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Border Security and Immigration: Building a Principled Consensus for Reform

The Honorable Mike Pence

I come before you today in the midst of a national debate over immigration reform. While I acknowledge that, as the *New York Times* stated this past Sunday, we are near the “end game” on immigration reform in the United States Senate, we are far from reaching the kind of compromise between the House and the Senate that would make a legislative outcome possible during this session of Congress. I bring these remarks in the hopes of offering a new approach and a real middle ground on immigration reform.

One week ago, President Bush set out his views on immigration reform to the American people. He stated: “There is a rational middle ground between granting an automatic path to citizenship for every illegal immigrant, and a program of mass deportation.”

I agree with the President that a rational middle ground can be found between amnesty and mass deportation, but I disagree with the President that amnesty is the middle ground. In the coming days I will introduce the Border Integrity and Immigration Reform Act, which, as I will discuss today, sets forth a *real* rational middle ground between amnesty and mass deportations.

The Border Integrity and Immigration Reform Act is a bill that is tough on border security and tough on employers who hire illegal aliens, but recognizes the need for a guest worker program that operates without amnesty and without growing into a huge new government bureaucracy. I believe that it is a strong alternative to the various amnesty plans being debated by the Senate and pushed by the President, and I hope

Talking Points

- America always has been and always will be a welcoming nation, welcoming under the law any and all with the courage to come to this shining city on a hill. But a nation without borders is not a nation, and across this country Americans are anxious about the security of our border.
- The proposed Border Integrity and Immigration Reform Act is tough on border security and tough on employers who hire illegal aliens. It recognizes the need for a guest worker program that operates without amnesty and without growing into a huge new government bureaucracy.
- The bill builds on legislation already passed by the House to secure America’s borders and would ensure a full partnership between American business and the American government in the enforcement of our laws on immigration and guest workers.

This paper, in its entirety, can be found at:
www.heritage.org/research/immigration/hl943.cfm

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that it will serve as an attractive alternative for many Members of the House.

As the grandson of an Irish immigrant, I believe in the ideals that are enshrined on the Statue of Liberty in New York Harbor. Located on a plaque on Lady Liberty's pedestal are the words of Emma Lazarus from the "New Colossus":

*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-tost to me,
I lift my lamp beside the golden door!*

These words remind us that America always has been and always will be a welcoming nation, welcoming under the law any and all with the courage to come to this shining city on a hill. But a nation without borders is not a nation, and across this country Americans are anxious about the security of our border.

Every night Americans see news images of people crossing the border illegally; they hear tales of people paying thousands of dollars to so-called coyotes to smuggle them into the country; they worry that drugs will make their way into the hands of their children more readily; and they rightly fear that our porous borders make it more likely that terrorists with deadly intentions will cross to inflict harm on our families and communities.

In 2005, Customs and Border Protection officers stopped 1,189,114 people from illegally crossing the border. Of that number, approximately 165,000 were from countries other than Mexico. Over 200 were from Middle Eastern countries such as Afghanistan, Iran, Iraq, Pakistan, and Saudi Arabia, to name just a few.

The Pew Hispanic Center estimates that 12 million illegal aliens are currently living in America. Just a few months ago, that estimate was 11 million. In a few more months or years, that estimate could grow to 13, 14, 15, 20 or more million illegal aliens, unless we take action to turn the tide.

We must do something, because this is a problem of epic proportions. It is a problem that threatens the very fabric of America. Every time I am home in Indiana, I hear about this issue from my

constituents. Hoosiers are concerned. Americans are concerned. I am concerned.

First and foremost, let us be clear on this point: We can control our borders. At the same time, we can find a *real* rational middle ground for dealing with the illegal immigrants currently in America. A lot of people in Washington are talking about what we can do, but the solutions they are offering, up to this point, are not workable and they are not acceptable to millions of hard-working Americans who believe in law and order and the American Dream.

The Senate is debating a bill that will provide amnesty to millions of illegal aliens. Amnesty is no solution. It only will worsen the problem because it will cause more people to come here illegally with the hope of someday having their status adjusted.

I see the solution as a four-step process. Securing our border is the first step. The second step is to make the decision, once and for all, to deny amnesty to people whose first act in the United States was a violation of the law. The third step is to put in place a guest worker program, without amnesty, that will efficiently provide American employers with willing guest workers who come to America legally. The final step is tough employer sanctions that ensure a full partnership between American business and the American government in the enforcement of our laws on immigration and guest workers.

Step One: Secure Borders

On border security, the House of Representatives got off to a great start in December 2005 when we passed H.R. 4437, the Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005. The Judiciary Committee and the Homeland Security Committee were able to put together a strong bill that will secure our borders.

