IS THE REID-KENNEDY BILL A REPEAT OF THE FAILED AMNESTY OF 1986?

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HOUSE OF REPRESENTATIVES

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IS THE REID-KENNEDY BILL A REPEAT OF THE FAILED AMNESTY OF 1986?

FRIDAY, SEPTEMBER 1, 2006

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 9 a.m., in Meeting Rooms 1 and 2, the Grand River Center, 500 Bell Street, Dubuque, IA, the Honorable F. James Sensenbrenner, Jr. (Chairman of the Committee) presiding.

Chairman SENSENBRENNER. The Committee on the Judiciary will be in order. A quorum for the purpose of taking testimony is present.

Before beginning the hearing, I'd like to introduce the Members of the Committee who have come to Dubuque today. I'm Congressman Jim Sensenbrenner of Wisconsin, Chairman of the Committee on the Judiciary.

Seated to my right are Representative John Hostettler of Indiana, who is the Chairman of the Immigration and Claims Subcommittee; Congressman Steve King of the other end of Iowa; and Congressman Louie Gohmert of Texas. And seated to my left is Congresswoman Sheila Jackson Lee, who is the Ranking Democratic Member on the Subcommittee on Immigration and Claims, and she represents a district in Houston, Texas.

The Chair welcomes all of those who have joined us in the audience today and hopes that those present will remain respectful of these proceedings and maintain proper order throughout the hearing. This is a very emotional subject, there are going to be some statements that are made that people enthusiastically agree with or violently disagree with. And usually what will happen is that when one witness or one Member of the Committee makes a statement that's on one side of the issue, you're going to hear a statement or a question on the other side of the issue pretty quickly. The Rules of the House provide that there shall be no expressions of either approval or disapproval of any of the statements that have been made or questions that have been asked. And the Chair will not hesitate to enforce those rules. So let me ask you to be respectful of the statements that you don't agree with and try to refrain yourself for those statements that you do agree with, you know, and that way, we will be able to conduct this hearing in a manner that is consistent with the Rules of the House and consistent with the tone of hearings which are designed to elicit testimony and comments and let the people know that Congress is considering this very important issue.

Now, I'd like to again welcome you all to this Committee's fifth and final field hearing on the subject of illegal immigration. The hearings have examined many of the challenges our Nation currently faces with regard to illegal immigration and the impact that the Senate-passed Reid-Kennedy Bill would have if it were to become law.

Today's hearing will focus on whether enacting the amnesty component would result in the same policy failures as those experienced after Congress granted millions of illegal immigrants amnesty in 1986.

Our Nation's broken immigration system has allowed the illegal immigrant population to grow at an unprecedented half million persons a year. Our previous hearings have shown that this has placed unsustainable burdens on the backs of American taxpayers, our schools and criminal justice system, our healthcare services, and relegated disadvantaged Americans to progressively bleaker futures and effectively penalized legal immigrants who have patiently played by the rules.

Much of the current immigration chaos is a direct result of the disastrous step Congress took two decades ago in passing the Immigration Reform and Control Act of 1986—without my vote, I might add. In that legislation, Congress offered amnesty to many of the illegal immigrants residing in the country at the time, but also promised a crackdown on illegal immigration, to ensure that future amnesties would not be necessary. IRCA sought to end the job magnet that attracted most illegal immigrants by, for the first time, making it unlawful for employers to knowingly hire illegal immigrants and requiring employers to check the work eligibility of all new employees.

The Administration was successful in granting amnesty to millions of illegal immigrants, but IRCA itself provided no effective mechanism by which employers could ascertain whether newly hired employees were legally eligible to work. It simply asked employers to see if the documents presented by the applicants looked genuine. The wide availability of inexpensive counterfeit documents have made a mockery of this process.

Compounding the flawed design of IRCA, the INS never vigorously enforced the new employer sanctions law. And each succeeding Administration, Democrat or Republican, has put fewer resources into enforcing employer sanctions than the one before. Let me cite these statistics:

The total hours worked by investigators on employer sanctions cases fell from almost 714,000 in 1997 to 135,000 in 2004, a drop of 81 percent.

The number of notices of intent to fine employers for violations fell from 1461 in 1992 to three in 2004, a drop of 99 percent.

And the number of arrests of illegal alien employees fell from 17,552 in 1997 to 445 in 2003, a drop of 97 percent.

We have gotten to the point where employers who want to hire illegal immigrants have absolutely no worry that they'll be investigated; and as a result, we now have some 12 million illegal immigrants in the country, about seven million of whom are working.

Congress, in 1986, should not have ignored the recommendations made by the Select Committee on Immigration and Refugee Policy

headed by Father Theodore Hesburg, then the President of Notre Dame University. The Commission found, 5 years earlier, that "We do not believe the U.S. should begin the process of legalization until new enforcement measures have been instituted to make it clear that the U.S. is determined to curtail new flows of undocumented/illegal immigrants. Without more effective enforcement than the U.S. has had in the past, legalization could serve as a stimulus to further illegal entry. The Select Commission is opposed to any [their underline] program that could precipitate such movement." That is Father Hesburg.

As we now know, the Hesburg Commission's prediction has come true and illegal immigration, post-IRCA, has expanded from a regional to a national dilemma. However, the Senate-passed Bill chooses again to ignore the Commission's warning by failing to place enforcement first. The Bill grants amnesty to the vast majority of the illegal immigrants in the U.S. and promises that enforcement will follow. The American people have seen the results of this strategy in the past and recognize that the Reid-Kennedy Bill will not cure our illegal immigration problem, but will simply compound it.

Before yielding to a Member of the Minority for her opening remarks, I would like to remind Members, witnesses and those in the audience that this hearing is being conducted consistent with all applicable Rules of the U.S. House of Representatives and the Judiciary Committee. Therefore, I ask the witnesses to limit their remarks to 5 minutes of oral testimony—I will be a bit flexible in enforcing that—and will recognize Members for 5 minutes of questioning, alternating between Minority and Majority Members seeking recognition.

I now recognize the gentlewoman from Texas, Ms. Jackson Lee to make an opening statement for the Democrats.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman. It's good to be with you again. This has been quite a friendship throughout the summer, some 21 hearings, I think we're at the end.

Let me say, it's very good to be in Dubuque and I thank you for the heat wave. I have been in Iowa during the caucuses and you've given me a 12 degree minus or above, but I'm delighted to be here this morning. I'm not sure of the sound, but I'll keep moving. There may be something wrong there. I think I can be heard, thank you, Mr. Chairman.

And as well, I think it's important to note that Iowans are really strong on common sense, good judgment and a practical, reasonable response to the Nation's concerns. And I agree with you, that immigration and the response to immigration should be a concern of the American people. I'm also reminded by the history books that certainly it is noted and noteworthy that Iowans know about immigration and, therefore, the immigration that you know about is one that has been welcoming.

I consider these hearings, again, a standard road show that doesn't address the question of serious response to a serious question. Why do I say that? First of all, I am still looking for the Reid-Kennedy Bill. There is no such bill. There is a bill that was supported in the Senate by Hagel, Martinez—two Republicans—Sen-

ator Specter, a Republican, that passed out of the Senate Judiciary Committee that talked about comprehensive immigration reform, border security—real border security unlike my friends in the House who have repeatedly voted against funding border security and border patrol agents on the border.

My legislation, H.R. 4044, included comprehensive support of our Border Patrol agents. In fact, Senator Kerry offered that amendment, which was accepted into the Senate Bill.

I note very much that there is a rich history in this community and I was noting that there have been strong voices. Throughout the hearing, I will offer into evidence, for example, Church Leaders to Rally in Dubuque for Immigrants. Bishop Gregory D. Palmer of the Iowa Conference of the United Methodist Church and others have expressed a wider view on this issue.

Now let me say this, none of us are running away from the question of border security. In fact, we realize that IRCA—which was passed in 1986, which did give amnesty, it indicated that if you were here for a certain period of time—failed because there was no enforcement in the other provisions of the legislation. You can be sure that Democrats are not running away from enforcement. In fact, employer sanctions are an element of our understanding.

But when you have communities, like Iowa, that have a heavy agricultural industry, I would offer to say that there are probably reasonable immigration populations here, working at Tyson's, working at other meat packing entities, who have come here to work. What is the basic underlying problem? One of the problems is a lack of a minimum wage. And it is important, therefore, that when we discuss immigration reform, we should be talking about the right kind of labor standards, the right kind of compensation for all Americans. And we should also be talking about ensuring that all Americans are equal and able to be working, employed and to have full employment.

So the question before us is how do we sensibly address the question of immigration reform? With a little good humor, a little sense of the understanding of the diversity of this Nation, the understanding of the founding of this community by a French trader, an immigrant, and the understanding of our basic history.

The Statue of Liberty still stands. America is still noted as a Nation that is a Nation of immigrants, but a Nation of laws. We are first, second and third generation, but we are not those who demagogue, malign and give false information. And I would suggest that any characterization of this legislation as a Reid-Kennedy Bill, the Majority Leader Reid and Senator Kennedy, two Democrats, is false information. Any such suggestion that the present language of the bills that are before the House and the Senate are amnesty is false information. It is true, however, that I think we should be rushing back to Washington and addressing this in a conference. And I know that the Council Member is aware, by her legislative knowledge, that you have a House and Senate Bill.

So, therefore, I hope that this hearing will generate information, Mr. Chairman. I would hope that you would open up an open mic so the good citizens of this community could really be heard. That would be a town hall meeting in Iowa that would be fitting of the

democracy and character of Iowans. I hope that we will hear from you, I will be ready to hear from you.

Thank you very much. And we are Americans and we need to do this in a way that is befitting of the value of our country—freedom and justice and equality and democracy for all of us.

Chairman SENSENBRENNER. The time of the gentlewoman has expired.

Without objection, all Members may insert opening statements in the record at this point.

[The prepared statement of Ms. Jackson Lee follows:]

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS, AND MEMBER, COMMITTEE ON THE JUDICIARY

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CONGRESSWOMAN SHEILA JACKSON LEE OF TEXAS

STATEMENT BEFORE THE COMMITTEE ON THE JUDICIARY
OVERSIGHT HEARING:
"IS THE REID-KENNEDY BILL A REPEAT OF THE FAILED AMNESTY OF 1986?"
DUBUQUE, IOWA
SEPTEMBER 1, 2006

Ordinarily, hearings are held beforebills are passed, not after. The hearings are used to gather information that is needed to draft the bill.The House immigration reform bill, the Border and Immigration Enforcement Act of 2005, H.R. 4437, was passed on December 16, 2005. The Senate immigration reform bill, the Comprehensive Immigration Reform Act of 2006, S.2611, was passed on May 25, 2006. But the hearings were not begun until August of 2006, more than seven months later.

The American public wants action from Congress.Public opinion polls indicate

strong support for an intelligent and realistic approach to immigration reform that would include border security, enforcement of employer sanctions, earned legalization for undocumented immigrants with a path to citizenship, and a sufficient number of visas for future immigrant workers and family members.

For instance, according to an April 7-9, 2006, national Gallup/USA Today poll of 1,004 adults, 75% of the American people feel it is important that the government take steps this year to deal with the large number of illegal immigrants already living in the country, 34% think this is very important, and 63% believe the government should deal with illegal immigrants by allowing them to remain in the U.S. and become U.S. citizens if they meet certain requirements.

The subject of this hearing is whether the Senate immigration reform bill, the Comprehensive Immigration Reform Act of 2006, S.2611, would be a repeat of the failed amnesty of 1986. "Failed amnesty of 1986" is a reference to the Immigration Reform and Control Act of 1986 (IRCA). Why are we having this hearing? We have already had a hearing on this subject. It was held just a few months ago on July 18, 2006, before the Subcommittee on Immigration, Border Security, and Claims.

As I acknowledged at the previous hearing, IRCA did grant amnesty. Under IRCA, legalization eligibility depended on whether the applicant had entered the United States before January 1, 1982, and resided here continuously since that dateIn

contrast, S.2611 provides "earned" access to legalization. It has a residence requirement, but applicants also would have to complete 10 separate steps to earn legal status. For instance, after enrolling in the program, they would have to keep their records clean and be employed for six years before they would be able to establish eligibility for permanent resident status, and they would have topay a substantial fine.

One of the main reasons for IRCA's failure was weak enforcement of its employer sanctions provisions.The enforcement of employer sanctions has been a low priority for the Bureau of Immigration and Customs Enforcement (ICE).Between FY1999 and FY2004, the number of Notices of Intent to Fine decreased from 417 to only three. It is clear that we can do better than this.

The most serious shortcoming of IRCA, however, was that it was not comprehensive. Although IRCA had legalization programs and new enforcement measures, it left out other matters that also needed to be addressed.For instance, it failed to provide enough visas to meet future immigration needs.American employers need foreign workers to meet their labor needs, and many Americans want to bring family members here from other countries.

Carlos M. Gutierrez, Secretary of Commerce, testified at a Senate hearing on July 12, 2006, that, "The reality is that our economy is growing faster than any other large, industrialized nation. Our unemployment rate is below the average of the past

four decades. Our economy – like other major industrial economies – faces the challenge of an aging and increasingly educated workforce. The result is that we have jobs that American citizens either aren't willing or aren't available to do. I continually hear from industries that they are having difficulty finding workers."

The Senate immigration reform bill has a three-pronged strategy to fix our broken immigration system that would avoid the mistakes of IRCA. It would establish a fair, earned legalization program. It would strengthen worksite enforcement. And, it would provide additional visas for future immigrants, which would address the primary cause of illegal immigration. Thank you.

[The prepared statement of Mr. King follows:]

PREPARED STATEMENT OF THE HONORABLE STEVE KING, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IOWA, AND MEMBER, COMMITTEE ON THE JUDICIARY

Mr. Chairman,

Thank you for bringing this hearing to Iowa. I am looking forward to hearing from the witnesses today, including Iowa's senior Senator, Chuck Grassley.

Today at this hearing, we will ask whether the Reid-Kennedy bill is a repeat of the failed amnesty of 1986. I submit that the Senate bill is not only a repeat of the 1986 amnesty, but during a Global War on Terror—it is national suicide.

In 1986, Congress passed the Immigration Reform and Control Act, which gave amnesty to all illegal aliens who had evaded law enforcement for at least four years, or who were here working illegally in agriculture. This resulted in 2.8 million illegal aliens being admitted as legal immigrants to the United States.

The amnesty of 1986 was supposed to be a "one time only" amnesty. Yet, Congress has passed a total of 7 amnesties for illegal aliens, including the '86 amnesty. Today, we are considering yet another amnesty thinly veiled as a "guest worker" program. Today's amnesty dwarfs the 1986 amnesty in comparison, by granting citizenship to 12–20 million illegal aliens, and allowing in another 67 million dependents through chain migration over a twenty year span.

To put this into perspective, during the "great migration" of the 1900's, foreign born persons made up around 13 to 15 percent of the U.S. population. If the Reid-Kennedy amnesty bill were enacted, foreign born persons would rise to over 22 percent of the U.S. population. There is no precedent for that level of immigration at any time in U.S. history.

An amnesty is a reward to those breaking the law. Under the Senate bill, illegal aliens will have to pay a fine, but this is just small change compared to what illegals are currently willing to pay coyotes to smuggle them over already. In the end, illegal aliens will be rewarded with what they want: citizenship.

Issuing amnesty to such lawbreakers will only encourage more illegal immigration into the United States. After the 1986 amnesty, illegal immigration increased significantly. If the Senate amnesty bill is passed, in another 20 years we'll be having the same debate all over again as people come illegally to get in line for the next amnesty.

An amnesty benefits neither our society nor those awarded amnesty. After the 1986 amnesty, an Immigration and Naturalization Service study found that after living in the United States for 10 years, the average amnestied illegal alien had only a seventh grade education and earned less than $9,000 a year.

By granting amnesty, Congress places a staggering financial burden on American taxpayers to support those pardoned. According to a study by the Center for Immigration Studies, the total net cost of the 1986 amnesty amounted to over $78 billion in the ten years that followed. A recent Congressional Budget Office analysis concluded the Senate's amnesty bill would cost U.S. taxpayers $126 billion over the next decade, as the government begins paying out welfare benefits to millions of new low-skilled workers and cracks down on the border.

During this Global War on Terror, the Senate amnesty bill endangers the life and security of every American. It sets an unrealistic timeline for DHS to process the millions of background checks required, in a system corrupted by fraudulent documentation. The Reid-Kennedy bill is also unfair to the scores of legal immigrants who have patiently respected America's rule of law and waited years before being admitted into the United States as proud lawful visa holders.

I do not believe anyone here on this committee is opposed to legal immigration. I believe that legal immigrants have made and will continue to make invaluable contributions to American history and culture. I believe we should work to develop an immigration policy that aids in the assimilation of newcomers. Assimilation is beneficial to immigrants who benefit from our shared American culture of personal responsibility, freedom and patriotism.

However, I am strongly opposed to individuals who blatantly ignore America's respect for the rule of law and are now flaunting it in our streets. The growing anti-American sentiment in Latin America is now spilling over our southern border and spreading throughout the United States.

Last week during another pro-illegal immigrant protest, this time in the sanctuary city of Maywood, California, the American flag was taken down in front of a U.S. post office, trampled on, and replaced by a Mexican flag amid cheers from Maywood's 96% Hispanic population, of which it is estimated over half are illegal aliens. Hundreds of protesters held up large banners that read "All Europeans are illegal on our continent;" "Stolen Continent" with a picture of North America; and "This is our continent—not yours!" Watching videos of the event—which at times turned violent—I was alarmed by the hatred for America and racial slurs spewing from the side holding the banners declaring "Say NO to Racism."

The supporters of the Senate amnesty bill claim that such displays are fringe groups, and that most illegal aliens want to assimilate and become American. Here in Iowa, I was taught that actions speak louder than words. This year, Americans witnessed thousands of demonstrators marching through our streets proudly flying Mexican and Latin American flags. American flags have been taken down from public schools, trampled on and hung upside down beneath the Mexican banner.

I believe that before we even talk about amnesty we must demonstrate to the American public that our borders are secure. Protecting America from terrorists and those that wish us harm is our first priority. We must also get rid of the jobs magnet that brings illegal aliens into our country.

In response to the growing problem of aliens working in the United States illegally, I introduced the New IDEA (Illegal Deduction Elimination Act) which protects

jobs for Americans. New IDEA makes wages and benefits paid to illegal aliens non-deductible for federal tax purposes. This would encourage employers to hire legal workers which would make more jobs available for American workers.

I do not believe it is practical to round up and deport the 12 to 20 million illegal aliens in our midst. However, through the combined tactics of securing the border and employer enforcement, we will eliminate the magnets that draw illegal aliens into our country, and the remaining will return to their home countries through attrition.

I look forward to the testimony today, and I welcome the Chairman and other honorable members, witnesses and visitors to Iowa.

Thank you, Mr. Chairman.

Chairman SENSENBRENNER. Before introducing the witnesses, let me say that I invited former Senator Alan Simpson, who was the principal Senate sponsor of the 1986 Simpson-Mazzoli Bill, also know as IRCA, to appear here today. His family is putting on a 75th birthday party for him and if that had happened to any of us, I think we all would have known that that would take precedence over coming to talk before our Congressional Committee.

But I'd like to ask unanimous consent to insert Senator Simpson's statement in the record at this point, because I think it is particularly insightful in his analysis on why his piece of legislation failed.

So without objection, the Simpson testimony will be introduced in the record.

[The prepared statement of Mr. Simpson follows:]

PREPARED STATEMENT OF THE HONORABLE ALAN K. SIMPSON, FORMER U.S. SENATOR FROM THE STATE OF WYOMING

Mr. Chairman, and Members of the Committee, thank you for your invitation to share my thoughts with you on the lessons of the Immigration Reform and Control Act of 1986 ("IRCA"), and how they may apply to the current immigration reform debate—and impasse—currently taking place in Congress.

