

**NLWJC - Kagan**

**DPC - Box 004 - Folder 010**

**Budget Materials - Appropriations  
Riders 1999: Immigration**

New file

Budget - appropriations rules 1999 -  
immigration

## PROPOSAL FOR OMNIBUS BILL

In the section on Haitian adjustment, insert the following:

1 (1) Not later than 6 months after the date of the en-  
2 actment of this Act, and every 6 months thereafter (until  
3 all applications for adjustment of status under this section  
4 have been finally adjudicated), the Comptroller General of  
5 the United States shall submit to the Committees on the  
6 Judiciary and the Committees on Appropriations of the  
7 United States House of Representatives and the United  
8 States Senate a report containing the following:

9 (1)(A) The number of aliens who applied for  
10 adjustment of status under subsection (a), including  
11 a breakdown specifying the number of such appli-  
12 cants who are described in subparagraph (A), (B),  
13 or (C) of subsection (b)(1), respectively.

14 (B) The number of aliens described in subpara-  
15 graph (A) whose status was adjusted under this sec-  
16 tion, including a breakdown described in the sub-  
17 paragraph.

18 (2)(A) The number of aliens who applied for  
19 adjustment of status under subsection (d), including  
20 a breakdown specifying the number of such appli-  
21 cants who are spouses, children, or unmarried sons

1 or daughters described in such subsection, respec-  
2 tively.

3 (B) The number of aliens described in subpara-  
4 graph (A) whose status was adjusted under this sec-  
5 tion, including a breakdown described in the sub-  
6 paragraph.

# NATIONAL SECURITY COUNCIL

## OFFICE OF MULTILATERAL AND HUMANITARIAN AFFAIRS

### FAX COVER SHEET

**NATIONAL  
SECURITY  
COUNCIL**

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Did you get a complete,  
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please call:

(202) 456-9141

From: Scott Busby 456-9141 (phone) /456-9140 (fax)

To: Maria Echaveste **FAX** 6-6703  
Elena Kajam 6-2878

Date/Time: Peter Jacoby 6-6468

No. of pages to follow: 1 Julie F. 6-~~6558~~

RE: 5581

*Haitian counter-  
memorandum w/ state,  
per discussion w/ Peter*

For Background ONLYHaitians Bill Counter-ProposalsCounter-Offer #1

- Retain Senate version of the bill
- Dedicate 5 additional INS special agents (i.e., investigators) and 20 additional border patrol agents (out of the 1000 additional sought in FY 99 budget) to the State of Florida in FY 1999 (This raises totals to 100 investigators and 85 border patrol agents for the State of Florida.)

Counter-Offer #2

- Provide adjustment of status to Haitian parolees and to orphans covered by the Senate bill (22,100 persons)

(Rationale: Parolees have already had a favorable adjudication by INS - they were paroled from GTMO after having been found to have a credible fear of persecution. Orphans shouldn't have to go through the suspension process.)

- Provide old suspension rules to remainder of Haitians covered by Senate bill (27,625 persons)
- Provide that all Haitians eligible for old suspension rules have met the seven years of continuous residence requirement *stipulation*
- Provide old suspension rules to all Hondurans who applied for asylum prior to December 1991 (c. 3,000 persons) *same stipulation as above?*

(Rationale: These Hondurans are roughly in the same position as ABC Salvadorans and Guatemalans. Fled human rights abuses and/or generalized upheaval and probably did not receive a fair hearing on their asylum claims.)

- Provide that all Haitians, Hondurans and other NACARA-eligible individuals (including Salvadorans and Guatemalans) have met the "extreme hardship" requirement (c. 320,000 persons)

(Alternatively, reduce the "extreme hardship" test to "hardship" for these same groups.)

# Haitian Immigration Relief

## Target group:

51,000 Haitians who: *Real target group 150,000*

- 1) Applied for asylum prior to 12/31/95 37,425
- 2) Were paroled into the U.S. prior to 12/31/95 22,100\*
- 3) Unaccompanied or orphaned children 1,200

\*9,800 Parolees applied for asylum and are included in both parolees and asylum applicants.

## Relief Offered:

Those who were paroled into the U.S. **AND** applied for asylum prior to 12/31/95 would be eligible for permanent residency.

Approximately 9,800

The unaccompanied or orphaned children would be eligible for permanent residency.

*Parolees*

Approximately 1,200

The remaining Haitians described above would be eligible to apply for permanent residency under pre-1996 standards (Extreme Hardship and Good Moral Character). Basing estimates on the FY94-96 approval rate of 59%, approximately **23,556 Haitians would receive permanent residency.**

*Like - El Salv + Guat. NACARA-like std.*

Total Haitians receiving Permanent Residency: Approximately: **34,556**

*accept*

*Applied for asylum but not paroled.*

*Stipulate that met extreme hardship. but then figures will be made so say will accept if also apply to salve/burda*

~~SECRET~~

## H-2A OPTIONS

AgNet -- administrative

AgNet -- legislative

General pilot language

Specific pilots

- Migrant Agricultural Worker Wage Survey
- Registry pilot
- Housing voucher pilot with insurance piece
- Housing -- supplemental Federal funding for grower-provided housing with insurance piece
- Transportation -- advance voucher



## **RECRUITMENT PROPOSAL**

### **“AMERICA’S AGRICULTURAL LABOR NETWORK (AGNET)”**

#### **Problem -- Federal government recruitment assistance.**

Growers are required under the H-2A program to conduct positive recruitment efforts prior to applying for foreign workers. One aspect of this requirement is to post the job opportunity with the local Employment Service office.

Unfortunately, less than 2% of agricultural job placements are through the local Employment Service office. Between June 1995 and July 1996, about 190,000 migrant and seasonal farm workers sought employment through the U.S. Employment Service State offices and only about 65,000 were actually placed in agricultural jobs. This method of placement has become increasingly ineffective for this industry which has become more reliant on using private sector intermediary labor brokers -- farm labor contractors. The Federal government should re-target its resources to more effectively aid growers and workers in finding labor and employment.

#### **Proposal -- America’s Agricultural Labor Network (AgNet).**

The majority of farm workers find employment through a kinship/friendship network. One problem with this method is that it spawns and reinforces illegal migration to the U.S.; another is that it is highly inefficient in a geographically diffuse labor market. Workers spend time trying to locate employment when they could be earning money. The Federal government could serve as an information broker by developing a system that allows growers to find workers and workers to find employment opportunities that meet their needs (e.g., location, duration, type of crop, etc.). This would benefit growers and workers by having an efficient alternative mechanism to match workers with employment opportunities. Growers that apply for H-2A workers would be required to participate in AgNet. However, this would not be the only grower recruitment requirement. The system would be evaluated five years after implementation to assess its impact on this industry.

#### ***Model -- America's Job Bank.***

America’s Job Bank (AJB) is a partnership between the U.S. Department of Labor and the state-operated public Employment Service. AJB links these state offices electronically through an Internet web site. There is no charge to employers or job seekers to use this service.

- For job seekers, AJB provides a nationwide listing of job opportunities and allows them to file a resume that enables employers to find them.
- For employers, AJB provides a quick way to list job openings, national exposure, and an easily accessible applicant pool.

Approximately 900,000 jobs are listed in AJB on an average day.<sup>1</sup> It takes about 72 hours to register with AJB and about 24 hours to list a job vacancy. These times will improve over the coming year as the software is updated.