The House-passed bill was a first step. In fact, my bill begins by including the House bill, with a couple of minor changes. The House got it right, and aside from removing the felony provision for illegal presence and clarifying that no one is trying to put Good Samaritans behind bars, I am keeping

this language as is. We must take a tough approach on securing this nation's borders. I have said it once today and will say it again: A nation without borders is not a nation.

Therefore, we must make America a nation with borders. We must man the door. I believed that in December 2005 when I voted for the House bill, and I believe it now.

The President called for 6,000 more Border Patrol agents and the use of the National Guard in the interim. I welcome that call and support it, but it is not enough. The House-passed bill adds port of entry inspectors, ends catch and release, puts to use American technology such as unmanned aerial vehicles, and requires the building of a security fence across approximately 700 miles of our southwestern border.

These are the kind of actions that will bring about a new day on our border. Instead of "coyotes," drug-runners, and criminals ruling the border, American law enforcement will rule the border. Instead of terrorists having the ability to sneak through a porous border, they will find a secure border hardened to prevent their illegal entry.

However, as I have been thinking about securing our border, a thought kept coming back to me. So many of the people crossing the border are not crossing for nefarious or devious reasons. The great majority of illegal border crossers do so in order to find work or to be with family members working in America.

I have come to believe that securing the border would be much easier and allow for a better use of our resources if we could eliminate these people from the ranks of those crossing the border illegally. The House bill will secure our border, but it will do it even better when its provisions can concentrate just on those illegal border crossers who are criminals, drug dealers, and possible terrorists. In order to do that, there must be a legal means for the great majority of people seeking to come to America to work temporarily.

A few months ago a very dedicated and resolute American came to my office with an idea. Her name is Helen Kriebler, and she is here with us today.

Helen is the founder and president of the Vernon K. Kriebler Foundation, a private foundation dedicated to public policy and America's founding principles. She is on the front lines in this debate, literally. She hires 10 guest workers each year for her business, the Colorado Horse Park, which is a major equestrian and events center in Parker, Colorado. She hires them legally, but as she can tell you, the bureaucracy is confounding.

Helen came to me with an idea. She asked why we couldn't have a no-amnesty guest worker program run by the private market instead of the government. Helen's idea represents the core of the Border Integrity and Immigration Reform Act, and I readily acknowledge that. Helen Kriebler is living proof that the best ideas don't come from Washington, D.C., but come from the creative minds of men and women living the American Dream. Helen, I thank you for your leadership on this issue.¹

Step Two: No Amnesty

We must say no to amnesty in any form. My bill offers a no-amnesty solution to the problem of 12 million illegal aliens living in our country. Some argue that there is no amnesty if these 12 million illegal aliens are required to pay a fine or back taxes. The President and many in the Senate seem to believe this to be the proper path. I disagree.

There is virtually no support back home in my district for amnesty, and let me say emphatically that this has nothing to do with race or ethnic discrimination. It has everything to do with the fundamental belief of every American in law and order. America is, and always has been, a welcoming society. This sentiment is essentially an expression of a moral principal. The ancient words from the Bible, "Do not mistreat an alien or oppress him for you were aliens in Egypt," reflect the sentiment of millions of Americans who share this compassionate view of the illegal aliens in our

1. Helen Kriebler discussed her plan in an earlier lecture at The Heritage Foundation. See Helen E. Kriebler, "Private Employers and Border Control," *Heritage Lecture* No. 924, March 1, 2006, at www.heritage.org/Research/GovernmentReform/hl924.cfm.

midst. But there still is no support back home for amnesty.

Now let's define terms. Amnesty in this context is allowing people whose first act in America was an illegal act to get right with the law without leaving the country. Allowing 12 million illegal aliens to stay in our country instead of leaving and coming back legally is amnesty, no matter if fines or back taxes are paid, or how it is otherwise dressed up or spun by its proponents. The only way to deal with these 12 million people is to insist that they leave the country and come back legally if there's a willing employer waiting in this country to put them to work.

But people ask, "Congressman, if you're not going to provide amnesty, what are you going to do with 12 million illegal aliens?"

They recognize it is not logistically possible to round up 12 million illegal aliens. When I think of the horrific images in the world press the night Elian Gonzalez was taken into custody, I can't image the American people would put up with that for very long. We know that this idea of putting everybody on buses and conducting a mass deportation is a non-starter. It also is not realistic to think that some American businesses can operate without the workers who have made their way into our economy. And it is unreasonable to think that people who came to America illegally and found jobs will voluntarily leave those jobs and opportunities without knowing whether they can return legally.

Step Three: An Efficient Temporary Worker Program

Therefore, the solution is to set up a system that will encourage illegal aliens to self-deport and come back legally as guest workers. This may sound outside of the box, and it is. It may sound far-fetched and unrealistic, but it isn't. It is based on sound, proven conservative principles. It places reliance on American enterprise and puts government back into its traditional role of protecting our citizens. Let me explain to you how it will work.

