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A New Strategy for Control of Illegal Immigration

The Honorable Thomas G. Tancredo

Since January of 2004, when President Bush first proposed his “comprehensive immigration reform,” it has become increasingly evident that there is a sharp disconnect on this issue between the political elites in the nation’s capital and the values and concerns of average citizens. This disconnect is evident even in the terminology chosen to discuss our immigration and border security problems, so it should come as no surprise that an acceptable solution has proven elusive. We can’t hope to find a solution until we have some agreement on the problem.

I have used the term “illegal immigration” here only because in this city, it is the way people are forced to talk about illegal aliens. But traditionally, and in federal law, there is no such thing as an “illegal immigrant.”

A person who is in this county legally is either here as a legal immigrant or has a “non-immigrant visa,” meaning a tourist, student, or temporary worker visa.

If someone enters our country by unlawful means, he is by law an *illegal alien*, not an illegal immigrant.

I believe this confusion in language is deliberate. It is an effort to confuse the public and allow politicians to talk glibly about “the rights of immigrants.” The rights of immigrants are already protected in law, so it is the status of illegal aliens we are debating.

Two days ago in Denver, 600 people from 80 countries took the oath of allegiance in a naturalization ceremony on a beautiful day in front of City Hall. Those 600 people did it the right way, and they are

Talking Points

- It is increasingly evident that there is a sharp disconnect between the political elites in the nation’s capital and the values and concerns of average citizens on the issue of immigration.
- We ought to be able to agree that whatever other immigration problems we face, they cannot be addressed until we have an answer to these questions: How do we control our borders so we know who is entering our country? How can we stop uninvited persons from entering—both across our borders and through our ports of entry?
- We ought to be able to agree that lax border enforcement poses a national security risk to every American.
- The sooner we can demonstrate the ability to enforce our immigration laws effectively, the easier it will be to move forward with a meaningful overhaul of a broken system.

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Produced by the B. Kenneth Simon
Center for American Studies

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214 Massachusetts Avenue, NE
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(202) 546-4400 • heritage.org

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welcomed with open arms by all Americans. Until they took that oath of allegiance, their rights as green-card holders were on a par with citizens, with the exception of the right to vote. Illegal aliens, on the other hand, are in a totally different category of law and their future ought not to be discussed under the umbrella of “immigrant rights.”

We ought to be able to agree that the heart of the problem is *the continued flow of illegal aliens into our country*.

We ought to be able to agree that whatever other immigration problems we face, they cannot be addressed until we have an answer to these questions: How do we control our borders so we know who is entering our country? How can we stop uninvited persons from entering—both across our borders and through our ports of entry?

We ought to be able to agree that lax border enforcement poses a national security risk to every American.

This problem of unlawful entry into our country is intellectually, morally, and politically separate from other issues related to immigration. I believe the President’s attempt to roll these separate problems into one so-called comprehensive plan has caused much confusion and needless delay in fixing our broken borders.

It is one of the great misfortunes for the nation and the Republican Party that over the past three years the White House has proven to be tone deaf on border security and immigration reform.

The President continues to repeat the same red herring argument, which he used again recently in his August 5 weekly radio broadcast, that the nation needs to find a “rational middle ground” between the “two extremes of mass deportation and amnesty.”

Bush further confuses the debate by insisting that amnesty is “automatic citizenship,” and that nothing else can be called amnesty. The fact is there is no such thing in history or in immigration law as “automatic citizenship,” and H.R. 4437 does not propose “mass deportations.” Yet neither fact deters the President and his army of propagandists from repeating the same non sequiturs month after month.

The interesting question for Washington policy wonks to study is whether the intellectual confusion preceded the political confusion or was in fact a deliberate tactic to advance a political agenda. The American people want clarity, not confusion, and wrapping a half dozen different immigration-related problems into one bundle of proposals is not the way to address any of them.

It has been the White House that has been out of step with the mainstream of the Republican Party, not Tom Tancredo.

I was flattered that the *Wall Street Journal* called the idea of a border fence “Tancredo’s Wall,” but the reality is that the mainstream of the Republican Party—indeed the American mainstream—wants border security now and consideration of other matters afterwards.

I am attempting to fix the most urgent problem connected to immigration policy and suggesting that the other problems can wait. That approach does not make me “anti-immigrant.” This approach is in keeping with the old adage that when you find yourself in a hole, the first thing to do is: stop digging.

