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POLICY ESSAY

WHY IMMIGRATION REFORM REQUIRES A COMPREHENSIVE APPROACH THAT INCLUDES BOTH LEGALIZATION PROGRAMS AND PROVISIONS TO SECURE THE BORDER

REPRESENTATIVE SHEILA JACKSON LEE*

As many as eleven million undocumented immigrants are living and working in the United States today, and the number is only growing. This Policy Essay addresses the problems resulting from the presence of so many undocumented workers in this country and presents two key legislative proposals to help solve the current crisis. In particular, it confronts two crucial weaknesses in immigration policy today: effectively managing the undocumented workers already in the United States and preventing a new population of undocumented immigrants from replacing the one we have now. The Essay contends that the Bush Administration's legislative proposal would establish a guest worker program that only temporarily addresses the former issue and completely ignores the national border security problems causing the latter issue. Instead, the Essay concludes that the federal government should present a means for undocumented workers presently residing in this country to gain legal permanent resident status and should provide for a more reliably secured national border.

United States immigration policy presents one of the most pressing national concerns on two fronts: the growing undocumented immigrant population and the security of national borders. I believe it is in the best interests of our country to offer honest, hard-working undocumented immigrants access to legal permanent resident status. Moreover, our citizens deserve a reliably secured border provided by the federal government.

The Bush administration's current immigration proposal does not adequately address either the issue of undocumented immigrant population growth or that of national border security.¹ It attempts to solve the undocumented immigrant problem by establishing a guest worker program, but such a program is predicated on the unrealistic expectation that participants will leave when their guest worker status expires.² The proposal also inadequately addresses the crucial concern of inadequate border security.³ For

* Member, United States House of Representatives (D-Tex.). Representative Jackson Lee serves as Ranking Member of the House Subcommittee on Immigration, Border Security, and Claims.

¹ See Press Release, President George W. Bush, Fact Sheet: Fair and Secure Immigration Reform (Jan. 7, 2004), available at <http://www.whitehouse.gov/news/releases/2004/01/20040107-1.html>.

² See *id.*

³ See *id.*

example, it does not attempt to shield our nation from violent criminals, drug traffickers, and human traffickers, many of whom have crossed the U.S.-Mexico border as a result of inadequate border protection.⁴ State governors have attempted to manage border security through the use of sporadic State of Emergency declarations, a strategy that has proven both makeshift and ineffectual.⁵

In order to provide a context for the existing immigration problems we face, this Policy Essay begins in Part I by discussing the history of immigration policy. Part II then gives an overview of the state of this policy today. Part III summarizes President Bush's current immigration proposal, followed in Part IV by a comparison of this proposal to two pending pieces of legislation I recently proposed (H.R. 2092 and H.R. 4044)⁶ that address the issues of undocumented worker growth and national border security, respectively. Other legislative proposals have been made, but it is too soon to predict their viability. Nevertheless, the Policy Essay provides a roadmap for our country to achieve effective immigration policy reform.

I. HISTORY

A. *The Evolution of a Restrictive Immigration Policy*

During our first 100 years of nationhood, the influx of new settlers was essential to our survival, and the government allowed immigrants relatively unfettered access.⁷ This policy paid rich dividends, as immigrants and their descendants contributed heavily to the growth of the country.⁸ It was during this time that Emma Lazarus wrote the poem that is now enshrined on the Statue of Liberty: "Give me your tired, your poor, your huddled masses yearning to breathe free, the wretched refuse of your teeming shore, send these, the homeless, tempest-tossed, to me: I lift my lamp beside the golden door."⁹

At the beginning of our country's history, popular sentiment favored immigration even when policymakers did not. The Alien Act of 1798,¹⁰ which authorized the President to deport any alien viewed as dangerous, was extremely unpopular and was not renewed at the end of its two-year

⁴ See, e.g., Ginger Thompson, *Drug Violence Paralyzes a City, and Chills the Border*, N.Y. TIMES, Mar. 24, 2005, at A4; Ginger Thompson, *In the Border Brutality, Discerning a Bright Side*, N.Y. TIMES, Oct. 26, 2005, at A4.

⁵ See Ralph Blumenthal, *Citing Border Violence, 2 States Declare a Crisis*, N.Y. TIMES, Aug. 17, 2005, at A14; Ruben J. Garcia, *Labor's Fragile Freedom of Association Post-9/11*, 8 U. PA. J. LAB. & EMP. L. 283, 349 (2006).

⁶ See H.R. 2092, 109th Cong. (2005); H.R. 4044 109th Cong. (2005).

⁷ See generally Gerald L. Neuman, *The Lost Century of American Immigration Law (1776-1875)*, 93 COLUM. L. REV. 1833 (1993).

⁸ See 1 CHARLES GORDON ET AL., IMMIGRATION LAW AND PROCEDURE § 2.02[1] (2005).

⁹ EMMA LAZARUS, *The New Colossus*, in SELECTED POEMS 58 (John Hollander ed., 2005).

¹⁰ Ch. 58, 1 Stat. 570, 570-72.

term.¹¹ As late as 1864, Congress continued to enact legislation encouraging immigration, and several states had programs actively promoting it.¹²

This trend began to change in 1875 when Congress passed a statute barring convicts and prostitutes from entering the country.¹³ The first immigration restrictions became law soon afterwards in 1882 when immigrants had to pay a fifty cent head tax in order to enter the United States and lunatics, convicts, and paupers were prohibited from immigrating.¹⁴ In 1885 and 1887, Congress passed more laws to restrict the influx of foreign low-wage workers and to protect the domestic labor market.¹⁵ General immigration laws codified in 1891 excluded additional classes of people, including "idiots" and diseased persons, and authorized the deportation of aliens who had entered the country illegally.¹⁶

In 1921, the Emergency Quota Act¹⁷ established quotas proportional to the number of foreign-born residents of each nationality living in the United States at the time of the 1910 census. Three years later, Congress enacted a more complex quota system under the Immigration Act of 1924,¹⁸ which used the 1890 census as its baseline for national origin, thereby limiting the number of southern and eastern European immigrants.¹⁹ In 1952, Congress passed the Immigration and Nationality Act (INA),²⁰ which remains the basis for modern immigration law. INA modified immigration quotas by basing them on the 1920 census, while at the same time removing all racial restrictions from the code.²¹

Today, immigration quotas are primarily divided into three broad categories: immediate relatives of immigrants, family-based immigration, and employment-based immigration.²² The first group faces no quotas and consists of spouses, unmarried minor children below the age of twenty-one, and parents of U.S. citizens.²³ The second group is limited to 226,000 immigrants per year and is selected from the remaining children, siblings, and spouses of citizens as well as unmarried adult children of green card holders.²⁴ Finally, members of the third group immigrate to work in this coun-

¹¹ See GORDON, *supra* note 8, § 2.02[1].

