FULL COMMITTEE HEARING ON IMMIGRATION POLICIES AND THEIR IMPACT ON SMALL BUSINESS

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FULL COMITTEE HEARING ON IMMIGRATION POLICIES AND THEIR IMPACT ON SMALL BUSINESS

THURSDAY, MAY 10, 2007

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
Washington, DC.

The Committee met, pursuant to call, at 10:00 a.m., in Room 2360 Rayburn House Office Building, Hon. Nydia Velázquez [Chairwoman of the Committee] presiding.

Present: Representatives Velázquez, Jefferson, Cuellar, Clarke, Ellsworth, Sestak, Chabot, Westmoreland, and Davis.

OPENING STATEMENT OF CHAIRWOMAN VELÁZQUEZ

ChairwomanVELÁZQUEZ. Good morning. I call this hearing on immigration policies impacting the small business workforce to order.

Our economy faces many obstacles in fostering small business growth, but one of the forgotten challenges has been the economic effects of our broken immigration system. Whether it is a visa system that doesn't meet industry needs, or a verification system that is unworkable, the failures of our current immigration policies are weighing down our nation's 26 million small businesses.

As we will hear today, immigration plays an enormous role in providing that necessary workforce. U.S. small business owners are responsible for employing many of the million immigrants to fill their workforce needs, and yes, some of these 37 million workers are undocumented, many of them unbeknownst to their employers. These documented and undocumented workers can be found in nearly ever sector of the economy. It is clear their services are needed, but with the current system it is hindering entrepreneurs ability to grow and is creating enormous paperwork burdens.

As job creation increases at a pace faster than our workforce, small businesses will require even more immigrants to continue innovate and develop their companies. In the coming decades worker shortages are expected to grow across the economy and impact sectors that are vital to the health of our society. The businesses that produce and harvest our food already rely heavily on millions of immigrants. There is a critical sector that is here only temporarily to fill seasonal needs during harvest time and others that are part of a permanent workforce.

In the high tech industry, H-1B visas provide a pipeline for needed highly-skilled workers. However, demand for these visas routinely outstrip the limited supply. For proof of this shortage, one

only has to consider that the application cap for H-1B visas was reached this year in only the first few hours of the process. The current visa system is clearly not accommodating the needs of small businesses. Visa programs are not only failing to direct enough workers to the right industry, they have also become so bureaucratic that small firms cannot compete with larger businesses for those employees.

Large firms are better equipped to navigate the complicated system that ask companies to predict their staffing needs months in advance and to pay high compliance costs and fees. For some industries, it is clear that a temporary workforce is an inadequate solution to their labor shortage. Those sectors such as the construction and health sectors that need additional permanent workers to be successful must also be part of the discussion. Small construction companies rely heavily on immigrant labor to meet the demand for their services, but the industry still faces an inadequate labor supply.

Although entrepreneurs share national concerns about the witnesses of our immigration system, they cannot be its primary policing mechanism. Small businesses don't have the resources, the technology, and frankly, the responsibility to be that first line of defense. Instead, we need a sensible employment verification system. It must not place an undue regulatory or financial burden on them, nor can it create so much uncertainty that small firms will choose not to participate and therefore not expand.

Unfortunately, under this broken system many small companies know they are up against competitors who are breaking the rules. As the broader immigration debate continues, small businesses must have a seat at the table because they face unique workforce challenges and make enormous contributions to the economy. Small companies need reforms to take into account the rate at which they're growing and will address their need for short and long-term employees.

Entrepreneurs are ready to work with a fair and accessible system. I look forward to hearing from the witnesses before us today about what can we do as the debate over comprehensive immigration reform moves forward. We must ensure that willing workers are matched with employers who need them to expand their businesses, develop their communities and create even more jobs.

I thank all the witnesses for taking time to be here today and I yield to Mr. Chabot, for his opening statement.

OPENING STATEMENT OF MR. CHABOT

Mr.CHABOT. Thank you, Madam Chair, and thank you for holding this important hearing on immigration policies and their impact on small business, and thanks to our witnesses, both on the first and second panels who have joined us or will be here later. I'm eager to hear their thoughts and like my colleagues, very much appreciate their taking the time from their schedules to be here this morning.

America has an honored tradition of being a melting pot, welcoming immigrants from around the world who have come to America in search of a better life. Legal immigrants, through their hard work and ingenuity, have made important contributions to our na-

tion. However, there's a significant difference between legal and illegal immigration which is too often overlooked. Illegal immigration is by definition against the law. Illegal immigration is an issue to be taken very seriously. It affects citizenship, our economy, and our national security.

I strongly believe that those who come to the United States legally should have every opportunity to work and support their families and contribute to our nation as any American citizen would. However, those who enter illegally and bypass those who have played by the rules and waited their turn, should not be afforded the same opportunities as those who follow the law. It is also important to ensure that those immigrants who arrive here legally, on a temporary basis, return to their home countries when their visas expire. America remains the land of opportunity. Just as immigrants through the last three centuries were willing to give up the lives they knew for promises of a better life, there remain many who dream of being able to call America home.

Those who choose to take the legal avenues to come here should, of course, be welcomed here, to live and work. Those who choose who do so illegally should forfeit that opportunity.

Welcome again to our witnesses and I think we all look forward to hearing their testimony this morning about immigration policies and their impact on small business and I yield back the balance of my time.

ChairwomanVELÁZQUEZ. Thank you, Mr. Chabot, and on the first panel I want to welcome our colleague, the Honorable Luis Gutiérrez from Illinois. He is one of the leaders in this Congress regarding immigration reform working on a bipartisan basis with another colleague, Mr. Flake. They are the main sponsors of the STRIVE Act.

Mr. Gutiérrez, welcome, and you'll have more than five minutes to make your presentation. Thank you.

STATEMENT OF LUIS V. GUTIÉRREZ, A REPRESENTATIVE FROM THE STATE OF ILLINOIS

Mr.GUTIÉRREZ. Thank you, Chairwoman Velázquez and Ranking Member Chabot and Members of the Committee for the invitation.

I introduced, with Congressman Jeff Flake, the only bipartisan comprehensive immigration reform bill in the House of Representatives, the STRIVE Act, which provides for a number of reforms to our nation's immigration system and would greatly benefit small businesses and our economy.

STRIVE is a comprehensive bill. It proposes enhancing our border and interior enforcement efforts, a robust employment verification system, a tough and fair earned adjustment for the estimated 12 million undocumented individuals in the U.S., a new worker program to provide for future flow of workers to fill jobs that require little training or skill and for which Americans cannot be found, and extensive reforms of the employment-based and family-based immigration systems.

In particular, I believe that earned legalization, new worker programs, and visa reforms will provide significant relief to small businesses who often struggle under the current broken bureaucracy. Together, these provisions will ensure a legal workforce well

into the future and provide significant stability and longevity to small businesses.I would be happy to further discussion these important provisions if Members have an interest.

I would like to focus my remarks today on how the nation's family immigration system could impact the creation and stability of small businesses in the U.S. This connection between family immigration and entrepreneurship is not often made in the broader immigration debate, but it is an important one. We know that families are often the ones who start and own new businesses from local hardware stores to restaurants to Mom and Pops, family-owned businesses are the backbone of our economy.

We also know that immigrant entrepreneurs are the fastest growing segment of small business owners today and they form small businesses at a much higher rate than non-immigrant Americans. Given the preponderance of immigrant families in the community of small business owners, our nation's family immigration system could have a significant impact on the state of the American small businesses' future job creation and U.S. economy.

Promoting family unit has been a major feature of our immigration policy for decades. This does not only promote strong family values for our nation, but also provides an influx of entrepreneurs who start and grow family businesses that generate tax receipts, property ownership, and new jobs essential to keeping our cities and neighborhoods strong. However, as we know from our constituent casework, the current backlog in family visas are causing lengthy waiting times for families to immigrate legally to the United States.

The STRIVE Act addresses these problems in our family-based immigration system by significantly increasing the availability of family visas to reduce the backlog of visas within six years. In the context of the immigration debate, President Bush has repeatedly said and I quote, "family values don't stop at the Rio Grande." I could not agree with the President more. However, I am concerned that his moderate and compassionate views are being abandoned in recent Senate negotiations on immigration reform. Senators are considering eliminating most of the family-based immigration categories and replacing them in favor of employment-based system with a point and merit system.

The argument to justify abandoning our nation's historic commitment to preserving family values in our immigration system is not allowing immigrants to join their U.S. citizen brothers and sisters, parents or adult children, is not in the national interest. If moral arguments to preserve a robust family immigration system do not compel us, the economic facts should. It might sound attractive to recruit only the most highly skilled and educated to the U.S., but I assure this would be not in the national interest. Let me explain why.

Although the initial earnings of family-based immigrants are below those of employment-based immigrants. The earning differences dissipate over time. Family immigrants also benefit the U.S. economy by starting businesses that would not otherwise be developed. And given that immigrants do not come in with a focused set of skills for a particular job, they are more likely to be flexible to respond to real-time gaps in our economy and willing to

take a chance to start up new businesses. In other words, it is precisely because family-based immigrants lack specific skills that are able to more readily seize upon the opportunities presented by a dynamic economy.

I see no legitimate economic rationale for eliminating family immigration categories and the idea is politically divisive.

Having a robust family employment immigration system are not mutually exclusive. In fact, the reforms and increases in family and employment-based visas in the STRIVE Act allow for both. These are essential elements of comprehensive immigration reform as they reduce illegal immigration and strengthen our economy.

Thank you, Madam Chair. It's a pleasure to sit here before you in this wonderful Committee and I look forward to answering all of the questions of the Members of the Committee.

[The prepared statement of Mr. Gutiérrez may be found in the Appendix on page 51.]

ChairwomanVELÁZQUEZ. Thank you, Mr. Gutiérrez, for a great presentation. For the work you do in addressing an important issue that is impacting every—so many sectors of our economy and our society.

I would like to ask you, Mr. Gutiérrez, how different is the new record-keeping requirement in the STRIVE Act for employers from the current law?

Mr.GUTIÉRREZ. Well, currently, after the 1996 Immigration Reform and Control Act, it became illegal to hire someone that wasn't legally in the United States with employment ability. So the I-9 is simply changed because we're going to use a biometric system. That is, when an employee goes before an employer, you're going to fill out the form, but we're going to use computers. We're going to use the telephone. We're going to use electronic equipment in order to verify whether that employee is eligible.

The Department of Homeland Security, Mr. Chertoff, has indicated to me and to others that within one year of passing any comprehensive immigration reform package here in the House, they will be ready at the Department of Homeland Security.

Now, let me stress that not everybody will be under the system immediately. We will first go to critical infrastructure in our economy. That's to say our—those who supply our energy, nuclear plants, our banking community, large infrastructure, employees will be the first ones. It will take about seven years to roll out the program. We have to make their benchmarks, make sure it's reliable information. But I would say to the Chairwoman, it should take one day. The employee, if he doesn't get verified gets to continue working at that job and still gets hired, but within a 30-day period, because they have the ability to appeal a decision in case a decision comes back unfavorably, they get the ability to appeal that decision and within 30 days everything will be wrapped up.

But I do want to stress to the Chairwoman, you know, we leave a safe harbor for businesses. That is, if you use the system, at DHS, to verify the employability of your employee, you have a safe harbor and you're held harmless. So there are no penalties. We want to go after the employers that knowingly, willingly, violate the law and hire undocumented workers by putting penalties

against them. And I'll end with this. When I got a Social Security card, it was the same technology that my dad had when he got his Social Security card.

My daughter is 19. The same technology that I got 40 years ago is the same technology and her children. It's time that we have a biometric system with readable information through a magnetic strip on the back of the card so that we know. And once we get that system in place, I would suggest to the Chairwoman, you come in with your biometric Social Security Card, you can swipe it. It will say much like a credit card, approve or disapprove and the federal government will be the one holding those records.

ChairwomanVELÁZQUEZ. If the Department of Homeland Security or Social Security Administration cannot confirm the identify of an individual, what is an employer to do?

Mr.GUTIÉRREZ. What the employer to do is number one, he employs the person. The employment continues with that employee. And that process continues. That employee has 15 days to go to the Department of Homeland Security and to get from the Department of Homeland Security a correction. Systems make mistakes each and every day. Systems, especially large systems that are going to have tens of millions of people's information and they have 15 days, if at the end of those 15 days it isn't corrected, the employee cannot get the job.

ChairwomanVELÁZQUEZ. Thank you.

Mr.GUTIÉRREZ. And let me just say at the end, for paper purposes, once DHS sends you a verification of employment, that's the only piece of paper you have to keep in the file. DHS, everything else, you can discard. So a lot less paperwork.

ChairwomanVELÁZQUEZ. Mr. Chabot? Thank you, Mr. Gutiérrez.

Mr.CHABOT. Thank you very much, Madam Chair. Just a few questions and first of all, I want to thank you for your testimony. We may not necessarily agree on this issue or really a whole lot of issues for that matter, Luis, but I think—and probably everybody knows that after this year, the chair, you're retiring, and I just wanted to say that it's been a real honor to serve with you. I think you've done a commendable and incredible job, really, for the people of your District and you've worked extremely hard. So thank you very much, and please convey our best wishes to the misses as well.

Mr.GUTIÉRREZ. And you do the same to your wife.

Mr.CHABOT. I will certainly.

Mr.GUTIÉRREZ. We look forward to meeting with you outside the context of the Congress—both you and your lovely wife.

Mr.CHABOT. Maybe we can agree on something there.Just kidding. Thanks, Luis.

First of all, relative to—there's a lot of us that believe that the primary issue initially needs to be security at the border. That that needs to be the number one priority. Once that is accomplished, then we can deal with the rest of the issues. But unless that's dealt with first, we wont' seriously deal with that. And the people that are here will stay and people will see that they got to stay and we'll have more and more come over the border which has never been secured. That's the concern that a lot of us have.

And would you comment on where you believe that security at the border comes into the solution to the problem of illegal immigration in the country?

Mr.GUTIÉRREZ. When Congressman Flake and I drafted the STRIVE Act, if you go to the first section of the STRIVE Act, it's border security. Then we went to interior enforcement. I mean the first three chapters of our bill are about internal enforcement and enforcement procedures. So obviously, as we drafted the legislation, we prioritized that for the reading and so that people when they looked at it.

Look, we need to secure our borders. Fences have been established, without proper funding to build them. I didn't vote. I didn't think you need that, but if you read our legislation, I will tell you, Mr. Chabot, we build a virtual fence between the United States of America and Mexico, by using technology, by putting thousands of new border patrol agents on that border.

But the other thing I think we do, Mr. Chabot, is let's ask ourselves who really comes across that border? So we'll just deal with the border for one second. People come looking for job opportunities and the U.S. Border Patrol says about 90 percent of the people that they capture are coming here to seek a new job, to seek employment opportunities. And about five percent of them are coming to be re-unified with family members, given the delays in our visa system.

Then we have another five percent which are alien criminals, people with criminal backgrounds. They're not good people. So we try to distinguish in our legislation between while all immigrants are foreigners, not all foreigners are immigrants. Immigrants come seeking job and family reunification. Foreigners come here to cause damage and not necessarily immigrants.

Second, and you made this point very well, Mr. Chabot, in your testimony, 40 percent of all of those that are here illegally in the United States never crossed that border, so they came here on temporary visas, student visas, tourist visas, H-1B visa. whatever visa they had and there are multiple number of visas and then they overstayed their visas.

So I just want to go quickly back to what I shared with Chairwoman Velázquez. That's why we need a biometric system and an employment verification system at the federal level, so if I come here on a student visa, I overstay it, if I don't have that biometric with that swipe on the back, I can't get a job. And the other thing, I won't stay because I can't get a job.

The only way you're going to be able to be employed in the United States, ultimately, is by having a biometric card, verifiable by the federal government.

Mr.CHABOT. Thank you. In your view, does giving law enforcement the authority to voluntarily assist in enforcement of our immigration laws, is that helpful? Would you favor that?

Mr.GUTIÉRREZ. Let me tell you what we do in our bill. We simply restate what the law is. And we state that look, if you're committing a burglary, you should be arrested and prosecuted and jailed.

If you're in an illegal activity, law enforcement should be able to go after you regardless of your immigration status, based on that action.

Mr.CHABOT. But when you say illegal activity, you would not include being here illegally as one of those activities?

Mr.GUTIÉRREZ. Let me suggest to you the following, and this is how we look at it. Being here in the United States, not under color of law, is a civil violation of our immigration system. It's a criminal violation of our system. So we do think nothing should happen to them? No. So let me try to make the argument this way.

You're the judge, the American people. You and the American people are the judge. What I say on behalf of the undocumented is they violated a stipulation of our law, the immigration law. And we agree that they did that. Then we say did they violate any other law, and if they haven't, if for any other purposes they're of good, moral character and never have had interface with our legal system and they've been working, they're of good moral character, then we say to them, pay a $2,000 fine. Learn English. Learn civics. Pay all your back taxes. Work during those six years. Do a touch back. That is, leave the country and re-entry and re-boot legally, and at the end of six years, we're going to take a look at you and see if whether or not you should then be eligible for permanent residency. So we let them earn, that is here was the violation of the law, here is the corresponding punishment.

In justice, there should be a relationship between the punishment and what you did and we think we do that in our legislative.

Mr.CHABOT. Madam Chair, I won't ask any more questions, but if I could just conclude by stating, although I don't agree with many of the parts of this bill, I at least commend you for trying to deal with a very challenging issue that we face as a nation. And I would just note that the last time the country seriously looked at this issue was about 20 years ago. At that time we had about two million people here illegally and they said—Congress at that time said they were going to do two things. One thing, they were finally going to get control of our borders, and they were going to allow the people that were already here, since there's nothing they could do about it were going to give them amnesty. There were about two million people here at that time. Well, they didn't get control of the borders, never did.

And we still don't have control of the borders. The people stayed and that really sent a message, I think, to a lot of other people and now have 12 million people here and I believe if we follow that same pattern, that the number 20 years down the road or even 10 years down the road will be significantly higher than the 12 million people that we have here now, illegally, and that's why so many Americans, both Republicans and Democrats, are very concerned about this issue, and I yield back.

Mr.GUTIÉRREZ. Madam Chair, if I could quickly—I understand 1986. You're right. 1986 was an amnesty. We will find agreement on that. They didn't pay a fine. They didn't go to the back of the line. They weren't required to take English classes. They weren't required to touch back. They weren't required to go back and do all of their income taxes and show they didn't owe any income taxes. I mean basically they went straight to the front of the line. I understand that flaw in the 1986 legislation. We address it clearly in the legislation 2007.

Mr.CHABOT. Luis has been around here long enough to know that I didn't ask a question. I just made a statement, but he got to answer it anyway. So that's why he's so good.

Mr.GUTIÉRREZ. Thank you, Mr. Chabot.

ChairwomanVELÁZQUEZ. Mr. Westmoreland.

Mr.WESTMORELAND. Thank you, Madam Chair, and I want to thank you, too, for all your hard work on this and I think we're finally getting somewhere because it is very necessary that we take a first step in the direction of solving this immigration problem.

Let me thank you also for putting the language in your bill that was in an amendment I had on the last bill that much related to the safe harbor. I don't think it's right to criminalize employers when they really don't have any document verification skills out there and so I think that's great. And I also think it's wonderful that we do make a distinction between primary contractors and subcontractors and make sure that we keep a distinction between those and make sure it's in the law that provides for that because as most small businessmen and I am a—was a small businessman, you know, you have very little control over your subcontractors. And you can't be responsible for everything they do. So I commend you for doing that. And I think we're taking a great step.

The one question I had, you mentioned the swipe which I very much agree with and it would come back instantly that there was a problem. Are you going to have anything in the legislation that would hold that employer harmless if there was an error in that person being not eligible to be employed?

Mr.GUTIÉRREZ. Absolutely. We have safe harbor provisions and if you use the technology and the technology incorrectly gives you an approval, remember, you're going to get via—you're going to be able to go on the Internet. Let's say you hire somebody. You're going to be able to go on the Internet, press print, and you're going to keep—you're going to have something that says Department of Homeland Security says you can hire Luis V. Gutiérrez, right? And that's the only paper you're going to have to keep and you're going to file that. You don't have to file it, obviously, you can keep it in your computer and as any smart small businessman, you'll probably put a floppy disk in there in case the computer falls apart later on, and you can retrieve that information.

But you will get a verification. As long as you use DHS verification system, you are held harmless and you have a safe harbor against any prosecution or penalties.

Mr.WESTMORELAND. Okay, but my question is if it comes back and says that the employee is not ready to be hired, does it hold the employer harmless from the employee?

Mr.GUTIÉRREZ. Yes.

Mr.WESTMORELAND. Okay.

Mr.GUTIÉRREZ. I understand, yes. The employee then has 15 days under our legislation, 15 days, because quite honestly we've all—I mean I've certainly gotten stopped at the airport and been asked for extra ID because I'm on some watch list, maybe they know more about me than I do. And you know I've been delayed, many of us have been delayed, and the government gets our names and big government can make big problems for small people.

So they have 15 days in which to clear that up. Everything is cleared up within 30 days, so let's say at the end of 30 days, you are going to get from Homeland Security yes or no. After the person appeals. So I come to you, you continue, you want me. I have the skills. You continue to hire me. And I have 15 days to correct it. Within 30 days you will get a final determination based on my appeal from them and no, I cannot sue you. I can, however, I do have judicial review with the federal government and with the bureaucrats at the federal government should they be responsible for an action on my employment opportunity, but not the employer.

Mr.WESTMORELAND. That's good.

Mr.GUTIÉRREZ. The person who runs the system is the one, the government.

Mr.WESTMORELAND. Because you have to understand from a small business perspective that sometimes those first two weeks or three weeks are the most expensive part of hiring somebody because you're filling out all the paperwork, you're introducing them to any 401(k)s or retirement programs that you've got; any insurance programs you're trying to them and their family enrolled, and I do think the 30-day provision is great. I would like to see it be an instant —

Mr.GUTIÉRREZ. It is instant.

Mr.WESTMORELAND. But you know, that 15-day period I just, and I understand and I think it's a provision that has got to be in there. It just does concern me from a small business standpoint is that really you have to kind of make a decision then where do you want to put the investment in this individual to go ahead and hire him, let him be working there for 15 days and then have 30 days invested in this employee that you don't get any really resolve after 30 days.

Mr.GUTIÉRREZ. Let me suggest one positive thing about the program. Because we're talking about small businessmen, they will be the last people to be enrolled in the program and we're not going to—there's 144 million Americans in our workforce. Obviously, we're not going to enroll them all overnight. We're going to go to critical infrastructure, the banking industry, you know, those industries that are critical to our—and our large industries. We're going to do them first. It will take about seven years and there are benchmarks during the seven years to check the accuracy. We have seven years.

I'll put it to you this way, we have at least five years before we get to the small business people to help fix it, to fix it, to mature it, and to redefine it so that it works really well. So small business will be the last people entering the program. Hopefully, by then we'll have it pretty good. But it's critical to our security here in the United States.

Mr.WESTMORELAND. Sure.

Mr.GUTIÉRREZ. Because now we're going to know, everybody who's hired, we're going to know—and it ends illegal immigration. It truly ends it as we know it today.

ChairwomanVELÁZQUEZ. The gentleman's time is expired.

Mr.WESTMORELAND. Can I do one—

ChairwomanVELÁZQUEZ. Will you please be fast?

Mr.WESTMORELAND. I will be fast. Let me just say this, and I appreciate it taking that long to get to small business, but remember, small business probably employs 80 percent of these people.

ChairwomanVELÁZQUEZ. Mr. Ellsworth.

Mr.ELLSWORTH. I'll make mine very fast, Madam Chairwoman. I appreciate you having this hearing. Congressman, I don't have many questions, just a brief statement that as a newly-elected Congressperson, going back and doing my first town halls in February and I can remember vividly this is on people's minds, the issue of illegal immigration. In fact, one of the gentlemen asked me why we hadn't done anything yet about illegal immigration. And I probably made the mistake and said well, we've only been in there 52 days and he said, he used a couple of expletives, he said that's no excuse.

So we won't try that one now that we've been in four months, but there's a—I think we really have to look at the practical side. We have illegal immigration laws and we didn't do a good job of enforcing those. And I appreciate, Congressman, you and all the hard work you're doing to do something. I just implore us that when we do things that we do them and we enforce what we put on the books and we do practical things.

I was just thinking, Congressman Chabot, your question about local law enforcement getting in on the act and as a former sheriff and a person who ran a jail, I can tell you that almost every jail in this country is suffering from overcrowding and probably under federal lawsuits and to wave the wand and let us start doing that, if we don't build into things what we're going to do after we arrest those people, just taking them to our local lockups will not work and the local law enforcement will not do it. The sheriffs can't handle the load if the rest of the story that goes with that.

Sometimes it sounds good to say let's let local law enforcement and the local law enforcement would, in fact, be glad to enforce whatever laws are on the books, but then we have to go to the practical side. What are we going to do with these people once we put them in our jails, how do we adjudicate those, more judges, more prosecutors and more beds and it's going to be an awesome responsibility to undertake. They would try, but —

Mr.CHABOT. Would the gentleman yield for just a moment?

Mr.ELLSWORTH. Absolutely.

Mr.CHABOT. I thank the gentleman for yielding. I was down at the border last summer and we were talking to some of the folks down there and they were talking about they would pick up illegal immigrants and they would basically rather than process them, they'd take them back over at night across the Mexican border to a town pretty far away from the border and they always did it after dark and they'd let them out basically at the town square, dozens or sometimes even hundreds and we asked them why did they do it at night and they said because they didn't want to embarrass the Mexican government is what they said. It's a big problem, and obviously, the closer you are to the border, the bigger the problem is, but even in your State of Indiana and my State of Ohio, it's a real problem that we have to face.

Mr.ELLSWORTH. It sure is. A lot of discussion. I appreciate everybody's efforts in this problem. Thank you, Madam Chairwoman, I yield.

ChairwomanVELÁZQUEZ. Thank you. Mr. Jefferson? All right, Ms. Clark?

Ms.CLARKE. Thank you very much, Madam Chair, and I want to thank Congressman Gutiérrez for his efforts in this endeavor. I think it's a defining moment for our nation quite frankly that we approach homeland security in many respects and basically the growth and development of this nation in a very humane way.

I come from New York City which is a gateway for many immigrants, many waves of immigrants over many generations and certainly we have felt the impact of what I consider quite frankly a governmental problem. The infrastructure, the bureaucratic infrastructure that should have been in place and that needs to be in place today in order to really regulate immigration to this nation has faltered.

And so my question really has to do with the capacity building that needs to happen within our own government to handle what we found ourselves in terms of a real quandary and what we look at going forward. I think to a large extent your legislation begins to address that, but I'd like to see the nuts and bolts of it really put in place because that is what we're going to inherit, the next generation is going to inherit as opposed to some of the xenophobic types of reactions that I've seen.

I don't live on the southern border. And so the types of reactions that I hear from many of our colleagues, while I'm sympathetic to it, I come from a totally different environment where the reaction is not quite the same.

I want to just speak to you at a certain point about the whole touch back provision because touch back on the southern end is a lot different than touch back on the northern end and there are a lot of folks who want to come into compliance with what we're talking about it, but touch back for them is a challenge because the way that they got here was either as a visitor, as you said, or as a foreign student as you've stated, and they came here legally usually by airline and not by foot. And so just the whole idea well, you can maybe touch back in Canada or you can maybe touch back in Mexico, I don't know how those governments will feel about other folks from other nations touching back or whether they would be in cooperation with us regardless of where people come from about the touch back provision. I think we need to take another look at that and try to fine tune it to a certain degree to address the nuances of the variety of immigrants that we have coming to our nation or who have come to this nation and are not in compliance with our laws.

I want to thank you once again. Your work has been tremendous, tremendous, and I look forward to working closer with you in terms of the fine tuning. We've got to deal with homeland security. That is a key piece to this. The bureaucracy of our federal government has to be dealt with. Thank you, Madam Chair.

ChairwomanVELÁZQUEZ. Thank you. Your time has expired. Mr. Cuellar.

Mr.CUELLAR. Thank you, Madam Chair, and Luis, I want to thank you for the work. I know you've been working on this very hard and I appreciate that we're looking at comprehensive immigration reform in three parts. Being from the border, living there, Laredo, understanding what's been happening there, living there all my life, I understand exactly what's going on, what's legal migration, what's illegal migration.

We've got to have a strong border security, part of it. I know the bill has that. It's very strong and I appreciate that. The second part is the guest worker plan or some sort of control system to allow people in is important. The system that we have now is one, I think it's a good start, but it's not working, the HB-A and B and all that. I brought in some folks that have gone over the process itself and it's just too cumbersome. It's not big enough, in many ways, so the pools that we're looking at and I appreciate the work that you're doing in that part.

The third part, which is a difficult part which is what do we do about the 11 and 12 million undocumented aliens is a difficult part. And keep in mind that about 40 percent of the folks that got in across the river, because everybody just think they came in across the river, illegally, but about 40 percent of them came in through a legal permit or visa which means that we did not tell them it's time for you to leave and this is an important thing. This is why when people start talking about building a wall and all that, it really doesn't matter because 40 percent of them came over through a legal permit, a visa.

So we've got to be smart on how we do this process and certainly one of the things that we have to look at is looking at putting the resources not only in homeland security and we'll be handling part of this through our committee in homeland security, but the other part is working with the State Department. Because right now, it's so easy for them to just say deny, deny, deny and for the people who are trying to come, in a legal way, it has just become very, very difficult.

