

Senator Grassley's Question for Jessica Vaughan, CIS

1. Entry-Exit System: In 1996, Congress required the creation of an automated entry/exit system to record the entries and departures of every alien. The law was intended to track visa overstays. However, administration after administration has failed to implement the "exit" portion, citing costs and burden to airlines and government agencies. The outline of a plan circulated by the eight senators includes an entry/exit system, but only at air and sea ports. It doesn't include land points of entry. Do you believe that any effective entry-exit system must cover land points of entry?

Answer: Yes; any entry-exit system that fails to cover land ports of entry will miss the majority of visitors entering the country, and probably the majority of overstayers as well. According to U.S. Customs and Border Protection statistics, about two-thirds of international travelers enter the United States by land. Most of these visitors currently are exempt from enrollment in US-VISIT – meaning we currently do not collect biometric information upon either entry or exit, and therefore have not authenticated the visitors' identity nor collected information to determine their compliance with immigration laws. A large share of land-entry visitors are citizens of Mexico (or claiming to be), which is also the top country of origin of the estimated three to four million overstayers. Plans for land port re-design that are currently underway should be expected to incorporate the eventual implementation of entry and exit screening. Those land ports that have already implemented southbound screening for weapons and cash have a head start and should be considered pilots for how to accomplish traveler screening as well. In addition, the expansion of trusted traveler programs should be considered to increase the number of individuals who can be tracked in a less labor-intensive process. Lawmakers should consider imposing entry fees for cross-border commuters and other visitors to help fund the infrastructure improvements and the increased cost of more robust traveler inspections.

2. Temporary Worker Program: On January 29, President Obama offered an outline of a plan for comprehensive immigration reform. It has four broad parts, including a pathway to citizenship for illegal immigrants. And, while he addresses legal immigration by talking about family reunification, increasing numbers, and enhancing tourism, he does not mention the need for a future guest worker program to help low-skilled immigrants. What's your reaction to the President's proposed plan, particularly on this point?

Answer: Our research shows that the President's plan is unlikely to garner sufficient support to pass, and, if passed, would be harmful to American workers, costly for taxpayers, and detrimental to national security and public safety. It would exacerbate our immigration problems, because it completes the amnesty and increases legal immigration before shoring up enforcement of immigration laws and improving border security. With regard to the need for future low-skill guest worker programs, our research indicates that there is no shortage of such workers in the United States at this time. In the fourth quarter of 2012, the standard unemployment rate (referred to as U-3) for U.S.-born adults who have not completed high school was 18.7 percent. Using the broader measure of unemployment (referred to as U-6), which includes those who want to work but have not looked recently, the rate for U.S.-born adults who have not completed high school was 30.8 percent. This suggests that theoretically, U.S. employers in need of low-skilled workers should be able to find U.S. workers. In addition, our family-based legal immigration programs and our existing guest worker programs bring in tens of thousands of additional low-skilled workers each year. However, it could be that some

employers experience spot shortages of workers. I believe that our current guest worker programs could be reformed to better meet the small-scale needs of certain employers without disastrous effects on U.S. workers. Reforms should include transferring some degree of control or input to state workforce agencies, and the programs must be industry-specific, truly temporary (confirm exits), short-term (six months or less), include wage and conditions standards, and limited in the number of workers admitted. The point must be to avoid encouraging employers to become dependent on foreign guest workers, and to promote the development of a stable domestic labor source (or alternatives such as robotics or mechanization). In addition, I recommend that members of the committee seek data from DHS on the visa compliance rates for H-2A and H-2B workers, which was collected under the Visa Exit Program Pilot (terminated in September, 2011). Under the pilot, these visitors were required to exit the United States using specific border crossing points so that their departure could be confirmed. This information might help lawmakers determine if these programs contribute to illegal settlement or if additional compliance requirements need to be implemented.

3. E-Verify: On January 31st, I introduced the *Accountability Through Electronic Verification Act*, a bill that would make E-Verify a staple in every workplace. When we passed the 1986 amnesty, we made it illegal for an employer to knowingly hire someone here unlawfully. Do you believe that the E-Verify program should be mandatory? Do you think that increasing penalties on employers will help deter them from hiring people here illegally?

Answer: Yes, E-Verify should be mandatory. As long as E-Verify remains voluntary, then law-abiding, conscientious employers who are diligent about maintaining a legal workforce will be disadvantaged by their competitors who continue to hire illegal workers. Unless E-Verify is made mandatory, then the unscrupulous employers will not comply. I have interviewed employers around the country in a variety of industries about their use of E-Verify and if they do not use it, when I ask them why, the most common answer is, “because we don’t have to.” According to a recent Bloomberg Government study, the imposition of E-Verify mandates at the state level have significantly affected employer and employee behavior, with the result that employers comply with the law, illegal workers depart, and legal workers are hired for those same jobs. As for increased penalties, in my view this could be helpful, but it would be even more fruitful for ICE to re-balance its worksite enforcement efforts to include more criminal investigations against egregious employers with a pattern or practice of illegal hiring, or who harbor illegal workers, in addition to the payroll audits, which typically result in paperwork violations. According to ICE statistics, criminal arrests, indictments, and prosecutions of employers have declined by more than 50 percent since 2008. It doesn’t do much good to increase the penalties if fewer employers are subject to prosecution to begin with, and if ICE is limiting itself in the types of investigations and subsequent charges that it can bring.