First let me express to the Chairman that even though we have butted heads a few times in the past I do recall the fine work we did together while working on conference committees with Chairman Rodino and Ron Mazzoli and Ham Fish. I have great respect and admiration for you and your work on this tough issue of immigration.

Let me say that IRCA was well-intended, bipartisan legislation that was worthy of passage in 1986. I am proud of my efforts and the efforts of my colleagues back then; Congressman Ron Mazzoli (D), Peter Rodino (D) and Senator Strom Thurmond (R) and others—from both parties, and in both houses—to take responsible steps to control illegal immigration and reform our outmoded immigration laws. It is true that this law has not satisfied its expectations or its promises, but it is not because good faith efforts were lacking when Congress debated and passed the legislation. Nonetheless, 20 years later, we must make a candid assessment of "what went wrong" with the legislation, and what deserves to be retained, as Congress again grapples with measures to control unlawful immigration.

I believe there are three principal lessons to be learned from IRCA:

(1) a more secure employment verification system was lacking in IRCA, and subsequent administrations frustrated it even further as the law was implemented, and this remains the critical problem that must be fixed if illegal immigration is ever going to be deterred;

(2) "amnesty" may yet be justified in some certain circumstances, but it should not take effect until a credible body of policy-makers determines that effective enforcement measures are in effect; and

(3) guestworker programs may be necessary, but Congress should never repeat the mistakes of the Special Agricultural Worker (SAW) program when addressing shortages in U.S. pools of unskilled labor.

Let me discuss each point in detail.

1. Secure Worker Verification.

It should always be illegal for a U.S. employer "knowingly" to hire an unauthorized alien. There was a clear consensus on this point in 1986, and that consensus remains today. A crucial corollary to this policy, however, is that U.S. employers should be allowed to actually "know" when they might be "knowingly" hiring an illegal alien. In other words, the burden of a more secure worker verification system should be placed squarely on the federal government, and not on U.S. employers. This requirement turned out to be the Achilles Heal of IRCA, and it was subsequently thoroughly mismanaged by succeeding Administrations of both parties.

In 1982, the U.S. Senate passed legislation (S. 2222, 97th Cong. 1st Sess.) that contained a requirement for implementing a more secure worker verification system. Unfortunately, Congress did not complete action on this legislation. In the 98th Congress, the secure worker verification system was watered down significantly, and in the 99th Congress, when the law was finally enacted, the requirements for a "secure" worker verification system were effectively emasculated. This all occurred despite the best efforts of myself and a conscientious bipartisan group of supporters of the legislation. Simply put, there was no political consensus in 1986 for a more secure document, or a secure database, or any other proposal on which U.S. employers could rely. As a result, the employer sanctions regime became easily defeated by high-quality, low-cost fraudulent documents that "on their face appear genuine." For nearly 20 years, all factions agreed that employment in the U.S. was the principal magnet that drew illegal immigrants to the United States, yet there was insufficient political support for—and nearly hysterical and emotional warnings not to address—the one most glaring loophole in employer sanctions: the widespread availability of counterfeit documents.

The records of Republican and Democratic Administrations since 1986 are equally deficient in addressing the obvious problem of document fraud. Bureaucratic turf battles prevented the more effective use of the Social Security Card or the Social Security Account Number. The INS soon grew tired of pursuing employers for I-9 violations, since fraudulent documents defeated the system with such ease. The Justice Department did not make prosecution of document fraud a priority, so any likelihood that a documents vendor would be "caught" was quite remote. Presidents failed to even speak to the Nation about the serious problems that can occur when a country such as ours has porous borders and insecure identity documents. It unfortunately took the tragedy of 9/11 to bring this glaring weakness in our homeland security to the attention of all Americans and the World.

Lesson Number One from IRCA therefore is that immigration reform legislation must establish a truly secure worker verification for all U.S. workers and all U.S. employers. The signs so far are rather encouraging: both House and Senate bills contain electronic employment authorization systems, based on the SSA and DHS databases, that will eventually apply to all U.S. employers. Indeed, the most significant political "shift of winds" I have witnessed in the intervening 20 years is that there now seems to be a political consensus for establishment of a secure worker verification system. That is a real change in national politics, and an indication of just how serious the problem of illegal immigration has become.

It is therefore the responsibility of this Congress to heed these calls for change and to take full advantage of this new political consensus. The secure worker verification provisions in House and Senate bills must in fact be truly secure at the most critical point in the process—at the time of any "new hire." Has this in fact been accomplished? I am not so sure of that. It is my understanding that identity theft could still defeat—at "new hire" time—the proposed electronic employment verification systems seen in both bills. While resources are provided for the investigation of identity theft by our law enforcement agencies, this model of deterrence has already been proven to be a failure. There are 8 million U.S. employers, the vast majority of whom are law abiding. If identity theft is the best scheme to defeat the verification system, identity theft will occur with great frequency. There simply will never be enough ICE or SSA agents to counteract the tremendous economic incentives for illegal aliens to work in the United States.

I can well imagine that all of the relevant federal agencies are dramatically advising you that furnishing employers proper information about identity theft in the initial response from the database is just not feasible, or that it will cost too much. Don't listen to them. These are the very same agencies who have skillfully played their violins for 20 years while the employer sanctions regime burned to the ground. It is now fully up to Congress to set policy, and that policy must be the establishment of a secure worker verification system. Yet the federal agencies should indeed be consulted on the best manner to implement the requirements, on time-tables, and on similar topics. But the American public is demanding immigration reform, and Congress should heed and respond accordingly. If only one lesson can really be

learned from IRCA, then this is surely the one. We simply can't afford to get this one wrong a second time.

2. Amnesty Triggered by Effective Enforcement Measures.

IRCA provided legal status to nearly three million people who had resided unlawfully in our country since January 1, 1982. The bipartisan sponsors of IRCA described it as a responsible "trade-off" for the establishment of employer sanctions and the definitive declaration that the United States was fully opposed to unauthorized immigration. I well recall describing the program as being for "one-time only," and as "an extraordinary act of grace." I meant that then, and I respectfully encourage this Committee to again consider those words now. Amnesty is indeed extraordinarily generous, and fully within the discretion of the Congress to bestow or to withhold. The question today is: should amnesty be granted once again? I believe the answer is, "Yes, in limited situations and for practical reasons, *but only* after all of the effective enforcement measures are in place."

"Experts" estimate the current illegal population in the U.S. at 11 million. The number itself is staggering. The maximum number estimate in 1986 was 6 million. Clearly, the problem has become much worse in 20 years, not better. But an enormous practical problem remains about how to realistically deal with this population. Perhaps a secure worker verification system could encourage them to leave—over time. This then is even more reason for ensuring that any worker verification system must be truly secure. History shows us, however, that relying on attrition alone will not be successful for the majority of this cohort. Some form of amnesty must therefore at least be considered, for practical reasons if for no other.

At this time, the 1986 Senate version of legalization should be adopted. The 1986 Senate bill stated that no legalization program was to take effect until an independent commission had determined, and reported to the President, that effective enforcement measures had been implemented that were reasonably likely to deter illegal immigration in the future. The House insisted that this provision be deleted in conference in 1986, and it was. On this second time around the track, however, such a provision appears to me to be essential. There are simply no more excuses out there for illegal immigration this time. Every sensible soul knows full well that people should not come to our generous Country without authentic authorization. Enacting any form of amnesty immediately (even if the benefits are to be deferred), before a secure worker verification system and increased border enforcement are fully implemented, is wholly illogical. Agreeing to any measure of amnesty before an assessment has been made that no further amnesties will be necessary in the future is simply damn foolish policy.

In addition, I believe there is some political merit to a "triggered amnesty." I know there is strong resistance in many parts of America today to an amnesty program. That resistance is reflected in substantial voting blocs in the House of Representatives. At the same time, the Senate appears unlikely to pass legislation that does not address what we are to do with the 11 million unauthorized aliens who already reside in our midst. I must confess I am a bit more sympathetic to the Senate position on policy grounds—and of course not just because I was a member of that august body for 18 years!! Yet I was also Majority and Minority Whip of the Senate for many years, and can well understand the serious practical problem of assembling a majority in the two Houses to pass legislation that is truly in the national interest. In this context, I believe a form of "triggered amnesty" might bridge the political gap between the two bodies and enable the entire package of valuable reforms to move forward.

3. Guestworker Programs.

Guestworker issues haunted IRCA for two Congresses and proved to be one of the thorniest political and policy challenges that we faced. I can honestly say that IRCA's resolution of the issue—creation of the Special Agricultural Worker or "SAW" program—was a real mistake. The SAW program was a political compromise that was made necessary in order to enact the legislation. (Don't we Congresspersons all remember that ritual?!) In order to satisfy employer interests who were seeking a large pool of unskilled labor, the terms of the program were overly generous (a mere 90 days of "labor in agriculture" qualified an unauthorized alien for the SAW program). In order to satisfy organized labor and immigrants' rights organizations, the status provided to the "guestworkers" had to be permanent (reportedly to avoid employer exploitation), not temporary. As a result, over 1.3 million people obtained permanent residence under the SAW program, and the vast majority of them then promptly exited agricultural labor—if they had ever even

worked at that in the first place. You can bet the need for unskilled labor then arose again in short order. This was certainly the worst of all possible outcomes.

IRCA's lesson on guestworkers therefore is to make certain that the terms of the program are dictated by sound practical policy, and not by coalition politics. First, Congress should determine that guestworkers are indeed necessary. There is a serious argument today that they are critically needed, given the current demographic trends which project a large pool of aging workers and a shrinking pool of younger workers. Still, that alone is not enough. Perhaps there are some unskilled jobs that should be mechanized or outsourced, and today is the right moment for the great entrepreneurs in our America to figure out just how to do so. I would suspect, however, that there will always remain jobs which cannot be mechanized or outsourced, and the diminishing pool of younger Americans will not fill them. In that situation, a guestworker program may well prove to be a rational response.

Second, careful thought should be given to the form of the guestworker program. If the SAW program is any lesson at all, it is surely inefficient and ultimately futile to grant permanent residence to a group of foreign nationals in the hope that they will perform unskilled labor that most Americans today will avoid. If the guestworker program is honestly intended to address labor shortages, then a temporary status that is linked to *specific* employers or *specific* industries (with appropriate protections against abusive employers), is the proper policy choice. Along those lines, I find the recent proposal of Cong. Mike Pence (R-IN) to be interesting. Using the "J-1" exchange visa model, he has crafted a guestworker program that would seem to target labor shortages without seeking to address additional immigration issues. While I haven't studied his program in great depth, I believe the proposal focuses on the proper priorities and is worthy of serious consideration—and besides he seems to be catching hell from "both sides" so he must be on the right track!!

Finally, the Pence Bill also contains an important enforcement component that again seems to be sound policy and good politics: that no employer may utilize the guestworker program until after enrolling in the electronic employment authorization program. If a company is to be given the valuable benefit of hiring foreign guestworkers, then it should ensure that all of its employees are authorized to work. A frequent criticism of guestworker programs is that they simply encourage more unauthorized migration, thus a form of "triggered guestworker program" will also serve to counteract this problem.

4. Conclusion.

I respectfully thank you for considering these thoughts, and I stand ready to assist you in any way I possibly can. Most importantly, I commend you for tackling one of the toughest and most unrewarding political tasks there is—immigration reform. Yet there is no more important work that you will do during your tenure in Congress.

God Bless you in your deliberations.

Chairman SENSENBRENNER. Let me introduce our witnesses on today's panel. First will be U.S. Senator Charles Grassley, who is the senior Senator representing the State of Iowa and currently serves as the Chairman of the Senate Finance Committee. He was elected to the Iowa Legislature in 1958, the U.S. House of Representatives in 1974 where he learned most of what he knows now, before being elected to the Senate in 1980. [Laughter.]

Prior to his career in public service, Senator Grassley worked as a farmer and received his bachelor's and master's degrees in political science at the University of Northern Iowa.

Another witness will be Michael Cutler, who currently serves as a Fellow at the Center for Immigration Studies. He is a retired Senior Special Agent with the Immigration and Naturalization Service's New York District Office. And in the past, Mr. Cutler has appeared as a witness at Congressional hearings at the invitation of both Republican and Democratic Members.

Also, Dr. John Fonte, who has served at the Hudson Institute since March 1999 as a Senior Fellow and Director of the Center for American Common Culture. Dr. Fonte has previously been a vis-

iting scholar at the American Enterprise Institute and he served as a senior researcher at the U.S. Department of Education. He has also written numerous articles and essays appearing in national and international newspapers, journals and magazines. He holds a Ph.D. in world history from the University of Chicago and a B.A. and M.A. in history from the University of Arizona.

Also, Councilwoman Ann Michalski, who is one of two at-large members of the Dubuque City Council. She received a bachelor's degree in sociology from Clark College and a master's degree in theology from St. Xavier University in Chicago. She continued with post-masters work and pastoral studies at Chicago Loyola University. Councilwoman Michalski was the Director of Human Resources at the Gannon Center for Community Mental Health prior to her retirement.

And finally, Dr. Robert Lee Maril, who is Chair and Professor of Sociology at East Carolina University. He is the author of seven books by university presses, including Patrolling Chaos: The U.S. Border Patrol in Deep South Texas. His scholarly research focuses on issues of border security, low wage labor and social inequality. He received his B.A. from Grinnell College and his master's degree in sociology from Indiana University and a Ph.D. in sociology from Washington University.

I would like to thank you all for agreeing to testify before the Committee today.

It is the general practice of this Committee to swear in all witnesses. I would like to ask each of the witnesses to please stand and raise your right hand and take the oath.

[Witnesses sworn.]

Chairman SENSENBRENNER. Let the record show that each of the witnesses has answered in the affirmative.

Again, I will recognize each of you for a flexible 5 minutes. Senator Grassley has said that he has to leave for another engagement at 10:30, so if he leaves early before the hearing is over with, I think everybody will understand that, and we are honored to have you here. So Senator Grassley, why don't you be first.

TESTIMONY OF THE HONORABLE CHARLES GRASSLEY, A U.S. SENATOR FROM THE STATE OF IOWA

Senator GRASSLEY. Okay. I would ask that the testimony that I have in front of me, which I have added to and subtracted from the one that was submitted to you, although not different in substance to a great extent, be the one that's included in the record.

Chairman SENSENBRENNER. Without objection, all of the witnesses' written statements will be placed in the record during their testimony and the Senator is recognized.

Senator GRASSLEY. At this point, it's my understanding that one of the reasons the House Judiciary Committee invited me to testify is because I was a Member of the Senate in 1986, 20 years ago, the last time the issue of amnesty came before the United States Senate, to testify on the issues at that time and how they relate to the issue that's now before the House and the Senate on immigration reform, including in the Senate—not in the House—the issue of amnesty.

The issue of amnesty was very central. As I recall, Senator Simpson said it was one of a three-legged stool, along with documentation, along with employer verification, and amnesty being a three-legged stool that was necessary to have a balanced program to get a bill through the United States Senate, plus having the issue of taking care of the problem, as we saw it at that time, to be good public policy.

At that particular time, I think we had about one million people who had entered the country illegally and were considered in that category of the issue of amnesty and legalization. I supported amnesty, I don't know whether I supported it at that time with any reservations or not, I just don't remember. But I do remember statements that I put in the record at that particular time and statements that other people made.

I voted against the Senate Bill this spring when it passed, not because most of it is not good legislation—the issue of border security, the issue of employer verifications, the use of the Social Security system to accomplish that verification, and a lot of things in the Bill that are very good. But I voted against it because of the amnesty provisions and what I felt was I needed to learn from a mistake of the past. And that was that I did vote for amnesty, because we were all assured that it would solve our problems and we were assured that we would only need to do it once. And so here we are again.

I think that I have learned in 20 years that rewarding illegality just enhances more of it and encourages more of it. Maybe similar to if in Dubuque, Iowa, they never stopped anybody for running a red light or for speeding downtown, people would probably ignore that law. And we are a Nation based on the Rule of Law, we ought to emphasize that to everybody. We welcome legal immigrants, we want people to come here for whatever reason that they want to, but to come legally.

And so that brings me then to some of the statements that were made at that particular time, and here I am referring to a small part of my testimony. In 1986, the Committee wrote that it believed "The solution lies in legalizing the status of aliens who have been present in the United States for several years, recognizing that past failures to enforce immigration laws have allowed them to enter and to settle here."

Another quote from the Committee, "The Committee strongly believes that a one-time [emphasis upon one-time] legalization program is a necessary part of an effective enforcement program and that a generous program is an essential part of any immigration reform legislation."

We had a Congressman from California, who I won't name, that said, "We lend credence to the argument that this is a one-time legalization that will not be repeated. The perception that legalization will not be repeated is essential if we hope to avoid providing a new magnet to illegal migration."

And Senator Simpson—and this is not quoting him at this point, but let me read from my statement. Even Senator Simpson said that a one-time amnesty would prevent us from a continuing series of amnesties. Nobody disagreed with him. He stated that—and this is his quote—"The major reason for legalization is to eliminate an

illegal sub-class within our society. This is the legislation that will eliminate this exploitable group. Some people like to say that they hope it will clean the slate; that is what we are trying to do is clean the slate."

So my addition is, the slate is not clean and the sub-class is still being exploited. Hence, I've learned from my lesson and I voted against the bill that we had before us, based on the issue of amnesty, and only based on the issue of amnesty.

[The prepared statement of Mr. Grassley follows:]

PREPARED STATEMENT OF THE HONORABLE CHARLES GRASSLEY, A U.S. SENATOR FROM THE STATE OF IOWA

Put this copy in record . . .

Senator Chuck Grassley's statement before the House Judiciary Committee
Hearing on Immigration Reform
Dubuque, Iowa
September 1, 2006

Chairman Sensenbrenner, and Members of the House Judiciary Committee,

Thank you for inviting me to testify today before your committee.

Since the founding of our country, regulating immigration ~~control~~ has always been a source of discussion. Our founding fathers debated immigration policies upon our independence from the British. We left it to the states to decide naturalization rules until the Constitutional Convention drafted the Constitution. Even the first immigration law of 1790 tried to limit citizenship to certain individuals.

We continue to be a nation of immigrants. We have benefited and continue to benefit from the talents of diverse cultures coming to America. Without a doubt, America will continue to welcome legal immigrants and meet our humanitarian responsibility to take in refugees. (Lower)

But, this debate is not about our history. It's about our future. Today, people in foreign lands want to be a part of this great nation. We should feel privileged that people love our country and want to become Americans.

We must make sure that the decisions we make with regard to our immigration policies follow our long-standing ideals.

We want to welcome new Americans, but we need to ~~live~~ abiding by the rule~~s~~ of law ~~we've set~~. Otherwise we encourage disregard for all our laws.

We cannot let our welcome mat be trampled on or our system of laws be undermined.

1986

Today, we're here to learn from our mistakes and make sure that we don't repeat them.

In 1986, the Congress passed the Immigration Reform and Control Act. At the time, President Reagan hailed it as the most comprehensive reform of our immigration laws since 1952. He stated that the legislation was a major step toward meeting the challenge to our sovereignty while at the same time preserving and enhancing the nation's heritage of legal immigration.

The 1986 bill didn't happen overnight. In fact, President Reagan in 1981 asked Congress to pass a reform package. It took us 5 years to agree on the final bill. Obviously, it was not done in haste!!

Many of the arguments made then are made today.

I was a freshman Senator in the 80's. I was a member of the Judiciary Committee, and I took part in hearings and debates. For me, it's deja vu. The emotional debate on immigration across the country today is very familiar to the one we had in the 1980's.

The Judiciary Committee passed a bill in 1982. At the time, I wrote that it was a painful process and a result of a set of chaotic complicated immigration laws. I quoted Theodore H. White in my comments, saying that no system like our immigration laws has been flouted since prohibition. We said then that our country could no longer control its own borders. We still say this today.

At the time, we all believed that a legalization component was in the best interests of the immigrants as well as our citizens. I advocated for legalization only after assurance that we could develop a secure worker authorization system.

