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Testimony of Hon. David Dreier
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Committee on the Judiciary
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Madam Chair, thank you very much for inviting me to testify today as the subcommittee considers ways to improve the electronic employment verification and worksite enforcement system. I also want to thank the ranking member, the gentleman from Iowa Mr. King, for allowing me the opportunity to appear before the subcommittee.

As many of the members are aware, this is the second opportunity that I have had to appear before this subcommittee. The last time I testified was in May of 2005 and I appreciate the attention that the distinguished Chair, my colleague from the great state of California, Ms. Lofgren, has given to the importance of employment verification and worksite enforcement proposals.

As many of you know, I have reintroduced my bi-partisan legislation, H.R. 98, the Illegal Immigration Enforcement and Social Security Protection Act of 2007 to help address the issue of workplace enforcement of illegal immigration. I am particularly pleased to have the support of the gentleman from Texas, Mr. Reyes, on this legislation. Mr. Reyes brings a unique perspective to this issue due

to his experience as chief of the Border Patrol in McAllen and El Paso, Texas. I am grateful for his foresight, determination and willingness to work in a bipartisan way to address the challenge of illegal immigration.

In addition to the gentleman from Texas, I am here today on behalf of a diverse group of co-sponsors who believe that employment verification and worksite enforcement play a crucial role in the immigration debate. I appreciate their support.

Madam Chair, I have long been concerned by the Social Security card's vulnerability to counterfeiting. As some of the veteran Members here may recall, we had a lengthy debate on improving the security of Social Security cards during the debate on the Illegal Immigration Reform and Immigrant Responsibility Act on March 20, 1996. I voted that day to make Social Security cards as secure against counterfeiting as the 100 dollar reserve note and the U.S. passport. Unfortunately, I was among a minority of my party in favor of the amendment offered by our former colleague from Florida, Mr. McCollum, and we ended up losing that vote.

But the world has changed significantly since 1996. As we all tragically learned on September 11th, 2001, we are no longer impervious to attacks on our homeland. As the 9/11 Commission noted, our border security system must be evaluated to ensure that it cannot be taken advantage of by terrorists and criminals. As Silvestre can attest, our Border Patrol is hopelessly overmatched because of the thousands of illegal immigrants flooding across our border every day in search of

economic opportunity. We cannot expect the Border Patrol to have a reasonable chance of identifying and apprehending those who really do mean us harm when the numbers are so clearly not in our favor.

To date, most of our efforts to stop illegal immigration have targeted the supply side of the equation. We try to keep people from crossing the border by building fences, deploying unmanned aerial vehicles and having the Border Patrol make arrests. With roughly 12 million people in the country illegally and more coming across our borders every day, it is clear that the current approach is not working. While enacting the REAL ID Act was a strong step forward, we know that more must be done.

What Silvestre and I propose is that the United States government target demand for illegal labor instead. The only way to begin to control the illegal immigration influx is to take away the incentive to enter the country illegally in the first place. I think most Americans agree that the vast majority of illegal immigrants come here because they are hoping to feed their families. Despite laws to the contrary, work is plentiful for illegal immigrants and current safeguards are insufficient to prevent their employment.

One of the largest vulnerabilities in our current immigration system is the ease with which illegal immigrants can obtain fraudulent identity documents which they then use to demonstrate to employers that they are here legally. We have passed the REAL ID Act to reduce fraudulent driver's licenses, and now we

must turn our attention to the most ubiquitous federal document, the Social Security card.

There have been numerous news reports on Social Security card use by illegal immigrants and the evidence is not encouraging. One broadcast detailed how an illegal immigrant can purchase a fake Social Security card for \$1,300 and then easily get a job using the fake card as proof of their eligibility to work. Another report detailed the struggle against identity fraud that one Chicago-area resident faced because no fewer than 37 different illegal immigrants were using her Social Security number for employment purposes. Perhaps most disturbingly, in 2005, illegal immigrants using false Social Security numbers were apparently able to get work at a nuclear power plant in Florida. Far from being just an immigration issue, Social Security card fraud is a national security issue.

H.R. 98 addresses this vulnerability, simplifies current law for employers, toughens sanctions against those who choose to break the law, and provides the Border Patrol the resources it needs for interior enforcement. Our legislation requires the Social Security Administration to issue Social Security cards which contain a digitized photo of the cardholder, in addition to other fraud countermeasures developed in conjunction with the Department of Homeland Security. While the bill does not explicitly call for biometric identifiers, there is nothing in the legislation to preclude their consideration by the Department of Homeland Security. The bill also requires the placement of an encrypted electronic signature strip on the back of the improved card. This strip would be

utilized by employers to verify, via an Employment Eligibility Database housed in the Department of Homeland Security, an individual's eligibility to work in the United States either by swiping the card through an electronic card-reader or calling a toll-free telephone number. The employer would instantaneously receive a response back that would tell them whether or not they are permitted to hire the individual in question.