*America's Agricultural Labor Network (AgNet).*

What is AgNet? America's Agricultural Labor Network (AgNet) would be an information system devoted to the agriculture industry which would contain job opportunities and worker resumes. AgNet would be based on AJB, but would be a separate web site. The two sites would be linked so basic information in AgNet is automatically placed in AJB.

The State Employment Service would serve a similar function, as in AJB, to scan listings for obvious problems prior to posting on the Internet. This provides some basic quality control. However, this is not a process for verifying an applicant's immigration status.

What information will be available in AgNet? The job listing would provide the conditions of employment including location, crop, duration of employment, wages, skills requested, and whether housing and/or transportation is provided. In addition, it would include information on how to contact the employer and the required worker disclosures. The worker resumes would include, among other things, qualifications, desired location and crop, and information on how to be contacted. The contact and hiring arrangement is between the grower, or FLC, and the worker, not the government. Examples from AJB are attached. The specific information included in the system would be modified to reflect the agriculture industry.

The system must meet the challenges of helping workers gain access to it and connecting English-speaking growers with many Spanish-speaking workers. The system will initially be in English but to address this concern will eventually be designed in Spanish as well.

Who can use it? This system would be accessible to the public generally including growers, workers, farm labor contractors, community based organizations<sup>2</sup> (CBOs), and unions. Browsing the system is anonymous. CBOs could serve as a point of contact for workers or growers. The system could be designed to have "counselor/broker accounts" to allow an organization to search for jobs for multiple workers or list jobs for multiple growers. Such a design change would likely not be available until later in 1999.

How will workers and growers gain access to the system? Given this is a low-wage industry, gaining access to AgNet will be a challenge. Some places that may be able to provide access

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<sup>1</sup> Very few of these listings are for agricultural jobs, with only 479 such listings nationwide on October 5, 1998.

<sup>2</sup> Community based organizations include churches, farm labor organizations, and agricultural grower organizations.

include local libraries, CBOs, unions, State Employment Service offices, and U.S. Department of Agriculture extension offices.

What are the benefits of AgNet? AgNet would be a free service provided to workers and growers. Ideally, workers would be able to plan their entire employment cycle using this system. For example, the worker could line-up jobs from Florida up to New York. This would provide more control and stability for the worker.

Growers would benefit by gaining access to a two-sided recruitment system. Now, growers file requests for workers with the Employment Service and wait for referrals -- a one-sided system. Under this system, growers would be able to search for, identify, and contact qualified, available workers in addition to listing their job openings. Also, the grower would gain exposure to a national audience of workers. With electronic posting, the grower would have complete control of his/her job postings and would be expected to suspend them once his/her jobs had been filled.

Who will own AgNet? AgNet will be owned and operated by a partnership. The partnership will consist of farm worker and grower organizations, supported by the U.S. Department of Labor and U.S. Department of Agriculture. The partnership will determine the final design of the system. Due to the time it would take to establish a partnership, initial implementation of the system will be through the current AJB partnership between the State Employment Service and the U.S. Departments of Labor and Agriculture.

How will growers and workers learn about the system? The critical link to the success of this system is buy-in by the farm worker and grower organizations. Given most workers find jobs through word of mouth, the partnership will have to conduct extensive outreach. In addition to fliers and newspaper ads, public service announcements on Spanish radio could serve as a good median. The Federal government could also conduct outreach efforts through its programs including the U.S. Department of Agriculture extension offices.

How long will it take to set up AgNet? The system could be activated in approximately one month after initial design modifications are made. It will take additional time to implement further design changes, requested by the partnership, that reflect this industry's needs. The preliminary goal would be to have 10,000 job opportunities in AgNet by the end of January, 1999.

Who will pay for AgNet? The Federal government will provide this service through a grant to the partnership. Initial funding will be provided to the State Employment Service until the partnership is formed. Given the software for the labor network has already been developed, it will cost a minimal amount of money to activate this system. Additional customizing of the system (e.g., Spanish language version or adding the "counselor/broker" features) will cost a relatively small amount of money. There will be a separate cost for training and outreach to the various CBOs and unions.

*Preliminary estimates:*

Year 1:	\$ 25,000 (annual system costs)
	\$ 150,000 (design changes)
	\$5 - 10,000,000(training and outreach) *
Year 2:	\$ 25,000 (annual system costs)
	\$ 100,000 (additional design changes)
	\$5 - 10,000,000(training and outreach) *
Year 3:	\$ 25,000 (annual system costs)
and out-years	\$5 - 10,000,000(training and outreach) *

\* This funding level would provide:

- grants to CBOs and unions for equipment and advertising;
- funds for computer related training of CBOs and unions; and,
- national outreach to workers and growers.



# Job Seeker Registration Update



Please complete the form below and click 'Update Registration' to update your registration.

⇒ Last Name:

⇒ First Name:  M.I.:

⇒ Street Address 1:

Street Address 2 / P.O. Box:

⇒ City:

⇒ State:  ▼ ⇒ Zip/Postal:

⇒ Country:  ▼

⇒ Primary Phone:

Alt. Phone:

Fax:

Email:

⇒ U.S. Military Veteran Status:  ▼

*Only enter data in the password fields if you wish to change your password*

⇒ Password:

⇒ Verify Password:

[ [Questions/Comments](#) | [Customer Evaluation](#) | [Frequently Asked Questions](#) | [Non-Frames Version](#) ]

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# Job Referral Information

Applicants will be instructed to address referrals as you indicate below to the address, phone and/or fax number entered below. Please choose at least one form of contact information and make any changes that are needed to the default referral information taken from your company profile.

**Company**

**Mail**

Address

City

State

Zip Code

Country

Contact Name

**Phone**

Phone Number  
123-456-7890x123

Speak With

**Fax**

Fax Number  
123-456-7890

Deliver To

**Email**

*Company Resume Builder / Online Application*

**Continue**

[ [Questions/Comments](#) | [Customer Evaluation](#) | [Frequently Asked Questions](#) | [Non-Frames Version](#) ]

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# Job Order Entry

The following information is necessary to allow us to enter your job into our on-line search system. Please complete the form below and click 'Submit Job' when you are done.

**Title**

**Location**

<b>City</b>	<b>State</b>	<b>Zip</b>
<input type="text"/>	<input type="text"/>	<input type="text"/>

**Country**

If this job is a regional, statewide, or country-wide job, click this checkbox and complete as much information as possible above.

**Number of positions available**

**Number of hours per week**

**Months of experience required**

Salary should be entered in the following format ###,###.##. Comma is optional. Do not use decimal unless cents are really part of the salary (i.e. 15.50 per hour). Do not use alpha characters (i.e. 50K per year). Salary/Pay Unit should not exceed the equivalent of \$500/hour (i.e. \$1.04 million/year).

If you do not enter a salary, your job will not be considered when a job seeker does a search using salary as a search criteria.

**Salary Range** \$  to \$  per

**Duration**

**Required Education**

**Required Degree or Formal Training**

**Required License, Certificate, or Registration**

## Company URL

If your company has a World Wide Web home page, you can include a link to it here by entering your company URL.

## Job Description

Please list the job skills and experience requirements, as well as any other information applicants should know. The most important skills and experience should be listed first so applicants can quickly determine if they are qualified. Please use plain text without HTML formatting tags.