¹² See *id.*

¹³ Act of Mar. 3, 1875, ch. 141, 18 Stat. 477.

¹⁴ See Act of Aug. 3, 1882, ch. 376, 22 Stat. 214, 214-15.

¹⁵ See Act of Feb. 23, 1887, ch. 220, 24 Stat. 414, 414-15; Act of Feb. 26, 1885, ch. 164, 23 Stat. 332, 332-33.

¹⁶ See Act of Mar. 3, 1891, ch. 551, 26 Stat. 1084, 1084-86.

¹⁷ Ch. 8, 42 Stat. 5, 5-7.

¹⁸ Ch. 190, 43 Stat. 153, 153-169.

¹⁹ See E. P. HUTCHINSON, *LEGISLATIVE HISTORY OF AMERICAN IMMIGRATION POLICY 1798-1965* 484 (1981).

²⁰ See Pub. L. No. 82-414, 66 Stat. 163 (1952) (codified as amended in scattered sections of 8 U.S.C. and 18 U.S.C. § 1429).

²¹ See *id.*

²² See Kevin Keane, *The U.S. Immigration Quota System*, Feb. 21, 2006, <http://www.kkeane.com/quota-faq.shtml>.

²³ See *id.*

²⁴ See *id.*

try and are limited to 140,000 immigrants per year, of which no more than 9800 may be from any one country.²⁵

B. History of the U.S. Border Patrol

The same desire to control immigration into the United States that led to immigration quotas also resulted in the creation of the U.S. Border Patrol.²⁶ As early as 1904, Mounted Guards patrolled the border between the United States and Mexico in an effort to prevent illegal crossings.²⁷ However, limited resources did not allow them to consistently protect the expansive border.²⁸ In an effort to help, Mounted Inspectors and Texas Rangers were assigned to patrol the border in the 1910s, but available workforce similarly limited their ability to prevent illegal crossings.²⁹

The need for more stringent border patrol became more pronounced in 1920 with the advent of Prohibition, when preventing the illegal importation of alcohol became a high national priority.³⁰ However, the efforts of customs and immigration agencies were undermined by a lack of border enforcement between inspection stations.³¹ In addition, requiring literacy and payment of a higher head tax in order to enter the United States prompted more people to attempt to enter without documentation.³²

The INA legislation passed in 1952 further expanded the power of the Border Patrol to prevent undocumented immigration.³³ For the first time, agents could board and search vehicles for undocumented immigrants anywhere in the United States, and undocumented entrants traveling within the country were subject to arrest.³⁴ Repatriation efforts to return mass numbers of undocumented aliens to Mexico commenced, but many deportees simply turned around and re-crossed the under-protected border.³⁵ Because such repatriation programs proved both extremely expensive and ineffective, they were phased out within two years.³⁶

During the 1980s and 1990s, the United States saw a rapid increase in undocumented immigration.³⁷ In response, the Border Patrol increased its

²⁵ See IMMHELP.COM, EMPLOYMENT BASED GREEN CARD (2006), <http://www.immihelp.com/gc/employment/greencard.html> (last visited Mar. 16, 2006).

²⁶ See U.S. Customs and Border Protection, U.S. Border Patrol History (July 15, 2003), http://www.cbp.gov/xp/cgov/border_security/border_patrol/history.xml.

²⁷ See *id.*

²⁸ See *id.*

²⁹ See *id.*

³⁰ See *id.*

³¹ See U.S. Customs and Border Protection, *supra* note 26.

³² See *id.*

³³ See *id.*; Pub. L. No. 82-414, 66 Stat. 163 (1952) (codified as amended in scattered sections of 8 U.S.C. and 18 U.S.C. § 1429).

³⁴ See *id.*

³⁵ See *id.*

³⁶ See *id.*

³⁷ See U.S. Customs and Border Protection, *supra* note 26.

work force and utilized modern military technology, including infrared night-vision scopes and seismic sensors, to help locate, apprehend, and process those entering the United States without documentation.³⁸ The increased concentration of agents and military technology in specific areas along the border, such as San Diego, California, which accounted for more than half of undocumented entries, provided a “show of force” that proved successful over the next few years in stemming undocumented immigration.³⁹

With the September 11th attacks shedding light on the vulnerability of our nation, even more attention has been placed on securing our national borders.⁴⁰ The sheer ineffectiveness of our present militarized tactics to prevent undocumented immigration is startling. Over ten million undocumented workers presently reside in our country, and approximately 700,000 have entered annually between 2000 and 2004.⁴¹

II. DEFINING THE PROBLEM

A. *Immigration Policy and Its Effects*

As established in Part I, the U.S. government employs a military-style patrol of our border with Mexico. However, security holes in that border as well as the federal government’s dependence on state efforts to guard the borders have permitted millions of undocumented immigrants to enter the country.⁴² Presently, nine to eleven million undocumented immigrants live in the United States, further feeding the growing undocumented workforce.⁴³

Approximately seventy percent of Americans are concerned about undocumented immigration, and more than fifty percent think the government should do more to prevent undocumented immigrants from coming into the country.⁴⁴ Having such a large undocumented immigrant population in our country poses a large national security threat, because it minimizes

³⁸ See *id.*

³⁹ See *id.*

⁴⁰ See *id.* at 1759.

⁴¹ See JEFFREY S. PASSEL, PEW HISPANIC CENTER, UNAUTHORIZED MIGRANTS: NUMBERS AND STATISTICS 3 (2005), available at <http://pewhispanic.org/files/reports/46.pdf>.

⁴² Currently, only 11,000 Border Patrol agents are available to patrol the over 8000 miles of U.S. Borders. See U.S. Customs and Border Protection, CBP Border Patrol Overview (Jan. 11, 2006), http://www.cbp.gov/xp/cgov/border_security/border_patrol/overview.xml.

⁴³ See Mike Madden, *New Border Chief Maps Strategy*, ARIZ. REPUBLIC, Feb. 15, 2006, available at <http://www.azcentral.com/arizonarepublic/news/articles/0215ice-qa0215.html>. This number has risen from 10.3 million unauthorized migrants in 2004 and 9 million unauthorized migrants in 2003. See PASSEL, *supra* note 41, at 3; MIGRATION POLICY INSTITUTE, UNAUTHORIZED IMMIGRATION TO THE UNITED STATES 1 (2003), http://www.migrationpolicy.org/pubs/two_unauthorized_immigration_us.pdf#search=undocumented%20immigrant%20population.

