

PREPARED TESTIMONY OF
ROSEMARY JENKS,
SENIOR ANALYST
CENTER FOR IMMIGRATION STUDIES
WASHINGTON, DC
BEFORE THE HOUSE JUDICIARY COMMITTEE
SUBCOMMITTEE ON IMMIGRATION AND CLAIMS
REGARDING PROJECTED INCREASES IN LEGAL IMMIGRATION

Federal News Service

MAY 16, 1996, THURSDAY

Copyright 1996 Federal Information Systems Corporation

Section: IN THE NEWS

Length: 4762 words

Body

Summary of the testimony of Rosemary Jenks of the Center for Immigration Studies before the Subcommittee on Immigration and Claims, May 16, 1996

The March 28, 1996 announcement by INS of a "10.4 percent decline" in legal immigration in FY 1995 appears to be the culmination of the Administration's involvement in the Congressional debate of legal immigration reform efforts. Following President Clinton's endorsement last summer of the recommendations of the late Barbara Jordan's Commission on Immigration Reform, Administration officials undermined Congressional efforts to reduce legal immigration by: 1) supporting Sen. Spencer Abraham's amendment to split Senator Simpson's omnibus immigration reform bill into one bill addressing illegal immigration and another addressing legal immigration; 2) supporting the amendment by Reps. Dick Chrysler, Howard Berman and Sam Brownback to strip the legal immigration reductions from H.R. 2202; and, finally, 3) officially announcing the FY 1995 "decline" in immigration levels on the morning of the Senate Judiciary Committee vote on legal immigration reform and implying that there was no need for legislative reductions in legal immigration because immigration numbers were falling on their own. The latter was particularly surprising since preliminary FY 1995 data were available as early as mid-December 1995. Close examination of the INS data on FY 1995 immigration, combined with the administrative backlog resulting from the 245(i) program that allows aliens living legally or illegally in the United States to adjust to lawful permanent residence without leaving the country, show that, had INS been able to keep up with its workload, legal immigration likely would have increased slightly over the FY 1994 level.

INS projections of future legal immigration levels show a dramatic increase in FY 1996 and 1997, followed by another smaller increase beginning in FY 2002. Since INS statistics are maintained on a quarterly basis, the actual data for at least the first quarter of 1996 were already available when INS announced the FY 1995 "decline." However, no indication of an expected increase was given at that time.

It seems clear that the Congressional debate of legal immigration reform efforts was hampered by the misleading and, apparently, politically-motivated statements by Administration officials. It will not be possible for legal immigration reform to be debated in a reasoned or objective way unless complete and accurate data are available to both policymakers and the American public. Thus, INS should try to release immigration statistics on a more timely basis and refrain from presenting them in such a misleading way. INS should also consider preparing immigration projections on a normal basis, as this would aid policymakers in determining the level of immigration that would best serve the national interest.

PREPARED TESTIMONY OF ROSEMARY JENKS, SENIOR ANALYST
CENTER FOR IMMIGRATION STUDIES
WASHINGTON, DC
BEFORE THE HOUSE JUDICIARY COMMITTEE SUBCOMMITTEE ON
IMMIGRATION AND NATURALIZATION

Introduction

I am Rosemary Jenks, Senior Analyst of the Center for Immigration Studies. The Center is a non-profit, non-partisan research institute established in 1985 to provide policymakers and the public with the data they need to insure that U.S. immigration policy serves the broad national interest. Our main function is to examine the demographic, economic, social and environmental impacts of immigration on the United States. Clearly, it is impossible to facilitate an objective debate on this extremely emotional and volatile issue without accurate and complete immigration statistics. Since the Statistical Yearbook of the Immigration and Naturalization Service (INS) is not issued until at least a year after the end of the fiscal year to which the data in it pertains (e.g., the FY 1994 Statistical Yearbook was published in February 1996), we rely heavily the Statistics Division of the INS, which has the data available well in advance of final publication. Thus, we have developed a good working relationship with the staff of the Statistics Division, whom we have found to be both professional and forthcoming.