Regardless,

~~While~~ This idea of mine failed, I supported the end result because I ~~was led to~~ believe that illegal immigration would decline with an immediate amnesty program.

Senator Simpson was the lead sponsor of the 1986 bill. He believed that amnesty was to be complimented with enforcement. Many thought that employer sanctions were the only way to "curtail" illegal immigration. One committee report stated that, "Unless employer sanctions are enacted, the Committee is concerned that the situation will continue to worsen."

Since 1986, very little worksite enforcement has taken place. Members correctly predicted what would happen. Only it was worse than prediction, because nobody anticipated a gigantic industry of near-perfect fraudulent document-making evolving.

What Congress, the Public, and the President did not envision was another amnesty debate, now 20 years later. In fact, ~~many~~ most believed it was the solution to the problem.

Take the Judiciary Committee Report that accompanied the immigration bill in 1986, for example.

The Committee believed that "the solution lies in legalizing the status of aliens who have been present in the United States for several years, recognizing that past failures to enforce the immigration laws have allowed them to enter and to settle here."

According to the report, the Committee "strongly believes that a one-time legalization program is a necessary part of an effective enforcement program and that a generous program is an essential part of any immigration reform legislation."

A Congressman from California at the time said that, "We lend credence to the argument that this is a one-time legalization that will not be repeated. The perception that legalization will not be repeated is essential if we hope to avoid providing a new magnet to illegal migration." Well, the magnet seems to have more "pull" in 2006 as a result of wrong headed action 1986.

Even Senator Simpson said that a one-time amnesty would prevent us from a continuing series of amnesties. Nobody disagreed with him. He stated that, "The major reason for legalization is to eliminate an illegal sub-class within our society. This is the legislation that will eliminate this exploitable group. Some people like to say that they hope it will clean the slate; that is what we are trying to do is clean the slate."

The slate is not clean!! The sub-class is still being exploited!

Knowing what we know now, amnesty shouldn't even be on the table. The fact is we haven't fulfilled the other parts of the equation.

We aren't enforcing the laws we have on the books. We provided amnesty overnight in 1986. Enforcement and border security need to be the first things on our agenda in 2006.

2006 Bill

I voted against the final bill that was reported out of the United States Senate on May 25th of this year. I was one of 36 Senators who opposed the bill. I support 75% of the 795 page Senate bill.

We made great progress on the border and interior enforcement chapters. We increased legal immigration and streamlined visa processes so that more people would come through our legal channels. We included reforms to our immigration court system, made an employment verification system mandatory for businesses, and increased resources to enforce our immigration policies.

However, I did not and will not support a bill that includes a path to citizenship for those who have broken our laws. All of the positive reform measures we included in the bill will mean nothing if we create an amnesty program for anybody and everybody. The American people don't have faith in us to enforce the laws today. So, why would they have a reason to believe that we'd enforce the laws in the future?

We may be able to find common ground on many provisions between the House and Senate. But, I'm not optimistic that we can come to terms on a solution for the 12 million illegal individuals here in the United States. I say that because the amnesty program approved by the Senate is rife with loopholes, and makes our government susceptible to rampant fraud and abuse.

These flaws will lead to scams. Illegal aliens will find ways to be eligible for this program. We know that based from reports of the 1986 bill.

Back then, the government was defrauded by 700,000 of the 1.1 million illegal aliens who received amnesty under the 1986 Special Agriculture Worker program. One of every four applications in 1986 was fraudulent. That means 25% or 2.6 million will get amnesty fraudulently under the 2006 bill. With technology and new methods of fraud, this number is probably low. ~~And~~, It's a scary thought.

What's more is that a new Congressional Budget Office analysis estimates the Senate-passed bill would allow newly legalized immigrants to claim nearly $50 billion in federal benefits over ten years through earned income and child tax credits, Medicaid, Social Security, and other programs.

The bill could cause the largest expansion of the welfare state in nearly three decades.

The Senate passed bill would require an amnesty program based on loopholes and fraud. It would be expensive and expansive. In my opinion, the current failed system is better than this new program.

Grassley Doctrine

Let me be very clear. I support legal immigration. I support reforms to our visa process and I would encourage more legal channels for those wanting to work in the United States. I believe in a temporary worker program that truly is temporary. I agree with economists that our country needs foreign workers. I won't deny that assertion. But I will respectfully disagree with any person who says that amnesty is the answer.

As a U.S. Senator, I took an oath of office to honor the Constitution. I bear a fundamental allegiance to uphold the rule of law. And that is why I cannot in good conscience support granting legal status to illegal immigrants who have violated our laws. Doing so would send the wrong message to millions of people around the world, particularly to those waiting in line for several years to come here legally. ??
Why denigrate the value of legal immigration
with encourage those wanting to come to legally enter the U.S.?
Uncle Sam's welcome mat should not be trampled on.

Thank you.

Chairman SENSENBRENNER. Thank you, Senator.
Professor Maril.

TESTIMONY OF PROFESSOR ROBERT LEE MARIL, CHAIR, DEPARTMENT OF SOCIOLOGY, EAST CAROLINA UNIVERSITY

Mr. MARIL. Good morning, Members of Congress. My name is Robert Lee Maril and I'm Chair and Professor of Sociology at East Carolina University, as you've heard. This morning, I would like to share with you the findings of my ongoing research I'm conducting along the United States-Mexican border. I think these findings directly speak to the major issues that you are discussing in this hearing.

I'm a sociologist who first began studying the border in 1975 when I moved to Brownsville, Texas and began teaching at the college there. Much of my research since then has focused upon the border, especially my life-long interest focuses on the people and the history of this border region.

In 1999, upon the urging of several students at my university, who were themselves agents of the United States Border Patrol, I began the first and only systematic and comprehensive study of the Border Patrol by a social scientist. For 2 years, I rode along with Border Patrol agents who were stationed at the McAllen Station in McAllen, Texas. I observed their daily and nightly work as they patrolled the line in their 10-hour shifts, recording in my hundreds of pages of notes how they did their work, what challenges they faced and the circumstances which surrounded these challenges. When I finished this part of the research, I began interviewing managers and supervisors of the United States Border Patrol. In addition, I analyzed statistical data, researched the history of this Federal agency and also served as a consultant to the United States Border Patrol.

One product of this research effort is my book Patrolling Chaos. I'd like to report on four crucial findings this morning, although there are many, many others that I will not have time to discuss.

First, our men and women in the United States Border Patrol are individuals of whom we can be proud. They're hard-working, motivated Americans who are trying to do the best they can. Their often courageous acts, which include saving and protecting the lives of American citizens and undocumented workers, as well as protecting public and private property are, in a word, exemplary. These acts often, however, go unnoticed in the media and are unrecognized, as a result, by the general public.

Second, I want to express my concern for the safety and welfare of our agents as they patrol the line. Their 10-hour shifts regularly expose them to high-risk policing situations that put them in harm's way. I could give you many, many examples that I personally observed, but I want to stress that there are very direct ways you can help them that have been infrequently addressed in Congress. For example, agents lack the gear, the equipment and the technology to do their job. From holsters to hardened laptops to fire power to communications systems to sensors which actually work, the list goes on and on. At the present time, I want to report to you from my first-hand experience, that they are not adequately equipped to meet the demanding and dangerous task that they face when dealing with human traffic smugglers, human smugglers, drug smugglers, criminal gangs and possibly potential terrorists.

One direct result of this long-standing state of affairs is that I personally observed thousands and thousands of undocumented workers illegally crossing the Rio Grande River; most, I'm here to tell you, escaped—most escaped. There are so many individuals crossing the Rio Grande River at this point, and in the past, that there are trails from the river long since worn deep into the ground by their shoes.

There are so many individuals crossing the Rio Grande River that there are garbage dumps along the river that stretch for hundreds of yards, created as they cast off their wet clothes, created

by green garbage bags which they carried their dry belongings in, and the black inner tubes and the empty plastic gallon bottles which they carry. There are so many crossing that there are young Mexican men on the south side of the river, who make their living as tube wranglers, swimming across from the south to the north to collect inner tubes, then tying them together and bringing them back to resell them to undocumented workers wishing to cross again. There are so many illegals that I sat night after night in a Border Patrol scope truck watching them and there were times I literally could not count all of the men, women and children in the groups crossing the border.

The third thing I would like to tell you is that present attempts to limit the number of undocumented workers by arresting them and detaining them, as well as deporting OTMs, in the short term, achieves very little. The flow of illegal immigrants may stop for a few weeks or a few months, but as soon as the policy or the manpower relents, the undocumented workers always return, because they know they will find work in the United States that will pay more than $4.00 a day.

Finally, fourth, I would like to suggest that these Border Patrol agents are needed—that more Border Patrol agents are needed, but they must be adequately recruited, trained, and then retained. There are several examples that I could mention, but I want to mention briefly that the majority of agents I observed, although their job was to patrol the banks of the Rio Grande River, did not know how to swim. I repeat—they did not know how to swim. As well, a significant number were hampered in the pursuit of illegal workers because they were not physical fit. Some are in poor or questionable physical shape. The recruitment and retention of female agents is grossly inadequate. The Border Patrol could easily meet its objective of new agents if they focused not only on the recruitment of female agents, but retention of female agents in a supportive working environment.

Therefore, any bill which invests in border security by investing in the U.S. Border Patrol in the ways that I have mentioned will take the necessary first steps to reduce chaos in this region. We must invest in the United States Border Patrol. Any bill which provides for a worker management plan will also provide for more order along the border. Today, we have a history of failures. Now is the time to make the right kinds of changes.

Thank you very much.

[The prepared statement of Professor Maril follows:]

PREPARED STATEMENT OF PROFESSOR ROBERT LEE MARIL

Good morning members of Congress. My name is Robert Lee Maril. I am Chair and Professor of Sociology at East Carolina University. This morning I would like to share with you the findings on my ongoing research I am conducting along the United States-Mexican border. I think these findings directly speak to the major issues that you are discussing in this public hearing.

I am a sociologist who first began studying the border in 1975 when I moved to Brownsville, Texas and began teaching at the college there. Much of my research since then has focused upon the border; the majority of my seven books reflecting in detail my life-long interest in the people and the history of the border region. I have lived along the border for approximately 17 years, most recently from 1999 to 2003, while I was Chair and Professor of Sociology at the University of Texas Pan American located in Edinburg, Texas. So my research is grounded both in the social sciences, as well as the real-life experiences of someone who, unlike many others

who have voiced their opinions, have little idea of the realities of this region of the United States and northern Mexico.

In 1999, upon the urging of several students at my university who were themselves agents of the United States Border Patrol, I began the *first and only systematic* and comprehensive study of the Border Patrol by a social scientist. For two years I rode along with border patrol agents who were stationed at the McAllen Station in McAllen, Texas. I observed their daily and nightly work as they patrolled the line on their 10-hour shifts, recording in my hundreds of pages of notes how they did their work, what challenges they faced, and the circumstances which surrounded them. When I finished this part of the research, I began interviewing managers and supervisors. In addition, I analyzed statistical data that was provided me, researched the history of this federal agency, and also served as a consultant at their request.

The product of this research effort is my book **Patrolling Chaos: The US Border Patrol in Deep South Texas**. I would like to report on **4** crucial findings this morning although there are many, many others that I will not have time to discuss.

First, our men and women in the Border Patrol are individuals of whom we can be very proud. They are hard-working, motivated Americans who are trying to do the best they can. Their often courageous acts, including saving the lifes of undocumented workers, as well as protecting public and private property are, in a word, exemplary. These acts often go unnoticed in the media and are unrecognized, as a result, by the general public.

Second, all that said, I want to express my concern for the safety and welfare of our agents as they patrol the line. Their 10-hour shifts regularly expose them to high risk policing situations that put them in harm's way. I can give you example after example that I personally observed, but I want to stress that there are very direct ways you can help them that have been infrequently addressed. For example, agents lack the gear, the equipment, and the technology to do their job. From holsters to hardened lap tops to firepower to communications systems to sensors which actually function, the list goes on and on. At the present time, I want to report to you from my first-hand experience that they are not adequately equipped nor professionally trained to meet the demanding and dangerous tasks they face when dealing with undocumented workers, illegal drugs, criminal gangs, and potential terrorists.

One direct result of this long-standing state of affairs is that I personally observed thousands and thousands of undocumented workers illegally crossing the Rio Grande River; most, I am here to tell you, escaped. There are so many individuals crossing that there are trails from the river long since worn into the ground by their shoes.

They are so many individuals crossing the Rio Grande that there are garbage dumps along the river that stretch for hundreds of yards, 25 yards wide, created as they cast off their wet clothes, the green garbage bags that they carried their dry belongings in, and the omnipresent black inner tubes and empty, plastic gallon bottles. There are so many crossing that there are young Mexican men on the south side who make their living as "tube wranglers", swimming across from the south to round up the inner tubes on the north shore of the Rio Grande, then tying them together to bring back to resell them to illegals wishing to cross. There are so many illegals that I sat night after night in a Border Patrol scope truck watching them; there were times I literally could not count all of the men, women, and children in the groups that were crossing the border.

The **third** thing I want to tell you, and perhaps it is not what you want to hear but I have to tell you anyway, is that present attempts to limit the number of undocumented workers by arresting them and detaining them, as well as deporting OTM's, in the short term, achieves very little. Except that it makes us perhaps feel better. The flow of illegal immigrants may stop for a few weeks, or a few months, but as soon as the policy and/or the manpower relent, the illegals always return. In the meantime, they will find other places to cross the border that are easier.

The same, by the way, is also true of **illegal drugs**. The flow of illegal drugs is unimaginable if you don't see it with your own eyes. Tons and tons of marijuana, cocaine, and increasingly methamphetamines are brought every day across our national border. The Border Patrol has never had the personnel, the equipment, nor the professional training, to make much of a difference. It still doesn't. The War on Drugs is over. Our side has lost.

Finally, **fourth**, I want to suggest that more border patrol agents are needed, but they must be adequately recruited, trained, and then retained. There are several acute examples of this I will but mention briefly. The majority of agents I observed, although their job was to patrol the banks of the Rio Grande River, did not know how to swim. I repeat, they did not know how to swim. As well, a significant number were hampered in their pursuit of illegal workers because they were not phys-

ically fit; they are in poor or questionable physical shape. The recruitment and retention of female agents is grossly inadequate. The Border Patrol could easily meet its objective of new agents if they focused not only on the recruitment of female agents, but retention of female agents in a supportive working environment. Finally, I believe that graft and corruption may dramatically increase among agents as the drug cartels, which have immense sums of money, increase their efforts to bribe our agents, their supervisors, and their managers.

Any bill which invests in border security by investing in the US Border Patrol in the ways suggested will take the first steps necessary to reduce chaos in this region. We must invest in the Border Patrol. Any bill which provides for a worker management plan will also provide for more order along the border. To date we have a history of failures. Now is the time to make the right kinds of changes.

Thank you, Congressmen and Congresswomen, for your attention and patience.

Chairman SENSENBRENNER. Thank you Professor Maril.

Councilwoman Michalski.

TESTIMONY OF COUNCILWOMAN ANN E. MICHALSKI, CITY COUNCIL OF DUBUQUE, IOWA

Ms. MICHALSKI. Good morning, Chairman Sensenbrenner and other Members of the Committee, and thank you for calling this hearing and inviting me to testify on issues related to the McCain-Kennedy Immigration Bill.

Immigration reform is certainly one of the most important issues that our Nation faces at this current time. Some media voices have questioned why one of these hearings should be held in Dubuque, Iowa. While not as immediately impacted as cities along our Nation's northern and southern borders, these comments betray a lack of understanding of the true dimensions of the challenge. For this reason, I was pleased, as a Dubuque City Council member and as a member of the National League of Cities Human Development Steering Committee to participate in a 3-day work session in Wichita in May, where we hammered out a policy statement, subsequently approved unanimously by the Executive Board of the National League of Cities. I have submitted a copy of that resolution to be considered part of my testimony this morning. My oral remarks will link that resolution to the challenges faced by the City of Dubuque.

Dubuque, like every city in the United States, is a city of immigrants. Founded by a French fur trader in the 18th century, we have lived under five flags through the years, ultimately being incorporated as Iowa's oldest city. In the course of the 19th century, our population soon became primarily Irish and German and remained so until our very recent past. Studies done up to the late 20th century indicated that Dubuque's population was uniquely homogeneous with very few diverse populations. Since the 1990's, this profile has gradually changed, even though our population remains predominantly European, even western European. But we have welcomed significant numbers of new citizens. This has presented our community with both challenge and opportunity.

These changes in our population, while significant, have been relatively undramatic. There is not a perception that large numbers of undocumented immigrants have come here, though the assumption must be made that we do have such persons. Several religious and civic groups, notably, the Archdiocesan Office for Immigration, a program for Marshallese Islanders by several Pentecostal church groups and the Iowa State University Extension Diversity Center

and the two school districts, have managed to keep pace with the challenge. Thanks to these efforts, the problem of immigration has not yet become a crisis and can be appreciated from a more long-range economic, political and philosophical point of view.

So from this rather lofty stance, it's possible for us to posit a number of local realities:

Like immigrants everywhere, our new Dubuque residents come here for a simple reason. They want a better life for themselves and their families.

Second, the employment situation in Dubuque is currently very strong with a wide range of varied job opportunities. Businesses, however, still feel the need for a growing supply of workers with a strong work ethic and a willingness to accept a lower rate of pay. In short, we need good workers to keep our economic surge going.

Third, we must assume that some of our new inhabitants have illegally crossed our borders. We can tell this by the degree of anxiety they express in certain situations and by their reluctance to participate in some aspects of community life.

Even given this barrier, our Hispanic residents are becoming part of our community and we find their presence enriching.

We do see areas of potential, even immediate concern. And we believe this is best addressed by a comprehensive approach, including tighter, enforceable border security; tighter, enforceable and enforced employment regulations; assistance for localities most heavily impacted by large numbers of both legal and illegal immigrants; and a pathway to citizenship which rewards those who enter the country legally and penalizes those who do not, without destroying their hopes for the future.

The National League of Cities' policy essentially embraces the approach proposed in the McCain-Kennedy Bill and we believe it offers the best set of solutions to this problem and the guideline for Dubuque.

We are convinced that when immigrants are admitted through a well-regulated system, they strengthen our country by creating economic opportunities, increasing America's scientific and cultural resources, strengthening our ties with other nations, fulfilling humanitarian commitments, and perhaps most important, supporting family ties and family values. All this is necessary to build strong communities. It is not a cliché, but a truism that this is a Nation of immigrants. We are all either immigrants ourselves or descendants of them. I myself am only a second generation U.S. citizen. All four of my grandparents came here from Ireland. They settled in the midwest and set about working to build this country. Only one of them finished grade school, but they raised fine families and built their communities' futures while building their own. Of their children, only one achieved a college degree, but all achieved business and personal success. Of the grandchildren, all have college degrees, most have master's level degrees and several have doctorates. They have achieved very high levels of professional success and are community builders. We are convinced that this new generation of immigrants will be equally successful. As we observe them, we see no reason to doubt it.

But as Dubuque citizens, as citizens of the State of Iowa, we realize how much we need the population growth represented by im-

migrants who enter the country legally with a firm desire to become productive citizens. Our current immigration law inadequately addresses the growing number of individuals wishing to gain entrance to the United States through a temporary work visa program or as legal permanent resident. We have also observed that many of these individuals wish to remain in the U.S. only temporarily. Ironically, our current law makes it more difficult for such workers to move easily back and forth across the border, meeting both our need for workers and their need for work.

The issue of illegality cuts both ways. Employers who willingly hire unauthorized workers often do so because they know they face little likelihood that the Federal Government will investigate, fine or criminally prosecute them. Employers who want to follow the law find it difficult to do so.

As I conclude, cities are notably realistic and Dubuque is no exception. We realize that we already have some problems and accept the fact that absent comprehensive immigration laws, we may soon have more. Any law that is passed must address issues that I have noted and that others will also note. The NLC policy does not call for amnesty, it calls for a rational border policy and a pathway to citizenship that does not reward illegal entry.