⁴⁴ See National Public Radio, *Public Immigration Concerns Contrast with Policy*, Oct. 7, 2004, <http://www.npr.org/templates/story/story.php?storyID=4075602>.

the need for potential terrorists to forge documents in order to avoid detection.⁴⁵ Furthermore, without documentation, there exists no paper trail that authorities can use to track suspected terrorists.⁴⁶ Many immigrants also suffer, living in constant fear of deportation and thereby being unable to fully participate in or contribute to their communities.⁴⁷ While undocumented aliens usually pay taxes like other workers, they participate only minimally in entitlement programs and frequently do not vote.⁴⁸

The exploitation of undocumented workers by American employers in the United States also creates economic strains. A recent Harvard University study estimated that this exploitation, from 1980 to 2000, reduced the earnings of native-born U.S. workers by three to four percent, with the brunt of the negative impact being felt by the less educated.⁴⁹ However, another study argues that this level of reduction in earnings is really only seen in cities with large immigrant populations, such as Miami and Los Angeles, with effects in other locations being considerably smaller.⁵⁰

Congress has attempted to address the undocumented worker problem by prohibiting the employment of undocumented aliens, but these efforts have been largely ineffective in disincentivizing undocumented immigration. The Immigration Reform and Control Act of 1986 (IRCA)⁵¹ made it unlawful for employers to hire aliens who are not authorized to work in the United States and established penalties for violations.⁵² While IRCA has been anecdotally effective in curtailing the employment of some

⁴⁵ See *Terrorist Threats to the United States: Hearing Before the Subcomm. on Immigration and Claims of the House Comm. on the Judiciary*, 106th Cong. 34 (2000) (statement of Steven Emerson, Executive Director, Terrorism Newswire).

⁴⁶ See *id.*

⁴⁷ See Thomas J. Walsh, *Hoffman Plastic Compounds, Inc. v. NLRB: How the Supreme Court Eroded Labor Law and Workers Rights in the Name of Immigration Policy*, 21 *LAW & INEQ. J.* 313, 317 (2003). But see Qianwei Fu, Note, *Eldred v. Ashcroft: Failure in Balancing Incentives and Access*, 38 *U.C. DAVIS L. REV.* 701, 717 (2005) (arguing that undocumented immigrants have the capacity to have the same community ties that documented ones have, including family, employment, participation in community organizations, and an intention to make the United States a permanent home, but that they lack the official recognition of those ties through a visa).

⁴⁸ See Alan O. Sykes, *The Welfare Economics of Immigration Law*, in *JUSTICE IN IMMIGRATION* 158, 159, 161 (Warren F. Schwartz ed., 1995).

⁴⁹ See George J. Borjas & Lawrence F. Katz, *The Evolution of the Mexican-Born Workforce in the United States* 37–38 (Nat'l Bureau of Econ. Research, Working Paper No. 11,1281, 2005).

⁵⁰ See David Card, *Immigrant Inflows, Native Outflows, and the Local Labor Market Impacts of Higher Immigration*, 19 *J. LAB. ECON.* 22, 57 (2001).

⁵¹ See Pub. L. No. 99-603, 100 Stat. 3359 (1986) (codified as amended in scattered sections of 8 U.S.C.).

⁵² See 8 U.S.C. § 1324a (2000). For employment purposes, an "unauthorized alien" is one who is not either lawfully admitted for permanent residence or authorized to be so employed by law or by the Attorney General. See *id.* § 1324a(h)(3) (2000). Thus, the term covers illegal aliens as well as aliens here temporarily whose status does not permit them to work, such as tourists.

undocumented workers,⁵³ its overall effect during the past twenty years has been insignificant.⁵⁴

Some advocates endorse deportation as the only solution to the problem of undocumented immigration,⁵⁵ but this view is both impractical and xenophobic. The immigration judicial system simply lacks the resources to move such a large number of people through removal proceedings. All of the eight to eleven million undocumented immigrants currently living in the United States would be entitled to removal hearings before an immigration judge as well as the right to appeal adverse decisions to the Board of Immigration Appeals.⁵⁶ Currently, the Board is able to adjudicate 3000 appeals per month.⁵⁷ If the Board were to continue adjudicating appeals at this rate, it would take centuries to deport the undocumented immigrants currently in the country, not to mention those who would undoubtedly enter during that time. Furthermore, the already strained immigration budget would make streamlining this process economically difficult.

B. Border Security

In its efforts to control undocumented immigration, the United States must not only deal with the millions of undocumented workers who currently reside within the country but also must work to prevent the present undocumented population from being replaced by a new one in the future. This should be the job of the federal government, but due to the inadequacy of federal border security, the burden of securing our national borders has fallen upon the southwestern border states, which have had to resort to extreme measures to do so. For example, on August 12, 2005, New Mexico Governor Bill Richardson issued an executive order declaring a state of emergency along New Mexico's border with Mexico, citing "the ravages and terror of human smuggling, drug smuggling, kidnapping, murder, destruction of property and the death of livestock" that had been inflicted upon the state's southern region.⁵⁸ He concluded that these

⁵³ In 2005, Wal-Mart agreed to pay Immigration and Customs Enforcement (ICE) \$11 million to settle charges that the store had contracted with cleaning companies that hired undocumented immigrants. See Madden, *supra* note 43.

⁵⁴ See JAMES R. EDWARDS, CENTER FOR IMMIGRATION STUDIES, TWO SIDES OF THE SAME COIN: THE CONNECTION BETWEEN LEGAL AND ILLEGAL IMMIGRATION (2006), available at <http://www.cis.org/articles/2006/back106.html> (noting that the estimated illegal immigration population has tripled since 1980, in spite of the adoption of IRCA in 1986).

⁵⁵ See, e.g., MICHELLE MALKIN, INVASION: HOW AMERICA STILL WELCOMES TERRORISTS, CRIMINALS, AND OTHER FOREIGN MENACES TO OUR SHORES (2002).

⁵⁶ See U.S. DEP'T OF JUSTICE EXECUTIVE OFFICE OF IMMIGRATION REVIEW, ADJUDICATING REQUESTS FOR STAYS AT THE BIA, <http://www.usdoj.gov/eoir/bia/stays.htm> (last visited Apr. 4, 2006).

⁵⁷ See THE AM. BAR ASS'N COMM'N ON IMMIGRATION POLICY, PRACTICE AND PRO BONO, BOARD OF IMMIGRATION APPEALS: PROCEDURAL REFORMS TO IMPROVE CASE MANAGEMENT app. 9 (2003).

