Union Calendar No. 481

104th Congress, 2d Session - - - - - - - - - - - - House Report 104-879

REPORT ON THE ACTIVITIES

OF THE

COMMITTEE ON THE JUDICIARY

OF THE

HOUSE OF REPRESENTATIVES

DURING THE

ONE HUNDRED FOURTH CONGRESS

PURSUANT TO

CLAUSE 1(d) RULE XI OF THE RULES OF THE HOUSE OF REPRESENTATIVES

JANUARY 2, 1997.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1997

36-501

ing federal courts to determine when court supervision of public school districts should be terminated. The witnesses were Daniel McMullen, the court-appointed special master in *Reed v. Rhodes*, the Cleveland school desegregation lawsuit initiated in 1973; Ohio State Representative Ron Mottl; Dr. Thomas Bier, Director, Housing Policy Research Program at Cleveland State University; Louis Erste, Fellow, Citizens League Research Institute; Lawrence Lumpkin, President, Cleveland Board of Education; Don Sopka, Councilman, Broadview Heights City Council; Richard McCain, Plaintiff Class Representative in *Reed* v. *Rhodes;* Genevieve Mitchell, Executive Director, Community Services, Black Women's Center; Joyce Haws, Communications Director, National Association of Neighborhood Schools; and a variety of citizens who spoke during the "open-mike" segment at the end of the hearing.

On April 16, 1996, the Subcommittee held a hearing on "Legislative Responses to School Desegregation Litigation." The witnesses were Representative William Lipinski (D–IL); Representative Martin Hoke (R–OH); Dr. David Armor, Research Professor, Institute of Public Policy, George Mason University; William Taylor, attorney and Vice-Chairman, Leadership Conference on Civil Rights; Charles J. Cooper, Shaw, Pittman, Potts & Trowbridge and former Assistant Attorney General for the Office of Legal Counsel; Theodore Shaw, Associate Director-Counsel, NAACP Legal Defense and Education Fund; and Marcy Canavan, Chairman, Board of Education of Prince George's County Public School District.

SUBCOMMITTEE ON IMMIGRATION AND CLAIMS

LAMAR SMITH, Texas, *Chairman*

ELTON GALLEGLY, California	JOHN BRYANT, Texas
CARLOS J. MOORHEAD, California	BARNEY FRANK, Massachusetts
BILL McCOLLUM, Florida	CHARLES E. SCHUMER, New York
SONNY BONO, California	HOWARD L. BERMAN, California
FRED HEINEMAN, North Carolina	XAVIER BECERRA, California
ED BRYANT, Tennessee	

Tabulation and disposition of bills referred to the subcommittee

Legislation referred to the Subcommittee	102
Legislation reported favorably to the full Committee	5
Legislation reported adversely to the full Committee	0
Legislation reported without recommendation to the full Committee	0
Legislation reported as original measure to the full Committee	0
Legislation discharged from the Subcommittee	7
Legislation pending before the full Committee	0
Legislation reported to the House	5
Legislation discharged from the Committee	7
Legislation pending in the House	0
Legislation passed by the House	12
Legislation pending in the Senate	3
Legislation vetoed by the President (not overridden)	0
Legislation enacted into public law	
Legislation on which hearings were held	
Days of hearings (legislative and oversight)	10
Private bills:	
Claims bills referred to subcommittee	1
Immigration bills referred to subcommittee	1
Bills on which hearings were held	
Bills heard/reported favorably to committee	
Claims bills not heard/reported favorably to committee	
Immigration bills referred to subcommittee	
Bills reported adversely to full committee	
Claims bills ordered reported to the House	1
Immigration bills ordered reported to the House	1
Claims bills which passed the House	1
Immigration bills which passed the House	2
Claims bills pending in the House	1
Immigration bills pending in the House	0
Claims bills pending in the Senate	6
Immigration bills pending in the Senate	0
Bills recommitted to the Committee	0
Bills passed and referred to U.S. Claims Court	0
Claims bills which became law	2
Immigration bills which became law	2

JURISDICTION OF THE SUBCOMMITTEE

The Subcommittee on Immigration and Claims has legislative and oversight over matters involving: immigration and naturalization, admission of refugees, treaties, conventions and international agreements, claims against the United States, federal charters of incorporation, private immigration and claims bills, and other appropriate matters as referred by the Chairman of the Judiciary Committee.

PUBLIC LEGISLATION ENACTED INTO LAW

Comprehensive Immigration Reform: The Illegal Immigration Reform and Immigrant Responsibility Act of 1996

LEGISLATIVE HISTORY

More complete detail on the background, specific provisions, and legislative history of the "Illegal Immigration Reform and Immigrant Responsibility Act of 1996" may be found in the following Reports: *Immigration in the National Interest Act of 1995: Report of the Committee on the Judiciary, House of Representatives, on H.R. 2202* (Rept. 104–469, Part I) (March 4, 1996); and *Conference Report: Illegal Immigration Reform and Immigrant Responsibility Act of 1996* (Rept. 104–828).

BACKGROUND

The United States is a nation of immigration. This proud tradition has been tarnished in recent decades by failures to set clear priorities in our system of legal immigration and to enact and enforce the measures necessary to prevent the rising tide of illegal immigration. Unlimited immigration is a moral and practical impossibility. In the words of the 1981 report of the Select Commission on Immigration and Refugee Policy, "[o]ur policy—while providing opportunity for a portion of the world's population—must be guided by the basic national interests of the United States."

In the intervening years, this basic message was not heeded. Despite several immigration reform efforts, there was a failure to clearly define the national interests at stake in immigration policy. The American public, as well as people seeking to abuse the generosity of this nation, came to believe that the Federal Government lacked the will and the means to enforce existing laws and to enact new ones. The statistics supported this perception: more than 5 million illegal aliens resided in the United States at the start of the 104th Congress, with an average net increase each year of 300,000; approximately half of these illegal residents had arrived with legal temporary visas and had overstayed; each year, tens of thousands of illegal aliens were ordered deported but were not removed from the United States due to lack of resources and legal loopholes; and the legal immigration system failed to unite nuclear families promptly, encouraged the "chain migration" of extended families, and admitted the vast majority of immigrants without regard to their level of education, job skills, or language preparedness.

These failures in immigration enforcement imposed genuine social costs. Every three years, enough illegal immigrants entered the country to populate a city the size of Boston, Dallas, or San Francisco. More than 25 percent of the population of Federal prisons consisted of illegal aliens, most of whom had been convicted of drug crimes. Up to 50 percent of illegal immigrants used fraudulent documents to obtain work or public benefits. There was a 580 percent increase over 12 years in the number of immigrants receiving Supplemental Security Income, a form of welfare. The principle that immigrants should be self-sufficient and not become public charges was frequently violated. In addition, the phenomenon of "chain migration" led to demands on the legal immigration system that could

not be satisfied: as of 1995, more than 3.5 million persons were waiting in backlogs for admission under the various family-based categories, including more than a million spouses and minor children of lawful permanent residents. These backlogs created an additional incentive for aliens to enter the U.S. illegally and wait here for their visa to be issued. Hundreds of thousands of aliens have done exactly this. By so broadly defining the category of "family" that can be admitted via relative petitions, the legal immigration system fails to provide a system for selecting immigrants that is more objectively linked to the national interest.

