



NEXUS

A JOURNAL OF OPINION

Chapman University School of Law

2007 - 2008

Vol. 13

LAW • POLITICS • ECONOMICS • MEDIA

**A New Year And The Old Debate:
*Has Immigration Reform
Reformed Anything?***

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**Comprehensive Immigration
Reform – Inevitable Solution
or Unlikely Possibility?**

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Comprehensive Immigration Reform- Inevitable Solution or Unlikely Possibility?

Herbert A. Igbanugo and Dyan Williams*

I. Introduction

The results of the November 2006 midterm election signaled that comprehensive immigration reform is a top national issue for the American public.¹ Backlogs in the immigration system and delays in visa processing have separated family members for years, and caused U.S. businesses to lose highly skilled immigrant professionals who tire of waiting in line for employment-based visas and thus seek opportunities elsewhere.² Coupled with family separation and labor shortage is an underground economy rid-

dled with threats to national security, smuggling violations, immigration and customs fraud, human trafficking, identity and benefit fraud, and an estimated twelve million undocumented workers³ who are subject to abuse and blamed for lowering U.S. wages. In short, our nation's broken immigration system demands comprehensive and humane reform. Piecemeal, state policies, and local ordinances on immigration are biased or simply ineffective. In addition, "enforcement only" or "enforcement first" approaches in the form of enhanced border patrol, worksite raids, and tougher en-

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1. Immigration 2006.org, Immigration Fails as Wedge Issue for GOP; Succeeds in Expanding Base for Democrats – Fear and Hysteria Give Way to Public Demand for Solutions in Key Bellwether Races, Nov. 8, 2006, <http://www.icirr.org/stories/wedgefails.htm>.

2. David L. Bartlett, Ph.D., *U.S. Immigration Policy In Global Perspective: International Migration in OECD Countries* (Winter 2007), available at <http://www.Ailf.org>.

3. *Size and Characteristics of the Unauthorized Migrant Population in the U.S.*, Mar. 2005, available at <http://pewhispanic.org/report.php?ReportID=61>.

forcement of current laws are also inadequate. Our dysfunctional immigration system requires action from Congress, but the politicization of this issue makes comprehensive immigration reform an unlikely possibility rather than the inevitable solution it ought to be.

II. The Role of Immigrants in the U.S. Economy

Immigration is critical to the United States' competitiveness in the global market. The current immigration laws are not in line with today's economic realities, with one in twenty persons in the labor force currently unauthorized to work.⁴ A 2005 study from the Immigration Policy Center notes:

"[I]mmigrant workers serve as a valuable complement to the growing proportion of native-born workforce that is not well matched by age or education with many of the less-skilled jobs that the U.S. economy generates. Moreover, the immigrant workers who fill these jobs further increase the demand for labor through their consumer purchases, investments, and tax payments, all of which create additional new jobs."⁵

A staunch advocate of comprehensive reform, the American Immigration Lawyers Association (AILA) states, "Rather

than cost American workers their jobs, immigration and comprehensive immigration reform, will help create jobs."⁶

While many immigrants seek lesser-skilled jobs, the United States is also reliant on foreign-born, highly educated professionals, scientists, and business executives who help compensate for the lack of native-born workers in certain professions.⁷ From 1970-2003, the portion of foreign-born workers without high-school diplomas increased from 6.2 percent to 23 percent, while the portion of foreign-born workers with doctorates in sciences, engineering, or technology rose from 12.6 percent to 30 percent.⁸ In addition, 30 to 55 percent of all doctorates from U.S. universities in physics, mathematics, computer science, engineering, and other similar fields are awarded to the foreign-born.⁹ However the large number of skilled professionals waiting for visas is significantly larger than the number of available visas, creating a huge immigrant-visa backlog for skilled workers.¹⁰ Consequently, many skilled workers who tire of waiting in line simply return to their home countries or migrate to Canada, Europe, Australia, Japan or other countries that have more favorable

4. National Immigration Reform, *House STRIVE's to Revive Immigration Reform Debate*, Sept. 6, 2007, available at <http://immigrationforum.org/DesktopDefault.aspx?tabid=926>.

