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*yes
voice vote*
--Permitting 'pattern & practice' cases in U.S. district courts

Amendment to Subcommittee Amendment to H.R. 1510

Offered by Mr. Kastenmeier

Page 30, line 13, insert "(except as provided under subsection (b))" after "law."

Page 33, line 1, insert "(A) after "(b)(1)."

Page 33, after line 7, insert the following new subparagraph:

1 "(B) Nothing in this section shall preclude a class
2 action under section 279 or section 1331 of title 28,
3 United States Code, where

4 (i) the action alleges a pattern or practice of
5 violations of the provisions of the Constitution ~~(or laws);~~

6 (ii) administrative remedies have not been exhausted,
7 but the exhaustion of administrative remedies is inappro-
8 priate; and

9 (iii) a delay of a determination on the issues
10 presented pending judicial review under subparagraph (E)
11 would significantly and irreparably impair the rights of
12 the class members in the proceedings, and a timely determin-
13 ation of such rights would be most consistent with providing
14 for the efficient judicial review of the issues presented,

1 and, this subparagraph shall not be construed as permitting
2 district courts to review individual determinations in
3 exclusion, deportation, or asylum cases.

4 In any such action, the court shall, to the extent practi-
5 cable, prevent unnecessary delays in the conduct of the
6 exclusion, deportation, or asylum proceedings.

#1--Eliminating court restrictions respecting judicial
review

Amendment to Subcommittee Amendment to H.R. 1510

Offered by Mr. Kastenmeier

Yes
19-11
Page 30, beginning on line 10, strike out "'sections
1331, 1361, and 2241'" and insert in lieu thereof "'section
1331'".

Page 30, line 12, strike out "'chapter 7 of title 5,
United States Code,'".

Page 31, amend lines 3 through 6 to read as follows:

- 1 (4) by inserting "' in the case of review sought by
- 2 an individual petitioner,'" in paragraph (2) after "'in
- 3 whole or in part, or'";

Page 31, line 7, strike out "'(5)(A)'" and insert in
lieu thereof "'(5)'".

Page 31, strike out lines 10 through 15.

Page 33, line 1, strike out "'Except as provided in
paragraph (2), nothing'" and insert in lieu thereof
"'Nothing'".

Page 33, line 8, strike out "'(2)(A)'" and insert in
lieu thereof "'(2)'".

Page 33, beginning on line 10, strike out "'in the
United States Court of Appeals for the Federal Circuit'".

Page 33, strike out line 13 and all that follows through
page 34, line 21.

Page 36, strike out lines 1 through 16.

Page 49, line 1, strike out "'Section 236 (8 U.S.C. 1105a(a)(2))' is amended'" and insert in lieu thereof "'Sections 106(a)(2) and 236 (8 U.S.C. 1105a(a)(2), 1226) are each amended'".

#1B--Extend to 60 days period for filing complete petitions
for judicial review

Amendment to Subcommittee Amendment to H.R. 1510

Offered by Mr. Fish

Page 31, line 1, strike out "'30 days'" and insert in
lieu thereof "'60 days'".

Page 35, line 21, strike out "'30'" and insert in lieu
thereof "'60'".

~~Yes~~
voice vote

100
file
1/20/66 #3--Technical Amendment to §201

Amendment to Subcommittee Amendment to H.R. 1510

. Offered by Mr. Lungren

Page 53, line 13, insert "'at least 90 percent of'"
before "'the maximum number'".

*Yes
to
the vote*
5/2: Detail of Presidential report

Amendment to Subcommittee Amendment to H.R. 1510

Offered by Mr. Synar

Page 55, line 16, insert "'comprehensive'" before
"'report'".

Page 55, line 18, strike out "'and foreign policy'" and
insert in lieu thereof "'foreign policy, environmental
quality, resources, and population growth rate'".

Page 55, line 21, insert before the period the
following: "'and on the projected impact (based on
reasonable estimates substantiated by the best available
evidence) on such factors of admissions and other entries
during the succeeding five-year period'".

Page 55, after line 21, insert the following:

- 1 "'(b)(1) The President shall include in such report the
- 2 number and classification of aliens admitted (whether as
- 3 immediate relatives, special immigrants, refugees, or under
- 4 the preferences classifications, or as nonimmigrants),
- 5 paroled, or granted asylum during the relevant period as
- 6 well as a reasonable estimate of the number of aliens who
- 7 entered the United States during the period without visas or
- 8 who became deportable during the period under section 241.

Page 55, line 22, strike out "'(b)'" and insert in lieu
thereof "'(2)'" and insert "'also'" after "'President.

Page 55, line 25, strike out all that follows the first
period.

Page 35, after line 25, insert the following new subsection:

''(c) Not later than 90 days after the date of receipt of such a report, the Committees on the Judiciary of the House of Representatives and of the Senate shall hold public hearings to review the findings and recommendations contained in such report.''. ''.

Amendment to Subcommittee Amendment to H.R. 1510

Offered by Mr. Frank

Page 59, after line 17, insert the following new subsection:

- 1 (e) Section 212(a)(14)(A) (8 U.S.C. 1182(a)(14)(A)) is
2 amended--
3 (1) by inserting '(i)' before 'who are members',
4 (2) by striking out 'or who have' and inserting in
5 lieu thereof ', (ii) who have', and
6 (3) by inserting after 'sciences or the arts' the
7 following: ', or (iii) who have doctoral degrees and
8 are seeking to enter the United States to be employed as
9 researchers at colleges, universities, or other
10 nonprofit educational or research institutions'.

~~yes~~
noise etc

Page 74, line 23, strike out "Government of Mexico" and
insert in lieu thereof, "Governments of Mexico and other
appropriate countries".