The Immigration in the National Interest Act of 1995 ("Act"), originally introduced as H.R. 1915 and re-introduced as H.R. 2202, set out to change these realities by enacting the most comprehensive reform of American immigration policy in the past generation. Previous legislation, notably the Immigration Act of 1965, the Refugee Act of 1980, the Immigration Reform and Control Act of 1986, and the Immigration Act of 1990, have had a profound impact on U.S. immigration policy. Some provisions of these laws, however, contributed to the problems we now face by failing to set clear priorities for our immigration system, and failing to provide tough sanctions against those who violate our immigration laws. In addition, these laws failed to treat migration as a comprehensive phenomenon, and failed to make the tough choices on priorities that would restore credibility both to our systems of admitting legal immigrants and deterring, apprehending, and removing illegal immigrants. More fundamentally, the law failed to provide adequate resources and enforcement tools to the Immigration and Naturalization Service (INS) to carry out its critical functions.

HEARINGS

The Immigration in the National Interest Act was originally introduced as H.R. 1915 on June 22, 1995. Prior to introduction, the Subcommittee on Immigration and Claims, chaired by Rep. Lamar Smith (TX), held eight hearings, with a total in excess of 100 witnesses, to discuss problems and proposed solutions in the areas of illegal immigration and legal immigration: border security; detention and removal of illegal and criminal aliens; worksite enforcement of employer sanctions; the impact of illegal immigration on public benefit programs and the American labor force; visa overstays; verification of eligibility for employment and public benefits; and legal immigration reform proposals.

COMMISSION ON IMMIGRATION REFORM

Much of the framework for H.R. 2202 was based on the work of the bipartisan U.S. Commission on Immigration Reform, chaired by former Congresswoman Barbara Jordan. The Commission was created by the Immigration Act of 1990 (Public Law 101–649) and mandated to report to Congress with analysis and recommendations regarding the implementation of and impact of U.S. immigration policy. The Commission has issued two major reports: U.S. IMMIGRATION POLICY: RESTORING CREDIBILITY (1994) and LEGAL IMMIGRATION: SETTING PRIORITIES (1995). The Commission held public hearings and consultations in cities across the United States as well as undertaking a systematic analysis of immigration re-

ment procedures, the economic and social characteristics of recent immigrants, and the impact of immigration on the labor market, business, and public benefit programs.

The Commission's recommendations in the 1994 Report included enhanced border enforcement, including deployment of personnel directly on the border to deter illegal immigrations; streamlining of processes to remove illegal aliens, particularly criminal aliens, from the United States; and an improved verification system to prevent illegal aliens from being employed or receiving public benefits. The recommendations in the 1995 Report were for a restructuring of the legal immigration system to reflect the following priorities: unification of the nuclear families of U.S. citizens and lawful permanent residents; admission of highly-skilled immigrants to enhance the competitiveness of U.S. companies and encourage economic growth; providing humanitarian protection to refugees; and enforcing established limits within each of the legal immigration categories.

SUMMARY OF LEGISLATION AS INTRODUCED

On June 22, 1995, H.R. 1915, the "Immigration in the National Interest Act of 1995," was introduced by Representative Lamar Smith, Chairman of the Subcommittee on Immigration and Claims. The bill was referred to the Committee on the Judiciary, and in addition to the Committees on National Security, Economic and Educational Opportunities, Government Reform and Oversight, Ways and Means, Commerce, Agriculture, and Banking and Financial Services, for a period to be subsequently determined by the Speaker.

The Act as introduced included eight titles, each reflecting a key area of immigration policy in need of reform.

Border Security

Title I mandated improvements in the security of the nation's land borders by requiring an increase of 1,000 per year through FY 2000 in the number of U.S. Border Patrol agents. In order to prevent illegal immigration, the new agents were to be deployed in sectors of the border with the highest number of illegal crossings into the U.S., and agents in these sectors were to be "forward deployed" to provide a visible deterrent to illegal entry. In addition, new fences and roads to deter illegal entries would have to be constructed, including a 14-mile triple fence extending eastward from San Diego, the most heavily-traveled corridor for illegal entry into the U.S. These provisions followed closely the recommendations of the Jordan Commission, which called for increased personnel and technology resources, appropriate use of fences, and adoption of strategies of prevention and deterrence similar to "Operation Hold the-Line," a successful initiative of the Border Patrol in El Paso, Texas. The Commission also recommended, and the legislation included, provisions to ensure the security of the Border Crossing Identification Card, a document issued chiefly to Mexican citizens for the purpose of short-term visits to the border area of the U.S. These documents have been subject to fraudulent use and counterfeiting; the legislation called for re-issuance of such cards, with enhanced security features. Finally, Title I called for establishment

a pilot program to repatriate deported aliens to the interior of their home country, in order to deter repeated attempts to the U.S., and for a pilot program to track departures of aliens from the United States, in order to better identify the extent of the visa-overstay problem.

Alien Smuggling

Title II focused on the problem of alien smuggling. In line with the Commission's recommendations, this title increased penalties for alien smuggling, established liability under the Racketeer Influenced and Corrupt Organizations Act (RICO) for alien smuggling crimes, increased penalties for document fraud, expanded the investigatory authority of the INS, and expanded the use asset forfeiture against those involved in alien smuggling.

Removal of Illegal and Criminal Aliens

Title III was the heart of the Act's reform of procedures dealing with illegal aliens. The Commission recommended that greater priority and resources be given to the apprehension, detention, and removal of criminal aliens. Title III expanded on this recommendation to propose a thorough reform of all procedures to inspect, apprehend, detain, adjudicate, and remove illegal aliens from the U.S. In addition, Title III authorized greater resources to be devoted to the effort of removing illegal aliens.

The first aspect of the reforms in Title III concerned the legal status of aliens entering or attempting to enter the U.S. One urgent problem in recent years has been the arrival at U.S. airports of smuggled aliens who possess fraudulent or otherwise invalid travel documents, or who have destroyed their documents en route, and who make claim to asylum in order to be able to remain in the U.S. Because of delays in the asylum system, hearings were often scheduled for months later. If not detained, the aliens would most often disappear and become long-term illegal residents. Title III addressed this problem by establishing a system of "expedited removal": aliens arriving with fraudulent or no documents would not be eligible for a hearing before an immigration judge, or for any rights of appeal, because they clearly had no right to enter the U.S. As such, these aliens could be returned immediately to their point of departure. If an alien claimed asylum, an expedited procedure would be provided, including an interview by a trained asylum officer, to determine if the alien had a "credible fear" of persecution. This standard, lower than the "well-founded fear" standard needed to receive asylum, was intended to separate meritorious claims from clearly non-meritorious claims. It was also intended to make this determination in a prompt but fair manner, so that aliens in need of protection could remain in the U.S., while those making frivolous claims would be removed.

The second aspect of reforms in Title III concerned the status of and procedures afforded to aliens who have already entered the U.S. The first basic step was to modify the "entry" doctrine, an interpretation of the Immigration and Nationality Act (INA) which held that an alien who has made an entry onto U.S., even illegal and transitory, is entitled to the same rights in deportation pro-

was to eliminate the distinction between "exclusion" and "deportation" proceedings, a distinction that caused needless litigation and procedural delay and which had outlived its usefulness. Instead, a single form of "removal" proceeding would be established, with different burdens of proof assigned on the basis of the alien's status in the U.S. Thus, an illegal alien would have the burden to prove his or her right to remain in the U.S., while in the case of a long-term permanent resident of the U.S., the burden would be on the Government to establish why the alien should be removed. Just as important, the legislation amended the rules regarding eligibility for relief from deportation, which is based in part on the length of an alien's residence in the U.S. The reforms ended the accrual of time-in-residence on the date an alien is placed into removal proceedings, thus removing the incentive for aliens to prolong their cases in the hope of remaining in the U.S. long enough to be eligible for relief. The reforms also toughened the other standards for granting such relief to illegal aliens and, in particular, to criminal aliens.