[The prepared statement of Ms. Michalski follows:]

PREPARED STATEMENT OF ANNE E. MICHALSKI

IMMIGRATION HEARING TESTIMONY

Ann E. Michalski of Dubuque, IA
At-Large City Council Member
Member of NLC Human Development Steering Committee

Good morning _____. Thank you for calling this hearing and inviting me to testify on issues related to the McCain/Kennedy Immigration Bill.

Immigration reform is certainly one of the most important issues that our nation faces at the current time. Some media voices have questioned why one of these hearings should be held in Dubuque, Iowa, of all places. These comments betray a lack of understanding of the true dimensions of this challenge. While not as immediately impacted as cities along our nation's northern and southern borders, Dubuque does face many of the same problems as our sister cities in these locations. For this reason, I was pleased, as a Dubuque city council member and as a member of the National League of Cities Human Development Steering Committee, to participate in a three day work session in May where we hammered out a policy statement, subsequently approved unanimously by the Executive Board of the National League of Cities, on this important issue. I have submitted a copy of that resolution to be considered part of my testimony this morning. My oral remarks will link that resolution to the challenges faced by the city of Dubuque.

Dubuque, like every city in the United States, is a "city of immigrants". Founded by a French fur trader in the 18th century, Dubuque has lived under five flags through the years, ultimately being incorporated as Iowa's oldest city. In the course of the 19th century Dubuque's population soon became primarily Irish and German, and it has remained so until our very recent past. Studies done up to the late 20th century indicated that Dubuque's population was uniquely homogeneous, with very few African Americans, Hispanics, Asians, or other diverse populations. Since the 1990s, this profile has gradually changed and even though the population remains predominantly European, even western European, the city has welcomed significant numbers of new citizens, of many races and ethnic backgrounds. This has presented our community with both challenge and opportunity.

These changes in our population, while significant, have been relatively undramatic. There is not a perception that large numbers of undocumented immigrants have come here – though the assumption must be made that we do have such persons. Several religious and civic groups (notably the Archdiocesan Office for Immigration, a program for Marshallese islanders by several evangelical church groups, the Iowa State University Extension's Diversity Center and the two school districts) have managed to

keep pace with various aspects of the challenge. Thanks to these efforts the problem of immigration has not yet become a crisis, and can be approached from more long-range economic, political, and philosophical points of view rather than one that is more specifically problem oriented.

From this rather "lofty" stance it is possible for us to posit a number of local realities:

1. Like immigrants everywhere, our new Dubuque residents came here for a simple reason. They want a better life for themselves and their families.

2. The employment situation in Dubuque is currently very strong with a wide range of varied job opportunities. Businesses, however, still feel the need for a growing supply of workers who have a strong work ethic and a willingness to accept a lower rate of pay.

3. We must assume that some of our new inhabitants have illegally crossed our borders. We can tell this by the degree of anxiety they express in certain situations and by their reluctance to participate in some aspects of community life.

4. Even given this barrier, our Hispanic residents are becoming part of our community, and we find their presence enriching.

5. We do, on the other hand, see areas of potential – and even immediate concern which we believe is best addressed by a comprehensive approach including:
    a. tighter, enforceable border security,
    b. tighter, enforceable (and enforced) employment regulation
    c. assistance for localities most heavily impacted by large numbers of both legal and illegal immigrants
    d. a "pathway to citizenship which rewards those who enter the country legally and penalizes those who do not, without destroying their hopes for the future.

The National League of Cities' policy essentially embraces the approach proposed in the McCain/Kennedy Bill and we believe that it offers the best set of solutions to this very challenging national problem as well as a guideline for Dubuque's future in regard to this important issue.

I would like to outline briefly how the NLC policy addresses the issues that I have just mentioned.

1. We are convinced that when immigrants are admitted through a well-regulated system, they strengthen our country by creating economic opportunities, increasing America's scientific and cultural resources, strengthening our ties with other nations, fulfilling humanitarian commitments, and supporting family ties and family values. All this is necessary to build strong communities. It is not a cliché but a truism that this is a nation of immigrants. We are ALL either immigrants ourselves or descended from them. I myself am only a second generation US citizen. All four of my grandparents came here from Ireland. They settled in the Midwest and set about working to build this country. Only one of them finished grade school, but they raised fine families and built their communities' futures while building their own. Of their children, only one achieved a college degree but all achieved business and/or personal success. Of the grandchildren, all have college degrees, most have master's level degrees and several have doctorates. They have achieved very high levels of professional success and are true community builders. We in Dubuque are convinced that this new generation of immigrants will be equally successful. As we observe them, we see no reason to doubt it.

2. Being not only Dubuque citizens, but also citizens of the state of Iowa, we realize how much we need the population growth represented by immigrants who enter the country legally with a firm desire to become productive citizens. Our current immigration law inadequately addresses the growing numbers of individuals wishing entrance to the United States through a temporary work visa program or as legal permanent residents. We have also observed that many of these individuals wish to remain in the U.S. only temporarily. Ironically, our current law makes it more difficult for such workers to move easily back and forth across our borders, meeting both our need for workers and their need for work. Provided the wages paid are ***just***, there is nothing inherently wrong with a level of employment that produces a lower level of compensation for entry level, part-time, or temporary work. Dubuque wages generally are often lower than many of us would find acceptable and we insist that, as the overall wage picture improves, our immigrant workers will benefit from this improvement.

3. The issue of illegality cuts both ways. Employers who willingly hire unauthorized workers often do so because they know they face little likelihood that the federal government will investigate, fine, or criminally prosecute them. Employers who genuinely want to follow the law often find that their employee verification efforts are hindered by the extensive and easy use of fraudulent documents. Addressing the issue of "illegality" begins with supporting employers who refuse to participate in an illegal job market. If this becomes the standard, workers will be required to

comply with the law and the number of illegal workers will be significantly reduced.

4 As noted earlier, Iowa needs more good, productive citizens who desire to contribute to the life of the community. Dubuque is not an exception to this rule, we stand in need of positive population growth. Those who work with immigrants in our community share with us the tragedy of families where undocumented persons have lived useful, productive, community building lives for ten years or more and live in constant fear of deportation. Millions of children have at least one, and often two, undocumented parents. Living" underground" is not conducive to healthy family life. Also, the inability of these persons to get drivers' licenses or car insurance, qualify for health insurance, or even feel free to report crime or other neighborhood problems is destructive to the cities in which they are attempting to live productive lives.

Cities are notably realistic and Dubuque is no exception. We realize that we already have some problems and accept the fact that, absent comprehensive immigration law reform, we may soon have many more. Any law that is passed must address issues such as vigorous enforcement of current law and passage of needed additional statutes which address the issue of the safety and security of our borders. This NLC policy does not call for amnesty. It does call for a rational border policy and a "pathway to citizenship" that does not reward illegal entry. At the same time, however, we need to give hope to persons who, for whatever reason or combination of reasons, did enter the country irregularly. They need to know that after they have paid reasonable penalties, fines, etc. they can move "to the back of the line" but still retain the hope of eventual citizenship.

Such a law must also protect cities from the unfair burden of becoming the default enforcers of immigration law and the uncompensated provider of all the services needed to protect both the newcomers and those whom they join in communities nationwide. State, county and local governments are feeling the financial impact of **both** illegal ***and legal*** immigrants living in their communities. This is not a burden that can simply be shifted to the local municipalities. It is a shared national problem. Any new immigration legislation needs to address this crucial issue.

Again, I want to thank the members of the committee for conducting this hearing and the others who are testifying, for their insights on this important issue. I do not claim to have become an expert on the challenge of immigration. I have, however, observed how it is working in my own city and I have participated with a broad representation of other city officials on the Human Development and Community and Economic Development Steering Committees in working out a policy that was unanimously approved by the members of the Board of Directors of the National League of Cities. In our policy we see many points of convergence with the bi-partisan McCain/Kennedy bill and urge the conference committee to work out the area of disagreement to produce a strong, comprehensive approach which will benefit all areas of our country, both rural and urban.

ATTACHMENT

RESOLUTION

IN SUPPORT OF COMPREHENSIVE IMMIGRATION REFORM

WHEREAS, historically, the cities and towns of the United States are a melting pot of multiple cultures and nationalities based on our nation's history of welcoming immigrants;

WHEREAS, when admitted through a well-regulated system, immigrants strengthen the United States by creating economic opportunities, increasing America's scientific and cultural resources, strengthening our ties with other nations, fulfilling humanitarian commitments, and supporting family ties and family values that are necessary to build strong communities;

WHEREAS, failure on the part of the federal government to secure the borders, track visa recipients in the interior, or enforce worksite laws allows illegal immigration to thrive; the numbers are the highest they have ever been, with an estimated 11-12 million residents living and working in the United States without legal authorization or proper documentation;

WHEREAS, despite increases in border security and upgrades in tracking technology, the U.S. Census Bureau estimates that approximately 500,000 people continue to enter the U.S. illegally each year;

WHEREAS, according to a report by the Immigration Naturalization Service (INS) in January 2003, more than 33 percent of the undocumented workers in the U.S. entered legally and overstayed their student, tourist, or employment visas;

WHEREAS, according to a 2005 report from the Government Accountability Office (GAO), the worksite enforcement program does not deter employers who willingly hire unauthorized workers because they face little likelihood that the federal government will investigate, fine, or criminally prosecute them; and it does not help employers who genuinely want to follow the law because their employee verification efforts are hindered by the extensive use of fraudulent documents;

WHEREAS, the lack of infrastructure and capacity at the federal level makes the federal government unable to adequately track the entry and exit of visitors and temporary workers, and it creates unacceptable application backlogs and long delays, which provide strong disincentives for foreign nationals to abide by the legal means to enter or remain in the country;

WHEREAS, the current temporary, unskilled work programs (the H2-A and H2-B visas) were used by approximately 108,000 workers in 2005, representing a small percentage of the undocumented 1.2 million seasonal workers in the United States in 2005;

WHEREAS, the current immigration system inadequately addresses the growing numbers of individuals wishing entrance to the United States through a temporary work visa program or as legal permanent residents;

WHEREAS, according to a June 2005 report, roughly 35 percent of undocumented immigrants have lived in the United States for 10 years or more, 1.6 million are children, and another 3.1 million U.S-citizen children have at least one undocumented parent; and these families are forced to live "underground," unable to get drivers' licenses or car insurance in most states, unlikely to obtain health insurance, and afraid to report crimes to local law enforcement;

WHEREAS, since immigrants are barred from most federal public assistance, the burden of providing social services, education, and health care falls to the state and local governments, who are increasingly feeling the financial impact of both legal and illegal immigrants living in their communities;

NOW, THEREFORE, BE IT RESOLVED that the National League of Cities urges Congress to move quickly to enact comprehensive reform of the current immigration laws with support of the Administration to implement the immigration laws effectively;

BE IT FURTHER RESOLVED that the federal government enforce its current immigration laws consistently and vigorously to eliminate illegal entry at the borders, visa overstays, working without proper documentation, and employing undocumented workers;

BE IT FURTHER RESOLVED that the federal government must increase enforcement of visa overstays through the full implementation and staffing of the US-VISIT and SEVIS programs;

BE IT FURTHER RESOLVED that local personnel, such as police officers, fire inspectors, educators, health personnel and social service personnel, should not be conscripted into federal service because the federal government has not adequately funded and staffed its immigration enforcement agencies; and the federal government must not transfer the responsibility of enforcing US immigration laws to local personnel by making undocumented status in the US a criminal offense;

BE IT FURTHER RESOLVED that the federal government must strengthen its worksite enforcement capacity and dramatically increase enforcement efforts at places of employment, as well as providing employers with a universal, reliable, effective, secure, non-discriminatory, and non-counterfeitable employee verification system, using the most up-to-date technology that will minimize fraud;

BE IT FURTHER RESOLVED that the federal government must increase its capacity and infrastructure to enforce the laws and provide efficient means for foreign nationals to obtain legal authorization for temporary visas or legal permanent residency;

BE IT FURTHER RESOLVED that the federal government must provide an appropriate, legal means of immigration, as is determined to be necessary and effective for the United States, for foreign nationals that want to work here temporarily, become legal permanent residents, or gain citizenship;

BE IT FURTHER RESOLVED that NLC supports establishment of a process whereby undocumented immigrants currently living in the United States may earn legalized status through payment of appropriate fees and back taxes, background checks, absence of criminal or gang activity, consistent work history, and meeting English and civics requirements; and that the immigrants who have earned such legal status should also be able to apply for citizenship through additional processes, as appropriate and practical, as long as they do not move ahead of applicants with proper documentation waiting to adjust their status or those waiting on lists in their home countries;

BE IT FURTHER RESOLVED that the federal government should provide local governments with financial and technical assistance to alleviate the local impact of new immigrants, including the costs of providing social services, health care, education, language services, and civic integration.

Adopted by the National League of Cities Board of Directors
July 21, 2006

Chairman SENSENBRENNER. Thank you very much, Councilwoman.

Mr. Cutler.

TESTIMONY OF MICHAEL W. CUTLER, FORMER INSPECTOR, EXAMINER AND SPECIAL AGENT, IMMIGRATION AND NATURALIZATION SERVICE

Mr. CUTLER. Thank you. Thank you, Mr. Chairman. Thank you for having me at this hearing. I think it's a critical hearing because I believe that we're here to explore what S. 2611, the Senate Bill, would do to our country, and I believe personally that it would be catastrophic.

As a former senior special agent of the INS, I have had ample opportunity to observe up close and in person the failings of the former INS to control the borders of the United States and create a system that deters violations of the immigration laws of our Nation.

A nation's primary responsibility is to provide for the safety and security of its citizens and yet, for reasons I cannot begin to fathom, the Members of the Senate who voted for S. 2611 are seemingly oblivious to the lessons that the disastrous amnesty of the Immigration Reform and Control Act of 1986, or IRCA, should have taught us. That piece of legislation led to the greatest influx of illegal aliens in the history of our Nation.

VOICES. We can't hear you.

Mr. CUTLER. I'm sorry. That piece of legislation led to the greatest influx of illegal aliens in the history of our Nation. Fraud and a lack of integrity of the immigration system not only flooded our Nation with illegal aliens who ran our borders, hoping that what had been billed as a one-time amnesty would be repeated, but it also enabled a number of terrorists and many criminals to enter the United States and then embed themselves in our country.

A notable example of such a terrorist can be found in a review of the facts concerning Mahmud Abouhalima, a citizen of Egypt who entered the United States on a tourist visa, overstayed his authorized period of admission and then applied for amnesty under the agricultural worker provisions of IRCA. He succeeded in obtaining resident alien status through this process. During the 5 year period he drove a cab and had his license suspended numerous times for various violations of law and he ultimately demonstrated his appreciation for our Nation's generosity by participating in the first attack on the World Trade Center in 1993 that left six people dead, hundreds of people injured and an estimated one-half billion dollars in damages inflicted on that iconic, ill-fated complex. America had opened his doors to him so that he might participate in the American dream and he turned that dream into our worst nightmare. The other terrorists who attacked our Nation on subsequent attacks, including the attacks of September 11, 2001, similarly exploited our generosity, seeing in our Nation's kindness, weakness, gaming the immigration system to enter our country and then hide in plain sight among us.

As I recall, when IRCA was proposed, one of the selling points was that along with the amnesty for what was believed to have been a population of some 1.5 million illegal aliens would be a new approach to turn off what has been described as the magnet that draws the majority of illegal aliens into the United States in the first place, the prospect of securing employment. In order to accomplish this important goal, IRCA imposed penalties against those

unscrupulous employers who knowingly hired illegal aliens. My former colleagues and I were pleased to see that under the employer sanctions of IRCA, the unscrupulous employers of illegal aliens would finally be made accountable, or so we thought.

Of course, we now know that the relative handful of special agents who were assigned to conduct investigations of employers who hired illegal aliens made it unlikely that employers would face a significant risk of being caught for violating those laws and they would face an even smaller chance of being seriously fined. Furthermore, the way that the amnesty provisions of the law were enacted simply created a cottage industry for fraud document vendors who provided illegal aliens with counterfeit or altered identity documents and supporting documents to enable the illegal alien population to circumvent the immigration laws of the United States. Ultimately, approximately 3.5 million illegal aliens emerged from the infamous shadows to participate in the amnesty program of 1986.

To put this in perspective, I have read various estimates about the number of illegal aliens who are currently present in the United States. These estimates range from a low of 12 million to a high of 20 million. If, for argument's sake, we figure on a number of 15 million illegal aliens or 10 times the number that had been estimated prior to the amnesty of 1986, and if the same sort of under-counting occurs, and if a comparable percentage of aliens succeed in racing into the United States and make false claims that they have been here for the necessary period of time to be eligible to participate in the amnesty program that the Reid-Kennedy provisions would reward illegal aliens with, then we might expect some 35 million illegal aliens will ultimate participate in that insane program. Once they become citizens, they would then be eligible to file applications to bring their family members to the U.S., flooding our Nation with tens of millions of additional new lawful immigrants while our Nation's porous borders, visa waiver program and extreme lack of resources would enable more illegal aliens into the United States as well as the legal aliens.

The utterly inept and incompetent USCIS, which is now unable to carry out its most basic missions with even a modicum of integrity would undoubtedly disintegrate. The system would simply implode, crushed by the burden of its vicious cycle of attempting to deal with an ever-increasing spiral of rampant fraud, thereby encouraging still more fraudulent applications to be filed. Terrorists would not find gaming this system the least bit challenging and our Government would have become the unwitting ally, providing them with official identity documents and false names and then ultimately providing them with the keys to the kingdom by conferring resident alien status and even United States citizenship upon those who would destroy our Nation and slaughter our citizens. I hope that this doomsday scenario will not be permitted to play out.

When I was a boy, my dad used to tell me that there were no mistakes in life, only lessons, provided that we learn from what goes wrong and make the appropriate changes in the way that we do things. However, to repeat the same mistakes was to him and to me, simply unforgivable.

Chairmen Sensenbrenner and Hostettler, I commend your leadership in calling these hearings to make sure that these concerns

are made public and taken into account, especially as we approach the anniversary of the attacks of 9/11 and our Nation continues to grapple with the immigration crisis.

America is at historic crossroads at this moment in time. Courageous decisions need to be made by our Nation's leaders. If our Nation fails to select the proper path, there will be no going back. If our Nation decides to provide amnesty to millions of undocumented and illegal aliens, I fear that our national security will suffer irreparable harm as we aid and abet alien terrorists who seek to enter our country and embed themselves within it in preparation for the deadly attacks they would carry out. The priority must be clear, national security must be given the highest consideration and priority where the security of our Nation's borders and the integrity of the immigration system are concerned.

Thank you for your time, I look forward to your questions.

[The prepared statement of Mr. Cutler follows:]

PREPARED STATEMENT OF MICHAEL W. CUTLER

Chairmen Sensenbrenner and Hostettler, Ranking Members Conyers and Jackson Lee, members of Congress, distinguished members of the panel, ladies and gentlemen. It is a distinct honor and privilege to provide testimony at this hearing because the topic of the hearing is of truly critical significance. We are here to avert what I believe would be a catastrophe for the United States. The United States Senate passed a bill, S. 2611, that would provide incentives for a massive influx of illegal aliens, aided, abetted and induced to violate our nation's immigration laws at a time that our nation is confronting the continuing threat of terrorism and the increasing involvement of violent gangs, comprised predominantly of deportable aliens, in a wide variety of violent crimes committed against our nation's citizens. It is of critical importance that this hearing and others like it, illuminate why S. 2611 would expose our nation to unreasonable vulnerabilities especially in the post-9/11 world.