⁵⁸ See Exec. Order No. 2005-040 (Aug. 12, 2005), available at http://www.governor.state.nm.us/orders/2005/EO_2005_040.pdf (declaring a disaster in Hidalgo, Luna, Dona

conditions constituted an emergency situation with potentially catastrophic consequences.⁵⁹

Three days later, Arizona Governor Janet Napolitano took similar action, declaring a state of emergency along the Arizona-Mexico border.⁶⁰ According to Governor Napolitano, the three million border crossings into her state each year have threatened public health and safety from gangs and others engaged in dangerous criminal activities along the Arizona-Mexico border.⁶¹ She concluded that the massive increase in unauthorized border crossings and the related increases in death, crime, and property damage justified a declaration of a state of emergency.⁶²

Finally, on October 12, 2005, Texas Governor Rick Perry announced a comprehensive security plan for the Texas-Mexico border region.⁶³ Governor Perry stated that "Al Qaeda and other terrorists and criminal organizations view the porous Texas-Mexico border as an opportunity to import terror, illegal narcotics, and weapons of mass destruction. Gangs . . . have begun operating on both sides of the Texas border . . . with confirmed reports of kidnapping, rape, and murder on the rise."⁶⁴ The Governor praised recent federal efforts providing one thousand new Border Patrol agents, but insisted that Congress must do much more.⁶⁵

State governors should not have to resort to declaring such states of emergency to protect citizens from the consequences of a porous border. These emergency declarations reflect the existence of an unfair and underfunded responsibility forced upon the states by the failure of the federal government to respond to the crisis at our border.

Unfortunately, Congress has not acted to address border control needs. The Border Patrol stated in a recent report that its primary goals are to (1) apprehend terrorists who attempt to enter the United States; (2) deter undocumented entries; (3) deter and capture contraband smugglers; (4) effectively utilize "Smart Border" technology; and (5) reduce crime and improve life and economic vitality in border communities.⁶⁶ While these objectives are noble and far-reaching, they will be difficult to achieve without adequate funding and attention from the federal government.

Ana, and Grant Counties due to border security concerns).

⁵⁹ See *id.*

⁶⁰ See Exec. Order, Gov. Janet Napolitano, Declaration of Emergency: Arizona/Mexico International Border Security Emergency (Aug. 16, 2005), available at <http://www.governor.state.az.us/press/2005/0508/DE%7E081605%7EAZMEXBorderSecurity.pdf>.

⁶¹ See *id.*

⁶² See *id.*

⁶³ See Press Release, Gov. Rick Perry, Perry Announces Comprehensive Border Security Plan for Texas (Oct. 12, 2005), available at <http://www.governor.state.tx.us/divisions/press/pressreleases/PressRelease.2005-10-12.2500>.

⁶⁴ *Id.*

⁶⁵ See *id.*

⁶⁶ See THE OFFICE OF BORDER PATROL, NATIONAL BORDER PATROL STRATEGY 2 (2004), available at http://www.cbp.gov/linkhandler/cgov/border_security/border_patrol/national_bp_strategy.ctt/national_bp_strategy.pdf.

Addressing the issues of border security and undocumented worker population growth must be the dual goals of our immigration policy. The ways in which this country has chosen to react to undocumented immigration have proven ineffective and wasteful of the decidedly scarce available resources. Federal surveillance both intrudes upon the lives of many legal residents and does not effectively enforce our immigration laws.⁶⁷ Mandatory detention policies create a situation in which peaceful asylum-seekers without documentation must be detained, using prison space and resources that could otherwise be used to detain more dangerous undocumented immigrants.⁶⁸ Furthermore, while Julie Myers, the Director of Immigration and Customs Enforcement (ICE), has asserted that ICE's key priorities are to establish clear guidelines for companies in terms of hiring undocumented workers and to punish violators harshly, no clear plan for such enforcement has emerged.⁶⁹ Articulating vague policies without any plan for implementation and making token additions to the border patrol does little to deal with undocumented immigrants already in the country or to prevent future undocumented immigration.⁷⁰

III. THE ADMINISTRATION'S PROPOSAL

To address the problem of undocumented immigration, the Bush administration has proposed a temporary worker program that purportedly benefits the American economy by employing undocumented workers while also keeping the homeland safe. The major tenets of the action are as follows:

A. *Temporary Worker Program*

The administration would institute a guest worker program in which undocumented immigrants would be permitted to enter or remain in this country legally for a limited period of time, provided that they paid a registration fee and worked for a willing U.S. employer.⁷¹ In coordination with this program, federal authorities would intensify their efforts in punishing U.S. employers that hire undocumented workers.⁷²

Furthermore, the administration would impose significant limits on their guest worker program. After an initial period of time, only persons out-

⁶⁷ See Gabriela A. Gallegos, *Redefining the National Interest in U.S.-Mexico Immigration and Trade Policy*, 92 CAL. L. REV. 1729, 1757-58 (2004).

⁶⁸ See TIMOTHY H. EDGAR, AMERICAN CIVIL LIBERTIES UNION, ACLU MEMO TO INTERESTED PERSONS REGARDING CONCERNS IN H.R. 4437, THE "BORDER PROTECTION, ANTITERRORISM, AND ILLEGAL IMMIGRATION CONTROL ACT OF 2005" (Dec. 7, 2005), available at <http://www.aclu.org/natsec/gen/22371leg20051207.html>.

⁶⁹ See Madden, *supra* note 43.

⁷⁰ See Press Release, President Bush, *supra* note 1.

⁷¹ See *id.*

⁷² See *id.*

side the United States would be eligible for guest worker status, not undocumented immigrants currently in the country.⁷³ Temporary workers would be able to renew their status once, but after their temporary status elapsed, they would have to return to their countries of origin.⁷⁴ Moreover, before hiring a guest worker, a U.S. employer would have to make every reasonable effort to find a U.S. citizen to fill the job in question first.⁷⁵

B. Homeland Security and Border Enforcement

While President Bush's current proposal does not address the issue of border security, the administration has allocated more resources to border security in recent years. Between September 11, 2001, and December 2003, the Border Patrol increased in size by more than ten percent.⁷⁶ The number of agents assigned to the northern border has tripled to more than 1000.⁷⁷ Furthermore, the Border Patrol is using technology to extend its capabilities beyond the physical reach of its agents.⁷⁸

More broadly, the administration has sought to ensure greater compliance with immigration laws through enforcement initiatives. The administration instituted Operation Tarmac to monitor immigration law compliance among businesses and employees in secure areas of airports.⁷⁹ Since September 11th, this operation has resulted in more than 3640 audits by the Department of Homeland Security and at least 774 individual indictments.⁸⁰

The administration has also emphasized the importance of technology in tracking visitors to the United States. Through the Internet-based Student and Exchange Visitor Information System (SEVIS), authorities have been able to monitor over 870,000 foreigners on student and exchange visas.⁸¹ SEVIS has led to at least 71 arrests based on 285 field investigations.⁸² Furthermore, the United States has started collecting biometric identifying information from aliens entering the country through the US-VISIT program.⁸³ Maintaining a database of this information should facilitate future visa enforcement.⁸⁴

⁷³ See *id.*

⁷⁴ See *id.*

⁷⁵ See Press Release, President Bush, *supra* note 1.