The Title III reforms also imposed greater accountability for the detention and removal of aliens at the close of the hearing process. The Inspector General of the Department of Justice has found that the vast majority of aliens who are not detained at the close of deportation proceedings abscond and are not removed from the U.S., while the vast majority of those who are detained do depart the U.S. The reforms thus required increased detention of aliens who are ordered removed, and for removal to be completed within 90 days of a final order of removal. The reforms also ended the practice of granting an automatic stay of removal to aliens who appeal their orders to the Federal courts. Finally, the process for appeals was streamlined and the scope of judicial review narrowed.

Title III also provided for special removal procedures to be employed in cases involving terrorists and in which the use of normal procedures would pose a risk to national security. These proceedings would be conducted by Federal district court judges specially appointed for this task by the Chief Justice of the Supreme Court. Aliens would have the right to be represented by attorneys appointed at Government expense. Classified information could be examined *in camera*, with a summary of such evidence provided to the alien. In rare circumstances where even the presentation of a summary would case harm to the national security or to any person, the proceeding could go forward without providing a summary of evidence to the alien. In such cases involving a lawful permanent resident, the withheld information would be provided to a special attorney representing the alien, but who could not disclose the information to the alien or to any other individual. The special attorney could, however, contest the veracity, reliability, or sufficiency of the evidence as a basis for removing the alien from the U.S. The alien or the Government would have the right to appeal as adverse ruling to the U.S. Court of Appeals for the District of Columbia, and to seek review by the Supreme Court of the United States.

The remainder of Title III made a number of other changes to policies and procedures for the removal of illegal aliens. It established membership in a terrorist organization as a basis for exclusion from the U.S.; denied immigration benefits and relief to alien terrorists; made air carriers liable for the detention costs (not actual detention) of certain aliens brought to the U.S.; raised carrier fines for bringing unlawful aliens to the U.S.; broadened the definition of "conviction" to make it easier to deport criminal aliens from the U.S.; defined the status of immigration judges in the removal process; provided civil penalties for aliens who fail to depart the U.S. under an order of removal; and enhanced criminal penalties for certain immigration crimes, including illegal reentry and passport and visa fraud.

Employer Sanctions and Verification

The availability of jobs in the U.S. economy is a primary magnet for illegal immigration. The employment of illegal aliens, in turn, cases deleterious effects for U.S. workers. The Commission on Immigration Reform found that "[f]or years, U.S. policy tacitly accepted illegal immigration, as it was viewed by some to be in the interests of certain employers and the American public to do so."

Following the recommendation of the 1981 Select Commission, the Immigration Reform and Control Act of 1986 prohibited the employment of illegal aliens and introduced the requirement that all employers verify the status of their new employees to determine their eligibility to work. The verification procedure is carried out through the "I–9" form, which requires new employees to provide one of 29 different documents to establish their eligibility to work. Criminal sanctions apply to employers who knowingly hire illegal aliens. Enforcement of this scheme of verification and employer sanctions has been hampered by the rampant use of fraudulent documents, confusion on the part of employers, and continued access by illegal aliens to jobs and public benefits.

The Commission on Immigration Reform recommended several key changes to improve the verification process and sanctions enforcement. The Commission concluded that the most promising option for secure, non-discriminatory verification is a computerized registry using data provided by the Social Security Administration (SSA) and the INS. The key to this process would be the social security number: the new verification system would permit employers to quickly check whether a social security number provided by a new employee is valid and has been issued to an individual authorized to work in the U.S. Such a system would be more resistant to fraud because it would not rely on identification documents, most of which are easily counterfeited and available for sale. The system would reduce the temptation to discriminate against persons of apparent foreign origin because all employees would be subject to the same "color-blind" test. Finally, employers would save in time, resources, and paperwork by not having to check documents and maintain paper records. The Commission also recommended that the system be designed to allow the verification of the accuracy of data in the registry, to continually monitor the accuracy of such data, to protect the privacy of information in the registry, and to phase in the system through pilot projects. Finally, the Commission recommended enhanced worksite enforcement to target employers and industries that knowingly and/or frequently employ illegal aliens.

Title IV of H.R. 1915 included a modified version of the Commission's recommendations. It provided for increased personnel to enforce employer sanctions and wage and hour laws at the worksite. It streamlined the I–9 process by reducing from 29 to 6 the number of documents that may be presented to an employer to establish eligibility to work: a passport or alien registration card or resident alien card, or a social security card in combination with a driver's license or state ID card. It also required the establishment, by October 1, 1999, of a nationwide mechanism to verify the eligibility of employees through checking their social security numbers or alien registration numbers. The verification mechanism would be instituted on a pilot basis within 6 months of the enactment in 5 of the 7 states with the highest population of illegal aliens.

The verification mechanism under H.R. 1915 would work as follows: As under current law, once an applicant has accepted a job offer, he or she would present certain documents to the employer. The employer, within three days of the hire, must examine the document(s) to determine whether they reasonably appear on their face(s) to be genuine and complete an I–9 form attesting to this examination. The employer would also have three days from the date of hire (which can be before the date the new employee actually reports to work) to make an inquiry by phone or other electronic means to the confirmation office established to run the mechanism. If the new hire claimed to be a citizen, the employer would transmit his or her name and social security number. The confirmation office would compare the name and social security number provided against information contained in the Social Security Administration database. If the new hire claimed to be a non-citizen, the employer would transmit his or her name, social security number and alien identification number. The confirmation office would compare the name and social security number provided against information contained in the SSA database and would compare the name and alien number provided against information contained in the INS database.

When the confirmation office ascertained that the new hire is eligible to work, the operator would within three days so inform the employer and provide a confirmation number. If the confirmation office could not confirm the work eligibility of the new hire, it would within three days so inform the employer of a tentative nonconfirmation and provide a tentative nonconfirmation number. If the new hire wished to contest this finding, "secondary verification" will be undertaken. Secondary verification would be an expedited procedure set up to confirm the validity of information contained in the government databases and provided by the new hire. Under this process, the new hire would typically contact or visit the SSA and/or INS to see why the government records disagree with the information he or she has provided. If the new hire requested secondary verification, he or she could not be fired on the basis of the tentative nonconfirmation. If the discrepancy were reconciled, then confirmation of work eligibility and a confirmation number would be given to the employer by the end of this period. If the discrepa were not reconciled or the employee does not attempt to rec the information, then final denial of confirmation and a final n nfirmation number would be given the end of this period; the

employer would then have to dismiss the new hire as being ineligible to work in the United States.

Legal Immigration Reform

Background.—Congress has the Constitutional task to set immigration policy in the national interest. As a result of legislation enacted in 1965, 1986, and 1990, the United States has dramatically increased overall levels of legal immigration. During the past 15 years, we have admitted or legalized almost 12 million immigrants: an average of 733,000 each year legal immigrants were admitted or legalized from 1981–1990, and a whopping 1.13 million per year from 1991–1994. These numbers include the amnesty granted to 2.7 million illegal aliens under the 1986 Immigration Reform and Control Act. There is no comparable sustained period of immigration growth in American history.

