404). Passed House Nov. 14 by a vote of 300 to 99.

S. 529 (Simpson)

Immigration Reform and Control Act of 1983.

Title I -- Control of Illegal Immigration. Resembles broad outlines of H.R. 1510, title I, as summarized above, except as noted. Penalties for violation of the prohibition against employing, etc. unauthorized aliens consist of civil fines of \$1,000 for a first offense and \$2,000 for a second offense, and a criminal misdemeanor penalty of up to a \$1,000 fine and/or 6 months imprisonment for a pattern or practice of violation, with injunctive relief also provided. Compliance with the verification procedures is mandatory with a \$500 fine for violation. Requires the President within three years of enactment to implement, rather than report to the Congress on, such changes as may be necessary to establish a secure system for determining employment eligibility, but includes provision for congressional review. Does not authorize user fees. U.S. Immigration Board within the Department of Justice would not be independent of the Attorney General as it would under the House version.

Title II -- Reform of Legal Immigration. Establishes a numerical limitation of 425,000 on all immigration, exclusive of refugees, with 350,000 allotted for family reunification, minus the number issued to numerically unrestricted immediate relatives the preceding year; and 75,000 allotted for independents, minus the number issued to numerically unrestricted special immigrants the preceding year. Provides up to 40,000 immigrant visas each for Canada and Mexico annually, with unused numbers transferable the following year. Amends labor certification requirement to permit use of nationwide data. Other provisions broadly similar to H.R. 1510 as summarized above.

Title III -- Legalization. Establishes a temporary program authorizing the Attorney General, at his discretion, to adjust the status of otherwise eligible aliens who have been here continuously since prior to Jan. 1, 1977, to that of permanent resident alien; and of otherwise eligible aliens who have been here continuously since prior to Jan. 1, 1980, to temporary resident status, with an option to apply for adjustment to permanent resident status after 3 years. Excludes legalized temporary resident aliens and, for 3 years, permanent resident aliens from all Federal assistance, and authorizes State block grants for legalization impact assistance.

Title IV -- General Provisions. Requires a series of reports to the Congress; expresses the sense of the Congress that immigration law should be enforced vigorously and fairly; authorizes appropriations; expresses the sense of the Congress that English and no other language is the official language of the United States; expresses the sense of the Senate that the Department of Labor should reexamine the adverse effect wage rate for West Virginia; and provides for Federal reimbursement of States incarcerating illegal aliens or refugees convicted of felonies.

The bill was introduced Feb. 17, 1983; referred to Committee on the Judiciary. Reported by the Senate Judiciary Committee on Apr. 21, 1983 (S.Rept. 98-62). Passed Senate by a vote of 76 to 18 on May 18, 1983.

S. 1340

As passed by House (formerly H.R. 3520). Rehabilitation Act Amendments of 1983. Title V of the House-passed bill authorizes special impact aid for educating alien children. Adopted during floor consideration of H.R. 3520. Passed House Sept. 13, 1983.

HEARINGS

- U.S. Congress. House. Committee on Education and Labor.
Subcommittee on EMPLOYMENT OPPORTUNITIES. Hearing on employment discrimination and immigration reform. Hearing, 98th Congress, 1st session, on H.R. 1510. Washington, U.S. Govt. Print. Off., 1983. 261 p.
- Subcommittee on Labor Standards. Hearing on proposals to amend the Immigration and Nationality Act. Hearing, 98th Congress, 1st session. Washington, U.S. Govt. Print. Off., 1983. 65 p.
- U.S. Congress. House. Committee on the Judiciary.
Subcommittee on Immigration, Refugees, and International Law. Immigration reform. Hearings, 97th Congress, 1st session. Parts 1-2. Washington, U.S. Govt. Print. Off., 1982.
Hearings held between Oct. 14 and Nov. 19, 1981.
"Serial no. 30"
- Administration's proposals on immigration and refugee policy. Joint hearing before the Subcommittee on Immigration, Refugees, and International Law of the House Committee on the Judiciary and Subcommittee on Immigration and Refugee Policy of the Senate Committee on the Judiciary, 97th Congress, 1st session. July 30, 1981. Washington, U.S. Govt. Print. Off., 1982. 78 p.
"Serial no. 21"
- Immigration Reform and Control Act of 1982. Joint hearings before the Subcommittee on Immigration, Refugees, and International Law of the House Committee on the Judiciary and Subcommittee on Immigration and Refugee Policy of the Senate Committee on the Judiciary, 97th Congress, 2d session, on H.R. 5872/S. 2222. Apr. 1 and 20, 1982. Washington, U.S. Govt. Print. Off., 1982. 785 p.
"Serial no. 40"
- Immigration Reform and Control Act of 1983. Hearings, 98th Congress, 1st session, on H.R. 1510. March 1983. Washington, U.S. Govt. Print. Off., 1983. 1507 p.
"Serial no. 2"
- Committee on Post Office and Civil Service. Subcommittee on Census and Population. Immigration Reform and Control Act of 1982. Hearing, 97th Congress, 2d session. Dec. 9, 1982. Washington, U.S. Govt. Print. Off., 1983. 112 p.
"Serial no. 97-55"
- U.S. Congress. Senate. Committee on the Judiciary.

