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REMARKS TO THE MILWAUKEE ROTARY CLUB

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Thank you for having me speak. Since I took on the unenviable task of trying to fix our broken immigration system, you cannot believe the things that have been said about me and my reform bill by the special interests in Washington. H.R. 4437 has been called “evil”, “hateful”, “scapegoating”, “recreating a witch-hunt climate”, a “deathtrap”, “tumor”, a “travesty”, “something out of the Know-Nothing” movement, “outrageously harsh”, “written in rage”, and “cowardly”. I have been called worse. I am not bothered by attacks directed at me. However, I am upset that these same words also implicitly tar the large majority of the American public. Americans simply ask that in maintaining by far the most generous immigration system in the world, our laws, our borders, and our sovereignty be respected and enforced.

I introduced H.R. 4437 with the strong support of the White House. I designed the bill to fix an immigration system so broken and out of control that the illegal immigrant population has been growing by an unprecedented one half million people a year. This is the equivalent of adding to our country each year a city the size of Milwaukee – putting unsustainable burdens on the backs of American taxpayers, our schools and our criminal justice system, relegating disadvantaged Americans to progressively bleaker futures, and mocking legal immigrants who have naively and patiently played by the rules.

Our current immigration chaos is a direct result of the disastrous step Congress took two decades ago in passing (without my vote, I might add) the Immigration Reform and Control Act of 1986. Congress offered the nation a “grand bargain”. It would offer amnesty to many of the illegal immigrants residing in the country. But this would be the last amnesty Congress would ever ask our citizens to accept. For Congress would at the same time end the job magnet which attracted most illegal immigrants to our shores. Congress would for the first time make it unlawful for employers to knowingly hire illegal immigrants and require employers to check the work eligibility of all new employees.

Congress 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 new employees looked “genuine”. The easy availability of counterfeit documents has made a mockery of this process. Fake documents are produced by the millions and can be obtained cheaply on most any street corners. Compounding the

flawed design of IRCA, the INS never vigorously enforced the new employer sanctions law. Each succeeding Administration has put fewer resources into enforcing employer sanctions than the one before it. Let me cite some 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%; the number of notices of intent to fine employers for violations fell from 1461 in 1992 to 3 in 2004, a drop of 99%; and the number of arrests of illegal immigrant employees fell from 17,552 in 1997 to 445 in 2003, a drop of 97%. We have gotten to the point where employers who want to hire illegal immigrants have absolutely no worry that they will be investigated. And as a result, we now have some 12 million illegal immigrants in the country, 7 million of whom are working.

The single most important provision of H.R. 4437 endeavors to fix IRCA. It builds upon a pilot program Congress created in 1996 by which volunteer employers can check the Social Security numbers of newly hired employees against Social Security Administration records in order to weed out fraudulent numbers and ensure that new hires are genuinely eligible to work. A 2001 report on this pilot program found that “an overwhelming majority of employers participating found [it] to be an effective and reliable tool for employment verification” -- 96% of employers found it to be an effective tool for employment verification; and 94% of employers believed it to be more reliable than the IRCA-required document check. H.R. 4437 would make participation in the basic pilot program mandatory for all employers within two years of enactment, and would require that by six years after enactment all employers must verify the employment eligibility of all workers. Through this verification mechanism, we can for the first time have real hope that we can enforce the immigration laws of the United States. The Center for Immigration Studies has issued a report finding that an immigration enforcement program based largely on this system would reduce the illegal immigrant population by one half over a five year period at a total five year cost of less than \$2 billion – all without the need for mass deportations.

