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Immigration Reform: The Path to Passage and Beyond

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IMMIGRATION REFORM: THE PATH TO PASSAGE AND BEYOND

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INTRODUCTION

On November 6, 1986, President Reagan signed into law broad and sweeping immigration reform legislation. This law was the product of more than six years of study and debate in Congress, and its enactment has been likened to a miracle.

Passed in the final days of the 99th Congress, this legislation represents a delicate balance between widely divergent views and interests about immigration. The major challenge in shepherding the legislation through Congress was preserving this balance. That same challenge exists in the implementation of the legislation.

This piece will first detail the path immigration reform followed from its genesis to its passage. It then will provide a brief overview of the major provisions of the bill as enacted. Finally, it will outline current implementation policies and practices and evaluate the progress thus far.

PATH TO PASSAGE

On March 1, 1981, the Select Commission on Immigration and Refugee Policy transmitted its Final Report to the 97th Congress.[1] The Final Report contained hundreds of recommendations for reform of U.S. immigration and refugee policies. The Commission was particularly concerned about the effect of illegal immigration. The Commission's Chairman, the Rev. Theodore Hesburgh, articulated a concern that unless the back door to illegal immigration were closed, the fate of an open front door to legal immigration would become uncertain. Thus, the major recommendations centered on control of illegal immigration.

In May 1981, the House Subcommittee on Immigration, which I am privileged to chair, held three days of joint hearings with the Senate

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1. Select Commission on Immigration and Refugee Policy, 97th Cong., 2d Sess., U.S. Immigration Policy and the National Interest (Comm. Print 1981).

Immigration Subcommittee, chaired by Sen. Alan Simpson of Wyoming, to receive public reaction to the Select Commission's recommendations. The twenty-three witnesses included representatives of state and local governments, union and employer associations, ethnic and civil libertarian groups, and historians and demographers.

The House Subcommittee on Immigration held another eight days of hearings on general immigration reform in October and November of 1981 and heard from eighty witnesses. Building on the Select Commission's recommendations and the hearing testimony, an immigration reform package with a central theme of the control of illegal immigration was developed.

Roots of the Reform

On March 17, 1982, Sen. Simpson and I introduced identical immigration reform bills.[2] These bills had several provisions designed to curb illegal immigration. Of major import was the provision imposing sanctions on employers who knowingly hired undocumented aliens. The Select Commission and most of the witnesses felt that illegal immigration could only be controlled by eliminating the lure of jobs, which attracts most of the aliens who illegally enter the United States. The presence of vast numbers of illegal aliens in the work force leads to worker exploitation as well as depressed wages and working conditions. Therefore, the first element of immigration reform was to eliminate the illegal flow of aliens.

The second element of that original immigration reform proposal addressed the physical presence in the United States of large numbers of aliens who had entered illegally and who had been living in the country for varying periods of time. Although we both initially felt the concept was unjustified, Sen. Simpson and I came to realize that only a regularization, or a legalization, process would truly solve the problem presented by this illegal presence. The resources and necessity to seek out and deport these millions of undocumented workers, most of whom were contributing members of our society, were not available. Were they to become available, the commitment to employ them was not. Consequently, the second provision of immigration reform in the 97th Congress included a legalization program for aliens who had illegally entered the United States before January 1, 1980.

Additional elements of the reform package Sen. Simpson and I introduced in 1982—which came to be known as the Simpson-Mazzoli bill—included increased funding for the Immigration Service, a reform of the asylum and adjudication provisions of prevailing immigration law, a reform of the legal immigration preference system and ceilings, and revision of the temporary foreign worker provisions of current law.

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2. H.R. 5872/S. 2222, 97th Cong., 2d Sess. (1982).

We felt that a package approach to immigration reform was crucial to legislative success.