Such large increases in immigration create problems as well as opportunities for the American society and economy. While immigrants often bring new energy and vitality to our society and economy, the current system for selection of immigrants does not meet any clearly-defined national interests. A preponderance of immigrants (close to 9 million since 1980) are admitted without reference to their level of education or skills. The current cohort of immigrants is far more likely to have less than a high-school education than native-born Americans. This can have the effect of flooding the labor market for unskilled work, as well as creating pockets of impoverished immigrants who will be less likely to assimilate into the broader American society. These negative impacts are most keenly felt in the handful of States in which a vast majority of immigrants choose to live, and, ironically, cause most direct harm to recent immigrants. Legal immigration policy must strike a proper balance so that these problems do not overwhelm the opportunities that immigration brings to the nation, and result in job loss and displacement for American workers.

There also are legitimate concerns that the Government's and society's capacity for admitting, assimilating, and naturalizing immigrants have been strained by current levels of legal immigration. Again, these problems are heightened in high-immigration States. Our education system, for example, is burdened by the needs of immigrants who either are not proficient in English or illiterate in their own language or both. In Los Angeles county, education is provided in over 70 languages at a larger "per student" cost to the taxpayer. While we should expect a great deal of diversity in immigration, the U.S.'s capacity to absorb immigrants is not unlimited.

Family-based immigration, the dominant engine of immigration growth, is key to reform efforts. Demand in these categories has grown dramatically due to the beneficiaries of legalization under IRCA obtaining permanent resident status, and eventually citizenship, thus allowing them to petition for relatives abroad. Thus, most immigrants are admitted solely on the basis of their relationship to another immigrant. This pattern of "chain migration" not only distorts the selection criteria for legal immigrants, but may add additional incentive for people to attempt illegal im ation to the U.S.; since petitions for family-based immigrant s far exceed the statutory caps for admissions, more than 3.5 m on in

dividuals, including 1.1 million spouses and minor children of lawful permanent residents, are waiting for admission. The waiting list provides a powerful incentive for aliens to enter the U.S. illegally, or to overstay their visas, and wait to receive lawful status while residing in the U.S.

The basic failure of the current system, therefore, is that while it sets preferences, it fails to set priorities. For example, with a finite number of immigrant admissions, numbers allocated to brothers and sisters and other categories mean fewer numbers are allocated to the spouses and minor children of lawful permanent residents. The preservation of the nuclear family, therefore, should continue to be a cornerstone of U.S. immigration policy. The same priority cannot be given, and should not be given, to the admission of brothers and sisters and adult sons and daughters, solely on the basis of their family relationship to an immigrant. When an adult leaves his native land to emigrate to America, he or she makes a decision to be separated from brothers and sisters, parents, and adult children. This is a difficult decision in many cases, but ultimately, it is a decision that the immigrant has made.

Immigration policy cannot and should not attempt to soften the blow by holding out the hope that these adult families will be eligible to immigrate to the U.S. Clear evidence of this fact are the enormous backlogs that now exist in virtually all extended family categories. To clear out these backlogs, immigration law would have to provide up to an additional 2.4 million visas: a dramatic increase in legal immigration at a time when stabilization of immigrant numbers is called for. To compound the problem, these 2.4 million immigrants could petition for admission of their relatives, thus raising demand on the legal immigration system to an unprecedented level and creating new, exponentially larger backlogs.

Excessive backlogs in these admission categories undermine the credibility and integrity of U.S. immigration policy because they hold out a promise of opportunity to immigrate that cannot be met in the foreseeable future. Finally, the permanent excessive demand on the immigration system represented by these backlogs makes it difficult if not impossible to alter course and give greater priority to immigration categories that are more closely tied to the national interest. We can sympathize with people who have been waiting in line and may no longer be eligible for admission. But immigration is a privilege, not a right, and not all those eligible at one time for a visa can be guaranteed to receive one. Otherwise, immigration policy would be forever "locked in" to decisions and priorities of the past.

Commission Recommendations.—The Commission on Immigration Reform recommended a significant redefinition of priorities and a reallocation of existing admission numbers to ensure that immigration continues to serve our national interests. The Commission defined several principles that should guide immigration policy; the establishment of clear goals and priorities; the enforcement of immigration limits; regular periodic review; clarity and efficiency; enforcement of the financial responsibility of sponsors to prevent immigrants from becoming dependent on public benefits; protection of American workers; coherence; and "American

zation"—the assimilation of immigrants to become effective citizens.

The Commission recommended that there be three major categories of legal immigration—family-based, skills-based, and refugees. The current category for diversity admissions would be eliminated.

Within the family category, the spouses and minor children of U.S. citizens would be admitted on an unlimited basis, as under current law. The parents of citizens could also be admitted, but with stricter sponsorship requirements than currently exist. Third priority would be given to spouses and minor children of lawful permanent residents. The proposed 400,000 cap for family admissions would accommodate current demand in these categories and allow for growth in the unlimited category of spouses and children of citizens. In addition, the Commission would make available 150,000 additional visas during each of the first 5 years to clear the backlog of spouses and children ("nuclear family") of lawful permanent residents.

The Commission also proposed the elimination of the following family categories: adult unmarried sons and daughters of U.S. citizens; adult unmarried sons and daughters of lawful permanent residents; adult married sons and daughters of citizens; and brothers and sisters of adult U.S. citizens. This was done for several reasons: to focus priority on the admission of nuclear family members; to reduce the waiting time for nuclear family members of lawful permanent residents without raising overall immigration numbers; and to eliminate the extraordinary backlogs in these categories that undermine credibility of the immigration system. Most importantly, the Commission believes that "[u]nless there is a compelling national interest to do otherwise, immigrants should be chosen on the basis of the skills they contribute to the U.S. economy." Admission of nuclear family members and refugees present such a compelling interest, but admission of more extended family members solely on the basis of their family relationship is not as compelling.

The Commission recommended that up to 100,000 skills-based immigrants be admitted each year in two basic categories: those exempt from labor market testing, and those subject to labor testing. The exempt category would include aliens with extraordinary ability, multinational executives and managers, entrepreneurs, and ministers and religious workers. Others that would be subject to labor market testing include professionals with advanced degrees and baccalaureate degrees, and skilled workers with 5 years specialized experience. The category for unskilled workers would be eliminated. In place of the current labor certification process, those immigrants subject to labor market testing could only be admitted if their prospective employer paid a substantial fee and demonstrated appropriate attempts to find qualified workers. The fee would be used to support private sector initiatives for the education and training of U.S. workers. In addition, such immigrants would be admitted on a conditional basis that would convert to permanent status after 2 years if the immigrant was still employed by the same employer at the attested original wage or higher.

The Commission recommended that 50,000 admission[illegible]nbers be allocated each year to refugees, not including the addi[illegible]

permanent resident status of aliens already present in the U.S. who are granted asylum. Refugee admissions could exceed 50,000 in the case of an emergency, or through approval by Congress.

H.R. 1915.—Title V of H.R. 1915 would have established the following categories and worldwide levels for legal immigration: family-sponsored (330,000) employment-based (135,000), diversity (27,000) and humanitarian (70,000). These worldwide levels would be effective only through FY 2005, by which time Congress must review and reauthorize new legal immigration levels. The review and reauthorization process would repeat every five years thereafter.

Family-sponsored immigrants would include: (1) spouses and unmarried children under 21 of U.S. citizens; (2) spouses and unmarried children under 21 of lawful permanent residents; and (3) parents of U.S. citizens. As a special provision, the current backlog of spouses and children of permanent resident aliens was to be reduced by an average of 110,000 per year over a five-year period.

