

STATEMENT OF THE
NATIONAL BORDER PATROL COUNCIL
OF THE
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES
AFL-CIO

BEFORE THE
SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, REFUGEES,
BORDER SECURITY, AND INTERNATIONAL LAW

COMMITTEE ON THE JUDICIARY
UNITED STATES HOUSE OF REPRESENTATIVES

HEARING ON H.R. 750, THE "SAVE AMERICA
COMPREHENSIVE IMMIGRATION ACT OF 2007"

PRESENTED BY

T.J. BONNER
NATIONAL PRESIDENT

NOVEMBER 8, 2007

On behalf of the 12,000 front-line Border Patrol employees that it represents, the National Border Patrol Council appreciates this opportunity to share its views concerning H.R. 750, the “Save America Comprehensive Immigration Act of 2007.”

The United States of America has a long and proud history of welcoming immigrants from all corners of the globe. Every year, more than a million people legally immigrate to this country. At the same time, at least the same number come here in violation of our immigration laws. The large number of people in the latter category undermines the rule of law, and also poses severe homeland security risks. Although the overwhelming majority of illegal aliens are simply seeking to improve their economic lot in life, a small percentage of them are career criminals, and there are also undoubtedly a handful of terrorists taking advantage of our lax border security.

Over the years, numerous solutions to this problem have been suggested, and a few have been attempted, but none of them have managed to stem or even slow the tide of illegal immigration. The reason that these measures have failed is quite simple: None of them have eliminated or even significantly reduced the employment magnet that lures millions of impoverished people to our country annually. The only way to achieve that goal is to provide employers with a reliable means of determining who is eligible to work in this country, at the same time discouraging unscrupulous employers from ignoring or circumventing the law by imposing stiff penalties. It is clear that none of the various electronic employment verification systems or proposals hold any promise, as they are all vulnerable to widespread identity fraud. In order to be feasible, an employment verification system must utilize a single, counterfeit-proof document. H.R. 98, the “Illegal Immigration Enforcement and Social Security Protection Act of 2007,” contains this essential element, which must form the cornerstone of any immigration reform package. The 1986 Immigration Reform and Control Act failed because it allowed the use of numerous counterfeitable documents to establish employment eligibility. At the same time, its provisions granted legal status to nearly three million illegal aliens, many of them through fraudulent means. Predictably, this exacerbated the problem. Twenty-one years later, the number of illegal aliens in our country has grown

exponentially, with current reliable estimates of the illegal alien population starting at twelve million. Rewarding those who have violated our laws before addressing the weaknesses in the system that encourage and facilitate such illegal behavior is comparable to replacing the carpet in a house with a leaking roof every time it rains instead of first fixing the roof. While many Americans are at least somewhat sympathetic to the plight of illegal aliens who have resided in the United States for a long period of time, there is little public appetite for another program that adjusts their immigration status before effectively dealing with the underlying causes of illegal immigration.

Of course, even if the employment magnet were eliminated completely, it would do nothing to stop criminals and terrorists from crossing our borders. It would, however, allow the Border Patrol and other law enforcement agencies to concentrate their scarce resources on those significant threats to homeland security. While technology is useful in detecting illegal intrusions, cameras and sensors are incapable of effectuating arrests. Likewise, fences and barriers merely slow people down, but do nothing to stop them. The need for additional personnel is quite obvious, and there are currently a number of legislative proposals that mandate the hiring of additional Border Patrol agents. Sadly, very little thought has been given to the need to retain employees in order to avoid a perpetual high-volume cycle of recruitment and training. The overall annual attrition rate in the Border Patrol is now close to 12%. In other words, about 1,800 of the current 15,000 agents leave every year.

The Border Security Provisions contained in Title VI of the Save America Comprehensive Immigration Act of 2007 are a refreshing exception to the aforementioned narrow focus. These measures are the result of close collaboration between the sponsor of this legislation and the National Border Patrol Council. In addition to supplying dedicated employees with the tools, training and support that they need to accomplish their mission, the provisions in this part of the bill would create an environment that is conducive to recruiting and retaining highly-qualified people to serve on the front lines of our Nation's domestic efforts to combat terrorism and crime.