5. Immigration Policy Center, *Economic Growth and Immigration: Bridging the Demographic Divide*, Washington, D.C.: American Immigration Law Foundation (November 2005) at 15, available at <http://www.aila.org/content/fileviewer.aspx?docid=21713&linkid=157219>.

6. AILA, *Making the Case for Comprehensive Immigration Reform, Resource Guide*, available at <http://www.aila.org/content/fileviewer.aspx?docid=21713&linkid=157219>

7. Paul L. Zulkie, *Staying Ahead of the Game, Innovation, Technology, and Highly-Skilled Foreign Workers*, Immigration Law Today, AILA's Immigration Law Today, May/June 2007, at 32.

8. *Id.*

9. *Id.*

10. *Id.* at 35.

immigration laws.¹¹ Without comprehensive reform, the United States will thus continue to lose out on this critical source of skilled labor.

In addition to restoring the rule of law and enhancing security, comprehensive reform must also enhance channels for legal workers, address the situation of people living and working here, and reform the family-based and employment-based permanent residency preference systems that are riddled with serious backlogs.¹² Without immigration procedures that attract talented foreign-born workers as well as less-skilled immigrants who can add value to its economy, the United States will suffer in the long run.

III. Immigration Reform Debate

A. Mixed Signals from American Voters Stalls Immigration Reform

Public opinion polls show that most Americans support comprehensive immigration reform.¹³ While Americans want enhanced border patrol, disfavor undocumented immigration, and do not support amnesty, they generally do not desire mass deportation of illegal aliens or an

“enforcement only” strategy.¹⁴ A March 2005 Tarrance/Lake-Snell poll showed that 75 percent of Americans favor comprehensive immigration reform that includes a guest worker program for undocumented workers and provide newly-registered workers with a process for legal residency and ultimate citizenship.¹⁵ A January 2006 Time Magazine poll also estimated that 76 percent of Americans favor allowing illegal immigrants now in the United States to earn citizenship if they learn to speak English, have jobs, and pay taxes.¹⁶ A May 2007 New York Times/CBS News poll showed that 66 percent of Americans favor a guest worker program and that 62 percent favor allowing illegal aliens to apply for legal residency if they have been present in the United States for at least two years.¹⁷

In addition to public opinion polls, the November election also resulted in restrictionist, anti-immigrant candidates losing their races after alienating moderate and Latino voters, who will be a key democratic force in the 2008 elections and beyond. In Arizona, the Democratic congressional candidates who advocated comprehensive immigration, Harry Mitchell and Gabrielle Giffords, defeated

11. *Id.* at 34-35.

12. National Immigration Reform, *supra* note 4.

13. The Essential Worker Immigration Coalition (EWIC) – Polls and Surveys, http://www.ewic.org/index.php?option=com_content&task=view&id=33&Itemid=9

14. *Id.*

15. The Essential Worker Immigration Coalition (EWIC), *Comprehensive Immigration Reform Now, Americans Want and Deserve Economic and National Security*, <http://www.ewic.org/includes/pdf/Polls%207.6.06%20Comprehensive.pdf>.

16. *Id.*

17. Julia Preston and Marjorie Connelly, *Immigration Bill Provisions Gain Wide Support in Poll*, N.Y. TIMES, May 25, 2007, available at <http://www.nytimes.com/2007/05/25/us/25poll.html>.

their respective Republican hardliners, J.D. Hayworth and Randy Graff, to become members of Congress.¹⁸ In Colorado, comprehensive immigration reform advocates Bill Ritter (D) became Governor and Ed Perlmutter (D) became Representative of Colorado's 7th Congressional District upon winning their races against hardliners.¹⁹ In Pennsylvania, two-term senator and the chamber's third-ranking Republican, Rick Santorum, conceded to Bob Casey Jr., who advocated comprehensive reform.²⁰

Nonetheless, telephone calls and letters to Capitol Hill from anti-immigrant groups outnumber those who favor immigration reform. As the minority, those who favor restrictive immigration policies and "enforcement only" strategies are generally more vociferous about their opinions than those who favor a moderate, comprehensive approach.²¹ While the Senate was contemplating "S. 1639", its second immigration reform bill, "talk radio and TV hosts. . . repeatedly attacked the bill and urged listeners to flood Con-

gress with calls, faxes and e-mails."²² Consequently, while members of Congress know the system is broken, mixed signals from American voters leave them uncertain on how to fix it.