In April 1982, the Senate and House Subcommittees met again jointly for two days of hearings on the Simpson-Mazzoli bill and received comments from thirty-two witnesses. Processing of the legislation proceeded smoothly in the Senate through Subcommittee and full Judiciary Committee consideration. The measure passed the Senate August 17, 1982. The House Immigration Subcommittee reported the legislation to the Judiciary Committee on May 19, 1982; however, full Committee approval did not occur until September 22, 1982, leaving no time to consider the bill before Congress adjourned for the 1982 election. The bill was brought back to the House floor in the last days of the "lame duck"session of Congress under an open rule permitting virtually unlimited amendments. Time ran out in the 97th Congress, and the Simpson-Mazzoli bill died.

Evolution of the Reform

Simpson-Mazzoli was, however, resurrected in the early days of the 98th Congress, though in slightly different form in the House and Senate. Sen. Simpson introduced the reform package passed by the Senate the previous year,[3] and I introduced the package in the form it had been reported from the House Judiciary Committee.[4] The major changes in the House version included elimination of the legal immigration reform provision and establishment of January 1, 1982, as the new cutoff date for legalization.

The House Subcommittee on Immigration held six more days of hearings on the new bill in March 1983 and heard from seventy-four witnesses. The Subcommittee reported the bill on April 6, 1983, and full Judiciary Committee approval came on May 5, 1983. The Senate was also moving quickly. The Senate Judiciary Committee reported its version of Simpson-Mazzoli on April 19, 1983, and the Senate passed it a month later.

In the House, four other standing committees had been granted permission to examine the immigration reform package. Their work was completed by late June 1983. For a variety of reasons, however, action stalled, and not until nearly one year later did immigration reform reach the House floor for consideration. This time, the rule limited the number of amendments that could be offered. On June 20, 1984, after seven days of intense and emotional debate, immigration reform passed the House of Representatives by a five-vote margin.

The House and Senate Conference Committee began preliminary work in the summer of 1984 to reach compromise on the differences

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3. S. 529, 98th Cong., 1st Sess. (1983).
4. H.R. 1510, 98th Cong., 1st Sess. (1983).

between the House and Senate bills. House and Senate conferees, however, were not appointed until September, and the conference officially convened on September 13, 1984, just days before the 98th Congress was to adjourn.

Three Obstacles to Reform

Although most of the differences in the bills had been ironed out, three major obstacles to final agreement remained, two of which had been added by amendment on the House floor. The first major difference was the anti-discriminatory provision the House overwhelmingly adopted to address concerns about the potential discriminatory effect of employer sanctions.

The second major difference involved the adoption on the House floor of a major temporary foreign worker program to address the western agricultural interests' desire to insure a continued labor supply for harvesting perishable crops.

These two major differences were resolved by the Conference Committee's adoption of compromise provisions. But the third and last major difference—a money issue—could not be reconciled and proved to be the death blow to immigration reform in the 98th Congress. That last, and insurmountable, issue involved how much financial support states should receive because of the effect of the legalization program under which illegal aliens would regularize their status and become qualified for limited welfare and assistance.

It may be that the conferees would have disagreed on the final issue whether or not it dealt with money because of generalized, but muted, dissatisfaction with agreements reached on other major issues. In any event, the Conference adjourned October 9, 1984, after ten days of meetings without having reached final agreement on immigration reform. The 98th Congress adjourned a few days later. Again, immigration reform was dead.

Like the phoenix, the reform movement rose from its own ashes to fly free in the 99th Congress. In the 99th Congress, the legislative proposal was streamlined by eliminating many provisions that, although worthy, were not central to the main purpose of controlling illegal immigration and dealing humanely with illegal aliens already in the United States.

The core elements of employer sanctions and legalization remained intact. I was joined in co-sponsorship by Rep. Peter Rodino, Chairman of the full Judiciary Committee, and together we introduced the Immigration Reform and Legalization Amendments Act[5] on July 25, 1985.