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**PROPOSAL FOR CONFERENCE ON H.R. 4276**

**(Commerce, Justice, and State, and Judiciary Appropriations Bill, 1999)**

In lieu of title XI of the Senate amendment insert the following:

**1 SEC.\_\_\_\_. ESTABLISHMENT OF AMERICA'S  
2 AGRICULTURAL LABOR NETWORK.**

**3 (a) IN GENERAL.--**

**4 (1) ESTABLISHMENT OF SYSTEM.-- The  
5 Secretary of Labor, in consultation with the  
6 Secretary of Agriculture, shall establish a labor  
7 exchange network that shall be known as America's  
8 Agricultural Labor Network.**

**9 (2) GRANTS.--The Secretary of Labor may  
10 award funds appropriated under this section to a  
11 State agency, nongovernmental entity or consortium  
12 of such entities, to carry out paragraph (1).**

**13 (b) CONTENTS.--The network established  
14 pursuant to this section shall contain an  
15 electronically accessible nationwide listing of job  
16 openings in agricultural employment and of  
17 individuals seeking agricultural employment. The  
18 listing shall include such information as the  
19 Secretary of Labor, in consultation with the  
20 Secretary of Agriculture, determines to be**



1 necessary.

2 (c) REQUIRED LISTINGS.--Section 218(b) of the  
3 Immigration and Nationality Act is amended by  
4 adding the following paragraph:

5 “(5) The Secretary determines that the  
6 employer has not listed the job opening for which  
7 the employment of the alien is being sought on  
8 America’s Agricultural Labor Network established  
9 under section \_\_\_ of \_\_\_ Act, or has not searched  
10 the list of job seekers contained in such network to  
11 identify available workers.”

12 (d) ADVISORY BOARD.--There shall be  
13 established an advisory board to be composed of--

14 (1) four representatives of agricultural  
15 employers to be appointed by the Secretary of  
16 Agriculture, including individuals who have  
17 experience with the H-2A program; and,

18 (2) four representatives of agricultural  
19 workers to be appointed by the Secretary of Labor,  
20 including individuals who have experience with the  
21 H-2A program;  
22 to provide advice, one year after implementation of  
23 this section, to the Secretary of Labor on the content  
24 of information contained in the network.

25 (e) EVALUATION AND REPORT TO CONGRESS.--

26 Not later than 5 years after implementation of

1 this section, the Secretary of Labor, in consultation  
2 with the Secretary of Agriculture and the Advisory  
3 Board established in subsection (d), shall evaluate  
4 the efficiency and effectiveness of America's  
5 Agricultural Labor Network. In addition, the  
6 Secretary of Labor shall report the results of this  
7 evaluation to Congress.

8 (f) AUTHORIZATION OF APPROPRIATIONS.--There  
9 are authorized to be appropriated to the Secretary of  
10 Labor such sums as may be necessary to carry out  
11 this section.

## **H-2a PILOT PROGRAMS**

### **Proposal**

The Secretary of Labor, in consultation with the Secretary of Agriculture and other agencies as appropriate, is authorized to conduct a series of pilot projects lasting no more than four years testing ways to make the H-2a program function more efficiently.

### **Structure**

The Secretary, using her own resources and those of other agencies as appropriate, will assess a number of areas that have been raised as problems for workers and growers in the H-2a program. These areas include, but are not limited to, recruitment and hiring, housing, and transportation. The Secretary is authorized to consult with growers and representatives of farm workers in the design, implementation, and evaluation of the pilots.

### **Evaluation**

All pilots will include an outcome-based evaluation, and the results of the evaluation will be released no later than six months after the pilot is completed.

### **Funding**

Cost will depend on the size, scope, and complexity of the pilot(s). The Secretary may use her own resources or work in conjunction with other agencies to defray the cost of the pilot where the pilot meets the other participating agency's mission.

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**PROPOSAL FOR CONFERENCE ON H.R. 4276**

**(Commerce, Justice, and State, and Judiciary Appropriations Bill, 1999)**

In lieu of title XI of the Senate amendment insert the following:

**1 SEC. \_\_\_\_ H-2A PILOT PROJECTS.**

**2 Section 218 of the Immigration and Nationality Act  
3 (8 U.S.C. 1188) is amended by adding the following  
4 subsection:**

**5 “(j) (1) The Secretary of Labor, in consultation  
6 with the Secretary of Agriculture and other agencies  
7 as appropriate, is authorized to develop and conduct  
8 pilot projects in a manner consistent with the  
9 provisions of this Act, to test programs that could  
10 enhance the effectiveness of the H-2a program.**

**11**

**12 (2) Pilot projects authorized under this subsection,  
13 shall be designed and executed in a manner  
14 consistent with the following guiding principles:**

**15 (a) procedures for using the program are  
16 simple and the least burdensome for growers;**

**17 (b) assures an adequate labor supply for  
18 growers in a predictable and timely manner;**

**19 (c) Provides a clear and meaningful first  
20 preference for U.S. farm workers, and a means**

1 for mitigating against the development of structural  
2 dependency on foreign workers in an area or crop;

3 (d) avoids the transfer of costs and risks from  
4 businesses to low-wage workers;

5 (e) encourages longer periods of employment  
6 for legal U.S. workers; and

7 (f) assures decent wages and working  
8 conditions for domestic and foreign farm workers,  
9 and that normal market forces work to improve  
10 wages, benefits, and working conditions.

11

12 (3) (a) Consistent with the guiding principles in (2)  
13 above, pilot programs developed and conducted  
14 pursuant to this subsection shall be designed to test  
15 how the H-2a program can be made more effective  
16 and efficient in such areas as worker recruitment  
17 and hiring, housing workers, and overcoming  
18 transportation related obstacles to employment,  
19 among other issues.

20 (b) The Secretary of Labor may consult with  
21 representatives of agricultural employers, including  
22 individuals who have experience with the H-2A  
23 program, and representatives of agricultural workers  
24 to provide advice on the design and assessment of  
25 the pilot projects.

26

1 (4) Each pilot project conducted under this  
2 subsection may continue for no longer than four  
3 years, and shall include an evaluation component  
4 that will measure the effects of the pilot in achieving  
5 its goals. The Secretary of Labor shall release the  
6 results of the evaluation within six months of the  
7 completion of each pilot.

8

9 (5) The Secretary of Labor and the Secretary of  
10 Agriculture, and other agencies as appropriate, are  
11 authorized to expend such funds as may be  
12 necessary to carry out the provisions of this  
13 subsection.

14

15 (6) This subsection shall expire <sup>three</sup>~~five~~ years after  
16 enactment.

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## **MIGRANT AGRICULTURAL WORKER WAGE STUDY**

### **Proposal**

One of the key agricultural economics issues, which is a part of but much bigger than the H-2a program, is the wage level in the industry. The Secretary of Labor, in consultation with the Secretary of Agriculture and other agencies as appropriate, is authorized to conduct an in-depth study of the economics of the agricultural worker wage setting environment.

### **Structure**

The Secretary of Labor, using her own resources and those of other agencies as appropriate, will contract with the National Academy of Sciences to study the wage setting and related processes in the agricultural workers sector to assess wage levels that allow growers to remain competitive, without depressing U.S. workers' wages or building pressures leading to increased illegal participation in this labor market.

### **Evaluation**

The study will be completed no more than two and one-half years from the date of enactment.

### **Funding**

Cost will depend on the size, scope, and complexity of the study. The Secretary may use her own resources or work in conjunction with other agencies to defray the cost of the study.