So I want to thank you for the work that you've done and I appreciate the cooperation that you're showing the Committee here.

Mr.GUTIÉRREZ. Congressman, I just want to thank you for your help and your assistance being from the border. I think you make an excellent voice because I listened to the colloquy between my friend, Mr. Chabot, and my friend, Mr. Ellsworth, about criminals. The fact is we put 20,000 beds in our legislation, 20,000 beds that don't exist today. I mean we're smart and we're tough in our legislation and we say prosecute.

The other thing we do in our legislation so that we understand, we order that every person in a jail, every person in a jail go through a security check on their immigration status. That is every inmate has to go. And if you are not legally in the United States, but in a jail, we make it seamless, from your point, you don't like get out of jail and be released back into society. Our legislation calls for a seamless process from that jail cell, whether it's in Texas or in Oklahoma or New York, straight to a facility, Department of Homeland Security and deported. That doesn't happen today.

So I would hope that people would look at the enforcement capacity that we put in our legislation. We're tough, but we're fair and

we want a solution to the problem. Thank you so much, Mr. Cuellar.

Mr.CHABOT. Would the gentleman yield? Thank you. I'll be very brief. The gentleman, I think you're right. They don't all just come across the border across the river illegally. Some are already here about 40 percent and have overstayed their visas. I would just comment relative to that. You had mentioned that we don't tell them it's time to go back as if it's the government's fault.

My understanding is the people know that the visa is for a certain period of time and they failed to comply with the existing law and so they've overstayed their visa so at that point, they're illegal. We need, clearly, if they haven't gone back, we need to follow up much better than we do now and I think that's the point you're making.

Mr.CUELLAR. Yes, I think that is the point and I'm sorry I said it that way.

Mr.CHABOT. That's okay.

Mr.CUELLAR. We basically should know when somebody's time is over, but then we've got to follow up on that because we talk about 11 or 12 million undocumented aliens and 40 percent of them overstay their time, that's a serious problem. Let me just conclude with this, Madam Chair, just one last point. We just got back from Honduras and we got back from Mexico City. We've got to work with the Mexicans on securing their southern border because if you look at what's happening, you've got so many Central Americans and what they call, this is a jargon that Border Patrol uses, I don't know it's a PC word, other than Mexicans because they classify Mexicans coming in and other than Mexicans. Central Americans, other countries are coming in through our southern border and other parts of that. So we've got to work with other countries on that.

Thank you.

ChairwomanVELÁZQUEZ. Mr. Davis.

Mr.DAVIS. Thank you, Madam Chairman. Thank you for your testimony.

Mr.GUTIÉRREZ. Thank you, Mr. Davis.

Mr.DAVIS. Just looking at the perceptions that are out there across America right now, I know there's a perception that jobs are being taken from Americans that would like to have those jobs. Of course, there's discussions out there that Americans won't do the jobs. I actually met with a lady on Saturday back in Green County, Tennessee, and she's worked for 49 years. She lost her job last week and there is a high frustration level out there across my District in east Tennessee and I think probably across America. People are concerned and they take illegal being exactly that, starting with that premise, being illegal.

I know there's a study out there, one of the surveys of NFIB, even small business owners that belong to NFIB say that 70 to 80 percent of the business owners see this as an issue that we need to deal with. It's putting the burden on small businesses. The small business owners they start jobs to be a florist or a healthcare worker or whatever that small business is and they didn't really get into the business to be an accountant or be a lawyer or have a depart-

ment to deal with human resources. They really just want to go out and do that job that they know how to do and create those jobs and grow that business.

What is your thought on—how can we make it easier for those businesses to do what they started that small business to do? That's the number one thing. And then how can we either perception or reality, get to that point where Americans understand that either jobs are being taken, number one, we need to answer that from—jobs that they would take or number two, that that's not reality?

Mr.GUTIÉRREZ. Number one, I think small business people need a reliable, simple system to verify the employee and that's what we offer. We make it electronic. And if we have a biometric Social Security card, if we—you know, the poor small businessman, I mean he can use a driver's license. In Illinois, our former Governor went to jail for seven driver's licenses and there are people manufacturing driver's licenses and false Social—he says oh good, this is something I can rely on. He swipes it once or he goes on the computer and it says David Davis and your photo shows up on the Homeland Security, simple system, and then he gets—he sends it on the computer, he sends it over the phone to DHS and he gets one simple piece of paper.

All the rest of the application form and all the other verification he can put it away because it said David Davis is good to go and he puts that in his file. You need something reliable and quick, so you can get it done in one day.

Secondly, the best way I can answer your question is our economy creates about 400,000 low-wage, low-skill jobs a year. But we only offer 5,000 visas for low-skill, low-wage workers a year. Here's an economy that's exploding in these low-wage, low-skill jobs. Does that sometimes go over to other jobs? Probably. Can we find anecdotal evidence of this person being affected or that person? But in the totality, the immigrants obviously buy cars, buy groceries, buy tires, buy clothes, rent apartments, contribute to the economy. The Social Security Trust Fund has tens of billions of dollars in an unaccountable account. They have the money. Don't tell us as Members of Congress, we have it, but they can't tell you who that money really belongs to or how they're going to get it back to someone for the simple reason they were using bad Social Security cards and they're not identifiable.

Lastly, let's look prospectively. You were born between 1946 and 1964. That makes you a Baby Boomer, makes me a Baby Boomer, right? There are 80 million Baby Boomers. In 20 years, the youngest Baby Boomer is going to be 81. I mean the oldest Baby Boomer will be 81 and the youngest will be 63. Eighty million people. I'm not saying all of them will leave the workforce because we're living longer, many of them will need care, they'll be retired, our Social Security system is going to be hurting, but the most important thing, think about those tens of millions of people that are going to be leaving the workforce.

At current rates, of birth rates here in the United States, in the next 20 years, we will increase about 13 million people, given current birth rates. Who is going to take over the jobs of the tens of millions of people in the Baby Boomers as they retire?

We're going to have to grapple with this issue, so we want to do it strong and effectively and securely and we want to make sure that people have a legal document to come here because it's good for our economy too.

Mr.DAVIS. If your legislation were to pass, when would this swipe card actually go into effect? How long are we talking about?

Mr.GUTIÉRREZ. Much of it, the critical infrastructure would happen rather quickly within the first to second year. But the first—the other thing we do is we say until we get to that biometric system, we say that you must have a driver's license to get a job under the Real ID Act, a driver's license or we say you have to bring your passport which is biometric and has a swipe. So we limit the numbers immediately of kinds of identification that an employer can use.

ChairwomanVELÁZQUEZ. Time has expired. And we're going to have a set of votes, so the Committee is in recess subject to the call of the chair. I believe that we will be back here around 11:30.

Mr.GUTIÉRREZ. Thank you, you've been very generous.

ChairwomanVELÁZQUEZ. Thank you, sir, for your presentation.

[Off the record.]

ChairwomanVELÁZQUEZ. The Committee will reconvene. I will ask the witnesses of the second panel to take your seats.

We are going to start our second panel, and our first witness is Mr. Benjamin Johnson. He is the Executive Director of the American Immigration Law Foundation and has written extensively on immigration law and policy. The Foundation is dedicated to increasing public understanding of immigration law and policy and the value of immigration to American society.

Mr. Johnson, you will be given five minutes to make your presentation. You could either summarize it—and without objection your whole testimony will be entered into the record.

STATEMENT OF MR. BENJAMIN E. JOHNSON, DIRECTOR, AMERICAN IMMIGRATION LAW FOUNDATION

Mr.JOHNSON. Thank you very much, Madam Chair, and members of the Committee for this opportunity to talk about the impact of U.S. immigration policies on small businesses in this country. Rather than trying to tackle all of the complex issues that we have heard about today, I am going to focus my comments on the economic and demographic realities that are making immigration an important issue for hundreds of thousands of small businesses around the country.

In the debate about the economics of immigration, I often hear people recite the one lesson we all seem to have learned from Economics 101, which is that it is all about supply and demand. But after reciting this axiom, the conversation is almost always focused exclusively on the issue of supply. The argument I hear most often is that millions of immigrants are coming to the U.S. for jobs, and that the arrival of all these workers must be driving down wages and opportunities, because everyone knows that if you have a large supply of something then its value must go down.

But you don't have to look much further than your morning cup of coffee to find evidence that just because there is a large supply of something isn't a guarantee that its value is going to go down.

Coffee shops seem to be everywhere, on street corners across America, and yet people line up out the door waiting to pay more than they have ever paid for coffee.

And the reason is that the demand for coffee has kept pace with the supply. These stores aren't just competing for a fixed number of customers; they are expanding the customer base by creating more and more coffee drinkers. The lesson here is that we have to look at both supply and demand. Demand matters.

When it comes to immigration, we cannot focus only on the numbers that are coming. We have to look at what kind of demand is being created by our economy. I think that the evidence strongly suggests that the—strongly supports the conclusion that immigrants are drawn to our labor force because of legitimate demands being created by our incredibly diverse and dynamic economy.

In 2006, the net supply of immigrants into our workforce, both legal and undocumented, was approximately 700,000 workers. But when we look at demand, we find that in 2006 our economy created 2.2 million new jobs. To put that in perspective, that is more new jobs than were created by all of the European Union and Japan combined. And those numbers reflect what almost everyone agrees is a jobless recovery.

Evidence that immigration is a response to legitimate demand can also be seen in the types of immigrants that we attract. A majority of the new jobs in the last 10 or 15 years have been in occupations at the extremes of the skill spectrum. The highest growth rates have been in occupations that require high levels of education, jobs like engineers, doctors, geologists.

But in terms of sheer numbers, the vast majority of jobs have been created in occupations that require very little education, jobs like home health aides, landscapers, construction helpers. And it turns out that in fact the immigrants that are coming to the United States have skills that match our demand. Most immigrants coming into the United States either have very little education or very high levels of education. That is happening because the majority of U.S. workers are right in the middle of the skill spectrum, not at the two extremes.

The result is that immigrants complement rather than compete with the vast majority of U.S. workers. In other words, immigrants are coming here to fill gaps in our labor market.

There has been a lot of controversy about immigrants coming here to do jobs that Americans are less interested in. But the truth is: it is not an insult to the American worker that the number of people who are looking for jobs that require very little education or training is getting smaller.

Our labor markets attract younger, less educated immigrants, because our labor force is getting older and it is getting better educated. In the early 1960s, somewhere around half of U.S. workers were high school dropouts. Today, on about 12 percent of U.S. workers are high school dropouts. We should be proud of this fact.

But this success means that we have fewer workers who are looking for jobs that require no education or training. And we shouldn't be surprised that employers are doing what they have always done for the last 200 years, which is turning to immigration to fill the gaps in our labor force. In fact, the ability to use immi-

gration to supplement and fill gaps in our labor force across the skill spectrum is one of the principal reasons the United States has been able to create the most diverse, most dynamic, most flexible workforce the world has ever seen.

Unfortunately, for the growing number of immigrant workers and small businesses that turn to the immigration system for help, dealing with the economic and labor force challenges they face, the current system has failed them. The harsh reality is that the current environment is one where a growing share of the workforce is foreign-born, where large numbers of those workers are undocumented, where there is no effective way to discern which workers are legal and which ones are not, where there is an increasing threat of immigration raids, and where the legal system of immigration offers very few options to the industries where immigrant workers are most often employed.

In this environment, small businesses are at serious risk. Small companies are the least able to overcome the loss of a large share of their workforce due to raids, or the inability to pursue some innovative idea that requires a skill set not readily available in our workforce. Small businesses are the least likely to be able to afford or endure the delays and bureaucracy that have come to define our immigration system.

Given the fact that the majority of workers in the United States are employed by small- and medium-sized companies, and that the health and vitality of our economy has always relied on the success of small businesses, we cannot afford to put these companies or their employees at risk because of our dysfunctional immigration system. Congress must act to reform all aspects of our laws, so that we can have an orderly, regulated flow of workers that fits the legitimate demands of our economy.

Thank you.

[The prepared statement of Mr. Johnson may be found in the Appendix on page 54.]

ChairwomanVELÁZQUEZ. Thank you, Mr. Johnson.

Our next speaker or witness is Mr. Craig Silvertooth. He is the Director of Federal Affairs of the National Roofing Contractors Association. NRCA is an active organization of members who share a common purpose and interest to further promote the art of roofing application through continual education, professionalism, and adherence to the highest standards.

Thank you. Welcome.

STATEMENT OF MR. CRAIG SILVERTOOTH, DIRECTOR OF FEDERAL AFFAIRS, NATIONAL ROOFING CONTRACTORS ASSOCIATION

Mr.SILVERTOOTH. Thank you, Madam Chair. I appreciate it, and I appreciate you entering my prepared testimony into the record as well. Members of the Committee, thank you as well.

I am testifying here today on behalf of the National Roofing Contractors Association, but I am also testifying here today on behalf of the Essential Worker Immigration Coalition, which is a coalition of businesses spanning the spectrum of American industry. I serve as a co-chair of that coalition as well, and I would like to speak

today about the intersection of the small business community and our nation's current immigration laws and how those might be changed in the coming year, if we see successful immigration reform in this Congress.

My comments will break down broadly into four areas. First, the demographic challenges we face; secondly, our current system, focusing specifically on two initiatives by the Department of Homeland Security's Immigration and Customs Enforcement Division; then, I would like to talk about concerns with certain proposals that are currently under consideration; and, finally, our belief as to what a workable immigration system would look like, particularly from the small business community's perspective.

I understand that I have time constraints, so I will try to be brief and touch just broadly on these topics. NRCA and EWIC's members come to the table just like every other business, frankly, in this country to the immigration debate, from the perspective of meeting our workforce needs. Ben touched upon what we are facing from the demographic standpoint. I would like to focus on two industries in particular. There are two of the largest private sector employers in our economy—that is, the construction industry and the roofing industry—or the restaurant industry.

Regarding the construction industry, this is what we are seeing in the industry today. There was data released by the Pugh Hispanic Center on March 7 of this year. They found that construction employed 2.9 million Hispanic workers in 2006. Total employment for the construction industry is 11.8, so fully one-quarter of every employee in the construction industry is of Latino or Hispanic origin.

2.2 million of the Hispanics in the industry were foreign-born, and a staggering number of those were recent arrivals, meaning that they came from—they have arrived in the country since the year 2000. That is important to bear in mind, because you need to keep in mind that this country only allows 5,000 green cards per year of essential worker visas, and that translates into a waiting list of about 10 to 12 years. And, frankly, the number would be a lot higher if employers decided to take advantage of that program.

Then, we also have the H-2B program. That is a seasonal visa, and that only allows for 66,000 a year. It is capped at that level.

In 2006, the construction industry employed a total of 559,000 new workers, and of that number 372,000 were of Latino origin. That translates into 66.5 percent of all new hires in the industry last year were of Latino origin. About 60 percent of the increase in industry employment, or 335,000, were foreign-born Hispanics. And 255,000 of the total increase, or 45 percent, arrived in the country since the year 2000.

In total, nearly one-third of all recently-arrived foreign-born Hispanics worked in the construction industry in 2006. So clearly our industry is a big draw.

Regarding the restaurant industry, we are seeing that the restaurant industry is going to need an additional 15 percent of its workforce. They currently employ 13 million immigrants, foreign-born, or they currently employ 13 million workers in total, but we know that they are going to need an additional two million over the next 10 years.

I see I am running a little short on time, so I am going to skip over to what we are facing in the current system from the small business perspective. There are two initiatives underway. One is what is called a Social Security No Match proposal that has been issued by the Department of Security's Immigration and Customs Enforcement Division, came out last August. They are signaling that they would like to prosecute employers for continuing to employ workers that have been the subject of a Social Security No Match letter. The second issue is this ramped up enforcement of immigration and customs enforcement that we are seeing across the nation.

I want to be very clear: our members are supportive of adhering to immigration laws. They do their best to adhere to them, but the system is broken. It is difficult, it is unwieldy to manage, and what they are finding is that they are grappling with a system where the rules are unclear. A good example is this. If somebody comes through your front door and they issue—they give you a form of identification, it might be one of 27 different forms, because currently that is what the law says that an employer has to accept.

If the person looks like they may not be a native-born worker, you are not allowed to challenge them, and that is probably a good thing. I think that would run afoul of what this country is about. But it would violate employment discrimination laws.

Under the proposal that we are considering now, an employer would be held liable in the future even though they would be prevented from asking these types of questions due to anti-discrimination statutes that we have on the books. And so you would have a drastic increase of what we see going on in the workplace in terms of raids by ICE and them coming through the front door, but you are not allowed to really question and investigate whether or not your workforce is legal.

I see my time is up, and I will be happy to answer any questions.

[The prepared statement of Mr. Silvertooth may be found in the Appendix on page 63.]

ChairwomanVELÁZQUEZ. Sure. During the time for question and answers, I am sure that you will be able to share with us or express any other ideas or comments that you may have.

Our next witness is Ms. Maureen Torrey. She is the Vice President of Torrey Farms, Inc., family-owned in Elba, New York. The Torrey family has farmed in upstate New York for 11 generations, where Ms. Torrey oversees marketing and business management for her family's 10,000-acre farm.

Welcome, and thank you for being here.

STATEMENT OF MS. MAUREEN TORREY, TORREY FARMS, INC., ELBA, NEW YORK

Ms.TORREY. Thank you, Madam Chairwoman, and members of the Committee, for the opportunity to testify before you today regarding the impact of immigration reform on America's small business community, and specifically agricultural producers.

My testimony reflects my own experience as a life-long farmer. I am also testifying on behalf of Agriculture Coalition for Immigration Reform, the National Council of Agricultural Employers, and

the United Fresh Produce Association. ACIR is a broad national coalition of agricultural groups working to pass meaningful immigration reform. And I just concluded my term as Chairman of United this past week.

My family and I farm vegetables and dairy in western New York. Our farm is now being run by the eleventh generation and the twelfth is on the way, if we are able to sustain the business. However, the lack of farm labor, the lack of a workable agricultural labor program, and immigration enforcement without a complete solution constitutes an immediate and absolute threat to the survival of farms like mine across the country.

Some years ago, American farm families provided much of the needed farm labor, and local communities turned out extra workers for peak harvest needs. Times have changed. America's labor-intense farming operations are now sustained by immigrant labor. This is true of fruit, vegetable, farms, dairies, ranches, nurseries, greenhouses, and Christmas tree farms.

Federal Government data shows that the majority of farm workers lack proper work authorization and immigration status. The U.S. Department of Labor's National Agricultural Workers Survey, or NAWS, reports that 78 percent of seasonal agricultural workers are foreign-born. There are about 1.6 million farm workers who perform 25 or more days of hired farm work during the year. NAWS reported in 1998 that 52 percent of farm workers lacked legal status. Experts suggest that percentage now exceeds 70 percent.

This phenomenon is national in scope, not just a California and border state problem. Data for the eastern half of the U.S. presented by Dr. Dan Carroll of the DOL revealed that an astonishing 99 percent of new labor force entrants into the agricultural workforce in the eastern states in 1998 through '99 were not authorized to work in the United States.

These statistics reveal what we already knew. Americans are not raising their children to be farm workers. Domestic workers rarely apply for farm jobs. And in the absence of a reliable agricultural worker program, our industries will rely on workers who present work authorization documents that appear, but in fact are not legitimate. This unstable situation threatens small business survival and economic prosperity, especially in our rural communities.

My own story underscores how broken the system is. Since 1981, Torrey Farms has cooperated with the New York State Department of Labor to recruit farm workers for our operation. No one is hired in any position, whether college educated or cut cabbage or milk cows without a referral from the New York State Department of Labor.

The Department verifies the work eligibility of the applicants in the same manner as most employers. It looks at all the allowable forms of identification specified on the I-9 form, yet we know the high incident of false documents. We were starkly reminded of that fact last October when agents of the Department of Homeland Security's Immigration and Custom Enforcement showed up at one of our farms.

The agents kicked in the door at one of our housing facilities and proceeded to round up 34 workers at 6:00 a.m. in the morning who

had been referred by the State Department of Labor. Referrals from the State Department of Labor to our farms have been apprehended on more than one occasion. Put simply, one arm of government recruits and refers our workforce and another arm of government takes away.

It is a crying shame that our great nation has failed to implement a rational legal system. If we do not see a solution soon, much of our food production will move out of the country. It will move to areas where labor is available—Canada, Mexico, South America, China.

We are the largest employer in our town and among the largest in our county. We have a $10 million payroll amongst all our entities. This brings back over $70 million in our community. That does not include all the work that we do with suppliers and other small businesses.

I just need to touch on the needed solutions. First, we need a reliable and affordable guest worker program. Second, we need an opportunity for trained, experienced, and otherwise law-abiding farm workers to have the chance to continue working and to earn the right to become permanent legal residents of the U.S. subject to strict conditions.

Growers and producers are conservative by nature. We work hard, we pay our taxes, we care deeply about the security and the future of our country. We care about the rule of the land. We urge Congress to finally get the job done this year. We are in a crisis.

Thank you.

[The prepared statement of Ms. Torrey may be found in the Appendix on page 76.]

ChairwomanVELÁZQUEZ. Thank you, Ms. Torrey.

Our next witness is Mr. Ralph Folz, CEO of Molecular. He has been responsible for building this company into one of the fastest-growing Internet professional services firms in the United States. Prior to founding Molecular, Mr. Folz served as an advisor of strategies and consultant to several of New England's largest technology companies.

Welcome, and you have five minutes.

STATEMENT OF MR. RALPH J. FOLZ, CEO, MOLECULAR, WATERTOWN, MASSACHUSETTS

Mr.FOLZ. Thank you. Madam Chairwoman, members of the Committee, thank you for the opportunity to testify today. I am Ralph Folz. I am the CEO of Molecular. We are an Internet consulting company with 140 employees located in Boston, Massachusetts. We help large firms such as Reebok and Coke and Fidelity Investments build Internet sites to reach and service their customers.

I testify today on behalf of Molecular and as a member of the Technology Network, or TechNet. We are a network of CEOs and senior executives of companies that are leading innovators in the fields of IT, Internet, e-commerce, biotechnology, venture capital, and investment banking. TechNet membership is diverse. Some of us are leaders of the world's largest and best-known technology companies, and other of us are just starting out with small firms with promising innovations that have enormous potential.

We are all entrepreneurs. We believe in the free market and the power of ideas. We have turned innovation into high-paying jobs, more than a million nationwide. TechNet's top priority is to shape public policy impacting U.S. innovation and technology leadership.

Recently, TechNet CEOs worked with Speaker Nancy Pelosi and others in the development of the innovation agenda, a comprehensive set of public policies designed to spur continued growth and expansion of our innovation economy. It is a great pleasure today to testify before Chairwoman Velázquez, who has been a longstanding leaders in the policies that encouraged the creation of growth of small business, truly the backbone of this nation's economy.

I am very passionate about entrepreneurial ventures. I started Molecular 13 years ago with a co-founder, an idea, and $2,000 each. And we have been able to turn that into a $25 million company generating many high-paying jobs along the way.

Ensuring that we continue to attract and retain the brightest, most talented people from around the world, who can contribute to our U.S. innovation leadership, is fundamental to supporting our global competitiveness. Highly skilled immigration reform is essential to our nation's continued economic prosperity. Perhaps for the first time in more than half a century the future is truly up for grabs.

Unlike the industrial revolution, today's innovation economy is global. China, India, Russia, and other nations are investing in emerging technologies and industries to seize a competitive advantage in the industries and the markets of the future. The number of engineering degrees awarded in the U.S. is down 20 percent from the peak in 1985.

Only 17 percent of U.S. college students receive undergraduate degrees in science and engineering. That compares to 52 percent in China and 41 percent in Korea. As a result, the majority of advanced degrees awarded by U.S. universities in the same areas of study are granted to foreign nationals.

I can tell you that my company has missed business opportunities because we couldn't hire professionals with specific skill sets to do the work. Now, as part of an international network, I have seen sister companies based overseas win contracts with American firms because they did have the staff to do the work.

I can also tell you that over our 13 years in business some of our best people joined us via the H-1B program. They are incredibly bright people, and the vast majority of them are interested in building a permanent life here in America. Let us in-source talent into America rather than losing the work and intellectual capital produced in our American universities to other companies overseas.

Under the current system, this trend is only going to get worse. The U.S. Citizenship and Immigration Service announced that the fiscal year '08 allotment of H-1B visas was met on the very first day applications were accepted, the ninth time since '97 that the cap has been reached before the end of the fiscal year. And it is the fourth year in a row that the cap has been reached before the fiscal year has even started.

These caps limit how quickly we can grow. It limits our ability to stay ahead of our foreign competitors. And if we cannot grow,

we cannot continue to create jobs here in the U.S. At Molecular, we are doing innovative work for some of America's largest companies, and we really want to grow our business and grow it here.

TechNet supports efforts to develop a comprehensive immigration package that permanently fixes the shortcomings of both the employment-based green card and the H-1B visa programs this year. We support legislation that gives U.S. employers timely access to highly educated foreign nationals. We need to eliminate the artificial quotas, the processing delays and backlogs that undermine U.S. competitiveness.

We need to create a flexible market-based H-1B cap that would ensure U.S. employers are not locked out of hiring critical talent. We need to exempt foreign nationals who earn U.S. advanced degrees as well as the foreign-earned advanced degrees from H-1B and employment quotas.

We need to streamline the path to permanent resident status for graduates of bachelor's or higher from U.S. universities who have job offers from U.S. employers, and we need to increase the number of employment-based permanent resident visas, known as EB green cards.

In conclusion, in an increasingly competitive global economy, the U.S. cannot afford to lose its edge in attracting and retaining the world's best talent as a result of complicated and restrictive U.S. immigration policies. We commend the Committee for its focus on these pressing issues and urge you to play a leadership role in ensuring that high-skilled immigration reform happens this year.

Thank you.

[The prepared statement of Mr. Folz may be found in the Appendix on page 78.]

ChairwomanVELÁZQUEZ. Thank you, Mr. Folz.

Our next witness is Mr. Robert Rector. He is a Senior Research Fellow at the Heritage Foundation. He played a major role in crafting the federal welfare reform legislation passed in 1996, and he has conducted extensive research on the economic costs of welfare and its role in undermining families.

Welcome, sir.

STATEMENT OF ROBERT RECTOR, PH.D., SENIOR RESEARCH FELLOW, HERITAGE FOUNDATION

Mr.RECTOR. Thank you for having me as a witness. I am here to talk about the—my expertise is government spending and government programs, and I am here to talk about the fiscal costs of immigration, particularly low skilled immigration, immigrants who do not have a high school degree.

I have analyzed in the United States there are about four and a half million immigrant households headed by individuals that do not have a high school degree. About half of these are legal; about half are illegal. About a third of all immigrant households in the United States are headed by high school dropouts, compared to about 9 percent among the native population.

I analyzed the fiscal cost of these households. That is, the total benefits that they receive minus the taxes that they pay in to the American government system. I cover a full range of all govern-

ment benefits, including Social Security, Medicare, 60 different welfare programs, public schooling, police and fire. I don't have defense, I don't have interest, just things that are sort of directly consumed.

The methods I use are exactly the same as those used by the National Academy of Sciences in their study of the fiscal impact of immigration 10 years ago, and the conclusions I get are basically the same. A lot of people say, "Well, immigrants get less of these benefits. All of my data is based on the immigrants' self-report in the Census of whether they got the benefit or not. If they said they got food stamps, then I count food stamps. If they don't get it, they don't get it.

And what I find is that the typical low skill immigrant household receives about $30,000 a year in benefits from federal, state, and local governments, and it pays in about $10,000 in taxes. It pays very little income tax, but it pays a significant amount of Social Security tax, a lot of sales and consumption taxes. That means that each of these households is receiving each year about $19,500 worth of benefits that they didn't pay for with the taxes that they paid in. Somebody else has to pay for that, and that somebody else is the American taxpayer.

Overall, these households cost the taxpayer on net, benefits minus taxes that are paid in, $89 billion each and every year. These households are in deficit, fiscal deficit, at every stage of the life cycle. From the moment they walk in this country and form a household they begin to cost the taxpayers more in benefits than they pay back in taxes, and it kind of gets worse. By the time they get to retirement age, they are drawing down about $10 of benefits for every dollar that they are paying in.

The net lifetime cost of a low skill immigrant who comes into the United States and brings a family and remains here for life is around $1.2 million. That is something that—benefits in excess of the taxes that they pay into the system. And, again, this really shouldn't be surprising.

People say, "How can they get $30,000 in benefits?" Well, the average household in the United States gets around $22,000 in benefits. These households get an additional $10,000 or so from the 60 different means-tested welfare programs in the United States, and they pay very little in taxes. That is why they are in deficit.

The reality is that the United States has a very generous system for supporting less advantaged workers. We don't require much from them. We provide basically free schooling, welfare, Medicare, Social Security. We can do that for individuals born in the U.S. But if you try to do that for a huge inflow of similar individuals from abroad, we simply can't afford that as a nation.

Well, now look at this from the perspective of employers. Employers say to me, "Well, we have to have this type of worker. We really need these families." You know, and I always say, "Well, look, each worker of this sort, of a very low skilled worker that you bring in from abroad, costs about net $18,000 in excess taxes. Do you as the employer want to pay that?" And every one of them I have ever asked, "No, no. I don't want to pay that." Well, who does? Who do you want to pay that? "I don't care, as long as it is not me."