Let me mention another crucial provision of H.R. 4437. Sometimes we can't deport immigrants who have been ordered deported by immigration judges. Why? For instance, their countries won't take them back, or they claim they will be tortured if sent back. What happens then? In the past, we could at least continue to detain immigrants found to be dangerous – criminals and the like – so that we wouldn't have to release them into our communities. Unfortunately, the Supreme Court has recently ruled that such immigrants cannot be detained for more than six months after their removal has been blocked. As a result, the Department of Homeland Security has had no choice but to release back onto the streets many hundreds of criminal immigrants. The Deputy Assistant Attorney General has testified that “the government is [now] required to release numerous rapists, child molesters, murderers, and other dangerous illegal aliens into our streets. . . . [V]icious criminal aliens are now being set free within the U.S.” He referenced the release of aliens including murderers, a schizophrenic sex offender and pedophiles. Many of these immigrants were

released from Cuban jails. Almost 900 criminal immigrants have been released onto the streets who claimed they would be tortured if sent back. This includes at least one person who was implicated in a mob-related quintuple homicide in Uzbekistan and one immigrant removable on terrorism grounds. One of the immigrants released has subsequently been arrested for shooting a New York State trooper in the head. My bill would simply give DHS the ability to detain these immigrants and others like them if their release into our communities would have serious adverse foreign policy consequences, threaten national security, or threaten the safety of the community.

Let me mention one other provision of H.R. 4437. Crime by immigrant members of criminal street gangs is exploding. Former Immigration and Customs Enforcement Assistant Secretary Mike Garcia has stated: “In the last decade, the United States has experienced a dramatic increase in the number and size of transnational street gangs. . . . These gangs have a significant, often a majority, foreign-born membership Entire neighborhoods and sometimes whole communities are held hostage by and subjected to the violence of street gangs.” Currently, however, immigrants who are members of criminal street gangs are not deportable or inadmissible, and can receive asylum and temporary protected status, until they are convicted of a criminal act. Many of the members in the U.S. of these gangs have received temporary protected status. One of the most violent and fastest-growing gangs, Mara Salvatrucha-13, was formed by Salvadorans who entered the U.S. during the civil war in El Salvador in the 1980s, and has an estimated 8,000 to 10,000 members in 31 states. There have been 18 MS-13-related killings in North Carolina, 11 in Northern Virginia, and at least eight in Los Angeles in the past two years. My bill would render immigrant gang members deportable and inadmissible, mandates their detention, and bars them from receiving asylum or TPS.

I want to talk briefly about legal immigration, amnesty and guestworkers. Let me first ask you a question. How did you react to the demonstrations around the country held by hundreds of thousands of illegal immigrants and their supporters, many carrying the Mexican flag, demanding amnesty? 61% of Americans were turned off by these rallies and less likely to support illegal immigrants after witnessing them.

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 were seeking when they came here, it is amnesty. We don’t give thieves “earned theft” or make them “go to the end of the line” to get their loot or a “path towards keeping their loot”. Americans reject mass amnesty by large margins. A recent poll found that only one-third of Americans support offering citizenship to millions of illegal immigrants who are now illegally employed.

We have learned from the 1986 amnesty that amnesty does not end our illegal

immigration problem. It actually precipitates even more illegal immigration, as individuals are encouraged in the belief that if they can just elude the Border Patrol and stay underground for a few years, they will eventually get amnesty themselves. A large-scale amnesty could plunge us into a new immigration crisis.

Amnesty is unfair to the millions of immigrants who are waiting outside the country for their turn to come legally to the United States. Amnesty sends the message: “Do not respect our laws. If you come to the U.S. illegally, you will be rewarded.” Through amnesty, we are keeping law-abiding applicants out of the country while giving legal resident status to lawbreakers.

Amnesty is an affront to Americans, to legal immigrants, and to the very concept of the rule of law.

Too many people forget that the United States has the most generous legal immigration system in the world. On average, we grant green cards to a million people every year, a number larger than almost every city in America and larger than the population of a number of states. We grant refuge to tens of thousands of refugees a year. Both these figures dwarf the efforts of the rest of the world. When I first entered Congress, there were 14 million immigrants living in the U.S. Today, there are more than 35 million. I am the descendent of immigrants, as are all of you. America is a nation of immigrants and will remain a nation of immigrants.

