

# A NEW STRATEGY FOR CONTROL OF ILLEGAL IMMIGRATION

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## A NEW STRATEGY FOR CONTROL OF ILLEGAL IMMIGRATION A Guest Lecture by Rep. Tom Tancredo

Since January of 2004, when President Bush first proposed his so-called "comprehensive immigration reform," it has become increasingly evident that there is a sharp disconnect on "immigration reform" between the political elites in the nation's capital and the values and concerns of average citizens. This disconnect is evident even in the terminology chosen to discuss our immigration and border security problems, so it should come as no surprise that an acceptable solution has proven elusive. We can't hope to find a "solution" until we have some agreement on "the problem."

- I have used the term "illegal immigration" only because in this city, it is the way people are forced to talk about illegal aliens. But traditionally and in federal law, there is no such thing as an "illegal immigrant."
- A person who is in this county legally is either here as a legal immigrant or has a "non-immigrant visa," meaning a tourist, student, or temporary worker visa.
- If someone enters by unlawful means, he is by law an illegal alien, not an illegal immigrant.
- I believe this confusion in language is deliberate: it is an effort to confuse the public and allow politicians to talk glibly about "the rights of all immigrants."

Two days ago in Denver, 600 people from 80 countries took the Oath of Allegiance in a Naturalization ceremony in front of City Hall. Those 600 people did it the right way, and until they took that oath of allegiance, their rights as green card holders were on a par with citizens with the exception of the right to vote. Illegal aliens are in a totally different category of law and their future ought not to be discussed under the umbrella of "immigrant rights."

- We ought to be able to agree that the heart of the problem is *the continued flow of illegal aliens into our country.*
- We ought to be able to agree that whatever other immigration problems we face, they cannot be addressed until we have an answer to these questions: How do we control our borders so we know who is entering our country and how can we stop unwanted persons from entering—both across our borders and through our ports of entry?

This problem of unlawful entry into our country is intellectually, morally and politically separate from other issues related to immigration. I believe the President's attempt to roll these separate problems into one so-called "comprehensive plan" has caused much confusion and needless delay in fixing our broken borders.

It is one of the great misfortunes for the nation and the Republican Party that over the past three years, the White House has proven to be tone deaf on border security and immigration reform.

- The President continues to repeat the same red herring argument, which he used again recently in his August 5 weekly radio broadcast, that the nation needs to find a "rational middle ground" between the "two extremes of mass deportation and amnesty."
- Bush further confuses the debate by insisting that amnesty is "automatic citizenship," and that nothing else can be called amnesty. The fact is there is no such thing in history or in immigration law as "automatic citizenship," and HR 4437 does not propose "mass deportations." Yet neither fact deters the President and his army of propagandists from repeating the same non sequiturs month after month.

- The interesting question for Washington policy wonks to study is whether the intellectual confusion preceded the political confusion or was in fact a deliberate tactic to advance a political agenda.
- The American people want clarity, not confusion, and wrapping a half dozen different immigration-related problems into one bundle of proposals is not the way to address any of them.

It has been the White House that has been out of step with the mainstream of the Republican Party, not Tom Tancredo.

- For example, it was Representative Duncan Hunter who first introduced legislation in 2005 to build 700 miles of fence on our southern border.
- I was flattered that the *Wall Street Journal* called the idea "Tancredo's Wall," but the reality is that the mainstream of the Republican Party wants border security now and consideration of other matters afterwards.

I am attempting to fix the most urgent problem connected to immigration policy and suggesting that the other problems can wait. That approach does not make me "anti-immigrant." This approach is in keeping with the old adage that when you find yourself in a hole, the first thing to do is -- stop digging. The *Wall Street Journal* seems to think the hole is a tunnel to globalist prosperity, but in truth, it is just a hole and we need to stop digging.

- Whether or not we have a new guest worker program, we first need secure borders.
- Whether we have increased or decreased legal immigration, we first need secure borders.
- Whether we decide to allow some illegal aliens in the country to stay or not, we first need secure borders.

Debate on other proposals makes no sense unless we first have secure borders. It has been a mystery to many observers why so many smart people do not see our broken borders as a barrier to immigration reform yet, on closer examination, the reason for this confusion is not hard to see.

- There has been a deliberate effort by many to obfuscate the matter and to tell the American people they cannot have border security without a guest worker program, without an increase in legal immigration, and without granting amnesty to all or most of the illegal aliens who have come across our borders without our permission.
- I submit that the only reason we do not have a solution to the problem of illegal immigration is that the majority of American people feel insulted by that argument. The need to fix the borders first is so obvious that ordinary citizens suspect the motives of politicians who do not want to do that. And they are right to have such suspicions.