We received preliminary FY 1995 data from the Statistics Division in December 1995. The decline in the level of legal immigration for that year was explained as a combination of 1) the phasing out of certain temporary immigration programs (e.g., the Chinese Student Protection Act, the Amerasian program and special visa allocation for the dependents of legalized aliens) and 2) the administrative backlog resulting from the 245(i) program, which allows aliens living in the United States legally or illegally to adjust to lawful permanent residence without leaving this country. We were surprised, therefore, by both the timing and the tone of the official INS announcement of the FY 1995 data, particularly in light of the recent INS projections on future legal immigration levels. The Clinton Administration's Involvement in Immigration Reform Efforts Before going into further detail on the 1995 data and the new projections, however, I think it is important to put these events into the context of the Administration's overall involvement in the congressional debate over legal immigration reform. The Administration first joined the debate last summer when President Clinton publicly announced his support for the recommendations on legal immigration of the late Barbara Jordan's Commission on Immigration Reform. The headline in the June 8, 1995 edition of the Washington Post, for example, was "Clinton Backs Call to Reduce Immigration." The article began as follows: "President Clinton yesterday endorsed the recommendations of a congressional commission calling for a substantial reduction in the number of legal immigrants allowed to enter the country." The article went on to say that the President had issued a statement in which he praised the recommendations as "consistent with my own views" and a "road map for the Congress to consider."

On September 18, 1995, INS Commissioner Doris Meissner testified before the Senate Immigration Subcommittee in a hearing on legal immigration reform. She stated that the Administration believes "that a balanced package of reforms can be crafted that...will result in a total reduction of employment and family-based immigration to 490,000 annually," as compared to the current level of 620,000 for those two categories. She also said that the Administration supports the elimination of the diversity program and the reduction of employment-based visas from 140,000 to 100,000 annually, as recommended by the Commission on Immigration Reform.

However, Commissioner Meissner testified that the Administration disagrees with the Commission's recommendations in two areas: 1) the Administration wants to maintain the immigration categories for the adult married and unmarried children of U.S. citizens; and 2) it proposes to "rely on naturalization" to reduce the backlog of spouses and minor children of legal residents, rather than allocating additional visas for backlog reduction. She explained that the INS estimates that naturalization would cut the backlog by an average of 60,000 people each year, and added that the sponsors of about 80 percent of the 1.1 million spouses and minor children in the backlog were already or would soon be eligible for naturalization. In early March 1996, as the Senate Judiciary Committee was considering Sen. Alan Simpson's combined legal and illegal immigration reform bill, Commissioner Meissner and Attorney General Janet Reno were personally lobbying Members of the Committee to support an amendment by Sen.

Spencer Abraham to split the Simpson bill into two separate measures, one on legal immigration and the other on illegal immigration. The Abraham amendment was adopted by the Committee on March 14 by a vote of twelve to six.

PREPARED TESTIMONY OF ROSEMARY JENKS, SENIOR ANALYST
CENTER FOR IMMIGRATION STUDIES
WASHINGTON, DC
BEFORE THE HOUSE JUDICIARY COMMITTEE SUBCOMMITTEE ON
IMMIGRATION AND NATURALIZATION

Late on March 19, the day the full House began consideration of H.R. 2202, the Administration announced its support for the amendment by Reps. Dick Chrysler, Howard Berman and Sam Brownback to eliminate the legal immigration reductions from the bill, and it asked House Democrats to support the amendment, as well. Two days later, the Chrysler-Berman-Brownback amendment was adopted by a vote of 238 to 183.

On the morning of March 28, INS officials held a press conference in which they announced that legal immigration had declined by 10.4 percent in FY 1995, following a drop of 9.3 percent in FY 1994. Commissioner Meissner was quoted in the press release on the declining numbers as saying, "These facts show that the nation's legal immigration policies are changing to meet the realities of the 1990s. They confirm this administration's belief that we can reduce overall immigration levels without sacrificing our tradition of uniting families, meeting employers' legitimate needs and supporting American workers" (see attachment A). Upon reading this statement, I called the INS Public Affairs office and asked to which changes in legal immigration policy the Commissioner was referring. I was told that the statement referred to the "flexibility" built into the current legal immigration system, but that the actual policies had not changed.

The March 28 INS press release went on to explain:

"The 10.4 percent decline in FY 1995 was attributed to three main factors:

- A lack of demand for employment-based immigrant visas,
- The completion of special immigrant programs established in 1990, and
- A decline in the number of spouse and parent immigrants."