4. Biometric Social Security Cards: Some members of Congress have proposed the creation of a new biometric Social Security card for all Americans. Do you have any thoughts about such proposals?

Answer: In my view, the introduction of a biometric Social Security card would not have a significant effect on illegal immigration, illegal hiring, or preventing illegal immigrants from accessing public benefits, although it would impose burdensome requirements on the federal

government to produce and issue the cards, on Americans and legal workers to apply for and carry the cards, and on employers and government agencies to obtain devices to read the cards. Instead, the focus should be on preventing unauthorized or fraudulent use of the Social Security numbers. This can be accomplished with existing programs and technology. For example, the Social Security Administration and DHS should resume cooperation to issue no-match letters to employers in situations of possible fraudulent use, and to notify individuals when their numbers may have been compromised. The existing E-Verify and SSNVS programs can support these efforts, but they should be used more extensively.

5. Spending on Enforcement Efforts: In January, the Migration Policy Institute released a report entitled *Immigration Enforcement in the United States: The Rise of a Formidable Machinery*. The report aims to convince the public that the government has succeeded in immigration enforcement and suggests that spending cuts might be in order. What's your reaction to the report released by the Migration Policy Institute?

Answer: The MPI report paints a misleading picture of the state of immigration law enforcement. First, MPI grossly inflates the immigration enforcement spending totals by tallying all spending by three Department of Homeland Security agencies -- Immigration and Customs Enforcement (ICE), Customs and Border Protection (CBP) and US-VISIT, much of which is not spent on activities unrelated to immigration enforcement, and compares it to spending on a handful of other federal law enforcement agencies, to give the impression that immigration enforcement spending represents a majority of all federal law enforcement spending. In fact, spending on immigration law enforcement agencies is about one-half of what is spent on all other non-military federal law enforcement agencies, not 24 percent greater, as MPI claimed. And, a large share of the DHS agencies' activities are not immigration enforcement at all; they include customs screening and enforcement, drug and weapons interdiction, cargo inspection, returning stolen antiquities, and intellectual property violations. It is true that we have seen dramatic growth in immigration enforcement spending over the last two decades, but the scale of the illegal immigration problem is much larger than it was two decades ago. And, our nation faces greater threats from terrorism and transnational criminal organization than it did two decades ago. Besides, in addition to displacing American and legal immigrants from jobs and depressing their wages, illegal immigration costs taxpayers about \$10 billion a year at the federal level, and even more at the state and local level. For this reason, every dollar invested in border security and immigration enforcement has a public safety benefit and a fiscal benefit. No one could seriously suggest that we under-fund our agencies to the extent that they were starved for resources in the 1990s. A more detailed critique of the MPI report can be found here: <http://cis.org/Announcements/Immigration-Enforcement-United-States-Rise-Formidable-Machinery>.

6. Record Deportation Statistics: Administration officials have pointed to what they claim is a record number of removals and returns-- 409,000 in 2012, out of more than 12 million people here illegally. What's your response to the administration's claims that its enforcement numbers and efforts are record breaking?

Answer: Statistics on immigration enforcement from a variety of sources present a mixed picture of immigration enforcement, with many indicators suggesting a significant decline in immigration enforcement activity over the last several years, and others showing only modest

increases. While the administration claims that 409,000 is a record number of removals and returns, they have not shared their methodology nor shown exactly what type of cases they are counting. Their deportation statistics include the removal of tens of thousands of individuals who were apprehended by the Border Patrol, and who traditionally were not counted in deportation statistics. Older DHS and INS statistics contradict this claim of a record number of removals and returns; for example, in 1995 removals and returns numbered more than 1.3 million, and in 1996 they numbered more than 1.3 million. The total number of removals and returns reported by DHS has declined 41 percent since 2007, from 1.2 million to 716,000 in 2011. Other metrics also indicate a decline in enforcement. For example, arrests by the ICE-HSI have declined 70 percent since 2007, while arrests by ICE-ERO have been flat, despite the implementation of the Secure Communities program, which has dramatically enhanced ICE's ability to identify criminal aliens. Finally, it appears that the number of aliens who have failed to abide by deportation orders is rising. In 2012, ICE reported that there were 850,000 aliens present in the country who have been ordered removed or excluded, but who had not departed, up from 558,000 fugitive aliens reported in 2008.