⁷⁶ See *id.*

⁷⁷ See *id.*

⁷⁸ See *id.*

⁷⁹ See *id.*

⁸⁰ See Press Release, President Bush, *supra* note 1.

⁸¹ See *id.*

⁸² See *id.*

⁸³ See *id.*

⁸⁴ See *id.*

C. Analysis of the Proposal

President Bush's proposal presents a superficial solution to undocumented immigration. The President endorses a guest worker program that would provide temporary legal status for a substantial portion of the country's undocumented immigrants, but he opposes the extension of lawful permanent resident status.⁸⁵ The participants in this program who are not able to remain employed would therefore be required to leave the country.⁸⁶ Given the unpredictable nature of the low-wage job market, the administration's proposal threatens to attract immigrants with promises of guest worker status, only to force them out of the country a few years later when they lose their jobs.⁸⁷

Furthermore, President Bush's guest worker program would only provide lawful status to undocumented immigrants for approximately three years, and, after at most one chance to reapply for three more years, our "guests" would be required to leave the country.⁸⁸ The temporary nature of this program provides little incentive for undocumented immigrants to emerge from the shadows, especially those who have raised American-born children and have established deep ties to their communities.

The administration's approach is essentially a "flat Earth" program: the White House expects undocumented workers to fall off the edge of the Earth and disappear when their guest worker status expires. The central problem with this tactic is that it unrealistically expects individuals who have risked their lives to immigrate without documentation and currently live underground to stand up, be counted, and then depart when their new visas expire.

Such a program admittedly may have some benefits, especially for citizens of Mexico and other countries who depend on the money they receive from family members working in the United States.⁸⁹ It may even help domestic employers who need low-wage labor by providing a steady stream of workers.⁹⁰ However, it does not solve the problem of having

⁸⁵ See Press Release, President George W. Bush, President Bush Proposes New Temporary Worker Program (Jan. 7, 2004), available at <http://www.whitehouse.gov/news/releases/2004/01/20040107-3.html>.

⁸⁶ See *id.*

⁸⁷ See generally Frank W. Munger, *Social Citizen as "Guest Worker": A Comment on Identities of Immigrants and the Working Poor*, 49 N.Y.L. SCH. L. REV. 665, 668-74 (2004) (discussing the plight of low-wage and immigrant workers).

⁸⁸ See Julia Gelatt, *Bush Puts Immigration Reform Back on Agenda, Approves Funding for DHS*, MIGRATION POLICY INST., Nov. 1, 2005, <http://www.migrationinformation.org/USfocus/display.cfm?id=346>.

⁸⁹ Remittances to Latin America and the Caribbean totaled more than \$53 billion in 2005, exceeding both foreign direct investment in and international aid to those countries. See Richard Lapper, *Home Economies Helped by \$54bn Migrant Cheques*, FIN. TIMES, Mar. 30, 2006, at 12.

⁹⁰ See, e.g., Patrice Hill, *Industries Back Illegals Plan*, WASH. TIMES, Mar. 11, 2004, at A1.

millions of undocumented immigrants living outside mainstream society. While offering guest worker status to undocumented workers would initially reduce the number of people residing in the country without documentation, it would likely be followed by a regrowth in the undocumented population as the status period expires. Since the United States is so inefficient at policing immigration,⁹¹ these newly undocumented workers would have no incentive to return to their home countries.

Moreover, a guest worker program could be detrimental to American workers. The rapid growth of a supply of legal guest workers willing to accept low wages and few benefits for fear of losing their jobs—and thus their legal status—would threaten wages and employment benefits for American workers.⁹² President Bush's proposal does not seek to strengthen protections for wages, benefits, and other workers' rights.⁹³ While the administration claims that there would be effective employment protections in the program,⁹⁴ the government's record of enforcing such protections is historically spotty at best.⁹⁵

Not only does the administration's proposal inadequately address the problems presented by the vast number of undocumented workers currently residing in the United States, but it also fails to deal effectively with the crucial need for improved border security in order to deter undocumented immigration in the first place. It does not even include a provision for additional border agents.⁹⁶ Such a reactive approach to undocumented immigration has proven ineffective in the past, as witnessed by the millions of

⁹¹ See, e.g., Thomas J. Espenshade, *Does the Threat of Border Apprehension Deter Undocumented US Immigration?*, 20 POPULATION & DEV. REV. 871, 872 (1994) ("[T]he typical undocumented migrant who is already established in the United States faces an annual probability of being apprehended of 1–2 percent."); Alberto Dávila et al., *The Short-Term and Long-Term Deterrence Effects of INS Border and Interior Enforcement on Undocumented Immigration*, 49 J. ECON. BEHAV. & ORG. 459, 462 (2002) ("[I]ncreases in INS enforcement resources do not appear to be a significant long-term deterrent to Mexican attempted illegal immigration.").

⁹² See Brian DeBose, *Immigrant Competition Shown to Depress Wages*, WASH. TIMES, May 5, 2004, at A3; cf. Walsh, *supra* note 47, at 313.

⁹³ Cf. Press Release, President Bush, *supra* note 1 (describing only strengthened enforcement of existing laws as a component of President Bush's proposal).

⁹⁴ See Press Release, President Bush, *supra* note 85.

⁹⁵ See, e.g., CAL. HERITAGE PROJECT, *THE BRACERO PROGRAM: LEGAL TEMPORARY FARMWORKERS FROM MEXICO, 1942–1964*, <http://sunsite.berkeley.edu/CalHeritage/latinos/braceros.html> (last modified May 17, 2004) (describing how the United States failed to provide the benefits originally promised to Mexican workers temporarily doing agricultural work in the United States through the Bracero Program); Michael Holley, *Disadvantaged by Design: How the Law Inhibits Agricultural Guest Workers from Enforcing Their Rights*, 18 HOFSTRA LAB. & EMP. L.J. 575, 583–85 (2001) ("If [a bracero] complained [about poor conditions], he would be fired without any practical recourse, blacklisted and sent home with debts still owing."); Kristi L. Morgan, *Evaluating Guest Worker Programs in the U.S.: A Comparison of the Bracero Program and President Bush's Proposed Immigration Reform Plan*, 15 LA RAZA L.J. 125 (2004).

⁹⁶ See Press Release, President Bush, *supra* note 1 (listing policy proposals and failing to include such an increase).

undocumented aliens currently living in the United States.⁹⁷ Clearly, President Bush's proposal is ill-equipped to address the root of the U.S. immigration dilemma.