According to the INS "Fact Sheet" that followed the press release (see attachment B), the decline in employment-based immigration was the result of both a drop in the number of actual employment-based immigrants and in the number of Chinese students being granted lawful permanent residence under the employment category, as a result of the Chinese Student Protection Act. The drop resulting from the "end of special programs under the Immigration Act of 1990" was due to a three year (FY 1992-1994) visa allocation for the dependents of legalized aliens and the fact that the "number of refugees adjusting to immigrant status also declined in FY 95," although the latter, of course, has nothing to do with the Immigration Act of 1990. As for the decline in "spouse and parent immigrants," the Fact Sheet reported that "some of this decline in spouses and parents of U.S. citizens admitted resulted from the implementation of Section 245(i)," though it did not quantify the impact of the 245(i) program.

The obvious implication of this announcement and the statement by Commissioner Meissner was that, since immigration numbers are falling on their own (or because of some Administration initiative), there is no need for legislative reductions. While the wording of the press release is vague enough to protect against charges of outright deception, there is little doubt that the Administration intended to imply that the FY 1994 and 1995 declines represented a continuing trend. Perhaps the clearest example of this can be found in an article that appeared in the Washington Post (see attachment C). INS officials briefed the Post the day before the official announcement was made so that the article would appear on the morning of March 28. As a result of that briefing, the article, "Immigration Continues 4-Year Falloff: INS Statistics Belie Perception of Rise," began by saying, "Legal immigration to the United States declined last year for the fourth year in a row, recording the steepest sustained drop since World War II despite public perceptions of a rising tide of immigrants." It quoted Commissioner Meissner as saying that these new numbers are "a statement that the system can work." The article contains no mention of the 245(i) program or of an expected rise in future legal immigration levels.

Other newspapers that reported on the INS press conference ran similar stories. The lead paragraph in an article in the March 29 edition of the Los Angeles Times, for example, read, "Although Congress has proposed cutting levels of legal immigration to the United States, the numbers are falling even without official action -- especially in California, where 20% fewer immigrants entered the state in 1995 than the year before, a new report shows." The article says that, according to Executive Associate Commissioner Robert L. Bach, "the INS endorses moderate reductions in legal immigration but contends that they can be accomplished without significantly changing the current family-based system." Again, there is no mention of either the backlog resulting from the 245(i) program or an expected rise in future immigration levels.

PREPARED TESTIMONY OF ROSEMARY JENKS, SENIOR ANALYST
CENTER FOR IMMIGRATION STUDIES
WASHINGTON, DC
BEFORE THE HOUSE JUDICIARY COMMITTEE SUBCOMMITTEE ON
IMMIGRATION AND NATURALIZATION

However, not only the media -- and thus, the public -- were misled by the INS announcement. The Senate Judiciary Committee met the day of the announcement to consider Sen. Simpson's proposals for legal immigration reform (as split from those on illegal immigration reform). Sen. Paul Simon specifically mentioned the new numbers and assured Sen. Dianne Feinstein that the number of immigrants to California had fallen in 1995, according to the INS. At the request of Sen. Edward Kennedy, an INS counsel rose to tell Committee Members that the Administration supported an amendment proposed by Sens. Kennedy and Abraham as a 15 percent reduction in legal immigration levels. The counsel further stated that the INS expected the immediate relative category to increase by an average of 60,000 annually over the next few years. (Note that this statement differs from that of Commissioner Meissner, who said that the backlog would be reduced by an estimated 60,000 per year on average. The backlog does not include the parents that U.S. citizens are allowed to sponsor as immediate relatives.) Although Sens. Simpson and Jon Kyl pointed out that the Kennedy-Abraham amendment, as written, would actually increase legal immigration -- an assertion confirmed by a Center analysis of the amendment -- it was adopted by the Committee that afternoon by a vote of eleven to four.

Did Legal Immigration Really Decline in FY 1995?

Certainly it is true that employment-based immigration fell in 1995. As mentioned above, this was due partially to the decline in the number of Chinese students adjusted under that category. Even excluding these students, however, employment-based immigration fell from 101,994 in FY 1994 to 81,123 in FY 1995. It is also true that a number of special immigration programs, such as the three-year program for the dependents of legalized aliens and the Amerasian program, either ended or declined significantly. And it is true that the number of immediate relatives granted lawful permanent residence fell from 249,764 in FY 1994 to 220,360 in FY 1995. Family-preference immigration, on the other hand, increased by more than 26,000, and immigration under the diversity program increased by over 6,000.