And so the reality is that we are irrationally subsidizing a lot of this employment through the general taxpayer in a way that really does not make sense. And if the employers had to bear the full fiscal cost of these choices, they would make different types of choices.

Another topic that we are looking at here today is amnesty or earned citizenship, or so forth. The most important thing to understand about that is that very few illegals are now elderly, and very few illegals have eligibility to Social Security, Medicare, Medicaid, and SSI, Supplemental Security Income. If you grant amnesty and legal permanent residence, they will have access to those things.

None of these—for the most part, none of these individuals have ever been net taxpayers. When they hit retirement, which would occur about 20 years from now, they are going to draw down out of programs. The net cost to the taxpayer of that, of granting amnesty to nine million current adult illegals, about 20 years from now, will be $2.5 trillion net cost. That is with a T, $2.5 trillion, in net cost. And those costs will slam into the system at exactly the point the Social Security system is starting to go bankrupt.

The conclusion is that the current open border system is expensive. Guest worker programs that grant legal permanent residence would be even more expensive, and amnesty is very expensive. What we really need as a nation is an immigration system that allows perhaps some temporary workers without access to the welfare system, but, in particular, focuses on bringing in high skilled workers who will pay much more in taxes than they take out in benefits.

Thank you.

[The prepared statement of Mr. Rector may be found in the Appendix on page 84.]

ChairwomanVELÁZQUEZ. Thank you, Mr. Rector.

Our next witness is Mr. Mark Krikorian. He is Executive Director of the Center for Immigration Studies. The Center for Immigration Studies promotes public knowledge and understanding of the need for an immigration policy that gives first concern to the broad national interest.

Welcome, sir.

STATEMENT OF MR. MARK S. KRIKORIAN, EXECUTIVE DIRECTOR, CENTER FOR IMMIGRATION STUDIES

Mr.KRIKORIAN. Thank you, Madam Chairwoman. There is a lot of ways to look at this issue of immigration and small business, but maybe the best place to start is with the opinion and views of small businessmen themselves.

The National Federation of Independent Business and the National Association for the Self-Employed, the two main organizations speaking for small business as a whole, surveyed their membership last year on this specific issue, and they found overwhelming concern among their membership for illegal immigration, overwhelming support for increased penalties against their fellow employers, who knowingly hire illegal immigrants, and overwhelming opposition to letting illegal immigrants stay.

None of this should be surprising, because in some sense small business is America, given the depth and breadth of small business

ownership and entrepreneurship in our country. And so the views of small businessmen simply reflect the broad public dissatisfaction with our current policy of open borders through non-enforcement of the immigration laws.

But there are some specific issues, specific to small business, that are worth briefly touching on. First, the large scale use of foreign labor is actually harmful in the long run, even to the small businesses and the industries using it. As Barbara Jordan's Commission on Immigration Reform wrote a decade ago, "The availability of foreign workers may create a dependency on them." In other words, as with drugs or alcohol, easy availability of foreign labor can create a sort of addiction, rending the user incapable of imagining life without a fix.

But in a free market system like ours, industries evolve and adapt in response to changing labor characteristics and changing standards. For instance, nearly a century ago, small businessmen told—testifying before Congress said that child labor was essential for the functioning of their business. One small businessman said that ending child labor would "paralyze the country." Of course, it didn't work out that way, and precisely because a flexible economy like ours can and will adapt to changing labor market standards.

When lawmakers—today's lawmakers acknowledge the existing social consensus against the addiction to foreign labor, legal and illegal, those industries where some small businesses have become addicted to that foreign labor will adapt in ways that Adam Smith would have easily understood—offering better wages and benefits and changing the working conditions and recruitment practices to attract and retain legal workers, while at the same time finding ways of using the existing labor pool more efficiently, whether through increased harvest mechanization, increased use of prefabricated housing, what have you.

Those who say otherwise are in fact telling the truth as they see it. The problem is—in other words, they are not lying. The problem is they are too close to the situation to see the big picture. They cannot see the forest for the trees, just like the small businessmen using child labor were unable to see the forest for the trees. It is Congress' job to step back and look at the whole forest, not focus on the bark of a single tree, if you will.

Two other issues I quickly touch on that are relevant to small business. The question is—or the claims are that using an electronic verification system to verify the status of new workers will be burdensome and sort of a burden—a new mandate on employers. In fact, that is not the case. All of the information that a verification system would collect is already collected. In fact, the only way that would change is if Congress abolished the Social Security system and income tax withholding, and I don't see that happening any time soon.

So that being the case, verifying that already collected information through a free, easy, quick system is clearly not a burden or a new mandate. And I can speak with experience about this, because the existing voluntary electronic verification system is something my own small business participates in, and it is quick and it is easy and it represents no burden at all.

In fact, a mandate for all businesses to verify—electronically verify their new workers isn't just a question of penalizing employers. In fact, it empowers legitimate employers to make sure they actually know who they are hiring and are able to build a workforce on concrete, if you will, instead of on sand.

And a final point that Congressman Gutiérrez referred to was the fear that a tighter immigration system, whether it is through enforcement or changing some of the categories, would somehow reduce entrepreneurship. And the contention here is that immigration is somehow—immigrants are somehow uniquely entrepreneurial, and immigration represents sort of a booster shot into a tired America and increases our entrepreneurial energies.

Fortunately, when you look at the data, there is actually nothing to that at all. Immigrants are actually slightly less likely to be entrepreneurs than native-born Americans are. Certain ethnic groups are more likely to be entrepreneurial. Koreans, for instance, are more likely to be self-employed, but immigrants overall are actually slightly less likely to be self-employed than native-born Americans are.

And so any change in immigration policy is, in fact, not going to have any significant effect on America's entrepreneurial situation.

Let me end there, and I will be happy to answer any questions that the Subcommittee may have. Thank you.

[The prepared statement of Mr. Krikorian may be found in the Appendix on page 94.]

ChairwomanVELÁZQUEZ. Sure. Let me start with you, sir.

Mr.KRIKORIAN. Yes.

ChairwomanVELÁZQUEZ. Where is the scientific data or research that proves that immigrants are not entrepreneurial? Places like New York—if you go to every corner, the grocery store, the manufacturing plants, they are Korean, they are Hispanic. I don't know where you mean when you talk about immigrants, because then you say Koreans, they are immigrants, too. So I am a little confused here.

Mr.KRIKORIAN. I would be happy to explain that. Anecdotes, unfortunately, don't tell us anything about the broad situation. There are, in fact, large numbers of immigrant entrepreneurs, but the Census Bureau in various surveys asks whether people are self-employed or not. That is essentially the marker of being—owning a small business, being entrepreneurial.

And the fact is that the most recent data, this is from 2005, shows that about 11 percent of foreign-born people in the United States, regardless of who they are, where they are from, when you put them all together, 11 percent of immigrants are self-employed versus about 13 percent of native-born Americans. So that means there is a lot of immigrant entrepreneurs. It is just that they are no more likely to be entrepreneurs than the native-born.

ChairwomanVELÁZQUEZ. Yes. The same Census data shows that if we take one sector like Hispanics, because for some people Hispanics are the immigrants, are the fastest growing sector. And in places like New York, Hispanic businesses are even triple the national average.

So I don't get it. Anyway, I will recognize Mr. Westmoreland, and then I will come back and ask another question, and allow for the other members to ask questions.

Mr.WESTMORELAND. Thank you, Madam Chairman. And thank all of you for being here.

Mr. Rector, I wanted to ask you a question. You talked about both the legal and the illegal that are in this country. Did that—the benefit number stay the same whether they were in the country legally or illegally? Or is that just for the illegal?

Mr.RECTOR. This covers all low skill immigrant households, so it has both of them. The illegals probably get somewhat less in welfare, but they do get welfare. Why is that? Well, the reality is that most of them have children, and those children are all eligible for welfare benefits. They are actually eligible for welfare benefits even before they are born. Most of them are paid for—the birth is paid by Medicaid, and so the welfare system is actually focused around the child.

So these households do draw down a lot of welfare. They get somewhat less government assistance than other households, but the main difference between illegals low skill and legals is that the illegals have very few elderly people. Okay? And the most—if you look at the charts I have provided, this type of household is always in deficit. They always receive more in benefits than they pay in taxes. But they really go into deficit of about $30,000 per household per year, once they hit retirement.

So one of the major effects of legalizing that illegal population is you are going to let them stay here over time, and then they are adding in about 10 million people into Social Security retirement. That is the single most expensive thing you can even begin to imagine, and you would be adding those people in at exactly the point that Social Security is its maximum crisis. It is an absolute fiscal disaster for the United States.

Mr.WESTMORELAND. Do you have any statistics about how many of the people that are in this country illegal, undocumented, that have compromised identification, I guess we could say, that are actually now having taxes and Social Security taken out on them that probably will never get it back, or, you know, are receiving some type of benefits? Do you have any idea what—

Mr.RECTOR. I do.

Mr.WESTMORELAND. —that number is?

Mr.RECTOR. Yes. Well, among illegals, the general estimate is that about 55 percent of them are working on the books, and 45 percent are off the books. So those that are working off the books are not going to be paying FICA tax or income tax.

But on the other hand—well, first of all, they don't pay much income tax anyway, because of the school level. But if you look at all of these, let us throw the legals in, too, because I assume they all pay FICA tax. I think that is true. The reality is that they are paying about $3,000 a year in this type of taxes, but they are drawing down $30,000 a year in benefits.

So any analysis that just looks at the Social Security Trust Fund and says, "Oh, look, there is this little dribble of money coming into Social Security," you have to look at it holistically. And if they are

putting in $3,000 a year into Social Security, but drawing down $30,000 a year out of general revenue, well, who the heck is paying for that? Well, the Social Security retirees are paying for it, everybody else is paying for it.

You have to look at across the board, and across the board this type of individual, because we have a system of very serious income redistribution in our country, this type of household is always a net receiver from the taxpayer. The longer they stay, the more we pay. A lot of people say what we need is younger workers to help us with Social Security. As my analysis shows us, no, absolutely not.

What you need is higher skilled workers. They will pay more in than they take out in taxes. With a low skilled worker, the younger they are, the more they cost over time to the U.S. taxpayers, because they are always net losers.

Mr.WESTMORELAND. Thank you.

Mr. Silvertooth, I come from a builder background and use many roofing contractors, by the way, but I also used a lot of subcontractors. And as you know, we put an amendment on the House-passed immigration bill that we did last year that set a standard of knowingly hiring an illegal immigrant. I understand that now there is some folks out there and some conversation about changing that standard from knowingly to reckless disregard.

And I would like to know if you have looked at those two different terms and could put your input into whether the "knowingly" or the "reckless disregard" and how that would affect your business.

Mr.SILVERTOOTH. Thank you, Congressman. The answer to this is very simple for the construction industry. We are an industry that is defined by contractual relationships, as you indicated. The knowing standard would establish clearer guidelines for prosecution of an employer for a violation.

Reckless disregard or even a lower standard, such as reason to know, which is also being contemplated currently in discussions, would lower the standard, making it easier to prosecute an employer by inferring this notion that, well, a reasonable person would have done this, a reasonable person might have done that. You didn't, so we are going to go after you.

Well, as you said in a hearing earlier this year regarding a level playing field, if you ever see one, please take a picture of it, because you have never seen it before. I am not really sure who that reasonable person is. It is a straw-man argument. It is thrown out there as a standard, and it might be a standard that no business would be able to live up to.

Also troubling about this, and this is particularly for the construction industry, but it would affect any type of business that has a contractual arrangement, is this notion of vicarious liability where you are held to—you are held liable for the actions of another employer and their hiring practices, but you don't really have the power to hire or fire that employer's employees.

And we think that is not an appropriate standard of liability either, particularly you don't have the power to do anything about it. But if we are going to be migrating to a system in which every employer in the country is participating in some type of new verification system, and DHS believes that they have confidence in

the system and that there is—they have high voracity in it, then it strikes us as redundant and superfluous, frankly, to have an employer on the hook for the actions of another. If the system is working, DHS ought to be able to catch the subcontractor.

Mr.WESTMORELAND. Thank you.

ChairwomanVELÁZQUEZ. Thank you.

Ms. Clarke.

Ms.CLARKE. Thank you very much, Madam Chair. I just wanted to direct my question to Mr. Silvertooth and Mr. Johnson. And this has to do a little bit with the STRIVE Act. You know, that is our centerpiece legislation on immigration reform in the House, and it covers many areas including the new worker program.

There are triggers in the bill. You are probably both familiar with these triggers. I wanted to—and the Department of Homeland Security—it states that the Department of Homeland Security may not implement the new worker and legalization programs until it completes a certification process.

Can you explain these triggers in the STRIVE Act, and do you think these triggers prevent or unreasonably delay the implementation of legalization or new worker programs? And you may also—some other folks on the panel may have some thoughts around this.

Mr.SILVERTOOTH. The inclusion of triggers I think is probably important from a political standpoint in order to build the political will within Congress to make sure that we can get comprehensive reform. At the same time, we are strong believers that there needs to be four legs on this stool.

There has got to be border enforcement, there has to be interior enforcement, there has to be some type of future flow program, so we are not setting at this table again 20 years from now scratching our heads wondering what we did wrong in immigration reform, and there needs to be some type of transition to some type of legal status for those that are currently here in an undocumented capacity.

If we do something short of that, if we put these triggers out there and we start enforcing first, there needs to be a transition protection for those workers that are currently in the economy, and there needs to be transition protection for those businesses that are using those workers currently, because they are grappling with an imperfect system, and it would be unreasonable to start enforcing on them for a failed status quo.

So that would be my initial comments.

Mr.JOHNSON. Yes. Since we don't lobby on legislation, maybe I am not as constrained by the politics of this issue. But I am troubled by the idea, because you don't see it in any other context, right? We don't say that we are going to wait to make sure there is no more tax fraud before we reform our tax system or no more health care fraud until we reform our health care system.

And in the immigration context, the key to getting control of the borders is dealing with, you know, one of the root causes of undocumented immigration, which is this sort of schizophrenia that we have at our border, the fact that our economy hangs up a Help Wanted sign, and then our immigration system hangs up a Keep Out sign.

And an effective border enforcement policy has to confront the sort of disconnect that we have between our economic policies and our immigration policies. Otherwise, the prospects of gaining control over the border is going to be enormously expensive. We have in the last 10 years quintupled the amount of money we spend on border enforcement, tripled the size of our border patrol departments, and the result is we have more undocumented immigration, more deaths at the border, a huge growth in the business of human smuggling.

So the fact that we are trying to—you know, that part of the enemy here is our own economic demand, makes the costs of fighting ourselves much, much more expensive than it has to be. I don't see any reason why you can't do both. You need smarter, more effective enforcement. But part of the way that we gain control of the borders is making sure that we have a system that is responsive to the family and employment demands that we have in our economy.

Ms.CLARKE. Ms. Torrey, you wanted to comment?

Ms.TORREY. Yes. I would just like to add, on behalf of the agriculture community, along with the comments that Mr. Silvertooth made is that the STRIVE bill is fine for us except the main problem is the triggers. Agriculture can't wait for the programs to be implemented. We are in a crisis situation right now.

And the agriculture community recognized this over 10 years ago and started addressing the issue, and we need to have some type of program that works for us now, and we can't wait.

Thank you.

Mr.KRIKORIAN. Yes. Thank you, Ms. Clarke. I can't comment on the internal politics within Congress, but the reason the trigger idea is introduced—and I am somewhat dubious of it, but the reason it is there is because no one believes the new rules will be enforced, and with very good reason.

In 1986, the deal was a grand bargain. Prohibition of the employment of illegal immigrations for the first time ever, in exchange for, as it were, tying up the loose ends, legalizing the illegals who were here. The amnesty part of it came up front; the promises of enforcement were to come in the future. They were abandoned.

And no one believes—and, I mean, I think the public largely doesn't believe either that new bodies of rules will be enforced. And in a sense, the sense is fool me once, shame on you, but fool me twice, shame on me. And that is why a trigger requirement is attractive to a lot of people, because it prevents—it makes sure that the enforcement happens first, at least some of it, before the legalization follows.

ChairwomanVELÁZQUEZ. Thank you.

Mr. Sestak.

Mr.SESTAK. Thank you, Madam Chair. I just had two questions. Mr. Krikorian, when you did your analysis of—on the 11 percent and the 13 percent, when you went back to the 1800s and looked at the percentages for the immigrants then, and their entrepreneurship as compared to the population then, what were the percentages?

Mr.KRIKORIAN. We didn't, and I am pretty sure the reason for that is the Census Bureau doesn't keep those kind of—

Mr.SESTAK. Who do you think would?

Mr.KRIKORIAN. I have no idea. Probably—

Mr.SESTAK. How far back did you go?

Mr.KRIKORIAN. Well, we—

Mr.SESTAK. I mean, is this statistically—if I could, is this statistically important, the 11 and 13 percent? I mean, if you went back 50, 60, 80 years, I mean, that just might be what things are. You know, 11 percent now, and three decades from now they—all of a sudden you have, you know, a standard in oil. I mean, is it really significant what you are telling us, if you can't go back and say, "What is the reference for it"?

Mr.KRIKORIAN. No, I understand. We actually went from 1970, '80, '90.

Mr.SESTAK. No, I know that.

Mr.KRIKORIAN. 2000.

Mr.SESTAK. But I am trying to get back to, you know, maybe the last great wave of immigration.

Mr.KRIKORIAN. I understand.

Mr.SESTAK. You know, the Irish or, you know, something like that, because we come in waves, you know.

Mr.KRIKORIAN. Nobody asked, number one, back then.

Mr.SESTAK. It would be very interesting to know, because you are saying these statistics are important, but I don't have any reference for them. Eleven and 13 percent compared to the last great wave of immigration, I would love to see, because I would think coming in here and just getting a job—you are probably coming here to make sure your kids can eat, and somewhat you are less risk—more risk averse, if that is the case. You kind of get going and steady them out a bit, and then maybe the entrepreneurship comes.

I have a question for you, Mr. Rector. I was really taken by your comments about how you needed to do this holistically. Do you remember the last comment you made? If you really do your analysis holistically, as I listened to these here say, and those less—those people can't put as much into the system as you say, aren't putting as much into the system, if they are removed, they disappear with a magic wand, what is the cost attendant to this nation's economy, if it could?

In other words, if you really do want to do a holistic analysis, what are the benefits that accrue from having them here to the quality of our lives—a non-leaky roof? I mean, and the taxes attendant to being able to have a farmer produce more fruit. What did your analysis show for that?

Mr.RECTOR. My analysis doesn't cover that, but I can answer that. If you—

Mr.SESTAK. But if we have to do holistic, shouldn't we do that?

Mr.RECTOR. If you jerk them all out of the economy tomorrow, you would have a big shock effect. But let us look at it another way. If you look at the flow of illegals that we currently have coming in, we are probably going to bring an additional seven million low skill illegals in under the status quo—

Mr.SESTAK. If I could interrupt for a moment. you took a snapshot. It wasn't a fluid or dynamic situation at this moment. And you presented it here as something very important—this snapshot—and emphasized it was to be seen in a holistic way. If you take that snapshot today and look at the benefits, forget the cost in disappearing, potentially that was the wrong way to ask it, but you look at the benefits that accrue to this from more taxes paid into the system, from growing businesses and things like that, what does your analysis show for that? And if that is not done, why not do that? Shouldn't that give us the holistic cost-benefit analysis?

Mr.RECTOR. I do account for all of the taxes paid into the system.

Mr.SESTAK. From the businesses? In other words, the roofing business is able to do something because they have people letting them do something, and they grow bigger and they pay more taxes. Without those people here, they wouldn't pay more taxes. In other words, that snapshot.

Mr.RECTOR. That is—

Mr.SESTAK. If you pride yourself on holistic approach.

Mr.RECTOR. I think what you are getting at is the contention that by adding more immigrants in—

Mr.SESTAK. No, that is not what I am getting at. What I am getting at specifically is you said that holistic approach was important. Your holistic approach looked at this—what these people put in and what they took out into government, but not the economy. And so, therefore, what does that cost-benefit analysis show, and shouldn't we do that whole picture?

Mr.RECTOR. Absolutely. And I—and, for example, the National Academy of Sciences did that analysis in their 1997 study, and they found that the net economic gain from immigration was between $1- and $10 billion a year. It is very, very small. And there really—this is the way to separate this question out. There is no doubt that when you add illegal immigrants into the economy you get a bigger GDP. I mean, obviously you do. You have a larger economy.

The real question is: does the fact that you have a larger economy mean that the average American citizen has a higher post-tax standard of living or income as a result of that? And that is really the issue, okay? And what my study is indicating is, no, that there would have to be massive positive externalities to make up for these huge fiscal costs that come along with this type of labor.

And you don't get that. You do not get—I draw a wage. The fact that I draw a wage does not magically make you richer, okay? Just adding labor into the economy—one way of looking at this is let us say you have a factory, you have 10 employees, okay? Next week we add one additional employee. Now, a lot of people say, "Oh, well, the output of the factory just went up 10 percent."

Well, the real question is: what happened to the wages of the first 10 workers? Did they go up? Did they go down? And that is the question you have to ask, and there is, in fact, to my knowledge virtually no economic literature that shows that just by adding low skilled labor into the economy that the incomes of the average citizen post-tax get better. In fact, they seem to get significantly worse.

Mr.SESTAK. May I have just one moment?

ChairwomanVELÁZQUEZ. Yes, Mr. Sestak.

Mr.SESTAK. I guess I—I appreciate your tangent there. My question just is that I am taken by any analysis, but I have always been more taken when it is more holistic. And I think that I understand the ins and the outs to government, and you have now said, okay, there is some document here that says there is more benefit. I am not arguing whether we should have more illegal immigrants. I am not arguing that issue at all.

I just want to make sure when someone comes forward and presents the benefit and the cost that it is the most holistic way, and that is my only point. And I would like to have the other study—the research you said you have done—that leads you to believe, because you must have great regression analytical capability that you can pull out Tax Code policies, impact of tax policies, etcetera, to show that more people—illegal or whatever—don't add that much benefit, the one that you mentioned that, if I heard you correctly.

Mr.RECTOR. That was the National Academy that—

Mr.SESTAK. No, no. There was another one you said that your analysis says that—and maybe I missed the point—but you have also done some extrapolation on your own when you went off there for a while. Do you know what I am saying? Whatever that area is—I have gone on too long, but whatever that analysis is, I would love to have it.

Thank you, Madam Chairwoman.

ChairwomanVELÁZQUEZ. Thank you, Mr. Sestak.

Following the statement made by Mr. Rector, I would like to direct my question to Ms. Torrey and Mr. Silvertooth. He stated that there is a drain of—he talked about the drain that immigrants have on our economy and our government. And you both, Ms. Torrey and Mr. Silvertooth, have spoken about the importance of immigration to the agriculture and the construction sector.

So these are both billions of dollars industries. So can you talk to us about how immigration has allowed for growth in your industries?

Ms.TORREY. I will go ahead, and I will give a personal example. Our small community in upstate New York, two to three generations ago, the migrants were the Italians, and they were the people working in the fields, sleeping in barns, and going home on the weekend. The first generation did that, the second generation became the workers, the third generations have left the farms.

In the late '70s, the Hispanics became our workers. Our farm—in 1978, we only owned 146 acres of land. The only reason why we have grown is because of our Hispanic workers. We have three generations working for us. They work—we offer a 401(k), profit-sharing program. We have a lot of extended families, we have families with 45 to 60 people in them. It is an entry-level with a skill that they can bring from their country to help grow our food industry.

And then, their hopes and dreams for their children are to educate themselves and go on. And it has made a thriving industry here in this country.

ChairwomanVELÁZQUEZ. Thank you.

Mr. Silvertooth.

Mr.SILVERTOOTH. Our experience has been very similar. As I indicated in my testimony, you know, two-thirds of the new entrants into our economy, into the construction economy last year, were Hispanics, and a huge percentage of those were foreign-born immigrants.

There is a few reasons that is happening—our birth rate is low, our population is aging, people are cycling out of the workforce, and at the macro-economic level in this country the reigning educational philosophy through the Department of Education and subsidizing student loans is that we should send our native-born Americans to four-year colleges and get them through that.

A lot of the service sectors have a very tough time attracting people into our industry, despite the fact that construction is one of the quickest paths to entrepreneurship, as is the restaurant industry. The other thing that you see in our industry is that the average wage in construction this past March was $21 an hour, and yet we still have shortages across the country.

Now, admittedly, they are geographically disparate, but I have contractors in the San Francisco Bay area that offer a $40 an hour package, and they have vacancies. They have to pass up work as a result of that. And that contracts the economy, that contracts the GDP as well, because there is work that could be performed that is not being performed. Sixty-nine percent of my members reported in a survey last year that they were short workers, that they were not able to access the workers they needed. And close to half of those indicated that they had passed up on work because of that phenomenon.

So to the small business industry in general, foreign-born labor, the ability to access that when there are not American workers available is absolutely critical. And if we are not able to do that, our industries are going to atrophy.

ChairwomanVELÁZQUEZ. Mr. Folz, can you comment on immigration in your industry?

Mr.FOLZ. All I can is that listening to all of the testimony so far that immigration is a very important part of our company. It brings diversity to our company. These are people that are some of our best employees. They want to live here permanently.

I would also add that for every employee we can add to our company means about a quarter of a million dollars of revenue for our company. So in terms of measuring holistic impact, it is much more than the taxes they pay in. It has tremendous impact, and that doesn't even count the work we are able to do for our American clients that help their business. So I think it has a magnifying effect.

ChairwomanVELÁZQUEZ. Yes. Mr. Folz, you mentioned in your testimony that last month the fiscal year 2008 allotment of H-1B visas for skilled foreign-born employees was exhausted six months before the start of the fiscal year. That means that there is at least an 18-month wait for new visas. Can you help the Committee understand the implications of this situation for a technology company like yours that might here from a good customer that they intend to double their order next year?

Mr.FOLZ. Yes, it is quite simple. If I have a customer that would like to do more business with us, and I have a vast shortage of engineers that I can hire into my company, I will give you a real ex-

ample. We have—we recently hired two college graduates, foreign nationals. They can stay here for a year under a practical work visa, but they did not—we were not able to get them a visa in the latest allotment.

And because of this—because of the timing, I can have them for a year. And if they don't win the next lottery, even if they do, there is going to be a gap in time where they are going to have to leave the country. It is incredibly disruptive. And for a small business, too, it gives us pause as to whether we can even take the risk in the investment in hiring these great people.

ChairwomanVELÁZQUEZ. Okay. Ms. Torrey, in your testimony, you talk about the ordeal that you face regarding some of the problems with our current verification system, both at the federal and state level. So my question is: do you support an electronic or telephonic verification system that will provide greater certainty that you are provided with legally authorized workers?

Ms.TORREY. Yes, if we—as long as we—not only being electronically, it also needs—we need to be able to do it by the telephone, because some hiring is not done in an office. It is done out in the field. It needs to be simple. The number of acceptable documents must be reduced to a few.

We must make sure that it prevents identity fraud. The verification system must give fast confirmation, as we hire seasonal workers that come and go. It has got to work fast for us, because when a crop is ready to harvest, to wait 30 days is not the answer for us.

And the other thing is when we hire these people, we also have to provide housing. And if someone has moved in, and all of a sudden after the process, how do I get them out? And I have turned away somebody else that probably had proper documentation.

ChairwomanVELÁZQUEZ. Thank you.

Mr. Johnson, about 12 percent of the construction industry's workforce is undocumented employees. That number percentage is even higher for many other industries. In agriculture, it is 13 percent; food manufacturing 14 percent; and in private households, it is as high as 21 percent. With such a large number contributing to the total workforce, some have suggested an earned legal status for these workers will have the least damaging effect on our economy. What options are available to integrate these workers who are already here?

Mr.JOHNSON. Well, integration, I mean, in the larger sense, you know, has to be part of this equation as well. I mean, and one of the, you know, benefits of allowing people a path to permanent status, I mean, I think there is a role for a temporary worker program for, you know, truly seasonal temporary jobs.

But an over reliance on a temporary worker program, particularly for jobs that are permanent, I think cuts off our ability to incorporate these people into our society. Language acquisition, home ownership, economic development—those are the keys to integration, giving people the tools and the resources that they need to become part of our communities, both from a communication as well as from an ownership perspective, is an essential part of the value that we have gained from immigration.

I certainly would like to see us have more carrots and not a lot more sticks when it comes to integration.

ChairwomanVELÁZQUEZ. But, Mr. Johnson, what will you tell opponents who believe that this is rewarding those who have cheated the system?

Mr.JOHNSON. Well, I would say that those people who are in the United States in an undocumented status, I think that there is—sort of agreeing with Congressman Gutiérrez, I think there is a penalty to be paid for that, but that penalty has to be proportional to the offense. And I think we also, quite frankly, need to keep in mind that victims—or that immigrants themselves are also victims of our dysfunctional immigration system.

They are drawn here by the Help Wanted sign that our economy hangs at the border. And for the most part, they come through the back door because the front door is closed. I think we have a responsibility to create a system that allows them to come through the front door.

Shifting all the responsibility for our dysfunctional immigration system onto immigrants I think is just that—avoiding our own responsibility.

ChairwomanVELÁZQUEZ. Thank you, Mr. Johnson.

Mr. Davis.

[No response.]

I will recognize Mr. Chabot.

