

Testimony of  
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SECURITY AND INTERNATIONAL LAW  
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Regarding H.R. 1645, the “Security Through Regularized Immigration and a Vibrant Economy Act of 2007 (STRIVE Act)”

**This statement addresses the effectiveness of the STRIVE Act as a legislative response to illegal immigration and border security in the United States.**

**Introduction**

Madam Chair and members of the Committee, thank you for this opportunity to present the position of the Federation for American Immigration Reform with respect to the STRIVE Act and the policy considerations behind it. My name is Julie Kirchner, and I am FAIR’s Government Relations Director. FAIR is a public interest organization advocating a just immigration policy that takes as paramount the national interest and the interests of American citizens. Our organization has over 300,000 members and activists in 49 states and is affiliated with over 50 immigration reform organizations across the country. FAIR does not receive any federal grants, contracts or subcontracts.

Madam Chair, on June 28, 2007, the motion to invoke cloture on the Senate’s comprehensive immigration reform legislation failed. It failed because the American public saw that it was created to serve special interests by perpetuating the status quo. They saw the unrelenting violation of the nation’s borders, the skyrocketing illegal alien population, and the disappearance of jobs and depression of wages as employers exploited low-paid guest workers or simply used illegal alien labor. They then saw the Bush Administration join with a handful of Senators to offer legislation that granted amnesty and created massive new guest worker programs to appease big business. They

realized that this legislation rewarded law breakers, undermined the American worker, and only made a bad situation worse. And the American people said “no.”<sup>1</sup>

Madam Chair, the American people not only said “no” to the Bush-Kennedy amnesty bill (S.1639), they said “no” with a voice rarely heard in politics. And, as Senators of both parties listened to why ordinary Americans overwhelmingly opposed the bill, they began to realize that before them was an immigration bill with so many flaws and failings, no political compromise could save it. Indeed, on the day of the final cloture vote the volume of phone calls from those who opposed the bill was so great, it shut down the Capitol switchboard. Within hours, 37 Republicans joined with 16 Democrats (including one Independent) to vote against the Bush-Kennedy Amnesty Bill and the cloture motion failed, 46-53.

Turning our attention today to the STRIVE Act (H.R. 1645), it is clear that H.R. 1645 only replicates, and in many cases exacerbates, the problems in the Senate bill. It grants mass amnesty in multiple forms, creates huge new guest worker programs, increases the annual number of foreign workers who may permanently stay in the U.S. The effects of such legislation, if passed, would have devastating effects on U.S. taxpayers, the American worker, the environment and, most importantly, the rule of law.

### **Amnesty**

The STRIVE Act contains not one, but three amnesty programs. First, the bill allows an illegal alien — and an illegal alien only — to apply for “conditional nonimmigrant status” if he can establish continuous physical presence in the U.S. since June 1, 2006. The alien must also submit fingerprints, undergo a background check, and pay a \$500 fine. After six years, the conditional nonimmigrant can obtain lawful permanent residence by establishing employment; paying taxes; paying \$2000 in fees and fines; passing a background check; meeting a minimal English course study requirement; and

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<sup>1</sup> According a Rasmussen poll, only 22 percent of Americans supported the comprehensive immigration reform bill considered by the Senate earlier this summer. This lack of support was bi-partisan, with only 22 percent of Democrats and 22 percent of Republicans favoring it ([www.rasmussenreports.com](http://www.rasmussenreports.com), June 25, 2007).

touching the border. This last requirement, called a “touchback” provision, only requires that during the six-year period, the alien return to the border and reenter the United States as a conditional nonimmigrant—the status he or she already has. There is no requirement that the alien actually return to his or her home country, undergo any new scrutiny, obtain any new documentation, or spend any meaningful time outside of the U.S.

The second amnesty provision is in the AgJOBS section of the bill which gives “blue cards” to agricultural workers. This provision allows nearly 1.5 million illegal alien agricultural workers, plus their spouses and children, to obtain legal status so long as they have been engaged in regular agricultural employment for the two years ending December 31, 2006. Three years after receiving a blue card, the alien can adjust to lawful permanent resident status and then obtain U.S. citizenship. This provision is reminiscent of the Seasonal Agricultural Worker amnesty provision enacted in 1986 that is now considered one of the most fraud-ridden immigration provisions ever adopted.

The third amnesty program is contained in the DREAM Act portion of the legislation. Under the DREAM Act, any individual who entered the U.S. before turning 16 years old, remained in the country five years, and has enrolled in primary or secondary school will receive a stay of removal and work authorization. An illegal alien who finishes high school will receive conditional immigrant status and may adjust to lawful permanent resident status upon completion of a two-year degree program.

### **Guest Worker Programs**

The STRIVE Act increases the ease with which employers can import guest workers into the country by creating a massive new guest worker program and expanding existing guest worker programs. First, the STRIVE Act creates a new H-2C guest worker program that allows illegal aliens to stay and work in the U.S. for up to 6 years as long as they can show employment; pass a background check; pass a medical examination; and pay a \$500 fee. Under the H-2C program, these “guest workers” and their dependents are permitted to apply for permanent residency status and eventual citizenship. The program has an annual cap of 400,000 guest workers with an automatic escalator that can inflate

the number to as many as 600,000 guest workers per year. This will permit employers to import up to a total of 3.6 million additional foreign workers into the U.S. at any one time — not counting their immediate relatives — to compete for American jobs in construction, service or other areas of the economy at lower wages and with arguably fewer protections.

In addition, the STRIVE Act dramatically increases the number of H-1B visas from 65,000 to 115,000 for 2007, with possible yearly increases of 20 percent until a ceiling of 180,000 is reached. It also exempts from the H-1B cap aliens with graduate degrees in science, engineering, math, etc. and broadens the exemption from the cap for aliens who earned graduate degrees in the U.S. These provisions are a serious threat to high-tech workers in the U.S., including legal immigrants who have patiently waited their turn to take part in the American dream.