The Minutemen patrol on the Arizona-Mexico border in April of 2005 demonstrated to the world that the flow of illegal aliens across the border can be controlled by a physical presence on the border.

- That Minutemen project was the turning point in the national debate over illegal immigration -- not some policy paper published in Washington, DC, nor any speech by any politician.
- The action of citizens themselves tore down the wall of denial that policymakers and bureaucrats had so carefully constructed. The reality could no longer be hidden from anyone, and the debate has never been the same since the Minutemen turned the media spotlight on the border.

Once citizens understood that the border can be made secure by the simple addition of adequate manpower, the debate changed. Citizens will not trust leaders who insult their intelligence by claiming we have to provide additional ways to enter the country legally before we can stop illegal entry.

- I believe leaders in Washington must chart a new course by admitting to the American people that we can fix our broken borders and that we will do so BEFORE attempting to sell something called "comprehensive immigration reform."
- I believe that all parties and factions can and should come together to do this for the good of the nation, and that all other proposals be put aside until we can demonstrate to citizens that we have actually achieved secure borders-- not talked about them, not promised them, not adopted a plan for them, but actually ACHIEVED SECURE BORDERS.

You will notice that I have not once framed this issue as a Republican vs. Democrat problem, because it is not, or at least it need not be. If the Democrat leadership in the House came forward tomorrow with a border security plan that made sense, I would welcome it and support it.

- Our national security and our national sovereignty should not be a matter of partisan maneuvering, and I am dismayed at those in my party who try to frame this issue in strictly partisan terms.
- For example, we have heard that unless the President's proposal or some similar amnesty plan is adopted quickly, the Republican Party will lose the Hispanic vote.
- I reject such thinking and I will reject any legislation that is predicated so blatantly on pandering to activist groups based on ethnicity or race rather than sound policy for all Americans. I think it is a measure of the bankruptcy of their proposals if groups stoop to such narrow and insulting appeals based on race or national origin. I hope the Republican Party will always resist such divisive appeals.

I do not need to spend time today telling the story of what has transpired since the President's January 2004 proposal.

- That plan was never presented in legislative form, but a similar proposal was introduced in the U.S. Senate by Senators McCain and Kennedy, and that plan ultimately was passed in May of this year as SB 2611.
- The House Leadership calls it the Reid-Kennedy bill, but it ought to be called the Bush-Kennedy-McCain bill.
- I will only point out that after two years of constant drum-beating and cajoling from the White House, the managers of that bill, Senators Frist and Hagel and McCain, still could not get a majority of Republican Senators to vote for it.
- That Senate bill was dead on arrival in the House because it was totally out of touch with the reality of the problem, not to mention the small constitutional problem of containing revenue provisions that can only originate in the House, not the Senate.
- The House Leadership made wise decision to not seek a conference committee compromise between SB2611 and the bill enforcement and border security bill passed by the House in December of last year, HB4437.

The House bill passed last December has been widely called the "enforcement first strategy," to distinguish it from the so-called "comprehensive approach" touted by the proponents of a mass amnesty as found in SB2611. I think this name is accurate so far as the original intent of its sponsors, and it is a sound strategy as far as it goes.

The House is now proceeding to consider and pass many of the principal parts of HB4437 as separate bills in order to allow the Senate to consider them and hopefully enact them expeditiously.

I stated at the outset my belief that there are simple solutions to the problem of illegal immigration, if we have the honesty and the courage to adopt them. The proponents of the "comprehensive reform" approach have failed to make their case, and the American people do not trust any plan that promises to secure our borders as merely one part of a larger plan.

- The Congress and the American people have good reason to be wary of any such plan which merely promises border security in exchange for another amnesty.

- We learned from the disaster of the 1986 amnesty that both border security and interior enforcement must be clearly demonstrated, not merely promised.

The unfortunate truth is that the executive branch of our government is dead set against having genuinely secure borders-- and I mean not only the White House but also the State Department, the Justice Department, the Commerce Department and sadly, the Homeland Security Department. This political fact of life means Congress must not only enact a plan for secure borders but must also monitor and oversee the implementation of that plan at every stage until it is fully achieved.

### ***A Trojan Horse Compromise***

This past summer a proposal was floated which supposedly combines the need for secure borders with the presumed need for a guest worker program. That idea is a key feature of the widely discussed Hutchison-Pence plan. Yet as attractive as it may look at first reading, it is fatally flawed.

