

Testimony of
Julie Kirchner
Government Relations Director
Federation for American Immigration Reform
Submitted For
SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, REFUGEES, BORDER
SECURITY AND INTERNATIONAL LAW
COMMITTEE ON THE JUDICIARY
Thursday, November 8, 2007

Regarding H.R. 750, the “Save America Comprehensive Immigration Act of 2007”

This statement addresses the effectiveness of the Save America Comprehensive Immigration Act as a legislative response to illegal immigration and border security in the United States.

Introduction

Madam Chair, thank you for this opportunity to present the position of the Federation for American Immigration Reform with respect to the Save America Comprehensive Immigration Act and the immigration policy concerns behind it. My name is Julie Kirchner, and I am the Executive Director at FAIR. FAIR is a public interest organization advocating a just immigration policy guided by the national interest and the interests of American citizens. Our organization has over 300,000 members and activists in 49 states and works with over 50 organizations across the country. FAIR does not receive any federal grants, contracts or subcontracts.

Madam Chair, for two years, supporters of amnesty have tried to pass so-called “comprehensive immigration reform.” They have tried both under a Republican Congress and under the current Democratic Congress. They have tried both “comprehensive” bills and piecemeal approaches. Each time, however, they have failed.

Madam Chair, these efforts to pass amnesty legislation failed because the American public rejects immigration reform proposals that do not respect the rule of law and only further strain our immigration system. For years, the American people have watched the borders violated *en masse*, the illegal alien population skyrocket out of control, and

employment prospects and wages erode as employers hire illegal alien workers to increase their profit margin. The American people are frustrated with our immigration system and want meaningful change, not disregard for the rule of law.

Public opinion polls confirm that Americans have rejected all types of amnesty. A June Rasmussen Reports poll shows only 22 percent of Americans supported the comprehensive immigration reform bill considered by the Senate earlier this summer.¹ The same polls show that 57% of Americans do not support a strategy that focuses exclusively on legalizing the status of undocumented workers, but 69% of Americans would support an immigration bill that focuses exclusively on reducing illegal immigration and enforcing the borders. And, just two weeks ago, another Rasmussen Reports poll found that a majority of Americans oppose giving amnesty to students under the DREAM Act.² Madam, Chair, this is just a sampling of poll data, but there are many more polls that have similar results. The point is, in the marketplace of ideas, amnesty is an idea that no one is buying. Americans do not oppose immigration, but they want it to come through a system that operates with integrity and at a rate America can absorb.

Madam Chair, the Save America Comprehensive Immigration Reform Act has several major components that impact legal immigration, illegal immigration, border security and interior enforcement. The impact of these provisions would indeed be severe and continue for generations to come. Below, I will briefly summarize the provisions of this legislation and set forth FAIR's objections to them.

Legal Immigration

The first and obvious change the Save America Act makes to our immigration system is a dramatic expansion of family-based immigration to the United States. It does this by

¹ See Rasmussen Reports at: http://www.rasmussenreports.com/public_content/politics/current_events/immigration/just_22_favor_stall_immigration_bill

² See Rasmussen Reports at: http://www.rasmussenreports.com/public_content/politics/current_events/immigration/senate_heeded_public_opinion_by_rejecting_dream_act

doubling the annual number of family-based immigrant visas from 480,000 to 960,000. Madam Chair, FAIR has always supported the reunification of nuclear family members. However, the preferences for *extended* family members built into our immigration laws have created the problem of chain migration, by which extended family members enter the country and are then able to petition for the entry of *their* extended family members, and the cycle repeats itself. Immigration thus grows at an ever-increasing pace and the ability of Congress and the American people to set annual caps or limits is effectively eliminated.

Furthermore, as chain migration grows, it inevitably leads to backlogs and pressure builds to continue raising the visa caps, as this bill demonstrates. This process means immigration runs on auto-pilot. It is the immigrants themselves who decide who comes, not the American people. Indeed, the very nature of chain migration forecloses our ability as a people to select immigrants based on skill, diversity, or other factors that serve the nation's interests. Ultimately, the problem of chain migration will have no end unless Congress is disciplined. By doubling the number of family-based immigrant visas, the Save America Act simply ignores the need for discipline and instead takes the very steps that will exacerbate this problem.³

The United States currently admits approximately 1.2 million legal immigrants each year—equivalent to a city the size of Dallas. All told, the Save America Act would expand this number by at least 535,000, leading to an annual admissions rate of 1.8 million. This is almost the population of Dallas and Fort Worth combined.