- Whether or not we have a new guest worker program, we first need secure borders.
- Whether we have increased or decreased legal immigration, we first need secure borders.

Debate on other proposals makes no sense unless we first have secure borders. It has been a mystery to many observers why so many smart people do not see our broken borders as a barrier to immigration reform. Yet, on closer examination, the reason for this confusion is not hard to see.

There has been a deliberate effort by many to obfuscate the matter by telling the American people they cannot have border security without a guest worker program, without an increase in legal immigration, and without granting amnesty to all or most of the illegal aliens who have come across our borders without our permission.

I submit that the only reason we do not have a solution to the problem of illegal immigration is that the majority of American people feel insulted by that argument and will not support proposals based on such inverted logic.

The need to fix the borders first is so obvious that ordinary citizens suspect the motives of politicians who do not want to do it. And they are right to have such suspicions.

The Minutemen patrol on the Arizona–Mexico border during the full month of April in 2005 demonstrated to the entire world that the flow of illegal aliens across the border can be controlled by a physical presence on the border.

That Minutemen project was the turning point in the national debate over illegal immigration—not some policy paper published in Washington, D.C., or any speech by any politician. The action of citizens themselves tore down the wall of denial that policy-makers and bureaucrats had so carefully constructed.

Once citizens understood that the border can be made secure by the simple addition of adequate manpower, the debate changed. Citizens will not trust leaders who insult their intelligence by claiming we have to provide additional ways to enter the country legally before we can stop illegal entry.

I believe leaders in Washington must chart a new course by admitting to the American people that we can fix our broken borders and that we will do so.

I believe that all parties and factions can and should come together to do this for the good of the nation, and that all other proposals be put aside until we can demonstrate to citizens that we have actually achieved secure borders—not talked about them, not promised them, not adopted a plan for them, but actually *achieved secure borders*.

It is also important to remember that this is not a partisan issue. Our national security, sovereignty, and identity are not items for partisan maneuvering.

We often hear that unless the President’s proposal or some similar amnesty plan is adopted quickly, the Republican Party will lose the Hispanic vote. I reject such thinking, and I will reject any legislation that is predicated so blatantly on pandering based on ethnicity or race rather than sound policy for all Americans.

The House bill passed last December, Representative Sensenbrenner’s H.R. 4437, has been widely called the “enforcement first strategy” to distinguish it from the “comprehensive approach” touted

by the proponents of a mass amnesty as found in the Reid–Kennedy bill, S. 2611.

The Congress and the American people have good reason to be wary of any such plan that merely promises border security in exchange for another amnesty. We learned from the disaster of the 1986 amnesty that both border security and interior enforcement must be clearly demonstrated, not merely promised.

The national debate of the past year has revealed the unfortunate truth that the executive branch of our government is dead set against having genuinely secure borders—and I mean not only the White House but also the State Department, the Justice Department, the Commerce Department and, sadly, even the Homeland Security Department. This political fact of life means Congress must not only enact a plan for secure borders but must also monitor and oversee the implementation of that plan at every stage until it is fully achieved.

A Trojan Horse Compromise?

This past summer, a proposal was floated that supposedly combines the obvious need for secure borders with the presumed need for a guest worker program. That idea is a key feature of the widely discussed Hutchison–Pence plan. Yet as attractive as it may look at first reading, it is fatally flawed.

The “sequencing” of border security, interior enforcement, and guest worker plans is valid in principle—in fact, I included it in my own legislative proposal in 2005. However, to be viable in practice, the various stages of the sequence must be separated by years, not by weeks or months, and each stage should involve separate legislation that can be debated and examined in great detail, then enacted as our experience, our knowledge, and our confidence in enforcement grows. They cannot be enacted as elements of a single plan.

If anyone doubts that it will take years and not months to achieve real border security, they need only look at the plan announced by the Bush Administration this past month. It is a multi-billion-dollar contracting program to use the latest technology to build effective barriers, and it will take up to six years to complete the construction project. If we

take DHS at its word, we need a six-year trigger for any “sequencing plan,” not a two-year trigger.

There are at least three things fundamentally wrong with the Hutchison–Pence plan.