The House Subcommittee on Immigration held four more days of hearings in the fall of 1985. This time, however, the Subcommittee

5. H.R. 3080, 99th Cong., 1st Sess. (1985).

focused on the three issues that had proved most troublesome in the 98th Congress: monetary assistance to the states affected by legalization, the anti-discrimination provisions and the agricultural labor provisions. It soon became clear that the agricultural labor issue had become the issue critical to enactment of immigration reform.

A group of representatives joined in an effort to reach a compromise on this nettlesome agricultural labor issue. Although the group initially consisted of three members, it grew over the weeks and months to include most of the major actors in immigration reform up to this point.

In order not to delay consideration of the overall bill while awaiting agreement on the agricultural issues, I scheduled Subcommittee markup in November with an understanding that consideration of the agricultural labor provisions would take place before the full Committee.

After Subcommittee markup, the members involved in negotiating the agricultural provisions requested more time to complete their labors. This was granted, and matters were deferred until June 1986. Prospects for passage of this watershed bill were counted slim because of the lateness of the hour and the vexatiousness of the issue.

The Agricultural Compromise

Just before full Committee markup in early June, an agricultural compromise was reached. Instead of modifying existing or proposed temporary foreign worker programs, the compromise created a special and separate legalization program for alien agricultural workers.[6]

The proposal was not fondly embraced by some, including me. I felt that this program was unnecessary in light of improvements already made in the H-2—temporary worker—section of the law. And it was overly generous, in my judgment, to alien agricultural workers compared with aliens seeking legal status from other industries.

Despite this opposition, the agricultural legalization program was adopted, and the legislation was reported favorably by the Judiciary Committee on June 25, 1986. Five other committees that asserted jurisdiction over the bill were given until August to finish their consideration.

At this point, it became clear that the agricultural compromise, as proposed, would not survive a floor vote. I did not favor its approach, but I did not want it to pull down the overall reform bill. So, I engaged in discussions with the sponsors to draft more acceptable provisions. We were able to reach agreement by mid-September and went before

6. This compromise, called the "Schumer Proposal" after its chief negotiator, Rep. Charles Schumer (D-N.Y.), makes temporary and, eventually, permanent residence available to aliens who have performed seasonal agricultural work in the United States for at least an aggregate of 90 days during the 12-month period ending May 1, 1986. *See* Immigration and Nationality Act § 210, 8 U.S.C. § 1160 (Supp. 1987).

the Rules Committee for a rule allowing floor consideration. (The Senate had passed its version a year earlier.)

The Rules Committee drafted a semi-closed rule, which incorporated my amendments to the agricultural compromise but which disallowed all other amendments. Thus, the immigration reform package became a take-it-or-leave-it proposal whose passage depended on the acceptability of the agricultural labor provision. The rule, which requires a validating floor vote, was defeated—in large part because of the agricultural provision—by a vote of 180-202 on September 26, 1986. Prospects for immigration reform, once again, were in eclipse.

But the major proponents of immigration reform and I were unwilling to concede defeat, and we initiated meetings to discuss ways out of the problem. We met on October 1, 1986, spurred in our efforts by the failure of an alternative rule to pass the House. The group met again on October 2, October 3 and October 6. On October 7, Senate leaders were included in the meetings, and acceptable modifications to the agricultural labor provisions were reached on October 8.

The Rules Committee was informed of the agreement and met late on October 8, 1986, to report a rule. The legislation was scheduled for floor consideration the next day, October 9, and the immigration reform measure passed the House of Representatives, this time by a wide 64-vote margin.

Senate and House conferees were appointed, and they met on Friday, October 10, and Saturday, October 11, to resolve the differences in the two bills. Conference agreement was reached the next Tuesday, October 14, 1986. The House adopted the agreed-upon Conference Report on October 15, and the Senate followed suit on October 17. On November 6, 1986, President Reagan signed immigration reform legislation into law and ended one of the most compelling legislative high-wire acts in recent memory.