### **Legal Immigration**

In addition to importing up to 600,000 guest workers annually (plus family members) who will be put on a path to citizenship, the STRIVE Act more than doubles the annual number of employment-based immigrants allowed into the U.S. by raising the cap from 140,000 to 290,000. The legislation also reverses current law by exempting spouses and children—up to 800,000 annually—from the employment-based cap. This provision further doubles admissions since currently about half of the quota is used for family members. Finally, the bill exempts from the cap aliens who come to take positions in what the Department of Labor certifies as “shortage occupations.” This last provision in particular will do nothing more than create an ongoing incentive for big business to lobby Washington to classify every imaginable sector of the workforce to as a “shortage occupation.”

### **Enforcement**

Finally, Madam Chair, the STRIVE Act has some positive enforcement provisions. However, these enforcement provisions, much like the 1986 amnesty, are designed to fail as they are undermined by numerous loopholes.

First, the STRIVE Act mandates that employers use an employment eligibility verification system set up by the Department of Homeland Security and the Social Security Administration (SSA) within five years and requires SSA to share information with the Department of Homeland Security (DHS). It increases the civil and criminal penalties for employers who knowingly hire illegal aliens. However, all of this is undercut by provisions permitting DHS to delay implementation of the employment eligibility verification system and exercise its discretion to excuse classes of employers from its use. In addition, employers who hire “independent contractors” do not have to participate and DHS has the discretion to reduce penalties for illegal hiring practices.

With respect to border security, the STRIVE Act increases the number of Border Patrol agents and Immigration and Customs Enforcement (ICE) agents. It affirms the power of state and local law enforcement to carry out criminal (but not civil) immigration laws and increases the number of detention beds available. Increasing resources for border security requires funding, however, and the STRIVE Act provides none. But even if it did, increasing law enforcement capabilities is meaningless if the federal government continues to turn a blind eye to violations of the law and amnesty is to be the new immigration policy of the United States.

### **Policy Considerations**

Madam Chair, both supporters and opponents of recent mass-legalization and border enforcement efforts can agree on many of the facts that have recently brought issues of immigration and border security to the fore. A conservative estimate of the number of aliens illegally in the United States is around 12 million according to a recent Department of Homeland Security study.<sup>2</sup> Other estimates put the population figure as high as 20 million.

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<sup>2</sup> Department of Homeland Security, Office of Immigration Statistics, *Estimates of the Unauthorized Immigrant Populations Residing in the United States: January 2006* at 2 (August 2007).

These individuals do not just happen to be here; they did not wake up one morning on the wrong side of the border. They intentionally break the law by illegally crossing the border or overstaying their visas. And while most of those who enter the U.S. illegally do so to improve their economic situation, they do so at the expense of others—citizens and legal immigrants—clogging the court systems, straining government services, depressing wages of workers and exacerbating the strain on the environment. Most disheartening, illegal aliens by definition benefit from undermining the rule of law. Yet, despite the fact that illegal immigration impacts virtually every American and our quality of life, these effects are rarely discussed in policy debates on Capitol Hill.

Madam Chair, while some in Congress feel that the best course of action is to grant amnesty and otherwise adjust the law to accommodate illegal activity, FAIR believes there are many other alternatives that uphold the rule of law and better serve the long-term interests of our nation. During the 1990s, for example, the bi-partisan U.S. Commission on Immigration Reform (commonly known as the Jordan Commission) released at least three reports full of sound recommendations for reforming of our immigration system.

With respect to illegal immigration, the Jordan Commission recommended improving border security, eliminating the jobs magnet, including a computerized registry to verify work eligibility, and mitigating the costs to state and local governments. With respect to legal immigration, the Jordan Commission recommended simplifying immigration categories; reducing legal immigration (with overall annual cap of 550,000); prioritizing immediate family members over extended family; prioritizing skilled workers over unskilled workers; reducing the ceiling for employment-sponsored immigration; and increasing interior enforcement. The Commission also stressed enforcement of immigration limits, enforcement of sponsor responsibility, and protection of American workers as basic principles essential to an effective immigration policy.

Madam Chair, the Jordan Commission recommended these reforms to our immigration system over a decade ago and yet few of them have been implemented. It seems that the

Bush Administration and many in Congress prefer to ignore them and skip straight to the politically expedient alternatives—amnesty and guest worker programs. But traveling this course will only perpetuate the status quo and lead to the further deterioration of our immigration system. FAIR believes that the reforms recommended by the Jordan Commission offer an exponentially better and genuine solution to our immigration crisis.

## **Conclusion**

Madam Chair, for all of the reasons above, FAIR believes that the STRIVE Act compounds, rather than eases, the problems of our broken immigration system. By granting amnesty to illegal aliens, Congress rewards those who openly break our immigration laws and encourages more illegal immigration. Furthermore, the creation of massive new guest worker programs coupled with the expansion of existing programs serves only to subsidize corporate greed and undermine the status of the American worker. Finally, when the amnesties, guest worker programs, and special loopholes and exceptions of the STRIVE Act are combined, the resulting increase to the U.S. population is staggering. FAIR estimates that the passage of the STRIVE Act would result in an additional 50 million people being added to the 2050 population projection. This means that instead of the U.S. population growing to 461 million by 2050, it will soar to approximately 513 million.<sup>3</sup> Looking at these devastating effects, FAIR believes passage of the STRIVE Act would be a mistake of historic proportions.

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<sup>3</sup> Federation for American Immigration Reform, *Report: Assessing the Population and Environmental Impact of the Gutierrez-Flake Bill (H.R. 1645)* (May 2007), see attachment.