Mr.CHABOT. Thank you very much, Madam Chair. And, again, I want to apologize for having not been able to be here during the testimony. I am going to reread all the testimony from the statements that we got last night on this. I had to give a speech down the street here, so I do apologize.

But let me start with you, Mr. Silvertooth, if I can. If the cap on temporary H-2B visas was raised, what level would you recommend to make a real difference?

Mr.SILVERTOOTH. Well, currently we are operating under an extension of that program where—that is set to expire this September, in which workers that have been in the program for the previous three years are exempt from that cap. NRCA is a member of a coalition that is advocating for an extension of that program. We think that makes sense.

But the way I would answer this question is this. The way you need to look at the H-2B visa program is to understand that we have shortages in permanent labor in this country, and then we have shortages in truly seasonal work in that. What I would probably recommend is that we have some type of market regulator that looks at the vitality of these industries on a yearly basis, what their particular needs are, look at the regional variations in terms of need.

For instance, agriculture—well, agriculture is not covered by H-2B, but there are certain industries that would be covered, such as seafood processing, the Eastern Shore - this is a big issue for them. If they have a bumper crop coming up that season, there may need to be an adjustment on that. Similarly, we would have to look at what our tourism demands are in the country.

So I think 66,000, if you have this exemption for previous workers, is a workable system. But there would need to be some type of market regulator and take a look at it in a couple of years.

The other thing that I would recommend in terms of the H-2B program is there needs to be particular attention paid to the processing of H-2B visas. The system is currently in a state of crisis. In Mexico, the largest processor of visas in that country is in the Monterrey Consular Office. They just decided earlier this year, or at the end of last year, that they would stop processing visas for the season, and it took Congressional intervention to get them to resume that.

You have also got problems in regional DOL offices here in the country. We are having a devil of a time in the Chicago and Atlanta offices in terms of delays.

Mr.CHABOT. Thank you very much.

Mr.SILVERTOOTH. Thank you.

Mr.CHABOT. Mr. Rector, if I could turn to you next. Before I ask a question, I just want to publicly acknowledge your important role in one of the most significant issues that I think we faced up to in this country during the Clinton administration, under a Republican Congress at the time—that was welfare reform, and I believe you were at the Heritage at the time.

And many of us, including myself, looked to you for knowledge about the right way to go on this. And your recommendations ended up being followed not to the letter but to a great extent in the welfare reform. Had we followed your recommendations, it would have been even better.

But in any event, thank you for you involvement because the welfare roll since that welfare reform was passed that President Clinton signed, the welfare rolls are less than half of what they were at the time, and we have turned more power back to the states. And the time that a person could be on welfare was no longer forever, but it was—there were time limits. And there were so many things, and you had a lot to do with that, so I want to publicly acknowledge that and thank you for your work on that.

Now, turning to my question, it is my understanding that in my absence you mentioned that immigration reform should center on highly skilled and temporary workers without including amnesty. Could you explain why this would be beneficial to the economy and why that is the way we ought to go?

Mr.RECTOR. I will just quote from the study of the National Academy of Sciences from 1997. What they showed was that high skill immigrants coming into the United States with a college degree pay more in taxes into the system than they take out in benefits. They show, conversely, that dropout immigrants take out significantly more in taxes than they—in benefits than they take in taxes. Therefore, each of those individuals is a net cost to everybody in society.

Moreover, they show that the huge deficit is so large that even when you include the fiscal contributions of their offspring for the next 300 years, you never make up for that initial cost. That is a pretty potent statement, and the reality is that in our society what we need are—there are probably a billion people across the globe who would like to come and live in the United States.

And we can't admit them all, but we should have a criteria of those individuals that we do admit that when we bring them in they are a net benefit to American citizens instead of a net liability. And the reality is very simple: if I came to you today and said, "Hey, we just added 10 million high school dropouts, native-born, across the United States," everyone on this Committee and everyone in this room would say, "Well, that doesn't sound like a very good idea. That sounds like a lot of social problem. That sounds like a lot of government cost." And as a welfare expert, I will tell you, yes, that is an awful lot of governmental cost.

But somehow, we have imported in the last 20 years 10 million high school dropouts from abroad. But because they came from abroad they suddenly have this magical quality that they don't cost us anything and they contribute all this magic to the economy. Well, if they contribute magic to the economy, then domestic-born high school dropouts must also contribute magic to the economy, making everything magically bigger. Every dollar that they earn contributes two dollars—there is no economic literature that shows that at all.

The reality is that high school dropouts are costly. They generate social problems. Doesn't matter where they come from. Therefore, our immigration policy should focus on bringing in individuals who will make a maximum economic contribution, and who will pay more in taxes than they take out from the system.

Particularly, if you are looking toward the viability of Social Security, you don't want to bring in people that are a net fiscal deficit every year that they are in the country. They will make the Social Security crisis infinitely worse, and that is exactly what amnesty is going to do. It is going to add $2-1/2 trillion in costs in retirement in about 20 years, exactly the time Social Security starts to go bankrupt. It couldn't help but do otherwise. Okay?

If you want to make Social Security more viable, bring in higher skilled workers. And you don't need to do it now, you should do it a little bit later, so that they would be contributing at the maximum point of crisis.

Mr.CHABOT. Thank you very much.

Mr. Johnson, if I could turn to you next. In Congress, in recent years, and even very recently, we have significantly bolstered federal programs to encourage more students to pursue math and science and technology fields, so that we can better compete in the global economy. Are these programs to respond to the need for skilled students and workers, are they working? Are they heading in the right direction? What are your thoughts about that?

Mr.JOHNSON. Well, I mean, they are important investments, and I think we need to do more, particularly in the science and technology fields, to encourage native-born students to pursue those types of degrees. We continue I think to be lacking in enrollment and graduation rates for the native-born in those areas.

We have seen some improvements. You know, I hope those improvements will continue. You know, there is no question that, you know, part of the formula—and this is what I take issue with Mr. Rector, is that you need a well-rounded labor force. You need a labor force that is made up of people who have less education and

skills and a labor force that is made up of people who have very high levels of education.

I think we have got to make sure that we are creating a labor force that is that dynamic and flexible, and the education trends that we are talking about are important. We need to do more in terms of those investments.

Mr.CHABOT. Thank you.

Mr. Krikorian, if I could turn to you next, you have written about the false premise that since the Federal Government can't quickly deport the 10 to 12 million illegal immigrants, the only alternative is legalization or amnesty. You have said that the only approach that can actually work is shrinking the illegal population. Could you explain how this could work, how we could go about following that recommendation?

Mr.KRIKORIAN. Sure. Thank you, Congressman. The way you put it is correct, that we are presented with a false choice—deport everybody tomorrow—Mr. Sestak had said, you know, what if everybody disappeared tomorrow? That couldn't happen anyway, even if we wanted it to, because we don't have the resources, and it would be shocking to the economy and the society. But the only alternative is not legalization.

It is what you could call attrition through enforcement, where we enforce the law, and rather than—which we have never really even attempted to do before—enforcing the immigration law inside the country. So that instead of allowing the illegal population to grow every year, we start shrinking it every year.

And this is realistic, because there is already a lot of churn in the illegal population, people coming and going, what have you, so the thing to do would be to make sure fewer new illegals arrive, more of those who are already here leave. And almost half of illegals have been here less than five years anyway. These are not all people with roots here.

Essentially, what we have done—what we can do is back out of this problem that we have created over a period of years. Once we have shrunk the illegal population, once there is a political commitment to enforce the law and people actually believe that it is being enforced, and with good reason they don't believe it now, then maybe we can address the question of legalizing some of those who are still here.

I am not sure I would be for it or not at that point, but it is a legitimate topic for discussion, but only then. It is not even a legitimate topic for discussion as far as I see it, until we have, through attrition, reduced the size of the problem and created a mechanism that can in fact enforce the new rules.

Mr.CHABOT. Thank you.

In the interest of time, Madam Chair, I will yield back the balance of my time now. Thank you.

ChairwomanVELÁZQUEZ. Thank you.

Ms. Torrey, because the fruits and vegetable industry is so labor intensive, it is important that employees in this sector have access to the proper visas and documents to work in the U.S. What type of documentation is necessary for your industry to have, in order to ensure that you have the workers you need to do the job? And

my other question is: how many graduates with bachelor's degrees or master's degrees come to your business seeking jobs?

Ms.TORREY. I do have some that are looking for mid-management jobs.

ChairwomanVELÁZQUEZ. No, no, no. But I am saying, you know, to go there and pick the—

Ms.TORREY. And pick vegetables?

ChairwomanVELÁZQUEZ. Yes.

Ms.TORREY. None.

ChairwomanVELÁZQUEZ. None.

Ms.TORREY. None. None at all. And no matter if I offered $100,000 starting would they show up. It is not only fruits and vegetables, Chairman, it is also the dairy industry. And they are at more—even more of a greater risk than the fruit and vegetable, because we do have a dysfunctional H-2A program that less than 2 percent of us do use. But the dairy industry does not even have that available to them.

ChairwomanVELÁZQUEZ. If you don't have access to the workforce that you need, what does that mean to the average American when they go to the grocery store?

Ms.TORREY. We are going to see food inflation like we have never seen before. It is going to be imported.

ChairwomanVELÁZQUEZ. Mr. Folz—

Ms.TORREY. But worse yet, it is going to be our communities—our rural communities are going to be boarded up and dying, because we are what keeps—agriculture is what keeps a lot of communities alive across this country, and the businesses that feed off of them.

ChairwomanVELÁZQUEZ. Thank you.

Mr. Folz, the U.S. Labor Department has estimated that nearly one million new jobs in math and computer science will be created between the years 2004 and 2014. As I understand it, foreign nationals received the majority of the total number of advanced degrees awarded by U.S. universities in science, technology, engineering, and math fields.

Without reform of the current H-1B system, wouldn't you expect recruiting and retaining skilled employees to become increasingly difficult for small technology companies?

Mr.FOLZ. I would say that we have that problem today. So I have even seen this—this trend has been happening the last few years. This isn't something that is happening now and is 10 years forward. So the last few years it has become increasingly more difficult to find people.

We probably have 20 open positions today that we would fill them tomorrow if we had the right candidates. We now pay on the order of $30,000 to recruiting firms to find us one engineer. So it is becoming dramatically expensive, and we are just taking the same engineers from each other rather than focusing on more engineers.

So I think it is both a long-term and a short-term problem. The long term, I am fully supportive of everything we do to get more children interested in the math and sciences and get more people involved in this field. In the short term, the caps on the visas are hurting us today and now in our ability to service our customers.

ChairwomanVELÁZQUEZ. Yes, Mr. Johnson.

Mr.JOHNSON. I just wanted to say that it relates to the question that Congressman Chabot had as well, which is that, you know, particularly at the high skilled end, this isn't always just about shortages. I mean, it is a serious question, but it is also about specialty skills.

So even as we improve the graduation rates in science and technology, I think it is important that we stay open to the fact that, you know, we don't have a monopoly on good ideas here in the United States. Sometimes the newest technology that is being developed, sometimes the new ideas for how to find oil or how to find new resources, or whatever they may be, are being developed abroad, and we want to stay open to the idea that bringing those talents here to the United States will create more job opportunities for the industries that we are trying to build. So specialty occupation is as important as the concept of shortage as well.

Mr.FOLZ. Madam Chairwoman?

ChairwomanVELÁZQUEZ. Yes, Mr. Folz.

Mr.FOLZ. Since 1990, technology firms have been funded with venture capital. Twenty-five percent of them have had founders that were foreign nations—25 percent. These are innovators. We want them to come here. And these include names such as eBay and Yahoo, incredible companies that started small and were very successful.

So when we have a cap, you know, are we excluding the next Bill Gates from entering our country?

ChairwomanVELÁZQUEZ. Thank you.

Mr. Silvertooth, employers have expressed concern that the error rate for the basic pilot program is too high at 8 percent. Add that to the fact that the basic pilot only services 16,000 employers, and not the 5.6 million employers that actually need it, what costs in time and money will manually checking each employee's status impose on your company?

Mr.SILVERTOOTH. The initial cost is in terms of productivity, because, as you are focusing on administrative tasks, you are not focusing on serving your customer's needs. This is particularly important for small businesses. A lot of us have lean administrative staffs. A lot of the accounting departments for small businesses are the kitchen table. Sometimes the storage is the garage.

We are not talking about companies with economies of scale such as General Motors or Microsoft that have entire departments of thousands of employees that deal with this type of situation.

Regarding the basic pilot program, you are right, we have seen error rates that are pretty high so far. It causes problems for the employees, as well as the employers as well, because you have employees that are in a state of limbo. If we were to expand this into the entire employer community, there is estimated to be—depending on whose estimates you go with, anywhere from about 5.6 to 7 million employers in the country, it depends on how you measure a lot of the independent contractors—you are looking at a scenario that would overwhelm the resources of this government.

And that, in turn, is going to be put back on business, because, once again, you are in a state of limbo. Do you hire somebody in

the interim? Do you make an offer of employment when you are not certain as to what their concerns are going to be?

Congressman Westmoreland noted that the early weeks are frequently the most expensive weeks in terms of bringing a new employee on board. So there are costs associated with that.

In terms of the construction industry, we have a unique situation, because most of our work is performed outside of an office. They are at multiple work sites. Having employers come off of the job work site and go to another location is, frankly, not a recipe for running a successful business. It cuts into your productivity, and we are already seeing a diminished productivity because of just absolutely worker shortages.

But it would vary by industry. It would vary by type of, you know, business and number of employees.

ChairwomanVELÁZQUEZ. Does the Department of Homeland Security currently have the capacity or the budget to handle—

Mr.SILVERTOOTH. The Department of Homeland Security has a large budget, I will give them that. Their capacity, it remains to be proven. In discussions with them, they are under the belief that they could register 10 percent of the American economy tomorrow if they had the authority to do it, or if—and they do have the authority to do it, but businesses, because of the raids that I spoke about earlier, are reluctant to deepen their relationship with the Department of Homeland Security, so you don't see businesses jumping en masse to jump into the basic pilot program. But the answer right now is: we don't know.

ChairwomanVELÁZQUEZ. Any other comments? Yes, Mr. Johnson.

Mr.JOHNSON. On that one, I do think that is one of the things we have to consider. I mean, we are pouring ever more money into, you know, enforcement that is focused on the border, and sort of boots and guns at the border. And I don't think we are thinking about both the security implications and the important administrative role that adjudicators in the agency play here. I mean, they are overworked and underpaid, and that agency, as a result, operates sometimes in geological time when, you know, the employment industry operates in real time.

So if we want real answers through the employment verification system, we need an agency that has enough resources and enough manpower to be able to process those applications efficiently and effectively, so that the data goes into the database in a timely fashion.

ChairwomanVELÁZQUEZ. Well, let me—Mr. Chabot, no more questions?

Mr.CHABOT. No more questions.

ChairwomanVELÁZQUEZ. Okay. Let me take this opportunity again to thank all of you. This has been quite an incredible discussion. It is, I know, sometimes an emotional issue. In my capacity, I will say that this is not only an issue to fix a broken system that is not working, but it is also an economic security issue for this nation, as well as a national security issue.

And I just want to make sure that you understand that we are going to do everything possible to make possible for small businesses to know that your concerns will be represented at the table, and that we are going to inject ourselves into the immigration de-

bate and make sure that when we have a final product that it takes into consideration the impact that it is going to have on small businesses.

Thank you very much, and I will ask unanimous consent for members to have five legislative days to enter statements into the record.

And this Committee is adjourned. Thank you.

[Whereupon, at 1:52 p.m., the Committee was adjourned.]

STATEMENT
of the
Honorable Nydia M. Velázquez, Chairwoman
House Committee on Small Business
Hearing on Immigration Policies Impacting the Small Business Workforce
May 10, 2007

Our economy faces many obstacles in fostering small business growth, but one of the forgotten challenges has been the economic affects of our broken immigration system. Whether it is a visa system that doesn't meet industry needs, or a verification system that is unworkable, the failures of our current immigration policies are weighing down our nation's 26 million small businesses.

As we will hear today, immigration plays an enormous role in providing that necessary workforce. U.S. small business owners are responsible for employing many of the million immigrants to fill their workforce needs. And yes, some of these 37 million workers are undocumented – many of them unbeknownst to their employers.

These documented and undocumented workers can be found in nearly every sector of the economy. It is clear their services are needed but with the current system, it is hindering entrepreneurs' ability to grow and is creating enormous paperwork burdens.

As job creation increases at a pace faster than our workforce, small businesses will require even more immigrants to continue to innovate and develop their companies. In the coming decades, worker shortages are expected to grow across the economy and impact sectors that are vital to the health of our society.

The businesses that produce and harvest our food already rely heavily on millions of immigrants. There is a critical sector that is here only temporarily to fill seasonal needs during harvest time and others that are part of a permanent workforce.

In the high-tech industry, H1-B visas provide a pipeline for needed highly-skilled workers. However, demand for these visas routinely outstrip the limited supply. For proof of this shortage, one only has to consider that the application cap for H1-B visas was reached this year in only the first few hours of the process.

The current visa system is clearly not accommodating the needs of small businesses. Visa programs are not only failing to direct enough workers to the right industries, they have also become so bureaucratic that small firms cannot compete with larger businesses for those employees. Large firms are better equipped to navigate the complicated systems that ask companies to predict their staffing needs months in advance and to pay high compliance costs and fees.

For some industries, it is clear that a temporary workforce is an inadequate solution to their labor shortage. Those sectors, such as the construction and health sectors, that need additional permanent workers to be successful must also be part of the discussion. Small construction companies rely heavily on immigrant labor to meet the demand for their services, but the industry still faces an inadequate labor supply.

Although entrepreneurs share national concerns about the weaknesses of our immigration system, they cannot be its primary policing mechanism. Small businesses don't have the resources, the technology, or frankly, the responsibility to be that first line of defense.

Instead, we need a sensible employment verification system. It must not place an undue regulatory or financial burden on them. Nor can it create so much uncertainty that small firms will chose not to participate and therefore not expand. Unfortunately, under this broken system, many small companies know they are up against competitors who are breaking the rules.

As the broader immigration debate continues, small businesses must have a seat at the table because they face unique workforce challenges and make enormous contributions to the economy. Small companies need reforms to take into account the rate at which they are growing and will address their needs for short- and long-term employees.

Entrepreneurs are ready to work with a fair and accessible system. I look forward to hearing from the witnesses before us today about what we can do as the debate over comprehensive immigration reform moves forward. We must ensure that willing workers are matched with the employers who need them to expand their businesses, develop their communities, and create even more jobs.

Opening Statement	
Hearing Name	Immigration Policies and their Impact on Small Businesses
Committee	Full Committee
Date	5/10/2007

Opening Statement of Ranking Member Chabot

Thank you, Madame Chair, and thank you for holding this important hearing on "Immigration Policies and their Impact on Small Business."

And thanks to our witnesses who have joined us today. I am eager to hear their thoughts and like my colleagues, very much appreciate their taking the time from their schedules to be here this morning.

America has an honored tradition of being a "melting pot" – welcoming immigrants from around the world who have come to America in search of a better life. Immigrants, through their hard work and ingenuity, have made important contributions to our nation. However, there is a significant difference between legal and illegal immigration which is too often overlooked: illegal immigration is, by definition, against the law. Illegal immigration is an issue to be taken very seriously. It affects citizenship, our economy, and our national security.

I strongly believe that those who come to the United States legally should have every opportunity to work, support their families, and contribute to our nation as any American citizen would. However, those who enter illegally and bypass those who have played by the rules and waited their turn should not be afforded the same opportunities as those who follow the law.

It is also important to ensure that those immigrants who arrive here legally – on a temporary basis – return to their home countries when their visas expire.

America remains the land of opportunity. Just as immigrants through the last three centuries were willing to give up the lives they knew for promises of a better life here, there remain many who dream of being able to call America home. Those who choose to take the legal avenues to come here should, of course, be welcomed here to live and work. Those who choose to do so illegally should forfeit that opportunity.

Welcome again to our witnesses. I look forward to hearing their testimony this morning about our immigration policies and their impact on small business, and I yield back the balance of my time.

Statement of Rep. Jason Altmire
Committee on Small Business
"Immigration Policies and their Impact on Small Business"
May 10, 2007

Thank you, Madam Chairwoman, I welcome the opportunity today to discuss immigration policy and how current policy affects small businesses. There is no question that the situation in the U.S. has reached crisis level. There are over 12 million illegal immigrants in the country, most of them working the jobs that, we are told, Americans do not want. There are many sides to this issue, but I believe that any good faith reform effort must begin with a vigorous enforcement initiative.

I am eager to hear from all of our witnesses and hear their thoughts on the immigration problem. Again, thank you, Chairwoman Velazquez, for holding this hearing today. I yield back the balance of my time.

# # #

Remarks of Congressman Luis V. Gutierrez
Before the Committee on Small Business
Hearing on "Immigration Policies and their Impact on Small Business"
May 10, 2007

Chairwoman Velázquez and Members of the Committee, thank you for the invitation to testify today.

This hearing is quite timely, given the current debate on comprehensive immigration reform and the potential impact it is sure to have on small businesses.

As you know, I introduced, with Congressman Jeff Flake, the only bipartisan comprehensive immigration reform bill in the House of Representatives in the 110th Congress. The Security Through Regularized Immigration and a Vibrant Economy Act of 2007, or the STRIVE Act (H.R. 1645), provides a number of reforms to our nation's immigration system that would greatly benefit businesses and our economy.

STRIVE is a comprehensive bill. It proposes enhancing our border enforcement personnel, resources and technology; strengthening our interior enforcement efforts; a robust employment verification system; a tough and fair earned adjustment program for the estimated 12 million undocumented individuals; a New Worker Program to provide for the future flow of workers to fill jobs that require little training or skill and for which Americans cannot be found; and, extensive reforms of the employment-based and family-based immigration systems.

In particular, I believe the earned legalization, New Worker programs and visa reforms will provide significant relief to small businesses, who often struggle under the current broken bureaucracy. Together, these provisions will ensure a legal workforce well into the future and provide significant stability and longevity to small businesses.

However, in the short time I have with you today, I would like to focus my remarks on how the nation's family immigration system could impact the creation and stability of small businesses in the U.S. This connection between family immigration and entrepreneurship is not often made in the broader immigration debate, as we tend to think of a workable family immigration system as essential to family unity and the moral health of the nation. But, such a system is essential to the vitality of our nation's economy, as well.

As the Members of this Committee know, families are often the ones who start new businesses. From local hardware stores to restaurants, landscaping businesses to "Mom and Pops," family-owned businesses are the backbone of our economy.

According to the U.S. Census Bureau, immigrant entrepreneurs are the fastest-growing segment of small business owners today. Data from the Kauffman Foundation also

shows that immigrants form small businesses at a much higher rate than non-immigrant Americans.

Given the preponderance of both families and immigrants in the community of small business owners, it stands to say that our nation's family-based immigration system could have a significant impact on the state of American small businesses, future job creation and the U.S. economy.

Promoting family unity has been a major feature of our immigration policy for decades. This not only promotes strong family values and community stability for our nation, but also provides an influx of entrepreneurs who start small and family businesses that generate tax receipts, property ownership and new jobs essential to keeping our cities and neighborhoods strong.

However, as many of us know from our constituent casework, the current backlogs in family visas are causing lengthy waiting times for families to immigrate legally to the United States. The wait time for unmarried sons and daughters of U.S. citizens, for example, is 6 years from most countries and 14 years from Mexico and the Philippines. These unacceptable wait times have not only kept families separated, it has actually contributed to illegal immigration. And, it stifles the creation and expansion of family-owned businesses.

The STRIVE Act addresses these problems in our family-based immigration system by significantly increasing the availability of family visas to reduce the current backlog of visas within six years. It also adjusts the current per-country quotas, to address the long waiting periods experienced by immigrants from certain countries.

In the context of the immigration debate, President Bush has repeatedly said, "Family values do not stop at the Rio Grande." I could not agree with him more. However, I am concerned that his moderate and compassionate views on immigration are taking a disturbing turn as the Administration engages the U.S. Senate on immigration reform.

In its draft proposal, the Administration would eliminate most of the family-based immigration categories in favor of an overhaul of employment-based immigration by instituting a point or merit system.

The argument to justify abandoning our nation's historic commitment to preserving family values in our immigration system is that, somehow, allowing immigrants to join their U.S. citizen brothers and sisters, parents or adult children is not in the national interest.

Even if moral arguments to preserve a robust family immigration system do not compel us in the immigration reform debate, the economic facts should. It might sound attractive to recruit only the most highly skilled and educated to the United States, but, I assure you, this would not be in the national interest.

Let me explain why. Earlier this week, the Immigration Subcommittee of the Committee on the Judiciary held a hearing on family immigration. What we learned from the expert witnesses is that, although the initial earnings of family-based immigrants are below those of employment-based immigrants, the earning differences dissipate over time.

Family-based immigrants also benefit the U.S. economy by starting businesses that would not otherwise be developed. And given that immigrants do not come in with a focused set of skills for a particular job, they are more likely to be flexible, in terms of acquiring more education or job skills, to meet real time gaps in the economy, and willing to take a chance to start up new businesses.

It is this kind of risk-taking that is characteristic of a successful entrepreneur and generates new jobs and other benefits for the economy. In other words, it is precisely because family-based immigrants lack specific skills that they are able to adapt more readily to the opportunities presented by a dynamic economy.

I see no legitimate economic or "national interest" rationale for eliminating family immigration categories. Denying U.S. citizens the ability to sponsor adult children or siblings is both unnecessary and politically divisive. Having a robust family and employment immigration system are not mutually exclusive goals. In fact, the reforms and increases in family- and employment-based visas in the STRIVE Act allow for both. These are essential elements of comprehensive immigration reform, as they reduce illegal immigration and strengthen our economy.

Thank you, Madam Chair, and I look forward to answering the questions Members of the Committee may have.

Written Testimony of

Benjamin Johnson
Director, Immigration Policy Center
American Immigration Law Foundation

Before the Committee on Small Business
United States House of Representatives
May 10, 2007

Mr. Chairman and members of the committee, thank you for the opportunity to appear before you today and provide testimony on behalf of the Immigration Policy Center (IPC). The IPC is an independent, non-partisan research center dedicated exclusively to research and analysis of immigration and immigration policy in the United States. The IPC is a division of the American Immigration Law Foundation, a non-profit educational foundation which for 20 years has been dedicated to increasing public understanding of immigration law and policy and the role of immigration in American society.

Today's hearing on U.S. immigration policies and their impact on small businesses in the United States comes at a critical time. Efforts once again are underway in the House and the Senate to reform an immigration system that is acknowledged by nearly all observers to be broken. Although much of the public debate over immigration reform has focused on the rapid growth of the undocumented population over the past decade and a half, undocumented immigration is just one symptom of the larger disconnect between U.S. immigration policy and U.S. economic reality. Our economy has become increasingly reliant on workers from abroad to fill the growing number of jobs at both ends of the educational spectrum. However, current immigration policies fail to offer sufficient legal avenues for immigrants to enter the country to fill either less-skilled or high-skilled jobs on either a temporary or permanent basis. In short, there is an unsustainable contradiction between U.S. economic policy and U.S. immigration policy, and economics is winning. The problem Congress must confront is a broken immigration system that sends the dual messages "Keep Out" and "Help Wanted" to the foreign workers who play an increasingly valuable role in our economy and society.

Immigration is Essential to Growth of the U.S. Labor Force

Although the heated political debate over undocumented immigration has focused attention on the role that immigrants play in filling jobs that require little formal education, immigrants are a vital part of the labor force at both ends of the educational spectrum. According to data from the Current Population Survey, about 15 percent of the labor force age 16 and older was foreign-born in 2005, amounting to 22 million workers. However, foreign-born workers accounted for a higher percentage of the labor force in specific occupations. For instance, the foreign-born accounted for roughly 39 percent of workers in farming, fishing, and forestry; 33 percent in building and grounds cleaning and maintenance; 26 percent in construction and

extraction; and 21 percent in computer and mathematical occupations.[1] Moreover, the National Science Board estimates that in 2003 the foreign-born comprised 35.6 percent of all scientists and engineers in the United States with a doctorate and 29.0 percent of those with a master's degree. The foreign-born share of advanced-degree holders was even greater in particular occupations. For instance, the foreign-born accounted for 57.4 percent of doctorate holders in computer science, 57.0 percent in electrical engineering, 54.2 percent in civil engineering, and 52.2 percent in mechanical engineering.[2]

The importance of immigration to the growth of the U.S. labor force stems in part from the fact that the native-born workforce is growing steadily older and will soon begin to shrink. According to the Bureau of Labor Statistics, the labor force age 55 and over will grow by an average of 4.1 percent per year from 2004 to 2014, compared to a growth rate of 0.3 percent per year among workers age 25 to 54.[3] At the same time, the number of jobs will likely increase by 6.0 million (21.2 percent) in professional and related occupations and 5.3 million (19.0 percent) in service occupations.[4]

These trends are particularly important for the future of the U.S. workforce when the educational differences between immigrants and natives are factored into the equation. Immigrants are heavily concentrated among workers with the lowest and highest levels of education (those without a high-school diploma or with a Ph.D.), while natives are found mostly among workers with intermediate levels of education. For instance, according to the 2005 American Community Survey, immigrants accounted for 36 percent of all workers age 15 and older with less than a high-school diploma and 26 percent of workers with a Ph.D. Among workers with a Ph.D. in the sciences, 41 percent were foreign-born {Figure 1}.[5] The fact that immigrants are concentrated at the extreme ends of the skill spectrum is evidence that they are arriving to fill gaps in the native-born workforce. The complementary nature of immigration allows us to create a more dynamic and flexible workforce, and our growing economy will continue to depend upon the diverse set of skills provided by both foreign and native-born workers. The challenge confronting policymakers is to ensure that these jobs offer decent wages and benefits to both the native-born and foreign-born workers who fill them.