However, these numbers do not tell the whole story because of the 245(i) program. The 245(i) program was enacted in FY 1994, so it first took effect in FY 1995. Since the program allows aliens to adjust to lawful permanent residence without leaving the United States, its practical effect is to shift a sizeable workload from the State Department, which processes visas abroad, to the INS. The INS initially estimated that it would receive about 50,000 245(i) applications annually. In FY 1995, however, it received more than 224,000 245(i) applications, in addition to 246,000 other "routine" applications for adjustment (e.g., from refugees, asylees, parolees and other nonimmigrants). The INS was not able to process all of these applications, so 288,000 remained unadjudicated at the end of FY 1995. Both the INS and the State Department estimate that about 30 percent of these unprocessed applications were for immediate relatives, who qualify for admission without numerical limitation, and a smaller share are believed to have been for employment-based immigration, which was undersubscribed in FY 1995. Had INS been able to keep up with this workload, an estimated 90,000 additional immigrants would have been admitted in FY 1995. This would have raised total legal immigration for that year to 810,461 -- an increase of 6,045 (or 0.8%) above the FY 1994 level. Although this is not a significant increase, it certainly is not the 10.4 percent decrease touted by the INS. There are other indications that immigration did not decline in the first half of this decade, as well. A January 1996 Center analysis of data from the March 1995 Current Population Survey (CPS) found that some 5.4 million immigrants reported entering the United States between January 1990 and March 1995 (see attachment D). This means that the average immigrant flow was about 1.1 million each year during that time, despite the fact that INS statistics show that legal immigration (excluding the amnestied aliens who were already living here) averaged about 770,000 annually.

Because the CPS data is based on a random sample of the population, it is subject to sampling error, though it is unlikely that such error would be significant.

It is also probable that the data included some of the many immigrants not counted in the INS statistics, such as asylees and asylum applicants, refugees, parolees, and aliens granted Temporary Protected Status, Deferred Enforced Departure, or some other form of relief from deportation. It is also possible that some illegal immigrants were included, although respondents can refuse to participate if they so choose (unlike in the decennial census), and illegal aliens would be more likely than others to refuse to be counted. The fact that some number of

PREPARED TESTIMONY OF ROSEMARY JENKS, SENIOR ANALYST
CENTER FOR IMMIGRATION STUDIES
WASHINGTON, DC
BEFORE THE HOUSE JUDICIARY COMMITTEE SUBCOMMITTEE ON
IMMIGRATION AND NATURALIZATION

immigrants who entered between January 1990 and March 1995 would have died or emigrated would, at least to some degree, make up for any potential overcount.

INS Projections of Legal Immigration

On April 24, 1996, the San Diego Union-Tribune published a front-page article on unpublished INS projections showing core legal immigration (i.e., family-based, employment-based and diversity immigration) rising by 41 percent between FY 1995 and FY 1996, and remaining well above previous levels in the foreseeable future. This article came less than a month after the official INS announcement on March 28 that legal immigration had declined by 10.4 percent in FY 1995.

These projections, prepared by INS at the request of Sen. Simpson, were referred to by a number of Senators during the floor debate of S. 1664, Sen. Simpson's illegal immigration reform bill, during consideration of amendments to reduce legal immigration on April 25. Defending against charges on the Senate floor that legal immigration reform should not be considered with illegal immigration reform, Sen. Feinstein said that "the fact of the matter is that we have received in committee incorrect numbers on legal immigration...[and that] changes the debate. When we hear in committee...that legal immigration numbers have been going down and will continue to go down...what we thought we were dealing with in the vicinity of 500,000 or 600,000 is clearly not the reality."