Private worker placement agencies that we might call Ellis Island Centers will be licensed by the federal government to match willing guest workers

with jobs in America that *employers cannot fill with American workers*. U.S. employers will engage the private agencies and request guest workers. In a matter of days, the private agencies will be able to match guest workers with jobs, perform a health screening, fingerprint them and provide the appropriate information to the FBI and Homeland Security so that a background check can be performed, and provide the guest worker with a visa granted by the State Department. The visa will be issued only outside of the United States.

Outside of the United States is a key point; it is the provision that will require the 12 million illegal aliens to leave. Now, some of you are thinking to yourselves that 12 million people aren't going to pack up and leave just to get a visa to come back legally. I believe most will.

The process that I just described to you will take a matter of one week or less. That is the beauty of the program. Speed is so important. No employer in America wants to lose employees for an extended amount of time. No worker who is earning money to feed and clothe a family can afford to be off the job for long.

But an employer faced with a looming requirement to verify the legality of his employees and stiff fines for employing illegal aliens will be willing to use a quick system to obtain legal employees. And an illegal alien currently employed in America will be willing to take a quick trip across the border to come back outside of the shadows and in a job where he or she does not fear a raid by Immigration and Customs Enforcement officers.

Who wouldn't take a week to do that? We are talking about people who apart from this violation of the law are for the most part staying right with the law, working hard, providing for their families, going to church on Sundays, and being good and decent people in the community. Why on earth would we assume as a nation that they wouldn't seize the opportunity to get right with the law?

In fact, I envision employers working with placement agencies to make sure that their long-time illegal employees get their paperwork processed, background checks performed, and visas issued so that they will be back on the job quickly.

Imagine for a moment the alternative. Imagine asking millions of people to line up at the U.S. Consulate in Mexico City to obtain a visa to come to America as a guest worker. It would be a disaster. And it is precisely that image that is driving the move toward amnesty in the United States Senate. Now, imagine this. Imagine private companies competing against each other to process guest worker applicants and match the applicants with open jobs. Imagine the application of American business ingenuity to this process. That, my friends, is why this program will work.

Let me give you a few other details on the guest worker program. The visas will be referred to as “W Visas.” (No kidding. The U.S. Code already has visa categories for letters A through V, so W is the next open letter.) The W Visa, without amnesty, would be the real rational middle ground that the President has called our nation to in this debate.

Now for some less interesting details. First, the number of guest workers would be limited. After the program is up and running, there will be a period of three years when the market and the needs of U.S. employers will set the limit on the number of guest workers. Not letting the market and the needs of employers govern the number of guest workers initially will discourage illegal aliens from being willing to self-deport. No one wants to be the one person over the number limit, and that person will want to come here or stay here illegally.

But, after three years of this program, we should be in a vastly different situation from where we are now. The great majority of illegal aliens will have self-deported and come back into a confirmed job under the law. The number of those who don't should be a manageable number for law enforcement to pursue and employers to terminate. Therefore, after three years of the program, a reasonable limit on the number of W Visas will be determined by the Department of Labor based on employment statistics, employer needs, and other research. After the three-year window has closed, this limit will be strictly enforced. Thus, the three-year window will provide even greater incentive to those who are currently illegal to enter into and comply with the new guest worker program.

There also will be a limit on the amount of time a guest worker can spend in America. Guest workers will be allowed to renew their W Visas, but only for a period of up to six years, in two-year increments. At that point, the guest has to decide whether to return home or enter the completely separate process of seeking citizenship. We cannot have people coming to America as permanent guest workers. That is why having a six-year limit is important. It keeps the meaning of the word “guest” in guest worker.

In order to receive their first renewal, guest workers will be required to study English and pass an English proficiency class. If America is willing to invite someone to come and work, I believe that after two years of working here, the guest worker should be willing and able to speak basic English. Workers also will be required to pass an updated background check at that time. We are not going to allow criminals to come and work in America.

The bill will require employers to treat guest workers fairly and to follow employment laws. Employment taxes will be paid. Workers will be allowed to change jobs within a certain time period without having to leave the country. And of course, no worker will be trapped in a job with an abusive employer.

The W Visas themselves will be issued in the form of secure wallet-sized cards, similar to the cards described and endorsed by President Bush. Employers will swipe them to verify the guest worker's eligibility. Border patrol agents will swipe the cards to confirm the guest worker is allowed to enter the country. The card will contain information about the job the guest worker is coming to perform, and it will contain personal and biometric information so that the guest worker can be tracked. If a guest worker is fired, convicted of a crime, or just disappears, the card will be cancelled, preventing another employer from hiring the person.

Before going to a placement agency with a job, U.S. employers must try to hire American workers. They will have to attest their efforts to the agency. Believe me, this will be a tough requirement that will protect American workers because there are a number of watchdog organizations in communities just like those that I serve. No doubt people will be

keeping an eye on employers and making sure that Americans have a crack at those jobs.