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**PROPOSAL FOR CONFERENCE ON H.R. 4276**

**(Commerce, Justice, and State, and Judiciary Appropriations Bill, 1999)**

In lieu of title XI of the Senate amendment insert the following:

**1 SEC.\_\_\_\_. MIGRANT WORKER WAGE STUDY.**

**2 Section 218 of the Immigration and Nationality Act**  
**3 (8 U.S.C. 1188) is amended by adding the following**  
**4 subsection:**

**5 “(j) (1) The Secretary of Labor, in consultation**  
**6 with the Secretary of Agriculture and other agencies**  
**7 as appropriate, shall enter into a contract with the**  
**8 President of the National Academy of Sciences to**  
**9 conduct a study, using the best available data,**  
**10 assessing the economics of and wage-setting**  
**11 processes in the agricultural worker sector. The**  
**12 purpose of the study will be to assess wage levels**  
**13 that allow growers to remain competitive without**  
**14 depressing the wages of U.S. workers or building**  
**15 pressures that would lead to increased illegal**  
**16 participation in this labor market. Among other**  
**17 issues, the study will address:**

- 18 (a) rates of pay: hourly, piece work;**  
**19 individual or group, for different crops;**  
**20 (b) seasonal demand factors;**



1           © length of employment;  
2           (d) effect of illegal workers and H-2a workers  
3 on displacement of U.S. workers, working  
4 conditions, and wages and other earnings;  
5           (e) other factors, as appropriate.

6  
7 (2) The results of this study shall be made available  
8 within two and one-half years of the date of  
9 enactment of this subsection.

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*make more specific -  
how much to H2A*

## **REGISTRY PILOT PROPOSAL**

### **Proposal**

The Department of Labor, in consultation with the Department of Agriculture, would establish a targeted registry pilot. The goal of the pilot would be to test the feasibility and effectiveness of a solely government operated recruitment system for growers. Growers would be required to list with the registry.

### **Structure**

The pilot would be limited to California, Oregon, and Washington and could be built off the America's Job Bank. Targeting would allow the Federal government to test and evaluate the registry system in a focused region before deciding whether to implement such a system nationwide. Choosing these three States would allow the Federal government to evaluate the impact in an area that represents a migrant stream and that currently does not widely use the H-2A program.

### **Evaluation**

The pilot would be evaluated and a report issued 5 years after implementation of the system to assess its impact on this industry. In addition to implementation issues, examples of specific effects that would be measured include:

- whether the government could effectively serve as the only recruitment source of migrant U.S. workers for growers;
- whether this type of system is better than the current system for recruiting migrant U.S. workers that requires the grower to conduct positive recruitment; and,
- whether this system results in a more stable and legal labor supply for growers.

### **Funding**

The pilot would be funded through a grower user fee. Our preliminary cost estimate is between \$30 - \$45 million annually to design, implement, and operate the registry in these three States.<sup>1</sup> This very roughly translates into a \$500 - \$750 per worker user fee.<sup>2</sup>

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<sup>1</sup>A base assumption is that 10% of the current illegal population (60,000) is replaced by referred U.S. workers as a result of this pilot.

<sup>2</sup> The user fee would cover recruitment of U.S. workers to be listed in the registry, collection and entry of worker and grower information, verifying immigration status, matching and referring workers with growers, and routine enforcement associated with the registry.

# HOUSING PILOT PROPOSAL

## Proposal

The Department of Labor, in consultation with the Department of Agriculture, would establish a targeted housing pilot. The goal of the pilot would be to determine the effect of a housing voucher system. Growers participating in the pilot must be participants in the H-2A program.

## Structure

*Ken* *Southeast* *Southeast*  
The pilot would be limited to selected counties in the Northwest and Northeast. Choosing these areas would enable the Federal government to test and evaluate a different housing alternative accounting for regional and crop effects. The pilot would consist of a housing voucher, to get the grower out of the housing business, and housing insurance, to help increase the availability of housing (grower and non-grower) by insuring against excessive damage.

*Housing voucher:* Growers, or associations, would be required to apply to the Department of Labor for participation in this part of the pilot. The Secretary will determine the type of information required to determine participation; for example, local housing occupancy rate. ]

Once in the pilot, the grower would be allowed to either provide a housing voucher or grower owned housing to the worker. The grower would be required to secure the alternative housing for the worker. *take out* The housing voucher would be redeemable once the worker decided on the housing being offered by the grower. Unused vouchers would not be redeemable for cash with the grower.

*Housing Insurance:* In order to increase the availability of housing, the pilot would also test use of a Migrant Housing Insurance Fund which would be available for housing damages beyond normal wear and tear to grower and non-grower housing. Both the grower and worker would pay into this fund. Our preliminary estimate is \$100 per worker; \$50 paid by the worker and \$50 paid by the grower. Any entity that houses workers covered by the H-2A program could apply to the Department of Labor for reimbursement of excessive damages.

## Evaluation

The pilot would be evaluated <sup>3</sup> years after implementation to assess its impact on this industry.

## Funding

We estimate that the Federal government would need to provide initial seed money of at least \$5 million into the Migrant Housing Insurance Fund. The fund would be a revolving fund where interest on the principal and receipts from the public would constitute the reimbursements to the housing entity.

*seed money  
\$100 per worker, paid by  
grower*

## SUPPLEMENTAL HOUSING PILOT PROPOSAL

### Proposal

The Department of Agriculture would establish a targeted supplemental housing pilot. The goal of the pilot would be to determine the effect of supplemental Federal funding for building grower-provided housing. Growers participating in the pilot must be participants in the H-2A program.

### Structure

The pilot would be limited to selected counties in the Southwest and Southeast. Choosing these areas would enable the Federal government to test and evaluate supplemental funding accounting for regional and crop effects. The pilot would consist of supplemental Federal funding, to aid the grower in providing housing, and housing insurance, to help increase the availability of other non-grower housing by insuring against excessive damage.

*Supplemental Federal government funding:* Growers, or associations, could apply to the Department of Agriculture's Rural Housing Program for supplemental funding to help them build grower-provided farm worker housing.

*Housing Insurance:* In order to increase the availability of housing, the pilot would also test use of a Migrant Housing Insurance Fund which would be available for housing damages beyond normal wear and tear to grower and non-grower housing. Both the grower and worker would pay into this fund. Our preliminary estimate is \$100 per worker; \$50 paid by the worker and \$50 paid by the grower. Any entity that houses workers covered by the H-2A program could apply to the Department of Labor for reimbursement of excessive damages.

### Evaluation

The pilot would be evaluated <sup>2</sup> 5 years after implementation to assess its impact on this industry. *Adams*

### Funding

We estimate an additional \$5 million annually to the current Rural Housing Program to help growers build migrant housing. The additional funding would provide approximately 100 housing units (estimated 400-600 more workers housed depending on the type of unit -- family or single).

## TRANSPORTATION PILOT PROPOSAL

### Proposal

The Department of Labor would establish a targeted transportation pilot. The goal of the pilot would be to determine the effect of an advance travel voucher. To be eligible for the pilot, workers must be employed by a grower participating in the H-2A program and live more than 100 miles from the employment site.

### Structure

The pilot would be limited to Southern tier States. Targeting would allow the Federal government to test and evaluate the advance transportation system before deciding whether to implement such a system nationwide. Choosing this area would allow the Federal government to evaluate the impact in an area that represents movement by workers across the country to get into another migrant stream. Growers would benefit by enabling them to tap workers that had been unavailable previously due to travel barriers.

