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ISSUE BRIEF

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Title: CRITIQUE OF HHS AND CBO COST ESTIMATES OF LEGALIZATION

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I. ISSUE SUMMARY

The Simpson-Mazzoli immigration legislation (H.R. 1510) will soon be considered by the House. The legalization provisions of the bill will be hotly contested. One of the most controversial -- and most important -- issues in the debate over legalization involves fiscal and economic impacts on federal, state, and local governments. At issue are wide-ranging estimates of the numbers of undocumented workers eligible for legalization, the number that will actually come forward and participate in the legalization program, and the demographic characteristics, expected program participation rates, and tax contributions of the legalized population.

The legalization program in H.R. 1510:

- Permits all undocumented immigrants who have continuously resided in the United States since January 1, 1982, to apply for legalization.
- Provides for the screening of all applicants based on exclusions already in current law. These exclusions will preclude the legalization of applicants who would pose a public risk, who have "medical deficiencies," are likely to become "public charges," or who are conconsidered unacceptable for other specified reasons.
- Provides that successful applicants shall receive permanent resident status.
- Imposes a five-year moratorium on federally-funded benefits to legalized persons, with some exceptions for emergency medical services and aid to the blind and disabled.
- Authorizes reimbursement to states for 100% of costs incurred on behalf of the legalized population through Fiscal Year 1987.

The Energy and Commerce Committee reported an amendment that would make legalized persons eligible for certain public health and medical benefits, including pre- and post-natal care (U.S.-born children are American citizens irrespective of the legal status of their parents) and immunization. This amendment had broad support and is expected to be adopted by the full House. The estimated cost of this amendment is included in the following analysis.

II. CURRENT COST ESTIMATES OF LEGALIZATION

A. Overview

The Congressional Budget Office (CBO) has estimated that the fiscal impact of legalization for the first five years of the program will total $3.994 billion. The Department of Health and Human Services (HHS) estimate is that legalization will cost about $6.759 billion over the same period.

The two estimates share many assumptions, especially with regard to the demographic characteristics of the undocumented population, their expected rates of income transfer and human service program participation, and other factors. The primary difference between the two estimates concerns the number of undocumented persons now in the United States.

The HHS estimate is based on a population of 6.25 million undocumented persons; CBO's estimate is based on a 4.5 million population. HHS utilizes a 1980 Census study (endorsed by the Select Commission on Immigration and Refugee Policy) that estimated that there were 3.5 to 6 million undocumented aliens in the U.S. in 1978, with an estimated growth of 250,000 per year.

CBO used a more recent Census study which reported that about 2 million undocumented persons were counted in the 1980 Census. Given that an undercount high enough to justify numbers of undocumented aliens at or above 6 million is unlikely, and adjusting for growth since 1980, CBO settled on an estimate of 4.5 million.

B. Assumptions

Aside from the difference in the estimated undocumented population, the CBO and HHS estimates make similar assumptions about the legalized population. Some of the more salient assumptions include:

- Participating Population: Both HHS and CBO derive their estimates of the number of persons participating in the legalization program by first estimating the percentage of the undocumented population that is eligible for legalization and then estimating the percentage of that group that will come forward and successfully complete the legalization process.
  - HHS estimates that about 46% of the total undocumented population will participate in the legalization program (70% eligible, 65.7% of these participating);
  - CBO estimates that 39% of the total undocumented population will participate in the program (65% eligible, 60% of these participating).
- Demographics: HHS and CBO appear to make similar assumptions about the characteristics of the undocumented population, such as family status, sex, and age, primarily based on Census data.
- Program Participation Rates: These assumptions vary by program. Both HHS and CBO, however, rely heavily on program participation rates of the U.S. population. CBO states that, "...over time, this group of aliens could be expected to resemble the U.S. population" in terms of program participation.

Moreover, the estimates do not seem to allow for the effect of the "public charge," "medical deficiency," and other exclusions. It can be assumed that a sizable number of applicants will be screened out of the program by the exclusions. In addition, the estimates do not take into account the probable deterrent effect of the fees that will be charged to applicants for legalization.

Third, the HHS and CBO calculations ignore the effect of "adjustees" that would otherwise be able to receive legal status without a legalization program. According to David North, some 100,000 aliens -- most of whom are in deportable status -- are able to obtain legal status under current law each year. Thus, over the five-year period in question, 500,000 undocumented persons will become documented even without legalization; these 500,000 persons should be subtracted from the estimates of those participating in legalization.