Sens. Abraham and Kennedy, who apparently were aware of the INS projections before they became public knowledge, sent out a Dear Colleague letter on April 11 blaming the fact that "it now appears that INS will upwardly revise its estimates of future immigration levels under the uncapped immediate-relatives category" for charges that their amendment would increase legal immigration levels (see attachment E). They note parenthetically that most of the immigrants representing this increase are already living in the United States illegally, thus implying that it does not actually represent a new influx. This line of reasoning has been used by a number of immigrant advocacy groups to downplay the INS projections, though, in my view, it is faulty. While it is true that some portion of the increase is comprised of resident illegal aliens, this fact will not lessen their impact on the labor market when they are granted authorization to work, or on the welfare system when they become eligible for taxpayer-funded benefits. Moreover, the fact that some of these would-be legal immigrants are already here illegally lends support to the "public perceptions of rising immigration" that were dismissed by the Washington Post and other media that accepted the official INS statistics unquestioningly. It also would seem to indicate that the INS can expect even more 245(i) applications -- and the resulting increased workload -- in future years, unless the program is repealed.

Duelling Immigration Projections

While only one series of immigration projections has, to my knowledge, been made public, in fact, the INS prepared two, the first dated April 1, 1996 --just three days after the official INS announcement of the FY 1995 "decline" in legal immigration -- and the second dated April 11, 1996 (see attachments F and G). The first series was based on the original provisions of Sen. Simpson's legal immigration reform bill, S. 1394. It projects only the level of immediate relatives, including both a base increase and an increase due to the naturalization of amnestied aliens in the spouses and minor children category, but it does not include a base increase in the parents category, so those numbers could be even higher. It includes two projections of the increase due to the naturalization of amnestied aliens: 1) assuming no backlog reduction program; and 2) assuming a backlog reduction program of 150,000 annually. The total immediate relatives projected on the second page also assume a decline in parents of U.S. citizens to 15,000 annually, beginning in FY 1997, the year the bill would have taken effect, because of the additional restrictions on parents. This assumption is no longer valid since the Kennedy-Abraham amendment replaced the original Simpson provisions on legal immigration reform.

There are two particularly interesting features in this set of projections. The first is the fact that it projects an immediate relative level of 311,566 for FY 1995, even though it was prepared long after INS knew that the actual level was 220,360. The difference between these two numbers (91,206) is too close to the estimated number of 245(i) applicants that would have been admitted that year had their applications been processed to be a coincidence. The second is that it specifies the assumptions upon which the projections are based.

PREPARED TESTIMONY OF ROSEMARY JENKS, SENIOR ANALYST
CENTER FOR IMMIGRATION STUDIES
WASHINGTON, DC
BEFORE THE HOUSE JUDICIARY COMMITTEE SUBCOMMITTEE ON
IMMIGRATION AND NATURALIZATION

The April 11 projections, which include immediate relatives and family-preference, employment-based and diversity immigrants, originally began with FY 1997, although the projected level for FY 1996 was drawn onto the graph on the first page by INS at the request of Sen. Simpson. This first page of this projection shows legal immigration levels under four different scenarios: current law; the Commission on Immigration Reform's recommendations; the Kennedy- Abraham amendment; and the original Simpson proposals (the projected levels under current law and Kennedy-Abraham are too close to be distinguished in the graph). The projections on the second page include immigration levels under "Kennedy-Abraham 100" and "Kennedy-Abraham 140" because Sen. Kennedy also proposed an amendment to reduced employment-based immigration from 140,000 per year to 100,000 per year, though the amendment failed. The projections for the two are identical, however, because the INS assumes that only 100,000 of the employment-based visas will be used in any case.

Because neither of the INS projections includes immigrants granted lawful permanent residence for humanitarian reasons or under the multitude of miscellaneous categories permitted by law, I have provided on pages 13 and 14 separate graphs and tables to show what total legal immigration, as counted by INS (i.e., the number of aliens granted lawful permanent residence status), would be under both the INS projections. Since the April 1 INS projections only show immediate relatives, I used the same assumptions for employment-based immigration (100,000) and diversity immigration (55,000) in both my sets of projections as are used in the April 11 INS projections. To determine the family-preference level, I used the formula, with a floor of 226,000, that is specified in the Immigration and Nationality Act.

I include actual admissions for FY 1994 and FY 1995 so as to provide a frame of reference. The estimated 90,000 would-be 245(i) admissions listed in the FY 1995 projections are included for two reasons: 1) to show that immigration likely would have increased slightly that year, had INS kept up with its workload; and 2) because those applicants will be admitted when INS gets caught up, so they should be counted in the totals. I assume in the projections that the INS will be able to keep up with the 245(i) workload in future years because of the increased resources it has received recently.