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[1] Bureau of Labor Statistics, U.S. Department of Labor, News Release: "Foreign-Born Workers: Labor Force Characteristics in 2005," April 14, 2006, Table 4: "Employed foreign-born and native-born persons 16 years and over by occupation and sex, 2005 annual averages."

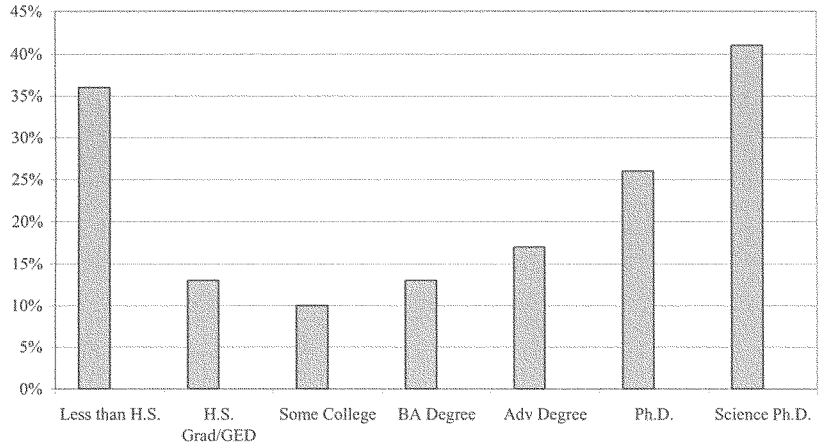
[2] National Science Board, *Science and Engineering Indicators 2006*. Arlington, VA: National Science Foundation, 2004, Tables 3-19 & 3-20.

[3] Mitra Toossi, "Labor force projections to 2014: retiring boomers," *Monthly Labor Review* 128(11), November 2005: 25.

[4] Daniel E. Hecker, "Occupational employment projections to 2014," *Monthly Labor Review* 128(11), November 2005: 71.

[5] *Economic Report of the President*, Washington, DC: U.S. Government Printing Office, February 2007, Chart 9-2, p. 200.

Figure 1:
Foreign-Born Share of U.S. Workers by Education, 2005



Immigrant Purchasing Power and Entrepreneurship Create U.S. Jobs

In assessing the impact of immigration on small businesses it is important to remember that immigrants do more than fill gaps in the domestic workforce. Immigrants are also valuable consumers of the goods and services that many small businesses provide to the communities they serve. Perhaps even more important, many immigrants become small business owners themselves and help to create job opportunities and new innovations in our economy.

Immigrant workers, like native-born workers, use their wages to purchase consumer goods and to rent or buy housing. By increasing demand, this spending stimulates the creation of new businesses and jobs. In addition, immigrants themselves create businesses and thereby increase employment.[6] Most of the available statistics on national consumer purchasing power and business formation are broken down by race and ethnicity rather than nativity. However, given that roughly 40 percent of the 41.9 million Latinos and 67 percent of the 12.5 million Asians in the United States were foreign-born as of 2005,[7] these statistics are a good indicator of the economic power of foreign-born consumers and entrepreneurs.

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[6] Immigration Policy Center, *Economic Growth and Immigration: Bridging the Demographic Divide*. Washington, DC: Immigration Policy Center, American Immigration Law Foundation, November 2005, p. 7-8.
[7] 2005 American Community Survey, Table B06004D: Place of Birth by Race (Asian Alone) in the United States and Table B06004I: Place of Birth by Race (Hispanic or Latino) in the United States.

According to the Selig Center for Economic Growth at the University of Georgia, Latino buying power totaled $798 billion in 2006 and is expected to increase to $1.2 trillion by 2011.[8] Asian buying power totaled $427 billion in 2006 and is expected to increase to $622 billion by 2011.[9] Immigrant purchasing power is particularly important to the housing market. Harvard University's Joint Center for Housing Studies estimates that in 2001 there were more than 5.7 million foreign-born homeowners in the United States, representing $1.2 trillion in home value and $876 billion in home equity.[10] In addition, "household growth, the primary driver of housing demand, may well exceed 12 million between 2000 and 2010" and immigrants will "contribute more than one-quarter of this net increase."[11]

In terms of immigrant business formation, the U.S. Census Bureau estimates that, in 2002, 1.6 million Hispanic-owned firms provided jobs to 1.5 million employees, had receipts of $222 billion, and generated payroll of $36.7 billion.[12] The same year, 1.1 million Asian-owned firms provided jobs to 2.2 million employees, had receipts of $326.4 billion, and generated payroll of $56 billion.[13] Moreover, a 2005 report from the Ewing Marion Kauffman Foundation found that "immigrants have substantially higher rates of entrepreneurship than U.S.-born individuals." During the 1996-2004 period, 0.46 percent of immigrants created a new business, compared to 0.35 percent of natives.[14]

Immigration Provides a Net Fiscal Benefit to the U.S. Economy

Beyond the role of immigration in sustaining the U.S. labor force, immigrants also make a net fiscal contribution to the federal treasury. As the 2005 *Economic Report of the President* emphasizes, "a comprehensive accounting of the benefits and costs of immigration shows that the benefits of immigration exceed the costs."[15] The President's report bases this conclusion in large part on a 1997 study by the National Research Council (NRC) that is still the most authoritative analysis to date of the economic impact of immigration. The NRC study estimates that the average immigrant paid nearly $1,800 more in taxes than he or she "costs" in public benefits such as education and healthcare.[16] Yet, as the NRC study notes, this figure fails to consider the contributions of an immigrant's U.S.-born children and grandchildren. When both the public costs and tax contributions of an immigrant's descendants are taken into account, the

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[8] Jeffrey M. Humphreys, "The multicultural economy 2006," *Georgia Business and Economic Conditions* 66(3), Third Quarter 2006: 6.
[9] *ibid.*, p. 4.
[10] Rachel Bogardus Drew, *New Americans, New Homeowners: The Role and Relevance of Foreign-Born First-Time Homebuyers in the U.S. Housing Market*. Cambridge, MA: Joint Center for Housing Studies, Harvard University, August 2002, p. 2.
[11] Joint Center for Housing Studies, *The State of the Nation's Housing: 2003*. Cambridge, MA: Harvard University, 2003, p. 3.
[12] U.S. Census Bureau, *Hispanic-Owned Firms: 2002* (SB02-00CS-HISP), March 2006, Table 8: Statistics for Hispanic-Owned Firms by Kind of Business and Receipts Size of Firm: 2002.
[13] U.S. Census Bureau, *Asian-Owned Firms: 2002* (SB02-00CS-ASIAN), May 2006, Table 8: Statistics for Asian-Owned Firms by Kind of Business and Receipts Size of Firm: 2002.
[14] Robert W. Fairlie, *Kauffman Index of Entrepreneurial Activity*. Kansas City, MO: Ewing Marion Kauffman Foundation, 2005, p. 1.
[15] *Economic Report of the President*, Washington, DC: U.S. Government Printing Office, February 2005, p. 93.
[16] James P. Smith & Barry Edmonston, eds., *The New Americans: Economic, Demographic, and Fiscal Effects of Immigration*. Washington, DC: National Research Council, National Academy of Sciences Press, 1997, p. 349.

net fiscal contribution of the average immigrant was $80,000.[17] The NRC study also estimates that the economic benefits of immigration ran as high as $10 billion per year.[18]

The tax contributions of immigrants are particularly important given that the native-born population is growing older. Because immigrants in general tend to be younger than natives and to have higher birth rates, their presence in the labor force plays an important role in the financing of Social Security and Medicare. Moreover, these contributions are not limited to legal immigrants. More than half of undocumented immigrants work "on the books," so they pay into federal and state entitlement programs but are not eligible to receive any benefits.[19] Undocumented immigrants are believed to account for a major portion of the funds tracked in the Social Security Administration's Earnings Suspense File (ESF), which represents social security taxes paid by workers who have invalid or mismatched social security numbers and who therefore cannot receive social security benefits.[20] In 2002, the ESF totaled $463 billion.[21]

Immigration Raises Wages for Most Native-Born Workers

Because immigration increases the labor supply, the view that immigrants have a negative impact on the wages of native-born workers, particularly those in less-skilled occupations, has gained prominence over the past decade. This perspective has been shaped in large part by the work of Harvard economist George Borjas, who argued in an influential article in 2003 that the real wages of native-born workers fell during the 1980-2000 period as a result of immigration.[22] However, other economists have critiqued Borjas' methodology and reached different conclusions. For instance, according to Giovanni Peri and Gianmarco I.P. Ottaviano, Borjas' conclusions are based on two faulty assumptions: "(1) that foreign-born and native-born workers with the same level of education and labor-market experience are interchangeable with each other; and (2) that immigration represents an increase in the labor supply for a given amount of physical capital (machinery, buildings, etc.) that does not change over time."[23] In reality, foreign-born workers have skills, occupations, and abilities that complement those of native workers, thereby increasing the productivity of natives and stimulating investment. When these factors are taken into account, Peri and Ottaviano find that immigration increases the average wages of native-born workers, except for the shrinking number who do not have a high-school diploma. During the 1990-2004 period, immigration raised the average yearly wages of native-born workers by 1.8 percent. Among native-born workers with a high-school diploma or more education, wages increased between 0.7 percent and 3.4 percent, depending on education level. Among native-born workers without a high-school diploma (who comprised only 11.7

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[17] *ibid.*, p. 351.
[18] *ibid*, p. 220.
[19] *Economic Report of the President*, 2005, p. 107-108.
[20] Office of the Inspector General, Social Security Administration, *Obstacles to Reducing Social Security Number Misuse in the Agriculture Industry* (Report No. A-08-99-41004), January 22, 2001, p. 12.
[21] *Economic Report of the President*, 2005, p. 107-108.
[22] George J. Borjas, "The Labor Demand Curve is Downward Sloping: Reexamining the Impact of Immigration on the Labor Market," *Quarterly Journal of Economics* 118(4), November 2003.
[23] Giovanni Peri, *Rethinking the Effects of Immigration on Wages: New Data and Analysis from 1990-2004.* Washington, DC: Immigration Policy Center, American Immigration Law Foundation, October 2006, p. 2. Based on Gianmarco I.P. Ottaviano & Giovanni Peri, *Rethinking the Effects of Immigration on Wages* (Working Paper No. 12497). Cambridge, MA: National Bureau of Economic Research, August 2006.

percent of the native-born population age 25 and older in 2005[24]), wages declined by 1.1 percent.[25]

We Need More Than Just a "Temporary" Fix

Despite the importance of immigration to the U.S. economy, and the inadequacy of virtually all channels for legal immigration to the United States, most policymakers have come to equate "immigration reform" only with controlling undocumented immigration. Even within the confines of this limited discussion, the debate is focused on whether the most effective response to undocumented immigration is enhanced immigration enforcement alone, or enhanced enforcement in conjunction with a new "guest worker" program that is more responsive than current immigration policies to the labor needs of the U.S. economy. All but lost in the debate over border fences and guest workers is the need to revamp pathways for permanent immigration as well. Yet overhauling channels for permanent immigration is essential not only to controlling undocumented immigration, but also to crafting immigration policies that best serve the long-term economic and social interests of the United States. Immigration reform will not be truly comprehensive, or effective, unless it recognizes the vital contributions of temporary workers and permanent immigrants alike, and the inadequacy of the current immigration system in providing legal channels for either to enter the country.[26]

Of course, it is understandable that the immigration debate has focused so heavily on undocumented immigration. The large population of undocumented immigrants in the United States is by far the most visible symptom of the current immigration system's endemic dysfunction. Recognizing that undocumented immigration on this scale is socially and politically unsustainable, but that the U.S. economy demands more immigrant workers than current legal limits allow, a growing number of lawmakers accept the need for some sort of immigration reform. Advocates of reform generally agree that existing legal channels through which temporary workers enter the United States are hobbled by arbitrary restrictions that are unresponsive to actual labor demand. This is true especially for workers in less-skilled jobs, who make up the bulk of the undocumented population.

Employers and immigrants alike, therefore, could benefit from a new temporary-worker program, provided that it included strong wage and labor protections to prevent abuses such as those which occurred under the *bracero* program of 1942-1964. A legal flow of temporary workers undoubtedly would meet at least some of the labor needs of U.S. employers, particularly in industries which produce jobs that are seasonal in nature or require relatively few formal skills, such as agriculture or hotels and restaurants in resort towns.

However, an inflexible "temporary only" approach to immigration reform suffers from serious shortcomings. Only a small portion of the U.S. economy's labor needs are truly

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[24] Current Population Survey, Educational Attainment in the United States: 2005, Detailed Tables, Table 10: Educational Attainment of the Population 25 Years and Over, by Citizenship, Nativity and Period of Entry, Age, Sex, Race, and Hispanic Origin: 2005.
[25] Giovanni Peri, *Rethinking the Effects of Immigration on Wages*, 2006, p. 6-7.
[26] Walter A. Ewing, *More Than a Temporary Fix: The Role of Permanent Immigration in Comprehensive Reform*. Washington, DC: Immigration Policy Center, American Immigration Law Foundation, January 2006, p. 2.

temporary. The vast majority of jobs being created in our economy are year-round, permanent jobs that cannot be met by the transient workforce that a temporary program would supply. A temporary program that does not allow particularly valuable or productive workers who are filling permanent jobs to apply for a permanent status would represent a needless waste of talent. Forcing employers to spend even more time and resources on retaining their current workforce distracts them from the far more valuable and productive work of trying to expand their businesses and create more job opportunities.

Perhaps most importantly, the labor of temporary workers from abroad cannot substitute for the economic vitality and social stability that the United States historically has derived from permanent immigration. Both temporary workers and permanent immigrants fill critical gaps in the U.S. labor force, but permanent immigrants are far more likely to acquire new job skills, achieve upward mobility, learn English, buy homes, create businesses, revitalize urban areas, and integrate into their communities.

Moving Beyond Undocumented Immigration and Temporary Workers

Unfortunately, while most policymakers who favor immigration reform recognize the need for a new temporary worker program, relatively little attention is being paid to the fact that avenues for permanent immigration must be expanded as well if reform is to be effective. The persistence of undocumented immigration reflects limitations in the existing avenues by which both permanent immigrants and temporary workers can legally enter the country, and serious flaws in family-based as well as employment-based immigration channels. In the case of temporary employment-based immigration, the number of H-1B visas for highly skilled professionals is arbitrarily capped at 65,000 per year and the number of H-2B visas for less-skilled non-agricultural workers at 66,000 per year. The H-2A visa program for agricultural workers contains no numerical caps, but does not respond quickly to the often rapid fluctuations in agricultural labor demand and is thus seldom used by employers. The available options for employment-based permanent immigration are not any better. Only about 140,000 employment-based green cards are available each year for workers of all skill levels. Of these, a mere 5,000 are allotted for less-skilled workers.[27]

Given that most immigrants come to the United States through family-based rather than employment-based channels, it might seem that the family-based immigration system could compensate for the deficiencies in the employment-based system. However, the family-based immigration system is crippled by arbitrary numerical caps and complex rules that impose enormous delays on family reunification. U.S. citizens may obtain "visa numbers" immediately when petitioning for their spouses and children under the age of 21 to immigrate to the United States. But the allotment of visa numbers for all other relatives of U.S. citizens, and for all the relatives of lawful permanent residents (LPRs), is governed by a "family preference" system characterized by waiting times of many years. In the case of Mexican nationals, wait times as of May 2007 were about 7 years for the spouse of an LPR and 15 years for the unmarried adult child of a U.S. citizen.[28] Delays of this magnitude not only undermine the family-reunification

[27] The cap is set at 10,000, but 5,000 visas are reserved each year for beneficiaries of the Nicaraguan Adjustment and Central American Relief Act of 1997 (NACARA).
[28] U.S. Department of State, "Visa Bulletin for May 2007" (No. 105, Vol. VIII).

goal of the family-based immigration system, but also render that system ineffective in responding to U.S. labor demand. The rise of undocumented migration is a predictable result.

The Contours of a Comprehensive Approach

Although immigration reform is by its very nature complex and controversial, the broad contours of an effective reform program already have been suggested by the 20 years of experience garnered since the last time Congress undertook this task. In the 1980s, lawmakers confronted an immigration quandary very similar to that which we confront today: a growing number of undocumented immigrants crossing the border, settling in the United States, and joining the workforce. Lawmakers of the time eventually agreed upon a remedy, the Immigration Reform and Control Act of 1986 (IRCA), that combined heightened worksite and border enforcement with legalization of most undocumented immigrants then in the country.

As a 2006 IPC study points out, IRCA failed to offer a long-term solution to the problem of undocumented immigration for 3 principal reasons: (1) it did not expand avenues for legal immigration to match the U.S. economy's continuing demand for workers; (2) it did not create an effective system through which employers could verify that their employees are authorized to work in the United States; and (3) the employer sanctions provisions of the bill have been weakly enforced. As a result, undocumented immigration not only continued after the passage of IRCA, but increased. Lawmakers should take care not to make the same mistakes in crafting new immigration-reform legislation. Comprehensive reform must address the status of undocumented immigrants already here, expand legal channels of immigration to accommodate future migratory flows, create a mechanism by which employers can readily ensure that they are not hiring undocumented workers, and crack down on employers who knowingly hire undocumented immigrants.[29]

Conclusion

No amount of immigration enforcement can compensate for the fact that U.S. immigration policies are outdated. Over the past two decades, the economic integration of North America, the western hemisphere, and the world have increased dramatically. The U.S. economy continues to create large numbers of both highly skilled and less-skilled jobs even as native-born workers grow older and are increasingly unavailable to fill such jobs. Yet the federal government persists in trying to impose numerical caps and other restrictions on immigration that were formulated in the 1960s. As a result, immigration-enforcement resources are devoted in large part to stemming labor migration which the U.S. economy attracts and which is an outcome of globalization.

Lawmakers must tackle the issue of immigration reform with less rhetoric and more realism. Continuing the status quo by trying to enforce immigration policies that are at war with the U.S. and global economies will do nothing to address the underlying problem. Nor is it feasible to wall off the United States from the rest of the world. The most practical option is to bring U.S. immigration policy in line with the realities of the U.S. labor market and an increasingly transnational economy. Lawmakers must craft immigration policies that are as

[29] Jimmy Gomez & Walter A. Ewing, *Learning from IRCA: Lessons for Comprehensive Immigration Reform.* Washington, DC: Immigration Policy Center, American Immigration Law Foundation, May 2006, p. 2.

responsive to market forces as their economic policies, while implementing and enforcing tough labor laws to guarantee fair wages and good working conditions for all workers, be they natives or immigrants.

A truly comprehensive approach to immigration reform must include the creation of a process by which undocumented immigrants already living and working in the United States can apply for legal status; the creation of a new temporary-worker program that includes a pathway to permanent residence, stringent labor protections, and the right to change employers; and an overhaul of the avenues by which permanent immigrants enter the United States through both employment-based and family-based channels. By taking these steps, the U.S. government would be able to more effectively control, regulate, and monitor immigration, rather than consigning a large portion of it to a shadowy and insecure black market.

STATEMENT OF THE NATIONAL ROOFING CONTRACTORS ASSOCIATION

ON:	**Immigration Policies and their Impact on Small Business**
TO:	**House Committee on Small Business**
BY:	**R. Craig Silvertooth, Director of Federal Affairs**
DATE:	**May 10, 2007**

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Good morning Chairman Velázquez, Ranking Member Chabot, and distinguished members of the Committee. Thank you for inviting me to testify on immigration policies and their impact on small business. My name is Craig Silvertooth, and I serve as director of federal affairs for the National Roofing Contractors Association (NRCA).

Established in 1886, NRCA is one of the nation's oldest trade associations and the voice of professional roofing contractors worldwide. NRCA is an association of roofing, roof deck, and waterproofing contractors; industry-related associate members, including manufacturers, distributors, architects, consultants, engineers, and city, state, and government agencies; and international members. NRCA has approximately 4,600 members from all 50 states and 54 countries and is affiliated with 105 local, state, regional and international roofing contractor associations.

Madame Chairman, I am also testifying on behalf of the Essential Worker Immigration Coalition (EWIC), of which NRCA is a member and I serve as a co-chair. EWIC is a coalition of businesses, trade associations and other organizations from across the American economy concerned with the shortage of both unskilled and lesser-skilled ("essential workers") labor. NRCA and EWIC commend you for holding this important hearing and are encouraged that the Committee is examining the critical issue of how America's small businesses grapple with the nation's broken immigration system.

For the past decade, comprehensive reform of U.S. immigration laws has been a top priority for NRCA, more broadly the construction industry, and EWIC's members. Our guiding motive has been to reform U.S. immigration policy in a manner that both facilitates a sustainable workforce for the American economy while ensuring our national security and prosperity.

Today, I would like to focus my comments on the following four topics: the demographic challenges America faces today and in the coming decades; our nation's broken immigration system and the Department of Homeland Security's ("DHS") Immigration and Customs Enforcement ("ICE") division's decision to ramp up its enforcement activities in the absence of comprehensive immigration reform; concerns with proposals currently under consideration; and finally, our belief as to how to structure a workable employment eligibility verification system.

I. U.S. Demographics

A debate over border security and how best to reform our dysfunctional immigration system has raged in the halls of Congress, throughout the media and in town hall meetings across America the past three years. It's been toxic on the best of days and sparked passions spanning the emotional spectrum. Missing from the discussion has been a dispassionate, honest appraisal of the demographic trends confronting America in coming decades. Fixing our immigration system is a thorny proposition to be sure. And it's all the more difficult if a key piece of the puzzle remains missing. Until our nation comes to grip with the fact that America faces a ticking demographic time bomb, this puzzle will never be solved.

The native-born workforce is growing older and will soon begin to contract. According to U.N. estimates released in February 2005, the fertility rate in the U.S. is projected to fall below "replacement" level by 2015, declining to 1.9 children per couple. Meanwhile, two incompatible trends are emerging. First, the labor force continues to age. In November 2005, the U.S. Department of Labor's Bureau of Labor Statistics (BLS) projected the labor force in the next 10 years will be affected by the aging of the baby-boom cohort, those born between 1946 and 1964. This age group will be between 50 and 68 years old in 2014 and is expected to show significant growth over the 2004-14 period, as it did from 2002 to 2012. In fact, BLS projects the annual growth rate of the 55-and-older group to be 4.1 percent, or four times the rate of the overall labor force the next decade. This group will cycle out of the labor force at escalating rates. By contrast, the annual growth rate of the 25-to-54-year age group will be 0.3 percent, and that of the young age group consisting of 16-to-24-year-olds will be essentially flat[1]. Second, the U.S. economy keeps generating robust labor demand at the lower rungs of the occupational ladder. But because of changing demographics and worker retirements, there will be 56 million job openings during the decade, or an average 2.6 job opening for each net additional job filled. If all this seems too fantastic to be true, look at Europe's population predicament.

Construction at a Glance

Construction, an industry in which the average firm is a small business, has been hit particularly hard by demographic trends. Construction's put-in-place annual value grew by 144 percent between 1993 and 2006. According to the U.S. Census Bureau, construction value was $491 billion in 1993. In 2006, annual spending was $1.2 trillion[2]. Construction growth easily outpaced overall GDP growth, which grew approximately 87 percent during the same period. Data also demonstrate that construction outpaced other industry sectors in employment growth during that 13-year period. In 1993, construction firms employed 4,779,000 people, according to the Bureau of Labor Statistics. In 2006, total construction employment stood at 11.8 million, according to data released by the Pew Hispanic Center on March 7, 2007[3]. That represents a 147 percent increase in employment during the same 13-year period. This added volume has translated into a heavy reliance on foreign labor, particularly from Latin America. According to the Pew data, Latinos accounted for 38 percent of the 2006 U.S. employment growth. The same study noted that employment in the construction industry grew by 559,000 workers in 2006, and that Hispanic workers, mostly foreign born, were responsible for nearly two-thirds (66.5%) of the increase in industry employment. About 60 percent of that increase, or 335,000, went to foreign-born Hispanics. And most of these foreign-born Hispanic workers are recent arrivals, having arrived in the U.S. since 2000. The number of recent arrivals employed in the construction industry rose by 255,000 in 2006, representing 45.6 percent of the total increase in industry employment last year. In total, the construction industry employed 2.9 million Hispanic workers in 2006.

This was not a one year phenomenon. Pew notes that employment in the construction industry grew by 443,000 in 2005 and that Latino workers accounted for 277,000 of new workers, representing 62.4 percent of the growth in total industry employment. There's little indication

[1] http://www.bls.gov/opub/mlr/2005/11/art3exc.htm
[2] http://www.census.gov/const/C30/total.pdf
[3] http://pewhispanic.org/files/factsheets/28.pdf

this trend is likely to change. First, Pew found that the construction industry absorbed 40.6 percent of the total growth in employment of foreign-born Hispanics between 2005 and 2006. Second, the reigning educational philosophy in America today says that every student should go to college. This mindset exists despite the fact that most of the new jobs being created in the American economy do not require such levels of formal education. With educational dollars steered toward that goal, base industries such as construction, restaurants, agriculture and others represented among the EWIC member groups have suffered endemic labor shortfalls, as students have foregone opportunities in the construction and services industries. Third, the labor market is not perfectly elastic. Excess labor capacity varies by regions, skill sets in one industry aren't necessarily applicable in others, and many industries such as roofing require workers capable of strenuous physical activity. Construction is tough work, frequently performed under even tougher environmental conditions. In the heat of the summer, rooftops in the Southwest can soar upwards of 150 degrees. And in the winter, when many roof systems require repair due to inclement weather, roofers often work in wind chills well below zero. NRCA's member companies, in particular, face an enduring shortage of workers, as there are not enough domestic workers to meet the labor demand facing the construction industry. The BLS projects that an additional 70,000 workers in the roofing industry alone will be needed by 2012 decade to keep pace with the demand for professional roofing services. We also know from a member survey last fall that 69 percent of our members are not able to "acquire new field workers in a timely manner" to enable them to perform their work. The survey also revealed that 46 percent of NRCA members have lost work because they were not able to perform a contract because of a worker shortage. For these reasons, we continue to see the percentages of immigrant workers in our industry increase, and our organizations continue to appreciate and welcome the contributions of immigrant workers.

Some ask why we don't simply raise wages to attract new workers, and reason that our employers simply want cheap labor. In truth, employers aren't in search of *cheap labor*, they simply *need labor*. It should be noted that the average hourly earnings in construction this past March was over $21.00. This was a gain of 5.2% over 12 months and continues the trend of higher wages in the industry.

II. A Broken Immigration System

NRCA urges Congress to fix an immigration system that serves neither America's economic security nor national security needs. Compounding the shortage of domestic workers, U.S. businesses find a broken system consisting of statutes spread across federal, state and local jurisdictional lines that largely prevent them from hiring the foreign essential workers necessary to satisfy the volume of services and goods demanded by the American economy. In recent years, our nation's immigration policy has favored highly skilled and educated workers for our economy, as evidenced by the H-1B program. NRCA and EWIC agree that these highly skilled workers are necessary to drive forward innovation of ideas and products. However, once these ideas are developed and the ideas become products, essential workers are needed to manufacture, deliver and service those products. The question America must ask itself is this: Who will fill the millions of essential worker positions that we continue to create? We believe immigration must be one answer.

Despite the staggering demand for labor the American economy generates, the American immigration system provides few legal avenues for American employers to fill labor shortfalls with willing foreign workers. Current law provides construction companies the ability to hire foreign workers through a temporary visa program (H-2B), which is capped at 66,000 workers per year. The program is highly complex, and all nonagricultural industries compete for these scarce visas. More importantly, the program is temporary. If an employer has long-term or permanent positions, that employer is out of luck since no long-term temporary visa exists in our current system. A second option would be to apply for a "green card", but "green cards" are limited to 5,000 per year for essential workers – and currently, there is a ten- to twelve-year waiting list. These limited programs and the complexity of immigration law make it difficult for employers nationwide to access a sustainable supply of essential workers. And in the meantime, they are forced to contend with a system that poses legal risk. For the sake of America's security and its economy, Congress must deal with the need for a mechanism that permits increases in legal immigration. Beefing up security at the border and targeting employers won't do a bit of good so long as the draw for illegal immigration remains – jobs going unfilled in the US will attract the undocumented no matter what hurdles our government erects. And absent a sustained and regularized stream of immigrant labor, our workforce needs will not be met. In turn, economic growth will lag and the standard of living Americans have come to expect will suffer. Until the U.S. acknowledges our demographic realities and embraces an immigration policy that recognizes these trends, we will never put an end to illegal immigration.

Background

Following enactment in 1986 of the Immigration Reform and Control Act (IRCA), all U.S. employers are required to verify the identity and employment eligibility of all new employees, citizens and non-citizens, hired to work in the United States after November 6, 1986. It is illegal for an employer to hire, recruit, or continue to employ an individual whom the employer knows is an unauthorized alien or if the employer is found to have "knowledge" of the individual's ineligible work status. Employers who violate IRCA, through either paperwork violations or knowingly employing illegal aliens, are subject to civil and criminal penalties, including imprisonment.

