

THE HUFFINGTON POST

SAFE Act an Expensive Boondoggle

Alex Nowrasteh: Immigration Policy Analyst, Cato Institute's Center for Global Liberty and Prosperity

Posted: 08/07/2013 2:54 pm

The House of Representatives is pursuing a piecemeal approach to immigration reform. They are trying to pass small immigration bills that deal with different portions of reform -- legalization, enforcement, and legal immigration. So far, those bills double down on failed strategies that will do next to nothing to stem unauthorized immigration.

The Strengthen and Fortify Enforcement Act (SAFE Act) is the most prominent example. The bill's co-sponsor, Rep. Bob Goodlatte (R-VA), praised the SAFE Act's focus on interior enforcement: "Interior enforcement of our immigration laws is critical to the success of our immigration system." He then said, "One reason why our immigration system is broken today is because past and present Administrations have largely ignored the enforcement of our immigration laws."

Since 1933, the federal government has deported over 5.5 million people. Twenty-nine percent of those deportations, or 1.5 million, occurred during the first term of the Obama administration. George W. Bush's two full terms netted just over 2 million deportations, or 36 percent of all deportations since 1933. Contrary to Goodlatte's claims, that many deportations are not the result of "largely ignored enforcement."

The SAFE Act clarifies the current Secure Communities (SCOMM) program -- the most successful internal immigration enforcement program to date. SCOMM links the fingerprints of arrestees on the local and state level with federal databases. Local police then hold the suspected unauthorized immigrants until Immigration and Customs Enforcement picks them up -- sometimes at great expense.

SAFE makes SCOMM permanent. It will force the federal government to compensate local and state governments for the costs of detention and diverting law enforcement

resources toward enforcing federal immigration laws. Local police should not be conscripted into enforcing federal immigration laws.

SAFE also mandates detention for many unauthorized immigrants, severely limiting judges' ability to use cheaper alternatives such as bonds or tracking bracelets. Detaining non-violent unauthorized immigrants for long periods of time is already an expensive \$2 billion a year practice that SAFE will only expand.

But the SAFE Act isn't the only example of enforcement overreach. Rep. Lamar Smith's (R-TX) Legal Workforce Act takes the terrible program of E-Verify and makes it worse.

The bill mandates that every business use E-Verify within 2 years, much faster than the Senate version. E-Verify is an electronic workplace identification system. If it becomes law, employers will have to check the identity information of all of their new hires through E-Verify, which will certainly be a drag on economic growth and job creation.

For American citizens, .2 percent of job applicants run through E-Verify are falsely flagged as unauthorized to work. That may sound small, but it means that hundreds of thousands of Americans will be initially labeled as illegal workers. The appeals process can then be relatively easy in most cases but for some it can take weeks or months.

Embarrassingly, error rates for permanent residents and visa holders have increased from 1.5 percent to 2 percent over the last few years. Nobody should have to ask government permission to work.

The Legal Workforce Act punishes E-Verify violations with a \$5000 fine per violation that can climb to \$25,000 for each repeated violation and jail time up to ten years -- which is comparable to manslaughter or second-degree murder penalties in some states according to David Burton of the National Small Business Association. Employers and workers already spend 13.5 million hours a year working with the I-9 form, the government's previous attempt to stop employers from hiring unauthorized immigrants. The Legal Workforce Act repeals the I-9, but E-Verify will be far more costly -- an average of \$141 per check.

For many employers those high penalties won't be enough to make E-Verify effective. One loophole that can't be closed is simply ignoring E-Verify. Arizona's immigration laws, the toughest in the nation, made E-Verify mandatory for all new hires, but only 67 percent of them were actually checked in 2011. The \$141 dollars saved by foregoing E-Verify is a very real savings while the potential costs, however high, are uncertain.

These increases in internal enforcement will be expensive boondoggles. According to a 2013 report from the Council on Foreign Relations, surveys of unauthorized immigrants have found "no behind-the-border deterrent effect." The report continued: "[F]ear of workplace raids or arrest and removal had no bearing on their migration decisions." It's unlikely the SAFE or Legal Workforce Acts will change that.

Mobilizing local law enforcement and mandating E-Verify might please immigration opponents, but American employers and unauthorized immigrants will discover new and more sophisticated ways to break the law. Throwing more money and delegating more powers to an immigration enforcement bureaucracy will be largely ineffective at halting unauthorized immigration, waste scarce taxpayer dollars, and harm American workers and businesses.