IV. THE SOLUTION TO THE UNDOCUMENTED WORKER PROBLEM: THE SAVE AMERICA COMPREHENSIVE IMMIGRATION ACT

Due to the inadequacies in current immigration policy, the United States is in need of comprehensive immigration reform. I have introduced the Save America Comprehensive Immigration Act (SACIA)⁹⁸ to address the undocumented worker population growth problem. The bill includes the proposed reforms described immediately below. I expect many of its provisions to be adopted when Congress enacts a comprehensive immigration bill.

A. *Earned Access to Legalization*

SACIA emphasizes an earned access to legalization on the part of undocumented immigrants that would promote domestic economic stability. Unlike the Bush administration's proposal, which provides temporary legalized status for undocumented workers who have lived in the United States for any length of time,⁹⁹ SACIA would only provide access for undocumented immigrants who have lived in the United States for more than five years.¹⁰⁰ Furthermore, it would amend the registry provision of the INA, making permanent legal status available to undocumented immigrants who have lived in the United States since 1986,¹⁰¹ up from the current cutoff year of 1972.¹⁰² The rationale behind this registry provision is that people develop roots when they live in the United States for a long period of time, making it unconscionable to force them to leave.¹⁰³ I believe that two decades is a long enough period of time to establish such roots and that this change to 1986 is both reasonable and politically realistic.¹⁰⁴

⁹⁷ See PASSEL, *supra* note 41, at 3.

⁹⁸ H.R. 2092, 109th Cong. (2005).

⁹⁹ See Press Release, President Bush, *supra* note 85 (making program available to "undocumented men and women now employed in the United States").

¹⁰⁰ See H.R. 2092, 109th Cong. § 201 (2005).

¹⁰¹ See *id.* § 203.

¹⁰² See 8 U.S.C. § 1259 (2000).

¹⁰³ See 131 CONG. REC. E936 (Mar. 19, 1985) (statement of Sen. Kindness) ("[O]ver time[,] many [immigrants] make their home here, raise their children here, and ultimately become taxpaying contributors to American pluralism.").

¹⁰⁴ The registry provision cutoff year was amended to 1972 in 1986. See Pub. L. No. 99-603, § 203, 100 Stat. 3359 (1986) (current version at 8 U.S.C. § 1259 (2000)). Since a fourteen-year residency period was acceptable in the 1986 amendments, a twenty-year period should be reasonable now.

Furthermore, President Bush's proposal would establish a relatively easy renewal of temporary legal status, which would encourage guest workers to simply recycle their temporary status.¹⁰⁵ In contrast, SACIA would more easily allow undocumented immigrants to gain permanent legal status,¹⁰⁶ thereby promoting stability in the lives of these workers as well as within the U.S. economy.¹⁰⁷

B. Employee Protections

SACIA addresses the roots of undocumented worker exploitation: lack of power on the part of these workers and lack of government regulation. Under constant threat of government expulsion, illegal immigrants are being forced to accept reduced wages and benefits.¹⁰⁸ The administration's proposal erroneously presumes that a "compassionate" work environment for employees will naturally emerge as a result of offering illegal immigrants temporary guest worker status.¹⁰⁹ In contrast, SACIA would confront the reality of exploitation by requiring the Secretary of Labor to conduct a national study on such exploitation of undocumented workers by employers.¹¹⁰ The results of such a study would enable the government to determine the extent and nature of this problem and, therefore, to tackle it more effectively.

Furthermore, SACIA would empower employees, both domestic and immigrant, to benefit from the collective power of worker unions. Greater numbers of undocumented workers increase employer exploitation of laborers willing to work at extremely low wages or else face deportation.¹¹¹ In turn, this decreases the ability of all employees, American and not, to organize, collectively bargain, and negotiate contracts and benefits. Unfortunately, this problem would persist even if undocumented workers gained guest worker status, as employers would still maintain their power by threatening to fire them and terminate their guest worker status.¹¹² Therefore, President Bush's proposal would allow employers to maintain their upper hand over employees, while still abiding by Immigration Reform and Control Act (IRCA) requirements not to hire undocumented workers.¹¹³ Only when workers have full legal status and can assert their rights

¹⁰⁵ Although the Bush proposal technically allows only one renewal, preventing workers from falsifying information on their applications in order to illegally secure additional renewals would be a significant concern.

¹⁰⁶ See H.R. 2092, 109th Cong. § 201 (2005).

¹⁰⁷ Cf. *supra* notes 90-95 and accompanying text.

¹⁰⁸ See Walsh, *supra* note 47, at 317.

¹⁰⁹ See Press Release, President Bush, *supra* note 1.

¹¹⁰ See H.R. 2092, 109th Cong. § 402 (2000).

¹¹¹ See *supra* note 92 and accompanying text.

¹¹² Cf. Press Release, President Bush, *supra* note 1 (noting that guest workers must "return home after their period of work expires").

¹¹³ See Pub. L. No. 99-603, 100 Stat. 3359 (1986) (codified as amended in scattered sections of 8 U.S.C.).

free of employer intimidation, as I propose in SACIA, can they protect themselves and join their non-immigrant co-workers in improving working conditions.

To further help domestic workers, SACIA would require the Secretary of Homeland Security to impose a ten percent surcharge on fees collected for employment-based permanent resident status petitions.¹¹⁴ The funds raised would be used to establish employment-training programs for Americans in lines of work especially affected by undocumented worker growth.¹¹⁵ The money would also be used to establish an Office to Preserve American Jobs in the Department of Labor, whose purpose would be to ensure that the qualified Americans graduating from these training programs are employed before foreign workers.¹¹⁶

C. Family Reunification

Another goal of SACIA is family reunification. While Bush's proposal ignores this issue,¹¹⁷ SACIA provides solutions for two barriers to family reunification caused by current immigration law. First, it revises the INA¹¹⁸ to allow the waiver of grounds for removal of undocumented aliens, such as minor criminal offenses and technical violations of the INA, in order to promote family unity.¹¹⁹ Second, SACIA establishes a solution to the backlog of applications for entry by family members of legal residents that currently plagues the Immigration and Naturalization Service, such as visa petitions and naturalization applications.¹²⁰ It would expand the K-1 Visitor's Visa, which currently allows an applicant to enter the United States to marry an American citizen,¹²¹ in order to make it possible for relatives of permanent residents to enter the United States and await the processing of a visa petition here.¹²² It is simply unfair to make lawful permanent residents endure family separation that is not required of citizens, especially when their foreign relative is already on track to becoming a permanent resident as well.

¹¹⁴ See H.R. 2092, 109th Cong. § 403 (2005).