- First, it is not a true compromise. Proponents of a general amnesty for all 12–20 million illegal aliens still get all they want with only a two-year delay, whereas proponents of border security get only a promise of what they want—halting all illegal entry into the country and serious enforcement of immigration laws.
- The second thing is that the proposal is dishonest about the matter of offering a path to citizenship for the “temporary workers” authorized. The Hutchison–Pence proposal permits these “temporary workers” to remain in the U.S. for the better part of 20 years, and at the end of that period allows them to obtain permanent resident status, and ultimately citizenship. They are also permitted to bring their families. These workers are not going to be “temporary,” and for the proponents to lead the public to believe they are temporary is plainly dishonest.
- The other thing wrong with the plan is naive or shallow thinking about “triggers” and “sequencing.” The real issue is not two years versus four years or even six years for the waiting period between enactment of border security plans and implementation of a guest worker program. The real problem is that there is no “trigger” that cannot be sabotaged by open borders advocates within the bureaucracy. As we saw in 1986, if the Administration is given a bill that contains enforcement and guest worker/amnesty provisions, they will take the amnesty and leave the enforcement.

I can give you an example from within the Border Patrol itself.

In theory, secure borders can be achieved next month by effective use of the military. In reality, the “trigger-certification” proposal in the Hutchison–Pence plan does not envision or require genuine border security, only a pale imitation called “operational control,” which is to be certified by the Border Patrol and then announced by the White House.

This term “operational control” is a term used throughout the Border Patrol’s “Strategic Plan” published in 2005 by the Bureau of Customs and Border Protection. It is on their Web page.

The inconvenient truth is, “operational control” can mean anything the Border Patrol and the White House want it to mean. The one thing it has never meant in any Border Patrol mission statement is *preventing all illegal entry into the country*.

The idea that President Bush would fail to “certify” border security in two years even if secure borders were only “substantially achieved”—the phrase used in Representative Pence’s earlier draft legislation—is either embarrassingly naive or deceptive by design. For any triggers mechanism to be successful, the triggers must be objective and outcome-based, and must be certified by a vote of Congress.

Cultural and Security Implications— What is at Stake

Failing to secure our border—or moving forward with an amnesty or new guest worker program—also has security ramifications. Look, for example, at the current political crisis in Mexico following the recent presidential election.

Protestors in Mexico City have vowed to establish a parallel government that could result in an intensification of already high tensions. Six years ago, Mexicans and the rest of the world thought that, perhaps, Mexico had arrived to a new era in democracy. Now, it is hardly an exaggeration to say that Lopez-Obrador’s loyalists could provoke a civil war.

If the Hugo Chavez–like Lopez-Obrador is successful in igniting this simmering powder keg—either provoking a civil war or seizing power—foreign investors will panic, the peso will plummet, and what is left of the Mexican economy will collapse.

Felipe Calderon, the election winner, has attempted to calm the situation, in part by making overtures to Lopez-Obrador supporters with promises of slowing, or even rolling back, hard-fought economic reforms. While this course of action may serve some short-term gain, if he follows through on these ill-advised promises, Mexico’s economy will stall or stumble. Either alternative points to a

larger exodus of Mexicans bound for the United States than we see today.

In this context, the need to secure the borders becomes much more acute, and the notion of discussing an amnesty or new guest worker program more absurd.

Another important and long neglected component of our immigration system, and one that is critical to a successful immigration system, is assimilation.

In order for assimilation to take place, two things are necessary: a desire on the part of immigrants to assimilate and the political will for our government to require assimilation.

In many ways, both of these elements are currently lacking.

Immigrants—both legal and illegal—are coming in very large numbers from the same part of the world. This has enabled them, in many cases, to remain in separate cultural enclaves.

Making matters worse, government institutions are not facilitating assimilation. In fact, we are in many ways doing just the opposite. Bilingual education requirements, bilingual ballot mandates, and proposals in cities like Washington, D.C., to allow non-citizens to vote all underscore this problem.

What woke most Americans up to the scope of this problem were the mass protests for “immigrant rights” we saw around the country this year. Tens of thousands of people took to the streets waving foreign flags and unapologetically demanding that America adjust to their cultures rather than the other way around.

Those protests, perhaps more than anything else, turned the tide of the immigration debate. Those protests made it clear to many Americans that we are failing as a nation to assimilate new immigrants.

Until we can construct the physical and political infrastructure needed to stop the flow of illegal immigrants and assimilate the legal ones already here, we cannot even begin a discussion about what the right number of immigrants or guest workers to admit might be.

A New Strategy: Enforcement Works

If the Congress does not enact key enforcement provisions to achieve border security and immigra-

tion law enforcement, proponents of the enforcement strategy will carry the battle to all 50 states and into a thousand local communities. Illegal aliens will begin to self-deport as more and more states adopt measures to discourage the residence and the employment of illegal aliens.