B. Senate Debates on Immigration Reform

On June 28, 2007, the Senate forfeited a unique opportunity to help fix our broken immigration system when it failed to invoke cloture²³ to proceed on its second comprehensive immigration reform bill – Title VI of the Secure Borders, Economic Opportunity, and Immigration Reform Act (S. 1639)²⁴ – by a vote of 46-53.²⁵ Thus, the bill's supporters fell fourteen votes short of the sixty needed to clear the way for a final debate and votes on amendments and passage of the reform bill, which critics attacked as offering amnesty to illegal immigrants.²⁶ Majority Leader Harry Reid (D-NV) withdrew S. 1639 from the Senate Floor, and both Democrats and Republicans said the Senate is unlikely to address the issue

18. Races Where Party Control of Seat has Changed, <http://www.cnn.com/ELECTION/2006/pages/results/bop/>.

19. *Id.*

20. *Dems take House as GOP clings to Senate*, CNN projects, CNN.com Nov. 8, 2006, <http://www.cnn.com/2006/POLITICS/11/07/election.main/index.html>

21. National Immigration Reform, *Facts on Immigration: Who Really Represents "The People" When it Comes to Comprehensive Immigration Reform?* June 5, 2007, <http://immigrationforum.org/DesktopDefault.aspx?tabid=905>

22. *Immigration Bill Suffers Major Defeat in Senate*, MSNBC, June 28, 2007, <http://www.msnbc.msn.com/id/19475868>.

23. Cloture is a procedural motion that must pass with 60 votes before the Senate can move forward with the amendment process.

24. Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, S.1639, 110th Cong. § 1 (1st Sess. 2007).

25. See Library of Congress THOMAS Guide, <http://thomas.loc.gov/cgi-bin/bdquery/z?d110:SN01639:@@L&summ2=m&>.

26. *Immigration Bill Suffers Major Defeat in Senate*, MSNBC, June 28, 2007, <http://www.msnbc.msn.com/id/19475868>.

again until after the 2008 presidential election.

Introduced in June 2007 by Senators Edward Kennedy (D-MA) and Arlen Specter (R-PA), S. 1639 is essentially the same as the prior Senate bill, S.1348, but incorporates amendments that passed before the failed cloture vote on S.1348 and would provide \$4.4 billion to the U.S. Department of Homeland Security (“DHS”) to fund the bill’s trigger requirements, including operational control over 100 percent of the international land border between Mexico and the United States; hiring, training and reporting for duty of 20,000 Border Patrol agents; building at least 370 miles of fencing and specified other border barriers; detention of all removable non-U.S. citizens apprehended crossing the U.S.-Mexico border; establishment and use of identification standards and an electronic employment eligibility verification system; and receipt, processing and adjudicating in a timely manner the applications for provisional Z visa status.²⁷

Desperate to keep the bill alive, the White House and both parties worked together to include amendments designed to appease both pro-immigrant advocates and “enforcement first” supporters. On the one hand, it would create a path to U.S. citizenship for the nation’s twelve

million illegal immigrants and established a new guest-worker program that would allow thousands more to enter the country and fill jobs that most Americans do not want.²⁸ It would also create a new “Z” nonimmigrant visa category for individuals currently in undocumented status and provides for an earned adjustment to legal permanent residence. On the other hand, it would allocate billions of dollars into border security enhancement and require tougher law enforcement.²⁹

Still, even immigration reform advocates assailed the amendments to the Senate bill as unworkable and divisive. When the Senate bill collapsed, the AILA declared, “The Senate bill was admittedly deeply flawed. Backroom negotiations and a convoluted amendment process ensured that the bill in its current form would not have led to workable reform.”³⁰

C. House Debates on Immigration Reform

After the Senate shelved its immigration reform bill, the House Judiciary Committee’s Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law reintroduced the Security through Regularized Immigration and a Vibrant Economy (STRIVE) Act, a bipartisan

27. Section 1 of S.1639 sets forth certain “triggers” that DHS must meet before the programs “that grant legal status to any individual or that adjust their current status of any individual who is unlawfully present in the United States to that of an alien lawfully admitted for permanent residence” can be implemented. S. 1639 § 1.

28. *Id.* at tit. IV.