~~Yes~~
voice vote

Amendment to Subcommittee Amendment to H.R. 1510

Offered by Mr. Frank

Page 76, line 15, strike out "'or'".

Page 76, line 21, strike out the semicolon and insert in lieu thereof "'", or'".

Page 76, after line 21, insert the following new subclause:

- 1 "'(III) has obtained an advanced degree in
- 2 business or economics, has exceptional ability in
- 3 business or economics, and has been offered
- 4 employment which requires such exceptional
- 5 ability;'".

Yes
voice vote

Exclusion of Federal Benefits

Amendment to Subcommittee Amendment to H.R. 1510

Offered by Mr. Lungren

Page 92, line 17 and page 97, line 23 strike out "four-year" and insert
"five-year."

*Yes
voice vote*

#9--Updating legalization to January 1, 1982

Amendment to Subcommittee Amendment to H.R. 1510

. Offered by Mr. Frank

Page 87, lines 7, 21, 23, and 25; page 88, lines 2, 4,
and page 95, after line 19, strike out "'1981'" and insert
in lieu thereof "'1982'".

Conform the table of contents accordingly.

~~Yes~~
15-14

AMENDMENT TO

-AMENDMENT IN THE NATURE OF A SUBSTITUTE

Offered by

Mr. Conyers

At the end of the amendment in the nature of a substitute, add the following new title (and add corresponding items to the table of contents):

TITLE IV -- EXTENDED VOLUNTARY DEPARTURE FOR SALVADORANS

Extended voluntary departure for Salvadorans.

Sec. 401. It is the sense of the Congress that in the case of nationals of El Salvador who otherwise qualify for voluntary departure (in lieu of deportation) under the Immigration and Nationality Act, the Attorney General shall extend the date such aliens are required to depart voluntarily until such date as the Secretary of State determines that the situation in El Salvador has changed sufficiently to permit their safely returning to El Salvador.

*yes
voice vote*

5/3 AM: #1--Paperwork applying once used unauthorized aliens
Amendment to Subcommittee Amendment to H.R. 1510
Offered by Mr. Kindness

Page 3, amend lines 8 and 9 to read as follows:

1 Subparagraph (B) shall not apply to a person or entity until
2 the Attorney General, based upon evidence or information he
3 deems persuasive, has notified the person or entity in
4 writing that the person or entity has in his employ (or has
5 referred or recruited) an unauthorized alien and the person
6 or entity is thereafter required to comply with the
7 requirement of subparagraph (B), except that any such person
8 that voluntarily complies with such requirements before such
9 notification must comply with such requirements for all
10 individuals with respect to which such requirements may
11 apply.

Page 10, strike out lines 13 through 22.

Page 10, strike out line 23 and "'under subparagraph (A)
and'" on line 24 and insert in lieu thereof "' (3) A person
or entity'".

Page 8, line 24; strike out "violated" and all that follows through
"alien" on page 9, line 1, and insert in lieu thereof "has hired or has
recruited or referred for a fee, for employment in the United States an
unauthorized alien".

Amendment to H.R. 1510

Offered by MR. SEIBERLING

Page 5, lines 23 and ~~24~~ 24: Delete the words "under penalty
or perjury and"

Page 18, line 9 after the word "document", insert "or ~~and~~
a false attestation".

*Yes
nice vote*



U.S. Department of Justice

Office of the Associate Attorney General

Washington, D.C. 20530

June 6, 1983

MEMORANDUM FOR: Michael M. Uhlmann
Office of Policy Development

FROM: Phillip D. Brady *[Signature]*
Deputy Associate Attorney General

Pursuant to your request of June 1, please find below several paragraphs on the impact of the pending immigration reform legislation on agricultural interests:

Thank you for your letter regarding the potential impact of the pending immigration reform legislation on the harvesting of perishable agricultural products.

As you may already know, the Senate recently passed the Immigration Reform and Control Act of 1983, S. 529, on an impressive 76-18 vote. It is anticipated that the House of Representatives will consider its version of the legislation, H.R. 1510, sometime this summer. The primary thrust of both bills is to eliminate the magnet for illegal migration by imposing penalties on employers who knowingly hire illegal aliens.

However, in recognition of the fact that some agricultural producers have become dependent on migratory labor, the legislation also contains several provisions designed to insure the availability of an adequate agricultural labor force. Specifically, the House and Senate bills establish a special agricultural worker transition program whereby agricultural employers can continue to hire "undocumented workers" for three years subject to certain numerical limitations. During the first year of the program such employers are permitted to employ up to 100% of historical need, 67% the second year and 33% the third year. Transitional workers cannot replace U.S. workers or H-2 workers and they must be provided the same wages and working conditions as all other similarly employed workers.

Additionally, the pending legislation creates a statutory H-2 temporary worker program for agriculture revising and streamlining the current regulatory program for the admission of foreign workers where willing and qualified U.S. workers are not available. The legalization program contemplated by the legislation should also benefit agriculture because many of those legalized have been and will continue to be agricultural workers.

Therefore, a serious effort has been made in the immigration reform legislation to address the legitimate concerns of agriculture. In our view, the programs which are now a part of the legislation insure that agricultural employers will not be disproportionately burdened by our efforts to regain control of our borders.

Please don't hesitate to ask if we can provide further assistance in your review of this important legislation.