These provisions would give highest priority in the immigration system to unification of the nuclear family, and shift the emphasis from chain migration of extended families to preservation of the nuclear family. The spouses and minor children of U.S. citizens would continue to be admitted without any numerical limits. The spouses and children of lawful permanent residents would be the first family-preference category, and the special backlog reduction provisions would ensure that the backlog in this category is eliminated.

Parents of citizens being sponsored as immigrants would have to acquire insurance to cover their health are costs and potential long-term care needs. This requirement would be imposed because of substantial evidence that many immigrant parents come to the U.S. to take advantage of welfare benefits for which they have not contributed.

Employment-based immigrants would include: (1) aliens with extraordinary ability (visas not to exceed 15,000); (2) aliens who are outstanding professors and researchers, or who are multinational executives and managers (visas not to exceed 30,000, plus unused visas from category (1)); (3) aliens who are professionals with advanced degrees, and aliens of exceptional ability (30,000, plus unused visas from previous categories); (4) professionals and skilled immigrants, who are either professions with a baccalaureate degree and experience or skilled workers with training and work experience (45,000 visas, plus unused visas from previous categories); (5) investor immigrants (10,000 visas), who invest at least $1 million in a U.S. company that employees at least 10 workers (with a pilot program through 1998 allowing for a $500,000 investment and the hiring of 5 workers); and (6) special immigrants (5,000 visas). Experience requirements are increased for immigrants in category (4): skilled workers are required to have 4 years experience, and professionals with baccalaureate degrees, 2 years.

Refugees and other humanitarian immigrants would be admitted at an annual level of 70,000 (95,000 in 1996), consisting of: refugees, 50,000 (75,000 in 1996), unless Congress sets a higher number by law, or the President declares an emergency; asylees, 10,000; and other humanitarian immigrants, 10,000. The refugee consultation process would have to take place by July 1 of the preceding fiscal year. The refugee provisions were intended to accomplish several important goals. First, to ensure the availability of a minimum number of visas sufficient to meet the State Department's anticipated demand for refugee resettlement. Second, to involve Congress more directly in decisions to set refugee policy, by setting a reasonable deadline for the consultation process and requiring legislation to raise the refugee target except in emergency situations. Third, to preserve flexibility by permitting the President to admit additional refugees in the case of an emergency (not merely an "unforeseen" emergency, as under current law.)

A category for humanitarian visas is designed to meet the need for a flexible, transparent category that will be available for any specific in which admission of an alien is of special humanitarian concern to the United States. This category is specifically intended to replace the need for special admission categories tailored to special interests, and particularly to end the practice of admitting aliens on a permanent basis through grants of parole under section 212(d)(5).

Title V also restricted the use of parole authority to allow aliens to enter the U.S. to specific reasons that are strictly in the public interest or are matters of urgent humanitarian concern, such as for the prosecution of an lien, to obtain an alien's testimony in a criminal proceeding, or to permit an alien to visit a dying relative. This section was intended to end the use of parole authority to create an ad hoc immigration policy or to supplement current immigration categories without Congressional approval.

Eligibility for Benefits and Sponsorship

Title VI of H.R. 1915 was designed to continue the long-standing principle in U.S. immigration policy that immigrants be self-reliant and not depend on the American taxpayer for financial support. Current eligibility rules, unenforceable financial support agreements, and poorly-defined public charge provisions have undermined the tradition of self-sufficiency among the immigrant community. As a result, the cost of the American taxpayer of providing public benefits to immigrants has been in the tens of billions of dollars every year.

Title VI specified that illegal aliens are not eligible for most public benefits, makes enforceable the grounds for denying entry or removing aliens who are or are likely to become public charges, and makes those who agree to sponsor immigrants legally responsible to support them.

In addition to making illegal aliens ineligible for means-tested public benefits and government contracts, Title VI required that applicants show one of six documents to prove eligibility to receive benefits, and authorized State agencies to require documentation of eligibility.

Title VI strengthened the grounds for inadmissibility as a public charge by stating that a family-sponsored immigrant or a non-immigrant is inadmissible if the alien cannot demonstrate that the alien's age, health, family status, education, skills, affida of support, or a combination thereof make it unlikely that th en will become a public charge. Title VI also strengthened the g nds for

removal (deportation) of an alien already in the U.S. as a public charge by extending the time period within which such removal may occur to seven years from the date of admission, provided the alien's public charge status stems from cause arising before admission. The bill also specified that an alien is considered to be a public charge if the alien receives benefits under Supplemental Security Income, Aid to Families with Dependent Children, Medicaid, Food Stamps, State general assistance or Federal Housing Assistance for an aggregate of twelve months within the seven-year period. More flexible standards were established for battered spouses and children.

Title VI specified that a sponsor's income and resources are available to the sponsor alien for the purpose of qualifying for public benefits. A legally binding affidavit of support was created for those who wish to sponsor immigrants into the U.S. Specific lengths of time were established for deeming income and for the enforceability of the sponsor contract, and specific requirements were established for an individual to be a sponsor, including that the individual be the same person who is sponsoring the alien for admission into the U.S. and have an income of at least 200 percent of the poverty level.

Facilitation of Legal Entry

Immigration reform not only must address the challenges of illegal and legal immigration, but also must ensure that U.S. ports of entry are capable of receiving the hundreds of millions of foreign visitors who seek legitimate entry into our country each year. Enhancing our enforcement capability at land, air, and sea ports must go hand in hand with improving the service functions at such ports. This is important first because of the economic benefits brought to this country by international commerce and travel, and second because smooth functioning of our ports will enable enforcement resources to be strategically deployed in order to maximize the prevention of unauthorized entries into the U.S. In addition, curbing the number of people who attempt to enter on fraudulent documents should enable further streamlining of procedures for legitimate travelers.

To this end, Title VII of H.R. 1915 required an increase in both INS and Customs Service inspectors at land borders; authorized further expansion of the commuter lane pilot programs operated successfully at several land border crossing points; mandated the operation of pre-inspection stations at 5 of the 10 foreign airports having the greatest number of departures for the U.S.; and required the INS to expend funds from the Immigration User Fee Account to train airline personnel in the detection of fraudulent documents.

Skilled Nonimmigrants (H–1B) and Miscellaneous Provisions

Title VIII of H.R. 1915 included a number of miscellaneous provisions, including measures to study document fraud related to birth certificates, to make it easier to admit certain children as "[illegible]s" adopted by U.S. couples, and to enhance communication between the INS and State and local governments by overriding [illegible]ons against State and local officials contacting INS

Title VIII also addressed abuses which have recently plagued the H–1B nonimmigrant program, while providing regulatory relief for employers who do not abuse the program. Title VIII required an employer to attest that it would not fire and replace an American worker with an H–1B alien unless the company were willing to pay the H–1B 110 percent of what the fired American was making. In addition, penalties for violations of the H–1B provisions would have been enhanced to provide an additional disincentive to abuse. Among the changes, maximum civil fines were increased fivefold and the period in which a company cannot get visa petitions approved for foreign workers could have been extended to a permanent ban. In addition, Title VIII divided employers into those who are "H–1B dependent" and "non-H–1B dependent, and imposed more stringent regulatory requirements on the former.