*Travel voucher:* Growers, or associations, could apply to the Department of Labor for an advance travel voucher for a specific worker. Growers would be required to submit specific information in the application as required by the Secretary.

### Evaluation

The pilot would be evaluated <sup>3</sup> years after implementation to assess its impact on this industry.

### Funding

The Federal government would establish a separate revolving fund in the Treasury of \$5 million to provide advance travel vouchers to workers. The fund would be a revolving fund where interest on the principal and receipts from the public would constitute the advances to the workers. After 50% of the employment contract is complete, a grower would be required to reimburse the Federal government 110% of the voucher to cover the cost of transportation, administration of the voucher, and risk of default by the worker who does not complete 50% of the employment contract.

▶ **Julie A. Fernandes**  
10/07/98 08:30:25 PM  
.....

Record Type: Record

To: Elena Kagan/OPD/EOP, Sally Katzen/OPD/EOP  
cc: Laura Emmett/WHO/EOP, Shannon Mason/OPD/EOP, Cecilia E. Rouse/OPD/EOP  
Subject: H2A -- recruitment

AgNet

At today's H-2A meeting, we went over the AgNet proposal that was developed by OMB. The proposal is attached.

The group agreed that AgNet should be presented as a tool to help formalize the recruitment process for growers. The key differences between this proposal and the Wyden-Graham registry are: (1) this would not replace the growers's positive recruitment requirements; (2) it would not serve as a verification system (to verify authorization to work); and (3) it requires active searching on the system by growers for workers and allows workers a way to search for growers; under the registry system, the govt. had the responsibility to match workers to growers on the system.

This system could be up and running in about a month, but would take longer to perfect. If we proposed this, we would likely want it to be evaluated after five years, to determine if it useful to growers and workers. USDA and DOL agreed that growers could be required to participate in AgNet in order to participate in the H-2A program. The success of the program rests heavily on getting the participation of large numbers of growers and workers.

Verification Issue

Though all agree that the AgNet system could prove very helpful for growers and workers, it does not solve the fundamental issue of how to better determine if workers are authorized to work. The America's Job Bank folks oppose the system being used, in part, to feed a verification system. They see AJB (and the proposed AgNet) as an information sharing network -- not as an enforcement tool of the government. No other checks of this kind are done on those who post for jobs. In fact, the AJB folks have argued that the less this looks like the government, the more likely we will get large numbers of participants. In addition, it may be problematic to require verification for workers who participate in AgNet, but not for workers who participate in other parts of America's Job Bank.

The INS does operate employment verification pilots that could be modified to effectively verify farmworkers. However, Ceci and I (and OMB) continue to believe that the responsibility for verifying workers should remain with the grower. Thus, a grower that finds workers through AgNet would have the same responsibility to do an I-9 check as he/she has with workers recruited by other means. If the grower wants additional assurances that his/her workforce is legal, the grower can participate in the INS's employment verification pilot program.

Growers don't want to participate in the employment verification pilot program b/c if they know their workforce is illegal, they are liable for sanctions (there is an intent standard for liability in IRCA). If they find out their workforce is illegal and don't want to be sanctioned, they have to use the H2A program, which they characterize as too difficult (either b/c it is burdensome or b/c it is costly).

Thus, the real issue with verification comes back to cost.

## **RECRUITMENT PROPOSAL**

### **“AMERICA’S AGRICULTURAL LABOR NETWORK (AGNET)”**

#### Problem -- Federal government recruitment assistance.

Growers are required under the H-2A program to conduct positive recruitment efforts prior to applying for foreign workers. One aspect of this requirement is to post the job opportunity with the local Employment Service office.

Unfortunately, less than 2% of agricultural job placements are through the local Employment Service office. Between June 1995 and July 1996, about 190,000 migrant and seasonal farm workers sought employment through the U.S. Employment Service State offices and only about 65,000 were actually placed in agricultural jobs. This method of placement has become increasingly ineffective for this industry which has become more reliant on using private sector intermediary labor brokers -- farm labor contractors. The Federal government should re-target its resources to more effectively aid growers and workers in finding labor and employment.

#### Proposal -- America’s Agricultural Labor Network (AgNet).

The majority of farm workers find employment through a kinship/friendship network. One problem with this method is that it spawns and reinforces illegal migration to the U.S.; another is that it is highly inefficient in a geographically diffuse labor market. Workers spend time trying to locate employment when they could be earning money. The Federal government could serve as an information broker by developing a system that allows growers to find workers and workers to find employment opportunities that meet their needs (e.g., location, duration, type of crop, etc.). This would benefit growers and workers by having an efficient alternative mechanism to match workers with employment opportunities. Growers that apply for H-2A workers would be required to participate in AgNet. However, this would not be the only grower recruitment requirement. The system would be evaluated five years after implementation to assess its impact on this industry.

#### *Model -- America’s Job Bank.*

America’s Job Bank (AJB) is a partnership between the U.S. Department of Labor and the state-operated public Employment Service. AJB links these state offices electronically through an Internet web site. There is no charge to employers or job seekers to use this service.

- For job seekers, AJB provides a nationwide listing of job opportunities and allows them to file a resume that enables employers to find them.
- For employers, AJB provides a quick way to list job openings, national exposure, and an easily accessible applicant pool.

Approximately 900,000 jobs are listed in AJB on an average day.<sup>1</sup> It takes about 72 hours to register with AJB and about 24 hours to list a job vacancy. These times will improve over the coming year as the software is updated.

*America's Agricultural Labor Network (AgNet).*

What is AgNet? America's Agricultural Labor Network (AgNet) would be an information system devoted to the agriculture industry which would contain job opportunities and worker resumes. AgNet would be based on AJB, but would be a separate web site. The two sites would be linked so basic information in AgNet is automatically placed in AJB.

The State Employment Service would serve a similar function, as in AJB, to scan listings for obvious problems prior to posting on the Internet. This provides some basic quality control. However, this is not a process for verifying an applicant's immigration status.

What information will be available in AgNet? The job listing would provide the conditions of employment including location, crop, duration of employment, wages, skills requested, and whether housing and/or transportation is provided. In addition, it would include information on how to contact the employer and the required worker disclosures. The worker resumes would include, among other things, qualifications, desired location and crop, and information on how to be contacted. The contact and hiring arrangement is between the grower, or FLC, and the worker, not the government. Examples from AJB are attached. The specific information included in the system would be modified to reflect the agriculture industry.

The system must meet the challenges of helping workers gain access to it and connecting English-speaking growers with many Spanish-speaking workers. The system will initially be in English but to address this concern will eventually be designed in Spanish as well.

Who can use it? This system would be accessible to the public generally including growers, workers, farm labor contractors, community based organizations<sup>2</sup> (CBOs), and unions. Browsing the system is anonymous. CBOs could serve as a point of contact for workers or growers. The system could be designed to have "counselor/broker accounts" to allow an organization to search for jobs for multiple workers or list jobs for multiple growers. Such a design change would likely not be available until later in 1999.

How will workers and growers gain access to the system? Given this is a low-wage industry, gaining access to AgNet will be a challenge. Some places that may be able to provide access

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<sup>1</sup> Very few of these listings are for agricultural jobs, with only 479 such listings nationwide on October 5, 1998.