29. *Id.* at tit. VI.

30. AILA, *Official Statement From AILA On Senate Immigration Vote*, June 28, 2007, <http://www.aila.org/content/default.aspx?docid=22774>.

immigration reform bill initially introduced by Rep. Jeff Flake (R-AZ) and Rep. Luis Gutierrez (D-IL).³¹ The STRIVE Act would allow for illegal immigrants to earn legal status; includes the AgJOBS Act that aims to help stabilize the agricultural labor force and curb the United States' dependence on foreign food sources; and incorporates the Development, Relief, and Education for Alien Minors Act (DREAM Act) that would permit states to determine state residency for higher education purposes and allow the DHS to cancel removal and/or adjust the status of certain alien students who are long-term United States residents who entered the United States as children.³² Furthermore, under the DREAM Act, undocumented immigrants whose status is adjusted would have their conditional permanent resident status valid for six years, after which they could petition to have the conditions removed.³³

Unfortunately, on October 1, 2007, the Senate passed the National Defense Authorization Act for Fiscal Year 2008, without taking up the DREAM Act amendment.³⁴ Therefore, the House's ability and willingness to enact comprehensive immigration reform remains questionable.

IV. Piecemeal Policies at the State and Local Level

The growing resentment over illegal immigration and failed Congressional attempts to enact immigration reform have led to frustration at the state and local levels. Consequently, state laws and local ordinances that target undocumented immigrants are on the rise. Most of them are anti-immigrant, enforcement only measures that are not only unconstitutional, but also ineffective in solving a nationwide problem.

A. State Immigration Legislation

According to an August 2007 report by the National Conference of State Legislatures (NCSL), at least 1,400 immigration measures have been introduced among the 50 states.³⁵ From January to July 2007, at least 170 immigration bills were enacted as law in 41 states.³⁶ This is a sharp increase from the 84 such bills enacted in the first six months of 2006.³⁷ The NCSL predicts that the number could grow because some state legislatures are still in session at the time of this article's publication.³⁸

31. National Immigration Forum, *supra* note 4.

32. STRIVE Act of 2007, H.R. 1645, 110th Cong. (1st Sess. 2007).

33. *Id.* at § 626.

34. H.R. 1585, 110th Cong. (2007).

35. American Immigration Law Foundation, *NCSL Reports Increase in State Immigration Legislation*, August 2007, http://www.aifl.org/ipc/spotlight/spotlight_aug07.shtml.

36. *Id.*; National Immigration Forum, *Facts on Immigration, 50 State Policies on Immigration: Progress or Patchwork?* Aug. 6, 2007, <http://immigrationforum.org/DesktopDefault.aspx?tabid=920>.

37. Walter F. Roche Jr., *Number of State-Level Immigration Laws is Growing; Some Experts Say Washington Inaction has Led to the Rise of the Localized Legislation*, L.A. TIMES, Aug. 6, 2007 at A15.

38. *Id.*

While some states adopted pro-immigrant measures, such as protecting undocumented workers from exploitation and extending education and health care to their children,³⁹ most of the state laws serve to limit employment of undocumented workers and to make it harder for them to obtain driver's licenses and other state identification documents.⁴⁰ Arizona approved the Legal Arizona Workers Act, which states that employers who knowingly hire undocumented workers may have their business license suspended for the first offense and permanently lose their license for a second offense within three years.⁴¹ In Tennessee, employers who "recklessly employ" an illegal immigrant may be charged with a criminal offense and ordered to pay fines up to \$50,000.⁴² Arkansas passed a law barring state agencies from contracting with businesses that hire undocumented workers.⁴³ Several state laws also prohibit undocumented workers from receiving employment benefits and prevent employers of undocumented workers from securing state contracts.⁴⁴ States such as Kansas, Kentucky, Montana, and Nevada enacted new laws or toughened current

laws to bar illegal immigrants from obtaining driver's licenses.⁴⁵ Eleven states also passed 15 laws on public benefits, mostly barring illegal immigrants from obtaining public assistance.⁴⁶ In May 2007, Minnesota passed a law preventing illegal immigrants from receiving most medical aid.⁴⁷