And let me say that all of this technology is possible because we aren't looking to government to do it. This is part of the genius of Helen Kriebel's simple idea. America is what it is today because of the entrepreneurial, creative energy of the American people—certainly not the bureaucratic, uncreative energy of the federal bureaucracy. Why on earth would we turn to the bureaucracy that created this problem to fix it? We rather ought to turn to the greatest and most powerful economy in the history of the world—in this free society—to manage this complex program both in its administration and in its enforcement.

Step Four: Strict Employer Enforcement

With a guest worker program in place, there is no reason why an employer ever should hire or continue to employ an illegal alien. Employers who choose to operate outside of the system, however, must face tough fines in order to be made to comply. That is what the enforcement system and the new fine structure will do.

The strict employer enforcement contained in the House-passed bill is contained in my bill. It sets forth a nationwide electronic employment verification system through which employers will verify the legality of each prospective and current employee. Right now employers are put in a no-win situation. Under the law, they must accept employees with documents that reasonably appear on their face to be genuine. It represents a violation of an individual's privacy rights to inquire further about the legitimacy of their documents. Employers cannot challenge them without risking a lawsuit.

We all know that the use of counterfeit documents by illegal aliens is widespread. To combat this problem, employers need a system through which they can quickly and accurately verify whether an employee is in this country legally. Under the guest worker program, the W Visa cards will make it easy to verify each worker's personal and biometric information. However, some will continue to try to use old, fake documents. We must weed out these people.

Under this enforcement system, each employer will transmit employees' names and Social Security

or alien identification numbers to a confirmation office that will compare the names and numbers to Social Security and Homeland Security records. Within a few days, the employer will be notified of the results, and if an employee is ineligible, there will be a period of 10 days to perform a secondary verification. If after that the employee is still ineligible, the employer must dismiss the employee. Continuing to employ an unverifiable person will subject the employer to serious monetary penalties and fines.

As a final incentive, my bill requires that in order to hire a guest worker, the employer must be a participant in the employment verification system. Participation in the system would be phased in over a period of two to six years. However, my bill allows employers to voluntarily join the system before they are required to participate in order to hire guest workers. This puts enforcement at the workplace first.

Employer enforcement is the key. Once this is in place, jobs for illegal immigrants will dry up. Why hire an illegal immigrant when you can hire a legal guest worker and eliminate the possibility of a big fine? Why stay in the country illegally when you can quickly return home and come back as a legal guest worker?

Is all of this pie in the sky? Only if you do not believe in the private market or American business. Only if you do not believe that Americans are an open-minded people with compassionate hearts. Only if you do not believe in the desire of those who are here illegally to have the opportunity to get right with the law.

We can do this. I believe the Border Integrity and Immigration Reform Act is a solution that conservatives can embrace. I believe this legislation is a solution that those opposing amnesty can embrace. I believe this proposal offers a solution that those calling for humane treatment of the illegal aliens in our midst can embrace. And, I believe that this solution is one the American people can embrace. It is—in every sense—the *real* rational middle ground.

Renewing the American Dream

I mentioned at the outset that I am the grandson of an Irish immigrant. I take my name, Michael Richard from his. Richard Michael Cawley came to

this country on a boat from Ireland and stepped onto Ellis Island, in the shadow of the Statue of Liberty, about 1917. Like millions who came before and since, that frightened teenage boy had a simple dream, a dream expressed when his mother handed him the one-way ticket on that dock at Galway and said, "You have a future there": a dream we call the American Dream.

My grandfather grew up in a two-room farmhouse in farm country east of Tubbercurry, Ireland, in the northeastern part of the country. When I saw that little home with the thatched roof the summer after he died, I better understood a moment we shared just a few weeks before he passed away.

It was the fall of 1980 and my father had finally given in to my mother's wish for a bigger house. The two-story, 4,000 square foot home in Columbus, Indiana, seemed like a palace to all of us—especially my grandfather. When I walked into the house, I saw grandpa sitting alone in the family

room and I noticed his eyes were moist with emotion. When I asked if he was all right, he quietly replied in a gentle Irish brogue, "I never thought a child of mine would live in a house like this." My grandpa, like my mom and dad, lived the American Dream. He got off that boat an Irish lad; he died an American. And I am an American because of him.

Immigration reform is really about renewing the American Dream. We renew the American Dream by reaffirming our commitment to legal immigration. We renew the American Dream by giving those who have made their way into our country illegally an opportunity to come out of the shadows. We renew the American Dream by creating a system that recognizes the dignity and worth of every person in this shining city on a hill, in this one Nation under God, indivisible, with liberty and justice for all.

—*The Honorable Mike Pence represents the Sixth District of Indiana in the U.S. House of Representatives.*