<sup>2</sup> Community based organizations include churches, farm labor organizations, and agricultural grower organizations.



include local libraries, CBOs, unions, State Employment Service offices, and U.S. Department of Agriculture extension offices.

What are the benefits of AgNet? AgNet would be a free service provided to workers and growers. Ideally, workers would be able to plan their entire employment cycle using this system. For example, the worker could line-up jobs from Florida up to New York. This would provide more control and stability for the worker.

Growers would benefit by gaining access to a two-sided recruitment system. Now, growers file requests for workers with the Employment Service and wait for referrals -- a one-sided system. Under this system, growers would be able to search for, identify, and contact qualified, available workers in addition to listing their job openings. Also, the grower would gain exposure to a national audience of workers. With electronic posting, the grower would have complete control of his/her job postings and would be expected to suspend them once his/her jobs had been filled.

Who will own AgNet? AgNet will be owned and operated by a partnership. The partnership will consist of farm worker and grower organizations, supported by the U.S. Department of Labor and U.S. Department of Agriculture. The partnership will determine the final design of the system. Due to the time it would take to establish a partnership, initial implementation of the system will be through the current AJB partnership between the State Employment Service and the U.S. Departments of Labor and Agriculture.

How will growers and workers learn about the system? The critical link to the success of this system is buy-in by the farm worker and grower organizations. Given most workers find jobs through word of mouth, the partnership will have to conduct extensive outreach. In addition to fliers and newspaper ads, public service announcements on Spanish radio could serve as a good median. The Federal government could also conduct outreach efforts through its programs including the U.S. Department of Agriculture extension offices.

How long will it take to set up AgNet? The system could be activated in approximately one month after initial design modifications are made. It will take additional time to implement further design changes, requested by the partnership, that reflect this industry's needs. The preliminary goal would be to have 10,000 job opportunities in AgNet by the end of January, 1999.

Who will pay for AgNet? The Federal government will provide this service through a grant to the partnership. Initial funding will be provided to the State Employment Service until the partnership is formed. Given the software for the labor network has already been developed, it will cost a minimal amount of money to activate this system. Additional customizing of the system (e.g., Spanish language version or adding the "counselor/broker" features) will cost a relatively small amount of money. There will be a separate cost for training and outreach to the various CBOs and unions.

*Preliminary estimates:*

Year 1:	\$ 25,000 (annual system costs)
	\$ 150,000 (design changes)
	\$5 - 10,000,000(training and outreach) *
Year 2:	\$ 25,000 (annual system costs)
	\$ 100,000 (additional design changes)
	\$5 - 10,000,000(training and outreach) *
Year 3:	\$ 25,000 (annual system costs)
and out-years	\$5 - 10,000,000(training and outreach) *

\* This funding level would provide:

- grants to CBOs and unions for equipment and advertising;
- funds for computer related training of CBOs and unions; and,
- national outreach to workers and growers.



# Job Seeker Registration Update



Please complete the form below and click 'Update Registration' to update your registration.

⇒ Last Name:

⇒ First Name:  M.I.:

⇒ Street Address 1:

Street Address 2 / P.O. Box:

⇒ City:

⇒ State:  ⇒ Zip/Postal:

⇒ Country:

⇒ Primary Phone:

Alt. Phone:

Fax:

Email:

⇒ U.S. Military Veteran Status

⇒ Are you a U.S. Citizen (or authorized to work in the U.S.)?  Yes  No

*Only enter data in the password fields if you wish to change your password*

⇒ Password:

⇒ Verify Password:

[ [Questions/Comments](#) | [Customer Evaluation](#) | [Frequently Asked Questions](#) | [Non-Frames Version](#) ]

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# Job Referral Information

Applicants will be instructed to address referrals as you indicate below to the address, phone and/or fax number entered below. Please choose at least one form of contact information and make any changes that are needed to the default referral information taken from your company profile.

**Company**

**Mail**

Address

City

State  ▼

Zip Code

Country  ▼

Contact Name

**Phone**

Phone Number  
123-456-7890x123

Speak With



**Fax**

Fax Number  
123-456-7890

Deliver To



**Email**

*Company Resume Builder / Online Application*

**Continue**

[ [Questions/Comments](#) | [Customer Evaluation](#) | [Frequently Asked Questions](#) | [Non-Frames Version](#) ]

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# Job Order Entry

The following information is necessary to allow us to enter your job into our on-line search system. Please complete the form below and click 'Submit Job' when you are done.

Title

Location City  State  Zip

Country

If this job is a regional, statewide, or country-wide job, click this checkbox and complete as much information as possible above.

Number of positions available

Number of hours per week

Months of experience required

Salary should be entered in the following format ###,###.##. Comma is optional. Do not use decimal unless cents are really part of the salary (i.e. 15.50 per hour). Do not use alpha characters (i.e. 50K per year). Salary/Pay Unit should not exceed the equivalent of \$500/hour (i.e. \$1.04 million/year).

If you do not enter a salary, your job will not be considered when a job seeker does a search using salary as a search criteria.

Salary Range \$  to \$  per

Duration

Required Education

Required Degree or Formal Training

Required License, Certificate, or Registration

## Company URL

If your company has a World Wide Web home page, you can include a link to it here by entering your company URL.

## Job Description

Please list the job skills and experience requirements, as well as any other information applicants should know. The most important skills and experience should be listed first so applicants can quickly determine if they are qualified. Please use plain text without HTML formatting tags.

1. Aquat - very good.
2. Risky pilot --yuck
3. wages - study to determine approx rate
4. 3/4 rate → lower? 70? 65?
5. Hiring
  - build more? doesn't do anything for owners
  - local pilots (multi-country)
    - has to be heavily available
    - apply to be part of a pilot
  - diff regions of country
  - risk pool - controls by owner / worker

3 location?

6. Transp - rate - ?
  - advance passport cost -
  - gives ~~up~~ new unit of workers
  - owners

Aquat Study a wages Hiring pilot Transp - rate - Advance
---

**DRAFT DRAFT DRAFT DRAFT DRAFT DRAFT DRAFT DRAFT DRAFT DRAFT**

**PROPOSAL FOR CONFERENCE ON H.R. 4276**

**(Commerce, Justice, and State, and Judiciary Appropriations Bill, 1999)**

In lieu of title XI of the Senate amendment insert the following:

**1 SEC. \_\_\_\_ ESTABLISHMENT OF AMERICA'S  
2 AGRICULTURAL LABOR NETWORK.**

**3 (a) IN GENERAL.--**

**4 (1) ESTABLISHMENT OF SYSTEM.-- The  
5 Secretary of Labor, in consultation with the  
6 Secretary of Agriculture, shall establish a labor  
7 exchange network that shall be known as America's  
8 Agricultural Labor Network.**

**9 (2) GRANTS.--The Secretary of Labor may  
10 award funds appropriated under this section to a  
11 State agency, nongovernmental entity or consortium  
12 of such entities, to carry out paragraph (1).**

**13 (b) CONTENTS.--The network established  
14 pursuant to this section shall contain an  
15 electronically accessible nationwide listing of job  
16 openings in agricultural employment and of  
17 individuals seeking agricultural employment. The  
18 listing shall include such information as the  
19 Secretary of Labor, in consultation with the  
20 Secretary of Agriculture, determines to be**

1 necessary.