Regardless of whether the state laws are well-intentioned means to curb illegal immigration, those that conflict with the U.S. Constitution and federal immigration laws are subject to challenges in court. The Arizona law for one, is under attack. In September 2007, a San Francisco law firm, the American Civil Liberties Union (ACLU), the ACLU of Arizona, the Mexican American Legal Defense and Educational Fund (MALDEF), and the National Immigration Law Center (NILC) jointly filed a federal complaint challenging Arizona's new law that targets employers for knowingly hiring undocumented workers⁴⁸. The plaintiffs note that the law "requires that employers verify the employment eligibility of an employee through a flawed federal verification database (the Basic Pilot program) that was intended by Congress to be vol-

39. Julia Preston, *Surge in Immigration Laws Around U.S.*, N.Y. Times, Aug. 6, 2007 at A12, available at <http://www.nytimes.com/2007/08/06/washington/06immig.html>

40. *Id.*

41. *Id.*; Ariz. Rev. Stat. § 23-212 (LexisNexis 2007).

42. Preston, *supra* note 39; Tenn. Code. Ann. § 50-1-103 (2007).

43. Steve LeBlanc, *States Step Into Void on Immigration Law*, The Associated Press, Aug. 6, 2007, available at <http://abcnews.go.com/US/wireStory?id=3450397>; See Ark. Cod. Ann. § 19-11-105 (2007).

44. LeBlanc, *supra* note 43.

45. Preston, *supra* note 39.

46. *Id.*

47. *Id.*

48. National Immigration Law Center, *Civil Rights Coalition Challenges Arizona Employer Sanctions Law*, Sept. 4, 2007, http://www.nilc.org/immsemplmnt/state_local/essl001.htm.

untary and imposes sanctions beyond what the federal government allows.”⁴⁹

Because state laws are vulnerable to legal challenges and fail to provide a long-term, nationwide solution to a dysfunctional immigration system, they cannot fill the void that comes with having no comprehensive immigration reform. Rich Stolz, director of the Fair Immigration Reform Movement based in Washington, D.C., opined, “The downside is that so many states will pass so many different kinds of bills that we will find ourselves in the middle of an unworkable patchwork of laws, many of which will be found unconstitutional.”⁵⁰ Frank Sharry, executive director of the National Immigration Forum, an advocacy group for immigrant rights, echoed Stoltz’s opinion when stating, “No one can pretend that any of this is a solution.”⁵¹ The collapse of the Senate immigration bill, Sharry said, has led to “a patchwork of ineffective” measures at the state and local level.⁵²

B. Local Ordinances

As of March 10, 2007, local ordinances have been proposed, debated, or

adopted in at least 104 cities and counties in 28 states.⁵³ Many of them are enacted to appease native-born residents who have limited experience with immigration and feel vulnerable to Latino immigrants moving to their suburban communities.⁵⁴ These ordinances contain mostly restrictive measures, such as prohibitions on renting to or employing undocumented immigrants and adopting English as the official language of the local government.⁵⁵ Critics charge that they “foster anti-immigrant and anti-Latino discrimination, divide communities, and undermine the economic prosperity of the locales that adopt them.”⁵⁶

Not surprisingly, such ordinances are being challenged on constitutional grounds for regulating immigration (which is generally within the exclusive purview of the federal government) or for otherwise conflicting with federal immigration law. Federal judges have ruled that the ordinances deny “due process” rights to renters and landlords⁵⁷. In Pennsylvania, for instance, Judge James M. Munley of the Federal District Court struck down the City of Hazleton’s ordinances to bar illegal immigrants from

49. *Id.*

50. LeBlanc, *supra* note 43.

51. Roche, *supra* note 37.

52. *Id.*

53. JILL ESBENSHADE, PH.D., IPC REPORT - DIVISION AND DISLOCATION: REGULATING IMMIGRATION THROUGH LOCAL HOUSING ORDINANCES 1 (Summer 2007), http://www.aif.org/ipc/special_report/sr_sept07.shtml.

54. Walter A. Ewing, Ph.D., *Missing the Target: Anti-Immigrant Ordinances Backfire*, Aug. 2007, http://www.aif.org/ipc/2007_august_perspective.shtml; National Immigration Forum, *supra* note 36.