¹¹⁵ *Id.*

¹¹⁶ See *id.*

¹¹⁷ See Tisha R. Tallman, *Liberty, Justice, and Equality: An Examination of Past, Present, and Proposed Immigration Policy Reform Legislation*, 30 N.C.J. INT'L L. & COM. REG. 869, 888 (2005).

¹¹⁸ See Pub. L. No. 82-414, 66 Stat. 163 (1952) (waiver sections codified as 8 U.S.C. §§ 1101, 1182(d)-(i)).

¹¹⁹ See H.R. 2092, 109th Cong. tit. V (2000).

¹²⁰ See 151 CONG. REC. H6081 (July 19, 2005) (statement of Rep. Jackson Lee).

¹²¹ See U.S. Customs and Immigration Serv., *How Do I Bring My Fiancé(e) to the United States?*, <http://uscis.gov/graphics/howdoi/fiance.htm> (last visited Jan. 20, 2006).

¹²² See H.R. 2092, 109th Cong. § 103 (2005).

D. Diversity Visas and Haitian Parity

SACIA addresses head on the discriminatory effects of immigration policy head on, another vital issue inadequately addressed by President Bush's proposal. The Department of State currently administers a Diversity Immigrant Visa Program under which it issues 55,000 permanent resident Diversity Visas each year to people who meet certain stringent requirements and come from countries with low rates of immigration to the United States.¹²³ This program seeks to provide a counterbalance to the concentration of immigration from particular source countries that results from family and employment-based immigration.¹²⁴ It also creates an avenue for legal immigration for those without pre-existing family or employment relationships in the United States.¹²⁵ In an effort to further promote diversity in U.S. immigration, SACIA would double the number of Diversity Visas offered annually from 55,000 to 110,000.¹²⁶

From the 1960s to the present, hundreds of thousands of Cuban refugees have been allowed into the United States and permitted to adjust automatically to permanent resident status after one year under the Cuban Adjustment Act.¹²⁷ In contrast, Haitian refugees have been required to pass a "credible fear" screening before being granted asylum into the United States.¹²⁸ Unable to meet this stringent requirement, two-thirds of them have been forced to return to Haiti.¹²⁹ To address this problem, SACIA would establish a Haitian version of the Cuban Adjustment Act, offering Haitian refugees automatic permanent resident status after one year of residence in this country.¹³⁰

¹²³ See 8 U.S.C. § 1153(c) (2000) (requiring that applicants for diversity visas not hail from a country from which the United States admitted more than 50,000 natives in the previous year and that they have completed at least the equivalent of a high school education or two years of work experience).

¹²⁴ See *id.*

¹²⁵ This program marks the first time in our history that Africans have been able to immigrate by choice in significant numbers. See Andowah A. Newton, *Injecting Diversity into U.S. Immigration Policy: The Diversity Visa Program and the Missing Discourse on its Impact on African Immigration to the United States*, 38 CORNELL INT'L L.J. 1049, 1077 (2005). Furthermore, the program has allowed immigration to resume from the Warsaw Pact countries, which had previously prohibited its citizens from emigrating during the Cold War. See Paul J. Smith, *Geography and the Boundaries of Confidence: Military Responses to the Global Migration Crisis: A Glimpse of Things to Come?*, 23 FLETCHER F. WORLD AFF. 77, 78-79 (1999) (discussing the rise in immigration from the former Soviet countries); see also Francis A. Gabor, *Reflections on the Freedom of Movement in Light of the Dismantled "Iron Curtain,"* 65 TUL. L. REV. 849, 853 (1991) (discussing America's hostile response to the Soviet Union's curtailing its citizens' right to freedom of movement).

¹²⁶ See H.R. 2092, 109th Cong. § 701 (2000).

¹²⁷ Pub. L. No. 89-732, 80 Stat. 1161 (codified as amended at 8 U.S.C. § 1255 (2000)).

¹²⁸ See Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, 105 Pub. L. No. 277 § 902(b), 112 Stat. 2681-539 (codified as amended at 8 U.S.C. § 1255 (2000)).

¹²⁹ See Bill Frelick, Letter to the Editor, *Most Favored Refugees?*, WASH. POST, Apr. 20, 1998, at A18.

¹³⁰ See Cuban Adjustment Act § 1.

By adopting SACIA, the United States would be able to counteract the discrimination currently encouraged by U.S. immigration policy, thereby improving our relationships with other countries and generating international goodwill.¹³¹ All of this would open doors to foreigners who wish to immigrate through legal channels without creating any new incentives to immigrate without documentation.¹³²

E. Fairness in Asylum and Refugee Proceedings

Unlike the Bush administration's proposal, which fails to exhibit any compassion for refugees hoping to escape deplorable homeland conditions,¹³³ SACIA directly confronts the problems created by this country's stringent asylum requirements. Currently, the Attorney General can remove any asylum seeker from the United States to a "safe third country" and must automatically deny refugee status to anyone who has previously been denied asylum.¹³⁴ Asylum applicants must apply for asylum within one year of their arrival into the United States or else be able to justify a delay on the basis of extraordinary circumstances.¹³⁵

However, many immigrants lack documentation that proves they have been in the country for less than a year¹³⁶ and cannot establish the extraordinary circumstances required for an exception, even though they remain in desperate need of asylum in order to avoid being returned to countries where they face persecution. SACIA would eliminate the one-year application requirement and thereby facilitate the legal immigration of many refugees looking to flee persecution in their home countries.¹³⁷

F. Local Policing Reform

SACIA would also address the inability of local law enforcement to enforce immigration policy due to overstretched state resources, a problem completely ignored by the Bush plan.¹³⁸ Currently, the INA allows the

¹³¹ See, e.g., John N. Paden & Peter W. Singer, *America Slams the Door (On Its Foot): Washington's Destructive New Visa Policies*, FOREIGN AFF., May-June 2003, at 8-14.

¹³² See *Diversity Visa Program: Hearing Before the Subcomm. on Immigration, Border Security, and Claims of the H. Comm. on the Judiciary*, 109th Cong. 4-8 (2005) (statement of Bruce A. Morrison, Chairman, Morrison Public Affairs Group).

¹³³ See Karen C. Tumlin, *Suspect First: How Terrorism Policy Is Reshaping Immigration Policy*, 92 CAL. L. REV. 1173, 1179, 1190, 1228 (2004) (describing the transfer of immigration oversight from the INS to the Department of Homeland Security, which adversely impacted refugees; the creation of Operation Liberty Shield, which requires immediate detention of asylum seekers from 34 "Al Qaeda" nations; and the freezing of refugee admissions following September 11th).

¹³⁴ See 8 U.S.C. § 1158 (2000).

