# IMMIGRATION IN THE NATIONAL INTEREST ACT OF 1995

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BEFORE THE

SUBCOMMITTEE ON
IMMIGRATION AND CLAIMS

OF THE

## COMMITTEE ON THE JUDICIARY
## HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

ON

**H.R. 1915**

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Mr. SMITH. Thank you Mr. Rector.
Dr. Briggs.

## STATEMENT OF VERNON M. BRIGGS, JR., PROFESSOR OF LABOR ECONOMICS, CORNELL UNIVERSITY

Mr. BRIGGS. Thank you, Mr. Chairman.

As you perhaps know, I am a strong critic of existing immigration policy and have long believed it to be not only out of control, but completely in contrast to the national interest. I enthusiastically support most of what is in this bill. A few things I have some questions about, and I'll focus disproportionately on them. But I enthusiastically support most of what is in this bill.

I think the level of immigration is far too high at this moment for our national interest. As for our labor market needs, there is a complete variation of the immigration flow with the human capital characteristics that are needed in the current labor market. There is also a pileup of immigration in the urban centers, the central cities in particular, that are undermining a lot of other public policy areas. No matter what we seem to pass, it doesn't make much difference because the laws are simply abused massively by illegal immigration.

Rather than focus on the manifestations that I have just indicated, however, my belief is that the problems are directly tied to the policy itself and some of its structural issues. They are that the system is basically inflexible, it's nepotistic, it's mechanistic, it's legalistic, and it is largely unenforceable. I'd like to talk about how this bill addresses these issues.

Certainly the new bill reduces the level of immigration arbitrarily. It still has an inflexible number. My personal view has always been that the number ought to be set administratively rather than legislatively. Congress could set a ceiling, but let somebody have some discretion, like the Secretary of Labor, to set the annual level. For example, in 1991, we raised immigration to the highest levels in American history since we have regulated immigration, only to fall into deep recession. Things can unexpectedly happen.

I think a 5-year review is good. That gives some flexibility over what is not flexible, but one can't be sure Congress will actually address it. I mean, will Congress actually follow through and actually decide about its responsiveness to changing conditions. I would rather see more flexibility for shortrun conditions.

As for nepotism, this system certainly reduces some of the nepotism by reducing several of the existing entry categories. I support the elimination of both of them, the adult brothers and sisters, and unmarried adult children of immigrants. I think these changes are long overdue. Nothing stops these relatives from seeking to be admitted based on their own merits. But their privileged status is removed.

If an adult voluntarily seeks to leave his or her homeland to emigrate to the United States, it is he or she who is making the decision with respect to breaking the family ties, not U.S. immigration policy. There is no reason why U.S. policy should be obligated to admit extended family members or other adult children who the immigrant alone has decided to leave behind when he or she made the decision to leave.

So this bill at least deemphasizes some of the nepotism. It is still nepotistic, but I don't think anybody is going to object to people bringing their spouses or minor children with them. So I certainly agree with that. So it's less nepotistic. That is to its merits.

It emphasizes employment. It does away with unskilled immigration which I think is long overdue as an eligible category. There is absolutely no shortage of unskilled workers in this country, and no prospect on the horizon of there being one. It raises the qualifications of those who do come in. I think that's a very desirable point.

The only category I disagree with has been one I have opposed for many years, since it came up in 1991. It is the investor-immigrant category. I have never supported this. I think it's wrong to make wealth itself a category for priority entry. The only group that benefits from this category is the immigration bar, which has been its greatest supporter. I also believe this category is very difficult to administer, preventing fraud or monitoring of actual job creation promises.

I am also glad to see the diversity-immigrant group eliminated. I think that was a mistake. It raised the specter of national origin from out of the Nation's immigration past. I think the use of a lottery cheapens the immigration process.

As for being mechanistic and legalistic, it's still both of those. With respect to enhanced enforcement, I think all the points of emphasis in the bill are correct. The only thing I worry about, and I didn't put in my testimony, pertains to verification. I think the weakest element in the bill is the verification issue. I think what is a bill full of strong tiger teeth, still has one baby tooth and that pertains to the issue of verification. I think the telephone call-in system is good, but I still think that is a very weak enforcement measure.

Everything else—well, I support the increased border management, the fair labor standards enforcement, the employer sanctions enforcement, the stronger physical barriers. All of those things are steps in the right direction. So by and large, I enthusiastically support this bill, subject to those minor things.

[The prepared statement of Mr. Briggs follows:]

PREPARED STATEMENT OF VERNON M. BRIGGS, JR., PROFESSOR OF LABOR ECONOMICS, CORNELL UNIVERSITY

It is past time for significant reforms in the nation's existing immigration policy to be initiated. Characterized in 1981 by the Select Commission on Immigration and Refugee Policy as being "out of control," little has changed in the interim despite several previous legislative efforts to do so. In fact, conditions have deteriorated. Immigration levels (from all sources) have soared far beyond the needs of the economy; the composition of the immigrant inflow, with respect to its human capital characteristics, are at significant variance with the emerging employment needs of the labor market, and the goals of existing immigration and refugee systems have been undermined by the continuation of mass abuse of their provision by illegal immigration. These are the manifestations of the problem. The causes for the existing incongruence believes the national interest and the nation's extant immigration policy rest with its key features. These are: it is inflexible; it is nepotistic; it is mechanistic; it is legalistic; and it is largely unenforceable. I wish to appraise H.R. 1915 as it relates to each of these concerns.