There is very little difference between the two sets of projections with regard to total legal immigration. According to the April 1 series, legal immigration between 1994 and 2003 will total 8,634,975, as compared to 8,637,345 according to the April 11 series -- a difference of 2,370. Both projections show immigration rising most dramatically in FY 1996 and 1997, and then beginning to rise again, though more slowly, in 2002. This likely is due to the fact that, as the FY 1996 and 1997 immigrants become eligible for naturalization in FY 2001 and 2002, INS expects that they will begin to petition for their own parents and other relatives (i.e., chain migration). Possibly the most notable aspect of these projections is the fact that the immediate relative category increases by an average of about double the 60,000 level that previously was estimated by INS. Conclusion

I would like to reiterate that it is essential for any objective debate of immigration policy that complete and accurate immigration statistics be available to both Congress and the American public. All Americans should be given the opportunity to make reasoned decisions, based on available facts, with regard to desired immigration levels. The misleading INS announcement of the "decline" in FY 1995 immigration levels certainly did nothing to promote a reasoned debate of legal immigration policy, and may have seriously hampered the debate. Moreover, the INS keeps quarterly statistics on legal immigration (as indicated on Attachment H, an INS table of FY 1995 statistics). Thus, the statistics for at least the first quarter of FY 1996, which, presumably, show the beginning of the projected increase, were already available on March 28, when the INS officially released the FY 1995 data. Yet, there was no mention of an expected increase.

The poorly-timed release of the projections of future legal immigration levels only added to the confusion and emotionalism already surrounding the issue. The INS has since asserted that it does not normally do projections, but it seems logical that Commissioner Meissner's estimate last September of the impact of naturalization on the backlog was based on some form of INS projections. If it is true that INS does not do projections on a regular basis, perhaps it should. Such projections clearly would aid policymakers in determining how immigration levels could be modified to best serve the national interest.

PREPARED TESTIMONY OF ROSEMARY JENKS, SENIOR ANALYST
 CENTER FOR IMMIGRATION STUDIES
 WASHINGTON, DC
 BEFORE THE HOUSE JUDICIARY COMMITTEE SUBCOMMITTEE ON
 IMMIGRATION AND NATURALIZATION

Finally, it would be helpful if INS could provide in the Statistical Yearbook data on all the aliens who are admitted to the United States with the expectation that they will stay permanently, instead of just those who are granted lawful permanent residence status. This would include, among others, refugee and asylee admissions, long-term parolees, such as those under the Cuban migration agreement, and aliens granted Temporary Protected Status, Deferred Enforced Departure, and other forms of relief from deportation. Of course, it would also be helpful if the Statistical Yearbook could be published in a more timely manner.

Attachments:

- A. March 28 INS press release on FY 1995 legal immigration numbers.
 - B. March 28 INS "Fact Sheet" explaining the FY 1995 "decline."
 - C. March 28 Washington Post article on the INS announcement.
 - D. Center for Immigration Studies Announcement on Current Population Survey data.
 - E. Dear Colleague letter from Sens. Abraham and Kennedy regarding new INS projections.
 - F. INS projections of future legal immigration as of April 1, 1996.
 - G. INS projections of future legal immigration as of April 11, 1996.
 - H. INS table showing quarterly immigration for FY 1995. (NOTE: REFERENCED ATTACHMENTS NOT TRANSMITTABLE)
- END

Classification

Language: ENGLISH

Subject: IMMIGRATION LAW (93%); IMMIGRATION (93%); IMMIGRATION REGULATION & POLICY (90%); LEGISLATIVE BODIES (90%); POLITICAL DEBATES (89%); RESEARCH INSTITUTES (89%); PUBLIC POLICY (89%); ILLEGAL IMMIGRANTS (78%); NONPROFIT ORGANIZATIONS (63%)

Company: STATISTICS DIV (59%); STATISTICS DIV (59%); CENTER FOR IMMIGRATION STUDIES (62%); SENATE JUDICIARY COMMITTEE (55%)

Organization: CENTER FOR IMMIGRATION STUDIES (62%); SENATE JUDICIARY COMMITTEE (55%)

Person: HOWARD L BERMAN (58%); SAMUEL BROWNBACK (56%)

Geographic: UNITED STATES (92%)

Load-Date: May 18, 1996