- Subcommittee on Immigration and Refugee Policy. Asylum adjudications. Hearings, 97th Congress, 1st session. Oct. 14 and 16, 1981. Washington, U.S. Govt. Print. Off., 1982. 293 p.
"Serial no. J-97-66"
- Final report of the Select Commission on Immigration and Refugee Policy. Joint hearings before the Subcommittee on Immigration and Refugee Policy of the Senate Committee on the Judiciary, and the Subcommittee on Immigration, Refugees and International Law of the House Committee on the Judiciary, 97th Congress, 1st session. May 5, 6, 7, 1981. Washington, U.S. Govt. Print. Off., 1981. 704 p.
"Serial no. J-97-38"
- G-IV visa relief proposals. Hearing, 97th Congress, 2d session. Feb. 1, 1983. Washington, U.S. Govt. Print. Off., 1982. 114 p.
"Serial no. J-97-93"
- The knowing employment of illegal immigrants. Hearing, 97th Congress, 1st session, on employer sanctions. Sept. 30, 1981. Washington, U.S. Govt. Print. Off., 1982. 477 p.
"Serial no. J-97-61"
- Legalization of illegal immigrants. Hearing, 97th Congress, 1st session. Oct. 29, 1981. Washington, U.S. Govt. Print. Off., 1982. 221 p.
"Serial no. J-97-77"
- Nonimmigrant business visas and adjustment of status. Hearing, 97th Congress, 2d session. Dec. 11, 1981. Washington, U.S. Govt. Print. Off., 1982. 147 p.
"Serial no. J-97-86"
- Numerical limits on immigration to the United States. Hearing, 97th Congress, 2d session. Jan. 25, 1982. Washington, U.S. Govt. Print. Off., 1982. 230 p.
"Serial no. J-97-89"
- The preference system. Hearing, 97th Congress, 1st session. Nov. 23, 1981. Washington, U.S. Govt. Print. Off., 1982. 240 p.
"Serial no. J-97-83"
- Systems to verify authorization to work in the United States. Hearing, 97th Congress, 1st session. Oct. 2, 1981. Washington, U.S. Govt. Print. Off., 1982. 207 p.
"Serial no. J-97-63"
- Temporary workers. Hearing, 97th Congress, 1st session, on a new temporary worker program with Mexico: Oct. 22, 1981. Washington, U.S. Govt. Print. Off., 1982. 285 p.
"Serial no. J-97-75"
- United States as a country of mass first asylum. Hearing, 97th Congress, 1st session, on oversight on the legal

status of the Cubans and Haitians who have entered the United States and the policies and procedures which should be adopted in order to handle future mass asylum cases and crises. July 31, 1981. Washington, U.S. Govt. Print. Off., 1982. 272 p.

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- Refugee Assistance Extension Act of 1983; report to accompany H.R. 3729. Oct. 5, 1983. 34 p. (98th Congress, 1st session. House. Report no. 98-404)
- U.S. Congress. Senate. Committee on the Judiciary. Immigration reform and control; report to accompany S. 2222. June 30, 1982. 128 p. (97th Congress, 2d session. Senate. Report no. 97-485)
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