As a former senior special agent of the INS I had ample opportunities to observe, up close and in person, the failings of the former INS to control the borders of the United States and create a system that deterred violations of the immigration laws of our nation. I believe that it is important that our legislative bodies reach out to law enforcement professionals when they contemplate enacting legislation that would have a significant impact on the criminal justice system. Simply enacting legislation will not guarantee that the desired goals of the legislation will or can be met. It is therefore important for Congress to consider the experience and insight of members of the law enforcement agencies that would ultimately enforce the laws that are enacted by these legislative bodies. While I will not claim to have all of the answers, I believe that my having spent some 30 years with the former INS in a variety of positions provides me with a unique perspective that I am happy to share with you today.

A nation's primary responsibility is to provide for the safety and security of its citizens and yet, for reasons I cannot begin to fathom, the members of the Senate who voted for S. 2611 are seemingly oblivious to the lessons that the disastrous amnesty of the Immigration Reform and Control Act of 1986 (IRCA) should have taught us. That piece of legislation lead to the greatest influx of illegal aliens in the history of our nation. Fraud and a lack of integrity of the immigration system not only flooded our nation with illegal aliens who ran our borders, hoping that what had been billed as a "one time" amnesty would be repeated, but it also enabled a number of terrorists and many criminals to enter the United States and then embed themselves in the United States.

A notable example of such a terrorist can be found in a review of the facts concerning Mahmud Abouhalima, a citizen of Egypt who entered the United States on a tourist visa, overstayed his authorized period of admission and then applied for amnesty under the agricultural worker provisions of IRCA. He succeeded in obtaining resident alien status through this process. During a 5 year period he drove a cab and had his license suspended numerous times for violations of law and ultimately demonstrated his appreciation for our nation's generosity by participating in the first attack on the World Trade Center in 1993 that left 6 people dead, hundreds of people injured and an estimated one half billion dollars in damage inflicted, on

that iconic, ill-fated complex. America had opened its doors to him so that he might participate in the "American Dream." He turned that dream into our worst nightmare. The other terrorists who attacked our nation on subsequent attacks, including the attacks of September 11, 2001, similarly exploited our generosity, seeing in our nation's kindness, weakness, gaming the immigration system to enter our country and then, hide in plain sight, among us.

As I recall, when IRCA was proposed, one of the selling points was that along with amnesty for what was believed to have been a population of some 1.5 million illegal aliens would be a new approach to turn off what has been described as the "magnet" that draws the majority of illegal aliens into the United States in the first place, the prospect of securing employment in the United States. In order to accomplish this important goal, IRCA imposed penalties against those unscrupulous employers who knowingly hired illegal aliens. My former colleagues and I were pleased to see that under the employer sanctions of IRCA, the unscrupulous employers of illegal aliens would be made accountable, or so we thought. We were frustrated that we had seen all too many employers hire illegal aliens and treat them horrendously They paid them sub-standard wages and created unsafe, indeed hazardous working conditions for the illegal aliens they hired, knowing full well that these aliens would not complain because they feared being reported to the INS. Meanwhile the employer would not face any penalty for his outrageous conduct. Finally, it seemed that the employer sanctions provisions of IRCA would discourage employers from hiring illegal aliens and would also make it less likely they would treat their employees as miserably as some of these employers did.

Of course, we now know that the relative handful of special agents who were assigned to conduct investigations of employers who hired illegal aliens made it unlikely that employers would face a significant risk of being caught violating these laws and that they would face an even smaller chance of being seriously fined. Furthermore, the way that the amnesty provisions of the law were enacted simply created a cottage industry of fraud document vendors who provided illegal aliens with counterfeit or altered identity documents and supporting documents to enable the illegal alien population to circumvent the immigration laws. Ultimately approximately 3.5 million illegal aliens emerged from the infamous shadows to participate in the amnesty program of 1986. I have never seen an explanation for the reason that more than twice as many aliens took advantage of the 1986 amnesty than was initially believed would but I believe that two factors came into play. It may well be that the number of illegal aliens in the country was underestimated. I also believe, however, that a large number of illegal aliens were able to gain entry into the United States long after the cutoff point and succeeded in making false claims that they had been present in the country for the requisite period of time.

To put this in perspective, I have read various estimates about the number of illegal aliens who are currently present in the United States. These estimates range from a low of 12 million to a high of 20 million. If, for argument sake, we figure on a number of 15 million illegal aliens, or ten times the number that had been estimated prior to the amnesty of 1986, and if the same sort of under counting occurs and if a comparable percentage of aliens succeed in racing into the United States and making a false claims that they had been here for the necessary period of time to be eligible to participate in the amnesty program that the Reid-Kennedy provisions would reward illegal aliens with, then we might expect some 35 million illegal aliens will ultimately participate in this insane program. Once they become citizens they would then be eligible to file applications to bring their family members to the United States, flooding our nation with tens of millions of additional new lawful immigrations while our nation's porous borders, visa waiver program and extreme lack of resources to enforce the immigration laws from within the interior of the United States would allow many millions of illegal aliens to continue to enter the United States in violation of law.

The utterly inept and incompetent USCIS, which is now unable to carry out it's most basic missions with even a modicum of integrity would undoubtedly disintegrate. The system would simply implode, crushed by the burden of its vicious cycle of attempting to deal with an ever increasing spiral of rampant fraud thereby encouraging still more fraudulent applications to be filed. Terrorists would not find gaming this system the least bit challenging and our government will have become their unwitting ally, providing them with official identity documents in false names and then, ultimately, providing them with the keys to the kingdom by conferring resident aliens status and then, United States citizenship upon those who would destroy our nation and slaughter our citizens.

I hope that this doomsday scenario will not be permitted to play out.

Insanity has been described as doing the same things the same way and expecting a different result. Where our nation's security is concerned it would be indeed, insane to ignore the lessons of IRCA.

When I was a boy my dad used to tell me that there were no mistakes in life, only lessons, provided we learn from what goes wrong and make the appropriate changes in the way we do things. However, to repeat the same mistakes was to him and to me, simply unforgivable.

Chairmen Sensenbrenner and Hostettler, I commend your leadership in calling this hearing to make certain that these concerns are made public and are taken into account, especially as we approach the anniversary of the fifth anniversary of the attacks of September 11 and our nation continues to grapple with the immigration crisis.

America is at historic crossroads at this moment in time. Courageous decisions need to be made by our nation's leaders. If our nation fails to select the proper path, there will be no going back. If our nation decides to provide amnesty to millions of undocumented and illegal aliens, I fear that our national security will suffer irreparable harm as we aid and abet alien terrorists who seek to enter our country and embed themselves within it in preparation for the deadly attacks they would carry out. The priority must be clear, national security must be given the highest consideration and priority where the security of our nation's borders and the integrity of the immigration system are concerned.

I look forward to your questions.

Chairman SENSENBRENNER. Thank you very much, Mr. Cutler.

Dr. Fonte.

[Applause and verbal expressions from the audience.]

Chairman SENSENBRENNER. Now once again, let me remind the audience——

VOICE. That is not fair.

Chairman SENSENBRENNER [continuing]. Let me remind the audience that expressions of support or opposition to any of the testimony, questions or answers are in contravention of the House Rules. The Chair is obligated, under the House Rules to enforce that. And as I said in the beginning of the hearing, there are going to be lots of things said here that you either strongly agree with or violently disagree with. And then when the next person comes to speak, the coin is going to be turned over and people who agreed with the first statement will disagree with the second statement. A hearing is not a cheering contest or an applause contest or a booing contest. A hearing is designed to have the clash of views that are a basis of our democracy be expressed.

Please be respectful of all of the witnesses, regardless of what they say.

Dr. Fonte.

TESTIMONY OF JOHN FONTE, PH.D., DIRECTOR, CENTER FOR AMERICAN COMMON CULTURE, HUDSON INSTITUTE

Mr. FONTE. Thank you, Chairman Sensenbrenner, Members of the Committee.

In June, I helped organize an open letter on immigration calling for enforcement first. The signers included Newt Gingrich, Thomas Sowell, Bill Bennett, Bill Buckley, Robert Bork, David Horowitz, Phyllis Schafly, David Keene, Freddie Ikle (arms control director under President Reagan), Beverly LaHaye (Concerned Women of America), David Frum (former speech writer for President Bush), Andy Ramirez (Friends of the Border Patrol), Stephen Steinlight (former National Affairs Director of the American Jewish Committee) and the National Commander of the American Legion speaking to the American Legion, Thomas L. Bock.

The letter declared: "In 1986, Congress passed comprehensive immigration reform including amnesty for three million illegal immigrants and interior enforcement (employer sanctions). Amnesty came, but enforcement was never implemented."

"Let's not make this mistake again." We are in the middle of a global war on terror. 2006 is not 1986. Today, we need proof that enforcement (border and interior) are successful before anything else happens. As Ronald Reagan used to say "trust, but verify."

The letter also states, "Thank you, Jim Sensenbrenner, Peter King and the bipartisan House majority, including 36 Democrats who supported H.R. 4437." In addition, the letter thanks the Senators who opposed Reid-Kennedy and declares at the end, "You are right to emphasize that Congress and the President must deal with enforcement first and other issues later. Stand fast; the American people are overwhelmingly with you."

I would like to have this submitted to the record with your permission.

Chairman SENSENBRENNER. Without objection.

Mr. FONTE. A Zogby poll revealed that the American people prefer the House Bill to Reid-Kennedy two to one (64 percent to 30 percent).

Supporters of Reid-Kennedy claim the bill strengthens enforcement. This is not true.

According to Kris Kobach, Attorney General John Ashcroft's chief advisor on immigration law, under Reid-Kennedy, local police would be restricted from arresting people for civil violations of immigration law. He pointed out that five of the 9/11 hijackers had committed these civil violations. If, for example, they were speeding, as four of the terrorists, the 9/11 terrorists, were, local police would be prevented under Reid-Kennedy from checking their immigration status.

The House Bill is serious about establishing border security barriers and, most importantly, has a crucial provision on employment verification. On the other hand, the Senate Bill does not have the House's strong employer sanctions provisions, it limits the scope of border fencing and, incredibly, it requires U.S. officials to consult with both the Mexican government and affected communities before even enacting these security barriers. In effect, a foreign government and a vocal minority would be given the power to delay the type of security arrangements deemed necessary to protect the United States of America.

While supporters of the Senate Bill claim that comprehensive reform involves tough requirements, notably that the claim that illegal immigrants must pay all back taxes, as Senator Grassley has pointed out, they only have to pay three of 5 years, a privilege not—denied to the rest of us.

Now it should be pointed out also that the Pence-Hutchison proposal is also deeply flawed. Senator Sessions has warned that it must not become law. In June, Congressman Steve King described the original Pence plan as more dangerous than the Senate Bill because, in the end, it will attract even more illegal immigrants.

Pence-Hutchison is not serious about enforcement. While the guest worker amnesty section of the bill is not supposed to begin until border enforcement is secured, the measures used to deter-

mine when the border has been secured are only bureaucratic. For example, how many border patrol agents have been deployed. As the National Review put it in an editorial on Pence-Hutchison, "The amnesty would go into effect even if there were no evidence that the illegal population was shrinking."

Now the Reid-Kennedy Bill claims to be a comprehensive solution, but it's not really comprehensive. It focuses only on skilled labor that ignores the crucial issue of assimilation. We're a Nation of immigrants, but actually we are more accurately a Nation of assimilated immigrants.

Let's examine the stories of Andres Bermudez and Manual de la Cruz, two men who originally were illegal immigrants from Mexico. They received amnesty, they became legal residents. They eventually naturalized as United States citizens. They took an oath of loyalty to the United States, raising their right hand, "I absolutely and entirely renounce all allegiance and fidelity to any foreign prince, potentate, state or sovereignty." But then they ran for office in Mexico. De la Cruz was elected to the Zacatecas State Legislature in 2004 and just last month, Bermudez was elected to the Mexican Congress. These men are still American citizens, they're serving a foreign government and they've taken an oath of loyalty to Mexico. If the Reid-Kennedy amnesty were truly comprehensive, we would deal with the crucial issue of loyalty to the United States of America. We are a Nation, not simply a market.

If Reid-Kennedy or Pence-Hutchison becomes law, 11 to 12 million illegal immigrants could become American citizens while retaining citizenship and loyalty to their birth nation, thus greatly exacerbating dual allegiance and encouraging the diminution of loyalty to the United States. Thus, if Reid-Kennedy or Pence-Hutchison passes, we will not simply be repeating the mistakes of 1986, but making the situation worse.

Let's not make the amnesty mistake again with Reid-Kennedy or Pence-Hutchison.

Thank you.

[The prepared statement of Dr. Fonte follows:]

PREPARED STATEMENT OF JOHN FONTE

United States House of Representatives
Testimony for Committee on the Judiciary, Full Committee
Oversight Hearing on "Is the Reid-Kennedy bill a repeat of the failed amnesty of 1986?"

Dubuque, Iowa
September 1, 2006

"Let us Not Repeat the Amnesty Mistake of 1986"

Submitted by John Fonte, Ph.D.
Senior Fellow
Hudson Institute
johnf@hudson.org

In June, I helped organized an Open Letter on Immigration calling for "Enforcement First." The signers included: Newt Gingrich, Thomas Sowell, Bill Bennett, William F Buckley, Robert Bork, David Horowitz, Phyllis Schafly, David Keene, Rich Lowry (editor of National Review), Fred Ikle (arms control director under President Reagan), Beverly LaHaye (Chairman of the Concerned Women of America), David Frum (former speech writer for President Bush), Andy Ramirez (Chairman, Friends of the Border Patrol), Stephen Steinlight (former National Affairs Director of the American Jewish Committee), and Thomas L. Bock, the National Commander of the American Legion.

The Letter declared: "In 1986 Congress passed Comprehensive Immigration Reform that included amnesty for three million illegal immigrants and interior enforcement (i.e., employer sanctions). Amnesty came, but enforcement was never seriously implemented either at the border or in the interior. "

"Let us not make this mistake again. First border and interior enforcement must be funded, operational, implemented, and proven successful—and only then can we debate the status of current illegal immigrants, or the need for new guest worker programs. We are in the middle of a global war on terror. 2006 is not 1986. Today, we need proof that enforcement (both at the border and in the interior) is successful before anything else happens. As Ronald Reagan used to say, "trust, but verify."

The letter also states, "Moreover, we say thank you Jim Sensenbrenner, Peter King, and the bi-partisan House majority, including 36 Democrats that supported HR 4437. In addition, the letter thanks the Senators who opposed Reid-Kennedy and declares in the final sentence, "You in the House and the majority of Senate Republicans are right to emphasize that Congress and the President must deal with enforcement first and other issues later. Stand fast; the American people are overwhelmingly with you."

A Zogby poll reveals that the American people prefer the House bill to Reid-Kennedy by a lopsided majority of 2 to 1 (64 percent to 30 percent). A Rasmussen poll finds that 67% of Americans believe that the US should enforce existing laws and control the border before "new reforms are considered."

Supporters of Reid-Kennedy claim the bill strengthens enforcement. It actually weakens enforcement. This enforcement argument (including both border security and employer sanctions) is a major reason to choose House 4437 over Senate 2611.

According to University of Missouri law professor Kris W. Kobach, former attorney general John Ashcroft's chief advisor on immigration law from 2001-03, Senate 2611 would actually weaken the War on Terror. Professor Kobach argued that, under Reid-Kennedy, local police would be restricted from arresting people for civil violations of immigration law. He pointed out that five of the 9/11 hijackers had in fact committed these civil violations, but if, for example, they were stopped for speeding (as four of the terrorists were) local police could be prevented, under Reid-Kennedy, from checking their immigration status.

The result, argued Professor Kobach, would be nothing less than "disastrous," and "would significantly undermine the United States in the war on terrorism." The supporters of Reid-Kennedy apparently do not believe that local police should have the authority to check a future Mohammed Atta's immigration status.

House bill 4437 is serious about establishing border security barriers and, most importantly, contains a crucial provision on employment verification. On the other hand, S 2611 does not have the House's strong employer sanctions provisions; limits the scope of border security fencing; and, incredibly, requires U.S. officials to "consult" with both the Mexican government and "the affected communities" (i.e., open-borders activists) before even being permitted to begin enacting these security barriers. In effect, a foreign government and a vocal minority have been given the power to delay the type of security arrangements deemed necessary to protect the United States of America.

Supporters of Senate 2611 claim that comprehensive" reform involves "tough requirements"—notably, the claim that illegal immigrants must "pay all back taxes" and "go to the back of the line" on citizenship. Actually, Reid-Kennedy provides that former illegal immigrants would have to pay no more than three of five years' back taxes—a privilege denied to the rest of us. What is more, they are allowed to form a new line for citizenship, ahead of people who are already waiting legally in their home countries.

It should also be pointed out that the Pence-Hutchison proposal is deeply flawed as well. Senator Jeff Sessions (R., Ala.) has warned that Pence-Hutchison "must not become law" because it "will allow for a virtually unlimited number of immigrants" who "will be overwhelmingly low-skilled." Pence-Hutchison gives no preference to English speakers and high-skilled workers. In June, Congressman Steve King of Iowa described the original Pence plan as "more dangerous than the Senate bill" because, in the end, it will attract even more illegal immigrants.

Like Reid-Kennedy, Pence-Hutchison is not serious about enforcement. While the guest-worker-amnesty portion of the scheme is not supposed to begin until border enforcement is secured (the much heralded "trigger" mechanism), the measures used to determine

when and if the border has been secured are strictly bureaucratic (for example, how many border patrol agents have been deployed?) They are not results-oriented — that is, they don't require proof that the border has actually been secured. As the National Review put it, under Pence-Hutchison: "The amnesty would go into effect even if there were no evidence that the illegal population was shrinking."

The Reid-Kennedy bill claims to be a "comprehensive" solution, but it is not really "comprehensive." It focuses on the labor supply of low-skilled labor and ignores the crucial issue of assimilating immigrants as patriotic Americans, as if the United States was simply a market and not a nation.

Let us examine the illustrative stories of Andres Bermudez and Manual de la Cruz. These two men were originally illegal immigrants from Mexico. They received amnesty, became legal residents, and eventually naturalized as U.S. Citizens. They took an Oath of loyalty to the United States. They raised their right hands and declared, "I absolutely and entirely renounce all allegiance and fidelity to any foreign prince, potentate, state or sovereignty." But recently Mexico has promoted dual allegiance and these two men reclaimed Mexican citizenship and ran for office in Mexico without giving up their US citizenship.

De La Cruz was elected to the Zacatecas State Legislature in 2004 and in the recent Mexican election Bermudez was elected to the lower house of the Mexican Congress. These men are still American citizens, but they are serving in a foreign government and have taken an oath of loyalty to Mexico. If the Reid-Kennedy amnesty were truly "comprehensive" it would deal with this crucial issue of loyalty to the United States. We are a nation, not simply a market.

The 1986 amnesty is now generally recognized as a mistake. But 20 years ago Mexico did not recognize dual allegiance, now they are actively promoting it. About 40, 000 naturalized American citizens are believed to have voted in the recent Mexican election. If Reid-Kennedy or Pence-Hutchison becomes law 11-12 million illegal immigrants will be eligible for U.S. citizenship, while, at the same time, retaining citizenship to their birth nations—greatly exacerbating the dual allegiance problem and encouraging the diminution of loyalty to the United States. Thus, if Reid-Kennedy or Pence-Hutchison passes, we will not simply repeat the mistakes of 1986, but make the situation worse.

Both Reid-Kennedy and Pence-Hutchison are amnesties. As the House Judiciary chairman declared:

"Let's be clear as to what constitutes amnesty. Amnesty is allowing illegal immigrants to become permanent residents and then citizens. Amnesty can be dressed up as 'earned legalization' or 'going to the back of the line' or a 'path to citizenship.' But in the end, if it grants permanent residency, which is the very prize illegal immigrants are seeking when they come here, it is amnesty."

Let's not make the amnesty mistake again with either Reid-Kennedy or Pence-Hutchison.