Adjusting the CBO and HHS estimates to account for the above factors produces significant reductions in the likely number of persons participating in legalization, even if the effects of the exclusions are discounted. For example, assuming a total undocumented population of 3.85 million in 1982, a 50% application rate less the 500,000 adjustees produces an estimate of about 1,425,000 persons participating in legalization, as opposed to the HHS and CBO estimates of 2,876,000 and 1,755,000 persons, respectively.

B. Demographics

Several specific assumptions regarding the demographic characteristics of the undocumented immigrant population and the effects of expected rates of program participation in both the HHS and CBO estimates appear to be inaccurate; these will be discussed below. There are, moreover, two general weaknesses in both sets of estimates.

First, neither estimate takes into account the selective effects of the "public charge" and other exclusions. Notwithstanding the difficulty of predicting how many persons will be screened out by the exclusions, it is clear that those who are most likely to participate in income transfer and other benefit programs are also most likely to be screened out. Thus, even if the demographic assumptions are accurate with respect to the entire undocumented population, they are not necessarily descriptive of the population that will successfully complete the legalization process.

Second, both HHS and CBO projected the demographic characteristics of the undocumented persons enumerated in the Census to the entire undocumented population. As noted above, the Urban Institute estimated a 25-37% Census undercount of single males in the undocumented population. This is consistent with previous studies of Census undercounts; single males are more likely to be transient, less likely to respond to the Census, and more difficult for enumerators to detect.

Ignoring the undercount of single males in applying the Census data to the entire undocumented population seriously biases the HHS and CBO assumptions. By ignoring the undercount, HHS and CBO mistakenly assume a greater proportion of intact families, elderly, women, and children in the undocumented population than actually exists. These groups tend to have the greatest need for income supplements and social services; by contrast, single males generally neither need, nor are they eligible for, most income transfer and social programs. Thus, the combined effect of the failure to allow for the effects of the exclusions and the misapplication of Census demographic data is to greatly exaggerate the proportion of the legalized population that will need, seek, and receive income transfer and other social programs.

C. Program Participation Rates

H.R. 1510 precludes participation in most federally-funded benefit programs by legalized persons; the exceptions to the moratorium on benefits include aid to the aged, blind, and disabled [equivalent to Supplemental Security Income (SSI)], Disability Insurance (DI) (DI), Unemployment Insurance (UI), and limited assistance such as Food Stamps and Medicaid for SSI-eligible persons. In addition, CBO and HHS provide estimates of the costs of federal reimbursement to the states for General Assistance (GA) benefits.

The cost estimates provided by CBO and HHS assume similar, but not identical, program participation rates. In general, the HHS estimates are higher, reflecting HHS' higher estimates of the undocumented population, higher legalization participation rates, and somewhat higher estimates of program participation rates. This analysis will examines the lower CBO estimates for the DI and SSI programs to illustrate key weaknesses in the assumptions.

1. Disability Insurance (DI)

CBO estimates that DI payments to the legalized population will range from $70 million in the first year of legalization to $190 million in the fifth year of legalization. CBO assumes a disability incidence rate paralleling the native U.S. population.

However, Disability Insurance is part of the Social Security system, which does not exclude undocumented persons from participation. Thus, H.R. 1510 would not affect the legal right of anyone to use this program. The inclusion of the DI program outlays for this population as a net increase in cost resulting from legalization is, therefore, highly questionable.

In addition, the CBO assumption that the disability incidence rate of the undocumented population equals the U.S.-native rate is inaccurate, on both logical and empirical grounds. Those who successfully complete the legalization process would have to overcome several barriers including often long and dangerous travel to the U.S., detection by the Immigration and Naturalization Service (INS), and the exclusions designed to screen out those with medical deficiencies and those likely to become public charges. To suggest, as CBO does, that those who overcome these barriers would have the same incidence of disability as the native population is at least highly questionable.

Second, the DI recipient population in the U.S. is heavily weighted towards the elderly. The Annual Statistical Supplement to the Social Security Bulletin shows that about 60% of DI recipients were in the 55-64 age bracket in 1982. About 9.6% of the U.S. population falls within that age bracket. Even with the undercount of young, single males, the Census showed that only about three percent of the undocumented enumerated by the Census were in that age group. Clearly, the CBO assumptions inflate the expected DI participation rate, by perhaps as much as a factor of three (300%).