But let me tell you what is different today than was the case one hundred years ago. It all comes down to assimilation. First, let me tell what I mean by assimilation. Assimilation isn't taking an English class. Assimilation isn't becoming a naturalized citizen to preserve eligibility for federal welfare benefits. Assimilation isn't learning how to manipulate the U.S. political system. Assimilation is developing an emotional attachment to the United States, to its core principles and historic struggles and historic figures. My ancestors came to America long after the time of the Founding Fathers like George Washington and Thomas Jefferson, long after the Revolutionary War. Yet, to my forebears and to myself, George Washington was our hero and the American victory in the War of Independence was our victory. It is only when an immigrant makes this emotional investment in America that he or she can be truly said to be assimilated.

One hundred years ago, all the important institutions in society pushed immigrants along the path to this kind of assimilation – our churches, our businesses, our schools, our government agencies were in the business of “Americanization”. Do they do so today? In many cases, they teach immigrant children (and the children of immigrants) not to embrace American history because they are “victims” of one American crime or another. They instill the belief that to become self-identified proud Americans would be to turn their backs on their cultures and their identities.

Lastly, we have to keep in mind the revolutions in communications and in transportation that have occurred in the last hundred years. When our ancestors left for America, it was with the knowledge that most would never be able to afford to return home to visit and that even keeping in touch with relatives and friends would be a difficult endeavor. Today, many immigrants can simply drive across a border and return home. Some do it every day. Others, at worse, simply have to take an airplane. And even when not visiting home, it is exceedingly easy to log onto e-mail or make a phone call and talk to relatives. Of course, these are all wonderful advances. But it is important to recognize that immigrants no longer need to make the profound psychological commitment to America that they had no choice but to make one hundred years ago.

Let me lastly mention guestworkers. I do support a workable guestworker program. Let me sketch out one that would benefit our nation. First, it seems clear that there will be occupations that will experience shortages in coming years. Let me give an example. Because of the aging of Baby Boomers, the need for healthcare support aides will likely increase at a rate higher than can be filled naturally. A guestworker program would be a perfect way to meet this need. Second, if we do become successful in finally controlling illegal immigration, certain industries that have become dependent on illegal immigrant labor will need – at least in the short run – compensatory guestworkers to continue to operate without severe dislocations. Even if 10% or so of workers in an occupation nationwide are illegal immigrants, a sudden drop in available workers of this magnitude would certainly create dislocations for many businesses, especially in some regions of the country. A guestworker program could at the very least ease businesses through the transition period that such a loss would cause. It is likely also the case that certain sectors will need guestworkers on a longer-term basis – such as service workers for hotels and motels (where 22% of maids and housekeepers are illegal immigrants) and restaurant (where 18% of cooks and 24% of dishwashers are illegal immigrants). And we will always need a guestworker program for seasonal agricultural work, for the simple reasons that Americans won't perform migratory labor, shouldn't have to perform migratory labor, and our government's policy for generations has been to remove Americans from such labor.

By its very definition, a guestworker program is the antithesis of an amnesty. A "guestworker" is a temporary entrant who understands his or her sojourn to be a temporary one that ends after a specific job is performed. One advantage of a real guestworker program over an amnesty pretending to be a guestworker program is that under a guestworker program, the number of guestworkers can be periodically adjusted to take account of changing economic conditions in the U.S. When the economy is in recession and unemployment among Americans increases, the number of authorized guestworkers can be reduced. However, once an alien is granted permanent residence and then citizenship, the alien (along with his or her family and descendants) is here forever, can work for anyone, and is eligible for unemployment insurance and welfare payments just as would any other permanent resident or citizen.