- The "sequencing" of border security, interior enforcement and guest worker plans is valid in principle -- in fact, I included it in my own proposal in HR3333 in 2005.
- However, to be viable in practice, the various stages of the sequence must be separated by years, not by weeks or months, and each stage should involve separate legislation that can be debated and examined in great detail, then enacted as our experience, our knowledge and our confidence in enforcement grows. They cannot be enacted as elements of a single plan.
- If anyone doubts that it will take years and not months to achieve real border security, they need only look at the plan announced by the Bush administration this past month. It is a six-year multi-billion dollar contracting program to use the latest technology to build effective barriers. ***It will take six years to complete the construction project.*** If we take DHS at its word, we need a six-year "trigger" for any "sequencing plan," not a two year trigger.

There are at least three things fundamentally wrong with the Hutchison-Pence plan.

- First, it is not a true compromise. Proponents of a general amnesty for all 12-20 million illegal aliens still get all they want with only a two year delay, whereas proponents of border security get only a promise of what they want-- halting all illegal entry into the country and serious enforcement of immigration laws.
- The second thing is that the proposal is dishonest about the matter of offering a path to citizenship for the "temporary workers" authorized. Unless his plan explicitly amends the INA, any temporary worker with a temporary visa can petition for a green card at any time. The Hutchison-Pence proposal is silent on this matter and thus allows for this petition to a green card at any time-- not merely at the end of the period as many assume. These workers are not going to be "temporary," and for the proponents to lead the public to believe they are temporary is dishonest.
- The other thing wrong with the plan is naive or shallow thinking about "triggers" and "sequencing." The real issue is not two years versus three years or even six years for the waiting period between enactment of border security plans and implementation of a guest worker program. The real problem is that there is no trigger that cannot be sabotaged by open borders advocates within the bureaucracy.

I can give you an example from within the Border Patrol itself.

- In theory, secure borders can be achieved next month by effective use of the military. In reality, the "trigger-certification" proposal in the Hutchison-Pence plan does not envision or require genuine border security, only a pale imitation called "operational control," which is to be certified by the Border Patrol and then announced by the White House.

- This term "operational control" is a term used throughout the Border Patrol's "Strategic Plan" published in 2005 by the Bureau of Customs and Border Protection. It was cited frequently by its author, former Border Patrol Commissioner Robert Bonner, and is now also by the current Commissioner, David Aguilar.
- The inconvenient truth is, "operational control" can mean anything the Border Patrol and the White House want it to mean. The one thing it has never meant in any Border Patrol mission statement is *preventing all illegal entry into the country*.
- The idea that President Bush would fail to "certify" border security in two years even if secure borders were only "substantially achieved" --- the phrase used in Rep. Pence's earlier draft legislation --- is either embarrassingly naive or deceptive by design.

This is not a disagreement over semantics. To understand the significance of this distinction between real control of our borders and "operational control," imagine that border security had been "certified" as 90% effective in 2005.

- That would mean that 90% of the three-to-four million attempted border crossings were stopped. Unfortunately, it would also mean that 10% or 300,000 to 400,000 illegal aliens entered our country successfully after "operational control" had been certified.
- This is certainly a dramatic improvement, but can we say we have secure borders if 300,000 unidentified persons are still entering our country annually?

Unfortunately, history shows that the Border Patrol brass cannot be trusted to achieve and maintain genuine border security without continual, vigorous congressional oversight. The same bureaucratic complacency and laxity with regard to enforcement is also seen in the Border Patrol's sister agencies, ICE and USCIS.

- What this means politically is that at a bare minimum, any "trigger plan" involving a "certification" of border security by DHS or the President must require a vote of acceptance by both houses of Congress following hearings in which Border Patrol managers answer questions under oath.

### ***A New Strategy: Enforcement Works***

If the Congress does not enact key enforcement provisions to achieve border security and immigration law enforcement, proponents of the enforcement strategy will carry the battle to all 50 states and into a thousand local communities. Illegal aliens will begin to self-deport as more and more states adopt measures to discourage residence and the employment by illegal aliens. If the Senate rejects the "enforcement first" approach by refusing to enact serious enforcement legislation this year, advocates of border security and immigration law enforcement should move to a new strategy, a strategy aimed at local initiatives in lieu of federal action.

This new strategy will be called, simply, "enforcement works."

Serious enforcement and border security have not been attempted in 40 years, so there is no basis for creating new amnesty plans until enforcement has had a chance to show its real-world impact. Enforcement is a common-sense approach that the American people understand and support.

