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Moving Forward to Secure the Border

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Secretary of Homeland Security Michael Chertoff has issued two waivers of laws hindering barrier construction and security improvements on the border with Mexico. The Department of Homeland Security (DHS) has already built 309 miles of border obstacles, and these waivers will facilitate improvements on about 500 miles of border infrastructure. One waiver addresses environmental and land management laws that applied to about 470 miles across four border states; the other addresses a 22-mile levee-border project in Hidalgo, Texas. The waivers were issued on April 1, 2008, and will become effective upon their publication in the *Federal Register*.

These DHS efforts reflect longstanding recommendations by The Heritage Foundation. Border infrastructure is an important part of the effort to interdict illegal crossings, and that interdiction is vital to restoring the integrity of America's borders and immigration laws. With these waivers, the Secretary shows that he is following through on the George W. Bush Administration's commitment to make border security, protecting the homeland, and enforcing immigration laws a top priority. Congress should fully support these efforts.

More needs to be done to achieve border security, which cannot be fully accomplished until all components of an effective national policy are in place. The Administration must vigorously enforce immigration laws in the workplace, and Congress must provide for temporary worker programs and visa reforms to get employers the workers they need.

Doing What Is Right. During the 2007 immigration debate, Heritage experts traveled to the U.S.–Mexico border to gain a firsthand understanding of the situation. They met with the various stakeholders in the border communities, including men and women from local law enforcement, local businesses, U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, the U.S. Border Patrol, the U.S. Coast Guard, state and local governments, and Mexico.

Heritage's experts found a broken border, ravaged by transnational crime including drug smuggling and human trafficking. Despite this, they also found that cooperation among federal, state, and local law enforcement agencies could make a difference. In Texas, for example, Operation Rio Grande reduced crime in border counties by 60 percent. The Heritage experts concluded that enhancing security and community policing in the border areas was essential.

Waiver Authority. Progress at the border has been stalled repeatedly stalled because some barrier projects are complicated by environmental and land-use disputes. Some advocacy groups, communities, and individual land owners have used end-

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less litigation to thwart the Administration's efforts. Congress therefore gave the DHS Secretary the authority to waive federal laws in order to expedite border security improvements.

Lesson Learned. The litigation that DHS faced while trying to implement a congressional mandate to secure the border is an example of what could have happened if the Comprehensive Immigration Reform Act of 2007 (S. 1348) had been enacted. The bill combined an amnesty "first" with the promise of enforcement "after." That enforcement would have met with legal obstacles similar to the ones faced by the other DHS efforts.

A Strategy That Works. Existing congressional mandates and appropriations for enforcement at the border are sufficient to accomplish the task. Congress has appropriated funds to implement border security measures, and DHS has demonstrated the commitment to follow through. More must be done to finish the job. Congress and the Administration should do the following:

- **Increase internal enforcement of immigration.** Congress should fully fund programs under the U.S. Immigration and Customs Enforcement's Agreements of Cooperation in Communities to Enhance Safety and Security program, which facilitates federal, state, and local cooperation on

immigration enforcement. Congress should also mandate Social Security "no-match" data sharing with the Department of Homeland Security so that the DHS can prosecute employers that intentionally hire workers who are not lawfully present in the United States.

- **Significantly increase legal opportunities for employers to get the workers they need.** This may be accomplished through the reform and expansion of existing visa worker programs and through "pilot projects" to develop new programs. These programs should be flexible and adaptable to market needs and should provide adequate levels of security and ensure the integrity of the U.S. immigration system.

There is no need for a massive comprehensive immigration and border security effort by the Congress. However, additional measures are needed to restore the integrity of America's borders and immigration laws.

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