Border Security

Madam Chair, the Save America Act has several promising border security provisions. This legislation would increase the number of border patrol agents by 15,000 over the

³ In addition to doubling the number of family-based immigrant visas, the Save America Act doubles the number of immigrants admitted under the visa lottery program. The Act also grants family members who are the beneficiaries of a pending immigrant visa petition can receive non-immigrant visas if they have waited more than six months for approval of the petition.

next five years. It would also provide border agents with improved technology to apprehend illegal border crossers. It would also add 1,000 new inspectors at airports and land crossings each year between 2008 and 2012. And, the number of detention beds would be increased by 100,000, so that those aliens who the Border Patrol apprehends entering the country illegally or who Immigration and Customs Enforcement (ICE) find illegally present in the country can be detained and processed appropriately. Finally, it gives the governors of border states the authority to bring 1,000 border patrol agents to bear on particular areas where there are “international border security emergencies.”

Interior Enforcement

Unfortunately, these border security provisions are overshadowed by the complete failure of the legislation to support the interior enforcement of our immigration laws. For example, Section 1402(b) of the Save America Comprehensive Immigration Act repeals of one of our most effective and popular enforcement tools, the 287(g) program. The 287(g) program was created in 1996 when Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA) adding Section 287(g) to the Immigration and Nationality Act (INA). This section authorizes the Department of Homeland Security (DHS) to enter into immigration enforcement agreements with state and local law enforcement agencies. These agreements allow designated officers to perform immigration law enforcement functions, pursuant to a Memorandum of Agreement (MOA), provided that the local law enforcement officers receive appropriate training and function under the supervision Immigration and Customs Enforcement (ICE) officers.⁴

Madam Chair, this program has shown tremendous potential and its popularity is growing rapidly. As of September 2007, ICE had entered into 287(g) agreements with 28 cities and had trained 484 police officers who were responsible for over 25,000 arrests.⁵ In addition, there are currently 74 jurisdictions that have applications pending, 18 of which

⁴ See Immigration and Customs Enforcement webpage on Law Enforcement Partners at: http://www.ice.gov/partners/287g/Section287_g.htm.

⁵ Id.

are in North Carolina alone. It is ironic, Madam Chair, that the Save America Act would place one of the few immigration programs the federal government is running effectively on the chopping block—and would do so in the name of “reform.”

In addition to this step backwards, the Save America Comprehensive Immigration Reform Act does nothing to advance worksite enforcement. There is no mandatory use of the E-Verify Program (formerly called Basic Pilot) and there is no increase in employer sanctions for illegal employment practices. This is a gaping hole in any immigration bill that calls itself “comprehensive.” Even the Bush-Kennedy Amnesty Bill (S.1639) debated in the Senate this summer contained such provisions.

Amnesty

Madam Chair, on top of all this, the Save America Act effectively contains four amnesty provisions. The first such program is the “Earned Access to Legalization Program,” described in Section 501 of the bill. Under this program, an illegal alien would receive lawful permanent resident status if he or she has: been physically present in the United States for five years; good moral character; never been convicted of a crime; completed a course on reading, writing and speaking English; accepted the values and cultural life of the United States; and completed 40 hours of community service. The program waives various grounds of admissibility for participation in the program. These include waivers for illegal aliens who have engaged in document fraud.

The second amnesty program is a modification of the failed DREAM Act that would legalize “children” who have met certain educational requirements. This program is a rolling amnesty, allowing not only an uncapped number of children currently in the country to obtain amnesty, but also granting amnesty to children who enter the U.S. in future years.

The third amnesty can be found in Section 503 of the Save America Act, which makes changes to the Registry Statute. The Registry Statute, found in INA § 249, lets the

government create a record of legal status for aliens who have been in the United States for a lengthy period of time, but for whom there is no record of lawful entry. Currently, this remedial “house-cleaning” statute lets the Secretary of Homeland Security create a record of lawful entry for any person who entered before 1972, and is generally neither a terrorist or engaged in criminal activity. The Save America Act would move the date of entry up to 1986, letting those who could not qualify for the amnesty granted under the Immigration Reform and Control Act to obtain amnesty twenty-one years later. It is hard to see why we should permit people who could not qualify for amnesty the first time to receive it now.

The fourth amnesty can be found in Section 805 of the Save America Act, which restores Section 245(i) of the INA. Section 245(i) allowed illegal aliens to become legal residents without leaving the country if they married a U.S. citizen or resident. This provision was clearly incompatible with the intent of Congress in 1996 to penalize those who violated our immigration laws by imposing on them a penalty of foreign residence before they would be eligible to return to the United States as legal residents. Section 245(i) was phased out in 2002 because it encouraged widespread marriage fraud and rewarded illegal aliens with amnesty. During the several years that this provision was in force as an exceptional measure, hundreds of thousands of illegal aliens took advantage of it to gain legal status and remain here. It became the avenue of last resort by an alien facing deportation. Restoring this provision would only encourage more fraud and more illegal immigration.

