



**The Honorable Janet Napolitano**

*testifying before the*

**United States Senate**

**Committee on the Judiciary**

**Comprehensive Immigration Reform Legislation**

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Thank you, Chairman Leahy, Ranking Member Grassley, and Members of the Committee for holding this noteworthy hearing today on the Border Security, Economic Opportunity, and Immigration Modernization Act. It is a pleasure to again appear before the committee, especially for such an occasion.

We are very encouraged by the work of this committee. I also want to commend the solid bipartisan work of eight senators and their staff to fashion a commonsense immigration reform bill that will address the most serious problems with our current system. The introduction of this legislation is an important first step that reflects significant momentum toward our shared goal to reform the nation's immigration laws.

As the President stated earlier this week, this bill is clearly a compromise, and there are some things we don't agree on, but the bill is largely consistent with the President's principles on commonsense comprehensive reform. The bill would continue to strengthen security at our borders and hold employers more accountable if they knowingly hire undocumented workers. It would provide a pathway to earned citizenship for the 11 million individuals who are already in this country illegally. It would also modernize our legal immigration system, allowing families to be reunited in a humane and timely manner and grow our economy by attracting the highly-skilled entrepreneurs and workers who will help create good paying jobs. These are all commonsense steps that the majority of Americans support. The President and I, as well as the rest of the Cabinet, stand willing to do whatever it takes to make sure that comprehensive immigration reform becomes a reality as soon as possible. DHS is ready to work directly with this Committee to further refine the bill and pass the much-needed reforms that will help make our border safer and our country stronger.

America is a nation of immigrants and a nation of laws. Our history is rooted in immigration. At every great and momentous occasion throughout our proud history, immigrants, and the immigrant experience, have contributed to the richness of our culture, the strength of our moral character, and the advancement of our society.

As I noted in my testimony before the committee in February, DHS secures our Nation's borders to prevent the illegal entry of people, drugs, weapons, and contraband, while fostering legal trade and travel. We enforce immigration laws to protect public safety, promote economic fairness and competition, and maintain the integrity of our immigration system. We administer legal immigration benefits and services to millions of new and aspiring Americans, including members of our Armed Forces. And we work with a range of Federal, state, tribal, local, territorial, and international partners to advance all of these efforts, while ensuring that the civil rights of affected communities are respected.

We have made great strides in each of these areas over the past four years and, indeed, since the department's founding ten years ago. In order to build on this strong record, America needs a 21<sup>st</sup> century immigration system that meets the needs of law enforcement, businesses, immigrants, communities, and our economy. The current patchwork of outdated laws and requirements fails in each of these areas, and we are hopeful that this new bipartisan legislation will address each of these needs. We know what needs to get done to mend this broken system, to change our laws to create a 21<sup>st</sup> century system and one that lives up to our proud traditions.

The principles for commonsense immigration reform are encompassed in the Border Security, Economic Opportunity, and Immigration Modernization Act.

### **Stronger Border Security and Immigration Reform**

These principles begin with continuing to focus on securing our borders. Over the past four years, the Obama Administration has made historic investments in border security, adding more personnel, technology, and infrastructure; making our ports of entry more efficient to lawful travel and trade; deepening partnerships with federal, state, tribal, and local law enforcement, and internationally; improving intelligence and information sharing to identify threats sooner; and strengthening entry procedures to protect against the use of fraudulent documents and the entry of those who may wish to do us harm. We are proud of these achievements, which reflect the hard work of many DHS agents and officers and our partners, who work long hours and often at great personal risk.

These efforts have contributed to a border that is far stronger today than at any point in our nation's history, and border communities that are safe and prosperous. Since 2004, we have doubled the number of Border Patrol agents from approximately 10,000 in 2004 to more than 21,000 today. Even in a time of fiscal austerity, the President's budget includes adding nearly 3,500 additional Customs and Border Protection Officers to reduce growing wait times at our land, air, and sea ports of entry, while also increasing seizures of illegal items and counterfeit goods, and protecting our country from national security or public safety threats. Along the Southwest border, the number of Border Patrol agents has increased by 94 percent to nearly 18,500. Along the Northern border, we now have more than 2,200 Border Patrol agents.