BEYOND PASSAGE—IMPLEMENTATION OF IMMIGRATION REFORM

Despite the lengthy legislative journey of this measure through six years and three Congresses, the core elements of the legislation signed by the President are remarkably similar to the elements in the first proposal of 1982. That illustrates their correctness and their support across a broad spectrum of philosophical, social and political beliefs.

The basic provisions of the Immigration Reform and Control Act of 1986 are as follows:

Employer Sanctions

The new law makes it unlawful to knowingly hire, recruit or refer for a fee an alien who is not authorized to work in the United States.[7]

7. Immigration and Nationality Act § 274A(a)(1)(A), 8 U.S.C. § 1324a(a)(1)(A) (Supp. 1987).

It is also unlawful to hire, recruit or refer for a fee any individual without complying with the employment verification procedures outlined in the law.[8] Employers who make a good-faith effort to comply with the verification procedures are afforded an affirmative defense should an unauthorized alien be found in their employ.[9]

The verification procedures of the new law apply to all individuals hired and require the employer to verify both the employee's identity and his or her eligibility to work in the United States. Persons authorized to work in the United States include U.S. citizens or nationals, permanent or temporary residents, refugees and asylees, and aliens given work authorization as part of their entry visas.[10]

The employer must attest on a Form I-9 that documents evidencing the employee's identity and work authorization have been examined.[11] As defined by U.S. Immigration and Naturalization Service regulations,[12] appropriate documents include U.S. passports, U.S. citizenship certificates, naturalization certificates, alien registration cards or driver's licenses, voter registration cards, school or military IDs coupled with Social Security cards, U.S. birth certificates and employment authorization cards. The employee must attest on the Form I-9 that he or she is authorized to work in the United States.[13] The verification must take place within three days of hire,[14] and the verification form must be kept on file and available for inspection.[15]

Penalties for violating the sanctions provisions of the new law are graduated. For the first year of enforcement, employers in noncompliance will receive counseling from INS officials before the warning citation—the first level of enforcement—is ordered.[16] After the citation period, civil penalties ranging from $250 to $2,000 for each unauthorized alien for a first offense, from $2,000 to $5,000 each for a second offense, and from $3,000 to $10,000 for each offense subsequent to the second may be ordered.[17] Criminal penalties attach only where a pattern or practice of violations has been found to exist.[18]

Separate penalties are levied for failing to verify the identity and work authorization of employees. They range from $100 to $1,000,

8 Immigration and Nationality Act § 274A(a)(1)(B), 8 U.S.C. § 1324a(a)(1)(B) (Supp. 1987).
9. Immigration and Nationality Act § 274A(a)(3), 8 U.S.C. § 1324a(a)(3) (Supp. 1987).
10. *See* Immigration and Nationality Act § 274A(h)(3), 8 U.S.C. § 1324a(h)(3) (Supp. 1987); 52 Fed. Reg. 16221 (1987) (to be codified at 8 C.F.R. 274a.1(a)).
11. Immigration and Nationality Act § 274A(b)(1)(A), 8 U.S.C. § 1324a(b)(1)(A) (Supp. 1987); 52 Fed. Reg. 16222 (1987) (to be codified at 8 C.F.R. 274a.2(b)(ii)).
12. 52 Fed. Reg. 16222 (1987) (to be codified at 8 C.F.R. 274a.2(b)(1)(v)).
13. Immigration and Nationality Act § 274A(b)(2), 8 U.S.C. § 1324a(b)(2) (Supp. 1987); 52 Fed. Reg. 16222 (1987) (to be codified at 8 C.F.R. 274a.2(b)(1)(i)(A)).
14. 52 Fed. Reg. 16222 (1987) (to be codified at 8 C.F.R. 274a.2(b)(1)(ii)).
15. Immigration and Nationality Act § 274A(b)(3), 8 U.S.C. § 1324a(b)(3) (Supp. 1987); 52 Fed. Reg. 16223 (1987) (to be codified at 8 C.F.R. 274a.2(b)(2)).
16. Immigration and Nationality Act § 274A(e)(4), 8 U.S.C. § 1324a(e)(4) (Supp. 1987); 52 Fed. Reg. 16225 (1987) (to be codified at 8 C.F.R. 274a.10(b)).
17. *Id.*
18. Immigration and Nationality Act § 274A(f)(1), 8 U.S.C. § 1324(f)(1) (Supp. 1987); 52 Fed. Reg. 16225 (1987) (to be codified at 8 C.F.R. 274a.10(a)).

