

# Cosponsor the HALT Act<sup>1</sup>

June 23, 2011

## **PREVENT THE OBAMA ADMINISTRATION FROM BYPASSING CONGRESS AND LEGALIZING MILLIONS OF ILLEGAL IMMIGRANTS CO-SPONSOR THE HALT ACT**

Dear Colleague:

The Obama Administration is upset that Congress has not yet passed “comprehensive immigration reform” to legalize millions of illegal immigrants. So, the Administration is doing an end run around Congress and using its discretionary executive branch authority to legalize illegal immigrants.

This plot was first revealed last year through the leak of a draft memo to the director of DHS’s U.S. Citizenship and Immigration Services. The memo, written by top political and career agency officials, suggested that the agency take steps to legalize millions of illegal immigrants. Just to give two examples from the memo:

- DHS can currently grant “deferred action” – and consequently authorization to legally work in the U.S. -- to removable aliens. The memo says that DHS can “grant deferred action to an unrestricted number of unlawfully present individuals” and suggests that it grant deferred action to illegal immigrants “who would be eligible for relief under the DREAM Act” or those who have lived in the U.S. since some particular date. Such a move could potentially legalize millions of illegal immigrants without a vote of Congress.
- Congress has granted the Administration the power to parole aliens into the U.S. “on a case-by-case basis for urgent humanitarian reasons or significant public benefit.” The memo suggests that parole be used to legalize illegal immigrants “who entered the U.S.

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<sup>1</sup> This is the text of the Smith “Dear Colleague” letter, with the only changes being reformatting so that it can be fit within this format and the blacking-out the personal information for the contact person in Smith’s office so that the person is not inundated with calls from outside of the U.S. House of Representatives

as minors without inspection” or who have “lived for many years in the U.S.” Such a move could potentially legalize millions of illegal immigrants without a vote of Congress.

USCIS claims that it has rejected some of the suggestions in the draft USCIS memo. But, more recently, a seemingly-authentic draft DHS memo was leaked that repeated them. This memo proposed granting deferred action to “the entire potential legalization population” – and if that is not possible, then to DREAM Act-eligible aliens or to illegal immigrants who claim to have worked in agriculture. In addition, the second memo proposed to misuse the parole power to allow the sudden influx of over three million aliens on extended family green card waiting lists – dramatically increasing chain migration at a time when millions of Americans are out of work. And the new memo outlined the blatantly political scheming behind the administrative legalization effort -- “Done right, a combination of benefit and enforcement-related administrative measures could provide the Administration with a clear-cut political win.”

Last week, John Morton, the Director of U.S. Immigration and Customs Enforcement (ICE) – the agency that is supposed to remove illegal and criminal immigrants – followed through on the threat. He issued a memo to the field telling agency officials how to exercise “prosecutorial discretion” such as by granting deferred action, “deciding whom to stop, question, or arrest”, deciding “whom to detain”, and “dismissing” a removal proceeding. The memo made clear that potentially millions of deportable illegal and criminal immigrants would be potentially eligible for administrative amnesty. “When weighing whether an exercise of prosecutorial discretion may be warranted for a given alien, ICE officers, agents and attorneys should consider all relevant factors”, such as:

- ICE’s “immigration enforcement priorities.” (ICE has expressed little interest in deporting illegal immigrants who have not yet been convicted of “serious” crimes.)
- The person’s “pursuit of education in the United States”. (The Migration Policy Institute estimates that more than two million illegal immigrants would be eligible for the DREAM Act amnesty).
- “Whether the person has a U.S. citizen or permanent resident spouse, child or parent. . . . “Whether the person or the person’s spouse is pregnant . . . .” (The Pew Hispanic Center estimates that illegal immigrants have 4.5 million U.S.-born and thus U.S. citizen children.)
- The person’s length of presence in the U.S. (The Pew Hispanic Center has estimated that millions of illegal immigrants have been in the U.S. since the 1990s.)

“Prosecutorial discretion” has very justifiable uses when exercised responsibly. However, the Obama Administration has made clear that it plans not to use but to abuse these powers.

We must remain vigilant. I plan to introduce the “HALT (Hinder the Administration’s Legalization Temptation) Act”. The major parts of the legislation will prevent the Obama Administration from 1) granting parole (except in narrow circumstances), 2) issuing deferred

action (except in narrow circumstances), 3) issuing extended voluntary departure to removable aliens, 4) granting work authorization to aliens on a discretionary basis, 5) granting TPS to any new groups of aliens, 6) waiving the three and 10 year bars to admittance for aliens who have been illegally present in the U.S. and 7) granting cancellation of removal to illegal immigrants. The bill will restore these powers to the next president whom the American people elect – on January 22, 2013.

Because of the Obama Administration's record, it cannot be trusted with these powers. How do we handle extraordinary humanitarian situations that might arise in the interim? Congress can always act by passing private bills to help individual aliens in the U.S. or outside the U.S. when we deem it wise, just and prudent.

Please consider co-sponsoring the HALT Act. Let's remind the Obama Administration that the founding fathers put Congress in charge of setting the nation's immigration policy (Article I, section 8, clause 4 of the Constitution). If you would like to co-sponsor the HALT Act, contact XXXXXXXX at the Subcommittee on Immigration Policy and Enforcement at XXXXXX.

Sincerely,

Lamar Smith  
Chairman  
House Judiciary Committee