ATTACHMENT

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News Release

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Prominent Conservatives and Civic Leaders Urge President Bush and Congress to Back Enforcement First on Immigration

WASHINGTON – Leading conservatives and civic leaders have signed an "open letter" on immigration declaring that "border and interior enforcement must be funded, operational, implemented, and proven successful—and only then can we debate the status of current illegal immigrants, or the need for new guest worker programs."

The signers include William Bennett, Robert Bork, William F Buckley, Ward Connerly, Newt Gingrich, David Horowitz, David Keene, John Leo, Herbert London, Rich Lowry, Daniel Pipes, Phyllis Schlafly, and Thomas Sowell among others.

Hudson Senior Fellow John Fonte, who organized the letter, said:

"We want to commend the members of Congress who have supported enforcement first including 85% of all Congressional Republicans, 36 Democrats in the House and 4 in the Senate."

"We particularly want to thank Senator Jeff Sessions (R-AL) and House chairmen Jim Sensenbrenner (R-WI) and Peter King (R-NY) for their leadership role in putting America's national interests in border and interior enforcement first."

As a matter of organizational policy, Hudson Institute does not take stances on pending legislation.

"First Things First on Immigration: An Open Letter to President Bush, Senate Majority Leader Frist, and Speaker of the House, Hastert"

Recently, columnist Thomas Sowell wrote: "It will take time to see how various new border control methods work out in practice and there is no reason to rush ahead to deal with people already illegally in this country before the facts are in on how well the borders have been secured."

We the undersigned agree with this statement. In 1986, Congress passed "comprehensive" immigration reform that included amnesty for around 3 million illegal immigrants, border enforcement, and interior enforcement (employer sanctions). Amnesty came, but enforcement was never seriously implemented either at the border or in the interior.

Let us not make this mistake again. We favor what Newt Gingrich has described as "sequencing." First border and interior enforcement must be funded, operational, implemented, and proven successful—and only then can we debate the status of current illegal immigrants, or the need for new guest worker programs. We are in the middle of a global war on terror. 2006 is not 1986. Today, we need proof that enforcement (both at the border and in the interior) is successful before anything else happens. As Ronald Reagan used to say "trust, but verify."

The majority of Republicans in the Senate opposed the recently passed Hagel-Martinez bill. Senator Vitter (R-LA) said that because border enforcement will not be in place, "this [bill] will in fact make the illegal immigration problem much bigger." The No. 3 Republican in the Senate, Senator Rick Santorum (PA) said, "We need a border-security bill first." Senator Vitter, Senator Santorum, the majority of Senate Republicans, and the majority of House Republicans are right—we need proven enforcement before we do anything else. Adopting cosmetic legislation to appear to be "doing something" about enforcement, but which actually makes the situation worse, is not statesmanship, it is demagogy.

We thank the majority of the Senate Republicans (33 in all) and the seven Democrats who supported the Isakson amendment, which insists upon verifiable benchmarks for border security before considering other issues. Moreover, we say "Thank You" to Jim Sensenbrenner, Peter King, and the bi-partisan House majority including 36 Democrats, that passed HR 4437. We may quibble with a clause here and there, but you in the House and the majority of Senate Republicans are right to emphasize that the Congress and the President must deal with enforcement first and other issues later. Stand fast; the American people are overwhelmingly with you.

Signed,

William B. Allen, Professor of Political Science at Michigan State University

William J. Bennett, former Secretary of Education under President Reagan, former Director of the Office of National Drug Control Policy under former President George H.W. Bush

Thomas L. Bock, National Commander of the American Legion

Robert H. Bork, Senior Fellow at the Hudson Institute, former Solicitor General, acting Attorney General, Supreme Court nominee, U.S. Circuit Court of Appeals Judge

William F. Buckley, Jr., founder and Editor-at-Large of *National Review*

Peter Collier, founding Publisher of Encounter Books, cofounder of Center for the Study of Popular Culture

Ward Connerly, former Regent at the University of California, founder and Chairman of the American Civil Rights Institute (ACRI), winner of the 2005 Bradley Prize for Outstanding Intellectual Achievement

T. Kenneth Cribb, former domestic policy advisor for President Ronald Reagan

Glynn Custred, Professor of Anthropology at California State University, Hayward, and coauthor of the California Civil Rights Initiative, Proposition 209

John C. Eastman, Professor of Law at Chapman University School of Law, Director of the Center for Constitutional Jurisprudence

John Fonte, Senior Fellow and Director of the Center of American Common Culture at the Hudson Institute

David Frum, former speechwriter for George W. Bush, Resident Fellow at American Enterprise Institute

Frank J. Gaffney, Jr., founder and President of the Center for Security Policy

Newt Gingrich, former Speaker of the House of Representatives, Chairman of the Gingrich Group, Senior Fellow at American Enterprise Institute

Jonah Goldberg, Editor-at-Large of the *National Review Online,* national syndicated columnist

Victor Davis Hanson, Martin and Illie Anderson Senior Fellow at the Hoover Institution, recipient of the 1991 American Philological Association Excellence in Teaching Award

David Horowitz, cofounder of the Center for the Study of Popular Culture, Editor of FrontPageMag.com

Fred C. Iklé, former Undersecretary of Defense under Reagan, former Director of U.S. Arms Control and Disarmament Agency

David Keene, Chairman of the American Conservative Union

Brian Kennedy, President of the Claremont Institute, Publisher of the *Claremont Review of Books*

Roger Kimball, Managing Editor of *The New Criterion*

Alan Charles Kors, Professor of History at the University of Pennsylvania

Mark Krikorian, Executive Director of the Center for Immigration Studies

Bevery LaHaye, Founder and Chairman of the Concerned Women for America

Michael A. Ledeen, Resident Scholar at the American Enterprise Institute

Seth Leibsohn, Fellow at the Claremont Institute

John Leo, columnist and Contributing Editor to *U.S. News and World Report*

Herbert London, President of the Hudson Institute

Kathryn Jean Lopez, Editor of *National Review Online*

Rich Lowry, Editor of *National Review*

Heather Mac Donald, John M. Olin Fellow at the Manhattan Institute, winner of the 2005 Bradley Prize for Outstanding Intellectual Achievement

John O'Sullivan, Senior Fellow at the Hudson Institute, Editor-at-Large of *National Review*

Juliana Pilon, Research Professor at the Institute for World Politics

Daniel Pipes, founder and Director of the Middle East Forum and Campus Watch, former member of the board of the U.S. Institute of Peace

Andrew "Andy" Ramirez, Chairman of the Friends of Border Patrol

Phyllis Schlafly, founder and President of Eagle Forum

Thomas Sowell, Rose and Milton Friedman Senior Fellow on Public Policy at the Hoover Institution, winner of the 2003 Bradley Prize for Outstanding Intellectual Achievement

Shelby Steele, Research Fellow at the Hoover Institution, winner of the 2006 Bradley Prize for Outstanding Intellectual Achievement

Stephen Steinlight, Fellow at the Center for Immigration Studies, former National Affairs Director of the American Jewish Committee, and Vice President of the National Conference of Christians and Jews

Thomas G. West, Director and Senior Fellow of the Claremont Institute, Professor of Politics at the University of Dallas

Wendy Wright, President, Concerned Women for America

Chairman SENSENBRENNER. Thank you very much, Dr. Fonte. Because Senator Grassley has to leave at 10:30, the Chair is going to strictly enforce the 5 minute rule for questions on all Members,

including himself, so that all of the Members during the first round of questioning will have a shot at the good Senator. [Laughter.]

The Chair recognizes himself for 5 minutes.

I wish Senator Simpson were here but the crux of his testimony says "I believe that there are three principal lessons to be learned from IRCA: (1) a more secure employment verification system was lacking in IRCA, and subsequent administrations frustrated it even . . . as the law was implemented, and this remains the critical problem that must be fixed if illegal immigration is ever going to be deterred; (2) amnesty may yet be justified in some circumstances, but it should not take effect until a credible body of policy-makers determines that effective enforcement measures are in effect; and (3) guestworker programs may be necessary, but Congress should never repeat the mistakes of the Special Agricultural Worker program when addressing shortages of U.S. pools of unskilled labor."

And he goes into detail and discusses why.

I believe that the key to any immigration reform, whether it's Reid-Kennedy or the House Bill or Pence-Hutchison or anybody else, is enforcing employer sanctions.

Do each of you agree with that, starting with you, Senator.

Senator GRASSLEY. Without a doubt, and maybe our bill in the Senate isn't quite as strong as the last witness said it should be, but we made a real attempt through Social Security to make sure it was verifiable.

Chairman SENSENBRENNER. Congresswoman Michalski.

Ms. MICHALSKI. Thank you for promoting me, sir, I'm Council Member. Yes, I believe that it is important to begin with the protection of our borders and especially to work with the law to make sure that illegal employers are penalized and that legal employers are helped to enforce the justifiable law that protects American workers and allows the Hispanic and other workers to obtain a reasonable compensation and safe workplace.

Chairman SENSENBRENNER. Mr. Cutler.

Mr. CUTLER. Absolutely. You know, I've made the point——

Chairman SENSENBRENNER. My time is running up.

Mr. CUTLER. Okay, I'll just say——

Chairman SENSENBRENNER. Dr. Fonte.

Mr. FONTE. I absolutely agree.

Mr. CUTLER. There you go.

Chairman SENSENBRENNER. Professor Maril.

Mr. MARIL. Yes.

Chairman SENSENBRENNER. Now it's always cheaper to hire an illegal immigrant worker than it is to hire either a citizen or a permanent resident with a green card, which is work authorization. And the market works, and I think that that has been very adequately demonstrated by where the bulk of illegal employment is.

Now what the House Bill does is it sets up a secure database in Social Security to verify the accuracy of Social Security numbers, meaning the number that is presented by the applicant for a job is not either made up or obtained through identity theft. And then increases the fines dramatically. In the House Bill, the current fine is $100 per illegal worker that is caught. That's part of the cost of doing business. Fines don't work unless they're high enough to be

a—to act as a deterrent to illegal activity. So the House Bill increases the fine to $5000 on the first pop. I think that this is going to be a tremendous step in the right direction.

The other thing that I want to talk about—and again I've got a minute and a half left—is the whole issue of law enforcement on the border. The House Bill and the Senate Bill both increase the number of Border Patrol officers. The appropriators fund them, we authorize them, if we think it's necessary. That's where the difference ends. The House Bill provides $100 million in assistance to the sheriffs of the 29 border counties in four States to put more boots on the ground and to better equip and train these people. And the House Bill also authorizes contracts on a voluntary basis so that the local sheriffs can help the Border Patrol, particularly when there are violations such as drug trafficking that are different from immigration violations.

Do you think this last feature of voluntary contracting would be helpful? And I'd just like a yes or no answer from all five of you. Let's start with Mr. Maril.

Mr. MARIL. No, I do not.

Chairman SENSENBRENNER. Dr. Fonte.

Mr. FONTE. Yes, absolutely.

Chairman SENSENBRENNER. Mr. Cutler.

Mr. CUTLER. It can be helpful.

Chairman SENSENBRENNER. Councilwoman.

Ms. MICHALSKI. Very risky.

Chairman SENSENBRENNER. Senator.

Senator GRASSLEY. The answer is yes.

Chairman SENSENBRENNER. Thank you very much.

The gentlewoman from Texas, Ms. Jackson Lee.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman. I think we'll have to be sharing twins here this morning.

Let me remind my good friends from Iowa of a movie called "A Field of Dreams" where Sheila Joe Jackson asked Ray, which was Kevin Costner's character, "Is this heaven?" And Ray replied, "No, it's Iowa."

One of the things that makes Iowa so heavenly, I believe, is that it is full of wonderful, sensible people who believe in building bridges rather than putting up walls. Iowans understand that if America builds bridges to embrace the world, growth, prosperity and security will come.

I want to thank the witnesses for their testimony and the Chairman was very right, many of us, or the single one here, vigorously disagrees with many of their statements.

Let me first of all ask unanimous consent, Mr. Chairman, to put into the record articles that reflect the people of Iowa's view on immigration—church leaders surrounding Dubuque and I'd like to call the names of Bishop Gregory Palmer; Bishop Steven L. Ullestad of the Iowa Synod of the Evangelical Lutheran Church; it looks like Alan Garfield; Sister Judy Callahan and Reverend Michael Schwartz, who is with the United Church of Christ.

I'd like to submit those.

Chairman SENSENBRENNER. Without objection, the articles will be inserted in the record.

Ms. JACKSON LEE. And I have a couple more. "Do more than a show of immigration sweeps," "Immigration bridges or fence?" I'd like to submit these into the record.

Chairman SENSENBRENNER. Without objection, they'll be entered.

Ms. JACKSON LEE. And an article by Johanns, "Immigration issue needs conference solution." That is the U.S. Secretary of Agriculture.

Chairman SENSENBRENNER. Without objection.

[The information previously requested to be entered into the record was not received by the Committee at the time of the printing of this hearing.]

Ms. JACKSON LEE. It means that there are diverse perspectives on this question of immigration and I'm saddened when witnesses, whoever they might be would equate immigration to terrorism. I sit on the Homeland Security Committee and Judiciary. We helped write this bill and we had bills coming out of the House that would have had a reasonable response to many of the issues that the witnesses have said—comprehensive security at the border. Professor Maril, a response to the needs of Border Patrol. You may be aware of H.R. 4044, Senator Kerry offered it as an amendment, giving night goggles, giving computers, power boats, everything that the individual Border Patrol agents would need. It's interesting to note that time after time in the United States House, Republicans have voted consistently against funding for border security.

2003, vote number 301, Republicans voted against consideration of an amendment that would have added $300 million for border security. June 24, 2003, this vote was regarding the same amendment as 2003 on a vote of appealing the ruling of the Chair, Republicans once again voted against giving $300 million more for enhancing the Border Patrol.

2004, Republicans voted against consideration of an amendment that would have added $750 million for border security.

And yet we have witnesses testifying that the 9/11 incident—why are we continuing to abuse, misuse and, if you will, draw on the emotions of the American people, to suggest immigration equates to terrorism? Those 9/11 terrorists came in on legal visas. Our fault, you're absolutely right. And immediately after that, in a bipartisan manner, we submitted procedures to try and stop terrorism before it gets to our borders. How dare we suggest that economic immigrants coming across this country would in any way be equated to such?

Do we need to stop the flow of illegal immigration? You're absolutely right. There's no divide on Democrats and Republicans on this issue. But what we are divided on is what you're not being told is in this bill, is the felony provision that makes Catholic priests, aunts and uncles, grandmothers and new born babies felons. It also suggests that you would self-deport. It means that you would, after this bill is passed, the House Bill, show up somewhere and I guess local jurisdictions would have to pay for the deportation of 11 to 12 million people.

We're not arguing about the fair system that should be in place. But let me tell you what the truth is. Let me tell you how the Republicans have failed to enforce any effective border security under their jurisdiction. Because the average number of new Border Pa-

trol agents added per year have gone down under this Administration from the Clinton Administration, 642 added per year to 411. The INS fines——

Chairman SENSENBRENNER. The gentlewoman's time has expired.

Ms. JACKSON LEE—fines for immigration enforcement has gone down and 76 percent fewer completed immigration——

Chairman SENSENBRENNER. The gentlewoman——

Ms. JACKSON LEE. We need to tell the truth this morning and the truth is not being told.

Chairman SENSENBRENNER. The gentlewoman's time has expired.

Ms. JACKSON LEE. I yield back.

Chairman SENSENBRENNER. Let me just observe that there's at least one in this room that believes that heaven is a little bit north and east of Iowa. [Laughter.]

Ms. JACKSON LEE. I appreciate that, Mr. Chairman.

Chairman SENSENBRENNER. The gentleman——

Ms. JACKSON LEE. I think it's in Texas, I appreciate that.

Chairman SENSENBRENNER [continuing]. From Indiana, Mr. Hostettler.

Mr. HOSTETTLER. I thank the Chairman, and I likewise am pleased to be here in Iowa and a part of the truth squad. I must remind the audience that in the House of Representatives an amendment was considered to reduce the felony provision in the underlying bill, in the House Bill, for illegal entry and presence in the United States. The reason why that amendment was defeated was not because individuals such as the Republicans voted to reduce the felony provision to a misdemeanor, but because Democrats overwhelmingly, including overwhelmingly from the House Judiciary Committee, voted against reducing the provision——

Ms. JACKSON LEE. Will the gentleman yield?

Mr. HOSTETTLER. No, I have 5 minutes.—from a felony provision to a misdemeanor.

Ms. JACKSON LEE. It's still a criminal offense.

Chairman SENSENBRENNER. The time belongs to the gentleman from Indiana.

Mr. HOSTETTLER. So the sentiment of the Democrats overwhelmingly in the House of Representatives is that the provision should not be reduced from a felony to a misdemeanor.

Now, Senator Grassley, I want to thank you for having us here in Iowa. Many of us in the House of Representatives want to thank you for your principle stance on the rule of law and your vote against granting amnesty to tens of millions of illegal aliens.

If I can ask you to depend upon your recollection of history as you lived it and look into your own personal crystal ball with regard to the future, as you recall, the makeup of the Congress and the White House in 1986 when Simpson-Mazzoli was passed, the Immigration Reform and Control Act was passed; the majority control of the Senate was in the hands of the Republicans.

Senator GRASSLEY. Yes.

Mr. HOSTETTLER. The majority control in the House of Representatives was the Democrats.

Senator GRASSLEY. Yes.

Mr. HOSTETTLER. And the President that supported amnetizing the illegal aliens that were currently in the country was a Republican, was it not?

Senator GRASSLEY. Yes.

Mr. HOSTETTLER. Today, the Senate has passed their provision, they have not supplied—the Senate has not supplied the necessary communication to the House of Representatives as of yet to go to conference on the bill. We expect that at any time, but until such time, we cannot actually go to conference, as a result of the rules of the proceedings of conference in the Congress.

That notwithstanding, let me ask you to look into your crystal—and the reason why there may be significant controversy and discussion in conference is because the House does not provide any provision whatsoever with regard to amnetizing anywhere from 11 to 22 million illegal aliens. So there's a significant difference there.

Let me ask you to look into your crystal ball. And so it is Republicans in the House to a great extent who have not, as a majority in the Senate did not, subscribe to amnesty, because a majority of Republicans in the Senate, including yourself, voted against the bill passed by the Senate. And so in the House, we—a majority of Republicans—opposed the amnesty.

Let me ask you to look into your crystal ball. Given what you understand about the President whose term expires in 2009 and the fact probably that the Senate will maintain its Republican majority in 2007, a Senate that has already passed the amnesty bill, and the House would convert to Democrat control, mirroring the circumstances that led us to the Immigration Reform and Control Act of 1986, in your opinion, looking into your crystal ball, is it likely that, given that scenario, we will amnetize 11 to 22 million illegal aliens?

Senator GRASSLEY. Yes.

Mr. HOSTETTLER. Thank you. Senator Grassley, I have continually stated that the House Bill was an attempt legislatively to maintain the commitment of the 1986 act with regard to the enforcement provisions. Would you agree that the House Bill, while not completely inclusive, is a step in the right direction in maintaining those commitments of the 1986 Bill?

Senator GRASSLEY. Very definitely, although in some respects, at least our intent—and you know, let lawyers argue about how words in one bill are different from another, but I think on the Senate provision of employer verification, as well as the same thing with border security, I think our intent is similar with the House, except for the issue of how you treat people that maybe have harbored people illegally in the country or protected people illegally in the country.

Mr. HOSTETTLER. Thank you.

Chairman SENSENBRENNER. The gentleman's time has expired.

The gentleman from Iowa, Mr. King.

Mr. KING. Thank you, Mr. Chairman. And I especially want to thank you publicly for agreeing to bring this hearing to Iowa. I recognize it's just a short swim across to Wisconsin or Illinois, so we have a tri-State area here represented in this room. And I had the opportunity to have conversation with many of you on the way in, and I appreciate that input as well as the testimony of the wit-

nesses, and certainly appreciate our senior Senator, Senator Grassley, being here to testify today.

