

Hearing before the
Senate Committee on the Judiciary, Subcommittee on Immigration, Refugees and Border Security
“The Economic Imperative for Promoting International Travel to the United States”

Tuesday, March 27, 2012

Testimony of Senator Barbara A. Mikulski

I would like to thank Chairman Schumer and Ranking Member Cornyn for holding this important hearing. Tourism creates American jobs and the Senate needs to look at how to allow more tourists to visit the United States while continuing to protect our borders.

I'm here today to discuss section Six of the JOLT Act, which contains language of a bill I introduced with Senator Kirk earlier this year named the Visa Waiver Program Enhanced Security and Reform Act (S. 2046.)

The Visa Waiver Program (VWP) was created in 1986 and the last significant reform of the program was in 2007. The program has promoted tourism but it is first and foremost a national security tool and the Implementing Recommendations of the 9/11 Commission Act of 2007 (P.L. 110-53) made the Visa Waiver Program dramatically more secure. However, it has been more than four years since Congress considered that legislation and it is time to revisit, refresh and reform the Visa Waiver Program

The Visa Waiver Program Enhanced Security and Reform Act reforms the Visa Waiver Program in three major ways:

First, it makes overstay rates a requirement for eligibility in the Visa Waiver Program. If more than three percent of visitors from a country overstay their visas, that country isn't eligible. No exceptions.

In the past, DHS has been unable to provide overstay numbers to Congress. If this bill is passed, that will be forced to change as the Secretary of Homeland Security will have to be able to verify the overstay rate before expanding the VWP program.

Second, we create a probation system that sends the message: Get it right or get out. P.L. 110-53 required VWP countries to share information from three types of databases, including information on serious criminals, terrorism suspects and lost and stolen passports.

This legislation would require the Secretary to place a country on probation if she found a country was not in compliance with these agreements. A country on probation would have a year to fix the problems or face expulsion from the program.

We want to expand tourism to America, but we have a responsibility to keep thugs and terrorists out. This bill does both.

Third, the legislation changes the way the visa rejection rate is calculated. Currently, a country's rejection rate is based on the number of applications that are rejected. Instead, this bill would calculate the rate by the number of people rejected.

The rejection rate is a metric to broadly determine if individuals from a certain country represent a significant security or overstay risk to the United States. To get a clearer picture of the risk represented by a specific country, we should look at the number of its citizens rejected for visas, not the number of times risky individuals repeatedly submitted an application.

Having made these security improvements to the program, the Visa Waiver Program Enhanced Security and Reform act returns the authority to the Secretary of Homeland Security to waive in countries that meet the previously stated requirements and have less than a ten percent visa rejection rate.

It is important to note that meeting these metrics only makes a country eligible for the program, it does not guarantee entrance into the Visa Waiver Program. The Secretary of Homeland Security must determine that security risk mitigation measures are sufficient to not compromise the security interests of the U.S. before any country can be added to the Visa Waiver Program.

Senator Feinstein, my friend and a member of this subcommittee has fought tenaciously to make the visa waiver program more secure and much of the improvement in the last decade is the direct result of her determined focus.

Through the Electronic System for Travel Authority (ESTA), we now screen visitors from visa waiver countries before they show up at our border. This legislation requires DHS to study the security risks presented by the small group of travelers who fail to fill out an ESTA before traveling to the United States. I want to thank Senator Feinstein for her work to strengthen this program and my bill and to say I greatly appreciate her support of the Visa Waiver Program Enhanced Security and Reform Act.

While we must use VWP to protect our borders and our country, we should not punish close allies. Unfortunately, that is the reality with our close friend Poland.

Poland has long been a friend to the United States- sending two of its finest heroes, Kosciusko and Pulaski, to fight in the Revolutionary war. Now, Polish citizens fight and die alongside Americans in Afghanistan but cannot visit the U.S. without a visa.

I'm so proud of modern nation Poland has become: A strong nation that stands with the U.S. in the world. A confident nation charting its own economic path. A secure nation and a vital member of the NATO alliance

It's time we allowed them to become a member of the visa waiver program. This legislation fulfills the promise of both the Bush and Obama administrations by making Poland eligible for the visa waiver program. I am committed to getting legislation to the President's desk before the NATO summit in Chicago.

While I have talked mostly about national security and foreign policy, the VWP Enhanced Security and Reform Act is also a jobs bill.

More than 16 million tourists visit from program countries each year, spending \$51 billion in the United States and supporting more than half a million jobs.

When we can securely expand the VWP, it provides a boost to our economy. The last time the VWP expanded, South Koreans gained the ability to travel to America without a visa. In the year following their inclusion, there

was a 49 percent increase in South Korean visitors to the U.S., which resulted in \$789 million in new spending and supported 4,800 new jobs.

If Poland gained entry to VWP and saw a similar increase, the additional visitors to the United States would create \$181 million in new spending and support 1,500 new jobs.

Expanding the visa waiver program is good for American business and good for the economy.

I have worked closely with Senator Kirk on this legislation. Senator Kirk is a naval intelligence officer and has served in Afghanistan. He understands the threats we face and is committed to protecting America. This legislation remains true to that commitment by strengthening our borders while boosting our economy.

Though he cannot be here today, I look forward to his return.

I thank the committee for its time and for its consideration of this important legislation.