2 (c) REQUIRED LISTINGS.--Section 218(b) of the  
3 Immigration and Nationality Act is amended by  
4 adding the following paragraph:

5 “(5) The Secretary determines that the  
6 employer has not listed the job opening for which  
7 the employment of the alien is being sought on  
8 America’s Agricultural Labor Network established  
9 under section \_\_\_ of \_\_\_ Act, or has not searched  
10 the list of job seekers contained in such network to  
11 identify available workers.”

12 (d) ADVISORY BOARD.--There shall be  
13 established an advisory board to be composed of--

14 (1) four representatives of agricultural  
15 employers to be appointed by the Secretary of  
16 Agriculture, including individuals who have  
17 experience with the H-2A program; and,

18 (2) four representatives of agricultural  
19 workers to be appointed by the Secretary of Labor,  
20 including individuals who have experience with the  
21 H-2A program;  
22 to provide advice, one year after implementation of  
23 this section, to the Secretary of Labor on the content  
24 of information contained in the network.

25 (e) EVALUATION AND REPORT TO CONGRESS.--

26 Not later than 5 years after implementation of



1 this section, the Secretary of Labor, in consultation  
2 with the Secretary of Agriculture and the Advisory  
3 Board established in subsection (d), shall evaluate  
4 the efficiency and effectiveness of America's  
5 Agricultural Labor Network. In addition, the  
6 Secretary of Labor shall report the results of this  
7 evaluation to Congress.

8 (f) AUTHORIZATION OF APPROPRIATIONS.--There  
9 are authorized to be appropriated to the Secretary of  
10 Labor such sums as may be necessary to carry out  
11 this section.

▶ **Julie A. Fernandes**  
10/07/98 03:35:43 PM  
.....

Record Type: Record

To: Elena Kagan/OPD/EOP, Sally Katzen/OPD/EOP  
cc: Laura Emmett/WHO/EOP, Shannon Mason/OPD/EOP  
Subject: H2A

John Fraser is doing revisions to the demonstration program paper that you have (as a possible back-up offering). Barbara Chow has asked that he do two versions: one that lays out the areas where pilots are authorized (similar to the version you have) and one that just references pilots generally. John is currently in a meeting, but he will fax the revised versions to you as soon as he can.

→ Julie F @ DPC - per request. F. 10/6/98

**DRAFT PILOT AUTHORIZING LEGISLATIVE LANGUAGE**  
**Oct. 5, 1998**

Sec. \_\_\_\_\_. Pilot Projects.

Section 218 of the Immigration and Nationality Act (8 U.S.C. 1188) is amended by adding the following new subsection:

"(j) (1) The Attorney General and the Secretary of Labor are authorized to develop and conduct pilot projects as described in paragraph (3), notwithstanding any other provision of this Act, to test programs that could enhance the effectiveness of the H-2A program.

(2) Pilot projects authorized under this subsection, if developed, shall be designed and executed in a manner consistent with the following guiding principles:

- a) intended to make program procedures simple and less burdensome to employers;
- b) provide employers with an adequate supply of legally authorized labor in a predictable and timely manner;
- c) provide a clear and meaningful first preference for U.S. workers;
- d) mitigate against the development of structural dependency on foreign workers in an area or crop;
- e) prevent the transfer of costs and risks from businesses to low-wage workers;
- f) encourage longer periods of employment for U.S. workers;
- g) assure that decent wages and working conditions are available for domestic and foreign workers; and,
- h) allow normal market forces work to improve wages, benefits and working conditions.

(3) Any pilot projects developed and conducted pursuant to authorization under this subsection shall be designed to test whether the H-2A program can be made more effective and efficient in the following areas:

- a) matching available U.S. workers to employers seeking agricultural workers;
- b) more reliably verifying the employment eligibility of workers seeking agricultural employment;
- c) allowing agricultural employers to provide workers with a housing voucher in lieu of no-cost housing in those circumstances in which the employer has made arrangements

for worker housing rather than directly providing the housing;

- d) providing advance transportation loans to migrant U.S. farm workers hired by an agricultural employer seeking H-2A certification; and,
- e) allowing Federal and State employees designated as "monitor advocates" to be assigned responsibilities related to the authorized pilot projects.

(4) Any pilot project created under this subsection may continue for a period of two years from the effective date of this subsection. Six months after the expiration of such projects, the Attorney General and Secretary of Labor shall issue a report evaluating all such pilot projects.

(5) The Attorney General and Secretary of Labor are authorized to expend such funds as are appropriated for the purpose and are necessary in conducting activities and discharging responsibilities under this section.

## FY 1999 APPROPRIATIONS BILLS: LANGUAGE ISSUES

Appropriations Bill: Commerce/Justice/State

Language Issue: INS Restructuring

Location in House Bill: Not in House bill.

Location in Senate Bill: Not in Senate bill.

Current Bill Language: See Attachment 1 (H.R. 4264 introduced by Rogers).

Administration Proposal: Oppose the inclusion of INS restructuring in CJS Appropriation as sought by House CJS Chair Rogers -- prefer Congressional action through the authorization process next session. Senator Abraham and Hatch have requested that the Senate CJS appropriators oppose including INS restructuring in CJS. Abraham has sent this same message to Senator Lott.

FALL BACK POSITION/LAST RESORT if Rogers is successful and his bill is included in CJS:

- Establish an Associate Attorney General for Immigration as a senior executive under the Attorney General responsible for immigration;
- Create a shared service operation within the Associate Attorney General for Immigration;
- Provide ~~one~~<sup>two</sup> year (rather than six months) to ~~effect~~<sup>effect</sup> this restructuring; and
- Safeguard examination fee revenue for naturalization purposes.

See Attachment 2 for possible amendments.

HR 4264 IH

105th CONGRESS

2d Session

H. R. 4264

To establish the Bureau of Enforcement and Border Affairs within the Department of Justice.

**IN THE HOUSE OF REPRESENTATIVES**

**July 17, 1998**

Mr. ROGERS introduced the following bill; which was referred to the Committee on the Judiciary

---

**A BILL**

To establish the Bureau of Enforcement and Border Affairs within the Department of Justice.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. ESTABLISHMENT OF BUREAU OF ENFORCEMENT AND BORDER AFFAIRS.**

**(a) ESTABLISHMENT OF BUREAU-**

(1) **IN GENERAL-** There is established in the Department of Justice a bureau to be known as the Bureau of Enforcement and Border Affairs (in this section referred to as the 'Bureau').

(2) **DIRECTOR-** The head of the Bureau shall be the Director of the Bureau of Enforcement and Border Affairs who--

(A) shall be appointed by the President, by and with the advice and consent of the Senate; and

(B) shall report directly to the Attorney General.

(3) **COMPENSATION-** The Director shall be paid at the rate of basic pay payable for level III of the Executive Schedule.

(4) **FUNCTIONS-** The Director shall perform such functions as are transferred to the Director by this section or otherwise vested in the Director by law.

**(c) TRANSFER OF FUNCTIONS-** There are transferred from the Commissioner of the Immigration and Naturalization Service to the Director all functions performed under the following programs, and all personnel, infrastructure, and funding provided to the Commissioner in support of such programs immediately before the effective date of this section:

(1) The Border Patrol program.

(2) The detention and deportation program.

- (3) The intelligence program.
- (4) The investigations program.
- (5) The inspections program.

(d) REFERENCES- With respect to any function transferred by this section and exercised on or after the effective date of this section, reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to an office from which a function is transferred by this section--

(1) to the head of such office is deemed to refer to the Director of the Bureau of Enforcement and Border Affairs; or

(2) to such office is deemed to refer to the Bureau.