Policy Considerations

Madam Chair, granting amnesty to illegal aliens will not solve our immigration crisis—it simply motivates more illegal aliens to come here seeking amnesty. The American people are looking to Congress to break the cycle of this flawed approach, one which is sadly becoming our de facto American immigration policy. Amnesty sends a message to people worldwide that America no longer cares about the enforcement of its laws. Moreover it sends a terrible message to *legal aliens* that their respect for our laws is

irrelevant to how they will be treated. Consider the difference in how the Save America Act would treat aliens who have committed social security fraud. If this legislation were passed, a *legal* alien who had committed social security fraud would be charged, prosecuted, tried, convicted, would receive a criminal record, and would be deported. Meanwhile an *illegal* alien who had committed social security fraud would not be charged, not be tried, not be prosecuted, not be convicted, would not receive a criminal record, would be allowed to stay in the U.S. *and* would be issued a valid social security number. Madam Chair, there is no justice in this outcome.

In addition to the inherent unfairness of amnesty, the Save America Act further strains our immigration system by encouraging more chain migration. In 1995, the United States Commission on Immigration Reform, headed by Representative Barbara Jordan, recommended that Congress prioritize immediate family members over extended family and limit family-sponsored immigration to only the spouse and minor children of U.S. citizens and legal permanent residents and to the parents of U.S. citizens. These categories, the Commission said, should have a cap of 400,000 per year. It also recommended eliminating preferences for extended family members.⁶ The Save Act ignores these recommendations and takes U.S. immigration policy in the exact opposite direction.

Madam Chair, as our population grows, our ability to accommodate it becomes increasingly stretched. Consider, for example, the public highways. A 2007 study by the Texas Transportation Institute found that California claims five of the top twelve spots when it comes to traffic congestion.⁷ The reason: too many people in too little space. Rapid increases in population make it hard for urban centers to keep up with growth by adding infrastructure. One of the largest contributors to urban growth is immigration.

As population grows we are also beginning to use up water supplies. For example, in 2002, California water officials predicted that California would fall between 2.4 million

⁶ U.S. Commission on Immigration Reform, *Legal Immigration: Setting Priorities* (1995).

⁷ David Schrank and Tim Lomax, *The 2007 Urban Mobility Report* (Texas Transportation Institute 2007).

and 6 million acre-feet of water short of the amount needed to sustain the population of the state by 2020. This would yield between 5 and 12 million families without water or a significant proportion of the state's crops left to wither on the vine.⁸ Each newcomer to the state adds a demand of about 140 gallons of water every day to the already depleted supply. Atlanta's ongoing water shortage has as much to do with its concentration of population as it does with the drying of the Chattahoochee water basin. As global warming makes the country ever more parched, our ability to sustain large and growing population centers will decrease.⁹

Madam Chair, massive population growth also threatens our environment. As we spread out, our sprawl consumes land, water, and habitats, all the while creating a rising outflow of environmental waste. According to the Environmental Protection Agency, between 1982 and 1997, developed land increased in the United States by 34.1 percent. This development was undertaken to satisfy a population that had increased by 15.6 percent.¹⁰ The United States population is currently growing at a rate of over 2.8 million each year, forty percent of whom are legal immigrants. As the rate of immigration grows without limit, so does development and the impact on our environment. America simply cannot sustain perpetual growth in finite places with limited resources. Our immigration policy must recognize this truth. The Save America Act does not

Conclusion

Madam Chair, for all of the reasons above, FAIR believes that the Save America 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. By more than doubling legal immigration, the bill exacerbates the problem of chain migration and adds to the stress of

⁸ Kathleen Sweeney, "California Water Officials Plan for Future Droughts," *Daily News of Los Angeles*, January 27, 2002.

⁹ See the *Los Angeles Times* (November 4, 2007) at: <http://www.latimes.com/news/nationworld/nation/la-na-drought4nov04.1.7556560.story?coll=la-headlines-nation>.

¹⁰ See the Environmental Protection Agency website at: http://www.epa.gov/watertrain/smartgrowth/states_set.htm

an ever-growing population. Looking at the devastating impact these provisions would have, FAIR believes passage of the Save America Act would only catapult our immigration system into further crisis.

Thank you, Madam Chair. I would be pleased to answer any questions you or your colleagues may have.