depending on the size of the employer, the presence of good faith and other factors.[19]

Anti-discrimination

When employer sanctions were first proposed, opposition centered on the potentially discriminatory effect of sanctions. Many felt that employers would refuse to hire individuals who looked or sounded "alien."[20] In response to this concern, legislation was amended to include stiff anti-discrimination provisions.

The new law makes it an "unfair immigration-related employment practice" to discriminate on the basis of an individual's national origin or citizenship status.[21] The provision does not apply to employers of three or fewer persons,[22] to employers covered by the national origin discrimination prohibition of Title VII of the Civil Rights Act[23]—those who employ 15 or more persons—or to employers required to hire U.S. citizens by law, regulation or government contract.[24] Additionally, the protections created by the provision are affordable only to U.S. citizens, permanent and temporary resident aliens, refugees and asylees.[25] It is not a discrimination under this Act if a citizen is preferred to a non-citizen, so long as both are equally qualified.[26]

The new law creates an Office of Special Counsel in the Justice Department to investigate and prosecute allegations of discrimination under the law.[27] A private individual may bring a complaint before an administrative law judge if the special counsel declines to bring the complaint within 120 days of the filing of a complaint but only where a pattern or discriminatory practice or knowing and intentional discriminatory activity is present.[28]

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19. Immigration and Nationality Act § 274A(e)(5), 8 U.S.C. § 1324(e)(5) (Supp. 1987); 52 Fed. Reg. 16225 (1987) (to be codified at 8 C.F.R. 274a.10(b)(2)).
20. *See, e.g.*, H.R. REP. No. 1000, 99th Cong., 2d Sess. 87 (1986); H.R. REP. No. 682, 99th Cong., 2d Sess., pt. 1, 68 (1986).
21. Immigration and Nationality Act § 274B(a)(1), 8 U.S.C. § 1324b(a)(1) (Supp. 1987); 52 Fed. Reg. 9277 (1987) (proposed regulation 28 C.F.R. 44.200(a)).
22. Immigration and Nationality Act § 274b(a)(2)(A), 8 U.S.C. § 1324b(a)(2)(A) (Supp. 1987); 52 Fed. Reg. 9278 (1987) (proposed regulation 28 C.F.R. 44.200(b)(1)(i)).
23. Immigration and Nationality Act § 274b(a)(2)(B), 8 U.S.C. § 1324b(a)(2)(B) (Supp. 1987); 52 Fed. Reg. 9278 (1987) (proposed regulation 28 C.F.R. 44.200(b)(1)(ii)).
24. Immigration and Nationality Act § 274b(a)(2)(C), 8 U.S.C. § 1324b(a)(2)(C) (Supp. 1987); 52 Fed. Reg. 9278 (1987) (proposed regulation 28 C.F.R. 44.200(b)(1)(iii)).
25. Immigration and Nationality Act § 274b(a)(3), 8 U.S.C. § 1324b(a)(3) (Supp. 1987); 52 Fed. Reg. 9277 (1987) (proposed regulation 28 C.F.R. 44.101(c)).
26. Immigration and Nationality Act § 274b(a)(4), 8 U.S.C. § 1324b(a)(4) (Supp. 1987); 52 Fed. Reg. 9278 (1987) (proposed regulation 28 C.F.R. 44.200(b)(2)).
27. Immigration and Nationality Act § 274b(c), 8 U.S.C. § 1324b(c) (Supp. 1987).
28. Immigration and Nationality Act § 274b(d)(2), 8 U.S.C. § 1324b(d)(2) (Supp. 1987); 52 Fed. Reg. 9278 (1987) (proposed regulation 28 C.F.R. 44.303(c)). Note that, by regulation, the Attorney General has declared that only "knowing and intentional" discrimination will be suspect to sanction. This appears to subject the complainant to a higher standard of proof