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SECTION-BY-SECTION COMPARISON OF THE
IMMIGRATION REFORM AND CONTROL ACT OF 1983,
S. 529 AS PASSED BY THE SENATE AND
H.R. 1510 AS REPORTED BY THE HOUSE JUDICIARY COMMITTEE

Sharon Masanz
Analyst in Social Legislation

and
Joyce Vialet
Specialist in Social Legislation
Education and Public Welfare Division
June 8, 1983

ABSTRACT

This CRS white paper is a section-by-section comparison of the provisions of existing law, the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), with the provisions of the proposed Immigration Reform and Control Act of 1983, S. 529 as passed by the Senate on May 18, 1983, and H.R. 1510 as reported by the House Judiciary Committee on May 13, 1983 (H. Rept. 98-115, Pt. 1). For a discussion of the legislative history and major issues, see CRS Issue Brief 83087, Immigration Issues and Legislation in the 98th Congress.

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INTRODUCTION

The Immigration Reform and Control Act of 1983, popularly referred to as the Simpson-Mazzoli bill, was introduced in the House and Senate on February 17, 1983. H.R. 1510 as introduced by Representative Romano Mazzoli, the Chairman of the House Judiciary Subcommittee on Immigration, Refugees, and International Law, was almost identical to the bill reported by the House Judiciary Committee in the 97th Congress (H. Rept. 97-890, Part I). S. 529 as introduced by Senator Alan Simpson, the Chairman of the Senate Judiciary Subcommittee on Immigration and Refugee Policy, was identical to the bill passed by the Senate by a rollcall vote of 80 to 19 on August 17, 1982, during the 97th Congress.

In the 98th Congress the bills were marked up and approved by the immigration subcommittees, the House bill on April 6, and the Senate bill on April 7, 1983. S. 529 was reported by the Senate Judiciary Committee on April 21 (S. Rept. 98-62), and it passed the Senate by a rollcall vote of 76-18 on May 18, 1983. H.R. 1510 was reported by the House Judiciary Committee on May 13, 1983 (H. Rept. 98-115, Pt. 1), and referred to four other committees for a period ending not later than June 27, 1983.

The following is a section-by-section comparison of the provisions of existing law, the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), with the provisions of S. 529 as passed by the Senate, and H.R. 1510 as reported by the House Judiciary Committee.

SECTION-BY-SECTION COMPARISON OF THE IMMIGRATION REFORM AND CONTROL ACT OF 1983, S. 529 AS PASSED
BY THE SENATE AND H.R. 1510 AS REPORTED BY THE HOUSE JUDICIARY COMMITTEE

Provision	Existing Law <u>1/</u>	S. 529 as Passed by the Senate	H.R. 1510 as Reported by the House Judiciary Committee
-----------	------------------------	--------------------------------	--

TITLE I--CONTROL OF ILLEGAL IMMIGRATION

Part A--Employment

Control of Unlawful Employment of Aliens

(1) Penalty provisions for employment of aliens unauthorized to work

None; provides that normal employment practices shall not be deemed to constitute harboring, an offense punishable by \$2,000 and/or 5 years imprisonment for each alien involved (Sec. 274).

Revises Sec. 274, but retains the provision that employment shall not be deemed to constitute harboring for the purposes of that section (Sec. 112).

Deletes the provision that normal employment practices shall not be deemed to constitute harboring (Sec. 112(1)).

Adds a new section 274A to the INA, prohibiting after enactment the knowing employment, or paid recruitment or referral for employment in the United States by a person or entity of an alien known to be unauthorized to accept employment. Provides that compliance in good faith with the verification procedures will constitute an affirmative defense against violation (Sec. 101(a)(1)).

Similar to S. 529

1/ Unless otherwise noted, existing law citations are to the Immigration and Nationality Act (INA), as amended.

Provision	Existing Law	S. 529 as Passed	H.R. 1510 as Reported
(1) Penalty provisions for employment of aliens unauthorized to work (cont'd.)		Provides that for the purpose of determining the number of violations committed by a person or entity, distinct, physically separate subdivisions not under direct control of any entity exercising final management authority will be considered as separate entities. Establishes the following penalties and procedures: (1) provides for a one-year phase-in period, during which persons or entities believed to be in violation will be notified during first 6 months and warned for a first offense during the second 6 months with no further proceedings or penalties (Sec. 101(a)(2)); (2) for a first violation, a civil penalty	Similar to S. 529. Provides that persons or subdivisions not under common control for employment purposes will be considered separate. Establishes the following penalties and procedures: (1) provides that no citations, civil or criminal penalties, or injunctions may be issued during the first 6 months after enactment; (2) for a first violation, which need not be knowing, an administrative citation by the Attorney General (Sec. 101(a)(2)); (3) for a violation after an administrative citation, a civil penalty of \$1,000 for each alien involved; (4) for a violation after one or more civil penalties, a civil penalty of \$2,000 for each alien involved;

Provision

Existing Law

S. 529 as Passed

H.R. 1510 as Reported

(1) Penalty provisions for employment of aliens unauthorized to work (cont'd.)

of \$1,000 for each alien involved;
(3) for a second violation, a civil penalty of \$2,000 for each alien involved;
(4) provides a criminal penalty of not more than \$1,000 and/or 6 months imprisonment for each violation for a person or entity which has engaged in a pattern or practice of violation (Sec. 101(a)(1)).

Authorizes the Attorney General to bring a civil suit seeking an injunction or other relief in the appropriate U.S. district court (1) upon reasonable belief that a pattern or practice of violation exists, or (2) upon issuance within an 18 month period of a second notice of violation involving a combined total of five or more individuals. Repeats that physically separate subdivisions not under direct control of any entity exercising final management authority will be considered as separate entities.

(5) for a violation after two or more civil penalties, a criminal penalty of not more than \$3,000 and/or one year's imprisonment for each alien involved (Sec. 101(a)(1)).