2. Supplemental Security Income (SSI)

CBO estimates that SSI-equivalent benefits to the undocumented will cost about $20 million in the first year of legalization, and will increase to $85 million in the fifth year of legalization. CBO explains that:

> The CBO cost estimate...is based on Census data which show 1.8% of illegal aliens to be aged, an assumed income eligibility of 100%, and a participation rate for the eligible of 50%. The recipiency

rate for the blind and disabled is based on the current recipiency rate for the United States population.

There are two independent problems with these assumptions. First, the assumption that proportion of blind and disabled among the legalized population is analagous to that in the total U.S. population is unreasonable, given the analysis above. Since the undocumented population as a group is younger than the U.S. population, and since the exclusions will tend to screen out many blind and disabled applicants for legalization, the CBO assumption that legalized persons will resemble the U.S. population is unreasonable.

Second, the current SSI recipiency rate among the aged U.S. population is about 7%, while CBO estimates that 50% of the legalized aged will receive SSI. While the legalized population may tend to have lower incomes than the U.S. population, it nevertheless appears remarkable that CBO believes that program participation among the legalized will be seven times (700%) higher than for the native population. In addition, the assumption that the blind and disabled legalized population will use the program at the average U.S. rate, but that the aged legalized population will use the program at seven times the average U.S. rate appears to be internally inconsistent.

Exaggeration of SSI program participation rates is especially important in light of the fact that CBO's cost estimates for Food Stamp and Medicaid use are based on SSI eligibility (otherwise, legalized persons would be ineligible for Food Stamps and Medicaid under the five-year moratorium).

3. Other Considerations

Two other factors suggest that the CBO program participation rates are too high. First, CBO apparently assumes that all legalized persons will come forward at the beginning of the legalization period and begin drawing benefits immediately thereafter. H.R. 1510 provides for a 12-month period during which the undocumented may apply for legalization. Verification of documents and routine bureaucratic delays alone to suggest that some time will elapse between the application for legalization and the actual granting of permanent resident status. Moreover, the experience of legalization programs in other countries shows that many of the undocumented will apply towards the end of the 12-month period. Thus, it would be more appropriate to "phase-in" costs, rather than assume immediate legalization and program participation as CBO does.

Second, the CBO assumptions of program participation are, as noted above, in large part based on the recipient rates of the U.S. population. However, there is substantial evidence that immigrants -- both legal and illegal -- tend to have far lower rates of social program participation than natives. According to Julian Simon, an economist and Senior Fellow at the Heritage Foundation, studies of immigrant populations in the U.S. show that:

> In summing the figures for all transfers and services, the average immigrant family is found to receive $1,404 in welfare services in years 1-5, $1,941 in years 6-10, $2,247 in years 11 to 15, and $2,279 in years 16 to 25. Native families overall average $2,279, considerably more than the immigrants receive in their early years in the U.S.

Thus, although the CBO assumption that immigrants, over time, come to resemble the native population in terms of benefit recipiency rates appears reasonable, it is not until years 16-25 that immigrant program participation rates equal that of

natives'. The CBO assumes that this process will take only five years, thereby significantly over-estimating probable program participation rates of legalized persons.

IV. CONCLUSIONS

It is clear that both the HHS and CBO cost estimates are higher than the best available data will support. Both HHS and CBO overestimate the number of undocumented persons now residing in the country; both also assume very high rates of participation in the legalization program despite the experience of other countries which has shown that the majority of eligible population is not likely to seek legalization. Neither HHS nor CBO accounts for the fact that many undocumented persons would obtain legal status even in the absence of legalization, and neither set of estimates calculates the effects of the "public charge" and "medical deficiency" exclusions on the number of persons successfully completing the legalization process. Finally, both HHS and CBO assume very high rates of participation in income transfer and social programs, despite convincing demographic and other empirical evidence suggesting otherwise.

This analysis demonstrates that the current estimates of the costs of legalization should be treated with extreme caution. Exaggerated cost estimates may be used to justify amendments to H.R. 1510 that would severely restrict the scope and coverage of the legalization provisions. This analysis indicates that such amendments may be unjustified to the extent that they rely on the CBO or HHS cost estimates.

The National Council of La Raza (NCLR) supports a comprehensive and effective legalization program, and opposes amendments limiting the scope of legalization. NCLR would be happy to provide specific citations and further research supporting the positions taken above. For more information, contact Policy Analysis Director Charles Kamasaki or Legislative Director Martha Escutia at (202) 628-9600.