This is, I think, the most divisive issue I've ever seen in my life in the American public. And it's also the most complicated. Some of us on this panel have sat in on immigration hearings for—sometimes for years, multiple times a week. You pick up a lot of information.

I also wanted, Councilwoman Michalski, to thank you for your thoughtful presentation here today and the manner in which you presented it.

The questions that hang back on me, and first I'd like to reflect on a statement made by the gentlelady from Texas, how dare anyone equate terrorism with immigration or immigrants. Well, that obviously blurs the subject a little bit, because we're here talking about illegal immigration. I don't know people that are not supportive of legal immigration, nor supportive of establishing an immigration policy that will enhance the economic, social and cultural well-being of the United States of America. That should be the case for any sovereignty to do that. But we're talking about illegal immigration. And so then the question of the terrorist aspect of this, our national security—Mr. Cutler testified clearly to that.

We're watching as many as four million people flow across our southern border every year. And there's testimony of the Border Patrol interdicting perhaps 25 percent to 33 percent of those, very low success ratio for that investment of $8 billion on our southern border. And in that huge human haystack of humanity are terrorists and are criminals, and there's a price paid by American society.

I would direct my question to Mr. Cutler and ask if you would want to expound on that subject matter a little bit and kind of in response to that issue.

Mr. CUTLER. Sure, thank you, Congressman King.

You know, the difference between an illegal alien and an immigrant is the difference between a burglar and a house guest. And we need to know who we're letting in. And the problem that we have is that we don't know when people come in. You know, in the military, they call that infiltration. And it's not just across the border.

And I want to make a point that's important to consider also. Immigration fraud is a crisis. And in fact, Ms. Jackson Lee was kind enough to invite me to testify at a hearing back in March of 2002 about how Mohamed Atta, the ring leader of the 9/11 terror attacks and Marwan Al Shehhi, his cohort, were given letters of approval to change schools 6 months after 9/11. By then the whole world knew that they were terrorists and they were dead, but the INS was not deterred.

Now if we have an immigration system that lacks integrity, then our Nation is in peril. And it's not just the borders. We have to look at it from the perspective of employer sanctions, but we also need to make certain that there's integrity to the benefits program and to that extent, I believe that immigration is a component of national security and the war on terror.

Mr. KING. Thank you, Mr. Cutler.

Then to Senator Grassley, we know that things came out at the Senate hot and heavy during the debate of this immigration bill, 2611, and we watched as amendments were being filed—drafted, dropped, filed, voted on, debated and moved on. It seemed like a fairly quick process. And we do it in the House, that's why I recognize it that way. Sometimes it looks like an auction rather than a deliberative process. And I don't say that out of disrespect for the process, but then afterwards we begin to read some of the language that's in there, and Robert Rector of the Heritage Foundation has produced one of the—actually one of the lowest credible numbers of perhaps 59 million who would be legalized by the Senate version of the Bill should that pass into law, and that would be over 20 years. Senator, do you have a judgment as to whether that's a high number or a low number or what that number might be?

Senator GRASSLEY. Well, based on—I don't want to comment on that number, but there is a number much larger than 11 or 12 million. And based on what resulted from 1986 when there were roughly a million people here illegally and with all the legalization and family reunification, it came out three or four times what we had. If you consider the same ratio, then you get into numbers that are very big and more accurately maybe 35 to 45 million.

Mr. KING. So Rector's number doesn't seem to be incredible?

Senator GRASSLEY. No.

Mr. KING. Thank you, Senator. I yield back, Mr. Chairman.

Chairman SENSENBRENNER. The gentleman from Texas, Mr. Gohmert.

Mr. GOHMERT. Thank you, Mr. Chairman. It's a pleasure to be here in Iowa and a pleasure to be here with my friend from Iowa, Mr. King. I appreciate the testimony.

But to get right to some things here, I had a number of questions, but some of the things I've read and heard here in evidence require me to try to, I believe, help equate the truth squad.

First of all, when I was a district judge for many years, the law required in Texas that every action and decision I made had to consider the deterrent effect, if any, on what I did. I think that is critical here with what we do and the laws we pass.

Senator Grassley, we do appreciate your testimony. I appreciated the opportunity previously of being in your office as we were basically grilling and interrogating people from Immigration on their terrible job that they have been doing in processing applications and getting adjudicators security clearance, getting things done. And I appreciate your interest. That is something we have got to clean up and have it functioning better.

But in view of your concerns about and your experience with the Simpson-Mazzoli Bill in 1986, what do you believe would happen if people illegally here are given any advantage over those trying to get here legally?

Senator GRASSLEY. Well, I would think that it would be demoralizing to people that stand in line for a long period of time to see people jump ahead. I think it would denigrate the value of legal immigration and in my town meetings around Iowa, and Senator King—Congressman King—was at one of those just in Harlan a week ago, but even more so in the spring recess period of time, I saw the greatest opposition to amnesty come from naturalized citi-

zens who have come here and were saying to me how can you even think about legalizing people in a short period of time who have come here in violation of our laws when we did everything correct to become citizens of the United States.

Mr. GOHMERT. Thank you, Senator.

I do need to point out, when it was mentioned by my colleague from Texas on the other side of the aisle saying that routinely we voted against funding, additional funding for Border Patrol and border enforcement, I would point out that I believe twice we voted over $100 million and then another 160 or 170, about $275 million I believe over what the President requested. Now some people equate throwing money at a problem like we did with Katrina as being compassionate in dealing with the issue. It isn't, it must be responsible. And so when we have appropriated more money than the Administration has asked for, it needs to be used.

And I would also take issue with the statement that we need to do something more befitting the values of our country. I would submit to you folks that the reason that this country has prospered so has been because we have been a Nation of laws. And we have been and have lived the national slogan *E Pluribus Unum*—out of many, one. We have come together, whether it's the wonderful attributes of Hispanics, Asians, Africans, Europeans—all the different races bring and come together and melted as to one. Now people want to talk about we'd be better off as a tossed salad. There is more strength in bringing metals together in one strong bond, and that's what our values have been and it's because we've been a Nation of laws.

Yes, there's been corruption in this country; there continues to be. But this country has done a better job of enforcing the laws that we have, whether you're President, whether you're a Congressman, policeman, whoever. We do a better job of enforcing the law than any nation in the world's history and that's why we've prospered greater than any nation in the world's history. And that's why immigrants want to come. And it concerns me greatly that some would say let's forget about our laws, because once we do that, let's forget about things being legal and illegal and equate them, once we do that, there is no other nation for people to seek to come to to improve their lives. And I would hate to see us denigrate this Nation as a place.

And as far as mistakes, I love, Mr. Cutler, your father's comment, mistakes—no mistakes in life, just learning experiences, except I can tell you, I agree with Frank Sinatra—regrets, I've had a few. But we must learn from our mistakes. 1986 Simpson-Mazzoli was one. We cannot denigrate this Nation as a country of laws.

Thank you, Mr. Chairman.

Chairman SENSENBRENNER. The gentleman's time has expired and the Chair recognizes himself for 5 minutes to begin the second round of questions.

Under the amnesty proposal in the bill that the Senate passed, an illegal immigrant in the country, upon meeting certain conditions, can become a United States citizen in 11 years—learning English, paying three out of 5 years of back taxes, paying a fine, having a background check and the like. However, a Mexican national who applies for an immigrant visa with the U.S. Embassy

in Mexico City has to wait 16 years in order for the visa to get to the top of the pile and be granted and then once that person comes, has to wait another 5 years as a permanent resident before applying for naturalization. So that's a minimum of 21 years.

Now this means that the Mexican who applies for the immigrant visa and seeks to enter the United States legally has to wait minimum of 10 years longer than someone who sneaks under the fence and enters the United States illegally.

I just want to have a yes or no answer. Is that fair? Senator?

Senator GRASSLEY. Absolutely not.

Chairman SENSENBRENNER. Councilwoman Michalski?

Ms. MICHALSKI. No.

Chairman SENSENBRENNER. Mr. Cutler.

Mr. CUTLER. Absolutely not.

Chairman SENSENBRENNER. Mr. Fonte?

Mr. FONTE. No.

Chairman SENSENBRENNER. Professor Maril.

Mr. MARIL. No, it isn't.

Chairman SENSENBRENNER. Okay. Well, that's the focus of this hearing, on how the amnesty works, and the devil is really in the details.

Now one of the things that Senator Simpson mentioned in his testimony, and I believe a couple of you in your written testimony have also referred to it, is that the amount of document fraud in the special agricultural worker provision in the Simpson-Mazzoli Act of 1986 was about 75 percent. And once somebody got a special agricultural worker visa to enter the United States, there was no requirement that they work even an hour in the agriculture profession. Once they were in, they could go and do anything that they wanted to do, or maybe even nothing.

Under the Senate Bill, the officials who receive the documents from the amnesty contained in the Senate Bill are not allowed to question the authenticity of the documents that are presented to them, meaning if the document is fraudulent on its face, the adjudicator can't say so and deny the application on that basis. And can be fined and jailed if the adjudicator does go beyond the four corners of the pages on that. The person who has submitted the fraudulent document is not fined at all. So we're fining the person who's supposed represent the interests of our country to look into fraud and not fining the person who has committed fraud.

Is that fair? Senator?

Senator GRASSLEY. No, and you pointed out one of the very weaknesses and flaws in the Senate Bill that I think anybody that would put that in a bill ought to be embarrassed that that would be in the legislation.

Chairman SENSENBRENNER. Councilwoman Michalski?

Ms. MICHALSKI. That's why we have Conference Committees, is to work out the details that may be stronger in one bill than in another.

Chairman SENSENBRENNER. Mr. Cutler.

Mr. CUTLER. Not only unfair, but outrageous.

Chairman SENSENBRENNER. Dr. Fonte?

Mr. FONTE. It was shameful that it was put in.

Chairman SENSENBRENNER. Professor Maril.

Mr. MARIL. No, I think it's a detail that should be corrected.

Chairman SENSENBRENNER. Okay, now finally, I've been on the border quite a bit, and both local law enforcement and Border Patrol agents have said that the changes in the type of flow illegally across the border have changed. About 5 years ago, most of the people who came across the border were economic migrants. Now the coyotes who take money to smuggle people across the border are becoming full service criminal enterprises and they're requiring many of their customers to carry illegal drugs—marijuana, a lot of methamphetamine, a lot of cocaine, crack from South America—across the border. And the DEA estimates that in major cities, a large amount of the illegal drugs sold by gangs are smuggled across the southwest border.

Should we change the laws relative to bringing people across the border to throw the book at the coyotes that are making money off of poisoning our youth and poisoning citizens, by changing the law and making it easier for the Justice Department to prosecute these folks and throw them in jail? Professor Maril, yes or not?

Mr. MARIL. I think we should, but the coyotes are never caught.

Chairman SENSENBRENNER. Dr.Fonte.

Mr. FONTE. Yes, absolutely.

Chairman SENSENBRENNER. Mr. Cutler.

Mr. CUTLER. Absolutely.

Chairman SENSENBRENNER. Councilwoman Michalski.

Ms. MICHALSKI. If we made it tougher on coyotes, I think that it's the immigrants who would be having demonstrations in favor of that. They are victims of the coyotes.

Chairman SENSENBRENNER. I agree with that. Senator Grassley.

Senator GRASSLEY. My answer to your question is yes.

Chairman SENSENBRENNER. Okay, my time has expired. The gentlewoman from Texas.

Ms. JACKSON LEE. I think I have to share again, Mr. Chairman, thank you.

Let me continue on the Chairman's last question. None of us disagree with that. In fact, I would refer you to legislation that I offered, the Alien Smuggling Act, that focused specifically on the horrificness of alien smugglers and coyotes. Interestingly enough, and to those of you, since this is like a town hall meeting, you can see that I'm substantially out-numbered and so if I spend time putting information into the record, please understand because there's so much overlap of, if you will, misconstrued information, that I have to sort of try to correct it.

But the idea of the alien smuggling, as the Council member so eloquently stated, these are issues that can be effectively resolved and enhanced and strengthened by going to conference. Might I offer that I wish again that we were here focusing on the reality of what we need to do, but we are having hearings specifically in different locations because Republicans are sort of traveling around to the districts where they have competitive races. Their own Congressman Jim Kolbe said, "Of course, it's not happenstance where these hearings are happening. They are very deliberately planned. A lot of Republicans are listening to a very shrill part of their base who are very loud about this issue, and they believe that this

translates into votes in the base rather than having a serious discussion about immigration reform."

With respect to the amnesty which, again, is a misnomer of what is in the present bill as it relates to the Senate Bill, is that no, those individuals would not be in front of individuals who are on the legal line, if you will, they would go behind that and there would be substantial criteria utilized and vetting before anyone would be allowed to take advantage of the system.

I think it's also important to note that my good friends keep talking about legal immigration and undocumented, and they're absolutely right, but again, 9/11 was a totally different story. I sit on the Subcommittee on Intelligence on Homeland Security, and it was a question of intelligence, communication, the understanding that individuals with legal visas here in the United States have overstayed, that's enforcement. It was a question of individuals being trained to take off in planes and not land, and no one reporting that to the local FBI, because we are not sensitized. So it was a question of intelligence, it was not a question of the fact that we have immigrants coming to the United States and they're all proposed to be terrorists.

I think the real key has to be the seriousness in which we address these questions. God knows as we approach 9/11, none of us want to see this tragedy again. And I want to say that we've been working together as it relates to terrorism to confront this issue.

And might I correct my good friend from Indiana on this question of a misdemeanor. The statement is very clear, you're right, Democrats don't believe that civil immigrants, meaning those who have come in civilly, on the basis of under the civil law, can in any way benefit the United States by criminalizing the process. We do believe that we must find a way to ensure the security of this border. But when you talk about a misdemeanor or a felony, you're talking about clogging up the Nation's courts for years and years, deportation, 200,000 buses and years and years.

And I might say to Senator Grassley that my understanding is that in the 1986 Bill, some three million achieved amnesty, far less than we ever thought. So we don't know the numbers.

Professor Maril, let me ask you, in your comments you certainly gave a very pictorial view of what is happening at the border, but do you think it's important that we really focus on giving the Border Patrol the professional tools, professional development, civil service development, protection in the workplace? That would be a sizable improvement in helping our border security, and particularly going back to the annual increase of border security forces. Does anyone know that the Republicans failed to give the 2000 per year that the President even asked? And might I ask you that question? Would that help our situation at the border?

Mr. MARIL. It would help immensely. And not only the number of agents, but all of the other things that you mentioned would help immensely them do their job.

Ms. JACKSON LEE. So there are failed policies. And Council member, would you please, people believe immigrants are, if you will, a dole, a burden on the—if you will, on the economy. Everything that you've asked for—pathway to citizenship, compensation to communities—is in the Senate Bill. But could I ask you, is it not

true that immigrants in this community pay taxes, engage in the economy by being consumers, pay sales taxes and in essence also contribute to your local economy?

Ms. MICHALSKI. They not only contribute to our local economy in all the ways that you have described, but they also contribute to our civic economy. They have enriched our community immensely. I stand in my window and watch them going to church across the street, young families, which we don't have as many of in Dubuque as we'd like. Jackson Park is across the street, that's become a center of their civic life. We are a richer community because of our Hispanic, Bosnian, Marshallese, Asian, all of the people who have come to our community have made us a better community and a place that really more accurately reflects the American vision. We welcome them, we want them to come here legally and safely. They have family values, the work ethic, all the things we value in Iowa and they fit into our economy and into our life very well, and we hope that the conference that will result in a good, comprehensive bill, will contribute also to our ability to deal with the challenges that this inevitably brings to us.

Chairman SENSENBRENNER. The gentlewoman's time has expired.

The gentleman from Indiana, Mr. Hostettler.

And Senator, you can leave whenever you want to. [Laughter.]

Senator GRASSLEY. Could I say something before I go?

Chairman SENSENBRENNER. Sure.

Senator GRASSLEY. First of all, thank you very much for coming to Iowa. Secondly, so I'm not accused of appealing to my base, I want people to know that one-third of the Democrats in this State vote for me. [Laughter.]

Secondly, I want you to consider that there was an awful lot of thoughtfulness that went into the Simpson-Mazzoli, it took 5 years to get it passed, but we look back, regardless of the thoughtfulness, we still made some mistakes.

And I think the last point I would make to you is that if you don't learn from history—and I cast my vote in making a lesson from history—you're subject to repeat the mistakes of the past.

Chairman SENSENBRENNER. Thank you very much, Senator.

The gentleman from Indiana, Mr. Hostettler.

Mr. HOSTETTLER. Councilwoman Michalski, if I can just extend the discussion that you were having with my colleague from Texas about the enrichment of Iowa's society with regard to the immigrant, and especially as this legislation and discussion speaks of illegal immigrants. In your testimony, you speak to that enrichment when you say "We in Dubuque are convinced that this new generation of immigrants will be equally successful" as was your family that you note. "As we observe them, we see no reason to doubt it." Once again, as noted earlier, "Iowa needs more good productive citizens, citizens who desire to contribute to the life of the community." And you speak about that "And those who work with immigrants in our community share with us the tragedy of families where undocumented persons have lived useful, productive community-building lives for 10 years or more."

Now later on in your testimony comes the dichotomy in that "Such a law" meaning such a law with regard to amnesty or legal-

ization, path to citizenship or whatever, "must also protect cities from the unfair burden of becoming the uncompensated provider of all the services needed to protect both the newcomers and those who may join communities nationwide." And we've heard testimony to that before in other settings, during August, this month, and before, as I serve as Chairman. And it's an interesting—I won't say contradiction, but at least dichotomy, in that there's tremendous productivity and contribution, but there is also this discussion of we need a lot of money from Federal coffers to pay for benefits locally to cover education, provided health services and the like.

And so my question is generally productivity and community enrichment result in all of those benefits being paid for out of those who are productive and who enrich the community. Yet Congress is being asked, not just in your testimony but in others, to expand the Federal contribution to local communities and States in order to cover the costs. And I guess my question is, which is it?

Ms. MICHALSKI. It's both. I'm a locally elected official and as a locally elected official, we spend a great deal of our time dealing with the issue of unfunded mandates. And we are accustomed to being faced constantly with challenges to provide services that are very much needed by our citizens that have been dictated by the Federal Government but the check does not come in the mail along with the mandate.

And let me use just one example and that is the frequently suggested idea——

Mr. HOSTETTLER. I can't, I appreciate that, but——

Ms. MICHALSKI. I know, you've got 5 minutes, but I'm the only one who is able to speak from this side.

Ms. JACKSON LEE. Let her answer the question, Mr. Hostettler.

Chairman SENSENBRENNER. The time belongs to the gentleman from Indiana.

Mr. HOSTETTLER. I know what my question was. My question was very simple. You tell us that there is tremendous productivity contribution, especially economically. You specifically say that, economic contribution. And then you say Hoosier taxpayers should send money to Washington, D.C. in order to fund programs to benefit those whom you say are being extremely productive and economically beneficial. And that's—and given that, that's just confusing to me.

Dr. Fonte, if I can expand on that, in your testimony, you talk about the fact that individuals, unlike American citizens, who are going to receive the amnesty, pay three of 5 years back taxes. Do you know of any provision in Federal law to allow citizens of the United States to do that in a blanket form?

Mr. FONTE. I know of no other provision.

Mr. HOSTETTLER. Once again, so that is different, that is an amnesty. There's another amnesty. According to Federal law, it is a felony to knowingly provide a fraudulent Social Security number in applying for employment. It is a felony already. Congress didn't make it a felony in this Bill, it's already a felony. Is it your understanding that the Senate Bill, the Reid-Kennedy Bill, effectively gives amnesty for Social Security fraud?

Mr. FONTE. Yes, the Reid-Kennedy Bill gives essentially special privileges for illegal immigrants.

Mr. HOSTETTLER. Now Iowan citizens here that would knowingly provide a fraudulent Social Security number would be arrested and potentially found guilty of a felony. Does that sound fair?