SUBCOMMITTEE CONSIDERATION

On June 29, 1995, the Subcommittee on Immigration and Claims held a hearing on H.R. 1915. Witnesses included T. Alexander Aleinikoff, executive associate commissioner for programs, U.S. Immigration and Naturalization Service; Vernon Briggs, Jr., professor, School of Industrial Relations, Cornell, University; Daryl R. Buffenstein, president, American Immigration Lawyers Association; Diane Dillard, acting assistant secretary for consular affairs, U.S. Department of State; Austin T. Fragomen, Jr., chairman, American Council on International Personnel, John R. Fraser, deputy administrator, Wage and Hour Division, U.S. Department of Labor; Bill Frelick, senior policy analyst, U.S. Committee for Refugees; Carl Hampe, Paul, Weiss, Rifkind, Wharton & Garrison; Frank L. Morris, Sr., dean, Morgan State University; Anthony C. Moscato, director, Executive Office for Immigration Review, U.S. Department of Justice; Karen K. Narasaki, executive director [illegible] Pacific American Legal Consortium; David North, independent immigration researcher; Robert Rector, senior policy analyst, Heritage Foundation; David Simcox, research director, Negative Population Growth; Dan Stein, executive director, Federation for American Immigration Reform; John Swenson, executive director, Migration and Refugee Services, on behalf of the U.S. Catholic Conference; Michael S. Teitelbaum, demographer and member, U.S. Commission on Immigration Reform; Lawrence H. Thompson, principal deputy commissioner, Social Security Administration; and Raul Yzaguirre, president, National Council of La Raza.

The Subcommittee on Immigration and Claims held a mark-up on H.R. 1915 on July 13, through July 19, 1995. H.R. 1915 was reported out of the Subcommittee on July 20, with instructions to reintroduce the legislation as a clean bill. H.R. 2202 was introduced on August 4, 1995.

More than 40 amendments were considered by the Subcommittee in the course of its mark-up. None of these amendments altered the basic structure of the legislation. The most important substantive change was in the form of an amendment proposed by Rep. McCollum (FL) regarding asylum reform. The amendment reformed the asylum process by requiring that applications be filed within 30 days of arrival in the U.S., unless circumstances in the home country that relate to the alien's eligibility for asylum [illegible]

damentally changed. The amendment also provided that an application not be accepted if the alien may be removed to a safe third country in which the alien would have access to a fair asylum process, and that asylum applications be adjudicated on a specific timetable that will result in completion of most cases within 6 months of filing. This amendment codified certain regulatory changes to the asylum system, as well as adding additional requirements to ensure the integrity of the asylum process.

Other important substantive changes included the elimination of section 203 of H.R. 1915, relating to expanded civil asset forfeiture for aliens smuggling offenses, and the addition of a provision to make inadmissible any alien who had resided unlawfully in the U.S. for a period in excess of one year (time starting after the date of enactment) unless the alien had remained outside of the U.S. for a period of 10 years.

Other amendments included provisions relating to inservice training for the border patrol; the admission in conditional permanent resident status of certain grounds of exclusion from the U.S.; limiting liability for certain technical violations of paperwork requirements in the employment eligibility verification system; requiring verification of status prior to reimbursement for emergency medical services provided to illegal aliens; increasing authorizations for enforcement of immigration laws in the interior of the U.S.; and advising the President to negotiate and renegotiate prisoner transfer treaties.

FULL COMMITTEE CONSIDERATION

On August 4, 1995, H.R. 2202 was introduced by Representative Lamar Smith and referred to the full Judiciary Committee (where it should be considered in lieu of H.R. 1915). H.R. 2202 also was referred to the Committee on National Security, Government Reform and Oversight, Ways and Means, and Banking and Financial Services, for a period to be subsequently determined by the Speaker.

On September 19, 1995, H.R. 2202 was re-referred to the Committee on the Judiciary, and in addition to the Committees on Agriculture, Banking and Financial Services, Economic and Educational Opportunities, Government Reform and Oversight, National Security, and Ways and Means, for a period to be subsequently determined by the Speaker.

On September 19, 20, 21, and 27, 1995, and on October 11, 12, 17, 18, and 24, 1995, the Committee on the Judiciary marked-up H.R. 2202. Numerous amendments were adopted and, on October 24, the Committee ordered, by a recorded vote of 23–10, H.R. 2202 favorably reported to the House, as amended.

The Committee adopted 64 amendments to H.R. 2202 by voice vote, and take roll call votes on an additional 38 amendments, adopting 10 of these. Among the most important amendments were the following:

Border Control.—Extended effective dates for new border crossing card requirements; required immigrants to establish proof of vaccination as a condition for entry.

Removal of Criminal and Illegal Aliens.—Changed eligibility requirements for cancellation of removal to include aliens not lawfully admitted to the U.S. and to limit grants of cancellation of removal to 4,000 per year; modified waiver under section 212(i) of the INA; provided additional exceptions to the rule excluding aliens for 10 years if they have been unlawfully present in the U.S. for more than 1 year; clarified that stowaways and aliens interdicted at sea and brought to the U.S. are to be subject to procedures for expedited removal, including screening of asylum claims; provided specific pay scale for immigration judges; provided for permanent exclusion of aliens removed from the U.S. on account of having been convicted on an aggravated felony; established new ground of inadmissibility for aliens who have renounced U.S. citizenship for the purpose of avoiding taxation; struck provisions increasing penalties for carriers who bring illegal aliens into the U.S.

Asylum Reform.—Modified provisions to eliminate direct appeal from decisions of INS asylum officers to Federal courts of appeal; extended deadline for filing of asylum applications; extended refugee protection to aliens who have resisted implementation of coercive population control measures.

Employer Sanctions and Verification.—Exempted employers of less than 4 employees from requirement to take part in electronic confirmation mechanism pilots; provided that implementation of the confirmation mechanism shall be limited to a series of pilot projects in 5 of the 7 States with the highest estimated population of unauthorized aliens and that such projects shall terminate not later than October 1, 1999, unless extended by Congress; required the Attorney General to submit annual reports on the pilot projects which may include analysis of whether the mechanism is reliable and easy to use, limits job losses due to inaccurate data, increases or decreases discrimination, protects individual privacy, and burdens employers; provided new effective date for amendments reducing the number of documents that may be presented to employers to establish identity and eligibility for employment; exempted from civil or criminal liability the action of any person taken in good faith reliance on information provided through the confirmation eligibility confirmation mechanism; provided that the confirmation mechanism shall confirm whether an individual has presented a social security account number of an alien identification number that is not valid for employment; provided that operation of the confirmation mechanism may be carried out by a nongovernmental entity designated by the Attorney General; required that the confirmation mechanism be designed to maximize reliability and ease of use, to respond to all inquiries and to register when such response is not possible; provided that if an employer attempts to make an inquiry within the required 3 days of employment and the confirmation mechanism has registered that not all inquiries were responded to during that time, the employer can meet requirements for making such inquiries and qualify for the defense from liability extended to those who use the confirmation mechanism, if the employer makes the inquiry on the first subsequent working day in which the confirmation mechanism registers no nonresponses; provided that the confirmation mechanism shall provide a confirmation or tentative nonconfirmation of an individual's employment eligibility within 3 days of the initial inquiry and that in the case of a tentative nonconfirmation, the Attorney General, in

consultation with the Commissioner of Social Security and the Commissioner of the INS, shall provided an expedited time period not more than 10 days, within which final confirmation or nonconfirmation must be provided; required that within 180 days of enactment, the Attorney General shall issue regulations providing for the electronic storage of I–9 forms; and provided that an employer's request for more or different documents than are required under section 274A(b) of the INA shall constitute an unfair immigration-related employment practice if done for the purpose of discriminating.