55. ESBENSHADE, *supra* note 53.

56. *Id.*

57. Julia Preston, *Judge Voids Ordinance on Illegal Immigrants*, N.Y. TIMES, July 27, 2007, available at <http://www.nytimes.com/2007/07/27/us/27hazelton.html>.

working or renting homes in the community.⁵⁸

In addition, enforcing these ordinances demands resources which are currently unavailable. For example, implementation of the housing ordinances prohibiting renting to undocumented immigrants relies on the federal Systematic Alien Verification for Entitlements (SAVE) database, which often provides inaccurate and untimely information and cannot presently be updated to meet the new demand.⁵⁹

V. "Enforcement First" Strategy

Until there is comprehensive immigration reform, the U.S. government will continue to lean toward an "enforcement first" strategy involving massive crackdown on employers that hire undocumented workers and immigration raids on worksites across the nation. With the passage of the Immigration Reform and Control Act of 1986 (IRCA), U.S. employers became responsible for verifying the employment eligibility of their employees. The rising number of undocumented workers has caused the nation's immigration woes to now be seen as mostly employer-created and perpetuated.

The comprehensive immigration enforcement strategy recently unveiled by the Department of Homeland Security dubbed the Secure Border Initiative (SBI) has the primary objective of reversing the tolerance of illegal employment in the U.S.⁶⁰ The emphasis is now squarely on enforcement and punishment instead of education and compliance.

The U.S. Immigration and Customs Enforcement (ICE) was established in March 2003 as the largest investigative arm of the DHS.⁶¹ ICE is comprised of four integrated divisions that form a 21st century law enforcement agency with broad responsibilities for a number of key homeland security priorities.⁶² Now more than ever before, the agency is determined to "punish knowing and reckless employers of illegal aliens."⁶³ ICE has initiated a strategic shift in the way it approaches such employers. Under this new strategy, ICE is seeking to increase criminal prosecutions and asset forfeitures rather than relying on the old, ineffective tactic of administrative fines and sanctions.⁶⁴

Recently, ICE has made a high number of arrests for criminal violations in worksite enforcement investigations, which now routinely involve the use of

58. *Lozano v. City of Hazelton*, 496 F. Supp. 2d 477, 554 (M.D.Pa. 2007)

59. *ESBENSHADE*, *supra* note 53.

60. Press Release, Department of Homeland Security, Fact Sheet: Secure Border Initiative (November 2, 2005) available at http://www.dhs.gov/xnews/releases/press_release_0794.shtm.

61. Press Release, U.S. Immigration and Customs Enforcement, Department of Homeland Security Unveils Comprehensive Immigration Enforcement Strategy for the Nation's Interior (Apr. 20, 2006) available at http://www.ice.gov/pi/news/newsreleases/articles/060420washington_2.htm.

62. *Id.*

63. *Id.*

64. *Id.*

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wired informants.⁶⁵ Those arrested include corporate officers, managers, contractors, and facilitators.⁶⁶ In criminal cases, ICE often pursues charges including harboring illegal aliens, money laundering, and knowingly hiring illegal aliens.⁶⁷ Harboring illegal aliens is a felony with a potential 10-year prison sentence.⁶⁸ Money laundering is a felony with a potential 20-year prison sentence.⁶⁹ In addition, the IRS is getting involved by conducting parallel criminal investigations of tax evasion and withholding employment taxes in “independent contractor” situations.⁷⁰

“Employers and workers alike should be on notice that the status quo has changed,” said Michael Chertoff, DHS Secretary, after ICE agents arrested seven current and former managers of IFCO Systems North America, Inc. (IFCO), pursuant to a nationwide worksite enforcement operation and criminal complaints issued in the Northern District of New York.⁷¹ Chertoff added,

“These enforcement actions demonstrate that this department has no patience for employers who tolerate or perpetuate a shadow economy. We intend to find employers who knowingly or recklessly hire unauthorized workers and we will use every authority within our power to shut down businesses that exploit an illegal workforce to turn a profit.”⁷²

ICE Assistant Secretary Julie Myers said, “ICE has no tolerance for corporate officers who harbor illegal aliens for their workforce. This nationwide enforcement action shows how we will use all our investigative tools to bring these individuals to justice, no matter how large or small their company.”⁷³

ICE has also revived Section 287(g), a 1996 addition to the Immigration and Nationality Act (INA), which authorizes the DHS Secretary to delegate the enforcement of federal immigration laws to a state or political subdivision of a state, at the request of that state or political subdivision.⁷⁴ Using Section 287(g), ICE has enlisted the cooperation of local law enforcement agencies to enforce the nation’s immigration laws.⁷⁵ Additional en-

65. U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, FACT SHEET: WORKSITE ENFORCEMENT (Oct. 15, 2007), available at <http://www.ice.gov/pi/news/factsheets/worksite.htm>.