¹³⁵ See *id.*

¹³⁶ See Cara D. Cutler, *The U.S.-Canada Safe Third Country Agreement: Slamming the Door on Refugees*, 11 ILSA J. INT'L & COMP. L. 121, 142 n.79 (2004).

¹³⁷ See H.R. 2092, 109th Cong. § 1003 (2005).

¹³⁸ See Jodi Wilgoren, *Traces of Terror: Domestic Security; U.S. Terror Alert Led to No*

Attorney General to enter into agreements with state and local governments to have immigration enforcement handled by local police.¹³⁹ However, local police are simply not equipped to enforce the non-criminal provisions of the INA, as they are not trained as immigration officers. Furthermore, such agreements take them away from handling other crucial police functions. In contrast, SACIA would repeal the INA section allowing these agreements between the Attorney General and local law enforcement,¹⁴⁰ forcing the federal government to utilize available federal power and resources to enforce immigration policy more effectively.

V. THE SOLUTION TO THE BORDER SECURITY PROBLEM: THE RAPID RESPONSE BORDER PROTECTION ACT

While addressing the undocumented worker population is integral to immigration policy reform, securing our national border with Mexico is just as important. In order to prevent our undocumented immigrant population from continuing to grow exponentially, the United States must secure our border. This goal would be achieved through the enactment of the Rapid Response Border Protection Act (RRBPA).¹⁴¹

President Bush's current proposal offers no new solutions to our pressing border security problems. It merely refers to efforts already taken by the administration in the aftermath of September 11 to devote more resources to securing our nation's border.¹⁴² In February 2006, President Bush asked Congress for funding for about 200 additional Immigration and Customs Enforcement (ICE) agents to investigate undocumented immigrant employment violations.¹⁴³ Immigration experts, however, point out that this number is much too low to find the estimated eleven million undocumented immigrants already living in the United States.¹⁴⁴ Moreover, these efforts are merely reacting to the reality that our borders are insecure and do nothing to fix the root of the problem.

Unlike President Bush's plan, RRBPA would address the urgent crisis at our border by providing the Border Patrol with the personnel, resources, and equipment it needs to secure the border. The bill would add 15,000 new Border Patrol agents over the next five years, increasing the number of agents from 11,000 to 26,000.¹⁴⁵ It would authorize the Secretary of Homeland Security to respond rapidly to border crises by deploying up

Change in States' Security, N.Y. TIMES, May 25, 2002, at A1.

¹³⁹ See Pub. L. No. 82-414 § 287(g), 66 Stat. 163 (1952).

¹⁴⁰ See H.R. 2092, 109th Cong. § 1202 (2005).

¹⁴¹ See H.R. 4044, 109th Cong. (2005).

¹⁴² See Press Release, President Bush, *supra* note 1.

¹⁴³ See Madden, *supra* note 43.

¹⁴⁴ See *id.*

¹⁴⁵ See H.R. 4044, 109th Cong. § 301 (2005).

to 1000 additional Border Patrol agents to a state when its governor declares a border security emergency.¹⁴⁶

Furthermore, RRBPA would crack down on the use of fraudulent documents to enter or to remain in the country by adding specialized enforcement agents to address this issue¹⁴⁷ and by establishing cooperative mechanisms with state and local law enforcement agencies.¹⁴⁸ It would also provide critical equipment and infrastructure improvements, including helicopters, power boats, land-based vehicles, portable computers, reliable radio communications systems, hand-held GPS devices, body armor, and night-vision equipment.¹⁴⁹ Supplying this equipment would enhance the Border Patrol's ability to detect those attempting to immigrate without documentation before they join the millions of undocumented workers who live here already.

Moreover, RRBPA would provide personnel benefits to ensure that the Bureau of Customs and Border Protection is able to attract highly qualified personnel to enforce our immigration and customs laws along the borders.¹⁵⁰ The bill would also add 100,000 more detention beds to ensure that those apprehended entering the United States without documentation can be detained and not released into our communities.¹⁵¹

RRBPA has the support of many organizations integrally involved in immigration policy enforcement. It is strongly endorsed by the National Border Patrol Council and the National Homeland Security Council, which both represent enforcement officials serving on the front line.¹⁵² It is also backed by the 9/11 Families for a Secure America, a multi-ethnic coalition of native-born and naturalized Americans contending that the problems of open borders, illegal immigration, and terrorism are inextricably linked.¹⁵³

CONCLUSION

Our nation is currently home to eight to eleven million undocumented workers, and this number will only increase if we cannot secure our borders from illegal entry. Despite the strong language contained in the Bush administration's recent immigration reform proposal,¹⁵⁴ it presents no real solutions to our nation's undocumented worker and border security prob-

¹⁴⁶ See *id.* § 101.

¹⁴⁷ See *id.* § 403.

¹⁴⁸ See *id.* § 404.

¹⁴⁹ See *id.* §§ 103, 105–110.

¹⁵⁰ See H.R. 4044, 109th Cong. §§ 305–307, 310, 313, 315–316 (2005).

¹⁵¹ See *id.* § 201.

¹⁵² See *New Bill Would Bolster CBP*, FEDERAL DAILY, Oct. 18, 2005, <http://www.clubfed.com/federaldaily/archive/2005/10/FD101805.htm>.

¹⁵³ See *Rep. Sheila Jackson Lee Introduces Major Immigration Enforcement Bill*, NEWSLETTER (9/11 Families for a Secure Am., Staten Island, N.Y.), Oct. 14, 2005, <http://www.911fsa.org/newsletters/news2005oct15.pdf>.

¹⁵⁴ See Press Release, President Bush, *supra* note 1.

lems. While the guest worker status program would initially legalize current undocumented workers, these workers would likely remain in the United States illegally after their temporary status expired. Thus, President Bush's proposal would worsen the very immigration problems it purports to resolve. Unlike the administration's proposal, the two bills that I have proposed, SACIA and RRPBA,¹⁵⁵ will collectively resolve the undocumented immigration issues we face. First, they will address the large presence of undocumented workers by making citizenship rights more accessible. Second, they will more effectively prevent the entry of undocumented immigrants in the first place.

The United States is a nation of immigrants, but our present immigration system is sadly dysfunctional and outdated. In a debate often dominated by fear-mongering and xenophobia, it is time for practical solutions to this serious challenge. Congress must create a secure and controlled immigration system that will keep us safe and fulfill the promise of liberty and economic opportunity that America continues to represent to its current and future citizens. The two bills that I have proposed, the Save America Comprehensive Immigration Act and the Rapid Response Border Protection Act, will help our nation accomplish that goal.

¹⁵⁵ See H.R. 2092, 109th Cong. (2005); H.R. 4044 109th Cong. (2005).