Under Subtitle A of Title VI, the Border Patrol's fleet of helicopters, power boats and police-type vehicles would be increased substantially, providing it with greater capability to detect and apprehend those who cross our borders illegally. Portable computers would be placed in all vehicles, allowing Border Patrol agents to access critical information in real-time. Additionally, radio communications would be enhanced, and all agents would be issued a hand-held global positioning system device and have access to state-of-the-art night vision equipment. These measures would greatly increase operational effectiveness as well as officer safety. Border Patrol agents would also be issued high-quality body armor and uniforms, and provided with reliable and effective weapons commensurate with the threats that they face.¹ Additionally, the Border Patrol would be afforded complete administrative and operational control over all of the personnel and assets necessary to accomplish its mission. Many people are surprised to learn that this common-sense measure is not already in place. This subtitle would also facilitate the rapid deployment of up to one thousand additional Border Patrol agents to any border State that declares an international border security emergency. It would also put an end to the ineffective and nonsensical practice of deploying Border Patrol agents in fixed positions and not allowing them to pursue violators of our laws.

Subtitle B would increase the number of beds available for detaining illegal aliens by 100,000, ensuring that those who are arrested for violating our immigration laws are not released for lack of detention space. It would also establish improved oversight mechanisms to ensure that the detention program is administered effectively and humanely.

The provisions of Subtitle C mandate significant increases in the number of immigration law enforcement personnel. The Border Patrol would be required to have more than 30,000 agents on duty by the end of fiscal year 2012, an increase of about 12,000 over the Bush Administration's goal of 18,300 agents by the end of calendar year 2008. It would re-establish the Border Patrol's Anti-Smuggling Unit,

¹ During the fiscal year that just concluded, there were 986 documented assaults against Border Patrol agents. On average, an agent was assaulted every nine hours. This is an increase of 24% above the previous fiscal year.

and immediately staff it with at least 500 employees chosen from the ranks of the Border Patrol, periodically adjusting that number upward in accordance with workload requirements. The Department of Homeland Security would also be required to restore specialized inspectional occupations for immigration, customs, and agriculture, and to augment the immigration inspection workforce by 5,000 officers over a five-year period. The number of DHS employees assigned to guard and transport detainees would also be increased by 500 annually for five years. Subtitle D would add at least one thousand criminal investigators to handle cases involving fraudulent schemes, including benefit application schemes, and fraudulent documents used to enter or remain in the United States unlawfully.

Subtitle C would also ensure that the Chief of the Border Patrol is required to have considerable field experience in that organization, and would also transfer all recruitment, selection, and appointment authority for Border Patrol agent and other law enforcement positions within the organization to the Chief of the Border Patrol. These measures would result in a more effective and cohesive organization. Moreover, it would require that all of the Border Patrol's training and operational facilities be well-equipped and sufficiently spacious and modern to enable all of the personnel assigned to such facilities to efficiently accomplish the agency's mission. It would also increase the maximum dollar amount for student loans that the government can repay in order to aid recruitment and retention efforts. The Secretary of the Department of Homeland Security would also be required to ensure that the existing statutory authority to pay recruitment, relocation, and retention bonuses is exercised to the fullest extent allowable in order to encourage people to choose careers in the Department. It would also repeal the DHS Human Resources Management System, a failed experiment that has been ruled illegal by a District and an Appellate Court. Even the prospect of working under such an unfair and draconian system has had an extremely detrimental effect on morale and productivity.

Additionally, Subtitle C would provide law enforcement retirement coverage for inspection officers at Ports of Entry and other employees who enforce Federal laws, correcting a long-standing inequity and aiding efforts to recruit and retain employees in these critical occupations. It would also establish specialized Criminal Investigator occupations in the fields of immigration, customs, and agriculture laws. It would establish career paths for employees with three years of field experience to move into Criminal Investigator positions. This would yield more experienced and qualified candidates, as well as aiding retention efforts. The base pay of all journey-level Border Patrol agents and inspectors at the Ports of Entry would be increased in order to make those occupations more competitive and attractive. Finally, it would require the application of the Fair Labor Standards Act with respect to all overtime worked by employees at or below the second level of supervision, ensuring fair and adequate compensation for all such hours.

Subtitle D would mandate foreign language training for all DHS officers who come into contact with illegal aliens, and streamline the process for paying incentive awards to law enforcement officers who possess and make substantial use of one or more foreign languages in the performance of their official duties.

Immigration is a complex issue, and instituting and administering a system that is fair and comprehensible will require a multi-faceted approach. First and foremost, the rule of law must be re-established. This cannot be accomplished without adequate numbers of dedicated and properly trained and equipped employees. Taken together, the aforementioned provisions would provide Border Patrol agents and numerous other DHS employees with the tools, training and support necessary to accomplish the agency's vital mission. At the same time, they would transform the agency into a model employer capable of attracting and retaining highly-qualified employees. In today's competitive environment, where a number of law enforcement agencies at all levels of government are offering lucrative incentives to convince a new generation to serve their country and communities, we cannot afford to accept anything less.