IRCA requires that employers not discriminate against job candidates on the basis of race, color, national origin or citizenship. Employers who impose citizenship requirements or give preference to U.S. citizens in hiring or employment opportunities may be in violation of IRCA, unless otherwise required by federal, state or local law, or by government contract. The Immigration and Naturalization Act of 1990 also prohibits employers from asking for more or different documents than what the prospective employee submits from the prescribed list of acceptable documents. Employers cannot require specific documents. The employer must examine the documents presented and accept them if they reasonably appear to be genuine and relate to the employee that presents them. If the documents presented do not reasonably appear to be genuine or relate to the employee who presents them, the employer must refuse acceptance and ask for other documentation from the list of acceptable documents. The most commonly presented acceptable documents are a driver's license with a photograph and/or description of the individual to establish identity and a U.S. Social Security card issued by the Social Security

Administration (SSA) to establish work eligibility. This system, grounded in a statute that bears no resemblance to the reality that millions of undocumented immigrants are present in the workforce, places employers, particularly small businesses in an untenable position.

DHS Initiatives

NRCA and EWIC currently are concerned with two DHS initiatives – current ICE enforcement operations targeting businesses attempting to comply with the law, and a proposed regulatory change published in the June 14, 2006, *Federal Register.*

a. ICE Enforcement

For most of the past six years, few U.S. employers have been subject to federal enforcement actions authorized under the IRCA 1986. Following September 11, and despite the employment of an estimated 7 million to 8 million unauthorized workers in this country, federal officials had higher priorities, and immigration enforcement actions have focused on patterns of criminal behavior, smuggling, arresting foreign criminals and egregious cases of wholesale employment and/or exploitation of illegal workers. However, on April 26, 2006, one day after the largest workplace raid ever undertaken at 40 plants operated by IFCO Systems, a pallet supplier, in 26 states and resulting in the arrests of seven IFCO Systems managers and 1,180 unauthorized workers, DHS Secretary Michael Chertoff announced that DHS, through ICE, would be adding work-site enforcement agents and launching a more aggressive campaign against employers who knowingly hired illegal immigrants.

As the nationwide immigration political debate has taken center stage, ICE has embarked on a program the past year of work-site enforcement raids, bringing criminal actions against employers instead of civil fines and immediately deporting unauthorized workers. In an article written last year for The Washington Post, Julie L. Myers, assistant DHS secretary for ICE, described her agency's new approach:

> My agency, Immigration and Customs Enforcement (ICE), was created in the aftermath of September 11, 2001. At first we focused our work-site enforcement efforts on illegal workers at critical-infrastructure locations such as nuclear and chemical plants, military installations, airports and seaports. While we continue to maintain these priorities, the agency is also focusing more on traditional work sites.
>
> We believe the most effective strategy in combating illegal employment is criminal prosecution of unscrupulous employers and seizure of their ill-gotten assets. As the immigration debate has heated up, we have heard repeated charges the ICE is failing in its work-site enforcement efforts because the number of employer fines has decreased. In fact, our efforts have grown more robust. What has changed is our strategy.
>
> One thing we have learned from the old Immigration and Naturalization Service (INS) is that simply fining employers for hiring illegal workers doesn't work. INS agents invested substantial time and effort in issuing proposed administrative fines against unscrupulous employers, only to see the fines ignored, paid in an untimely manner or reduced to nothing. For many employers, these fines amount to a cost of doing business. They were no deterrent.

> We can achieve far greater respect for the law among employers by bringing criminal prosecutions and seizing assets derived from illegal employment schemes. The prospect of 10 years in federal prison and losing that new home and car to forfeiture has much sharper teeth than a small fine. This is the future of work-site enforcement.

In testimony on June 19, 2006, before the U.S. Senate Judiciary Committee Subcommittee on Immigration, Border Security and Citizenship, Myers was succinct in explaining why her agency intends to proceed with criminal prosecutions of employers: "Criminally charging employers who hire undocumented aliens will create the kind of deterrence that was previously absent in enforcement efforts. We are also identifying and seizing the assets that employers derive from knowingly employing illegal workers, in order to remove the financial incentive to hire illegals and to pay them substandard wages."

ICE has conducted numerous raids at construction work sites, restaurants and other work sites in recent months. Some of the recent ICE raids certainly appear to be directed at "bad apples," while, in other cases, reputable contractors have been caught in an ICE raid as a result of working at a sensitive site such as an airport or military installation.

b. No-Match Letter Proposal

In addition to workplace raids, DHS has signaled that it intends to prosecute employers for immigration violations through gaining greater access to the records of the SSA and for failure of employers to terminate employees who are the subject of SSA "no-match" letters that are not resolved. The June 14, 2006 proposed regulation would, in effect, require employers to terminate workers who are the subject of SSA "no-match" letters if the discrepancy was not resolved within 60 days after the employer's receipt of the "no-match" letter.

When the information contained on a W-2 form does not match SSA's records, SSA issues "no-match" letters so that workers may be properly credited with Social Security earnings. SSA letters are not intended for immigration enforcement purposes, and SSA data currently is not shared with DHS. At the present time, federal immigration regulations do not require employers to take specific actions when receiving a SSA "no-match" letter.

While stating that whether an employer would be found to have constructive knowledge in particular cases depends on the "totality of the relevant circumstances," the regulation proposed by DHS on June 14, 2006, describes specific steps that an employer should take upon receipt of a SSA "no-match" letter or DHS communication to avoid a finding that the employer had constructive knowledge of employing an illegal alien. If the employer failed to follow the "safe-harbor" procedures prescribed in the proposed regulation and an employee, who was the subject of a "no-match" letter, was found to be an unauthorized alien, the employer may be found to have constructive knowledge of the employee's unauthorized status and would be liable for an immigration violation.

Concerns with DHS Initiatives

NRCA and EWIC are concerned about the negative impact these two initiatives may have on the on their members. NRCA's and EWIC's members are committed to full compliance with the

law and have long advocated a comprehensive overhaul of our nation's immigration system. But for the reasons outlined below, we believe these initiatives are ill-advised at this point in time.

a. Initiatives Usurp the Legislative Process

We strongly believe the underlying issue DHS aims to address should be handled through the legislative process. Further, we are of the opinion that the timing of the proposed rule is premature, as both chambers of Congress are presently working on immigration reform legislation that will include new employment eligibility systems and enforcement mechanisms. It is important to note that both bills passed in the 109th Congress – S. 2611 and H.R. 4437 – specifically addressed employer obligations in those instances when an employer receives a "no-match" letter from the SSA or DHS. All indications are that legislation produced in the 110th Congress will address "no-match" letters as well.

Given the two chambers currently are working on legislation, and the White House is actively engaged in helping Congress fashion a comprehensive package acceptable to both chambers, we urge DHS to withdraw the proposed regulation until the legislative process has run its course. The probable disruption to the economy and lives of those workers fueling the nation's economic growth suggests that the disadvantages of DHS moving in piecemeal fashion before Congress has acted grossly outweigh any perceived benefits of penalizing employers who are forced to contend with our nation's dysfunctional immigration system.

b. Accuracy of SSA Records

The SSA database is notoriously inaccurate. Frequently, "no-match" notices result from name changes and clerical errors, such as transposed numbers or other honest mistakes. For the construction industry, and specifically the roofing sector, the mismatch problem is exceptionally severe as workers who identify themselves as being Latino or Hispanic represent fully one-quarter of the construction workforce. Name-matching problems with SSA are common among this community due to multiple surnames of individuals, rather than the traditional first-middle-last name pattern of most native-born Americans. According to a July 11, 2006, Government Accountability Office ("GAO") report, the SSA database contains incomplete and outdated data. NRCA and EWIC are deeply concerned with the prospect of terminating employees who are legitimately authorized to work, but who have been unable to obtain a resolution within the allotted 60-day period due to corrupt data. It is particularly troubling, given that the GAO has confirmed that the database, which DHS suggests should be used to determine work eligibility, is rife with inaccurate data.

c. Small Business Disproportionately Burdened

For the reasons noted above, this proposal will impact small business negatively and disproportionately. The average construction company or restaurant is a small business, with a lean administrative staff and the bulk of its workforce (including management) outside of the home office. But aside from the administrative hardship this proposal would present small business, smaller firms can ill afford shocks to the size of their labor forces, whereas a larger firm possesses a stronger capacity for absorbing such disruptions. This is especially true in

construction. Our industry operates under unique demands such as weather restrictions, performance and bonding requirements in contracts, and strict timetables for delivery of the construction product and service. Absorbing labor shortages in the middle of projects is potentially disastrous for small construction companies, as failure to meet timetables can result in non-payment by the building owner or general contractor. Further, worker shortages disproportionately impact smaller construction companies because it jeopardizes their ability to bid for future contracts.

d. Solvency of the Proposal and Growth of the Underground Economy

The fundamental test of sound policy is for the problem being addressed to be solved. But the proposed regulation will have no discernible impact on undocumented immigration and actually threatens to exacerbate the problems attendant to illegal immigration. NRCA believes the DHS proposal will fail this simple test for three reasons.

First, those undocumented workers faced with the prospect of termination will simply enter the unregulated, underground cash economy and end up working in marginal jobs with poorer working conditions. Workers in the underground economy do not pay taxes and are in a deeper state of anonymity than those undocumented immigrants working under the stewardship of legitimate employers. Second, the proposed regulation targets the wrong employers. It addresses employers who are attempting to comply with the law, but it fails to address those underground employers who do not comply with the law, do not fill out Form I-9, pay cash off the books and can be fairly characterized as "bad actor" employers. And third, by not addressing this true underground economy and only proposing increased regulations on those employers trying to act in accordance with the law, there is an unintended incentive created for employers to revert to working in the underground economy. Otherwise honest employers may choose not to follow the safe-harbor procedures outlined in the proposed regulation. Faced with the prospect of closing their doors, many employers may decide to take a different approach after considering the totality of the circumstances. There will be instances in which employers opt for an informed business decision, rather than electing to adhere to the "safe harbor" guidance. This is not sound economic policy, nor is it in America's national security interest to push people deeper into the shadows.

The consequences of such a policy failure are staggering. As employers and employees go "off the books," billions of dollars will be lost in federal, state and local tax revenues. Unfair competitive practices will flourish as those employers straining under the new system lose market share to those employers who increasingly work off the books. And exploitation of workers by unscrupulous employers will rise, as those employers will take advantage of the daily fear of apprehension and deportation by undocumented immigrants.

e. DHS Should Focus Enforcement on "Bad Actors"

DHS should focus its limited resources first on criminal enterprises, and second on firms that exhibit a pattern of knowingly employing undocumented workers and build the practice into their business models. By concentrating its attention on employers that have demonstrated a pattern of deliberately skirting the law, DHS would channel scarce resources more efficiently

than it would by proceeding with enforcement actions against firms receiving few "no-match" notices. NRCA urges DHS to consider establishing a threshold of "no-match" hits before an employer is targeted for enforcement.

f. Firing of Workers

An unfortunate, yet certain, consequence of the DHS proposal is that if an employer receives a "no-match" letter, many employees will simply be fired. Given the complexity of the proposed rule, many employers will make a "business decision" to endure the economic disruption associated with losing a valued employee, rather than risk legal liability by attempting to remedy the "no-match" notice. Out of caution, panic and confusion surrounding the intricacies of the rule, and, unfortunately, ethnic profiling as well, many employers will select the safe legal route by shedding the potential legal liability associated with workers who are the subject of "no-match" notices. Once again, the integrity of the SSA database comes into play, as U.S. citizens and legally-authorized immigrants will undoubtedly face termination. Unquestionably, wrongful terminations are not DHS' intent, but DHS should bear in mind its culpability in such terminations should it proceed with the rule.

g. Damage to the U.S. Economy

The proposed DHS regulation and the ICE enforcement actions fail to account for the economic and social realities that U.S. employers confront – current domestic demographic trends, coupled with inadequate channels for legal immigration, present the business community with a chronic shortage of available workers.

III. Current Proposals

Without commenting on specific proposals that are currently being negotiated in the House and Senate, I would like to delineate a list of concerns that have presented themselves during the legislative deliberations thus far, and that should be of particular concern to small business. Broadly, the points of particular interest to the employer community break down into three categories: worksite enforcement, a future flow program, and the prescribed path toward legal status for the undocumented.

a. Worksite Enforcement

Issues of concern that have manifested themselves to date include the following: efforts to lower the standard of liability for a violation from the current "knowing" standard; vicarious liability; debarment authority for DHS; timing of system rollout; document retention; federal preemption language; adequate notice and training; additional fees; alternatives to internet and card reader verification to accommodate small businesses; the definition of "critical infrastructure"; private rights of action; and sensible fines.

Of particular note, are efforts to lower the standard of liability and to establish a regime of vicarious liability. NRCA and EWIC strongly believe that any verification system put in place

must maintain the current "knowing" standard. We believe that DHS has a myriad of tools to enforce at this standard level given the new electronic employment eligibility verification system and information-sharing provisions contemplated by proposals in the House and Senate proposals. In order for employers to fully comply with a new system, they must be able to understand easily and clearly their role and obligations. The knowing standard, put simply, provides clarity for employers: "knowing" that someone is illegal, or that the employee of one of your subcontractors is illegal, and choosing to do nothing about it, would constitute a violation. Our industries oppose watering down the knowing standard to a more subjective standard, such as "reckless disregard," or "reason to know." These concepts are far too broad, open to interpretation, and lack clear definition for employers. It is unreasonable to saddle employers with broadly defined standards that make it impossible for them to know whether they are fully in compliance or will still carry liability, as the determination of their compliance will be made by someone else's definition or interpretation of the situation, rather than a clear rule. Further, if a presumption is to be created, those requirements should go through the Administrative Procedure Act as a presumption creates liability.

Additionally, we are alarmed that discussions of establishing a system of vicarious liability continue to permeate legislative negotiations. Our members strongly oppose creating a pattern of cross liability that would hold one employer responsible for the hiring practices of another employer. The construction industry has a unique perspective on the issue of contractor-subcontractor relationships because almost all business activity is conducted through contract. However, the issue of contractor and subcontractor liability in the verification system is broad-based, and impacts far more industries than just construction. Any business or industry that contracts with other entities for services – from cleaning crews, to landscapers, to caterers and equipment maintenance – is impacted by the way in which Congress treats the contractor-subcontractor relationship.

That said, NRCA and EWIC agree that those employers who knowingly use subcontracting relationships and subcontract labor to violate immigration law should be punished and brought to account for their actions. We simply believe in the principles of personal responsibility and justice. It is fundamentally unfair to create a blanket, direct chain of liability for all contract-subcontract relationships. Why the federal government would institute a new verification system, in which all employers would be required to participate, and then mandate that employer "A" should be held accountable for the behaviors and practices of employer "B", strikes us as arbitrary and capricious, particularly given that employer "A" does not have the power to hire or fire employees of employer "B". Such a liability regime raises legitimate questions as to the veracity and workability of a new electronic verification system. If all employers are participating, and the system works as well as DHS suggests, then why would there be any need for vicarious liability? Such liability would be redundant.

b. Future Flow Program

NRCA and EWIC fundamentally believe that if any measure proceeds without a program to accommodate future workforce needs, we as a nation will be back at the table in a few short years scratching our heads as to how we could have failed so miserably in reforming our immigration laws. But it is not enough to just acknowledge future labor needs; the composition

of any such program is equally critical if it is to work properly for American businesses and workers. Features that must be embedded include the following: reasonable fees so that the program works for small and large businesses; equal worker protections to U.S. workers; no opening of the flood gates to new worker protections; reasonable prevailing wage requirements, like those incorporated in the H-1B program; reasonable recruitment requirements; portability after reasonable time with employer; and the ability to sponsor a new worker for permanent status if that worker meets the test for permanent status.

c. Legal Status for the Undocumented

Equally important to any reform of our nation's immigration laws will be a path toward some form of permanent legal status that provides sufficient incentive for the undocumented to come out of the shadows and register. The employer community will play a pivotal role in aiding that process and ensuring that it proceeds in a smooth and timely fashion. As such, it would be appropriate to institute protections from new liability for employers who assist workers with documents. Additionally, the establishment of reasonable fees for the undocumented would be helpful, as employers may end up paying these fees for their employees – small business would will be disproportionately burdened if these fees were too high. Finally, return home requirements and processing through the State Department Consular offices must be reasonable for three reasons: first, the plan must induce the undocumented to come forward; second, not all of the undocumented are from geographically proximate nations; and third, these workers are vital to the economy, and any prolonged absence from the workplace will take a toll on the industries in which they are employed.

IV. Employment Eligibility Verification System

NRCA and EWIC fully support congressional efforts to create a workable electronic employment eligibility verification system and urge Congress and the Administration to continue to engage the business community to create a workable system within the context of comprehensive immigration reform. Our members believe that such a system must be efficient, accurate and reliable, while recognizing practical real world working conditions, and should include the following:

- A new verification system that only applies to new hires;
- A limited, but reasonable, number of reliable documents to reduce fraud. Under the current I-9 system, employers are required to accept up to 27 different forms of identification as proof of identification and work eligibility in the U.S. We believe that number must be reduced;
- A telephone-based alternative to accommodate all employers, particularly smaller ones;
- A reasonable phase-in period, coupled with independent certification regarding the system's accuracy and workability;
- Congressional oversight authority;
- Accountability structures for all involved – including the government;

- No expansion of liability beyond the "knowing" standard for contractor-subcontractor relationships. We explicitly reject any proposal that would institute a new system of vicarious liability;
- Provisions to protect first-time good faith "offenders" caught in the web of ever-changing federal regulations;
- No expansion of anti-discrimination liability or debarment outside of the Federal Acquisition Regulation process;
- Clarification that federal jurisdiction preempts state and local laws;
- No artificially-created incentives favoring automatic fines or frivolous litigation;
- No expansion of labor laws within the electronic employment verification system; and,
- Penalties commensurate to the offense.

V. Conclusion

NRCA and EWIC urge Congress to pass comprehensive immigration reform legislation this year. Further, we urge DHS to redirect ICE's enforcement activities, thereby allowing Congress to finish the work it has begun. The economic and national security needs of America will not be advanced if DHS continues on its present course. Millions of workers in the U.S. economy – authorized and unauthorized – will see their livelihoods jeopardized. At the same time, the proposal will damage national security and stretch scarce enforcement dollars further, as workers descend deeper into the shadows.

Foreign workers – legal and illegal, temporary and permanent – play a critical role in our economy and our society. They were vital to our economic growth in the past decade and will be irreplaceable in the next as we face demographic and societal trends that ensure America will not have the number of workers we need to sustain the level of economic growth that America demands. Opponents of immigration would have us enact a moratorium on new arrivals. Some would have us station troops along our borders and expel the millions of undocumented already here. NRCA and EWIC suggest another path – an immigration system that recognizes the ongoing need of the American economy for foreign workers and assists in separating those who wish to destroy America from those who wish to help build it.

The Administration has stated unmistakably its interest in working with Congress to draft legislation incorporating the principles embodied in the President's proposal. NRCA and EWIC are encouraged that the Committee has embraced the President's challenge to Congress, and we look forward to working with the Administration and Congress as the immigration reform debate moves forward.

Statement of
Maureen Torrey Marshall
Torrey Farms, Elba, NY
Before the
House Small Business Committee
May 10, 2007

Chairwoman Velázquez, and Members of the Committee, thank you for the opportunity to testify before you today regarding the impact of immigration reform on America's small business community, and specifically agricultural producers. My testimony reflects my own experience as a life-long farmer. I am also testifying on behalf of the Agriculture Coalition for Immigration Reform (ACIR), the National Council of Agricultural Employers, and the United Fresh Produce Association. ACIR is the broad national coalition of agricultural groups working to pass meaningful immigration reform. I just concluded my term as Chairman of United this past weekend.

My family and I farm vegetables and dairy in western New York. My farm is now being run by the 11th generation, and the 12th is on the way, if we are able to sustain the business. However, the lack of farm labor, the lack of a workable agricultural labor program, and immigration enforcement without a complete solution, constitute an immediate and absolute threat to the survival of farms like mine across the country.

Some years ago, American farm families provided much of the needed farm labor, and local communities turned out extra workers for peak harvest needs. Times have changed. America's labor-intensive farming operations are now sustained by immigrant labor. This is true of fruit and vegetable farms, dairies, ranches, nurseries and greenhouses, and Christmas tree farms.

Federal government data show that the majority of farmworkers lack proper work authorization and immigration status. The US Department of Labor's (DOL) National Agricultural Worker Survey, or NAWS, reports that 78% of seasonal agricultural workers are foreign born. There are about 1.6 million farmworkers who perform 25 or more days of hired farm work during the year. NAWS reported in 1998 that 52% of farmworkers lacked legal status. Experts suggest that the percentage now exceeds 70%.

This phenomenon is national in scope, not just a California and border state problem. Data for the eastern half of the U.S. presented by Dr. Dan Carroll of the DOL reveal that an astounding 99% of new labor force entrants into the agricultural work force in the eastern states in 1998-99 were not authorized to work in the United States.

These statistics reveal what we already knew intuitively – Americans are not raising their children to be farmworkers. Domestic workers rarely apply for farm jobs. And in the absence of a reliable agricultural worker program, our industries rely on workers who present work authorization documents that appear, but in fact, are not legitimate. This unstable situation threatens small business survival and economic prosperity especially in rural communities.

My own story underscores how broken the system really is. Since 1981, Torrey Farms has cooperated with the New York State Department of Labor to recruit farmworkers for our operation. No one is hired in any position without a referral from the NYS Department of Labor.

The department verifies the work eligibility of applicants in the same manner as most employers – it looks at the allowable forms of identification specified on the I-9 form.

Yet, we know of the high incidence of false documents. We were starkly reminded of that fact last October, when agents of the Department of Homeland Security's Immigration and Customs Enforcement (ICE) showed up at one of our farms. The agents kicked in the door of one of our housing facilities, and proceeded to round up 34 workers who had been referred by the State Department of Labor. Referrals from the State Department of Labor to our farms have been apprehended on more than one occasion.

Put simply, one arm of government recruits and refers our workforce, and another arm of government takes it away. It is a crying shame that our great nation has failed to implement a rational legal system.

Farming is a leading economic engine in western New York. Last year, New York Farm Credit studied and reported on the severe financial problems our farmers face. They projected that without timely and comprehensive reform, New York alone will lose in excess of 900 family farms and $195 million in value of production in the near term.

If we do not see a solution soon, much of our food production will move out of the country. It will move to areas where labor is available – Canada, Mexico, South America, China. If that happens, the economic impact on small business will go way beyond our own farms. Former Penn State professor and noted agricultural economist Dr. James S. Holt studied the job-creation multiplier effect of farming, and concluded that each farmworker job in America supports three to four jobs in the surrounding economy. Most of these jobs are tied to the production, so if production moves offshore, so will the support jobs.

We are the largest employer in our town and among the largest in Genesee County with payroll over $10 million a year with our farm entities. This along with property and school taxes on 11,000 acres in the five counties where we farm keep towns and schools strong. That $10 million a year parlays into an over $70 million impact yearly just from payroll. That doesn't even begin to count what we spend with local small businesses for supplies and repairs.

I would like to speak to needed solutions. First, we need a reliable and affordable guest worker program. We have proposed reforms to the 50 year old H-2A program that would make it more streamlined and affordable, and less litigation-prone.

Secondly, we need an opportunity for trained, experienced, and otherwise law-abiding farm workers to have the chance to continue working, and to earn the right to become permanent legal residents of the U.S., subject to strict conditions. A sensible "earned adjustment of status" program for agriculture would reward hard work and commitment, true American values.

Growers and producers are conservative people by nature. We work hard, we pay our taxes. We care deeply about the security and the future of our country. We care about the rule of law. My organizations, and my fellow farmers, have worked for years on a bipartisan solution to this crisis. In my own state, we have the support of almost all our Republican House members, and both our U.S. Senators. We urge Congress to finally get the job done, this year.

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Testimony of Ralph Folz
Chief Executive Officer
Molecular

Before the
Committee on Small Business
United States House of Representatives
May 10, 2007

Keeping America's Small Innovation Companies
Competitive in the Global Market

Madame Chairwoman, Members of the Committee, thank you for the opportunity to testify today. I am Ralph Folz, Chief Executive Officer of Molecular, an Internet consulting company located in Boston, Massachusetts. Molecular helps large firms such as Reebok, Coke, and Fidelity Investments build Internet sites to reach and service their customers.

I testify today on behalf of Molecular, a Massachusetts-based company that employs 140 employees, and as a member of the Technology Network, or TechNet. We are a network of CEOs and senior executives of companies that are the nation's leading innovators in the fields of information technology, Internet and e-commerce, biotechnology, venture capital and investment banking. TechNet's membership is diverse. Some of us are leaders of the world's largest and best-known technology companies. Others among us are just starting out with small firms with promising innovations that have enormous potential.

We are all entrepreneurs. We believe in the free market and in the power of ideas. We have turned innovation into high-paying jobs – more than one million nationwide. TechNet's top priority is to shape public policies impacting U.S. innovation and technology leadership.

Recently, TechNet CEOs worked closely with Speaker Nancy Pelosi and others in the development of the Innovation Agenda – a comprehensive set of public policy initiatives designed to spur the continuing growth and expansion of America's innovation economy.

It is a great pleasure to testify today before Chairwoman Velazquez, who has been a longstanding leader in forging policies that encourage the creation and growth of small businesses, truly the backbone of this nation's economy. Madame Chairwoman, we appreciate your support of our industry and your appreciation of the contributions that the innovation economy has made to the nation's economic growth.

I'm passionate about small entrepreneurial ventures. I started Molecular 13 years ago with a co-founder, an idea, and $2,000 each and we have been able to turn this into a $25M company, generating many high paying jobs along the way.

Ralph Folz Testimony
House Small Business Committee
May 10, 2007

It is a pleasure to testify today on one of the most important issues to America's global competitiveness, and to the future of American small tech companies: the skilled workforce needs of the innovation economy. I, and my fellow TechNet CEOs, appreciate this Committee's recognition of the importance of policies that support innovation, economic growth and job creation by encouraging a high-skilled U.S. workforce. Ensuring that we continue to attract and retain the brightest, most talented people from around the world who can contribute to U.S. innovation leadership is fundamental to supporting America's global competitiveness. Highly-skilled immigration reform is essential to our nation's continued economic prosperity.

U.S. Competitiveness in the Global Economy Demands High-Skilled Immigration Reform

We greatly appreciate the focus of Congress on policies to strengthen America's global competitiveness. This strong focus reflects a broad recognition that, perhaps for the first time in more than half a century, the future is truly up for grabs. We are experiencing an exciting era in innovation and technological advances that are creating entire new industries. But unlike the Industrial Revolution, today's Innovation Economy is global. China, India, Russia and other nations are investing in emerging technologies and industries to seize a competitive advantage in the industries and markets of the future.

Many other nations are rapidly catching up too -- and even surpassing -- the United States in areas of traditional American preeminence. Foreign technology centers are increasingly attracting the world's leading talent. In short, U.S. technological and economic leadership cannot be taken for granted. We must maintain a policy environment that promotes excellence in education including math and science education; that invests in cutting-edge research and development; and most important, that enables our economy to attract and retain the world's best and brightest innovators.

Highly-skilled talent is a defining feature of the global innovation economy and a key to its tremendous growth. Companies today increasingly derive their value and their ability to create jobs and economic opportunity from the ideas, intellect and skills of their workforce.

Yet American companies, especially small firms, continue to face a serious shortage in the number of skilled professionals necessary to support the technology industry's continued growth and to drive its leadership. The number of engineering degrees awarded in the United States is down 20 percent from the peak year of 1985. Only 17 percent of U.S. college students receive undergraduate degrees in science and engineering, compared to 52 percent in China and 41 percent in Korea. As a result, a majority of advanced degrees awarded by U.S. universities in areas of study like engineering, mathematics and computer sciences are granted

to foreign nationals. And more than 50 percent of all engineering doctoral degrees awarded by U.S. engineering colleges are to foreign nationals.

At the same time, demand for skilled employees in the technology industries continues to grow exponentially. In key technical fields, including science, technology, engineering and mathematics (STEM) fields, the number of graduates with advanced degrees has not kept pace with demand. And the demand for skilled professionals in these fields is projected to increase in the coming years. Unless we adopt reforms that address this shortage of high-skilled talent, America's technological and economic leadership will be jeopardized.

I can tell you that my company has missed business opportunities because we could not hire professionals with the specific skill sets to do the work. Now, as part of an international network, I have seen sister companies based overseas win contracts over American firms because they had the staff to complete the work.

I can also tell you that over our 13 years in business, some of our best people joined us via the H-1B program. They are incredibly bright people, and the vast majority of them are interested in building a permanent life here in America.

In our most recent quarter, 50% of the recruiting candidates coming in for interviews were H-1B visa holders, or in need of sponsorship. Let's "in-source" talent into America rather than losing the work and intellectual capital produced in American universities to other companies overseas.

Under the current system, this trend will only get worse. The U.S. Citizenship and Immigration Service (USCIS) announced last week that the 20,000 cap on FY 2008 H-1B advanced degree visas for U.S.-educated foreign students has already been reached in record time. Earlier, they announced that the fiscal year 2008 allotment of H-1B visas was met on the very first day applications were accepted. This is the ninth time since 1997 that the H-1B visa cap has been reached before the end of the fiscal year and the third year in a row that it has been reached on or before the start of the fiscal year.