Authorizes the Attorney General upon reasonable belief that a pattern or practice of violation exists, to bring a civil suit seeking an injunction or other relief in the U.S. district court where the person or entity resides or the violation occurred.

Provision	Existing Law	S. 529 as Passed	H.R. 1510 as Reported
(2) Verification procedures and requirements	No provision.	Prohibits the hiring after enactment by a person or entity with four or more employees of an individual without complying with the verification procedures.	Provides for voluntary compliance with the verification procedures in the employment, referral or recruitment of individuals, except requires that persons complying voluntarily must do so for all individuals. Provides for mandatory compliance if the Attorney General, based upon evidence he deems persuasive, has notified the person or entity in writing that it has unauthorized aliens in its employ or has referred or recruited them for a fee or other consideration.
		Violation is subject to a civil penalty of \$500 for each individual involved, with a one year phase-in period.	Similar for those required to comply or complying voluntarily, with a six month phase-in period.

Provision	Existing Law	S. 529 as Passed	H.R. 1510 as Reported
(2) Verification procedures and requirements (cont'd.)	No provision.	Requires the employer to attest, under penalty of perjury, on a form established by the Attorney General that he has verified an individual is eligible for employment by examining the individual's U.S. Passport; or his social security card, birth certificate, passport of a foreign country, or other identification acceptable to the Attorney General, and alien identification, driver's license, or other documentation as provided by the Attorney General by regulation. Requires individuals seeking employment to attest, under penalty of perjury, on a form established by the Attorney General that they are citizens or nationals of the United States or aliens authorized to accept employment. Requires the employing person or entity to retain the form and make it	Similar to S. 529, except no reference to foreign passport. Provides that requirements must be met not later than noon on the day after the day of employment. Provides that the information may not be used for purposes other than the enforcement of this section or of 18 U.S.C. 1546, relating to fraud. Similar to S. 529, except no reference to perjury and requires that documents be retained for up to 3 years. Also provides the employer will be deemed to have complied with the verification requirements with respect to the hiring of an individual referred by a State employment agency if he retains documentation from the agency

Provision	Existing Law	S. 529 as Passed	H.R. 1510 as Reported
(2) Verification procedures and requirements (cont'd.)		available for INS or Department of Labor inspection for up to 5 years. Permits copying of documents for the purpose of complying with verification requirements. Unless Congress states otherwise (see below), requires the President within 3 years of enactment to implement such changes or additions to the aforementioned document requirements as may be necessary to establish a secure system to determine employment eligibility in the United States, in conformance with specified limitations on the use of such a system.	indicating it complied with the verification procedures. Requires the President within 3 years of enactment to report to the Congress concerning the possible need for and cost of changes or additions to the aforementioned document requirements as may be necessary to establish a secure system to determine employment eligibility in the U.S., in conformance with specified limitations on the use of such a system which are similar to S. 529 except as noted below.

Provision	Existing Law	S. 529 as Passed	H.R. 1510 as Reported
(3) Other provisions		Requires the Attorney General to provide a person or an entity with notice and an opportunity for a hearing before an Immigration officer designated by the Attorney General before assessing a civil penalty.	Requires notice and the opportunity for a hearing upon request within 30 days before issuing a citation or imposing a civil penalty. Requires the hearing to be conducted by an administrative law judge in accordance with 5 U.S.C. 554 and the rules of the Immigration Board under section 107. Hearing is to be held within 200 miles of the person or entity's residence. Provides that the assessment is final and unappealable if no hearing is requested. A party adversely affected, including the Attorney General, by the final order may file a petition in the Court of Appeals for review within 60 days of its issuance.

Provision

Existing Law

S. 529 as Passed

H.R. 1510 as Reported

(3) Other provisions (cont'd.)

In the event that the person or entity fails to pay the penalty within the prescribed time, requires the Attorney General to file a suit to collect in any appropriate U.S. district court. Provides that such suits or other suits seeking to review the Attorney General's determination shall be determined solely upon the administrative record upon which the civil penalty was assessed, and that the Attorney General's findings of fact shall be conclusive if supported by substantial evidence on the record.

Provides that such suits shall be filed in the U.S. district court where the person or entity resides or where the violation occurred.

Provides that such suits, if made after a hearing before an administrative judge, shall be determined solely upon the administrative record, and the administrative law judge's finding shall be conclusive if supported by substantial evidence on the record. Provides that the validity of the final order imposing the assessment shall not be subject to review where a timely request for a hearing has not been made.

Provision	Existing Law	S. 529 as Passed	H.R. 1510 as Reported
(3) Other provisions (cont'd.)		Provides for preemption of State and local laws imposing civil or criminal sanctions on the employment, or referral or recruitment for employment, of unauthorized aliens. Requires the President to monitor the implementation of this section, including the effectiveness of the existing verification system and the status of a secure system; and the impact on the employment of citizens and aliens and on illegal immigration. (See also Sec. 401(a) for related reporting requirements.) No comparable provision. (Section 403 requires submission of related reports by the Comptroller General.)	Similar provision; specifies referral or recruitment for a fee or other consideration. Monitoring to include the effectiveness of the existing verification system and the status of changes and additions; the economy of the United States; and discrimination in employment. Consultation with the Congress every 6 months is required. Requires the Civil Rights Commission to monitor implementation and enforcement of the provisions of this section, and to investigate allegations of related unlawful discrimination against U.S.