To facilitate the secure flow of people and goods, we have also increased the number of U.S. Customs and Border Protection (CBP) officers ensuring the secure flow of people and goods into our nation also has increased from 17,279 customs and immigration inspectors in 2003 to more than 21,000 officers and 2,400 agriculture specialists today.

CBP also has deployed proven, effective technology to the border tailored to the operational needs of our agents on the ground. In addition, we have expanded unmanned aerial surveillance to the entire Southwest border and strengthened our air and marine interdiction capabilities.

The results of these efforts speak for themselves. Attempts to cross the Southwest border illegally, as measured by Border Patrol apprehensions, have decreased 49 percent over the past four years, and are 78 percent lower than what they were at their peak. Since 2009, DHS has also seized 71 percent more currency, 39 percent more drugs, and 189 percent more weapons along the Southwest border, compared to the previous four year period. Further, since 2008, crime in each of the four Southwest border states—Arizona, California, New Mexico, and Texas—has decreased significantly.

To build on these successes, efforts to strengthen security at our borders must continue. The President's proposal identified continued use of proven technologies to secure the land and maritime borders, strengthening and improving infrastructure at ports of entry, expanding smart enforcement efforts that target convicted criminals in correctional facilities, and cracking down

on criminal networks engaging in passport and visa fraud and human smuggling, and improving partnerships with border communities and law enforcement.

I am pleased to see that the Border Security, Economic Opportunity, and Immigration Modernization Act, included similar provisions that would help us accomplish these efforts. In particular, funding for the Department to continue deployment of proven, effective surveillance technology along the highest trafficked areas of the southwest border will help us continue to achieve record levels of apprehensions and seizures. Funds will be used to procure and deploy technology tailored to the operational requirements of the Border Patrol, the distinct terrain, and the population density within each sector. These provisions will allow us to sustain and build on our progress and ensure a border region that is safe and thriving.

### **Strengthening Employee Tools and Employer Verification**

One of the best ways to reduce illegal migrant traffic across the border – and thereby strengthen border security – is by reducing opportunities for unauthorized work in the United States. We believe a mandatory employee verification system combined with stronger tools to help employers maintain a legal workforce will help us achieve that goal and should be part of any comprehensive immigration reform package.

The President’s proposal calls for a mandatory, phased-in electronic employment verification to provide tools for employers to ensure a legal workforce and increases the penalties for employers who hire undocumented workers to skirt the workplace standards that protect all workers. The President’s proposal also calls for protecting workers against retaliation for exercising their labor rights and ensuring confidentiality and privacy protections for personal information.

The Border Security, Economic Opportunity, and Immigration Modernization Act includes many of these proposals. The bill mandates a national system that would be phased in over 5 years, starting with federal government and critical infrastructure employers and ending with small employers and the agricultural industry. This timeline is essential for the Department to ensure that the System meets the needs of every employer in the country—the majority of which do not currently participate in the system—and the diversity of our workforce. The bill also includes identify fraud measures such as the ability for individuals to lock their own Social Security number or for the Department to lock suspected fraudulent use of Social Security numbers.

Businesses of all kinds and sizes must be able to find and maintain a stable, legal workforce, and have confidence that they are all playing by the same set of rules. When businesses break the law by hiring undocumented workers, it undercuts lawful businesses, creates an uneven playing field, and hurts all workers, affecting wages, employee safety, and creating further demand for illegal labor.

The employment verification system proposed in this bill will support stronger border security, the integrity of our immigration system, and the American economy, by providing businesses with a clear, free, and efficient means to determine whether their employees are eligible to work in the United States. By helping employers ensure their workforce is legal, electronic verification promotes economic fairness and a level playing field, prevents the illegal hiring that

serves as a magnet for further undocumented immigration across our borders, and protects workers from exploitation.