The new factor that will change the political dynamic is expanded and coordinated grassroots citizen activism to pass and enforce laws at the state and local level, which will simultaneously put increasing pressure on Congress to mandate the enforcement of existing federal immigration laws.

Among the main policy goals of this local effort would be the following:

- Mandates in state law for employment eligibility verification through the Basic Pilot Program and denial of business licenses to effectively turn off the jobs magnet;
- Requirements that all companies doing business with state or local governments verify employment eligibility;

- Requirements that all local law enforcement agencies identify and turn over to ICE all criminal aliens who pass through local jails and state prisons;
- Prohibition of access to social services not mandated by federal law;
- Requirements for proof of citizenship to register to vote and a photo ID for voting;
- Document by state audits and publicize the true taxpayer cost of all services provided to illegal aliens, including the services mandated by federal courts -- health care, K-12 education, and all the benefits bestowed by "birthright citizenship" on the children of illegal aliens;
- Petitions by local officials for federal reimbursement of costs associated with illegal aliens (the main value lies not in the federal reimbursement but in the process of documenting the actual costs);
- Requirements for judges to deny bail to illegal aliens charged with DUI or any serious crime;
- Outlawing of "sanctuary cities" through penalties in state funding to localities;
- Mandates that all local law enforcement agencies cooperate with federal immigration agencies.

Georgia, Colorado, and Arizona have enacted some of these proposals, and more will be enacted soon if Congress fails to fulfill its responsibilities. Success at the local and state level will build more pressure for action in Congress.

Pursuing these goals through a coordinated program of citizen activism will lead to the election of pro-enforcement public officials --- from city hall to the statehouse, as well as Congress and the White House.

- This new strategy builds on the grassroots citizen activism that blocked the Kennedy-McCain and SB2611 amnesty proposals from enactment in 2006. It will energize and employ a nationwide network of citizen activists to hold public officials at all levels accountable.
- It does not accept as inevitable an amnesty that undermines our nation's sovereignty, our workers' jobs, our communities' hospitals, or our children's schools.
- It does not accept a need for increased legal immigration as a prerequisite to stopping illegal immigration.

In the process of pursuing the "enforcement works" strategy across the nation, pro-enforcement citizens are building a grassroots political movement.

- That citizens' movement can not only force Congress to enact needed enforcement provisions, it can also help elect a new President committed to the control of our borders and the rule of law.
- The current President missed his opportunity to provide leadership on this issue. The next President must be someone who listens to the American people and chooses to uphold his oath to defend this nation and its borders.

"Enforcement works" is not a slogan. It reflects what we must do as a first step to get control of our nation's immigration system. The entire system is broken, including the management of our 322 Ports of Entry.

- Over two million foreign nationals enter the U.S. *each month* as tourists or on other temporary visas.
- There are over 4,000,000 aliens now in illegal status, people who entered legally as tourists or students or temporary workers but did not leave when their visa expired.
- Our government has no reliable way to track our visa arrivals, to know when they leave or don't leave, or to find them and deport them if they don't leave.
- The US VISIT program enacted by Congress in 2002 is still not implemented five years after the 9-11 attacks. Yet some supposedly serious lawmakers want to burden the

USCIS with ten to twenty million additional background checks and visa applications in a new guest worker program. That is a recipe for catastrophe.

Effective control of our Ports of Entry is of equal importance to control of our borders-- because our Ports of Entry ARE our borders. The problems plaguing our entry-exit procedures are related to our problems on the border—they illustrate a complacent attitude toward enforcement of the law that cannot be tolerated any longer.

The lack of serious commitment to enforcement permeates our entire immigration system, not only our physical borders with Mexico and Canada. Until we can get agreement that enforcement of our laws is a serious task requiring serious measures and dedicated resources, all other reforms are futile.

- The place to start is with border security, because secure borders are a precondition for control of immigration at all levels.
- Once we have achieved that and demonstrated a commitment to immigration law enforcement, we can move on to more complicated problems.

Enforcement -- and the enforceability of any proposal -- will be the key issue on many fronts, because our whole immigration system is burdened by a history of incompetence, corruption, and failed management systems.

The sooner we can demonstrate the ability to enforce our immigration laws effectively, the easier it will be to move forward with a meaningful overhaul of a broken system. That's why I see enforcement not as a delaying tactic, not as a short-term, half-way solution to a larger problem, but as the key to addressing all of these problems.

I call immigration enforcement a "new strategy" because it has never been tried; it has only been given lip service. In the 1986 amnesty legislation, we tried amnesty without enforcement. I think it's time to try enforcement without amnesty.