Mr. FONTE. Absolutely not. If you're a citizen, you would be arrested; if you're an ilegal immigrant, you wouldn't be.

Chairman SENSENBRENNER. The time of the gentleman has expired.

The gentleman from Iowa, Mr. King.

Mr. KING. Thank you, Mr. Chairman.

I'd point out something that I think wasn't clearly understood from the gentleman from Indiana, the statement of not being able to understand why we would have to have a Federal subsidy to support a political subdivision if that political subdivision had an influx immigrant labor that was an economic boon rather than an economic detriment. I think that's the equation that needed to be clarified.

But I would like to ask Councilwoman Michalski, everyone on the panel, as I understood their responses, said they support enforcing the law. And so I think we have to think about it in the component of times when we may not be able or willing to do that, but I'd ask you, would you be willing to support and endorse deportation when people are in violation of our immigration laws?

Ms. MICHALSKI. Deportation becomes a really difficult issue when you're talking of this 12 million——

Mr. KING. Regardless of the logistics though, within your own community, people that you know, how hard is that, as a Councilwoman in Dubuque, to look some people in the eye that are making a contribution to the economy, contribution to the society and say the rule of law is more important than your life here, we're going to have to send you back where you came from. Can you really do that?

Ms. MICHALSKI. I don't think so.

Mr. KING. I thought that was the case and I just wanted to ask that question, because there is a real human element to this. And it's difficult for me on this side, and everybody knows where I stand, but what we have now is 12 million or more people in the United States that are here illegally and almost everyone knows a family that's here illegally, they know them personally and they respect them, they see the job that they do. And it's hard to look people in the eye and say this is the law, we have a higher cause, the rule of law. I just brought that out for that illustration.

I'd ask then, Mr. Fonte, the obvious questions that never get asked from top to bottom. Is there such a thing as too much illegal immigration, or too much legal immigration for that matter? How much is too much? What would be some of the standards that a rational nation would use when they set a rational immigration policy?

Mr. FONTE. America is the greatest, most successful immigration country in the history of the world, for one basic reason, immigrants have assimilated to this country patriotically, because of patriotic assimilation. So our immigration policy should be based on how well people are immigrating—how well people are assimilating and assimilating patriotically. That means—that just specifically means knowing English or passing a test, it means being loyal to

the United States, it means an emotional attachment to the United States, inheriting the story. My father came from Sicily, but he considers George Washington and Abraham Lincoln part of his ancestry, as immigrants have throughout our history. Theodore Roosevelt talked about this. So there's no such thing as an immigration policy without an assimilation policy, the two are together.

Mr. KING. Let me maybe take this a little bit further. We could have a discussion about how much labor is available in the United States but I can tell you there are 77.5 million non-working Americans. And between the ages of 20 and 65, there are over 60 million non-working Americans and between the ages of 16 and 19, there are 9.3 million non-working teenagers, not even part time. Any one of those categories would provide that labor supply to replace those that are in this country and working here illegally. So economics is not really the question except for individual businesses, but from the broad national economic scope. When we do immigration, we import the economics, we also import the culture.

Would there be someone on the panel that would want to address a question, first to Mr. Fonte, what components are we missing in the United States of America that we should be reaching out to other civilizations to bring here to enhance this culture in the United States of America?

Mr. FONTE. Well, for one thing, I think if we're going to emphasize immigration, we should emphasize high skills and at the current time, we're emphasizing low skill, both in our current policy and in the Reid-Kennedy. So I think an emphasis on high skills would be beneficial. But immigration policy should be based, I think first on national security; second, on national cohesion, the assimilation. And then after we've done all this and secured our borders, had patriotic assimilation, then we could look at the specific economic needs of particular industries.

Mr. KING. Mr. Cutler.

Mr. CUTLER. Well, there's one thing I wanted to say. I know it's going to go slightly off, but when we let people in, I know that Ms. Jackson Lee talked about properly vetting them. There's no way we can vet millions of people with roughly 15,000 employees and if you look at Mike Maxwell's testimony about the problems with USCIS, simply saying we're going to do it, doesn't mean it's going to happen. And I think that's critical. There's often no door we can close on the border, so if we did this, there's no way we couldn't prevent more people from coming because once people get legal status, they're no longer such attractive employees. We saw that also after the 1986 amnesty. People who had residency were being fired and being replaced by the next generation of illegal aliens.

Mr. KING. Thank you, I yield back.

Mr. CUTLER. That's going a little bit off.

Chairman SENSENBRENNER. The gentleman's time has expired.

The gentleman from Texas, Mr. Gohmert.

Mr. GOHMERT. Thank you, Mr. Chairman.

Just to touch on a couple of follow-ups. One thing, I appreciated Senator Grassley's comment, basically the adage those who refuse to learn from history are destined to repeat it. There is a follow-up to that that many people don't know and that is, those who do

learn from history will find new and different ways to screw up, but anyway—— [Laughter.]

That's a whole other thing. But we do need to learn from history and learn from our mistakes.

But I also want to mention, my colleague from Texas mentioned she's outnumbered, but I can assure you that's not in work output. Nobody works harder than Ms. Jackson Lee from Texas in doing her job, but there are I think 17 Democrats on the Committee and she's the only one that chose to come. Others would have all had 5 minutes apiece if they had come, in each round.

But now with regard to the issue on whether or not we are addressing or need to address the issue of people coming in and overstaying their bounds. I think it was the Chairman's bill, the Real ID Act, wasn't it, Chairman? Wasn't that your bill? That did address that, I think back in December and we passed it through the House. If we could get it through the Senate, it does address that issue, and I was shocked to find out there are so many States that just give drivers licenses to illegal immigrants. And without interfering in States' rights, the Real ID Act said if a State wants to have its citizens use its drivers license in interstate commerce, like getting on a plane, it has to end when the documents legally end. So if it had been in force at the time of 9/11, I think most all of those hijackers could not have gotten on the planes, who had overstayed their visas, because their drivers license would not have been good.

One other thing that does bring up and that is the need for a tamper-proof card that is not easily fraudulently provided. I mean good night, if MasterCard and Visa can have cards that you can scan and know immediately if they're good or not, we ought to be able to provide those to people who want to come here legally and give them card. And then the employer scans it and we've even had testimony in our Immigration Committee, you could have a thumb print on there at the same time and it would tell you this is a legal card and this person is supposed to have it. And then if the employer chooses to hire somebody besides that, then they've committed a crime. And put it on the place where it should be, once we have that in place.

One of the things that I was shocked to find out, I don't know how many of y'all are aware of it, I didn't know there was a diversity visa lottery that was started under Tip O'Neill because he didn't think there were enough I guess Irish that were immigrating into this country. So they put the bill in motion to award 50,000 visas a year, without regard to whether they had a job or family, it was just drawing from a lottery, and Hispanics were excluded, they're not allowed to participate. And so I thought that was pretty unfair and I thought it was great that we have addressed this, and we need to address it as a House, get it to the floor and have the Senate in that bill. That's where the biggest hold up is.

But we've got to get the Senate to address that. That is just an abdication of our obligations to enforce the law and have immigration service do that.

But one other thing I need to address, and I have the benefit, many of y'all don't, having read through the different testimony, but Professor Maril, you made a statement that hits me to my core

in this writing, "The war on drugs is over, our side has lost." I would submit to you humbly that we've not adequately participated at our borders. We have hamstrung our sheriffs, we've not given the Border Patrol what they need. We've appropriated the money from our side, it hasn't been used to enforce the law. And to just say we've lost the war on drugs, to me is like saying we've lost the war on crime because it continues. Like Jefferson said, the price of liberty is eternal vigilance. We can't give up that fight. When we do, on drugs, on crime, we've given up the Nation. And for my lifetime, I don't intend to ever do that and say that we've lost. I think we can win, we just haven't been participating.

I've got to ask you, Professor, do you really think that is a hopeless cause, that if we put the resources behind this issue, that we cannot stop or greatly impede the flow of drugs into this country?

Mr. MARIL. I think there's a tremendous effort upon the part of the Mexican drug cartels and other criminal organizations, I think that we haven't done anything much to stop that flow, given the crisis we see in every city right now of methamphetamine, which is the new drug. I would like to hope that if we put all of our effectiveness into it, we could do something, but until we do something with the treatment of those that are addicted in the United States, Americans to drugs, I think that flow will continue.

Mr. GOHMERT. Thank you. I'm glad to hear you say there's still hope.

Chairman SENSENBRENNER. The gentleman's time has expired.

Before adjourning the hearing, I'd like to make a couple of observations. First, I'd like to thank the witnesses for attending and the Members of Congress who have been to the five hearings that the Judiciary Committee has held on this subject. While other Committees have got a piece of the pie on the immigration law, the Judiciary Committee, under the House Rules, is the Committee of primary referral for any immigration related legislation.

This is one of the most difficult and vexatious issues that we face and the reason it is difficult is because of the failure of the Simpson-Mazzoli Act that I have referred to and Senator Grassley referred to in his testimony. I am committed to coming up with a fair and just solution to this problem, but learning from the mistakes of Simpson-Mazzoli, that fair and just solution, in order to be effective, has got to secure the border and enforce employer sanctions first. Because if we do not do that, the illegal immigrants who legalize themselves under any provision that Congress may pass will have the effect of pricing themselves out of the market and there will be a new wave of illegal immigrants who will be willing to work for less wages in the jobs that the current wave of illegal immigrants have for less, and employers will hire them rather than hiring people who are legalized either because they're citizens or green card holders or through any new provision that Congress has to pass.

And the key to dealing with this in a way that solves the problem is to do things in the proper order. Where Simpson-Mazzoli failed and why we've got the problem we've got today is because the amnesty was given and nobody bothered enforcing employer sanctions on the bad actors who employed, many of them hundreds or even thousands of illegal immigrants and many of them off the

books, not taking out withholding, paying them in cash, not paying the minimum wage, and literally exploiting them.

So I am committed during the brief period of time that the Congress has to attempt to work out a compromise with the Senate, but a compromise with the Senate is going to mean that each side is going to have to give up some strongly held viewpoints on that. And I'm afraid that a lot of what has gone on this year in terms of the public discourse on immigration on both sides of the question has further polarized the public. And instead of going toward the middle, we have gone further apart. And that's going to make our job as elected representatives of the people a lot more difficult in terms of reaching something that can get a majority vote in both the House and the Senate and the President's signature before this Congress goes out of existence with the new election in November.

There have been a few things said, we shouldn't have had these hearings this month. I think the hearings have been very helpful and I've presided at all five of them and I've learned a lot of things about this issue that I didn't know before and I think I was pretty much up to speed on it.

We've heard complaints about the fact that there hasn't been a Conference Committee established. Well, there hasn't been a Conference Committee established because the Senate hasn't sent us the papers. And the reason the Senate didn't send us the papers is there about $50 billion of new taxes in the Senate bill and the Constitution is pretty plain in saying that bills raising revenue have to originate in the House of Representatives. The Senate I guess forgot about that.

So I wish everybody here a very good Labor Day weekend.

Ms. JACKSON LEE. Will the Chairman yield?

Chairman SENSENBRENNER. No, I won't. I'm making a concluding statement.

I wish everybody here a very good Labor Day weekend——

Ms. JACKSON LEE. I hope we can have this kind of bipartisan spirit when we get back and ask the Senate to have a conference and I'd like to sign a letter with you for that very purpose so we can get to work.

Chairman SENSENBRENNER. Well, if the Senate sends the bill over, then the procedure can proceed.

Ms. JACKSON LEE. Well, let's encourage them by writing a letter.

Chairman SENSENBRENNER. Well, we can encourage them verbally here and I hope the news media will pick up on that because——

Ms. JACKSON LEE. Congresswoman Jackson Lee and Mr. Sensenbrenner, Chairman Sensenbrenner, jointly encourage the Senate to send it over so we can have bipartisan comprehensive immigration reform.

[Applause.]

Chairman SENSENBRENNER. Okay, well, my other three colleagues encourage the Senate to do that.

So thank you again very much for coming, and without objection, the Committee is adjourned.

[Whereupon, at 10:50 a.m., the Committee was adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

CLOSING PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS, AND MEMBER, COMMITTEE ON THE JUDICIARY

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CONGRESSIONAL CHILDREN'S CAUCUS

CONGRESSWOMAN SHEILA JACKSON LEE OF TEXAS

CLOSING STATEMENT
BEFORE THE
COMMITTEE ON THE JUDICIARY
OVERSIGHT HEARING:
"IS THE REID-KENNEDY BILL A REPEAT OF THE FAILED AMNESTY OF 1986?"

DUBUQUE, IOWA
FRIDAY, SEPTEMBER 1, 2006

ESSENTIAL WORKERS:
NEEDED WORKFORCE FOR IOWA'S FUTURE

Introduction

Thank you, Mr. Chairman. This is the last of the 21 scheduled immigration field hearings that House Republicans have held in 13 states throughout the August recess. And as you know, Mr. Chairman, it has been

suggested in some quarters that these hearings are nothing more than traveling road shows designed to generate more heat than light on one of the most important issues affecting the safety, security, prosperity, and character of our nation.

In announcing this unprecedented act of legislative grandstanding, the House Republican leadership claimed that holding these hearings would demonstrate a commitment to battling illegal immigration and securing the border.

But as the New York Times reported on August 7, many Democratic and Republican lawmakers believe the schedule strongly suggests that "the Republican leadership was using immigration as a weapon in the battle over fiercely contested House and Senate seats around the country." It has not gone unnoticed that several immigration hearings are being held far from the border with Mexico, in districts where Republican lawmakers are engaged in competitive races for the House, including Evansville, Ind.; Concord, N.H.; and right here in Dubuque, Iowa, where Republicans are fighting to hold on to the seat being vacated by Congressman Nussle. In that article, Congressman Jim Kolbe, a senior and highly respected member of the majority party, is quoted as saying:

"Of course it's not happenstance. They are very deliberately planned. A lot of Republicans are listening to a very shrill part of their base who are very loud about this issue, and they believe that this translates into votes in the base."

Iowa History

Iowa is indeed far from the border. And I cannot help but notice the irony of holding this hearing here in Dubuque. After all, this city traces its history back to 1690, when it was the first European settlement established in what is now the state of Iowa. In 1788, the city was by a foreigner, a Frenchman and fur trader named Julien Dubuque.

In 1833, a small Catholic parish was established, which eventually became the Saint Raphael's Cathedral parish. The parish was the first church of any Christian denomination in the state of Iowa. In 1837, the Dubuque Diocese was created, and Matthias Loras was appointed Bishop. The bishop was a most interesting and quintessential American. He was an optimist that had unlimited faith in the future and confidence in his city, state, and country. Bishop Loras encouraged large numbers of immigrants to come to Dubuque from the crowded cities of the east and Europe. And come they did by the tens of thousands: Irish, Germans, Poles, followed later in that century by African-Americans and in this century by Hispanics. In each case, the new wave of immigrants came for the same reason: to realize the

American Dream. As we all know, Iowa is the home of the "Field of Dreams." We also marvel at what those immigrants and their descendants have built. In the United States, Iowa ranks:

- First in pork production;
- First in corn production;
- First in egg production;
- Second in soybean production; and
- Second in red meat production

The foundation of the state's thriving economy is due in no small measure to the public investments in quality public education and strong colleges and universities. This solid educational infrastructure has made the state a leader in the biosciences, advanced manufacturing, information solutions, and financial services sectors. When it comes to agriculture, the state is again among the nation's leaders:

- Iowa's total cash receipts for farm commodities in 2003 totaled $12.6 billion – the third highest in the country.

- About 89 percent of the land area in the state is in farms.

- Iowa has nearly 400 certified organic operations, with approximately 100,000 acres of farmland under organic management.

- There are more than 300 commercial vineyards and 56 wineries in Iowa. Iowa wineries produced 123,000 gallons of wine in 2005 and grape growers had over 600 acres of grapes planted.

- Iowa is first in the nation in number of acres set aside as riparian buffers, grassed waterways, contour buffer strips, field borders and

other buffers on private farmlands – reducing soil erosion, protecting water quality and stabilizing stream banks.

- As of January 31, 2005, Iowa had 469,794 acres enrolled in these conservation programs.

- Iowa produces more ethanol per year than any other state – 840.5 million gallons annually now, with six more plants under construction that will produce another 275 million gallons per year.

The Need for Essential Workers and Immigration Reform

Mr. Chairman, debates over immigration frequently center on the perceived "costs" that immigrants impose on taxpayer-funded programs and institutions. Frequently overlooked in these debates is that immigrants are themselves taxpayers, as well as workers, employers and consumers. In metropolitan areas experiencing population loss, shrinking labor pools and growing numbers of retirees, immigrants are a crucial source of new labor, business formation, and tax revenue. Immigration, if properly managed, can be a key ingredient in economic development and recovery.

The Bureau of Labor Statistics (BLS) estimates that the number of people in the labor force ages 25 to 34 is projected to increase by only three million between 2002 and 2012, while those age 55 years and older will increase by 18 million. By 2012, those aged 45 and older will have the fastest growth rate and will be the largest age-group in the labor force by far.

According to estimates released in February 2005 by the United Nations, the fertility rate in the United States is projected to fall below "replacement" level by 2015 to 2020, declining to 1.91 children per woman (lower than the 2.1 children per woman rate needed to replace the population).By 2010, 77 million baby boomers will retire and, by 2030, one in every five Americans is projected to be a senior citizen.

In Iowa, the governor's office released a report in 2000 [*Iowa 2010: The New Face of Iowa: Final Report of the Governor's Strategic Planning Council*, Des Moines, IA, 2000] detailing a ten-year plan for the state that has as its first goal increasing the population "by 310,000 working people by retaining Iowans of all ages and welcoming diverse new residents, including immigrants, who perceive Iowa as providing economic, political, cultural and social opportunities." The report notes that Iowa is rapidly exhausting the supply of skilled workers and points out that this shortage will worsen as baby boomers retire in increasing numbers. The report contends that the state's future prosperity and happiness is inextricably bound to its ability to increase its population significantly, which it can and must do:

> "By taking bold action, Iowa can become an international leader in immigration, welcoming people from around the world to its neighborhoods and communities. Through a growing international population, Iowa can expand its cultural and ethnic diversity, bring new skills and knowledge to the

> workplace and increase its role in the global marketplace. This infusion of diversified backgrounds in Iowa schools and communities will also offer a worldwide, world-wise education for Iowa children."

Experts estimate there may be more than 12 million undocumented workers throughout the country who are working hard and performing tasks that most Americans take for granted but won't do themselves, in such industries as construction, landscaping, health care, restaurants and hotels and others. The combination of a need for workers and an inadequate immigration system has caused an unacceptable status quo.

By not creating adequate legal avenues for hiring foreign workers and not addressing the status of workers already here, Congress and this administration are not fully safeguarding the economy for the future. While there are fluctuations in employment rates, the long-term threat of a shrinking labor pool lingers in the United States. The more comprehensive of the immigration reform plans being debated today, Senate Bill 2611, contains provisions for temporary visa programs for essential workers, creates paths to permanent residence for these workers when appropriate, and provides a way to earn legal status for undocumented workers who have been supporting our economy for the last decade or more. It does all of this without granting amnesty to a single undocumented worker.

S.2611 improves security and border enforcement; increases employer sanctions for knowingly hiring illegal aliens and establishes an employment eligibility confirmation system; creates a new temporary worker program; and provides undocumented workers who are in the country and working at the time of the bill's introduction a process to qualify for legal work status following security and background checks. The bill also provides for reimbursement to the states for certain health care expenses related to the treatment of undocumented immigrants.

Mr. Chairman, there is a scene in the movie "Field of Dreams," where Shoeless Joe Jackson asks Ray, Kevin Costner's character: "Is this heaven?" Ray replies, "No, it's Iowa." One of the things that makes Iowa so heavenly, Mr. Chairman, is that is full of wonderful, sensible people who believe in building bridges rather than putting up walls. Iowans understand that if America builds bridges to embrace the world, growth, prosperity, and security will come.

Thank you.

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