General Legislation

The new law provides a generous legalization program for aliens who have resided in this country since before January 1, 1982, and who have demonstrated their commitment to this nation. Estimates of the number of illegal aliens who qualify for legal status are based more on conjecture than hard data but range up to 3 million persons. The INS has established 107 offices around the nation to process these petitions. And a number of church-related and other non-profit offices have been established to perform outreach and preliminary screening functions for the alien-applicants.[29]

To be eligible for legalization, an alien must have illegally entered the country or must have fallen into illegal status before January 1, 1982, and resided continuously in the United States since that date.[30] Continuous residence is broken if the individual was outside the United States during this time for a single period of more than forty-five days or for 180 days in the aggregate.[31] The individual must be admissible into the United States as an immigrant[32]—i.e., not excludable because of criminal behavior, illness, dependency and the like.

The alien applicant must provide documentation showing proof of identity, proof of continuous residence in the United States and proof of financial responsibility.[33] All information provided in the application is held confidential and cannot be shared by the INS with other federal agencies.[34] Congress intended that the INS be generous and humane in its interpretation of the legalization requirements in order to ensure the highest level of participation in the program.

Upon proof of eligibility, the alien is accorded status as a temporary resident of the United States. After eighteen months as a temporary resident, the alien may apply for permanent resident alien status. To qualify for resident alien status, the alien must demonstrate the basic citizenship skills of minimal understanding of English and a knowledge and understanding of the history and government of the United States.[35]

Although newly legalized aliens under the law enjoy most of the rights of U.S. citizens, they are ineligible for most forms of public

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than is mandated by the Act. *See* proposed regulation 28 C.F.R. 44.200 and the preliminary discussion preceding the proposed regulations at 52 Fed. Reg. 9275 (1987).

29. The Act refers to these offices as "qualified designated entities." *See* Immigration and Nationality Act § 245A(c)(2), 8 U.S.C. § 1255a(c)(2) (Supp. 1987).
30. Immigration and Nationality Act § 245A(a)(2), 8 U.S.C. § 1255a(a)(2) (Supp. 1987); 52 Fed. Reg. 16209 (1987) (to be codified at 8 C.F.R. 245a.2(b)).
31. 52 Fed. Reg. 16208 (to be codified at 8 C.F.R. 245a.1(c)(1)(i)).
32. Immigration and Nationality Act § 245A(a)(4), 8 U.S.C. § 1255a(a)(4) (Supp. 1987); 52 Fed. Reg. 16210 (1987) (to be codified at 8 C.F.R. 245a.2(c)).
33. Immigration and Nationality Act § 245A(g)(2)(D), 8 U.S.C. § 1255a(g)(2)(D) (Supp. 1987); 52 Fed. Reg. 16210 (1987) (to be codified at 8 C.F.R. 245a.2(d)).
34. Immigration and Nationality Act § 245A(c)(5), 8 U.S.C. § 1255a(c)(5) (Supp. 1987).
35. Immigration and Nationality Act § 245A(b)(1)(D), 8 U.S.C. § 1255a(b)(1)(D) (Supp. 1987); 52 Fed. Reg. 16215 (1987) (to be codified at 8 C.F.R. 245a.3(b)(4)).

assistance for five years after they are granted temporary resident status.[36]

Agricultural Labor Programs

A. The Special Agricultural Worker Program

As discussed above, the agricultural labor provisions were among the most hotly contested provisions of the legislation.[37] Agricultural producers in the West were concerned that the sanctions and enhanced enforcement of the bill not interrupt their supply of labor, which is essential to planting and harvesting perishable crops. Civil rights and farm-worker advocates were concerned that domestic farm workers not be exploited by the growers directly or indirectly by way of importation of temporary farm workers. The provision that seeks to address these competing concerns is known as the Special Agricultural Worker (SAW) Program.