Only people who intend to seek a new job would have to be issued the new Social Security card. Retirees, for example, would not have to obtain the new, improved Social Security card. I want to make clear that our proposal takes us no further down the road of establishing a national identification card. The improved Social Security card would only be required when an individual applies for a new job. H.R. 98 further stipulates that the Social Security card shall not become a national identification card, requires that the improved Social Security card contain the words "not to be used for the purpose of identification," and provides that an individual shall not be required to carry the card on their person.

In addition, I want to underscore that under H.R. 98 the government would collect no more information about an individual that it does today. The Social Security Administration already collects information on citizenship and employment eligibility and shares that information with the Department of Homeland Security under the aegis of the Basic Pilot Program. What we propose does not threaten individual privacy or impinge upon civil liberties. I would also like to point out that H.R. 98 addresses data security concerns with provisions that

limit access to information contained in the Employment Eligibility Database while imposing strict penalties in the form of a mandatory minimum of five years in prison and a fine for misuse of any information contained in the database.

As one of the strongest supporters of reducing the level of federal bureaucratic red tape for small businesses and private enterprise, I am pleased to say that our legislation reduces the burden on business. Since the passage of the Immigration Reform and Control Act of 1986, employers have been required to verify that an individual is permitted to work in the United States before they make a hire. The current I-9 Employment Eligibility Verification form requires employers to accept 94 different document combinations. Everything from school ID cards to U.S. Coast Guard Merchant Mariner cards must be accepted by employers to establish a prospective employee's identity and eligibility to work.

Compounding matters, employers are potentially liable under the law if they hire an individual who has presented a fraudulent form of identification – any one of the aforementioned 94 combinations. While there are no doubt employers out there who knowingly hire illegal immigrants, I believe that a majority wants to comply with the law and tries to. But we are forcing them to be experts in detecting dozens of different types of fake documents. Each of our offices is required to comply with the law and file an I-9 verification form for each employee we hire. I ask my colleagues, do you feel confident that you or anyone on your staff can identify a fake military dependent's ID card, Native American

tribal document, or any of the other permitted documents? If not, then you could be potentially criminally liable if your office hires an illegal immigrant.

Compare the current system to what H.R. 98 would put into place. Rather than 94 different document combinations, there would only be one that employers would be allowed to accept. Employers would not be responsible for detecting fake cards because they would have access to the card-readers and the toll-free number to verify that the card belongs to the cardholder and that the individual is eligible to work in the U.S. Our legislation will make it simpler, faster, and more reliable for employers to know exactly who it is they are hiring.

No matter how simple we make the process there will always be those who are unwilling to comply with the law because they enjoy the benefits of a cheap source of illegal labor. While these employers know it is unlawful to hire an illegal immigrant, current penalties deter little and enforcement of the law is too lax. To provide extra incentive for employers to comply, we have increased civil penalties by 400 percent, from \$10,000 to \$50,000 per illegal immigrant hired. We also increase criminal penalties to a maximum of 5 years in federal prison for each illegal immigrant hired. And because it is inherently unfair for the government to pick up the tab for deporting an illegal immigrant to his home country when someone was unlawfully employing them, H.R. 98 requires the employer to reimburse the federal government and cooperating State and local governments for the cost of deportation.

But penalties are only effective insofar as violations of the law are investigated and prosecuted. This has been the most tragic failure of the 1986 legislation. The government outlawed the employment of illegal immigrants and required employers to verify eligibility, yet it has done very little to enforce the law or ensure compliance. We need dedicated Border Patrol agents to focus exclusively on employer enforcement, and H.R. 98 authorizes 10,000 new agents to do just that. That is the number that I believe would create an effective enforcement regime, and while I know it is a large number I think we must realize that we cannot have effective border security on the cheap.

Madam Chair, full implementation of the Illegal Immigration Enforcement and Social Security Protection Act will decrease illegal immigration. In fact, I estimate that it can eliminate 98 percent of illegal border crossings, thus the bill's title, H.R. 98. Why? Because illegal immigrants will not come here if they know they will be unable to find a job. There simply will be no incentive for them to make the perilous journey across the desert. If we can decrease illegal immigration by even half that much it will be a strong start and allow the Border Patrol to focus its efforts on apprehending criminals and interdicting terrorists.

Past approaches to solving this problem have clearly not worked as well as we would have liked. It is time for a new solution. We must enforce the laws already on the books, we must make it feasible for employers to comply with those laws, and we must increase the penalties for violating those laws. H.R. 98 will help to address these issues in a streamlined fashion. I would like to once

again thank Chairwoman Lofgren and Ranking Member King for holding this hearing today, and I welcome any questions that my colleagues may have.