This year, more than two applications were received for every available visa. Thus, employers who filed on the first day have less than a fifty percent chance of securing a visa for the foreign talent they seek. Instead, they had to rely on a "lottery" process to secure their foreign employees. Moreover, if they lose the lottery this year, the earliest they will be able to place their prospective employee on the payroll is October 1, 2008 – a full 18 months from now.

These developments are strong evidence of the urgent need for a permanent fix to the visa system this year. To delay these reforms threatens to imperil our nation's global competitiveness.

Highly-Skilled Immigration Supports Job Creation and Innovation

The contributions of highly-educated and entrepreneurial immigrants to the U.S. economy have been profound. In the science, engineering and technology fields, in particular, the United States has been a magnet for the world's best talent. Foreign-born scientists, researchers and innovators have been central to the global competitiveness, economic growth and job creation that have stemmed from the U.S. technology industries.

The United States is at risk of losing the global entrepreneurs and innovators *vital to fueling the growth of American businesses.* Intel Corporation, Google, Sun Microsystems and eBay are among the many companies that were founded by foreign-born innovators who came to the United States to study and work. A recent study by the National Venture Capital Association found that in the last 15 years, foreign nationals have started 25 percent of U.S. venture-backed public companies, accounting for more than $500 billion in market capitalization and adding significant value to the American economy.

Let me be clear: This problem is not just affecting America's Fortune 50. Small tech firms around the country feel the pain of a broken immigration system. It limits how quickly we can grow. It limits our ability to stay ahead of our foreign competitors. And if we cannot grow, we cannot continue to create new jobs in the United States.

At Molecular, we are doing innovative work for some of America's largest companies. We want to grow our business, and create jobs here.

The Technology Industry Supports Education and Workforce Training

The technology industry is working hard to close the workforce gap. Every TechNet member is concerned with the workforce needs of the 21st century. Because technology changes overnight, lifelong learning is the key to competitiveness for us. To that end, our members are working at the K-12 level, in partnership with universities and through company in-house programs to train and retrain a skilled technology workforce.

Both large and small TechNet member companies have developed programs to meet the workforce challenges that all technology companies are facing. These range from scholarships which are successfully encouraging minority students to pursue careers in engineering and computer science to in-house training programs that prepare current

employees for the challenges of the future. Corporations also support K-12 education through funding, technical resources and volunteers to nonprofit initiatives.

As a CEO, I look forward to the day when I have a larger homegrown talent pool to tap. The legal costs associated with hiring a foreign-born worker add up. But our education investments will take time to produce results. And everyday that my company does not have access to the best and brightest talent available is another day when we are less competitive in a global market. If America's small businesses are to continue to grow and flourish in a global marketplace we must fix the nation's broken immigration system.

Highly-Skilled Immigration Reform

TechNet supports Congressional efforts to develop a comprehensive immigration package that permanently fix the shortcomings of both the employment-based green card and H-1B visa programs this year. We support legislation that:

- Gives U.S. employers timely access to highly educated foreign nationals. We need to eliminate the artificial quotas, processing delays and backlogs that undermine U.S. competitiveness.
- Creates a flexible, market-based H-1B cap would help ensure that U.S. employers are not locked out of hiring critical talent.
- Exempts foreign nationals who earn advanced degrees in math, science, technology and engineering fields from the H-1B and Employment Based quotas so these talented knowledge workers can be retained in the United States.
- Streamline the path to permanent resident status for graduates with advanced degrees from U.S. universities who have job offers from U.S. employers.
- And increase the number of permanent visas granted for employment-based immigration in order to avoid unnecessary backlogs. For many of us, the H-1B is an interim step to permanent resident status. The shortage of Employment-Based permanent resident visas, known as EB green cards is just as severe as the H-1B visa shortage. The EB green card program is essential if we are to retain highly-skilled professionals who are already here contributing to our economy. However, most EB green card applicants face delays in excess of five years, and these delays are getting worse, not better. These multi-year backlogs in the green card program are causing a massive recruiting and retention crisis for employers.

Conclusion

In an increasingly competitive global economy, the United States cannot afford to lose its edge in attracting and retaining the world's best talent as a result of complicated and restrictive U.S. immigration policies. We commend the Committee for its focus on these pressing issues and urge you to play a leadership role in ensuring high-skilled immigration reform this year.

Thank you for your time.

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CONGRESSIONAL TESTIMONY

The Fiscal Cost of Low-Skill Immigrants to the U.S. Taxpayer

Testimony before
The Committee on Small Business
United States House of Representatives

May 10, 2007

Robert Rector
Senior Research Fellow

Domestic Policy Studies
The Heritage Foundation

My name is Robert Rector. I am Senior Research Fellow for Welfare and Family Issues at The Heritage Foundation. The views I express in this testimony are my own, and should not be construed as representing any official position of The Heritage Foundation.

Summary

This testimony provides a fiscal analysis of households headed by immigrants without a high school diploma. The testimony refers to these households as "low-skill immigrant households." In FY 2004 there were around 4.5 million low-skill immigrant households in the U.S. containing 15.9 million persons. About 60 percent of these low-skill immigrant households were headed by legal immigrants and 40 percent by illegal immigrants. The analysis presented here measures the total benefits and services received by these "low- skill immigrant households" compared to the total taxes paid. The difference between benefits received and taxes paid represents the total resources transferred by government on behalf of this group from the rest of society.

In FY 2004, low-skill immigrant households received $30,160 per household in immediate benefits and services (direct benefits, means-tested benefits, education, and population-based services). In general, low-skill immigrant households received about $10,000 more in government benefits than did the average U.S. household, largely because of the higher level of means-tested welfare benefits received by low-skill immigrant households.

In contrast, low-skill immigrant households pay less in taxes than do other households. On average, low-skill immigrant households paid only $10,573 in taxes in FY 2004, thus low-skill immigrant households received nearly three dollars in immediate benefits and services for each dollar in taxes paid.

A household's net fiscal deficit equals the cost of benefits and services received minus taxes paid. When the costs of direct and means-tested benefits, education, and population-based services are counted, the average low-skill household had a fiscal deficit of $19,588 (expenditures of $30,160 minus $10,573 in taxes).

Low-skill immigrant households impose substantial long-term costs on the U.S. taxpayer. Assuming an average adult life span of 60 years for each head of household, the average lifetime costs to the taxpayer will be nearly $1.2 million for each low-skill household for immediate benefits received minus all taxes paid.

As noted, in 2004, there were 4.5 million low skill immigrant households. With an average net fiscal deficit of $19,588 per household, the total annual fiscal deficit for all of these households together equaled $89.1 billion (the deficit of $19,588 per household times 4.54 million low-skill immigrant households). Over the next ten years, the net cost (benefits minus taxes) to the taxpayer of low-skill immigrant households will approach $1 trillion.

Current immigrants (both legal and illegal) have very low education levels relative to the non-immigrant U.S. population. At least 50 percent, and perhaps 60 percent of illegal immigrant adults lack a high school degree.[1] Among legal immigrants the situation is better, but a quarter still lack a high school diploma. Overall, a third of immigrant households are headed by individuals without a high school degree. By contrast, only nine percent of non-immigrant adults lack a high school degree. The current immigrant population, thus, contains a disproportionate share of poorly educated individuals. These individuals will tend to have low wages, pay little in taxes and receive above average levels of government benefits and services.

Recent waves of immigrants are disproportionately low-skilled because of two factors. For years, the U.S. has had a permissive policy concerning illegal immigration: the 2000 mile border with Mexico has remained porous and the law prohibiting the hiring of illegal immigrants has not been enforced. This encourages a disproportionate inflow of low-skill immigrants because few college educated workers are likely to be willing to undertake the risks and hardships associated with crossing the southwest U.S. deserts illegally. Second, the legal immigration system gives priority to "family reunification" and kinship ties rather than skills; this focus also significantly contributes to the inflow of low-skill immigrants into the U.S.

The U.S. currently operates a very generous system of government benefits and services that heavily subsidizes disadvantaged native-born Americans. These individuals receive a very expensive array of government welfare benefits and other services throughout their life-times and pay little in taxes. While this fiscal redistribution system is justified for low-skill native-born Americans, it will be fiscally ruinous to apply it to a massive influx of poorly educated immigrants from the third world.

Giving amnesty to illegal immigrants would increase the costs outlined in this testimony. Some 50 to 60 percent of illegal immigrants lack a high school degree. Granting amnesty or conditional amnesty to illegal immigrants would, overtime, increase their use of means-tested welfare, Social Security and Medicare. Fiscal costs would go up significantly in the short term but would go up dramatically after the amnesty recipient reached retirement. Based on my current research, I estimate that if all the current adult illegal immigrants in the U.S. were granted amnesty the net retirement costs to government (benefits minus taxes) could be over $2.5 trillion.

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[1] Jeffrey S. Passel, *The Size and Characteristics of the Unauthorized Migrant Population in the U.S.: Estimates Based on the March 2005 Current Population Survey,* Pew Hispanic Center, March 7, 2006. See also Jeffrey S. Passel, *Unauthorized Migrants: Numbers and Characteristics,* Pew Hispanic Center, June 14, 2005. Steven S. Camarota, *The High Cost of Cheap Labor: The Impact of Illegal Immigration on the Federal Budget,* Center for Immigration Studies, August, 2004.

Types of Government Expenditure

To ascertain the distribution of government benefits and services, my analysis begins by dividing government expenditures into four categories: direct benefits; means-tested benefits; educational services; and population-based services.

Direct Benefits

Direct benefit programs involve either cash transfers or the purchase of specific services for an individual. Unlike means-tested programs (described below), direct benefit programs are not limited to low-income persons. By far, the largest direct benefit programs are Social Security and Medicare. Other substantial direct benefit programs are Unemployment Insurance and Workmen's Compensation.

Direct benefit programs involve a fairly transparent transfer of economic resources. The benefits are parceled out discretely to individuals in the population; both the recipient and the cost of the benefit are relatively easy to determine. In the case of Social Security, the cost of the benefit would equal the value of the Social Security check plus the administrative costs involved in delivering the benefit.

Calculating the cost of Medicare services is more complex. Ordinarily, government does not seek to compute the particular medical services received by an individual. Instead, government counts the cost of Medicare for an individual as equal to the average per capita cost of Medicare services. (This number equals the total cost of Medicare services divided by the total number of recipients.)[2] Overall, government spent $840 billion on direct benefits in FY 2004.

Means-Tested Benefits

Means-tested programs are typically termed welfare programs. Unlike direct benefits, means-tested programs are available only to households below specific income thresholds. Means-tested welfare programs provide cash, food, housing, medical care, and social services to poor and low-income persons.

The federal government operates over 60 means-tested aid programs.[3] The largest of these are Medicaid; the Earned Income Tax Credit (EITC); food stamps; Supplemental Security Income (SSI); Section 8 housing; public housing; Temporary Assistance to Needy Families (TANF); the school lunch and breakfast programs; the WIC (Women,

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[2]For example, the Census Bureau assigns Medicare costs in this manner in the Current Population Survey.
[3]Congressional Research Service, *Cash and Noncash Benefits for Persons with Limited Income: Eligibility Rules, Recipient and Expenditure Data, FY2002–FY 2004,* March 27, 2006. The value of Medicaid benefits is usually counted in a manner similar to Medicare benefits. Government does not attempt to itemize the specific medical services given to an individual; instead, it computes an average per capita cost of services to individuals in different beneficiary categories such as children, elderly persons, and disabled adults. (The average per capita cost for a particular group is determined by dividing the total expenditures on the group by the total number of beneficiaries in the group.)

Infants, and Children) nutrition program; and the Social Services Block Grant (SSBG). Many means-tested programs, such as SSI and the EITC, provide cash to recipients. Others, such as public housing or SSBG, pay for services that are provided to recipients. Overall, the U.S. spent $564 billion on means-tested aid in FY 2004.[4]

Public Education

Government provides primary, secondary, post-secondary, and vocational education to individuals. In most cases, the government pays directly for the cost of educational services provided. Education is the single largest component of state and local government spending, absorbing roughly a third of all state and local expenditures. The average per pupil cost of public primary and secondary education is now around $9,600 per year. Overall, federal, state, and local governments spent $590 billion on education in FY 2004.

Population-Based Services

Whereas direct benefits, means-tested benefits, and education services provide discrete benefits and services to particular individuals, population-based programs generally provide services to a whole group or community. Population-based expenditures include police and fire protection, courts, parks, sanitation, and food safety and health inspections. Another important population-based expenditure is transportation, especially roads and highways.

A key feature of population-based expenditures is that such programs generally need to expand as the population of a community expands. (This quality separates them from pure public goods, described below.) For example, as the population of a community increases, the number of police and firemen will generally need to expand in proportion.

In its study of the fiscal costs of immigration, *The New Americans*, the National Academy of Sciences argued that if a service remains fixed while the population increases, a program will become "congested", and the quality of the service for users will deteriorate. Thus, the National Academy of Sciences uses the term "congestible goods" to describe population-based services.[5] Highways are an obvious example of this point. In general, the cost of population-based services can be allocated according to an individual's estimated utilization of the service or at a flat per capita cost across the relevant population. Government spent $662 billion on population-based services in FY 2004.

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[4]This spending figure excludes means-tested veterans programs and most means-tested education programs.

[5]National Research Council, *The New Americans: Economic, Demographic, and Fiscal Effects of Immigration,* National Academy Press, Washington, D.C., 1997, p. 303

Exclusion of Public Goods and Interest on Government Debt from Calculations

The four expenditure categories described above can be termed "immediate benefits and services". There are two additional spending categories, which have less relevance to immigrants. They are:

- **Interest and other financial obligations resulting from prior government activity,** including interest payments on government debt and other expenditures relating to the cost of government services provided in earlier years; and

- **Pure public goods,** which include national defense, international affairs and scientific research, and some environmental expenditures.

Unlike the first four spending categories, expenditures on public goods, debt and other financial obligations are fixed and are largely independent of the level or type of immigration flow into the U.S. The entry of legal or illegal immigrants into the U.S. will not cause expenditures in these two categories of expenditure to increase, therefore these two categories of expenditure are not included in the fiscal burden calculation for low-skill immigrants presented in this testimony.

Summary: Total Expenditures

As Table 1 shows, overall government spending in FY 2004 came to $3.75 billion. Direct benefits had an average cost of $7,326 per household across the whole population, while means-tested benefits had an average cost of $4,920 per household. Education benefits and population-based services cost $5,143 and $5,765, respectively.

Table 1

Summary of Total Federal, State and Local Expenditures FY2004

	Federal Expenditures (in millions)	State and Local Expenditures (in millions	Total Expenditures (in millions)	Percentage of Total Expenditures	Average Expenditure Per Household Whole Population (in dollars)
Direct Benefits	783,350	57,607	840,957	22.4%	$7,326
Means-tested Benefits	406,512	158,240	564,752	15.0%	$4,920
Educational Benefits	59,621	530,801	590,422	15.7%	$5,143
Population-Based Services	180,122	481,696	661,818	17.6%	$5,765
Interest and Related Costs*	182,000	219,260	401,260	10.7%	$3,495
Pure Public Goods Expenditures	694,153	1,050	695,203	18 5%	$6,056
Total Expenditures	**2,305,758**	**1,448,654**	**3,754,412**	**100.0%**	**$32,706**
Total Expenditures Less Public Goods, Interest, and Related Costs	**1,429,605**	**1,228,344**	**2,657,948**		**$23,154**

* Excludes interest costs resulting from public goods expenditures in prior years

Interest payments on government debt and other costs relating to past government activities cost $3,495 per household. Pure public good expenditures comprised 18.5 percent of all government spending and had an average cost of $6,056 per household. Excluding spending on public goods, interest on the debt and related financial obligations, total spending came $23,154 per household across the entire population.

Estimation Methodology

The methodology used in this testimony is fully explained in my recent publication, *The Fiscal Cost of Low Skill Households to the U.S. Taxpayer.*[6] The analysis is based on three core methodological principles: comprehensiveness; fiscal accuracy; and transparency.

- Comprehensiveness – The analysis seeks to cover all government expenditures and all taxes and similar revenue sources for federal, state and local governments. Comprehensiveness helps to ensure balance in the analysis; if a study covers only a limited number of government spending programs or a portion of taxes, the omissions may bias the conclusions.

- Fiscal accuracy – A cardinal principle of the estimation procedure employed for each expenditure program or category in the analysis is that, if the procedure is replicated for the whole U.S. population, the resulting estimated expenditure will equal actual expenditures on the program according to official budgetary documents. The same principle is applied to each tax and revenue category. Altogether, the estimating procedures used in this paper, if applied to the entire U.S. population, will yield figures for total government spending and revenues that match the real life totals presented in budgetary sources.

- Transparency – Specific calculations were made for 30 separate tax and revenue categories and over 60 separate expenditure categories. Since conclusions can be influenced by the assumptions and procedures employed in any analysis, we have endeavored make the mechanics of the analysis as transparent as possible to interested readers by describing the details of each calculation in the monograph.[7]

Data on receipt of direct and means-tested benefits were taken from the U.S. Census Bureau's Current Population Survey (CPS). Data on attendance in public primary and secondary schools were also taken from the CPS; students attending public school were then assigned educational costs equal to the average per pupil expenditures in their state. Public post-secondary education costs were calculated in a similar manner.

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[6] Robert Rector, Christine Kim, Shanea Watkins, *The Fiscal Cost of Low-Skill Households to the U.S. Taxpayer, Heritage Special Report,* Sr-12, The Heritage Foundation, Washington, D.C. April 4, 2007.
[7] Robert Rector, *The Fiscal Cost of Low-Skill Households to the U.S. Taxpayer, op.cit.*

Wherever possible, the cost of population-based services was based on the estimated utilization of the service by low-skill immigrant households. For example, the low-skill immigrant households' share of highway expenditures was assumed, in part, to equal their share of gasoline consumption as reported in the Bureau of Labor Statistics Consumer Expenditure Survey (CEX). When data on utilization of a service were not available, the estimated low-skill immigrant households' share of population-based services was assumed to equal their share of the total U.S. population.

Sales, excise, and property tax payments were based on consumption data from the Consumer Expenditure Survey (CEX). For example, if the CEX showed that low-skill immigrant households accounted for 10 percent of all tobacco product sales in the U.S., those households were assumed to pay 10 percent of all tobacco excise taxes.

Federal and state income taxes were calculated based on data from the CPS. FICA taxes were also calculated from CPS data and were assumed to fall solely on workers. Corporate income taxes were assumed to be borne partly by workers and partly by owners; the distribution of these taxes was estimated according to the distribution of earnings and property income in the CPS.

CPS data generally underreport both benefits received and taxes paid somewhat. Consequently, both benefits and tax data from the CPS had to be adjusted for underreporting. The key assumption in this adjustment process was that households headed by immigrants without a high school diploma (low-skill immigrant households) and the general population underreport benefits and taxes to a similar degree. Thus, if food stamp benefits were underreported by 10 percent in the CPS as a whole, then low-skill immigrant households were also assumed to underreport food stamp benefits by 10 percent. In the absence of data suggesting that low-skill and high-skill households underreport at different rates, this seemed to be a reasonable working assumption. The *New Americans* study of immigration by the National Academy of Sciences also adjusted for under-reporting in its fiscal analysis.

Estimating Taxes and Benefits for Illegal Immigrant Households

By most reports, there were some 11 million illegal immigrants in the U.S. in 2004. [8] About 9.3 million of these individuals were adults.[9] Roughly 50 to 60 percent of these illegal adult immigrants lacked a high school degree.[10] About ninety percent of illegal immigrants are reported in the CPS.[11] This testimony covers only those illegal immigrants reported in the CPS and does not address the remaining ten percent not counted by Census.

Assuming that the illegal immigrant households omitted from the CPS are similar to those that are included, incorporation of the missing 10 percent of illegals (roughly one

[8] Passel, 2005, op. cit., p. 2.
[9] Ibid., p 6.
[10] Passel, 2004, p.23
[11] Passel, 2004, p. 4.

million individuals) might raise the aggregate net tax burden imposed by low-skill immigrant households by roughly 4 percent; these additional costs are not addressed in this testimony.[12] If there are more than 11 million illegal immigrants in the U.S., then the number of illegal immigrants who reside in the U.S. but do not appear in the CPS would be greater than one million and the costs to the taxpayer would be proportionately greater. Again, any such potential costs are not included in the analysis in this testimony which is limited to the legal and illegal immigrant households that appear in the CPS.[13]

Of the 4.5 million low-skill immigrant households analyzed in this report an estimated 41 percent were headed by illegal immigrants.[14] Households headed by illegal immigrants differ from other immigrant households in certain key respects. Illegal immigrants themselves are not eligible for means-tested welfare benefits, but illegal immigrant households do contain some 3 million children who were born inside the U.S. to illegal immigrant parents; these children are U.S. citizens and are eligible for and do receive means-tested welfare.

Most of the tax and benefits estimates presented in this paper are unaffected by a low-skill immigrant household's legal status. For example, children in illegal immigrant households are eligible for, and do receive, public education. Similarly, nearly all the data on direct and means-tested government benefits in the CPS is based on a household's self report concerning receipt of each benefit by family members. Because eligibility for some benefits is limited for illegal immigrants, illegal immigrants will report lower benefit receipt in the CPS, thus, in most cases, this analysis automatically adjusts for the lower use of government and benefits by illegal immigrants.

In a few isolated cases, the CPS data does not rely on a households' self-report of receipt of benefits but imputes receipt to all households who are apparently eligible based on income level. The most notable example of this practice is the Earned Income tax Credit. Since illegal immigrant households are not eligible for the EITC, the CPS procedure assigns EITC benefits to illegal immigrant households which have not, in fact, been received by those households. To compensate for this mis-allocation of benefits, my analysis reduces the EITC benefits received by low-skill immigrant households by the portion of those households which are estimated to be illegal (roughly 40 percent).

Similarly, the CPS assumes all laborers work "on the books" and pay taxes owed. CPS therefore imputes federal and state income taxes and FICA taxes based on household earnings. But most analyses assume that some 45 percent of illegal immigrants work "off the books", paying neither individual income nor FICA taxes.[15] The present analysis

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[12] This figure assumes that the missing illegal immigrant households are similar to those appearing in the CPS. If 41 percent of low skill immigrant households are illegal, then the addition of 10 percent more illegal immigrant households would boost the overall number of low skill immigrant households by roughly 4 percent. Presumably, the aggregate net tax burden would increase proportionately.

[13] A very small number of immigrants who reside in nursing facilities has also been added to the calculations; individuals who reside in nursing facilities do not appear in the CPS.

[14] Information provided by Steven A. Camarota of the Center for Immigration Studies

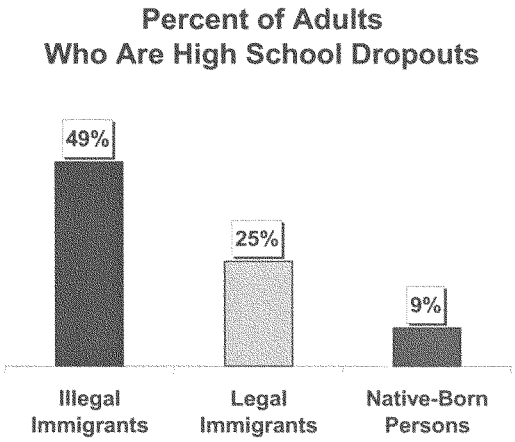
[15] Randy Capp, Everett Henderson, Jeffry S. Passel, and Michael Fix, *Civic contributions Taxes Paid by Immigrant in the Washington, DC Metro Area,* The Urban Institute, May 2006, footnote 3 on page 6.

adjusts the estimated income and FICA taxes paid by low-skill immigrant households downward slightly to adjust for the "off the books" labor of low-skill illegal immigrants.

The Declining Education Levels of Immigrants

Current immigrants (both legal and illegal) have very low education levels relative to the non-immigrant U.S. population. As Chart 1 shows, some 50 percent, and perhaps as many as 60 percent, of illegal immigrant adults lack a high school degree.[16] Among legal immigrants the situation is better, but a quarter still lack a high school diploma. Overall, a third of immigrant households are headed by individuals without a high school degree. By contrast, only nine percent of non-immigrant adults lack a high school degree. The current immigrant population, thus, contains a disproportionate share of poorly educated individuals. These individuals will tend to have low wages, pay little in taxes and receive above average levels of government benefits and services.

Chart 1



Source: Pew Hispanic Center

There is a common misconception that the low education levels of recent immigrants is part of a long standing historical pattern, and that the U.S. has always brought in immigrants who were poorly educated relative to the native born population.

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http://www.urban.org/UploadedPDF/411338_civic_contributions.pdf; Jeffrey S. Passel, Rebecca L. Clark, *Immigrants in New York: Their Legal Status, Income and Taxes,* Urban Institute, 1998, http://www.urban.org/publications/407432.html. Steve Camarota, *The High Cost of Low Skill Labor,* Center for Immigration Studies, op.cit.

[16] Passel, 2005, op.cit. and Camarota, op.cit.

Historically, this was not the case. For example, in 1960, recent immigrants were no more likely than were non-immigrants to lack a high school degree. By contrast, in1998, recent immigrants were almost four times more likely to lack a high school degree than were non-immigrants.[17]

As the relative education level of immigrants fell so did their relative wage levels. In 1960, the average immigrant male in the U.S. actually earned more than the average non-immigrant man. As the relative education levels of subsequent waves of immigrants fell, so did relative wages. By 1998, the average immigrant earned 23 percent less than the average non-immigrant.[18]

Recent waves of immigrants are disproportionately low-skilled because of two factors. For years, the U.S. has had a permissive policy concerning illegal immigration: the 2000 mile border with Mexico has remained porous and the law prohibiting the hiring of illegal immigrants has not been enforced. This encourages a disproportionate flow of low-skill immigrants because few college educated workers are willing to undertake the risks and hardships associated with crossing the southwest U.S. deserts illegally. Second, the legal immigration system gives priority to "family reunification" and kinship ties rather than skills; this focus also significantly contributes to the inflow of low-skill immigrants into the U.S.

Characteristics of Low Skill Immigrant Households

In 2004, there were 4.5 million households in the U.S. headed by immigrants who lacked a high school degree (or low-skill immigrant households). These households contained 15.9 million persons or roughly five percent of the U.S. population. Low-skill immigrant households had, on average, more persons (3.6 per household) and more children (1.2 per household) when compared to households headed by persons with a high school degree or more (with 2.6 persons and .06 children per households). Low-skill immigrant households have roughly the same number of workers per household as better educated households, but the average annual earnings per worker in low-skill immigrant households ($18,490) was roughly half the earnings per worker in households headed by persons with a high school degree or better ($38,713).

Low wage levels in low-skill immigrant households lead to high levels of poverty: over 30 percent of persons living in low-skill immigrant households were poor in 2004 compared to overall poverty rate of 12.7 percent in the U.S. population.

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[17] George J. Borjas, *Heaven's Door: Immigration Policy and the American Economy,* Princeton New Jersey, Princeton University Press, 1999, p. 27.
[18] Ibid., p. 8

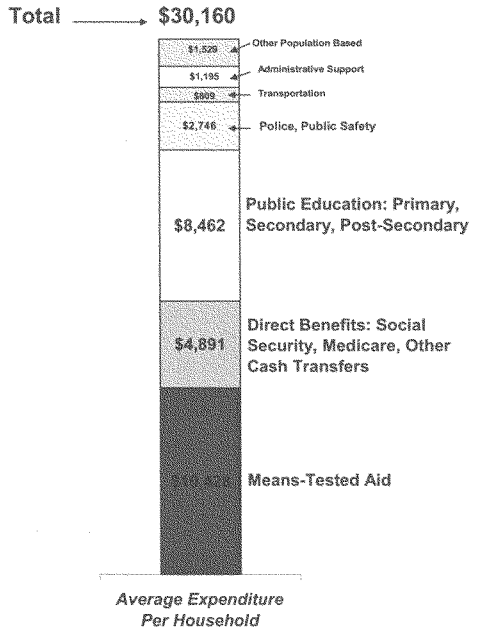
Costs of Benefits and Services for Low skill immigrant households

Overall, households headed by immigrants without a high school diploma (or low-skill immigrant households) received an average of $30,160 per household in direct benefits, means-tested benefits, education, and population-based services in FY 2004.

Chart 2 gives a more detailed breakdown of the immediate benefits and services received by low-skill immigrant households. Means-tested aid came to $10,428 per household, while direct benefits (mainly Social Security and Medicare) amounted to $4,891. Education spending on behalf of these households averaged $8,462 per household, while spending on police, fire, and public safety came to $2,746 per household. Transportation added another $809, while administrative support services cost $1,195. Miscellaneous population-based services added a final $1,529.