Provision	Existing Law	S. 529 as Passed	H.R. 1510 as Reported
(3) Other provisions (cont'd.)		Provides that nothing in this section shall be construed to restrict the authority of the Equal Employment Opportunity Commission to investigate allegations of unlawful employment practices (Sec. 101(d)).	citizens and legal aliens. Requires submission of reports 18 months, 36 months and 54 months after enactment on implementation and enforcement, to determine if a pattern of unlawful discrimination has resulted. The Attorney General, jointly with the Secretary of Labor and the Chairman of the Equal Employment Opportunity Commission, is required to establish a task force to monitor the implementation of the section and to investigate complaints of related employment discrimination.
		Requires the Attorney General, in cooperation with the Secretaries of Commerce, Labor, and Agriculture and the Administrator of the Small Business Administration to disseminate forms and information regarding the requirements of the new section 274A of the Immigration and Nationality Act. (Sec. 101(a)(2)(C)).	Adds the Secretaries of Health and Human Services, and the Treasury (Sec. 101(a)(2)(B)).

Provision	Existing Law	S. 529 as Passed	H.R. 1510 as Reported
(3) Other provisions (cont'd.)		No comparable provision.	Requires the Attorney General to issue regulations implementing Sec. 274A, on an interim or other basis, not later than the first day of the 7th month after enactment (Sec. 101(a)(2)(C)).
	The Migrant and Seasonal Agricultural Worker Protection Act prohibits the knowing recruitment, hiring, employment, or use by farm labor contractors of aliens not legally authorized to accept employment and provides penalties of up to \$10,000 fine and/or 3 years imprisonment for violation.	Amends P.L. 97-470 to substitute a reference to the prohibition against the knowing hiring, etc. of unauthorized aliens in Sec. 274A of the INA, but subjects violation to the penalties provided by P.L. 97-470. Effective six months after enactment.	Same as S. 529.
	Excludes H-2 workers from the definition of migrant and seasonal workers (P.L. 97-470).	Excludes H-2 agricultural workers from the definition of migrant and seasonal agricultural workers (Sec. 101(c)).	Also excludes the new "O" transitional workers from the definitions of migrant and seasonal agricultural workers (Sec. 101(b)).

Provision	Existing Law	S. 529 as Passed	H.R. 1510 as Reported
Fraud and Misuse of Certain Documents	Imposes criminal penalties for falsifying certain immigration documents or for the knowing use of such falsified documents. Violation is punishable by up to \$2,000 fine and/or 5 years imprisonment (18 U.S.C. 1546).	Amends 18 U.S.C. 1546 to make it also explicitly applicable to border crossing cards, alien registration receipt cards, and other entry documents. Increases the possible fine to \$5,000.	Same as S. 529.
		Also prohibits without the authority of the issuing agency and with unlawful intent the copying, sale, transfer, use or altering of any document presented to satisfy a requirement of the INA or to obtain a document for that purpose, including any document required to establish eligibility under the legalization program. Violation is punishable by not more than a \$5,000 fine and/or 5 years' imprisonment (Sec. 102).	Provides that the knowing use of an identification document other than one issued lawfully to the possessor, or of a false identification document for the purpose of satisfying the identification requirements of the INA employer sanctions will be punishable by not more than a \$5,000 fine and/or 2 years imprisonment.

Provision	Existing Law	S. 529 as Passed	H.R. 1510 as Reported
Fraud and Misuse of Certain Documents (cont'd.)		No comparable provision.	Provides that this section does not prohibit any lawfully authorized activity of Federal or non-Federal law enforcement or intelligence agencies (Sec. 102).

Provision	Existing Law	S. 529 as Passed	H.R. 1510 as Reported
Part B--Enforcement (and Fees)			
Immigration Enforcement Activities and Authorizations	No comparable provision.	States the sense of the Congress that resources for border patrol and other enforcement activities of INS should be increased (Sec. 111). Amends the INA to authorize the appropriation of \$200 million to carry out the provisions of the INA in FY84 (Sec. 405). Authorizes the appropriation of an emergency revolving fund of \$35 million to be used to provide for an increase in border patrol and other INS enforcement activities and for the reimbursement of States and localities for providing assistance to the Attorney General, if the President has determined that an immigration emergency exists and has so certified to the House and Senate Judiciary Committees (Sec. 114).	States that enforcement activities of INS and other appropriate Federal agencies should be increased to prevent illegal entry. Amends the INA to authorize INS appropriations of \$716,550,000 for FY84; \$689,232,000 for FY85; and \$731,327,000 for FY86. Also authorizes not less than an additional \$6 million each year for the next three years for the taskforce to monitor employer sanctions and related discrimination; and authorizes a supplemental appropriation of \$35,480,000 for INS for FY83. Similar to S. 529 (Sec. 111).

Provision	Existing Law	S. 529 as Passed	H.R. 1510 as Reported
Unlawful Transportation of Aliens to the United States	Sec. 274. Bringing in and Harboring Certain Aliens	Recodifies and revises Sec. 274 under a new title, Unlawful Transportation of Aliens to the United States.	Adds a new subsection (c) to existing law, prohibiting unlawful transportation of aliens to the United States.
(1) Unlawful transportation	No comparable provisions.	Creates a new criminal offense of bringing an alien to the United States, knowingly or in reckless disregard of the fact that the alien has not received official authorization to enter, through any manner whatsoever and regardless of any official action taken with respect to the alien. Violation is a misdemeanor punishable by a mandatory \$2,500 fine which may be augmented by up to an additional \$2,500 fine for each alien involved, and/or up to one year's imprisonment.	Similar to S. 529, except provides for an initial penalty of up to \$5,000 fine and/or one year's imprisonment, and does not specify that it is a misdemeanor.
		A second offense, an offense for commercial profit, an offense where the alien is not immediately presented to an INS official, or an offense involving false or misleading statements is a felony punishable by a fine of up to \$10,000 and/or up to five years' imprisonment for each alien involved.	Similar to S. 529, except specifies for a second or subsequent offense, does not specify it is a felony, omits reference to an offense involving false or misleading statements, and provides a single penalty for the offense rather than cumulative penalties for each alien involved.