Creating a successful guestworker program is easier said than done, as numerous nations have discovered. One factor to keep in mind is that a guestworker program will only operate in the best interests of all Americans if employers are made to pay the full costs to society of the guestworkers and to pay for the operation of the guestworker program. I am talking about health care costs and things of that nature.

Another factor to keep in mind is that we must protect American workers from any negative impact of a guestworker program. Even Alexander Aleinikoff, former Clinton Administration INS official, calls it a “myth” that “there is little or no competition between undocumented workers and American workers”

It has once been said that there is nothing so permanent as a guestworker. This comment was made in reaction to the experience of European countries that instituted large-scale guestworker programs because of labor shortages after World War II. As two scholars have stated:

In retrospect, one fundamental miscalculation of European alien-labor policies was underestimation of the human dimensions of alien-worker employment. As foreign-worker policies were progressively improved over the years, facilitating family entry and other measures to improve the lot of foreign workers, European governments undercut their own policy goal of short-term foreign-worker employment. . . . By the time unfavorable economic conditions moved governments to implement the expectation of return many foreign workers had such long continuous residency due to permit renewal that they could not be forced to return home.

We must be very careful to ensure that we don't repeat the mistakes that Europe has made and that have spilled out into the streets of Paris in recent months.

Finally, a major guestworker program would be susceptible to large amounts of fraud absent sufficient safeguards. Individuals could set up bogus “businesses” to petition for guestworker visas for friends, relatives, and any illegal immigrant willing to pay. Even terrorists could set up such fronts in order to bring compatriots into the U.S. Keep in mind the massive number of fraudulent applications for amnesty filed pursuant to the 1986 amnesty. Up to two-thirds of the applications for Special Agricultural Worker status were fraudulent, as illegal immigrants submitted fraudulent affidavits and documents from employers to substantiate their claim that they had engaged in the required prior agricultural employment. Most fraudulent applications were approved. Even a terrorist received SAW status. In addition, employers could fail to adhere to the terms of the program such as by paying substandard wages. As has happened in the past, guestworkers could fail to return home at the conclusion of their visa terms. We must give DHS the resources and the mandate to guard against these threats.

We can never have a successful guestworker program until the federal government first proves that it can enforce the immigration laws. The American people are rightly cynical that enforcement will remain an unfulfilled promise, just as it has been for the last twenty years. We must first give Americans confidence that we have gained control of our borders before we decide what to do with those already here. Also, any new guestworker program will simply fail if employer sanctions are not enforced. It will always be cheaper for employers to hire illegal immigrants than legal guestworkers – they can avoid the minimum wage, State and Federal tax withholdings, and a host of other expenses. If employer sanctions are not enforced, then unscrupulous employers will bypass the guestworker program entirely. And what about employers who want to do the right thing and use the guestworker program? They will simply be driven out of business by unfair competitors unless they too succumb to the temptation to use illegal workers.

I know you will ask what I think the chances are of Congress coming together and passing a true immigration reform bill this year. As I have said, this will be the toughest job I have ever undertaken in my years of service in the U.S. and Wisconsin legislatures. There are vast differences between H.R. 4437 and the Senate-passed bill. The Reid-Kennedy bill would grant amnesty to the vast majority of the illegal immigrant population in the U.S., an amnesty that would likely cost American taxpayers \$50 billion a year. Neither the American people nor the House of Representatives would ever find that acceptable. The bill contains many other troubling provisions. It would increase legal immigration, which is opposed by the vast majority of the American people – in fact, the Reid-Kennedy bill would result in the U.S. admitting 66 million immigrants over the next 20 years. The Reid-Kennedy bill waters down many of the enforcement enhancements contained in my bill. A Zogby poll has found that Americans prefer the House bill to the Reid-Kennedy bill by better than a two to one margin. That all being said, I make every effort to sit down with the Senate and try to bridge the gap between the two bills in the remaining months of this year. The American people want Congress to do its job and to fix our immigration system. That is what I will endeavor to do.

Thank you very much for inviting me to speak today.