

# WebMemo



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## Jumpstarting the Visa Waiver Program to Increase Security and Economic Prosperity

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Representatives Mike Quigley (D–IL) and Dan Lipinski (D–IL) and Senator Mark Kirk (R–IL) announced plans today to introduce the Secure Travel and Counterterrorism Partnership Act in both the House and the Senate. This act would introduce several reforms to modernize the Visa Waiver Program (VWP), including a switch from visa refusal rates to overstay rates as a standard for admission.

Congress should ensure that any reforms of the VWP maintain the program's security and economic benefits while promoting participation by America's key allies.

**The Visa Waiver Program.** The VWP was created in 1986 as a pilot program to facilitate travel and tourism in the United States by individuals from friendly nations. Now a permanent program, the VWP allows citizens of member countries to travel to the U.S. for up to 90 days without obtaining a visa. To help ensure that travelers are not a security risk, each individual must submit information into the Electronic System for Travel Authorization (ESTA) online portal. Once vetted and approved through ESTA, a traveler is pre-approved for visa-free travel for two years.

Membership in the program is not automatic. Currently, nations seeking membership in the VWP must meet a number of precise security- and travel-related steps in order to be considered for admittance. These include meeting specific non-immigrant refusal rates (the percentage of visa applicants denied by the State Department from a particular nation), issuing all residents machine-

readable biometric passports, and attaining a determination that membership presents no threats to U.S. law enforcement or security interests.

**Refusal Rate Roadblock.** Despite participation by 36 countries, no new nations have been added to the program since 2008. This is not due to lack of interest. In fact, key American allies such as Poland have emphasized that obtaining membership is a vital priority.

Current law, however, prevents the Department of Homeland Security (DHS) from adding new countries with a visa refusal rate greater than 3 percent until DHS develops and implements a system to biometrically track the departure of foreign visitors from U.S. airports. DHS has had enormous difficulty implementing this system and is not likely to meet the mandate in the near future, making expansion of VWP nearly impossible.

Hinging VWP expansion on deployment of a biometric exit system makes little sense. Only a small number of VWP travelers actually become overstays—the very problem that biometric exit purportedly helps to prevent. In fact, the overall VWP participant overstay rate is estimated to be around 1 percent.

This paper, in its entirety, can be found at:  
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Furthermore, using visa refusal rates as a primary requirement for admission is not a good way to determine whether a traveler represents a security, law enforcement, or illegal immigration risk. Refusal rates are extremely subjective determinations made by U.S. consulates as to whether the person might be an overstay risk. Conversely, judging countries on the basis of actual overstay rates helps to show whether a particular country has demonstrated that its citizens stay in the United States beyond the duration of their visas. This goes even further to ensure that the program is not a “soft underbelly of immigration problems,” as some VWP critics fear.

The Secure Travel and Counterterrorism Partnership Act would take action on both of these fronts, replacing visa refusal rates with overstay rates and decoupling biometric exit from VWP expansion.

**Keeping America Secure.** In addition to tremendous public diplomacy benefits and economic boons for businesses in the United States that depend on travel and tourism, one of the most compelling reasons to promote the expansion of VWP to qualified countries is that the program has become a vital counterterrorism tool.

The Implementing Recommendations of the 9/11 Commission Act of 2007 served to enhance the program’s security measures, including achieving greater information sharing with regard to lost or stolen

passports, increased security at the airports of member nations, and other efforts to enhance security cooperation between the U.S. and member countries. These measures, coupled with the deployment of ESTA, allow the U.S. to gain more information on travelers who pose a potential risk to the U.S. before they have a chance to enter the country.

In order to expand the program further, Congress and the Administration should:

- Decouple VWP from the biometric air exit mandate,
- Switch to overstay rates as opposed to visa refusal rates as a primary requirement for admission,
- Encourage interested nations to seek membership and work to ensure that key allies are no longer made to wait in frustration, and
- Promote increased information-sharing among member countries to increase the security benefits of the program even further.

**A Commonsense Investment.** The VWP’s wins for prosperity and security make this program a common-sense investment by Congress.

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