Legal Immigration.—Created a new second employment-based immigration preference for outstanding professors and researchers and multinational executives and managers; restored a diversity admissions category more restricted than that in current law; provided a waiver from the requirement for labor certification for certain aliens who are members of the professions holding advanced degrees or aliens of exceptional ability if such waiver is necessary to advance the national interest in one of several specific areas; struck the requirement that at least 50 percent of an immigrant's sons and daughters are lawful permanent residents or citizens residing in the United States in order for the immigrant to be admitted as the parent of a United States citizen; created a category for the admission as immigrants of the adult sons and daughters of United States citizens and lawful permanent residents if such immigrants are under age 26, never-married, childless, and considered as dependents for Federal income tax purposes, within set numerical limits; changed the experience requirements for immigrants admitted as professionals and skilled workers; provided that work experience obtained while an alien is unauthorized to work in the United States shall not count to meet the experience requirements for immigrants admitted as professionals and skilled workers; provided for the admission as immigrants of certain adult disabled children of United States nationals and lawful permanent residents; provided that not less than 25,000 immigrant visas will be available for the parents of United States citizens; struck provisions for the adjustment of visa numbers for professionals and skilled workers to offset excess family admissions; provided for use of parole authority to enable prosecution of alien criminals in U.S. courts.

Public Benefits.—Removed from the prohibition on receipt of public benefits by illegal aliens family violence services, school lunch and child nutrition benefits, and emergency relief; modified rules regarding attribution of sponsor's income to immigrant; provided that active-duty military may sponsor an immigrant if their incomes is 100 percent of the poverty level; provided that if a sponsor is not able to meet income requirements, that a third party willing to provide sponsorship may sign the affidavit of support, with joint and several liability for the sponsored alien.

CONSIDERATION BY THE HOUSE

On March 4, 1996, the Committee favorably reported H.R. 2202, as amended, to the House. (H. Rept. 104–469, part 1).

On March 7, 1996, H.R. 2202 was reported favorably to the House as amended, by the Committee on Government Reform and

Oversight. (H. Rept. 104–469, part 2). On March 8, 1996, H.R. 2202 was reported favorably to the House, as amended, by the Committee on Agriculture (H. Rept. 104–469, part 3), and the Committees on Banking and Financial Services, Economic and Educational Opportunities, National Security, and Ways and Means were discharged from further consideration of H.R. 2202. On a later date (March 21, 1996) a supplemental report to accompany H.R. 2202 was filed in the House by the Committee on Agriculture. (H. Rept. 104–469, part 4). The Committee on Agriculture amended H.R. 2202 to include a program for the admission of temporary "guest workers" to be employed in the agricultural sector.

On March 14, 1996, the Committee on Rules reported H. Res. 384, the rule providing for the consideration of H.R. 2202. (H. Rept. 104–483). On March 19, 1996, the House adopted the rule by voice vote (after agreeing to order the previous question on the rule by a recorded vote of 233–152). The rule provided for the consideration of H.R. 2202 without the amendments made by the Committee on Agriculture. The rule also included an amendment that made participation in the pilot programs for the new employment verification mechanism voluntary for employers.

On March 19, 20 and 21, 1996, H.R. 2202 was considered by the House. Numerous amendments were adopted. On March 21, 1996, the House rejected, by a recorded vote of 188–231, a motion to recommit H.R. 2202 to the Committee on the Judiciary with instructions. The House then passed H.R. 2202 as amended by a recorded vote of 333–87.

The most significant amendment, adopted by the House on a vote of 238–183, struck the provisions in Title V relating to reform of the family-preference and employment-based legal immigration categories, and to reform of refugees, parole, and humanitarian admissions. Another significant amendment, adopted on a vote of 257–163, authorized States to deny public education benefits to aliens not lawfully present in the U.S.

Other significant amendments: allowed for the deputization by the Attorney General of State and local authorities to assist in immigration enforcement functions; clarified provisions regarding the removal of stowaways; tightened waivers of deportation available to deportable aliens who have committed crimes; restored provisions parallel to current INA section 243(h) (withholding of deportation); permitted the early deportation of non-violent offenders prior to completion of their prison terms, with stiff penalties for reentry into the U.S.; permitted Federal reimbursement for costs of incarcerating criminal aliens to be paid to counties and municipalities as well as to States; extended the deadline for filing asylum claims to 180 days; clarified the eligibility requirements for aliens to receive public housing benefits; established certification requirements for foreign health care workers admitted to the U.S.; clarified affidavit of support requirements for joint and several liability; exempted Head Start from list of benefits barred to illegal aliens; required the Comptroller General to evaluate on an annual basis the Administration's efforts to deter illegal entries into the U.S.; provided that worksite enforcement of employer sanctions should be a top priority of the INS; and permitted the adjustment to law-

ful permanent resident status of certain natives of Hungary and Poland who had been paroled into the U.S.

SENATE AND CONFERENCE CONSIDERATION

On May 2, 1996, the Senate passed H.R. 2202 (with an amendment substituting the language of S. 1664 as amended by the Senate) by a recorded vote of 97–3.

On May 13, 1996, the Senate insisted on its amendment and requested a conference, appointing as conferees: Senators Hatch, Simpson, Grassley, Kyl, Specter, Thurmond, Kennedy, Leahy, Simon, Kohl, and Feinstein.

On September 11, 1996, the House disagreed to the Senate amendment and agreed to a conference, appointing as conferees: Representatives Hyde, Smith of Texas, Gallegly, McCollum, Goodlatte, Bryant of Tennessee, Bono, Goodling, Cunningham, McKeon, Shaw, Conyers, Frank, Berman, Bryant of Texas, Becerra, Martinez, Green, and Jacobs.

On September 11, 1996, the House rejected, by a recorded vote of 181–236, a motion to instruct the conferees on the part of the House.

On September 24, 1996, the conferees agreed to file a conference report, and the report was filed. (H. Rept. 104–828).

On September 24, 1996, the House Committee on Rules reported a rule (H. Res. 528) providing for the consideration of the conference report on H.R. 2202, waiving all points of order. (H. Rept. 104–829).

On September 25, 1996, the House, by a recorded vote of 254–165, adopted the rule; by a recorded vote of 179–247, rejected a motion to recommit H.R. 2202 to the conference committee with instructions; and by a recorded vote of 305–123, agreed to the conference report on H.R. 2202.

On September 26, 1996, the Senate considered the conference report on H.R. 2202, renamed the "Illegal Immigration Reform and Immigrant Responsibility Act of 1996."

FINAL PASSAGE AND ENACTMENT

On September 28, 1996, a modified version of the conference report on H.R. 2202 was included as Division C of the conference report filed in the House on H.R. 3610 (making fiscal year 1997 omnibus consolidated appropriations) (H. Rept. 104–863), and by a recorded vote of 370–37 (with 1 present), agreed to that conference report.

On September 30, 1996, the Senate, by voice vote, agreed to the conference report on H.R. 3610, and the measure was approved by the President. (Pub. L. 104–208).

Following is a summary of the legislation as amended by the Conference Report and by Pub. L. 104–208:

Title I authorizes 5,000 new Border Patrol agents and directs their deployment to border sectors with the highest levels of illegal immigration. The title authorizes improvements of barriers to deter illegal border-crossing, including a 14-mile triple fence and road from the Pacific Ocean eastward. It requires improvement of security features on border crossing identification cards to counter fraud. It creates a new civil penalty for illegal entry into the United States and authorizes funds for the fingerprinting of all illegal aliens apprehended anywhere in the U.S. Additional land border inspectors are authorized to facilitate legal entry into the U.S. The title expands preinspection at foreign airports of passengers bound for the U.S. It authorizes 900 new INS investigators to enforce laws against alien smuggling and against the knowing employment of illegal aliens, and an additional 300 investigators to track down and apprehend visa overstayers. Finally, the title grants new authority for the Attorney General to enter into agreements with State or local governments for the use of State or local law enforcement officers to apprehend, detain, and transport illegal aliens.