The President's 2014 Budget includes \$114 million to operate E-Verify, improve the system's fraud-prevention and detection capabilities, modernize E-Verify customer service to improve ease of uses, and build additional capacity to support continued expansion. The Budget also enhances E-Verify Self Check, an online service that provides U.S. workers with the opportunity to ensure employment authorization records are accurate before getting a job and improves employee understanding of the employment eligibility process.

We also believe that the penalties proposed in the bill for hiring undocumented workers serve as a further disincentive to illegal hiring. In combination with DHS's existing worksite enforcement strategy, these measures would significantly reduce the jobs magnet that drives much of the illegal flow across our borders and enhance border security.

### **Earned Legalization with a Path to Citizenship**

Equally important, the President's framework for commonsense creates a mechanism to bring the millions of undocumented immigrants unlawfully present in the United States out of the shadows and into a legal, regulated pathway to earned citizenship. No one questions that those unlawfully in the United States should be held accountable for their actions. But they are here, and in many cases they have been in the United States for years, have raised families here, and are now contributing members of our communities. Removing all of them is not only impractical and cost-prohibitive, but inconsistent with our values.

For immigration reform to be successful, we believe these individuals should have a clear pathway to earned citizenship. But it must be evident from the outset that there is such a pathway and it is attainable. It won't be a quick process but it must be a fair process. The President's framework provides such a roadmap. It requires immigrants to register, submit biometric data, pass criminal background and national security checks, and pay fees in order to be eligible for provisional legal status. These individuals with provisional status would have to wait until the current legal immigration visa waiting lists are cleared and pay penalties before being able to apply for lawful permanent residency, and ultimately, United States citizenship. We also believe childhood arrivals—known as DREAMers—should be eligible for earned citizenship. Additionally, immigrant farm workers, many of whom are currently undocumented, must be provided a similar opportunity to get on the right side of the law.

Again, the Border Security, Economic Opportunity, and Immigration Modernization Act is consistent with the President's framework. This bill would allow individuals in the United States by December 31, 2011 to apply for registered provisional immigrant status, and eventually obtain permanent residence and citizenship. It's not an easy path. They will need to comply with many requirements, including documenting a history of work, paying penalties and taxes, and learning English. DREAMers and immigrant farm workers have also been included, and those who complete the rigorous requirements of the bill will be placed on an expedited path to citizenship.

Having a large population of undocumented immigrants in our country creates problems for law enforcement and leaves many immigrants vulnerable to exploitation and harm. Creating provisional legal status for these individuals, and an eventual path to earned citizenship for those who qualify, will ensure that our immigration enforcement resources remain focused on high priority cases and national security threats.

### **Streamlining Legal Immigration**

Our nation's immigration system is just that – a system. Its elements work together and support each other, and must be considered in their totality, not as distinct, unrelated pieces. Therefore, what we do to strengthen border security and immigration enforcement is directly tied to our efforts to promote and strengthen lawful immigration. By extension, all of these elements must be included in comprehensive immigration reform.

We have already made progress in improving the legal immigration process over the past four years. Our commitment to improving legal immigration includes launching new initiatives to spur economic competitiveness; streamlining and modernizing immigration benefits processes; strengthening fraud protections; protecting crime victims; supporting and helping to integrate refugees and asylees; updating rules to keep immigrant families together; and promoting civic engagement and integration.

For example, USCIS has launched initiatives to spur economic competitiveness by attracting foreign entrepreneurial talent to create jobs, form startup companies, and invest capital in areas of high unemployment. DHS also has taken action using existing authorities to keep more talented science and math graduates in the country longer and to attract highly skilled immigrants who will be critical to continuing our economic recovery and encouraging job creation. USCIS also has begun to modernize its immigration benefits system, transitioning from a paper-based to an electronic system that will improve case management and efficiency, and it has improved its fraud detection capabilities and efforts to combat immigration-services scams.