Chart 2

Government Expenditures for Immediate Benefits and Services for Households Headed by Immigrants Without A High School Diploma



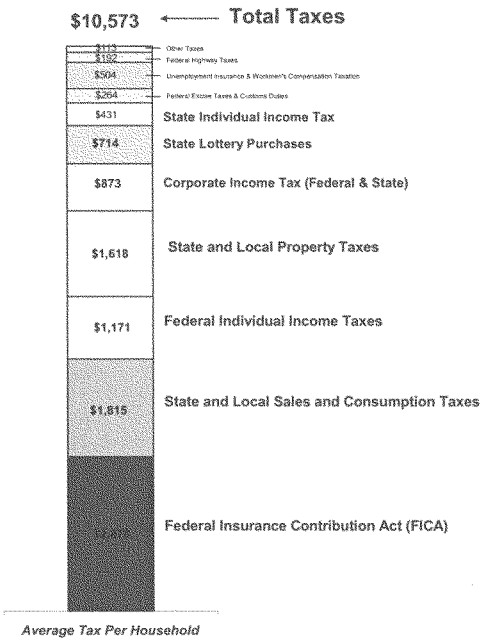
It is important to note that the costs of benefits and services outlined in Chart 2 are a composite average of all low-skill immigrant households. They represent the total costs of benefits and services received by all low-skill immigrant households divided by the number of such households. It is unlikely that any single household would receive this exact package of benefits; for example, it is rare for a household to receive Social Security benefits and primary and secondary education services at the same time. Nonetheless, the figures are an accurate portrayal of the governmental costs of low-skill immigrant households as a group. When combined with similar data on taxes paid, they enable an assessment of the fiscal status of such households as a group and their impact on other taxpayers.

Taxes and Revenues Paid by Low-Skill Immigrant Households

As Chart 3 shows, total federal, state, and local taxes paid by low-skill immigrant households came to $10,573 per household in 2004. Federal and state individual income taxes comprised only 15 percent of total taxes paid. Instead, taxes on consumption and employment produced the bulk of the tax burden for low-skill immigrant households.

Chart 3

Taxes Paid by Households Headed by Immigrants Without at High School Diploma



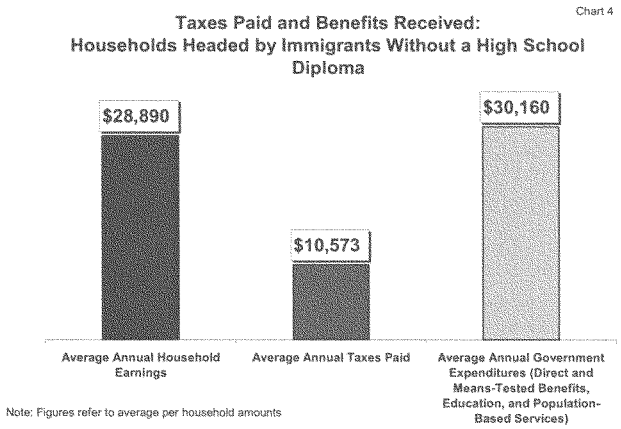
The single largest tax payment was $2,878 per household in Federal Insurance Contribution Act (FICA) tax. (Workers were assumed to pay both the employee and employer share of FICA taxes.) On average, low-skill immigrant households paid $1,815 in state and local sales and consumption taxes. The analysis assumed that a significant portion of property taxes on rental and business properties was passed through to renters and consumers; this contributed to a $1,618 property tax burden for the average low-skill household. The analysis also assumed that 70 percent of corporate income taxes fell on workers; this contributed to an average $873 corporate tax burden for low-skill immigrant households. Low-skill immigrant households are frequent participants in state lotteries, with an estimated average purchase of $714 in lottery tickets per household in 2004.

Balance of Taxes and Benefits

On average, low-skill immigrant households received $30,160 per household in immediate government benefits and services in FY 2004, including direct benefits, means-tested benefits, education, and population-based services. By contrast, low-skill immigrant households paid only $10,573 in taxes. Thus, low-skill immigrant households received nearly three dollars in benefits and services for each dollar in taxes paid.

Strikingly, as Chart 4 shows, low-skill immigrant households in FY 2004 had average earnings of $28,890 per household; thus, the average cost of government benefits and services received by these households not only exceeded the taxes paid by these households, but actually exceeded the average earned income of these households.

Chart 4

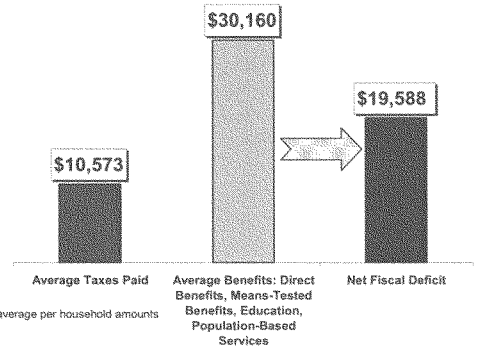


Net Annual Fiscal Deficit

The net fiscal deficit of a household equals the cost of benefits and services received minus taxes paid. As Chart 5 shows, if the costs of direct and means-tested benefits, education, and population-based services were counted, the average low-skill household had a fiscal deficit of $19,588 (expenditures of $30,160 minus $10,573 in taxes).

Chart 5

Dropout Households Receive More Than Three Dollars in Benefits for Every Dollar Paid in Taxes

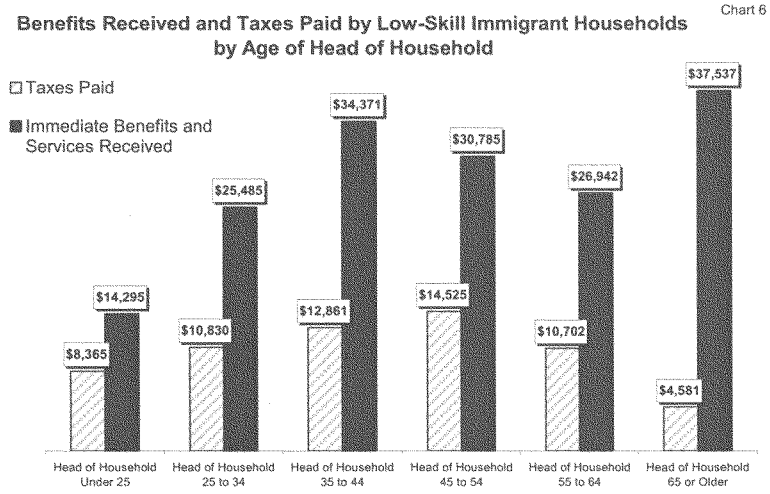


Note: Figures refer to average per household amounts

Age Distribution of Benefits and Taxes among Low-Skill Immigrants

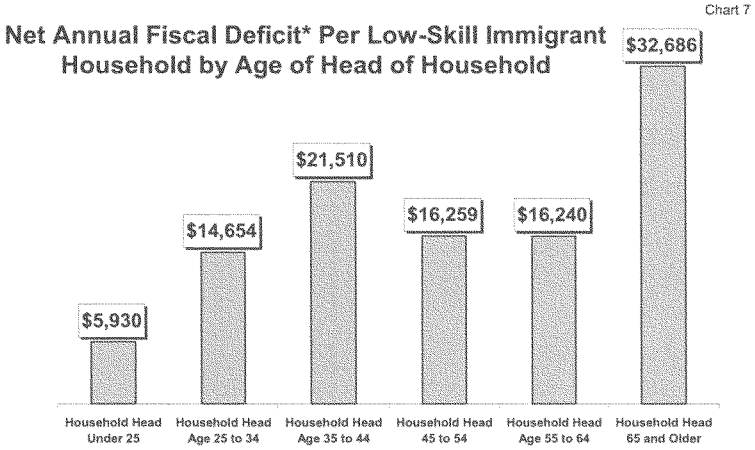
Charts 6 and 7 separate the 4.5 million low-skill immigrant households into six categories based on the age of the immigrant head of household. The benefits levels on Chart 6 include direct benefits, means-tested benefits, public education and population-based services; these benefits start at a moderate level of $14,295 for households headed by immigrants under 25 then rise sharply to $34,371 for households with heads between 35 and 44. This increase is driven by a rise in the number of children in each home. As the head of household ages over 45, the number of children in the home falls; benefits dip slightly, and then shoot up sharply to $37,537 after the household head reaches 65.

Chart 6



Note: Immediate Benefits include Direct and Means-Tested Benefits, Public Education, and Population-Based Services

Chart 7



*Net Fiscal Deficit Equals Immediate Benefits and Services Received Minus Taxes Paid
Note: Immediate Benefits include Direct Benefits, Means-Tested Benefits, Public Education and Population-Based Services

Tax payments vary less by the age of the householder than do benefits, rising slowly to a peak for immigrant householders in their late 40'sand early 50's, and then dropping sharply after retirement.

The critical fact shown in Chart 6 is that for each age category, the benefits received by low-skill immigrant households exceed the taxes paid. At all ages, the average low-skill immigrant household pays in less in taxes than it takes out in benefits.

The gap between benefits and taxes is least for households with heads under age 25 but even these young households receive $1.70 in benefits and services for each $1.00 in taxes paid. In all other age categories, low-skill immigrant households receive at least two dollars in benefits for each dollar in taxes paid. Among elderly low-skill household, more than eight dollars in benefits are received for each dollar in taxes paid.

These figures belie the notion that government can relieve financial strains in Social Security and other programs simply importing younger immigrant workers. The fiscal impact of an immigrant worker is determined far more by skill level than by age. Low-skill immigrant workers impose a net drain on government finance as soon as they enter the country and add significantly to those cost every year they remain. Actually, older low-skill immigrants are less costly to the U.S. taxpayer since they will be a burden on the fisc for a shorter period of time.

Chart 7 shows the net fiscal deficits (benefits minus taxes) for each age category. Fiscal deficits rise from $5,930 per year for young immigrant households, to between $16,000 and $20,000 in middle age and then surge up to $32, 686 for elderly low-skill households.

Net Lifetime Costs

Receiving, on average, $19,588 more in immediate benefits than they pay in taxes each year, low-skill immigrant households impose substantial long-term costs on the U.S. taxpayer. Assuming an average 60-year adult life span for heads of household, [19]the average lifetime costs to the taxpayer will be nearly $1.2 million for each low-skill household, net of any taxes paid.[20]

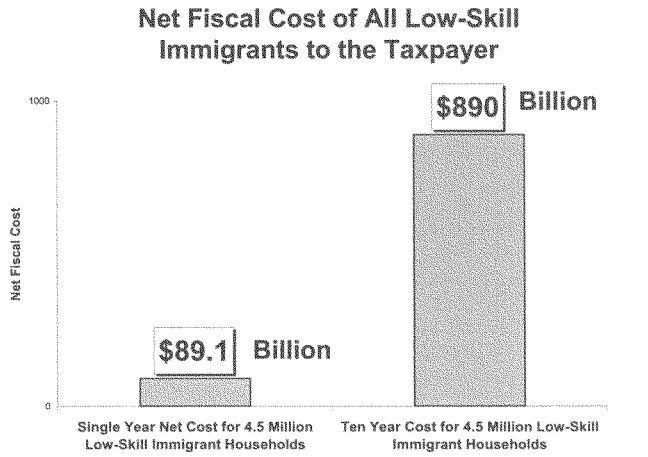
Aggregate Annual Net Fiscal Costs

In 2004, there were 4.54 million low-skill immigrant households. As shown in Chart 8, the average net fiscal deficit per household was $19,588. This means that the total annual fiscal deficit (total benefits received minus total taxes paid) for all 4.54 million low-skill immigrant households together equaled $89.1 billion (the deficit of

[19] This calculation assumes the low skill immigrant remains in the U.S. for his full adult life.
[20] An alternative approach to calculating life time fiscal costs is to multiple the average fiscal cost per age category by the expected survival rate of householders from age 25 on; this allows the number of households to shrink slowly as the heads of household age. This approach also yields a net life-time fiscal burden of around $1.2 million. Figures are available upon request.

$19,588 per household times 4.54 million households). This sum includes direct and means-tested benefits, education, and population-based services. Over the next ten years, the net cost (benefits minus taxes) to the taxpayer of all low-skill immigrant households will approach one trillion dollars.

Chart 8



Note: Net Fiscal Cost equals the cost of Direct Benefits, Means-Tested Benefits, Public Education, and Population-Based Services received minus Taxes Paid

The Retirement Costs of Amnesty to Illegal Immigrants

Giving amnesty to illegal immigrants would increase the costs outlined in this testimony. Some 50 to 60 percent of illegal immigrants lack a high school degree. Granting amnesty or conditional amnesty to illegal immigrants would, overtime, increase their use of means-tested welfare, Social Security and Medicare. Fiscal costs would go up significantly in the short term but would go up dramatically after the amnesty recipient reached retirement. Based on my current research, I estimate that if all the current adult illegal immigrants in the U.S. were granted amnesty the net retirement costs to government (benefits minus taxes) could be over $2.5 trillion.

The calculation of this figure is as follows. In March 2006, there were 9.3 million adult illegal immigrants in the U.S. Most illegal immigrants are low-skill. On average, each elderly low-skill immigrant creates a net cost (benefits minus taxes) for the taxpayer of about $18,000 per year. If the government gave amnesty to 9.3 million illegal immigrants, most of them would eventually become eligible for Social Security and Medicare benefits or Supplemental Security Income and Medicaid benefits.

However, not all of the 9.3 million adults given amnesty would survive till age 65. Normal mortality rates would probably reduce the population by roughly 15 percent before age 65. That would mean 7.9 million individuals would reach 65 and enter retirement.

Of those reaching 65, the average life expectancy would be around twenty years. The net governmental cost (benefits minus taxes) of these elderly individuals would be around $18,000 per year. Over twenty years of expected life, costs would equal $360,000 per elderly amnesty recipient. A cost of $360,000 per amnesty recipient times 7.9 million amnesty recipients would be $2.8 trillion. These costs would hit the U.S. taxpayer at exactly the point that the Social Security system is expected to go into crisis. This is a preliminary estimate based on my ongoing research. More research should be performed, but I believe policy makers should examine these potential costs carefully before rushing to grant amnesty or "earned citizenship" to the current illegal immigrant population.

Amnesty proponents may argue that some of these individuals will go home without getting benefits, or before they reach retirement age. Though perhaps valid, that argument only emphasizes how expensive amnesty recipients would be; the longer they remain in the country the greater the cost to the taxpayer.

Conclusion

Current immigration practices, both legal and illegal, operate like a system of trans-national welfare outreach bringing millions of fiscally dependent individuals into the U.S. This policy needs to be changed. In the future, U.S. immigration policy should encourage high-skill immigration and strictly limit low-skill immigration. In general, government policy should limit immigration to those who will be net fiscal contributors, avoiding those who will increase poverty and impose new costs on overburdened U.S. taxpayers.

It is sometimes argued that since higher-skill immigrants are a net fiscal plus for the U.S. taxpayers while low-skill immigrants are a net loss, the two cancel each other out and therefore no problem exists. This is like a stock broker advising a client to buy two stocks, one which will make money and another that will lose money. Obviously, it would be better to purchase only the stock that will be profitable and avoid the money losing stock entirely. Similarly, low-skill immigrants increase poverty in the U.S. and impose a burden on taxpayers that should be avoided.

Current legislative proposals that would grant amnesty to illegal immigrants and increase future low-skill immigration would represent the largest expansion of the welfare state in 30 years. Such proposals would increase poverty in the U.S. in the short and long term and dramatically increase the burden on U.S. taxpayers.

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"Immigration Policies and their Impact on Small Business"

Statement of Mark Krikorian
Executive Director
Center for Immigration Studies

Before the Small Business Committee
U.S. House of Representatives
May 10, 2007

Thank you for the opportunity to appear before this panel. There are many facets to the issue of immigration and small business, but perhaps the best place to start is with the opinions of small business owners themselves.

The National Federal of Independent Business, or NFIB, is the nation's premier small-business lobbying organization, and it surveyed its members just last year on this issue. More than 90 percent of NFIB members consider illegal immigration to be a problem, with 70 percent ranking it a "serious" or "very serious" problem. Eighty-six percent of these small-business owners said illegal immigration have a "high" or "very high" priority for Congress and the administration, and 78 percent wanted increased penalties for employers who knowingly hire illegal aliens.

Getting to even smaller businesses, the National Association for the Self-Employed, or NASE, which describes itself as the voice of "micro-business," found similar sentiments among its members in a survey last year. Seventy-six percent of these micro-business owners believe that illegal immigration is a serious issue facing the nation, 82 percent oppose amnesty, and 84 percent want tougher penalties on companies that hire illegal immigrants.

None of this should be surprising, because with small-business ownership and entrepreneurship are so widespread in our country, small business *is* America. The views

of small-business owners simply reflect the broad dissatisfaction with our current policy of effectively open borders through non-enforcement of the immigration laws. Thus, in a sense, the effects that mass immigration has on small business is the same as on society as a whole – erosion of the rule of law, increasing tax burdens, security vulnerabilities, etc.

But there are a number of issues that are specific to small business and warrant further discussion.

1) The large-scale use of foreign labor is harmful in the long run even to the small businesses using it. As Barbara Jordan's Commission on Immigration Reform wrote in 1997: "The availability of foreign workers may create a dependency on them. It has been well-documented that reliance on foreign workers in low-wage, low-skill occupations, such as farm work, creates disincentives for employers to improve pay and working conditions for American workers. When employers fail to recruit domestically or to pay wages that meet industry-wide standards, the resulting dependence—even on professionals—may adversely affect both U.S. workers in that occupation and U.S. companies that adhere to appropriate labor standards."

In other words, as with drugs or alcohol, the easy availability of foreign labor can create a sort of addiction, rendering the user incapable of imagining operating without a fix. But in a free market system like ours, industries evolve and adapt in response to changing labor characteristics and labor standards. Nearly a century ago, small businessmen claimed that child labor was essential to business; one mill owner said that limiting child labor would "stop my machines"; another said "investors would never receive another dividend"; while a third said that ending child labor would "paralyze the country."

Of course, it didn't work out that way, precisely because a flexible economy like ours can and will adapt itself to changing labor standards. And when lawmakers get around to acknowledging the existing social consensus against addiction to foreign labor – both legal and illegal – those industries where some small businesses have already become

addicted will adapt in ways that Adam Smith would have easily understood: offering better wages and benefits, and changing working conditions and recruitment, to attract legal workers while at the same time finding ways of using the existing labor pool more efficiently. Those who say those is not possible are telling the truth, as they see it – the problem is that they can't see the forest for the trees. It's Congress's job to look at the whole forest, not focus on one tree.

2) Another issue of specific interest to small business is the question of electronic verification of all new workers' identities. This is the most important element in any serious enforcement system, and it is precisely the lack of such a mandate that has made current immigration law unworkable.

Some claim that such a requirement would be burdensome for employers, and especially for small businesses, which almost by definition lack the extensive human-resources departments of large corporations and thus have a harder time dealing with the proliferating mandates coming from all levels of government. As a small businessman myself, I appreciate the multitude of regulations small business faces; just looking at posters on the wall in the work room of my Center for Immigration Studies, I see references to the Civil Rights Act, the Occupational Safety and Health Act, the Family and Medical Leave Act, the Employee Polygraph Protection Act, the Drug-Free Workplace Act, the Youth Employment Act, the Older Americans Act, and the Uniformed Services Employment and Reemployment Rights Act – among others. As even George McGovern learned, "legislators and government regulators must more carefully consider the economic and management burdens we have been imposing on U.S. business."

Which is why it's a good thing that mandatory employment-eligibility verification would not be especially burdensome to employers. The information to be verified all has to be collected anyway as part of the normal hiring process. The only way employers would no longer have to collect a news hire's name, date of birth, and Social Security number is if

Congress abolished the Social Security system and income tax withholding – which I don't see on the horizon. That being the case, verifying (at no cost to the business) the information that employees have to provide anyway is hardly a new mandate.

Experience with the existing voluntary system, once called the Basic Pilot and now renamed the Employment Eligibility Verification Program (EEVP), shows that it would be no burden at all. I speak from experience – my own small business participates in the program. A growing number of businesses seem to agree, as is clear from the rapid growth in participation; from 2,300 employers in 2003, it grew to nearly 9,000 participating employers by the middle of last year, and is now thousands higher, especially after Dunkin' Donuts required all 5,000 of its franchisees to enroll last year.

If there had been vigorous worksite enforcement of the immigration laws in recent years, you might be able to argue this growth in participation wasn't really voluntary; in other words, businesses caught employing illegals being told by immigration authorities to enroll in the system, or, at the very least, businesses enrolling out of fear of possible enforcement. But, of course, worksite enforcement of immigration laws has been all but abandoned until recently; in 1998, 1,023 employers were issued notices of intent to fine by the INS, a number which fell to three (3) in 2004. And most of that collapse in enforcement came before 9/11, and so had nothing to do with a new focus on terrorism. Given the complete lack of enforcement, businesses would not be flocking to this program if it represented a significant impediment to their operations.

Were Congress to make verification mandatory for all businesses, it would also create a market opportunity for entrepreneurs to further simplify the process and integrate it into a firm's operations. And, in fact, such entrepreneurs are already stepping forward. DHS has approved the first of what are likely to be many "Designated Agents" – companies in the business of conducting the verification process for other firms. The first such firm, Form I-9 Compliance in Newport Beach, Calif., http://www.formi9.com/, offers a web-based, paperless I-9 form linked to the EEVP, and includes extra services as well, such as reminders of the upcoming expiration of an alien worker's employment authorization.

Such services do what TurboTax does for tax filing – eliminate paper, reduce errors, and file (or in this case verify) electronically. And like TurboTax, they are likely to be available at a reasonable cost, especially when economies of scale come into play. I don't know what Form I-9 Compliance charges, but I use an outside payroll service for my small business – and payroll is obviously a much more complex process than one-time verification of legal status – and I pay only about $130 a month.

But it's not just that a verification system would sit lightly on the back of business; it actually makes good business sense to participate. Many small businesses might well be alarmed by all the talk they've been hearing of "penalizing employers" as an immigration-enforcement strategy. While crooked, faithless employers deserve whatever penalties they receive, the point to an employer-verification system is not to penalize employers, but to empower them. By taking the guesswork out of hiring a legal workforce, the EEVP can help firms build a workforce on concrete rather than sand, a workforce that will have no reason to run away if there's an immigration raid, a workforce that won't be arrested when the inevitable – and I believe it is inevitable – crackdown comes.

As beneficial as many firms find it to verify their workers, it is important for Congress to make participation mandatory – not for punitive reasons, but rather to protect legitimate, patriotic businesses. I was told of a landscaper in Orange County who recognized the advantages of hiring only legal workers, and several years ago enrolled in the old Basic Pilot. He had no trouble finding labor, though he had to offer a dollar an hour more than his competitors – and that was the problem. His competitors, still hiring illegal aliens, were underbidding him on commercial landscaping contracts and he was forced to drop out. Congress has a responsibility to level the playing field and ensure that civic-minded, law-abiding firms eager to participate in the verification program are not put at a disadvantage for doing so.

3) Another concern related to small business is whether tighter enforcement and lower immigration levels would reduce entrepreneurship. Much of the commentary about immigration points to its supposed contribution to entrepreneurship, serving as a kind of booster shot for a tired America. If this were true, a tighter immigration system might harm small business overall by undermining our nation's entrepreneurial energies.

Fortunately, this is not true. Immigrants are actually slightly *less* likely to be self-employed than native-born Americans, 11 percent vs. 13 percent. Immigrants from some countries are indeed more likely to start small businesses – such as those from Korea, Russia, and Iran, for instance. But overall, entrepreneurship is not distinguishing characteristic of the nation's immigrants. If one removed immigrants from the data, the overall rate of self-employment in the United States would be about same.

4) Perhaps most serious is the morally subversive effects of mass illegal and legal immigration on the nation's work ethic. White House advisor Karl Rove unwittingly demonstrated the insidious effects of mass immigration in comments last year to the National Federation of Independent Business:

> "Now frankly, I don't want my kid digging ditches. I don't want my kid slinging tar. But I know somebody's got to do it. And we ought to have a system that allows people who want to come here to work to do jobs for which Americans are not lining up."

One small businessman who was present during Rove's comments wrote to me that:

> "The remarks shocked me, as I think it shocked most people in the room. The small business folks were to polite to boo, but you could hear the disappointment and snickers of dissatisfaction rumble through audience immediately after those remarks. Many of the small business people in attendance got their start doing though jobs in the family business or started

> their businesses from very humble beginnings. I can tell you they did not take kindly to his remarks."

And this February, Mr. Rove reiterated this sense that blue-collar work is beneath Americans, and foreigners need to be imported to do it, when he told a Republican women's group that "I don't want my 17-year-old son to have to pick tomatoes or make beds in Las Vegas."

This cuts at the very heart of America's small-business culture – the sense that all work is honorable, that even the boss will do the lowest job if necessary, that working as a government or corporate bureaucrat is not the highest calling. In other words, if occupations come to be dominated by immigrants (as is already true in some regions and would be inevitable nationwide under the proposals to increase immigration further), they become socially unacceptable for Americans, moving us toward a master-servant society, one more like Saudi Arabia or the antebellum South than we should be comfortable with.

In short, large-scale immigration – whether of illegal aliens, guestworkers, or permanent immigrants – subsidizes the operations of a small portion of small-business owners but is harmful to small business as a whole, and harmful to the nation.

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SUBMITTED TO

COMMITTEE ON SMALL BUSINESS
OF THE
UNITED STATES HOUSE OF REPRESENTATIVES

MAY 10, 2007

Madam Chairwoman, Congressman Chabot, Members of the Committee. I am pleased to submit the following statement on behalf of the Society for Human Resource Management and the HR Initiative for a Legal Workforce.

The Society for Human Resource Management (SHRM) is the world's largest association devoted to human resource management. Representing more than 217,000 individual members, the Society's mission is both to serve human resource management professionals and to advance the profession.

The Human Resource Initiative for a Legal Workforce represents human resource professionals in thousands of small and large U.S. employers representing every sector of the American economy. The HR Initiative and its members – which, in addition to SHRM, include American Council on International Personnel, College and University Professional Association for Human Resources, Food Marketing Institute, HR Policy Association and International Public Management Association for Human Resources – are seeking to improve the current process of employment verification by creating a secure, efficient and reliable system that will ensure a legal workforce and help prevent unauthorized employment, a root cause of illegal immigration.

On behalf of both organizations, we thank the Committee for this hearing exploring the impact of U.S. immigration policies on small businesses. We are particularly interested in seeking methods to improve America's employment verification process – which is a significant challenge to small business owners, who often lack the expertise and resources necessary to implement effective workforce verification processes.

It is no secret that the wide availability of jobs in this country has become the magnet for unauthorized migration. The most critical element for true immigration reform, therefore, is establishing a foolproof system for certifying that an applicant is authorized to work in the United States. Unfortunately, the electronic verification system in place today

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is inadequate to meet the demand, and current proposals before Congress fall far short of what is needed.

Currently, employees are permitted to submit up to 29 different legally-acceptable documents as proof of eligibility to hold a job in the United States. This document-based system is prone to fraud, forgeries and identity theft, making it difficult, if not impossible, for an employer to differentiate between the legal and illegal worker. Adding to the problem, the federal government's voluntary electronic verification program, the "Basic Pilot," is inadequate to meet the needs of all U.S. employers because it cannot stop identity fraud.

U.S. employers, whether large or small, cannot be expected to consistently identify unauthorized workers using the existing system, but they are liable for severe sanctions if these workers find their way onto the payroll. At the same time, they are subject to claims of discrimination if they question the validity of documents too much.

The proliferation of false or stolen documents can and does cause reputable employers to mistakenly hire individuals who are not eligible to work. At the same time, the lack of certainty and threat of government-imposed penalties may lead some employers to delay or forego hiring legal workers who are eligible. In either case, the costs are high for both U.S. employers and legal workers.

Employers need the right tools to verify a legal workforce. However, HR cannot – and should not – be America's surrogate border patrol agents. Rather, employers are entitled to an unambiguous answer to the query whether an employee is authorized to accept an offer of employment.

Congress must transform the current paper-based verification process into a state-of-the-art electronic system that is accurate, reliable, cost-efficient, easy-to-use, and shares responsibility among government, employers and employees. Specifically, we advocate a system that would verify identity through additional background checks and the potential use of biometric enrollment conducted by government certified private vendors. By eliminating subjective determinations of work authorization documents, this system will eliminate discrimination and simplify enforcement.

However, before <u>any</u> employment verification system is mandated, it must meet the following Principles:

<u>Principle 1: Shared Responsibility Among Government, Employers and Employees</u> – U.S. employers, employees and the federal government share responsibility for a reliable, efficient, accurate system to verify employment eligibility.

<u>Principle 2: Fair Enforcement</u> – U.S. employers should be liable for their own hiring decisions, not those made outside their control.

<u>Principle 3: Accuracy and Reliability</u> – Employers should not be forced to participate until the government provides assurances that the system is accurate and reliable.

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Principle 4: Ease of Use – The new verification system should be easy to understand and to implement at all worksites.

Principle 5: Deployment of Latest Technologies – A new verification system must make false documents and identity theft ineffective. One way to achieve effective and efficient worksite enforcement is to include biometric identifiers or other state-of-the-art technology in the identity and work authorization process that is capable of automatically recognizing an individual's identity.

If adequately funded and fairly administered, SHRM and the HR Initiative believe this new system could eradicate virtually all unauthorized employment – thereby eliminating a huge incentive for illegal immigration. It will also eliminate discrimination by taking the subjectivity out of the verification process.

True employment verification is the only way to ensure fair and equitable treatment for those individuals who should have access to legitimate jobs. It is essential for a legal workforce and for America's national and economic security.

I would again like to thank the Committee. We look forward to working with you to implement the solutions advocated by SHRM and the HR Initiative for a Legal Workforce.

Attached are the following HR Initiative for a Legal Workforce documents:

1. Principles
2. Concepts for Secure Electronic Employment Verification System
3. Concept "flow chart"
4. Frequently Asked Questions
5. Susan R. Meisinger column

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