If the Senate rejects the “enforcement first” approach by refusing to enact serious enforcement legislation this year, advocates of border security and immigration law enforcement should move to a new strategy, a strategy aimed at local initiatives in lieu of federal action.

This new strategy will be called, simply, “enforcement works.”

Serious enforcement and border security have not been attempted in 40 years, so there is no basis for creating new amnesty plans until enforcement has had a chance to show its real-world impact. Enforcement is a common-sense approach that the American people understand and support.

The new factor that will change the political dynamic is expanded and coordinated grassroots citizen activism to pass and enforce laws at the state and local level, which will simultaneously put increasing pressure on Congress to mandate the enforcement of existing federal immigration laws.

Among the main policy goals of this local effort would be the following:

- Mandates in state law for employment eligibility verification through the Basic Pilot Program and denial of business licenses to effectively turn off the jobs magnet;
- Requirements that all companies doing business with state or local governments verify employment eligibility;
- Requirements that all local law enforcement agencies identify and turn over to Immigration and Customs Enforcement all criminal aliens who pass through local jails and state prisons;
- Prohibition of access to social services not mandated by federal law;
- Requirements for proof of citizenship to register to vote and a photo ID for voting;
- Documenting by state audits the true taxpayer cost of all services provided to illegal aliens,

including the services mandated by federal courts—health care, K–12 education, and all the benefits bestowed by “birthright citizenship” on the children of illegal aliens;

- Petitions by local officials for federal reimbursement of costs associated with illegal aliens (the main value lies not in the federal reimbursement but in the process of documenting the actual costs);
- Requirements for judges to deny bail to illegal aliens charged with DUI or any serious crime;
- Outlawing of “sanctuary cities” through penalties in state funding to localities;
- Strengthening of sub-contracting laws to hold employers accountable for hiring illegal workers;
- Mandates that all local law enforcement agencies cooperate with federal immigration agencies.

Georgia, Colorado, and Arizona have enacted some of these proposals, and more will be enacted soon if Congress fails to fulfill its responsibilities. Success at the local and state level will build more pressure for action in Congress.

Pursuing these goals through a coordinated program of citizen activism will lead to the election of pro-enforcement public officials—from city hall to the statehouse, as well as Congress and the White House.

This new strategy will energize and employ a nationwide network of citizen activists to hold public officials at all levels accountable.

It does not accept as inevitable an amnesty that undermines our nation’s sovereignty, our workers’ jobs, our communities’ hospitals, or our children’s schools. It does not accept a need for increased legal immigration as a prerequisite to stopping illegal immigration.

“Enforcement works” is not a slogan. It reflects what we must do as a first step to get control of our nation’s immigration system. The entire system is broken, including the management of our 322 Ports of Entry.

There are over 4,000,000 aliens now in illegal status, people who entered legally as tourists or students or temporary workers but did not leave when their visa expired. Our government has no reliable

way to track our visa arrivals, to know when they leave or don’t leave, or to find them and deport them if they don’t leave.

The US–VISIT program is still not implemented five years after the 9/11 attacks. Yet some supposedly serious lawmakers want to burden the U.S. Citizenship and Immigration Services with ten to twenty million additional background checks and visa applications in a new guest worker program. That is a recipe for catastrophe.

The public is beginning to understand that the lack of serious enforcement permeates our entire immigration system, not only our physical borders with Mexico and Canada. Until we can get agreement that enforcement of our immigration laws is a serious task requiring serious measures and dedicated resources, all other reforms are futile.

The place to start is with border security, because secure borders are a precondition for control of immigration at all levels. Once we have achieved that and demonstrated a commitment to immigration law enforcement, we can move on to more complicated problems.

Enforcement—and the enforceability of any proposal—will be the key issue on many fronts, because our whole immigration system is burdened by a history of incompetence, corruption, and failed management systems.

The sooner we can demonstrate the ability to enforce our immigration laws effectively, the easier it will be to move forward with a meaningful overhaul of a broken system. That’s why I see enforcement not as a delaying tactic, not as a short-term, half-way solution to a larger problem, but as the key to addressing all of these problems.

I call immigration enforcement a “new strategy” because it has never been tried; it has only been given lip service.

In the 1986 amnesty legislation, we tried amnesty without enforcement.

I think it’s time to try enforcement without amnesty.

—*The Honorable Thomas G. Tancredo (R) represents the 6th District of Colorado in the U.S. House of Representatives.*