We also have worked to help protect victims of domestic violence, human trafficking, and victims of devastating natural disasters and violent conflicts, as well as individuals from around the world seeking refuge or asylum in the United States. We have made rule changes that will reduce the time U.S. citizens are separated from their immediate relatives who are in the process of applying for immigrant visas to become lawful U.S. permanent residents. And we have continued to strengthen our work with communities nationwide to promote citizenship preparation, including civics-based English instruction and education on the rights and responsibilities of citizenship.

There is much more to be done in each of these areas, but further progress requires statutory changes. Outdated legal immigration programs need to be reformed to meet current and future demands. That is why the President's proposal calls for an overhaul of legal immigration system so that families can be reunited and to ensure it better aligns the available legal workforce with the needs of our economy and strengthens economic competitiveness.

Although not entirely consistent with the President's proposal, the Border Security, Economic Opportunity, and Immigration Modernization Act would also overhaul our current employment

and family immigration systems and reduce the existing backlogs. The bill makes significant changes in employment based programs that will also us to attract and retain highly skilled workers and entrepreneurs. The bill provides green cards to both low and high skilled workers that our economy needs to recover. This is especially important in the STEM fields. The bill would allow STEM PhD and Master's Degree graduates from qualified U.S. universities who have found employment in the United States to remain here as permanent residents. Providing visas to foreign entrepreneurs will enable them to start and grow their businesses in the United States, and create jobs for American workers, and strengthen our economy.

Like the President's proposal, the bill treats spouses and children of permanent residents as immediate relatives. Outdated legal immigration programs need to be reformed to meet current and future demands. I am pleased to see that the bill eliminates existing waiting lists in the family-sponsored immigration system by recapturing unused visas and temporarily increasing annual visa numbers, raising annual country caps, and revising current unlawful presence bars and providing broader discretion to waive bars in cases of hardship.

The bill also contains important protections for vulnerable immigrants, including those who are victims of crime and domestic violence, and asylum seekers by eliminating certain limitations that prevent qualified individuals from applying for asylum. The bill also contains provisions creating new temporary worker programs – one targeted to the agricultural industry and another broader based program – that are the product of compromise between business and labor leaders seeking to address worker shortages while also protecting American workers.

## **Conclusion**

Over the past four years, DHS has worked very hard to meet our immigration responsibilities in a smart, common-sense manner. The results we are seeing today reflect the most serious and sustained effort to strengthen border security and enforce immigration laws that I've seen in the more than twenty years I've been engaged in immigration enforcement and policy. Our men and women on the frontlines, in the interior, and overseas deserve a great deal of credit for this success.

Today our borders are more secure and our border communities are among the safest communities in our country. We have removed record numbers of criminals from the United States and our immigration laws are being enforced according to sensible priorities. We have taken numerous steps to strengthen legal immigration and build greater integrity into the system. And we are using our resources in a smart, effective, responsible manner. We have matched words with action, and now is the time to take the next step and fundamentally reform the nation's immigration system to reflect the realities of the 21<sup>st</sup> century.

We must not miss this opportunity to enact meaningful reforms to not only strengthen our immigration system but also to ensure that our nation remains a land of opportunity for immigrants, businesses, and all those whose dreams, aspirations, hard work, and success have contributed to our nation's uniqueness, diversity, cultural richness, and economic strength since our founding. The time to modernize our immigration laws is long overdue, and we stand ready to work with this Committee and the Congress to achieve this important goal for our country, the American people, and all those seeking to contribute their talents and energy to our great nation.

We are very encouraged by the progress that has been made thus far in developing the Border Security, Economic Opportunity, and Immigration Modernization Act. The introduction of this legislation is a true milestone, and we look forward to working with you to build on this momentum. Thank you, again, for the attention you are giving to this critical issue.