Provision

Existing Law

S. 529 as Passed

H.R. 1510 as Reported

(2) Bringing
in and
harboring

With regard to an alien not duly admitted by an immigration officer or not lawfully entitled to enter or reside in the U.S., prohibits any person from: (1) bringing or attempting to bring such alien to the U.S. by any means; (2) transporting or attempting to transport such alien within the U.S. in furtherance of violation of the law, knowing he is in the U.S. illegally and having reason to believe that his last entry occurred less than three years previously; (3) willfully or knowingly concealing, harboring, or shielding such alien from detection, or attempting to do so; and (4) willfully or knowingly encouraging or inducing illegal entry, or attempting to do so.

Prohibits any person from:

(1) bringing in or attempting to bring in in any manner whatsoever a person known to be an alien at other than an INS-designated port of entry, regardless of whether such alien has received prior official authorization to enter and regardless of any future official action taken toward the alien; (2) knowingly or in reckless disregard of the fact that an alien is illegally in the U.S., transporting or attempting to transport such alien within the U.S. in furtherance of violation of the law; or (3) knowingly or in reckless disregard of the fact that an alien is illegally in the U.S., concealing, harboring or shielding him from detection.

No change in existing law.

Provision	Existing Law	S. 529 as Passed	H.R. 1510 as Reported
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Violation is a felony punishable by a fine of up to \$2,000 and/or up to five years' imprisonment for each alien involved. For the purposes of this section, employment shall not be deemed to constitute harboring.

Violation is a felony punishable by a fine of up to \$10,000 and/or up to five years' imprisonment for each alien involved. For the purposes of this section, employment shall not be deemed to constitute harboring.

Deletes provision that employment shall not be deemed to constitute harboring. Otherwise no change in existing law.

(3) Seizure and forfeiture of vehicles

Provides for the seizure and forfeiture of conveyances used in the commission of a violation of the prohibition against bringing in and harboring certain aliens.

Extends provisions of existing law, with some changes, to include conveyances used in the unlawful transportation of aliens.

Amends existing law to include conveyances used in the unlawful transportation of aliens.

Sets forth conditions for seizure and forfeiture, including applicability of certain customs laws, and provides that seizure and forfeiture duties must be preformed by persons authorized for that purpose by the Attorney General.

Similar to existing law, except makes performance of duties by persons authorized for that purpose by the Attorney General optional rather than mandatory.

No change in existing law.

Provides for the disposition by the Attorney General of forfeited vehicles.

Similar to existing law, except also allows the Attorney General to require the Federal Maritime Commission to take custody in certain circumstances, and allows the Attorney General to dispose of the conveyance in accordance with the terms of any petition of remission or mitigation of forfeiture he may grant.

No change in existing law.

Provision	Existing Law	S. 529 as Passed	H.R. 1510 as Reported
	Provides that the burden of proof lies with the claimant in all suits or actions for forfeiture when the conveyance is claimed, and that probable cause for such a suit must first be shown. Sets forth prima facie evidence that an alien involved in an alleged violation was illegal.	Similar to existing law with some changes, including the addition of State Department records to the list of prima facie evidence that an alien is illegal.	No change in existing law.
(4) Enforcement	Limits authority to make arrests for the violation of any provision of this section to INS officers and employees designated by the Attorney General and to other Federal officers whose duty it is to enforce criminal laws (Sec. 274).	Provides additionally that those State officers whose duty it is to enforce criminal laws and who have been specifically designated by the Attorney General may make arrests for violations of any provision of this section (Sec. 112).	No change in existing law (Sec. 112).
Unlawful Entry into the United States	Prohibits and penalizes the illegal entry of aliens (Sec. 275).	Also prohibits and penalizes attempted illegal entry (Sec. 113).	No comparable provision.
Fees	Provides that nonimmigrant visa fees shall be reciprocal with those charged U.S. nationals, if practicable (Sec. 281).	No comparable provision.	Amends Sec. 281 of INA authorizing the Attorney General, in consultation with the Secretary of State, to impose fees on aliens reasonably commensurate with the cost of their use of border and other INS facilities and services (Sec. 113).

Provision	Existing Law	S. 529 as Passed,	H.R. 1510 as Reported
Warrant for Entering Outdoor Lands	Allows warrantless entry by INS officers and employees of private lands within 25 miles of U.S. borders to patrol the border to prevent illegal entry of aliens (Sec. 287(a)(3)).	Amends Sec. 287 of the INA to prohibit an INS officer or employee from entering the premises of a farm or other agricultural operation without a properly executed warrant, except within 25 miles of the border as provided by Sec. 287(a)(3) (Sec. 115).	Amends Sec. 287 of the INA to prohibit an INS officer or employee from entering a farm or other outdoor operation for the purpose of interrogating a person believed to be an alien regarding his right to be in the U.S., without the consent of the owner or a properly executed warrant, except within 25 miles of the border as provided by Sec. 287(a)(3)(Sec. 114).