Title II extends RICO (racketeering) liability to alien smuggling and document fraud offenses. It expands criminal liability for alien smuggling and document fraud and increases penalties for both. New civil liability and penalties for document fraud are established. The title establishes new criminal penalties for those who prepare false applications for immigration benefits or who make false claims to U.S. citizenship.

Title III expands and increases the bars to re-entry into the U.S. for those who violate immigration laws by illegally entering or overstaying visas. The title repeals the "entry doctrine," which now gives illegal border-crossers expanded rights in deportation proceedings. It overhauls all provisions relating to apprehension, adjudication, and removal in the case of illegal aliens. Exclusion and deportation procedures are merged into one form of removal proceeding. Aliens who are present in the U.S. without having been lawfully admitted will be treated as applicants for admission and will have the burden of proof in immigration court proceedings. The title narrows eligibility for discretionary relief from removal and places strict limits on voluntary departure to ensure that aliens actually leave the country. It limits the appealability of removal orders, especially in the case of criminal aliens and those seeking discretionary relief from removal. It mandates detention of aliens ordered removed and requires their removal from the country within 90 days. The title mandates the detention of those criminal aliens pending removal proceedings and authorizes an increase in the detention space to 9,000 beds (and requires periodic reports to Congress on use of detention space and the need for additional space). It broadens the definition of "conviction" for immigration law purposes to include all aliens who have admitted to or been found to have committed crimes. This will make it easier to remove criminal aliens, regardless of specific procedures in States for deferred adjudication or suspension of sentences. Finally, the title establishes civil penalties for those who fail to depart under order of removal, and enhances existing penalties for failure to depart, illegal entry, and passport and visa offenses.

Title IV establishes three pilot programs, voluntary for most private employers, to enhance the ability of employers to confirm the identity and employment eligibility of new workers. All pilot programs are based on expeditious verification through the cross-checking of new employees' names and social security numbers (and INS-issued numbers) against U.S. government records. The basic pilot program will operate in at least five of the seven States with the highest populations of illegal aliens. Of the other two,

grams, one waives certain verification requirements when new employees attest to being U.S. citizens, and one is based on the use of machine-readable documents. These last two pilots will operate in certain of those States which issue identification documents with enumerated features. The pilot programs will lapse after four years of operation unless reauthorized by Congress. The title allows employers the opportunity to correct without penalty "paperwork" errors committed in complying with the employment eligibility verification procedures contained in section 274A of the Immigration and Nationality Act. It reduces the number and types of documents that new employees may present to employers in complying with section 274A. Finally, the title limits national origin "discrimination" penalties against employers who ask new employees to present more than the documents minimally-required. Employers would have to intend to discriminate to be liable.

Title V requires sponsors of (family-preference) immigrants to sign legally-enforceable affidavits to provide financial support if needed. The affidavits will be enforceable as contracts until the immigrants sponsored have worked for a certain period of time or become citizens. The title authorizes government agencies and government-funded entities to sue sponsors for reimbursement of means-tested public benefits provided to immigrants. It requires that sponsors either demonstrate an income of at least 125% of the poverty level or find co-sponsors who do and who will agree to the same financial obligations. Finally, the title strengthens verification requirements for public housing benefits and streamlines procedures for removing ineligible aliens from taxpayer-subsidized housing.

Title VI accomplishes a variety of goals, including streamlining asylum procedures and requiring that an asylum claim be presented within one year of an alien's arrival in the U.S. (unless the applicant demonstrates changed conditions or extraordinary circumstances). An amendment to the refugee definition accords recognition to persecution for resistance to coercive population control methods. The title improves the Visa Waiver Pilot Program and extends its operation to September 30, 1997. It also provides incentives to States to develop counterfeit and fraud-resistant birth certificates and driver's licenses, and provides for the development of a prototype counterfeit-resistant social security card.

The "Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995"

The Committee was sequentially referred H.R. 927 which took proactive steps to encourage an early end to the Castro regime in Cuba, directed the President to prepare to support transition and democratic governments in Cuba, and provides additional protection for the rights of U.S. nationals whose property has been illegally confiscated by the Cuban government. A number of the bill's provisions came under the jurisdiction of the Subcommittee on Immigration and Claims. Title III of the bill provided that any person who, at a certain point after the enactment of the bill, traffics in property confiscated by the post-revolution Cuban government shall be liable to any United States national who owns the prop-

the time of confiscation (Action in U.S. courts can be brought only for claims of over $50,000.). Title IV provided that the Secretary of State shall deny a visa to, and the Attorney General shall exclude from the United States, any alien (and certain family members) who after the date of enactment of H.R. 927 confiscates, directs or oversees the confiscation of, converts, or traffics in property owned by a U.S. national. Also, certain officers, principals, and shareholders of entities involved in confiscation or trafficking (and certain family members) shall be denied visas and be excludable. These provisions of H.R. 927 will safeguard the rights of American nationals and facilitate their being made whole. They are required because the current international judicial system lacks fully effective remedies for the wrongful confiscation of property and for unjust enrichment from the use of wrongfully confiscated property by governments and private entities at the expense of the rightful owners. Also, these provisions will discourage foreign investors from taking up the Cuban government's offer of the opportunity to purchase, manage, or enter joint ventures using property and assets confiscated from U.S. nationals.

H.R. 927 was referred to the Committee on International Relations, and in addition to the Committee on the Judiciary and to the Committees on Ways and Means, and Banking and Financial Services, for a period to be subsequently determined by the Speaker.

On July 24, 1995, The Committee on International Relations reported H.R. 927 favorably as amended to the House. (H. Rept. 104–202, part 1).

On August 4, 1995, the Committees on Ways and Means, the Judiciary, and Banking and Financial Services were discharged from further consideration of H.R. 927.

On September 19, 1995, the Committee on Rules granted a modified closed rule providing for the consideration of H.R. 927 (H. Rept. 104–253), and on September 20, 1995 the House by a recorded vote of 304–118, adopted the rule.

On September 20 and 21, 1995, H.R. 927 was considered by the House, and passed as amended by a recorded vote of 294–130 on September 21.

On October 11, 12, 13, 17, 18, and 19, 1995, H.R. 927 was considered by the Senate.

On October 19, 1995, the Senate passed H.R. 927 as amended by a recorded vote of 74–24.

On November 7, 1995, the House disagreed to the Senate amendment and requested a conference, appointing as conferees: Representatives Gilman, Burton, Ros-Lehtinen, King, Diaz-Balart, Hamilton, Gejdenson, Torricelli, and Menendez.

On December 14, 1995, the Senate insisted on its amendment to H.R. 927 and agreed to a conference, appointing as conferees: Senators Helms, Coverdell, Thompson, Snowe, Pell, Dodd, and Robb.

On March 1, 1996, the conference report on H.R. 927 was filed in the House by Representative Gilman. (H. Rept. 104–468).

On March 5, 1996, the Senate agreed, by a recorded vote of 74–22, to the conference report on H.R. 927.

On March 5, 1996, a rule providing for the considera of the