Inflexibility. The existing legislation writes into stone an immigration level (675,000 immigrants a year since 1995). There is no provision for altering this level should unexpected conditions arise (as they always do). The annual level imposed by the Immigration Act of 1990 was too high when it was enacted and it remains too high today. It took effect in 1991 just as the nation's economy slipped into deep recession. Unemployment today remains very high for what is supposed to be a period of prosperity but immigration levels remain at or near record annual levels (the decade of the 1990s should see the largest immigration inflow in all of U.S. history). Given the fact the labor force is growing due to the demographic positioning of the "baby boom generation" and the continuing growth in labor force participation of women, the nation is not sustaining a shortage of labor per se. H.R. 1915 provides for a significant reduction in immigration levels to 535,000 immigrants a year and it calls for re-evaluation of this number every five years by Congress. Both of these are steps in the right direction. Personally, I would prefer that the level be set administratively rather than legislatively so that the annual flow could be more closely modulated to changes in the domestic economic environment. I see no magic in any specific number -- especially with regard to the employment-based immigrants. I would prefer to see Congress set a ceiling of, say the 135,000 employment-based immigrants specified in the bill, but give the Secretary of Labor the right to lower the level for any particular year if it is deemed necessary. H.R. 1915 is a step in the right direction by requiring a 5 year review but that interval may be too long, given the dynamics of the current labor market conditions, and one cannot be sure that economic considerations, rather than political factors will shape, the review future processes.

Nepotism. The current system is highly discriminatory in its admission provisions. Family reunification account for 480,000 of the available visas each year. As a consequence, the vast proportion (71%) of the legal immigrants entering each year are admitted on the basis of family ties rather than any human capital characteristics they may possess. H.R. 1915, to its credit, eliminates the existing categories of the admission of adult brothers and sisters and adult unmarried and adult married children of immigrants. Nothing stops these relatives from seeking to be admitted on their own merits but their privileged entry status is removed. If an adult voluntarily seeks to leave his or her homeland to immigrate into the United States, it is he or she who is making the personal decision with respect to breaking ties to their families. There is certainly no reason why U.S. policy should be obligated to admit extended family members or other adult children who the immigrant alone has decided to leave behind. This change is long overdue.

It is true that the proportion of total annual immigration will still be dominated by family reunification under H.R. 1915 (62 percent) but no one can object to legal immigrants bringing their spouses and minor children with them. But with reduced numbers of family immigrants, it is less likely that immigration levels as a whole will continue to be so far out of step with labor market needs. Nepotism is at least reduced.

By the same token, employment-based immigration is more emphasized by H.R. 1915 than is presently the case. Under existing legislation, employment-based immigration accounts for 20 percent of all admissions; under H.R. 1915, the percentage rises to 25 percent. In the process, immigration of unskilled immigrants is ended and, in general the qualifications for the remaining entries under this category are raised over what currently exists. I support both of these changes. There is absolutely no shortage of unskilled workers in the United States and there is no prospect of one on the horizon. Whether there are shortages of skilled workers, in light of massive layoffs in defense industries and downsizing of middle management across corporate America, is also a debatable point. This is why I would prefer more flexibility on these admissions but H.R. 1915 certainly moves in the right direction in this area of admission priorities.

The only employment-based category that I disagree with pertains to the retention of the investor immigrants at a level of 10,000 a year. I have never supported this category and I still do not. I think it is wrong to make wealth itself a category for priority entry for immigrants. The only group that can benefit from this category is the immigration bar which has been its greatest supporter. I also believe that this category is very difficult to administer in terms of preventing fraud or monitoring actual job-creation promises. I would delete it.

I am also glad to see that the category of "diversity immigrants" is eliminated from the admission system under H.R. 1915. This category does not assure any congruence with human capital needs of the nation with the immigrants it admits and it also resurrects the specter of national origin from out of the nation's past immigration experiences. It is past time to end this experiment in social engineering. I am also opposed to its reliance on a lottery system to select immigrants. It cheapens the admissions process.

Mechanistic. While under H.R. 1915 the U.S. immigration system remains highly mechanistic, there are at least fewer admission categories and there is at least some provision for a 5 year review of immigration levels. This is an improvement over the existing system.

Legalistic. While the immigration system will still be highly legalistic in its terms and operations, there are at least some overtures to reduce appeal levels for asylum applicants, to reduce the number of documents required to prove eligibility to work, and to expedite removals for stowaways, false refugee claimants, and alien terrorists among numerous other features that seem, at least on their face to a non-lawyer, to be positive steps to reduce the costly and protracted procedures associated with efforts to enforce the nation's immigration policies.

Enhanced Enforcement. H.R. 1915 is also of merit for its efforts to address the massive abuse that currently makes a mockery of the nation's efforts to have an immigration system that is worthy of public support. Stronger border management in terms of funds for more border patrol officers and support personnel, for improved physical barriers; and for the acquisition of advanced technology are long overdue. The expenditure of funds is the real test of the commitment of Congress to make whatever immigration policy it adopts have true meaning. I applaud the provision of imposing civil fines on illegal immigrants found in the United States although I doubt it will be possible to enforce except where illegal immigrants are found to be employed and salaries could possibly be garnisheed. I have never understood why this has not been done already. I also enthusiastically support the recognition of the need to increase the number of workplace officials of government empowered to enforce both employer sanctions against the hiring illegal immigrants and fair labor standards with respect to wage and hour laws and child labor laws. The growth of "sweatshops," fueled by the hiring of illegal immigrants, is an on-going blemish to contemporary American life. I only hope these proposals are for "real" increases in numbers of enforcement officials and are not simply replacing people who have lost their jobs due to arbitrary budget cutbacks that are now so much in vogue here in Washington.

## Concluding Observations

H.R. 1915 identifies the critical areas that must be addressed if immigration policy is to be restored to its rightful position as representing a positive and unique feature of American life. Currently, immigration policy is at odds with the national interest. This bill can significantly change that situation.