(e) EXERCISE OF AUTHORITIES- Except as otherwise provided by law, a Federal official to whom a function is transferred by this section may, for purposes of performing the function, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this section.

(f) SAVINGS PROVISIONS-

(1) LEGAL DOCUMENTS- All orders, determinations, rules, regulations, permits, grants, loans, contracts, agreements, certificates, licenses, and privileges--

(A) that have been issued, made, granted, or allowed to become effective by the President, the Attorney General, the Commissioner of the Immigration and Naturalization Service, the Assistant Commissioner for Border Patrol, the Assistant Commissioner for Detention and Deportation, the Assistant Commissioner for Intelligence, the Assistant Commissioner for Investigations, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this section; and

(B) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date);

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law.

(2) PROCEEDINGS- This section shall not affect any proceedings or any application for any benefits, service, license, permit, certificate, or financial assistance pending on the effective date of this section before an office whose functions are transferred by this section, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(3) SUITS- This section shall not affect suits commenced before the effective date of this section, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been

enacted.

(4) **NONABATEMENT OF ACTIONS-** No suit, action, or other proceeding commenced by or against the Department of Justice or the Immigration and Naturalization Service, or by or against any individual in the official capacity of such individual as an officer or employee in connection with a function transferred by this section, shall abate by reason of the enactment of this section.

(5) **CONTINUANCE OF SUITS-** If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer and under this section such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(6) **ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW-** Except as otherwise provided by this section, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred by this section shall apply to the exercise of such function by the head of the office, and other officers of the office, to which such function is transferred by this section.

**(g) TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL-**

(1) **IN GENERAL-** The personnel of the Department of Justice employed in connection with the functions transferred by this section (and functions that the Attorney General determines are properly related to the functions of the Bureau and would, if so transferred, further the purposes of the Bureau), and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to the Immigration and Naturalization Service in connection with the functions transferred by this section, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Bureau for appropriate allocation by the Director. Unexpended funds transferred pursuant to this paragraph shall be used only for the purposes for which the funds were originally authorized and appropriated. The Attorney General shall retain the right to adjust or realign transfers effected under this section for a period of 2 years after the date of the establishment of the Bureau.

**(2) EFFECT ON PERSONNEL-**

(A) **IN GENERAL-** The transfer under this section of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for 1 year after the date of transfer to the Bureau.

(B) **EXECUTIVE SCHEDULE-** Any person who, on the day preceding the effective date of this section, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Bureau of Enforcement and Border Affairs to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

(h) **DELEGATION AND ASSIGNMENT-** Except as otherwise expressly prohibited by law or otherwise provided in this section, the Director of the Bureau of Enforcement and Border Affairs to whom functions are transferred under this section may delegate any of the functions so transferred to such officers and employees of the Bureau as the Director may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions under this subsection or under any other provision of this section shall



relieve the official to whom a function is transferred under this section of responsibility for the administration of the function.

**(i) AUTHORITIES OF ATTORNEY GENERAL-**

**(1) DETERMINATIONS-** If necessary, the Attorney General shall make any determination of the functions that are transferred under this section.

**(2) INCIDENTAL TRANSFERS-** The Attorney General, at such time or times as the Attorney General shall provide, may make such determinations as may be necessary with regard to the functions transferred by this section, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this section. The Attorney General shall provide for such further measures and dispositions as may be necessary to effectuate the purposes of this section.

**(3) AUTHORITY WITH RESPECT TO FUNDS-** Notwithstanding any other provision of law, the Attorney General may control retention and disbursement of funds transferred under this section.

**(4) TREATMENT OF SHARED RESOURCES-** The Attorney General is authorized to provide for an appropriate allocation, or coordination, or both, of resources involved in supporting shared support functions for the Bureau and the Immigration and Naturalization Service other offices within the Department of Justice. Such shared support functions may include information resources management, human resources and training, security, records and forms management, equal opportunity activities, facilities and procurement administration, and budgeting. The Attorney General shall maintain oversight and control over the shared computer databases and systems and records management.

**(j) DEFINITIONS-** For purposes of this section:

**(1)** The term 'Director' means the Director of the Bureau of Enforcement and Border Affairs.

**(2)** The term 'function' includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

**(3)** The term 'office' includes any office, administration, agency, bureau, institute, council, unit, organizational entity, or component thereof.

**(k) EFFECTIVE DATE; TRANSITION-** The transfer of functions under this section shall take effect on the date that is 180 days after the date of the enactment of this Act. The Bureau of Enforcement and Border Affairs shall be established, and the Director of the Bureau of Enforcement and Border Affairs shall be appointed, not later than such effective date. During fiscal year 1999, the Attorney General shall provide for an appropriate accounting of funds and an appropriate transfer of funds appropriated to the Bureau of Enforcement and Border Affairs to the Immigration and Naturalization Service to the extent functions to be transferred to the Bureau under this section continue to be performed by such Service.

*END*

B-1000

Amendment 1 to H.R. 4264  
Establish an Associate Attorney General for Immigration

Page 1, lines 14 and 15, strike "Attorney General" and insert "Associate Attorney General for Immigration, Naturalization, Enforcement, and Border Affairs".

Page 11, after line 8, insert the following new section:

1 SEC. 2. ASSOCIATE ATTORNEY GENERAL FOR IMMIGRA-  
2 TION, NATURALIZATION, ENFORCEMENT,  
3 AND BORDER AFFAIRS.

4 (a) ESTABLISHMENT.—There is established in the  
5 Department of Justice an Associate Attorney General for  
6 Immigration, Naturalization, Enforcement, and Border  
7 Affairs who—

8 (1) shall be appointed by the President, by and  
9 with the advice and consent of the Senate; and

10 (2) shall report directly to the Attorney Gen-  
11 eral.

12 (b) RESPONSIBILITIES AND DUTIES.—The Associate  
13 Attorney General shall be responsible for oversight of the  
14 Commissioner of Immigration and Naturalization and the  
15 Director of the Bureau of Enforcement and Border Af-

1 fairs in carrying out their duties under the Immigration  
2 and Nationality Act and other laws.

3 (c) COMPENSATION AT LEVEL III OF EXECUTIVE  
4 SCHEDULE.—Section 5314 of title V, United States Code,  
5 is amended by inserting at the end of the list of positions  
6 the following item:

“Associate Attorney General for Immigration, Natu-  
ralization, Enforcement, and Border Affairs, Department  
of Justice”.

Amendment 2 to H.R. 4264  
Establish a shared support function under the AAG for  
Immigration

Page 10, line 1, after "supporting" insert ", or the  
creation of a shared support unit to perform,".

Amendment 3 to H.R. 4264  
Provide one year to implement the restructuring

Page 10, beginning on line 22, strike "the date that is 180 days after the date of the enactment of this Act." and insert "October 1, 1999."

Page 11, line 2, strike "1999," and insert "2000<sup>1</sup>,".

Amendment 4 to H.R. 4264  
Reserve Examination Fee revenue for immigration services

Page 8, after line 9, insert the following:

1           (3) LIMITATION.—None of the funds deposited  
2           into the Immigration Examinations Fee Account (es-  
3           tablished under section 286(m) of the Immigration  
4           and Nationality Act) before, on, or after the date of  
5           the enactment of this Act may be transferred, or  
6           otherwise made available, to the Bureau or the Di-  
7           rector.