66. *Id.*

67. *Id.*

68. *Id.*

69. *Id.*

70. Press Release, U.S. Immigration and Customs Enforcement, 29 Charged in Connection with Alien Harboring Conspiracy (July 1, 2005) available at <http://www.ice.gov/pi/news/newsreleases/articles/050701sanfransisco.htm>.

71. Press Release, Department of Homeland Security, ICE Agents Arrest Seven Managers of Nationwide Pallet Company and 1,187 of the Firm’s Illegal Alien Employees in 26 States (April 20, 2006), available at http://www.dhs.gov/xnews/releases/press_release_0891.shtm

72. *Id.*

73. *Id.*

74. James Jay Carafano, Ph.D, *Section 287(g) Is the Right Answer for State and Local Immigration Enforcement*, The Heritage Foundation’s Executive Memorandum No. 994 (March 2, 2006) available at <http://www.heritage.org/Research/HomelandSecurity/em994.cfm>.

75. *Id.*

forcement support is provided by the SSA's Inspector General, the IRS' Criminal Investigation Division, USDA Office of the Inspector General, the DOL's Inspector General, and U.S. DHHS' Division of Immigration Health Services.⁷⁶

Indeed, September 11 and the war on terrorism have fueled the emphasis on enforcement measures, including employer sanctions and border enhancements, which is seemingly the only issue that Congress can agree on in terms of immigration reform.⁷⁷ However the ongoing emphasis on immigration enforcement and border patrol fails to address the core problems resulting from a broken immigration system. In addition, for the United States to fully reap the economic and social benefits associated with immigration, comprehensive immigration reform, not just enforcement of current laws, is necessary.

VI. Conclusion

Immigrants play a vital role in the United States' global competitiveness. To date, however, immigration measures have focused on tougher law enforcement and increased border patrol. Meanwhile, twelve million undocumented immigrants live and work in the United States without a process to earn full legal status and eventual citizenship. The U.S. borders remain unsecured despite enhanced border patrol. Backlogs in family-based

immigration separate some families for decades. The shortage of employment-based immigrant and non-immigrant visas means U.S. employers cannot legally hire essential immigrant workers or highly skilled professionals even when native-born workers are unavailable. Labor shortage looms in the agricultural industry and undocumented workers suffer from abuse and exploitation. Simply put, the current immigration system is out of sync with the economic, political and social goals of the United States.

Based on support from the American public, encouragement from President George W. Bush, and debates in Congress, one would reasonably believe that comprehensive immigration reform is an inevitable solution to our outdated immigration laws. But the wide ideological gap between the House and Senate with respect to the treatment of undocumented workers, and partisan disagreements between Democrats and Republicans in general, render immigration reform an unlikely possibility in today's political climate.

While immigration is a top national concern, it is also a complex and divisive subject that requires legislators to negotiate and make compromises (that often result in watered-down, unworkable bills) or risk losing votes from their constituents. Because taking action on a politically charged issue that affects all 50 states could spell political suicide, Con-

76. ASSESSMENT OF U.S. GOVERNMENT EFFORTS TO COMBAT TRAFFICKING IN PERSONS IN FISCAL YEAR 2005, (Sept. 2006) available at http://usdoj.gov/ag/annualreports/tr2006/assessment_of_efforts_to_combat_tip.pdf.

77. Julia Preston, *U.S. Set for a Crackdown on Illegal Hiring*, N.Y. TIMES, Aug. 8, 2007, available at <http://www.nytimes.com/2007/08/08/washington/08immig.html>.

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gress would rather engage in heated debates than actually overhauling an immigration system that is truly dysfunctional. Thus, comprehensive immigration reform is an unlikely possibility at least until after the 2008 elections, when the United States has a new President and a new Congress.