Provision	Existing Law	S. 529 as Passed	H.R. 1510 as Reported
Part C--<u>Adjudication Procedures and Asylum</u>			
Inspection and Exclusion	Provides for detention for further inquiry to be conducted by a special inquiry officer of aliens not "clearly and beyond a doubt entitled to land" (Sec. 235(b)).	Provides for immediate [expedited] exclusion without a hearing of aliens who enter at U.S. land borders or ports without documentation or a reasonable basis for legal entry or are not asylum applicants. Provides that the Attorney General after consulting with the Judiciary Committees of Congress shall establish procedures to assure aliens are not excluded summarily without an inquiry into their reasons for seeking unlawful entry into the United States (Sec. 121).	Similar to S. 529, but does not specify "enter" as opposed to "arrive"; does not specify U.S. land borders; and provides for alien's right to request redetermination of conditions by administrative law judge in a nonadversarial, summary proceeding prior to expedited exclusion and to be informed of the right to counsel (Sec. 121).
		Retains existing language that favorable decisions of an immigration officer shall be subject to challenge by any other immigration officer (Sec. 121).	Similar to S. 529, but specifies that such a challenge will result in an exclusion hearing before an administrative law judge (Sec. 121).
		Provides that the exclusion hearing for asylum applicants shall be limited to the issues raised regarding the asylum application (Sec. 121).	Similar to S. 529, but specifies that it applies to aliens "indicating an intention to apply for asylum" (Sec. 121).
		Provides that exclusion hearing shall to extent practicable be conducted in a nonadversarial, informal manner (Sec. 121).	No comparable provision.

Provision	Existing Law	S. 529 as Passed	H.R. 1510 as Reported
U.S. Immigration Board and Establishment of Administrative Law Judge System	Provides for "timely" appeal from exclusion decision to the Attorney General (Sec. 236(b)).	Provides for appeal of immigration judges' decisions to the U.S. Immigration Board within 15 days of the date of the decision (Sec. 122(b)).	Provides for appeals from final orders of deportation or exclusion (and asylum orders contained therein) to be filed within 20 days of the date of the final order (Sec. 122(a)).
	[No comparable section] Board of Immigration Appeals, 8 CFR, Part 3	Amends Title 1 (creates Sec. 107) to establish in the Department of Justice (DOJ) a U.S. Immigration Board to hear and determine appeals from final decisions of immigration judges; defines terms of office and authority, including: 1) the Board would consist of 8 members and a Chairman; 2) the Board and Chair are to be appointed by the Attorney General; 3) the Chair shall promulgate rules of practice and procedure for the Board and judges; 4) specifies that the Board shall hear and determine on appeal final decisions of immigration judges "other than a determination granting voluntary departure under Sec. 244(e) within a period of at least 30 days if the sole ground of	Similar to S. 529, except as noted: 1) the Board would consist of 6 members and a Chair; 2) the Board would be established as an independent agency in the Department of Justice and the Board and Chair are to be appointed by the President by and with the advice and consent of the Senate; 3) the Board shall establish rules of practice and procedure for itself and judges; 4) adds redeterminations under Sec. 235(b)(1)(B) to those areas excluded from hearing on appeal; 5) No comparable provision; 6) provides that the final Board decisions are binding unless modified by a U.S. Court and doesn't provide for review by the Attorney General; 7) specifies that Board members may be removed by the President for neglect of duty or malfeasance in office;

Provision	Existing Law	S. 529 as Passed	H.R. 1510 as Reported
U.S. Immigration Board and Establishment of Administrative Law Judge System (cont'd.)		appeal is that a greater period of departure time should have been fixed" and specifies other appeals the Board shall hear; 5) specifies that the Attorney General may, within 30 days, if necessary for the national interest, provide that a case be certified to him for review, such decision to be considered the final decision of the Board; 6) specifies that the final decisions of the Board are binding unless modified or reversed by the Attorney General (as explained in 5 above) or by U.S. Courts; 7) provides that Attorney General may remove a Board member only for neglect of duty or malfeasance in office; 8) allows alien or specified immigration officer to file appeal of decision in exclusion cases within 15 days; and 9) No comparable provision (Sec. 122(a) and (b)).	8) specifies that appeals from final deportation or exclusion orders (including asylum encompassed within) must be filed within 20 days of the order date and requires the Board to decide appeals relating to asylum applications not later than 60 days after the appeal is filed; and 9) specifies that the Board shall not hear appeals on expedited exclusion under Sec. 235 (b)(1)(B) of the bill (Sec. 122 (a)).

Provision	Existing Law	S. 529 as Passed	H.R. 1510 as Reported
U.S. Immigration Board and Establishment of Administrative Law Judge System (cont'd.)		1) Provides for appointment of immigration judges and a Chief Judge by the Attorney General; 2) defines terms of employment, compensation, and functions, including to hear and decide cases on exclusion, deportation and suspension of deportation, recission of adjustment of status and, by those specially designated, asylum; and 3) Specifies that immigration judges may not hear or decide expedited exclusion cases. (Sec. 122(a)). Adds section to amend Sec. 242(b)(4) of INA (regarding apprehension and deportation of aliens) to substitute the word "substantial" for "reasonable, substantial, and probative" evidence (Sec. 122(c)). Also amends Sec. 242 by adding a new subsection that provides that the burden of proof shall be upon the Attorney General to establish deportability by preponderance of the evidence (Sec. 122(d)).	1) provides for appointment of judges by the Chairman and uses "administrative law judges" rather than "immigration judges"; 2) does not specify compensation for judges and adds "assessment of civil penalties under Sec. 274A" to administrative law judges' functions; and 3) specifies that judges may, without a formal hearing, make redeterminations regarding expedited exclusion under Sec. 235(b)(1)(B)(ii) (Sec. 122(a)).
		No comparable provision.	No comparable provision.
		No comparable provision.	No comparable provision.