The SAW Program legalizes alien agricultural workers who, at a minimum, have performed ninety days of seasonal agricultural services in perishable commodities between May 1, 1985, and May 1, 1986. The workers may apply for SAW status either in the United States or at a U.S. consulate abroad. To be eligible for the SAW Program, an alien must provide documentation that he or she performed field work with perishable crops for the minimum of ninety days and must provide proof of identity. All information in the application is confidential as in the basic non-agricultural legalization program.

The new law also creates an agricultural labor replenishment program (RAW) to begin in 1990. Upon a determination of an agricultural labor shortage, replenishment workers would be admitted to the United States as temporary residents. The replenishment workers would be required to work in agriculture to maintain their status and would have to work ninety days per year for three consecutive years to obtain permanent resident status.

B. The H-2 Temporary Foreign Worker Program

For a number of years, the H-2 program has been the only program available for employers to legally bring in foreign workers. The program requires a certification by the Department of Labor that there are insufficient domestic workers available. The H-2 program was amended by the new immigration law to streamline the program and make it less cumbersome for agricultural producers to use.[38]

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36. Immigration and Nationality Act § 245A(h), 8 U.S.C. § 1255a(h) (Supp. 1987).
37. *See supra* note 6 and accompanying text.
38. Immigration and Nationality Act § 216, 8 U.S.C. § 1186 (Supp. 1987).

Under the modified H-2A program, foreign workers are admitted to perform agricultural labor or services of a temporary or seasonal nature. In order to receive a certification authorizing the admission of H-2A workers, an employer must demonstrate that there is an insufficient number of U.S. workers who are "able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services." In addition, the employer must show that the wages, working conditions and offer of employment to foreign workers will not adversely affect the wages and working conditions of workers similarly employed in the United States.

To protect U.S. workers, an employer must engage in a positive recruitment plan to attract U.S. workers and must continue to accept for employment any U.S. worker who applies even after the H-2A workers have arrived. To protect the foreign workers, the employer must clearly state the terms and conditions of the job contract and must furnish housing that complies with applicable standards. In addition, H-2A workers will have the right to assistance from legal services attorneys for violations of the employment contract and for determining whether the contract complies with the law and regulations.

CONCLUSION

Congress intended that the employer sanctions provisions should be fair and equitable and not ridden with paperwork and red tape because they are premised on voluntary compliance. Congress also intended the legalization program to be fair and equitable because it is premised on widespread participation of all eligible aliens. These goals can only be met through extensive public education and outreach. To its credit, the Immigration and Naturalization Service is mounting a strong effort to promulgate the terms of this new law to its national and international audience. Although the INS has the primary responsibility under the law for public education and outreach, the private sector must also share that burden.

This legislation has major impact on the employers of this country. For this reason, business groups and employer associations should establish their own information programs. Because the success of the legalization program depends upon broad participation by the eligible population, community organizations, voluntary agencies and ethnic groups can contribute greatly by mounting aggressive outreach programs to reach the audience and to counteract the misinformation and the huckstering that has confused some aliens and frightened others.

Although "snags, glitches and snafus" are inevitable given the landmark nature of this legislation, the intense effort from the Executive Branch and the Legislative Branch during the period following enactment, during which the implementing regulations were written, should minimize any profound problems.

Simpson-Mazzoli is not perfect. Its implementation will not be perfect, either. But a commitment by all to work toward the fair, humane and effective implementation of the statute will erase most of the imperfections.