Provision	Existing Law	S. 529 as Passed	H.R. 1510 as Reported
Judicial Review	Provides the procedure for, judicial review of orders of deportation and exclusion (Sec. 106(a)).	Provides for judicial review of final orders of exclusion or deportation (and asylum encompassed within such orders) (Sec. 123(a)(1)).	Similar to S. 529 (Sec. 123(a)(1) and (2)).
	Allows petitions for review to be filed not later than 6 months from date of final deportation order (Sec. 106(a)(1)).	Limits time allowed for petitioning for judicial review of final orders of deportation to 45 days; allows petitions to be filed by either the alien involved or the Service (Sec. 123(a)(1)).	Allows 60 days for petitioning for judicial review of final orders of exclusion and deportation (Sec. 123(a)(3)).
	Provides that except as noted in clause B of paragraph 5 of this subsection, the petition shall be determined solely on the administrative record and the Attorney General's findings of fact, if supported by "reasonable, substantial, and probative evidence" shall be conclusive (Sec. 106(a)(4)).	Changes "reasonable, substantial, and probative evidence" to "substantial evidence" (Sec. 123(a)(5)).	No comparable provision.

Provision	Existing Law	S. 529 as Passed	H.R. 1510 as Reported
Judicial Review (cont'd.)		Adds provision that in asylum cases, the court shall have jurisdiction to review only 1) whether the jurisdiction of the judge or Board was properly exercised; 2) whether the asylum determination was in accordance with applicable laws and regulations; 3) the constitutionality of the laws and regulations pursuant to the determination; and 4) whether the decision was arbitrary or capricious (Sec. 123(a)(5)).	Identical to S. 529 (Sec. 123(a)(9)).
	Provides that alien held in custody pursuant to an order of deportation may obtain judicial review by habeas corpus proceedings (Sec. 106(a)(9)).	Deletes this subsection (Sec. 123(a)(8)).	Identical to S. 529 (Sec. 123(a)(12)).

Provision	Existing Law	S. 529 as Passed	H.R. 1510 as Reported
Judicial Review (cont'd.)	Provides that review of a final exclusion order may be obtained through habeas corpus proceedings and not otherwise (Sec. 106(b)(1)).	Provides that nothing in this section limits right of habeas corpus under the Constitution (Sec. 123(b)). Provides that there shall be no court review of decisions of immigration judges or the U.S. Immigration Board regarding reopening or reconsidering exclusion or deportation proceedings or asylum determinations outside of such proceedings, reopening of application for asylum because of changed circumstances, the Attorney General's denial of stay of exclusion or deportation, or barring of alien entry under Sec. 235(b) [expedited exclusion] (Sec. 123(b)).	Provides that nothing in this section limits right of habeas corpus under Chapter 153, U.S. Code; adds provision that habeas corpus petition may be brought individually or on a multiple party basis; and that no court shall have asylum jurisdiction under Sec. 208 except in a petition for review except as provided under subsection a (Sec. 123(b)). Similar to S. 529, but adds redeterminations under Sect. 235(b) to those areas which are not to receive court review (Sec. 123(b)).

Provision

Existing Law

S. 529 as Passed

H.R. 1510 as Reported

Judicial Review
(cont'd.)

No comparable provision.

Provides that when final order of deportation is entered before the date of enactment of this Act, a petition for review must be filed the earlier of 1) 45 days after enactment or 2) the date such petition was required to be filed under previous law (Sec. 123(e)).

Similar to S. 529, except also applies to final exclusion orders and the petitions must be filed within 60 days rather than 45 (Sec. 123(f)).

Adds a new subsection to provide that judicial review of administrative actions or regulations other than final order of exclusion or deportation must be filed within 30 days after the date of the action or the effective date of this section, whichever is later (Sec. 123(f)).

No comparable provision.

Provision	Existing Law	S. 529 as Passed	H.R. 1510 as Reported
Asylum	Provides that the Attorney General establish an asylum procedure for aliens physically present in the United States or at a land border or port of entry and that asylum may be granted at the discretion of the Attorney General if it is determined that the alien is a refugee, as defined by the INA (Sec. 208(a)).	Establishes asylum procedures for alien physically present or at a land border or port of entry whereby the application is considered at a hearing before specially-designated immigration judges (Sec. 124(a)(1)).	Similar to S. 529, but refers to administrative law judges rather than immigration judges (in this and following references) (Sec. 124(a)(1)).
		Provides that immigration judges shall be specially trained in international relations and international law (Sec. 124(a)(1)).	Identical to S. 529 (Sec. 124(a)(1)).
		Specifies that the Attorney General shall provide current special inquiry officers training in international relations and law to qualify to hear asylum cases (Sec. 124(a)(1)).	Similar to S. 529, but provides that special inquiry officers may not be designated to hear applications for asylum unless they receive special training after enactment (Sec. 124(a)(1)).

Provision

Existing Law

S. 529 as Passed

H.R. 1510 as Reported

Asylum (cont'd.)

Provides that an application for asylum from an alien against whom exclusion or deportation proceedings have been instituted may not be considered unless the alien has filed a notice of intention within 14 days of the service of the notice and filed the application for asylum within 35 days or there is a clear showing of changed circumstances after the date of notice which have resulted in change in the alien's eligibility for asylum (Sec. 124(a)(1)).

Limits aliens to one application for asylum unless there is a clear showing of changed circumstances (Sec. 124(a)(1)).

Similar to S. 529, but changes the number of days after the institution of exclusion or deportation proceedings by which applications for asylum must be filed to 30 and adds an additional circumstance under which the application may be considered: if the judge determines the application requires consideration in the "interests of justice" (Sec. 124(a)(1)).

No substantive difference from S. 529 (Sec. 124(a)(1)).